

2000 No. 2665

INVESTIGATORY POWERS

The Investigatory Powers Tribunal Rules 2000

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<i>Made</i>	<i>28th September 2000</i>
<i>Laid before Parliament</i>	<i>29th September 2000</i>
<i>Laid before the Scottish Parliament</i>	<i>29th September 2000</i>
<i>Coming into force</i>	<i>2nd October 2000</i>

Whereas the Secretary of State may make Rules under section 69 of the Regulation of Investigatory Powers Act 2000;

And whereas subsections (9) and (10) of that section provide that the Rules made on the first occasion on which the power is exercised do not need to be approved by Parliament before being made, but must be approved after being made in accordance with subsection (10);

And whereas this is the first occasion on which the Secretary of State exercises the power;

Now, therefore, the Secretary of State, in exercise of the power conferred on him by section 69(1) of the Regulation of Investigatory Powers Act 2000 and after consultation with the Scottish Ministers as required by section 69(12) of that Act, hereby makes the following Rules:

Extent

Preamble: United Kingdom

PART I

General provisions

✔ Law In Force

1. Citation and commencement

These Rules may be cited as the Investigatory Powers Tribunal Rules 2000, and shall come into force on 2nd October 2000.

Commencement

Pt I rule 1.: October 2, 2000

Extent

Pt I rule 1.: United Kingdom

✔ Law In Force

2. Interpretation

In these Rules:

“the Act” means the Regulation of Investigatory Powers Act 2000;

“Commissioner” means the [Investigatory Powers Commissioner or any other Judicial Commissioner or the Investigatory Powers Commissioner for Northern Ireland]¹;

“complainant” means a person who brings section 7 proceedings or, as the case may be, makes a complaint;

“complaint” means a complaint for which the Tribunal is the appropriate forum by virtue of section 65(2)(b) and section 65(4) of the Act;

“Convention right” has the same meaning as in the Human Rights Act 1998;

“section 7 proceedings” means proceedings under section 7(1)(a) of the Human Rights Act 1998 in relation to which the Tribunal is the only appropriate tribunal by virtue of section 65(2)(a) of the Act;

“the Tribunal” means the tribunal established under section 65(1) of the Act.

Notes

¹ Words substituted by Investigatory Powers Act 2016 (Consequential Amendments and Saving Provisions) Regulations 2017/845 reg.4(1) (September 11, 2017: substitution has effect subject to savings specified in SI 2017/845 reg.4(2))

Commencement

Pt I rule 2. definition of "the Act"- definition of "the Tribunal": October 2, 2000

Extent

Pt I rule 2. definition of "the Act"- definition of "the Tribunal": United Kingdom

✔ Law In Force

3. Application of Rules

These Rules apply to section 7 proceedings, and to complaints.

Commencement

Pt I rule 3.: October 2, 2000

Extent

Pt I rule 3.: United Kingdom

✔ Law In Force

4.— Exercise of Tribunal's jurisdiction

(1) The jurisdiction of the Tribunal may be exercised at any place in the United Kingdom, by any two or more members of the Tribunal designated for the purpose by the President; and different members of the Tribunal may carry out functions in relation to different complaints at the same time.

(2) This rule is subject to paragraph 3 of Schedule 3 to the Act (members of the Tribunal with special responsibilities).

Commencement

Pt I rule 4.(1)-(2): October 2, 2000

Extent

Pt I rule 4.(1)-(2): United Kingdom

✔ Law In Force

5.— Functions exercisable by single member

(1) Subject to paragraph (2), the following powers and duties may be exercised or performed by a single member of the Tribunal:

- (a) the power under rule 7(4) or rule 8(4) to invite the complainant to supply information or make representations;
- (b) the power under section 68(2) of the Act to require a Commissioner to provide assistance;
- (c) the power under section 68(6) of the Act to require the disclosure or provision of documents or information;
- (d) the power under paragraph 5(2) of Schedule 3 to the Act to authorise an officer to obtain documents or information on the Tribunal's behalf;
- (e) the power under section 7(5)(b) of the Human Rights Act 1998 to extend the time limit for section 7 proceedings;
- (f) the power under section 67(5) of the Act to extend the time limit for complaints;
- (g) the duty under rule 13 to notify the complainant of any of the determinations described in that rule;
- (h) the duty, in considering a complaint, to investigate the matters described in paragraphs (a) and (b) of section 67(3) of the Act.

(2) In relation to a case falling within paragraph 3(2) of Schedule 3 to the Act, a single member discharging any of these functions must be a member designated under paragraph 3(1) of that Schedule.

Commencement

Pt I rule 5.(1)-(2): October 2, 2000

Extent

Pt I rule 5.(1)-(2): United Kingdom

✔ Law In Force

6.— Disclosure of Information

(1) The Tribunal shall carry out their functions in such a way as to secure that information is not disclosed to an extent, or in a manner, that is contrary to the public interest or prejudicial to national security, the prevention or detection of serious crime, the economic well-being of the United Kingdom or the continued discharge of the functions of any of the intelligence services.

(2) Without prejudice to this general duty, but subject to paragraphs (3) and (4), the Tribunal may not disclose to the complainant or to any other person:

- (a) the fact that the Tribunal have held, or propose to hold, an oral hearing under rule 9(4);
- (b) any information or document disclosed or provided to the Tribunal in the course of that hearing, or the identity of any witness at that hearing;
- (c) any information or document otherwise disclosed or provided to the Tribunal by any person pursuant to section 68(6) of the Act (or provided voluntarily by a person specified in section 68(7));
- (d) any information or opinion provided to the Tribunal by a Commissioner pursuant to section 68(2) of the Act;
- (e) the fact that any information, document, identity or opinion has been disclosed or provided in the circumstances mentioned in sub-paragraphs (b) to (d).

(3) The Tribunal may disclose anything described in paragraph (2) with the consent of:

- (a) in the case of sub-paragraph (a), the person required to attend the hearing;
- (b) in the case of sub-paragraphs (b) and (c), the witness in question or the person who disclosed or provided the information or document;
- (c) in the case of sub-paragraph (d), the Commissioner in question and, to the extent that the information or opinion includes information provided to the Commissioner by another person, that other person;
- (d) in the case of sub-paragraph (e), the person whose consent is required under this rule for disclosure of the information, document or opinion in question.

(4) The Tribunal may also disclose anything described in paragraph (2) as part of the information provided to the complainant under rule 13(2), subject to the restrictions contained in rule 13(4) and (5).

(5) The Tribunal may not order any person to disclose any information or document which the Tribunal themselves would be prohibited from disclosing by virtue of this rule, had the information or document been disclosed or provided to them by that person.

(6) The Tribunal may not, without the consent of the complainant, disclose to any person holding office under the Crown (except a Commissioner) or to any other person anything to which paragraph (7) applies.

(7) This paragraph applies to any information or document disclosed or provided to the Tribunal by or on behalf of the complainant, except for the statements described in rule 7(2)(a) and (b) or, as the case may be, rule 8(2)(a) and (b).

Commencement

Pt I rule 6.(1)-(7): October 2, 2000

Extent

Pt I rule 6.(1)-(7): United Kingdom

PART II

Proceedings and complaints

✔ Law In Force

7.— Bringing section 7 proceedings

(1) Section 7 proceedings are brought by a complainant sending to the Tribunal a form and other information in accordance with this rule.

(2) The form must be signed by the complainant and must:

- (a) state the name, address and date of birth of the complainant;
- (b) state each public authority against which the proceedings are brought;
- (c) describe the nature of the claim (including details of the Convention right which it is alleged has been infringed) and of the complainant's interest; and
- (d) specify the remedy which the complainant seeks.

(3) The complainant must also supply, either in or with the form, a summary of the information on which the claim is based.

(4) At any time, the Tribunal may invite the complainant to supply further information or to make written representations on any matter.

Commencement

Pt II rule 7.(1)-(4): October 2, 2000

Extent

Pt II rule 7.(1)-(4): United Kingdom

✔ Law In Force

8.— Making a complaint

- (1) A complaint is brought by a complainant sending to the Tribunal a form in accordance with this rule.
- (2) The form must be signed by the complainant and must:
 - (a) state the name, address and date of birth of the complainant;
 - (b) state the person or authority whose conduct, to the best of the complainant's knowledge or belief, is the subject of the complaint; and
 - (c) describe, to the best of the complainant's knowledge or belief, that conduct.
- (3) The complainant must also supply, either in or with the form, a summary of the information on which the claim is based.
- (4) At any time, the Tribunal may invite the complainant to supply further information or to make written representations on any matter.

Commencement

Pt II rule 8.(1)-(4): October 2, 2000

Extent

Pt II rule 8.(1)-(4): United Kingdom

✔ Law In Force

9.— Forms of hearing and consideration

- (1) The Tribunal's power to determine their own procedure in relation to section 7 proceedings and complaints shall be subject to this rule.
- (2) The Tribunal shall be under no duty to hold oral hearings, but they may do so in accordance with this rule (and not otherwise).
- (3) The Tribunal may hold, at any stage of their consideration, oral hearings at which the complainant may make representations, give evidence and call witnesses.
- (4) The Tribunal may hold separate oral hearings which:
 - (a) the person whose conduct is the subject of the complaint,
 - (b) the public authority against which the section 7 proceedings are brought, or

(c) any other person specified in section 68(7) of the Act, may be required to attend and at which that person or authority may make representations, give evidence and call witnesses.

(5) Within a period notified by the Tribunal for the purpose of this rule, the complainant, person or authority in question must inform the Tribunal of any witnesses he or it intends to call; and no other witnesses may be called without the leave of the Tribunal.

(6) The Tribunal's proceedings, including any oral hearings, shall be conducted in private.

Commencement

Pt II rule 9.(1)-(6): October 2, 2000

Extent

Pt II rule 9.(1)-(6): United Kingdom

✔ Law In Force

10.— Representation

(1) A person entitled to make representations at an oral hearing may appear in person or may be represented by any person he may appoint for that purpose, subject to paragraph (2).

(2) The leave of the Tribunal is required except where the representative is:

- (a) a member of the Bar of England and Wales or of Northern Ireland,
- (b) a solicitor of the Supreme Court in England and Wales or in Northern Ireland,
- (c) a member of the Faculty of Advocates, or
- (d) a solicitor within the meaning of the Solicitors (Scotland) Act 1980.

Commencement

Pt II rule 10.(1)-(2)(d): October 2, 2000

Extent

Pt II rule 10.(1)-(2)(d): United Kingdom

✔ Law In Force

11.— Evidence

(1) The Tribunal may receive evidence in any form, and may receive evidence that would not be admissible in a court of law.

(2) The Tribunal may require a witness to give evidence on oath.

(3) No person shall be compelled to give evidence at an oral hearing under rule 9(3).

Commencement

Pt II rule 11.(1)-(3): October 2, 2000

Extent

Pt II rule 11.(1)-(3): United Kingdom

✔ Law In Force

12.— Remedies

(1) Before exercising their power under section 67(7) of the Act, the Tribunal shall invite representations in accordance with this rule.

(2) Where they propose to make an award of compensation, the Tribunal shall give the complainant and the person who would be required to pay the compensation an opportunity to make representations as to the amount of the award.

(3) Where they propose to make any other order (including an interim order) affecting the public authority against whom the section 7 proceedings are brought, or the person whose conduct is the subject of the complaint, the Tribunal shall give that authority or person an opportunity to make representations on the proposed order.

Commencement

Pt II rule 12.(1)-(3): October 2, 2000

Extent

Pt II rule 12.(1)-(3): United Kingdom

✔ Law In Force

13.— Notification to the complainant

(1) In addition to any statement under section 68(4) of the Act, the Tribunal shall provide information to the complainant in accordance with this rule.

(2) Where they make a determination in favour of the complainant, the Tribunal shall provide him with a summary of that determination including any findings of fact.

(3) Where they make a determination:

- (a) that the bringing of the section 7 proceedings or the making of the complaint is frivolous or vexatious;
- (b) that the section 7 proceedings have been brought, or the complaint made, out of time and that the time limit should not be extended; or
- (c) that the complainant does not have the right to bring the section 7 proceedings or make the complaint;

the Tribunal shall notify the complainant of that fact.

(4) The duty to provide information under this rule is in all cases subject to the general duty imposed on the Tribunal by rule 6(1).

(5) No information may be provided under this rule whose disclosure would be restricted under rule 6(2) unless the person whose consent would be needed for disclosure under that rule has been given the opportunity to make representations to the Tribunal.

Commencement

Pt II rule 13.(1)-(5): October 2, 2000

Extent

Pt II rule 13.(1)-(5): United Kingdom

✔ Law In Force

Charles Clarke
Minister of State
Home Office

28th September 2000

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules are for the Tribunal established under Part IV of the Regulation of Investigatory Powers Act 2000. The Tribunal has an extensive jurisdiction, set out in section 65(2) of the Act; these Rules only govern the jurisdiction described in paragraphs (a) and (b) of that subsection. The remainder of the subsection will be brought into force later, and there will be further rules for that purpose.

The Rules therefore cover:

- (a) cases brought under section 7(1)(a) of the Human Rights Act 1998 for which the Tribunal is the appropriate tribunal: this category of case is explained in subsections (3) and (5) to (8) of section 65 of the 2000 Act;
- (b) complaints for which the Tribunal is the appropriate forum: this function is explained in subsections (4), (5), (7) and (8) of section 65.

Section 68 of the 2000 Act provides that, subject to anything in these Rules, the Tribunal are entitled to determine their own procedure.

Table of Contents

Investigatory Powers Tribunal Rules 2000/2665.....	<u>1</u>
Preamble	<u>1</u>
Part I General provisions.....	<u>1</u>
✓ rule 1. Citation and commencement.....	<u>1</u>
✓ rule 2. Interpretation.....	<u>2</u>
✓ rule 3. Application of Rules.....	<u>2</u>
✓ rule 4. Exercise of Tribunal's jurisdiction.....	<u>3</u>
✓ rule 5. Functions exercisable by single member.....	<u>3</u>
✓ rule 6. Disclosure of Information.....	<u>4</u>
Part II Proceedings and complaints.....	<u>5</u>
✓ rule 7. Bringing section 7 proceedings.....	<u>5</u>
✓ rule 8. Making a complaint.....	<u>6</u>
✓ rule 9. Forms of hearing and consideration.....	<u>6</u>
✓ rule 10. Representation.....	<u>7</u>
✓ rule 11. Evidence.....	<u>7</u>
✓ rule 12. Remedies.....	<u>8</u>
✓ rule 13. Notification to the complainant.....	<u>8</u>
✓ Signatures	<u>9</u>
Explanatory Note	<u>9</u>
para. 1	<u>9</u>
Table of Contents.....	<u>10</u>