



Jersey

# **REGULATION OF INVESTIGATORY POWERS (MISCELLANEOUS PROVISIONS) (JERSEY) ORDER 2006**

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## REGULATION OF INVESTIGATORY POWERS (MISCELLANEOUS PROVISIONS) (JERSEY) ORDER 2006

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Jersey

## **REGULATION OF INVESTIGATORY POWERS (MISCELLANEOUS PROVISIONS) (JERSEY) ORDER 2006**

**THE MINISTER FOR HOME AFFAIRS**, in pursuance of Articles 35(2)(c), (5)(d) and (6), 40(8), 41(4) and (5), 53(2) and 55 of the [Regulation of Investigatory Powers \(Jersey\) Law 2005](#), orders as follows –

Commencement [[see endnotes](#)]

### *Opening*

#### **1 Interpretation**

In this Order –

“guardian”, in relation to a source, has the same meaning as in the [Children \(Jersey\) Law 2002](#);

“Law” means the [Regulation of Investigatory Powers \(Jersey\) Law 2005](#);

“relative” has the same meaning as in the [Children \(Jersey\) Law 2002](#);

“relevant investigating authority” has the meaning given by Article 35(7) of the Law and where the activities of a source are to be for the benefit of more than one public authority, each of these authorities is a relevant investigating authority;

“source” means a covert human intelligence source;

“undercover operative” means a source who holds an office, rank or position with a relevant investigating authority.

### *Covert human intelligence sources*

#### **2 Particulars to be contained in records relating to covert human intelligence sources**

The following matters are specified for the purposes of Article 35(5)(d) of the Law (as being matters particulars of which must be included in the records relating to each source) –

- (a) the identity of the source;
- (b) the identity, where known, used by the source;
- (c) any relevant investigating authority other than the authority maintaining the records;
- (d) the means by which the source is referred to within each relevant investigating authority;
- (e) any other significant information connected with the security and welfare of the source;
- (f) any confirmation made by a person granting or renewing an authorization for the conduct or use of a source that the information in paragraph (d) has been considered and that any identified risks to the security and welfare of the source have where appropriate been properly explained to and understood by the source;
- (g) the date when, and the circumstances in which, the source was recruited;
- (h) the identities of the persons who, in relation to the source, are discharging or have discharged the functions mentioned in Article 35(5)(a) to (c) of the Law or in Articles 3 to 6 of this Order;
- (i) the periods during which those persons have discharged those responsibilities;
- (j) the tasks given to the source and the demands made of source in relation to his or her activities as a source;
- (k) all contacts or communications between the source and a person acting on behalf of any relevant investigating authority;
- (l) the information obtained by each relevant investigating authority by the conduct or use of the source;
- (m) any dissemination by that authority of information obtained in that way; and
- (n) in the case of a source who is not an undercover operative, every payment, benefit or reward and every offer of a payment, benefit or reward that is made or provided by or on behalf of any relevant investigating authority in respect of the source's activities for the benefit of that or any other relevant investigating authority.

### **3 Covert human intelligence sources under 16: prohibition**

No authorization may be granted for the conduct or use of a source if –

- (a) the source is under the age of 16; and
- (b) the relationship to which the conduct or use would relate is between the source and the source's parent or any person who has parental responsibility for the source.

#### **4 Covert human intelligence sources under 16: arrangements for meetings**

- (1) Where a source is under the age of 16, the arrangements referred to in Article 35(2)(c) of the Law must be such that there is at all times a person holding an office, rank or position with a relevant investigating authority who has responsibility for ensuring that an appropriate adult is present at meetings to which this Article applies.
- (2) This Article applies to all meetings between the source and a person representing any relevant investigating authority that take place while the source remains under the age of 16.
- (3) In paragraph (1) “appropriate adult” means –
  - (a) the parent or guardian of the source;
  - (b) any other person who has for the time being assumed responsibility for the source’s welfare; or
  - (c) where no person falling within sub-paragraph (a) or (b) is available, any responsible person aged 18 or over who is neither a member of nor employed by any relevant investigating authority.

#### **5 Covert human intelligence sources under 18: risk assessments etc.**

An authorization for the conduct or use of a source may not be granted or renewed in any case where the source is under the age of 18 at the time of the grant or renewal, unless –

- (a) a person holding an office, rank or position with a relevant investigating authority has made and, in the case of a renewal, updated a risk assessment sufficient to demonstrate that –
  - (i) the nature and magnitude of any risk of physical injury to the source arising in the course of, or as a result of, carrying out the conduct described in the authorization have been identified and evaluated, and
  - (ii) the nature and magnitude of any risk of psychological distress to the source arising in the course of, or as a result of, carrying out the conduct described in the authorization have been identified and evaluated;
- (b) the person granting or renewing the authorization has considered the risk assessment and has satisfied himself or herself that any risks identified in it are justified and, if they are, that they have been properly explained to and understood by the source; and
- (c) the person granting or renewing the authorization knows whether the relationship to which the conduct or use would relate is between the source and a relative, guardian or person who has for the time being assumed responsibility for the source's welfare, and, if it is, has given particular consideration to whether the authorization is justified in the light of that fact.

## 6 Covert human intelligence sources under 18: duration of authorizations

In relation to an authorization for the conduct or the use of a source who is under the age of 18 at the time the authorization is granted or renewed, Article 40(3) of the Law shall have effect as if the period specified in subparagraph (b) of that paragraph were one month instead of 12 months.

### *Authorizations*

## 7 Performance of duty to cancel authorization

- (1) Where any duty imposed by Article 41 of the Law in respect of an authorization granted under Article 34 or 35 of the Law would otherwise fall on a person who is no longer able to perform it, that duty is to be performed by –
  - (a) the person, if any, appointed for the purposes of this Order in accordance with paragraph (2); or
  - (b) where no such person has been appointed, the person, if any, who holds the same office, rank or position in the same public authority as was held by the person who is no longer available and who has taken over that person's responsibilities, or most of them.
- (2) The person making an appointment for the purposes of this Order, and the person appointed, must each be a person holding the same office, rank or position (or a more senior one) in the same public authority as was held by the person who is no longer available.

## 8 Delegation of power to grant authorization

A designated person specified in column 1 of the table below may delegate any power to grant an authorization or give a notice under the Article of the Law specified in column 3 to an officer in the public authority in relation to which the person is designated who is of at least the rank or seniority specified in column 2 –

<i>Designated person</i>	<i>Officer to whom delegation may be made</i>	<i>Article under which authorization or notice may be granted</i>
Agent of the Impôts	Officer of the Impôts of the seniority of assistant director	Articles 26, 34 and 35
Chief Immigration Officer	Immigration officer of the seniority of assistant director	Articles 26, 34 and 35
Chief Officer	Officer of the Force of the rank of inspector	Article 26
Chief Officer	Officer of the Force of the rank of chief	Articles 34 and 35.



<i>Designated person</i>	<i>Officer to whom delegation may be made</i>	<i>Article under which authorization or notice may be granted</i>
	inspector	

*Closing*

## **9 Citation**

This Order may be cited as the Regulation of Investigatory Powers (Miscellaneous Provisions) (Jersey) Order 2006.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Regulation of Investigatory Powers (Miscellaneous Provisions) (Jersey) Order 2006	<a href="#">R&amp;O.148/2006</a>	10 December 2006

### Table of Endnote References

*There are currently no endnote references*