

Subsidiary Legislation made under s.24(2)(r).

## Joint Investigation Team Regulations 2014

### LN.2014/231

		<i>Commencement</i>	<b>1.12.2014</b>
Amending enactments	Relevant current provisions		Commencement date
LN.2020/520	rr. 2, 3(1)-(2), (4), 4(a)-(b), 5(1)-(2), 8(1), 9, 11(1)(b), (d), (2), 12(1)-(2), Sch.		1.1.2021

**Transposing:**

Council Framework Decision 2002/465/JHA

**2006-20**

**Police**

**2014/231**

**Joint Investigation Team Regulations 2014**

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**ARRANGEMENT OF REGULATIONS**

Regulation

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**SCHEDULE**

*Deleted*

*In exercise of the powers conferred upon it by section 24(2)(r) of Police Act 2006 as read with section 23(g)(i) of the Interpretation and General Clauses Act and all other enabling powers, and in order to implement Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams, the Government has made the following Regulations–*

**Title and commencement.**

1. These Regulations may be cited as the Joint Investigation Team Regulations 2014 and come into operation on 1 December 2014.

**Interpretation.**

2.(1) In these Regulations–

“competent authority” means the authority competent to take decisions, act or to take decisions and act within a jurisdiction, and in the case of Gibraltar means the Commissioner;

“joint investigation team” and “the team” mean an investigation team formed in accordance with–

(a) Deleted

(b) Deleted

(c) any international agreement which has been extended to or which applies to Gibraltar;

“seconded member” means a member of the joint investigation team who is not from the place in which the team is operating;

(2) These regulations shall be without prejudice to any other existing provisions or arrangements on the setting up of a joint investigation team.

**Set up.**

3.(1) By mutual agreement with the competent authorities of at least one State which is a party to an international agreement which has been extended to or which applies to Gibraltar and which makes provision for the formation of joint investigation teams, the Commissioner may set up a joint investigation team.

(2) A joint investigation team set up pursuant to subregulation (1) shall be for a specific purpose and for a limited period, which may be extended by mutual consent, to carry out

criminal investigations in Gibraltar and one or more of the State setting up the team or in one or more of the State setting up the team.

(3) The composition of the joint investigation team shall be set out in the agreement.

**Purpose.**

4. A joint investigation team may, in particular, be set up where—

- (a) investigations into criminal offences require difficult and demanding investigations having links with Gibraltar and one or more States; or
- (b) a number of States are concluding investigations into criminal offences in which the circumstances of the case necessitate coordinated, concerted action either in Gibraltar, a State involved, or in both.

**Composition.**

5.(1) A request for the setting up of a joint investigation team may be made by the Commissioner or by any of the States concerned, and shall include proposals for the composition of the team.

(2) The joint investigation team shall be set up in Gibraltar or in one of the States in which the investigations are expected to be carried out.

**General conditions.**

6. Where the Commissioner sets up a joint investigation team under regulation 3 and the team operates in whole or in part in Gibraltar the following conditions shall apply—

- (a) the leader of the team must be a representative of the Commissioner;
- (b) the leader of the team must act within the limits of his competence under Gibraltar law;
- (c) when carrying out operations in Gibraltar the team must carry out its operations in accordance with the laws of Gibraltar;
- (d) the members of the team must carry out their tasks under the leadership of the person referred to in paragraph (a), while taking into account the conditions set by their own authorities in the joint investigation team agreement; and

- (e) the Commissioner must make the necessary organisational arrangements required for the joint investigation team to operate.

**Seconded members and investigative measures.**

7.(1) Subject to subsection (2), a seconded member may be present when investigative measures are carried out in Gibraltar.

(2) The leader of the joint investigation team may, for a particular reason and in accordance with Gibraltar law, limit the involvement of a seconded member when an investigative measure is carried out in Gibraltar.

(3) The Commissioner and the competent authority which seconded a member may agree that a seconded member may be entrusted by the team leader with carrying out a certain investigative measures.

**Investigative measures required by team set up outside Gibraltar.**

8.(1) Where a joint investigation team set up in a State needs an investigative measure to be carried out in Gibraltar, a member seconded to that team from Gibraltar may request that the Commissioner undertake that measure.

(2) In considering a request made under subregulation (1) the Commissioner shall treat the request as though it were requested in the context of an investigation in Gibraltar.

**Requests for assistance from non-participating States.**

9. Where a joint investigation team requires assistance from a State which is not a party to the joint investigation team agreement or from a third country, and operations are being or are to be carried out in Gibraltar, the request for assistance may be made by the Commissioner to the competent authority of the State concerned or to the competent authority of the third country in accordance with the relevant instruments or arrangements.

**Sharing information.**

10. Where a member of a joint investigation team has been seconded from Gibraltar that person may, subject to any law of Gibraltar providing otherwise, and within the limits of his competence, provide the team with information available in Gibraltar, for the purpose of the criminal investigations being conducted by the team.

**Use of information obtained.**

11.(1) Information lawfully obtained by a member or seconded member while part of a joint investigation team which is not otherwise available in Gibraltar may be used for the following purposes—

- (a) for the purposes for which the team has been set up;
- (b) subject to the prior consent of the State where the information became available, for detecting, investigating and prosecuting other criminal offences.
- (c) for preventing an immediate and serious threat to public security, and without prejudice to paragraph (b) if subsequently a criminal investigation is opened;
- (d) for other purposes to the extent that this is agreed between Gibraltar and the States setting up the team.

(2) The consent referred to in subregulation (1)(b) may be withheld only in cases where such use would endanger criminal investigations in the State concerned or in respect of which that State could refuse mutual assistance.

**Members of a JIT other than competent authorities.**

12.(1) The Minister may authorise persons other than representatives of the competent authorities of the States setting up the joint investigation team to take part in the activities of the team.

(2) *Deleted*

**Criminal liability of officials.**

13. For the purposes of establishing whether any offence has been committed and in the prosecution of any such offence, a member of a joint investigation team which has been seconded to a team set up in Gibraltar shall be treated as though he were a member of the Royal Gibraltar Police.

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**SCHEDULE**

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