



10 DOWNING STREET

From the Principal Private Secretary

22 July 1983

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SCRUTINY OF NEW POWERS OF ENTRY

The Prime Minister has seen the Attorney General's letter of 20 June to the Home Secretary. She has also seen the Home Secretary's reply of 8 July together with Sir Robert Armstrong's letter of 22 June to Sir Brian Cubbon and the letter of 20 July to me from the Lord Advocate's Private Secretary.

The Prime Minister is content that the responsibility for scrutiny of new powers of entry should now be transferred to the Home Office. She is content with the proposed procedures attached to Sir Robert Armstrong's letter of 22 June, and would wish that they should not be modified on the lines proposed in the final paragraph of the Home Secretary's letter. She regards the arrangement that each case should be authorised personally by a Minister as an essential element in the arrangements to limit new powers of entry.

I am sending copies of this letter to the Private Secretaries to the Home Secretary, the Secretary of State for Northern Ireland, the Secretary of State for Scotland, the Secretary of State for Trade and Industry, and Sir Robert Armstrong.

E. E. R. BUTLER

Henry Steel, Esq., C.M.G., O.B.E.,
Attorney General's Office.



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20th July, 1983

The Principal Private Secretary to
The Prime Minister,
10 Downing Street,
London S.W.1.

Dear Private Secretary,

SCRUTINY OF NEW POWERS OF ENTRY

You wrote to Mr. Nursaw (then of the Law Officers' Department) on 13th December 1982 concerning Sir Robert Armstrong's proposals, as set out in his minute of 6th October of that year, for a revision of procedures for scrutiny of new powers of entry.

The Prime Minister's decision was that for the time being there should be no change.

The Attorney General subsequently wrote (on 20th June) to the Home Secretary proposing that the time for change had now come.

The Scottish Law Officers wish to endorse that proposal. They entirely agree that the responsibility for scrutiny of new powers rests somewhat uneasily with the Law Officers and it appears to them that the procedures proposed by Sir Robert Armstrong are now more appropriate.

I am copying this letter to the Private Secretaries to the Home Secretary, the Secretary of State for Northern Ireland, the Secretary of State for Scotland, the Secretary of State for Trade and Industry, to the Legal Secretary to the Law Officers and to the Private Secretary to Sir Robert Armstrong.

Yours sincerely,

Christine M. Durcan

Private Secretary

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QUEEN ANNE'S GATE LONDON SW1H 9AT

8 July 1983

R. M. Havers,

SCRUTINY OF NEW POWERS OF ENTRY

Thank you for your letter of 20 June proposing that responsibility for the scrutiny of proposed new powers of entry in primary and subordinate legislation should pass to the Home Office. I have also seen Robert Armstrong's letter of 21 June to Brian Cubbon.

I should be very ready, subject to the views of the Prime Minister, for the Home Office to take this on. As you know, we are already actively involved in this area, and I think there is much to be said for concentrating this work in the policy rather than the Legal Departments.

I propose that we should in general follow the proposed procedures attached to Sir Robert Armstrong's letter. My only reservation concerns paragraph 5 which provides for automatic reference to a Minister in the case of all Government proposals. I am not sure the guide to legislative procedure need lay down in such detail how we should conduct our scrutiny, and I am confident that we can achieve internal arrangements which ensure appropriate Ministerial oversight with no less rigorous scrutiny. I would therefore prefer to see the final sentence of paragraph 5 read "In the Home Department or Departments concerned appropriate Ministerial oversight of powers of entry will be maintained".

C. L. Havers

The Rt Hon Sir Michael Havers, QC, MP



20 July 1983



70 WHITEHALL, LONDON SW1A 2AS

01-233 8319

From the Secretary of the Cabinet and Permanent Secretary to the Management and Personnel Office

Sir Robert Armstrong GCB CVO

Ref. A083/1778

22 June 1983

I see that the Attorney General, in his letter of 20 June to the Home Secretary, has proposed that we should now put into effect the arrangements for scrutinising new powers of entry which were proposed in my minute of 6 October 1982 to the Prime Minister.

For my part, I should certainly endorse this proposal.

--- I presume that the procedures would then be on the lines of the annex to my minute of 6 October, as amended by my minute of 16 November. I attach for convenience a copy of the proposed procedures as so amended.

I am sending copies of this letter to Kerr Fraser, Henry Steel and Robin Butler.

ROBERT ARMSTRONG

Sir Brian Cubbon KCB

F E R Butler Esq



Let us await
the comments
of the Home
Office

CABINET OFFICE

FERB

23.6.

With the compliments of
Sir Robert Armstrong GCB, CVO
*Secretary of the Cabinet
and Permanent Secretary to the
Management and Personnel Office*

70 Whitehall, London SW1A 2AS

Telephone: 01-233 8319



01-405 7641 Extn 3201

ROYAL COURTS OF JUSTICE

LONDON, WC2A 2LL

20 June 1983

The Rt Hon Leon Brittan QC MP
Secretary of State for the Home Department
Home Office
Queen Anne's Gate
LONDON S W 1

Dear Leon.

SCRUTINY OF NEW POWERS OF ENTRY

Your Department will be aware of the Report by David Mitchell (then Parliamentary Under Secretary at the Department of Industry) on the objections raised by the National Federation of Self-Employed to existing powers of entry to business premises. As a result the former Solicitor General was given the responsibility for the scrutiny of all proposals in primary or subordinate legislation for new powers of entry. This involved a consideration of policy issues as to the acceptability of such proposals and operated independently of the normal scrutiny already undertaken by your Department.

I was never wholly in favour of a Law Officer, or my Department, being engaged in this work. When the Prime Minister considered this arrangement in December 1982 she concluded, in response to Sir Ian Percival's express wishes, that she would leave matters as they were for the time being. I consider that the time for a change has now come and I propose that your Department should take on this function.

I am copying this letter to the Prime Minister and to Sir Robert Armstrong.

Yours etc. Michael



Lee Kb

10 DOWNING STREET

From the Principal Private Secretary

MR. HATFIELD
CABINET OFFICE

SCRUTINY OF NEW POWERS OF ENTRY

As you will know, the Attorney General sent the Prime Minister a copy of his letter of 20 June to the Home Secretary. I will await Sir Robert Armstrong's advice before raising this issue again with the Prime Minister.

E. E. R. BUTLER

21 June 1983

NR

Sov Machinery
: Ministerial Responsibility
for Scrutiny of Powers of Entry
Oct '82

21 JUL 1982



*With the compliments of
the Attorney-General*

*Attorney General's Chambers,
Law Officers' Department,
Royal Courts of Justice,
Strand. W.C.2A 2LL*

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