

Draft Order laid before Parliament under section 25(5) of the Regulation of Investigatory Powers Act 2000, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2003 No.

INVESTIGATORY POWERS

**The Regulation of Investigatory Powers
(Communications Data) Order 2003**

Made - - - - 2003
Coming into force - - 2003

Whereas a draft of this Order has been approved by resolution of each House of Parliament;
Now, therefore, the Secretary of State, in exercise of the powers conferred on him by paragraph (g) of the definition of “relevant public authority” in section 25(1) of the Regulation of Investigatory Powers Act 2000(1) and by sections 25(2) and (3) and 78(5) of that Act, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Regulation of Investigatory Powers (Communications Data) Order 2003 and shall come into force one month after the day on which it is made.

(2) In this Order—

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

“authorisation” means an authorisation under section 22(3) of the 2000 Act; and

“notice” means a notice under section 22(4) of the 2000 Act.

Prescribed offices, ranks and positions

2. The offices, ranks and positions listed in columns 2 and 3 of Schedule 1 (being offices, ranks and positions with the relevant public authorities in column 1 of that Schedule) are hereby prescribed for the purposes of section 25(2) of the 2000 Act, subject to the restrictions in articles 6, 7 and 10.

Additional public authorities

3. The public authorities set out in column 1 of Parts I, III and IV of Schedule 2 are hereby specified as relevant public authorities for the purposes of section 25(1) of the 2000 Act.

(1) 2000 c. 23.

Prescribed offices, ranks and positions in the additional public authorities

4. The offices, ranks and positions listed in columns 2 and 3 of Parts I, II, III and IV of Schedule 2 (being offices, ranks and positions with the relevant public authorities in column 1 of that Schedule) are hereby prescribed for the purposes of section 25(2) of the 2000 Act, subject to the restrictions in articles 6, 7, 8 and 9.

More senior offices, ranks and positions

5.—(1) Where an office, rank or position with a relevant public authority listed in column 2 of Schedule 1 or column 2 of Schedule 2 is prescribed by virtue of article 2 or 4, all more senior offices, ranks or positions with that authority are also prescribed for the purposes of section 25(2) of the 2000 Act, subject to article 11.

(2) Where an office, rank or position with a relevant public authority is described in column 2 of Schedule 1 or column 2 of Schedule 2 by reference to an agency, unit, branch, division or other part of that authority, the reference in paragraph (1) to all more senior offices, ranks or positions with that authority is a reference to all more senior offices, ranks or positions with that agency, unit, branch, division or part.

Restrictions on the granting of authorisations or the giving of notices

6. The restriction in this article is that an individual holding an office, rank or position which is listed in column 2 or 3 of Schedule 1 or column 2 or 3 of Schedule 2 may not grant an authorisation or give a notice unless he believes it is necessary on the grounds set out in one or more of the paragraphs of section 22(2) of the 2000 Act listed in the corresponding entry in column 4 of those Schedules.

7.—(1) The restriction in this paragraph is that an individual holding an office, rank or position which is listed in column 2 of Schedule 1 or column 2 of Schedule 2 may only grant an authorisation or give a notice that he believes is necessary on grounds other than those set out in paragraphs (a), (b), (c) and (g) of section 22(2) of the 2000 Act where that authorisation or notice satisfies the condition in paragraph (3).

(2) The restriction in this paragraph is that an individual holding an office, rank or position which is listed in column 3 of Schedule 1 or column 3 of Schedule 2 may only grant an authorisation or give a notice which satisfies the condition set out in paragraph (3).

(3) The condition referred to in paragraphs (1) and (2) is that the only communications data authorised to be obtained by the authorisation, or required to be obtained or disclosed by the notice, is communications data falling within section 21(4)(c) of the 2000 Act.

8.—(1) The restriction in this article is that an individual holding an office, rank or position which is listed in column 2 of Part II or Part III of Schedule 2 may only grant an authorisation or give a notice which satisfies the condition set out in paragraph (2).

(2) The condition referred to in paragraph (1) is that the only communications data authorised to be obtained by the authorisation, or required to be obtained or disclosed by the notice, is communications data falling within section 21(4)(b) or (c) of the 2000 Act.

9.—(1) The restriction in this article is that an individual holding an office, rank or position which is listed in column 2 of Part IV of Schedule 2 may only grant an authorisation or give a notice which satisfies the condition set out in paragraph (2).

(2) The condition referred to in paragraph (1) is that the only communications data authorised to be obtained by the authorisation, or required to be obtained or disclosed by the notice, is communications data relating to a postal service.

10.—(1) The restriction in this article is that an individual holding an office, rank or position with the Commissioners of Inland Revenue (being a relevant public authority listed in Schedule 1) may only grant an authorisation or give a notice which satisfies the condition set out in paragraph (2).

(2) The condition referred to in paragraph (1) is that the only communications data falling with section 21(4)(a) of the 2000 Act authorised to be obtained by the authorisation, or required to be obtained or disclosed by the notice is communications data relating to a postal service.

11. The restrictions on the granting of authorisations and the giving of notices that apply to an individual holding an office, rank or position with a relevant public authority listed in column 2 of Schedule 1 or column 2 of Schedule 2 shall also apply to all individuals holding all more senior offices, ranks or positions with that authority that are prescribed by article 5.

Home Office
2003

Parliamentary Under-Secretary of State

SCHEDULE 1

Article 2

INDIVIDUALS IN PUBLIC AUTHORITIES WITHIN SECTION 25(1) OF THE 2000 ACT

<i>(1)</i> <i>Relevant public authorities</i>	<i>(2)</i> <i>Prescribed offices etc (All authorisations/notices)</i>	<i>(3)</i> <i>Additional prescribed offices etc (Authorisations/notices relating solely to communications data falling within section 21(4)(c))</i>	<i>(4)</i> <i>Purposes within section 22(2) for which an authorisation may be granted or a notice given</i>
<i>Police Forces</i>			
A police force maintained under section 2 of the Police Act 1996 ⁽²⁾ (police forces in England and Wales outside London)	Superintendent	Inspector	(a)(b)(c)(d)(e)(g)
A police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967 ⁽³⁾	Superintendent	Inspector	(a)(b)(c)(d)(e)(g)
The metropolitan police force	Superintendent	Inspector	(a)(b)(c)(d)(e)(g)
The City of London police force	Superintendent	Inspector	(a)(b)(c)(d)(e)(g)
The Police Service of Northern Ireland ⁽⁴⁾	Superintendent	Inspector	(a)(b)(c)(d)(e)(g)
The Ministry of Defence Police	Superintendent	Inspector	(a)(b)(c)(g)
The Royal Navy Regulating Branch	Provost Marshal	—	(a)(b)(c)(g)
The Royal Military Police	Lieutenant Colonel	Major	(a)(b)(c)(g)
The Royal Air Force Police	Wing Commander	Squadron Leader	(a)(b)(c)(g)
The British Transport Police	Superintendent	Inspector	(a)(b)(c)(d)(e)(g)
The National Criminal Intelligence Service	Superintendent, Level 2 or any individual	Inspector, Level 4 or any individual on	(a)(b)(c)(d)(e)(g)

(2) 1996 c. 16.

(3) 1967 c. 77.

(4) A police force within the definition of relevant public authority in section 25(1) of the 2000 Act as defined in section 81(1) of the 2000 Act as amended by section 78(2) of the Police (Northern Ireland) Act 2000 (2000 c. 32).

(1) <i>Relevant public authorities</i>	(2) <i>Prescribed offices etc (All authorisations/notices)</i>	(3) <i>Additional prescribed offices etc (Authorisations/notices relating solely to communications data falling within section 21(4)(c))</i>	(4) <i>Purposes within section 22(2) for which an authorisation may be granted or a notice given</i>
The National Crime Squad	on secondment to the National Criminal Intelligence Service who holds any other office, rank or position in any relevant public authority listed in column 2 of Schedule 1 Superintendent, Band I or any individual on secondment to the National Crime Squad who holds any other office, rank or position in any relevant public authority listed in column 2 of Schedule 1	secondment to the National Criminal Intelligence Service who holds any other office, rank or position in any relevant public authority listed in column 3 of Schedule 1 Inspector, Band F or any individual on secondment to the National Crime Squad who holds any other office, rank or position in any relevant public authority listed in column 3 of Schedule 1	(a)(b)(c)(d)(e)(g)
The Commissioners of Customs and Excise	Band 9	Band 7 or 8	(b)(f)
The Commissioners of Inland Revenue	Band C1	Band C2	(b)(f)
<i>The Intelligence Services</i>			
Government Communications Headquarters	GC8	—	(a)(b)(c)
The Security Service	General Duties 3 or any other Officer at Level 3	General Duties 4	(a)(b)(c)
The Secret Intelligence Service	Grade 6 or equivalent	—	(a)(b)(c)

SCHEDULE 2

Article 3

INDIVIDUALS IN ADDITIONAL PUBLIC AUTHORITIES SPECIFIED BY THIS ORDER

Part I

(Individuals in additional public authorities that may acquire all types of communications data within section 21(4) of the 2000 Act)

<i>(1)</i> <i>Additional public authorities specified for the purposes of section 25(1) of the 2000 Act</i>	<i>(2)</i> <i>Prescribed offices etc (All authorisations/notices)</i>	<i>(3)</i> <i>Additional prescribed offices etc (Authorisations/notices relating solely to communications data falling within section 21(4)(c))</i>	<i>(4)</i> <i>Purposes within section 22(2) for which an authorisation may be granted or a notice given</i>
The Financial Services Authority	Head of Department in Enforcement Division	—	(b)
The Scottish Crime Squad within the meaning of the Regulation of Investigatory Powers (Scotland) Act 2000 ⁽⁵⁾	Superintendent	Inspector	(b)(d)(g)
The United Kingdom Atomic Energy Authority Constabulary	Superintendent	Inspector	(a)(b)
The Department of Trade and industry	Range 9 Officer in Radiocommunications Agency	—	(b)
The Office of the Police Ombudsman for Northern Ireland	Senior Investigating Officer	—	(b)
<i>Emergency Services</i>			
A National Health Service trust established under section 5 of the National Health Service and Community Care Act 1990 ⁽⁶⁾ whose	Duty Officer responsible for the Control Function	—	(g)

(5) 2000 asp 11.

(6) 1990 c. 19.

<i>(1)</i> <i>Additional public authorities specified for the purposes of section 25(1) of the 2000 Act</i>	<i>(2)</i> <i>Prescribed offices etc (All authorisations/notices)</i>	<i>(3)</i> <i>Additional prescribed offices etc (Authorisations/notices relating solely to communications data falling within section 21(4)(c))</i>	<i>(4)</i> <i>Purposes within section 22(2) for which an authorisation may be granted or a notice given</i>
functions, as specified in its Establishment Order, include the provision of emergency ambulance services			
The Welsh Ambulance Services NHS Trust	Regional Control Manager	—	(g)
The Scottish Ambulance Service Board	Emergency Medical Dispatch Centre Officer in Charge	—	(g)
The Northern Ireland Ambulance Service Health and Social Services Trust	Control Supervisor in Ambulance Control Room	—	(g)
The Department for Transport	Area Operations Manager in the Maritime and Coastguard Agency	—	(g)
Any fire authority within the meaning of the Fire Services Act 1947(7) (read with paragraph 2 of Schedule 11 to the Local Government Act 1985)(8)	Fire Control Officer	—	(g)
A council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(9)	Fire Control Officer	—	(g)
A joint Board constituted by an administration scheme under section 36 of the Fire Services Act 1947 or section 147 of	Fire Control Officer	—	(g)

(7) 1947 c. 41.

(8) 1985 c. 51.

(9) 1994 c. 39.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Regulation of Investigatory Powers (Communications Data) Order 2003 No. 3172*

<i>(1)</i> <i>Additional public authorities specified for the purposes of section 25(1) of the 2000 Act</i>	<i>(2)</i> <i>Prescribed offices etc (All authorisations/notices)</i>	<i>(3)</i> <i>Additional prescribed offices etc (Authorisations/notices relating solely to communications data falling within section 21(4)(c))</i>	<i>(4)</i> <i>Purposes within section 22(2) for which an authorisation may be granted or a notice given</i>
the Local Government (Scotland) Act 1973 ⁽¹⁰⁾			
The Fire Authority for Northern Ireland	Fire Control Officer	—	(g)

Part II

(Individuals in the public authorities specified in Part I that may only acquire communications data falling within sections 21(4)(b) and (c) of the 2000 Act)

<i>(1)</i> <i>Additional public authorities specified for the purposes of section 25(1) of the 2000 Act</i>	<i>(2)</i> <i>Prescribed offices etc (All authorisations/notices relating to communications data falling within sections 21(4)(b) and (c))</i>	<i>(3)</i> <i>Additional prescribed offices etc (Authorisations/notices relating solely to communications data falling within section 21(4)(c))</i>	<i>(4)</i> <i>Purposes within section 22(2) for which an authorisation may be granted or a notice given</i>
The Department of Trade and Industry	Deputy Inspector of Companies in Companies Investigation Branch	—	(b)
	Deputy Chief Investigation Officer in the Investigation Officers Section of Legal Services Directorate D	—	(b)
<i>Emergency Services</i>			
A National Health Service Trust established under section 5 of the National Health Service and Community Care	Director of Operations or Director of Control and Communications	—	(b)

⁽¹⁰⁾ 1973 c. 65.

<i>(1)</i> <i>Additional public authorities specified for the purposes of section 25(1) of the 2000 Act</i>	<i>(2)</i> <i>Prescribed offices etc (All authorisations/notices relating to communications data falling within sections 21(4)(b) and (c))</i>	<i>(3)</i> <i>Additional prescribed offices etc (Authorisations/notices relating solely to communications data falling within section 21(4)(c))</i>	<i>(4)</i> <i>Purposes within section 22(2) for which an authorisation may be granted or a notice given</i>
Act 1990 whose functions, as specified in its Establishment Order, include the provision of emergency ambulance services			
The Welsh Ambulance Services NHS Trust	Director of Operations	—	(b)
The Scottish Ambulance Service Board	Director of Operations	—	(b)
The Northern Ireland Ambulance Service Health and Social Services Trust	Director of Operations	—	(b)
The Department for Transport	Principal Enforcement Officer in the Maritime and Coastguard Agency	—	(b)(d)
Any fire authority within the meaning of the Fire Services Act 1947 (read with paragraph 2 of Schedule 11 to the Local Government Act 1985)	Principal Fire Control Officer or Divisional Officer 2	—	(b)(d)
A council constituted under section 2 of the Local Government etc. (Scotland) Act 1994	Assistant Chief Officer, Assistant Head of Service, Service Manager or equivalent	—	(b)
	Principal Fire Control Officer or Divisional Officer 2	—	(b)(d)
A joint Board constituted by an administration scheme under section 36 of	Principal Fire Control Officer or Divisional Officer 2	—	(b)(d)

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<i>(1)</i> <i>Additional public authorities specified for the purposes of section 25(1) of the 2000 Act</i>	<i>(2)</i> <i>Prescribed offices etc (All authorisations/ notices relating to communications data falling within sections 21(4)(b) and (c))</i>	<i>(3)</i> <i>Additional prescribed offices etc (Authorisations/ notices relating solely to communications data falling within section 21(4)(c))</i>	<i>(4)</i> <i>Purposes within section 22(2) for which an authorisation may be granted or a notice given</i>
the Fire Services Act 1947 or section 147 of the Local Government (Scotland) Act 1973			
The Fire Authority for Northern Ireland	Principal Fire Control Officer or Divisional Officer 2	—	(b)(d)

Part III

(Individuals in further additional public authorities that may only acquire communications data falling within sections 21(4) (b) and (c) of the 2000 Act)

<i>(1)</i> <i>Additional public authorities specified for the purposes of section 25(1) of the 2000 Act</i>	<i>(2)</i> <i>Prescribed offices etc (All authorisations/ notices relating to communications data falling within sections 21(4)(b) and (c))</i>	<i>(3)</i> <i>Additional prescribed offices etc (Authorisations/ notices relating solely to communications data falling within section 21(4)(c))</i>	<i>(4)</i> <i>Purposes within section 22(2) for which an authorisation may be granted or a notice given</i>
<i>Government Departments</i>			
The Department for Environment, Food and Rural Affairs	Senior Investigation Officer in DEFRA Investigation Branch	—	(b)
	Senior Investigation Officer in the Centre for Environment, Fisheries and Aquaculture Science	—	(b)
	Senior Counter Fraud Officer in the Counter Fraud and Compliance Unit of the Rural Payments Agency	—	(b)

<i>(1)</i> <i>Additional public authorities specified for the purposes of section 25(1) of the 2000 Act</i>	<i>(2)</i> <i>Prescribed offices etc (All authorisations/notices relating to communications data falling within sections 21(4)(b) and (c))</i>	<i>(3)</i> <i>Additional prescribed offices etc (Authorisations/notices relating solely to communications data falling within section 21(4)(c))</i>	<i>(4)</i> <i>Purposes within section 22(2) for which an authorisation may be granted or a notice given</i>
The Food Standards Agency	Deputy Director of Legal Services or any Director	—	(b)(d)(e)
The Department of Health	Integrated Payband 3 (Standard 2) in the Medicines and Healthcare Products Regulatory Agency	—	(b)(d)(e)
The Home Office	Immigration Inspector in the Immigration Service	—	(b)
The Department of Enterprise, Trade and Investment for Northern Ireland	Deputy Chief Inspector in Trading Standards Service	—	(b)
<i>Local Authorities</i>			
Any county council or district council in England, a London borough council, the Common Council of the City of London in its capacity as a local authority, the Council of the Isles of Scilly, and any county council or county borough council in Wales	Assistant Chief Officer, Assistant Head of Service, Service Manager or equivalent	—	(b)
A district council within the meaning of the Local Government Act (Northern Ireland) 1972(11)	Assistant Chief Officer	—	(b)
<i>NHS Bodies</i>			
The Counter Fraud and Security Management Service	Senior Manager (Senior Manager Pay Range 14)	—	(b)

(11) 1972 c. 9 (N.I.).

<i>(1)</i> <i>Additional public authorities specified for the purposes of section 25(1) of the 2000 Act</i>	<i>(2)</i> <i>Prescribed offices etc (All authorisations/notices relating to communications data falling within sections 21(4)(b) and (c))</i>	<i>(3)</i> <i>Additional prescribed offices etc (Authorisations/notices relating solely to communications data falling within section 21(4)(c))</i>	<i>(4)</i> <i>Purposes within section 22(2) for which an authorisation may be granted or a notice given</i>
The Common Services Agency for the Scottish Health Service	Head of NHSScotland Counter Fraud Services	—	(b)
The Northern Ireland Health and Social Services Central Services Agency	Head of the Counter Fraud Unit	—	(b)
<i>Other Bodies</i>			
The Charity Commission	Senior Investigations Manager	—	(b)
The Environment Agency	Area Management Team Member	—	(b)(d)(e)
The Gaming Board for Great Britain	Chief Inspector	—	(b)
The Health and Safety Executive	Band 2 Inspector	—	(b)(d)(e)(g)
The Information Commissioner	Head of Investigations	—	(b)
The Office of Fair Trading	Director of Cartel Investigations	—	(b)
The Serious Fraud Office	Assistant Director	—	(b)
The Scottish Environment Protection Agency	Director of Operations, any other Director	—	(b)(d)(e)
A Universal Service Provider within the meaning of the Postal Services Act 2000 ⁽¹²⁾	Senior Investigation Manager in Royal Mail Group plc	—	(b)

⁽¹²⁾ 2000 c. 26.

Part

IV (Individuals in additional public authorities that may only acquire communications data within section 21(4) of the 2000 Act relating to a postal service)

<i>(1)</i> <i>Additional public authorities specified for the purposes of section 25(1) of the 2000 Act</i>	<i>(2)</i> <i>Prescribed offices etc (All authorisations/ notices relating to communications data relating to postal services</i>	<i>(3)</i> <i>Additional prescribed offices etc (Authorisations/ notices relating solely to communications data falling within section 21(4)(c))</i>	<i>(4)</i> <i>Purposes within section 22(2) for which an authorisation may be granted or a notice given</i>
Postal Services Commission	Legal Adviser	—	(b)

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies additional public authorities for the purposes of section 25(1) of the Regulation of Investigatory Powers Act 2000 (“the 2000 Act”). Public authorities specified for the purposes of section 25 are entitled to acquire communications data under the provisions in Chapter II of Part I of the 2000 Act. The Order specifies which individuals within those public authorities, and the public authorities already listed in the 2000 Act, are entitled to acquire communications data. It also places restrictions on the grounds on which they may acquire communications data and the types of communications data they may acquire.

Column 1 of the two Schedules to the Order lists the public authorities. Column 1 of Schedule 1 contains the public authorities already listed within section 25(1) of the 2000 Act. The public authorities listed in Parts I, III and IV of column 1 of Schedule 2 are specified by article 3 as additional public authorities under the 2000 Act.

By virtue of articles 2 and 4 column 2 of the Schedules lists the individuals holding an office, rank or position within each public authority who may acquire communications data. Article 5 provides that more senior individuals with those public authorities may also acquire communications data in the same circumstances to those to whom they are senior. Certain less senior officials listed in column 3 of the Schedules can acquire communications data defined in section 21(4)(c) of the 2000 Act. This type of data is known as subscriber data.

An individual holding a particular office, rank or position can only acquire communications data on the particular grounds, set out in the different paragraphs of section 22(2) of the 2000 Act, found in the entry in column 4 of the Schedules corresponding to the entry for that individual in column 2 or 3. Where the grounds on which communications data is to be obtained is not national security, the prevention or detection of crime or the prevention of disorder, the economic well being of the UK, or in an emergency to prevent death or injury, then only subscriber data may be acquired.

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Subject to these restrictions individuals holding offices, ranks or positions listed in Schedule 1 or Part I of Schedule 2 are entitled to acquire all types of communications data. Individuals holding offices, ranks or positions listed in Parts II and III of Schedule 2 are not entitled to acquire traffic data as defined in section 21(4)(a) (read with sections 21(6) and (7)) of the 2000 Act. Individuals within the Postal Services Commission can only acquire communications data about postal services. Individuals in the Inland Revenue can acquire all communications data other than traffic data that does not relate to a postal service.