

2006 No. 1878

INVESTIGATORY POWERS

**The Regulation of Investigatory Powers (Communications Data)
(Additional Functions and Amendment) Order 2006**

Made - - - - *12th July 2006*

Coming into force - - *26th July 2006*

The Secretary of State makes the following Order in exercise of the powers conferred on him by section 22(2)(h) of, paragraph (g) of the definition of “relevant public authority” in section 25(1) of, and section 25(2) and (3) of the Regulation of Investigatory Powers Act 2000(a).

In accordance with sections 22(9) and 25(5) of that Act, a draft of this Order has been laid before Parliament and approved by resolution of each House.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Regulation of Investigatory Powers (Communications Data) (Additional Functions and Amendment) Order 2006 and shall come into force on the expiry of two weeks beginning with the day on which it is made.

(2) In this Order “the 2003 Order” means the Regulation of Investigatory Powers (Communications Data) Order 2003(b).

Additional purposes of section 22(2) of the Regulation of Investigatory Powers Act 2000

2. The following additional purposes are specified for the purposes of section 22(2) of the Regulation of Investigatory Powers Act 2000 (to the extent that they do not fall within paragraphs (a) to (g) of that provision)—

- (a) to assist investigations into alleged miscarriages of justice;
- (b) for the purpose of—
 - (i) assisting in identifying any person who has died otherwise than as a result of crime or who is unable to identify himself because of a physical or mental condition, other than one resulting from crime, or
 - (ii) obtaining information about the next of kin or other connected persons of such a person or about the reason for his death or condition.

Amendment of Regulation of Investigatory Powers (Communications Data) Order 2003

3. In article 1(2) of the 2003 Order (interpretation) after the definition of “the 2000 Act” insert—

(a) 2000 c.23.
(b) S.I. 2003/3172, as amended by S.I. 2005/1083.

““the 2006 Order” means the Regulation of Investigatory Powers (Communications Data) (Additional Purposes and Amendment) Order 2006;”.

4. For article 6 of the 2003 Order (restrictions on the granting of authorisations or the giving of notices) substitute—

“6.—(1) 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 2 may not grant an authorisation or give a notice unless he believes it is necessary for any purpose within section 22(2) of the 2000 Act which is listed in the corresponding entry in column (4) of those Schedules.

(2) In column (4) of those Schedules a letter refers to the paragraph in section 22(2) of the 2000 Act which is identified by that letter, except where there is a reference to article 2 of the 2006 Order.”.

5. For article 10 of the 2003 Order substitute—

“10.—(1) The restriction in this article is that an individual holding an office, rank or position with the Commissioners for Her Majesty’s Revenue and Customs (being a relevant public authority listed in Schedule 1 to the 2000 Act(a)) may only grant an authorisation or give a notice which satisfies the condition set out in paragraph (2).

(2) That condition is that, in connection with a function relating to a matter to which section 7 of the Commissioners for Revenue and Customs Act 2005(b) applies, the only communications data falling within 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.”.

6.—(1) Schedule 1 to the 2003 Order (individuals in public authorities within section 25(1) of the 2000 Act) is amended as follows.

(2) In column (4) (purposes within section 22(2)), at the end of each of the entries in respect of the first five police forces listed in column (1) (relevant public authorities)(c) and the British Transport Police add “and article 2(b) of the 2006 Order”.

(3) For the entries in respect of the Commissioners of Customs and Excise and the Commissioners of Inland Revenue substitute the following entry—

“The Commissioners for Her Majesty’s Revenue and Customs	Senior Officer	Higher Officer	(b)(f)”
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(4) In column (4), at the end of the entry in respect of the Serious Organised Crime Agency in column (1)(d) add “and article 2(b) of the 2006 Order”.

7.—(1) Part 1 of Schedule 2 (individuals in additional public authorities that may acquire all types of communications data within section 21(4) of the Regulation of Investigatory Powers Act 2000) to the 2003 Order is amended as follows.

(2) After the entry for the Financial Services Authority insert—

(a) The entries in Schedule 1 to the Regulation of Investigatory Powers Act 2000 in respect of the Commissioners of Customs and Excise and the Commissioners of Inland Revenue are amended by section 50(1) of the Commissioners for Revenue and Customs Act 2005 (c.11).

(b) 2005 c.11.

(c) The entries in Part 1 of Schedule 1 in respect of the National Criminal Intelligence Service and the National Crime Squad were revoked by article 41(1) and (2) of the Serious Organised Crime and Police Act 2005 (Consequential and Supplementary Amendments to Secondary Legislation) Order 2006 (S.I. 2006/594).

(d) The entry was inserted by article 41(3) of S.I. 2006/594.

“The Gangmasters Licensing Authority	Head of Enforcement	—	(b)
The Home Office	Immigration inspector in the Immigration Service	—	(b)
	Senior operational manager in a directly managed prison	—	(b)(d)
The Department for Transport	Inspector in the Air Accident Investigation Branch, the Marine Accident Investigation Branch or the Rail Accident Investigation Branch	—	(d)
The Gambling Commission	Director of Intelligence or Director of Monitoring and Enforcement	—	(b)
The Information Commissioner	Head of Regulatory Action Division	—	(b)
The Serious Fraud Office	Assistant Director for the Operations Division	—	(b)
The Criminal Cases Review Commission	An investigations Adviser	—	Article 2(a) of the 2006 Order
The Scottish Criminal Cases Review Commission	A Legal Officer	—	Article 2(a) of the 2006 Order
The Royal Mail Group plc, by virtue of being a Universal Service Provider within the meaning of the Postal Services Act 2000(a)	Senior Investigation Manager	—	(b)”

(3) In column (4), at the end of each of the entries in respect of the force comprising constables appointed on the nomination of the Dover Harbour Board and the Mersey Docks and Harbour Company in column (1), add “and article 2(b) of the 2006 Order”.

8.—(1) Part 3 of Schedule 2 (individuals in further additional public authorities that may acquire only communications data falling within section 21(4)(b) and (c) of the 2000 Act) to the 2003 Order is amended as follows.

(2) In column (2) (prescribed offices etc.) in the entry relating to the Department for Environment, Food and Rural Affairs—

- (a) in the first entry (Defra Investigation Branch), for “Branch” substitute “Services”; and
- (b) in the third entry, for “Senior Counter Fraud Officer in the Counter Fraud and Compliance Unit of the Rural Payments Agency” substitute “Deputy Chief Inspector in Marine Fisheries Agency”.

(3) In column (2) in the entry for the Home Office for “Immigration Inspector in the Immigration Service” substitute “Head of Investigations in the National Asylum Support Service”.

(a) 2000 c.26.

(4) At the end of the entries grouped under the heading “Government Departments” insert the following entry in columns (1), (2) and (4)—

“The Department of Agriculture and Rural Development for Northern Ireland	Head of Financial Policy and Investigation Services	—	(b)”
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(5) After the entry for the Office of Fair Trading (grouped under the heading “Other Bodies”) insert the following entry in columns (1), (2) and (4)—

“The Pensions Regulator	Regulatory manager	—	(b)”
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(6) Omit the entries in respect of the Gaming Board for Great Britain, the Information Commissioner, the Serious Fraud Office and a Universal Service Provider within the meaning of the Postal Services Act 2000.

Home Office
12th July 2006

Tony McNulty
Minister of State

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 of this Order specifies additional purposes as purposes falling within section 22(2) of the Regulation of Investigatory Powers Act 2000 (“the 2000 Act”). Under section 22(1) of that Act, section 22 applies where a person designated for the purposes of Chapter 2 (acquisition and disclosure of communications data) of Part 1 of that Act believes that it is necessary on grounds falling within section 22(2) to obtain communications data (as defined by section 21(4)). Such a person may grant an authorisation under section 22(3) or give a notice under section 22(4).

Under section 25(2) of the 2000 Act, a person designated for the purposes of Chapter 2 of Part 1 of that Act is an individual holding such offices, ranks or positions with relevant public authorities (as defined by section 25(1)) as are prescribed by articles 2 and 4 of, and columns (2) and (3) of Schedules 1 and 2 of, the Regulation of Investigatory Powers (Communications Data) Order 2003 (“the 2003 Order”). This is subject to the restrictions as to purposes which are set out in column (4) of those Schedules.

Articles 3 and 4 of this Order makes consequential amendments to the 2003 Order to provide for purposes falling within section 22(2) of the 2000 Act which are not set out in paragraphs of that provision. The amendments made to the 2003 Order by article 6(2) and (4) of this Order, the entry in respect of the Criminal Cases Review Commission and the Scottish Criminal Cases Review Commission in the amendments made by article 7(2) and article 7(3) of this Order relate to the exercise of the powers in section 22 in respect of the purposes specified in article 2. Articles 5 and 6(3) make amendments consequential on the replacement of the Commissioners of Customs and Excise and of Inland Revenue with the Commissioners for Revenue and Customs.

Article 7(2) amends Part 1 of Schedule 2 to the 2003 Order (individuals in additional public authorities that may acquire all types of communications data) to add new entries. The entries in respect of an immigration inspector in the Immigration Service, the Information Commissioner, the Serious Fraud Office and the Royal Mail Group plc are transferred from Part 3 of Schedule 2 to the 2003 Order (individuals in additional public authorities that may acquire only certain categories of communications data) to Part 1. Consequential amendments are made by article 8 which also adds new public authorities to Part 3 of Schedule 2 to the 2003 Order and amends other entries.

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