

# **REGULATION OF INVESTIGATORY POWERS ACT 2000**

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## **EXPLANATORY NOTES**

### **OVERVIEW**

6. The Act is in five parts.

#### ***Interception of Communications and the Acquisition and Disclosure of Communications Data***

7. The existing arrangements for the interception of communications are established in the Interception of Communications Act 1985. Significant changes to that Act were proposed in the Consultation Paper “Interception of Communications in the United Kingdom” (CM 4368) published on 22 June 1999.
8. This Act repeals the 1985 Act and provides for a new regime for the interception of communications incorporating the changes proposed in the consultation paper. These changes go beyond what is strictly required for human rights purposes and provide also for the changed nature of the communications industry since 1985.
9. The provisions also implement Article 5 of Council Directive 97/66 of 15 December 1997, known as the “Telecommunications Data Protection Directive”, which requires member states to safeguard the confidentiality of communications.

#### ***Surveillance and Covert Human Intelligence Sources***

10. This Part provides a statutory basis for the authorisation and use by the security and intelligence agencies, law enforcement and other public authorities of covert surveillance, agents, informants and undercover officers. It will regulate the use of these techniques and safeguard the public from unnecessary invasions of their privacy.

#### ***Investigation of Electronic Data Protected by Encryption etc***

11. This Part contains provisions to maintain the effectiveness of existing law enforcement powers in the face of increasing criminal use of encryption. Specifically, it will introduce a power to require disclosure of protected (encrypted) data.
12. The first consultation on this subject was undertaken by the previous administration in March 1997. A broader consultation “Building Confidence in Electronic Commerce: A Consultation Document” was launched on 5 March 1999 (URN 99/642). Finally, provisions very similar to these were published as Part III of the draft Electronic Communications Bill issued for consultation on 23 July 1999 (CM 4419).

#### ***Scrutiny of Investigatory Powers and Codes of Practice***

13. This Part ensures that there will be independent judicial oversight of powers where necessary.

*These notes refer to the Regulation of Investigatory Powers  
Act 2000 (c.23) which received Royal Assent on 28 July 2000*

14. It also establishes a Tribunal as a means of redress for those who wish to complain about the use of the powers.
15. Finally, it provides for the Secretary of State to issue Codes of Practice covering the use of the powers covered by the Act.

***Miscellaneous and Supplemental***

16. This Part makes minor amendments to Wireless Telegraphy Act 1949, Part III of the Police Act 1997 in the light of operational experience and extends those provisions to the Ministry of Defence Police, the British Transport Police and the Service Police.
17. Both the Police Act 1997 and the Intelligence Services Act 1994 are amended to ensure authority is given for interference with property or wireless telegraphy only where it is proportionate to do so.