



# Regulation of Investigatory Powers Act 2000

## 2000 CHAPTER 23

### PART I

#### COMMUNICATIONS

#### CHAPTER II

##### ACQUISITION AND DISCLOSURE OF COMMUNICATIONS DATA

#### **21 Lawful acquisition and disclosure of communications data**

- (1) This Chapter applies to—
  - (a) any conduct in relation to a postal service or telecommunication system for obtaining communications data, other than conduct consisting in the interception of communications in the course of their transmission by means of such a service or system; and
  - (b) the disclosure to any person of communications data.
- (2) Conduct to which this Chapter applies shall be lawful for all purposes if—
  - (a) it is conduct in which any person is authorised or required to engage by an authorisation or notice granted or given under this Chapter; and
  - (b) the conduct is in accordance with, or in pursuance of, the authorisation or requirement.
- (3) A person shall not be subject to any civil liability in respect of any conduct of his which—
  - (a) is incidental to any conduct that is lawful by virtue of subsection (2); and
  - (b) is not itself conduct an authorisation or warrant for which is capable of being granted under a relevant enactment and might reasonably have been expected to have been sought in the case in question.

- (4) In this Chapter “communications data” means any of the following—
- (a) any traffic data comprised in or attached to a communication (whether by the sender or otherwise) for the purposes of any postal service or telecommunication system by means of which it is being or may be transmitted;
  - (b) any information which includes none of the contents of a communication (apart from any information falling within paragraph (a)) and is about the use made by any person—
    - (i) of any postal service or telecommunications service; or
    - (ii) in connection with the provision to or use by any person of any telecommunications service, of any part of a telecommunication system;
  - (c) any information not falling within paragraph (a) or (b) that is held or obtained, in relation to persons to whom he provides the service, by a person providing a postal service or telecommunications service.
- (5) In this section “relevant enactment” means—
- (a) an enactment contained in this Act;
  - (b) section 5 of the Intelligence Services Act 1994 (warrants for the intelligence services); or
  - (c) an enactment contained in Part III of the Police Act 1997 (powers of the police and of customs officers).
- (6) In this section “traffic data”, in relation to any communication, means—
- (a) any data identifying, or purporting to identify, any person, apparatus or location to or from which the communication is or may be transmitted,
  - (b) any data identifying or selecting, or purporting to identify or select, apparatus through which, or by means of which, the communication is or may be transmitted,
  - (c) any data comprising signals for the actuation of apparatus used for the purposes of a telecommunication system for effecting (in whole or in part) the transmission of any communication, and
  - (d) any data identifying the data or other data as data comprised in or attached to a particular communication,
- but that expression includes data identifying a computer file or computer program access to which is obtained, or which is run, by means of the communication to the extent only that the file or program is identified by reference to the apparatus in which it is stored.
- (7) In this section—
- (a) references, in relation to traffic data comprising signals for the actuation of apparatus, to a telecommunication system by means of which a communication is being or may be transmitted include references to any telecommunication system in which that apparatus is comprised; and
  - (b) references to traffic data being attached to a communication include references to the data and the communication being logically associated with each other;
- and in this section “data”, in relation to a postal item, means anything written on the outside of the item.

## **22 Obtaining and disclosing communications data**

- (1) This section applies where a person designated for the purposes of this Chapter believes that it is necessary on grounds falling within subsection (2) to obtain any communications data.
- (2) It is necessary on grounds falling within this subsection to obtain communications data if it is necessary—
  - (a) in the interests of national security;
  - (b) for the purpose of preventing or detecting crime or of preventing disorder;
  - (c) in the interests of the economic well-being of the United Kingdom;
  - (d) in the interests of public safety;
  - (e) for the purpose of protecting public health;
  - (f) for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department;
  - (g) for the purpose, in an emergency, of preventing death or injury or any damage to a person's physical or mental health, or of mitigating any injury or damage to a person's physical or mental health; or
  - (h) for any purpose (not falling within paragraphs (a) to (g)) which is specified for the purposes of this subsection by an order made by the Secretary of State.
- (3) Subject to subsection (5), the designated person may grant an authorisation for persons holding offices, ranks or positions with the same relevant public authority as the designated person to engage in any conduct to which this Chapter applies.
- (4) Subject to subsection (5), where it appears to the designated person that a postal or telecommunications operator is or may be in possession of, or be capable of obtaining, any communications data, the designated person may, by notice to the postal or telecommunications operator, require the operator—
  - (a) if the operator is not already in possession of the data, to obtain the data; and
  - (b) in any case, to disclose all of the data in his possession or subsequently obtained by him.
- (5) The designated person shall not grant an authorisation under subsection (3), or give a notice under subsection (4), unless he believes that obtaining the data in question by the conduct authorised or required by the authorisation or notice is proportionate to what is sought to be achieved by so obtaining the data.
- (6) It shall be the duty of the postal or telecommunications operator to comply with the requirements of any notice given to him under subsection (4).
- (7) A person who is under a duty by virtue of subsection (6) shall not be required to do anything in pursuance of that duty which it is not reasonably practicable for him to do.
- (8) The duty imposed by subsection (6) shall be enforceable by civil proceedings by the Secretary of State for an injunction, or for specific performance of a statutory duty under section 45 of the Court of Session Act 1988, or for any other appropriate relief.
- (9) The Secretary of State shall not make an order under subsection (2)(h) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

## **23 Form and duration of authorisations and notices**

- (1) An authorisation under section 22(3)—

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- (a) must be granted in writing or (if not in writing) in a manner that produces a record of its having been granted;
  - (b) must describe the conduct to which this Chapter applies that is authorised and the communications data in relation to which it is authorised;
  - (c) must specify the matters falling within section 22(2) by reference to which it is granted; and
  - (d) must specify the office, rank or position held by the person granting the authorisation.
- (2) A notice under section 22(4) requiring communications data to be disclosed or to be obtained and disclosed—
- (a) must be given in writing or (if not in writing) must be given in a manner that produces a record of its having been given;
  - (b) must describe the communications data to be obtained or disclosed under the notice;
  - (c) must specify the matters falling within section 22(2) by reference to which the notice is given;
  - (d) must specify the office, rank or position held by the person giving it; and
  - (e) must specify the manner in which any disclosure required by the notice is to be made.
- (3) A notice under section 22(4) shall not require the disclosure of data to any person other than—
- (a) the person giving the notice; or
  - (b) such other person as may be specified in or otherwise identified by, or in accordance with, the provisions of the notice;
- but the provisions of the notice shall not specify or otherwise identify a person for the purposes of paragraph (b) unless he holds an office, rank or position with the same relevant public authority as the person giving the notice.
- (4) An authorisation under section 22(3) or notice under section 22(4)—
- (a) shall not authorise or require any data to be obtained after the end of the period of one month beginning with the date on which the authorisation is granted or the notice given; and
  - (b) in the case of a notice, shall not authorise or require any disclosure after the end of that period of any data not in the possession of, or obtained by, the postal or telecommunications operator at a time during that period.
- (5) An authorisation under section 22(3) or notice under section 22(4) may be renewed at any time before the end of the period of one month applying (in accordance with subsection (4) or subsection (7)) to that authorisation or notice.
- (6) A renewal of an authorisation under section 22(3) or of a notice under section 22(4) shall be by the grant or giving, in accordance with this section, of a further authorisation or notice.
- (7) Subsection (4) shall have effect in relation to a renewed authorisation or renewal notice as if the period of one month mentioned in that subsection did not begin until the end of the period of one month applicable to the authorisation or notice that is current at the time of the renewal.
- (8) Where a person who has given a notice under subsection (4) of section 22 is satisfied—

- (a) that it is no longer necessary on grounds falling within subsection (2) of that section for the requirements of the notice to be complied with, or
- (b) that the conduct required by the notice is no longer proportionate to what is sought to be achieved by obtaining communications data to which the notice relates,

he shall cancel the notice.

- (9) The Secretary of State may by regulations provide for the person by whom any duty imposed by subsection (8) is to be performed in a case in which it would otherwise fall on a person who is no longer available to perform it; and regulations under this subsection may provide for the person on whom the duty is to fall to be a person appointed in accordance with the regulations.

## **24 Arrangements for payments**

- (1) It shall be the duty of the Secretary of State to ensure that such arrangements are in force as he thinks appropriate for requiring or authorising, in such cases as he thinks fit, the making to postal and telecommunications operators of appropriate contributions towards the costs incurred by them in complying with notices under section 22(4).
- (2) For the purpose of complying with his duty under this section, the Secretary of State may make arrangements for payments to be made out of money provided by Parliament.

## **25 Interpretation of Chapter II**

- (1) In this Chapter—
  - “communications data” has the meaning given by section 21(4);
  - “designated” shall be construed in accordance with subsection (2);
  - “postal or telecommunications operator” means a person who provides a postal service or telecommunications service;
  - “relevant public authority” means (subject to subsection (4)) any of the following—
    - (a) a police force;
    - (b) the National Criminal Intelligence Service;
    - (c) the National Crime Squad;
    - (d) the Commissioners of Customs and Excise;
    - (e) the Commissioners of Inland Revenue;
    - (f) any of the intelligence services;
    - (g) any such public authority not falling within paragraphs (a) to (f) as may be specified for the purposes of this subsection by an order made by the Secretary of State.
- (2) Subject to subsection (3), the persons designated for the purposes of this Chapter are the individuals holding such offices, ranks or positions with relevant public authorities as are prescribed for the purposes of this subsection by an order made by the Secretary of State.
- (3) The Secretary of State may by order impose restrictions—

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- (a) on the authorisations and notices under this Chapter that may be granted or given by any individual holding an office, rank or position with a specified public authority; and
  - (b) on the circumstances in which, or the purposes for which, such authorisations may be granted or notices given by any such individual.
- (4) The Secretary of State may by order remove any person from the list of persons who are for the time being relevant public authorities for the purposes of this Chapter.
- (5) The Secretary of State shall not make an order under this section that adds any person to the list of persons who are for the time being relevant public authorities for the purposes of this Chapter unless a draft of the order has been laid before Parliament and approved by a resolution of each House.