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S T A T U T O R Y I N S T R U M E N T S

2010 No. 480

INVESTIGATORY POWERS

**The Regulation of Investigatory Powers (Communications Data)
Order 2010**

Made - - - - *25th February 2010*
Coming into force - - *6th April 2010*

This Order is made in exercise of the powers conferred on the Secretary of State by sections 22(2)(h), 25(2) and (3) and 78(5) of the Regulation of Investigatory Powers Act 2000(a), together with paragraph (g) of the definition of “relevant public authority” in section 25(1) of that Act.

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

Accordingly, the Secretary of State makes the following Order—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Regulation of Investigatory Powers (Communications Data) Order 2010 and shall come into force on 6th April 2010.

(2) In this Order—

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

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

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

Additional purposes of section 22(2) of the Act

2. The following additional purposes are specified for the purposes of section 22(2) of the Act (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) where a person (“P”) has died or is unable to identify themselves because of a physical or mental condition—

(i) to assist in identifying P, or

(a) 2000 c.23; section 25 has been amended by paragraph 135 of Schedule 4 to the Serious Organised Crime and Police Act 2005 (c.15).

- (ii) to obtain information about P's next of kin or other persons connected with P or about the reason for P's death or condition.

Schedules 1 and 2 and additional relevant public authorities

3.—(1) Schedule 1 (which prescribes offices, ranks or positions in the relevant public authorities listed in the definition of “relevant public authority” in section 25(1) of the Act^(a)) has effect.

(2) Schedule 2 (which specifies additional public authorities as relevant public authorities and prescribes offices, ranks and positions in those authorities) has effect.

(3) Each of the public authorities set out in column (1) of Schedule 2 is specified for the purposes of section 25(1) of the Act as a relevant public authority.

(4) A reference to section 21, 22 or 25 in the heading to a column in Schedule 1 or 2 is a reference, as the case may be, to section 21, 22 or 25 of the Act.

Prescribed offices, ranks and positions with relevant public authorities

4.—(1) Subject to the restrictions in articles 5 and 6, the offices, ranks and positions listed in entries to columns (2) and (3) of Schedules 1 and 2 (being offices, ranks and positions with the relevant public authorities listed in relation to such entries in column (1) of Schedules 1 and 2) are prescribed for the purposes of section 25(2) of the Act.

(2) 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 4(1), all more senior offices, ranks or positions with that authority are also prescribed for the purposes of section 25(2), subject to article 7.

(3) 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 (2) 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

5.—(1) 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 that individual believes it is necessary for any purpose within section 22(2) of the Act (as extended by article 2) which is listed in the corresponding entry in column (4) of those Schedules.

(2) In column (4) of Schedules 1 and 2, a reference to section 22 is a reference to that section in the Act.

6.—(1) — The only authorisation that may be granted and the only notice that may be given by an individual falling within any of paragraphs (2) to (7) below is restricted as set out in the paragraph in question.

(2) Subject to paragraph (3), in the case of an individual—

- (a) holding an office, rank or position which is listed in column (2) of Schedule 1 or of Part 1 of Schedule 2, and
- (b) who believes that the authorisation or notice is necessary on grounds other than those set out in section 22(2)(a), (b), (c) or (g) of the Act or article 2,

the authorisation or notice may only be in respect of communications data that falls within section 21(4)(c) of the Act.

(a) That definition has been amended by section 50(1) and (7) of the Commissioners for Revenue and Customs Act 2005 (c.11) and Schedule 4 to the Serious Organised Crime and Police Act 2005 (c.15).

(3) The restriction in paragraph (2) shall not apply in the case of an individual holding an office, rank or position with the Air Accident Investigation Branch, the Marine Accident Investigation Branch or the Rail Accident Investigation Branch.

(4) In the case of an individual holding an office, rank or position which is listed in column (2) of Part 2 of Schedule 2, the authorisation or notice may be only in respect of communications data that falls within—

- (a) section 21(4)(c) of the Act where the individual believes that it is necessary on grounds other than those set out in section 22(2)(a), (b), (c) or (g) of the Act or article 2, or
- (b) in any other case, section 21(4)(b) or (c) of the Act.

(5) In the case of an individual—

- (a) holding an office, rank or position which is listed in column (2) of Part 3 of Schedule 2, and
- (b) who believes that the authorisation or notice is necessary on grounds other than those set out in section 22(2)(a), (b), (c) or (g) of the Act or article 2,

the authorisation or notice may only be in respect of communications data which relates to a postal service and falls within section 21(4)(c) of the Act.

(6) In the case of an individual—

- (a) holding an office, rank or position which is listed in column (2) of Part 3 of Schedule 2, and
- (b) who believes that the authorisation or notice is necessary on the grounds set out in section 22(2)(a), (b),(c) or (g) of the Act or article 2,

the authorisation or notice may only be in respect of communications data which relates to a postal service.

(7) In the case of an individual holding an office, rank or position which is listed in column (3) of Schedule 1 or 2, the authorisation or notice may be only in respect of communications data that falls within section 21(4)(c) of the Act.

7. 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 4(2).

Transitional arrangements

8. This Order does not affect the continued operation of the Orders mentioned in article 9 in relation to authorisations granted or notices given before this Order comes into force.

Revocations

9. The following Orders are revoked—

- (a) the Regulation of Investigatory Powers (Communications Data) Order 2003(a),
- (b) the Regulation of Investigatory Powers (Communications Data) (Amendment) Order 2005(b), and
- (c) the Regulation of Investigatory Powers (Communications Data) (Additional Functions and Amendment) Order 2006(c).

Home Office
25th February 2010

David Hanson
Minister of State

(a) S.I. 2003/3172.
(b) S.I. 2005/1083.
(c) S.I. 2006/1878.

SCHEDULE 1

Articles 3, 4, 5 and 6

OFFICES, RANKS AND POSITIONS IN RELEVANT PUBLIC AUTHORITIES LISTED IN SECTION 25(1)

<i>(1)</i> Relevant authority	<i>(2)</i> public Prescribed offices (etc.): generally all communications data	<i>(3)</i> Additional prescribed offices (etc.): section 21(4)(c) communications data only	<i>(4)</i> Purposes listed in section 22(2) or article 2
Police forces			
A police force maintained under section 2 of the Police Act 1996(a)	Superintendent	Inspector	Section 22(2)(a), (b), (c), (d), (e) and (g) Article 2(b)
The metropolitan police force	Superintendent	Inspector	Section 22(2)(a), (b), (c), (d), (e) and (g) Article 2(b)
The City of London police force	Superintendent	Inspector	Section 22(2)(a), (b), (c), (d), (e) and (g) Article 2(b)
A police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967(b)	Superintendent	Inspector	Section 22(2)(a), (b), (c), (d), (e) and (g) Article 2(b)
The Police Service of Northern Ireland(c)	Superintendent	Inspector	Section 22(2)(a), (b), (c), (d), (e) and (g) Article 2(b)
The Ministry of Defence Police	Superintendent	Inspector	Section 22(2)(a), (b), (c) and (g)
The Royal Navy Police	Commander	Lieutenant Commander	Section 22(2)(a), (b), (c) and (g)
The Royal Military Police	Lieutenant Colonel	Major	Section 22(2)(a), (b), (c) and (g)
The Royal Air Force Police	Wing Commander	Squadron Leader	Section 22(2)(a), (b), (c) and (g)

(a) 1996 c.16.

(b) 1967 c.77.

(c) The expression “police force” in the definition of “relevant public authority” in section 25(1) of the Act is defined by section 81(1) of the Act, as amended by section 78(2) of the Police (Northern Ireland) Act 2000 (c.32).

<i>(1)</i> <i>Relevant authority</i>	<i>(2)</i> <i>public Prescribed offices (etc.): generally all communications data</i>	<i>(3)</i> <i>Additional prescribed offices (etc.): section 21(4)(c) communications data only</i>	<i>(4)</i> <i>Purposes listed in section 22(2) or article 2</i>
The British Transport Police	Superintendent	Inspector	Section 22(2)(a), (b), (c), (d), (e) and (g) Article 2(b)
The Intelligence Services			
The Security Service	General Duties 3 or any other officer at level 3	General Duties 4	Section 22(2)(a), (b) and (c)
The Secret Intelligence Service	Grade 6 or equivalent	—	Section 22(2)(a), (b) and (c)
The Government Communications Headquarters	GC8	—	Section 22(2)(a), (b) and (c)
Other bodies			
The Commissioners for Her Majesty's Revenue and Customs	Senior Officer	Higher Officer	Section 22(2)(b) and (f)
The Serious Organised Crime Agency	Senior Manager (Grade 2)	Principal Officer (Grade 3)	Section 22(2)(b) and (g) Article 2(b)
The Scottish Crime and Drug Enforcement Agency	Superintendent or Grade PO7	Inspector	Section 22(2)(b), (d) and (g)

SCHEDULE 2

Articles 3, 4, 5 and 6

OFFICES, RANKS AND POSITIONS IN ADDITIONAL RELEVANT PUBLIC AUTHORITIES SPECIFIED BY THIS ORDER

PART 1

INDIVIDUALS IN ADDITIONAL RELEVANT PUBLIC AUTHORITIES THAT MAY ACQUIRE ANY COMMUNICATIONS DATA WITHIN SECTION 21(4)

<i>(1)</i> <i>Additional relevant public authority specified for purposes of section 25(1)</i>	<i>(2)</i> <i>Prescribed offices (etc.): generally all communications data</i>	<i>(3)</i> <i>Additional prescribed offices (etc.): section 21(4)(c) communications data only</i>	<i>(4)</i> <i>Purposes listed in section 22(2) or article 2</i>
The Department for Transport	Coastal Safety Manager (Grade 7) in the Maritime and Coastguard Agency	Rescue Coordination Centre Manager in the Maritime and Coastguard Agency	Section 22(2)(g)
	Inspector in the Air Accident Investigation Branch, the Marine Accident Investigation Branch or the Rail Accident Investigation Branch	—	Section 22(2)(d)
The Home Office	Immigration Inspector or Senior Officer, or Immigration Inspector or Senior Executive Officer with responsibility for anti-corruption, in the UK Border Agency	—	Section 22(2)(b)
	Head of Security and Intelligence (Detention Services) in the UK Border Agency	—	Section 22(2)(b) and (d) Article 2(b)
The Ministry of Justice	Manager of the National Intelligence Unit of the National Offender Management Service	Manager in the National Intelligence Unit of the National Offender Management Service	Section 22(2)(b) and (d) Article 2(b)

<i>(1) Additional relevant public authority specified for purposes of section 25(1)</i>	<i>(2) Prescribed offices (etc.): generally all communications data</i>	<i>(3) Additional prescribed offices (etc.): section 21(4)(c) communications data only</i>	<i>(4) Purposes listed in section 22(2) or article 2</i>
The Northern Ireland Office	Governor 4 in the Northern Ireland Prison Service	—	Section 22(2)(b) and (d) Article 2(b)
The Civil Nuclear Constabulary	Superintendent	Inspector	Section 22(2)(a) and (b)
The force comprising the special constables appointed under section 79 of the Harbours, Docks and Piers Clauses Act 1847(a) on the nomination of the Dover Harbour Board	Superintendent	Inspector	Section 22(2)(b), (d) and (e) Article 2(b)
The force comprising the constables appointed under article 3 of the Mersey Docks and Harbour (Police) Order 1975(b) on the nomination of the Mersey Docks and Harbour Company	Superintendent	Inspector	Section 22(2)(b), (d) and (e) Article 2(b)
A council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(c)	Fire Control Officer	—	Section 22(2)(g)
Any fire and rescue authority under the Fire and Rescue Services Act 2004(d)	Fire Control Officer	—	Section 22(2)(g)
The Fire Authority for Northern Ireland	Fire Control Officer	—	Section 22(2)(g)

(a) 1847 c.27 (10 & 11 Vict).

(b) S.I. 1975/1224.

(c) 1994 c.39.

(d) 2004 c.21.

<i>(1) Additional relevant public authority specified for purposes of section 25(1)</i>	<i>(2) Prescribed offices (etc.): generally all communications data</i>	<i>(3) Additional prescribed offices (etc.): section 21(4)(c) communications data only</i>	<i>(4) Purposes listed in section 22(2) or article 2</i>
A joint fire and rescue board constituted by an amalgamation scheme under section 2 of the Fire (Scotland) Act 2005(a) or a joint fire and rescue board within the meaning of section 5 of that Act	Fire Control Officer	—	Section 22(2)(g)
A National Health Service Trust established under section 5 of the National Health Service and Community Care Act 1990(b) whose functions, as specified in its Establishment Order, include the provision of emergency ambulance services	Duty Manager of Ambulance Trust Control Rooms	—	Section 22(2)(g)
The Northern Ireland Ambulance Service Health and Social Services Trust	Control Supervisor in Ambulance Control Room	—	Section 22(2)(g)
The Scottish Ambulance Service Board	Emergency Medical Dispatch Centre Officer In Charge	—	Section 22(2)(g)
The Welsh Ambulance Services National Health Service Trust	Regional Control Manager	—	Section 22(2)(g)
The Criminal Cases Review Commission	An Investigations Adviser	—	Article 2(a)

(a) 2005 asp 5.

(b) 1990 c.19.

<i>(1) Additional relevant public authority specified for purposes of section 25(1)</i>	<i>(2) Prescribed offices (etc.): generally all communications data</i>	<i>(3) Additional prescribed offices (etc.): section 21(4)(c) communications data only</i>	<i>(4) Purposes listed in section 22(2) or article 2</i>
The Scottish Criminal Cases Review Commission	A Legal Officer	—	Article 2(a)
The Financial Services Authority	Head of Department in Enforcement Division	—	Section 22(2)(b)
The Gambling Commission	Head of Department	—	Section 22(2)(b)
The Gangmasters Licensing Authority	Head of Operations	—	Section 22(2)(b)
The Information Commissioner	Head of Enforcement	—	Section 22(2)(b)
The Independent Police Complaints Commission	Commissioner or Director	—	Section 22(2)(b) Article 2(b)
The Office of Communications	Senior Associate responsible for spectrum investigation technology support	—	Section 22(2)(b)
The Office of the Police Ombudsman for Northern Ireland	Senior Investigating Officer	—	Section 22(2)(b)
The Royal Mail Group Ltd, by virtue of being a Universal Service Provider within the meaning of the Postal Services Act 2000(a)	Senior Investigation Manager	—	Section 22(2)(b)
The Serious Fraud Office	Grade 6	—	Section 22(2)(b)

(a) 2000 c.26.

PART 2

INDIVIDUALS IN ADDITIONAL RELEVANT PUBLIC AUTHORITIES THAT MAY ACQUIRE COMMUNICATIONS DATA FALLING WITHIN SECTION 21(4)(b) and (c)

<i>(1)</i> <i>Additional public authorities specified for purposes of section 25(1)</i>	<i>(2)</i> <i>Prescribed offices (etc.): communications data within section 21(4)(b) and (c)</i>	<i>(3)</i> <i>Additional prescribed offices (etc.): section 21(4)(c) communications data only</i>	<i>(4)</i> <i>Purposes listed in section 22(2) or article 2</i>
The Child Maintenance and Enforcement Commission	Senior Executive Officer or equivalent grade	—	Section 22(2)(b)
The Department of Agriculture and Rural Development	Head of Financial Policy and Investigations Services	—	Section 22(2)(b)
The Department of Enterprise, Trade and Investment	Deputy Chief Inspector in Trading Standards Service	—	Section 22(2)(b)
The Department for Business, Innovation and Skills	Deputy Chief Investigation Officer in the Investigation Officers Branch	—	Section 22(2)(b)
The Department of the Environment	Principal Grade 7 in the Northern Ireland Environment Agency	—	Section 22(b) and (e)
The Department for Environment, Food and Rural Affairs	Senior Investigation Officer in DEFRA Investigation Services	—	Section 22(2)(b)
	Senior Fish Health Inspector (PB6 or above) in the Centre for Environment, Fisheries and Aquaculture Science	—	Section 22(2)(b)
	Deputy Chief Inspector in Marine and Fisheries Agency	—	Section 22(2)(b)
The Department of Health	Grade 7 in the Medicines and Healthcare Products Regulatory Agency	—	Section 22(2)(b), (d) and (e)

<i>(1) Additional public authorities specified for purposes of section 25(1)</i>	<i>(2) Prescribed offices (etc.): communications data within section 21(4)(b) and (c)</i>	<i>(3) Additional prescribed offices (etc.): section 21(4)(c) communications data only</i>	<i>(4) Purposes listed in section 22(2) or article 2</i>
The Department for Transport	Head of Enforcement in the Maritime and Coastguard Agency	Enforcement Officer in the Maritime and Coastguard Agency	Section 22(2)(b) and (d)
The Home Office	Immigration Inspector with responsibility for asylum fraud investigations in the UK Border Agency	—	Section 22(2)(b)
The Common Council of the City of London in its capacity as a local authority, the Council of the Isles of Scilly, a county council in England or Wales, a county borough council in Wales, a district council in England or Northern Ireland and a London borough council	Director, Head of Service, Service Manager or equivalent	—	Section 22(2)(b)
A council constituted under section 2 of the Local Government etc. (Scotland) Act 1994	Director, Head of Service, Service Manager or equivalent	—	Section 22(2)(b)
	Principal Fire Control Officer or Group Manager	—	Section 22(2)(b) and (d)
Any fire and rescue authority under the Fire and Rescue Services Act 2004	Principal Fire Control Officer or Group Manager	—	Section 22(2)(b) and (d)
The Fire Authority for Northern Ireland	Principal Fire Control Officer or Group Manager	—	Section 22(2)(b) and (d)

<i>(1) Additional public authorities specified for purposes of section 25(1)</i>	<i>(2) Prescribed offices (etc.): communications data within section 21(4)(b) and (c)</i>	<i>(3) Additional prescribed offices (etc.): section 21(4)(c) communications data only</i>	<i>(4) Purposes listed in section 22(2) or article 2</i>
A joint fire and rescue board constituted by an amalgamation scheme under section 2 of the Fire (Scotland) Act 2005 or a joint fire and rescue board within the meaning of section 5 of that Act	Principal Fire Control Officer or Group Manager	—	Section 22(2)(b) and (d)
A National Health Service Trust established under section 5 of the National Health Service and Community Care Act 1990 whose functions, as specified in its Establishment Order, include the provision of emergency ambulance services	Director of Operations or Control and Communications Manager	—	Section 22(2)(b)
The Northern Ireland Ambulance Service Health and Social Services Trust	Director of Operations	—	Section 22(2)(b)
The Scottish Ambulance Service Board	Director of Operations	—	Section 22(2)(b)
The Welsh Ambulance Service National Health Service Trust	Director of Operations	—	Section 22(2)(b)
The Charity Commission	Senior Investigations Manager	—	Section 22(2)(b)
The Environment Agency	Area Management Team member	—	Section 22(2)(b), (d) and (e)
The Food Standards Agency	Deputy Director of Legal Services or any Director	—	Section 22(2)(b) and (e)

<i>(1) Additional public authorities specified for purposes of section 25(1)</i>	<i>(2) Prescribed offices (etc.): communications data within section 21(4)(b) and (c)</i>	<i>(3) Additional prescribed offices (etc.): section 21(4)(c) communications data only</i>	<i>(4) Purposes listed in section 22(2) or article 2</i>
The Health and Safety Executive	Band 2 Inspector	—	Section 22(2)(b), (d) and (e)
The Common Services Agency for the Scottish Health Service	Head of NHS Scotland Counter Fraud Services	—	Section 22(2)(b)
The National Health Service Business Services Authority	Senior Manager (not below the grade of Agenda for Change pay band 8b) in the Counter Fraud and Security Management Services Division	—	Section 22(2)(b)
The Northern Ireland Health and Social Services Central Services Agency	Head of the Counter Fraud Unit	—	Section 22(2)(b)
The Office of Fair Trading	Any member of the Senior Civil Service with responsibility for cartels or criminal enforcement	—	Section 22(2)(b)
The Pensions Regulator	Regulatory Manager	—	Section 22(2)(b)
The Scottish Environment Protection Agency	Any Director	—	Section 22(2)(b), (d) and (e)

PART 3

INDIVIDUALS IN ADDITIONAL RELEVANT PUBLIC AUTHORITIES THAT MAY ACQUIRE ONLY COMMUNICATIONS DATA WITHIN SECTION 21(4) RELATING TO A POSTAL SERVICE

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
<i>Additional relevant public authority specified for purposes of section 25(1)</i>	<i>Prescribed offices (etc.): all communications data relating to postal services</i>	<i>Additional prescribed offices (etc.): any section 21(4)(c) communications data relating postal service</i>	<i>Purposes listed in section 22(2) or article 2</i>
The Postal Services Commission	Principal, Legal	—	Section 22(2)(b)

EXPLANATORY NOTE

(This note is not part of the Order)

This Order consolidates the Orders revoked by article 9 of this Order.

Section 22 of the Regulation of Investigatory Powers Act 2000 (“the Act”) confers powers on a person designated for the purposes of Chapter 2 (acquisition and disclosure of communications data) of Part 1 of that Act. Under section 22(3) of the Act, 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 Chapter 2 applies. Under section 22(4), 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 (as defined by section 21(4)), the designated person may issue a notice to the operator requiring the operator to obtain the data (if not in possession of it) and to disclose all of the data in his possession or subsequently obtained.

Section 25(1) of the Act defines “relevant public authority” for these purposes. It also confers powers on the Secretary of State to designate additional public authorities for the purpose of that definition. Column (1) of Schedule 2 to this Order, together with article 3(3), exercises this power.

Under section 25(2) of the Act, the persons designated for the purposes of Chapter 2 of Part 1 are individuals holding such offices, ranks or positions with relevant public authorities as are prescribed by order of the Secretary of State. Under section 25(3)(a), restrictions can be placed by such an order on the authorisations under section 22(3) and the notices under section 22(4) that may be granted or given by an individual holding an office, rank or position with a specified public authority. Columns (2) and (3) of Schedules 1 and 2 to this Order, together with articles 4 and 6, exercise this power.

Under section 25(3)(b), the purposes for which such authorisations may be granted or notices may be given may be restricted by order. Column (4) of Schedules 1 and 2 to this Order, together with article 5, exercise this power by reference to the purposes set out in section 22(2) of the Act. Article 2 of this Order exercises the power in section 22(2)(h) to specify additional purposes.

The main substantive changes made to the content of the Orders revoked by this Order are as follows. Part 1 of Schedule 2 specifies one additional relevant public authority: the Northern Ireland Office. Part 2 of Schedule 2 specifies two additional relevant public authorities: the Child Maintenance and Enforcement Commission and the Department of the Environment.

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STATUTORY INSTRUMENTS

2010 No. 480

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The Regulation of Investigatory Powers (Communications Data)
Order 2010

£5.50