

Status: Point in time view as at 20/08/2018.

Changes to legislation: Regulation of Investigatory Powers Act 2000, Paragraph 2 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 2

PERSONS HAVING THE APPROPRIATE PERMISSION

Data obtained under warrant etc.

- 2 (1) This paragraph applies in the case of protected information falling within section 49(1)(a), (b) or (c) where the statutory power in question is one exercised, or to be exercised, in accordance with—
- (a) a warrant issued by the Secretary of State or a person holding judicial office; or
 - (b) an authorisation under Part III of the ^{M1}Police Act 1997 (authorisation of otherwise unlawful action in respect of property).
- (2) Subject to sub-paragraphs (3) to (5) and paragraph 6(1), a person has the appropriate permission in relation to that protected information (without any grant of permission under paragraph 1) if—
- (a) the warrant or, as the case may be, the authorisation contained the relevant authority's permission for the giving of section 49 notices in relation to protected information to be obtained under the warrant or authorisation; or
 - (b) since the issue of the warrant or authorisation, written permission has been granted by the relevant authority for the giving of such notices in relation to protected information obtained under the warrant or authorisation.
- (3) Only persons holding office under the Crown, the police [^{F1}, [^{F2}the National Crime Agency,]]^{F3} ... and [^{F4}Her Majesty's Revenue and Customs] shall be capable of having the appropriate permission in relation to protected information obtained, or to be obtained, under a warrant issued by the Secretary of State.
- (4) Only a person who—
- (a) was entitled to exercise the power conferred by the warrant, or
 - (b) is of the description of persons on whom the power conferred by the warrant was, or could have been, conferred,
- shall be capable of having the appropriate permission in relation to protected information obtained, or to be obtained, under a warrant issued by a person holding judicial office.
- (5) Only the police [^{F5}, [^{F6}the National Crime Agency,]]^{F7} ... and [^{F4}Her Majesty's Revenue and Customs] shall be capable of having the appropriate permission in relation to protected information obtained, or to be obtained, under an authorisation under Part III of the ^{M2}Police Act 1997.
- (6) In this paragraph “the relevant authority”—
- (a) in relation to a warrant issued by the Secretary of State, means the Secretary of State;

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- (b) in relation to a warrant issued by a person holding judicial office, means any person holding any judicial office that would have entitled him to issue the warrant; and
 - (c) in relation to protected information obtained under an authorisation under Part III of the ^{M3}Police Act 1997, means (subject to sub-paragraph (7)) an authorising officer within the meaning of section 93 of that Act.
- (7) Section 94 of the ^{M4}Police Act 1997 (power of other persons to grant authorisations in urgent cases) shall apply in relation to—
- (a) an application for permission for the giving of section 49 notices in relation to protected information obtained, or to be obtained, under an authorisation under Part III of that Act, and
 - (b) the powers of any authorising officer (within the meaning of section 93 of that Act) to grant such a permission,
- as it applies in relation to an application for an authorisation under section 93 of that Act and the powers of such an officer under that section.
- (8) References in this paragraph to a person holding judicial office are references to—
- (a) any judge of the Crown Court or of the High Court of Justiciary;
 - (b) any sheriff;
 - (c) any justice of the peace;
 - (d) any resident magistrate in Northern Ireland; or
 - (e) any person holding any such judicial office as entitles him to exercise the jurisdiction of a judge of the Crown Court or of a justice of the peace.
- (9) Protected information that comes into a person's possession by means of the exercise of any statutory power which—
- (a) is exercisable without a warrant, but
 - (b) is so exercisable in the course of, or in connection with, the exercise of another statutory power for which a warrant is required,
- shall not be taken, by reason only of the warrant required for the exercise of the power mentioned in paragraph (b), to be information in the case of which this paragraph applies.

Textual Amendments

- F1** Words in Sch. 2 para. 2(3) inserted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 59, 178, [Sch. 4 para. 156\(2\)\(a\)](#); S.I. 2006/378, [art. 4\(1\)](#), Sch. para. 10 (subject to art. 4(2)-(7))
- F2** Words in Sch. 2 para. 2(3) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 100\(2\)](#); S.I. 2013/1682, art. 3(v)
- F3** Word in Sch. 2 para. 2(3) omitted (1.4.2013) by virtue of [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), [Sch. 2 para. 33\(26\)\(a\)](#)
- F4** Words in Sch. 2 para. 2(3)(5) substituted (15.2.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 88, 94, [Sch. 12 para. 29\(1\)](#); S.I. 2008/219, [art. 2\(b\)](#)
- F5** Words in Sch. 2 para. 2(5) inserted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 59, 178, [Sch. 4 para. 156\(2\)\(b\)](#); S.I. 2006/378, [art. 4\(1\)](#), Sch. para. 10 (subject to art. 4(2)-(7))
- F6** Words in Sch. 2 para. 2(5) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 100\(2\)](#); S.I. 2013/1682, art. 3(v)

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F7 Word in Sch. 2 para. 2(5) omitted (1.4.2013) by virtue of The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 33(26)(a)**

Modifications etc. (not altering text)

C1 Sch. 2 para. 2(3) restricted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 16, 17, 53(1), **Sch. 2 Pt. 1 para. 11(2)(c)**; S.I. 2005/1126, **art. 2(2)(d)**

Marginal Citations

M1 1997 c. 50.

M2 1997 c. 50.

M3 1997 c. 50.

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