

SCHEDULE 2

Regulation 3(3)

Obligations in relation to authorisations granted or notices given under Part 3 of the Act and warrants issued under Chapter 2 of Part 6 of the Act

PART 1

Relevant telecommunications operators

1. To provide and maintain the capability to obtain and disclose communications data without undue delay, and within a period specified in the technical capability notice or agreed between the telecommunications operator and the Secretary of State, following the telecommunications operator being informed that obtaining or disclosing the communications data has been authorised under the Act.

2. To provide, modify, test, develop or maintain any apparatus, systems or other facilities or services necessary to provide and maintain the capability described in paragraph 1.

3. To ensure that any apparatus, systems or other facilities or services necessary to obtain and disclose communications data are of a reliability specified in the notice or agreed between the operator and the Secretary of State.

4. To provide and maintain the capability to ensure the obtaining and disclosure, in their entirety, of all communications data to which an authorisation or warrant relates.

5. To ensure the transmission of the communications data to a hand-over point in accordance with levels of service specified in the notice or agreed between the telecommunications operator and the Secretary of State.

6. To provide and maintain the capability to disclose communications data in such a way that it is clear to which request or requirement to disclose communications data the data relates.

7. To ensure that any hand-over interface complies with any appropriate industry standard, or other requirement, specified in the technical capability notice.

8. To provide and maintain the capability to disclose, where reasonably practicable, only the communications data the obtaining of which is authorised by an authorisation or warrant.

9. To provide and maintain the capability to—

- (a) disclose communications data in an intelligible form where reasonably practicable;
- (b) remove electronic protection applied by or on behalf of the telecommunications operator to the data where reasonably practicable, or
- (c) to permit a person authorised to obtain the communications data, or the person to whom a warrant was addressed, to remove such electronic protection.

10. To install and maintain any apparatus provided to the operator by or on behalf of the Secretary of State for the purpose of enabling the operator to obtain or disclose communications data, including by providing and maintaining any apparatus, systems or other facilities or services necessary to install and maintain any apparatus so provided.

11. To ensure that the capability to obtain and disclose communications data may be audited so that—

- (a) it is possible to confirm that the obtained communications data are those described in an authorisation or warrant which authorised the obtaining of the communications data, and
- (b) the integrity of the data is assured so far as reasonably practicable.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

12.—(1) To comply with the other obligations imposed by a technical capability notice in such a manner that the risk of any unauthorised persons becoming aware of any matter within section 82(1)(a) or (b) of the Act or the existence or contents of a warrant is minimised, in particular by ensuring that apparatus, systems or other facilities or services, as well as procedures and policies, are developed and maintained in accordance with security standards or guidance specified in the notice.

(2) For the purpose of this paragraph, a person is an unauthorised person in relation to—

- (a) a matter within sections 82(1)(a) or (b) of the Act if, were the matter disclosed to that person by a telecommunications operator, or any person engaged for the purposes of the business of a telecommunications operator, that disclosure would, if made without reasonable excuse, be an disclosure prohibited by section 82(1) of the Act;
- (b) the existence or contents of a warrant if, were the existence or contents of the warrant disclosed to that person, the disclosure would be prohibited by section 174(1).

13. In order that the capability to obtain communications data may be retained, to put in place and to maintain arrangements, agreed with the Secretary of State, to notify the Secretary of State within a reasonable time of—

- (a) proposed changes to existing telecommunications services or telecommunication systems to which obligations imposed by a technical capability notice relate;
- (b) proposed changes, to existing telecommunications services or telecommunication systems, of a description specified in the notice, and
- (c) the development of new telecommunications services or telecommunication systems.

PART 2

Relevant postal operators

14. To provide and maintain the capability to ensure that communications data in relation to communications transmitted by means of a postal service can be disclosed to a person authorised under section 61 of the Act to obtain it.

15. Where, in the course of their normal business, the postal operator keeps records of who sent which item, to provide and maintain the capability to ensure that communications data in relation to postal items sent by identified persons can be disclosed to a person authorised under section 61 of the Act to obtain the data.

16.—(1) To comply with the other obligations imposed by a technical capability notice in such a manner that the risk of any unauthorised persons becoming aware of any matter within section 82(1)(a) or (b) of the Act, is minimised, in particular by ensuring that apparatus, systems or other facilities or services, as well as procedures and policies, are developed and maintained in accordance with security standards or guidance specified in the notice.

(2) For the purpose of this paragraph, a person is an unauthorised person in relation to a matter within sections 82(1)(a) or (b) of the Act if, were the matter disclosed to that person by a postal operator, or any person engaged for the purposes of the business of a postal operator, that disclosure would, if made without reasonable excuse, be an disclosure prohibited by section 82(1) of the Act.