

SCHEDULE 1

Regulation 10

Amendments of the Investigatory Powers Act 2016

1. Omit section 2(6) (definition of “public authority”).
2. Before section 62 insert the italic heading “ *Further provision about authorisations* ”.
- 3.—(1) Section 62 (restrictions in relation to internet connection records) is amended as follows.
 - (2) Before subsection (1) insert—

“(A1) The Investigatory Powers Commissioner may not, on the application of a local authority, grant an authorisation under section 60A for the purpose of obtaining data which is, or can only be obtained by processing, an internet connection record.

(A2) The Investigatory Powers Commissioner may not, on the application of a relevant public authority which is not a local authority, grant an authorisation under section 60A for the purpose of obtaining data which is, or can only be obtained by processing, an internet connection record unless condition A, B or C is met.”.
 - (3) Omit subsection (1).
 - (4) In subsection (3)—
 - (a) for “the designated senior officer” substitute “ the person with power to grant the authorisation ”;
 - (b) for “section 61(7)” substitute “ section 60A(7), 61(7) or 61A(7) (as applicable) ”.
 - (5) In subsection (4)—
 - (a) in paragraph (a), for the words from “section 61(7)” to “crime,” substitute “ section 60A(7), 61(7) or 61A(7) (as applicable) but is not the purpose of preventing or detecting serious crime mentioned in section 60A(8)(a), 61(7A)(a) or 61A(8)(a) or the purpose of preventing or detecting crime mentioned in section 60A(8)(b), 61(7A)(b) or 61A(8)(b), ”;
 - (b) in paragraph (b), for “the designated senior officer” substitute “ the person with power to grant the authorisation ”.
 - (6) In subsection (5)—
 - (a) for paragraph (a) substitute—

“(a) either—

 - (i) the purpose for which the data is to be obtained is the purpose of preventing or detecting serious crime mentioned in section 60A(8)(a), 61(7A)(a) or 61A(8)(a), or
 - (ii) the purpose for which the data is to be obtained is the purpose of preventing or detecting crime mentioned in section 60A(8)(b), 61(7A)(b) or 61A(8)(b) and the crime to be prevented or detected is serious crime, and”;
 - (b) omit paragraph (b) and the “and” following it;
 - (c) in paragraph (c), for “the designated senior officer” substitute “ the person with power to grant the authorisation ”.
 - (7) Omit subsection (6).
- 4.—(1) Section 63 (additional restrictions on grant of authorisations) is amended as follows.
 - (2) In the heading, after “authorisations” insert “ under section 61 ”.
 - (3) In subsection (1), after “authorisation” insert “ under section 61 ”.
 - (4) In subsection (3)—

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- (a) after paragraph (b), insert “ or ”;
- (b) omit paragraph (d) and the “or” before it.

5.—(1) Section 64 (procedure for authorisations and authorised notices) is amended as follows.

(2) In subsection (1)—

- (a) omit paragraph (a);
- (b) before paragraph (b) insert—

“(aa) whether the authorisation has been granted by the Investigatory Powers Commissioner under section 60A or by a designated senior officer under section 61 or 61A;”;

- (c) in paragraph (b), for “section 61(7)” substitute “ section 60A(7), 61(7) or 61A(7) (as applicable) ”.

(3) After subsection (1) insert—

“(1A) An authorisation granted by a designated senior officer under section 61 or 61A must also specify the office, rank or position held by the officer.”.

6.—(1) Section 65 (duration and cancellation of authorisations and notices) is amended as follows.

(2) In subsection (1), after “authorisation” insert “ under section 60A or 61 ”.

(3) In subsection (2), after “authorisation”, in the first place it occurs, insert “ under section 60A or 61 ”.

(4) After subsection (3) insert—

“(3A) An authorisation under section 61A ceases to have effect at the end of the period of 3 days beginning with the date on which it is granted.”.

(5) After subsection (3A) (as inserted by sub-paragraph (4)) insert—

“(3B) Where the Investigatory Powers Commissioner has granted an authorisation under section 60A to a relevant public authority—

- (a) the Investigatory Powers Commissioner or an officer of the authority may cancel it at any time, and
- (b) the Investigatory Powers Commissioner or an officer of the authority must cancel it if the Commissioner or (as the case may be) the officer considers that the requirements of this Part would not be satisfied in relation to granting an equivalent new authorisation.”.

(6) In subsection (4), after “authorisation”, in the first place it occurs, insert “ under section 61 or 61A ”.

(7) In subsection (7)—

- (a) in paragraph (a), after “subsection (1)” insert “ or (3A) ”;
- (b) in paragraph (b), for “subsection (4)” substitute “ subsection (3B) or (4) ”.

7. In section 67 (filtering arrangements for obtaining data), in subsection (1)(a), for “a designated senior officer, who is” substitute “ a person, who is ”.

8.—(1) Section 68 (use of filtering arrangements in pursuance of an authorisation) is amended as follows.

(2) In subsection (3), in the words before paragraph (a), for “the designated senior officer's decision” substitute “ the decision of the person granting the authorisation ”.

(3) In subsection (4), in the words before paragraph (a), for “A designated senior officer” substitute “A person”.

(4) In subsection (5), for “the designated senior officer” substitute “the person”.

9. In section 69 (duties in connection with operation of filtering arrangements), in subsection (1) (b), in the words following sub-paragraph (ii), for “to the designated senior officer concerned” substitute “to the person considering whether to grant the authorisation”.

10.—(1) Section 70 (relevant public authorities and designated senior officers) is amended as follows.

(2) After subsection (2) insert—

“(2A) An authorisation under section 60A may be granted on the application of a relevant public authority listed in column 1 of the table only if section 60A(1)(a) is met in relation to a purpose within one of the paragraphs of section 60A(7) specified in the corresponding entry in column 2 of the table.”.

(3) In subsection (3)—

(a) in paragraph (a), for “column 2” substitute “column 3”;

(b) in paragraph (b), for “column 2” substitute “column 3”.

(4) In subsection (4), for “column 2” substitute “column 3”.

(5) After subsection (5) insert—

“(5A) A person who is a designated senior officer of a relevant public authority by virtue of subsection (3) and an entry in column 3 of the table may grant an authorisation under section 61—

(a) only for obtaining communications data of the kind specified in the corresponding entry in column 4 of the table,

(b) only if one or more paragraphs of section 61(7) is specified in the corresponding entry in column 5 of the table, and

(c) only if section 61(1)(a) is met in relation to a purpose within the specified paragraph or, if more than one paragraph is specified, a purpose within one of them.”.

(6) In subsection (6)—

(a) in the words before paragraph (a)—

(i) for “column 2” substitute “column 3”;

(ii) after “authorisation” insert “under section 61A”;

(b) in paragraph (a), for “column 3” substitute “column 4”;

(c) omit the “and” following paragraph (a);

(d) for paragraph (b) substitute—

“(b) only if one or more paragraphs of section 61A(7) is specified in the corresponding entry in column 6 of the table, and

(c) only if section 61A(1)(a) is met in relation to a purpose within the specified paragraph or, if more than one paragraph is specified, a purpose within one of them.”.

(7) In subsection (7)—

(a) for “column 2” substitute “column 3”;

(b) for “subsection (6) applies” substitute “subsections (5A) and (6) apply”.

- 11.**—(1) Section 71 (power to modify section 70 and Schedule 4) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (c), omit “by a designated senior officer with a specified public authority”;
 - (b) in paragraph (d), for the words from “such authorisations” to the end of the paragraph substitute “ the authorisations may be granted ”.
- (3) After subsection (2) insert—
- “(2A) Regulations adding a public authority to, or removing a public authority from, the list in column 1 of the table may do so in relation to all or any of the following—
- (a) authorisations under section 60A by the Investigatory Powers Commissioner;
 - (b) authorisations by a designated senior officer under section 61;
 - (c) authorisations by a designated senior officer under section 61A.”.
- (4) In subsection (3), after “relevant public authority” insert “ (in relation to one or more of the authorisations mentioned in subsection (2A)) ”.
- 12.** In section 72 (certain regulations under section 71: supplementary), in subsection (1)—
- (a) in paragraph (a), after “Schedule 4” insert “ (in relation to one or more of the authorisations mentioned in section 71(2A)) ”;
 - (b) in paragraph (b), for “column 2” substitute “ column 3 ”.
- 13.**—(1) Section 73 (local authorities as relevant public authorities) is amended as follows.
- (2) In subsection (1), at the end insert “ but only so far as relating to authorisations under section 60A ”.
- (3) Omit subsections (2) and (4) to (7).
- (4) For subsection (3) substitute—
- “(3) An authorisation may not be granted under section 60A on the application of a local authority unless—
- (a) section 60A(1)(a) is met in relation to a purpose within section 60A(7)(b),
 - (b) the local authority is a party to a collaboration agreement (whether as a supplying authority or a subscribing authority or both), and
 - (c) that collaboration agreement is certified by the Secretary of State (having regard to guidance given by virtue of section 79(6) and (7)) as being appropriate for the local authority.
- (3A) In subsection (3), “collaboration agreement”, “subscribing authority” and “supplying authority” have the same meaning as in section 78.”.
- 14.** Omit section 74 (requirement to be party to collaboration agreement).
- 15.** Omit section 75 (judicial approval for local authority authorisations).
- 16.**—(1) Section 76 (use of a single point of contact) is amended as follows.
- (2) Before subsection (1) insert—
- “(A1) Before making an application for an authorisation under section 60A, the officer making the application must consult a person who is acting as a single point of contact in relation to the making of applications.”.
- (3) In subsection (1), after “an authorisation” insert “ under section 61 or 61A ”.
- (4) In subsection (2)—

- (a) after “if the” insert “ officer or (as the case may be) ”;
 - (b) for “subsection (1)” substitute “ subsection (A1) or (as the case may be) (1) ”.
- (5) In subsection (4), in paragraph (b)(i), after “authorisations” insert “ (whether under section 60A, 61 or 61A) ”.

17.—(1) Section 77 (Commissioner approval for authorisations to identify or confirm journalistic sources) is amended as follows.

- (2) In subsection (1)(a), after “an authorisation” insert “ under section 61 or 61A ”.
- (3) After subsection (1) insert—
 - “(1A) Subsection (2) also applies if—
 - (a) a person to whom functions under section 60A have been delegated under section 238(5) has granted an authorisation under that section in relation to the obtaining by a relevant public authority of communications data for the purpose of identifying or confirming a source of journalistic information, and
 - (b) the authorisation is not necessary because of an imminent threat to life.”.

18.—(1) Section 78 (collaboration agreements) is amended as follows.

- ^{F1}(2)
- ^{F1}(3)
- (4) Omit subsections (3) and (4).
- ^{F2}(5)

Textual Amendments

F1 Sch. 1 para. 18(2)(3) revoked (17.5.2019) by [The Communications Data Acquisition Regulations 2019 \(S.I. 2019/939\)](#), regs. 1(2), 6

F2 Sch. 1 para. 18(5) revoked (17.5.2019) by [The Communications Data Acquisition Regulations 2019 \(S.I. 2019/939\)](#), regs. 1(2), 6

19.—(1) Section 80 (police collaboration agreements) is amended as follows.

- ^{F3}(2)
- ^{F3}(3)
- (4) Omit subsections (3) and (4).
- ^{F4}(5)

Textual Amendments

F3 Sch. 1 para. 19(2)(3) revoked (17.5.2019) by [The Communications Data Acquisition Regulations 2019 \(S.I. 2019/939\)](#), regs. 1(2), 6

F4 Sch. 1 para. 19(5) revoked (17.5.2019) by [The Communications Data Acquisition Regulations 2019 \(S.I. 2019/939\)](#), regs. 1(2), 6

20. In section 84 (application of Part 3 to postal operators and postal services), in subsection (2)—

- (a) omit the “and” at the end of paragraph (d);
- (b) after paragraph (d) insert—

“(da) the reference in sections 60A(8)(a), 61(7A)(a) and 61A(8)(a) to events data were a reference to anything within paragraph (a) or (b) of the definition of “communications data” in section 262(3), and”.

21.—(1) Section 86 (Part 3: interpretation) is amended as follows.

(2) In subsection (1)—

(a) in the definition of “authorisation”, for the words from “under section 61” to the end of the definition substitute “ under section 60A, 61 or 61A ”;

(b) in the definition of “designated senior officer”—

(i) omit paragraph (a) and the “and” following it;

(ii) in paragraph (b), omit “other”.

(3) After subsection (2) insert—

“(2A) In this Part, “serious crime” means, in addition to crime which falls within paragraph (a) or (b) of the definition of “serious crime” in section 263(1), crime where the offence, or one of the offences, which is or would be constituted by the conduct concerned is—

(a) an offence for which an individual who has reached the age of 18 (or, in relation to Scotland or Northern Ireland, 21) is capable of being sentenced to imprisonment for a term of 12 months or more (disregarding any enactment prohibiting or restricting the imprisonment of individuals who have no previous convictions), or

(b) an offence—

(i) by a person who is not an individual, or

(ii) which involves, as an integral part of it, the sending of a communication or a breach of a person's privacy.”.

22. In the following provisions, for the words “paragraphs (a) to (j) of section 61(7)” substitute “ sub-paragraphs (i) to (vi) of section 87(1)(a) ”

(a) section 89(1) (approval by Judicial Commissioner);

(b) section 91(1) (approval by Investigatory Powers Commissioner);

(c) section 94(4)(a) and (5) (grounds on which certain retention notices may be varied etc).

23. In section 96 (application of Part 4 to postal operators and postal services), in subsection (2)—

(a) omit the “and” at the end of paragraph (e);

(b) after paragraph (e) insert—

“(ea) the reference in section 87(10A)(a) to events data were a reference to anything within paragraph (a) or (b) of the definition of “communications data” in section 262(3),

(eb) the reference in section 87(10A)(b) to entity data were a reference to anything within paragraph (c) of the definition of “communications data” in section 262(3), and”.

24. In section 227 (Investigatory Powers Commissioner and other Judicial Commissioners), after subsection (9) insert—

“(9A) Subsection (8) applies to the functions of the Investigatory Powers Commissioner under section 60A or 65(3B) only where the Investigatory Powers Commissioner is unable to exercise the functions because of illness or absence or for any other reason.”.

25. In section 229 (main oversight functions), after subsection (8) insert—

“(8A) Subsections (6) and (7) also do not apply in relation to the functions of the Investigatory Powers Commissioner under section 60A or 65(3B).”.

26. In Part 1 of Schedule 4, for the Table substitute—

<i>(1) Relevant public authority</i>	<i>(2) Paragraphs of section 60A(7) specified</i>	<i>(3) DSO: minimum office, rank or position</i>	<i>(4) Type of communications data that may be obtained by DSO</i>	<i>(5) Paragraphs of section 61(7) specified for DSO</i>	<i>(6) Paragraphs of section 61A(7) specified for DSO</i>
Police force maintained under section 2 of the Police Act 1996	60A(7)(a), (b), (c), (d), (e) and (g)	Inspector	Entity data	61(7)(a) and (c)	and 61A(7)(a), (b), (c) and (e)
		Superintendent	All	61(7)(a) and (c)	and 61A(7)(a), (b), (c) and (e)
Metropolitan police force	60A(7)(a), (b), (c), (d), (e) and (g)	Inspector	Entity data	61(7)(a) and (c)	and 61A(7)(a), (b), (c) and (e)
		Superintendent	All	61(7)(a) and (c)	and 61A(7)(a), (b), (c) and (e)
City of London police force	60A(7)(a), (b), (c), (d), (e) and (g)	Inspector	Entity data	61(7)(a) and (c)	and 61A(7)(a), (b), (c) and (e)
		Superintendent	All	61(7)(a) and (c)	and 61A(7)(a), (b), (c) and (e)
Police Service of Scotland	60A(7)(a), (b), (c), (d), (e) and (g)	Inspector	Entity data	61(7)(a) and (c)	and 61A(7)(a), (b), (c) and (e)
		Superintendent	All	61(7)(a) and (c)	and 61A(7)(a), (b), (c) and (e)
Police Service of Northern Ireland	60A(7)(a), (b), (c), (d), (e) and (g)	Inspector	Entity data	61(7)(a) and (c)	and 61A(7)(a), (b), (c) and (e)
		Superintendent	All	61(7)(a) and (c)	and 61A(7)(a), (b), (c) and (e)
British Transport Police Force	60A(7)(a), (b), (c), (d), (e) and (g)	Inspector	Entity data	61(7)(a) and (c)	and 61A(7)(a), (b), (c) and (e)
		Superintendent	All	61(7)(a) and (c)	and 61A(7)(a), (b), (c) and (e)
Ministry of Defence Police	60A(7)(a), (b), (c), and (e)	Inspector	Entity data	61(7)(a) and (c)	and 61A(7)(a) and (c)

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			Superintendent	All	61(7)(a) and (c)	and 61A(7)(a) and (c)
Royal Police	Navy	60A(7)(a), (b), (c), and (e)	Lieutenant Commander	Entity data	61(7)(a) and (c)	and 61A(7)(a) and (c)
			Commander	All	61(7)(a) and (c)	and 61A(7)(a) and (c)
Royal Military Police		60A(7)(a), (b), (c), and (e)	Major	Entity data	61(7)(a) and (c)	and 61A(7)(a) and (c)
			Lieutenant Colonel	All	61(7)(a) and (c)	and 61A(7)(a) and (c)
Royal Air Force Police	Air	60A(7)(a), (b), (c), and (e)	Squadron Leader	Entity data	61(7)(a) and (c)	and 61A(7)(a) and (c)
			Wing Commander	All	61(7)(a) and (c)	and 61A(7)(a) and (c)
Security Service		60A(7)(a), (b) and (c)	General Duties 4 or any other level 4 officer	Entity data	61(7)(a), and (c)	(b)
			General Duties 3 or any other level 3 officer	All	61(7)(a), and (c)	(b)
Secret Intelligence Service		60A(7)(a), (b) and (c)	Grade 6	All	61(7)(a), and (c)	(b)
GCHQ		60A(7)(a), (b) and (c)	GC8	All	61(7)(a), and (c)	(b)
Ministry of Defence	of	60A(7)(a) and (b)	Member of the Senior Civil Service or equivalent	All	61(7)(a)	
			Grade 7 in the Fraud Defence Unit	All		61A(7)(a)
Department of Health	of	60A(7)(b) and (d)	Grade 7 in the Medicines and Healthcare Products Regulatory Agency	All		61A(7)(a) and (b)
			Grade 7 in the Anti-Fraud Unit	All		61A(7)(a)
Home Office		60A(7)(b), (d) and (g)	Immigration inspector or	All		61A(7)(a)

		equivalent with responsibility for investigations or other functions relating to immigration and border security		
		Immigration inspector or equivalent with responsibility for anti-corruption in relation to investigations or other functions relating to immigration and border security	All	61A(7)(a)
		Immigration inspector or equivalent with responsibility for asylum fraud investigations	All	61A(7)(a)
		Immigration inspector or equivalent with responsibility for security and intelligence in the immigration detention estate	All	61A(7)(a), (b) and (e)
Ministry of Justice	of 60A(7)(b) and (d)	Manager in the security group of the National Offender	Entity data	61A(7)(a) and (b)

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		Management Service responsible for intelligence			
		Senior manager in the security group of the National Offender Manager Service responsible for intelligence	All		61A(7)(a) and (b)
National Crime Agency	60A(7)(b), (e) and (g)	Grade 3	Entity data		61A(7)(a), (c) and (e)
		Grade 2	All		61A(7)(a), (c) and (e)
Her Majesty's Revenue and Customs	60A(7)(b)	Higher officer	Entity data		61A(7)(a)
		Senior officer	All		61A(7)(a)
Department for Transport	60A(7)(b), (d) and (e)	Enforcement Officer in Maritime and Coastguard Agency	Entity data		61A(7)(a) and (b)
		Head of Enforcement in Maritime and Coastguard Agency	All		61A(7)(a) and (b)
		Maritime Operations Commander (Grade 7) in the Maritime and Coastguard Agency	All		61A(7)(c)
		Principal Inspector in the Air Accident Investigation Branch, the	All		61A(7)(b)

		Marine Accident Investigation Branch or the Rail Accident Investigation Branch		
Department for Work and Pensions	60A(7)(b)	Senior Executive Officer in Fraud and Error Services	All	61A(7)(a)
		Senior Executive Officer in the Child Maintenance Group Central Legal Services	All	61A(7)(a)
An ambulance trust in England	60A(7)(e)	Duty Manager of Ambulance Trust Control Rooms	All	61A(7)(c)
Common Services Agency for the Scottish Health Service	60A(7)(b)	Head of Counter Fraud Services	All	61A(7)(a)
Competition and Markets Authority	60A(7)(b)	Member of the Senior Civil Service with responsibility for cartels or criminal enforcement	All	61A(7)(a)
Criminal Cases Review Commission	60A(7)(f)	Investigations Adviser	All	61A(7)(d)
Department for Communities in Northern Ireland	60A(7)(b)	Deputy Principal	All	61A(7)(a)
Department for the Economy in Northern Ireland	60A(7)(b)	Deputy chief inspector in trading standards services	All	61A(7)(a)

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Department of Justice Northern Ireland	60A(7)(b), (d) and (g)	Governor of the Northern Ireland Prison Service	4	All	61A(7)(a), (b) and (e)
Financial Conduct Authority	60A(7)(b)	Head of the Enforcement and Market Oversight Division		All	61A(7)(a)
A fire and rescue authority under the Fire and Rescue Services Act 2004	60A(7)(e)	Watch Manager (Control)		All	61A(7)(c)
Food Standards Agency	60A(7)(b)	Grade 6		All	61A(7)(a)
Food Standards Scotland	60A(7)(b)	Head of the Scottish Crime and Incidents Unit		All	61A(7)(a)
Gambling Commission	60A(7)(b)	Senior manager		All	61A(7)(a)
Gangmasters and Labour Abuse Authority	60A(7)(b)	Head of operations		All	61A(7)(a)
Health and Safety Executive	60A(7)(b) and (d)	Band inspector	1	All	61A(7)(a) and (b)
Independent Office for Police Conduct	60A(7)(b) and (g)	Director or an equivalent grade		All	61A(7)(a) and (e)
Information Commissioner	60A(7)(b)	Group manager		Entity data	61A(7)(a)
		Head of enforcement or an equivalent grade		All	61A(7)(a)
National Health Service	60A(7)(b)	Senior manager		All (of	61A(7)(a)

Business Services Authority		pay band 8b) in the Counter Fraud and Security Management Services Division		
Northern Ireland Ambulance Service Health and Social Care Trust	60A(7)(e)	Watch Manager (Control)	All	61A(7)(c)
Northern Ireland Fire and Rescue Service Board	60A(7)(e)	Watch Manager (Control)	All	61A(7)(c)
Northern Ireland Health and Social Care Regional Business Services Organisation	60A(7)(b)	Assistant Director Counter Fraud and Probity Services	All	61A(7)(a)
Office of Communications	60A(7)(b)	Senior associate	All	61A(7)(a)
Office of the Police Ombudsman for Northern Ireland	60A(7)(b)	Senior investigating officer	All	61A(7)(a)
Police Investigations and Review Commissioner	60A(7)(b) and (g)	Commissioner or Director of Operations	All	61A(7)(a) and (e)
Scottish Ambulance Service Board	60A(7)(e)	Watch Manager (Control)	All	61A(7)(c)
Scottish Criminal Cases Review Commission	60A(7)(f)	Investigations Adviser	All	61A(7)(d)
Serious Fraud Office	60A(7)(b)	Grade 6	All	61A(7)(a)
Welsh Ambulance Services National	60A(7)(e)	Watch Manager (Control)	All	61A(7)(c)".

Health Service
Trust

27. In Schedule 9 (transitional, transitory and saving provision), in paragraph 6(1)—

(a) for paragraph (a) substitute—

“(a) “serious crime” in section 86(2A),”;

(b) omit the “and” following paragraph (a);

(c) after paragraph (a) insert—

“(aa) “serious crime” in section 87(10B), and”.

Commencement Information

II Sch. 1 para. 27(b)(c) in force at 1.11.2018 and Sch. 1 para. 27 in force at 5.2.2019 otherwise, see reg. 1(3)(f)(4)(d)

28. In Schedule 10 (minor and consequential provision), omit paragraphs 57 and 58 (which are superseded by the amendments made by Schedule 2).

Changes to legislation:

There are currently no known outstanding effects for the The Data Retention and Acquisition Regulations 2018, SCHEDULE 1.