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

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**2003 No.**

**INVESTIGATORY POWERS**

**The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003**

*Made* ..... 2003

*Coming into force* ..... 2003

Whereas a draft of this Order has been approved by a resolution of each House of Parliament;

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 30(1), (3), (5) and (6) and 78(5) of the Regulation of Investigatory Powers Act 2000<sup>(a)</sup>, hereby makes the following Order:

**Citation, commencement and interpretation**

**1.-** (1) This Order may be cited as the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003 and shall come into force one month after the day on which it is made.

(2) In this Order “the 2000 Act” means the Regulation of Investigatory Powers Act 2000.

**Amendments to Schedule 1 to the 2000 Act**

**2.-** (1) Part I of Schedule 1 to the 2000 Act shall be amended as follows.

(2) After paragraph 1 add the words -

“1A. The United Kingdom Atomic Energy Authority Constabulary.”.

(3) After paragraph 13 add the words -

“13A. The Northern Ireland Office.”.

(4) For paragraph 17 substitute –

“17. Any county council or district council in England, a London borough council, the Common Council of the City of London in its capacity as a local authority, the Council of the Isles of Scilly, and any county council or county borough council in Wales.”.

(5) After paragraph 17 add the words –

“17A. Any fire authority within the meaning of the Fire Services Act 1947 <sup>(b)</sup> (read with paragraph 2 of Schedule 11 to the Local Government Act 1985<sup>(c)</sup>).”.

(6) After the heading “*Other bodies*” add the words-

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<sup>(a)</sup> 2000 c.23.  
<sup>(b)</sup> 1947 c.41.  
<sup>(c)</sup> 1985 c.51.

“17B. The Charity Commission.”.

(7) After paragraph 20 add the words -

“20A. The Gaming Board for Great Britain.

20B. The Office of Fair Trading.

20C. The Office of the Police Ombudsman for Northern Ireland.

20D. The Postal Services Commission.”.

3.- (1) Part II of Schedule 1 to the 2000 Act shall be amended as follows.

(2) After paragraph 27 add the words-

"27A. Local Health Boards in Wales established under section 6 of the National Health Service Reform and Health Care Professionals Act 2002(a)."

*Her Majesty's Chief Inspector of Schools in England*

27B. Her Majesty's Chief Inspector of Schools in England

*The Information Commissioner*

27C. The Information Commissioner.

*The Royal Parks Constabulary*

27D. The Royal Parks Constabulary."

#### **Prescribed offices, ranks and positions**

4.- (1) The offices, ranks and positions listed in column 2 of Part I of the Schedule to this Order (being offices, ranks or positions with the relevant public authorities listed in column 1 of Part I of that Schedule which are relevant public authorities for the purposes of sections 28 and 29 of the 2000 Act) are hereby prescribed for the purpose of section 30(1) of the 2000 Act, subject to the restrictions in articles 7, 8 and 9.

(2) The offices, ranks and positions listed in column 2 of Part II of the Schedule to this Order (being offices, ranks or positions with the relevant public authorities listed in column 1 of Part II of that Schedule which are relevant public authorities for the purposes only of section 28 of the 2000 Act) are hereby prescribed for the purpose of section 30(1) of the 2000 Act, subject to the restrictions in articles 7, 8 and 9.

#### **More senior offices, ranks and positions**

5.- (1) Where an office, rank or position with a relevant public authority is prescribed by virtue of article 4, all more senior offices, ranks or positions with that authority are also prescribed for the purpose of section 30(1) of the 2000 Act, subject to article 10.

(2) Where an office, rank or position with a relevant public authority is described in column 2 of the Schedule to this Order by reference to an agency, unit, branch, division or other part of that authority, the reference in paragraph (1) 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

#### **Additional offices, ranks and positions prescribed for urgent cases**

6.- (1) The additional offices, ranks and positions listed in column 3 of the Schedule to this Order (being offices, ranks or positions with the relevant public authorities listed in column 1) are hereby prescribed for the purposes of section 30(1) of the 2000 Act, subject to the restrictions in articles 7, 8 and 9 in the circumstances described in paragraph (2).

(2) An individual holding an office, rank or position which is listed in column 3 of the Schedule to this Order may only grant an authorisation where it is not reasonably practicable, having regard to the urgency of the

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(a) 2002 c.17.

case, for the application to be considered by an individual with the same authority holding an office, rank or position listed in column 2 of the Schedule to this Order.

(3) Where an office, rank or position with a relevant public authority is described in column 3 of the Schedule to this Order by reference to an agency, unit, branch, division or other part of that authority, the reference in paragraph (2) to an individual with the same authority is a reference to an individual with that agency, unit, branch, division or part.

**Restrictions on the granting of authorisations**

7.- The restriction in this article is that an individual holding an office, rank or position which is listed in column 2 or 3 of the Schedule to this Order may not grant an authorisation unless he believes it is necessary on the grounds set out in one or more of the paragraphs of sections 28(3) and 29(3) of the 2000 Act listed in the corresponding entry in column 4 of that Schedule.

8.- The restriction in this article is that where any entry in column 2 or 3 of Part I of the Schedule to this Order is headed by a reference to an authorisation under section 28 or section 29 of the 2000 Act, an individual holding an office, rank or position which is listed in that entry may only grant an authorisation under the section of the 2000 Act with which that entry is headed.

9.- The restriction in this article is that an individual holding an office, rank or position with the Food Standards Agency or the Rural Payments Agency may not grant an authorisation for conduct in Northern Ireland.

10.- The restrictions on the granting of authorisations under section 28 and 29 of the 2000 Act that apply to an individual holding an office, rank or position with a relevant public authority listed in column 2 of the Schedule to this Order shall also apply to individuals holding all more senior offices, ranks or positions with that authority that are prescribed by article 5.

**Revocation**

11.- The Regulation of Investigatory Powers (Prescription of Offices, Ranks and Positions) Order 2000(a) is hereby revoked.

Home Office  
2003

Parliamentary Under-Secretary of State

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(a) S.I. 2000/2417.

## SCHEDULE

### Part I (Prescriptions for public authorities in Part I of Schedule 1 to the 2000 Act that are relevant public authorities for the purposes of sections 28 and 29 of the 2000 Act)

<i>(1) Relevant public authorities in Part I of Schedule 1 to the 2000 Act</i>	<i>(2) Prescribed offices etc.</i>	<i>(3) Urgent cases</i>	<i>(4) Grounds set out in the paragraphs of sections 28(3) and 29(3) of the 2000 Act for which an authorisation can be given</i>
A police force maintained under section 2 of the Police Act 1996 <b>(a)</b> (police forces in England and Wales outside London)	Superintendent	Inspector	(a)(b)(c)(d)(e)
A police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967 <b>(b)</b>	Superintendent	Inspector	(a)(b)(c)(d)(e)
The metropolitan police force	Superintendent	Inspector	(a)(b)(c)(d)(e)
The City of London police force	Superintendent	Inspector	(a)(b)(c)(d)(e)
The Police Service of Northern Ireland <b>(c)</b>	Superintendent	Inspector	(a)(b)(c)(d)(e)
The Ministry of Defence Police	Superintendent	Inspector	(a)(b)(c)
The Royal Navy Regulating Branch	Provost Marshal		(a)(b)(c)
The Royal Military Police	Lieutenant Colonel	Major	(a)(b)(c)
The Royal Air Force Police	Wing Commander	Squadron Leader	(a)(b)(c)
The British Transport Police	Superintendent	Inspector	(a)(b)(c)(d)(e)
The United Kingdom Atomic Energy Authority Constabulary <b>(d)</b>	Superintendent	Inspector	(a)(b)
The National Criminal Intelligence Service	Superintendent, Level 2 or any individual on secondment to the National Criminal Intelligence Service who holds any office, rank or position in any other relevant public authority listed in column 2 of Part I of the Schedule to this Order	Inspector, Level 4 or any individual on secondment to the National Criminal Intelligence Service who holds any office, rank or position in any other relevant public authority listed in column 3 of Part I of the Schedule to this Order	(a)(b)(c)(d)(e)
The National Crime Squad	Superintendent	Inspector	(a)(b)(c)(d)(e)
The Serious Fraud Office	Assistant Director		(b)
Government Communications	GC8		(a)(b)(c)

**(a)** 1996 c.16.

**(b)** 1967 c.77.

**(c)** A police force within paragraph 1 of Schedule 1 as defined in section 81(1) of the 2000 Act as amended by section 78(2)(f) of the Police (Northern Ireland) Act 2000 (2000 c.32.).

**(d)** Inserted into Schedule 1 by article 2 to this Order.

<i>(1) Relevant public authorities in Part I of Schedule 1 to the 2000 Act</i>	<i>(2) Prescribed offices etc.</i>	<i>(3) Urgent cases</i>	<i>(4) Grounds set out in the paragraphs of sections 28(3) and 29(3) of the 2000 Act for which an authorisation can be given</i>
Headquarters			
The Security Service	General Duties 3 or any other Officer at Level 3		(a)(b)(c)
The Secret Intelligence Service	Grade 6 or equivalent		(a)(b)(c)
The Royal Navy	Commander	Lieutenant Commander	(a)(b)(c)(d)(e)
The Army	Lieutenant Colonel	Major	(a)(b)(c)(d)(e)
The Royal Air Force	Wing Commander	Squadron Leader	(a)(b)(c)(d)(e)
The Commissioners of Customs and Excise	Band 9	Band 7 or 8	(a)(b)(c)(d)(e)(f)
The Commissioners of Inland Revenue	Band C1	Band C2	(b)(c)(f)
Ministry of Defence	Band C1	Band C2	(b)
Department for Environment, Food and Rural Affairs <sup>(a)</sup>	Senior Investigation Officer in DEFRA Investigation Branch		(b)
	Senior Counter Fraud Officer in the Counter Fraud and Compliance Unit of the Rural Payments Agency		(b)
	Senior Investigation Officer in Centre for Environment, Fisheries and Aquaculture Science		(b)
	<b>Section 28 authorisation</b> Regional Horticultural Marketing Inspector in Horticultural Marketing Inspectorate		(b)
	<b>Section 28 authorisation</b> Senior Plant Health and Seed Inspector in Plant Health and Seed Inspectorate		(b)
	<b>Section 28 authorisation</b> Chief Egg Marketing Inspector in Egg Marketing Inspectorate		(b)
	<b>Section 28 authorisation</b> District Inspector in Sea Fisheries Inspectorate		(b)
The Department of Health	Integrated Payband 3 (Standard 2) in Medicines and Healthcare Products Regulatory Agency		(b)(d)(e)
The Home Office	<b>Section 28 authorisation</b> Area Manager in HM Prison Service		(a)(b)(d)

(a) Inserted into Schedule 1 by paragraph 39 of Schedule 1 to the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794).

<i>(1) Relevant public authorities in Part I of Schedule 1 to the 2000 Act</i>	<i>(2) Prescribed offices etc.</i>	<i>(3) Urgent cases</i>	<i>(4) Grounds set out in the paragraphs of sections 28(3) and 29(3) of the 2000 Act for which an authorisation can be given</i>
	<b>Section 29 authorisation</b> Prison Source System Manager in HM Prison Service	<b>Section 29 authorisation</b> A Governor, Duty Governor or Deputy Controller in HM Prison Service	(a)(b)(d)
	Immigration Inspector in the Immigration Service	Chief Immigration Officer in the Immigration Service	(b)(c)
	<b>Section 28 authorisation</b> The Head of the Unit responsible for Security and Anti Corruption within the Immigration and Nationality Directorate	<b>Section 28 authorisation</b> Senior Executive Officer within the Unit responsible for Security and Anti Corruption within the Immigration and Nationality Directorate	(b)
The Northern Ireland Office(a)	Deputy Principal or Governor 3 in the Northern Ireland Prison Service	Staff Officer or Governor 4 in the Northern Ireland Prison Service	(b)(d)
The Department of Trade and Industry	Deputy Inspector of Companies in Companies Investigation Branch		(b)
	Chief Investigation Officer in the Investigation Officers Section of Legal Services Directorate D or a member of the Senior Civil Service in Legal Services Directorate D		(b)
	<b>Section 28 authorisation</b> Radio Specialist 5 or Range 9 Officer in Radiocommunications Agency	<b>Section 28 authorisation</b> Radio Specialist 4 or Range 8 Officer in Radiocommunications Agency	(b)
	<b>Section 29 authorisation</b> Member of Senior Civil Service in Radiocommunications Agency		(b)
	<b>Section 28 authorisation</b> Member of Senior Civil Service in British Trade International		(b)

(a) Inserted into Schedule 1 by article 2 of this Order.

<i>(1) Relevant public authorities in Part I of Schedule 1 to the 2000 Act</i>	<i>(2) Prescribed offices etc.</i>	<i>(3) Urgent cases</i>	<i>(4) Grounds set out in the paragraphs of sections 28(3) and 29(3) of the 2000 Act for which an authorisation can be given</i>
	<b>Section 28 authorisation</b> Range 10 Officer in Coal Health Claims Unit	<b>Section 28 authorisation</b> Range 9 Officer in Coal Health Claims Unit	(b)
The Department for Transport <b>(a)</b>	Head of Maritime Section		(b)(d)
	Assistant Director Transport Security		(b)(d)
	Head of Operational Support		(b)(d)
	Head of Land Transport Security		(b)(d)
	Head of Aviation Security Compliance		(b)(d)
	Head of Aviation Security Domestic Policy		(b)(d)
	Head of Aviation Security International Policy		(b)(d)
	Senior Transport Security Inspector		(b)(d)
	<b>Section 28 authorisation</b> Area Manager or National Intelligence Co-ordinator in the Vehicle and Operator Services Agency  <b>Section 29 authorisation</b> Enforcement Manager in the Vehicle and Operator Services Agency	<b>Section 28 authorisation</b> Senior Vehicle Examiner or Senior Traffic Examiner or Intelligence Officer in Vehicle and Operator Services Agency  <b>Section 29 authorisation</b> Area Manager in the Vehicle and Operator Services Agency	(b)(d)  (b)(d)
	Principal Enforcement Officer in the Maritime and Coastguard Agency	Enforcement Officer in the Maritime and Coastguard Agency	(b)(d)
The Department for Work and Pensions <b>(b)</b>	Senior Executive Officer or equivalent grades in Jobcentre Plus	Higher Executive Officer or equivalent grades in Jobcentre Plus	(b)
	Senior Executive Officer		(b)

- (a)** Inserted into Schedule 1 (as amended by paragraph 18(b) of the Schedule to the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001 (S.I. 2001/2568)) by paragraph 24 of Schedule 2 to the Transfer of Functions (Transport, Local Government and the Regions) Order 2002 (S.I. 2002/2626).
- (b)** Inserted into Schedule 1 by paragraph 16(b) of Part 1 of the Schedule to the Secretaries of State for Education and Skills and for Work and Pensions Order 2002 (S.I. 2002/1397).

<i>(1) Relevant public authorities in Part I of Schedule 1 to the 2000 Act</i>	<i>(2) Prescribed offices etc.</i>	<i>(3) Urgent cases</i>	<i>(4) Grounds set out in the paragraphs of sections 28(3) and 29(3) of the 2000 Act for which an authorisation can be given</i>
	or equivalent grades in DWP Internal Assurance Services		
	Senior Executive Officer or equivalent grades in Child Support Agency	Higher Executive Officer or equivalent grades in Child Support Agency	(b)
National Assembly for Wales	Head of NHS Directorate	Member of NHS Directorate at a level equivalent to Grade 7	(b)(d)(e)
	Head of NHS Finance Division	Member of NHS Finance Division at a level equivalent to Grade 7	(b)(d)(e)
	Head of Common Agricultural Policy Management Division	Member of Common Agricultural Policy Management Division at a level equivalent to Grade 7	(b)(e)
	Regional Director in the Care Standards Inspectorate for Wales	Senior Inspector in the Care Standards Inspectorate for Wales	(b)(d)(e)
Any county council or district council in England, a London Borough Council, the Common Council of the City of London in its capacity as a local authority, the Council of the Isles of Scilly, and any county council or county borough council in Wales <b>(a)</b> .	Assistant Chief Officer, Assistant Head of Service, Service Manager or equivalent		(b)(d)(e)
Any fire authority within the meaning of the Fire Services Act 1947 (read with paragraph 2 of Schedule 11 to the Local Government Act 1985) <b>(b)</b>	Divisional Officer 2	Divisional Officer 3	(b)(d)
The Charity Commission <b>(c)</b>	Senior Investigations Manager	Investigations Manager	(b)
The Environment Agency	<b>Section 28 authorisation</b> Area Management Team Member	<b>Section 28 authorisation</b> Area Team Leader	(b)(d)(e)
	<b>Section 29 authorisation</b> Area Manager	<b>Section 29 authorisation</b> Area Management Team Member	(b)(d)(e)

- (a)** Inserted into Schedule 1 in substitution for the existing entry relating to local authorities by article 2 of this Order.
- (b)** Inserted into Schedule 1 by article 2 of this Order.
- (c)** Inserted into Schedule 1 by article 2 of this Order.

<i>(1) Relevant public authorities in Part I of Schedule 1 to the 2000 Act</i>	<i>(2) Prescribed offices etc.</i>	<i>(3) Urgent cases</i>	<i>(4) Grounds set out in the paragraphs of sections 28(3) and 29(3) of the 2000 Act for which an authorisation can be given</i>
The Financial Services Authority	Head of Department in Enforcement Division	Manager in Enforcement Division	(b)
The Food Standards Agency	<b>Section 28 authorisation</b> Head of Division or equivalent grade <b>Section 29 authorisation</b> Deputy Director of Legal Services or any Director		(b)(d)(e)
The Gaming Board for Great Britain <b>(a)</b>	Chief Inspector	Deputy Chief Inspector	(b)
The Office of Fair Trading <b>(b)</b>	Director of Cartel Investigations	Principal Investigation Officer in the Cartel Investigation Branch	(b)(c)
The Office of the Police Ombudsman for Northern Ireland <b>(c)</b>	Senior Investigating Officer	Deputy Senior Investigating Officer	(b)
The Postal Services Commission <b>(d)</b>	<b>Section 28 authorisation</b> Legal Adviser <b>Section 29 authorisation</b> Chief Legal Adviser	<b>Section 28 authorisation</b> Deputy Director	(b)  (b)
A Universal Service Provider within the meaning of the Postal Services Act 2000 <b>(e)</b>	Senior Investigation Manager in Royal Mail Group plc		(b)

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- (a) Inserted into Schedule 1 by article 2 of this Order.  
(b) Inserted into Schedule 1 by article 2 of this Order.  
(c) Inserted into Schedule 1 by article 2 of this Order.  
(d) Inserted into Schedule 1 by article 2 of this Order.  
(e) 2000 c.26. Inserted into Schedule 1 by paragraph 135 of Schedule 1 to the Postal Services Act 2000 (Consequential Modifications No.1) Order 2001 (S.I. 2001/1149).

Part II (Prescriptions for public authorities in Part II of Schedule 1 to the 2000 Act that are relevant public authorities for the purposes only of section 28 of the 2000 Act)

<i>(1) Relevant public authorities in Part II of Schedule 1 to the 2000 Act</i>	<i>(2) Prescribed offices etc.</i>	<i>(3) Urgent cases</i>	<i>(4) Grounds set out in the paragraphs of section 28(3) of the 2000 Act for which an authorisation can be given</i>
The Health and Safety Executive	Band 2 Inspector		(b)(d)(e)
A Special Health Authority established under section 11 of the National Health Service Act 1977	Chief Executive		(b)(e)
	Senior Manager (Senior Manager Pay Range 14) in the Counter Fraud and Security Management Service		(b)
A National Health Service trust established under section 5 of the National Health Service and Community Care Act 1990(a)	Chief Executive		(b)(e)
Local Health Boards in Wales established under section 6 of the National Health Service Reform and Health Care Professionals Act 2002(b)	Chief Officer or Finance Officer		(b)(e)
Her Majesty's Chief Inspector of Schools in England(c)	Band A in the Complaints, Investigation and Enforcement Team in the Office of Her Majesty's Chief Inspector of Schools in England (OFSTED)	Band B1 in the Complaints, Investigation and Enforcement Team in the Office of Her Majesty's Chief Inspector of Schools in England (OFSTED)	
The Information Commissioner(d)	Head of Investigations	Senior Investigating Officer	(b)
The Royal Parks Constabulary(e)	Chief Officer	Inspector	(b)
The Royal Pharmaceutical Society of Great Britain	Director of Fitness to Practice and Legal Affairs or Director of Practice and Quality Improvement		(b)(d)(e)

(a) 1990 c.19.

(b) Inserted into Schedule 1 by article 3 of this Order.

(c) Inserted into Schedule 1 by article 3 of this Order

(d) Inserted into Schedule 1 by article 3 of this Order.

(e) Inserted into Schedule 1 by article 3 of this Order.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

Articles 2 and 3 of this Order amend Schedule 1 to the Regulation of Investigatory Powers Act 2000 ("the 2000 Act") by adding to it a number of new public authorities. Designated individuals in the public authorities listed in Part I of Schedule 1 are entitled to authorise directed surveillance and the use and conduct of covert human intelligence sources under sections 28 and 29 of the 2000 Act, respectively. Designated individuals in the public authorities listed in Part II of Schedule 1 are only entitled to authorise directed surveillance under section 28 of the 2000 Act. Article 4 of this Order prescribes offices, ranks and positions for the purposes of section 30(1) of the 2000 Act for both the public authorities already in Schedule 1 and those added to it by this Order. Individuals holding these prescribed offices, ranks or positions are designated under sections 28 and 29 of the 2000 Act as able to authorise directed surveillance and the use and conduct of covert human intelligence sources. An earlier Order that prescribed offices, ranks and positions in the public authorities that were in Schedule 1 when the 2000 Act was passed is revoked by article 10 of this Order.

Column 1 of the Schedule to this Order lists the public authorities. Column 2 specifies the individuals within each public authority that can authorise directed surveillance and the use and conduct of covert human intelligence sources. An individual holding an office, rank or position listed in column 2 of Part I of the Schedule may grant an authorisation under either section 28 or section 29 of the 2000 Act, other than where the Schedule indicates to the contrary. An individual holding an office, rank or position listed in column 2 of Part II of the Schedule may only grant an authorisation under section 28 of the 2000 Act. Individuals holding more senior offices, ranks or positions to those listed in column 2 may also authorise in the same circumstances as those to whom they are senior. Column 3 sets out certain less senior officials who can authorise in urgent cases. Column 4 sets out the grounds on which an authorisation can be given by reference to the grounds set out in the different paragraphs of sections 28(3) and 29(3) of the 2000 Act. For example, ground (b) is for the purpose of preventing or detecting crime or of preventing disorder.