Draft Order laid before Parliament under section 30(7) of the Regulation of Investigatory Powers Act 2000, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No.

INVESTIGATORY POWERS

The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010

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

This Order is made in exercise of the powers conferred on the Secretary of State by sections 30(1), (3), (5) and (6) and 78(5) of the Regulation of Investigatory Powers Act 2000(**1**).

In accordance with section 30(7) 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 (Directed Surveillance and Covert Human Intelligence Sources) 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.

Amendment of Parts 1 and 2 of Schedule 1 to the Act

2.—(1) Schedule 1 to the Act (relevant public authorities) is amended as follows.

(2) In Part 1 (relevant public authorities for the purposes of sections 28 and 29) omit—

(a) paragraph 4A (the force comprising the special constables appointed under section 79 of the Harbours, Docks and Piers Clauses Act 1847(**2**) on the nomination of the Dover Harbour Board)(**3**),

(b) paragraph 10 (the Ministry of Defence),

(c) paragraph 15B (the Department for Work and Pensions)(**4**),

(**1**) 2000 c.23.
(**2**) 1847 c.27 (10 & 11 Vict.).
(**3**) Inserted by S.I 2005/1084.
(**4**) Inserted by S.I 2002/1397.

(d) paragraph 20D (the Postal Services Commission)(**5**), and

(e) paragraph 23 (a universal service provider (within the meaning of the Postal Services Act 2000(**6**)) acting in connection with the provision of a universal postal service (within the meaning of that Act))(**7**).

(3) In that Part, for paragraph 17A (any fire authority within the meaning of the Fire Services Act 1947)(**8**) substitute—

"**17A.** Any fire and rescue authority under the Fire and Rescue Services Act 2004(**9**)."

(4) In that Part, after paragraph 20F(**10**) insert—

"**20G.** The Health and Safety Executive."

(5) In Part 2 (relevant public authorities for the purposes only of section 28) omit paragraph 24 (the Health and Safety Executive).

(6) In that Part, after paragraph 28 insert—

"The Child Maintenance and Enforcement Commission

28A. The Child Maintenance and Enforcement Commission.

Special constables nominated by the Dover Harbour Board

28B. The force comprising the special constables appointed under section 79 of the Harbours, Docks and Piers Clauses Act 1847 on the nomination of the Dover Harbour Board.

The Department for Work and Pensions

28C. The Department for Work and Pensions.

The Postal Services Commission

28D. The Postal Services Commission

Universal service providers

28E. A universal service provider (within the meaning of the Postal Services Act 2000) acting in connection with the provision of a universal postal service (within the meaning of that Act)."

Prescribed offices, ranks and position with relevant public authorities

3.—(1) The Schedule to this Order has effect.

(2) Subject to the restrictions in articles 5 to 7, the offices, ranks and positions listed in the entries in—

(a) column (2) of Part 1 of the Schedule (being offices, ranks and positions with the relevant public authorities which are listed in relation to such entries in column (1) of that Part and which are relevant public authorities for the purposes of sections 28 and 29 of the Act), and

(**5**) Inserted by S.I. 2003/3171.
(**6**) 2000 c.26.
(**7**) Amended by S.I. 2001/1149.
(**8**) Inserted by S.I. 2003/3171.
(**9**) 2004 c.21.
(**10**) Inserted by S.I. 2006/1874.

(b) column (2) of Part 2 of the Schedule (being offices, ranks and positions with the relevant public authorities which are listed in relation to such entries in column (1) of that Part and which are relevant public authorities for the purposes of section 28 of the Act only),

are prescribed for the purposes of section 30(1) of the Act.

(3) Where an office, rank or position with a relevant public authority is prescribed by virtue of article 3(2), 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 8.

(4) 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 (3) 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

4.—(1) Subject to the restrictions in articles 5 to 7, the offices, ranks and positions listed in the entries in column (3) of the Schedule (being offices, ranks and positions with the relevant public authorities which are listed in relation to such entries in column (1) of that Schedule) are prescribed for the purposes of section 30(1) of the Act in the circumstances specified in paragraph (2).

(2) An individual holding an office, rank or position which is listed in an entry in column (3) of the Schedule may only grant an authorisation (for the purposes of section 28 or 29 of the Act in the case of an entry in Part 1 of the Schedule or for the purposes of section 28 only in the case of an entry in Part 2) where it is not reasonably practicable, having regard to the urgency of the case, for the application for an authorisation to be considered by an individual with the same relevant public authority holding an office, rank or position which is listed in column (2) of the Schedule.

Restrictions on the granting of authorisations

5.—(1) An individual holding an office, rank or position which is listed in an entry in column (2) or (3) of the Schedule may not grant an authorisation unless that individual believes it is necessary for any of the grounds set out in paragraphs (a) to (f) of—

(a) section 28(3) or 29(3) of the Act in the case of an entry in Part 1 of the Schedule (subject to article 6(3)), or

(b) section 28(3) of the Act in the case of an entry in Part 2,

which is listed in the corresponding entry in column (4) of the Schedule.

(2) In column (4), a reference to a lettered paragraph is a reference to a paragraph identified by means of that letter in—

(a) section 28(3) or 29(3) of the Act in the case of an entry in Part 1 of the Schedule (subject to article 6(3)), or

(b) section 28(3) of the Act in the case of an entry in Part 2.

6.—(1) Where an entry in column (2) or (3) of Part 1 of the Schedule is headed by reference to an authorisation under section 28 or section 29, an authorisation may only be granted by the individual holding the office, rank or position listed in the entry under the section by which the entry is headed.

(2) Such a heading in column (2) or (3) of Part 1 of the Schedule refers to section 28 or section 29, as the case may be, of the Act.

(3) Where paragraph (1) applies, a reference to a paragraph in column (4) of Part 1 of the Schedule is to a paragraph in subsection (3) of the section specified in the heading.

7. An individual holding an office, rank or position with the Food Standards Agency may not grant an authorisation for conduct in Northern Ireland.

8. The restrictions on the granting of authorisations under sections 28 and 29 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 3(3).

Transitional arrangements

9. This Order does not affect the continued operation of the Orders mentioned in article 10 in relation to authorisations under section 28 or 29 of the Act granted before this Order comes into force.

Revocation

10. The following Orders are revoked to the extent indicated—

(a) all of the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003(**11**), except articles 1 to 3,

(b) articles 4 and 5 of the Independent Police Complaints Commission (Investigatory Powers) Order 2004(**12**),

(c) all of the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2005(**13**), except articles 1 and 2(1),

(d) all of the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2006(**14**), except articles 1 and 2.

Home Office
Date

Name
Minister of State

(**11**) S.I. 2003/3171.
(**12**) S.I. 2004/815.
(**13**) S.I. 2005/1084.
(**14**) S.I. 2006/1874.

SCHEDULE Articles 3, 4, 5 and 6

PRESCRIBED OFFICES ETC. IN RELEVANT PUBLIC AUTHORITIES AND RESTRICTIONS ON AUTHORISATIONS

PART 1

OFFICES ETC. AND RESTRICTIONS IN RESPECT OF PUBLIC AUTHORITIES SPECIFIED IN PART 1 OF SCHEDULE 1 TO THE ACT

(1) *Relevant public authorities*	*(2)* *Prescribed offices etc.*	*(3)* *Urgent cases*	*(4)* *Grounds set out in paragraphs of section 28(3) or 29(3) of the Act*
A police force maintained under section 2 of the Police Act 1996(**15**)	Superintendent	Inspector	Paragraphs (a), (b), (c), (d) and (e)
The metropolitan police force	Superintendent	Inspector	Paragraphs (a), (b), (c), (d) and (e)

(1) *Relevant public authorities*	*(2)* *Prescribed offices etc.*	*(3)* *Urgent cases*	*(4)* *Grounds set out in paragraphs of section 28(3) or 29(3) of the Act*
The City of London police force	Superintendent	Inspector	Paragraphs (a), (b), (c), (d) and (e)
A police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967(**16**)	Superintendent	Inspector	Paragraphs (a), (b), (c), (d) and (e)
The Police Service of Northern Ireland(**17**)	Superintendent	Inspector	Paragraphs (a), (b), (c), (d) and (e)
The Ministry of Defence Police	Superintendent	Inspector	Paragraphs (a), (b) and (c)
The Royal Navy Police	Commander	Lieutenant Commander	Paragraphs (a), (b) and (c)

(**15**) 1996 c.16.
(**16**) 1967 c.77.
(**17**) A police force within paragraph 1 of Schedule 1 to the Act, as defined by section 81(1) of the Act and amended by section 78(2)(f) of the Police (Northern Ireland) Act 2000 (c.32).