Supersedes draft published on 24th September 2003 and is being issued free of charge to all known recipients of that draft instrument.*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

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(**1**), 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—

(**1**) 2000 c. 23.

"**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(**2**) (read with paragraph 2 of Schedule 11 to the Local Government Act 1985(**3**)).".

(6) After the heading "Other bodies" add the words—

"**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 Professions Act 2002(**4**).

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.

(**2**) 1947 c. 41.
(**3**) 1985 c. 51.
(**4**) 2002 c. 17.

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 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(**5**) is hereby revoked.

(**5**) S.I. 2000/2417.

Home Office
2003 Parliamentary Under-Secretary of State

SCHEDULE

Article 4

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)

(1) *Relevant public authorities in Part I of Schedule 1 to the 2000 Act*	*(2)* *Prescribed offices etc.*	*(3)* *Urgent cases*	*(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*
A police force maintained under section 2 of the Police Act 1996(**6**) (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(**7**)	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(**8**)	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	Superintendent	Inspector	(a)(b)

(**6**) 1996 c. 16.
(**7**) 1967 c. 77.
(**8**) 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).