



# Regulation of Investigatory Powers Act 2000

## 2000 CHAPTER 23

### PART I

#### COMMUNICATIONS

#### CHAPTER II

##### ACQUISITION AND DISCLOSURE OF COMMUNICATIONS DATA

#### **21 Lawful acquisition and disclosure of communications data.**

- (1) This Chapter applies to—
  - (a) any conduct in relation to a postal service or telecommunication system for obtaining communications data, other than conduct consisting in the interception of communications in the course of their transmission by means of such a service or system; and
  - (b) the disclosure to any person of communications data.
- (2) Conduct to which this Chapter applies shall be lawful for all purposes if—
  - (a) it is conduct in which any person is authorised or required to engage by an authorisation or notice granted or given under this Chapter; and
  - (b) the conduct is in accordance with, or in pursuance of, the authorisation or requirement.
- (3) A person shall not be subject to any civil liability in respect of any conduct of his which—
  - (a) is incidental to any conduct that is lawful by virtue of subsection (2); and
  - (b) is not itself conduct an authorisation or warrant for which is capable of being granted under a relevant enactment and might reasonably have been expected to have been sought in the case in question.

*Status: Point in time view as at 01/11/2018.*

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- (4) In this Chapter “communications data” means any of the following—
- (a) any traffic data comprised in or attached to a communication (whether by the sender or otherwise) for the purposes of any postal service or telecommunication system by means of which it is being or may be transmitted;
  - (b) any information which includes none of the contents of a communication (apart from any information falling within paragraph (a)) and is about the use made by any person—
    - (i) of any postal service or telecommunications service; or
    - (ii) in connection with the provision to or use by any person of any telecommunications service, of any part of a telecommunication system;
  - (c) any information not falling within paragraph (a) or (b) that is held or obtained, in relation to persons to whom he provides the service, by a person providing a postal service or telecommunications service.
- (5) In this section “relevant enactment” means—
- (a) an enactment contained in this Act;
  - (b) section 5 of the <sup>M1</sup>Intelligence Services Act 1994 (warrants for the intelligence services); or
  - (c) an enactment contained in Part III of the <sup>M2</sup>Police Act 1997 (powers of the police and of [<sup>F1</sup>officers of Revenue and Customs].)
- (6) In this section “traffic data”, in relation to any communication, means—
- (a) any data identifying, or purporting to identify, any person, apparatus or location to or from which the communication is or may be transmitted,
  - (b) any data identifying or selecting, or purporting to identify or select, apparatus through which, or by means of which, the communication is or may be transmitted,
  - (c) any data comprising signals for the actuation of apparatus used for the purposes of a telecommunication system for effecting (in whole or in part) the transmission of any communication, and
  - (d) any data identifying the data or other data as data comprised in or attached to a particular communication,
- but that expression includes data identifying a computer file or computer program access to which is obtained, or which is run, by means of the communication to the extent only that the file or program is identified by reference to the apparatus in which it is stored.
- (7) In this section—
- (a) references, in relation to traffic data comprising signals for the actuation of apparatus, to a telecommunication system by means of which a communication is being or may be transmitted include references to any telecommunication system in which that apparatus is comprised; and
  - (b) references to traffic data being attached to a communication include references to the data and the communication being logically associated with each other;
- and in this section “data”, in relation to a postal item, means anything written on the outside of the item.

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### Textual Amendments

- F1** Words in s. 21(5)(c) substituted (15.2.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 88, 94, [Sch. 12 para. 7](#); [S.I. 2008/219](#), [art. 2\(b\)](#)

### Commencement Information

- II** S. 21 wholly in force; s. 21 not in force at Royal Assent see s. 83(2); S. 21(4) in force for certain purposes at 2.10.2000 by [S.I. 2000/2543](#), [art. 3](#); s. 21 wholly in force at 5.1.2004 by [S.I. 2003/3140](#), {art. 2(a)}

### Marginal Citations

- M1** [1994 c. 13](#).  
**M2** [1997 c. 50](#).

## 22 Obtaining and disclosing communications data.

(1) This section applies where a person designated for the purposes of this Chapter believes that it is necessary on grounds falling within subsection (2) to obtain any communications data.

(2) It is necessary on grounds falling within this subsection to obtain communications data if it is necessary—

- (a) in the interests of national security;
- [<sup>F2</sup>(b) for the applicable crime purpose;]
- (c) in the interests of the economic well-being of the United Kingdom [<sup>F3</sup>so far as those interests are also relevant to the interests of national security];
- (d) in the interests of public safety;
- [<sup>F4</sup>(e) .....
- [<sup>F4</sup>(f) .....
- (g) for the purpose, in an emergency, of preventing death or injury or any damage to a person's physical or mental health, or of mitigating any injury or damage to a person's physical or mental health; or
- (h) for any purpose (not falling within paragraphs (a) to (g)) which is specified for the purposes of this subsection by an order made by the Secretary of State.

[<sup>F5</sup>(2A) In this section, “the applicable crime purpose” means—

- (a) where the communications data is wholly or partly data falling within section 21(4)(a) or (b), the purpose of preventing or detecting serious crime;
- (b) in any other case, the purpose of preventing or detecting crime or of preventing disorder.]

(3) Subject to subsection (5), the designated person may grant an authorisation for persons holding offices, ranks or positions with the same relevant public authority as the designated person to engage in any conduct to which this Chapter applies.

[<sup>F6</sup>(3A) Subsection (3B) applies if—

- (a) a person is the designated person by reference to an office, rank or position with a police force; and
- (b) the chief officer of police of that force has made an agreement under section 23(1) of the Police Act 1996 with the chief officer of police of one or more other police forces.

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- (3B) The designated person may grant an authorisation for persons holding offices, ranks or positions with a collaborative force to engage in any conduct to which this Chapter applies.
- (3C) For the purposes of subsection (3B) a police force is a collaborative force if—
- (a) its chief officer of police is a party to the agreement mentioned in subsection (3A)(b); and
  - (b) the persons holding offices, ranks or positions with it are permitted by the terms of the agreement to be granted authorisations by the designated person.
- (3D) A reference in subsections (3A) to (3C) to a police force is to the following—
- (a) any police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London);
  - (b) the metropolitan police force; and
  - (c) the City of London police force.
- <sup>F7</sup>(3E) .....
- <sup>F7</sup>(3F) .....
- <sup>F7</sup>(3G) .....
- <sup>F7</sup>(3H) .....
- (3I) [<sup>F8</sup>Subsection (3B) is] subject to subsection (5).]
- (4) Subject to subsection (5), where it appears to the designated person that a postal or telecommunications operator is or may be in possession of, or be capable of obtaining, any communications data, the designated person may, by notice to the postal or telecommunications operator, require the operator—
- (a) if the operator is not already in possession of the data, to obtain the data; and
  - (b) in any case, to disclose all of the data in his possession or subsequently obtained by him.
- (5) The designated person shall not grant an authorisation under subsection (3) [<sup>F9</sup>or (3B)], or give a notice under subsection (4), unless he believes that obtaining the data in question by the conduct authorised or required by the authorisation or notice is proportionate to what is sought to be achieved by so obtaining the data.
- <sup>F10</sup>(5A) An authorisation under subsection (3) or (3B), or a requirement imposed in accordance with a notice under subsection (4), may relate to conduct outside the United Kingdom (and any such notice may be given to a person outside the United Kingdom).
- (5B) Where a notice under subsection (4) is to be given to a person outside the United Kingdom, the notice may (in addition to electronic or other means of giving a notice) be given to the person in any of the following ways—
- (a) by delivering it to the person's principal office within the United Kingdom or, if the person has no such office in the United Kingdom, to any place in the United Kingdom where the person carries on business or conducts activities;
  - (b) if the person has specified an address in the United Kingdom as one at which the person, or someone on the person's behalf, will accept documents of the same description as a notice, by delivering it to that address;
  - (c) by notifying the person of the requirements imposed by the notice by such other means as the person giving the notice thinks appropriate (which may

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include notifying the person orally, except where the notice is one to which section 23A applies.)]

- (6) It shall [<sup>F11</sup> subject to section 23A,] be the duty of the postal or telecommunications operator [<sup>F12</sup>(whether or not the operator is in the United Kingdom)] to comply with the requirements of any notice given to him under subsection (4).
- (7) A person who is under a duty by virtue of subsection (6) shall not be required to do anything in pursuance of that duty which it is not reasonably practicable for him to do.
- (8) The duty imposed by subsection (6) shall be enforceable [<sup>F13</sup>(including in the case of a person outside the United Kingdom)] by civil proceedings by the Secretary of State for an injunction, or for specific performance of a statutory duty under section 45 of the <sup>M3</sup>Court of Session Act 1988, or for any other appropriate relief.
- (9) The Secretary of State shall not make an order under subsection (2)(h) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

#### Textual Amendments

- F2** S. 22(2)(b) substituted (1.11.2018) by The Data Retention and Acquisition Regulations 2018 (S.I. 2018/1123), regs. 1(3)(a), **3(3)**
- F3** Words in s. 22(2)(c) inserted (temp.) (17.7.2014) by Data Retention and Investigatory Powers Act 2014 (c. 27), ss. **3(3)(4)**, 8(1)(3)
- F4** S. 22(2)(e)(f) omitted (1.11.2018) by virtue of The Data Retention and Acquisition Regulations 2018 (S.I. 2018/1123), regs. 1(3)(a), **3(4)**
- F5** S. 22(2A) inserted (1.11.2018) by The Data Retention and Acquisition Regulations 2018 (S.I. 2018/1123), regs. 1(3)(a), **3(5)**
- F6** S. 22(3A)-(3I) inserted (25.1.2010) by Policing and Crime Act 2009 (c. 26), ss. {7(2)}, 116; S.I. 2009/3096, art. **3(b)**
- F7** S. 22(3E)-(3H) omitted (1.4.2013) by virtue of The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 33(5)(a)**
- F8** Words in s. 22(3I) substituted (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 33(5)(b)**
- F9** Words in s. 22(5) substituted (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 33(5)(c)**
- F10** S. 22(5A)(5B) inserted (temp.) (17.7.2014) by Data Retention and Investigatory Powers Act 2014 (c. 27), ss. **4(8)**, 8(1)(3)
- F11** Words in s. 22(6) inserted (1.11.2012) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 7** (with s. 97); S.I. 2012/2075, art. 4(d)
- F12** Words in s. 22(6) inserted (temp.) (17.7.2014) by Data Retention and Investigatory Powers Act 2014 (c. 27), ss. **4(9)**, 8(1)(3)
- F13** Words in s. 22(8) inserted (temp.) (17.7.2014) by Data Retention and Investigatory Powers Act 2014 (c. 27), ss. **4(10)**, 8(1)(3)

#### Modifications etc. (not altering text)

- C1** S. 22(2)(c) continued (temp.) (30.12.2016) by Investigatory Powers Act 2016 (c. 25), s. 272(1), **Sch. 9 para. 9** (with Sch. 9 paras. 7, 8, 10); S.I. 2016/1233, reg. 2(p)
- C2** S. 22(5A)(5B) continued (temp.) (30.12.2016) by Investigatory Powers Act 2016 (c. 25), s. 272(1), **Sch. 9 para. 9** (with Sch. 9 paras. 7, 8, 10); S.I. 2016/1233, reg. 2(p)

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- C3** S. 22(6) continued (temp.) (30.12.2016) by [Investigatory Powers Act 2016 \(c. 25\)](#), s. 272(1), [Sch. 9 para. 9](#) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2016/1233, reg. 2(p)
- C4** S. 22(8) continued (temp.) (30.12.2016) by [Investigatory Powers Act 2016 \(c. 25\)](#), s. 272(1), [Sch. 9 para. 9](#) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2016/1233, reg. 2(p)

#### Marginal Citations

- M3** [1988 c. 36](#).

## 23 Form and duration of authorisations and notices.

- (1) An authorisation under section 22(3) [<sup>F14</sup>or (3B)] —
- (a) must be granted in writing or (if not in writing) in a manner that produces a record of its having been granted;
  - (b) must describe the conduct to which this Chapter applies that is authorised and the communications data in relation to which it is authorised;
  - (c) must specify the matters falling within section 22(2) by reference to which it is granted; and
  - (d) must specify the office, rank or position held by the person granting the authorisation.
- (2) A notice under section 22(4) requiring communications data to be disclosed or to be obtained and disclosed—
- (a) must be given in writing or (if not in writing) must be given in a manner that produces a record of its having been given;
  - (b) must describe the communications data to be obtained or disclosed under the notice;
  - (c) must specify the matters falling within section 22(2) by reference to which the notice is given;
  - (d) must specify the office, rank or position held by the person giving it; and
  - (e) must specify the manner in which any disclosure required by the notice is to be made.

[<sup>F15</sup>(2A) The words in paragraph (a) of subsections (1) and (2) from “or” to the end of the paragraph do not apply in relation to—

- (a) an authorisation under section 22(3) [<sup>F16</sup>or (3B)] to which section 23A applies, or
- (b) a notice under section 22(4) to which section 23A applies.]

(3) A notice under section 22(4) shall not require the disclosure of data to any person other than—

- (a) the person giving the notice; or
- (b) such other person as may be specified in or otherwise identified by, or in accordance with, the provisions of the notice;

but the provisions of the notice shall not specify or otherwise identify a person for the purposes of paragraph (b) unless he holds an office, rank or position with the same relevant public authority as the person giving the notice [<sup>F17</sup>(subject to [<sup>F18</sup>subsection (3A)])].

[<sup>F19</sup>(3A) The provisions of a notice under section 22(4) may specify or otherwise identify a person for the purposes of subsection (3)(b) above if—

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- (a) the person giving the notice holds an office, rank or position with a police force (“notifying force”);
- (b) the chief officer of police of the notifying force has made an agreement under section 23(1) of the Police Act 1996 with the chief officer of police of one or more other police forces; and
- (c) the person specified in or otherwise identified in the notice holds an office, rank or position with a collaborative force.

(3B) For the purposes of subsection (3A) a police force is a collaborative force if—

- (a) its chief officer of police is a party to the agreement mentioned in subsection (3A)(b); and
- (b) the persons holding offices, ranks or positions with it are permitted by the terms of the agreement to be specified or otherwise identified in notices under section 22(4) given by a person holding an office, rank or position with the notifying force.

(3C) A reference in subsections (3A) and (3B) to a police force is to the following—

- (a) any police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London);
- (b) the metropolitan police force; and
- (c) the City of London police force.

<sup>F20</sup>(3D) .....

<sup>F20</sup>(3E) .....

<sup>F20</sup>(3F) .....]

- (4) An authorisation under section 22(3) [<sup>F21</sup>or (3B)] or notice under section 22(4)—
  - (a) shall not authorise or require any data to be obtained after the end of the period of one month beginning with the date on which the authorisation is granted or the notice given; and
  - (b) in the case of a notice, shall not authorise or require any disclosure after the end of that period of any data not in the possession of, or obtained by, the postal or telecommunications operator at a time during that period.
- (5) An authorisation under section 22(3) [<sup>F22</sup>or (3B)] or notice under section 22(4) may be renewed at any time before the end of the period of one month applying (in accordance with subsection (4) or subsection (7)) to that authorisation or notice.
- (6) A renewal of an authorisation under section 22(3) [<sup>F23</sup>or (3B)] or of a notice under section 22(4) shall be by the grant or giving, in accordance with this section, of a further authorisation or notice.
- (7) Subsection (4) shall have effect in relation to a renewed authorisation or renewal notice as if the period of one month mentioned in that subsection did not begin until the end of the period of one month applicable to the authorisation or notice that is current at the time of the renewal.
- (8) Where a person who has given a notice under subsection (4) of section 22 is satisfied—
  - (a) that it is no longer necessary on grounds falling within subsection (2) of that section for the requirements of the notice to be complied with, or

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- (b) that the conduct required by the notice is no longer proportionate to what is sought to be achieved by obtaining communications data to which the notice relates,  
 he shall cancel the notice.
- (9) The Secretary of State may by regulations provide for the person by whom any duty imposed by subsection (8) is to be performed in a case in which it would otherwise fall on a person who is no longer available to perform it; and regulations under this subsection may provide for the person on whom the duty is to fall to be a person appointed in accordance with the regulations.

#### Textual Amendments

- F14** Words in s. 23(1) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), **Sch. 2 para. 33(6)(a)**
- F15** S. 23(2A) inserted (1.11.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, **Sch. 9 para. 8** (with s. 97); S.I. 2012/2075, art. 4(d)
- F16** Words in s. 23(2A) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), **Sch. 2 para. 33(6)(b)**
- F17** Words in s. 23(3) inserted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 7(3)** 116; S.I. 2009/3096, **art. 3(b)**
- F18** Words in s. 23(3) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), **Sch. 2 para. 33(6)(c)**
- F19** S. 23(3A)-(3F) inserted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 7(4)**, 116; S.I. 2009/3096, **art. 3(b)**
- F20** S. 23(3D)-(3F) omitted (1.4.2013) by virtue of [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), **Sch. 2 para. 33(6)(d)**
- F21** Words in s. 23(4) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), **Sch. 2 para. 33(6)(e)**
- F22** Words in s. 23(5) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), **Sch. 2 para. 33(6)(e)**
- F23** Words in s. 23(6) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), **Sch. 2 para. 33(6)(e)**

#### [<sup>F24</sup>23A Authorisations requiring judicial approval

- (1) This section applies where a relevant person has—
- (a) granted or renewed an authorisation under section 22(3) [<sup>F25</sup>or (3B)], or
  - (b) given or renewed a notice under section 22(4).
- (2) The authorisation or notice is not to take effect until such time (if any) as the relevant judicial authority has made an order approving the grant or renewal of the authorisation or (as the case may be) the giving or renewal of the notice.



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- (3) The relevant judicial authority may give approval under this section to the granting or renewal of an authorisation under section 22(3) [<sup>F26</sup>or (3B)] if, and only if, the relevant judicial authority is satisfied that—
- (a) at the time of the grant or renewal—
    - (i) there were reasonable grounds for believing that the requirements of section 22(1) and (5) were satisfied in relation to the authorisation, and
    - (ii) the relevant conditions were satisfied in relation to the authorisation, and
  - (b) at the time when the relevant judicial authority is considering the matter, there remain reasonable grounds for believing that the requirements of section 22(1) and (5) are satisfied in relation to the authorisation.
- (4) The relevant judicial authority may give approval under this section to the giving or renewal of a notice under section 22(4) if, and only if, the relevant judicial authority is satisfied that—
- (a) at the time of the giving or renewal of the notice—
    - (i) there were reasonable grounds for believing that the requirements of section 22(1) and (5) were satisfied in relation to the notice, and
    - (ii) the relevant conditions were satisfied in relation to the notice, and
  - (b) at the time when the relevant judicial authority is considering the matter, there remain reasonable grounds for believing that the requirements of section 22(1) and (5) are satisfied in relation to the notice.
- (5) For the purposes of subsections (3) and (4) the relevant conditions are—
- (a) in relation to any grant, giving or renewal by an individual holding an office, rank or position in a local authority in England, Wales or Scotland, that—
    - (i) the individual was a designated person for the purposes of this Chapter,
    - (ii) the grant, giving or renewal was not in breach of any restrictions imposed by virtue of section 25(3), and
    - (iii) any other conditions that may be provided for by an order made by the Secretary of State were satisfied,
  - (b) in relation to a grant, giving or renewal, for any purpose relating to a Northern Ireland excepted or reserved matter, by an individual holding an office, rank or position in a district council in Northern Ireland, that—
    - (i) the individual was a designated person for the purposes of this Chapter,
    - (ii) the grant, giving or renewal was not in breach of any restrictions imposed by virtue of section 25(3), and
    - (iii) any other conditions that may be provided for by an order made by the Secretary of State were satisfied, and
  - (c) in relation to any other grant, giving or renewal by a relevant person, that any conditions that may be provided for by an order made by the Secretary of State were satisfied.
- (6) In this section—
- “local authority in England” means—
    - (a) a district or county council in England,
    - (b) a London borough council,

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- (c) the Common Council of the City of London in its capacity as a local authority, or
  - (d) the Council of the Isles of Scilly,
- “local authority in Scotland” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994,
- “local authority in Wales” means any county council or county borough council in Wales,
- “Northern Ireland excepted or reserved matter” means an excepted or reserved matter (within the meaning of section 4(1) of the Northern Ireland Act 1998),
- “Northern Ireland transferred matter” means a transferred matter (within the meaning of section 4(1) of the Act of 1998),
- “relevant judicial authority” means—
- (a) in relation to England and Wales, a justice of the peace,
  - (b) in relation to Scotland, a sheriff, and
  - (c) in relation to Northern Ireland, a district judge (magistrates' courts) in Northern Ireland,
- “relevant person” means—
- (a) an individual holding—
    - (i) an office, rank or position in a local authority in England or Wales, or
    - (ii) an office, rank or position in a local authority in Scotland (other than an office, rank or position in a fire and rescue authority),
  - (b) also, in relation to a grant, giving or renewal for any purpose relating to a Northern Ireland excepted or reserved matter, an individual holding an office, rank or position in a district council in Northern Ireland, and
  - (c) also, in relation to any grant, giving or renewal of a description that may be prescribed for the purposes of this subsection by an order made by the Secretary of State or every grant, giving or renewal if so prescribed, a person of a description so prescribed.
- (7) No order of the Secretary of State—
- (a) may be made under subsection (6) unless a draft of the order has been laid before Parliament and approved by a resolution of each House;
  - (b) may be made under this section so far as it makes provision which, if it were contained in an Act of the Northern Ireland Assembly, would be within the legislative competence of the Northern Ireland Assembly and would deal with a Northern Ireland transferred matter.

#### **Textual Amendments**

- F24** S. 23A - S. 23B inserted (1.11.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 37**, 120 (with s. 97); S.I. 2012/2075, **art. 4(a)** (with **art. 6**)
- F25** Words in s. 23A(1)(a) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), **art. 1(2)**, **Sch. 2 para. 33(7)**
- F26** Words in s. 23A(3) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), **art. 1(2)**, **Sch. 2 para. 33(7)**

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## 23B Procedure for judicial approval

- (1) The public authority with which the relevant person holds an office, rank or position may apply to the relevant judicial authority for an order under section 23A approving the grant or renewal of an authorisation or (as the case may be) the giving or renewal of a notice.
- (2) The applicant is not required to give notice of the application to—
  - (a) any person to whom the authorisation or notice which is the subject of the application relates, or
  - (b) such a person's legal representatives.
- (3) Where, on an application under this section, the relevant judicial authority refuses to approve the grant or renewal of the authorisation concerned or (as the case may be) the giving or renewal of the notice concerned, the relevant judicial authority may make an order quashing the authorisation or notice.
- (4) In this section “relevant judicial authority” and “relevant person” have the same meaning as in section 23A. ]

### Textual Amendments

**F24** S. 23A - S. 23B inserted (1.11.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), ss. 37, 120 (with s. 97); S.I. 2012/2075, art. 4(a) (with art. 6)

## 24 Arrangements for payments.

- (1) It shall be the duty of the Secretary of State to ensure that such arrangements are in force as he thinks appropriate for requiring or authorising, in such cases as he thinks fit, the making to postal and telecommunications operators of appropriate contributions towards the costs incurred by them in complying with notices under section 22(4).
- (2) For the purpose of complying with his duty under this section, the Secretary of State may make arrangements for payments to be made out of money provided by Parliament.

## 25 Interpretation of Chapter II.

- (1) In this Chapter—
  - “communications data” has the meaning given by section 21(4);
  - “designated” shall be construed in accordance with subsection (2);
  - “postal or telecommunications operator” means a person who provides a postal service or telecommunications service;
  - “relevant public authority” means (subject to subsection (4)) any of the following—
    - (a) a police force;
    - (b) [<sup>F27</sup>the National Crime Agency;]
    - (ca) <sup>F28</sup>...
    - (d) [<sup>F29</sup>Her Majesty's Revenue and Customs;]
    - (f) any of the intelligence services;

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(g) any such public authority not falling within paragraphs (a) to (f) as may be specified for the purposes of this subsection by an order made by the Secretary of State.

[<sup>F30</sup>“serious crime” includes crime which would not satisfy the test in section 81(3)(a) or (b) but 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.]

[<sup>F31</sup>(1A) Until the day on which the amendment made to section 81(3)(a) of this Act by paragraph 211 of Schedule 7 to the Criminal Justice and Court Services Act 2000 comes into force, the definition of “serious crime” in subsection (1) is to be read as if for the words “the age of 18 (or, in relation to Scotland or Northern Ireland, 21)” there were substituted “the age of 21”.]

(2) Subject to subsection (3), the persons designated for the purposes of this Chapter are the individuals holding such offices, ranks or positions with relevant public authorities as are prescribed for the purposes of this subsection by an order made by the Secretary of State.

(3) The Secretary of State may by order impose restrictions—

(a) on the authorisations and notices under this Chapter that may be granted or given by any individual holding an office, rank or position with a specified public authority; and

(b) on the circumstances in which, or the purposes for which, such authorisations may be granted or notices given by any such individual.

[<sup>F32</sup>(3A) References in this Chapter to an individual holding an office or position with the [<sup>F33</sup>National Crime Agency include references to any National Crime Agency officer.]]

[<sup>F34</sup>(4) The Secretary of State may by order—

(a) remove any person from the list of persons who are for the time being relevant public authorities for the purposes of this Chapter; and

(b) make such consequential amendments, repeals or revocations in this or any other enactment as appear to him to be necessary or expedient.

(5) The Secretary of State shall not make an order under this section—

(a) that adds any person to the list of persons who are for the time being relevant public authorities for the purposes of this Chapter, or

(b) that by virtue of subsection (4)(b) amends or repeals any provision of an Act, unless a draft of the order has been laid before Parliament and approved by a resolution of each House.]

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### Textual Amendments

- F27** Words in s. 25(1) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 81\(2\)](#); [S.I. 2013/1682](#), art. 3(v)
- F28** Words in s. 25(1) omitted (1.4.2013) by virtue of [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), [Sch. 2 para. 33\(8\)](#)
- F29** S. 25(1): para. (d) in the definition of "relevant public authority" substituted (15.2.2008) for paras. (d) (e) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 88, 94 {[Sch. 12 para. 8](#)}; [S.I. 2008/219](#), [art. 2\(b\)](#)
- F30** Words in s. 25(1) inserted (1.11.2018) by [The Data Retention and Acquisition Regulations 2018 \(S.I. 2018/1123\)](#), regs. 1(3)(a), [3\(6\)](#)
- F31** S. 25(1A) inserted (1.11.2018) by [The Data Retention and Acquisition Regulations 2018 \(S.I. 2018/1123\)](#), regs. 1(3)(a), [3\(7\)](#)
- F32** S. 25(3A) inserted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 59, 178, [Sch. 4 para. 135\(3\)](#); [S.I. 2006/378](#), [art. 4\(1\)](#), [Sch. para. 10](#) (subject to [art. 4\(2\)-\(7\)](#))
- F33** Words in s. 25(3A) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 81\(3\)](#); [S.I. 2013/1682](#), art. 3(v)
- F34** S. 25(4)(5) substituted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 59, 178, [Sch. 4 para. 135\(4\)](#); [S.I. 2006/378](#), [art. 4\(1\)](#), [Sch. para. 10](#) (subject to [art. 4\(2\)-\(7\)](#))

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**Changes to legislation:**

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