

2005 No. 1084

INVESTIGATORY POWERS

**The Regulation of Investigatory Powers (Directed
Surveillance and Covert Human Intelligence Sources)
(Amendment) Order 2005**

Made - - - - - 4th April 2005

Coming into force in accordance with article 1(2) and (3)

The Secretary of State, in exercise of the powers conferred upon him by sections 30(1), (3), (5)(a) and (b), and (6) and 78(5) of the Regulation of Investigatory Powers Act 2000^(a) hereby makes the following Order (a draft of which has been approved by resolution of each House of Parliament):

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2005.

(2) Subject to paragraph (3), this Order shall come into force one month after the day on which it is made.

(3) Article 3(3) of this Order shall come into force on the day on which either—
(a) the other provisions of this Order come into force, or
(b) paragraph 8 of Schedule 14 to the Energy Act 2004^(b) comes into force,
whichever is the later.

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

Amendment of Schedule 1 to the Act

2.—(1) After paragraph 4 of Part 1 of Schedule 1 to the Act, add the words—

“4A. The force comprising the special constables appointed under section 79 of the Harbours, Docks and Piers Clauses Act 1847^(c) on the nomination of the Dover Harbour Board.

4B. The force comprising the constables appointed under article 3 of the Mersey Docks and Harbour (Police) Order 1975^(d) on the nomination of the Mersey Docks and Harbour Company.”.

(2) Paragraph 25 of Part 2 of Schedule 1 to the Act is omitted.

(a) 2000 c. 23.
(b) 2004 c. 20.
(c) 1847 c. 27 (10 & 11 Vict.).
(d) S.I. 1975/1224.

Amendment of the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003

3.—(1) Part 1 of the Schedule (prescriptions for public authorities in Part 1 of Schedule 1 to the Act that are relevant authorities for the purposes of sections 28 and 29 of the Act) to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003(a) is amended as follows.

“(2) After the entry for the British Transport Police, insert—

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	Superintendent	Inspector	(a)(b)(d)(e)
The force comprising the constables appointed under article 3 of the Mersey Docks and Harbour (Police) Order 1975 on the nomination of the Mersey Docks and Harbour Company	Superintendent	Inspector	(a)(b)(d)(e)

”(3) For the entry for the United Kingdom Atomic Energy Authority Constabulary, substitute—

The Civil Nuclear Constabulary(b)	Superintendent	Inspector	(a)(b)
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”(4) In the entry for the Department of Trade and Industry, omit all references to individuals holding office, rank or position in the Radiocommunications Agency.

(5) In the entry for the Department for Transport, omit the first eight references in columns 2 and 4 (Head of Maritime Section to and including the Senior Transport Security Inspector).

“(6) At the end, insert—

The Office of Communications(c)	Section 28 authorisation Manager of Spectrum Operations or Head of Enforcement and Interference Policy	Section 28 authorisation Area Manager or Senior Enforcement Policy Manager	(b)
	Section 29 authorisation Head of Field Operations		(b)

Home Office
4th April 2005

Caroline Flint
Parliamentary Under-Secretary of State

(a) S.I. 2003/3171.

(b) Inserted into Schedule 1 to the Act by paragraph 8(2) of Schedule 14 to the Energy Act 2004 (c. 20).

(c) Inserted into Schedule 1 to the Act by paragraph 161(3) of Schedule 17 to the Communications Act 2003 (c. 21).

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 of this Order amends Schedule 1 to the Regulation of Investigatory Powers Act 2000 (“the Act”) by inserting new paragraphs 4A and 4B and omitting paragraph 25 of that Schedule. The effect of the addition is that the Port of Dover Police and the Port of Liverpool Police are now relevant public authorities for the purposes of section 28 and 29 of the Act, and thereby have the power to authorise directed surveillance and the use and conduct of covert human intelligence sources. The effect of omitting paragraph 25 is that a Health Authority established under section 8 of the National Health Service Act 1977 (c. 49) is no longer a relevant public authority for the purposes of section 28 of the Act, and thus no longer has the power to authorise directed surveillance.

Article 3 of this Order amends Part 1 of the Schedule to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003 (“the 2003 Order”). Article 3(2) and (6) add new entries relating to the Port of Dover Police and the Port of Liverpool Police and the Office of Communications. Article 3(4) omits the entries relating to the Radiocommunications Agency, as this Agency no longer exists. Article 3(5) omits many of the prescribed offices etc. within the entry for the Department for Transport, on the basis that there is no longer any need for these powers by those parts of the department.

The Energy Act 2004 reforms the governance arrangements of the United Kingdom Atomic Energy Authority Constabulary and provides for the transfer of its members to the Civil Nuclear Constabulary, to be established under that Act. Paragraph 8(2) of Schedule 14 to the Energy Act 2004 amends Schedule 1 of the Regulation of Investigatory Act 2000 to reflect this change in relation to relevant authorities for the purposes of sections 28 and 29 of the Act. Article 3(3) of this Order makes a corresponding amendment to the Schedule to the 2003 Order. Article 3(3) will come into force on the day that paragraph 8 of Schedule 14 to the Energy Act 2004 (which amends the 2000 Act to substitute references to the Civil Nuclear Constabulary for references to the United Kingdom Atomic Energy Authority Constabulary) is commenced.

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