Draft Regulations laid before Parliament under section 268(3) of the Investigatory Powers Act 2016, for approval by resolution of each House of Parliament after the expiry of the 40-day period referred to in section 268(4) of that Act.

DRAFT STATUTORY INSTRUMENTS

2022 No.

INVESTIGATORY POWERS

The Investigatory Powers (Communications Data) (Relevant Public Authorities and Designated Senior Officers) Regulations 2022

Made - - - -	*2022*
Coming into force - -	*1st January 2023*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 71(1) of the Investigatory Powers Act 2016(**a**).

In accordance with section 72(2) of that Act, the Secretary of State has consulted the Investigatory Powers Commissioner and the public authorities to which the modifications in these Regulations relate.

In accordance with section 268(2) of that Act, a period of at least 12 weeks beginning with the day on which that consultation first began has elapsed and the Secretary of State considers it appropriate to proceed with making the Regulations.

In accordance with section 268(3) of that Act, a draft of these Regulations and a document explaining the Regulations were laid before Parliament and, in accordance with section 268(4) of that Act, the draft Regulations were approved by a resolution of each House of Parliament after the expiry of the 40-day period(**b**) referred to in section 268(4) of that Act.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Investigatory Powers (Communications Data) (Relevant Public Authorities and Designated Senior Officers) Regulations 2022 and come into force on the 1st January 2023.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

(**a**) 2016 c. 25. Section 71(2) was amended, and section 71(2A) was inserted, by S.I. 2018/1123.
(**b**) "The 40-day period" is defined in section 268(11) of the Investigatory Powers Act 2016.

Amendment of Schedule 4 to the Investigatory Powers Act 2016

2.—(1) The table in Part 1 of Schedule 4 to the Investigatory Powers Act 2016(**a**) is amended as follows.

(2) In the entries relating to the Security Service, the Secret Intelligence Service and GCHQ—

(a) in column 5, for "61(7)(a), (b) and (c)" in each place it appears, substitute "61(7)(a) and (c)";

(b) in column 6, in relation to each entry in column 3, insert "61A(7)(a)".

(3) In the entry relating to the UK National Authority for Counter Eavesdropping(**b**)—

(a) in column 1, for "UK National Authority for Counter Eavesdropping" substitute "Foreign, Commonwealth and Development Office";

(b) in column 3, for "UK NACE Grade D6 and above" substitute "Grade D6 in the UK National Authority for Counter Eavesdropping".

Minister of State
Home Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Schedule 4 to the Investigatory Powers Act 2016 (c. 25) ("the 2016 Act"). That Schedule sets out the public authorities, other than local authorities, who may exercise powers under Part 3 of that Act to obtain communications data, the statutory purposes for which the communications data may be obtained, the type of communications data which may be obtained and the designated senior officers within those authorities who may authorise the obtaining of communications data internally in an urgent case.

Regulation 2(2) amends Schedule 4 to change the powers for the Security Service, the Secret Intelligence Service and the Government Communications Headquarters to acquire communications data. The changes are two-fold: the first change has the effect of removing the power for those organisations to authorise internally the acquisition of communications data solely for serious crime purposes under section 61 of the 2016 Act; and the second change has the effect of allowing the internal authorisation of the acquisition of communications data solely for serious crime purposes in urgent situations under section 61A of that Act.

Regulation 2(3) amends the entry in Schedule 4 relating to the United Kingdom National Authority for Counter Eavesdropping (UKNACE). UKNACE is a distinct entity, but is also part of the wider Foreign, Commonwealth and Development Office ("FCDO") and so the entry in column 1 will refer to the FCDO whilst the entry in column 3 will refer to a designated senior officer in UKNACE. This will make the UKNACE entry more consistent with similar entries in Schedule 4.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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(**a**) The table in Part 1 of Schedule 4 (which sets out relevant public authorities and designated senior officers for the purposes of Part 3 of that Act) was substituted by S.I. 2018/1123 and amended by S.I. 2020/661, S.I. 2020/1037 and sections 11 and 12 of, and paragraph 2 of Schedule 4 and paragraphs 43 and 47 of Schedule 5 to, the Armed Forces Act 2021. Those provisions of that Act have not yet been fully commenced.

(**b**) The entry for UKNACE was inserted by S.I. 2020/1037.

£4.90

http://www.legislation.gov.uk/id/ukdsi/2022/9780348240641

ISBN 978-0-34-824064-1

