2004 No. 157

INVESTIGATORY POWERS

The Regulation of Investigatory Powers (Conditions for the Lawful Interception of Persons outside the United Kingdom) Regulations 2004

Made - - - - - *27th January 2004*

Laid before Parliament *3rd February 2004*

Coming into force in accordance with regulation 2

The Secretary of State, in exercise of the powers conferred on him by section 4(1)(d) of the Regulation of Investigatory Powers Act 2000(**a**), hereby makes the following Regulations:

Citation

1. These Regulations may be cited as the Regulation of Investigatory Powers (Conditions for the Lawful Interception of Persons outside the United Kingdom) Regulations 2004.

Commencement

2.—(1) These Regulations shall come into force—

(a) if the United Kingdom is one of the first eight Member States of the European Union to ratify the Convention on Mutual Assistance in Criminal Matters established by Council Act of 29th May 2000 (2000/C197/01) ("the Convention"), 90 days after the day on which the eighth Member State ratifies; or

(b) otherwise, 90 days after the day on which the United Kingdom ratifies the Convention.

(2) For the purposes of paragraph (1)—

(a) a Member State ratifies the Convention when it notifies the Secretary-General of the Council of the European Union of the completion of its constitutional procedures for the adoption of the Convention, in accordance with Article 27(2) of the Convention;

(b) the reference to a "Member State" is only to a state that was a Member State on 29th May 2000.

(**a**) 2000 c. 23.

Conditions for the lawful interception of persons outside the United Kingdom

3. For the purposes of section 4(1)(d) of the Regulation of Investigatory Powers Act 2000, the following conditions are prescribed—

(a) the interception is carried out for the purposes of a criminal investigation;

(b) the criminal investigation is being carried out in a country or territory that is party to an international agreement designated for the purposes of section 1(4) of that Act.

Home Office
27th January 2004

Caroline Flint
Parliamentary Under-Secretary of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 1 of the Regulation of Investigatory Powers Act 2000 contains provisions about the interception of communications. Section 4(1) provides that the interception of a communication is authorised (and therefore lawful) if it is carried out for the purpose of obtaining information about the communications of a person who is, or is reasonably believed to be, in a country or territory outside the United Kingdom, it relates to the use of a public telecommunications service provided to persons in that country or territory and the person who provides that service is required by the law of that country or territory to carry out, secure or facilitate the interception in question.

Under section 4(1)(d) the Secretary of State may impose additional conditions that must be met before this type of interception will be authorised. These Regulations set out those conditions.

Regulation 2 ensures that these Regulations will come into force at the same time as the Convention on Mutual Assistance in Criminal Matters established by Council Act of 29th May 2000 (2000/C197/01) comes into force in the United Kingdom.

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