

GUERNSEY STATUTORY INSTRUMENT
2004 NO. 22**The Regulation of Investigatory Powers (Prescription of
Offices, Ranks and Positions) Regulations, 2004***Made**Coming into operation**14th June 2004**Laid before the States*

THE STATES HOME DEPARTMENT, in exercise of the powers conferred on it by sections 20(2), 25, 28(1), 36(4), 41 and 65 of the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003¹, hereby makes the following Regulations:

Citation, commencement and interpretation

1. (1) These Regulations may be cited as the Regulation of Investigatory Powers (Prescription of Offices, Ranks and Positions) Regulations, 2004 and shall come into force on 14th June, 2004.

(2) In these Regulations-

“the Law” means the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003;

“the Schedule” means the Schedule to these Regulations.

¹ Order in Council No. XXX of 2003.

Prescribed offices etc for access to communications data

2. Individuals holding the offices, ranks and positions listed in column 3 of Part I of the Schedule (being offices, ranks or positions with the relevant public authorities in column 2) are hereby prescribed as persons who may be authorised to act on behalf of the designated person named in column 1 for the purposes of Chapter II of Part I of the Law.

Prescribed offices etc for authorisation of directed surveillance and covert human intelligence sources

3. (1) The offices, ranks and positions listed in column 2 of Part II of the Schedule (being offices, ranks or positions with the applicable public authorities in column 1) are hereby prescribed for the purposes of section 25(1) of the Law.

(2) The additional offices, ranks and positions listed in column 3 of Part II of the Schedule (being offices, ranks or positions with the applicable public authorities in column 1) are hereby prescribed for the purposes of section 25(1) of the Law, for the cases described in paragraph (3).

(3) An individual holding an office, rank or position which is prescribed by virtue of paragraph (2) 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 in the same authority holding an office, rank or position prescribed by paragraph (1).

Prescribed offices etc for grant of authorisation for intrusive surveillance

4. (1) Individuals holding the offices, ranks and positions listed in column 2 of Part III of the Schedule (being offices, ranks or positions with the same public authority) are hereby prescribed as persons who may be authorised to act on behalf of the senior authorising officers named in column 1 for the purposes of section 28(1) of the Law.

(2) Individuals holding the additional offices, ranks and positions listed in column 3 of Part III of the Schedule (being offices, ranks or positions with the same public authority) are hereby prescribed as persons who may be authorised to act on behalf of the senior authorising officers for the purposes of section 28(1) of the Law, for the cases described in paragraph (3).

(3) An individual holding an office, rank or position which is prescribed by virtue of paragraph (2) may only be authorised to act on behalf of the senior authorising officer where it is not reasonably practicable having regard to the urgency of the case for the application to be considered by an individual in the same authority holding an office, rank or position prescribed by paragraph (1).

Prescribed offices etc for urgent authorisation of property interference

5. Persons holding the offices, ranks and positions listed in column 2 of Part IV of the Schedule (being offices, ranks or positions with the public authority named in column 1) are hereby designated for the purposes of section 41(2) of the Law

More senior offices, ranks and positions

6. In these Regulations, where an office, rank or position with a public authority is prescribed in the Schedule by virtue of Articles 2,3, 4 and 5, all more senior offices, ranks or positions with that authority are also prescribed.

Performance of duty to cancel

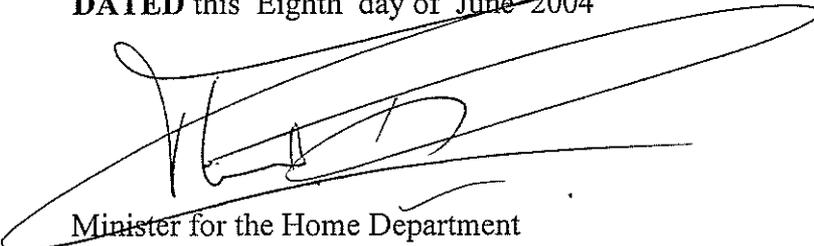
7. (1) Where any duty imposed by section 36 of the Law would otherwise fall on a person who is no longer available to perform it, that duty is to be performed by –

- (a) the person, if any, appointed for the purpose of these Regulations in accordance with paragraph (2);

(b) where no such person has been appointed, the person, if any, who holds the same office, rank or position in the same public authority as was held by the person who is no longer available and who has taken over that person's responsibilities or most of them.

(2) The person making an appointment for the purpose of these Regulations, and the person appointed, must each be a person holding the same office, rank or position (or a more senior one) in the same public authority as was held by the person who is no longer available.

DATED this Eighth day of June 2004



Minister for the Home Department

For and on behalf of the Department

SCHEDULE

Articles 2,3,4 and 5

PART I

Prescription of offices etc for persons with relevant public authorities who may be authorised to act on behalf of a designated person for the purposes of Chapter II of Part I of the Law.

(1)	(2)	(3)
Designated person	Relevant public authority	Prescribed offices etc
Chief Officer of the Island Police Force	Island Police Force	Chief Inspector for Line/Advanced Data (Itemised Billing)
		Inspector for Personal Data (Subscriber Checks)
Chief Officer of Customs and Excise	Customs and Excise	Surveyor for Line/Advanced Data (Itemised Billing)
		Senior Investigating Officer for Personal Data (Subscriber Checks)

PART II

Prescription of offices etc for persons with applicable public authorities designated to grant authorisation under sections 23 and 24 of the Law.

(1)	(2)	(3)
Applicable public authority	Prescribed offices etc	Urgent cases
Island Police Force	Chief Inspector	Inspector
Customs and Excise, Immigration & Nationality	Surveyor	Senior Investigation Officer
GCHQ	GC8	
The Security Service	General Duties 3 or any other officer at Level 3	
Secret Intelligence Service	Grade 6 or equivalent	
Royal Navy	Commander	Lieutenant Commander
Army	Lieutenant Colonel	Major
Royal Air Force	Wing Commander	Squadron Leader
Guernsey Financial Services	Director General (Director),	Assistant Director,

Commission	Fiduciary Services Intelligence Division.	Fiduciary Services Intelligence Division.
Treasury and Resources Department	For the Income Tax Authority-Administrator;	Deputy Administrator or Director of Compliance.
	For any other function- Chief Officer.	Director of Risk and Assurance.
Social Security Department	Senior Officer (Grade 3)	
Environment Department	For Planning - Chief Planning Officer.	Development Control Manager.
	For any other functions- Director of Environmental Services and Operations.	Traffic and Transport Services Manager.
Commerce and Employment Department	For Sea Fisheries - Senior Sea Fisheries Officer;	
	For other primary industries- Director of Primary Industries	
	For Industry & Commerce - Director of Industry & Commerce;	

	For any other functions - Senior Executive and Legal Officer.	
Home Department	For the Prison - the Prison Governor	
Health and Social Services Department	For Board of Health functions Chief Executive	Deputy Chief Executive
Public Services Department	For the Water Board - Administration Manager	
Housing Department	Chief Officer	Director of Housing Control or Director of States' Houses.
The Constables of Sark	The Constable or the Vingtenier	
Sark Sea Fisheries Committee	Sark Sea Fisheries Officer	

PART III

Prescription of offices etc for persons in the same public authority authorised to act on behalf of senior authorising officers for the purposes of section 28(1) of the Law.

(1)	(2)	(3)
Senior Authorising Officer	Prescribed offices etc.	Urgent cases
Chief Officer of Island Police	Superintendent	Chief Inspector
Chief Officer of Customs and Excise	Head of Law Enforcement	Deputy Head of Law Enforcement

PART IV

Prescription of offices etc for persons designated to grant authorisations for the purposes of section 41 of the Law.

(1)	(2)
Public authority	Prescribed offices etc
Island Police Force	Chief Inspector
Customs and Excise	Surveyor
The Constables of Sark	<i>The Constable or the Vingtenier?</i>

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe offices, ranks and positions for the purposes of sections 20(2), 25(1), 28(1), and 41(2) of the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003 ("the Law"), under which individuals holding such offices, ranks or positions as are prescribed may grant or may be authorised to grant authorisations and notices for the purposes of the Law.

Regulation 2 and Part I of the Schedule prescribe those offices, ranks and positions in the Island Police Force and in Customs and Excise who may grant an authorisation or issue notices for the purposes of Chapter II of Part I of the Law. Regulation 3 and Part II of the Schedule provide that an individual holding an office, rank or position listed in column 2 of Part II of the Schedule, with a public authority listed in column 1, may grant authorisations under either section 23 or section 24 of the Law. The public authorities listed in column 1 of Part II of the Schedule to the Regulations are the authorities listed in Schedule 1 to the Law, as amended by the Regulation of Investigatory Powers (Applicable Public Authorities) Regulations, 2004.

Regulation 4 provides that individuals holding the ranks or positions listed in column 2 of Part III of the Schedule may act on behalf of the Chief Officers of the Police and Customs in granting authorisations under section 26 of the Law.

Regulation 5 prescribes in Part IV of the Schedule those ranks or positions with the Island Police Force or Customs and Excise who may grant authorisations in the situations set out in section 41(1) of the Law.

The offices, ranks and positions prescribed include individuals holding more senior posts. Additional offices, ranks and positions are also prescribed for urgent cases in respect of sections 23, 24, and 26 of the Law.

Regulation 7 addresses the situation where the duty to cancel an authorisation which has been granted under sections 23, 24, and 26 of the Law falls on a person who is no longer able to perform it. Regulation 7(1)(b) provides that the duty falls instead on the person who has taken over most of that individual's responsibilities. There is also a power to appoint a person for the specific purpose of cancelling an authorisation.