SECTION 28 DATA PROTECTION ACT 1998

CERTIFICATE OF THE SECRETARY OF STATE

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1. **Whereas:**

(i) by section 28(1) of the Data Protection Act 1998 ("the Act") it is provided that personal data are exempt from any of the provisions of :-

(a) the data protection principles;

(b) Parts II, III and V; and

(c) section 55

of the Act if the exemption from that provision is required for the purpose of safeguarding national security;

(ii) by subsection 28(2) it is provided that a certificate signed by a Minister of the Crown certifying that the exemption from all or any of the provisions mentioned in subsection 28(1) is or at any time was required for the purpose there mentioned in respect of any personal data shall be conclusive evidence of that fact;

(iii) by subsection 28(3) it is provided that a certificate under subsection 28(2) may identify the personal data to which it applies by means of a general description and may be expressed to have prospective effect.

2. **And considering** the potentially serious adverse repercussions for the national security of the United Kingdom were the exemptions hereafter identified not available.

And for the reasons set out in my public statement issued on 10 December 2001, in summary that:

2.1 The work of the security and intelligence agencies of the Crown requires secrecy.

2.2 The general principle of neither confirming nor denying whether the Secret Intelligence Service (SIS) processes data about an individual is an essential part of that secrecy.

2.3 In dealing with subject access requests under the Data Protection Act 1998, SIS will examine each individual request to determine:

(i) whether adherence to that general principle is required for the purpose of safeguarding national security; and

(ii) in the event that such adherence is not required, whether and to what extent the non-communication of any data or any description of data is required for the purpose of safeguarding national security.

2.4 The very nature of the work of SIS requires exemption on national security grounds from those parts of the Act which would prevent it for example passing data outside the European Economic Area and which would allow access to SIS's premises by third parties.

3. **Now, therefore**, I, the Right Honourable Jack Straw MP, A Minister of the Crown and a member of the Cabinet, in exercise of the powers conferred by the said section 28(2) do issue this certificate and certify as follows:-

3.1. that any personal data processed by the SIS as described in Column 1 of Part A in the table below are and shall continue to be required to be exempt from those provisions of the Act which are set out in Column 2 of Part A;

3.2. that any personal data processed by any other person or body in the course of data processing operations (in circumstances where the data processing comprises or includes the disclosure of data by that other person or body to SIS) in the course of data processing operations carried out for, on behalf of, at the request of or with a view to assisting SIS or in relation to the functions of SIS as set out in section 1 of the Intelligence Services Act 1994, as described in Column 1 of Part B in the table below are and shall continue to be exempt from those provisions of the Act which are set out in Column 2 of Part B;

3.3. that any personal data processed by any other person or body (other than a Government department, agency or non-departmental public body) in the course of data processing operations as a consequence of its disclosure by SIS in accordance with section 2(2)(a) of the Intelligence Services Act 1994 as described in Column 1 of Part B in the table below are and shall continue to be exempt from those provisions of the Act which are set out in Column 2 of Part B;

3.4. that any personal data processed by SIS as described in Column 1 of Part C in the table below are and shall continue to be required to be exempt from those provisions of the Act which are set out in Column 2 of Part C below; and

3.5. that any personal data processed by SIS as described in Column 1 of Part D of the table below are and shall continue to be required to be exempt from those provisions of the Act as are set out in Column 2 of Part D below

all for the purpose of safeguarding national security, provided that:

(i) no personal data shall be exempt from the provisions of section 7(1)(a) of the Data Protection Act 1998 if SIS, after considering any request by a data subject for access to relevant personal data, determines that adherence to the principle of neither confirming nor denying whether SIS holds personal data about an individual is not required for the purpose of safeguarding national security;

(ii) no personal data shall be exempt from the provisions of section 7(1)(b), (c) or (d) of the Data Protection Act 1998 if SIS, after considering any request by a data subject for access to relevant personal data, determines that non-communication of such data or any description of such data is not required for the purpose of safeguarding national security.

4. **This certificate** gives notice that I require SIS, by virtue of my authority arising from section 1(1) of the Intelligence Services Act 1994, to report to me on the operation of the exemptions described in this certificate.

5. **This certificate** in all respects supersedes the Certificate of the Secretary of State in respect of SIS dated 30 July 2000, and that Certificate is hereby revoked.

PART A	
Column 1	**Column 2**
1. Personal data processed in performance of the functions of SIS described in section 1 of the Intelligence Services Act 1994 ("ISA") or in accordance with section 2 of the ISA. 2. Personal data processed in relation to the recruitment of staff of SIS and assisting with the recruitment of staff of the Security Service and GCHQ. 3. Personal data processed for the purposes of the administration of human resources in relation to former members of staff. 4. Personal data processed in relation to vetting of SIS's candidates, staff, contractors, agents and others in accordance with the government's vetting policy.	(i) Sections 7(1), 7(8), 10, 12 of Part II; (ii) Section 16(c), 16(e), 16(f), 17, 21, 22 and 24 of Part III; (iii) Part V; (iv) the first data protection principle; (v) the second data protection principle; (vi) the sixth data protection principle to the extent necessary to be consistent with the exemptions contained in this certificate; and (vii) the eighth data protection principle.

Part B	
Column 1	**Column 2**
1. Personal data processed for, on behalf of, at the request of or with a view to assisting SIS, including: • personal data processed in relation to the functions described in section 1 of the ISA; • personal data processed in relation to the recruitment of staff of SIS and assisting with the recruitment of staff of the Security Service and GCHQ; • personal data processed in relation to the vetting of SIS's candidates, staff, contractors, agents and others in accordance with the government's vetting policy. 2. Personal data processed as a consequence of disclosure by SIS in accordance with section 2(2)(a) of the ISA.	(i) Sections 7(1), 7(8), 10, 12 of Part II; (ii) Section 16(c), 16(e), 16(f), 17, 21, 22 and 24 of Part III to the extent that those provisions require any reference to SIS or data processing operations carried out by, in support of, at the request of or with a view to assisting SIS or in consequence of a lawful disclosure by SIS; (iii) Part V; (iv) section 55; (v) the first data protection principle; (vi) the second data protection principle; and (vii) the sixth data protection principle to the extent necessary to be consistent with the exemptions contained in this certificate

PART C	
Column 1	**Column 2**
1. Personal data processed by SIS for the purposes of administration of human resources in relation to serving members of staff only (except for the filing system containing confidential data as described in Part D of this table) and staff pay, tax and national security contributions. 2. Personal data processed by SIS for the purposes of maintaining CCTV coverage of Vauxhall Cross, 85 Albert Embankment, London SE1, in relation to the security and integrity of the building, crime prevention and detection and the apprehension and prosecution of offenders, to the extent that the said data do not comprise data to which Part A or Part B applies.	(i) Sections 16(1) (f), 47 and 50 and Schedule 9, and (ii) the eighth data protection principle.

Part D	
Column 1	**Column 2**
Insofar as it relates to serving members of staff, personal data processed by SIS for the purpose of maintaining and consulting a filing system containing confidential data about members of its staff whose purpose is to provide personnel officers and management with information considered necessary to make informed decisions as to the suitability of individuals for any task, appointment, postings or any other matter, with particular regard to the security implications of those decisions.	(i) Sections 7(1), 7(8), 10, 12 of Part II; (ii) Section 16(c), 16(e), 16(f), 17, 21, 22 and 24 of Part III; (iii) Part V; and (iv) the eighth data protection principle.

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dated the ..... day of 2001

The Right Hon Jack Straw MP