
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (“the 2010 Order”).

The 2010 Order prescribes the offices, ranks and positions of the individuals within a public authority who have power to grant authorisations for the carrying out of directed surveillance (as defined by section 26(2) of the Regulation of Investigatory Powers Act 2000). It also sets out the restrictions on the circumstances in which authorisations can be granted.

Article 2(4) inserts a new article 7A into the 2010 Order to impose a new restriction on individuals holding a prescribed office, rank or position in any county council in England, a London borough council, the Common Council of the City of London in its capacity as a local authority, the Council of the Isles of Scilly, or any county council or county borough council in Wales. Such an individual may not now grant an authorisation for the carrying out of directed surveillance unless it is for the purpose of preventing or detecting a criminal offence and it meets the condition set out in new article 7A(3)(a) or (b). Those conditions are that the criminal offence which is sought to be prevented or detected is punishable, whether on summary conviction or on indictment, by a maximum term of at least 6 months of imprisonment, or would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933.

Article 2(2) and (3) makes consequential amendments.

A full regulatory impact assessment has not been produced for this Order as no impact on the private or voluntary sectors is foreseen.