

REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Surveillance

Section 1: Conduct to which this Act applies

7. This section describes and defines the conduct which can be authorised under this Part of the Act. Three types of activity are covered: “directed surveillance”, “intrusive surveillance” and the conduct and use of covert human intelligence sources.
8. “Directed surveillance” is defined in *subsection (2)* as non-intrusive covert surveillance that is undertaken in relation to a specific investigation and which is likely to result in private information about a person being obtained. Under *subsection (2)(c)* actions taken by way of an immediate response to events for which it would not be reasonably practicable for an authorisation to be sought are not included as “directed surveillance”. By *subsection (8)*, surveillance will be covert where it is carried out in a manner calculated to ensure that the person or persons subject to the surveillance are unaware that it is or may be taking place.
9. “Intrusive surveillance” is defined in *subsections (3) to (5)* as covert surveillance carried out in relation to anything taking place on residential premises or in any private vehicle. This kind of surveillance may take place by means of either of a person or device located inside residential premises or a private vehicle or by means of a device placed outside which consistently provides a product of equivalent quality and detail as a product which would be obtained from a device located inside. For these purposes, a private vehicle is one used primarily for private purposes, for example for family, leisure or domestic purposes (section 31(1)).
10. *Subsection (4)* provides that surveillance is not intrusive when the device is one that only provides information about the location of the vehicle (e.g. a tracking device).
11. *Subsection (6)* defines what is meant in this Act by the conduct and use of a covert human intelligence source.
12. *Subsection (7)* defines a “covert human intelligence source”.
13. *Subsection (9)* defines what is meant by private information for the purposes of section 1. It is stated to include any information relating to a person’s private or family life.
14. *Subsection (10)* defines what is meant by the references to the presence of a surveillance device in a vehicle.