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STATUTORY INSTRUMENTS

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**2012 No. 1500**

**INVESTIGATORY POWERS,  
ENGLAND AND WALES**

**The Regulation of Investigatory Powers  
(Directed Surveillance and Covert Human  
Intelligence Sources) (Amendment) Order 2012**

<i>Made</i>	- - - -	<i>11th June 2012</i>
<i>Laid before Parliament</i>		<i>14th June 2012</i>
<i>Coming into force</i>	- -	<i>1st November 2012</i>

This Order is made in exercise of the powers conferred on the Secretary of State by sections 30(3) and (6) and 78(5) of the Regulation of Investigatory Powers Act 2000(1).

**Citation and commencement**

1. This Order may be cited as the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012 and shall come into force on 1st November 2012.

**Amendment of the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010**

2.—(1) The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010(2) is amended as follows.

(2) In article 3(2) (prescribed offices, ranks and positions with relevant public authorities) for “articles 5 to 7” substitute “articles 5 to 7A”.

(3) In article 4(1) (additional offices, ranks and positions prescribed for urgent cases) for “articles 5 to 7” substitute “articles 5 to 7A”.

(4) After article 7 (restrictions on the granting of authorisations) insert—

“7A.—(1) An individual holding an office, rank or position with any county council or district council in England, a London borough council, the Common Council of the City of

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(1) 2000 c.23.

(2) S.I. 2010/521, to which there are amendments not relevant to this Order.

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 may not grant an authorisation under section 28 unless the conditions in paragraphs (2) and (3) are met.

(2) The first condition is that the authorisation under section 28 is for the purpose of preventing or detecting conduct which—

- (a) constitutes one or more criminal offences, or
- (b) is, or corresponds to, any conduct which, if it all took place in England and Wales, would constitute one or more criminal offences.

(3) The second condition is that the criminal offence or one of the criminal offences referred to in the first condition is or would be—

- (a) an offence which is punishable, whether on summary conviction or on indictment, by a maximum term of at least 6 months of imprisonment, or
- (b) an offence under—
  - (i) section 146 of the Licensing Act 2003<sup>(3)</sup> (sale of alcohol to children);
  - (ii) section 147 of the Licensing Act 2003 (allowing the sale of alcohol to children);
  - (iii) section 147A of the Licensing Act 2003<sup>(4)</sup> (persistently selling alcohol to children);
  - (iv) section 7 of the Children and Young Persons Act 1933<sup>(5)</sup> (sale of tobacco, etc, to persons under eighteen).<sup>7</sup>

Home Office  
11th June 2012

*James Brokenshire*  
Parliamentary Under-Secretary of State

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<sup>(3)</sup> 2003 c.17.

<sup>(4)</sup> Section 147A was inserted by section 23(1) of the Violent Crime Reduction Act 2006 (c.38). Section 147A has been amended by section 28 of the Policing and Crime Act 2009 (c.26) and section 118 of the Police Reform and Social Responsibility Act 2011 (c.13).

<sup>(5)</sup> 1933 c.12; section 7 has been amended by section 1 of the Protection of Children (Tobacco) Act 1986 (c.34), section 1 of the Children and Young Persons (Protection from Tobacco) Act 1991 (c.23), Schedule 8 to the Courts Act 2003 (c.39), Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c.13) and S.I. 2007/767.

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## 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.