

Draft Order laid before Parliament under section 47(2) of the Regulation of Investigatory Powers Act 2000, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No. 0000

INVESTIGATORY POWERS

**The Regulation of Investigatory Powers (Extension of
Authorisation Provisions: Legal Consultations) Order 2010**

Made - - - -

Coming into force in accordance with article 1

This Order is made in exercise of the powers conferred on the Secretary of State by section 47(1) (b) of the Regulation of Investigatory Powers Act 2000⁽¹⁾.

In accordance with section 47(2) of that Act, a draft of this Order was laid before Parliament and approved by a resolution of each House of Parliament.

Accordingly, the Secretary of State makes the following Order—

Citation and commencement

1. This Order may be cited as the Regulation of Investigatory Powers (Extension of Authorisation Provisions: Legal Consultations) Order 2010 and shall come into force on the day after the day on which it is made.

Interpretation

2. In this Order—

(a) “legal consultation” means—

- (i) a consultation between a professional legal adviser and his client or any person representing his client, or
- (ii) a consultation between a professional legal adviser or his client or any such representative and a medical practitioner made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings;

(b) “inquiry” means an inquiry under the Inquiries Act 2005⁽²⁾;

(1) 2000 c.23.
(2) 2005 c. 12.

- (c) “medical practitioner” means a person registered under the Medical Act 1983⁽³⁾; and
- (d) “premises” has the meaning given in section 48(8) of the Regulation of Investigatory Powers Act 2000.

Extension of authorisation provisions: legal consultations

3.—(1) Directed surveillance that is carried out in relation to anything taking place on so much of any premises specified in paragraph (2) as is, at any time during the surveillance, used for the purpose of legal consultations shall be treated for the purposes of Part II of the Regulation of Investigatory Powers Act 2000 as intrusive surveillance.

(2) The following premises are specified for the purposes of paragraph (1):

- (a) any place in which persons who are serving sentences of imprisonment or detention, remanded in custody or committed in custody for trial or sentence may be detained;
- (b) any place in which persons may be detained under paragraph 16(1), (1A) or (2) of Schedule 2 or paragraph 2(2) or (3) of Schedule 3 to the Immigration Act 1971⁽⁴⁾ or section 36(1) of the UK Border Act 2007⁽⁵⁾;
- (c) any place in which persons may be detained under Part VI of the Criminal Procedure (Scotland) Act 1995⁽⁶⁾, the Mental Health (Care and Treatment) (Scotland) Act 2003⁽⁷⁾ or the Mental Health Act 2003⁽⁸⁾;
- (d) police stations;
- (e) the place of business of any professional legal adviser; and
- (f) any place used for the sittings and business of any court, tribunal, inquest or inquiry.

Home Office
Date

Name
Minister of State

(3) 1983 c. 54.
(4) 1971 c. 77; paragraph 16 of Schedule 2 has been amended by sections 42(1) and (3), 140(1), 169(1), 170(3)(m) and paragraphs 43 and 60 of Schedule 14 to the Immigration and Asylum Act 1999 (c. 33) and section 73(5) of the Nationality, Immigration and Asylum Act 2002 (c. 41) and paragraph 2(3) and (3) of Schedule 3 has been amended by section 54(1), and (3) of the Immigration and Asylum Act 1999, section 114(3) and paragraph 7 of Schedule 7 to the Nationality, Immigration and Asylum Act 2002 and section 34(2) of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c. 19).
(5) 2007 c. 30.
(6) 1995 c.46; Part VI was inserted by sections 130, 131, 133 and 134 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13).
(7) 2003 asp 13.
(8) 2003 c.20.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 47(1)(b) of the Regulation of Investigatory Powers Act 2000 confers power on the Secretary State to provide that any description of directed surveillance is to be treated for the purposes of Part II of that Act as intrusive surveillance.

This Order exercises this power in respect of directed surveillance that is carried out in relation to anything taking place on so much of any specified premises as is, at any time during the surveillance, used for the purpose of legal consultations.