



Enterprise Act 2002

2002 CHAPTER 40

PART 6

CARTEL OFFENCE

Criminal investigations by OFT

199 Surveillance powers

- (1) The Regulation of Investigatory Powers Act 2000 (c. 23) is amended as follows.
- (2) In section 32 (authorisation of intrusive surveillance)—
 - (a) after subsection (3) there is inserted—

“(3A) In the case of an authorisation granted by the chairman of the OFT, the authorisation is necessary on grounds falling within subsection (3) only if it is necessary for the purpose of preventing or detecting an offence under section 188 of the Enterprise Act 2002 (cartel offence).”;
 - (b) in subsection (6) after paragraph (m) there is inserted “; and
(n) the chairman of the OFT.”
- (3) In section 33 (rules for grant of authorisations) after subsection (4) there is inserted—

“(4A) The chairman of the OFT shall not grant an authorisation for the carrying out of intrusive surveillance except on an application made by an officer of the OFT.”
- (4) In subsection (5)(a) of that section, after “officer” there is inserted “ or the chairman or an officer of the OFT ”.
- (5) In section 34 (grant of authorisation in the senior officer’s absence)—
 - (a) in subsection (1)(a), after “or by” there is inserted “ an officer of the OFT or ”;
 - (b) in subsection (2)(a), after “may be,” there is inserted “ as chairman of the OFT or ”;

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Section 199. (See end of Document for details)

- (c) in subsection (4), after paragraph (l) there is inserted—
 - “(m) a person is entitled to act for the chairman of the OFT if he is an officer of the OFT designated by it for the purposes of this paragraph as a person entitled so to act in an urgent case.”
- (6) In section 35 (notification of authorisations for intrusive surveillance)—
 - (a) in subsections (1) and (10), for “or customs” there is substituted “, customs or OFT”;
 - (b) in subsection (10), after paragraph (b) there is inserted—
 - “(ba) the chairman of the OFT; or”;
 - (c) in paragraph (c) of that subsection, at the end there is inserted “ or for a person falling within paragraph (ba). ”
- (7) In section 36 (approval required for authorisations to take effect)—
 - (a) in subsection (1), after paragraph (d) there is inserted “; or
 - (e) an officer of the OFT.”;
 - (b) in subsection (6), after paragraph (g) there is inserted “; and
 - (h) where the authorisation was granted by the chairman of the OFT or a person entitled to act for him by virtue of section 34(4)(m), that chairman.”
- (8) In section 37 (quashing of police and customs authorisations etc.) in subsection (1), after paragraph (d) there is inserted “; or
 - (e) an officer of the OFT.”
- (9) In section 40 (information to be provided to Surveillance Commissioners) after paragraph (d) there is inserted “, and
 - (e) every officer of the OFT.”.
- (10) In section 46 (restrictions on authorisations extending to Scotland), in subsection (3), after paragraph (d) there is inserted—
 - “(da) the OFT.”.
- (11) In section 48 (interpretation of Part 2), in subsection (1), after the entry relating to “directed” and “intrusive” there is inserted—
 - ““OFT” means the Office of Fair Trading;”.

Changes to legislation:

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