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## EXPLANATORY NOTE

*(This note is not part of the Order)*

Section 29 of the Regulation of Investigatory Powers Act 2000 (“the 2000 Act”) makes provision for the granting of authorisations for the conduct or the use of a covert human intelligence source. This Order exercises the power conferred on the Secretary of State by section 29(2)(c) and (7)(b) to impose additional requirements that must be satisfied before an authorisation is granted (or renewed) under that section.

Part 2 of the Order describes the conduct or uses of covert human intelligence sources to which the additional requirements apply. Article 3(1) provides that the Order applies where the conduct that is, or is to be, authorised in an authorisation under section 29 of the 2000 Act consists in any activities involving conduct of a source, or the use of a source, to obtain, provide access to or disclose matters subject to legal privilege. Article 3(2) prohibits the granting or renewal of authorisations for conduct of this description unless the requirements imposed by Part 3 are satisfied. Where an authorisation authorises conduct to which the Order applies and other conduct falling within Part II of the 2000 Act, Article 3(3) confirms that the requirements imposed by Part 3 only apply in relation to those parts of the combined authorisation which authorise conduct falling within Article 3(1).

Part 3 of the Order creates an enhanced regime of prior approval for conduct to which the Order applies. Article 6 provides that such an authorisation cannot be granted or renewed until it has been approved either (as specified in article 4) by the Secretary of State or by an ordinary Surveillance Commissioner (“the approving officer”). The approving officer may only give his approval if satisfied that there are reasonable grounds for believing that the authorisation is necessary in the interests of national security, for the purpose of preventing or detecting serious crime or in the interests of the economic well-being of the United Kingdom, and the requirements of section 29(2)(b) and (c) of the 2000 Act are satisfied. If the approving officer decides not to approve the grant or renewal of an authorisation, the approving officer must make a report of his findings to the Chief Surveillance Commissioner. Article 7 makes provision for the giving of notices by the Secretary of State under article 6.

Part 4 of the Order exercises the power conferred on the Secretary of State by section 43(8) of the 2000 Act to shorten the period at the end of which an authorisation of a specified description is to cease to have effect. Article 8 exercises this power with regard to section 43(3)(b) of the 2000 Act so that, subject to paragraph (2), an authorisation that authorises conduct to which the Order applies ceases to have effect after six months rather than twelve in the case of an intelligence service authorisation, and three months instead of twelve months in any other case. Paragraph (2) limits the duration of urgent intelligence services authorisations which have not been renewed pursuant to a notice given under the hand of the Secretary of State to the end of the second working day following the day of the grant or renewal of the authorisation.