

EXPLANATORY MEMORANDUM TO

THE SERIOUS ORGANISED CRIME AND POLICE ACT 2005 (DESIGNATED SITES UNDER SECTION 128) (AMENDMENT) ORDER 2020

2020 No. 15

1. Introduction

- 1.1 This explanatory memorandum has been prepared by The Ministry of Defence and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This Order designates the following sites for the purposes of section 128 of the Serious Organised Crime and Police Act 2005: Defence Science and Technology Laboratory (DSTL), Porton Down, RAF Molesworth and RAF Waddington. A person who enters on the sites designated in this Order as a trespasser commits an offence under section 128(1) of that Act.
- 2.2 This Order also revokes the designation in respect of 2 sites previously designated under section 128 of the 2005 Act as such designation is no longer considered to be necessary. These are: the Old War Office in London and the Sea Mounting Centre, Marchwood in Southampton.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The extent of this Order is England, Wales and Northern Ireland.
- 4.2 The territorial application of this Order is England, Wales and Northern Ireland.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The Serious Organised Crime and Police Act 2005 (Designated Sites) Order 2005 (“the 2005 Order”) designates various Defence sites for the purposes of sections 128 and 129 of the Serious Organised Crime and Police Act 2005 (“the 2005 Act”). The Serious Organised Crime and Police Act 2005 (Designated Sites under Section 128) Order 2007 (“the 2007 Order”) designates various sites in England and Wales for the

purposes of section 128 of the 2005 Act. It is an offence to enter or be on any designated site in England and Wales and Northern Ireland or in Scotland as a trespasser.

- 6.2 This instrument amends the 2005 Order by adding three new Defence sites. It also amends the 2005 and 2007 Orders by omitting 2 former Defence sites.

7. Policy background

What is being done and why?

- 7.1 Defence Science and Technology Laboratory (DSTL), Porton Down, RAF Molesworth and RAF Waddington are deemed critical to National Security and are subject to persistent protester activity. Additionally, the activity of intruders could impede the primary operation of the sites. DSTL Porton Down is listed as a Defence Critical Asset and has a history of trespass and protests. RAF Waddington supports AIR's critical outputs in support of ongoing military operations worldwide. The threat of protester activity at RAF Waddington remains from groups opposed to the use of drones. RAF Molesworth is crucial to national security and any incursions on base could potentially compromise the confidentiality, integrity and availability of Molesworth's or United States Visiting Forces operations that would affect both UK and US ability to support critical missions both in UK Homeland and abroad.
- 7.2 It is necessary to amend the 2005 Order to add these sites.
- 7.3 The two former MOD sites that no longer require protection under the 2005 Act are (i) the Old War Office, Whitehall (designated under the 2007 Order) which is no longer owned by the MOD and is now a commercial enterprise; and (ii) the Sea Mounting Centre, Marchwood Port (designated under the 2005 Order) which is also now a commercial enterprise. Both of those Orders are amended to remove these sites.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This Order does not relate to withdrawal from the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 The Department does not assess that there is any need for consolidation measures.

10. Consultation outcome

- 10.1 No public consultation was carried out.

11. Guidance

- 11.1 No guidance is necessary in connection with this Order.

12. Impact

- 12.1 There is no impact on business, charities or voluntary bodies.
- 12.2 There is no impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this Order because there is no impact on business, charities or voluntary bodies.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 There is no proposal to monitor or review the effect of this Order.

15. Contact

15.1 Susan Owens at the Ministry of Defence, email address:
Susan.Owens106@mod.gov.uk can be contacted with any queries regarding the Order.

15.2 Vincent Devine, Director Security-Resilience, at the Ministry of Defence can confirm that this Explanatory Memorandum meets the required standard.

15.3 Baroness Goldie at the Ministry of Defence can confirm that this Explanatory Memorandum meets the required standard.