

2021 No. 605 (C. 21)

INVESTIGATORY POWERS

**The Covert Human Intelligence Sources (Criminal Conduct) Act
2021 (Commencement and Transitional Provisions) Regulations
2021**

Made - - - -

19th May 2021

The Secretary of State, in exercise of the powers conferred by sections 9(2), 9(3) and 9(4) of the Covert Human Intelligence Sources (Criminal Conduct) Act 2021(a), makes the following Regulations.

Citation and interpretation

1.—(1) These Regulations may be cited as the Covert Human Intelligence Sources (Criminal Conduct) Act 2021 (Commencement and Transitional Provisions) Regulations 2021.

(2) In these Regulations—

“RIPA” means the Regulation of Investigatory Powers Act 2000(b);

“the 2021 Act” means the Covert Human Intelligence Sources (Criminal Conduct) Act 2021;

“intelligence service” and “police force”(c) have the meanings given by section 81 of RIPA;

“relevant public authority” means a public authority listed in Part A1 of Schedule 1 to RIPA (relevant authorities for the purposes of ss. 28, 29 and 29B).

The appointed day

2. Sections 1 to 8 of, and the Schedule to, the 2021 Act come into force—

(a) on 10th August 2021 for the purposes of criminal conduct authorisations granted by a person holding an office, rank or position with any intelligence service;

(b) on 15th September 2021 for the purposes of criminal conduct authorisations granted by a person holding an office, rank or position with any police force;

(c) on 30th September 2021 for all remaining purposes.

(a) 2021 c. 4.

(b) 2000 c. 23.

(c) The definition of “police force” in RIPA has been amended by the Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), the Police (Northern Ireland) Act 2000 (c. 32) and the Armed Forces Act 2006 (c. 52).

Transitional provision regarding the authorisation of criminal conduct under section 29 of the Regulation of Investigatory Powers Act 2000

3. Section 29(6ZA) of RIPA(a) (an authorisation granted under section 29 does not authorise criminal conduct) does not apply to an authorisation under section 29 of RIPA which—

- (a) in the case of an authorisation granted by a person holding an office, rank or position with any intelligence service—
 - (i) was in force immediately before 10th August 2021, and
 - (ii) has not been renewed on or after that date;
- (b) in the case of an authorisation granted by a person holding an office, rank or position with any police force—
 - (i) was in force immediately before 15th September 2021, and
 - (ii) has not been renewed on or after that date;
- (c) in the case of an authorisation granted by a person holding an office, rank or position with any other relevant public authority—
 - (i) was in force immediately before 30th September 2021, and
 - (ii) has not been renewed on or after that date.

Williams of Trafford
Minister of State
Home Office

19th May 2021

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force the Covert Human Intelligence Sources (Criminal Conduct) Act 2021 (c. 4) (“the 2021 Act”) relating to the authorisation of criminal conduct by or in relation to a covert human intelligence source.

The 2021 Act amends Part 2 of the Regulation of Investigatory Powers Act 2000 (c. 23) (“RIPA”) to provide a statutory power for the intelligence services, law enforcement and certain other specified public authorities to authorise criminal conduct by or in relation to a covert human intelligence source. A criminal conduct authorisation may only be granted if it is believed that the authorisation is necessary on certain specified grounds and the authorised conduct is proportionate to what is sought to be achieved.

Regulation 2 brings into force provisions of the 2021 Act for the intelligence services on 10th August 2021, for police forces on 15th September 2021, and for all other relevant public authorities on 30th September 2021.

Prior to the amendments made by the 2021 Act, authorisations under section 29 of RIPA may authorise criminal conduct by or in relation to a covert human intelligence source in very limited circumstances. Section 1(4) of the 2021 Act inserts section 29(6ZA) into RIPA, which provides that authorisations under section 29 may not authorise any criminal conduct. Regulation 3 provides that the section 29(6ZA) restriction does not apply to authorisations in force at the point of commencement. A full impact assessment has not been produced for the instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

(a) Section 29 of RIPA is amended by section 1(4) of the 2021 Act.

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