



House of Commons

NOTICES OF AMENDMENTS

given up to and including

Thursday 8 October 2020

New Amendments handed in are marked thus ★

☆ *Amendments which will comply with the required notice period at their next appearance*

Amendments tabled since the last publication: 13 and NC3 to NC5

COMMITTEE OF THE WHOLE HOUSE

COVERT HUMAN INTELLIGENCE SOURCES (CRIMINAL CONDUCT) BILL

NOTE

This document includes all amendments tabled to date and includes any withdrawn amendments at the end. The amendments have been arranged in the order in which they relate to the Bill.

Keir Starmer
Nick Thomas-Symonds
Conor McGinn
Mr Nicholas Brown
Bell Ribeiro-Addy
Dawn Butler

Richard Burgon
Sam Tarry

Jon Trickett
Lloyd Russell-Moyle

Ian Byrne

7

☆ Clause 1, page 2, line 7, at end insert—

“(1A) The granting of criminal conduct authorisations under subsection (1) may not take place until a warrant has been issued by a judge.

Covert Human Intelligence Sources (Criminal Conduct) Bill, *continued*

- (1B) An application to a judge under subsection (1A) shall be made in writing and be accompanied by an affidavit of the person granting the criminal conduct authorisation which sets out—
- (a) the facts relied on to justify the belief, on reasonable grounds, that a warrant under this section is required;
 - (b) the persons or classes of persons to whom the warrant is proposed to be directed;
 - (c) a general description of the place where the warrant is proposed to be executed, if a general description of that place can be given;
 - (d) the period, not exceeding sixty days or one year, as the case may be, for which the warrant is requested to be in force; and
 - (e) any previous application made under subsection (1A) in relation to a person who is identified in the application for the warrant, the date on which each such application was made, the name of the judge to whom it was made and the judge’s decision on it.”

Keir Starmer
 Nick Thomas-Symonds
 Conor McGinn
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 Bell Ribeiro-Addy
 Dawn Butler

Richard Burgon
 Sam Tarry

Jon Trickett
 Lloyd Russell-Moyle

Ian Byrne

11

☆ Clause 1, page 2, line 20, at end leave out “; and” and insert “, taking into account—

- (i) balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or harm;
- (ii) explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
- (iii) whether the conduct to be authorised will have any implications for the privacy of others, and an explanation of why (if relevant) it is nevertheless proportionate to proceed with the operation;
- (iv) evidence, as far as reasonably practicable, of what other methods had been considered and why they were not implemented, or have been implemented unsuccessfully; and
- (v) whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the information sought.”

Covert Human Intelligence Sources (Criminal Conduct) Bill, *continued*

Bell Ribeiro-Addy
Apsana Begum
Zarah Sultana
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John McDonnell
Jeremy Corbyn

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Ian Mearns
Lloyd Russell-Moyle
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Dawn Butler

Claudia Webbe
Mick Whitley
Rebecca Long Bailey
Ian Lavery

Grahame Morris
Ian Byrne
Kate Osborne
Beth Winter

☆ Clause 1, page 2, line 22, at end insert—

“(d) that the authorisation does not have a disproportionate impact on people with one or more protected characteristics within the meaning of the Equality Act 2010.”

Member’s explanatory statement

This amendment ensures that discrimination on the grounds of protected characteristics will be taken into account before the granting of a criminal conduct authorisation.

1

Bell Ribeiro-Addy
Apsana Begum
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Kate Osborne
Beth Winter

☆ Clause 1, page 2, line 26, leave out “or of preventing disorder”

3

Bell Ribeiro-Addy
Apsana Begum
Zarah Sultana
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Jeremy Corbyn

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Kate Osborne
Beth Winter

☆ Clause 1, page 2, line 28, leave out (c)

4

Covert Human Intelligence Sources (Criminal Conduct) Bill, *continued*

Bell Ribeiro-Addy
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5

☆ Clause 1, page 2, line 29, at end insert—

“(5A) A criminal conduct authorisation cannot be granted with regard to the actions of a covert human intelligence source within trade unions.

(5B) In this section, “trade unions” is defined as in the Trade Union and Labour Relations (Consolidation) Act 1992.”

Bell Ribeiro-Addy
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 Beth Winter

6

☆ Clause 1, page 2, line 29, at end insert—

“(5A) A criminal conduct authorisation cannot be granted with regard to the actions of a covert human intelligence source engaged in blacklisting.”

Keir Starmer
 Nick Thomas-Symonds
 Conor McGinn
 Mr Nicholas Brown
 Bell Ribeiro-Addy
 Dawn Butler

Richard Burgon
 Lloyd Russell-Moyle

Jon Trickett
 Sam Tarry

Ian Byrne

10

☆ Clause 1, page 2, line 29, at end insert—

“(5A) The circumstances in which a criminal conduct authorisation is necessary on grounds specified in subsection (5)(c) may not include the activities of trade unions.”

Covert Human Intelligence Sources (Criminal Conduct) Bill, *continued*

Mr David Davis
Mr Alistair Carmichael

13

★ Clause 1, page 2, line 36, at end insert—

“(7B) The following conduct may never be authorised by a criminal conduct authorisation—

- (a) causing death or serious bodily harm to a person;
- (b) obstructing, perverting or interfering with the course of justice;
- (c) violating the sexual integrity of a person;
- (d) torture or cruel, inhuman or degrading treatment or punishment;
- (e) detention; or
- (f) causing the loss of, or any serious damage to, any property if doing so would endanger the safety of a person.

(7C) Subsection (7B) shall not prevent—

- (a) a decision not to prosecute in the public interest; or
- (b) the entry of a *nolle prosequi*.”

Keir Starmer
Nick Thomas-Symonds
Conor McGinn
Mr Nicholas Brown
Bell Ribeiro-Addy
Dawn Butler

Richard Burgon
Sam Tarry

Jon Trickett
Lloyd Russell-Moyle

Ian Byrne

8

☆ Clause 1, page 3, line 2, at end insert—

“(8A) Nothing in this section justifies—

- (a) causing, intentionally or by criminal negligence, death or bodily harm to an individual;
- (b) wilfully attempting in any manner to obstruct, pervert or defeat the course of justice;
- (c) violating the sexual integrity of an individual;
- (d) subjecting an individual to torture or cruel, inhuman or degrading treatment or punishment, within the meaning of the Convention Against Torture;
- (e) detaining an individual; or
- (f) causing the loss of, or any serious damage to, any property if doing so would endanger the safety of an individual.”

Covert Human Intelligence Sources (Criminal Conduct) Bill, *continued*

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2

☆ Clause 1, page 3, line 9, at end insert—

“(9A) The Investigatory Powers Commissioner or any affected person may apply for judicial review, in relation to the conduct of a relevant public authority.

(9B) For the purposes of subsection (1), a “relevant public authority” are those set out in section 2(9) of the Act.”

Member’s explanatory statement

This amendment ensures that the granting of criminal conduct authorisations are subject to judicial review.

Keir Starmer
 Nick Thomas-Symonds
 Conor McGinn
 Mr Nicholas Brown
 Bell Ribeiro-Addy
 Dawn Butler

Richard Burgon
 Sam Tarry

Jon Trickett
 Lloyd Russell-Moyle

Ian Byrne

12

☆ Clause 4, page 5, line 4, at end insert—

“(4ZA) Those persons who have granted criminal conduct authorisations must inform the Investigatory Powers Commissioner within seven days of the granting of the authorisation.”

Covert Human Intelligence Sources (Criminal Conduct) Bill, *continued*

Keir Starmer
 Nick Thomas-Symonds
 Conor McGinn
 Mr Nicholas Brown
 Bell Ribeiro-Addy
 Dawn Butler

Richard Burgon
 Sam Tarry

Jon Trickett
 Lloyd Russell-Moyle

Ian Byrne

9

☆ Clause 7, page 2, line 36, at end insert—

“(7A) Information obtained by a CHIS may not be used to compile lists which—

- (a) contain details of members of trade unions or persons who have taken part in the activities of trade unions, and
- (b) are compiled with a view to being used by employers or employment agencies for the purposes of discrimination in relation to recruitment or in relation to the treatment of workers.”

Keir Starmer
 Nick Thomas-Symonds
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 Mr Nicholas Brown
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 Dawn Butler

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 Sam Tarry

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 Lloyd Russell-Moyle

Ian Byrne

NC1

☆ To move the following Clause—

“Redress for innocent victims

- (1) Section 65 (5) of the Regulatory Powers Act 2000 (The Tribunal) is amended in accordance with subsection (2).
- (2) At the end of subsection (5) insert—
 - “(g) any conduct under Section 29B.””

Member’s explanatory statement

This new clause ensures that innocent victims are able to seek redress from the Investigatory Powers Tribunal.

Covert Human Intelligence Sources (Criminal Conduct) Bill, *continued*

Keir Starmer
 Nick Thomas-Symonds
 Conor McGinn
 Mr Nicholas Brown
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Ian Byrne
 Dawn Butler

Sam Tarry

NC2

☆ To move the following Clause—

“Equality Impact Assessment

- (1) The Secretary of State must prepare and publish an annual equality impact assessment on the use of criminal conduct authorisations on covert operations involving women, children and Black, Asian and minority ethnic communities.
- (2) A Minister of the Crown must, not later than three months after the report has been laid before Parliament, make a motion in the House of Commons in relation to the report.”

Dr Julian Lewis
 Sir John Hayes
 Stewart Hosie
 Dame Diana Johnson
 Mr Kevan Jones
 Mark Pritchard

Bob Stewart

Theresa Villiers

NC3

★ To move the following Clause—

“Oversight by the Intelligence and Security Committee of Parliament

- (1) At the end of each relevant twelve-month period the Secretary of State must make a report to the Intelligence and Security Committee of Parliament with information on the number of criminal conduct authorisations authorised by the intelligence services and the categories of conduct authorised.
- (2) In subsection (1) “relevant twelve-month period” means—
 - (a) the period of twelve months beginning with the day on which this section comes into force, and
 - (b) each successive period of twelve months.”

Member’s explanatory statement

On behalf of the Intelligence and Security Committee of Parliament, to amend the Bill to ensure that the ISC is kept informed of the use of criminal conduct authorisations by the intelligence services.

Covert Human Intelligence Sources (Criminal Conduct) Bill, *continued*

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NC4

★ To move the following Clause—

“Trade Unions

- (1) A criminal conduct authorisation shall not be granted in respect of the actions of a covert human intelligence source relating to a trade union or a member or officer of a trade union acting or proposing to act in contemplation or furtherance of any issue which is or could be—
- (a) the subject matter of collective bargaining within the meaning of section 178 of the Trade Union and Labour Relations (Consolidation) Act 1992;
 - (b) the subject of a trade dispute within the meaning of section 244 of the Trade Union and Labour Relations (Consolidation) Act 1992; or
 - (c) within the lawful objects of the trade union.
- (2) In this section, “trade union” has the same meaning as in section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992.”

Member’s explanatory statement

This new clause lays out that a criminal conduct authorisation could not be applied to a trade union, thereby putting a limit on where such authorisations can apply.

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NC5

★ To move the following Clause—

“Blacklisting

- (1) A criminal conduct authorisation shall not be granted in respect of the actions of a covert human intelligence source in relation to another person who—
- (a) is a subject of a prohibited list or is suspected of being a subject of a prohibited list where the action of the covert human intelligence source is related to that fact or suspicion;

Covert Human Intelligence Sources (Criminal Conduct) Bill, *continued*

- (b) compiles, uses, sells, or supplies or proposes or attempts to compile, use, sell, or supplies a prohibited list; or
 - (c) supplies or proposes or attempts to supply to another information which he knows or can reasonably be expected to know will be used in the compilation or use of a prohibited list.
- (2) In this section “prohibited list” has the same meaning as in Regulation 3(2) of the Employment Relations Act 1999 (Blacklists) Regulations 2010 SI 2010/493.”

Member’s explanatory statement

This new clause lays out that a criminal conduct authorisation could not be applied to a trade union, thereby putting a limit on where such authorisations can apply.

ORDER OF THE HOUSE [5 OCTOBER 2020]

That the following provisions shall apply to the Covert Human Intelligence Sources (Criminal Conduct) Bill:

Committal

1. The Bill shall be committed to a Committee of the whole House.

Proceedings in Committee, on Consideration and up to and including Third Reading

2. Proceedings in Committee, any proceedings on Consideration and any proceedings in legislative grand committee shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which proceedings in Committee of the whole House are commenced.
3. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
4. Standing Order No. 83B (Programming committees) shall not apply to proceedings in Committee of the whole House, to any proceedings on Consideration or to other proceedings up to and including Third Reading.

Other proceedings

5. Any other proceedings on the Bill may be programmed.
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