

Covert Human Intelligence Sources (Criminal Conduct) Bill

AMENDMENTS TO BE MOVED ON REPORT

Clause 1

LORD PADDICK
BARONESS HAMWEE

Page 2, line 17, after “person” insert “reasonably”

Member’s explanatory statement

This amendment would insert a requirement that belief in the necessity and proportionality of a criminal conduct authorisation, and in the existence of satisfactory arrangements, be reasonably held.

Page 2, line 27, after “detecting” insert “serious”

Member’s explanatory statement

This amendment will limit the crime whose prevention or detection is the basis of a criminal conduct authorisation to serious crime.

Page 2, line 28, after “preventing” insert “serious”

Member’s explanatory statement

This amendment will limit the disorder whose prevention is the basis of a criminal conduct authorisation to serious disorder.

Page 2, line 30, at end insert “so far as those interests are also relevant to the interests of national security.”

Member’s explanatory statement

This would allow a criminal conduct authorisation to be granted on economic grounds only if it is also relevant to the interests of national security, reflecting equivalent provisions in the Investigatory Powers Act 2016 and the Counter-Terrorism and Border Security Act 2019.

Page 2, line 30, at end insert –

“(5A) For the purpose of subsection (5), “serious crime” has the meaning given by section 81 of the Regulation of Investigatory Powers Act 2000.”

Member's explanatory statement

This amendment defines serious crime as it is defined in the Regulation of Investigatory Powers Act 2000.

LORD HAIN
LORD BLUNKETT
LORD CORMACK
BARONESS WHEATCROFT

Page 3, line 2, at end insert –

- “() A criminal conduct authorisation may not be granted to a person unless –
- (a) a warrant has been issued by the Secretary of State, and
 - (b) the person is employed by the authorising authority.”

LORD PADDICK
BARONESS HAMWEE

Page 3, line 2, at end insert –

- “(8A) Where a criminal conduct authorisation has been granted, the covert human intelligence source so authorised cannot be deployed unless the conditions under subsection (8B) have been fulfilled.
- (8B) The conditions are that –
- (a) notification has been given to the Investigatory Powers Commissioner of –
 - (i) the purpose and extent of the deployment, and
 - (ii) the type of criminal activity it is anticipated the covert human intelligence source would participate in, and
 - (b) the Commissioner has considered the likely operational dividend against the likely intrusive effects, including the potential for collateral damage or injury, and has approved the deployment.
- (8C) In the event of urgency, prior approval is not required but notification must be given to the Investigatory Powers Commissioner as soon as reasonably practicable and in any event not later than seven days after the deployment.
- (8D) A notification under subsection (8B) or (8C) must be given in writing or transmitted by electronic means.”

Page 3, line 2, at end insert –

- “() A criminal conduct authorisation ceases to have effect on the date it provides which must be no later than four calendar months after the date it is granted.”

Member's explanatory statement

This amendment provides that a criminal conduct authorisation would expire after four months, but could be renewed.

Clause 2

LORD PADDICK
BARONESS HAMWEE

Page 4, leave out line 11 and insert –

“Royal Military Police

Royal Navy Police

Royal Air Force Police”

Member’s explanatory statement

This amendment would limit the parts of the armed forces entitled to grant criminal conduct authorisations.

Page 4, line 16, at end insert “for the purpose of preventing or detecting offences under the Modern Slavery Act 2015”

Member’s explanatory statement

This amendment would limit the matters in respect of which the Home Office could grant a criminal conduct authorisation.

After Clause 2

LORD PADDICK
BARONESS HAMWEE

Insert the following new Clause –

“Redress for victims harmed by authorised conduct

- (1) The Regulation of Investigatory Powers Act 2000 is amended as follows.
- (2) In section 65(4), at the end insert –
 - “(c) to have been authorised by a public authority under section 29B.”
- (3) In section 65(5), at the end insert –
 - “(g) any conduct authorised by a public authority under section 29B.”
- (4) In section 69(1)(a), after “section 65” insert “(but may not limit the Tribunal’s power to make an award in respect of conduct authorised by a public authority under section 29B).”

Member’s explanatory statement

This amendment would entitle a person harmed by CHIS granted a criminal conduct authorisation to apply to the Tribunal for an award under the Regulation of Investigatory Powers Act 2000.

Schedule 1

LORD PADDICK
BARONESS HAMWEE

Page 7, line 9, after “person” insert “reasonably”

Member's explanatory statement

This amendment would insert a requirement that belief in the necessity and proportionality of a criminal conduct authorisation, and in the existence of satisfactory arrangements, be reasonably held.

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4 January 2021
