

GUERNSEY STATUTORY INSTRUMENT
2004 NO. **24**

**The Regulation of Investigatory Powers (Juveniles)
Regulations, 2004**

Made

Coming into force

14th June 2004

Laid before the States

THE STATES HOME DEPARTMENT, in exercise of the powers conferred on it by sections 24(2)(c), 24(6)(a) and (b) and 34(8) of the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003¹ hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Regulation of Investigatory Powers (Juveniles) Regulations, 2004 and shall come into force on 14th June, 2004.

Interpretation

2. In these Regulations -

"the Law" means the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003;

¹ Order in Council No. XXX of 2003.

"**guardian**", in relation to a source, means a guardian appointed in accordance with the provisions of the Law Reform (Age of Majority and Guardianship of Minors)(Guernsey) Law, 1978²;

"**relative**" in relation to a child, means a grandparent, brother, sister, uncle, or aunt, whether of the full blood or half blood, or by affinity;

"**relevant investigating authority**" has the meaning given by section 24(7) of the Law, and where the activities of a source are to be for the benefit of more than one public authority, each of these authorities is a relevant investigating authority;

"**source**" means covert human intelligence source.

Sources under 16: prohibition

3. No authorisation may be granted for the conduct or use of a source if-
 - (a) the source is under the age of sixteen; and
 - (b) the relationship to which the conduct or use would relate is between the source and his parent or any person who has parental responsibility for him.

Sources under 16: arrangements for meetings

4. (1) Where a source is under the age of sixteen, the arrangements referred to in section 24(2)(c) of the Law must be such that there is at all times a person holding an office, rank or position with a relevant investigating authority who has responsibility for ensuring that an appropriate adult is present at meetings to which this article applies.

²

Ordres en Conseil, Vol. XXVI, p264.

(2) This article applies to all meetings between the source and a person representing any relevant investigating authority that take place while the source remains under the age of sixteen.

(3) In paragraph (1), "**appropriate adult**" means-

- (a) the parent or guardian of the source;
- (b) any other person who has for the time being assumed responsibility for his welfare; or
- (c) where no person falling within paragraph (a) or (b) is available, any responsible person aged eighteen or over who is neither a member of nor employed by any relevant investigating authority.

Sources under 18: risk assessments etc.

5. An authorisation for the conduct or use of a source may not be granted or renewed in any case where the source is under the age of eighteen at the time of the grant or renewal, unless-

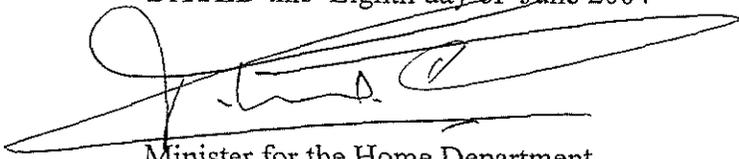
- (a) a person holding an office, rank or position with a relevant investigating authority has made and, in the case of a renewal, updated a risk assessment sufficient to demonstrate that -
 - (i) the nature and magnitude of any risk of physical injury to the source arising in the course of, or as a result of, carrying out the conduct described in the authorisation have been identified and evaluated; and

- (ii) the nature and magnitude of any risk of psychological distress to the source arising in the course of, or as a result of, carrying out the conduct described in the authorisation have been identified and evaluated;
- (b) the person granting or renewing the authorisation has considered the risk assessment and has satisfied himself that any risks identified in it are justified and, if they are, that they have been properly explained to and understood by the source; and
- (c) the person granting or renewing the authorisation knows whether the relationship to which the conduct or use would relate is between the source and a relative, guardian or person who has for the time being assumed responsibility for the source's welfare, and, if it is, has given particular consideration to whether the authorisation is justified in the light of that fact.

Sources under 18: duration of authorisations

6. In relation to an authorisation for the conduct or the use of a source who is under the age of eighteen at the time the authorisation is granted or renewed, section 34(3) of the Law shall have effect as if the period specified in paragraph (b) of that subsection were one month instead of twelve months.

DATED this Eighth day of ~~June~~ 2004



Minister for the Home Department

For and on behalf of the Department

EXPLANATORY NOTE

(This note is not part of the Order)

Section 24 of the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003 allows authorisations to be granted for the use or conduct of covert human intelligence sources.

This Order contains special provisions for the cases of covert human intelligence sources who are under eighteen.