



Forensic Science Regulator Act 2021

2021 CHAPTER 14

An Act to make provision for the appointment of the Forensic Science Regulator; to make provision about the Regulator and about the regulation of forensic science; and for connected purposes. [29th April 2021]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PROSPECTIVE

1 The Forensic Science Regulator

- (1) There is to be a Forensic Science Regulator.
- (2) In this Act “the Regulator” means the Forensic Science Regulator.
- (3) The Schedule makes further provision about the Regulator.

PROSPECTIVE

2 Regulator's duty to publish a code of practice

- (1) The Regulator must prepare and publish a code of practice about the carrying on of forensic science activities in England and Wales.
- (2) The code—
 - (a) must specify the forensic science activities to which it applies;
 - (b) need not make provision about every forensic science activity;
 - (c) may make different provision for different purposes or descriptions of person.

Status: This version of this Act contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Forensic Science Regulator Act 2021. (See end of Document for details)

- (3) The Regulator must publish the code in a way that the Regulator considers is likely to bring it to the attention of persons likely to be interested in it.
- (4) The Regulator—
 - (a) must keep the code under review, and
 - (b) may from time to time prepare and publish alterations to the code or a replacement code.
- (5) In this Act “the code” means the code of practice published under this section that is for the time being in force (as altered from time to time).

PROSPECTIVE

3 Code of practice: procedure

- (1) Before publishing a code of practice under section 2 or any alterations to the code, the Regulator must consult such persons as the Regulator considers appropriate.
- (2) The persons consulted must include persons appearing to the Regulator to be representative of persons who are, or are likely to be, carrying on activities to which the proposed code or the code as proposed to be altered will apply.
- (3) The Regulator must not publish a code of practice under section 2 or any alterations to the code unless—
 - (a) a draft of the code or the alterations has been sent to the Secretary of State,
 - (b) the Secretary of State has approved the draft and laid it before Parliament, and
 - (c) the draft has been approved by a resolution of each House of Parliament.
- (4) A code of practice published under section 2 comes into force on the day specified in it for that purpose.
- (5) Alterations to the code come into force on the day specified in the alterations for that purpose.
- (6) Different days may be specified under subsection (4) or (5) for different purposes.

PROSPECTIVE

4 Status of the code

- (1) A failure by a person to act in accordance with the code does not of itself make that person liable to civil or criminal proceedings.
- (2) The code is admissible in evidence in criminal and civil proceedings in England and Wales.
- (3) A court may in particular take into account a failure by a person to act in accordance with the code in determining a question in any such proceedings.

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PROSPECTIVE

5 Investigations by the Regulator

- (1) This section applies if the Regulator has reason to believe that a person may be carrying on a forensic science activity to which the code applies in a way that creates a substantial risk of—
 - (a) adversely affecting any investigation, or
 - (b) impeding or prejudicing the course of justice in any proceedings.
- (2) The Regulator may investigate the carrying on by that person of any forensic science activity to which the code applies.
- (3) For the purposes of any such investigation, the Regulator may require the person mentioned in subsection (1) to provide to the Regulator—
 - (a) copies of documents in the person's possession or control;
 - (b) other information in the person's possession or control.
- (4) A requirement under subsection (3) may include a requirement for information to be provided orally.
- (5) A requirement under subsection (3) is imposed by giving a written notice to the person specifying—
 - (a) a description of the information that is required;
 - (b) when, or the time by which, the information is to be provided;
 - (c) the form and manner in which the information is to be provided.
- (6) A person may not be required under subsection (3) to do anything that the person could not be compelled to do in proceedings before the High Court.
- (7) A disclosure of information pursuant to a requirement under subsection (3) does not breach—
 - (a) any obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (8) A person may not be required under subsection (3) to disclose information if to do so—
 - (a) would contravene the data protection legislation (but in determining whether the disclosure would do so, the duty imposed by virtue of that subsection is to be taken into account), or
 - (b) would be prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (9) In subsection (8)(a) “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act).
- (10) The Regulator may bring proceedings for an injunction (including an interim injunction) for the purpose of securing compliance with a requirement imposed under this section.
- (11) In this Act “proceedings” means proceedings before a judicial authority exercising its jurisdiction or functions in England and Wales, within the meaning of section 4 of the Rehabilitation of Offenders Act 1974.

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PROSPECTIVE

6 Compliance notices

- (1) This section applies if the Regulator believes that a person is carrying on a forensic science activity to which the code applies in a way that creates a substantial risk of—
 - (a) adversely affecting any investigation, or
 - (b) impeding or prejudicing the course of justice in any proceedings.
- (2) The Regulator may serve a compliance notice on the person.
- (3) A compliance notice is a notice requiring the person on whom the notice is served to take one or more steps specified in the notice within the period or by the date specified in the notice.
- (4) A compliance notice may prohibit the person on whom the notice is served from carrying on any forensic science activity in England and Wales specified in the notice until the Regulator is satisfied that a step specified in the notice has been taken or does not need to be taken (see section 7).
- (5) In deciding whether to serve a compliance notice on a person and in determining the content of a notice the Regulator may take into account any failure by a person to act in accordance with the code.
- (6) A compliance notice must be in writing and include information as to—
 - (a) the Regulator's reasons for serving the notice,
 - (b) rights of appeal (see section 8), and
 - (c) the consequences of not complying with the notice.
- (7) The Regulator may bring proceedings for an injunction (including an interim injunction) for the purpose of securing compliance with any step or prohibition specified in the notice.
- (8) The Regulator may at any time vary or cancel a compliance notice after it has been served by giving notice in writing to the person on whom it was served.

PROSPECTIVE

7 Completion certificates

- (1) This section applies if the Regulator has served a compliance notice on a person under section 6.
- (2) If the Regulator is satisfied that any step specified in the notice has been taken or does not need to be taken the Regulator must issue a certificate to that effect (a “completion certificate”).
- (3) A person on whom a compliance notice is served may at any time apply for a completion certificate.
- (4) Within the period of 14 days beginning with the day after the day on which the Regulator receives such an application the Regulator must send to the person—

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- (a) a completion certificate relating to the compliance notice, or
 - (b) written notice of the Regulator's decision not to issue such a certificate together with the Regulator's reasons for that decision.
- (5) A compliance notice ceases to have effect to the extent specified in a completion certificate relating to that notice on the date the certificate is issued.

PROSPECTIVE

8 Appeals

- (1) A person served with a compliance notice under section 6 may appeal to the First-tier Tribunal against the decision to serve the notice.
- (2) The grounds for an appeal under subsection (1) are that—
 - (a) the decision was based on an error of fact;
 - (b) the decision was wrong in law;
 - (c) the decision was unreasonable;
 - (d) any step or prohibition specified in the notice is unreasonable.
- (3) On an appeal under subsection (1) the First-tier Tribunal may—
 - (a) confirm the notice;
 - (b) cancel the notice;
 - (c) vary the notice;
 - (d) remit to the Regulator the decision whether to confirm, cancel or vary the notice.
- (4) A person given notice under section 6(8) of the variation of a compliance notice may appeal to the First-tier Tribunal against the decision to vary the compliance notice.
- (5) The grounds for an appeal under subsection (4) are that—
 - (a) the decision was based on an error of fact;
 - (b) the decision was wrong in law;
 - (c) the decision was unreasonable;
 - (d) any step or prohibition specified in the compliance notice as a result of the variation is unreasonable.
- (6) On an appeal under subsection (4) the First-tier Tribunal may—
 - (a) confirm the decision to vary the compliance notice, in whole or in part;
 - (b) quash that decision, in whole or in part;
 - (c) vary the compliance notice in a different way;
 - (d) remit to the Regulator the decision whether to vary the compliance notice.
- (7) A person served with a compliance notice under section 6 may appeal to the First-tier Tribunal against a decision not to issue a completion certificate under section 7 relating to that notice.
- (8) The grounds for an appeal under subsection (7) are the grounds mentioned in subsection (2)(a) to (c).
- (9) On an appeal under subsection (7) the First-tier Tribunal may—