

These notes relate to the Lords Amendments to the Terrorism Prevention and Investigation Measures Bill, as brought from the House of Lords on 23 November 2011.

TERRORISM PREVENTION AND INVESTIGATION MEASURES BILL

EXPLANATORY NOTES ON LORDS AMENDMENTS

INTRODUCTION

1. These Explanatory Notes relate to the Lords Amendments to the Terrorism Prevention and Investigation Measures Bill, as brought from the House of Lords on 23 November 2011. They have been prepared by the Home Office in order to assist the reader of the Bill and the Lords Amendments and to help inform debate on the Lords Amendments. They do not form part of the Bill and have not been endorsed by Parliament.
2. These Notes, like the Lords Amendments themselves, refer to HL Bill 91, the Bill as first printed for the Lords.
3. These Notes need to be read in conjunction with the Lords Amendments and the text of the Bill. They are not, and are not meant to be, a comprehensive description of the effect of the Lords Amendments.
4. All the Lords Amendments were in the name of the Minister.

COMMENTARY ON LORDS AMENDMENTS

Lords Amendments 1 and 2

5. As originally drafted, clause 8 of the Bill required the court to secure that a directions hearing (at which directions are given for the substantive review hearing under clause 9) took place within seven days of service of the TPIM notice (or the court's confirmation of a TPIM notice served urgently under Schedule 2) – though the court could postpone the hearing if the individual agreed to this.

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Lords Amendments 1 and 2 would amend clause 8 so that it provides for the court to hold a directions hearing within seven days of service or confirmation of the notice unless the court directs otherwise. The programming of such hearings is a matter for the courts. The original drafting of the provision unintentionally introduced a restriction on the discretion currently available to the courts to manage similar hearings in the control order context. While it is expected that such hearings would normally take place within seven days, the change provides the courts with flexibility in case it is needed to facilitate effective management of court time.

Lords Amendment 3

6. Lords Amendment 3 would specify that the definition of ‘TPIM decision’ includes a decision by a constable to give a direction in relation to the reporting measure at paragraph 10 of Schedule 1. This is consequent to Lords Amendment 10.

Lords Amendments 4 and 5

7. These Amendments are consequential on the removal from the Legal Aid, Sentencing and Punishment of Offenders Bill of a provision that would have repealed section 154(1) of the Criminal Justice Act 2003. Section 154(1) increases the maximum sentence for offences tried summarily from 6 to 12 months’ imprisonment (but has not yet been commenced). Lords Amendments 4 and 5 would therefore provide for a maximum term of 12 months’ imprisonment in England and Wales, but with a transitional provision limiting the maximum term to 6 months pending commencement of section 154(1) of the Criminal Justice Act 2003.

Lords Amendments 6 and 9

8. These Amendments would provide that an individual subject to an overnight residence measure by virtue of paragraph 1 of Schedule 1 (or a residence measure imposed under a temporary enhanced TPIM order made pursuant to clause 26) can be required to remain *within*, as well as at, their residence during the specified period. This ensures that such a measure can require the individual to remain inside their residence and not go into any outside or communal area associated with it, such as a garden or shared entrance to flats, during the specified period.

Lords Amendment 7

9. Lords Amendment 7 would remove paragraph (a) of clause 26 subsection (11), which provides that a temporary enhanced TPIM order may amend any enactment.

Lords Amendment 8

10. Lords Amendment 8 would provide that a temporary enhanced TPIM order cannot make provision for matters that are devolved in Scotland other than those already contained in the TPIM Bill without the consent of the Scottish Ministers.

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Lords Amendment 10

11. Lords Amendment 10 would amend the reporting measure at paragraph 10 of Schedule 1 so that, in addition to requiring the individual to report to a police station at specified times and in a specified manner, the Secretary of State may require the individual to comply with directions given by a police constable in relation to such reporting. Such directions will relate to the practicalities of reporting, for example requiring the individual to report to the front desk of the police station and to sign a document to confirm his attendance.

Lords Amendments 11

12. Lords Amendment 11 increases the transitional period provided for by Schedule 8 – during which a control order in force immediately before commencement of the Bill will remain in force unless revoked or quashed before the end of that period – from 28 to 42 days.

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