



# House of Commons

Tuesday 11 September 2018

## CONSIDERATION OF BILL (REPORT STAGE)

---

*New Amendments handed in are marked thus ★*

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

### COUNTER-TERRORISM AND BORDER SECURITY BILL, AS AMENDED

---

#### NOTE

This document includes all amendments tabled to date and includes any withdrawn amendments at the end. The amendments have been arranged in accordance with the Counter-Terrorism and Border Security Bill (Programme (No. 2)) Motion to be proposed by Secretary Sajid Javid.

---

*NEW CLAUSES AND NEW SCHEDULES CREATING OFFENCES RELATING TO TERRORISM;  
AMENDMENTS TO CLAUSES 1 TO 10; NEW CLAUSES AND NEW SCHEDULES RELATING  
TO PREVENT AND AMENDMENTS TO CLAUSE 18*

*NEW CLAUSES AND NEW SCHEDULES CREATING OFFENCES RELATING TO TERRORISM*

Secretary Sajid Javid

NC2

To move the following Clause—

**“Entering or remaining in a designated area**

- (1) The Terrorism Act 2000 is amended as follows.
- (2) After section 58A insert—

*“Entering or remaining in designated areas overseas*

**58B Entering or remaining in a designated area**

- (1) A person commits an offence if—
  - (a) the person enters, or remains in, a designated area, and

---

**Counter-Terrorism and Border Security Bill, *continued***

- (b) the person is a United Kingdom national, or a United Kingdom resident, at the time of entering the area or at any time during which the person remains there.
- (2) It is a defence for a person charged with an offence under this section to prove that the person had a reasonable excuse for entering, or remaining in, the designated area.
- (3) A person does not commit an offence under this section of entering, or remaining in, a designated area if—
  - (a) the person is already travelling to, or is already in, the area on the day on which it becomes a designated area, and
  - (b) the person leaves the area before the end of the period of one month beginning with that day.
- (4) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for a term not exceeding 10 years, or to a fine, or to both.
- (5) In this section—
  - “designated area” means an area outside the United Kingdom that is for the time being designated for the purposes of this section in regulations under section 58C;
  - “United Kingdom national” means an individual who is—
    - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
    - (b) a person who under the British Nationality Act 1981 is a British subject, or
    - (c) a British protected person within the meaning of that Act;
  - “United Kingdom resident” means an individual who is resident in the United Kingdom.
- (6) The reference in subsection (3) to the day on which an area becomes a designated area is a reference to the day on which regulations under section 58C come into force designating the area for the purposes of this section.
- (7) Nothing in this section imposes criminal liability on any person acting on behalf of, or holding office under, the Crown.

**58C Section 58B: designated areas**

- (1) The Secretary of State may by regulations designate an area outside the United Kingdom as a designated area for the purposes of section 58B if the following condition is met.
- (2) The condition is that the Secretary of State is satisfied that it is necessary, for the purpose of protecting members of the public from a risk of terrorism, to restrict United Kingdom nationals and United Kingdom residents from entering, or remaining in, the area.
- (3) The reference in subsection (2) to the public includes a reference to the public of a country other than the United Kingdom.

**Counter-Terrorism and Border Security Bill, *continued***

- (4) Where an area is designated by regulations under this section, the Secretary of State must—
  - (a) keep under review whether the condition in subsection (2) continues to be met in relation to the area, and
  - (b) if the Secretary of State determines that the condition is no longer met, revoke the regulations (or revoke them so far as they have effect in relation to that area if the regulations designate more than one area).
- (5) In this section “designated area”, “United Kingdom national” and “United Kingdom resident” have the same meaning as in section 58B.”
- (3) In section 123 (orders and regulations), after subsection (6) insert—
  - “(6ZA) Regulations under section 58C—
    - (a) must be laid before Parliament after being made, and
    - (b) cease to have effect at the end of the period of 40 days beginning with the day on which they are made unless before the end of that period the regulations are approved by a resolution of each House of Parliament.
  - (6ZB) For the purposes of subsection (6ZA) the period of 40 days is to be computed in accordance with section 7(1) of the Statutory Instruments Act 1946.
  - (6ZC) Subsection (6ZA)(b)—
    - (a) is without prejudice to anything previously done or to the power of the Secretary of State to make new regulations under section 58C;
    - (b) does not apply to regulations that only revoke previous regulations under that section.”

***Member’s explanatory statement***

*This new clause would provide for an offence under the Terrorism Act 2000 of entering, or remaining in, an area outside the United Kingdom that has been designated in regulations made by the Secretary of State. In making such regulations the Secretary of State would need to be satisfied that it is necessary to restrict UK nationals and residents from entering or remaining in the area for the purpose of protecting the public from a risk of terrorism.*

---

*AMENDMENTS TO CLAUSES 1 TO 10*

Secretary Sajid Javid

1

Clause 2, page 2, line 9, at end insert—

“( ) After subsection (3) insert—

- “(4) A constable may seize an item of clothing or any other article if the constable—
  - (a) reasonably suspects that it is evidence in relation to an offence under subsection (1), and
  - (b) is satisfied that it is necessary to seize it in order to prevent the evidence being concealed, lost, altered or destroyed.

**Counter-Terrorism and Border Security Bill, *continued***

- (5) In connection with exercising the power in subsection (4), a constable may require a person to remove the item of clothing or other article if the person is wearing it.
- (6) But the powers conferred by subsections (4) and (5) may not be exercised so as to seize, or require a person to remove, an item of clothing being worn next to the skin or immediately over a garment being worn as underwear.””

***Member’s explanatory statement***

*Section 13 of the Terrorism Act 2000 provides for an offence of wearing, carrying or displaying an item of clothing or other article in such a way as to arouse reasonable suspicion that the person is a member or supporter of a proscribed organisation. This amendment would further amend that section so as to confer a power on constables in certain circumstances to seize such items or articles.*

---

Secretary Sajid Javid

Clause 3, page 2, line 16, leave out “on three or more different occasions”

2

***Member’s explanatory statement***

*Clause 3 amends section 58 of the Terrorism Act 2000 so as to make it an offence to view on 3 or more occasions over the internet documents or records containing information likely to be useful to terrorists. This amendment would remove the requirement for the material to be viewed 3 or more times. Instead Amendment 4 makes it clear that the circumstances in which a reasonable excuse defence will apply include those where the person did not know that the document would contain such information.*

Secretary Sajid Javid

Clause 3, page 2, line 16, after “views” insert “, or otherwise accesses,”

3

***Member’s explanatory statement***

*This amendment would broaden the offence of viewing material (see the explanatory statement to Amendment 2) so that it also includes accessing the material in any other way.*

Secretary Sajid Javid

Clause 3, page 2, line 19, leave out subsection (3) and insert—

4

“(3) After subsection (1) insert—

“(1A) The cases in which a person collects or makes a record for the purposes of subsection (1)(a) include (but are not limited to) those where the person does so by means of the internet (whether by downloading the record or otherwise).”

(4) After subsection (3) insert—

“(3A) The cases in which a person has a reasonable excuse for the purposes of subsection (3) include (but are not limited to) those in which at the time of the person’s action or possession, the person did not know, and had no reason to believe, that the document or record in question contained, or

---

Counter-Terrorism and Border Security Bill, *continued*

was likely to contain, information of a kind likely to be useful to a person committing or preparing an act of terrorism.”

**Member’s explanatory statement**

*See the explanatory statement for Amendment 2.*

---

Secretary Sajid Javid

5

Clause 6, page 3, line 28, at end insert—

“( ) In section 38B (information about acts of terrorism), in subsection (5)(a), for “five years” substitute “10 years.”

**Member’s explanatory statement**

*It is an offence under section 38B of the Terrorism Act 2000 to fail to disclose information that might be of material assistance in preventing an act of terrorism or in securing the apprehension, prosecution or conviction of a terrorist. This amendment would increase the maximum sentence for this offence from 5 years to 10 years.*

---

Secretary Sajid Javid

15

Clause 8, page 5, line 37, at end insert—

“160A An offence under section 58B of that Act (entering or remaining in a designated area).”

**Member’s explanatory statement**

*This amendment is consequential on NC2. It would provide for the new offence of entering or remaining in a designated area to be included in the list of specified terrorism offences in Schedule 15 to the Criminal Justice Act 2003.*

Secretary Sajid Javid

16

Clause 8, page 6, line 38, at end insert—

“9C An offence under section 58B of that Act (entering or remaining in a designated area).”

**Member’s explanatory statement**

*This amendment is consequential on NC2. It would provide for the new offence of entering or remaining in a designated area to be included in the list of offences that may trigger a special custodial sentence under section 236A of the Criminal Justice Act 2003.*

---

## 6 Consideration of Bill (Report Stage): 11 September 2018

---

### Counter-Terrorism and Border Security Bill, *continued*

Secretary Sajid Javid

17

Clause 9, page 7, line 37, at end insert—

“(viiia) section 58B (entering or remaining in a designated area),”

***Member’s explanatory statement***

*This amendment is consequential on NC2. It would provide for the new offence of entering or remaining in a designated area to be included in the definition of “terrorism offence” in section 210A(10) of the Criminal Procedure (Scotland) Act 1995.*

---

Secretary Sajid Javid

18

Clause 10, page 9, line 5, after “(etc),” insert—

“section 58B (entering or remaining in a designated area),”

***Member’s explanatory statement***

*This amendment is consequential on NC2. It would provide for the new offence of entering or remaining in a designated area to be included in the list of specified terrorism offences in Schedule 2 to the Criminal Justice (Northern Ireland) Order 2008.*

---

### *NEW CLAUSES AND NEW SCHEDULES RELATING TO PREVENT AND AMENDMENTS TO CLAUSE 18*

Nick Thomas-Symonds  
Gavin Newlands

13

Clause 18, page 19, line 14, at end insert—

“(8) After section 39 (Power to amend Chapter 2), insert—

**“39A Review of support for people vulnerable to being drawn into terrorism**

- (1) The Secretary of State must within 6 months of the passing of the Counter-Terrorism and Border Security Act 2018 make arrangements for an independent review and report on the Government strategy for supporting people vulnerable to being drawn into terrorism.
  - (2) The report and any recommendations of the review under subsection (1) must be laid before the House of Commons within 18 months of the passing of the Counter-Terrorism and Border Security Act 2018.
  - (3) The laying of the report and recommendations under subsection (2) must be accompanied by a statement by the Secretary of State responding to each recommendation made as part of the independent review.”
-

**Counter-Terrorism and Border Security Bill, *continued***

*NEW CLAUSES, NEW SCHEDULES AND AMENDMENTS RELATING TO EUROPEAN ARREST WARRANTS; REMAINING PROCEEDINGS ON CONSIDERATION*

*NEW CLAUSES, NEW SCHEDULES AND AMENDMENTS RELATING TO EUROPEAN ARREST WARRANTS*

Nick Thomas-Symonds  
Gavin Newlands

NC1

To move the following Clause—

**“Continued participation in the European Arrest Warrant**

- (1) It is an objective of the Government, in negotiating the withdrawal of the United Kingdom from the European Union, to seek continued United Kingdom participation in the European Arrest Warrant in relation to persons suspected of specified terrorism offences.
- (2) In this section, “specified terrorism offences” has the same meaning as Schedule 15 of the Criminal Justice Act 2003.”

***Member’s explanatory statement***

*This new clause would require the Government to adopt the continued participation of the UK in the European Arrest Warrant in relation to people suspected of terrorist offences as a negotiating objective in the withdrawal negotiations with the European Union.*

---

*REMAINING PROCEEDINGS ON CONSIDERATION*

Gavin Newlands

NC3

To move the following Clause—

**“Access to a solicitor**

- (1) Schedule 8 of the Terrorism Act 2000 is amended as follows.
- (2) In paragraph 7 leave out “Subject to paragraphs 8 and 9”.
- (3) In paragraph 7A—
  - (a) leave out sub-paragraph (3),
  - (b) leave out sub-paragraph (6) and insert—

“Sub-paragraph (5) does not apply if the examining officer reasonably believes that the time it would take to consult a solicitor in person would create an immediate risk of physical injury to any person.”

- (c) in sub-paragraph (7) at end insert—

“provided that the person is at all times able to consult with a solicitor in private.”

**Counter-Terrorism and Border Security Bill, *continued***

(d) leave out sub-paragraph (8).

(4) leave out paragraph 9.”

***Member’s explanatory statement***

*This new clause would delete provisions in the Terrorism Act 2000 which restrict access to a lawyer for those detained under Schedule 7.*

---

Secretary Sajid Javid

6

Clause 14, page 15, line 24, at end insert—

“(3A) But a charge may not be imposed in relation to the holding of a relevant event if the event is a public procession, or public assembly, held for the purpose of—

- (a) demonstrating support for, or opposition to, the views or actions of any person or body of persons,
- (b) publicising a cause or campaign, or
- (c) marking or commemorating an event.”

***Member’s explanatory statement***

*Clause 14 inserts a new section 22CA into the Road Traffic Regulation Act 1984 which enables charges to be imposed in connection with traffic regulation orders or notices made or issued in order to protect a relevant event from terrorism risks. This amendment would provide that such charges cannot be imposed in relation to public processions or assemblies held for certain purposes.*

Secretary Sajid Javid

7

Clause 14, page 15, line 25, at end insert—

““public assembly” means an assembly of two or more persons in a public place which is wholly or partly open to the air;

“public place” means—

- (a) any highway or, in Scotland, any road within the meaning of the Roads (Scotland) Act 1984, and
- (b) any place to which at the material time the public, or any section of the public, has access (on payment or otherwise) as of right or by virtue of an express or implied permission;

“public procession” means a procession in a public place;”

***Member’s explanatory statement***

*This amendment is consequential on Amendment 6.*

---

Secretary Sajid Javid

19

Clause 23, page 21, line 34, leave out “1 to 5” and insert “1, 2, 3, 4 or 5”

***Member’s explanatory statement***

*This amendment is consequential on NC2.*

---



Counter-Terrorism and Border Security Bill, *continued*

- Secretary Sajid Javid 8
- Clause 25, page 23, line 14, at end insert—  
“( ) paragraph 18A of Schedule 4 and section 21(1) so far as relating to that paragraph,”  
*Member’s explanatory statement*  
*This amendment is consequential on Amendment 11.*
- Secretary Sajid Javid 9
- Clause 25, page 23, line 24, leave out paragraph (d) and insert—  
“(d) paragraphs 17 and 18, 19 to 25 and 26 to 31 of Schedule 4 and section 21(1) so far as relating to those paragraphs.”  
*Member’s explanatory statement*  
*This amendment is consequential on Amendments 8, 11 and 12.*
- 
- Nick Thomas-Symonds 26
- Schedule 3, page 36, line 7, at end insert—  
“(6A) The Investigatory Powers Commissioner (“the Commissioner”) must be informed when a person is stopped under the provisions of this paragraph.  
(6B) The Commissioner must make an annual report on the use of powers under this paragraph.”
- Secretary Sajid Javid 10
- Schedule 3, page 42, line 35, at end insert—  
“( ) Representations under sub-paragraph (1) must be made in writing.”  
*Member’s explanatory statement*  
*Paragraph 13 of Schedule 3 to the Bill provides for the making of representations by affected parties about how the powers of the Investigatory Powers Commissioner under paragraph 12 of that Schedule should be exercised. This amendment would require such representations to be made in writing.*
- Gavin Newlands 27
- Schedule 3, page 46, line 17, leave out “and 26”
- Gavin Newlands 28
- Schedule 3, page 46, line 26, leave out sub-paragraph (3)
- Gavin Newlands 29
- Schedule 3, page 46, line 33, leave out sub-paragraph (6) and insert—  
“Sub-paragraph (5) does not apply if the examining officer reasonably believes that the time it would take to consult a solicitor in person would create an immediate risk of physical injury to any person.”

## 10 Consideration of Bill (Report Stage): 11 September 2018

---

### Counter-Terrorism and Border Security Bill, *continued*

Gavin Newlands

30

Schedule 3, page 46, line 37, at end insert—  
“provided that the person is at all times able to consult with a solicitor in private.”

Gavin Newlands

31

Schedule 3, page 47, line 29, leave out paragraph 26.

***Member’s explanatory statement***

*This amendment would delete provisions in the Bill which restrict access to a lawyer for those detained under Schedule 3 for the purpose of assessing whether they are or have been engaged in hostile activity.*

Nick Thomas-Symonds

14

Schedule 3, page 47, line 31, leave out “and hearing” and insert “but not hearing”.

---

Secretary Sajid Javid

11

Schedule 4, page 73, line 29, at end insert—

*“Legal Aid (Scotland) Act 1986 (c. 47)*

18A In section 8A of the Legal Aid (Scotland) Act 1986 (criminal advice and assistance: automatic availability in certain circumstances), in subsection (2) at the end insert—

“(d) a person who is detained under section 41 of, or Schedule 7 to, the Terrorism Act 2000, or

(e) a person who is detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2018.”

***Member’s explanatory statement***

*Section 8A of the Legal Aid (Scotland) Act 1986 confers power on the Scottish Ministers to provide for legal advice and assistance in relation to criminal matters to be available, without reference to certain financial limits or criteria, to the description of clients listed in that section. This amendment would add to that description persons who are detained in Scotland under Schedule 3 to the Bill or under section 41 of, or Schedule 7 to, the Terrorism Act 2000. See also the explanatory statement to Amendment 12.*

Secretary Sajid Javid

12

Schedule 4, page 77, line 25, at end insert—

*“Advice and Assistance and Civil Legal Aid (Financial Conditions and Contributions) (Scotland) Regulations 2011 (S.S.I. 2011/217)*

25A (1) In regulation 8 of the Advice and Assistance and Civil Legal Aid (Financial Conditions and Contributions) (Scotland) Regulations 2011—

(a) the words from “to whom” to the end become paragraph (a), and

(b) at the end of that paragraph insert “, or

Counter-Terrorism and Border Security Bill, *continued*

- (b) who is detained—
  - (i) under section 41 of, or Schedule 7 to, the Terrorism Act 2000, or
  - (ii) under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2018.”
- (2) Nothing in sub-paragraph (1) affects any power under the Legal Aid (Scotland) Act 1986 to revoke or amend any provision of the regulations amended by that sub-paragraph.”

**Member’s explanatory statement**

*This amendment would secure that legal advice and assistance will be available to persons detained in Scotland under Schedule 3 to the Bill, or under section 41 of, or Schedule 7 to, the Terrorism Act 2000, without reference to the financial limits set out in section 8 of the Legal Aid (Scotland) Act 1986. See also the explanatory statement to Amendment 11.*

Secretary Sajid Javid

20

Schedule 4, page 79, line 21, at end insert—

*“Criminal Procedure and Investigations Act 1996 (c. 25)*

31A In section 29 of the Criminal Procedure and Investigations Act 1996 (power to order preparatory hearing), in subsection (6)(e), after “purposes of terrorism” insert “, eliciting information about armed forces etc, entering or remaining in a designated area”.”

**Member’s explanatory statement**

*This amendment is consequential on NC2.*

Secretary Sajid Javid

21

Schedule 4, page 79, line 22, at end insert—

“31B The Terrorism Act 2000 is amended as follows.”

**Member’s explanatory statement**

*This amendment is consequential on Amendment 23.*

Secretary Sajid Javid

22

Schedule 4, page 79, line 23, leave out “of the Terrorism Act 2000”

**Member’s explanatory statement**

*This amendment is consequential on Amendment 21.*

Secretary Sajid Javid

23

Schedule 4, page 79, line 23, at end insert—

“32A In section 23A (forfeiture: other terrorism offences etc), in the list of provisions in subsection (2)(a), after the entry relating to section 57, 58 or 58A insert—

“section 58B (entering or remaining in a designated area);”.

32B In section 118 (defences), in subsection (5)(a), after “58A,” insert “58B;”.”

**Member’s explanatory statement**

*This amendment is consequential on NC2.*

**Counter-Terrorism and Border Security Bill, *continued***

Secretary Sajid Javid

24

Schedule 4, page 79, line 29, at end insert—

“34A In section 27 (meaning of “terrorism offence”), in the list of provisions in subsection (1)(a), after the entry relating to sections 56 to 58A insert—

“section 58B (entering or remaining in a designated area).”

***Member’s explanatory statement***

*This amendment is consequential on NC2.*

Secretary Sajid Javid

25

Schedule 4, page 79, line 36, at end insert—

“35A In section 41 (offences to which Part 4 applies: terrorism offences), in subsection (1)(a), in the entry relating to sections 56 to 61, after “purposes of terrorism” insert “eliciting information about members of armed forces etc, entering or remaining in a designated area”.”

***Member’s explanatory statement***

*This amendment is consequential on NC2. It clarifies that the offence under the new section 58B is included among the offences to which Part 4 of the Counter-Terrorism Act 2008 applies (which provides for notification requirements for persons convicted of terrorism offences).*

---

ORDER OF THE HOUSE [11 JUNE 2018]

That the following provisions shall apply to the Counter-Terrorism and Border Security Bill:

*Committal*

1. The Bill shall be committed to a Public Bill Committee.

*Proceedings in Public Bill Committee*

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Tuesday 17 July.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

*Proceedings on Consideration and up to and including Third Reading*

4. 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 those proceedings are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and up to and including Third Reading.

*Other proceedings*

7. Any other proceedings on the Bill may be programmed.
-

**Counter-Terrorism and Border Security Bill, *continued***

COUNTER-TERRORISM AND SECURITY BILL (PROGRAMME (NO. 2))

Secretary Sajid Javid

That the Order of 11 June 2018 be varied as follows:

1. Paragraphs (4) and (5) of the Order shall be omitted.
2. Proceedings on Consideration and up to and including Third Reading shall be taken in one day in accordance with the following provisions of this Order.
3. Proceedings on Consideration—
  - (a) shall be taken in the order shown in the first column of the following Table, and
  - (b) shall (so far as not previously concluded) be brought to a conclusion at the times specified in the second column of the Table.

**TABLE**

| <i>Proceedings</i>                                                                                                                                                                  | <i>Time for conclusion of proceedings</i> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|
| New Clauses and new Schedules creating offences relating to terrorism; amendments to Clauses 1 to 10; new Clauses and new Schedules relating to Prevent and amendments to Clause 18 | 6 pm                                      |
| New Clauses, new Schedules and amendments relating to European Arrest Warrants; remaining proceedings on Consideration                                                              | 8 pm                                      |

4. Any proceedings in legislative grand committee shall (so far as not previously concluded) be brought to a conclusion at 8.00pm.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at 9.00pm.