

# Counter-Terrorism and Border Security Bill

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MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

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*The amendments have been marshalled in accordance with the Order of 28th November 2018, as follows –*

Clauses 1 to 12	Schedule 3
Schedule 1	Clause 22
Clauses 13 to 18	Schedule 4
Schedule 2	Clauses 23 to 27
Clauses 19 to 21	Title

*[Amendments marked ★ are new or have been altered]*

**Amendment  
No.**

**Clause 1**

BARONESS JONES OF MOULSECOOMB  
LORD PADDICK

- 1** Page 1, line 8, leave out “is supportive of” and insert “supports”
- 2** Page 1, line 10, leave out “is reckless as to whether” and insert “intends that”

**Clause 2**

LORD PADDICK  
BARONESS HAMWEE

- 3** Page 2, line 2, after “if” insert “without reasonable excuse”

**Clause 3**

LORD PADDICK  
BARONESS HAMWEE

- 4** Page 2, line 27, at end insert –  
“(za) after “if” insert “without reasonable excuse”;
- 5** Page 2, line 37, at end insert –  
“( ) Omit subsection (3).”

**Clause 3 - continued**

BARONESS WILLIAMS OF TRAFFORD

- 6 Page 2, line 44, at end insert “, or  
 (b) the person’s action or possession was for the purposes of—  
 (i) carrying out work as a journalist, or  
 (ii) academic research.”

LORD PADDICK  
BARONESS HAMWEE*As an amendment to Amendment 6*

- 7 In paragraph (b), leave out “the purposes of” and insert “purposes including”

**Clause 4**LORD PADDICK  
BARONESS HAMWEE

- 8 Page 3, line 6, after “if” insert “without reasonable excuse”
- 9★ Page 3, line 11, leave out from beginning to “the” in line 12 and insert “A person does not commit an offence under this section if”

LORD ROSSER  
LORD KENNEDY OF SOUTHWARK

- 10★ Page 3, line 13, at end insert—  
 “( ) If the person adduces evidence which is sufficient to raise an issue with respect to the matter, the court or jury shall assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.”

BARONESS WILLIAMS OF TRAFFORD

- 11 Page 3, line 19, at end insert—  
 “(3A) The cases in which a person has a reasonable excuse for the purposes of subsection (2) include (but are not limited to) those where—  
 (a) the person enters, or remains in, a designated area involuntarily,  
 or  
 (b) the person enters, or remains in, a designated area for or in connection with one or more of the purposes mentioned in subsection (3B).  
 (3B) The purposes are—  
 (a) providing aid of a humanitarian nature;  
 (b) satisfying an obligation to appear before a court or other body exercising judicial power;  
 (c) carrying out work for the government of a country other than the United Kingdom (including service in or with the country’s armed forces);  
 (d) carrying out work for the United Nations or an agency of the United Nations;  
 (e) carrying out work as a journalist;

**Clause 4 - continued**

- (f) attending the funeral of a relative or visiting a relative who is terminally ill;
  - (g) providing care for a relative who is unable to care for themselves without such assistance.
- (3C) But a person has a reasonable excuse for entering or remaining in a designated area by virtue of subsection (3A)(b) only if—
- (a) the person enters or remains in the area exclusively for or in connection with one or more of the purposes mentioned in subsection (3B), or
  - (b) in a case where the person enters or remains in the area for or in connection with any other purpose or purposes (in addition to one or more of the purposes mentioned in subsection (3B)), the other purpose or purposes also provide a reasonable excuse for doing so.
- (3D) For the purposes of subsection (3B)—
- (a) the reference to the provision of aid of a humanitarian nature does not include the provision of aid in contravention of internationally recognised principles and standards applicable to the provision of humanitarian aid;
  - (b) references to the carrying out of work do not include the carrying out of any act which constitutes an offence in a part of the United Kingdom or would do so if the act occurred in a part of the United Kingdom.”

LORD PADDICK

BARONESS HAMWEE

*As an amendment to Amendment 11*

- 12** In subsection (3B)(a), leave out “nature” and insert “or peacebuilding nature, or for connected purposes”

*As an amendment to Amendment 11*

- 13** In subsection (3B)(f), leave out “is” and insert “the person believes to be very seriously or”

*As an amendment to Amendment 11*

- 14★** After subsection (3B)(g) insert—  
“(h) such other purpose as the Secretary of State may by regulations prescribe.”

LORD ROSSER

LORD KENNEDY OF SOUTHWARK

LORD PADDICK

- 15★** Page 3, line 19, at end insert—  
“(3A) A person does not commit an offence under this section of entering, or remaining in, a designated area where—  
(a) the person enters, or remains in, a designated area involuntarily,  
or

**Clause 4 - continued**

- (b) the person enters, or remains in, a designated area for or in connection with one or more of the purposes mentioned in subsection (3B).
- (3B) The purposes are –
- (a) providing aid of a humanitarian nature;
  - (b) satisfying an obligation to appear before a court or other body exercising judicial power;
  - (c) carrying out work for the government of a country other than the United Kingdom (including service in or with the country's armed forces);
  - (d) carrying out work for the United Nations or an agency of the United Nations;
  - (e) carrying out work as a journalist;
  - (f) attending the funeral of a relative or visiting a relative who is terminally ill;
  - (g) providing care for a relative who is unable to care for themselves without such assistance.
- (3C) But a person does not commit an offence of entering or remaining in a designated area by virtue of subsection (3A)(b) only if –
- (a) the person enters or remains in the area exclusively for or in connection with one or more of the purposes mentioned in subsection (3B), or
  - (b) in a case where the person enters or remains in the area for or in connection with any other purpose or purposes (in addition to one or more of the purposes mentioned in subsection (3B)), the other purpose or purposes provide a reasonable excuse for doing so under subsection (2).
- (3D) The Secretary of State may by regulations add a purpose to or remove a purpose from subsection (3B).
- (3E) Regulations under subsection (3D) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (3F) For the purposes of subsection (3B) –
- (a) the reference to the provision of aid of a humanitarian nature does not include the provision of aid in contravention of internationally recognised principles and standards applicable to the provision of humanitarian aid;
  - (b) references to the carrying out of work do not include the carrying out of any act which constitutes an offence in a part of the United Kingdom or would do so if the act occurred in a part of the United Kingdom.”

BARONESS WILLIAMS OF TRAFFORD

**Clause 4 - continued**

LORD PADDICK  
BARONESS HAMWEE

- 17 Page 4, line 14, after “area” insert “and lay a report of that review annually before both Houses of Parliament”

BARONESS WILLIAMS OF TRAFFORD

- 18 Page 4, line 18, at end insert –  
“(4A) Regulations under this section cease to have effect at the end of the period of 3 years beginning with the day on which they are made (unless they cease to have effect at an earlier time as a result of their revocation or by virtue of section 123(6ZA)(b)).  
(4B) Subsection (4A) does not prevent the making of new regulations to the same or similar effect.”

LORD ANDERSON OF IPSWICH  
LORD JUDGE  
LORD PADDICK  
LORD ROSSER

*As an amendment to Amendment 18*

- 19 In subsection (4A), leave out “3 years” and insert “2 years”

BARONESS WILLIAMS OF TRAFFORD

- 20 Page 4, line 27, at end insert –  
“(6ZAA) Regulations laid before Parliament under subsection (6ZA) designating an area outside the United Kingdom must be accompanied by a statement setting out the grounds on which the Secretary of State has determined that the condition for making the regulations referred to in section 58C(2) is met in relation to that area.”

- 21 Page 4, line 36, at end insert –  
“(6ZD) Regulations under section 58C that only revoke previous regulations under that section are subject to annulment in pursuance of a resolution of either House of Parliament.”

**Clause 5**

LORD PADDICK  
LORD ALDERDICE  
BARONESS HAMWEE

- 22 Page 4, line 40, leave out “and (4)” and insert “, (4) and (4A)”

- 23 Page 5, line 6, at end insert –  
“(4A) After subsection (3) insert –  
“(3A) A person does not commit an offence by expressing criticism of the rationale underlying legislation regarding terrorism (as defined by the Terrorism Act 2000 as amended by this Act).”

**Clause 6**

BARONESS WILLIAMS OF TRAFFORD

- 24** Page 5, line 17, leave out subsection (1) and insert –  
 “(1) Section 17 of the Terrorism Act 2006 (commission of offences abroad) is amended as follows.  
 (1A) Subsection (2) is amended in accordance with subsections (2) to (4) below.”
- 25** Page 5, line 31, at end insert –  
 “( ) In subsection (3), after “citizen” insert “(subject to subsection (3A))”.  
 ( ) After subsection (3) insert –  
 “(3A) Subsection (1) applies in the case of an offence falling within subsection (2)(ca) or (cb) only if at the time of committing the offence the person is a United Kingdom national or a United Kingdom resident.  
 (3B) In subsection (3A) –  
 “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.””

LORD PADDICK  
BARONESS HAMWEE

- 26★** Page 5, line 31, at end insert –  
 “( ) After subsection (2) of section 17 of that Act insert –  
 “(2A) An offence is only committed under paragraph (ca) or paragraph (cb) of subsection (2) if the relevant acts were an offence in the country where the acts took place.””

**Schedule 1**

BARONESS WILLIAMS OF TRAFFORD

- 27** Page 28, line 8, at end insert –  
 “(ca) the cases in which a person “holds” an account include those where the person is entitled to operate the account;”

**Clause 13**LORD PADDICK  
BARONESS HAMWEE

- 28** Page 15, line 27, leave out from “assessing” to “and” in line 28 and insert “whether the person to whom the warrant relates is in breach of notification requirements”

**After Clause 16**

BARONESS WILLIAMS OF TRAFFORD

29 Insert the following new Clause –

**“Persons detained under port and border control powers**

- (1) Schedule 8 to the Terrorism Act 2000 (detention) is amended as follows.
- (2) In paragraph 6, after sub-paragraph (3) insert –
  - “(4) A detained person must be informed of the right under this paragraph on first being detained.”
- (3) In paragraph 7, after sub-paragraph (2) insert –
  - “(3) A detained person must be informed of the right under this paragraph on first being detained.”
- (4) In paragraph 9 –
  - (a) for sub-paragraphs (1) and (2) substitute –
    - “(1) This paragraph applies where a detained person exercises the right under paragraph 7 to consult a solicitor.
    - (2) A police officer of at least the rank of superintendent may direct that the right –
      - (a) may not be exercised (or further exercised) by consulting the solicitor who attends for the purpose of the consultation or who would so attend but for the giving of the direction, but
      - (b) may instead be exercised by consulting a different solicitor of the detained person’s choosing.
  - (2A) A direction under this paragraph may be given before or after a detained person’s consultation with a solicitor has started (and if given after it has started the right to further consult that solicitor ceases on the giving of the direction).”, and
  - (b) omit sub-paragraphs (4) and (5).
- (5) In paragraph 16 –
  - (a) in sub-paragraph (8), omit “Subject to paragraph 17,”, and
  - (b) after sub-paragraph (9) insert –
    - “(10) A detained person must be informed of the rights under sub-paragraphs (1) and (6) on first being detained.”
- (6) In paragraph 17 –
  - (a) for sub-paragraphs (1) and (2) substitute –
    - “(1) This paragraph applies where a detained person exercises the right under paragraph 16(6) to consult a solicitor.
    - (2) A police officer not below the rank of superintendent may, if it appears to the officer to be necessary on one of the grounds mentioned in sub-paragraph (3), direct that the right –
      - (a) may not be exercised (or further exercised) by consulting the solicitor who attends for the purpose of the consultation or who would so attend but for the giving of the direction, but
      - (b) may instead be exercised by consulting a different solicitor of the detained person’s choosing.

**After Clause 16 - continued**

- (2A) A direction under this paragraph may be given before or after a detained person's consultation with a solicitor has started (and if given after it has started the right to further consult that solicitor ceases on the giving of the direction).", and
- (b) in sub-paragraph (3), in the opening words for "(1)" substitute "(2)"."

**Schedule 2**

LORD PADDICK  
BARONESS HAMWEE

- 30★ Page 29, line 16, at end insert “, and
- (c) the Commissioner for the Retention and Use of Biometric Material has consented under section 63G to the retention of the material.”

**Clause 19**

LORD PADDICK  
LORD STUNELL

- 31 Page 21, line 37, at end insert –
- “( ) After subsection (3) insert –
- “(3A) The Secretary of State must ensure the collection and annual release of statistics on –
- (a) the religion, and
- (b) the ethnicity,
- of identified individuals referred under subsection (2).”

LORD KENNEDY OF SOUTHWARK  
LORD ROSSER  
LORD STUNELL

- 32 Page 22, line 2, at end insert –
- “(8) The Secretary of State must, within the period of 6 months beginning with the day on which this Act is passed, make arrangements for an independent review and report on the Government strategy for supporting people vulnerable to being drawn into terrorism.
- (9) The report and any recommendations of the review under subsection (8) must be laid before both Houses of Parliament within the period of 18 months beginning with the day on which this Act is passed.
- (10) The laying of the report and recommendations under subsection (9) must be accompanied by a statement by the Secretary of State responding to each recommendation made as part of the independent review.”

**Clause 21**

LORD PADDICK  
BARONESS HAMWEE

33 Page 22, line 19, at end insert –

- “(2) The Secretary of State must lay a report annually before both Houses of Parliament setting out details of the exercise of each of the powers provided by Schedule 3 to this Act, and Schedule 7 to the Terrorism Act 2000, during the year in question.”

**After Clause 21**

LORD MARLESFORD

34 Insert the following new Clause –

**“Review: national identity numbers**

- (1) Within the period of 2 years beginning with the day on which this Act is passed, the Secretary of State must lay a report before both Houses of Parliament reviewing the case for the introduction of national identity numbers to assist in countering terrorism and ensuring border security.
- (2) The review must consider whether unique national identity numbers should be linked to a secure and central database containing biometric data to assist with establishing and verifying the identity of possible terrorism suspects or those engaged in hostile state activity, accessible by the relevant national authorities.”

**Schedule 3**

BARONESS WILLIAMS OF TRAFFORD

35 Page 55, line 35, at end insert –

- “( ) A detainee must be informed of the right under this paragraph on first being detained.”

36 Page 55, line 40, at end insert –

- “( ) A detainee must be informed of the right under this paragraph on first being detained.”

37 Page 57, line 4, leave out sub-paragraphs (1) and (2) and insert –

- “(1) This paragraph applies where a detainee exercises the right under paragraph 30 to consult a solicitor.
- (2) A police officer of at least the rank of superintendent may direct that the right –
- (a) may not be exercised (or further exercised) by consulting the solicitor who attends for the purpose of the consultation or who would so attend but for the giving of the direction, but
  - (b) may instead be exercised by consulting a different solicitor of the detainee’s choosing.

**Schedule 3 - continued**

(2A) A direction under this paragraph may be given before or after a detainee's consultation with a solicitor has started (and if given after it has started the right to further consult that solicitor ceases on the giving of the direction)."

38 Page 57, line 25, leave out sub-paragraphs (5) and (6)

39 Page 60, line 12, leave out "Subject to paragraph 39,"

40 Page 60, line 12, at end insert –

"( ) A detainee must be informed of the rights under sub-paragraphs (1) and (6) on first being detained."

41 Page 60, line 31, leave out sub-paragraphs (1) and (2) and insert –

"(1) Sub-paragraph (2) applies where a detainee exercises the right under paragraph 37(6) to consult a solicitor.

(2) A police officer not below the rank of superintendent may, if it appears to the officer to be necessary on one of the grounds mentioned in sub-paragraph (3), direct that the right –

(a) may not be exercised (or further exercised) by consulting the solicitor who attends for the purpose of the consultation or who would so attend but for the giving of the direction, but

(b) may instead be exercised by consulting a different solicitor of the detainee's choosing.

(2A) A direction under this paragraph may be given before or after a detainee's consultation with a solicitor has started (and if given after it has started the right to further consult that solicitor ceases on the giving of the direction)."

42 Page 60, line 39, leave out "(1)" and insert "(2)"

43 Page 73, line 22, at end insert –

"( ) A person may be specified in regulations under this paragraph only if the person exercises public functions (whether or not in the United Kingdom)."

**Schedule 4**

BARONESS WILLIAMS OF TRAFFORD

44 Page 90, line 2, at end insert –

"38A In Schedule 14 (exercise of officers' powers), in paragraph 4 after sub-paragraph (2) insert –

"(3) A person may be specified in an order under this paragraph only if the person exercises public functions (whether or not in the United Kingdom)."

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*29 November 2018*

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