

Terrorism (Northern Ireland) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Northern Ireland Office, are published separately as Bill 52 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Mr. Secretary Hain has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Terrorism (Northern Ireland) Bill are compatible with the Convention rights.

Terrorism (Northern Ireland) Bill

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Schedule – Repeals and revocations

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B I L L

TO

Provide for Part 7 of the Terrorism Act 2000 to continue in force for a limited period after 18th February 2006 subject to modifications and to authorise the making of provision in connection with its ceasing to have effect; and for connected purposes.

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:—

1 Continuance in force of Part 7 of the Terrorism Act 2000

- (1) This section applies to the provisions of Part 7 of the Terrorism Act 2000 (c. 11) (terrorism provisions applying to Northern Ireland), so far as they are in force on 18th February 2006 but with the exception (if in force on that date) of section 78 (sentencing of children convicted of scheduled offences). 5
- (2) The provisions to which this section applies—
 - (a) shall continue in force after 18th February 2006; but
 - (b) so far as they have not previously ceased to have effect by virtue of an order under section 112(2) of that Act (and subject to subsection (3) of this section), shall cease to have effect as from the end of 31st July 2007. 10
- (3) The Secretary of State may by order provide that any of those provisions which is in force shall continue in force after that date for a specified period ending before 1st August 2008.
- (4) In section 112(2)(c) of that Act (revival of provisions), at the end insert “and ending before 1st August 2007”. 15
- (5) In section 11(4)(a) of the Justice (Northern Ireland) Act 2004 (c. 4) (expiry on 19th February 2006 of provisions relating to bail under section 67 of the Terrorism Act 2000), for “on 19th February 2006” substitute “as from the end of 31st July 2007”.
- (6) An order under subsection (3) may— 20

- (a) amend section 112(2)(c) of the Terrorism Act 2000 (c. 11) and section 11(4)(a) of the Justice (Northern Ireland) Act 2004 (c. 4) by, in each case, substituting “2008” for “2007”;
 - (b) make different provision for different purposes; and
 - (c) contain savings and make transitional or transitory provision. 5
- (7) The power to make an order under subsection (3) is exercisable by statutory instrument.
- (8) No order may be made under subsection (3) unless a draft of it has been laid before Parliament and approved by a resolution of each House.
- (9) Paragraph 37 of Schedule 4 to the Terrorism Act 2000 (offence of contravening restraint order) shall be treated for the purposes of this section as forming part of Part 7 of that Act. 10

2 Repeal of provisions of Part 7

- (1) Neither –
- (a) the power under section 112(2)(c) of the Terrorism Act 2000 to bring into force provisions of that Part that are not in force, nor
 - (b) the power under section 1(3) of this Act to continue in force provisions of that Part,
- shall apply to the provisions of that Act specified in subsection (2) of this section. 20
- (2) Those provisions are –
- (a) section 67(3) and (4) (discretion to admit to bail);
 - (b) sections 70 and 71 (remand in custody of young persons charged with scheduled offences);
 - (c) section 76 (admissions in trials on indictment); 25
 - (d) section 78 (sentencing of children convicted of scheduled offences);
 - (e) section 97 (port and border controls);
 - (f) section 100 (code of practice for video recording);
 - (g) paragraph 36 of Schedule 4 (power of Secretary of State to make restraint order); and 30
 - (h) paragraphs 19 to 21 of Schedule 5 (powers of Secretary to confer powers of search, to require information, etc.).
- (3) For section 112(5) of that Act substitute –
- “(5) Paragraph 37 of Schedule 4 to this Act shall be treated for the purposes of this section as forming part of this Part of this Act.” 35

3 Scheduled offences

- (1) In Part 1 of Schedule 9 to the Terrorism Act 2000 (scheduled offences) –
- (a) omit “subject to note 1 below”, wherever occurring, and in note 1 “which is stated to be subject to this note” (which limit the listed offences that may be certified in particular cases as to be treated as if not scheduled); 40
 - (b) omit the words in note 2 after “1983” (under which blackmail cannot be certified where it is committed by or in relation to nuclear material); and

- (c) insert after note 4 –
 “5 Notes 2 to 4 are subject to note 1.”
- (2) In paragraph 10 of that Part of that Schedule –
 (a) at the beginning insert “Subject to notes 2 and 3 below,”; and
 (b) in each place where they occur, omit “subject to note 2 below”, “subject to notes 1 and 3 below” and “subject to notes 1 and 2 below”. 5
- (3) After paragraph 22A of that Part of that Schedule insert –
 “*Prevention of Terrorism Act 2005*
 22B Offences under section 9 of the Prevention of Terrorism Act 2005
 (contravention of control order obligations and obstruction of
 persons serving control order).” 10
- (4) An offence is a scheduled offence by virtue of this section only if –
 (a) the offence is charged as having been committed on, after or on or after
 a particular date; and
 (b) that date is after 18th February 2006. 15
- (5) For the purposes of subsection (4) an offence charged as having been
 committed between two different dates is to be treated as charged as having
 been committed on or after the earlier of those dates.
- 4 Transitional provision in connection with expiry etc. of Part 7 of 2000 Act**
- (1) The Secretary of State may by order make – 20
 (a) such transitional provision,
 (b) such provision for savings, and
 (c) such consequential amendments and repeals of enactments referring to
 provisions in Part 7 of the Terrorism Act 2000 (c. 11),
 as he considers appropriate in connection with provisions of that Part ceasing 25
 to have effect at any time by virtue of provision made by or under section 1 of
 this Act or section 112 of that Act.
- (2) The provision that may be made by an order under this section in relation to
 times after provisions of Part 7 of the Terrorism Act 2000 cease to have effect 30
 include –
 (a) provision authorising the retention of anything of which possession
 has been taken, or which is detained, under that Part;
 (b) provision about the handling, disposal or restoration of anything in
 relation to which powers have been exercised under that Part
 (including provision for the return of property to a person determined 35
 in accordance with the order or for its disposal in any other manner so
 determined);
 (c) provision authorising the continuance of any interference begun under
 section 91 of that Act (taking possession of land etc.);
 (d) provision for section 93 of that Act (offence and other supplementary 40
 provisions) to continue to have effect in relation to things continued or
 saved by virtue of paragraph (c) of this subsection, and in relation to
 things executed or used in connection with anything so continued or
 saved;

- (e) provision authorising the continuance of any closure or diversion under section 94 of that Act (directions for road closures and diversions) and for the continuance in force, in relation to anything continued or saved by virtue of this paragraph, of the provisions of that section relating to offences; 5
 - (f) provision applying provisions of Schedule 12 to that Act (compensation) to cases in which applications for compensation have been or are made in relation to things done before provisions of Part 7 of that Act cease to have effect or in relation to things done afterwards by virtue of an order under this section; 10
 - (g) provision for section 113 of that Act (transitional effect) to have effect, notwithstanding its inclusion in Part 7 of that Act, in relation to times after that Part has ceased to have effect; and
 - (h) provision disapplying or modifying provisions of that section.
- (3) An order under this section may – 15
- (a) include such incidental and supplementary provision as the Secretary of State thinks fit; and
 - (b) make different provision for different cases.
- (4) The power to make order under this section is exercisable by statutory instrument. 20
- (5) No order may be made under this section unless a draft of it has been laid before Parliament and approved by a resolution of each House.

5 Short title, repeals, commencement and extent

- (1) This Act may be cited as the Terrorism (Northern Ireland) Act 2005.
- (2) The enactments and instruments in the first column of the Schedule are repealed or revoked to the extent set out in the second column. 25
- (3) This Act comes into force at the end of 18th February 2006.
- (4) This Act extends only to Northern Ireland.

SCHEDULE

Section 5

REPEALS AND REVOCATIONS

<i>Citation</i>	<i>Extent of repeal or revocation</i>	
Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))	Article 74(9). Article 76(2)(b) and the word “or” immediately preceding it.	5
Terrorism Act 2000 (c. 11)	Section 67(3) and (4). Sections 70 and 71. Section 76. Section 78. Section 97. Section 100. In section 101(1), the words “or 100”. In section 112 –	10
	(a) subsection (1); (b) in subsection (2), paragraph (a); (c) subsection (4). In section 123 –	15
	(a) subsection (2)(f) and (g); and (b) subsection (8)(b) and (c). In Schedule 4, paragraph 36. In Schedule 5, paragraphs 19 to 21. In Part 1 of Schedule 9 –	20
	(a) the words “subject to note 1 below”, wherever occurring; (b) in paragraph 10, in each place where they occur, the words “subject to note 2 below”, the words “subject to notes 1 and 3 below” and the words “subject to notes 1 and 2 below”;	25
	(c) in note 1, the words “which is stated to be subject to this note”; (d) in note 2, the words after “1983”.	30
Justice (Northern Ireland) Act 2002 (c. 26)	In Schedule 11, paragraphs 22 to 24.	35

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*Presented by Mr Secretary Hain
supported by
Mr Secretary Straw, Secretary John Reid,
Mr Secretary Clarke and Mr Shaun Woodward.*

*Ordered, by The House of Commons,
to be printed, 11th October 2005.*

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