

Counter-Terrorism Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Home Office, will be published separately as HL Bill 65 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Lord West of Spithead has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Counter-Terrorism Bill are compatible with the Convention rights.

Counter-Terrorism Bill

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Confer further powers to gather and share information for counter-terrorism and other purposes; to make further provision about the detention and questioning of terrorist suspects and the prosecution and punishment of terrorist offences; to impose notification requirements on persons convicted of such offences; to amend the law relating to asset freezing proceedings under United Nations terrorism orders; to amend the law relating to inquests and inquiries; to amend the definition of “terrorism”; to amend the enactments relating to terrorist offences, control orders and the forfeiture of terrorist cash; to provide for recovering the costs of policing at certain gas facilities; to amend provisions about the appointment of special advocates in Northern Ireland; 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:—

PART 1

POWERS TO GATHER AND SHARE INFORMATION

Power to remove documents for examination

1 Power to remove documents for examination

- (1) This section applies to a search under any of the following provisions— 5
- (a) section 43(1) of the Terrorism Act 2000 (c. 11) (search of suspected terrorist);
 - (b) section 43(2) of that Act (search of person arrested under section 41 on suspicion of being a terrorist);
 - (c) paragraph 1, 3, 11, 15, 28 or 31 of Schedule 5 to that Act (terrorist investigations); 10

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- (d) section 52(1) or (3)(b) of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (search for evidence of commission of weapons-related offences);
- (e) section 7A, 7B or 7C of the Prevention of Terrorism Act 2005 (c. 2) (searches in connection with control orders); 5
- (f) section 28 of the Terrorism Act 2006 (c. 11) (search for terrorist publications).
- (2) A constable who carries out a search to which this section applies may, for the purpose of ascertaining whether a document is one that may be seized, remove the document to another place for examination and retain it there until the examination is completed. 10
- (3) Where a constable carrying out a search to which this section applies has power to remove a document by virtue of this section, and the document –
- (a) consists of information that is stored in electronic form, and
- (b) is accessible from the premises being searched, 15
- the constable may require the document to be produced in a form in which it can be taken away, and in which it is visible and legible or from which it can readily be produced in a visible and legible form.
- (4) Where a document is removed under this section a constable has the same powers of seizure as if it had not been removed and any matters discovered on examination after removal had been discovered before its removal. 20
- 2 Offence of obstruction**
- (1) A person who wilfully obstructs a constable in the exercise of the power conferred by section 1 commits an offence.
- (2) A person guilty of an offence under this section is liable on summary conviction – 25
- (a) in England and Wales, to imprisonment for a term not exceeding 51 weeks or a fine not exceeding level 5 on the standard scale, or both;
- (b) in Scotland, to imprisonment for a term not exceeding twelve months or a fine not exceeding level 5 on the standard scale, or both; 30
- (c) in Northern Ireland, to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale, or both.
- (3) In subsection (2)(a) as it applies in relation to an offence committed before section 281(5) of the Criminal Justice Act 2003 (c. 44) comes into force, for “51 weeks” substitute “six months”. 35
- 3 Items subject to legal privilege**
- (1) Section 1 does not authorise a constable to remove a document if the constable has reasonable cause to believe –
- (a) it is an item subject to legal privilege, or
- (b) it has an item subject to legal privilege comprised in it. 40
- (2) Subsection (1)(b) does not prevent the removal of a document if it is not reasonably practicable for the item subject to legal privilege to be separated from the rest of the document without prejudicing any use of the rest of the document that would be lawful if it were subsequently seized.

- (3) If, after a document has been removed under section 1, it is discovered that –
 - (a) it is an item subject to legal privilege, or
 - (b) it has an item subject to legal privilege comprised in it,the document must be returned forthwith.
- (4) Subsection (3)(b) does not require the return of a document if it is not reasonably practicable for the item subject to legal privilege to be separated from the rest of the document without prejudicing any use of the rest of the document that would be lawful if it were subsequently seized. 5
- (5) Where an item subject to legal privilege is removed under subsection (2) or retained under subsection (4), it must not be examined or put to any other use except to the extent necessary for facilitating the examination of the rest of the document. 10
- (6) For the purposes of this section “item subject to legal privilege” –
 - (a) in England and Wales, has the same meaning as in the Police and Criminal Evidence Act 1984 (c. 60); 15
 - (b) in Scotland, has the meaning given by section 412 of the Proceeds of Crime Act 2002 (c. 29);
 - (c) in Northern Ireland, has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)). 20

4 Record of removal

- (1) A constable who removes a document under section 1 must make a written record of the removal.
- (2) The record must be made as soon as is reasonably practicable and in any event within the period of 24 hours beginning with the time when the document was removed. 25
- (3) The record must –
 - (a) describe the document,
 - (b) specify the object of the removal,
 - (c) where the document was found in the course of a search of a person, state the person’s name (if known), 30
 - (d) where the document was found in the course of a search of any premises, state the address of the premises where the document was found,
 - (e) where the document was found in the course of a search of any premises, state the name (if known) of – 35
 - (i) any person who, when the record is made, appears to the constable to have been the occupier of the premises when the document was found, and
 - (ii) any person who, when the record is made, appears to the constable to have had custody or control of the document when it was found, and 40
 - (f) state the date and time when the document was removed.
- (4) If, in a case where the document was found in the course of a search of a person, the constable does not know the person’s name, the record must include a description of the person. 45

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- (5) If, in a case where the document was found in the course of a search of any premises, the constable does not know the name of a person mentioned in subsection (3)(e) but is able to provide a description of that person, the record must include such a description.
- (6) The record must identify the constable by reference to the constable’s police number. 5
- (7) The following are entitled, on a request made to the constable, to a copy of the record made under this section –
- (a) where the document was found in the course of a search of a person, that person; and 10
 - (b) where the document was found in the course of a search of any premises –
 - (i) the occupier of the premises when it was found, and
 - (ii) any person who had custody or control of the document when it was found. 15
- (8) The constable must provide the copy within a reasonable time from the making of the request.
- (9) If, in England and Wales or Northern Ireland, the document is found in the course of a search under a warrant, the constable must make an endorsement on the warrant stating that the document has been removed under section 1. 20
- (10) In the application of this section in relation to the search of a vehicle, the reference to the address of the premises is to the location of the vehicle together with its registration number (if any).
- 5 Retention of documents**
- (1) A document may not be retained by virtue of section 1 for more than 48 hours without further authorisation. 25
- (2) A constable of at least the rank of chief inspector may authorise the retention of the document for a further period or periods if satisfied that –
- (a) the examination of the document is being carried out expeditiously, and 30
 - (b) it is necessary to continue the examination for the purpose of ascertaining whether the document is one that may be seized.
- (3) This does not permit the retention of a document after the end of the period of 96 hours beginning with the time when it was removed for examination.
- 6 Access to documents** 35
- (1) Where –
- (a) a document is retained by virtue of section 5, and
 - (b) a request for access to the document is made to the officer in charge of the investigation by a person within subsection (3),
- the officer must grant that person access to the document, under the supervision of a constable, subject to subsection (4). 40
- (2) Where –
- (a) a document is retained by virtue of section 5, and

- (b) a request for a copy of the document is made to the officer in charge of the investigation by a person within subsection (3), that person must be provided with a copy of the document within a reasonable time from the making of the request, subject to subsection (4).
- (3) The persons entitled to make a request under subsection (1) or (2) are – 5
- (a) where the document was found in the course of a search of a person, that person,
 - (b) where the document was found in the course of a search of any premises – 10
 - (i) the occupier of the premises when it was found, and
 - (ii) any person who had custody or control of the document when it was found, and
 - (c) a person acting on behalf of a person within paragraph (a) or (b).
- (4) The officer in charge of the investigation may refuse access to the document, or (as the case may be) refuse to provide a copy of it, if the officer has reasonable grounds for believing that to do so – 15
- (a) would prejudice any investigation for the purposes of which –
 - (i) the original search was carried out, or
 - (ii) the document was removed or is being retained,
 - (b) would prejudice the investigation of any offence, 20
 - (c) would prejudice any criminal proceedings that may be brought as the result of an investigation within paragraph (a) or (b), or
 - (d) would facilitate the commission of an offence.
- (5) In this section – 25
- “the officer in charge of the investigation” means the officer in charge of the investigation for the purposes of which the document is being retained; and
 - “the original search” means the search in the course of which the document was removed.
- 7 Photographing and copying of documents 30**
- (1) Where a document is removed under section 1 it must not be photographed or copied, except that –
- (a) a document may be copied for the purpose of providing a copy in response to a request under section 6(2), and
 - (b) a document consisting of information stored in electronic form may be copied for the purpose of producing it in a visible and legible form. 35
- (2) Where the original document is returned, any copy under subsection (1)(b) must –
- (a) in the case of a copy in electronic form, be destroyed or made inaccessible as soon as is reasonably practicable, and 40
 - (b) in any other case, be returned at the same time as the original document is returned.
- (3) The following are entitled, on a request made to the relevant chief officer of police, to a certificate that subsection (2) has been complied with –
- (a) where the document was found in the course of a search of a person, that person; 45

-
- (b) where the document was found in the course of a search of any premises –
- (i) the occupier of the premises when it was found, and
 - (ii) any person who had custody or control of the document when it was found. 5
- (4) The certificate must be issued by the relevant chief officer of police, or a person authorised by or on behalf of that chief officer, not later than the end of the period of three months beginning with the day on which the request is made.
- (5) For this purpose the relevant chief officer of police is –
- (a) where the search was carried out in England or Wales, the chief officer of police in whose area the search was carried out; 10
 - (b) where the search was carried out in Scotland, the chief constable of the police force for the area in which the search was carried out;
 - (c) where the search was carried out in Northern Ireland, the Chief Constable of the Police Service of Northern Ireland. 15
- 8 Return of documents**
- (1) Where a document removed under section 1 is required to be returned, it must be returned –
- (a) where the document was found in the course of a search of a person, to that person; 20
 - (b) where the document was found in the course of a search of any premises, to the occupier of the premises when it was found.
- (2) Subsection (1) does not apply where a person who is required to return the document is satisfied that another person has a better right to it; and in such a case it must be returned –
- (a) to that other person, or
 - (b) to whoever appears to the person required to return the document to have the best right to it. 25
- (3) Where different persons claim to be entitled to the return of the document, it may be retained for as long as is reasonably necessary for the determination of the person to whom it must be returned. 30
- (4) This section also applies in relation to a copy of a document that is required to be returned at the same time as the original; and in such a case references to the document in paragraphs (a) and (b) of subsection (1) are to the original.
- 9 Power to remove documents: supplementary provisions** 35
- (1) In sections 1 to 8 “document” includes any record and, in particular, includes information stored in electronic form.
- (2) In the application of those sections to a search under 52(1) of the Anti-terrorism, Crime and Security Act 2001 (c. 24), for references to a constable substitute references to an authorised officer within the meaning of that section. 40
- (3) In the application of those sections in relation to the search of a vehicle references to the occupier of the premises are to the person in charge of the vehicle.

Power to take fingerprints and samples from person subject to control order

10 Power to take fingerprints and samples: England and Wales

- (1) In section 61 of the Police and Criminal Evidence Act 1984 (c. 60) (fingerprinting), after subsection (6B) insert –
 - “(6BA) A constable may take a person’s fingerprints without the appropriate consent if the person is subject to a control order.”. 5
- (2) In section 63 of that Act (other samples), after subsection (3C) insert –
 - “(3D) A non-intimate sample may also be taken from a person without the appropriate consent if the person is subject to a control order.”.
- (3) In section 63A of that Act (fingerprints and samples: supplementary provisions) –
 - (a) in subsection (1) (checking against other fingerprints or samples), after “reported for such an offence” insert “or he is or has been subject to a control order”;
 - (b) after subsection (6) insert – 15
 - “(6A) A constable may require a person who is subject to a control order to attend a police station in order to –
 - (a) have his fingerprints taken in accordance with section 61(6BA);
 - (b) have a non-intimate sample taken in accordance with section 63(3D).”.
- (4) In section 64 of that Act (destruction of fingerprints and samples), after subsection (1A) insert –
 - “(1AA) Where fingerprints or samples are taken from a person who is subject to a control order the fingerprints or samples may be retained after they have fulfilled the purposes for which they were taken but shall not be used by any person except as described in subsection (1AB).”. 25
- (5) In section 65(1) of that Act (interpretation), at the appropriate places insert –
 - ““control order” has the same meaning as in the Prevention of Terrorism Act 2005;”;
 - ““person subject to a control order” means a person who has become bound by a control order (see section 7(8) of the Prevention of Terrorism Act 2005) that remains in force;”. 30
- (6) The following amendments of that Act are consequential on those above –
 - (a) in section 61 – 35
 - (i) in subsection (6C) after “subsection (6A)” insert “or (6BA)”;
 - (ii) in subsection (7) for “or (6A)” substitute “, (6A) or (6BA)”;
 - (iii) in subsection (7A) after “subsection (6A)”, in both places where it occurs, insert “or (6BA)”;
 - (b) in section 63 (other samples) – 40
 - (i) in subsection (8A) for “or (3C)” substitute “, (3C) or (3D)”;
 - (ii) in the opening words of subsection (8B) after “police station” insert “or by virtue of subsection (3D) at a place other than a police station”;

- (iii) in paragraph (a) of that subsection after “officer” insert “, or, in a subsection (3D) case, a constable,”;
- (c) in section 63A(7) after “subsection (4)” insert “or (6A)”;
- (d) in section 64(1B) after “subsection (1A)” insert “, (1AA)”.

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| 11 | Power to take fingerprints and samples: Scotland | 5 |
| (1) | This section applies in relation to a person who is subject to a control order in Scotland. | |
| (2) | A constable may – | |
| | (a) take from the person, or require the person to provide, any relevant physical data, | 10 |
| | (b) with the authority of an officer of a rank no lower than inspector, take from the person any sample mentioned in paragraph (a), (b) or (c) of subsection (6) of section 18 (prints, samples etc. in criminal investigations) of the Criminal Procedure (Scotland) Act 1995 (c. 46) (“the 1995 Act”) by the means specified in that paragraph in relation to the sample, | 15 |
| | (c) take, or direct a police custody and security officer to take, from the person a sample mentioned in subsection (6A) of that section by the means specified in that subsection. | |
| (3) | A constable may – | 20 |
| | (a) require the person to attend a police station for the purposes of subsection (2), and | |
| | (b) arrest without warrant a person who fails to comply with such a requirement. | |
| (4) | A constable may use reasonable force in – | 25 |
| | (a) taking any relevant physical data under subsection (2)(a), | |
| | (b) securing compliance with a requirement imposed by the constable under that subsection, or | |
| | (c) taking any sample under subsection (2)(b). | |
| (5) | A constable may, with the authority of an officer of a rank no lower than inspector, use reasonable force in taking any sample under subsection (2)(c). | 30 |
| (6) | Any relevant physical data or sample obtained under this section, and information derived from it, may be retained but may not be used by any person except – | |
| | (a) for the purposes of a terrorist investigation, or | 35 |
| | (b) in the interests of national security. | |
| (7) | Subject to subsection (6), any data or sample obtained under this section, or information derived from it, may, in particular, be checked against – | |
| | (a) other such data, samples or information, | |
| | (b) any of the relevant physical data, samples and information to which section 20 of the 1995 Act applies, | 40 |
| | (c) any of the fingerprints, samples and information mentioned in section 63A(1)(a) and (b) of the Police and Criminal Evidence Act 1984 (c. 60) (checking of fingerprints and samples), and | |
| | (d) material to which section 18 of this Act applies (material not subject to existing statutory restrictions). | 45 |

- (8) In this section –
- “control order” has the same meaning as in the Prevention of Terrorism Act 2005 (c. 2);
 - “person subject to a control order” means a person who has become bound by a control order (see section 7(8) of the Prevention of Terrorism Act 2005) that remains in force; 5
 - “relevant physical data” has the same meaning as it has for the purposes of section 18 of the 1995 Act (see subsections (7A) and (7B) of that section);
 - “terrorist investigation” has the meaning given in section 32 of the Terrorism Act 2000 (c. 11). 10

12 Power to take fingerprints and samples: Northern Ireland

- (1) In Article 53(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (interpretation of Part VI), at the appropriate places insert – 15
- ““control order” has the same meaning as in the Prevention of Terrorism Act 2005;”;
 - ““person subject to a control order” means a person who has become bound by a control order (see section 7(8) of the Prevention of Terrorism Act 2005) that remains in force;” 20
- (2) In Article 61 of that Order (fingerprinting), after paragraph (6B) insert –
- “(6BA) A constable may take a person’s fingerprints without the appropriate consent if the person is subject to a control order.”.
- (3) In Article 63 of that Order (other samples), after paragraph (3B) insert –
- “(3C) A non-intimate sample may also be taken from a person without the appropriate consent if the person is subject to a control order.”. 25
- (4) In Article 63A of that Order (fingerprints and samples: supplementary provisions) –
- (a) in paragraph (1) (checking against other fingerprints and samples), after “reported for such an offence” insert “or he is or has been subject to a control order”; 30
 - (b) after paragraph (6) insert –
 - “(6A) A constable may require a person who is subject to a control order to attend a police station in order to – 35
 - (a) have his fingerprints taken in accordance with Article 61(6BA);
 - (b) have a non-intimate sample taken in accordance with Article 63(3C).”.
- (5) In Article 64 of that Order (destruction of fingerprints and samples), after paragraph (1A) insert – 40
- “(1AA) Where fingerprints or samples are taken from a person who is subject to a control order the fingerprints or samples may be retained after they have fulfilled the purposes for which they were taken but shall not be used by any person except as described in paragraph (1AB).”.
- (6) The following amendments of that Order are consequential on those above – 45

- (a) in Article 61 –
- (i) in paragraph (6C) after “paragraph (6A)” insert “or (6BA)”;
 - (ii) in paragraph (7) for “or (6A)” substitute “, (6A) or (6BA)”;
 - (iii) in paragraph (7A) after “paragraph (6A)”, in both places where it occurs, insert “or (6BA)”;
- (b) in Article 63 –
- (i) in paragraph (8A) for “or (3B)” substitute “, (3B) or (3C)”;
 - (ii) in the opening words of paragraph (8B) after “police station” insert “or by virtue of paragraph (3C) at a place other than a police station”;
 - (iii) in sub-paragraph (a) of that paragraph after “officer” insert “(or, in a paragraph (3C) case, a constable)”;
- (c) in Article 63A(7) after “paragraph (4)” insert “or (6A)”;
- (d) in Article 64(1B), after “paragraph (1A)” insert “, (1AA)”.
- 13 Power to take fingerprints and samples: transitional provision** 15
- The provisions of –
- section 10 (power to take fingerprints and samples: England and Wales),
 - section 11 (power to take fingerprints and samples: Scotland), and
 - section 12 (power to take fingerprints and samples: Northern Ireland),
- have effect from the commencement of the relevant section regardless of when the control order was made. 20
- Retention and use of fingerprints and samples*
- 14 Material subject to the Police and Criminal Evidence Act 1984**
- (1) The Police and Criminal Evidence Act 1984 (c. 60) is amended as follows.
- (2) In section 63A(1) (fingerprints, impressions of footwear and samples: what they may be checked against), for paragraphs (a) and (b) substitute – 25
- “(a) other fingerprints, impressions of footwear or samples –
 - (i) to which the person seeking to check has access and which are held by or on behalf of any one or more relevant law-enforcement authorities or are held in connection with or as a result of an investigation of an offence, or
 - (ii) which are held by or on behalf of the Security Service or the Secret Intelligence Service; - (b) information derived from other samples – 35
 - (i) which is contained in records to which the person seeking to check has access and which are held as mentioned in paragraph (a)(i) above, or
 - (ii) which is held by or on behalf of the Security Service or the Secret Intelligence Service.”. 40
- (3) In section 63A(1ZA) (fingerprints from a person whose identity is unclear: what they may be checked against), for the words from “other fingerprints” to the end, substitute “–
- (a) other fingerprints to which the person seeking to check has access and which are held by or on behalf of any one or more 45

- relevant law-enforcement authorities or which are held in connection with or as a result of an investigation of an offence, or
- (b) which are held by or on behalf of the Security Service or the Secret Intelligence Service.”. 5
- (4) In section 64(1A) of that Act (purposes for which fingerprints, impressions of footwear or samples may be retained and used), for the words from “except for purposes” to the end substitute “except as described in subsection (1AB)”.
- (5) After subsection (1AA) (inserted by section 10), insert –
- “(1AB) The fingerprints, impressions of footwear or samples may be used – 10
- (a) in the interests of national security,
- (b) for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution, or
- (c) for purposes related to the identification of a deceased person or of the person from whom the material came.”. 15
- (6) In subsection (1B) of that section, after “(1AA)” (inserted by section 10) insert “or (1AB)”.
- 15 Material subject to the Police and Criminal Evidence (Northern Ireland) Order 1989**
- (1) The Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) is amended as follows. 20
- (2) In Article 63A(1) (fingerprints and samples: what they may be checked against), for paragraphs (a) and (b), substitute –
- “(a) other fingerprints, impressions of footwear or samples – 25
- (i) to which the person seeking to check has access and which are held by or on behalf of any one or more relevant law-enforcement authorities or are held in connection with or as a result of an investigation of an offence, or
- (ii) which are held by or on behalf of the Security Service or the Secret Intelligence Service; 30
- (b) information derived from other samples –
- (i) which is contained in records to which the person seeking to check has access and which are held as mentioned in paragraph (a)(i) above, or 35
- (ii) which is held by or on behalf of the Security Service or the Secret Intelligence Service.”.
- (3) In Article 63A(1ZA) (fingerprints from a person whose identity is unclear: what they may be checked against), for “other fingerprints” to the end, substitute “– 40
- (a) other fingerprints to which the person seeking to check has access and which are held by or on behalf of any one or more relevant law-enforcement authorities or which are held in connection with or as a result of an investigation of an offence, or 45
- (b) which are held by or on behalf of the Security Service or the Secret Intelligence Service.”.

- (4) In Article 64(1A) of that Order (purposes for which fingerprints or samples may be retained and used), for the words from “except for purposes” to the end substitute “except as described in paragraph (1AB)”.
- (5) After paragraph (1AA) (inserted by section 12) insert –
- “(1AB) The fingerprints, impressions of footwear or samples may be used – 5
- (a) in the interests of national security,
- (b) for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution, or
- (c) for purposes related to the identification of a deceased person or of the person from whom the material came.”. 10
- (6) In paragraph (1B) of that Article, after “(1AA)” (inserted by section 12) insert “or (1AB)”.
- 16 Material subject to the Terrorism Act 2000: England and Wales and Northern Ireland**
- (1) Paragraph 14 of Schedule 8 to the Terrorism Act 2000 (rights of persons detained in England, Wales or Northern Ireland: retention and use of fingerprints and samples etc) is amended as follows. 15
- (2) In sub-paragraph (2) (purposes for which fingerprints and samples may be used) for the words from “or for purposes related” to the end substitute “or as mentioned in sub-paragraph (2A)”. 20
- (3) After that sub-paragraph insert –
- “(2A) The fingerprints or samples may be used –
- (a) in the interests of national security,
- (b) for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution, or 25
- (c) for purposes related to the identification of a deceased person or of the person from whom the material came.”.
- (4) Omit sub-paragraph (3).
- (5) In sub-paragraph (4) (what fingerprints, samples or other information may be checked against), after paragraph (b) insert – 30
- “(ba) material to which section 18 of the Counter-Terrorism Act 2008 applies,”.
- 17 Material subject to the Terrorism Act 2000: Scotland**
- (1) Part 1 of Schedule 8 to the Terrorism Act 2000 (treatment of detained persons) is amended as follows. 35
- (2) In paragraph 20 (persons detained in Scotland: fingerprinting etc), in sub-paragraph (3) (retention and use of physical data or samples), for the words from “except” to the end substitute “except –
- (a) for the purposes of a terrorist investigation, 40
- (b) in the interests of national security, or

- (c) for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution.”.
 - (3) After paragraph 20, insert –
 - “21 (1) Section 20 of the Criminal Procedure (Scotland) Act 1995 applies to relevant physical data or samples taken from a person detained under Schedule 7 or section 41 at a police station in Scotland with the following modifications. 5
 - (2) Omit the references to impressions.
 - (3) For the words from “against other such data” to the end substitute “, subject to paragraph 20(3) of Schedule 8 to the Terrorism Act 2000, against – 10
 - (a) other such data, samples and information,
 - (b) any of the fingerprints, samples and information mentioned in section 63A(1)(a) and (b) of the Police and Criminal Evidence Act 1984 (c. 60) (checking of fingerprints and samples), and 15
 - (c) material to which section 18 of the Counter-Terrorism Act 2008 applies.”.
- 18 Material not subject to existing statutory restrictions 20**
- (1) This section applies to –
 - (a) DNA samples or profiles, or
 - (b) fingerprints,that are not held subject to existing statutory restrictions.
 - (2) Material to which this section applies that is held by a law enforcement authority in England and Wales or Northern Ireland may be retained by that authority and used – 25
 - (a) in the interests of national security,
 - (b) for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution, or 30
 - (c) for purposes related to the identification of a deceased person or of the person from whom the material came,if the following condition is met.
 - (3) The condition is that the material has been –
 - (a) obtained by the authority – 35
 - (i) pursuant to an authorisation under Part 3 of the Police Act 1997 (c. 50) (authorisation of action in respect of property), or
 - (ii) in the course of surveillance, or use of a covert human intelligence source, authorised under Part 2 of the Regulation of Investigatory Powers Act 2000 (c. 23), 40
 - (b) supplied to the authority by another law enforcement authority, or
 - (c) otherwise lawfully obtained or acquired by the authority for any of the purposes mentioned in subsection (2).
 - (4) In subsection (2) –

- (a) the reference to using material includes allowing a check to be made against it, or against information derived from it, or disclosing it to any person;
- (b) the reference to crime includes any conduct that –
- (i) constitutes a criminal offence (whether under the law of a part of the United Kingdom or of a country or territory outside the United Kingdom), or
 - (ii) is, or corresponds to, conduct that, if it took place in the United Kingdom, would constitute a criminal offence;
- (c) the references to investigation and prosecution include, respectively, the investigation outside the United Kingdom of a crime or suspected crime and a prosecution brought in respect of a crime in a country or territory outside the United Kingdom.
- (5) In this section –
- “DNA sample” means any material that has come from a human body and consists of or includes human cells;
- “DNA profile” means any information derived from a DNA sample;
- “fingerprints” means a record (in any form and produced by any method) of the skin pattern and other physical characteristics or features of a person’s fingers or either of a person’s palms;
- “law enforcement authority” means a police force, the Serious Organised Crime Agency or the Commissioners for Her Majesty’s Revenue and Customs or an authority having functions under the law of a country or territory outside the United Kingdom –
- (a) corresponding to those of a police force, or
 - (b) otherwise involving the investigation or prosecution of offences;
- “police force” means any of the following –
- (a) the metropolitan police force;
 - (b) a police force maintained under section 2 of the Police Act 1996 (c. 16) (police forces in England and Wales outside London);
 - (c) the City of London police force;
 - (d) any police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967 (c. 77);
 - (e) the Police Service of Northern Ireland;
 - (f) the Police Service of Northern Ireland Reserve;
 - (g) the Ministry of Defence Police;
 - (h) the Royal Navy Police;
 - (i) the Royal Military Police;
 - (j) the Royal Air Force Police;
 - (k) the British Transport Police.
- (6) The following are “the existing statutory restrictions” referred to in subsection (1) –
- (a) sections 63A and 64 of the Police and Criminal Evidence Act 1984 (c. 60);
 - (b) Articles 63A and 64 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12));
 - (c) paragraph 14 or 20(3) of Schedule 8 to the Terrorism Act 2000 (c. 11);
 - (d) section 2(2) of the Security Service Act 1989 (c. 5);

- (e) section 1(2) of the Intelligence Services Act 1994 (c. 13).

Disclosure of information and the intelligence services

19 Disclosure and the intelligence services

- (1) A person may disclose information to any of the intelligence services for the purposes of the exercise by that service of any of its functions. 5
- (2) Information obtained by any of the intelligence services in connection with the exercise of any of its functions may be used by that service in connection with the exercise of any of its other functions.
- (3) Information obtained by the Security Service for the purposes of any of its functions may be disclosed by it— 10
- (a) for the purpose of the proper discharge of its functions,
 - (b) for the purpose of the prevention or detection of serious crime, or
 - (c) for the purpose of any criminal proceedings.
- (4) Information obtained by the Secret Intelligence Service for the purposes of any of its functions may be disclosed by it— 15
- (a) for the purpose of the proper discharge of its functions,
 - (b) in the interests of national security,
 - (c) for the purpose of the prevention or detection of serious crime, or
 - (d) for the purpose of any criminal proceedings.
- (5) Information obtained by GCHQ for the purposes of any of its functions may be disclosed by it— 20
- (a) for the purpose of the proper discharge of its functions, or
 - (b) for the purpose of any criminal proceedings.
- (6) A disclosure under this section does not breach— 25
- (a) any obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (7) The provisions of this section are subject to section 20 (savings and other supplementary provisions). 30

20 Disclosure and the intelligence services: supplementary provisions

- (1) The provisions of section 19 (disclosure and use of information) do not affect the duties with respect to the obtaining or disclosure of information imposed— 35
- (a) on the Director-General of the Security Service, by section 2(2) of the Security Service Act 1989 (c. 5);
 - (b) on the Chief of the Intelligence Service, by section 2(2) of the Intelligence Services Act 1994;
 - (c) on the Director of GCHQ, by section 4(2) of that Act.
- (2) Nothing in that section authorises a disclosure that— 40
- (a) contravenes the Data Protection Act 1998 (c. 29), or
 - (b) is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000 (c. 23).

- (3) The provisions of that section are without prejudice to any rule of law authorising the obtaining, use or disclosure of information by any of the intelligence services.
- (4) Schedule 1 contains amendments consequential on that section.

21 Disclosure and the intelligence services: interpretation 5

- (1) In sections 19 and 20 “the intelligence services” means the Security Service, the Secret Intelligence Service and GCHQ.
- (2) References in section 19 to the functions of those services are –
- (a) in the case of the Security Service, to the functions specified in section 1(2) to (4) of the Security Service Act 1989 (c. 5); 10
 - (b) in the case of the Secret Intelligence Service, to the functions specified in section 1(1)(a) and (b) of the Intelligence Services Act 1994 (c. 13), exercised in accordance with section 1(2) of that Act;
 - (c) in the case of GCHQ –
 - (i) to the functions specified in section 3(1)(a) of that Act, exercised in accordance with section 3(2) of that Act, and 15
 - (ii) to the functions specified in section 3(1)(b) of that Act.
- (3) In sections 19, 20 and this section “GCHQ” has the same meaning as in the Intelligence Services Act 1994 (see section 3(3) of that Act).
- (4) Section 81(5) of the Regulation of Investigatory Powers Act 2000 (c. 23) 20
(meaning of “prevention” and “detection”), so far as it relates to serious crime, applies for the purposes of section 19 as it applies for the purposes of the provisions of that Act not contained in Chapter 1 of Part 1.

PART 2

DETENTION AND QUESTIONING OF TERRORIST SUSPECTS 25

Pre-charge detention

22 Grave exceptional terrorist threat

- (1) In this Part “grave exceptional terrorist threat” means an event or situation involving terrorism which causes or threatens –
- (a) serious loss of human life, 30
 - (b) serious damage to human welfare in the United Kingdom, or
 - (c) serious damage to the security of the United Kingdom.
- (2) For the purposes of subsection (1)(b) an event or situation causes or threatens damage to human welfare only if it causes or threatens –
- (a) human illness or injury, 35
 - (b) homelessness,
 - (c) damage to property,
 - (d) disruption of a supply of money, food, water, energy or fuel,
 - (e) disruption of a system of communication,
 - (f) disruption of facilities for transport, or 40
 - (g) disruption of services relating to health.

- (3) The event or situation mentioned in subsection (1) –
 - (a) may occur or be inside or outside the United Kingdom, and
 - (b) may consist in planning or preparation for terrorism which if carried out would meet one or more of the conditions in that subsection.

23 Power to declare reserve power exercisable 5

- (1) The Secretary of State may by order declare that the power conferred by Part 4 of Schedule 8 to the Terrorism Act 2000 (c. 11), inserted by Schedule 2 to this Act, to apply for and extend detention under section 41 of that Act beyond 28 days (“the reserve power”) is exercisable.
- (2) No such order may be made unless – 10
 - (a) an order is already in force under section 25 of the Terrorism Act 2006 (c. 11) (extension of maximum period of detention to 28 days), and
 - (b) the Secretary of State has received a report complying with the requirements of section 24 (report of operational need for further extension of maximum period of detention). 15
- (3) The effect of an order under this section is that the reserve power is exercisable in the case of all persons –
 - (a) then detained under section 41 of that Act, or
 - (b) subsequently detained under that section at a time when the order is in force. 20

24 Report of operational need for further extension of maximum period of detention

- (1) The report required by section 23(2)(b) is a report by –
 - (a) the Director of Public Prosecutions and the chief officer of a police force in England and Wales, 25
 - (b) the Crown Agent and the chief constable of a police force in Scotland, or
 - (c) the Director of Public Prosecutions for Northern Ireland and the Chief Constable of the Police Service of Northern Ireland,to the following effect.
- (2) The report must – 30
 - (a) state that each of the persons making the report is satisfied that there are reasonable grounds for believing that the detention of one or more persons beyond 28 days will be necessary for one or more of the purposes mentioned in subsection (3) below, and
 - (b) give details of the grounds for that belief. 35
- (3) The purposes referred to in subsection (2)(a) are –
 - (a) to obtain, whether by questioning or otherwise, evidence that relates to the commission by the detained person or persons of a serious terrorist offence,
 - (b) to preserve such evidence, or 40
 - (c) pending the result of an examination or analysis of any such evidence or of anything the examination or analysis of which is to be or is being carried out with a view to obtaining such evidence.
- (4) In subsection (3)(a) a “serious terrorist offence” means –

- (a) an offence under the Terrorism Act 2000 (c. 11) or the Terrorism Act 2006 (c. 11), or
- (b) any offence that has a terrorist connection,
in respect of which an offender who has attained the age of 21 (in England and Wales, 18) is liable on conviction to a sentence of imprisonment for life. 5
- (5) The report must also state that each of the persons making the report is satisfied that the investigation in connection with which the detained person or persons is or are detained is being conducted diligently and expeditiously.
- (6) Until the coming into force of section 61 of the Criminal Justice and Court Services Act 2000 (c. 43) (abolition of sentences of custody for life etc), subsection (4) has effect with the omission of the words “(in England and Wales, 18)”. 10

25 Independent legal advice

- (1) Before making an order under section 23 the Secretary of State must obtain for the purposes of sections 26 and 27 independent legal advice as to whether the Secretary of State can properly be satisfied of the matters mentioned in section 27(2). 15
- (2) “Independent legal advice” means advice from a lawyer other than a government lawyer.
- (3) A “lawyer” means – 20
- (a) as respects England and Wales, a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act);
- (b) as respects Scotland, an advocate (whether in practice as such or employed to give legal advice), or a solicitor who holds a practising certificate; 25
- (c) as respects Northern Ireland –
- (i) a barrister (whether in practice as such or employed to give legal advice); or 30
- (ii) a solicitor who holds a practising certificate.
- (4) Until the commencement of the relevant provisions of the Legal Services Act 2007, the following is substituted for subsection (3)(a) –
- “(a) as respects England and Wales –
- (i) a barrister (whether in practice as such or employed to give legal advice); 35
- (ii) a solicitor who holds a practising certificate; or
- (iii) a person other than a barrister or solicitor who is an authorised advocate or authorised litigator (within the meaning of the Courts and Legal Services Act 1990);”. 40
- (5) A “government lawyer” means a lawyer who holds, or has held, an office (other than judicial office) or employment under the Crown.
- (6) If an order under section 23 is made the Secretary of State must lay before Parliament at the same time as the statement required by section 27 a copy of the advice obtained under this section. 45

- (7) If it appears to the Secretary of State that the advice contains material whose disclosure –
- (a) would be damaging to the public interest, or
 - (b) might prejudice the prosecution of any person,
- the duty of Secretary of State under subsection (6) is to lay before Parliament a copy of a version of the advice, provided by or agreed with the independent legal adviser, that does not contain such material.

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26 Notification of chairmen of certain committees

- (1) The Secretary of State must on making an order under section 23 forthwith notify –
- (a) the chairman of the Home Affairs Committee of the House of Commons,
 - (b) the chairman of the Joint Committee on Human Rights, and
 - (c) the chairman of the Intelligence and Security Committee.
- (2) The Secretary of State must also, as soon as reasonably practicable, provide each of those persons with a copy of –
- (a) the report received under section 24 (report on operational need for further extension of maximum period of detention), and
 - (b) the legal advice obtained under section 25 (independent legal advice).
- (3) The information received under subsection (1) and the documents received under subsection (2) are to be held by the recipients subject to the terms of their oath as a privy counsellor (or if any recipient is not a privy counsellor, on corresponding terms).
- (4) The references in subsection (1) to the Home Affairs Committee of the House of Commons and the Joint Committee on Human Rights shall –
- (a) if the name of the Committee is changed, be taken (subject to paragraph (b)) to be references to the Committee by its new name;
 - (b) if the functions of the Committee at the passing of this Act (or functions substantially corresponding to those functions) become functions of a different committee, be taken to be references to the committee by whom the functions are for the time being exercisable.

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27 Statement to be laid before Parliament

- (1) After making an order under section 23 the Secretary of State must lay before Parliament a statement to the following effect.
- (2) The statement must state that the Secretary of State is satisfied –
- (a) that a grave exceptional terrorist threat has occurred or is occurring,
 - (b) that the reserve power is needed for the purpose of investigating the threat and bringing to justice those responsible,
 - (c) that the need for that power is urgent, and
 - (d) that the provision in the order is compatible with Convention rights (within the meaning of section 1 of the Human Rights Act 1998 (c. 42)).
- (3) The statement may include such other information as to the reasons for the decision to make the order as appears to the Secretary of State to be appropriate.

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- (4) The statement must not include –
- (a) the name of any person then detained under section 41 of the Terrorism Act 2000 (c. 11), or
 - (b) any material that might prejudice the prosecution of any person.
- (5) The statement must be laid before Parliament within two days after the day on which the order was made or, if that is not practicable, as soon as is practicable. 5

28 Parliamentary scrutiny

- (1) Where an order under section 23 is made –
- (a) the Secretary of State must as soon as is reasonably practicable lay the order before Parliament, and 10
 - (b) the order shall lapse at the end of the period of seven days beginning with the date of laying unless during that period each House of Parliament passes a resolution approving it.
- (2) If the order lapses under this section, the officer having custody of a person whose detention – 15
- (a) was authorised by virtue of the reserve power, and
 - (b) is not otherwise authorised by law, must release that person immediately.
- (3) Nothing in this section – 20
- (a) prevents the making of a new order, or
 - (b) affects anything done by virtue of the order before it lapsed.

29 Parliamentary scrutiny: prorogation and adjournment

- (1) If when an order is made under section 23 Parliament stands prorogued to a day after the end of the period of five days beginning with the date on which the order is made, Her Majesty shall by proclamation under the Meeting of Parliament Act 1797 (c. 127) require Parliament to meet on a specified day within that period. 25
- (2) If when an order is made under that section the House of Commons stands adjourned to a day after the end of the period of five days beginning with the date on which the order is made, the Speaker of the House of Commons shall arrange for the House to meet on a day during that period. 30
- (3) If when an order is made under that section the House of Lords stands adjourned to a day after the end of the period of five days beginning with the date on which the order is made, the Speaker of the House of Lords shall arrange for the House to meet on a day during that period. 35
- (4) In subsections (2) and (3) a reference to the Speaker of the House of Commons or the Speaker of the House of Lords includes a reference to a person authorised by Standing Orders of the House of Commons or of the House of Lords to act in place of the Speaker of the House of Commons or the Speaker of the House of Lords in respect of the recall of the House during adjournment. 40

30 Duration

- (1) An order under section 23 lapses at the end of the period of 30 days beginning with the day on which the order was made.

- (2) If an order lapses under this section, the officer having custody of a person whose detention –
- (a) was authorised by virtue of the reserve power, and
 - (b) is not otherwise authorised by law,
- must release that person immediately. 5
- (3) Nothing in this section –
- (a) prevents the making of a new order, or
 - (b) affects anything done by virtue of the order before it lapsed.

31 Independent review and report

- (1) After the end of any period during which an order was in force under section 23, the person appointed under section 36 of the Terrorism Act 2006 (c. 11) (review of terrorism legislation) must –
- (a) carry out a review in accordance with this section, and
 - (b) send a report on the outcome of the review to the Secretary of State. 10
- (2) The review must consider –
- (a) whether before making the order the Secretary of State received a report complying with the requirements of section 24 (report of operational need for further extension of maximum period of detention), and
 - (b) what information was before the Secretary of State as to the matters mentioned in the statement required by section 27 (statement to be laid before Parliament), 15
- and the report must state whether in the opinion of the person carrying out the review the decision of the Secretary of State to make the order was, in all the circumstances, reasonable. 25
- (3) The review must consider the case of every person who was detained in pursuance of a warrant of further detention in which the specified period was extended beyond 28 days.
- (4) The report must state with respect to each case whether in the opinion of the person carrying out the review –
- (a) the procedures applicable to the making of an application to extend beyond 28 days the period specified in a warrant of further detention were properly followed, and
 - (b) the requirements of –
- (i) Parts 1 and 2 of Schedule 8 to the Terrorism Act 2000 (c. 11) (treatment of detained persons and review of detention), and
 - (ii) any applicable code of practice under section 66 of the Police and Criminal Evidence Act 1984 (c. 60) or Article 65 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)), 30
- were complied with. 35
- (5) The Secretary of State may pay the expenses of the person who conducts a review under this section and also such allowances as the Secretary of State determines. 40

- (6) The report under this section relating to any period during which an order under section 23 was in force must be sent to the Secretary of State not later than six months after the order ceased to be in force.
- (7) The Secretary of State must lay a copy of the report before Parliament as soon as reasonably practicable. 5
- (8) In this section “warrant of further detention” and “the specified period” (in relation to such a warrant) have the meaning they have in Schedule 8 to the Terrorism Act 2000 (c. 11).
- 32 Amendment to the Civil Contingencies Act 2004**
- In section 23 of the Civil Contingencies Act 2004 (c. 36) (limitations of emergency regulations), after subsection (4) (provision that may not be made) insert— 10
- “(4A) In subsection (4)(d) the reference to alteration of procedure in relation to criminal proceedings includes alteration of the period for which a person may be detained under section 41 of the Terrorism Act 2000 (arrest without warrant of terrorist suspect).” 15
- 33 Pre-charge detention: minor amendments**
- (1) In paragraph 9 of Schedule 8 to the Terrorism Act 2000 (direction that detained person may consult solicitor only within sight and hearing of qualified officer), for sub-paragraph (3) (grounds on which direction may be given) substitute— 20
- “(3) A direction under this paragraph may be given only if the officer giving it has reasonable grounds for believing—
- (a) that, unless the direction is given, the exercise of the right by the detained person will have any of the consequences specified in paragraph 8(4), or 25
- (b) that the detained person has benefited from his criminal conduct and that, unless the direction is given, the exercise of the right by the detained person will hinder the recovery of the value of the property constituting the benefit.”.
- (2) In paragraph 29(4) of that Schedule (meaning of “judicial authority”), in paragraphs (a) and (c) omit “after consulting the Lord Chancellor”. 30

Post-charge questioning

- 34 Post-charge questioning: England and Wales**
- (1) The following provisions apply in England and Wales.
- (2) A constable may question a person about a terrorism offence after the person has been charged with the offence or been officially informed that they may be prosecuted for it. 35
- (3) A constable may question a person about an offence where the person has been sent for trial for the offence if— 40
- (a) the offence is a terrorism offence, or
- (b) a judge of the Crown Court—

- (i) has made an order under section 29 of the Criminal Procedure and Investigations Act 1996 (c. 25) for a preparatory hearing to be held in the case, and
 - (ii) did so on the basis that the offence was within subsection (1C) of that section (offences with a terrorist connection). 5
- (4) The questioning of a person under this section –
 - (a) must be authorised in the first instance by an officer of at least the rank of superintendent, and may be so authorised for a maximum of 24 hours in total; and
 - (b) must subsequently be authorised by a justice of the peace, and may be so authorised –
 - (i) on initial application, for a maximum of five days in total (including the 24 hours mentioned in paragraph (a)), and
 - (ii) on subsequent application, for further periods each of up to five days in total. 15
- (5) A justice of the peace must not authorise the questioning of a person under this section unless satisfied –
 - (a) that further questioning of the person is necessary in the interests of justice, and
 - (b) that the investigation for the purposes of which the further questioning is proposed is being conducted diligently and expeditiously. 20
- (6) Codes of practice under section 66 of the Police and Criminal Evidence Act 1984 (c. 60) must make provision about the questioning of a person by a constable in accordance with this section.
- (7) Nothing in this section prevents codes of practice under that section making other provision for the questioning of a person by a constable about an offence –
 - (a) after the person has been charged with the offence or been officially informed that they may be prosecuted for it, or
 - (b) after the person has been sent for trial for the offence. 25
- (8) In section 34(1) of the Criminal Justice and Public Order Act 1994 (c. 33) (effect of accused’s failure to mention facts when questioned or charged: circumstances in which the section applies) after paragraph (b) insert –
 - “; or
 - (c) at any time after being charged with the offence, on being questioned under section 34 of the Counter-Terrorism Act 2008 (post-charge questioning), failed to mention any such fact,”. 35
- (9) Nothing in section 36 or 37 of that Act (effect of accused’s failure or refusal to account for certain matters) is to be read as excluding the operation of those sections in relation to a request made in the course of questioning under this section. 40

35 Post-charge questioning: Scotland

- (1) The following provisions apply in Scotland.
- (2) A constable may question a person about a terrorism offence after the person has been charged with the offence. 45

- (3) A constable may question a person about any other offence after the person has been charged with the offence if –
- (a) the person has appeared on petition in respect of the offence, and
 - (b) it is averred in the petition that the offence has a terrorist connection.
- (4) A constable may question a person under subsection (2) or (3) at any time up to the commencement of the trial. 5
- (5) The questioning of a person under this section –
- (a) must be authorised in the first instance by a constable of at least the rank of superintendent, and may be so authorised for a maximum of 24 hours in total; and 10
 - (b) must subsequently be authorised by the sheriff, and may be so authorised –
 - (i) on initial application, for a maximum of five days in total (including the 24 hours mentioned in paragraph (a)), and
 - (ii) on subsequent application, for further periods each of up to five days in total. 15
- (6) The sheriff must not authorise the questioning of a person under this section unless satisfied –
- (a) that further questioning of the person is necessary in the interests of justice, and 20
 - (b) that the investigation for the purposes of which the further questioning is proposed is being conducted diligently and expeditiously.
- (7) Evidence of any statement obtained from a person as a result of questioning under subsection (2) or (3) is not inadmissible solely because the questioning occurred after the person had been charged. 25
- (8) In this section “charged” means charged by the police.

36 Post-charge questioning: Northern Ireland

- (1) The following provisions apply in Northern Ireland.
- (2) A constable may question a person about a terrorism offence –
- (a) after the person has been charged with the offence or been officially informed that they may be prosecuted for it, or 30
 - (b) after the person has been sent for trial for the offence.
- (3) The questioning of a person under this section –
- (a) must be authorised in the first instance by an officer of at least the rank of superintendent, and may be so authorised for a maximum of 24 hours in total; and 35
 - (b) must subsequently be authorised by a justice of the peace, and may be so authorised –
 - (i) on initial application, for a maximum of five days in total (including the 24 hours mentioned in paragraph (a)), and 40
 - (ii) on subsequent application, for further periods each of up to five days in total.
- (4) A justice of the peace must not authorise the questioning of a person under this section unless satisfied –

- (a) that further questioning of the person is necessary in the interests of justice, and
 - (b) that the investigation for the purposes of which the further questioning is proposed is being conducted diligently and expeditiously.
- (5) Codes of practice under Article 65 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) must make provision about the questioning of a person by a constable in accordance with this section. 5
- (6) Nothing in this section prevents codes of practice under that Article making other provision for the questioning of a person by a constable about an offence – 10
- (a) after the person has been charged with the offence or been officially informed that they may be prosecuted for it, or
 - (b) after the person has been sent for trial for the offence.
- (7) In Article 3(1) of the Criminal Evidence (Northern Ireland) Order 1988 (S.I. 1988/1987 (N.I. 20)) (effect of accused’s failure to mention facts when questioned or charged: circumstances in which the article applies) after subparagraph (b) insert – 15
- “; or
 - (c) at any time after being charged with the offence, on being questioned under section 36 of the Counter-Terrorism Act 2008 (post-charge questioning), failed to mention any such fact,”. 20
- (8) Nothing in Article 5 or 6 of that Order (effect of accused’s failure or refusal to account for certain matters) is to be read as excluding the operation of those Articles in relation to a request made in the course of questioning under this section. 25

37 Recording of interviews

- (1) This section applies to any interview of a person by a constable under section 34, 35 or 36 (post-charge questioning).
- (2) Except as provided by order of the Secretary of State – 30
- (a) any such interview must be video recorded, and
 - (b) the video recording must be with sound.
- (3) The Secretary of State must issue a code of practice about the video recording of interviews to which this section applies.
- (4) The interview and video recording must be conducted in accordance with that code of practice. 35
- (5) An order or code of practice under this section –
- (a) may make provision in relation to a particular part of the United Kingdom, and
 - (b) may make different provision for different parts of the United Kingdom. 40
- (6) Any order under this section is subject to affirmative resolution procedure.

38 Issue and revision of code of practice

- (1) This section applies to the code of practice under section 37 (recording of interviews).
- (2) The Secretary of State must—
- (a) publish a draft of the proposed code, and 5
 - (b) consider any representations made about the draft, and may modify the draft in the light of the representations made.
- (3) The Secretary of State must lay a draft of the code before Parliament.
- (4) After laying the draft code before Parliament the Secretary of State may bring it into operation by order. 10
- (5) The order is subject to affirmative resolution procedure.
- (6) The Secretary of State may revise a code and issue the revised code, and subsections (2) to (5) apply to a revised code as they apply to an original code.
- (7) Failure to observe a provision of a code does not of itself render a constable liable to criminal or civil proceedings. 15
- (8) A code—
- (a) is admissible in evidence in criminal and civil proceedings, and
 - (b) shall be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

39 Meaning of “terrorism offence” 20

- (1) For the purposes of sections 34 to 36 (post-charge questioning) the following are terrorism offences—
- (a) an offence under any of the following provisions of the Terrorism Act 2000 (c. 11)—
 - sections 11 to 13 (offences relating to proscribed organisations), 25
 - sections 15 to 19, 21A and 21D (offences relating to terrorist property),
 - sections 38B and 39 (disclosure of and failure to disclose information about terrorism),
 - section 54 (weapons training), 30
 - sections 56 to 58A (directing terrorism, possessing things and collecting information for the purposes of terrorism),
 - sections 59 to 61 (inciting terrorism outside the United Kingdom),
 - paragraph 14 of Schedule 5 (order for explanation of material: false or misleading statements), 35
 - paragraph 1 of Schedule 6 (failure to provide customer information in connection with a terrorist investigation),
 - paragraph 18 of Schedule 7 (offences in connection with port and border controls);
 - (b) an offence in respect of which there is jurisdiction by virtue of any of sections 62 to 63D of that Act (extra-territorial jurisdiction in respect of certain offences committed outside the United Kingdom for the purposes of terrorism etc); 40
 - (c) an offence under section 113 of the Anti-Terrorism, Crime and Security Act 2001 (c. 24) (use of noxious substances or things); 45

- (d) an offence under any of the following provisions of Part 1 of the Terrorism Act 2006 (c. 11) –
 - sections 1 and 2 (encouragement of terrorism),
 - sections 5, 6 and 8 (preparation and training for terrorism),
 - sections 9, 10 and 11 (offences relating to radioactive devices and material and nuclear facilities);5
 - (e) an offence in respect of which there is jurisdiction by virtue of section 17 of that Act (extra-territorial jurisdiction in respect of certain offences committed outside the United Kingdom for the purposes of terrorism etc); 10
 - (f) an offence under paragraph 8 or 9 of Schedule 3 to the Justice and Security (Northern Ireland) Act 2007 (c. 6) (offences in connection with searches for munitions and transmitters in Northern Ireland).
- (2) The following are also terrorism offences for the purposes of those sections –
- (a) an offence of conspiring or attempting to commit an offence listed in subsection (1); 15
 - (b) an offence of incitement to commit such an offence;
 - (c) an offence of aiding, abetting, counselling or procuring the commission of such an offence;
 - (d) an offence under Part 2 of the Serious Crime Act 2007 (c. 27) (encouraging or assisting crime) in relation to such an offence. 20
- (3) The Secretary of State may by order amend subsection (1) or (2).
- (4) Any such order is subject to affirmative resolution procedure.

PART 3

PROSECUTION AND PUNISHMENT OF TERRORIST OFFENCES 25

Jurisdiction

40 Jurisdiction to try offences committed in the UK

- (1) Where an offence to which this section applies is committed in the United Kingdom –
 - (a) proceedings for the offence may be taken at any place in the United Kingdom, and 30
 - (b) the offence may for all incidental purposes be treated as having been committed at any such place.
- (2) The section applies to –
 - (a) an offence under any of the following provisions of the Terrorism Act 2000 (c. 11) – 35
 - sections 11 to 13 (offences relating to proscribed organisations),
 - sections 15 to 19, 21A and 21D (offences relating to terrorist property),
 - sections 38B and 39 (disclosure of and failure to disclose information about terrorism), 40
 - section 47 (offences relating to stop and search powers),
 - section 51 (parking a vehicle in contravention of an authorisation or restriction),

- section 54 (weapons training),
sections 56 to 58A (directing terrorism and possessing things or
collecting information for the purposes of terrorism),
section 116 (failure to stop a vehicle when required to do so),
paragraph 1 of Schedule 6 (failure to provide customer information in connection with a terrorist investigation), 5
paragraph 18 of Schedule 7 (offences in connection with port and
border controls);
- (b) an offence under section 113 of the Anti-terrorism, Crime and Security
Act 2001 (c. 24) (use of noxious substances or things to cause harm and
intimidate); 10
- (c) an offence under any of the following provisions of the Terrorism Act
2006 (c. 11) –
sections 1 and 2 (encouragement of terrorism),
sections 5, 6 and 8 (preparation and training for terrorism), 15
sections 9, 10 and 11 (offences relating to radioactive devices etc).
- (3) This section also applies to –
(a) an offence of conspiring or attempting to commit an offence listed in
subsection (2);
(b) an offence of incitement to commit such an offence; 20
(c) an offence of aiding, abetting, counselling or procuring the commission
of such an offence;
(d) an offence under Part 2 of the Serious Crime Act 2007 (c. 27)
(encouraging or assisting crime) in relation to such an offence.
- (4) The Secretary of State may by order amend subsection (2) or (3). 25
- (5) Any such order is subject to affirmative resolution procedure.
- (6) The power conferred by subsection (4) may be exercised so as to add offences
to subsection (2) or (3) only if it appears to the Secretary of State necessary to
do so for the purpose of dealing with terrorism.
- (7) In section 1 of the Justice and Security (Northern Ireland) Act 2007 (c. 6) (issue 30
of certificate for trial without a jury), after subsection (6) insert –
“(6A) The Director of Public Prosecutions for Northern Ireland may not issue
a certificate under subsection (2) if –
(a) the proceedings are taken in Northern Ireland only by virtue of
section 40 of the Counter-Terrorism Act 2008, and 35
(b) it appears to the Director that the only condition that is met is
condition 4.”.

*Consent to prosecution***41 Consent to prosecution of offence committed outside UK**

In section 117(2A) of the Terrorism Act 2000 (c. 11) and in section 19(2) of the
Terrorism Act 2006 (cases in which permission of Attorney General or
Advocate General for Northern Ireland required before DPP gives consent to
prosecution), after “committed” insert “outside the United Kingdom or”. 40

Sentencing

42 Sentences for offences with a terrorist connection: England and Wales

- (1) This section applies where a court in England and Wales is considering for the purposes of sentence the seriousness of an offence specified in Schedule 3 (offences where terrorist connection to be considered). 5
- (2) If having regard to the material before it for the purposes of sentencing it appears to the court that the offence has or may have a terrorist connection, the court must determine whether that is the case.
- (3) For that purpose the court may hear evidence, and must take account of any representations made by the prosecution and the defence, as in the case of any other matter relevant for the purposes of sentence. 10
- (4) If the court determines that the offence has a terrorist connection, the court –
 - (a) must treat that fact as an aggravating factor, and
 - (b) must state in open court that the offence was so aggravated.
- (5) In this section “sentence”, in relation to an offence, includes any order made by a court when dealing with a person in respect of the offence. 15
- (6) This section has effect in relation only to offences committed on or after the day it comes into force.

43 Sentences for offences with a terrorist connection: Scotland

- (1) This section applies where in Scotland, in relation to an offence specified in Schedule 3 (offences where terrorist connection to be considered) – 20
 - (a) it is libelled in an indictment, and
 - (b) proved,that the offence has been aggravated by reason of having a terrorist connection.
- (2) Where this section applies, the court must take the aggravation into account in determining the appropriate sentence. 25
- (3) Where the sentence imposed by the court in respect of the offence is different from that which the court would have imposed if the offence had not been aggravated by reason of having a terrorist connection, the court must state the extent of, and the reasons for, the difference. 30
- (4) For the purposes of this section, evidence from a single source is sufficient to prove that an offence has been aggravated by reason of having a terrorist connection.
- (5) This section has effect in relation only to offences committed on or after the day it comes into force. 35

44 Power to amend list of offences where terrorist connection to be considered

- (1) The Secretary of State may by order amend Schedule 3 (offences where terrorist connection to be considered).
- (2) Any such order is subject to affirmative resolution procedure.

- (3) An order adding an offence to that Schedule applies only in relation to offences committed after the order comes into force.

Forfeiture

45 Forfeiture: terrorist property offences

For section 23 of the Terrorism Act 2000 (c. 11) (forfeiture) substitute— 5

“Forfeiture

23 Forfeiture: terrorist property offences

- (1) The court by or before which a person is convicted of an offence under any of sections 15 to 18 may make a forfeiture order in accordance with the provisions of this section. 10
- (2) Where a person is convicted of an offence under section 15(1) or (2) or 16, the court may order the forfeiture of any money or other property which, at the time of the offence, the person had in their possession or under their control and which—
- (a) had been used for the purposes of terrorism, or 15
- (b) they intended should be used, or had reasonable cause to suspect might be used, for those purposes.
- (3) Where a person is convicted of an offence under section 15(3) the court may order the forfeiture of any money or other property which, at the time of the offence, the person had in their possession or under their control and which— 20
- (a) had been used for the purposes of terrorism, or
- (b) which, at that time, they knew or had reasonable cause to suspect would or might be used for those purposes.
- (4) Where a person is convicted of an offence under section 17 or 18 the court may order the forfeiture of any money or other property which, at the time of the offence, the person had in their possession or under their control and which— 25
- (a) had been used for the purposes of terrorism, or
- (b) was, at that time, intended by them to be used for those purposes. 30
- (5) Where a person is convicted of an offence under section 17 the court may order the forfeiture of the money or other property to which the arrangement in question related, and which— 35
- (a) had been used for the purposes of terrorism, or
- (b) at the time of the offence, the person knew or had reasonable cause to suspect would or might be used for those purposes.
- (6) Where a person is convicted of an offence under section 18 the court may order the forfeiture of the money or other property to which the arrangement in question related. 40
- (7) Where a person is convicted of an offence under any of sections 15 to 18, the court may order the forfeiture of any money or other property which wholly or partly, and directly or indirectly, is received by any

person as a payment or other reward in connection with the commission of the offence.”.

46 Forfeiture: other terrorism offences and offences with a terrorist connection

- (1) After section 23 of the Terrorism Act 2000 (c. 11) (forfeiture: terrorist property offences) insert – 5
- “23A Forfeiture: other terrorism offences and offences with a terrorist connection**
- (1) The court by or before which a person is convicted of an offence to which this section applies may order the forfeiture of any money or other property in relation to which the following conditions are met – 10
- (a) that it was, at the time of the offence, in the possession or control of the person convicted; and
- (b) that – 15
- (i) it had been used for the purposes of terrorism, or
- (ii) it was intended by that person that it should be used for the purposes of terrorism, or
- (iii) the court believes that it will be used for the purposes of terrorism unless forfeited.
- (2) This section applies to an offence under – 20
- (a) any of the following provisions of this Act –
- section 54 (weapons training);
- section 57, 58 or 58A (possessing things and collecting information for the purposes of terrorism);
- section 59, 60 or 61 (inciting terrorism outside the United Kingdom); 25
- (b) any of the following provisions of Part 1 of the Terrorism Act 2006 (c. 11) –
- section 2 (dissemination of terrorist publications);
- section 5 (preparation of terrorist acts);
- section 6 (training for terrorism); 30
- sections 9 to 11 (offences involving radioactive devices or materials).
- (3) This section applies to –
- (a) an offence of conspiring or attempting to commit an offence listed in subsection (2); 35
- (b) an offence of incitement to commit such an offence;
- (c) an offence of aiding, abetting, counselling or procuring the commission of such an offence;
- (d) an offence under Part 2 of the Serious Crime Act 2007 (c. 27) (encouraging or assisting crime) in relation to such an offence. 40
- (4) This section also applies to an offence specified in Schedule 3 to the Counter-Terrorism Act 2008 (offences where terrorist connection to be considered) as to which –
- (a) in England and Wales, the court dealing with the offence has determined, in accordance with section 42 of that Act, that the offence has a terrorist connection; 45

- (b) in Scotland, it has been proved, in accordance with section 43 of that Act, that the offence has a terrorist connection.
- (5) The Secretary of State may by order amend subsection (2) or (3).”.
- (2) In section 123 of that Act (orders and regulations) –
- (a) in subsection (4) (instruments subject to affirmative resolution procedure), after paragraph (a) insert – 5
“*(aa)* section 23A(5);”;
- (b) in subsection (5), for “paragraph (b)” substitute “paragraph (aa) or (b)”.
- 47 Forfeiture: supplementary provisions**
- After section 23A of the Terrorism Act 2000 (c. 11) (inserted by section 46 above), insert – 10
- “23B Forfeiture: supplementary provisions**
- (1) Before making an order under section 23 or 23A, a court must give an opportunity to be heard to any person, other than the convicted person, who claims to be the owner or otherwise interested in anything which can be forfeited under that section. 15
- (2) In considering whether to make an order under section 23 or 23A in respect of any property, a court shall have regard to –
- (a) the value of the property, and
- (b) the likely financial and other effects on the convicted person of the making of the order (taken together with any other order that the court contemplates making). 20
- (3) A court in Scotland must not make an order under section 23 or 23A except on the application of the prosecutor –
- (a) in proceedings on indictment, when the prosecutor moves for sentence, and 25
- (b) in summary proceedings, before the court sentences the accused;
- and for the purposes of any appeal or review, an order under either of those sections made by a court in Scotland is a sentence. 30
- (4) Schedule 4 makes further provision in relation to forfeiture orders under section 23 or 23A.”.
- 48 Forfeiture: application of proceeds to compensate victims**
- (1) In Part 1 of Schedule 4 to the Terrorism Act 2000 (forfeiture orders: England and Wales), after paragraph 4 insert – 35
- “Application of proceeds to compensate victims*
- 4A (1) Where a court makes a forfeiture order in a case where –
- (a) the offender has been convicted of an offence that has resulted in a person suffering personal injury, loss or damage, or 40
- (b) any such offence is taken into consideration by the court in determining sentence,

- the court may also order that an amount not exceeding a sum specified by the court is to be paid to that person out of the proceeds of the forfeiture.
- (2) For this purpose the proceeds of the forfeiture means the aggregate amount of – 5
- (a) any forfeited money, and
 - (b) the proceeds of the sale, disposal or realisation of any forfeited property, after deduction of the costs of the sale, disposal or realisation,
- reduced by the amount of any payment under paragraph 2(1)(d) or 3(1). 10
- (3) The court may make an order under this paragraph only if it is satisfied that but for the inadequacy of the offender’s means it would have made a compensation order under section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 under which the offender would have been required to pay compensation of an amount not less than the specified amount.”. 15
- (2) In Part 2 of that Schedule (forfeiture orders: Scotland), after paragraph 17 insert –
- “Application of proceeds to compensate victims”* 20
- 17A (1) Where a court makes a forfeiture order in a case where –
- (a) the offender has been convicted of an offence that has resulted in a person suffering personal injury, loss or damage, or
 - (b) any such offence is taken into consideration by the court in determining sentence, 25
- the court may also order that an amount not exceeding a sum specified by the court is to be paid to that person out of the proceeds of the forfeiture.
- (2) For this purpose the proceeds of the forfeiture means the aggregate amount of – 30
- (a) any forfeited money, and
 - (b) the proceeds of the sale, disposal or realisation of any forfeited property, after deduction of the costs of the sale, disposal or realisation, 35
- reduced by the amount of any payment under paragraph 16(1)(c) or 17(2).
- (3) The court may make an order under this paragraph only if it is satisfied that but for the inadequacy of the offender’s means it would have made a compensation order under section 249 of the Criminal Procedure (Scotland) Act 1995 under which the offender would have been required to pay compensation of an amount not less than the specified amount.”. 40
- (3) In Part 3 of that Schedule (forfeiture orders: Northern Ireland), after paragraph

32 insert –

“Application of proceeds to compensate victims

- 32A (1) Where a court makes a forfeiture order in a case where –
- (a) the offender has been convicted of an offence that has resulted in a person suffering personal injury, loss or damage, or 5
 - (b) any such offence is taken into consideration by the court in determining sentence,
- the court may also order that an amount not exceeding a sum specified by the court is to be paid to that person out of the proceeds of the forfeiture. 10
- (2) For this purpose the proceeds of the forfeiture means the aggregate amount of –
- (a) any forfeited money, and
 - (b) the proceeds of the sale, disposal or realisation of any forfeited property, after deduction of the costs of the sale, disposal or realisation, 15
- reduced by the amount of any payment under paragraph 30(1)(d) or 31(1).
- (3) The court may make an order under this paragraph only if it is satisfied that but for the inadequacy of the offender's means it would have made a compensation order under Article 14 of the Criminal Justice (Northern Ireland) Order 1994 under which the offender would have been required to pay compensation of an amount not less than the specified amount.”. 20 25

49 Forfeiture: other amendments

- (1) For section 120A of the Terrorism Act 2000 (c. 11) (supplemental powers of the court in respect of forfeiture orders) substitute –

“120A Supplementary powers of forfeiture

- (1) A court by or before which a person is convicted of an offence under a provision mentioned in column 1 of the following table may order the forfeiture of any item mentioned in column 2 in relation to that offence. 30

| <i>Offence</i> | <i>Items liable to forfeiture</i> | |
|---|---|----|
| Section 54 (weapons training) | Anything that the court considers to have been in the possession of the person for purposes connected with the offence. | 35 |
| Section 57 (possession for terrorist purposes) | Any article that is the subject matter of the offence. | 40 |

| <i>Offence</i> | <i>Items liable to forfeiture</i> | |
|---|---|----|
| Section 58 (collection of information) | Any document or record containing information of the kind mentioned in subsection (1)(a) of that section. | 5 |
| Section 58A (eliciting, publishing or communicating information about members of armed forces etc) | Any document or record containing information of the kind mentioned in subsection (1)(a) of that section. | 10 |

- (2) Before making an order under this section, a court must give an opportunity to be heard to any person, other than the convicted person, who claims to be the owner or otherwise interested in anything which can be forfeited under this section. 15
- (3) An order under this section does not come into force until there is no further possibility of it being varied, or set aside, on appeal (disregarding any power of a court to grant leave to appeal out of time).
- (4) Where a court makes an order under this section, it may also make such other provision as appears to it to be necessary for giving effect to the forfeiture, including, in particular, provision relating to the retention, handling, disposal or destruction of what is forfeited. 20
- (5) Provision made by virtue of subsection (4) may be varied at any time by the court that made it. 25
- (6) The power of forfeiture under this section is in addition to any power of forfeiture under section 23A.”.
- (2) In section 7 of the Terrorism Act 2006 (c. 11), after subsection (6) insert—
- “(7) The power of forfeiture under this section is in addition to any power of forfeiture under section 23A of the Terrorism Act 2000.”. 30
- (3) After section 11 of the Terrorism Act 2006 (terrorist threats relating to devices, materials or facilities) insert—
- “11A Forfeiture of devices, materials or facilities**
- (1) A court by or before which a person is convicted of an offence under section 9 or 10 may order the forfeiture of any radioactive device or radioactive material, or any nuclear facility, made or used in committing the offence. 35
- (2) A court by or before which a person is convicted of an offence under section 11 may order the forfeiture of any radioactive device or radioactive material, or any nuclear facility, which is the subject of— 40
- (a) a demand under subsection (1) of that section, or
- (b) a threat falling within subsection (3) of that section.
- (3) Before making an order under this section, a court must give an opportunity to be heard to any person, other than the convicted person,

who claims to be the owner or otherwise interested in anything which can be forfeited under this section.

- (4) An order under this section does not come into force until there is no further possibility of it being varied, or set aside, on appeal (disregarding any power of a court to grant leave to appeal out of time). 5
- (5) Where a court makes an order under this section, it may also make such other provision as appears to it to be necessary for giving effect to the forfeiture, including, in particular, provision relating to the retention, handling, disposal or destruction of what is forfeited.
- (6) Provision made by virtue of subsection (5) may be varied at any time by the court that made it. 10
- (7) The power of forfeiture under this section is in addition to any power of forfeiture under section 23A of the Terrorism Act 2000.”.

50 Forfeiture: consequential amendments

Schedule 4 contains amendments consequential on those made by sections 45 to 49. 15

PART 4

NOTIFICATION REQUIREMENTS

Introductory

51 Scheme of this Part 20

- (1) This Part imposes notification requirements on persons dealt with in respect of certain offences –
 - (a) sections 52 to 55 specify the offences to which this Part applies;
 - (b) sections 56 and 57 make provision as to the sentences or orders triggering the notification requirements; 25
 - (c) sections 58 to 63 contain the notification requirements; and
 - (d) section 64 makes provision as to the period for which the requirements apply.
- (2) This Part also provides for –
 - (a) orders applying the notification requirements to persons dealt with outside the United Kingdom for corresponding foreign offences (see section 66 and Schedule 5); and 30
 - (b) orders imposing restrictions on travel outside the United Kingdom on persons subject to the notification requirements (see section 67 and Schedule 6). 35

Offences to which this Part applies

52 Offences to which this Part applies: terrorism offences

- (1) This Part applies to –

-
- (a) an offence under any of the following provisions of the Terrorism Act 2000 (c. 11) –
- section 11 or 12 (offences relating to proscribed organisations),
 - sections 15 to 18 (offences relating to terrorist property),
 - section 38B (failure to disclose information about acts of terrorism),
 - section 54 (weapons training),
 - sections 56 to 61 (directing terrorism, possessing things and collecting information for the purposes of terrorism and inciting terrorism outside the United Kingdom);
- (b) an offence in respect of which there is jurisdiction by virtue of any of sections 62 to 63D of that Act (extra-territorial jurisdiction in respect of certain offences committed outside the United Kingdom for the purposes of terrorism etc);
- (c) an offence under section 113 of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (use of noxious substances or things);
- (d) an offence under any of the following provisions of Part 1 of the Terrorism Act 2006 (c. 11) –
- sections 1 and 2 (encouragement of terrorism),
 - sections 5, 6 and 8 (preparation and training for terrorism),
 - sections 9, 10 and 11 (offences relating to radioactive devices and material and nuclear facilities);
- (e) an offence in respect of which there is jurisdiction by virtue of section 17 of that Act (extra-territorial jurisdiction in respect of certain offences committed outside the United Kingdom for the purposes of terrorism etc).
- (2) This Part also applies to –
- (a) an offence of conspiring or attempting to commit an offence listed in subsection (1);
 - (b) an offence of incitement to commit such an offence;
 - (c) an offence under Part 2 of the Serious Crime Act 2007 (c. 27) (encouraging or assisting crime) in relation to such an offence;
 - (d) an offence of aiding, abetting, counselling or procuring the commission of such an offence.
- (3) The Secretary of State may by order amend subsection (1) or (2).
- (4) Any such order is subject to affirmative resolution procedure.
- (5) An order adding an offence applies only in relation to offences dealt with after the order comes into force.
- (6) An order removing an offence has effect in relation to offences whenever dealt with, whether before or after the order comes into force.
- (7) A person subject to the notification requirements in respect of an offence that is removed from the list (and who is not also subject to those requirements in respect of another offence that remains listed) ceases to be subject to the requirements when the order comes into force.

- 53 Offences to which this Part applies: offences having a terrorist connection**
- (1) This Part applies to an offence listed in Schedule 3 as to which the court dealing with the offence has determined, in accordance with –
- (a) section 42 (sentences for offences with terrorist connection: England and Wales), or 5
 - (b) section 43 (sentences for offences with terrorist connection: Scotland), that the offence has a terrorist connection.
- (2) A person to whom the notification requirements apply by virtue of such a determination may appeal against it to the same court, and subject to the same conditions, as an appeal against sentence. 10
- (3) Where the notification requirements apply to a person by virtue of this section and an order is made under section 44 removing the offence from Schedule 3, the notification requirements cease to apply to that person in respect of that offence when the order comes into force.
- 54 Exclusion of offences dealt with by service courts** 15
- (1) This Part does not apply to an offence that is dealt with by a service court.
- (2) A “service court” means the Court Martial, the Summary Appeal Court, the Service Civilian Court or the Court Martial Appeal Court.
- (3) Until the commencement of the relevant provisions of the Armed Forces Act 2006 (c. 52), the following is substituted for subsection (2) – 20
- “(2) A “service court” means –
- (a) a court-martial constituted under the Army Act 1955, the Air Force Act or the Naval Discipline Act 1957;
 - (b) a summary appeal court constituted under section 83ZA of the Army Act 1955, section 83ZA of the Air Force Act 1955 or section 52FF of the Naval Discipline Act 1957; 25
 - (c) the Courts-Martial Appeal Court; or
 - (d) a Standing Civilian Court.”.
- 55 Offences dealt with before commencement**
- (1) This Part applies to a person dealt with for an offence before the commencement of this Part only if – 30
- (a) the offence is one of those listed in section 52 (offences to which this Part applies: terrorism offences), and
 - (b) immediately before the commencement of this Part the person – 35
 - (i) is imprisoned or detained in pursuance of the sentence passed or order made in respect of the offence,
 - (ii) would be so imprisoned or detained but for being unlawfully at large, absent without leave, on temporary leave or leave of absence, or on bail pending an appeal, or
 - (iii) has been released on licence, having served the whole or part of a sentence of imprisonment in respect of the offence. 40
- (2) In relation to a person dealt with for an offence before the commencement of this Part –

- (a) any reference in this Part to a sentence or order under a specified statutory provision includes a sentence or order under any corresponding earlier statutory provision;
- (b) any reference in this Part to a person being or having been found to be under a disability and to have done the act charged against them in respect of an offence includes a reference to their being or having been found –
 - (i) unfit to be tried for the offence,
 - (ii) insane so that their trial for the offence cannot or could not proceed, or
 - (iii) unfit to be tried and to have done the act charged against them in respect of the offence.

Persons to whom the notification requirements apply

56 Sentences or orders triggering notification requirements

- (1) The notification requirements apply to a person who in England and Wales –
 - (a) has been convicted of an offence to which this Part applies and sentenced in respect of the offence to –
 - (i) imprisonment for life,
 - (ii) imprisonment for a term of 12 months or more,
 - (iii) imprisonment for public protection under section 225 of the Criminal Justice Act 2003 (c. 44),
 - (iv) detention for a period of 12 months or more under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (offenders under 18 convicted of certain serious offences),
 - (v) a detention and training order for a term of 12 months or more under section 100 of that Act (offenders under age of 18),
 - (vi) detention for public protection under section 226 of the Criminal Justice Act 2003 (serious offences committed by persons under 18), or
 - (vii) detention during Her Majesty's pleasure; or
 - (b) has been –
 - (i) convicted of an offence to which this Part applies carrying a maximum term of imprisonment of 12 months or more,
 - (ii) found not guilty by reason of insanity of such an offence, or
 - (iii) found to be under a disability and to have done the act charged against them in respect of such an offence,and made subject in respect of the offence to a hospital order.
- (2) In relation to a sentence passed at any time before the coming into force of section 61 of the Criminal Justice and Court Services Act 2000 (c. 43) (abolition of sentences of detention in a young offender institution, custody for life etc), subsection (1)(a) above has effect with the following modifications –
 - (a) in sub-paragraph (i), after “imprisonment” insert “(or custody)”;
 - (b) in sub-paragraph (ii), after “imprisonment” insert “(or detention in a young offender institution)”;
 - (c) in sub-paragraph (iii), after “imprisonment” insert “(or detention)”.
- (3) The notification requirements apply to a person who in Scotland –

- (a) has been convicted of an offence to which this Part applies and sentenced in respect of the offence to –
- (i) imprisonment for life,
 - (ii) an order for lifelong restriction under section 210F of the Criminal Procedure (Scotland) Act 1995, 5
 - (iii) detention without limit of time under section 205(2) of that Act (punishment for murder for offenders under 18),
 - (iv) detention in a young offenders institution under section 205(3) of that Act (punishment for murder for offenders aged 18 to 21),
 - (v) imprisonment for a term of 12 months or more, 10
 - (vi) detention in a young offenders institution for a term of 12 months or more,
 - (vii) detention for a period of 12 months or more under section 208 of the Criminal Procedure (Scotland) Act 1995 (c. 46) (detention of children convicted on indictment), or 15
 - (viii) imprisonment under section 210A of that Act (extended sentences for sex and violent offenders); or
- (b) has been –
- (i) convicted of an offence to which this Part applies carrying a maximum term of imprisonment of twelve months or more, 20
 - (ii) acquitted of such an offence on grounds of insanity at the time of the act or omission constituting the offence, or
 - (iii) found, following an examination of facts under section 55 of the Criminal Procedure (Scotland) Act 1995 (insanity in bar of trial: examination of facts) in relation to such an offence, to have done the act or omission constituting the offence, 25
- and made subject in respect of the offence to a hospital order.
- (4) The notification requirements apply to a person who in Northern Ireland –
- (a) has been convicted of an offence to which this Part applies and sentenced in respect of the offence to – 30
- (i) imprisonment for life,
 - (ii) imprisonment (or detention in a young offenders centre) for a term of 12 months or more,
 - (iii) an indeterminate custodial sentence under Article 13(3) and (4) of the Criminal Justice (Northern Ireland) Order 2008, 35
 - (iv) a juvenile justice centre order under Article 39 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) for a period of 12 months or more,
 - (v) detention during the pleasure of the Secretary of State under Article 45(1) of that Order (punishment of certain grave crimes committed by a child), or 40
 - (vi) detention under Article 45(2) of that Order for a period of 12 months or more; or
- (b) has been –
- (i) convicted of an offence to which this Part applies carrying a maximum term of imprisonment of 12 months or more, 45
 - (ii) found not guilty by reason of insanity of such an offence, or
 - (iii) found to be under a disability and to have done the act charged against them in respect of such an offence, 50
- and made subject in respect of the offence to a hospital order.

- (5) The references in this section to an offence carrying a maximum term of imprisonment of 12 months or more include an offence carrying a maximum term of life imprisonment and an offence for which the sentence is fixed by law as life imprisonment.

57 Power to amend specified terms or periods of imprisonment or detention 5

- (1) The Secretary of State may by order amend the provisions of section 56 referring to a specified term or period of imprisonment or detention.
- (2) An order reducing a specified term or period has effect only in relation to persons dealt with after the order comes into force.
- (3) Where an order increases a specified term or period – 10
- (a) it has effect in relation to persons dealt with at any time, whether before or after the order comes into force, and
 - (b) a person who would not have been subject to the notification requirements if the order had been in force when the offence was dealt with (and who is not otherwise subject to those requirements) ceases to be subject to the requirements when the order comes into force. 15
- (4) An order under this section is subject to affirmative resolution procedure.

Notification requirements

58 Initial notification

- (1) A person to whom the notification requirements apply must notify the following information to the police within the period of three days beginning with the day on which the person is dealt with in respect of the offence in question. 20
- (2) The information required is – 25
- (a) date of birth;
 - (b) national insurance number;
 - (c) name on the date on which the person was dealt with in respect of the offence (where the person used one or more other names on that date, each of those names);
 - (d) home address on that date; 30
 - (e) name on the date on which notification is made (where the person uses one or more other names on that date, each of those names);
 - (f) home address on the date on which notification is made;
 - (g) address of any other premises in the United Kingdom at which, at the time the notification is made, the person regularly resides or stays; 35
 - (h) any prescribed information.
- (3) In subsection (2) “prescribed” means prescribed by regulations made by the Secretary of State.
Such regulations are subject to affirmative resolution procedure.
- (4) In determining the period within which notification is to be made under this section, there shall be disregarded any time when the person is – 40
- (a) remanded in or committed to custody by an order of a court,
 - (b) serving a sentence of imprisonment or detention, or

- (c) detained in a hospital.
- (5) This section does not apply to a person who –
- (a) is subject to the notification requirements in respect of another offence (and does not cease to be so subject before the end of the period within which notification is to be made), and 5
 - (b) has complied with this section in respect of that offence.
- (6) In the application of this section to a person dealt with for an offence before the commencement of this Part who, immediately before commencement –
- (a) would be imprisoned or detained in respect of the offence but for being unlawfully at large, absent without leave, on temporary leave or leave of absence, or on bail pending an appeal, or 10
 - (b) has been released on licence, having served the whole or part of a sentence of imprisonment in respect of the offence,
- the reference in subsection (1) to the day on which the person is dealt with in respect of the offence shall be read as a reference to the commencement of this Part. 15

59 Notification of changes

- (1) A person to whom the notification requirements apply who uses a name that has not previously been notified to the police must notify the police of that name. 20
- (2) If there is a change of the home address of a person to whom the notification requirements apply, the person must notify the police of the new home address.
- (3) A person to whom the notification requirements apply who resides or stays at premises in the United Kingdom the address of which has previously not been notified to the police – 25
- (a) for a period of 7 days, or
 - (b) for two or more periods, in any period of 12 months, that taken together amount to 7 days,
- must notify the police of the address of those premises. 30
- (4) A person to whom the notification requirements apply who is released –
- (a) from custody pursuant to an order of a court,
 - (b) from imprisonment or detention pursuant to a sentence of a court, or
 - (c) from detention in a hospital,
- must notify the police of that fact. 35
- This does not apply if the person is at the same time required to notify the police under section 58 (initial notification).
- (5) A person who is required to notify information within section 58(2)(h) (prescribed information) must notify the police of the prescribed details of any prescribed changes in that information. 40
- (6) In subsection (5) “prescribed” means prescribed by regulations made by the Secretary of State.
- Such regulations are subject to affirmative resolution procedure.
- (7) Notification under this section must be made before the end of the period of three days beginning with the day on which the event in question occurs. 45

Where subsection (3) applies that is the day with which the period referred to in paragraph (a) or (b) (as the case may be) ends.

- (8) In determining the period within which notification is to be made under this section, there shall be disregarded any time when the person is –
- (a) remanded in or committed to custody by an order of a court, 5
 - (b) serving a sentence of imprisonment or detention, or
 - (c) detained in a hospital.
- (9) References in this section to previous notification are to previous notification by the person under section 58 (initial notification), this section or section 60 (periodic re-notification). 10
- (10) Notification under this section must be accompanied by re-notification of the other information mentioned in section 58(2).

60 Periodic re-notification

- (1) A person to whom the notification requirements apply must, within the period of one year after last notifying the police in accordance with –
- (a) section 58 (initial notification),
 - (b) section 59 (notification of change), or
 - (c) this section,
- re-notify to the police the information mentioned in section 58(2). 15
- (2) This does not apply if the period referred to in subsection (1) ends at a time when the person is –
- (a) remanded in or committed to custody by an order of a court,
 - (b) serving a sentence of imprisonment or detention, or
 - (c) detained in a hospital. 20
- (3) In that case section 59(4) and (10) (duty to notify of release and to re-notify other information) apply when the person is released. 25

61 Method of notification and related matters

- (1) This section applies to notification under –
- (a) section 58 (initial notification),
 - (b) section 59 (notification of change), or
 - (c) section 60 (periodic re-notification). 30
- (2) Notification must be made by the person –
- (a) attending at a police station in the person’s local police area, and
 - (b) making an oral notification to a police officer or to a person authorised for the purpose by the officer in charge of the station. 35
- (3) A person making a notification under section 59 (notification of change) in relation to premises referred to in subsection (3) of that section may make the notification at a police station that would fall within subsection (2)(a) above if the address of those premises were the person’s home address.
- (4) The notification must be acknowledged. 40
- (5) The acknowledgement must be in writing, and in such form as the Secretary of State may direct.

-
- (6) The person making the notification must, if requested to do so by the police officer or person to whom the notification is made, allow the officer or person to –
- (a) take the person’s fingerprints,
 - (b) photograph any part of the person, or
 - (c) do both these things,
- for the purpose of verifying the person’s identity. 5
- (7) In the application of this section to Scotland, references to a police officer are to be read as references to a constable.
- 62 Meaning of “local police area” 10**
- (1) For the purposes of section 61(2) (method of notification) a person’s “local police area” means –
- (a) the police area in which the person’s home address is situated;
 - (b) in the absence of a home address, the police area in which the home address last notified is situated;
 - (c) in the absence of a home address and of any such notification, the police area in which the court was situated that last dealt with the person (otherwise than on an appeal or reference to a higher court) in respect of the offence by virtue of which the notification requirements apply. 15
- (2) This section and section 61(2) apply in relation to Northern Ireland as if Northern Ireland were a police area. 20
- 63 Travel outside the United Kingdom**
- (1) The Secretary of State may by regulations make provision requiring a person to whom the notification requirements apply who leaves the United Kingdom –
- (a) to notify the police of their departure before they leave, and
 - (b) to notify the police of their return if they subsequently return to the United Kingdom. 25
- (2) Notification of departure must disclose –
- (a) the date on which the person intends to leave the United Kingdom;
 - (b) the country (or, if there is more than one, the first country) to which the person will travel;
 - (c) the person’s point of arrival (determined in accordance with the regulations) in that country;
 - (d) any other information required by the regulations. 30
- (3) Notification of return must disclose such information as is required by the regulations about the person’s return to the United Kingdom. 35
- (4) Notification under this section must be given in accordance with the regulations.
- (5) Regulations under this section are subject to affirmative resolution procedure. 40

Period for which notification requirements apply

64 Period for which notification requirements apply

- (1) The period for which the notification requirements apply is an indefinite period in the case of a person who has been sentenced in respect of the offence—
- (a) in England and Wales to—
 - (i) imprisonment for life,
 - (ii) imprisonment for a term of 5 years or more,
 - (iii) imprisonment for public protection under section 225 of the Criminal Justice Act 2003 (c. 44),
 - (iv) detention for a period of 5 years or more under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (offenders under 18 convicted of certain serious offences),
 - (v) detention for public protection under section 226 of the Criminal Justice Act 2003 (serious offences committed by persons under 18), or
 - (vi) detention during Her Majesty's pleasure;
 - (b) in Scotland to—
 - (i) imprisonment for life,
 - (ii) an order for lifelong restriction under section 210F of the Criminal Procedure (Scotland) Act 1995 (c. 46),
 - (iii) detention without limit of time under section 205(2) of that Act (punishment for murder for offenders under 18),
 - (iv) detention in a young offenders institution under section 205(3) of that Act (punishment for murder for offenders aged 18 to 21),
 - (v) imprisonment for a term of 5 years or more,
 - (vi) detention in a young offenders institution for a period of 5 years or more,
 - (vii) detention for a period of 5 years or more under section 208 of that Act (detention of children convicted on indictment), or
 - (viii) imprisonment under section 210A of that Act (extended sentences for sex and violent offenders);
 - (c) in Northern Ireland to—
 - (i) imprisonment for life,
 - (ii) imprisonment for a term of 5 years or more,
 - (iii) detention during the pleasure of the Secretary of State under Article 45(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) (punishment of certain grave crimes committed by a child),
 - (iv) detention for a period of 5 years or more under Article 45(2) of that Order, or
 - (v) an indeterminate custodial sentence under Article 13(3) and (4) of the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)).
- (2) In relation to a sentence passed at any time before the coming into force of section 61 of the Criminal Justice and Court Services Act 2000 (c. 43) (abolition of sentences of detention in a young offender institution, custody for life etc), subsection (1)(a) above has effect with the following modifications—

- (a) in sub-paragraph (i), after “imprisonment” insert “(or custody)”;
 - (b) in sub-paragraph (ii), after “imprisonment” insert “(or detention in a young offender institution)”;
 - (c) in sub-paragraph (iii), after “imprisonment” insert “(or detention)”.
- (3) In any other case the period for which the notification requirements apply is 10 years. 5
- (4) The period begins with the day on which the person is dealt with for the offence.
- (5) If a person who is the subject of a finding within section 56(1)(b)(iii), (3)(b)(iii) or (4)(b)(iii) (finding of insanity, disability, etc) is subsequently tried for the offence, the period resulting from that finding ends – 10
- (a) if the person is acquitted, at the conclusion of the trial;
 - (b) if the person is convicted, when the person is again dealt with in respect of the offence.
- (6) For the purposes of determining the length of the period – 15
- (a) a person who has been sentenced in respect of two or more offences to which this Part applies to consecutive terms of imprisonment is treated as if sentenced, in respect of each of the offences, to a term of imprisonment equal to the aggregate of the terms; and
 - (b) a person who has been sentenced in respect of two or more such offences to concurrent terms of imprisonment (X and Y) that overlap for a period (Z) is treated as if sentenced, in respect of each of the offences, to a term of imprisonment equal to X plus Y minus Z. 20
- (7) In determining whether the period has expired, there shall be disregarded any period when the person was – 25
- (a) remanded in or committed to custody by an order of a court,
 - (b) serving a sentence of imprisonment or detention, or
 - (c) detained in a hospital.

Offences in relation to notification

- 65 Offences relating to notification** 30
- (1) A person commits an offence who –
- (a) fails without reasonable excuse to comply with –
 - section 58 (initial notification),
 - section 59 (notification of changes),
 - section 60 (periodic re-notification), 35
 - section 61(6) (taking of fingerprints or photographs), or
 - any regulations made under section 63(1) (travel outside United Kingdom); or
 - (b) notifies to the police in purported compliance with –
 - section 58 (initial notification), 40
 - section 59 (notification of changes),
 - section 60 (periodic re-notification), or
 - any regulations made under section 63(1) (travel outside United Kingdom),
 - any information that the person knows to be false. 45

- (2) A person guilty of an offence under this section is liable –
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine or both. 5
- (3) In the application of subsection (2)(a) –
- (a) in England and Wales, in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003, or
 - (b) in Northern Ireland, for “12 months” substitute “6 months”. 10
- (4) A person –
- (a) commits an offence under subsection (1)(a) above on the day on which the person first fails without reasonable excuse to comply with –
 - section 58 (initial notification),
 - section 59 (notification of changes), 15
 - section 60 (periodic re-notification), or
 - any regulations made under section 63(1) (travel outside United Kingdom), and
 - (b) continues to commit it throughout any period during which the failure continues. 20
- But a person must not be prosecuted under subsection (1) more than once in respect of the same failure.
- (5) Proceedings for an offence under this section may be commenced in any court having jurisdiction in any place where the person charged with the offence resides or is found. 25

Supplementary provisions

66 Notification orders

Schedule 5 makes provision for notification orders applying the notification requirements of this Part to persons who have been dealt with outside the United Kingdom in respect of a corresponding foreign offence. 30

67 Foreign travel restriction orders

Schedule 6 makes provision for foreign travel restriction orders prohibiting persons to whom the notification requirements apply from –

- (a) travelling to a country outside the United Kingdom named or described in the order, 35
- (b) travelling to any country outside the United Kingdom other than a country named or described in the order, or
- (c) travelling to any country outside the United Kingdom.

68 Minor definitions for Part 4

In this Part – 40

- “country” includes a territory;
- “detained in a hospital” means detained in a hospital under –

- (a) Part 3 of the Mental Health Act 1983 (c. 20),
- (b) Part 6 of the Criminal Procedure (Scotland) Act 1995 (c. 46) or the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), or
- (c) Part 3 of the Mental Health (Northern Ireland) Order (S.I. 1986/595 (N.I. 4)); 5
- “home address” means, in relation to a person –
- (a) the address of the person’s sole or main residence in the United Kingdom, or
- (b) where the person has no such residence, the address or location of a place in the United Kingdom where the person can regularly be found and, if there is more than one such place, such one of those places as the person may select; 10
- “hospital order” –
- (a) in relation to England and Wales, has the same meaning as in the Mental Health Act 1983, 15
- (b) in relation to Scotland, means an order under Part 6 of the Criminal Procedure (Scotland) Act 1995,
- (c) in relation to Northern Ireland, has the same meaning as in the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)); 20
- “passport” means –
- (a) a United Kingdom passport within the meaning of the Immigration Act 1971 (c. 77), or
- (b) a passport issued by or on behalf of the authorities of a country outside the United Kingdom or by or on behalf of an international organisation, 25
- and includes any document that can be used (in some or all circumstances) instead of a passport;
- “photograph” includes any process by means of which an image may be produced; 30
- “release” from imprisonment or detention includes release on licence but not temporary release.

PART 5

ASSET FREEZING PROCEEDINGS 35

Introductory

69 Asset freezing proceedings

- (1) In this Part “asset freezing proceedings” means proceedings in the High Court or the Court of Session on an application to set aside an asset freezing decision. The provisions of this Part apply in relation to such proceedings brought after the commencement of this Part. 40
- (2) An “asset freezing decision” means a decision of the Treasury –
- (a) to give a direction for the purposes of a UN terrorism order having the effect of applying prohibitions in the order –
- (i) in relation to funds specified in the direction, or 45
- (ii) in relation to a person specified in the direction,

- (b) to refuse to grant a licence exempting acts from the prohibitions in the order,
 - (c) to grant such a licence subject to conditions (or to particular conditions) or subject to an expiry date (or to a particular expiry date), or
 - (d) to vary or revoke, or to refuse to vary, such a licence. 5
- (3) The UN terrorism orders are –
 - (a) the Terrorism (United Nations Measures) Order 2001 (S.I. 2001/3365);
 - (b) the Al-Qa’ida and Taliban (United Nations Measures) Order 2002 (S.I. 2002/111);
 - (c) the Terrorism (United Nations Measures) Order 2006 (S.I. 2006/2657); 10
 - (d) the Al-Qa’ida and Taliban (United Nations Measures) Order 2006 (S.I. 2006/2952).
- (4) The Treasury may by order amend subsection (3) by –
 - (a) adding other Orders in Council made under section 1 of the United Nations Act 1946 (c. 45), 15
 - (b) providing that a reference to a specified Order in Council is to that Order as amended by a further Order in Council (made after the passing of this Act), or
 - (c) removing an Order in Council.
- (5) The order may make consequential amendments of subsection (2) above. 20
- (6) An order under subsection (4) is subject to negative resolution procedure.

Rules of court, disclosure and related matters

70 General provisions about rules of court

- (1) The following provisions apply to rules of court relating to –
 - (a) asset freezing proceedings, or 25
 - (b) proceedings on an appeal relating to asset freezing proceedings.
- (2) A person making rules of court must have regard to –
 - (a) the need to secure that the decisions that are the subject of the proceedings are properly reviewed; and
 - (b) the need to secure that disclosures of information are not made where they would be contrary to the public interest. 30
- (3) Rules of court may make provision –
 - (a) about the mode of proof and about evidence in the proceedings;
 - (b) enabling or requiring the proceedings to be determined without a hearing; and 35
 - (c) about legal representation in the proceedings.
- (4) Rules of court may make provision –
 - (a) enabling the proceedings to take place without full particulars of the reasons for the decisions to which the proceedings relate being given to a party to the proceedings (or to any legal representative of that party); 40
 - (b) enabling the court to conduct proceedings in the absence of any person, including a party to the proceedings (or any legal representative of that party);
 - (c) about the functions of a person appointed as a special advocate;

- (d) enabling the court to give a party to the proceedings a summary of evidence taken in the party's absence.
- (5) In this section –
 - (a) references to a party to the proceedings do not include the Treasury;
 - (b) references to a party's legal representative do not include a person appointed as a special advocate. 5
- (6) Nothing in this section shall be read as restricting the power to make rules of court or the matters to be taken into account when doing so.

71 Rules of court about disclosure

- (1) The following provisions apply to rules of court relating to – 10
 - (a) asset freezing proceedings, or
 - (b) proceedings on an appeal relating to asset freezing proceedings.
- (2) Rules of court must secure that the Treasury are required to disclose –
 - (a) material on which they rely,
 - (b) material which adversely affects their case, and 15
 - (c) material which supports the case of a party to the proceedings.
 This is subject to the following provisions of this section.
- (3) Rules of court must secure –
 - (a) that the Treasury have the opportunity to make an application to the court for permission not to disclose material otherwise than to – 20
 - (i) the court, and
 - (ii) any person appointed as a special advocate;
 - (b) that such an application is always considered in the absence of every party to the proceedings (and every party's legal representative);
 - (c) that the court is required to give permission for material not to be disclosed if it considers that the disclosure of the material would be contrary to the public interest; 25
 - (d) that, if permission is given by the court not to disclose material, it must consider requiring the Treasury to provide a summary of the material to every party to the proceedings (and every party's legal representative); 30
 - (e) that the court is required to ensure that such a summary does not contain material the disclosure of which would be contrary to the public interest.
- (4) Rules of court must secure that in cases where the Treasury – 35
 - (a) do not receive the court's permission to withhold material, but elect not to disclose it, or
 - (b) are required to provide a party to the proceedings with a summary of material that is withheld, but elect not to provide the summary, 40
 provision to the following effect applies.
- (5) The court must be authorised –
 - (a) if it considers that the material or anything that is required to be summarised might adversely affect the Treasury's case or support the case of a party to the proceedings, to direct that the Treasury shall not rely on such points in their case, or shall make such concessions or take such other steps, as the court may specify, or 45

- (b) in any other case, to ensure that the Treasury do not rely on the material or (as the case may be) on that which is required to be summarised.
- (6) Nothing in this section, or in rules of court made under it, is to be read as requiring the court to act in a manner inconsistent with Article 6 of the Human Rights Convention. 5
- (7) In this section –
 - (a) references to a party to the proceedings do not include the Treasury;
 - (b) references to a party’s legal representative do not include a person appointed as a special advocate; and
 - (c) “the Human Rights Convention” means the Convention within the meaning of the Human Rights Act 1998 (c. 42) (see section 21(1) of that Act). 10

72 Appointment of special advocate

- (1) The relevant law officer may appoint a person to represent the interests of a party to – 15
 - (a) asset freezing proceedings, or
 - (b) proceedings on an appeal, or further appeal, relating to asset freezing proceedings,in any of those proceedings from which the party (and any legal representative of the party) is excluded. 20
This is referred to in this Part as appointment as “a special advocate”.
- (2) A person appointed as a special advocate is not responsible to the party to the proceedings whose interests the person is appointed to represent.
- (3) The relevant law officer is –
 - (a) in relation to asset freezing proceedings in England and Wales, or on an appeal or further appeal relating to such proceedings, the Attorney General; 25
 - (b) in relation to asset freezing proceedings in Scotland, or on an appeal or further appeal relating to such proceedings, the Advocate General for Scotland; 30
 - (c) in relation to asset freezing proceedings in Northern Ireland, or on an appeal or further appeal relating to such proceedings, the Advocate General for Northern Ireland.
- (4) A person may be appointed as a special advocate only if –
 - (a) in the case of an appointment by the Attorney General, the person has a general legal qualification for the purposes of section 71 of the Courts and Legal Services Act 1990 (c. 41); 35
 - (b) in the case of an appointment by the Advocate General for Scotland, the person is an advocate or a solicitor who has rights of audience in the Court of Session or the High Court of Justiciary by virtue of section 25A of the Solicitors (Scotland) Act 1980 (c. 46); 40
 - (c) in the case of an appointment by the Advocate General for Northern Ireland, the person is a member of the Bar of Northern Ireland.
- (5) Until the coming into force of section 27 of the Justice (Northern Ireland) Act 2002 (c. 26), references in this section to the Advocate General for Northern Ireland are to be read as references to the Attorney General for Northern Ireland. 45

The coming into force of that section does not affect any appointment of a person as a special advocate made by the Attorney General for Northern Ireland before that time.

73 Intercept evidence

- (1) Section 18 of the Regulation of Investigatory Powers Act 2000 (c. 23) (exceptions to exclusion of intercepted communications etc from legal proceedings) is amended as follows. 5
- (2) In subsection (1) (excepted proceedings), after paragraph (da) insert –
“(db) any asset freezing proceedings as defined in section 69 of the Counter-Terrorism Act 2008, or any proceedings arising out of such proceedings;” 10
- (3) In subsection (2) (persons to whom disclosure not to be made), after paragraph (za) insert –
“(zb) in the case of proceedings falling within paragraph (db), to –
(i) a person, other than the Treasury, who is or was a party to the proceedings, or 15
(ii) any person who for the purposes of the proceedings (but otherwise than by virtue of appointment as a special advocate) represents a person falling within sub-paragraph (i);” 20

Supplementary provisions

74 Allocation of proceedings to Queen’s Bench Division

In paragraph 2 of Schedule 1 to the Supreme Court Act 1981 (c. 54) (business allocated to the Queen’s Bench Division), after sub-paragraph (ba) insert –

- “(bb) all asset freezing proceedings within the meaning of Part 5 of the Counter-Terrorism Act 2008 (see section 69 of that Act);” 25

75 Initial exercise of powers by Lord Chancellor

- (1) The first time after the passing of this Act that rules of court are made in exercise of the powers conferred by this Part –
(a) in relation to proceedings in England and Wales, or 30
(b) in relation to proceedings in Northern Ireland,
they may be made by the Lord Chancellor instead of by the person who would otherwise make them.
- (2) Before making rules of court under this section, the Lord Chancellor must consult – 35
(a) in relation to rules applicable to proceedings in England and Wales, the Lord Chief Justice of England and Wales;
(b) in relation to rules applicable to proceedings in Northern Ireland, the Lord Chief Justice of Northern Ireland.
- The Lord Chancellor is not required to undertake any other consultation before making the rules. 40

- (3) The requirements of subsection (2)(a) and (b) may be satisfied by consultation that took place wholly or partly before the passing of this Act.
- (4) Rules of court made by the Lord Chancellor under this section –
- (a) must be laid before Parliament, and
 - (b) if not approved by a resolution of each House before the end of 40 days beginning with the day on which they were made, cease to have effect at the end of that period.
- In reckoning the period of 40 days no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (5) If rules cease to have effect in accordance with subsection (4) –
- (a) that does not affect anything previously done in reliance on the rules; and
 - (b) subsection (1) applies as if the rules had not been made.
- (6) The following provisions do not apply to rules of court made by the Lord Chancellor under this section –
- (a) section 3(6) of the Civil Procedure Act 1997 (c. 12) (Parliamentary procedure for civil procedure rules);
 - (b) section 56 of the Judicature (Northern Ireland) Act 1978 (c. 23) (statutory rules procedure).
- Until section 85 of the Courts Act 2003 (c. 39) (process for making civil procedure rules) comes into force, in paragraph (a) above for “section 3(6)” substitute “section 3(2)”.

76 Interpretation of Part 5

- In this Part –
- “asset freezing decision” has the meaning given by section 69(2);
 - “asset freezing proceedings” has the meaning given by section 69(1);
 - “rules of court” means rules for regulating the practice and procedure to be followed in the High Court or the Court of Appeal or in the Court of Session;
 - “special advocate” means a person appointed under section 72;
 - “UN terrorism order” means an order specified in section 69(3).

PART 6

INQUESTS AND INQUIRIES

77 Certificate requiring inquest to be held without a jury: England and Wales 35

- (1) In section 8 of the Coroners Act 1988 (c. 13) (duty to hold inquest), after subsection (7) insert –
- “(8) This section is subject to section 8A (certificate requiring inquest to be held without a jury).”.

(2) After that section insert –

“8A Certificate requiring inquest to be held without a jury

- (1) The Secretary of State may certify in relation to an inquest that, in the opinion of the Secretary of State, the inquest will involve the consideration of material that should not be made public – 5
- (a) in the interests of national security,
 - (b) in the interests of the relationship between the United Kingdom and another country, or
 - (c) otherwise in the public interest.
- (2) A certificate may be issued – 10
- (a) in relation to an inquest that has not begun, or
 - (b) in relation to an inquest that has begun, at any time before its conclusion.
- (3) Where a certificate has effect in relation to an inquest, the inquest must be held or (as the case may be) continued without a jury, so that – 15
- (a) if a jury has not been summoned, the coroner must not summon a jury, and
 - (b) if a jury has been summoned, the coroner must discharge the jury.
- (4) Accordingly, the following do not apply in relation to the inquest whilst the certificate has effect – 20
- (a) the power under subsection (1) or (4) of section 8 to hold the inquest or part of the inquest with a jury, and
 - (b) the duty under subsection (3) of that section to hold the inquest with a jury in the circumstances set out in that subsection. 25
- (5) A certificate has effect in relation to an inquest until it is revoked by the Secretary of State; and the Secretary of State may revoke a certificate in respect of an inquest –
- (a) before it has begun, or
 - (b) after it has begun, at any time before its conclusion. 30
- (6) Where a certificate issued in relation to an inquest is revoked –
- (a) if subsection (3) of section 8 applies in relation to the inquest, the coroner must summon a jury in the manner required by subsection (2) of that section, and
 - (b) otherwise, if it appears to the coroner that there is any reason for summoning a jury, the coroner may summon a jury in that manner. 35
- (7) If a jury is summoned –
- (a) the coroner must proceed in all respects as if the inquest had not previously begun, and
 - (b) the provisions of this Act apply accordingly as if that were the case.”. 40
- (3) This section has effect in relation to inquests that have begun, but have not been concluded, before the day on which it comes into force as well as to inquests beginning on or after that day. 45

78 Certificate requiring inquest to be held without a jury: Northern Ireland

- (1) In section 13(1) of the Coroners Act (Northern Ireland) 1959 (c. 15) (power of coroner to hold inquest) after “sub-section (2)” insert “and section 18A”.
- (2) In section 18 of that Act (requirement to summon jury in certain cases) after subsection (4) insert –
 - “(5) This section is subject to section 18A (certificate requiring inquest to be held without a jury).”.
- (3) After that section insert –

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“18A Certificate requiring inquest to be held without a jury

- (1) The Secretary of State may certify in relation to an inquest that, in the opinion of the Secretary of State, the inquest will involve the consideration of material that should not be made public –
 - (a) in the interests of national security,
 - (b) in the interests of the relationship between the United Kingdom and another country, or
 - (c) otherwise in the public interest.
- (2) A certificate may be issued –
 - (a) in relation to an inquest that has not begun, or
 - (b) in relation to an inquest that has begun, at any time before its conclusion.
- (3) Where a certificate has effect in relation to an inquest, the inquest must be held or (as the case may be) continued without a jury, so that –
 - (a) if a jury has not been summoned, the coroner must not cause a jury to be summoned, and
 - (b) if a jury has been summoned, the coroner must discharge the jury.
- (4) Accordingly, the following do not apply in relation to the inquest whilst the certificate has effect –
 - (a) the power under subsection (1) of section 13 or subsection (2) of section 18 to hold the inquest or part of the inquest with a jury, and
 - (b) the duty under subsection (1) of section 18 to hold the inquest with a jury in the circumstances set out in that subsection.
- (5) A certificate has effect in relation to an inquest until it is revoked by the Secretary of State; and the Secretary of State may revoke a certificate in respect of an inquest –
 - (a) before it has begun, or
 - (b) after it has begun, at any time before its conclusion.
- (6) Where a certificate issued in relation to an inquest is revoked –
 - (a) if subsection (1) of section 18 applies in relation to the inquest, the coroner must cause a jury to be summoned in accordance with that subsection, and
 - (b) otherwise, if it appears to the coroner that it is desirable to summon a jury, the coroner may cause a jury to be summoned in accordance with that subsection.

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- (7) If a jury is summoned –
- (a) the coroner must proceed in all respects as if the inquest had not previously begun, and
 - (b) the provisions of this Act apply accordingly as if that were the case.”. 5
- (4) This section has effect in relation to inquests that have begun, but have not been concluded, before the day on which it comes into force as well as to inquests beginning on or after that day.

79 Specially appointed coroners

- (1) After section 18 of the Coroners Act 1988 (c. 13) insert – 10

“Inquests: specially appointed coroners

18A Appointment of specially appointed coroners

- (1) If the Secretary of State issues a certificate under section 8A in relation to an inquest, the Secretary of State may appoint a person (a “specially appointed coroner”) to hold the inquest. 15
- (2) The Secretary of State must establish and maintain a list of coroners eligible to be appointed under this section (“the approved list”).
- (3) A coroner may be included on the approved list only with the agreement of the Lord Chief Justice of England and Wales or the nominated senior judge. 20
- (4) A person may be appointed under this section only if –
- (a) the person is –
 - (i) a coroner on the approved list,
 - (ii) a puisne judge of the High Court in England and Wales, or 25
 - (iii) a circuit judge, and
 - (b) the Lord Chief Justice of England and Wales or the nominated senior judge agrees to the person’s appointment.
- (5) A specially appointed coroner may be appointed under this section – 30
- (a) in relation to an inquest that has not begun, or
 - (b) in relation to an inquest that has begun, at any time before its conclusion.
- (6) An appointment may be made under this section whether the person who would be required to hold the inquest apart from the appointment would have jurisdiction to do so by virtue of – 35
- (a) the fact that the body of the deceased is lying in that person’s district,
 - (b) an order of the High Court under section 13 (order to hold inquest),
 - (c) an agreement or direction by the Secretary of State under section 14 (inquest out of jurisdiction), 40
 - (d) a direction by the Secretary of State under section 15 (inquest where body destroyed or irrecoverable), or
 - (e) a previous appointment under this section.

- (7) A reference in a provision of this section or section 18C to “the nominated senior judge” is to the senior judge nominated by the Lord Chief Justice of England and Wales for the purposes of that provision.
- (8) In subsection (7) “senior judge” means –
- (a) the Master of the Rolls, 5
 - (b) the President of the Queen’s Bench Division,
 - (c) the President of the Family Court,
 - (d) the Chancellor of the High Court, or
 - (e) a Lord Justice of Appeal in England and Wales.
- 18B Effect of appointment of specially appointed coroner 10**
- (1) Where a specially appointed coroner is appointed under section 18A to hold an inquest –
- (a) the specially appointed coroner, and not the person who would be required to hold the inquest apart from the appointment, has jurisdiction to hold the inquest and must hold it accordingly, 15
 - and
 - (b) the person who would otherwise be required to hold the inquest ceases to have any powers or duties in relation to the inquest or the body of the deceased.
- (2) If the inquest has begun – 20
- (a) the specially appointed coroner must proceed in all respects as if the inquest had not previously begun, and
 - (b) the provisions of this Act apply accordingly as if that were the case.
- (3) In relation to the inquest and the body of the deceased, the specially appointed coroner – 25
- (a) has the same jurisdiction and powers,
 - (b) is subject to the same obligations, liabilities and disqualifications, and
 - (c) generally is subject to the provisions of this Act and to the law relating to coroners and coroners’ inquests in the same manner, 30
- as if the specially appointed coroner were the coroner for the original coroner’s district.
- This is subject to provision made by regulations under subsection (4).
- (4) The Secretary of State may by regulations made by statutory instrument provide for this Act and the law relating to coroners and coroners’ inquests to have effect in relation to specially appointed coroners with such modifications as may be specified in the regulations. 35
- (5) A statutory instrument containing regulations under subsection (4) is subject to annulment in pursuance of a resolution of either House of Parliament. 40
- (6) The Secretary of State may pay a specially appointed coroner such remuneration and allowances as the Secretary of State thinks fit.
- (7) In this section and section 18C “the original coroner”, in relation to an inquest, means the coroner who would have jurisdiction to hold the 45

inquest if no appointment had been made under section 18A in relation to it.

18C Revocation of appointment of specially appointed coroner

- (1) The Secretary of State may revoke the appointment of a specially appointed coroner to hold an inquest— 5
- (a) on the grounds of the specially appointed coroner’s incapacity or misbehaviour, or
 - (b) if the Secretary of State revokes the certificate issued under section 8A in relation to the inquest.
- (2) The Secretary of State may revoke an appointment under subsection (1) only if the Lord Chief Justice of England and Wales or the nominated senior judge agrees to the revocation. 10
- (3) Where the Secretary of State acts under subsection (1)(a) the Secretary of State must make a further appointment under section 18A.
- (4) Where the Secretary of State acts under subsection (1)(b)— 15
- (a) the original coroner, and not the specially appointed coroner, has jurisdiction to hold the inquest and must hold it accordingly, and
 - (b) the specially appointed coroner ceases to have any powers or duties in relation to the inquest or the body of the deceased. 20
- (5) If the inquest has begun—
- (a) the original coroner must proceed in all respects as if the inquest had not previously begun, and
 - (b) the provisions of this Act apply accordingly as if that were the case.”. 25
- (2) This section has effect in relation to inquests that have begun, but have not been concluded, before the day on which it comes into force as well as to inquests beginning on or after that day.

80 Inquiries: intercept evidence

- (1) In section 18 of the Regulation of Investigatory Powers Act 2000 (c. 23) (exceptions to exclusion of intercepted communications etc from legal proceedings), in subsection (7), for paragraph (c) substitute— 30
- “(c) a disclosure to the panel of an inquiry held under the Inquiries Act 2005 or to a person appointed as counsel to such an inquiry where, in the course of the inquiry, the panel has ordered the disclosure to be made to the panel alone or (as the case may be) to the panel and the person appointed as counsel to the inquiry; or”.
- (2) This section has effect in relation to inquiries under the Inquiries Act 2005 (c. 12) that have begun, but have not come to an end, before the day on which it comes into force as well as to such inquiries beginning or on after that day. 40
- (3) Section 14 of the Inquiries Act 2005 (end of inquiry) has effect for determining when an inquiry under that Act comes to an end for those purposes.

81 Inquests: intercept evidence

- (1) In section 18(7) of the Regulation of Investigatory Powers Act 2000 (c. 23), after paragraph (c) insert –
- “(d) a disclosure to a coroner or to a person appointed as counsel to an inquest where –
 - (i) the Secretary of State has issued a certificate under section 8A of the Coroners Act 1988 or section 18A of the Coroners Act (Northern Ireland) 1959 (certificate requiring inquest to be held without a jury) in relation to the inquest, and
 - (ii) the coroner has ordered the disclosure to be made to the coroner alone or (as the case may be) to the coroner and the person appointed as counsel to the inquest.”.
- (2) In that section, after subsection (8A) insert –
- “(8B) A coroner shall not order a disclosure under subsection (7)(d) except where the coroner is satisfied that the exceptional circumstances of the case make the disclosure essential to enable the matters that are required to be ascertained by the inquest to be ascertained.”.
- (3) In that section, after subsection (11) insert –
- “(11A) In relation to an inquest held or to be held by a specially appointed coroner appointed under section 18A of the Coroners Act 1988, references in this section to the coroner are to the specially appointed coroner.”.
- (4) This section has effect in relation to inquests that have begun, but have not been concluded, before the day on which it comes into force as well as to inquests beginning on or after that day.

PART 7

MISCELLANEOUS

Amendment of definition of “terrorism” etc

- ## 82 Amendment of definition of “terrorism” etc
- (1) In the provisions listed below (which define “terrorism”, or make similar provision, and require that the use or threat of action is made for the purpose of advancing a political, religious or ideological cause), after “religious” insert “, racial”.
- (2) The provisions are –
- (a) section 1(1)(c) of the Terrorism Act 2000 (c. 11),
 - (b) section 113A(2) of the Anti-terrorism, Crime and Security Act 2001 (c 24),
 - (c) paragraph 4(2)(c) of Schedule 21 to the Criminal Justice Act 2003 (c. 44),
 - (d) Article 2(3)(c) of the Terrorism (United Nations Measures) Order 2006 (SI 2006/2657),
 - (e) Article 4(1)(c) of the Anti-terrorism (Financial and Other Measures) (Overseas Territories) Order 2002 (SI 2002/1822),

- (f) Article 2(1)(a)(iii) of the Terrorism (United Nations Measures) (Overseas Territories) Order 2001 (SI 2001/3366),
- (g) Article 3(1) of the Terrorism (United Nations Measures) (Isle of Man) Order 2001 (SI 2001/3364),
- (h) Article 3(1) of the Terrorism (United Nations Measures) (Channel Islands) Order 2001 (SI 2001/3363). 5

Terrorist offences

83 Offences relating to information about members of armed forces etc

- (1) After section 58 of the Terrorism Act 2000 (c. 11) (collection of information) insert— 10
 - “58A Eliciting, publishing or communicating information about members of armed forces etc
 - (1) A person commits an offence who—
 - (a) elicits or attempts to elicit information about an individual who is or has been— 15
 - (i) a member of Her Majesty’s forces,
 - (ii) a member of any of the intelligence services, or
 - (iii) a constable,
 - which is of a kind likely to be useful to a person committing or preparing an act of terrorism, or 20
 - (b) publishes or communicates any such information.
 - (2) It is a defence for a person charged with an offence under this section to prove that they had a reasonable excuse for their action.
 - (3) A person guilty of an offence under this section is liable— 25
 - (a) on conviction on indictment, to imprisonment for a term not exceeding 10 years or to a fine, or to both;
 - (b) on summary conviction— 30
 - (i) in England and Wales or Scotland, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;
 - (ii) in Northern Ireland, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both.
 - (4) In this section “the intelligence services” means the Security Service, the Secret Intelligence Service and GCHQ (within the meaning of section 3 of the Intelligence Services Act 1994 (c. 13)). 35
 - (5) Schedule 8A to this Act contains supplementary provisions relating to the offence under this section.”.
 - (2) In the application of section 58A in England and Wales in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) the reference in subsection (3)(b)(i) to 12 months is to be read as a reference to 6 months. 40
 - (3) In section 118 of the Terrorism Act 2000 (defences), in subsection (5)(a) after “58,” insert “58A,”.

- (4) After Schedule 8 to the Terrorism Act 2000 insert the Schedule set out in Schedule 7 to this Act.

84 Terrorist property: disclosure of information about possible offences

- (1) Part 3 of the Terrorism Act 2000 (c. 11) (terrorist property) is amended as follows. 5
- (2) In section 19(1) (duty to disclose belief or suspicion that offence committed), in paragraph (b) for “comes to his attention in the course of a trade, profession, business or employment” substitute –
- “comes to his attention –
- (i) in the course of a trade, profession or business, or 10
- (ii) in the course of his employment (whether or not in the course of a trade, profession or business).”.
- (3) After section 22 insert –
- “22A Meaning of “employment”**
- In sections 19 to 21B – 15
- (a) “employment” means any employment (whether paid or unpaid) and includes –
- (i) work under a contract for services or as an office-holder,
- (ii) work experience provided pursuant to a training course or programme or in the course of training for employment, and 20
- (iii) voluntary work;
- (b) “employer” has a corresponding meaning.”.
- (4) So far as the amendment in subsection (3) above extends any provision of sections 19 to 21B of the Terrorism Act 2000 involving belief or suspicion to cases to which that provision did not previously apply, that provision applies where the belief or suspicion is held after subsection (3) above comes into force even if based on information that came to the person’s attention before that subsection was in force. 25
- In any such case sections 19(2), 21(3) and 21A(4) of that Act (duty to make disclosure as soon as is reasonably practicable) are to be read as requiring the person to act as soon as is reasonably practicable after subsection (3) above comes into force. 30

Control orders

85 Control orders: powers of entry and search 35

- (1) After section 7 of the Prevention of Terrorism Act 2005 (c. 2) insert –
- “7A Powers of entry and search: absconding**
- (1) If a constable reasonably suspects that the controlled person has absconded, the constable may enter (if necessary by force) and search premises to which this section applies – 40
- (a) for the purpose of determining whether the person has absconded;

- (b) if it appears that the person has absconded, for material that may assist in the pursuit and arrest of the controlled person.
- (2) The premises to which this section applies are –
- (a) the controlled person’s place of residence;
 - (b) any other premises to which the controlled person is, or at any time has been, required to grant access in accordance with an obligation imposed by or under a control order. 5
- 7B Powers of entry and search: failure to grant access to premises**
- (1) This section applies where a constable reasonably suspects that the controlled person is not granting access to premises, as required by an obligation imposed by or under the control order, at a time when the controlled person is required, by an obligation so imposed, to be at those premises. 10
- (2) The constable may enter (if necessary by force) and search the premises – 15
- (a) for the purpose of determining whether any of the obligations imposed by or under the control order have been contravened;
 - (b) if it appears that an obligation has been contravened, for material that may assist in the investigation of the contravention. 20
- 7C Powers of entry and search: monitoring compliance with order**
- (1) A constable may apply for the issue of a warrant under this section for the purposes of determining whether the controlled person is complying with the obligations imposed by or under a control order.
- (2) The application must be made – 25
- (a) in England and Wales, to a justice of the peace;
 - (b) in Scotland, to the sheriff;
 - (c) in Northern Ireland, to a lay magistrate.
- (3) A warrant under this section shall authorise any constable to enter (if necessary by force) and search premises to which this section applies that are specified in the warrant. 30
- (4) The premises to which this section applies are –
- (a) the controlled person’s place of residence;
 - (b) any other premises to which the controlled person is, or at any time has been, required to grant access in accordance with an obligation imposed by or under a control order. 35
- (5) An application under this section may only be granted if the justice of the peace, the sheriff or the lay magistrate is satisfied that the issue of the warrant is necessary for the purposes of determining whether the controlled person is complying with the obligations imposed by or under the control order.”. 40
- (2) In section 9 of that Act (offences) –

- (a) after subsection (3) insert –
“(3A) A person who intentionally obstructs the exercise by a constable of a power conferred by section 7A or 7B or by a warrant under section 7C commits an offence.”;
- (b) in subsection (7) after “subsection (3)” insert “or (3A)”. 5
- (3) These amendments have effect as from the commencement of this section and apply regardless of when the control order was made.
- 86 Control orders: meaning of involvement in terrorism-related activity**
- (1) In section 1(9) of the Prevention of Terrorism Act 2005 (c. 2) (meaning of involvement in terrorism-related activity), in paragraph (d), for “to be involved in terrorism-related activity” substitute “by the individual concerned to be involved in conduct falling within paragraphs (a) to (c)”. 10
- (2) This amendment shall be deemed always to have had effect.
- 87 Time allowed for representations by controlled person**
- (1) Section 3 of the Prevention of Terrorism Act 2005 (supervision by court of making of non-derogating control orders) is amended as follows. 15
- (2) In subsection (7) (opportunity for individual to make representations about directions given by the court), omit “within 7 days of the court’s giving permission or (as the case may be) making its determination on the reference”.
- (3) After that subsection insert – 20
“(7A) The individual must be given the opportunity to make those representations –
(a) in the case of directions under subsection (2)(c), within 7 days of notice of the terms of the control order being delivered to the individual in accordance with section 7(8); 25
(b) in the case of directions given under subsection (6)(b) or (c), within 7 days of the court making its determination on the reference.”.
- (4) These amendments apply in relation to control orders made after this section comes into force. 30
- 88 Application for anonymity for controlled person**
- (1) In the Schedule to the Prevention of Terrorism Act 2005 (control order proceedings etc), paragraph 5 (application for anonymity for controlled person) is amended as follows.
- (2) In sub-paragraph (1)(a) omit “, at any time after a control order has been made,”. 35
- (3) After sub-paragraph (3) insert –
“(4) In relation to a time before the control order has been made references in this paragraph to “the controlled person” shall be read as references to the person in respect of whom the Secretary of State has made an application to the court for (as the case may be) – 40

- (a) permission to make a non-derogating control order under section 3(1)(a), or
 - (b) the making of a derogating control order under section 4(1).”.
- (4) These amendments shall be deemed always to have had effect.

Forfeiture of terrorist cash

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89 Forfeiture of terrorist cash: determination of period for which cash may be detained

- (1) Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 (c. 24) (forfeiture of terrorist cash) is amended as follows.
- (2) In paragraph 3 (detention of seized cash), after sub-paragraph (1) (which specifies the period for which cash seized may initially be detained) insert –
- “(1A) In determining the period of 48 hours specified in sub-paragraph (1) there shall be disregarded –
- (a) any Saturday or Sunday;
 - (b) Christmas Day;
 - (c) Good Friday;
 - (d) any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom in which the cash is seized;
 - (e) any day prescribed under section 8(2) of the Criminal Procedure (Scotland) Act 1995 as a court holiday in the sheriff court district in which the cash is seized.”.
- (3) In paragraphs 4(1) and 10(2) (which refer to the period specified in paragraph 3(1)), after “48 hours” insert “(determined in accordance with paragraph 3(1A))”.
- (4) The amendments in this section apply in relation to cash seized after this section comes into force.

90 Forfeiture of terrorist cash: appeal against decision in forfeiture proceedings

- (1) In Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 (forfeiture of terrorist cash), for paragraph 7 (appeal against forfeiture) substitute –
- “Appeal against decision in forfeiture proceedings*
- 7 (1) A party to proceedings for an order under paragraph 6 (“a forfeiture order”) who is aggrieved by a forfeiture order made in the proceedings or by the decision of the court or sheriff not to make a forfeiture order may appeal –
- (a) in England and Wales, to the Crown Court;
 - (b) in Scotland, to the sheriff principal;
 - (c) in Northern Ireland, to a county court.
- (2) The appeal must be brought before the end of the period of 30 days beginning with the date on which the order is made or, as the case may be, the decision is given.

This is subject to paragraph 7A (extended time for appealing in certain cases of deproscription).

(3) The court or sheriff principal hearing the appeal may make any order that appears to the court or sheriff principal to be appropriate.

(4) If an appeal against a forfeiture order is upheld, the court or sheriff principal may order the release of the cash. 5

Extended time for appealing in certain cases where deproscription order made

7A (1) This paragraph applies where –

(a) a successful application for a forfeiture order relies (wholly or partly) on the fact that an organisation is proscribed, 10

(b) an application under section 4 of the Terrorism Act 2000 for a deproscription order in respect of the organisation is refused by the Secretary of State,

(c) the forfeited cash is seized under this Schedule on or after the date of the refusal of that application, 15

(d) an appeal against that refusal is allowed under section 5 of that Act,

(e) a deproscription order is made accordingly, and

(f) if the order is made in reliance on section 123(5) of that Act, a resolution is passed by each House of Parliament under section 123(5)(b). 20

(2) Where this paragraph applies, an appeal under paragraph 7 above against the forfeiture order may be brought at any time before the end of the period of 30 days beginning with the date on which the deproscription order comes into force. 25

(3) In this paragraph a “deproscription order” means an order under section 3(3)(b) or (8) of the Terrorism Act 2000.”.

(2) This amendment applies where the order or decision of the court or sheriff against which the appeal is brought is made or given after this section comes into force. 30

Costs of policing at gas facilities

91 Costs of policing at gas facilities: England and Wales

(1) This section applies where the Secretary of State considers –

(a) that the provision of extra police services at a gas facility in England or Wales is necessary because of a risk of loss of or disruption to the supply of gas connected with it, and 35

(b) that the loss or disruption would have a serious impact on the United Kingdom or any part of it.

(2) In this section “extra police services” means –

(a) the services of the Ministry of Defence Police provided under an agreement with the Secretary of State for Defence under section 2(2)(e) of the Ministry of Defence Police Act 1987 (c. 4), or 40

(b) special police services provided under section 25(1) of the Police Act 1996 (c. 16) at the Secretary of State’s request.

- (3) The Secretary of State may require a designated gas transporter who has an interest in the gas facility to pay all or part of the costs incurred by the Secretary of State in respect of the provision of extra police services in or around the facility.
- (4) In this section “gas facility” means a facility used for the purposes of, or for purposes connected with, the transportation of gas from a gas shipper to a gas transporter or gas supplier. 5
- (5) The reference in subsection (3) to a designated gas transporter having an interest in a gas facility includes the facility being used for, or for purposes connected with, the supply of gas to the transporter. 10

92 Costs of policing at gas facilities: Scotland

- (1) This section applies where the Secretary of State considers –
- (a) that the provision of extra police services at a gas facility in Scotland is necessary because of a risk of loss of or disruption to the supply of gas connected with it, and 15
 - (b) that the loss or disruption would have a serious impact on the United Kingdom or any part of it.
- (2) In this section “extra police services” means –
- (a) the services of the Ministry of Defence Police provided under an agreement with the Secretary of State for Defence under section 2(2)(e) of the Ministry of Defence Police Act 1987 (c. 4), or 20
 - (b) police services provided under an agreement under section 13 of the Police (Scotland) Act 1967 (c. 77) for the guarding, patrolling and watching of the gas facility entered into at the request of the Secretary of State by – 25
 - (i) the occupier of, or of part of, the facility, and
 - (ii) the police authority, chief constable of the police force or joint police board for the police area in which it is situated.
- (3) The Secretary of State may require a designated gas transporter who has an interest in the gas facility to pay all or part of the costs incurred by the Secretary of State in respect of the provision of extra police services within subsection (2)(a) in or around the facility. 30
- (4) The Secretary of State, if so requested by the occupier, must require a designated gas transporter who has an interest in the gas facility to pay the reasonable costs incurred by the occupier under any such agreement as is mentioned in subsection (2)(b). 35
- (5) In this section “gas facility” means a facility used for the purposes of, or for purposes connected with, the transportation of gas from a gas shipper to a gas transporter or gas supplier.
- (6) References in this section to a designated gas transporter having an interest in a gas facility include the facility being used for, or for purposes connected with, the supply of gas to the transporter. 40

93 Designated gas transporters

- (1) The Secretary of State may by order designate a person who is the holder of a licence under section 7 of the Gas Act 1986 (c. 44) (licensing of gas transporters) as a designated gas transporter for the purposes of sections 91 to 96.
- (2) The order may provide for a person to be designated only in such capacity as may be specified in the order. 5
- (3) An order under this section is subject to negative resolution procedure.

94 Costs of policing at gas facilities: recovery of costs

- (1) The Secretary of State may determine—
 - (a) the amount of the costs to be paid by a designated gas transporter under section 91 or 92, 10
 - (b) the manner in which and the times at which those costs are to be paid, and
 - (c) the person or persons to whom they are to be paid.
- (2) An occupier who incurs costs under an agreement under section 13 of the Police (Scotland) Act 1967 (c. 77) that are required to be paid by a designated gas transporter under section 92 may recover them directly from the designated gas transporter. 15
- (3) A designated gas transporter may, in determining its charges for conveying gas through pipes, take into account—
 - (a) any payments made by the designated gas transporter under section 91 or 92, and 20
 - (b) the reasonable costs incurred by it as party to an agreement under section 13 of the Police (Scotland) Act 1967 entered into at the Secretary of State's request. 25

This applies despite anything in the conditions of the designated gas transporter's licence under section 7 of the Gas Act 1986 that prevents the transporter from recovering such payments or costs.
- (4) The Secretary of State may direct the Gas and Electricity Markets Authority ("the Authority")—
 - (a) to treat the payments or costs as costs of a kind specified by the Secretary of State for the purposes of the determination by the designated gas transporter of the transporter's charges, or 30
 - (b) to allow the designated gas transporter to take into account payments made or costs incurred in or in relation to a period so specified in determining the transporter's charges for a period so specified. 35
- (5) The Secretary of State must consult the designated gas transporter and the Authority before giving a direction under this section.

95 Costs of policing at gas facilities: supplementary provisions

- (1) The Secretary of State must consult a designated gas transporter and the Authority—
 - (a) before the first time the Secretary of State requires the designated gas transporter to pay any costs under section 91 or 92, 40

- (b) before the first time the Secretary of State requires the designated gas transporter to pay such costs in respect of a particular gas facility, and
- (c) where extra police services were previously provided at a particular gas facility, before the first time the Secretary of State requires the designated gas transporter to pay such costs as the result of such services being provided on a subsequent occasion. 5
- (2) The Secretary of State is not required –
- (a) to take into account representations made after the end of the period of 28 days beginning with the day on which the person making the representations was consulted under subsection (1); 10
- (b) to consult anyone else before requiring a designated gas transporter to pay costs under section 91 or 92.
- (3) Sections 4AA to 4A of the Gas Act 1986 (c. 44) (principal objective and general duties of the Secretary of State and the Authority) do not apply in relation to anything done or omitted by the Secretary of State or the Authority in the exercise of functions under sections 91 to 95. 15
- (4) Expressions used in those sections that are defined in Part 1 of the Gas Act 1986 have the same meaning as in that Part.
- 96 Application of provisions to costs incurred before commencement**
- Sections 91 to 95 apply in relation to costs incurred in the period – 20
- (a) beginning with 16th January 2007, and
- (b) ending with the day before those sections come into force, as they apply in relation to costs incurred on or after that day.
- Appointment of special advocates in Northern Ireland*
- 97 Appointment of special advocates in Northern Ireland** 25
- (1) In the following provisions for “Attorney General for Northern Ireland”, wherever occurring, substitute “Advocate General for Northern Ireland”.
- (2) The provisions are –
- section 6(2)(c) of the Special Immigration Appeals Commission Act 1997 (c. 68) (appointment of special advocate in proceedings before the Special Immigration Appeals Commission); 30
- rule 9(1) of the Northern Ireland Act Tribunal (Procedure) Rules 1999 (SI 1999/2131) (appointment of special advocate in proceedings before the tribunal appointed under section 91 of the Northern Ireland Act 1998 (c. 47)); 35
- paragraph 7(2)(c) of Schedule 3 to the Terrorism Act 2000 (c. 11) (appointment of special advocate in proceedings before the Proscribed Organisations Appeal Commission);
- paragraph 6(2)(c) of Schedule 6 to the Anti-terrorism, Crime and Security Act 2001 (c. 24) (appointment of special advocate in proceedings before the Pathogens Access Appeal Commission). 40
- (3) These amendments come into force when section 27 of the Justice (Northern Ireland) Act 2002 (c. 26) comes into force

PART 8

SUPPLEMENTARY PROVISIONS

General definitions

98 Meaning of “terrorism”

In this Act “terrorism” has the same meaning as in the Terrorism Act 2000 (c. 11) (see section 1 of that Act). 5

99 Meaning of offence having a “terrorist connection”

For the purposes of this Act an offence has a terrorist connection if the offence –

- (a) is, or takes place in the course of, an act of terrorism, or 10
- (b) is committed for the purposes of terrorism.

Orders and regulations

100 Orders and regulations

- (1) Orders and regulations under this Act must be made by statutory instrument.
- (2) Orders or regulations under this Act may – 15
 - (a) make different provision for different cases or circumstances,
 - (b) include supplementary, incidental and consequential provision, and
 - (c) make transitional provision and savings.
- (3) Any provision that may be made by regulations under this Act may be made by order; and any provision that may be made by order under this Act may be made by regulations. 20

101 Orders and regulations: affirmative and negative resolution procedure

- (1) Where orders or regulations under this Act are subject to “affirmative resolution procedure” the order or regulations must not be made unless a draft of the statutory instrument containing them has been laid before Parliament and approved by a resolution of each House of Parliament. 25
- (2) Where orders or regulations under this Act are subject to “negative resolution procedure” the statutory instrument containing the order or regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament. 30
- (3) Provision that may be made by order or regulations under this Act for which no Parliamentary procedure is prescribed may be included in an instrument subject to negative or affirmative resolution procedure.
- (4) Provision that may be made by order or regulations under this Act subject to negative resolution procedure may be included in an instrument subject to affirmative resolution procedure. 35

*Financial provisions***102 Financial provisions**

- (1) There shall be paid out of money provided by Parliament –
- (a) any expenses of the Secretary of State under this Act, and
 - (b) any increase attributable to this Act in the sums payable out of money so provided under any other Act. 5
- (2) There shall be paid into the Consolidated Fund –
- (a) any sums received by the Secretary of State under this Act, and
 - (b) any increase attributable to this Act in the sums payable into that Fund under any other Act. 10

*Repeals***103 Repeals**

The enactments specified in Schedule 8, which include enactments that are spent, are repealed to the extent specified.

Final provisions

15

104 Commencement

- (1) The provisions of this Part, except section 103 and Schedule 8 (repeals), come into force on the day this Act is passed.
- (2) Part 5 (asset freezing proceedings) comes into force on the day after the day on which this Act is passed. 20
- (3) Sections 91 to 96 (costs of policing at gas facilities) come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (4) Section 97 (appointment of special advocates in Northern Ireland) comes into force in accordance with subsection (3) of that section.
- (5) The other provisions of this Act come into force on such day as may be appointed by order of the Secretary of State. 25
- (6) The Secretary of State may by order make such transitional provision and savings as appears necessary or expedient in connection with the commencement of any provision of this Act.

105 Extent

30

Except as otherwise provided –

- (a) an amendment or repeal by this Act has the same extent as the enactment amended or repealed; and
- (b) any other provisions of this Act –
 - (i) extend to the whole of the United Kingdom, and
 - (ii) do not extend to any country or territory outside the United Kingdom. 35

106 Short title

The short title of this Act is the Counter-Terrorism Act 2008.

SCHEDULES

SCHEDULE 1

Section 20

DISCLOSURE AND THE INTELLIGENCE SERVICES: CONSEQUENTIAL AMENDMENTS

Anti-terrorism, Crime and Security Act 2001 (c. 24)

- 1 In section 19(2) of the Anti-terrorism, Crime and Security Act 2001 (disclosure of information held by revenue departments), omit paragraph (a). 5

Representation of the People (England and Wales) Regulations 2001 (S.I. 2001/341)

- 2 (1) The Representation of the People (England and Wales) Regulations 2001 are amended as follows. 10
- (2) In regulation 45E (supply of record of anonymous entries to the security services), omit paragraphs (3) and (4).
- (3) In regulation 102(6) (supply of full register: general restrictions on use), for “regulations 103 to 109” substitute “regulations 103 to 108 or 109”.
- (4) After regulation 108 insert – 15
- “108A Supply of full register etc to the security services**
- (1) This regulation applies to –
- (a) the Security Service;
- (b) the Government Communications Headquarters;
- (c) the Secret Intelligence Service. 20
- (2) For the purposes of regulation 102(1) above the relevant part of the documents listed in that provision is the whole of them.”.
- (5) In regulation 109 (supply of full register etc to police force and other agencies and restrictions on use), omit – 25
- (a) paragraph (1)(g) to (i);
- (b) in paragraph (4)(a), the words preceding paragraph (i);
- (c) paragraph (4)(b) and the word “and” immediately preceding it.
- (6) In regulation 113 (sale of full register to government departments and other bodies) – 30
- (a) in the closing words of paragraph (1), after “other than” insert “a department to which regulation 108A applies or”;
- (b) in paragraph (3) for “regulation 109(1)(g) to (i),” substitute “regulation 108A”.
- (7) In regulation 115(2) (offences) omit “45E(3),”.

(8) For regulation 118(8) (provision of copies of documents open to public inspection) substitute insert –

“(8) The relevant registration officer shall, on request, supply free of charge copies of any documents open to public inspection –

- (a) to each of the departments mentioned in regulation 108A; 5
- (b) to a person who has inspected those documents and who is entitled to be supplied with a copy of the marked register or lists by virtue of being a person to whom regulation 109 applies.”.

(9) In regulation 119(3) for “regulation 118(8)” substitute “regulation 118(8)(b)”. 10

Representation of the People (Scotland) Regulations 2001 (S.I. 2001/497)

3 (1) The Representation of the People (Scotland) Regulations 2001 are amended as follows.

(2) In regulation 45D (supply of record of anonymous entries to the security services), omit paragraphs (3) and (4). 15

(3) In regulation 101(6) (supply of full register: general restrictions on use), for “regulations 102 to 108” substitute “regulations 102 to 107 or 108”.

(4) After regulation 107 insert –

“107A Supply of full register etc to the security services

- (1) This regulation applies to – 20
 - (a) the Security Service;
 - (b) the Government Communications Headquarters;
 - (c) the Secret Intelligence Service.

(2) For the purposes of regulation 101(1) above the relevant part of the documents listed in that provision is the whole of them.”. 25

(5) In regulation 108 (supply of full register etc to police force and other agencies and restrictions on use), omit –

- (a) paragraph (1)(g) to (i);
- (b) in paragraph (4)(a), the words preceding paragraph (i);
- (c) paragraph (4)(b) and the word “and” immediately preceding it. 30

(6) In regulation 112 (sale of full register to government departments and other bodies) –

- (a) in the closing words of paragraph (1), after “other than” insert “a department to which regulation 107A applies or”;
- (b) in paragraph (3) for “regulation 108(1)(g) to (i),” substitute “regulation 107A”. 35

(7) In regulation 115(2) (offences) omit “45D(3),”.

(8) For regulation 118(8) (provision of copies of documents open to public inspection) substitute –

“(8) The relevant registration officer shall, on request, supply free of charge copies of any documents open to public inspection –

- (a) to each of the departments mentioned in regulation 107A;

- (b) to a person who has inspected those documents and who is entitled to be supplied with a copy of the marked register or lists by virtue of being a person to whom regulation 108 applies.”.
- (9) In regulation 119(3) for “regulation 118(8)” substitute “regulation 118(8)(b)”. 5

Immigration, Asylum and Nationality Act 2006 (c. 13)

- 4 In the Immigration, Asylum and Nationality Act 2006, omit section 38 (disclosure of information for security purposes).

Statistics and Registration Service Act 2007 (c.18)

- 5 In the Statistics and Registration Service Act 2007, omit – 10
- (a) section 39(4)(g) (permitted disclosure of personal information: disclosure to an Intelligence Service); and
- (b) in section 67 (general interpretation), the definition of “Intelligence Service”.

SCHEDULE 2

Section 23 15

AMENDMENTS RELATING TO PERIOD OF PRE-CHARGE DETENTION

PART 1

RESERVE POWER TO EXTEND MAXIMUM PERIOD OF DETENTION

- 1 After Part 3 of Schedule 8 to the Terrorism Act 2000 (c. 11) (extension of detention under section 41) insert – 20

“PART 4

RESERVE POWER TO EXTEND DETENTION UNDER SECTION 41

Introductory

- 38 The power conferred by this Part of this Schedule is exercisable only when an order under section 23 of the Counter-Terrorism Act 2008 is in force. 25

Application to court to authorise further detention

- 39 (1) Each of the following – 30
- (a) in England and Wales, the Director of Public Prosecutions or a Crown Prosecutor acting with the consent of the Director,
- (b) in Scotland, the Lord Advocate or a procurator fiscal,
- (c) in Northern Ireland, the Director of Public Prosecutions for Northern Ireland,

may apply for the extension of the period specified in the warrant of further detention under which a person is detained, beyond the period of 28 days beginning with the relevant time.

- (2) An application under this paragraph must be made to a senior judge. 5
- (3) Subject to sub-paragraph (4), the period by which the specified period is further extended on an application under this section shall be the period –
- (a) beginning with the end of the period for which the period specified in the warrant was last extended, and 10
 - (b) ending with whichever is the earlier of –
 - (i) the end of the period of 7 days beginning with that time, or
 - (ii) the end of the period of 42 days beginning with the relevant time. 15
- (4) A senior judge may further extend the period specified in a warrant by a shorter period than is required by sub-paragraph (3) if –
- (a) the application for the extension is an application for an extension by a period that is shorter than is so required, or 20
 - (b) the senior judge is satisfied that there are circumstances that would make it inappropriate for the period of the extension to be as long as the period so required.
- (5) Where the specified period is extended under this paragraph –
- (a) the warrant must be endorsed with a note stating the new specified period, and 25
 - (b) if the period is extended to a time that is more than 28 days after the relevant time, it is the duty of the applicant (in Scotland, of the Crown Agent) –
 - (i) to inform the Secretary of State forthwith, and 30
 - (ii) to provide the Secretary of State, as soon as practicable, with the information required by paragraph 41(3) and (4) (information to be contained in statement to Parliament).

Application to court: supplementary provisions 35

- 40 (1) Paragraphs 30(3) and 31 to 34 apply to an application under paragraph 39 as they apply to an application for a warrant of further detention, but –
- (a) as if references to a judicial authority were to a senior judge, 40
 - (b) as if references to the judicial authority in question were to the senior judge in question, and
 - (c) as if the reference in paragraph 32(2) to relevant evidence were to evidence relating to the commission by the detained person or persons of a serious terrorist offence. 45
- (2) In sub-paragraph (1)(c) “serious terrorist offence” means –

-
- (a) an offence under the Terrorism Act 2000 (c. 11) or the Terrorism Act 2006 (c. 11), or
- (b) an offence that has a terrorist connection (within the meaning of the Counter-Terrorism Act 2008: see section 99 of that Act), 5
- in respect of which an offender who has attained the age of 21 (in England and Wales, 18) is liable on conviction to a sentence of imprisonment for life.
- (3) Until the coming into force of section 61 of the Criminal Justice and Court Services Act 2000 (c. 43) (abolition of sentences of custody for life etc), sub-paragraph (2) has effect with the omission of the words “(in England and Wales, 18)”. 10
- (4) A senior judge may adjourn the hearing of an application under paragraph 39 only if the hearing is adjourned to a date before the end of the period specified in the warrant. 15
 This does not apply to an adjournment under paragraph 33(2).
- (5) In this Part of this Schedule “the relevant time”, in relation to a person, means –
- (a) the time of that person’s arrest under section 41, or
- (b) if that person was being detained under Schedule 7 at the time of that person’s arrest under section 41, the time when that person’s examination under that Schedule began. 20
- (6) In this Part of this Schedule “senior judge” means –
- (a) in England and Wales –
- (i) a judge of the High Court, or 25
- (ii) a circuit judge designated for the purposes of this Part of this Schedule by the Lord Chief Justice of England and Wales;
- (b) in Scotland –
- (i) a judge of the High Court of Justiciary, or 30
- (ii) the sheriff;
- (c) in Northern Ireland –
- (i) a judge of the High Court, or
- (ii) a county court judge designated for the purposes of this Part of this Schedule by the Lord Chief Justice of Northern Ireland. 35
- (7) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under sub-paragraph (6)(a).
- (8) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under sub-paragraph (6)(c) – 40
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act). 45

Parliament to be informed if court authorises detention beyond 28 days

- 41 (1) If on an application under paragraph 39 the court extends the period specified in the warrant of further detention under which a person is detained to a time that is more than 28 days after the relevant time, the Secretary of State must inform Parliament. 5
- (2) The Secretary of State must lay a statement before Parliament as soon as reasonably practicable after the period has been extended.
- (3) The statement must specify –
- (a) the date on which the period was further extended,
 - (b) the period by which the period was further extended, and 10
 - (c) the total number of days for which the person’s detention has been authorised –
 - (i) beginning with the relevant time, and
 - (ii) ending with the last day of the period specified in the warrant. 15
- (4) The statement must also give details of –
- (a) the court that heard the application under paragraph 39 in relation to the detained person; and
 - (b) the place where the person is being detained.
- (5) The statement must not include – 20
- (a) any details of the person detained, or
 - (b) any material that might prejudice the prosecution of any person.”.

PART 2

CONSEQUENTIAL AMENDMENTS 25

Prosecution of Offences Act 1985

- 2 (1) Section 1(6) and (7) of the Prosecution of Offences Act 1985 (c. 23) have effect in relation to the making of an application under Part 4 of Schedule 8 to the Terrorism Act 2000 (c. 11) (a “Part 4 application”) subject to the following provisions. 30
- (2) Section 1(6) (Crown Prosecutor to have powers of Director as to the institution and conduct of proceedings) does not authorise the making of a Part 4 application by a Crown Prosecutor without the consent of the Director.
- (3) Section 1(7) (power of Crown Prosecutor to give consent etc in place of Director) applies only to a Crown Prosecutor authorised by the Director in person to give consent for the purposes of Part 4 applications. 35

Terrorism Act 2000

- 3 In section 41(6), (7) and (8) of the Terrorism Act 2000 for “or 36” substitute “, 36 or 39”. 40
- 4 In paragraph 29(3) of Schedule 8 to that Act for “paragraph 36” substitute “paragraphs 36 and 39”.

5 For paragraph 36 of that Schedule (extension of warrants) substitute –

“Extension of specified period

- 36 (1) Each of the following –
- (a) in England and Wales, a Crown Prosecutor,
 - (b) in Scotland, the Lord Advocate or a procurator fiscal, 5
 - (c) in Northern Ireland, the Director of Public Prosecutions for Northern Ireland,
 - (d) in any part of the United Kingdom, a police officer of at least the rank of superintendent,
- may apply under this paragraph for the extension of the period specified in a warrant of further detention. 10
- (2) An application under this paragraph may be made to a judicial authority if –
- (a) the grant of the application (otherwise than in accordance with sub-paragraph (4)(b)) would extend that period to a time that is no more than 14 days after the relevant time, and 15
 - (b) no application has previously been made to a senior judge in respect of that period.
- In any other case an application under this paragraph must be made to a senior judge. 20
- (3) Subject to sub-paragraph (4), the period by which the specified period is extended on an application under this paragraph shall be the period –
- (a) beginning with – 25
 - (i) in the case of a warrant specifying a period that has not previously been extended, the end of the period specified in the warrant, and
 - (ii) in any other case, the end of the period for which the period specified in the warrant was last extended; and 30
 - (b) ending with the earlier of –
 - (i) the end of the period of 7 days beginning with that time, or
 - (ii) the end of the period of 28 days beginning with the relevant time. 35
- (4) A judicial authority or senior judge may extend the period specified in a warrant by a shorter period than is required by sub-paragraph (3) if –
- (a) the application for the extension is an application for an extension by a period that is shorter than is so required, or 40
 - (b) the judicial authority or senior judge is satisfied that there are circumstances that would make it inappropriate for the period of the extension to be as long as the period so required. 45
- (5) Where the specified period is extended, the warrant must be endorsed with a note stating the new specified period.

Extension of specified period: supplementary provisions

- 36A (1) Paragraphs 30(3) and 31 to 34 apply to an application under paragraph 36 as they apply to an application for a warrant of further detention.
- (2) In relation to an application made to a senior judge they apply – 5
- (a) as if references to a judicial authority were to a senior judge, and
 - (b) as if references to the judicial authority in question were to the senior judge in question.
- (3) A judicial authority or senior judge may adjourn the hearing of an application under paragraph 36 only if the hearing is adjourned to a date before the end of the period specified in the warrant. 10
This does not apply to an adjournment under paragraph 33(2).
- (4) In paragraph 36 “the relevant time”, in relation to a person, means – 15
- (a) the time of that person’s arrest under section 41, or
 - (b) if that person was being detained under Schedule 7 at the time of that person’s arrest under section 41, the time when that person’s examination under that Schedule began.
- (5) In this Part of this Schedule “senior judge” means – 20
- (a) in England and Wales –
 - (i) a judge of the High Court, or
 - (ii) a circuit judge designated for the purposes of paragraph 36 by the Lord Chief Justice of England and Wales; 25
 - (b) in Scotland –
 - (i) a judge of the High Court of Justiciary, or
 - (ii) the sheriff;
 - (c) in Northern Ireland –
 - (i) a judge of the High Court, or 30
 - (ii) a county court judge designated for the purposes of paragraph 36 by the Lord Chief Justice of Northern Ireland.
- (6) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under sub-paragraph (5)(a). 35
- (7) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under sub-paragraph (5)(c) – 40
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
 - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).”.

Terrorism Act 2006

- 6 (1) Section 25 of the Terrorism Act 2006 (c. 11) (expiry or renewal of extended maximum detention period) is amended as follows.
- (2) In the heading for “extended” substitute “28 day”.
- (3) In subsection (3)(b) for “paragraph 37” substitute “paragraphs 36A and 37”. 5
- (4) For subsection (4) substitute –
- “(4) The further consequential modifications are –
- (a) the substitution for paragraph 36(2) of –
- “(2) The person to whom an application under this paragraph may be made is a judicial authority.”; 10
- (b) the omission of the words “or senior judge” wherever occurring in paragraphs 36(4), 36A(3) and 37(2); and
- (c) the omission of paragraph 36A(2) and (5) to (7).”.

SCHEDULE 3

Sections 42, 43, 44, 46 and 53

OFFENCES WHERE TERRORIST CONNECTION TO BE CONSIDERED 15

Common law offences

Murder.

Manslaughter.

Culpable homicide.

Kidnapping. 20

Abduction.

Statutory offences

An offence under any of the following sections of the Offences against the Person Act 1861 (c. 100) –

- (a) section 4 (soliciting murder), 25
- (b) section 23 (maliciously administering poison etc so as to endanger life or inflict grievous bodily harm),
- (c) section 28 (causing bodily injury by explosives),
- (d) section 29 (using explosives etc with intent to do grievous bodily harm), 30
- (e) section 30 (placing explosives with intent to do bodily injury),
- (f) section 64 (making or having gunpowder etc with intent to commit or enable any person to commit any felony mentioned in the Act).

An offence under any of the following sections of the Explosive Substances Act 1883 (c. 3) – 35

- (a) section 2 (causing explosion likely to endanger life or property),
- (b) section 3 (attempt to cause explosion or making or keeping explosive with intent to endanger life or property),

- (c) section 4 (making or possession of explosive under suspicious circumstances),
 - (d) section 5 (punishment of accessories).
- An offence under section 1 of the Biological Weapons Act 1974 (c. 6) (restriction on development etc of certain biological agents and toxins and of biological weapons). 5
- An offence under section 1 of the Taking of Hostages Act 1982 (c. 28) (hostage-taking).
- An offence under any of the following sections of the Aviation Security Act 1982 (c. 36) – 10
- (a) section 1 (hijacking),
 - (b) section 2 (destroying, damaging or endangering safety of aircraft),
 - (c) section 3 (other acts endangering or likely to endanger safety of aircraft),
 - (d) section 4 (offences in relation to certain dangerous articles). 15
 - (e) section 6(2) (inducing or assisting commission of offence under section 1, 2 or 3 outside the United Kingdom).
- An offence under any of the following sections of the Nuclear Material (Offences) Act 1983 (c. 18) –
- (a) section 1B (offences relating to damage to the environment), 20
 - (b) section 1C (offences of importing or exporting etc nuclear materials: extended jurisdiction),
 - (c) section 2 (offences involving preparatory acts and threats), so far as relating to an offence specified in this Schedule.
- An offence under any of the following sections of the Aviation and Maritime Security Act 1990 (c. 31) – 25
- (a) section 1 (endangering safety at aerodromes),
 - (b) section 9 (hijacking of ships),
 - (c) section 10 (seizing or exercising control of fixed platforms),
 - (d) section 11 (destroying ships or fixed platforms or endangering their safety), 30
 - (e) section 14(4) (inducing or assisting the commission of an offence outside the United Kingdom), so far as relating to an offence under section 9 or 11 of that Act.
- An offence under Part 2 of the Channel Tunnel (Security) Order 1994 (S.I. 1994/570) (offences against the safety of channel tunnel trains and the tunnel system). 35
- An offence under any of the following sections of the Chemical Weapons Act 1996 (c. 6) –
- (a) section 2 (use etc of chemical weapons), 40
 - (b) section 11 (premises or equipment for producing chemical weapons).
- An offence under any of the following sections of the Anti-Terrorism, Crime and Security Act 2001 (c. 24) –
- (a) section 47 (use etc of nuclear weapons),
 - (b) section 114 (hoaxes involving noxious substances or things). 45

Ancillary offences

An offence of—

- (a) aiding, abetting, counselling, procuring or inciting the commission of an offence specified in this Schedule,
- (b) conspiring to commit an offence specified in this Schedule, or 5
- (c) attempting to commit an offence specified in this Schedule.

An offence under Part 2 of the Serious Crime Act 2007 (c. 27) (encouraging or assisting crime) in relation to an offence specified in this Schedule.

SCHEDULE 4

Section 50

FORFEITURE: CONSEQUENTIAL AMENDMENTS 10

Proceeds of Crime (Northern Ireland) Order 1996 (S.I. 1996/1299 (N.I. 9))

- 1 In Article 5(3) of the Proceeds of Crime (Northern Ireland) Order 1996, after “section 23” insert “or 23A”.

Terrorism Act 2000 (c. 11)

- 2 In section 54 of the Terrorism Act 2000, omit subsections (7) to (9). 15
- 3 In section 58 of that Act, omit subsections (5) to (7).
- 4 In section 119(1) of that Act for “sections 15 to 23” substitute “sections 15 to 23A”.
- 5 (1) Schedule 4 to that Act is amended as follows.
 - (2) In paragraph 1— 20
 - (a) in the definition of “forfeiture order” after “section 23” insert “or 23A”;
 - (b) after the definition of “forfeited property” insert—
 - ““relevant offence” means—
 - (a) an offence under any of sections 15 to 18, 25
 - (b) an offence to which section 23A applies, or
 - (c) in relation to a restraint order, any offence specified in Schedule 3 to the Counter-Terrorism Act 2008 (offences where terrorist connection to be considered).” 30
 - (3) In paragraph 2(1)(d) for “section 23(7)” substitute “section 23B(1)”.
 - (4) In paragraph 4(2)(c) for “section 23(7)” substitute “section 23B(1)”.
 - (5) In paragraph 5(1)(a) and (2)(a) for “an offence under any of sections 15 to 18” substitute “a relevant offence”.
 - (6) In paragraph 6(4)(a) and (b) for “offences under any of sections 15 to 18” substitute “relevant offences”. 35
 - (7) Omit the heading before paragraph 9.
 - (8) In paragraph 9(2)—

- (a) in the opening words, for “an offence under any of sections 15 to 18” substitute “a relevant offence”;
 - (b) in paragraphs (a), (b) and (c), for “an offence under any of those sections” substitute “a relevant offence”.
- (9) In paragraph 10(1)(a) for “an offence under any of sections 15 to 18” substitute “a relevant offence”. 5
- (10) In paragraph 12 after “section 23”, in each place where it occurs, insert “or 23A”.
- (11) In paragraph 15 –
 - (a) in the definition of “forfeiture order” after “section 23” insert “or 23A”; 10
 - (b) after the definition of “forfeited property” insert –
 - ““relevant offence” means –
 - (a) an offence under any of sections 15 to 18,
 - (b) an offence to which section 23A applies, or 15
 - (c) in relation to a restraint order, any offence specified in Schedule 3 to the Counter-Terrorism Act 2008 (offences where terrorist connection to be considered).”.
- (12) In paragraph 16(1)(c) and (4)(c) for “section 23(7)” substitute “section 23B(1)”. 20
- (13) In paragraph 18(1)(a) and (2)(a) for “an offence under any of sections 15 to 18” substitute “a relevant offence”.
- (14) In paragraph 19(3A)(a) and (b) for “offences under any of sections 15 to 18” substitute “relevant offences”. 25
- (15) Omit the heading before paragraph 23.
- (16) In paragraph 23(2) –
 - (a) in the opening words for “an offence under any of sections 15 to 18” substitute “a relevant offence”;
 - (b) in paragraphs (a), (b) and (c) for “an offence under any of those sections” substitute “a relevant offence”. 30
- (17) In paragraph 24(1)(a) for “an offence under any of sections 15 to 18” substitute “a relevant offence”.
- (18) In paragraph 26 after “section 23”, in each place where it occurs, insert “or 23A”. 35
- (19) In paragraph 29 –
 - (a) in the definition of “forfeiture order” after “section 23” insert “or 23A”;
 - (b) after the definition of “forfeited property” insert –
 - ““relevant offence” means –
 - (a) an offence under any of sections 15 to 18, or
 - (b) an offence to which section 23A applies.”. 40
- (20) In paragraph 30(1)(d) for “section 23(7)” substitute “section 23B(1)”.
- (21) In paragraph 32(2)(c) for “section 23(7)” substitute “section 23B(1)”.

- (22) In paragraph 33(1)(a) and (2)(a) for “an offence under any of sections 15 to 18” substitute “a relevant offence”.
- (23) In paragraph 34(4)(a) and (b) for “offences under any of sections 15 to 18” substitute “relevant offences”.
- (24) In paragraph 38(4), in the definition of “prosecutor” for “an offence under any of sections 15 to 18” substitute “a relevant offence”. 5
- (25) Omit the heading before paragraph 39.
- (26) In paragraph 39(2) – 10
- (a) in the opening words for “an offence under any of sections 15 to 18” substitute “a relevant offence”;
- (b) in paragraphs (a), (b) and (c) for “an offence under any of those sections” substitute “a relevant offence”.
- (27) In paragraph 40(1)(a) for “an offence under any of sections 15 to 18” substitute “a relevant offence”.
- (28) In paragraph 42 after “section 23”, in each place where it occurs, insert “or 23A”. 15
- (29) In paragraph 45, in paragraph (a) of the definition of “forfeiture order” after “section 23” insert “or 23A”.
- 6 In Schedule 8 to that Act, in paragraphs 8(4)(d), 17(3)(c) and 34(2)(c) after “section 23” insert “or 23A”. 20

Proceeds of Crime Act 2002 (c. 29)

- 7 (1) The Proceeds of Crime Act 2002 is amended as follows.
- (2) In section 13(3)(d) after “section 23” insert “or 23A”.
- (3) In section 82(e) after “section 23” insert “, 23A”.
- (4) In section 97(3)(d) after “section 23” insert “or 23A”. 25
- (5) In section 148(e) after “section 23” insert “, 23A”.
- (6) In section 163(3)(d) after “section 23” insert “or 23A”.
- (7) In section 230(e) after “section 23” insert “, 23A”.

SCHEDULE 5

Section 66

NOTIFICATION ORDERS

30

Introductory

- 1 A “notification order” is an order applying the notification requirements of this Part to a person who has been dealt with outside the United Kingdom in respect of a corresponding foreign offence.

Corresponding foreign offences

- 2 (1) A “corresponding foreign offence” means an act that—
- (a) constituted an offence under the law in force in a country outside the United Kingdom, and
 - (b) corresponds to an offence to which this Part applies. 5
- (2) For this purpose an act punishable under the law in force in a country outside the United Kingdom is regarded as constituting an offence under that law however it is described in that law.
- (3) An act corresponds to an offence to which this Part applies if—
- (a) it would have constituted an offence to which this Part applies by virtue of section 52 if it had been done in any part of the United Kingdom, or 10
 - (b) it was, or took place in the course of, an act of terrorism or was done for the purposes of terrorism.
- (4) On an application for a notification order the condition in sub-paragraph (3)(a) or (b) is to be taken to be met unless— 15
- (a) the defendant serves on the applicant, not later than rules of court may provide, a notice— 20
 - (i) stating that, on the facts as alleged with respect to the act concerned, the condition is not in the defendant’s opinion met,
 - (ii) showing the defendant’s grounds for that opinion, and
 - (iii) requiring the applicant to prove that the condition is met; or
 - (b) the court permits the defendant to require the applicant to prove that the condition is met without service of such a notice. 25
- (5) In the application of this paragraph in Scotland, for “defendant” substitute “respondent”.

Conditions for making a notification order

- 3 (1) The conditions for making a notification order in respect of a person are as follows. 30
- (2) The first condition is that under the law in force in a country outside the United Kingdom—
- (a) the person has been convicted of a corresponding foreign offence and has received in respect of the offence a sentence equivalent to a sentence mentioned in section 56(1)(a), (2)(a) or (3)(a), or 35
 - (b) a court exercising jurisdiction under that law has, in respect of a corresponding foreign offence—
 - (i) convicted the person or made a finding in relation to the person equivalent to a finding mentioned in section 56(1)(b)(ii) or (iii), (2)(b)(ii) or (iii) or (3)(b)(ii) or (iii) (finding of insanity or disability), and 40
 - (ii) made the person subject to an order equivalent to a hospital order.
- (3) The second condition is that—
- (a) the sentence was imposed or order made after the commencement of this Part, or 45

- (b) the sentence was imposed or order made before the commencement of this Part and immediately before that time the person –
- (i) was imprisoned or detained in pursuance of the sentence or order,
 - (ii) would have been so imprisoned or detained but for being unlawfully at large or otherwise unlawfully absent, lawfully absent on a temporary basis or on bail pending an appeal, or
 - (iii) had been released on licence, or was subject to an equivalent form of supervision, having served the whole or part of a sentence of imprisonment for the offence.
- (4) The third condition is that the period for which the notification requirements would apply in respect of the offence (in accordance with section 64 as modified by paragraph 10(2)(d)) has not expired.
- (5) If on an application for a notification order it is proved that the conditions in sub-paragraphs (2), (3) and (4) are met, the court must make the order.

Application for notification order

- 4 (1) In England and Wales an application for a notification order in respect of a person may only be made by a chief officer of police.
- (2) An application may only be made if –
- (a) the person resides in the chief officer’s police area, or
 - (b) the chief officer believes that the person is in, or is intending to come to, that area.
- (3) The application must be made by complaint to a magistrates’ court whose commission area includes any part of the chief officer’s police area.
- 5 (1) In Scotland an application for a notification order in respect of a person may only be made by a chief constable.
- (2) An application may only be made if –
- (a) the person resides in the area of the chief constable’s police force, or
 - (b) the chief constable believes that the person is in, or is intending to come to, that area.
- (3) The application must be made by summary application to a sheriff within whose sheriffdom any part of the area of the chief constable’s police force lies.
- (4) A record of evidence is to be kept on any summary application under this paragraph.
- (5) Where the sheriff makes a notification order, the clerk of the court must give a copy of the order to the respondent or send a copy to the respondent by registered post or the recorded delivery service.
- (6) An acknowledgement or certificate of delivery issued by the Post Office is sufficient evidence of the delivery of the copy on the day specified in the acknowledgement or certificate.
- 6 (1) In Northern Ireland an application for a notification order in respect of a person may only be made by the Chief Constable of the Police Service of Northern Ireland.

- (2) An application may only be made if—
 - (a) the person resides in Northern Ireland, or
 - (b) the Chief Constable believes that the person is in, or is intending to come to, Northern Ireland.
- (3) The application must be made by complaint under Part 8 of the Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) to a court of summary jurisdiction. 5

Appeals

- 7 (1) In England and Wales the person against whom a notification order is made may appeal against the making of the order. 10
 - (2) The appeal lies to the Crown Court.
- 8 (1) In Scotland an interlocutor of the sheriff granting or refusing a notification order is appealable.
 - (2) Where an appeal is taken against such an interlocutor, the interlocutor continues in effect pending disposal of the appeal. 15
- 9 (1) In Northern Ireland the person against whom a notification order is made may appeal against the making of the order.
 - (2) The appeal lies to the county court.

Effect of notification order

- 10 (1) The effect of a notification order is that the notification requirements of this Part apply to the person in respect of whom it is made. 20
 - (2) The relevant provisions of this Part apply with the following modifications—
 - (a) references to when an offence was dealt with, or a person was dealt with in respect of an offence, are to the time at which the relevant sentence or order was imposed or made by the foreign court; 25
 - (b) for the purposes of section 58 (initial notification) the period within which notification is to be made begins with the date of service of the notification order;
 - (c) in section 62 (meaning of “local police area”) the reference to the court that last dealt with the person in respect of the offence by virtue of which the notification requirements apply shall be read as a reference to the court by which the notification order was made; 30
 - (d) in section 64 (period for which notification requirements apply) a reference to a sentence or order of any description is to be read as a reference to an equivalent sentence or order of the foreign court. 35

SCHEDULE 6

Section 67

FOREIGN TRAVEL RESTRICTION ORDERS

Introductory

- 1 A foreign travel restriction order is an order prohibiting the person to whom it applies from doing whichever of the following is specified in the order – 5
- (a) travelling to a country outside the United Kingdom named or described in the order;
 - (b) travelling to any country outside the United Kingdom other than a country named or described in the order;
 - (c) travelling to any country outside the United Kingdom. 10

Conditions for making a foreign travel restriction order

- 2 (1) The conditions for making a foreign travel restriction order in respect of a person are as follows.
- (2) The first condition is that the notification requirements apply to the person.
- (3) The second condition is that the person’s behaviour since the person was dealt with for the offence by virtue of which those requirements apply makes it necessary for a foreign travel restriction order to be made to prevent the person from taking part in terrorism activity outside the United Kingdom. 15
- (4) If the person was dealt with for the offence before the commencement of this Part, the condition in sub-paragraph (3) is not met unless the person has acted in that way since the commencement of this Part. 20
- (5) If on an application for a foreign travel restriction order the court is satisfied that the conditions in sub-paragraphs (2) and (3) are met, it may make a foreign travel restriction order. 25

Application for foreign travel restriction order

- 3 (1) In England and Wales an application for a foreign travel restriction order in respect of a person may only be made by a chief officer of police.
- (2) An application may only be made if – 30
- (a) the person resides in the chief officer’s police area, or
 - (b) the chief officer believes that the person is in, or is intending to come to, that area.
- (3) The application must be made by complaint to a magistrates’ court whose commission area includes any part of the chief officer’s police area.
- 4 (1) In Scotland an application for a foreign travel restriction order in respect of a person may only be made by a chief constable. 35
- (2) An application may only be made if – 40
- (a) the person resides in the area of the chief constable’s police force, or
 - (b) the chief constable believes that the person is in, or is intending to come to, that area.

- (3) The application must be made by summary application to a sheriff within whose sheriffdom any part of the area of the chief constable's police force lies.
 - (4) A record of evidence is to be kept on any such summary application.
 - (5) Where the sheriff makes a foreign travel restriction order, the clerk of the court must give a copy of the order to the respondent or send a copy to the respondent by registered post or the recorded delivery service. 5
 - (6) An acknowledgement or certificate of delivery issued by the Post Office is sufficient evidence of the delivery of the copy on the day specified in the acknowledgement or certificate. 10
- 5
- (1) In Northern Ireland an application for a foreign travel restriction order in respect of a person may only be made by the Chief Constable of the Police Service of Northern Ireland.
 - (2) An application may only be made if –
 - (a) the person resides in Northern Ireland, or 15
 - (b) the Chief Constable believes that the person is in, or is intending to come to, Northern Ireland.
 - (3) The application must be made by complaint under Part 8 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) to a court of summary jurisdiction. 20

Provisions of a foreign travel restriction order

- 6
- (1) A foreign travel restriction order may prohibit the person to whom it applies –
 - (a) from travelling to any country outside the United Kingdom named or described in the order; or 25
 - (b) from travelling to any country outside the United Kingdom other than a country named or described in the order; or
 - (c) from travelling to any country outside the United Kingdom.
 - (2) The order must only impose such prohibitions as are necessary for the purpose of preventing the person from taking part in terrorism activity outside the United Kingdom. 30
 - (3) A foreign travel restriction order containing a prohibition within subparagraph (1)(c) must require the person to whom it applies to surrender all that person's passports, at a police station specified in the order –
 - (a) on or before the date when the prohibition takes effect, or 35
 - (b) within a period specified in the order.
 - (4) Any passports surrendered must be returned as soon as reasonably practicable after the person ceases to be subject to a foreign travel restriction order containing such a prohibition.

Duration of foreign travel restriction order

40

- 7
- (1) A foreign travel restriction order has effect for a fixed period of not more than 6 months.
 - (2) The period must be specified in the order.

- (3) A foreign travel order ceases to have effect if a court (whether the same or another court) makes another foreign travel restriction order in relation to the person to whom the earlier order applies.

Variation, renewal or discharge of order

- 8 (1) In England and Wales an application for an order varying, renewing or discharging a foreign travel restriction order may be made by – 5
- (a) the person subject to the order;
 - (b) the chief officer of police on whose application the order was made;
 - (c) the chief officer of police for the area in which the person subject to the order resides; or 10
 - (d) a chief officer of police who believes that the person subject to the order is in, or is intending to come to, the officer’s police area.
- (2) The application must be made by complaint to –
- (a) a magistrates’ court for the same area as the court that made the order, 15
 - (b) a magistrates’ court for the area in which the person subject to the order resides, or
 - (c) where the application is made by a chief officer of police, any magistrates’ court whose commission area includes any part of that chief officer’s police area. 20
- (3) On an application under this paragraph the court may make such order varying, renewing or discharging the foreign travel restriction order as it considers appropriate.
- (4) Before doing so it must hear the person making the application and (if they wish to be heard) the other persons mentioned in sub-paragraph (1). 25
- 9 (1) In Scotland an application for an order varying, renewing or discharging a foreign travel restriction order may be made by –
- (a) the person subject to the order;
 - (b) the chief constable on whose application the order was made;
 - (c) the chief constable in the area of whose police force the person subject to the order resides; or 30
 - (d) a chief constable who believes that the person subject to the order is in, or is intending to come to, the area of that chief constable’s police force.
- (2) The application must be made by summary application – 35
- (a) to the sheriff who made the order, or
 - (b) to a sheriff –
 - (i) within whose sheriffdom the person subject to the order resides, or
 - (ii) where the application is made by a chief constable, within whose sheriffdom any part of the area of the chief constable’s police force lies. 40
- (3) A record of evidence is to be kept on any summary application under this paragraph.

- (4) On an application under this paragraph the sheriff may make such order varying, renewing or discharging the foreign travel restriction order as the sheriff considers appropriate.
- (5) Before doing so the sheriff must hear the person making the application and (if they wish to be heard) the other persons mentioned in sub-paragraph (1). 5
- 10 (1) In Northern Ireland an application for an order varying, renewing or discharging a foreign travel restriction order may be made by –
- (a) the person subject to the order; or
 - (b) the Chief Constable of the Police Service of Northern Ireland.
- (2) The application must be made by complaint under Part 8 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) to a court of summary jurisdiction for the petty sessions district which includes the area where the person subject to the order resides. 10
- (3) On an application under this paragraph the court may make such order varying, renewing or discharging the foreign travel restriction order as it considers appropriate. 15
- (4) It may do so only after hearing the person making the application and (if they wish to be heard) the other person mentioned in sub-paragraph (1).

Provisions of renewed or varied order

- 11 (1) A foreign travel restriction order may be renewed, or varied so as to impose additional prohibitions, but only if it is necessary to do so for the purpose of preventing the person subject to the order from taking part in terrorism activities outside the United Kingdom. 20
- (2) Any renewed or varied order must contain only the prohibitions necessary for that purpose. 25

Appeals

- 12 (1) In England and Wales –
- (a) a person against whom a foreign travel restriction order is made may appeal against the making of the order;
 - (b) a person subject to a foreign travel restriction order may appeal against – 30
 - (i) an order under paragraph 8 varying or renewing the order, or
 - (ii) a refusal to make an order under that paragraph varying or discharging the order. 35
- (2) The appeal lies to the Crown Court.
- (3) On an appeal under this paragraph the court may make –
- (a) such orders as it considers necessary to give effect to its determination of the appeal, and
 - (b) such incidental and consequential orders as appear to it to be just. 40
- 13 (1) In Scotland an interlocutor of the sheriff granting or refusing a foreign travel restriction order, or an order under paragraph 9 (variation, renewal or discharge of foreign travel restriction order), is appealable.

(2) Where an appeal is taken against such an interlocutor, the interlocutor continues in effect pending disposal of the appeal.

- 14 (1) In Northern Ireland—
- (a) a person against whom a foreign travel restriction order is made may appeal against the making of the order; 5
 - (b) a person subject to a foreign travel restriction order may appeal against—
 - (i) an order under paragraph 10 varying or renewing the order, or
 - (ii) a refusal to make an order under that paragraph varying or discharging the order. 10
- (2) The appeal lies to the county court.
- (3) On an appeal under this paragraph the court may make—
- (a) such orders as it considers necessary to give effect to its determination of the appeal, and 15
 - (b) such incidental and consequential orders as appear to it to be just.

Breach of foreign travel order an offence

- 15 (1) A person commits an offence who, without reasonable excuse, does anything they are prohibited from doing by a foreign travel order.
- (2) A person guilty of an offence under this section is liable— 20
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine or both.
- (3) In the application of sub-paragraph (2)(a)— 25
- (a) in England and Wales, in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), or
 - (b) in Northern Ireland, 30
- for “12 months” substitute “6 months”.
- (4) Where a person is convicted of an offence under this paragraph, it is not open to the court by or before which they are convicted—
- (a) in England and Wales or Northern Ireland, to make an order for conditional discharge in respect of the offence;
 - (b) in Scotland, to make a probation order in respect of the offence. 35

Meaning of “terrorism activity”

- 16 In this Schedule “terrorism activity” means anything that—
- (a) if done in any part of the United Kingdom, would constitute an offence to which this Part applies by virtue of section 52, or
 - (b) is, or takes place in the course of, an act of terrorism or is for the purposes of terrorism. 40

SCHEDULE 7

Section 83

OFFENCES RELATING TO INFORMATION ABOUT MEMBERS OF ARMED FORCES ETC:
SUPPLEMENTARY PROVISIONS

The following Schedule is inserted after Schedule 8 to the Terrorism Act 2000 (c. 11) –

5

“SCHEDULE 8A

OFFENCE UNDER SECTION 58A: SUPPLEMENTARY PROVISIONS

Introduction

- 1 (1) This Schedule makes supplementary provision relating to the offence in section 58A (eliciting, publishing or communicating information about members of the armed forces etc). 10
- (2) The purpose of this Schedule is to comply with Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (“the E-Commerce Directive”). 15

Domestic service providers: extension of liability

- 2 (1) This paragraph applies where a service provider is established in the United Kingdom (a “domestic service provider”).
- (2) Section 58A applies to a domestic service provider who – 20
- (a) commits any of the acts specified in subsection (1) of that section in an EEA state other than the United Kingdom, and
- (b) does so in the course of providing information society services, 25
- as it applies to a person who commits such an act in the United Kingdom.
- (3) In such a case –
- (a) proceedings for the offence may be taken at any place in the United Kingdom, and 30
- (b) the offence may for all incidental purposes be treated as having been committed at any such place.

Non-UK service providers: restriction on proceedings

- 3 (1) This paragraph applies where a service provider is established in an EEA state other than the United Kingdom (a “non-UK service provider”). 35
- (2) Proceedings for an offence under section 58A must not be brought against a non-UK service provider in respect of anything done in the course of the provision of information society services unless the following conditions are met. 40
- (3) The conditions are –

- (a) that the bringing of proceedings is necessary for one of the following reasons –
 - (i) public policy,
 - (ii) public security, including the safeguarding of national security and defence; 5
- (b) that the proceedings are brought against an information society service that prejudices the objectives referred to in paragraph (a) or presents a serious and grave risk of prejudice to those objectives;
- (c) that the bringing of the proceedings is proportionate to those objectives. 10

Exceptions for mere conduits

- 4 (1) A service provider is not guilty of an offence under section 58A in respect of anything done in the course of providing so much of an information society service as consists in – 15
- (a) the provision of access to a communication network, or
 - (b) the transmission in a communication network of information provided by a recipient of the service,
- if the following condition is satisfied.
- (2) The condition is that the service provider does not – 20
- (a) initiate the transmission,
 - (b) select the recipient of the transmission, or
 - (c) select or modify the information contained in the transmission.
- (3) For the purposes of sub-paragraph (1) – 25
- (a) the provision of access to a communication network, and
 - (b) the transmission of information in a communication network,
- includes the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network. 30
- (4) Sub-paragraph (3) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

Exception for caching

- 5 (1) This paragraph applies where an information society service consists in the transmission in a communication network of information provided by a recipient of the service. 35
- (2) The service provider is not guilty of an offence under section 58A in respect of the automatic, intermediate and temporary storage of information so provided, if – 40
- (a) the storage of the information is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request, and
 - (b) the following conditions are satisfied. 45

- (3) The first condition is that the service provider does not modify the information.
- (4) The second condition is that the service provider complies with any conditions attached to having access to the information.
- (5) The third condition is that if the service provider obtains actual knowledge that—
- (a) the information at the initial source of the transmission has been removed from the network,
 - (b) access to it has been disabled, or
 - (c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to, the information,
- the service provider expeditiously removes the information or disables access to it.
- Exception for hosting*
- 6 (1) A service provider is not guilty of an offence under section 58A in respect of anything done in the course of providing so much of an information society service as consists in the storage of information provided by a recipient of the service, if the condition is met.
- (2) The condition is that—
- (a) the service provider had no actual knowledge when the information was provided that it contained offending material, or
 - (b) on obtaining actual knowledge that the information contained offending material, the service provider expeditiously removed the information or disabled access to it.
- (3) “Offending material” means information about a person who is or has been a member of Her Majesty’s Forces which is of a kind likely to be useful to a person committing or preparing an act of terrorism.
- (4) This paragraph does not apply if the recipient of the service is acting under the authority or control of the service provider.
- Interpretation*
- 7 (1) In this Schedule—
- “information society services”—
- (a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and
 - (b) is summarised in recital 17 of the E-Commerce Directive as covering “any service normally provided for remuneration, at a distance, by means of electronic

- equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”;
- “recipient”, in relation to a service, means any person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible; 5
- “service provider” means a person providing an information society service.
- (2) For the purposes of this Schedule whether a service provider is established in the United Kingdom, or in some other EEA state, shall be determined in accordance with the following provisions – 10
- (a) a service provider is established in the United Kingdom, or in a particular EEA state, if the service provider –
- (i) effectively pursues an economic activity using a fixed establishment in the United Kingdom, or that EEA state, for an indefinite period, and 15
- (ii) is a national of an EEA state or a company or firm mentioned in Article 48 of the EEC Treaty;
- (b) the presence or use in a particular place of equipment or other technical means of providing an information society service does not, of itself, constitute the establishment of a service provider; 20
- (c) where it cannot be determined from which of a number of establishments a given information society service is provided, that service is to be regarded as provided from the establishment at the centre of the service provider’s activities relating to that service.”. 25

SCHEDULE 8

Section 103

REPEALS 30

PART 1

RETENTION AND USE OF FINGERPRINTS AND SAMPLES

| <i>Short title and chapter</i> | <i>Extent of repeal</i> |
|--------------------------------|---------------------------------|
| Terrorism Act 2000 (c. 11) | In Schedule 8, paragraph 14(3). |

PART 2 35

DISCLOSURE OF INFORMATION AND THE INTELLIGENCE SERVICES

| <i>Short title and chapter</i> | <i>Extent of repeal or revocation</i> |
|---|---------------------------------------|
| Anti-terrorism, Crime and Security Act 2001 (c. 24) | Section 19(2)(a). |

| <i>Short title and chapter</i> | <i>Extent of repeal or revocation</i> | |
|---|--|----------|
| Representation of the People (England and Wales) Regulations 2001 (S.I. 2001/341) | Regulation 45E(3) and (4). In Regulation 109— (a) paragraph (1)(g) to (i); (b) in paragraph (4)(a), the words preceding paragraph (i); (c) paragraph (4)(b) and the word “and” immediately preceding it. In Regulation 115(2), “45E(3),”. | 5 |
| Representation of the People (Scotland) Regulations 2001 (S.I. 2001/497) | Regulation 45D(3) and (4). In Regulation 108— (a) paragraph (1)(g) to (i); (b) in paragraph (4)(a), the words preceding paragraph (i); (c) paragraph (4)(b) and the word “and” immediately preceding it. In Regulation 115(2), “45D(3),”. | 10 15 |
| Immigration, Asylum and Nationality Act 2006 (c. 13) | Section 38. | |
| Statistics and Registration Service Act 2007 (c. 18) | Section 39(4)(g). In section 67, the definition of “Intelligence Service”. | 20 |

PART 3

PRE-CHARGE DETENTION

| <i>Short title and chapter</i> | <i>Extent of repeal</i> | |
|--------------------------------|--|----|
| Terrorism Act 2000 (c. 11) | In Schedule 8, in paragraph 29(4)(a) and (c), the words “after consulting the Lord Chancellor”. | 25 |
| Terrorism Act 2006 (c. 11) | In section 23— (a) in subsection (2), the words “each of” and “and 36”; (b) subsections (6) to (10). | 30 |

PART 4

FORFEITURE

| <i>Short title and chapter</i> | <i>Extent of repeal</i> | |
|--------------------------------|--|----|
| Terrorism Act 2000 (c. 11) | Section 54(7) to (9). Section 58(5) to (7). | 35 |

Counter-Terrorism Bill

A

B I L L

To confer further powers to gather and share information for counter-terrorism and other purposes; to make further provision about the detention and questioning of terrorist suspects and the prosecution and punishment of terrorist offences; to impose notification requirements on persons convicted of such offences; to amend the law relating to asset freezing proceedings under United Nations terrorism orders; to amend the law relating to inquests and inquiries; to amend the definition of “terrorism”; to amend the enactments relating to terrorist offences, control orders and the forfeiture of terrorist cash; to provide for recovering the costs of policing at certain gas facilities; to amend provisions about the appointment of special advocates in Northern Ireland; and for connected purposes.

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