



# Terrorism Act 2000

## 2000 CHAPTER 11

### PART II

#### PROSCRIBED ORGANISATIONS

##### *Procedure*

### **3 Proscription**

- (1) For the purposes of this Act an organisation is proscribed if—
  - (a) it is listed in Schedule 2, or
  - (b) it operates under the same name as an organisation listed in that Schedule.
- (2) Subsection (1)(b) shall not apply in relation to an organisation listed in Schedule 2 if its entry is the subject of a note in that Schedule.
- (3) The Secretary of State may by order—
  - (a) add an organisation to Schedule 2;
  - (b) remove an organisation from that Schedule;
  - (c) amend that Schedule in some other way.
- (4) The Secretary of State may exercise his power under subsection (3)(a) in respect of an organisation only if he believes that it is concerned in terrorism.
- (5) For the purposes of subsection (4) an organisation is concerned in terrorism if it—
  - (a) commits or participates in acts of terrorism,
  - (b) prepares for terrorism,
  - (c) promotes or encourages terrorism, or
  - (d) is otherwise concerned in terrorism.

#### **4 Deproscription: application**

- (1) An application may be made to the Secretary of State for the exercise of his power under section 3(3)(b) to remove an organisation from Schedule 2.
- (2) An application may be made by—
  - (a) the organisation, or
  - (b) any person affected by the organisation's proscription.
- (3) The Secretary of State shall make regulations prescribing the procedure for applications under this section.
- (4) The regulations shall, in particular—
  - (a) require the Secretary of State to determine an application within a specified period of time, and
  - (b) require an application to state the grounds on which it is made.

#### **5 Deproscription: appeal**

- (1) There shall be a commission, to be known as the Proscribed Organisations Appeal Commission.
- (2) Where an application under section 4 has been refused, the applicant may appeal to the Commission.
- (3) The Commission shall allow an appeal against a refusal to deproscribe an organisation if it considers that the decision to refuse was flawed when considered in the light of the principles applicable on an application for judicial review.
- (4) Where the Commission allows an appeal under this section by or in respect of an organisation, it may make an order under this subsection.
- (5) Where an order is made under subsection (4) the Secretary of State shall as soon as is reasonably practicable—
  - (a) lay before Parliament, in accordance with section 123(4), the draft of an order under section 3(3)(b) removing the organisation from the list in Schedule 2, or
  - (b) make an order removing the organisation from the list in Schedule 2 in pursuance of section 123(5).
- (6) Schedule 3 (constitution of the Commission and procedure) shall have effect.

#### **6 Further appeal**

- (1) A party to an appeal under section 5 which the Proscribed Organisations Appeal Commission has determined may bring a further appeal on a question of law to—
  - (a) the Court of Appeal, if the first appeal was heard in England and Wales,
  - (b) the Court of Session, if the first appeal was heard in Scotland, or
  - (c) the Court of Appeal in Northern Ireland, if the first appeal was heard in Northern Ireland.
- (2) An appeal under subsection (1) may be brought only with the permission—
  - (a) of the Commission, or
  - (b) where the Commission refuses permission, of the court to which the appeal would be brought.

- (3) An order under section 5(4) shall not require the Secretary of State to take any action until the final determination or disposal of an appeal under this section (including any appeal to the House of Lords).

## **7 Appeal: effect on conviction, &c**

- (1) This section applies where—
- (a) an appeal under section 5 has been allowed in respect of an organisation,
  - (b) an order has been made under section 3(3)(b) in respect of the organisation in accordance with an order of the Commission under section 5(4) (and, if the order was made in reliance on section 123(5), a resolution has been passed by each House of Parliament under section 123(5)(b)),
  - (c) a person has been convicted of an offence in respect of the organisation under any of sections 11 to 13, 15 to 19 and 56, and
  - (d) the activity to which the charge referred took place on or after the date of the refusal to deproscribe against which the appeal under section 5 was brought.
- (2) If the person mentioned in subsection (1)(c) was convicted on indictment—
- (a) he may appeal against the conviction to the Court of Appeal, and
  - (b) the Court of Appeal shall allow the appeal.
- (3) A person may appeal against a conviction by virtue of subsection (2) whether or not he has already appealed against the conviction.
- (4) An appeal by virtue of subsection (2)—
- (a) must be brought within the period of 28 days beginning with the date on which the order mentioned in subsection (1)(b) comes into force, and
  - (b) shall be treated as an appeal under section 1 of the Criminal Appeal Act 1968 (but does not require leave).
- (5) If the person mentioned in subsection (1)(c) was convicted by a magistrates' court—
- (a) he may appeal against the conviction to the Crown Court, and
  - (b) the Crown Court shall allow the appeal.
- (6) A person may appeal against a conviction by virtue of subsection (5)—
- (a) whether or not he pleaded guilty,
  - (b) whether or not he has already appealed against the conviction, and
  - (c) whether or not he has made an application in respect of the conviction under section 111 of the Magistrates' Courts Act 1980 (case stated).
- (7) An appeal by virtue of subsection (5)—
- (a) must be brought within the period of 21 days beginning with the date on which the order mentioned in subsection (1)(b) comes into force, and
  - (b) shall be treated as an appeal under section 108(1)(b) of the Magistrates' Courts Act 1980.
- (8) In section 133(5) of the Criminal Justice Act 1988 (compensation for miscarriage of justice) after paragraph (b) there shall be inserted—
- “or
- (c) on an appeal under section 7 of the Terrorism Act 2000”.

## 8 Section 7: Scotland and Northern Ireland

- (1) In the application of section 7 to Scotland—
- (a) for every reference to the Court of Appeal or the Crown Court substitute a reference to the High Court of Justiciary,
  - (b) in subsection (2)(b), at the end insert “and quash the conviction”,
  - (c) in subsection (4)—
    - (i) in paragraph (a), for “28 days” substitute “two weeks”, and
    - (ii) in paragraph (b), for “section 1 of the Criminal Appeal Act 1968” substitute “section 106 of the Criminal Procedure (Scotland) Act 1995”,
  - (d) in subsection (5)—
    - (i) for “by a magistrates' court” substitute “in summary proceedings”, and
    - (ii) in paragraph (b), at the end insert “and quash the conviction”,
  - (e) in subsection (6), paragraph (c) is omitted, and
  - (f) in subsection (7)—
    - (i) in paragraph (a) for “21 days” substitute “two weeks”, and
    - (ii) for paragraph (b) substitute—
      - “(b) shall be by note of appeal, which shall state the ground of appeal,
      - (c) shall not require leave under any provision of Part X of the Criminal Procedure (Scotland) Act 1995, and
      - (d) shall be in accordance with such procedure as the High Court of Justiciary may, by Act of Adjournal, determine.”.
- (2) In the application of section 7 to Northern Ireland—
- (a) the reference in subsection (4) to section 1 of the Criminal Appeal Act 1968 shall be taken as a reference to section 1 of the Criminal Appeal (Northern Ireland) Act 1980,
  - (b) references in subsection (5) to the Crown Court shall be taken as references to the county court,
  - (c) the reference in subsection (6) to section 111 of the Magistrates' Courts Act 1980 shall be taken as a reference to Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981, and
  - (d) the reference in subsection (7) to section 108(1)(b) of the Magistrates' Courts Act 1980 shall be taken as a reference to Article 140(1)(b) of the Magistrates' Courts (Northern Ireland) Order 1981.

## 9 Human Rights Act 1998

- (1) This section applies where rules (within the meaning of section 7 of the Human Rights Act 1998 (jurisdiction)) provide for proceedings under section 7(1) of that Act to be brought before the Proscribed Organisations Appeal Commission.
- (2) The following provisions of this Act shall apply in relation to proceedings under section 7(1) of that Act as they apply to appeals under section 5 of this Act—
- (a) section 5(4) and (5),
  - (b) section 6,

- (c) section 7, and
  - (d) paragraphs 4 to 8 of Schedule 3.
- (3) The Commission shall decide proceedings in accordance with the principles applicable on an application for judicial review.
- (4) In the application of the provisions mentioned in subsection (2)—
- (a) a reference to the Commission allowing an appeal shall be taken as a reference to the Commission determining that an action of the Secretary of State is incompatible with a Convention right, and
  - (b) a reference to the refusal to deproscribe against which an appeal was brought shall be taken as a reference to the action of the Secretary of State which is found to be incompatible with a Convention right.

## **10 Immunity**

- (1) The following shall not be admissible as evidence in proceedings for an offence under any of sections 11 to 13, 15 to 19 and 56—
- (a) evidence of anything done in relation to an application to the Secretary of State under section 4,
  - (b) evidence of anything done in relation to proceedings before the Proscribed Organisations Appeal Commission under section 5 above or section 7(1) of the Human Rights Act 1998,
  - (c) evidence of anything done in relation to proceedings under section 6 (including that section as applied by section 9(2)), and
  - (d) any document submitted for the purposes of proceedings mentioned in any of paragraphs (a) to (c).
- (2) But subsection (1) does not prevent evidence from being adduced on behalf of the accused.