



# Prevention of Terrorism Act 2005

## 2005 CHAPTER 2

### *Supplemental*

#### **13 Duration of sections 1 to 9**

- (1) Except so far as otherwise provided under this section, sections 1 to 9 expire at the end of the period of 12 months beginning with the day on which this Act is passed.
- (2) The Secretary of State may, by order made by statutory instrument—
  - (a) repeal sections 1 to 9;
  - (b) at any time revive those sections for a period not exceeding one year; or
  - (c) provide that those sections—
    - (i) are not to expire at the time when they would otherwise expire under subsection (1) or in accordance with an order under this subsection; but
    - (ii) are to continue in force after that time for a period not exceeding one year.
- (3) Before making an order under this section the Secretary of State must consult—
  - (a) the person appointed for the purposes of section 14(2);
  - (b) the Intelligence Services Commissioner; and
  - (c) the Director-General of the Security Service.
- (4) No order may be made by the Secretary of State under this section unless a draft of it has been laid before Parliament and approved by a resolution of each House.
- (5) Subsection (4) does not apply to an order that contains a declaration by the Secretary of State that the order needs, by reason of urgency, to be made without the approval required by that subsection.
- (6) An order under this section that contains such a declaration—
  - (a) must be laid before Parliament after being made; and
  - (b) if not approved by a resolution of each House before the end of 40 days beginning with the day on which the order was made, ceases to have effect at the end of that period.

- (7) Where an order ceases to have effect in accordance with subsection (6), that does not—
- (a) affect anything previously done in reliance on the order; or
  - (b) prevent the making of a new order to the same or similar effect.
- (8) Where sections 1 to 9 expire or are repealed at any time by virtue of this section, that does not prevent or otherwise affect—
- (a) the court's consideration of a reference made before that time under subsection (3)(a) of section 3;
  - (b) the holding or continuation after that time of any hearing in pursuance of directions under subsection (2)(c) or (6)(b) or (c) of that section;
  - (c) the holding or continuation after that time of a hearing to determine whether to confirm a derogating control order (with or without modifications); or
  - (d) the bringing or continuation after that time of any appeal, or further appeal, relating to a decision in any proceedings mentioned in paragraphs (a) to (c) of this subsection;
- but proceedings may be begun or continued by virtue of this subsection so far only as they are for the purpose of determining whether a certificate of the Secretary of State, a control order or an obligation imposed by such an order should be quashed or treated as quashed.
- (9) Nothing in this Act about the period for which a control order is to have effect or is renewed enables such an order to continue in force after the provision under which it was made or last renewed has expired or been repealed by virtue of this section.
- (10) In subsection (6) “40 days” means 40 days computed as provided for in section 7(1) of the Statutory Instruments Act 1946 (c. 36).

## 14 Reporting and review

- (1) As soon as reasonably practicable after the end of every relevant 3 month period, the Secretary of State must—
- (a) prepare a report about his exercise of the control order powers during that period; and
  - (b) lay a copy of that report before Parliament.
- (2) The Secretary of State must also appoint a person to review the operation of this Act.
- (3) As soon as reasonably practicable after the end of—
- (a) the period of 9 months beginning with the day on which this Act is passed, and
  - (b) every 12 month period which ends with the first or a subsequent anniversary of the end of the period mentioned in the preceding paragraph and is a period during the whole or a part of which sections 1 to 9 of this Act were in force,
- the person so appointed must carry out a review of the operation of this Act during that period.
- (4) The person who conducts a review under this section must send the Secretary of State a report on its outcome as soon as reasonably practicable after completing the review.
- (5) That report must also contain the opinion of the person making it on—
- (a) the implications for the operation of this Act of any proposal made by the Secretary of State for the amendment of the law relating to terrorism; and

- (b) the extent (if any) to which the Secretary of State has made use of his power by virtue of section 3(1)(b) to make non-derogating control orders in urgent cases without the permission of the court.
- (6) On receiving a report under subsection (4), the Secretary of State must lay a copy of it before Parliament.
- (7) The Secretary of State may pay the expenses of a person appointed to carry out a review and may also pay him such allowances as the Secretary of State determines.
- (8) In this section—
  - “control order powers” means—
    - (a) the powers of the Secretary of State under this Act to make, renew, modify and revoke control orders; and
    - (b) his powers to apply to the court for the making, renewal, revocation or modification of derogating control orders;
  - “relevant 3 month period” means—
    - (a) the period of 3 months beginning with the passing of this Act;
    - (b) a period of 3 months beginning with a time which—
      - (i) is the beginning of a period for which sections 1 to 9 are revived by an order under section 13; and
      - (ii) falls more than 3 months after the time when those sections were last in force before being revived;
    - (c) a 3 month period which begins with the end of a previous relevant 3 month period and is a period during the whole or a part of which those sections are in force.

## 15 General interpretation

- (1) In this Act—
  - “act” and “conduct” include omissions and statements;
  - “act of terrorism” includes anything constituting an action taken for the purposes of terrorism, within the meaning of the Terrorism Act 2000 (c. 11) (see section 1(5) of that Act);
  - “apparatus” includes any equipment, machinery or device and any wire or cable, together with any software used with it;
  - “article” and “information” include documents and other records, and software;
  - “contravene” includes fail to comply, and cognate expressions are to be construed accordingly;
  - “control order” has the meaning given by section 1(1);
  - “control order proceedings” has the meaning given by section 11(6);
  - “the controlled person”, in relation to a control order, means the individual on whom the order imposes obligations;
  - “the court”—
    - (a) in relation to proceedings relating to a control order in the case of which the controlled person is a person whose principal place of residence is in Scotland, means the Outer House of the Court of Session;

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(b) in relation to proceedings relating to a control order in the case of which the controlled person is a person whose principal place of residence is in Northern Ireland, means the High Court in Northern Ireland; and

(c) in any other case, means the High Court in England and Wales;

“derogating control order” means a control order imposing obligations that are or include derogating obligations;

“derogating obligation”, “designated derogation” and “designation order” have the meanings given by section 1(10);

“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);

“modification” includes omission, addition or alteration, and cognate expressions are to be construed accordingly;

“non-derogating control order” means a control order made by the Secretary of State;

“passport” means—

(a) a United Kingdom passport (within the meaning of the Immigration Act 1971 (c. 77));

(b) a passport issued by or on behalf of the authorities of a country or territory outside the United Kingdom, or by or on behalf of an international organisation;

(c) a document that can be used (in some or all circumstances) instead of a passport;

“premises” includes any vehicle, vessel, aircraft or hovercraft;

“the public” means the public in the whole or a part of the United Kingdom or the public in another country or territory, or any section of the public;

“specified”, in relation to a control order, means specified in that order or falling within a description so specified;

“terrorism” has the same meaning as in the Terrorism Act 2000 (c. 11) (see section 1(1) to (4) of that Act);

“terrorism-related activity” and, in relation to such activity, “involvement” are to be construed in accordance with section 1(9).

(2) A power under this Act to quash a control order, the renewal of such an order or an obligation imposed by such an order includes power—

(a) in England and Wales or Northern Ireland, to stay the quashing of the order, renewal or obligation pending an appeal, or further appeal, against the decision to quash; and

(b) in Scotland, to determine that the quashing is of no effect pending such an appeal or further appeal.

(3) Every power of the Secretary of State or of the court to revoke a control order or to modify the obligations imposed by such an order—

(a) includes power to provide for the revocation or modification to take effect from such time as the Secretary of State or (as the case may be) the court may determine; and

(b) in the case of a revocation by the court (including a revocation in pursuance of section 7(7)) includes power to postpone the effect of the revocation either pending an appeal or for the purpose of giving the Secretary of State an opportunity to decide whether to exercise his own powers to make a control order against the individual in question.

- (4) For the purposes of this Act a failure by the Secretary of State to consider an application by the controlled person for—
- (a) the revocation of a control order, or
  - (b) the modification of an obligation imposed by such an order,
- is to be treated as a decision by the Secretary of State not to revoke or (as the case may be) not to modify the order.

## 16 Other supplemental provisions

- (1) This Act may be cited as the Prevention of Terrorism Act 2005.
- (2) The following provisions are repealed—
- (a) sections 21 to 32 of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (suspected international terrorists);
  - (b) in section 1(4) of the Special Immigration Appeals Commission Act 1997 (c. 68), paragraph (b) (which refers to section 30 of the 2001 Act) and the word “or” immediately preceding it;
  - (c) section 62(15) and (16) of the Nationality, Immigration and Asylum Act 2002 (c. 41) and paragraph 30 of Schedule 7 to that Act (which amended sections 23, 24 and 27 of the 2001 Act); and
  - (d) section 32 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19) (which amended sections 24 and 27 of the 2001 Act).
- (3) Subsection (2) comes into force on 14th March 2005.
- (4) The repeals made by this Act do not prevent or otherwise affect—
- (a) the continuation of any appeal to the Special Immigration Appeals Commission under section 25(1) of the Anti-terrorism, Crime and Security Act 2001 that has been brought but not concluded before the commencement of those repeals;
  - (b) the bringing or continuation of a further appeal relating to a decision of that Commission on such an appeal or on any other appeal brought under section 25(1) of that Act before the commencement of those repeals; or
  - (c) any proceedings resulting from a decision on a further appeal from such a decision;
- but no other proceedings before that Commission under Part 4 of that Act, nor any appeal or further appeal relating to any such other proceedings, may be brought or continued at any time after the commencement of the repeals.
- (5) The Secretary of State may enter into such contracts and other arrangements with other persons as he considers appropriate for securing their assistance in connection with any monitoring, by electronic or other means, that he considers needs to be carried out in connection with obligations that have been or may be imposed by or under control orders.
- (6) There shall be paid out of money provided by Parliament—
- (a) any expenditure incurred by the Secretary of State by virtue of this Act; and
  - (b) any increase attributable to this Act in the sums payable out of such money under any other Act.
- (7) This Act extends to Northern Ireland.

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- (8) Her Majesty may by Order in Council direct that this Act shall extend, with such modifications as appear to Her Majesty to be appropriate, to any of the Channel Islands or the Isle of Man.