

TERRORISM ACT 2006

EXPLANATORY NOTES

COMMENTARY

Definitions

Section 17 – Commission of offences abroad

82. **Subsections (1) to (4)** of section 17 make provision in relation to extra-territorial jurisdiction for the UK courts for the new offences contained in sections 1, 6, and 8 to 11 of this Act, and two offences in the TACT. Sections 1 and 6 are only covered by this section in as much as they relate to Convention offences as opposed to acts of terrorism. The overall effect of the section is that if, for example, an individual were to commit one of these offences in a foreign country, they would be liable under UK law in the same way as if they had committed the offence in the UK.
83. The extra-territorial jurisdiction in section 17 is needed in order to give effect to Article 14 of the Council of Europe Convention on the Prevention of Terrorism (as respects the offences in sections 1 and 6) and Article 9 of the International Convention for the Suppression of Acts of Nuclear Terrorism (as respects the offences in sections 9 to 11). Article 14.1 of the Council of Europe Convention on the Prevention of Terrorism requires State Parties to take jurisdiction in respect of offences committed anywhere by nationals of that State. In addition, Article 14.3 requires State Parties to take jurisdiction in respect of anyone present in their territory if they do not extradite that person to the state where the offence was committed. Paragraphs 1 and 4 of Article 9 of the Nuclear Convention set out the same requirements. Extra-territorial jurisdiction is appropriate for the offence in section 8 because the places at which terrorist training is taking place are more likely to be located abroad rather than in the UK.

Subsections (1) to (3)

84. **Subsection (2)** provides that this section applies to a number of offences. Firstly, it applies to the offences created by sections 1 and 6 of this Act, so far as those offences are committed in relation to any statement, instruction or training in relation to which those sections have effect by reason of their relevance to the commission, preparation, or instigation of one or more Convention offences. Secondly, it applies to all the new offences outlined in sections 8 to 11 of this Act. Thirdly, it applies to an offence under section 11(1) of the TACT (membership of proscribed organisations) and section 54 of that Act (weapons training). Fourthly, it applies to offences of conspiracy, incitement and attempt in respect of the specific listed offences.
85. Under **subsection (1)** if a person does anything outside the UK and, if he had acted in a part of the UK it would have been an offence listed in subsection (2) in that part of the UK, he is guilty of that offence, in that part of the UK. The jurisdiction in respect of offences committed abroad extends to all persons not just British citizens or companies incorporated in the UK (**subsection (3)**).

Subsection (4)

86. **Subsection (4)** sets out that in the case of offences occurring wholly or partly abroad, proceedings may be brought in any place in the United Kingdom, and that for incidental purposes, the offence may be treated as having been committed in that place. This is to ensure that court and other criminal proceedings provisions can operate properly and effectively.

Subsections (5) and (6)

87. **Subsection (5)** amends section 3 of the [Explosive Substances Act 1883 \(c. 3\)](#). Under section 3(1)(a) of that Act it is an offence to carry out certain acts preparatory to causing an explosion. The preparatory acts must take place in the UK or its dependencies, or, in the case of a citizen of the UK or colonies, anywhere in the world. At the moment in order for the offence to be committed the explosion must be intended to take place in the UK or the Republic of Ireland. This means that it is not an offence to do acts preparatory to an explosion in a country other than the UK or the Republic of Ireland. **Subsection (5)** amends section 3 so that the explosion can be planned to take place anywhere in the world. **Subsection (6)** provides that the amendment to the Explosive Substances Act 1883 only applies to Scotland so far as the act that may be considered an offence is an act of terrorism, an act for the purposes of terrorism, or that any possession or control of a substance is for the purposes of terrorism. The provision is so limited because section 3 of the Explosive Substances Act 1883 is only a reserved matter, within the meaning of the Scotland Act 1998, insofar as it relates to terrorism.