



Terrorism Prevention and Investigation Measures Act 2011

2011 CHAPTER 23

Temporary imposition of enhanced measures

26 Temporary power for imposition of enhanced measures

- (1) If the Secretary of State considers that it is necessary to do so by reason of urgency, the Secretary of State may make a temporary enhanced TPIM order during any period that—
 - (a) begins with the dissolution of Parliament, and
 - (b) ends with the first Queen's Speech of the Parliament which first meets after that dissolution.
- (2) A temporary enhanced TPIM order is an order which makes provision for, or in connection with, giving the Secretary of State power to impose enhanced measures by notice on individuals whom the Secretary of State is satisfied, on the balance of probabilities, are, or have been, involved in terrorism-related activity.
- (3) An enhanced measure is a requirement, restriction or other provision which is of any of the following kinds—
 - (a) a restriction on an individual in relation to the residence in which the individual resides, including—
 - (i) a requirement to reside at a specified residence in the United Kingdom;
 - (ii) a requirement not to allow others to reside at that residence without the permission of the Secretary of State;
 - (iii) a requirement, applicable between specified hours, to remain at, or within, that residence;
 - (b) a restriction on an individual in relation to leaving a specified area;
 - (c) a requirement, restriction or other provision which corresponds to provision within any of these paragraphs of Schedule 1—
 - (i) paragraphs 2 to 6;

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- (ii) paragraph 7(1) and (2) and (4) to (6);
 - (iii) paragraphs 9 to 12;
 - (d) a requirement, restriction or other provision which corresponds to provision within paragraph 8(1) of Schedule 1 (as read with paragraph 8(3) of that Schedule), including—
 - (i) a requirement not to associate or communicate with other persons without the permission of the Secretary of State, which includes provision allowing the individual (without seeking permission) to associate and communicate with such persons or descriptions of persons as the Secretary of State may specify;
 - (ii) a requirement to give notice to the Secretary of State before associating or communicating with other persons, which includes provision allowing the individual (without giving notice) to associate and communicate with such persons, or descriptions of persons, as are specified;
 - (iii) a requirement of the kind referred to in sub-paragraph (c) of paragraph 8(2) of Schedule 1, which may in particular relate to association or communication which is allowed by virtue of provision of the kind referred to in sub-paragraph (i) or (ii) above;
 - (e) provision which corresponds to provision within Part 2 of Schedule 1;

and for this purpose “specified” means specified by the Secretary of State in an enhanced TPIM notice.
- (4) Except as provided for in subsections (5) to (10), the provision made by a temporary enhanced TPIM order must correspond to the relevant provisions of this Act.
- (5) A temporary enhanced TPIM order—
 - (a) must secure that enhanced TPIM notices and standard TPIM notices are separate notices;
 - (b) must secure that, at any particular time, an enhanced TPIM notice and a standard TPIM notice are not both in force in relation to a particular individual; and
 - (c) may secure that the application of a temporary enhanced TPIM order to a particular individual does not affect the application of this Act to that individual (and vice versa).
- (6) The provision of a temporary enhanced TPIM order which corresponds to section 3 must include appropriate variations from the provision contained in that section to secure—
 - (a) that condition A is replaced by a condition which secures that the enhanced TPIM power may not be exercised in relation to an individual unless the Secretary of State is satisfied, on the balance of probabilities, that the individual is, or has been, involved in terrorism-related activity; and
 - (b) that condition D is replaced by a condition which secures both—
 - (i) the same result as condition D, and
 - (ii) that the enhanced TPIM power may not be exercised in relation to an individual unless some or all of the measures imposed by the enhanced TPIM notice are measures that may not be imposed by a standard TPIM notice.
- (7) The provision of a temporary enhanced TPIM order which corresponds to section 5(1) must include appropriate variations from the provision contained in that subsection

to secure that each enhanced TPIM notice ceases to be in force at the time when the enhanced TPIM power ceases to have effect in accordance with section 27(1) (subject to earlier revocation or quashing of the notice).

- (8) The provision of a temporary enhanced TPIM order which corresponds to Schedule 1 must include appropriate variations from the provision contained in that Schedule to secure that it is enhanced measures which the Secretary of State has power to impose.
- (9) A temporary enhanced TPIM order may make appropriate provision (including appropriate variations from the provision contained in the relevant provisions of this Act) in consequence of, or in connection with, the creation, in accordance with this section, of the enhanced TPIM power.
- (10) A temporary enhanced TPIM order may make appropriate provision for the purposes of securing that transitional and saving provision relating to a temporary enhanced TPIM order ceasing to have effect may be made (including provision for enhanced TPIM notices to continue in force for a period, which does not exceed 28 days, after the enhanced TPIM power ceases to have effect).
- (11) The provision that may be made by a temporary enhanced TPIM order includes—
 - (a) provision applying (with or without modifications) any enactment (including an enactment contained in this Act);
 - (b) provision conferring functions on the Secretary of State or any other person (including, in the case of the Secretary of State or any other Minister of the Crown, functions of a legislative nature).
- (12) The Secretary of State must obtain the consent of the Scottish Ministers to the inclusion in a temporary enhanced TPIM order of any provision—
 - (a) which would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament, or
 - (b) which otherwise confers functions on the Scottish Ministers.
- (13) But subsection (12) does not apply to any provision of an enhanced TPIM order which—
 - (a) applies (with or without modifications) an enactment contained in, or amended by, this Act, or
 - (b) otherwise corresponds to such an enactment.

27 Section 26: supplementary provision

- (1) A temporary enhanced TPIM order, except for designated transitional and saving provision, ceases to have effect—
 - (a) at the end of the period of 90 days beginning with the day on which the Secretary of State makes the order, or
 - (b) at such earlier time (if any) as is specified in the order.
- (2) The Secretary of State may by order revoke some or all of a temporary enhanced TPIM order if the Secretary of State considers it appropriate to do so (whether or not the Secretary of State would have power to make a temporary enhanced TPIM order by virtue of section 26(1)).
- (3) As soon as practicable after making—
 - (a) a temporary enhanced TPIM order, or
 - (b) an order revoking any provision of a temporary enhanced TPIM order,

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the Secretary of State must lay before each House of Parliament a copy of the order that has been made.

(4) Anything which has been done by virtue of a temporary enhanced TPIM order is not affected by the temporary enhanced TPIM order ceasing to have effect.

(5) In section 26 and this section—

“appropriate”, in relation to variations, or other provision, means such variations, or such other provision, as the Secretary of State considers appropriate;

“designated transitional and saving provision” means provision of a temporary enhanced TPIM order which is designated, in a temporary enhanced TPIM order, as transitional and saving provision for the purposes of this section;

“enactment” includes—

- (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978,
- (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament,
- (c) an enactment contained in, or in an instrument made under, Northern Ireland legislation, and
- (d) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales;

“enhanced measure” has the meaning given in section 26(3);

“enhanced TPIM notice” means a notice by which the enhanced TPIM power is exercised;

“enhanced TPIM power” means the power to impose enhanced measures that is referred to in section 26(2);

“relevant provisions of this Act” mean all the provisions of this Act, apart from—

- (a) section 1 (abolition of control orders),
- (b) section 5(2) and (3) (extension of TPIM notices),
- (c) section 13(6)(a) (revival of TPIM notice after expiry),
- (d) sections 21 (expiry and repeal of TPIM powers) and 22 (section 21: supplementary provision),
- (e) section 26 and this section,
- (f) section 29 (financial and supplemental provision),
- (g) section 31(1) and (2) (short title and commencement), and
- (h) Schedules 7 (minor and consequential amendments) and 8 (transitional and saving provision);

“standard TPIM notice” means a notice under section 2;

“temporary enhanced TPIM order” has the meaning given in section 26(2).