

# TERRORISM PREVENTION AND INVESTIGATION MEASURES ACT 2011

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Section 23: Offence*

120. *Section 23* provides for an offence of contravening, without reasonable excuse, any measure specified in a TPIM notice. *Subsection (2)* makes it clear that in cases where the Secretary of State grants permission under Schedule 1 for the individual to do something which the TPIM notice prohibits that individual from doing without such permission, if the individual does that thing other than in accordance with the terms of the permission, this will amount to a contravention of the relevant measure. Therefore if the individual, without reasonable excuse, fails to adhere to the terms of the permission, including complying with any conditions attached to the permission, that will constitute an offence. The individual will also commit an offence if he or she is required by a measure in a TPIM notice to give notice to the Secretary of State before doing something and the individual does that thing without receiving confirmation from the Secretary of State that sufficient notice has been given (see *paragraph 14(5)* of Schedule 1).
121. The maximum penalties for the offence are, on conviction on indictment: five years' imprisonment; or a fine (of up to £5000 in England, Wales and Northern Ireland and £10000 in Scotland); or both. And on summary conviction: six months' imprisonment (in Northern Ireland); 12 months' imprisonment (in Scotland); and in England and Wales six months' imprisonment prior to commencement of section 154(1) of the Criminal Justice Act 2003 ("the 2003 Act"), and 12 months' imprisonment after that section has been commenced; or a fine (of up to £5000 in England, Wales and Northern Ireland and £10000 in Scotland); or both. Section 154(1) of the 2003 Act has the effect of increasing the maximum sentence available on summary conviction in England and Wales from six months to 12 months' imprisonment. The differences in maximum penalty on summary conviction arise because the section reflects the normal position in each jurisdiction within the United Kingdom in relation to summary offences.