



# Counter-Terrorism and Security Act 2015

## 2015 CHAPTER 6

### PART 5

#### RISK OF BEING DRAWN INTO TERRORISM

### CHAPTER 1

#### PREVENTING PEOPLE BEING DRAWN INTO TERRORISM

#### **26 General duty on specified authorities**

- (1) A specified authority must, in the exercise of its functions, have due regard to the need to prevent people from being drawn into terrorism.
- (2) A specified authority is a person or body that is listed in Schedule 6.
- (3) In the case of a specified authority listed in Schedule 6 in terms that refer to the exercise of particular functions or to a particular capacity that it has, the reference in subsection (1) to the authority's functions is to those functions or its functions when acting in that capacity.
- (4) Subsection (1) does not apply to the exercise of—
  - (a) a judicial function;
  - (b) a function exercised on behalf of, or on the instructions of, a person exercising a judicial function;
  - (c) a function in connection with proceedings in the House of Commons or the House of Lords;
  - (d) a function in connection with proceedings in the Scottish Parliament;
  - (e) a function in connection with proceedings in the National Assembly for Wales.
- (5) References to a judicial function include a reference to a judicial function conferred on a person other than a court or tribunal.

## **27 Power to specify authorities**

- (1) The Secretary of State may by regulations made by statutory instrument amend Schedule 6.
- (2) The power under subsection (1) may not be exercised so as to extend the application of section 26(1) to—
  - (a) the exercise of a function referred to in section 26(4);
  - (b) the House of Commons;
  - (c) the House of Lords;
  - (d) the Scottish Parliament;
  - (e) the National Assembly for Wales or the Assembly Commission within the meaning of the Government of Wales Act 2006;
  - (f) the General Synod of the Church of England;
  - (g) the Security Service;
  - (h) the Secret Intelligence Service;
  - (i) the Government Communications Headquarters;
  - (j) any part of Her Majesty's forces, or of the Ministry of Defence, which engages in intelligence activities.
- (3) Regulations under this section may amend this Chapter so as to make consequential or supplemental provision.
- (4) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before each House of Parliament and approved by a resolution of each House.
- (5) Subsection (4) does not apply to a statutory instrument containing regulations that only make provision for—
  - (a) the omission of an entry where the authority concerned has ceased to exist, or
  - (b) the variation of an entry in consequence of a change of name or transfer of functions.
- (6) A statutory instrument that falls within subsection (5) is subject to annulment in pursuance of a resolution of either House of Parliament.

## **28 Power to specify authorities: Welsh and Scottish authorities**

- (1) The Secretary of State must consult the Welsh Ministers before making regulations under section 27(1) that—
  - (a) add a Welsh authority to Schedule 6, or
  - (b) amend or remove an entry that relates to a Welsh authority.
- (2) The Secretary of State must consult the Scottish Ministers before making regulations under section 27(1) that—
  - (a) add a Scottish authority to Schedule 6, or
  - (b) amend or remove an entry that relates to a Scottish authority.

## **29 Power to issue guidance**

- (1) The Secretary of State may issue guidance to specified authorities about the exercise of their duty under section 26(1).

- (2) A specified authority must have regard to any such guidance in carrying out that duty.
- (3) The Secretary of State—
  - (a) may issue separate guidance in relation to different matters;
  - (b) may issue guidance to all specified authorities, to particular specified authorities or to specified authorities of a particular description.
- (4) Before issuing guidance under subsection (1) the Secretary of State must (whether before or after this Act is passed) consult—
  - (a) the Welsh Ministers so far as the guidance relates to the devolved Welsh functions of a Welsh authority;
  - (b) the Scottish Ministers so far as the guidance relates to the devolved Scottish functions of a Scottish authority;
  - (c) any person whom the Secretary of State considers appropriate.
- (5) Guidance issued under subsection (1) takes effect on whatever day the Secretary of State appoints by regulations made by statutory instrument.

A statutory instrument containing regulations under this subsection may not be made unless a draft of the instrument has been laid before each House of Parliament and approved by a resolution of each House.
- (6) The Secretary of State may from time to time revise any guidance issued under this section.
- (7) Subsections (2), (3) and (5) have effect in relation to any revised guidance.
- (8) Subsection (4) has effect in relation to any revised guidance unless the Secretary of State considers that the proposed revisions to the guidance are insubstantial.
- (9) The Secretary of State must publish the current version of any guidance issued under this section.

### **30 Power to give directions: general**

- (1) Where the Secretary of State is satisfied that a specified authority has failed to discharge the duty imposed on it by section 26(1), the Secretary of State may give directions to the authority for the purpose of enforcing the performance of that duty.
- (2) A direction given under this section may be enforced, on an application made on behalf of the Secretary of State, by a mandatory order.
- (3) The Secretary of State must consult the Welsh Ministers before giving directions under subsection (1) so far as relating to the devolved Welsh functions of a Welsh authority.
- (4) The Secretary of State must consult the Scottish Ministers before giving directions under subsection (1) so far as relating to the devolved Scottish functions of a Scottish authority.

### **31 Freedom of expression in universities etc**

- (1) This section applies to a specified authority if it is the proprietor or governing body of—

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- (a) an institution that provides further education (within the meaning given by section 2(3) of the Education Act 1996), or
  - (b) an institution that provides courses of a description mentioned in Schedule 6 to the Education Reform Act 1988 (higher education courses).
- (2) When carrying out the duty imposed by section 26(1), a specified authority to which this section applies—
  - (a) must have particular regard to the duty to ensure freedom of speech, if it is subject to that duty;
  - (b) must have particular regard to the importance of academic freedom, if it is the proprietor or governing body of a qualifying institution.
- (3) When issuing guidance under section 29 to specified authorities to which this section applies, the Secretary of State—
  - (a) must have particular regard to the duty to ensure freedom of speech, in the case of authorities that are subject to that duty;
  - (b) must have particular regard to the importance of academic freedom, in the case of authorities that are proprietors or governing bodies of qualifying institutions.
- (4) When considering whether to give directions under section 30 to a specified authority to which this section applies, the Secretary of State—
  - (a) must have particular regard to the duty to ensure freedom of speech, in the case of an authority that is subject to that duty;
  - (b) must have particular regard to the importance of academic freedom, in the case of an authority that is the proprietor or governing body of a qualifying institution.
- (5) In this section—
  - “the duty to ensure freedom of speech” means the duty imposed by section 43(1) of the Education (No. 2) Act 1986;
  - “academic freedom” means the freedom referred to in section 202(2)(a) of the Education Reform Act 1988;
  - “qualifying institution” has the meaning given by section 202(3) of that Act.

## **32 Monitoring of performance: further and higher education bodies**

- (1) In this section—
  - “monitoring authority” has the meaning given by subsection (4);
  - “relevant further education body” means the governing body or proprietor of an institution in England or Wales that—
    - (a) is subject to the duty imposed by section 26(1), and
    - (b) is subject to that duty because it is an institution at which more than 250 students are undertaking courses in preparation for examinations related to qualifications regulated by the Office of Qualifications and Examinations Regulation or the Welsh Government;
  - “relevant higher education body” means the governing body or proprietor of an institution in England or Wales that is subject to the duty imposed by section 26(1) because it is—

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- (a) a qualifying institution within the meaning given by section 11 of the Higher Education Act 2004, or
  - (b) an institution at which more than 250 students are undertaking courses of a description mentioned in Schedule 6 to the Education Reform Act 1988 (higher education courses).
- (2) A relevant further education body or relevant higher education body must give to the monitoring authority any information that the monitoring authority may require for the purposes of monitoring that body's performance in discharging the duty imposed by section 26(1).
- (3) The information that the monitoring authority may require under subsection (2) includes information which specifies the steps that will be taken by the body in question to ensure that it discharges the duty imposed by section 26(1).
- (4) The “monitoring authority” for a relevant further education body or a relevant higher education body is—
  - (a) the Secretary of State, or
  - (b) a person to whom the Secretary of State delegates the function under subsection (2) in relation to that body.

The Secretary of State must consult the Welsh Ministers before delegating the function under subsection (2) in relation to institutions in Wales.

- (5) A delegation under subsection (4)(b) must be made by giving notice in writing to the person to whom the delegation is made if—
  - (a) that person is Her Majesty's Chief Inspector of Education, Children's Services and Skills or Her Majesty's Chief Inspector of Education and Training in Wales, and the function is delegated in relation to relevant further education bodies;
  - (b) that person is the Higher Education Funding Council for England or the Higher Education Funding Council for Wales, and the function is delegated in relation to relevant higher education bodies.
- (6) Otherwise, a delegation under subsection (4)(b) must be made by regulations.
- (7) The Secretary of State must publish any notice given under subsection (5).
- (8) Regulations under subsection (6) are to be made by statutory instrument; and any such instrument is subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) In this section—
  - (a) “institution in England” means an institution whose activities are carried on, or principally carried on, in England, and includes the Open University;
  - (b) “institution in Wales” means an institution whose activities are carried on, or principally carried on, in Wales.

### **33 Power to give directions: section 32**

- (1) Where the Secretary of State is satisfied that a relevant further education body or a relevant higher education body has failed to comply with a requirement under section 32(2), the Secretary of State may give directions to the body for the purpose of enforcing compliance.

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- (2) A direction under this section may be enforced, on an application made on behalf of the Secretary of State, by a mandatory order.
- (3) The Secretary of State must consult the Welsh Ministers before giving directions under subsection (1) in relation to institutions in Wales.
- (4) In this section “relevant further education body”, “relevant higher education body” and “institution in Wales” have the same meaning as in section 32.

### **34 Enforcement**

A failure in respect of a performance of a duty imposed by or under this Chapter does not confer a cause of action at private law.

### **35 Chapter 1: interpretation**

- (1) This section applies for the purposes of this Chapter.
- (2) “Function” does not include a function so far as it is exercised outside Great Britain.
- (3) “Terrorism” has the same meaning as in the Terrorism Act 2000 (see section 1(1) to (4) of that Act).
- (4) “Welsh authority” means a person or body that has any function which—
  - (a) is exercisable in or as regards Wales, and
  - (b) is a devolved Welsh function.
- (5) A function is a “devolved Welsh function” if it relates to—
  - (a) a matter in respect of which functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Government, or
  - (b) a matter within the legislative competence of the National Assembly for Wales.
- (6) “Scottish authority” means a person or body that has any devolved Scottish function.
- (7) A function is a “devolved Scottish function” if—
  - (a) it is exercisable in or as regards Scotland, and
  - (b) it does not relate to reserved matters (within the meaning of the Scotland Act 1998).