



# Counter-Terrorism and Security Act 2015

## CHAPTER 6

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# Counter-Terrorism and Security Act 2015

## CHAPTER 6

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# Counter-Terrorism and Security Act 2015

## 2015 CHAPTER 6

An Act to make provision in relation to terrorism; to make provision about retention of communications data, about information, authority to carry and security in relation to air, sea and rail transport and about reviews by the Special Immigration Appeals Commission against refusals to issue certificates of naturalisation; and for connected purposes. [12th February 2015]

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART 1

#### TEMPORARY RESTRICTIONS ON TRAVEL

#### CHAPTER 1

#### POWERS TO SEIZE TRAVEL DOCUMENTS

- 1 Seizure of passports etc from persons suspected of involvement in terrorism**
  - (1) Schedule 1 makes provision for the seizure and temporary retention of travel documents where a person is suspected of intending to leave Great Britain or the United Kingdom in connection with terrorism-related activity.
  - (2) In Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services) —

- (a) in Part 1 (services), after paragraph 45 insert –

*“Extension of time for retention of travel documents*

- 45A (1) Civil legal services provided in relation to proceedings under paragraph 8 of Schedule 1 to the Counter-Terrorism and Security Act 2015.

*Exclusions*

- (2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.”;

- (b) in Part 3 (advocacy: exclusion and exceptions), after paragraph 22 insert –

“22A Advocacy in proceedings before a District Judge (Magistrates’ Courts) under paragraph 8 of Schedule 1 to the Counter-Terrorism and Security Act 2015.”

- (3) In Schedule 2 to the Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)) (civil legal services: excluded services), in paragraph 2(d) (proceedings in court of summary jurisdiction in relation to which funding for representation may be provided), after paragraph (xx) insert –

“(xxi) under paragraph 8 of Schedule 1 to the Counter-Terrorism and Security Act 2015;”.

## CHAPTER 2

### TEMPORARY EXCLUSION FROM THE UNITED KINGDOM

#### *Imposition of temporary exclusion orders*

## 2 Temporary exclusion orders

- (1) A “temporary exclusion order” is an order which requires an individual not to return to the United Kingdom unless –
  - (a) the return is in accordance with a permit to return issued by the Secretary of State before the individual began the return, or
  - (b) the return is the result of the individual’s deportation to the United Kingdom.
- (2) The Secretary of State may impose a temporary exclusion order on an individual if conditions A to E are met.
- (3) Condition A is that the Secretary of State reasonably suspects that the individual is, or has been, involved in terrorism-related activity outside the United Kingdom.
- (4) Condition B is that the Secretary of State reasonably considers that it is necessary, for purposes connected with protecting members of the public in the United Kingdom from a risk of terrorism, for a temporary exclusion order to be imposed on the individual.
- (5) Condition C is that the Secretary of State reasonably considers that the individual is outside the United Kingdom.



- (6) Condition D is that the individual has the right of abode in the United Kingdom.
- (7) Condition E is that –
  - (a) the court gives the Secretary of State permission under section 3, or
  - (b) the Secretary of State reasonably considers that the urgency of the case requires a temporary exclusion order to be imposed without obtaining such permission.
- (8) During the period that a temporary exclusion order is in force, the Secretary of State must keep under review whether condition B is met.

### **3 Temporary exclusion orders: prior permission of the court**

- (1) This section applies if the Secretary of State –
  - (a) makes the relevant decisions in relation to an individual, and
  - (b) makes an application to the court for permission to impose a temporary exclusion order on the individual.
- (2) The function of the court on the application is to determine whether the relevant decisions of the Secretary of State are obviously flawed.
- (3) The court may consider the application –
  - (a) in the absence of the individual,
  - (b) without the individual having been notified of the application, and
  - (c) without the individual having been given an opportunity (if the individual was aware of the application) of making any representations to the court.
- (4) But that does not limit the matters about which rules of court may be made.
- (5) In determining the application, the court must apply the principles applicable on an application for judicial review.
- (6) In a case where the court determines that any of the relevant decisions of the Secretary of State is obviously flawed, the court may not give permission under this section.
- (7) In any other case, the court must give permission under this section.
- (8) Schedule 2 makes provision for references to the court etc where temporary exclusion orders are imposed in cases of urgency.
- (9) Only the Secretary of State may appeal against a determination of the court under –
  - (a) this section, or
  - (b) Schedule 2;and such an appeal may only be made on a question of law.
- (10) In this section “the relevant decisions” means the decisions that the following conditions are met –
  - (a) condition A;
  - (b) condition B;
  - (c) condition C;
  - (d) condition D.

#### **4 Temporary exclusion orders: supplementary provision**

- (1) The Secretary of State must give notice of the imposition of a temporary exclusion order to the individual on whom it is imposed (the “excluded individual”).
- (2) Notice of the imposition of a temporary exclusion order must include an explanation of the procedure for making an application under section 6 for a permit to return.
- (3) A temporary exclusion order –
  - (a) comes into force when notice of its imposition is given; and
  - (b) is in force for the period of two years (unless revoked or otherwise brought to an end earlier).
- (4) The Secretary of State may revoke a temporary exclusion order at any time.
- (5) The Secretary of State must give notice of the revocation of a temporary exclusion order to the excluded individual.
- (6) If a temporary exclusion order is revoked, it ceases to be in force when notice of its revocation is given.
- (7) The validity of a temporary exclusion order is not affected by the excluded individual –
  - (a) returning to the United Kingdom, or
  - (b) departing from the United Kingdom.
- (8) The imposition of a temporary exclusion order does not prevent a further temporary exclusion order from being imposed on the excluded individual (including in a case where an order ceases to be in force at the expiry of its two year duration).
- (9) At the time when a temporary exclusion order comes into force, any British passport held by the excluded individual is invalidated.
- (10) During the period when a temporary exclusion order is in force, the issue of a British passport to the excluded individual while he or she is outside the United Kingdom is not valid.
- (11) In this section “British passport” means a passport, or other document which enables or facilitates travel from one state to another (except a permit to return), that has been –
  - (a) issued by or for Her Majesty’s Government in the United Kingdom, and
  - (b) issued in respect of a person’s status as a British citizen.

#### *Permit to return*

#### **5 Permit to return**

- (1) A “permit to return” is a document giving an individual (who is subject to a temporary exclusion order) permission to return to the United Kingdom.
- (2) The permission may be made subject to a requirement that the individual comply with conditions specified in the permit to return.

- (3) The individual's failure to comply with a specified condition has the effect of invalidating the permit to return.
- (4) A permit to return must state –
  - (a) the time at which, or period of time during which, the individual is permitted to arrive on return to the United Kingdom;
  - (b) the manner in which the individual is permitted to return to the United Kingdom; and
  - (c) the place where the individual is permitted to arrive on return to the United Kingdom.
- (5) Provision made under subsection (4)(a) or (c) may, in particular, be framed by reference to the arrival in the United Kingdom of a specific flight, sailing or other transport service.
- (6) Provision made under subsection (4)(b) may, in particular, state –
  - (a) a route,
  - (b) a method of transport,
  - (c) an airline, shipping line or other passenger carrier, or
  - (d) a flight, sailing or other transport service,which the individual is permitted to use to return to the United Kingdom.
- (7) The Secretary of State may not issue a permit to return except in accordance with section 6 or 7.
- (8) It is for the Secretary of State to decide the terms of a permit to return (but this is subject to section 6(3)).

## **6 Issue of permit to return: application by individual**

- (1) If an individual applies to the Secretary of State for a permit to return, the Secretary of State must issue a permit within a reasonable period after the application is made.
- (2) But the Secretary of State may refuse to issue the permit if –
  - (a) the Secretary of State requires the individual to attend an interview with a constable or immigration officer at a time and a place specified by the Secretary of State, and
  - (b) the individual fails to attend the interview.
- (3) Where a permit to return is issued under this section, the relevant return time must fall within a reasonable period after the application is made.
- (4) An application is not valid unless it is made in accordance with the procedure for applications specified by the Secretary of State.
- (5) In this section –
  - “application” means an application made by an individual to the Secretary of State for a permit to return to be issued;
  - “relevant return time” means –
    - (a) the time at which the individual is permitted to arrive on return to the United Kingdom (in a case where the permit to return states such a time), or
    - (b) the start of the period of time during which the individual is permitted to arrive on return to the United Kingdom (in a case where the permit to return states such a period).

## **7 Issue of permit to return: deportation or urgent situation**

- (1) The Secretary of State must issue a permit to return to an individual if the Secretary of State considers that the individual is to be deported to the United Kingdom.
- (2) The Secretary of State may issue a permit to return to an individual if—
  - (a) the Secretary of State considers that, because of the urgency of the situation, it is expedient to issue a permit to return even though no application has been made under section 6, and
  - (b) there is no duty to issue a permit to return under subsection (1).
- (3) Subsection (1) or (2) applies whether or not any request has been made to issue the permit to return under that provision.

## **8 Permit to return: supplementary provision**

- (1) The Secretary of State may vary a permit to return.
- (2) The Secretary of State may revoke a permit to return issued to an individual only if—
  - (a) the permit to return has been issued under section 6 and the individual asks the Secretary of State to revoke it;
  - (b) the permit to return has been issued under section 7(1) and the Secretary of State no longer considers that the individual is to be deported to the United Kingdom;
  - (c) the permit to return has been issued under section 7(2) and the Secretary of State no longer considers that, because of the urgency of the situation, the issue of the permit to return is expedient;
  - (d) the Secretary of State issues a subsequent permit to return to the individual; or
  - (e) the Secretary of State considers that the permit to return has been obtained by misrepresentation.
- (3) The making of an application for a permit to return to be issued under section 6 (whether or not resulting in a permit to return being issued) does not prevent a subsequent application from being made.
- (4) The issuing of a permit to return (whether or not resulting in the individual's return to the United Kingdom) does not prevent a subsequent permit to return from being issued (whether or not the earlier permit is still in force).

### *Obligations after return to the United Kingdom*

## **9 Obligations after return to the United Kingdom**

- (1) The Secretary of State may, by notice, impose any or all of the permitted obligations on an individual who—
  - (a) is subject to a temporary exclusion order, and
  - (b) has returned to the United Kingdom.
- (2) The “permitted obligations” are—
  - (a) any obligation of a kind that may be imposed (on an individual subject to a TPIM notice) under these provisions of Schedule 1 to the Terrorism Prevention and Investigation Measures Act 2011 –

- (i) paragraph 10 (reporting to police station);
    - (ii) paragraph 10A (attendance at appointments etc);
  - (b) an obligation to notify the police, in such manner as a notice under this section may require, of –
    - (i) the individual’s place (or places) of residence, and
    - (ii) any change in the individual’s place (or places) of residence.
- (3) A notice under this section –
  - (a) comes into force when given to the individual; and
  - (b) is in force until the temporary exclusion order ends (unless the notice is revoked or otherwise brought to an end earlier).
- (4) The Secretary of State may, by notice, vary or revoke any notice given under this section.
- (5) The variation or revocation of a notice under this section takes effect when the notice of variation or revocation is given to the individual.
- (6) The validity of a notice under this section is not affected by the individual –
  - (a) departing from the United Kingdom, or
  - (b) returning to the United Kingdom.
- (7) The giving of any notice to an individual under this section does not prevent any further notice under this section from being given to that individual.

*Offences and proceedings etc*

**10 Offences**

- (1) An individual subject to a temporary exclusion order is guilty of an offence if, without reasonable excuse, the individual returns to the United Kingdom in contravention of the restriction on return specified in the order.
- (2) It is irrelevant for the purposes of subsection (1) whether or not the individual has a passport or other similar identity document.
- (3) An individual subject to an obligation imposed under section 9 is guilty of an offence if, without reasonable excuse, the individual does not comply with the obligation.
- (4) In a case where a relevant notice has not actually been given to an individual, the fact that the relevant notice is deemed to have been given to the individual under regulations under section 13 does not (of itself) prevent the individual from showing that lack of knowledge of the temporary exclusion order, or of the obligation imposed under section 9, was a reasonable excuse for the purposes of this section.
- (5) An individual guilty of an offence under this section is liable –
  - (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine, or to both;
  - (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine, or to both;
  - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both;

- (d) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both.
- (6) Where an individual is convicted by or before a court of an offence under this section, it is not open to that court to make in respect of the offence –
  - (a) an order under section 12(1)(b) of the Powers of Criminal Courts (Sentencing) Act 2000 (conditional discharge);
  - (b) an order under section 227A of the Criminal Procedure (Scotland) Act 1995 (community pay-back orders); or
  - (c) an order under Article 4(1)(b) of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)) (conditional discharge in Northern Ireland).
- (7) In this section –
  - “relevant notice” means –
    - (a) notice of the imposition of a temporary exclusion order, or
    - (b) notice under section 9 imposing an obligation;
  - “restriction on return” means the requirement specified in a temporary exclusion order in accordance with section 2(1).
- (8) In section 2 of the UK Borders Act 2007 (detention at ports), in subsection (1A), for “the individual is subject to a warrant for arrest” substitute “the individual –
  - (a) may be liable to be detained by a constable under section 14 of the Criminal Procedure (Scotland) Act 1995 in respect of an offence under section 10(1) of the Counter-Terrorism and Security Act 2015, or
  - (b) is subject to a warrant for arrest.”

## **11 Review of decisions relating to temporary exclusion orders**

- (1) This section applies where an individual who is subject to a temporary exclusion order is in the United Kingdom.
- (2) The individual may apply to the court to review any of the following decisions of the Secretary of State –
  - (a) a decision that any of the following conditions was met in relation to the imposition of the temporary exclusion order –
    - (i) condition A;
    - (ii) condition B;
    - (iii) condition C;
    - (iv) condition D;
  - (b) a decision to impose the temporary exclusion order;
  - (c) a decision that condition B continues to be met;
  - (d) a decision to impose any of the permitted obligations on the individual by a notice under section 9.
- (3) On a review under this section, the court must apply the principles applicable on an application for judicial review.
- (4) On a review of a decision within subsection (2)(a) to (c), the court has the following powers (and only those powers) –
  - (a) power to quash the temporary exclusion order;

- (b) power to give directions to the Secretary of State for, or in relation to, the revocation of the temporary exclusion order.
- (5) If the court does not exercise either of its powers under subsection (4), the court must decide that the temporary exclusion order is to continue in force.
- (6) On a review of a decision within subsection (2)(d), the court has the following powers (and only those powers) –
  - (a) power to quash the permitted obligation in question;
  - (b) if that is the only permitted obligation imposed by the notice under section 9, power to quash the notice;
  - (c) power to give directions to the Secretary of State for, or in relation to –
    - (i) the variation of the notice so far as it relates to that permitted obligation, or
    - (ii) if that is the only permitted obligation imposed by the notice, the revocation of the notice.
- (7) If the court does not exercise any of its powers under subsection (6), the court must decide that the notice under section 9 is to continue in force.
- (8) If the court exercises a power under subsection (6)(a) or (c)(i), the court must decide that the notice under section 9 is to continue in force subject to that exercise of that power.
- (9) The power under this section to quash a temporary exclusion order, permitted obligation or notice under section 9 includes –
  - (a) in England and Wales or Northern Ireland, power to stay the quashing for a specified time, or pending an appeal or further appeal against the decision to quash; or
  - (b) in Scotland, power to determine that the quashing is of no effect for a specified time or pending such an appeal or further appeal.
- (10) An appeal against a determination of the court on a review under this section may only be made on a question of law.
- (11) For the purposes of this section, a failure by the Secretary of State to make a decision whether condition B continues to be met is to be treated as a decision that it continues to be met.

## **12 Temporary exclusion orders: proceedings and appeals against convictions**

- (1) Schedule 3 makes provision about proceedings relating to temporary exclusion orders.
- (2) Schedule 4 makes provision about appeals against convictions in cases where a temporary exclusion order, a notice under section 9 or a permitted obligation is quashed.

### *Supplementary*

## **13 Regulations: giving of notices, legislation relating to passports**

- (1) The Secretary of State may by regulations make provision about the giving of –
  - (a) notice under section 4, and
  - (b) notice under section 9.

- (2) The regulations may, in particular, make provision about cases in which notice is to be deemed to have been given.
- (3) The Secretary of State may make regulations providing for legislation relating to passports or other identity documents (whenever passed or made) to apply (with or without modifications) to permits to return.
- (4) The power to make regulations under this section –
  - (a) is exercisable by statutory instrument;
  - (b) includes power to make transitional, transitory or saving provision.
- (5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

#### **14 Chapter 2: interpretation**

- (1) This section applies for the purposes of this Chapter.
- (2) These expressions have the meanings given –
  - “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 (see section 1(5) of that Act);
  - “condition A”, “condition B”, “condition C”, “condition D” or “condition E” means that condition as set out in section 2;
  - “court” means –
    - (a) in the case of proceedings relating to an individual whose principal place of residence is in Scotland, the Outer House of the Court of Session;
    - (b) in the case of proceedings relating to an individual whose principal place of residence is in Northern Ireland, the High Court in Northern Ireland;
    - (c) in any other case, the High Court in England and Wales;
  - “permit to return” has the meaning given in section 5;
  - “temporary exclusion order” has the meaning given in section 2;
  - “terrorism” has the same meaning as in the Terrorism Act 2000 (see section 1(1) to (4) of that Act).
- (3) An individual is –
  - (a) subject to a temporary exclusion order if a temporary exclusion order is in force in relation to the individual; and
  - (b) subject to an obligation imposed under section 9 if an obligation is imposed on the individual by a notice in force under that section.
- (4) Involvement in terrorism-related activity is any one or more of the following –
  - (a) the commission, preparation or instigation of acts of terrorism;
  - (b) conduct that facilitates the commission, preparation or instigation of such acts, or is intended to do so;
  - (c) conduct that gives encouragement to the commission, preparation or instigation of such acts, or is intended to do so;
  - (d) conduct that gives support or assistance to individuals who are known or believed by the individual concerned to be involved in conduct falling within paragraph (a).



It is immaterial whether the acts of terrorism in question are specific acts of terrorism or acts of terrorism in general.

- (5) It is immaterial whether an individual's involvement in terrorism-related activity occurs before or after the coming into force of section 2.
- (6) References to an individual's return to the United Kingdom include, in the case of an individual who has never been in the United Kingdom, a reference to the individual's coming to the United Kingdom for the first time.
- (7) References to deportation include references to any other kind of expulsion.

## 15 Chapter 2: consequential amendments

- (1) In paragraph 2 of Schedule 1 to the Senior Courts Act 1981 (business allocated to the Queen's Bench Division), after paragraph (bd) insert—
  - “(be) all TEO proceedings (within the meaning given by paragraph 1 of Schedule 3 to the Counter-Terrorism and Security Act 2015 (proceedings relating to temporary exclusion orders));”.
- (2) In section 133(5) of the Criminal Justice Act 1988 (compensation for miscarriages of justice)—
  - (a) omit “or” at the end of paragraph (e);
  - (b) after paragraph (f) insert “or
  - (g) on an appeal under Schedule 4 to the Counter-Terrorism and Security Act 2015.”
- (3) In section 18 of the Regulation of Investigatory Powers Act 2000 (exclusion of matter from legal proceedings: exceptions)—
  - (a) in subsection (1), after paragraph (dd) insert—
    - “(de) any TEO proceedings (within the meaning given by paragraph 1 of Schedule 3 to the Counter-Terrorism and Security Act 2015 (temporary exclusion orders: proceedings)) or any proceedings arising out of such proceedings;”;
  - (b) in subsection (2), after paragraph (zc) insert—
    - “(zd) in the case of proceedings falling within paragraph (de), to—
      - (i) a person, other than the Secretary of State, who is or was a party to the proceedings, or
      - (ii) any person who for the purposes of the proceedings (but otherwise than by virtue of appointment as a special advocate under Schedule 3 to the Counter-Terrorism and Security Act 2015) represents a person falling within sub-paragraph (i);”.

**PART 2**

## TERRORISM PREVENTION AND INVESTIGATION MEASURES

**16 TPIMs: overnight residence measure**

- (1) In Schedule 1 to the Terrorism Prevention and Investigation Measures Act 2011 (terrorism prevention and investigation measures), paragraph 1 (overnight residence measure) is amended as follows.
- (2) For sub-paragraph (3)(b) substitute –
  - “(b) other premises situated in an agreed locality or in some other locality in the United Kingdom that the Secretary of State considers to be appropriate.”
- (3) After sub-paragraph (3) insert –
  - “(3A) If there are premises that are the individual’s own residence at the time when the notice imposing restrictions under this paragraph is served on the individual, premises more than 200 miles from those premises may be specified under sub-paragraph (3)(b) only if they are in an agreed locality.”
- (4) Omit sub-paragraph (4).
- (5) After sub-paragraph (5) insert –
  - “(5A) The specified residence (if it is not the individual’s own residence) may be a residence provided by or on behalf of the Secretary of State.”

**17 TPIMs: travel measure**

- (1) The Terrorism Prevention and Investigation Measures Act 2011 is amended as follows.
- (2) In section 2 (imposition of terrorism prevention and investigation measures), after subsection (3) insert –
  - “(4) The Secretary of State must publish factors that he or she considers are appropriate to take into account when deciding whether to impose restrictions on an individual by virtue of paragraph 2 of Schedule 1 (travel measure).”
- (3) In section 23 (offence), after subsection (1) insert –
  - “(1A) Where an individual –
    - (a) is subject to a measure specified under paragraph 2 of Schedule 1 (a “travel measure”), and
    - (b) leaves the United Kingdom or travels outside the United Kingdom,subsection (1)(b) has effect, in relation to that act, with the omission of the words “without reasonable excuse”.
- (4) After subsection (3) of that section insert –
  - “(3A) Where an individual commits an offence under subsection (1) by contravening a travel measure, subsection (3)(a) has effect as if “10 years” were substituted for “5 years”.

- (5) In Schedule 1, in paragraph 2 (travel measure), for sub-paragraph (2) substitute –

- “(2) The specified area must be –  
(a) the United Kingdom, or  
(b) any area within the United Kingdom that includes the place where the individual will be living.”

## 18 TPIMs: weapons and explosives measure

In Schedule 1 to the Terrorism Prevention and Investigation Measures Act 2011, after paragraph 6 insert –

*“Weapons and explosives measure*

- 6A (1) The Secretary of State may impose on the individual –  
(a) a prohibition on possessing offensive weapons, imitation firearms or explosives;  
(b) a prohibition on making an application for a firearm certificate or a shot gun certificate.
- (2) In sub-paragraph (1)(a) –  
“offensive weapon” means an article made or adapted for use for causing injury to the person, or intended by the person in possession of it for such use (by that person or another);  
“imitation firearm” has the same meaning as in the Firearms Act 1968 or (in relation to Northern Ireland) the Firearms (Northern Ireland) Order 2004 (S.I. 2004/702 (N.I. 3));  
“explosive” means anything that is –  
(a) an explosive within the meaning of the Explosives Act 1875, or  
(b) an explosive substance within the meaning of the Explosive Substances Act 1883.
- (3) For the purposes of sub-paragraph (1)(b) –  
(a) an application for a firearm certificate is an application under section 26A of the Firearms Act 1968 or article 4 of the Firearms (Northern Ireland) Order 2004;  
(b) an application for a shot gun certificate is an application under section 26B of the Firearms Act 1968.”

## 19 TPIMs: appointments measure

In Schedule 1 to the Terrorism Prevention and Investigation Measures Act 2011, after paragraph 10 insert –

*“Appointments measure*

- 10A (1) The Secretary of State may impose a requirement for the individual –  
(a) to attend appointments with specified persons or persons of specified descriptions, and

- (b) to comply with any reasonable directions given by the Secretary of State that relate to matters about which the individual is required to attend an appointment.
- (2) A requirement under sub-paragraph (1)(a) is a requirement to attend appointments –
  - (a) at specified times and places, or
  - (b) at times and places notified to the individual by persons referred to in that sub-paragraph.”

## 20 TPIMs: miscellaneous amendments

- (1) In section 3 of the Terrorism Prevention and Investigation Measures Act 2011 (conditions A to E), in subsection (1), for “reasonably believes” substitute “is satisfied, on the balance of probabilities,”.
- (2) In section 4 of that Act (involvement in terrorism-related activity), in subsection (1)(d), for “paragraphs (a) to (c)” substitute “paragraph (a)”.

## PART 3

### DATA RETENTION

## 21 Retention of relevant internet data

- (1) Section 2(1) of the Data Retention and Investigatory Powers Act 2014 (temporary provision about the retention of relevant communications data subject to safeguards: definitions) is amended as follows.
- (2) In the definition of “relevant communications data” –
  - (a) for “means communications data” substitute “means –
    - (a) communications data”;
    - (b) after “Regulations” insert “, or
    - (b) relevant internet data not falling within paragraph (a),”;
  - (c) the words from “so far as” to the end of the definition become full-out words beneath the new paragraphs (a) and (b).
- (3) After the definition of “relevant communications data” insert –
  - ““relevant internet data” means communications data which –
    - (a) relates to an internet access service or an internet communications service,
    - (b) may be used to identify, or assist in identifying, which internet protocol address, or other identifier, belongs to the sender or recipient of a communication (whether or not a person), and
    - (c) is not data which –
      - (i) may be used to identify an internet communications service to which a communication is transmitted through an internet access service for the purpose of obtaining access to, or running, a computer file or computer program, and
      - (ii) is generated or processed by a public telecommunications operator in the process of

supplying the internet access service to the sender of the communication (whether or not a person);”.

- (4) In addition –
- (a) before the definition of “communications data” insert –  
““communication” has the meaning given by section 81(1) of the Regulation of Investigatory Powers Act 2000 so far as that meaning applies in relation to telecommunications services and telecommunication systems;”;
  - (b) after the definition of “functions” insert –  
““identifier” means an identifier used to facilitate the transmission of a communication;”;
  - (c) after the definition of “notice” insert –  
““person” includes an organisation and any association or combination of persons;”.
- (5) Subsections (1) to (4) are repealed on 31 December 2016.

#### PART 4

##### AVIATION, SHIPPING AND RAIL

## 22 Authority-to-carry schemes

- (1) The Secretary of State may make one or more schemes requiring a person (a “carrier”) to seek authority from the Secretary of State to carry persons on aircraft, ships or trains which are –
- (a) arriving, or expected to arrive, in the United Kingdom, or
  - (b) leaving, or expected to leave, the United Kingdom.
- A scheme made under this section is called an “authority-to-carry scheme”.
- (2) An authority-to-carry scheme must specify or describe –
- (a) the classes of carrier to which it applies (which may be all carriers or may be defined by reference to the method of transport or otherwise),
  - (b) the classes of passengers or crew in respect of whom authority to carry must be sought (which may be all of them or may be defined by reference to nationality, the possession of specified documents or otherwise), and
  - (c) the classes of passengers or crew in respect of whom authority to carry may be refused.
- (3) An authority-to-carry scheme may specify or describe a class of person under subsection (2)(c) only if it is necessary in the public interest.
- (4) The Secretary of State may make different authority-to-carry schemes for different purposes and in particular may make different schemes for different types of carrier, journey or person.
- (5) An authority-to-carry scheme must set out the process for carriers to request, and for the Secretary of State to grant or refuse, authority to carry, which may include –
- (a) a requirement for carriers to provide specified information on passengers or crew by a specified time before travel;

- (b) a requirement for carriers to provide the information in a specified manner and form;
  - (c) a requirement for carriers to be able to receive, in a specified manner and form, communications from the Secretary of State relating to the information provided or granting or refusing authority to carry.
- (6) Information specified under subsection (5)(a) may be information that can be required to be supplied under paragraph 27, 27B or 27BA of Schedule 2 to the Immigration Act 1971, section 32 or 32A of the Immigration, Asylum and Nationality Act 2006 or otherwise.
- (7) The grant or refusal of authority under an authority-to-carry scheme does not determine whether a person is entitled or permitted to enter the United Kingdom.
- (8) So far as it applies in relation to Scotland, an authority-to-carry scheme may be made only for purposes that are, or relate to, reserved matters (within the meaning of the Scotland Act 1998).
- (9) So far as it applies in relation to Northern Ireland, an authority-to-carry scheme may be made only for purposes that are, or relate to, excepted or reserved matters (within the meaning of the Northern Ireland Act 1998).
- (10) In the Nationality, Immigration and Asylum Act 2002 omit section 124 (authority to carry).

### **23 Authority-to-carry schemes: entry into force etc**

- (1) An authority-to-carry scheme comes into force in accordance with regulations made by the Secretary of State by statutory instrument.
- (2) The Secretary of State must not make regulations bringing a scheme into force unless –
  - (a) a draft of the regulations and the scheme to which they relate have been laid before Parliament, and
  - (b) the draft regulations have been approved by a resolution of each House.
- (3) If the Secretary of State revises an authority-to-carry scheme, the revised scheme comes into force in accordance with regulations made by the Secretary of State by statutory instrument.
- (4) The Secretary of State must not make regulations bringing a revised scheme into force unless –
  - (a) a draft of the regulations and the revised scheme to which they relate have been laid before Parliament, and
  - (b) the draft regulations have been approved by a resolution of each House.
- (5) Regulations under this section may include transitional or saving provision.

### **24 Penalty for breach of authority-to-carry scheme**

- (1) The Secretary of State may make regulations imposing penalties for breaching the requirements of an authority-to-carry scheme.

- (2) Regulations under subsection (1) must identify the authority-to-carry scheme to which they refer.
- (3) Regulations under subsection (1) may in particular make provision –
  - (a) about how a penalty is to be calculated;
  - (b) about the procedure for imposing a penalty;
  - (c) about the enforcement of penalties;
  - (d) allowing for an appeal against a decision to impose a penalty;and the regulations may make different provision for different purposes.
- (4) Provision in the regulations about the procedure for imposing a penalty must provide for a carrier to be given an opportunity to object to a proposed penalty in the circumstances set out in the regulations.
- (5) The regulations must provide that no penalty may be imposed on a carrier for breaching the requirements of an authority-to-carry scheme where –
  - (a) the breach consists of a failure to provide information that the carrier has also been required to provide under paragraph 27, 27B or 27BA of Schedule 2 to the Immigration Act 1971 and –
    - (i) a penalty has been imposed on the person in respect of a failure to provide that information by virtue of regulations made under paragraph 27BB of Schedule 2 to that Act, or
    - (ii) proceedings have been instituted against the carrier under section 27 of that Act in respect of a failure to provide that information, or
  - (b) the breach consists of a failure to provide information that the carrier has also been required to provide under section 32 or 32A of the Immigration, Asylum and Nationality Act 2006 and –
    - (i) a penalty has been imposed on the person in respect of a failure to provide that information by virtue of regulations made under section 32B of that Act, or
    - (ii) proceedings have been instituted against the carrier under section 34 of that Act in respect of a failure to provide that information.
- (6) Any penalty paid by virtue of this section must be paid into the Consolidated Fund.
- (7) Regulations under this section are to be made by statutory instrument; and any such statutory instrument 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.

## **25 Aviation, maritime and rail security**

- (1) Schedule 5 makes amendments to do with aviation, maritime and rail security.
- (2) Part 1 of that Schedule makes amendments about passenger, crew and service information in relation to aircraft and ships.
- (3) Part 2 of that Schedule makes amendments of the provisions relating to directions etc in –
  - (a) the Aviation Security Act 1982,
  - (b) the Aviation and Maritime Security Act 1990, and
  - (c) the Channel Tunnel (Security) Order 1994 (S.I. 1994/570).

## **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 –
  - (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 –
    - (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.
- (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).

## CHAPTER 2

### SUPPORT ETC FOR PEOPLE VULNERABLE TO BEING DRAWN INTO TERRORISM

#### **36 Assessment and support: local panels**

- (1) Each local authority must ensure that a panel of persons is in place for its area –
  - (a) with the function of assessing the extent to which identified individuals are vulnerable to being drawn into terrorism, and
  - (b) with the other functions mentioned in subsection (4).
- (2) “Identified individual”, in relation to a panel, means an individual who is referred to the panel by a chief officer of police for an assessment of the kind mentioned in subsection (1)(a).
- (3) A chief officer of police may refer an individual to a panel only if there are reasonable grounds to believe that the individual is vulnerable to being drawn into terrorism.
- (4) The functions of a panel referred to in subsection (1)(b) are –
  - (a) to prepare a plan in respect of identified individuals who the panel considers should be offered support for the purpose of reducing their vulnerability to being drawn into terrorism;
  - (b) if the necessary consent is given, to make arrangements for support to be provided to those individuals in accordance with their support plan;
  - (c) to keep under review the giving of support to an identified individual under a support plan;
  - (d) to revise a support plan, or withdraw support under a plan, if at any time the panel considers it appropriate;
  - (e) to carry out further assessments, after such periods as the panel considers appropriate, of an individual’s vulnerability to being drawn into terrorism in cases where –
    - (i) the necessary consent is refused or withdrawn to the giving of support under a support plan, or
    - (ii) the panel has determined that support under a plan should be withdrawn;
  - (f) to prepare a further support plan in such cases if the panel considers it appropriate.

- (5) A support plan must include the following information –
  - (a) how, when and by whom a request for the necessary consent is to be made;
  - (b) the nature of the support to be provided to the identified individual;
  - (c) the persons who are to be responsible for providing it;
  - (d) how and when such support is to be provided.
- (6) Where in the carrying out of its functions under this section a panel determines that support should not be given to an individual under a support plan, the panel –
  - (a) must consider whether the individual ought to be referred to a provider of any health or social care services, and
  - (b) if so, must make such arrangements as the panel considers appropriate for the purpose of referring the individual.
- (7) In exercising its functions under this section a panel must have regard to any guidance given by the Secretary of State about the exercise of those functions.
- (8) Before issuing guidance under subsection (7) 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 panels in Wales;
  - (b) the Scottish Ministers so far as the guidance relates to panels in Scotland;
  - (c) any person whom the Secretary of State considers appropriate.

### **37 Membership and proceedings of panels**

- (1) The members of a panel must include –
  - (a) the responsible local authority;
  - (b) the chief officer of police for a police area the whole or any part of which is in the area of that authority.
- (2) Each of those members must appoint a person to represent them on the panel; and the representative must be a person whom the member concerned considers to have the required skills and experience.
- (3) Where more than one chief officer of police comes within subsection (1)(b), a person may represent more than one of the chief officers; but at any meeting of the panel at which an identified individual is to be discussed there must be a person present from the police force for the area in which the individual resides to act as the representative.
- (4) A panel may also include such other persons as the responsible local authority considers appropriate (whether generally or in the case of a particular identified individual).
- (5) The chair of a panel is the responsible local authority; but where more than one local authority is the responsible local authority, the authorities may determine that one (or more) of them is to be the chair.
- (6) If a panel cannot reach a unanimous decision on a question arising before it, the question must be decided –
  - (a) according to the opinion of the majority of the panel, or
  - (b) if there is no majority opinion, by the chair.
- (7) Subject to subsection (6), a panel may determine its own procedure.

### 38 Co-operation

- (1) The partners of a panel must, so far as appropriate and reasonably practicable, act in co-operation with –
  - (a) the panel in the carrying out of its functions;
  - (b) the police in the carrying out of their functions in connection with section 36.
- (2) The partners of a panel are the persons and bodies specified in Schedule 7.
- (3) The duty of a partner of a panel to act in co-operation with the panel –
  - (a) includes the giving of information (subject to subsection (4));
  - (b) extends only so far as the co-operation is compatible with the exercise of the partner’s functions under any other enactment or rule of law.
- (4) Nothing in this section requires or authorises the making of –
  - (a) a disclosure that would contravene the Data Protection Act 1998;
  - (b) a disclosure of any sensitive information.
- (5) “Sensitive information” means information –
  - (a) held by an intelligence service,
  - (b) obtained (directly or indirectly) from, or held on behalf of, an intelligence service,
  - (c) derived in whole or part from information obtained (directly or indirectly) from, or held on behalf of, an intelligence service, or
  - (d) relating to an intelligence service.
- (6) In carrying out the duty imposed by subsection (1), partners of a panel must have regard to any guidance given by the Secretary of State about the carrying out of that duty.
- (7) Before issuing guidance under subsection (6) 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 panels in Wales;
  - (b) the Scottish Ministers so far as the guidance relates to panels in Scotland;
  - (c) any person whom the Secretary of State considers appropriate.
- (8) The reference in subsection (1)(b) to functions of the police in connection with section 36 includes, in particular, a chief officer’s function of determining whether an individual should be referred to a panel for the carrying out of an assessment of the kind mentioned in subsection (1)(a) of that section.

### 39 Power to amend Chapter 2

- (1) The Secretary of State may by regulations made by statutory instrument amend –
  - (a) the definition of “local authority” in section 41;
  - (b) Schedule 7.
- (2) The Secretary of State must consult the Welsh Ministers before making regulations under subsection (1) that –
  - (a) add a Welsh authority to Schedule 7, or
  - (b) amend or remove an entry in that Schedule relating to a Welsh authority.

- (3) The Secretary of State must consult the Scottish Ministers before making regulations under subsection (1) that –
  - (a) add a description of authority in Scotland to the definition of “local authority”,
  - (b) add a Scottish authority to Schedule 7, or
  - (c) amend or remove an entry in that Schedule relating to a Scottish authority.
- (4) Regulations under this section may amend this Chapter so as to make consequential or supplemental provision.
- (5) 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.
- (6) Subsection (5) does not apply to a statutory instrument containing regulations that only make provision for –
  - (a) the omission of an entry in Schedule 7 where the body concerned has ceased to exist, or
  - (b) the variation of an entry in consequence of a change of name or transfer of functions.
- (7) A statutory instrument that falls within subsection (6) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section “Welsh authority” and “Scottish authority” have the same meaning as in Chapter 1.

#### **40 Indemnification**

- (1) The Secretary of State may agree to indemnify a support provider against any costs and expenses that the provider reasonably incurs in connection with any decision or action taken by the provider in good faith in carrying out functions as a provider.
- (2) The agreement may be made in whatever manner, and on whatever terms, the Secretary of State considers appropriate.
- (3) In this section “support provider” means a person who provides support under a support plan.

#### **41 Chapter 2: interpretation**

- (1) In this Chapter –
  - “health or social care services” means services relating to health or social care within the meaning given by section 9 of the Health and Social Care Act 2008;
  - “identified individual” has the meaning given in section 36(2);
  - “intelligence service” means –
    - (a) the Security Service,
    - (b) the Secret Intelligence Service,
    - (c) the Government Communications Headquarters, or
    - (d) any part of Her Majesty’s forces, or of the Ministry of Defence, which engages in intelligence activities;
  - “local authority” means –



- (a) a county council in England;
  - (b) a district council in England, other than a council for a district in a county for which there is a county council;
  - (c) a London Borough Council;
  - (d) the Common Council of the City of London in its capacity as a local authority;
  - (e) the Council of the Isles of Scilly;
  - (f) a county council or county borough council in Wales;
- “the necessary consent”, in relation to an identified individual, means –
- (a) if the individual is aged 18 years or over, his or her consent;
  - (b) if the individual is aged under 18 years, the consent of his or her parent or guardian;
- “panel” means a panel of persons in place under the duty imposed by section 36(1);
- “responsible local authority”, in relation to a panel, means the local authority responsible for ensuring that the panel is in place under the duty imposed by section 36(1);
- “support plan” means a plan prepared by a panel in carrying out its functions mentioned in section 36(4)(a) or (f);
- “terrorism” has the same meaning as in the Terrorism Act 2000 (see section 1(1) to (4) of that Act).

- (2) For the purposes of the definition of “local authority” in subsection (1), the Inner Temple and the Middle Temple are to be taken as falling within the area of the Common Council of the City of London.
- (3) Where two or more local authorities exercise their respective duties under section 36(1) by ensuring that a panel is in place for their combined area –
  - (a) a reference in this Chapter to the responsible local authority is to be read as a reference to the responsible local authorities for the panel;
  - (b) a reference in this Chapter to the authority’s area is to be read as a reference to the combined area.

## PART 6

### AMENDMENTS OF OR RELATING TO THE TERRORISM ACT 2000

#### 42 Insurance against payments made in response to terrorist demands

- (1) After section 17 of the Terrorism Act 2000 insert –

##### **“17A Insurance against payments made in response to terrorist demands**

- (1) The insurer under an insurance contract commits an offence if –
  - (a) the insurer makes a payment under the contract, or purportedly under it,
  - (b) the payment is made in respect of any money or other property that has been, or is to be, handed over in response to a demand made wholly or partly for the purposes of terrorism, and
  - (c) the insurer or the person authorising the payment on the insurer’s behalf knows or has reasonable cause to suspect that the money or other property has been, or is to be, handed over in response to such a demand.

- (2) If an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
- (a) a director, manager, secretary or other similar officer of the body corporate, or
  - (b) any person who was purporting to act in any such capacity, that person, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.
- (3) The reference in subsection (2) to a director, in relation to a body corporate whose affairs are managed by its members, is a reference to a member of the body corporate.
- (4) If an offence under this section is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
- (a) a partner, or
  - (b) any person who was purporting to act in that capacity, that person, as well as the partnership, is guilty of the offence and liable to be proceeded against and punished accordingly.
- (5) In this section “insurance contract” means a contract under which one party accepts significant insurance risk from another party (“the policyholder”) by agreeing to compensate the policyholder if a specified uncertain future event adversely affects the policyholder.”
- (2) In section 23 of that Act (forfeiture: terrorist property offences), after subsection (5) insert –
- “(5A) Where a person is convicted of an offence under section 17A the court may order the forfeiture of the amount paid under, or purportedly under, the insurance contract.”
- (3) The section inserted by subsection (1) applies to any payment made by an insurer on or after the day on which this Act is passed, even if made –
- (a) under (or purportedly under) a contract entered into before that day, or
  - (b) (subject to subsection (4)) in respect of money or other property handed over before that day.
- (4) The section inserted by subsection (1) does not apply to a payment made in respect of money or other property handed over before 27 November 2014.

#### **43 Port and border controls: power to examine goods**

Schedule 8 amends paragraph 9 of Schedule 7 to the Terrorism Act 2000 (port and border controls: power to examine goods) and other enactments relating to the power in that paragraph.

## PART 7

### MISCELLANEOUS AND GENERAL

#### *Miscellaneous*

#### **44 Reviews of operation of Part 1 etc**

- (1) The person appointed under section 36(1) of the Terrorism Act 2006 (“the independent reviewer”) is also responsible for reviewing the operation of the provisions listed in subsection (2).
- (2) The provisions are –
  - (a) Part 1 of the Anti-Terrorism, Crime and Security Act 2001;
  - (b) Part 2 of that Act as it applies in cases where a use or threat of the action referred to in section 4(2) of that Act would constitute terrorism;
  - (c) the Counter-Terrorism Act 2008;
  - (d) Part 1 of this Act.
- (3) In each calendar year the independent reviewer must, by 31 January, inform the Secretary of State and the Treasury what (if any) reviews under this section the reviewer intends to carry out in that year.  
Those reviews must be completed during that year or as soon as reasonably practicable after the end of it.
- (4) The independent reviewer must send to the Secretary of State a report on the outcome of each review as soon as reasonably practicable after the review is completed.
- (5) On receiving a report under subsection (4), the Secretary of State must lay a copy of it before Parliament.
- (6) The expenses and allowances that may be paid under section 36(6) of the Terrorism Act 2006 include expenses and allowances in respect of functions under this section.
- (7) In this section “terrorism” has the same meaning as in the Terrorism Act 2000 (see section 1(1) to (4) of that Act).

#### **45 Reviews of operation of other terrorism legislation**

- (1) In section 36 of the Terrorism Act 2006 (review of terrorism legislation) –
  - (a) in subsection (2), for “carry out a review of those provisions and,” substitute “carry out –
    - (a) a review of the provisions of the Terrorism Act 2000, and
    - (b) a review of the provisions of Part 1 of this Act,and,”;
  - (b) in subsection (4), for “subsection (2)” substitute “subsection (2)(a)”;
  - (c) after subsection (4B) insert –
    - “(4C) In each calendar year the person appointed under subsection (1) must, by 31 January, inform the Secretary of State what (if any) reviews under subsection (2)(b) the person intends to carry out in that year.

Those reviews must be completed during that year or as soon as reasonably practicable after the end of it.”

- (2) In section 31 of the Terrorist Asset-Freezing etc. Act 2010 (independent review of operation of Part 1 of that Act), for subsection (2) substitute –
- “(2) In each calendar year the person appointed under subsection (1) must, by 31 January, inform the Treasury what (if any) reviews under this section the person intends to carry out in that year.  
Those reviews must be completed during that year or as soon as reasonably practicable after the end of it.”
- (3) In section 20 of the Terrorism Prevention and Investigation Measures Act 2011 (reviews of the operation of that Act) –
- (a) for subsections (2) and (3) substitute –
- “(2) In each calendar year the independent reviewer must, by 31 January, inform the Secretary of State what (if any) reviews under this section the reviewer intends to carry out in that year.  
Those reviews must be completed during that year or as soon as reasonably practicable after the end of it.”;
- (b) omit subsections (7) to (9).

#### **46 Privacy and Civil Liberties Board**

- (1) The Secretary of State may by regulations made by statutory instrument establish a body to provide advice and assistance to the persons appointed under –
- (a) section 36(1) of the Terrorism Act 2006,  
(b) section 31(1) of the Terrorist Asset-Freezing etc. Act 2010, and  
(c) section 20(1) of the Terrorism Prevention and Investigation Measures Act 2011,
- in the discharge of their functions.
- (2) The body is to be known as the Privacy and Civil Liberties Board.
- (3) Regulations under this section may include provision about –
- (a) the membership of the board;  
(b) the payment of expenses and allowances to members;  
(c) the circumstances in which a person ceases to be a member;  
(d) the appointment of staff, their terms and conditions of employment and their pensions, allowances or gratuities;  
(e) the organisation and procedure of the board;  
(f) particular things that the board may or must do;  
(g) the preparation and publication of reports and accounts.
- (4) Regulations under this section must –
- (a) provide for the Secretary of State to appoint members of the board after considering any recommendations made by the person appointed under section 36(1) of the Terrorism Act 2006;  
(b) provide for the board to be chaired by that person and to be subject to his or her direction and control.
- (5) Regulations under this section may contain incidental, consequential, transitional or supplementary provision.

This includes provision amending, applying (with or without modifications), disapplying, repealing or revoking any provision of primary legislation, whenever passed or made.

- (6) A statutory instrument –
  - (a) containing the first regulations under this section, or
  - (b) containing any regulations under this section that amend, repeal or revoke anything in primary legislation (whether alone or with other provision),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.
- (7) A statutory instrument containing regulations under this section to which subsection (6) does not apply is subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section “primary legislation” has the same meaning as in section 48.

#### **47 Review of certain naturalisation decisions by Special Immigration Appeals Commission**

In section 2D of the Special Immigration Appeals Commission Act 1997 (jurisdiction: review of certain naturalisation and citizenship decisions), in subsection (1)(a)(i), after “6” insert “or 18”.

#### *General*

#### **48 Power to make consequential provision**

- (1) The Secretary of State may by regulations make provision that is consequential on any provision of this Act.
- (2) The power to make regulations under this section –
  - (a) is exercisable by statutory instrument;
  - (b) includes power to make transitional, transitory or saving provision;
  - (c) may, in particular, be exercised by amending, repealing, revoking or otherwise modifying any provision made by or under primary legislation passed before this Act or in the same Session.
- (3) Before making regulations under this section the Secretary of State must –
  - (a) if the regulations contain provision that would fall within the legislative competence of the Scottish Parliament if included in an Act of that Parliament, consult the Scottish Ministers;
  - (b) if the regulations contain provision that would fall within the legislative competence of the National Assembly for Wales if included in an Act of that Assembly, consult the Welsh Ministers;
  - (c) if the regulations contain provision that would fall within the legislative competence of the Northern Ireland Assembly if included in an Act of that Assembly, consult the Department of Justice in Northern Ireland.
- (4) A statutory instrument containing regulations under this section that amend, repeal or revoke anything in primary legislation (whether alone or with other provision) may be made only if a draft of the instrument has been laid before each House of Parliament and approved by a resolution of each House.

- (5) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section “primary legislation” means –
  - (a) an Act of Parliament;
  - (b) an Act of the Scottish Parliament;
  - (c) a Measure or Act of the National Assembly for Wales;
  - (d) Northern Ireland legislation.

#### **49 Transitional provision**

- (1) In relation to offences committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in section 10(5)(b) to 12 months is to be read as a reference to 6 months.
- (2) In relation to offences committed before section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force –
  - (a) the reference in section 10(5)(b) to a fine is to be read as a reference to a fine not exceeding the statutory maximum;
  - (b) paragraph 15(3)(b) of Schedule 1 has effect as if the words “in Scotland or Northern Ireland” were omitted.
- (3) The amendments made by subsections (3) and (4) of section 17 apply only to things done and offences committed after that section comes into force.
- (4) A reference to a calendar year in the following subsections does not include a year before 2016 –
  - (a) subsection (3) of section 44;
  - (b) subsection (4C) of section 36 of the Terrorism Act 2006 (inserted by section 45(1) above);
  - (c) subsection (2) of section 31 of the Terrorist Asset-Freezing etc. Act 2010 (substituted by section 45(2) above);
  - (d) subsection (2) of section 20 of the Terrorism Prevention and Investigation Measures Act 2011 (substituted by section 45(3) above).

#### **50 Financial provision**

There is to be paid out of money provided by Parliament any increase attributable to this Act in the sums payable under any other Act out of money so provided.

#### **51 Extent**

- (1) Part 5 extends to England and Wales and Scotland.
- (2) The other provisions of this Act extend to England and Wales, Scotland and Northern Ireland.
- (3) Her Majesty may by Order in Council direct that any of the provisions of Parts 1 and 4 are to extend, with whatever modifications appear to Her Majesty to be appropriate, to any of the Channel Islands or the Isle of Man.

- (4) The power under section 39(6) of the Terrorism Act 2006 (extension to the Channel Islands or the Isle of Man) may be exercised in relation to any amendments made to that Act by this Act.
- (5) The power under section 31(4) of the Terrorism Prevention and Investigation Measures Act 2011 (extension to the Isle of Man) may be exercised in relation to any amendments made to that Act by this Act.
- (6) The power under section 39(3) of the Aviation Security Act 1982 (extension to the Channel Islands, Isle of Man etc) may be exercised in relation to any amendments made to that Act by this Act.
- (7) The power under section 51(1) of the Aviation and Maritime Security Act 1990 (extension to the Channel Islands, Isle of Man etc) may be exercised in relation to any amendments made to that Act by this Act.
- (8) The power under section 9(3) of the Special Immigration Appeals Commission Act 1997 (extension to the Channel Islands or the Isle of Man) may be exercised in relation to any amendments made to that Act by this Act.

## **52 Commencement**

- (1) Chapter 1 of Part 1 comes into force on the day after the day on which this Act is passed.
- (2) The following provisions come into force at the end of the period of two months beginning with the day on which this Act is passed –
  - (a) sections 36 to 38 and 40;
  - (b) sections 44 to 46.
- (3) The following provisions come into force on whatever day or days the Secretary of State appoints by regulations made by statutory instrument –
  - (a) Part 3;
  - (b) section 22(10);
  - (c) paragraphs 12 to 14 of Schedule 5 and section 25 so far as relating to those paragraphs;
  - (d) sections 26 and 30, section 31(2) and (4) and sections 32 to 34.
- (4) Regulations under subsection (3) –
  - (a) may make different provision for different purposes;
  - (b) may make transitory, transitional or saving provision.
- (5) The other provisions of this Act come into force on the day on which this Act is passed.

## **53 Short title**

This Act may be cited as the Counter-Terrorism and Security Act 2015.

## SCHEDULES

## SCHEDULE 1

Section 1

## SEIZURE OF PASSPORTS ETC FROM PERSONS SUSPECTED OF INVOLVEMENT IN TERRORISM

*Interpretation*

- 1 (1) The following definitions have effect for the purposes of this Schedule.
- (2) “Immigration officer” means a person who is appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971.
- (3) “Customs official” means a person who is designated as a general customs official under section 3(1) of the Borders, Citizenship and Immigration Act 2009 or as a customs revenue official under section 11(1) of that Act.
- (4) “Qualified officer” means an immigration officer or customs official who is designated by the Secretary of State for the purposes of this Schedule.
- (5) “Senior police officer” means a police officer of at least the rank of superintendent.
- (6) “Travel document” means anything that is or appears to be—
  - (a) a passport, or
  - (b) a ticket or other document that permits a person to make a journey by any means from a place within Great Britain to a place outside Great Britain, or from a place within Northern Ireland to a place outside the United Kingdom.
- (7) “Passport” means—
  - (a) a United Kingdom passport (within the meaning of the Immigration Act 1971),
  - (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, or
  - (c) a document that can be used (in some or all circumstances) instead of a passport.
- (8) “Port” means—
  - (a) an airport,
  - (b) a sea port,
  - (c) a hoverport,
  - (d) a heliport,
  - (e) a railway station where passenger trains depart for, or arrive from, places outside the United Kingdom, or



- (f) any other place at which a person is able, or attempting, to get on or off any craft, vessel or vehicle in connection with entering or leaving Great Britain or Northern Ireland.
- (9) A place is “in the border area” if it is in Northern Ireland and is no more than one mile from the border between Northern Ireland and the Republic of Ireland.
- (10) “Involvement in terrorism-related activity” is any one or more of the following—
  - (a) the commission, preparation or instigation of acts of terrorism;
  - (b) conduct that facilitates the commission, preparation or instigation of such acts, or is intended to do so;
  - (c) conduct that gives encouragement to the commission, preparation or instigation of such acts, or is intended to do so;
  - (d) conduct that gives support or assistance to individuals who are known or believed by the person concerned to be involved in conduct falling within paragraph (a).

It is immaterial whether the acts of terrorism in question are specific acts of terrorism or acts of terrorism in general.
- (11) “Terrorism” and “terrorist” have the same meaning as in the Terrorism Act 2000 (see sections 1(1) to (4) and 40 of that Act).
- (12) “Judicial authority” means—
  - (a) in England and Wales, a District Judge (Magistrates’ Courts) who is—
    - (i) designated under paragraph 29(4)(a) of Schedule 8 to the Terrorism Act 2000, or
    - (ii) designated for the purposes of this Schedule by the Lord Chief Justice of England and Wales;
  - (b) in Scotland, the sheriff;
  - (c) in Northern Ireland, a county court judge, or a district judge (magistrates’ courts) who is—
    - (i) designated under paragraph 29(4)(c) of Schedule 8 to the Terrorism Act 2000, or
    - (ii) designated for the purposes of this Schedule by the Lord Chief Justice of Northern Ireland.
- (13) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his or her functions under sub-paragraph (12)(a)(ii).
- (14) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his or her functions under sub-paragraph (12)(c)(ii)—
  - (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).
- (15) “The 14-day period” and “the 30-day period” have the meanings given by paragraphs 5(2) and 8(7) respectively.

*Powers of search and seizure etc*

- 2 (1) This paragraph applies in the case of a person at a port in Great Britain if a constable has reasonable grounds to suspect that the person –
  - (a) is there with the intention of leaving Great Britain for the purpose of involvement in terrorism-related activity outside the United Kingdom, or
  - (b) has arrived in Great Britain with the intention of leaving it soon for that purpose.
- (2) This paragraph applies in the case of a person at a port in Northern Ireland, or in the border area, if a constable has reasonable grounds to suspect that the person –
  - (a) is there with the intention of leaving the United Kingdom for the purpose of involvement in terrorism-related activity outside the United Kingdom, or
  - (b) has arrived in Northern Ireland with the intention of leaving the United Kingdom soon for that purpose.
- (3) The constable may –
  - (a) exercise any of the powers in sub-paragraph (5) in the case of the person, or
  - (b) direct a qualified officer to do so.
- (4) A qualified officer must (if able to do so) comply with any direction given by a constable under sub-paragraph (3)(b).
- (5) The powers are –
  - (a) to require the person to hand over all travel documents in his or her possession to the constable or (as the case may be) the qualified officer;
  - (b) to search for travel documents relating to the person and to take possession of any that the constable or officer finds;
  - (c) to inspect any travel document relating to the person;
  - (d) to retain any travel document relating to the person that is lawfully in the possession of the constable or officer.
- (6) The power in sub-paragraph (5)(b) is a power to search –
  - (a) the person;
  - (b) anything that the person has with him or her;
  - (c) any vehicle in which the officer believes the person to have been travelling or to be about to travel.
- (7) A constable or qualified officer –
  - (a) may stop a person or vehicle for the purpose of exercising a power in sub-paragraph (5)(a) or (b);
  - (b) may if necessary use reasonable force for the purpose of exercising a power in sub-paragraph (5)(a) or (b);
  - (c) may authorise a person to carry out on the constable's or officer's behalf a search under sub-paragraph (5)(b).
- (8) A constable or qualified officer exercising a power in sub-paragraph (5)(a) or (b) must tell the person that –

- (a) the person is suspected of intending to leave Great Britain or (as the case may be) the United Kingdom for the purpose of involvement in terrorism-related activity outside the United Kingdom, and
  - (b) the constable or officer is therefore entitled under this Schedule to exercise the power.
- (9) Where a travel document relating to the person is in the possession of an immigration officer or customs official (whether a qualified officer or not), the constable may direct the officer or official –
- (a) to pass the document to a constable as soon as practicable, and
  - (b) in the meantime to retain it.
- The officer or official must comply with any such direction.

*Travel documents in possession of immigration officers or customs officials*

- 3 (1) Where –
- (a) a travel document lawfully comes into the possession of an immigration officer or customs official (whether a qualified officer or not) without a power under paragraph 2 being exercised, and
  - (b) as soon as possible after taking possession of the document, the officer or official asks a constable whether the constable wishes to give a direction under paragraph 2(9) in relation to the document,
- the officer or official may retain the document until the constable tells him or her whether or not the constable wishes to give such a direction.
- (2) A request under sub-paragraph (1) must be considered as soon as possible.

*Authorisation by senior police officer for retention of travel document*

- 4 (1) Where a travel document is in the possession of a constable or qualified officer as a result of the exercise of a power under paragraph 2, the relevant constable must as soon as possible either –
- (a) seek authorisation from a senior police officer for the document to be retained, or
  - (b) ensure that the document is returned to the person to whom it relates.
- “The relevant constable” means the constable by whom, or on whose direction, the power was exercised.
- (2) The document may be retained while an application for authorisation is considered.
- Any such application must be considered as soon as possible.
- (3) A constable or qualified officer retaining a travel document under sub-paragraph (2) must tell the person to whom the document relates that –
- (a) the person is suspected of intending to leave Great Britain or (as the case may be) the United Kingdom for the purpose of involvement in terrorism-related activity outside the United Kingdom, and
  - (b) the constable or officer is therefore entitled under this Schedule to retain the document while the matter is considered by a senior police officer.

This does not apply if the constable or qualified officer expects the application for authorisation to be dealt with immediately, or if sub-paragraph (4) has been complied with.

- (4) An immigration officer or customs official to whom a direction is given under paragraph 2(9) must tell the person to whom the travel document in question relates that –
- (a) the person is suspected of intending to leave Great Britain or (as the case may be) the United Kingdom for the purpose of involvement in terrorism-related activity outside the United Kingdom, and
  - (b) a constable is therefore entitled under this Schedule to retain the document while the matter is considered by a senior police officer.
- This does not apply if the immigration officer or customs official expects the application for authorisation to be dealt with immediately.
- (5) If an application for authorisation is granted –
- (a) the travel document must be passed to a constable if it is not already in the possession of a constable, and
  - (b) paragraph 5 applies.
- (6) If an application for authorisation is refused, the travel document must be returned to the person as soon as possible.
- (7) A senior police officer may grant an application for authorisation only if satisfied that there are reasonable grounds for the suspicion referred to in paragraph 2(1) or (2).
- (8) An authorisation need not be in writing.
- (9) Sub-paragraphs (1)(b) and (6) are subject to paragraph 7 and to any power or provision not in this Schedule under which the document may be lawfully retained or otherwise dealt with.

*Retention or return of documents seized*

- 5 (1) Where authorisation is given under paragraph 4 for a travel document relating to a person to be retained, it may continue to be retained –
- (a) while the Secretary of State considers whether to cancel the person’s passport,
  - (b) while consideration is given to charging the person with an offence,
  - (c) while consideration is given to making the person subject to any order or measure to be made or imposed by a court, or by the Secretary of State, for purposes connected with protecting members of the public from a risk of terrorism, or
  - (d) while steps are taken to carry out any of the actions mentioned in paragraphs (a) to (c).
- (2) But a travel document may not be retained under this Schedule after the end of the period of 14 days beginning with the day after the document was taken (“the 14-day period”), unless that period is extended under paragraph 8 or 11(3).
- (3) The travel document must be returned to the person as soon as possible –
- (a) once the 14-day period (or the 14-day period as extended under paragraph 8 or 11(3)) expires;
  - (b) once the power in sub-paragraph (1) ceases to apply, if that happens earlier.

This is subject to paragraph 7 and to any power or provision not in this Schedule under which the document may be lawfully retained or otherwise dealt with.

- (4) The constable to whom a travel document is passed under paragraph 2(9) or 4(5)(a), or who is in possession of it when authorisation is given under paragraph 4, must explain to the person the effect of sub-paragraphs (1) to (3).
- (5) The constable must also tell the person, if he or she has not been told already under paragraph 2(8) or 4(3) or (4), that the person is suspected of intending to leave Great Britain or (as the case may be) the United Kingdom for the purpose of involvement in terrorism-related activity outside the United Kingdom.

*Review of retention of travel documents*

- 6 (1) This paragraph applies where –
  - (a) authorisation is given under paragraph 4 for a travel document relating to a person to be retained, and
  - (b) the document is still being retained by a constable at the end of the period of 72 hours beginning when the document was taken from the person (“the 72-hour period”).
- (2) A police officer who is –
  - (a) of at least the rank of chief superintendent, and
  - (b) of at least as high a rank as the senior police officer who gave the authorisation,must carry out a review of whether the decision to give authorisation was flawed.
- (3) The reviewing officer must –
  - (a) begin carrying out the review within the 72-hour period,
  - (b) complete the review as soon as possible, and
  - (c) communicate the findings of the review in writing to the relevant chief constable.
- (4) The relevant chief constable must consider those findings and take whatever action seems appropriate.
- (5) If a power under paragraph 2 was exercised in relation to the travel document by an immigration officer or customs official designated under paragraph 17, the reviewing officer must also communicate the findings of the review in writing to the Secretary of State.
- (6) In this paragraph –

“reviewing officer” means the officer carrying out a review under this paragraph;

“relevant chief constable” means –

  - (a) (except where paragraph (b) or (c) applies) the chief officer of police under whose direction and control is the constable retaining the document;
  - (b) the chief constable of the Police Service of Scotland, if the constable retaining the document is under that chief constable’s direction and control;

- (c) the chief constable of the Police Service of Northern Ireland, if the constable retaining the document is under that chief constable’s direction and control.

*Detention of document for criminal proceedings etc*

- 7 (1) A requirement under paragraph 4 or 5 to return a travel document in the possession of a constable or qualified officer does not apply while the constable or officer has power to detain it under sub-paragraph (2).
- (2) The constable or qualified officer may detain the document –
  - (a) while the constable or officer believes that it may be needed for use as evidence in criminal proceedings, or
  - (b) while the constable or officer believes that it may be needed in connection with a decision by the Secretary of State whether to make a deportation order under the Immigration Act 1971.

*Extension of 14-day period by judicial authority*

- 8 (1) A senior police officer may apply to a judicial authority for an extension of the 14-day period.
- (2) An application must be made before the end of the 14-day period.
- (3) An application may be heard only if reasonable efforts have been made to give to the person to whom the application relates a notice stating –
  - (a) the time when the application was made;
  - (b) the time and place at which it is to be heard.
- (4) On an application –
  - (a) the judicial authority must grant an extension if satisfied that the relevant persons have been acting diligently and expeditiously in relation to the matters and steps referred to in sub-paragraph (5);
  - (b) otherwise, the judicial authority must refuse to grant an extension.
- (5) In sub-paragraph (4) “the relevant persons” means –
  - (a) the persons responsible for considering whichever of the matters referred to in paragraph 5(1)(a) to (c) are under consideration, and
  - (b) the persons responsible for taking whichever of the steps referred to in paragraph 5(1)(d) are being taken or are intended to be taken.
- (6) An extension must be for a further period ending no later than the end of the 30-day period.
- (7) “The 30-day period” means the period of 30 days beginning with the day after the document in question was taken.
- 9 (1) The person to whom an application under paragraph 8 relates –
  - (a) must be given an opportunity to make oral or written representations to the judicial authority about the application;
  - (b) subject to sub-paragraph (3), is entitled to be legally represented at the hearing.
- (2) A judicial authority must adjourn the hearing of an application to enable the person to whom the application relates to obtain legal representation where the person –

- (a) is not legally represented,
    - (b) is entitled to be legally represented, and
    - (c) wishes to be legally represented.
  - (3) A judicial authority may exclude any of the following persons from any part of the hearing –
    - (a) the person to whom the application relates;
    - (b) anyone representing that person.
- 10
- (1) A person who has made an application under paragraph 8 may apply to the judicial authority for an order that specified information upon which he or she intends to rely be withheld from –
    - (a) the person to whom the application relates, and
    - (b) anyone representing that person.
  - (2) A judicial authority may make an order under sub-paragraph (1) in relation to specified information only if satisfied that there are reasonable grounds for believing that if the information was disclosed –
    - (a) evidence of an offence under any of the provisions mentioned in section 40(1)(a) of the Terrorism Act 2000 would be interfered with or harmed,
    - (b) the recovery of property obtained as a result of an offence under any of those provisions would be hindered,
    - (c) the recovery of property in respect of which a forfeiture order could be made under section 23 or 23A of that Act would be hindered,
    - (d) the apprehension, prosecution or conviction of a person who is suspected of being a terrorist would be made more difficult as a result of the person being alerted,
    - (e) the prevention of an act of terrorism would be made more difficult as a result of a person being alerted,
    - (f) the gathering of information about the commission, preparation or instigation of an act of terrorism would be interfered with,
    - (g) a person would be interfered with or physically injured, or
    - (h) national security would be put at risk.
  - (3) The judicial authority must direct that the following be excluded from the hearing of an application under this paragraph –
    - (a) the person to whom the application under paragraph 8 relates;
    - (b) anyone representing that person.
- 11
- (1) A judicial authority may adjourn the hearing of an application under paragraph 8 only if the hearing is adjourned to a date before the expiry of the 14-day period.
  - (2) Sub-paragraph (1) does not apply to an adjournment under paragraph 9(2). But an adjournment under that paragraph must be to a date before the end of the 30-day period.
  - (3) If an application is adjourned under paragraph 9(2) to a date after the expiry of the 14-day period, the judicial authority must extend the period until that date.
- 12
- (1) If an extension is granted under paragraph 8 for a period ending before the end of the 30-day period, one further application may be made under that paragraph.

- (2) Paragraphs 8 to 11 apply to a further application as if references to the 14-day period were references to that period as previously extended.

*Restriction on repeated use of powers*

- 13 (1) Where—
- (a) a power under paragraph 4 or 5 to retain a document relating to a person is exercised, and
  - (b) powers under this Schedule have been exercised in the same person’s case on two or more occasions in the previous 6 months,
- this Schedule has effect with the following modifications.
- (2) References to 14 days (in paragraph 5(2) and elsewhere) are to be read as references to 5 days.
- (3) Paragraph 8 has effect as if the following were substituted for sub-paragraph (4)—
- “(4) On an application, the judicial authority must grant an extension if satisfied that—
- (a) the relevant persons have been acting diligently and expeditiously in relation to the matters and steps referred to in sub-paragraph (5), and
  - (b) there are exceptional circumstances justifying the further use of powers under this Schedule in relation to the same person.
- Otherwise, the judicial authority must refuse to grant an extension.”

*Persons unable to leave the United Kingdom*

- 14 (1) This paragraph applies where a person’s travel documents are retained under this Schedule with the result that, for the period during which they are so retained (“the relevant period”), the person is unable to leave the United Kingdom.
- (2) The Secretary of State may make whatever arrangements he or she thinks appropriate in relation to the person—
- (a) during the relevant period;
  - (b) on the relevant period coming to an end.
- (3) If at any time during the relevant period the person does not have leave to enter or remain in the United Kingdom, the person’s presence in the United Kingdom at that time is nevertheless not unlawful for the purposes of the Immigration Act 1971.

*Offences*

- 15 (1) A person who is required under paragraph 2(5)(a) to hand over all travel documents in the person’s possession commits an offence if he or she fails without reasonable excuse to do so.
- (2) A person who intentionally obstructs, or seeks to frustrate, a search under paragraph 2 commits an offence.



- (3) A person guilty of an offence under this paragraph is liable on summary conviction –
- (a) to imprisonment for a term not exceeding 6 months, or
  - (b) to a fine, which in Scotland or Northern Ireland may not exceed level 5 on the standard scale,
- or to both.

16 A qualified officer exercising a power under paragraph 2 has the same powers of arrest without warrant as a constable in relation to an offence under paragraph 15.

*Accredited immigration officers and customs officials*

- 17 (1) For the purposes of this paragraph, a qualified officer is an “accredited” immigration officer or customs official if designated as such by the Secretary of State.
- (2) Sub-paragraphs (1), (2) and (3)(a) of paragraph 2 apply to an accredited immigration officer or customs official as they apply to a constable.
- (3) In paragraph 2(3)(b) and (4) “qualified officer” does not include an accredited immigration officer or customs official.
- (4) In paragraphs 2(9) and 3 “immigration officer or customs official” does not include an accredited immigration officer or customs official.
- (5) Paragraph 4(1) has effect, in relation to a travel document that is in the possession of an accredited immigration officer or customs official as a result of the exercise of a power under paragraph 2 by that officer or official, as if the reference to the relevant constable were a reference to that officer or official.

*Code of practice*

- 18 (1) The Secretary of State must issue a code of practice with regard to the exercise of functions under this Schedule.
- (2) The code of practice must in particular deal with the following matters –
- (a) the procedure for making designations under paragraphs 1(4) and 17;
  - (b) training to be undertaken by persons who are to exercise powers under this Schedule;
  - (c) the exercise by constables, immigration officers and customs officials of functions conferred on them by virtue of this Schedule;
  - (d) information to be given to a person in whose case a power under this Schedule is exercised;
  - (e) how and when that information is to be given;
  - (f) reviews under paragraph 6.
- (3) A constable, immigration officer or customs official must perform functions conferred on him or her by virtue of this Schedule in accordance with any relevant provision included in the code by virtue of sub-paragraph (2)(c) to (e).

- (4) The failure by a constable, immigration officer or customs official to observe any such provision does not of itself make him or her liable to criminal or civil proceedings.
- (5) The code of practice –
- (a) is admissible in evidence in criminal and civil proceedings;
  - (b) is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.
- 19 (1) Before issuing the code of practice the Secretary of State must –
- (a) publish it in draft,
  - (b) consider any representations made about the draft, and
  - (c) if the Secretary of State thinks it appropriate, modify the draft in the light of any representations made.
- (2) The Secretary of State must lay a draft of the code before Parliament.
- (3) Anything done before the day on which this Act is passed is as valid as if done on or after that day for the purposes of sub-paragraphs (1) and (2).
- (4) Once the code has been laid in draft before Parliament the Secretary of State may bring it into operation by regulations made by statutory instrument.
- (5) The first regulations under sub-paragraph (4) cease to have effect at the end of the period of 40 days beginning with the day on which the Secretary of State makes the regulations, unless a resolution approving the regulations is passed by each House of Parliament during that period.
- (6) A statutory instrument containing any subsequent regulations under sub-paragraph (4) 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.
- (7) If regulations cease to have effect under sub-paragraph (5) –
- (a) the code of practice to which the regulations relate also ceases to have effect, but
  - (b) that does not affect anything previously done, or the power to make new regulations or to issue a new code.
- (8) For the purposes of sub-paragraph (5), the period of 40 days is to be computed in accordance with section 7(1) of the Statutory Instruments Act 1946.
- 20 (1) The Secretary of State may revise the code of practice and issue the revised code.
- (2) Paragraph 19 has effect in relation to the issue of a revised code as it has effect in relation to the first issue of the code.

## SCHEDULE 2

Section 3

## URGENT TEMPORARY EXCLUSION ORDERS: REFERENCE TO THE COURT ETC

*Application*

- 1 This Schedule applies if the Secretary of State –

- (a) makes the urgent case decisions in relation to an individual, and
- (b) imposes a temporary exclusion order on the individual.

*Statement of urgency*

- 2 The temporary exclusion order must include a statement that the Secretary of State reasonably considers that the urgency of the case requires the order to be imposed without obtaining the permission of the court under section 3.

*Reference to court*

- 3 (1) Immediately after giving notice of the imposition of the temporary exclusion order, the Secretary of State must refer to the court the imposition of the order on the individual.
- (2) The function of the court on the reference is to consider whether the urgent case decisions were obviously flawed.
- (3) The court's consideration of the reference must begin within the period of 7 days beginning with the day on which notice of the imposition of the temporary exclusion order is given to the individual.
- (4) The court may consider the reference –
- (a) in the absence of the individual,
  - (b) without the individual having been notified of the reference, and
  - (c) without the individual having been given an opportunity (if the individual was aware of the reference) of making any representations to the court.
- (5) But that does not limit the matters about which rules of court may be made.

*Decision by court*

- 4 (1) In a case where the court determines that any of the relevant decisions of the Secretary of State is obviously flawed, the court must quash the temporary exclusion order.
- (2) If sub-paragraph (1) does not apply, the court must confirm the temporary exclusion order.
- (3) If the court determines that the decision of the Secretary of State that the urgency condition is met is obviously flawed, the court must make a declaration of that determination (whether it quashes or confirms the temporary exclusion order under the preceding provisions of this paragraph).

*Procedures on reference*

- 5 (1) In determining a reference under paragraph 3, the court must apply the principles applicable on an application for judicial review.
- (2) The court must ensure that the individual is notified of the court's decision on a reference under paragraph 3.

*Interpretation*

- 6 (1) References in this Schedule to the urgency condition being met are references to condition E being met by virtue of section 2(7)(b) (urgency of the case requires a temporary exclusion order to be imposed without obtaining the permission of the court).
- (2) In this Schedule “the urgent case decisions” means the relevant decisions and the decision that the urgency condition is met.
- (3) In this Schedule “the relevant decisions” means the decisions that the following conditions are met –
- (a) condition A;
  - (b) condition B;
  - (c) condition C;
  - (d) condition D.

## SCHEDULE 3

Section 12

## TEMPORARY EXCLUSION ORDERS: PROCEEDINGS

*Introductory*

- 1 In this Schedule –
- “appeal proceedings” means proceedings in the Court of Appeal or the Inner House of the Court of Session on an appeal relating to TEO proceedings;
- “the relevant court” means –
- (a) in relation to TEO proceedings, the court;
  - (b) in relation to appeal proceedings, the Court of Appeal or the Inner House of the Court of Session;
- “rules of court” means rules for regulating the practice and procedure to be followed in the court, the Court of Appeal or the Inner House of the Court of Session;
- “TEO proceedings” means proceedings on –
- (a) an application under section 3,
  - (b) a reference under Schedule 2,
  - (c) a review under section 11, or
  - (d) an application made by virtue of paragraph 6 of this Schedule (application for order requiring anonymity).

*Rules of court: general provision*

- 2 (1) A person making rules of court relating to TEO proceedings or appeal proceedings must have regard to the need to secure the following –
- (a) that the decisions that are the subject of the proceedings are properly reviewed, and
  - (b) that disclosures of information are not made where they would be contrary to the public interest.

- (2) Rules of court relating to TEO proceedings or appeal proceedings may make provision—
  - (a) about the mode of proof and about evidence in the proceedings;
  - (b) enabling or requiring the proceedings to be determined without a hearing;
  - (c) about legal representation in the proceedings;
  - (d) enabling the proceedings to take place without full particulars of the reasons for the decisions to which the proceedings relate being given to a party to the proceedings (or to any legal representative of that party);
  - (e) enabling the relevant court to conduct proceedings in the absence of any person, including a party to the proceedings (or any legal representative of that party);
  - (f) about the functions of a person appointed as a special advocate (see paragraph 10);
  - (g) enabling the relevant court to give a party to the proceedings a summary of evidence taken in the party's absence.
- (3) In this paragraph—
  - (a) references to a party to the proceedings do not include the Secretary of State;
  - (b) references to a party's legal representative do not include a person appointed as a special advocate.

*Rules of court: disclosure*

- 3 (1) Rules of court relating to TEO proceedings or appeal proceedings must secure that the Secretary of State is required to disclose—
  - (a) material on which the Secretary of State relies,
  - (b) material which adversely affects the Secretary of State's case, and
  - (c) material which supports the case of another party to the proceedings.
- (2) This paragraph is subject to paragraph 4.
- 4 (1) Rules of court relating to TEO proceedings or appeal proceedings must secure—
  - (a) that the Secretary of State has the opportunity to make an application to the relevant court for permission not to disclose material otherwise than to the relevant court and any person appointed as a special advocate;
  - (b) that such an application is always considered in the absence of every party to the proceedings (and every party's legal representative);
  - (c) that the relevant court is required to give permission for material not to be disclosed if it considers that the disclosure of the material would be contrary to the public interest;
  - (d) that, if permission is given by the relevant court not to disclose material, it must consider requiring the Secretary of State to provide a summary of the material to every party to the proceedings (and every party's legal representative);
  - (e) that the relevant court is required to ensure that such a summary does not contain material the disclosure of which would be contrary to the public interest.

- (2) Rules of court relating to TEO proceedings or appeal proceedings must secure that provision to the effect mentioned in sub-paragraph (3) applies in cases where the Secretary of State –
  - (a) does not receive the permission of the relevant court to withhold material, but elects not to disclose it, or
  - (b) is required to provide a party to the proceedings with a summary of material that is withheld, but elects not to provide the summary.
- (3) The relevant court must be authorised –
  - (a) if it considers that the material or anything that is required to be summarised might adversely affect the Secretary of State’s case or support the case of a party to the proceedings, to direct that the Secretary of State –
    - (i) is not to rely on such points in the Secretary of State’s case, or
    - (ii) is to make such concessions or take such other steps as the court may specify, or
  - (b) in any other case, to ensure that the Secretary of State does not rely on the material or (as the case may be) on that which is required to be summarised.
- (4) In this paragraph –
  - (a) references to a party to the proceedings do not include the Secretary of State;
  - (b) references to a party’s legal representative do not include a person appointed as a special advocate.

#### *Article 6 rights*

- 5 (1) Nothing in paragraphs 2 to 4, or in rules of court made under any of those paragraphs, is to be read as requiring the relevant court to act in a manner inconsistent with Article 6 of the Human Rights Convention.
- (2) The “Human Rights Convention” means the Convention within the meaning of the Human Rights Act 1998 (see section 21(1) of that Act).

#### *Rules of court: anonymity*

- 6 (1) Rules of court relating to TEO proceedings may make provision for –
  - (a) the making by the Secretary of State or the relevant individual of an application to the court for an order requiring anonymity for that individual, and
  - (b) the making by the court, on such an application, of an order requiring such anonymity;
 and the provision made by the rules may allow the application and the order to be made irrespective of whether any other TEO proceedings have been begun in the court.
- (2) Rules of court may provide for the Court of Appeal or the Inner House of the Court of Session to make an order in connection with any appeal proceedings requiring anonymity for the relevant individual.
- (3) In sub-paragraphs (1) and (2) the references, in relation to a court, to an order requiring anonymity for the relevant individual are references to an order by that court which imposes such prohibition or restriction as it thinks fit on the disclosure –

(a) by such persons as the court specifies or describes, or  
(b) by persons generally,  
of the identity of the relevant individual or of any information that would tend to identify the relevant individual.

(4) In this paragraph “relevant individual” means an individual on whom the Secretary of State is proposing to impose, or has imposed, a temporary exclusion order.

*Initial exercise of rule-making powers by Lord Chancellor*

- 7 (1) The first time after the passing of this Act that rules of court are made in exercise of the powers conferred by this Schedule in relation to proceedings in England and Wales or in Northern Ireland, the rules may be made by the Lord Chancellor instead of by the person who would otherwise make them.
- (2) Before making rules of court under sub-paragraph (1), the Lord Chancellor must consult –
- (a) in relation to rules applicable to proceedings in England and Wales, the Lord Chief Justice of England and Wales;
- (b) in relation to rules applicable to proceedings in Northern Ireland, the Lord Chief Justice of Northern Ireland.
- (3) But the Lord Chancellor is not required to undertake any other consultation before making the rules.
- (4) A requirement to consult under sub-paragraph (2) may be satisfied by consultation that took place wholly or partly before the passing of this Act.
- (5) Rules of court made by the Lord Chancellor under sub-paragraph (1) –
- (a) must be laid before Parliament, and
- (b) if not approved by a resolution of each House before the end of 40 days beginning with the day on which they were made, cease to have effect at the end of that period.
- (6) In determining that period of 40 days no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.
- (7) If rules cease to have effect in accordance with sub-paragraph (5) –
- (a) that does not affect anything done in previous reliance on the rules, and
- (b) sub-paragraph (1) applies again as if the rules had not been made.
- (8) The following provisions do not apply to rules of court made by the Lord Chancellor under this paragraph –
- (a) section 3(6) of the Civil Procedure Act 1997 (parliamentary procedure for civil procedure rules);
- (b) section 56(1), (2) and (4) of the Judicature (Northern Ireland) Act 1978 (statutory rules procedure).
- (9) Until the coming into force of section 85 of the Courts Act 2003, the reference in sub-paragraph (8)(a) to section 3(6) of the Civil Procedure Act 1997 is to be read as a reference to section 3(2) of that Act.

*Use of advisers*

- 8 (1) In any TEO proceedings or appeal proceedings the relevant court may if it thinks fit –
- (a) call in aid one or more advisers appointed for the purposes of this paragraph by the Lord Chancellor, and
  - (b) hear and dispose of the proceedings with the assistance of the adviser or advisers.
- (2) The Lord Chancellor may appoint advisers for the purposes of this paragraph only with the approval of –
- (a) the Lord President of the Court of Session, in relation to an adviser who may be called in aid wholly or mainly in Scotland;
  - (b) the Lord Chief Justice of Northern Ireland, in relation to an adviser who may be called in aid wholly or mainly in Northern Ireland;
  - (c) the Lord Chief Justice of England and Wales, in any other case.
- (3) Rules of court may regulate the use of advisers in proceedings who are called in aid under sub-paragraph (1).
- (4) The Lord Chancellor may pay such remuneration, expenses and allowances to advisers appointed for the purposes of this paragraph as the Lord Chancellor may determine.
- 9 (1) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise the function under paragraph 8(2)(a).
- (2) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise the function under paragraph 8(2)(b) –
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).
- (3) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise the function under paragraph 8(2)(c).

*Appointment of special advocate*

- 10 (1) The appropriate law officer may appoint a person to represent the interests of a party in any TEO proceedings or appeal proceedings from which the party (and any legal representative of the party) is excluded.
- (2) A person appointed under sub-paragraph (1) is referred to in this Schedule as appointed as a “special advocate”.
- (3) The “appropriate law officer” is –
- (a) in relation to proceedings in England and Wales, the Attorney General;
  - (b) in relation to proceedings in Scotland, the Advocate General for Scotland;
  - (c) in relation to proceedings in Northern Ireland, the Advocate General for Northern Ireland.



- (4) A person appointed as a special advocate is not responsible to the party to the proceedings whose interests the person is appointed to represent.
- (5) A person may be appointed as a special advocate only if—
  - (a) in the case of an appointment by the Attorney General, the person has a general qualification for the purposes of section 71 of the Courts and Legal Services Act 1990;
  - (b) in the case of an appointment by the Advocate General for Scotland, the person is an advocate or a solicitor who has rights of audience in the Court of Session or the High Court of Justiciary by virtue of section 25A of the Solicitors (Scotland) Act 1980;
  - (c) in the case of an appointment by the Advocate General for Northern Ireland, the person is a member of the Bar of Northern Ireland.

*Relationship with other powers to make rules of court and other proceedings*

- 11 Nothing in this Schedule is to be read as restricting—
  - (a) the power to make rules of court or the matters to be taken into account when doing so, or
  - (b) the application of sections 6 to 14 of the Justice and Security Act 2013 (closed material proceedings).

SCHEDULE 4

Section 12

TEMPORARY EXCLUSION ORDERS: APPEALS AGAINST CONVICTIONS

*Right of appeal*

- 1 (1) An individual who has been convicted of an offence under section 10(1) or (3) may appeal against the conviction if—
  - (a) a temporary exclusion order is quashed, and
  - (b) the individual could not have been convicted had the quashing occurred before the proceedings for the offence were brought.
- (2) An individual who has been convicted of an offence under section 10(3) may appeal against the conviction if—
  - (a) a notice under section 9, or a permitted obligation imposed by such a notice, is quashed, and
  - (b) the individual could not have been convicted had the quashing occurred before the proceedings for the offence were brought.

*Court in which appeal to be made*

- 2 An appeal under this Schedule is to be made—
  - (a) in the case of a conviction on indictment in England and Wales or Northern Ireland, to the Court of Appeal;
  - (b) in the case of a conviction on indictment or summary conviction in Scotland, to the High Court of Justiciary;
  - (c) in the case of a summary conviction in England and Wales, to the Crown Court; or
  - (d) in the case of a summary conviction in Northern Ireland, to the county court.

*When the right of appeal arises*

- 3 (1) The right of appeal under this Schedule does not arise until there is no further possibility of an appeal against –
  - (a) the decision to quash the temporary exclusion order, notice or permitted obligation (as the case may be), or
  - (b) any decision on an appeal made against that decision.
- (2) In determining whether there is no further possibility of an appeal against a decision of the kind mentioned in sub-paragraph (1), any power to extend the time for giving notice of application for leave to appeal, or for applying for leave to appeal, must be ignored.

*The appeal*

- 4 (1) On an appeal under this Schedule to any court, that court must allow the appeal and quash the conviction.
- (2) An appeal under this Schedule to the Court of Appeal against a conviction on indictment –
  - (a) may be brought irrespective of whether the appellant has previously appealed against the conviction;
  - (b) may not be brought after the end of the period of 28 days beginning with the day on which the right of appeal arises by virtue of paragraph 3; and
  - (c) is to be treated as an appeal under section 1 of the Criminal Appeal Act 1968 or, in Northern Ireland, under section 1 of the Criminal Appeal (Northern Ireland) Act 1980, but does not require leave in either case.
- (3) An appeal under this Schedule to the High Court of Justiciary against a conviction on indictment –
  - (a) may be brought irrespective of whether the appellant has previously appealed against the conviction;
  - (b) may not be brought after the end of the period of 28 days beginning with the day on which the right of appeal arises by virtue of paragraph 3; and
  - (c) is to be treated as an appeal under section 106 of the Criminal Procedure (Scotland) Act 1995 for which leave has been granted.
- (4) An appeal under this Schedule to the High Court of Justiciary against a summary conviction –
  - (a) may be brought irrespective of whether the appellant pleaded guilty;
  - (b) may be brought irrespective of whether the appellant has previously appealed against the conviction;
  - (c) may not be brought after the end of the period of two weeks beginning with the day on which the right of appeal arises by virtue of paragraph 3;
  - (d) is to be by note of appeal, which shall state the ground of appeal;
  - (e) is to be treated as an appeal for which leave has been granted under Part 10 of the Criminal Procedure (Scotland) Act 1995; and
  - (f) must be in accordance with such procedure as the High Court of Justiciary may, by Act of Adjournal, determine.

- (5) An appeal under this Schedule to the Crown Court or to the county court in Northern Ireland against a summary conviction –
- (a) may be brought irrespective of whether the appellant pleaded guilty;
  - (b) may be brought irrespective of whether the appellant has previously appealed against the conviction or made an application in respect of the conviction under section 111 of the Magistrates’ Courts Act 1980 or Article 146 of the Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) (case stated);
  - (c) may not be brought after the end of the period of 21 days beginning with the day on which the right of appeal arises by virtue of paragraph 3; and
  - (d) is to be treated as an appeal under section 108(1)(b) of that Act or, in Northern Ireland, under Article 140(1)(b) of that Order.

## SCHEDULE 5

Section 25

### AVIATION, MARITIME AND RAIL SECURITY

#### PART 1

#### PASSENGER, CREW AND SERVICE INFORMATION

##### *Amendments of the Immigration Act 1971*

- 1 (1) Schedule 2 to the Immigration Act 1971 (administrative provisions as to control on entry etc) is amended as follows.
- (2) In paragraph 27 (requirement to provide passenger lists etc), in sub-paragraph (5), after paragraph (b) insert –
- “(ba) may require a responsible person to be able to receive, in a specified form and manner, communications sent by the Secretary of State or an immigration officer relating to the information,”.
- (3) In paragraph 27B (passenger information or service information), after sub-paragraph (8) insert –
- “(8A) The officer may require a carrier to be able to receive communications from the officer in such form and manner as the Secretary of State may direct.”
- (4) After paragraph 27B insert –
- “27BA(1) The Secretary of State may make regulations requiring responsible persons in respect of ships or aircraft –
    - (a) which have arrived, or are expected to arrive, in the United Kingdom, or
    - (b) which have left, or are expected to leave, the United Kingdom,to supply information to the Secretary of State or an immigration officer.
  - (2) The following information may be required under sub-paragraph (1) –

- (a) information about the persons on board;
  - (b) information about the voyage or flight.
- (3) The regulations must –
- (a) specify or describe the classes of ships or aircraft to which they apply;
  - (b) specify the information required to be supplied;
  - (c) specify the time by which the information must be supplied;
  - (d) specify the form and manner in which the information must be supplied.
- (4) The regulations may require responsible persons to be able to receive, in a specified form and manner, communications sent by the Secretary of State or an immigration officer relating to the information.
- (5) For the purposes of this paragraph, the following are responsible persons in respect of a ship or aircraft –
- (a) the owner or agent, and
  - (b) the captain.
- (6) Regulations under this paragraph may make different provision for different purposes, and in particular may make different provision for different types of carrier, journey or person on board.
- (7) The power to make regulations under this paragraph is exercisable by statutory instrument; but no regulations under this paragraph are to be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.
- 27BB(1) The Secretary of State may make regulations imposing penalties for failure to comply with –
- (a) an order under paragraph 27(2) (order requiring passenger list or particulars of member of crew),
  - (b) any request or requirement under paragraph 27B (passenger and service information), or
  - (c) regulations under paragraph 27BA (passenger, crew and service information).
- (2) Regulations under sub-paragraph (1) may in particular make provision –
- (a) about how a penalty is to be calculated;
  - (b) about the procedure for imposing a penalty;
  - (c) about the enforcement of penalties;
  - (d) allowing for an appeal against a decision to impose a penalty;
- and the regulations may make different provision for different purposes.
- (3) Provision in the regulations about the procedure for imposing a penalty must provide for a person to be given an opportunity to

object to a proposed penalty in the circumstances set out in the regulations.

- (4) The regulations must provide that no penalty may be imposed on a person for failure to comply with an order under paragraph 27(2), a request or requirement under paragraph 27B or regulations under paragraph 27BA where –
- (a) proceedings have been instituted against the person under section 27 in respect of the same failure; or
  - (b) the failure consists of a failure to provide information that the person has also been required to provide under section 32 or 32A of the Immigration, Asylum and Nationality Act 2006 and –
    - (i) a penalty has been imposed on the person in respect of a failure to provide that information by virtue of regulations made under section 32B of that Act, or
    - (ii) proceedings have been instituted against the person under section 34 of that Act in respect of a failure to provide that information; or
  - (c) the failure consists of a failure to provide information that the person has also been required to provide under an authority-to-carry scheme made under section 22 of the Counter-Terrorism and Security Act 2015 and a penalty has been imposed on the person in respect of a failure to provide that information by virtue of regulations made under section 24 of that Act.
- (5) Any penalty paid by virtue of this paragraph must be paid into the Consolidated Fund.
- (6) The power to make regulations under this paragraph is exercisable by statutory instrument; but no regulations under this paragraph are to be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.”

(5) Omit paragraph 27C (notification of non-EEA arrivals).

2 In section 27 of that Act (offences by persons connected with ships or aircraft or with ports) –

- (a) the existing provision becomes subsection (1);
- (b) at the end insert –

“(2) Proceedings may not be instituted against a person under subsection (1)(a)(i) or (1)(b)(iv) for a failure to provide information or otherwise to comply with a requirement imposed under paragraph 27, 27B or 27BA of Schedule 2 where –

- (a) the person has paid a penalty in respect of the same failure, or a failure to provide the same information, by virtue of regulations made under –
  - (i) paragraph 27BB of Schedule 2,
  - (ii) section 32B of the Immigration, Asylum and Nationality Act 2006, or

- (iii) section 24 of the Counter-Terrorism and Security Act 2015 (penalty for breach of authority-to-carry scheme); or
- (b) proceedings have been instituted against the person under section 34 of the Immigration, Asylum and Nationality Act 2006 in respect of a failure to provide the same information.”

*Amendments consequential upon paragraph 1*

- 3 Omit section 19 of the Immigration and Asylum Act 1999.
- 4 In Schedule 7 to the Terrorism Act 2000 (port and border controls), in paragraph 17 (provision of passenger information), in sub-paragraph (6), for “or 27B” substitute “, 27B or 27BA”.

*Amendments of the Immigration, Asylum and Nationality Act 2006*

- 5 The Immigration, Asylum and Nationality Act 2006 is amended as set out in paragraphs 6 to 8.
- 6 In section 32 (passenger and crew information: police powers), at the end of subsection (6) insert –
  - “(e) may include a requirement for the owner or agent of a ship or aircraft to be able to receive, in a specified form and manner, communications relating to the information.”
- 7 After that section insert –

**“32A Regulations requiring information to be provided to police**

- (1) The Secretary of State may make regulations requiring responsible persons in relation to ships or aircraft –
  - (a) which have arrived, or are expected to arrive, in the United Kingdom, or
  - (b) which have left, or are expected to leave, the United Kingdom,
 to provide information to the police.
- (2) The following information may be required under subsection (1) –
  - (a) information about the persons on board;
  - (b) information about the voyage or flight.
- (3) Regulations may impose a requirement to provide the information only if the Secretary of State thinks it necessary –
  - (a) in the case of a requirement to provide information to the police in England and Wales, for police purposes;
  - (b) in the case of a requirement to provide information to the police in Scotland, for police purposes which are or relate to reserved matters (within the meaning of the Scotland Act 1998);
  - (c) in the case of a requirement to provide information to the police in Northern Ireland, for police purposes which are or relate to excepted or reserved matters (within the meaning of the Northern Ireland Act 1998).

In this subsection “police purposes” has the same meaning as in section 32.

- (4) The regulations must –
  - (a) specify or describe the classes of ships or aircraft to which they apply;
  - (b) specify the information required to be provided;
  - (c) specify the time by which the information must be provided;
  - (d) specify the form and manner in which the information must be provided.
- (5) The regulations may require responsible persons to be able to receive, in a specified form and manner, communications sent by the police, the Secretary of State or an immigration officer relating to the information.
- (6) Regulations under this section –
  - (a) may apply generally or only to specified cases or circumstances,
  - (b) may make different provision for different cases or circumstances,
  - (c) shall be made by statutory instrument, and
  - (d) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (7) For the purposes of this section, the following are responsible persons in respect of a ship or aircraft –
  - (a) the owner or agent, and
  - (b) the captain.

**32B Penalty for breach of section 32 or 32A**

- (1) The Secretary of State may make regulations imposing penalties for failure to comply with a requirement imposed –
  - (a) under section 32(2) (provision of passenger, crew or service information), or
  - (b) by regulations made under section 32A (regulations requiring information to be provided to police).
- (2) Regulations under subsection (1) may in particular make provision –
  - (a) about how a penalty is to be calculated;
  - (b) about the procedure for imposing a penalty;
  - (c) about the enforcement of penalties;
  - (d) allowing for an appeal against a decision to impose a penalty;and the regulations may make different provision for different purposes.
- (3) Provision in the regulations about the procedure for imposing a penalty must provide for a person to be given an opportunity to object to a proposed penalty in the circumstances set out in the regulations.

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- (4) The regulations must provide that no penalty may be imposed on a person for failure to comply with a requirement imposed under section 32(2) or by regulations made under section 32A where –
- (a) proceedings have been instituted against the person under section 34 in respect of the same failure, or
  - (b) the failure consists of a failure to provide information that the person has also been required to provide under paragraph 27, 27B or 27BA of Schedule 2 to the Immigration Act 1971 and –
    - (i) a penalty has been imposed on the person in respect of a failure to provide that information by virtue of regulations made under paragraph 27BB of that Schedule, or
    - (ii) proceedings have been instituted against the person under section 27 of that Act in respect of a failure to provide that information, or
  - (c) the failure consists of a failure to provide information that the person has also been required to provide under an authority-to-carry scheme made under section 22 of the Counter-Terrorism and Security Act 2015 and a penalty has been imposed on the person in respect of a failure to provide that information by virtue of regulations made under section 24 of that Act.
- (5) Any penalty paid by virtue of this section must be paid into the Consolidated Fund.
- (6) Regulations under this section –
- (a) must be made by statutory instrument, and
  - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.”
- 8 (1) Section 34 (offence of failure to provide passenger information etc) is amended as follows.
- (2) In subsection (1), for “imposed under section 32(2) or (3) or 33(2)” substitute “imposed –
- (a) under section 32(2) or (3) or 33(2), or
  - (b) by regulations made under section 32A”.
- (3) After subsection (1) insert –
- “(1A) Proceedings may not be instituted against a person under subsection (1) for a failure to comply with a requirement imposed under section 32(2) or by regulations made under section 32A where –
- (a) the person has paid a penalty in respect of the same failure, or a failure to provide the same information, by virtue of regulations made under –
    - (i) section 32B,
    - (ii) paragraph 27BB of Schedule 2 to the Immigration Act 1971, or
    - (iii) section 24 of the Counter-Terrorism and Security Act 2015 (penalty for breach of authority-to-carry scheme); or



- (b) proceedings have been instituted against the person under section 27 of the Immigration Act 1971 in respect of a failure to provide the same information.”
- (4) In subsection (2), at the end insert “, and
- (c) where a person fails without reasonable excuse to comply with a requirement imposed by regulations made under section 32A to provide information to the police in England and Wales—
  - (i) if the required information does not relate to a reserved matter (within the meaning of the Scotland Act 1998), the person shall not be treated as having committed the offence in Scotland (but has committed the offence in England and Wales);
  - (ii) if the required information does not relate to an excepted or reserved matter (within the meaning of the Northern Ireland Act 1998), the person shall not be treated as having committed the offence in Northern Ireland (but has committed the offence in England and Wales).”

## PART 2

### DIRECTIONS ETC RELATING TO AVIATION, SHIPPING AND RAIL

#### *Amendments of the Aviation Security Act 1982: information and directions*

- 9 (1) The Aviation Security Act 1982 is amended as follows.
- (2) In section 11 (power to require information) —
    - (a) in subsection (2), for the words from “a date” to “before” substitute “a period before the end of”;
    - (b) in subsection (4) omit “(not being less than seven days from the date on which the change of circumstances occurs)”.
  - (3) In section 12 (power to impose restrictions in relation to aircraft), in subsection (1)(b), for “fly unless such searches of the aircraft” substitute “fly in or into the United Kingdom unless such searches (of persons or property or of the aircraft itself)”.
  - (4) In section 16 (limitations on scope of directions under sections 12 to 14), in subsection (5), for paragraph (a) (including the word “and” at the end) substitute —
    - “(a) it shall have effect only in relation to —
      - (i) aircraft registered in the United Kingdom, or
      - (ii) a requirement not to cause or permit an aircraft to fly in or into the United Kingdom unless certain things have, or have not, been done, and”.
  - (5) In section 24 (service of documents) —
    - (a) at the end of subsection (2) insert “, or
    - (f) in the case of a person who is required by regulations to be able to accept service electronically in a manner and form specified in the regulations, in that manner and form.”;

(b) after subsection (9) insert—

“(10) Regulations under this section—

- (a) may make different provision for different cases,
- (b) may include incidental, supplemental or transitional provision,
- (c) shall be made by the Secretary of State by statutory instrument, and
- (d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(6) In section 38(1) (interpretation), in paragraph (b) of the definition of “aircraft registered or operating in the United Kingdom”, for the words from “flights” to “aerodromes” substitute “a flight any part of which is”.

10 In consequence of the amendments made by paragraph 9(2), in Schedule 1 to the Aviation and Maritime Security Act 1990 (amendments of the Aviation Security Act 1982) omit paragraph 2(3) and (5).

*Amendments of the Aviation Security Act 1982: civil penalties for breach of directions*

11 (1) Part 2 of the Aviation Security Act 1982 (protection of aircraft etc against acts of violence) is amended as follows.

(2) After section 22 insert—

**“22A Civil penalties for failure to provide information or comply with a direction**

- (1) The Secretary of State may make regulations imposing penalties for—
  - (a) failure to comply with a requirement imposed by a notice under section 11 (notice requiring information);
  - (b) making a false statement in furnishing information required by a notice under that section;
  - (c) failure to comply with a direction under any of sections 12 to 14.
- (2) Regulations under subsection (1) may in particular make provision—
  - (a) about how a penalty is to be calculated;
  - (b) about the procedure for imposing a penalty;
  - (c) about the enforcement of penalties;
  - (d) allowing for an appeal against a decision to impose a penalty;
 and the regulations may make different provision for different purposes.
- (3) Provision in the regulations about the procedure for imposing a penalty must provide for a person to be given an opportunity to object to a proposed penalty in the circumstances set out in the regulations.
- (4) The regulations must provide that no penalty may be imposed on a person for failure to comply with the requirements of a notice under section 11, or for making a false statement in furnishing information required by such a notice, where proceedings have been instituted

against the person for an offence under section 11(5) in respect of the same failure or false statement.

- (5) The regulations must provide that no penalty may be imposed on a person for failure to comply with a direction under any of sections 12 to 14 where proceedings have been instituted against the person for an offence under any of those sections in respect of the same failure.
  - (6) Any penalty paid by virtue of this section must be paid into the Consolidated Fund.
  - (7) Regulations under this section are to be made by statutory instrument; and any such statutory instrument 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.”
- (3) In section 11 (power to require information), after subsection (5) insert –
- “(5A) Proceedings for an offence under subsection (5) above may not be instituted against a person who has paid a penalty in respect of the same failure, or the same false statement, by virtue of regulations made under section 22A.”
- (4) In section 12 (power to impose restrictions in relation to aircraft), after subsection (9) insert –
- “(9A) Proceedings for an offence under subsection (9) above may not be instituted against a person who has paid a penalty in respect of the same failure by virtue of regulations made under section 22A.”
- (5) In section 13 (power to require aerodrome managers to promote searches at aerodromes), after subsection (4) insert –
- “(4ZA) Proceedings for an offence under subsection (4) above may not be instituted against a person who has paid a penalty in respect of the same failure by virtue of regulations made under section 22A.”
- (6) In section 13A (power to require other persons to promote searches), after subsection (3) insert –
- “(3A) Proceedings for an offence under subsection (3) above may not be instituted against a person who has paid a penalty in respect of the same failure by virtue of regulations made under section 22A.”
- (7) In section 14 (general power to direct measures for purposes of protecting aircraft etc against acts of violence), after subsection (7) insert –
- “(7ZA) Proceedings for an offence under subsection (7)(a) above may not be instituted against a person who has paid a penalty in respect of the same failure by virtue of regulations made under section 22A.”

*Amendments of the Aviation and Maritime Security Act 1990: information and directions*

- 12 (1) Part 3 of the Aviation and Maritime Security Act 1990 (protection of ships and harbour areas against acts of violence) is amended as follows.
- (2) In section 19 (power of Secretary of State to require information) –
  - (a) in subsection (2), for the words from “a date” to “before” substitute “a period before the end of”;

- (b) in subsection (4), omit “(not being less than seven days from the date on which the change of circumstances occurs)”.
- (3) In section 21 (power to impose restrictions in relation to ships), in subsection (1) –
  - (a) in the opening words, after “is in” insert “, or appears to the Secretary of State to be likely to enter,”;
  - (b) in paragraph (b), for “go to sea unless such searches of the ship” substitute “enter or (as the case may be) to leave a harbour area unless such searches (of persons or property or of the ship itself)”.
- (4) In section 26 (limitations on scope of directions under sections 21 to 24), in subsection (5), for paragraph (a) (including the word “and” at the end) substitute –
  - “(a) it shall have effect only in relation to –
    - (i) British ships, or
    - (ii) a requirement not to cause or permit a ship to enter a harbour area unless certain things have, or have not, been done, and”.
- (5) In section 45 (service of documents) –
  - (a) at the end of subsection (2) insert “, or
    - (f) in the case of a person who is required by regulations to be able to accept service electronically in a manner and form specified in the regulations, in that manner and form.”;
  - (b) after subsection (9) insert –
    - “(9A) Regulations under subsection (2)(f) –
      - (a) may make different provision for different cases,
      - (b) may include incidental, supplemental or transitional provision,
      - (c) shall be made by the Secretary of State by statutory instrument, and
      - (d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

*Amendments of the Channel Tunnel (Security) Order 1994: information and directions*

- 13 (1) Part 3 of the Channel Tunnel (Security) Order 1994 (S.I. 1994/570) (protection of Channel Tunnel trains and the tunnel system against acts of violence) is amended as follows.
- (2) In article 11 (powers of Secretary of State to require information) –
  - (a) in paragraph (2), for the words from “a date” to “before” substitute “a period before the end of”;
  - (b) in paragraph (4) omit “(not being less than seven days from the date on which the change of circumstances occurs)”.
- (3) In article 13 (power to impose restrictions in relation to Channel Tunnel trains), in paragraph (1)(b), for “unless such searches of the train” substitute “in or into the United Kingdom unless such searches (of persons or property or of the train itself)”.
- (4) In article 36 (service of documents) –

- (a) at the end of paragraph (2) insert “, or
  - (f) in the case of a person who is required by regulations to be able to accept service electronically in a manner and form specified in the regulations, in that manner and form.”;
  - (b) after paragraph (8) insert –
    - “(9) Regulations under paragraph (2)(f) –
    - (a) may make different provision for different cases,
    - (b) may include incidental, supplemental or transitional provision,
    - (c) shall be made by the Secretary of State by statutory instrument, and
    - (d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- 14 The amendments made by paragraph 13 do not affect the power to make further subordinate legislation amending or revoking the amended provisions.

## SCHEDULE 6

Section 26

### SPECIFIED AUTHORITIES

#### *Local government*

A county council or district council in England.

The Greater London Authority.

A London borough council.

The Common Council of the City of London in its capacity as a local authority.

The Council of the Isles of Scilly.

A county council or county borough council in Wales.

A person carrying out a function of an authority mentioned in section 1(2) of the Local Government Act 1999 by virtue of a direction made under section 15 of that Act.

#### *Criminal justice*

The governor of a prison in England and Wales (or, in the case of a contracted out prison, its director).

The governor of a young offender institution or secure training centre (or, in the case of a contracted out young offender institution or secure training centre, its director).

The principal of a secure college.

A provider of probation services within the meaning given by section 3(6) of the Offender Management Act 2007.

*Education, child care etc*

A person who is authorised by virtue of an order made under section 70 of the Deregulation and Contracting Out Act 1994 to exercise a function specified in Schedule 36A to the Education Act 1996.

A person with whom arrangements have been made for the provision of education under section 19 of the Education Act 1996 or section 100 of the Education and Inspections Act 2006 (cases of illness, exclusion etc).

The proprietor of –

- (a) a school that has been approved under section 342 of the Education Act 1996,
- (b) a maintained school within the meaning given by section 20(7) of the School Standards and Framework Act 1998,
- (c) a maintained nursery school within the meaning given by section 22(9) of that Act,
- (d) an independent school registered under section 158 of the Education Act 2002,
- (e) an independent educational institution registered under section 95(1) of the Education and Skills Act 2008, or
- (f) an alternative provision Academy within the meaning given by section 1C of the Academies Act 2010.

A person who is specified or nominated in a direction made in relation to the exercise of a local authority's functions given by the Secretary of State under section 497A of the Education Act 1996 (including that section as applied by section 50 of the Children Act 2004 or section 15 of the Childcare Act 2006).

A person entered on a register kept by Her Majesty's Chief Inspector of Education, Children's Services and Skills under Part 2 of the Care Standards Act 2000.

The governing body of a qualifying institution within the meaning given by section 11 of the Higher Education Act 2004.

The provider of education or training –

- (a) to which Chapter 3 of Part 8 of the Education and Inspections Act 2006 applies, and
- (b) in respect of which funding is provided by, or under arrangements made by, the Secretary of State or the Chief Executive of Skills Funding.

A person registered under Chapter 2, 2A, 3 or 3A of Part 3 of the Childcare Act 2006 or under section 20 of the Children and Families (Wales) Measure 2010 (nawm 1).

A body corporate with which a local authority has entered into arrangements under Part 1 of the Children and Young Persons Act 2008.

A person who is specified in a direction made in relation to the exercise of a local authority's functions given by the Welsh Ministers under section 25 of the School Standards and Organisation (Wales) Act 2013 (anaw 1) (including that section as applied by section 50A of the Children Act 2004 or section 29 of the Childcare Act 2006).

The governing body of an educational establishment maintained by a local authority in Wales.

The governing body or proprietor of an institution (not otherwise listed) at which more than 250 students, excluding students undertaking distance learning courses, are undertaking—

- (a) courses in preparation for examinations related to qualifications regulated by the Office of Qualifications and Examinations Regulation or the Welsh Government;
- (b) courses of a description mentioned in Schedule 6 to the Education Reform Act 1988 (higher education courses).

*Health and social care*

An NHS Trust established under section 25 of the National Health Service Act 2006 or under section 18 of the National Health Service (Wales) Act 2006.

An NHS foundation trust within the meaning given by section 30 of the National Health Service Act 2006.

A Local Health Board established under section 11 of the National Health Service (Wales) Act 2006.

A Community Health Council in Wales.

The Board of Community Health Councils in Wales or Bwrdd Cynghorau Iechyd Cymuned Cymru.

*Police*

A chief officer of police for a police area in England and Wales.

The British Transport Police Force.

A Port Police Force established under an order made under section 14 of the Harbours Act 1964.

The Port Police Force established under Part 10 of the Port of London Act 1968.

A Port Police Force established under section 79 of the Harbours, Docks and Piers Clauses Act 1847.

The Common Council of the City of London in its capacity as a police authority.

A police and crime commissioner established under section 1 of the Police Reform and Social Responsibility Act 2011.

The Mayor's Office for Policing and Crime established under section 3 of that Act.

The Civil Nuclear Police Authority.

## SCHEDULE 7

Section 38

## PARTNERS OF LOCAL PANELS

*Ministers of the Crown and government departments*

A Minister of the Crown.

A government department other than an intelligence service.

*Local government*

A local authority (other than a local authority that is a member of the panel in question).

A person carrying out a function of a local authority by virtue of a direction made under section 15 of the Local Government Act 1999.

*Criminal justice*

The governor of a prison in England and Wales (or, in the case of a contracted out prison, its director).

The governor of a young offender institution or secure training centre (or, in the case of a contracted out young offender institution or secure training centre, its director).

The principal of a secure college.

A youth offending team established under section 39 of the Crime and Disorder Act 1998.

A provider of probation services within the meaning given by section 3(6) of the Offender Management Act 2007.

*Education, child care etc*

A sixth form college corporation within the meaning given by section 90(1) of the Further and Higher Education Act 1992.

The governing body of an institution within the further education sector within the meaning given by section 91(3) of that Act.

A person who is authorised by virtue of an order made under section 70 of the Deregulation and Contracting Out Act 1994 to exercise a function specified in Schedule 36A to the Education Act 1996.

A person with whom arrangements have been made for the provision of education under section 19 of the Education Act 1996 or section 100 of the Education and Inspections Act 2006 (cases of illness, exclusion etc).

The proprietor of –

- (a) a school that has been approved under section 342 of the Education Act 1996,
- (b) a maintained school within the meaning given by section 20(7) of the School Standards and Framework Act 1998,
- (c) a maintained nursery school within the meaning given by section 22(9) of that Act,



- (d) an independent school registered under section 158 of the Education Act 2002,
- (e) an independent educational institution registered under section 95(1) of the Education and Skills Act 2008,
- (f) a 16 to 19 Academy within the meaning given by section 1B of the Academies Act 2010,
- (g) an alternative provision Academy within the meaning given by section 1C of that Act, or
- (h) a special post-16 institution within the meaning given by section 83(2) of the Children and Families Act 2014.

A person who is specified or nominated in a direction made in relation to the exercise of a local authority's functions given by the Secretary of State under section 497A of the Education Act 1996 (including that section as applied by section 50 of the Children Act 2004 or section 15 of the Childcare Act 2006).

A person registered under Part 2 of the Care Standards Act 2000 in respect of –

- (a) a children's home as defined in section 1 of that Act,
- (b) a residential family centre as defined in section 4 of that Act,
- (c) a fostering agency as defined in that section, or
- (d) a holiday scheme for disabled children, within the meaning of the Registered Holiday Schemes for Disabled Children (England) Regulations 2013 (S.I. 2013/1394).

The governing body of a qualifying institution within the meaning given by section 11 of the Higher Education Act 2004.

A person registered under Chapter 2, 2A, 3 or 3A of Part 3 of the Childcare Act 2006 or under section 20 of the Children and Families (Wales) Measure 2010 (nawm 1).

A body corporate with which a local authority has entered into arrangements under Part 1 of the Children and Young Persons Act 2008.

A person who is specified in a direction made in relation to the exercise of a local authority's functions given by the Welsh Ministers under section 25 of the School Standards and Organisation (Wales) Act 2013 (anaw 1) (including that section as applied by section 50A of the Children Act 2004 or section 29 of the Childcare Act 2006).

The governing body of an educational establishment maintained by a local authority in Wales.

The governing body or proprietor of an institution (not otherwise listed) at which more than 250 students, excluding students undertaking distance learning courses, are undertaking –

- (a) courses in preparation for examinations related to qualifications regulated by the Office of Qualifications and Examinations Regulation or the Welsh Government;
- (b) courses of a description mentioned in Schedule 6 to the Education Reform Act 1988 (higher education courses).

*Health and social care*

A clinical commissioning group established under section 14D of the National Health Service Act 2006.

An NHS Trust established under section 25 of the National Health Service Act 2006.

An NHS foundation trust within the meaning given by section 30 of the National Health Service Act 2006.

A Local Health Board established under section 11 of the National Health Service (Wales) Act 2006.

An NHS trust established under section 18 of the National Health Service (Wales) Act 2006.

*Police*

A chief officer of police for a police area in England and Wales (other than a chief officer who is a member of the panel in question).

## SCHEDULE 8

Section 43

## PORT AND BORDER CONTROLS: POWER TO EXAMINE GOODS

*Terrorism Act 2000 (c. 11)*

- 1 (1) In Schedule 7 to the Terrorism Act 2000 (port and border controls) paragraph 9 (power to examine goods) is amended as follows.
- (2) After sub-paragraph (2) insert –
  - “(2A) The reference in sub-paragraph (2)(a) to goods which are about to leave Great Britain or Northern Ireland on a ship includes goods which –
    - (a) are held at premises operated by a sea cargo agent, and
    - (b) are to be delivered to a place in Great Britain or Northern Ireland for carriage on a ship.
  - (2B) The reference in sub-paragraph (2)(b) to goods which are about to leave any place in Great Britain or Northern Ireland on an aircraft includes goods which –
    - (a) are held at premises operated by an air cargo agent, and
    - (b) are to be delivered to a place in Great Britain or Northern Ireland for carriage on an aircraft.
  - (2C) An examination under this paragraph may be carried out only –
    - (a) at a port;
    - (b) at premises operated by a sea cargo agent or an air cargo agent;
    - (c) at a transit shed;
    - (d) at a location designated by the Secretary of State under sub-paragraph (2D) (a “designated examination location”).

- (2D) The Secretary of State may designate a location for the purposes of sub-paragraph (2C)(d) only if the Secretary of State reasonably believes that it is necessary to designate that location in order for examining officers to be able to exercise their functions under this paragraph.
- (2E) The Secretary of State must maintain and publish a list of designated examination locations.”
- (3) For sub-paragraph (3) substitute –
- “(3) In this paragraph –
- (a) “air cargo agent” has the meaning given by section 21F(1) of the Aviation Security Act 1982;
  - (b) “goods” includes property of any description, and containers;
  - (c) “sea cargo agent” has the meaning given by section 41(1) of the Aviation and Maritime Security Act 1990;
  - (d) “transit shed” has the meaning given by section 25A of the Customs and Excise Management Act 1979.”
- (4) For sub-paragraph (4) substitute –
- “(4) For the purposes of determining whether to carry out an examination under this paragraph an examining officer may –
- (a) board a ship or aircraft;
  - (b) enter a vehicle;
  - (c) enter premises operated by a sea cargo agent or an air cargo agent;
  - (d) enter a transit shed;
  - (e) enter a designated examination location.”

*Regulation of Investigatory Powers Act 2000 (c. 23)*

- 2 In section 3 of the Regulation of Investigatory Powers Act 2000 (lawful interception without an interception warrant), after subsection (3A) insert –
- “(3B) Conduct consisting in the interception of a communication in the course of its transmission by means of a public postal service is authorised by this section if it is conduct under paragraph 9 of Schedule 7 to the Terrorism Act 2000 (port and border controls).”

*Postal Services Act 2000 (c. 26)*

- 3 (1) In section 104 of the Postal Services Act 2000 (inviolability of mails) subsection (3) is amended as follows.
- (2) Omit the word “or” at the end of paragraph (c).
- (3) At the end insert “, or
- (e) a power conferred by paragraph 9 of Schedule 7 to the Terrorism Act 2000 (port and border controls).”









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