

TERRORISM ACT 2000

EXPLANATORY NOTES

COMMENTARY

Part V: Counter-Terrorist Powers

Sections 41–43: Arrest power and related search powers

45. These sections make similar provision to the arrest and detention provisions at sections 14 and 15 of the PTA. There is a special arrest power for use in terrorist cases because experience continues to show that it is necessary to make provision for circumstances where, at the point when the police believe an arrest should take place, there is not enough to charge an individual with a particular offence even though there is reasonable suspicion of involvement with terrorism. Sections 42 and 43 give the police powers to search people liable to arrest under section 41. *Subsection (9)* of section 41 and *subsection (5)* of section 43, respectively, give constables the power to make an arrest under section 41(1) of the Act in any Part of the United Kingdom, and to search people under section 43 (these subsections in other words confer “cross border” powers of arrest and search).

Sections 44–47: General powers to stop and search

46. These sections make similar provision to the following sections of the PTA: section 13A (inserted by the [Criminal Justice and Public Order Act 1994 \(c. 33\)](#)) and section 13B (inserted by the [Prevention of Terrorism \(Additional Powers\) Act 1996 \(c. 7\)](#)). They give the police powers to stop and search vehicles and their occupants, and pedestrians, for the prevention of terrorism. As with the powers under the PTA, authorisations apply to a specific area and are for a maximum of 28 days (though that period may be renewed). The main difference is that vehicle stop and search authorisations, as well as pedestrian authorisations, will have to be confirmed or amended by a Secretary of State within 48 hours of their being made, or they will cease to have effect.

Sections 48–52: Parking

47. These sections make similar provision to that inserted by the [Prevention of Terrorism \(Additional Powers\) Act 1996 \(c. 7\)](#) as section 16D of the PTA. This gives the police the powers to restrict or prohibit parking for a limited period in a specified area for the prevention of terrorism and makes it an offence to park in or refuse to move from such an area.

Section 53: Port and border controls

48. This section brings into effect Schedule 7 on port and border controls, and by subsection (2) allows for the Secretary of State to repeal by order the provision at paragraph 16 of the Schedule, which enables him to bring in by order a requirement for passengers in the Common Travel Area to complete cards.