



Counter-Terrorism and Security Act 2015

2015 CHAPTER 6

PART 1

TEMPORARY RESTRICTIONS ON TRAVEL

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.

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- (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—

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- (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—

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- (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;

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- (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;

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- (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

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- (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;

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- (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);”.