

*Draft Order laid before Parliament under section 4(5) of the Terrorism (Northern Ireland) Act 2006
for approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

2007 No.

NORTHERN IRELAND

**The Terrorism (Northern Ireland) Act 2006
(Transitional Provisions and Savings) Order 2007**

Made - - - - 2007
Coming into force - - 2007

This Order is made in exercise of the powers conferred by section 4 of the Terrorism (Northern Ireland) Act 2006(1).

A draft of this Order has been laid before Parliament in accordance with section 4(5) of the Terrorism (Northern Ireland) Act 2006 and approved by a resolution of each House of Parliament.

Accordingly, the Secretary of State makes the following Order:

Citation, interpretation and commencement

1.—(1) This Order may be cited as the Terrorism (Northern Ireland) Act 2006 (Transitional Provisions and Savings) Order 2007.

(2) In this Order—

the “2000 Act” means the Terrorism Act 2000(2);

the “2006 Act” means the Terrorism (Northern Ireland) Act 2006; and

the “2007 Act” means the Justice and Security (Northern Ireland) Act 2007(3).

(3) This Order comes into force at the end of 31st July 2007.

Modification of Schedule 1 to the 2007 Act

2. The amendments made by Schedule 1 to the 2007 Act to the Criminal Procedure and Investigations Act 1996(4), the Criminal Justice Act 2003(5), and the Domestic Violence, Crime and

(1) 2006 c. 4. The provision that may be made by section 4 is extended by section 8(4) of the Justice and Security (Northern Ireland) Act 2007 (c. 6).

(2) 2000 c. 11.

(3) 2007 c. 6.

(4) 1996 c. 25.

(5) 2003 c. 44.

Victims Act 2004(6) are to be disregarded for the purposes of a trial on indictment conducted by the court without a jury under section 75(1) of the 2000 Act by virtue of section 113(2) of the 2000 Act.

Transitional provisions and savings

3. The Schedule to this Order, with the exception of paragraph 2, makes savings relating to the expiry of the provisions of the 2000 Act by virtue of section 1(2)(b) of the 2006 Act.

4. Paragraph 2 of the Schedule to this Order makes savings relating to the expiry of section 11 of, and Schedule 2 to, the Justice (Northern Ireland) Act 2004(7) by virtue of section 11(4)(a) of that Act.

5. Section 113(2), (4), (5) and (6) of the 2000 Act shall have effect notwithstanding the inclusion of these provisions in Part 7 of the 2000 Act and the expiry of that Part by virtue of section 1(2)(b) of the 2006 Act.

Northern Ireland Office
2007

One of Her Majesty's Principal Secretaries of
State

(6) 2004 c. 28.
(7) 2004 c. 4.

SCHEDULE

Articles 3 and 4

SAVINGS

Savings for provisions relating to scheduled offences

1. The expiry of section 67 of the 2000 Act does not affect the operation of that provision in relation to a person who is admitted to bail under it on or before 31st July 2007, or a person who makes an application for bail on or before that date and is subsequently admitted to bail under this provision, while the proceedings for the offence with which he is charged are continuing.

2. The expiry of section 11 of, and Schedule 2 to, the Justice (Northern Ireland) Act 2004 does not affect the operation of those provisions in relation to a person who is admitted to bail under section 67 of the 2000 Act on or before 31st July 2007, or a person who makes an application for bail on or before that date and is subsequently admitted to bail under section 67 of the 2000 Act, by virtue of this Order.

3. The expiry of section 68 of the 2000 Act does not affect the operation of that provision in relation to a person who is admitted to bail under section 67 of the 2000 Act on or before 31st July 2007, or a person who makes an application to be admitted to bail under section 67 of the 2000 Act on or before that date, by virtue of this Order.

4. The expiry of section 75(8) and (9) of the 2000 Act does not affect the operation of that provision in relation to an appeal brought by a person convicted of an offence on a trial on indictment under section 75 where the indictment has been presented on or before 31st July 2007.

Savings for provisions relating to powers of arrest, search, etc.

5. The expiry of section 81 of the 2000 Act does not affect the operation of that provision in relation to a search carried out in accordance with it begun before the end of 31st July 2007 and which is continuing at that time.

6. The expiry of section 82 of the 2000 Act does not affect the operation of that provision in relation to a search carried out in accordance with it begun before the end of 31st July 2007 and which is continuing at that time, or the seizure and retention of anything as a result of any such search, or otherwise, in accordance with section 82.

7. The expiry of section 83 of the 2000 Act does not affect the operation of that provision in relation to: a detention in accordance with section 83(1) begun before the end of 31st July 2007 and which is continuing at that time; a search in accordance with section 83(3) or (4) begun before the end of 31st July 2007 and which is continuing at that time; or the seizure and detention of anything in accordance with section 83(5) as a result of any such search.

8. The expiry of section 84 of and Schedule 10 to the 2000 Act does not affect the operation of those provisions in relation to: a search carried out in accordance with paragraph 2 of Schedule 10 begun before the end of 31st July 2007 and continuing at that time; a requirement imposed on a person in accordance with paragraph 4(1) of Schedule 10 before the end of 31st July 2007, or the extension of the period during which any such requirement may be imposed or have effect in accordance with paragraph 4(2) in respect of a search begun before the end of 31st July 2007.

9. The expiry of section 84 and Schedule 10 to the 2000 Act does not affect the operation of paragraph 5 of Schedule 10 in relation to a member of Her Majesty's forces exercising powers contained in Schedule 10 by virtue of this Order.

10. The expiry of section 84 and Schedule 10 to the 2000 Act does not affect the operation of paragraph 6 of Schedule 10 in relation to a search carried out in accordance with that paragraph begun before the end of 31st July 2007 and which is continuing at that time.

11. The expiry of section 84 and Schedule 10 to the 2000 Act does not affect the operation of paragraph 7 of Schedule 10 in relation to a seizure, retention or destruction of any munitions, or the seizure and retention of any wireless apparatus carried out in accordance with that paragraph during a search begun before the end of 31st July 2007.

12. The expiry of section 84 and Schedule 10 to the 2000 Act does not affect the operation of paragraphs 8 and 9 of Schedule 10 in relation to a search carried out in accordance with those provisions and begun before the end of 31st July 2007.

13. The expiry of section 84 and Schedule 10 to the 2000 Act does not affect the operation of paragraphs 10 and 11 of Schedule 10 in relation to a person who fails to comply with a requirement imposed under paragraph 4 of Schedule 10, a person who wilfully obstructs or seeks to frustrate a search under Schedule 10, or a person who fails to stop when required to do so under paragraph 6 of Schedule 10, where those provisions continue to operate after the end of 31st July 2007 by virtue of this Order.

14. The expiry of section 85 of the 2000 Act does not affect the operation of that provision in relation to a search carried out in accordance with section 85(1) begun before the end of 31st July 2007 and which is continuing at that time, or the seizure, retention or destruction of any explosive found in the course of any such search.

15. The expiry of section 86 of the 2000 Act does not affect the operation of that provision in relation to an officer who enters any premises in accordance with that provision before the end of 31st July 2007 and who remains on the premises after the end of 31st July 2007 for the purpose set out in section 86(1).

16. The expiry of section 87 of the 2000 Act does not affect the operation of that provision in relation to: an examination of any document or record, or the removal of any such document or record, carried out in accordance with section 87(1) found in the course of any search begun before the end of 31st July 2007 and which is continuing at that time; an authorisation in accordance with section 87(4) to retain a document or record for a further period or periods found in the course of any such search; and a person who wilfully obstructs a member of Her Majesty's forces or a constable in exercise of a power conferred by section 87 by virtue of this Order.

17. The expiry of section 88 of the 2000 Act does not affect the operation of that provision in relation to a document or record examined under section 87 by virtue of this Order.

18. The expiry of section 89 of the 2000 Act does not affect the operation of that provision in relation to a person who is stopped in accordance with section 89(1) before the end of 31st July 2007.

19. The expiry of section 90 of the 2000 Act does not affect the operation of that provision in relation to an officer who enters any premises in accordance with this provision before the end of 31st July 2007 and who remains on the premises after the end of 31st July 2007 if he considers such entry necessary in the course of operations for the preservation of the peace or maintenance of order.

20. The expiry of section 91 of the 2000 Act does not affect the operation of that provision in relation to a person who has been authorised in accordance with that provision and who has before the end of 31st July 2007: taken possession of land or other property; taken steps to place buildings or other structures in a state of defence; detained property or caused it to be destroyed or moved; carried out works on land of which possession has been taken by virtue of section 91; and taken any other action which interferes with a public right or with a private right of property.

21. The expiry of section 92 of the 2000 Act does not affect the operation of that provision in relation to an officer who in accordance with that provision before the end of 31st July 2007: wholly or partly closes a road; diverts or otherwise interferes with a road or its use; prohibits or restricts the exercise of a right of way; and prohibits or restricts the use of a waterway.

22. The expiry of section 93 of the 2000 Act does not affect the operation of that provision in relation to a person who interferes with works executed in connection with the exercise of powers conferred by virtue of section 91 or 92 of the 2000 Act and this Order, or who interferes with any apparatus, equipment or other thing used in connection with the exercise of those powers.

23. The expiry of section 94 of the 2000 Act does not affect the operation of that provision in relation to: a direction by order given in accordance with that provision before the end of 31st July 2007 and which is continuing at that time; and, in relation to such a direction, a person who interferes with road closure works or road closure equipment, or who executes any bypass works within 200 metres of road closure works, has in his possession or under his control within 200 metres of road closure works materials or equipment suitable for executing such bypass works, or knowingly permits on land occupied by him the execution of such bypass works, or such possession or control of such materials or equipment.

24. The expiry of section 95 of the 2000 Act does not affect the operation of that provision as it applies in relation to sections 81 to 94 of the 2000 Act.

25. The expiry of section 98 of and Schedule 11 to the 2000 Act does not affect: the power of the Secretary of State to remove from office the Independent Assessor who is holding office on 31st July 2007 in accordance with paragraph 1(4) of Schedule 11; the power of the Secretary of State to pay remuneration and allowances, and payments in connection with pensions and gratuities, in accordance with paragraph 2 of Schedule 11; the power of the Secretary of State to make payments to or in respect of employees appointed by the Independent Assessor before the end of 31st July 2007 in accordance with paragraph 3(2) of Schedule 11; and the duty of the Independent Assessor to send an annual report, and the duty of the Secretary of State to publish and lay this before Parliament, in accordance with paragraph 4 of Schedule 11.

26. The expiry of section 101 of the 2000 Act does not affect the operation of section 101(6), (7) and (7A)(8) in relation to a failure before the end of 31st July 2007 to comply with a provision of a code by a police officer, a member of Her Majesty's forces or a person designated under section 30 or 31 of the Police (Northern Ireland) Act 2003(9), or the operation of section 101(8) of the 2000 Act in relation to proceedings in respect of an act or omission occurring before the end of 31st July 2007.

27. The expiry of section 102 of and Schedule 12 to the 2000 Act does not affect the operation of those provisions in relation to real or personal property taken, occupied, destroyed or damaged, or any other act done which interferes with private rights of property, before the end of 31st July 2007.

28. The expiry of section 104 of the 2000 Act does not affect the operation of that provision in relation to the exercise by a constable of a power under Part 7 of the 2000 Act before the end of 31st July 2007 and after that time by virtue of this Order.

29. The expiry of section 105 of the 2000 Act does not affect the operation of that provision in relation to a power conferred on a person by virtue of Part 7 of the 2000 Act and exercised after 31st July 2007 by virtue of this Order.

(8) Section 101(7A) of the 2000 Act was inserted by section 32(1) of, and paragraph 8(1) and (3) of Schedule 3 to, the Police (Northern Ireland) Act 2003 (c. 6.).

(9) 2003 c. 6.

Savings for provisions relating to specified organisations

30. The expiry of section 107 of the 2000 Act does not affect the operation of that section in relation to the provisions of Part 7 of the 2000 Act which continue to apply after 31st July 2007 by virtue of this Order.

31. The expiry of sections 108, 109 and 110 of the 2000 Act does not affect the operation of those provisions by virtue of section 113 of the 2000 Act after 31st July 2007.

32. The expiry of section 111 of the 2000 Act does not affect the operation of that provision in relation to a person convicted of an offence under section 11 or 12 of the 2000 Act on a trial on indictment where the indictment has been presented on or before 31st July 2007, or on summary conviction where the date of conviction is 31st July 2007 or before.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order preserves the effect of some of the provisions of Part 7 of the Terrorism Act 2000 which cease to have effect at the end of 31st July 2007 by virtue of section 1(2)(b) of the Terrorism (Northern Ireland) Act 2006, and the effect of some of the provisions of the Justice (Northern Ireland) Act 2004 which also cease to have effect at this time by virtue of section 11(4)(a) of that Act, during a transitional period after 31st July 2007. The Schedule to the Order sets out the circumstances in which these provisions will continue to apply. Article 2 of the Order also sets out that amendments to several enactments made by Schedule 1 to the Justice and Security (Northern Ireland) Act 2007 in the context of non-jury trial are not to apply to trials on indictment where the indictment was presented before the relevant provisions of the Justice and Security (Northern Ireland) Act 2007 come into force on 1st August 2007.