

*These notes refer to the Terrorism Act 2000 (c.11)
which received Royal Assent on 20th July 2000*

TERRORISM ACT 2000

EXPLANATORY NOTES

COMMENTARY

Part II: Proscribed Organisations

13. Part II is based on Part I of the PTA (which has effect in Great Britain only) and on sections 30–31 of the EPA (which have effect in Northern Ireland only). The proscription regime under the Act differs from those it replaces as follows:
- The PTA and EPA provide separate proscription regimes for Great Britain and Northern Ireland. Under the Act proscription will no longer be specific to Northern Ireland or Great Britain, but will apply throughout the whole of the UK.
 - Under the PTA and EPA proscription is only applicable to organisations concerned in Irish terrorism. Under the Act it will also be possible to proscribe organisations concerned in international or domestic terrorism.
 - Under the PTA and EPA an organisation or an affected individual wishing to challenge a proscription can only do so in the UK via judicial review (no proscribed organisation has ever done this). Under the Act, organisations and individuals will be able to apply to the Secretary of State for deproscription and, if their application is refused, to appeal to the Proscribed Organisations Appeal Commission (“POAC”; see below).

Section 3: Proscription

14. [Schedule 2](#) lists all organisations proscribed under the PTA and the EPA at the time the Act received Royal Assent. Some organisations were at that point proscribed in Northern Ireland under the EPA but not in Great Britain under the PTA. Under the Act, any organisation deemed to merit proscription will be proscribed throughout the whole of the UK. The Government is considering which organisations involved in international terrorism might be added to the Schedule.
15. The power to proscribe and deproscribe in *subsection (3)*, including deproscription following a successful appeal, will be subject to the affirmative resolution procedure.

Sections 4–6: Deproscription: application and appeals

16. These sections set out the route by which an organisation which thinks it should not be proscribed, or an affected individual, may seek a remedy. The first step is to ask the Secretary of State to deproscribe; the Secretary of State will be obliged to consider such applications within a period of time specified in regulations to be made under *subsection (3)* of section 4. If the Secretary of State refuses to deproscribe, then the organisation or individual may appeal to POAC as set out in section 5 and Schedule 3.
17. The grounds on which POAC will allow an appeal are set out in *subsection (3)* of section 5. The reference to “the principles applicable on an application for judicial review” allows that once the [Human Rights Act 1998 \(c. 42\)](#) is fully in force, it will

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be possible for an appellant to raise points concerning those rights under the European Convention on Human Rights which are “Convention rights” under the 1998 Act.

18. *Subsections (4)–(5)* of section 5 deal with the consequences of an appeal to POAC being successful. Where POAC makes an order, this has the effect of requiring the Secretary of State either to lay a draft deproscription order before Parliament or to make a deproscription order on the basis of the urgency procedure (see below).
19. [Section 6](#) allows a further appeal from a decision of POAC on a question of law.

Sections 7–8: Appeal: effect on conviction

20. If an appeal to POAC is successful, and an order has been made deproscribing the organisation, anyone convicted of one of the offences listed in *subsection (1)(c)* in respect of the organisation, so long as the offence was committed after the date of the refusal to deproscribe, may, in England and Wales, appeal against his conviction to the Court of Appeal or Crown Court, and the Court will allow the appeal. *Subsection (8)* ensures that he can seek compensation for the conviction. Corresponding provision is made for Scotland and Northern Ireland.

Section 9: Human Rights Act 1998

21. Since it is intended that the Lord Chancellor will make rules under section 7(2) of the Human Rights Act so that proceedings under section 7(1)(a) of that Act may be brought before POAC, this section of the Act applies provisions in the Act relating to appeals to POAC to such proceedings under the Human Rights Act.

Section 10: Immunity

22. An individual who seeks deproscription by way of application or appeal, either on behalf of the proscribed organisation or as a person affected, might be discouraged from pursuing either course, or from instituting proceedings under section 7 of the Human Rights Act, by the risk of prosecution for certain offences, for example the offence of membership of a proscribed organisation. This section therefore ensures that evidence of anything done, and any document submitted for these proceedings, cannot be relied on in criminal proceedings for such an offence except as part of the defence case.

Sections 11–12: Membership and support

23. These offences are based on those in section 2 of the PTA and section 30 of the EPA, and have similar effect. The offence in section 12(1) is not confined to support by providing “money or other property”, because that kind of support is dealt with in Part III of the Act. *Subsection (4)* of section 12 is intended to permit the arranging of genuinely benign meetings.

Section 13: Uniform

24. This section replicates the offence at section 3 of the PTA and section 31 of the EPA. The PTA version, which has effect in England and Wales and in Scotland, is summary only with a maximum custodial penalty of 6 months. The EPA version, which has effect in Northern Ireland is an either way offence with a maximum custodial penalty on indictment of 1 year. In the Act, the offence is summary only, as in the PTA. Thus in consolidating the legislation the Act aligns the situation in Northern Ireland with that in Great Britain.