

TERRORISM ACT 2006

EXPLANATORY NOTES

COMMENTARY

Definitions

Part 2

Section 25 – Expiry or renewal of extended maximum detention period

118. The effect of Section 25 is that, insofar as they extend the maximum period a terrorist suspect may be detained under the TACT prior to charge, the amendments made by Section 23 will cease to have effect one year after their commencement unless continued in force by an order made by the Secretary of State. In other words, if the Secretary of State does not make an order the maximum period of detention will revert to 14 days.

Subsections (1) to (6)

119. **Subsection (1)** provides that Section 25 shall apply if more than a year has passed since the commencement of Section 23, and an order is not currently in force disapplying this section. **Subsection (2)** sets out that the Secretary of State may make an order by statutory instrument to disapply this section for up to a period of one year. The power can be used more than once. **Subsection (3)** provides that, if no order disapplying this section is made under subsection (2), the maximum period that an individual can be detained under the TACT is limited to 14 days. It further provides that in that situation the consequential modifications to paragraphs 36 and 37 of Schedule 8, as set out in **subsection (4)**, will have effect. The effect of those modifications is that if the maximum period of detention reverts to 14 days all applications for extension of detention will be made to a judicial authority. This is because under the provisions inserted into Schedule 8 to the TACT by Section 23 a senior judge is only concerned in applications for extension of detention beyond 14 days. If it is not possible to extend detention beyond 14 days then there is no need for a senior judge to be involved. **Subsection (5)** sets out that in the case of an individual who has been detained for a period longer than 14 days under the TACT at any point in time at which this section applies, the person with custody of that individual must release him immediately, even if his detention had been authorised to continue for longer at a time prior to this section applying. **Subsection (6)** sets out that the order disapplying Section 25 of the Act will be subject to the affirmative resolution procedure.