

# COUNTER-TERRORISM ACT 2008

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 2 – Post-Charge Questioning of Terrorist Suspects**

##### ***Section 23 – Post-charge questioning: Scotland***

72. *Subsection (2)* allows a sheriff to authorise questioning of a person in Scotland about an offence, for which they have been charged or when they have appeared on petition in respect of the offence, where the offence is a terrorism offence (as defined in section 27) or where it appears to the sheriff that the offence has a terrorist connection (as defined in section 93).
73. *Subsection (3)* provides that the sheriff authorising post-charge questioning must specify the period during which questioning is authorised and may impose such conditions as appear to be necessary in the interests of justice, which may include conditions as to the place where the questioning is to be carried out.
74. *Subsection (4)* specifies that the time period for which questioning is authorised begins when questioning commences and runs continuously from that time irrespective of whether or not questioning stops. *Subsection (4)(b)* limits the period for which a judge can authorise questioning to a maximum of 48 hours before further authorisation must be sought.
75. *Subsection (5)* allows the sheriff to authorise the removal of a suspect to another place for the purposes of questioning. For example, this would allow a judge to authorise a suspect's removal from a prison to a police station for questioning.

*Subsection (6)* provides that a sheriff can authorise post-charge questioning under this section only if satisfied that further questioning of the person is necessary in the interests of justice, that the police investigation related to the suspect is being conducted diligently and expeditiously, and that it would not interfere unduly with the preparation of the person's defence to the charge in question or any other criminal charge.