

COUNTER-TERRORISM ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7 – Miscellaneous

Control orders

Section 81 – Applications for anonymity for controlled persons

223. *Subsections (1) to (3)* of this section make a technical amendment to the anonymity provisions in paragraph 5 of the Schedule to the PTA. The intention of *paragraph 5* is to ensure that the anonymity of individuals subject to a control order can be maintained throughout the process. Paragraph 5 states that anonymity orders can be applied for after a control order has been made. It is the Secretary of State that has the power to make a non-derogating control order. However (except in cases of urgency) before the power to make an order arises the Secretary of State must apply to the court for permission to make a control order (or in the case of derogating control orders, when the Secretary of State applies for the court to make such an order). The amendments in this section mean that the Secretary of State can make an application for an anonymity order to protect the identity of the controlled person at the stage when permission is being sought from the court to make the control order rather than when the control order is actually made.
224. *Subsection (4)* provides that this amendment will be deemed always to have had effect. This reflects the original policy intention and current practice followed by the courts, which the section does not seek to change. Moreover, *subsection (4)* ensures that all current anonymity orders made when permission for the control order was sought from the courts and before this section comes into force will be unaffected.