



# Counter-Terrorism and Border Security Act 2019

## 2019 CHAPTER 3

### PART 1

#### COUNTER-TERRORISM

#### CHAPTER 1

##### TERRORIST OFFENCES

### **1 Expressions of support for a proscribed organisation**

In section 12 of the Terrorism Act 2000 (support), after subsection (1) insert—

“(1A) A person commits an offence if the person—

- (a) expresses an opinion or belief that is supportive of a proscribed organisation, and
- (b) in doing so is reckless as to whether a person to whom the expression is directed will be encouraged to support a proscribed organisation.”

### **2 Publication of images and seizure of articles**

(1) Section 13 of the Terrorism Act 2000 (uniform) is amended as follows.

(2) In the heading, after “Uniform” insert “ and publication of images ”.

(3) After subsection (1) insert—

“(1A) A person commits an offence if the person publishes an image of—

- (a) an item of clothing, or
- (b) any other article,

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in such a way or in such circumstances as to arouse reasonable suspicion that the person is a member or supporter of a proscribed organisation.

(1B) In subsection (1A) the reference to an image is a reference to a still or moving image (produced by any means).”

(4) After subsection (3) insert—

“(4) A constable may seize an item of clothing or any other article if the constable—

- (a) reasonably suspects that it is evidence in relation to an offence under subsection (1), and
- (b) is satisfied that it is necessary to seize it in order to prevent the evidence being concealed, lost, altered or destroyed.

(5) In connection with exercising the power in subsection (4), a constable may require a person to remove the item of clothing or other article if the person is wearing it.

(6) But the powers conferred by subsections (4) and (5) may not be exercised so as to seize, or require a person to remove, an item of clothing being worn next to the skin or immediately over a garment being worn as underwear.”

### **3 Obtaining or viewing material over the internet**

(1) Section 58 of the Terrorism Act 2000 (collection of information) is amended as follows.

(2) In subsection (1)—

- (a) omit “or” at the end of paragraph (a);
- (b) after paragraph (b) insert “, or
- (c) the person views, or otherwise accesses, by means of the internet a document or record containing information of that kind.”

(3) After subsection (1) insert—

“(1A) The cases in which a person collects or makes a record for the purposes of subsection (1)(a) include (but are not limited to) those in which the person does so by means of the internet (whether by downloading the record or otherwise).”

(4) After subsection (3) insert—

“(3A) The cases in which a person has a reasonable excuse for the purposes of subsection (3) include (but are not limited to) those in which—

- (a) at the time of the person's action or possession the person did not know, and had no reason to believe, that the document or record in question contained, or was likely to contain, information of a kind likely to be useful to a person committing or preparing an act of terrorism, or
- (b) the person's action or possession was for the purposes of—
  - (i) carrying out work as a journalist, or
  - (ii) academic research.”

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#### **4 Entering or remaining in a designated area**

- (1) The Terrorism Act 2000 is amended as follows.
- (2) After section 58A insert—

*“Entering or remaining in designated areas overseas*

##### **58B Entering or remaining in a designated area**

- (1) Subject to subsections (3) and (4), a person commits an offence if—
  - (a) the person enters, or remains in, a designated area, and
  - (b) the person is a United Kingdom national, or a United Kingdom resident, at the time of entering the area or at any time during which the person remains there.
- (2) It is a defence for a person charged with an offence under this section to prove that the person had a reasonable excuse for entering, or remaining in, the designated area.
- (3) A person does not commit an offence under this section of entering, or remaining in, a designated area if—
  - (a) the person is already travelling to, or is already in, the area on the day on which it becomes a designated area, and
  - (b) the person leaves the area before the end of the period of one month beginning with that day.
- (4) A person does not commit an offence under this section of entering, or remaining in, a designated area if—
  - (a) the person enters, or remains in, a designated area involuntarily, or
  - (b) the person enters, or remains in, a designated area for or in connection with one or more of the purposes mentioned in subsection (5).
- (5) The purposes are—
  - (a) providing aid of a humanitarian nature;
  - (b) satisfying an obligation to appear before a court or other body exercising judicial power;
  - (c) carrying out work for the government of a country other than the United Kingdom (including service in or with the country's armed forces);
  - (d) carrying out work for the United Nations or an agency of the United Nations;
  - (e) carrying out work as a journalist;
  - (f) attending the funeral of a relative or visiting a relative who is terminally ill;
  - (g) providing care for a relative who is unable to care for themselves without such assistance.
- (6) But a person does not commit an offence of entering or remaining in a designated area by virtue of subsection (4)(b) only if—

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- (a) the person enters or remains in the area exclusively for or in connection with one or more of the purposes mentioned in subsection (5), or
  - (b) in a case where the person enters or remains in the area for or in connection with any other purpose or purposes (in addition to one or more of the purposes mentioned in subsection (5)), the other purpose or purposes provide a reasonable excuse for doing so under subsection (2).
- (7) The Secretary of State may by regulations add a purpose to or remove a purpose from subsection (5).
- (8) For the purposes of subsection (5)—
- (a) the reference to the provision of aid of a humanitarian nature does not include the provision of aid in contravention of internationally recognised principles and standards applicable to the provision of humanitarian aid;
  - (b) references to the carrying out of work do not include the carrying out of any act which constitutes an offence in a part of the United Kingdom or would do so if the act occurred in a part of the United Kingdom;
  - (c) a person is “terminally ill” at any time if at that time the person suffers from a progressive disease and the person's death in consequence of that disease can reasonably be expected within 6 months.
- (9) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for a term not exceeding 10 years, or to a fine, or to both.
- (10) In this section—
- “designated area” means an area outside the United Kingdom that is for the time being designated for the purposes of this section in regulations under section 58C;
  - “relative” means spouse or civil partner, brother, sister, ancestor or lineal descendant;
  - “United Kingdom national” means an individual who is—
    - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
    - (b) a person who under the British Nationality Act 1981 is a British subject, or
    - (c) a British protected person within the meaning of that Act;
  - “United Kingdom resident” means an individual who is resident in the United Kingdom.
- (11) The reference in subsection (3) to the day on which an area becomes a designated area is a reference to the day on which regulations under section 58C come into force designating the area for the purposes of this section.
- (12) Nothing in this section imposes criminal liability on any person acting on behalf of, or holding office under, the Crown.

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### **58C Section 58B: designated areas**

- (1) The Secretary of State may by regulations designate an area outside the United Kingdom as a designated area for the purposes of section 58B if the following condition is met.
  - (2) The condition is that the Secretary of State is satisfied that it is necessary, for the purpose of protecting members of the public from a risk of terrorism, to restrict United Kingdom nationals and United Kingdom residents from entering, or remaining in, the area.
  - (3) The reference in subsection (2) to the public includes a reference to the public of a country other than the United Kingdom.
  - (4) Where an area is designated by regulations under this section, the Secretary of State must—
    - (a) keep under review whether the condition in subsection (2) continues to be met in relation to the area, and
    - (b) if the Secretary of State determines that the condition is no longer met, revoke the regulations (or revoke them so far as they have effect in relation to that area if the regulations designate more than one area).
  - (5) Regulations under this section cease to have effect at the end of the period of 3 years beginning with the day on which they are made (unless they cease to have effect at an earlier time as a result of their revocation or by virtue of section 123(6ZA)(b)).
  - (6) Subsection (5) does not prevent the making of new regulations to the same or similar effect.
  - (7) In this section “designated area”, “United Kingdom national” and “United Kingdom resident” have the same meaning as in section 58B.”
- (3) In section 123 (orders and regulations)—
- (a) in subsection (4), after paragraph (b) insert—
    - “(ba) section 58B(7);”;
  - (b) in subsection (5), for “or (b)” substitute “, (b) or (ba) ”;
  - (c) after subsection (6) insert—
    - “(6ZA) Regulations under section 58C—
      - (a) must be laid before Parliament after being made, and
      - (b) cease to have effect at the end of the period of 40 days beginning with the day on which they are made unless before the end of that period the regulations are approved by a resolution of each House of Parliament.
    - (6ZB) Regulations laid before Parliament under subsection (6ZA) designating an area outside the United Kingdom must be accompanied by a statement setting out the grounds on which the Secretary of State has determined that the condition for making the regulations referred to in section 58C(2) is met in relation to that area.

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(6ZC) For the purposes of subsection (6ZA) the period of 40 days is to be computed in accordance with section 7(1) of the Statutory Instruments Act 1946.

(6ZD) Subsection (6ZA)(b)—

- (a) is without prejudice to anything previously done or to the power of the Secretary of State to make new regulations under section 58C;
- (b) does not apply to regulations that only revoke previous regulations under that section.

(6ZE) Regulations under section 58C that only revoke previous regulations under that section are subject to annulment in pursuance of a resolution of either House of Parliament.”

## 5 Encouragement of terrorism and dissemination of terrorist publications

- (1) The Terrorism Act 2006 is amended as follows.
- (2) Section 1 (encouragement of terrorism) is amended in accordance with subsections (3) and (4).
- (3) In subsection (1)—
  - (a) for the words from “some” to “published” substitute “ a reasonable person ”;
  - (b) for “to them” substitute “ , to some or all of the members of the public to whom it is published, ”.
- (4) In subsection (3)—
  - (a) in the opening words, for “members of the public” substitute “ a reasonable person ”;
  - (b) in paragraph (b), omit “those”.
- (5) Section 2 (dissemination of terrorist publications) is amended in accordance with subsections (6) and (7).
- (6) In subsection (3), in paragraph (a), for the words from “, by” to “them” substitute “ by a reasonable person as a direct or indirect encouragement or other inducement, to some or all of the persons to whom it is or may become available as a result of that conduct, ”.
- (7) In subsection (4)—
  - (a) in the opening words, after “by a” insert “ reasonable ”;
  - (b) in paragraph (b), for “that person” substitute “ a person ”.

## 6 Extra-territorial jurisdiction

- (1) Section 17 of the Terrorism Act 2006 (commission of offences abroad) is amended as follows.
- (2) Subsection (2) is amended in accordance with subsections (3) to (5) below.
- (3) In paragraph (a)—
  - (a) after “section 1” insert “ or 2 ”, and

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- (b) omit the words from “so far as” to the end.
- (4) After paragraph (c) insert—
  - “(ca) an offence under section 12(1) or (1A) of that Act (inviting or expressing support for proscribed organisation);
  - (cb) an offence under section 13 of that Act (uniform etc associated with proscribed organisation);”.
- (5) After paragraph (d) insert—
  - “(da) an offence under section 4 of the Explosive Substances Act 1883 (making or possessing explosives under suspicious circumstances) so far as committed for the purposes of an act of terrorism;”.
- (6) In subsection (3), after “citizen” insert “ (subject to subsection (3A)) ”.
- (7) After subsection (3) insert—
  - “(3A) Subsection (1) applies in the case of an offence falling within subsection (2) (ca) or (cb) only if at the time of committing the offence the person is a United Kingdom national or a United Kingdom resident.
  - (3B) In subsection (3A)—
    - “United Kingdom national” means an individual who is—
      - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
      - (b) a person who under the British Nationality Act 1981 is a British subject, or
      - (c) a British protected person within the meaning of that Act;
    - “United Kingdom resident” means an individual who is resident in the United Kingdom.”

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