



Prevention of Terrorism Act 2005 (repealed)

2005 CHAPTER 2

Control orders

1 Power to make control orders

- (1) In this Act “control order” means an order against an individual that imposes obligations on him for purposes connected with protecting members of the public from a risk of terrorism.
- (2) The power to make a control order against an individual shall be exercisable—
 - (a) except in the case of an order imposing obligations that are incompatible with the individual's right to liberty under Article 5 of the Human Rights Convention, by the Secretary of State; and
 - (b) in the case of an order imposing obligations that are or include derogating obligations, by the court on an application by the Secretary of State.
- (3) The obligations that may be imposed by a control order made against an individual are any obligations that the Secretary of State or (as the case may be) the court considers necessary for purposes connected with preventing or restricting involvement by that individual in terrorism-related activity.
- (4) Those obligations may include, in particular—
 - (a) a prohibition or restriction on his possession or use of specified articles or substances;
 - (b) a prohibition or restriction on his use of specified services or specified facilities, or on his carrying on specified activities;
 - (c) a restriction in respect of his work or other occupation, or in respect of his business;
 - (d) a restriction on his association or communications with specified persons or with other persons generally;
 - (e) a restriction in respect of his place of residence or on the persons to whom he gives access to his place of residence;

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- (f) a prohibition on his being at specified places or within a specified area at specified times or on specified days;
 - (g) a prohibition or restriction on his movements to, from or within the United Kingdom, a specified part of the United Kingdom or a specified place or area within the United Kingdom;
 - (h) a requirement on him to comply with such other prohibitions or restrictions on his movements as may be imposed, for a period not exceeding 24 hours, by directions given to him in the specified manner, by a specified person and for the purpose of securing compliance with other obligations imposed by or under the order;
 - (i) a requirement on him to surrender his passport, or anything in his possession to which a prohibition or restriction imposed by the order relates, to a specified person for a period not exceeding the period for which the order remains in force;
 - (j) a requirement on him to give access to specified persons to his place of residence or to other premises to which he has power to grant access;
 - (k) a requirement on him to allow specified persons to search that place or any such premises for the purpose of ascertaining whether obligations imposed by or under the order have been, are being or are about to be contravened;
 - (l) a requirement on him to allow specified persons, either for that purpose or for the purpose of securing that the order is complied with, to remove anything found in that place or on any such premises and to subject it to tests or to retain it for a period not exceeding the period for which the order remains in force;
 - (m) a requirement on him to allow himself to be photographed;
 - (n) a requirement on him to co-operate with specified arrangements for enabling his movements, communications or other activities to be monitored by electronic or other means;
 - (o) a requirement on him to comply with a demand made in the specified manner to provide information to a specified person in accordance with the demand;
 - (p) a requirement on him to report to a specified person at specified times and places.
- (5) Power by or under a control order to prohibit or restrict the controlled person's movements includes, in particular, power to impose a requirement on him to remain at or within a particular place or area (whether for a particular period or at particular times or generally).
- (6) The reference in subsection (4)(n) to co-operating with specified arrangements for monitoring includes a reference to each of the following—
- (a) submitting to procedures required by the arrangements;
 - (b) wearing or otherwise using apparatus approved by or in accordance with the arrangements;
 - (c) maintaining such apparatus in the specified manner;
 - (d) complying with directions given by persons carrying out functions for the purposes of those arrangements.
- (7) The information that the controlled person may be required to provide under a control order includes, in particular, advance information about his proposed movements or other activities.
- (8) A control order may provide for a prohibition, restriction or requirement imposed by or under the order to apply only where a specified person has not given his

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consent or approval to what would otherwise contravene the prohibition, restriction or requirement.

(9) For the purposes of this Act involvement in terrorism-related activity is any one or more of the following—

- (a) the commission, preparation or instigation of acts of terrorism;
- (b) conduct which facilitates the commission, preparation or instigation of such acts, or which is intended to do so;
- (c) conduct which gives encouragement to the commission, preparation or instigation of such acts, or which is intended to do so;
- (d) conduct which gives support or assistance to individuals who are known or believed [^{F1}by the individual concerned to be involved in conduct falling within paragraphs (a) to (c)];

and for the purposes of this subsection it is immaterial whether the acts of terrorism in question are specific acts of terrorism or acts of terrorism generally.

(10) In this Act—

“derogating obligation” means an obligation on an individual which—

- (a) is incompatible with his right to liberty under Article 5 of the Human Rights Convention; but
- (b) is of a description of obligations which, for the purposes of the designation of a designated derogation, is set out in the designation order;

“designated derogation” has the same meaning as in the Human Rights Act 1998 (c. 42) (see section 14(1) of that Act);

“designation order”, in relation to a designated derogation, means the order under section 14(1) of the Human Rights Act 1998 by which the derogation is designated.

Textual Amendments

- F1** Words in s. 1(9)(d) substituted (11.3.2005 retrospective) by [Counter-Terrorism Act 2008 \(c. 28\)](#), s. 79(2)100(5) (with s. 101(2)); S.I. 2009/58, art. 2(f)

Modifications etc. (not altering text)

- C1** Ss. 1-9 continued (temp.) (11.3.2006) by [Prevention of Terrorism Act 2005 \(Continuance in force of sections 1 to 9\) Order 2006 \(S.I. 2006/512\)](#), arts. 1, 2

2 Making of non-derogating control orders

(1) The Secretary of State may make a control order against an individual if he—

- (a) has reasonable grounds for suspecting that the individual is or has been involved in terrorism-related activity; and
- (b) considers that it is necessary, for purposes connected with protecting members of the public from a risk of terrorism, to make a control order imposing obligations on that individual.

(2) The Secretary of State may make a control order against an individual who is for the time being bound by a control order made by the court only if he does so—

- (a) after the court has determined that its order should be revoked; but

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- (b) while the effect of the revocation has been postponed for the purpose of giving the Secretary of State an opportunity to decide whether to exercise his own powers to make a control order against the individual.
- (3) A control order made by the Secretary of State is called a non-derogating control order.
- (4) A non-derogating control order—
 - (a) has effect for a period of 12 months beginning with the day on which it is made; but
 - (b) may be renewed on one or more occasions in accordance with this section.
- (5) A non-derogating control order must specify when the period for which it is to have effect will end.
- (6) The Secretary of State may renew a non-derogating control order (with or without modifications) for a period of 12 months if he—
 - (a) considers that it is necessary, for purposes connected with protecting members of the public from a risk of terrorism, for an order imposing obligations on the controlled person to continue in force; and
 - (b) considers that the obligations to be imposed by the renewed order are necessary for purposes connected with preventing or restricting involvement by that person in terrorism-related activity.
- (7) Where the Secretary of State renews a non-derogating control order, the 12 month period of the renewal begins to run from whichever is the earlier of—
 - (a) the time when the order would otherwise have ceased to have effect; or
 - (b) the beginning of the seventh day after the date of renewal.
- (8) The instrument renewing a non-derogating control order must specify when the period for which it is renewed will end.
- (9) It shall be immaterial, for the purposes of determining what obligations may be imposed by a control order made by the Secretary of State, whether the involvement in terrorism-related activity to be prevented or restricted by the obligations is connected with matters to which the Secretary of State's grounds for suspicion relate.

Modifications etc. (not altering text)

C1 Ss. 1-9 continued (temp.) (11.3.2006) by [Prevention of Terrorism Act 2005 \(Continuance in force of sections 1 to 9\) Order 2006 \(S.I. 2006/512\)](#), arts. 1, 2

3 Supervision by court of making of non-derogating control orders

- (1) The Secretary of State must not make a non-derogating control order against an individual except where—
 - (a) having decided that there are grounds to make such an order against that individual, he has applied to the court for permission to make the order and has been granted that permission;
 - (b) the order contains a statement by the Secretary of State that, in his opinion, the urgency of the case requires the order to be made without such permission; or
 - (c) the order is made before 14th March 2005 against an individual who, at the time it is made, is an individual in respect of whom a certificate under

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section 21(1) of the Anti-terrorism, Crime and Security Act 2001 (c. 24) is in force.

- (2) Where the Secretary of State makes an application for permission to make a non-derogating control order against an individual, the application must set out the order for which he seeks permission and—
 - (a) the function of the court is to consider whether the Secretary of State's decision that there are grounds to make that order is obviously flawed;
 - (b) the court may give that permission unless it determines that the decision is obviously flawed; and
 - (c) if it gives permission, the court must give directions for a hearing in relation to the order as soon as reasonably practicable after it is made.
- (3) Where the Secretary of State makes a non-derogating control order against an individual without the permission of the court—
 - (a) he must immediately refer the order to the court; and
 - (b) the function of the court on the reference is to consider whether the decision of the Secretary of State to make the order he did was obviously flawed.
- (4) The court's consideration on a reference under subsection (3)(a) must begin no more than 7 days after the day on which the control order in question was made.
- (5) The court may consider an application for permission under subsection (1)(a) or a reference under subsection (3)(a)—
 - (a) in the absence of the individual in question;
 - (b) without his having been notified of the application or reference; and
 - (c) without his having been given an opportunity (if he was aware of the application or reference) of making any representations to the court;but this subsection is not to be construed as limiting the matters about which rules of court may be made in relation to the consideration of such an application or reference.
- (6) On a reference under subsection (3)(a), the court—
 - (a) if it determines that the decision of the Secretary of State to make a non-derogating control order against the controlled person was obviously flawed, must quash the order;
 - (b) if it determines that that decision was not obviously flawed but that a decision of the Secretary of State to impose a particular obligation by that order was obviously flawed, must quash that obligation and (subject to that) confirm the order and give directions for a hearing in relation to the confirmed order; and
 - (c) in any other case, must confirm the order and give directions for a hearing in relation to the confirmed order.
- (7) The directions given under subsection (2)(c) or (6)(b) or (c) must include arrangements for the individual in question to be given an opportunity within 7 days of the court's giving permission or (as the case may be) making its determination on the reference to make representations about—
 - (a) the directions already given; and
 - (b) the making of further directions.
- (8) On a reference under subsection (3)(a), the court may quash a certificate contained in the order for the purposes of subsection (1)(b) if it determines that the Secretary of State's decision that the certificate should be contained in the order was flawed.

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- (9) The court must ensure that the controlled person is notified of its decision on a reference under subsection (3)(a).
- (10) On a hearing in pursuance of directions under subsection (2)(c) or (6)(b) or (c), the function of the court is to determine whether any of the following decisions of the Secretary of State was flawed—
- (a) his decision that the requirements of section 2(1)(a) and (b) were satisfied for the making of the order; and
 - (b) his decisions on the imposition of each of the obligations imposed by the order.
- (11) In determining—
- (a) what constitutes a flawed decision for the purposes of subsection (2), (6) or (8), or
 - (b) the matters mentioned in subsection (10),
- the court must apply the principles applicable on an application for judicial review.
- (12) If the court determines, on a hearing in pursuance of directions under subsection (2)(c) or (6)(b) or (c), that a decision of the Secretary of State was flawed, its only powers are—
- (a) power to quash the order;
 - (b) power to quash one or more obligations imposed by the order; and
 - (c) power to give directions to the Secretary of State for the revocation of the order or for the modification of the obligations it imposes.
- (13) In every other case the court must decide that the control order is to continue in force.
- (14) If requested to do so by the controlled person, the court must discontinue any hearing in pursuance of directions under subsection (2)(c) or (6)(b) or (c).

Modifications etc. (not altering text)

C1 Ss. 1-9 continued (temp.) (11.3.2006) by [Prevention of Terrorism Act 2005 \(Continuance in force of sections 1 to 9\) Order 2006 \(S.I. 2006/512\)](#), arts. 1, 2

4 Power of court to make derogating control orders

- (1) On an application to the court by the Secretary of State for the making of a control order against an individual, it shall be the duty of the court—
- (a) to hold an immediate preliminary hearing to determine whether to make a control order imposing obligations that are or include derogating obligations (called a “derogating control order”) against that individual; and
 - (b) if it does make such an order against that individual, to give directions for the holding of a full hearing to determine whether to confirm the order (with or without modifications).
- (2) The preliminary hearing under subsection (1)(a) may be held—
- (a) in the absence of the individual in question;
 - (b) without his having had notice of the application for the order; and
 - (c) without his having been given an opportunity (if he was aware of the application) of making any representations to the court;

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but this subsection is not to be construed as limiting the matters about which rules of court may be made in relation to that hearing.

- (3) At the preliminary hearing, the court may make a control order against the individual in question if it appears to the court—
- (a) that there is material which (if not disproved) is capable of being relied on by the court as establishing that the individual is or has been involved in terrorism-related activity;
 - (b) that there are reasonable grounds for believing that the imposition of obligations on that individual is necessary for purposes connected with protecting members of the public from a risk of terrorism;
 - (c) that the risk arises out of, or is associated with, a public emergency in respect of which there is a designated derogation from the whole or a part of Article 5 of the Human Rights Convention; and
 - (d) that the obligations that there are reasonable grounds for believing should be imposed on the individual are or include derogating obligations of a description set out for the purposes of the designated derogation in the designation order.
- (4) The obligations that may be imposed by a derogating control order in the period between—
- (a) the time when the order is made, and
 - (b) the time when a final determination is made by the court whether to confirm it,
- include any obligations which the court has reasonable grounds for considering are necessary as mentioned in section 1(3).
- (5) At the full hearing under subsection (1)(b), the court may—
- (a) confirm the control order made by the court; or
 - (b) revoke the order;
- and where the court revokes the order, it may (if it thinks fit) direct that this Act is to have effect as if the order had been quashed.
- (6) In confirming a control order, the court—
- (a) may modify the obligations imposed by the order; and
 - (b) where a modification made by the court removes an obligation, may (if it thinks fit) direct that this Act is to have effect as if the removed obligation had been quashed.
- (7) At the full hearing, the court may confirm the control order (with or without modifications) only if—
- (a) it is satisfied, on the balance of probabilities, that the controlled person is an individual who is or has been involved in terrorism-related activity;
 - (b) it considers that the imposition of obligations on the controlled person is necessary for purposes connected with protecting members of the public from a risk of terrorism;
 - (c) it appears to the court that the risk is one arising out of, or is associated with, a public emergency in respect of which there is a designated derogation from the whole or a part of Article 5 of the Human Rights Convention; and
 - (d) the obligations to be imposed by the order or (as the case may be) by the order as modified are or include derogating obligations of a description set out for the purposes of the designated derogation in the designation order.

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- (8) A derogating control order ceases to have effect at the end of the period of 6 months beginning with the day on which it is made unless—
- (a) it is previously revoked (whether at the hearing under subsection (1)(b) or otherwise under this Act);
 - (b) it ceases to have effect under section 6; or
 - (c) it is renewed.
- (9) The court, on an application by the Secretary of State, may renew a derogating control order (with or without modifications) for a period of 6 months from whichever is the earlier of—
- (a) the time when the order would otherwise have ceased to have effect; and
 - (b) the beginning of the seventh day after the date of renewal.
- (10) The power of the court to renew a derogating control order is exercisable on as many occasions as the court thinks fit; but, on each occasion, it is exercisable only if—
- (a) the court considers that it is necessary, for purposes connected with protecting members of the public from a risk of terrorism, for a derogating control order to continue in force against the controlled person;
 - (b) it appears to the court that the risk is one arising out of, or is associated with, a public emergency in respect of which there is a designated derogation from the whole or a part of Article 5 of the Human Rights Convention;
 - (c) the derogating obligations that the court considers should continue in force are of a description that continues to be set out for the purposes of the designated derogation in the designation order; and
 - (d) the court considers that the obligations to be imposed by the renewed order are necessary for purposes connected with preventing or restricting involvement by that person in terrorism-related activity.
- (11) Where, on an application for the renewal of a derogating control order, it appears to the court—
- (a) that the proceedings on the application are unlikely to be completed before the time when the order is due to cease to have effect if not renewed, and
 - (b) that that is not attributable to an unreasonable delay on the part of the Secretary of State in the making or conduct of the application,
- the court may (on one or more occasions) extend the period for which the order is to remain in force for the purpose of keeping it in force until the conclusion of the proceedings.
- (12) Where the court exercises its power under subsection (11) and subsequently renews the control order in question, the period of any renewal still runs from the time when the order would have ceased to have effect apart from that subsection.
- (13) It shall be immaterial, for the purposes of determining what obligations may be imposed by a control order made by the court, whether the involvement in terrorism-related activity to be prevented or restricted by the obligations is connected with matters in relation to which the requirements of subsection (3)(a) or (7)(a) were satisfied.

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- C1** Ss. 1-9 continued (temp.) (11.3.2006) by [Prevention of Terrorism Act 2005 \(Continuance in force of sections 1 to 9\) Order 2006 \(S.I. 2006/512\)](#), arts. 1, 2

5 Arrest and detention pending derogating control order

- (1) A constable may arrest and detain an individual if—
 - (a) the Secretary of State has made an application to the court for a derogating control order to be made against that individual; and
 - (b) the constable considers that the individual's arrest and detention is necessary to ensure that he is available to be given notice of the order if it is made.
- (2) A constable who has arrested an individual under this section must take him to the designated place that the constable considers most appropriate as soon as practicable after the arrest.
- (3) An individual taken to a designated place under this section may be detained there until the end of 48 hours from the time of his arrest.
- (4) If the court considers that it is necessary to do so to ensure that the individual in question is available to be given notice of any derogating control order that is made against him, it may, during the 48 hours following his arrest, extend the period for which the individual may be detained under this section by a period of no more than 48 hours.
- (5) An individual may not be detained under this section at any time after—
 - (a) he has become bound by a derogating control order made against him on the Secretary of State's application; or
 - (b) the court has dismissed the application.
- (6) A person who has the powers of a constable in one part of the United Kingdom may exercise the power of arrest under this section in that part of the United Kingdom or in any other part of the United Kingdom.
- (7) An individual detained under this section—
 - (a) shall be deemed to be in legal custody throughout the period of his detention; and
 - (b) after having been taken to a designated place shall be deemed—
 - (i) in England and Wales, to be in police detention for the purposes of the Police and Criminal Evidence Act 1984 (c. 60); and
 - (ii) in Northern Ireland, to be in police detention for the purposes of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12));but paragraph (b) has effect subject to subsection (8).
- (8) Paragraphs 1(6), 2, 6 to 9 and 16 to 19 of Schedule 8 to the Terrorism Act 2000 (c. 11) (powers and safeguards in the case of persons detained under section 41 of that Act) apply to an individual detained under this section as they apply to a person detained under section 41 of that Act, but with the following modifications—
 - (a) the omission of paragraph 2(2)(b) to (d) (which confers powers on persons specified by the Secretary of State, prison officers and examining officers);

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- (b) the omission of paragraph 8(2), (5) and (5A) (which relates to the postponement of a person's rights in England and Wales or Northern Ireland); and
 - (c) the omission of paragraphs 16(9) and 17(4) and (4A) (which make similar provision for Scotland).
- (9) The power to detain an individual under this section includes power to detain him in a manner that is incompatible with his right to liberty under Article 5 of the Human Rights Convention if, and only if—
- (a) there is a designated derogation in respect of the detention of individuals under this section in connection with the making of applications for derogating control orders; and
 - (b) that derogation and the designated derogation relating to the power to make the orders applied for are designated in respect of the same public emergency.
- (10) In this section “designated place” means any place which the Secretary of State has designated under paragraph 1(1) of Schedule 8 to the Terrorism Act 2000 (c. 11) as a place at which persons may be detained under section 41 of that Act.

Modifications etc. (not altering text)

C1 Ss. 1-9 continued (temp.) (11.3.2006) by [Prevention of Terrorism Act 2005 \(Continuance in force of sections 1 to 9\) Order 2006 \(S.I. 2006/512\)](#), arts. 1, 2

6 Duration of derogating control orders

- (1) A derogating control order has effect at a time only if—
- (a) the relevant derogation remains in force at that time; and
 - (b) that time is not more than 12 months after—
 - (i) the making of the order under section 14(1) of the Human Rights Act 1998 (c. 42) designating that derogation; or
 - (ii) the making by the Secretary of State of an order declaring that it continues to be necessary for him to have power to impose derogating obligations by reference to that derogation.
- (2) The power of the Secretary of State to make an order containing a declaration for the purposes of subsection (1)(b)(ii) is exercisable by statutory instrument.
- (3) No order may be made by the Secretary of State containing such a declaration unless a draft of it has been laid before Parliament and approved by a resolution of each House.
- (4) Subsection (3) does not apply to an order that contains a statement by the Secretary of State that the order needs, by reason of urgency, to be made without the approval required by that subsection.
- (5) An order under this section that contains such a statement—
- (a) must be laid before Parliament after being made; and
 - (b) if not approved by a resolution of each House before the end of 40 days beginning with the day on which the order was made, ceases to have effect at the end of that period.
- (6) Where an order ceases to have effect in accordance with subsection (5), that does not—

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- (a) affect anything previously done in reliance on the order; or
 - (b) prevent the Secretary of State from exercising any power of his to make a new order for the purposes of subsection (1)(b)(ii) to the same or similar effect.
- (7) In this section—
- “40 days” means 40 days computed as provided for in section 7(1) of the Statutory Instruments Act 1946 (c. 36);
 - “the relevant derogation”, in relation to a derogating control order, means the designated derogation by reference to which the derogating obligations imposed by that order were imposed.

Modifications etc. (not altering text)

C1 Ss. 1-9 continued (temp.) (11.3.2006) by [Prevention of Terrorism Act 2005 \(Continuance in force of sections 1 to 9\) Order 2006 \(S.I. 2006/512\)](#), arts. 1, 2

7 Modification, notification and proof of orders etc.

- (1) If while a non-derogating control order is in force the controlled person considers that there has been a change of circumstances affecting the order, he may make an application to the Secretary of State for—
 - (a) the revocation of the order; or
 - (b) the modification of an obligation imposed by the order;and it shall be the duty of the Secretary of State to consider the application.
- (2) The Secretary of State may, at any time (whether or not in response to an application by the controlled person)—
 - (a) revoke a non-derogating control order;
 - (b) relax or remove an obligation imposed by such an order;
 - (c) with the consent of the controlled person, modify the obligations imposed by such an order; or
 - (d) make to the obligations imposed by such an order any modifications which he considers necessary for purposes connected with preventing or restricting involvement by the controlled person in terrorism-related activity.
- (3) The Secretary of State may not make to the obligations imposed by a control order any modification the effect of which is that a non-derogating control order becomes an order imposing a derogating obligation.
- (4) An application may be made at any time to the court—
 - (a) by the Secretary of State, or
 - (b) by the controlled person,for the revocation of a derogating control order or for the modification of obligations imposed by such an order.
- (5) On such an application, the court may modify the obligations imposed by the derogating control order only where—
 - (a) the modification consists in the removal or relaxation of an obligation imposed by the order;
 - (b) the modification has been agreed to by both the controlled person and the Secretary of State; or

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- (c) the modification is one which the court considers necessary for purposes connected with preventing or restricting involvement by the controlled person in terrorism-related activity.
- (6) The court may not, by any modification of the obligations imposed by a derogating control order, impose any derogating obligation unless—
- (a) it considers that the modification is necessary for purposes connected with protecting members of the public from a risk of terrorism; and
 - (b) it appears to the court that the risk is one arising out of, or is associated with, the public emergency in respect of which the designated derogation in question has effect.
- (7) If the court at any time determines that a derogating control order needs to be modified so that it no longer imposes derogating obligations, it must revoke the order.
- (8) The controlled person is bound by—
- (a) a control order,
 - (b) the renewal of a control order, or
 - (c) a modification by virtue of subsection (2)(d) or (5)(c),
- only if a notice setting out the terms of the order, renewal or modification has been delivered to him in person.
- (9) For the purpose of delivering a notice under subsection (8) to the controlled person a constable or a person authorised for the purpose by the Secretary of State may (if necessary by force)—
- (a) enter any premises where he has reasonable grounds for believing that person to be; and
 - (b) search those premises for him.
- (10) Where the Secretary of State revokes a control order or modifies it by virtue of subsection (2)(b) or (c)—
- (a) he must give notice of the revocation or modification to the controlled person; and
 - (b) the notice must set out the time from which the revocation or modification takes effect.
- (11) A control order, or the renewal, revocation or modification of such an order, may be proved by the production of a document purporting to be certified by the Secretary of State or the court as a true copy of—
- (a) the order; or
 - (b) the instrument of renewal, revocation or modification;
- but this does not prevent the proof of a control order, or of the renewal, revocation or modification of such an order, in other ways.

Modifications etc. (not altering text)

C1 Ss. 1-9 continued (temp.) (11.3.2006) by [Prevention of Terrorism Act 2005 \(Continuance in force of sections 1 to 9\) Order 2006 \(S.I. 2006/512\)](#), arts. 1, 2

Status: Point in time view as at 11/03/2006.

Changes to legislation: There are currently no known outstanding effects for the Prevention of Terrorism Act 2005 (repealed), Cross Heading: Control orders. (See end of Document for details)

8 Criminal investigations after making of control order

- (1) This section applies where it appears to the Secretary of State—
 - (a) that the involvement in terrorism-related activity of which an individual is suspected may have involved the commission of an offence relating to terrorism; and
 - (b) that the commission of that offence is being or would fall to be investigated by a police force.
- (2) Before making, or applying for the making of, a control order against the individual, the Secretary of State must consult the chief officer of the police force about whether there is evidence available that could realistically be used for the purposes of a prosecution of the individual for an offence relating to terrorism.
- (3) If a control order is made against the individual the Secretary of State must inform the chief officer of the police force that the control order has been made and that subsection (4) applies.
- (4) It shall then be the duty of the chief officer to secure that the investigation of the individual's conduct with a view to his prosecution for an offence relating to terrorism is kept under review throughout the period during which the control order has effect.
- (5) In carrying out his functions by virtue of this section the chief officer must consult the relevant prosecuting authority, but only, in the case of the performance of his duty under subsection (4), to the extent that he considers it appropriate to do so.
- (6) The requirements of subsection (5) may be satisfied by consultation that took place wholly or partly before the passing of this Act.
- (7) In this section—
 - “chief officer”—
 - (a) in relation to a police force maintained for a police area in England and Wales, means the chief officer of police of that force;
 - (b) in relation to a police force maintained under the Police (Scotland) Act 1967 (c. 77), means the chief constable of that force;
 - (c) in relation to the Police Service of Northern Ireland, means the Chief Constable of that Service;
 - (d) in relation to the Serious Organised Crime Agency, means the Director General of that Agency; and
 - (e) in relation to the Scottish Drug Enforcement Agency, means the Director of that Agency;
 - “police force” means—
 - (a) a police force maintained for a police area in England and Wales;
 - (b) a police force maintained under the Police (Scotland) Act 1967;
 - (c) the Police Service of Northern Ireland;
 - (d) the Serious Organised Crime Agency; or
 - (e) the Scottish Drug Enforcement Agency;
 - “relevant prosecuting authority”—
 - (a) in relation to offences that would be likely to be prosecuted in England and Wales, means the Director of Public Prosecutions;
 - (b) in relation to offences that would be likely to be prosecuted in Scotland, means the appropriate procurator fiscal;

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Changes to legislation: There are currently no known outstanding effects for the Prevention of Terrorism Act 2005 (repealed), Cross Heading: Control orders. (See end of Document for details)

- (c) in relation to offences that would be likely to be prosecuted in Northern Ireland, means the Director of Public Prosecutions for Northern Ireland.
- (8) In relation to times before the Serious Organised Crime Agency begins to carry out its functions, this section is to have effect as if—
- (a) the National Crime Squad were a police force; and
 - (b) references, in relation to that Squad, to its chief officer were references to its Director General.
- (9) In subsection (7)—
- “the Scottish Drug Enforcement Agency” means the organisation known by that name and established under section 36(1)(a)(ii) of the Police (Scotland) Act 1967; and
- “the Director” of that Agency means the person engaged on central service (as defined by section 38(5) of that Act) and for the time being appointed by the Scottish Ministers to exercise control in relation to the activities carried out in the exercise of the Agency's functions.

Modifications etc. (not altering text)

C1 Ss. 1-9 continued (temp.) (11.3.2006) by [Prevention of Terrorism Act 2005 \(Continuance in force of sections 1 to 9\) Order 2006 \(S.I. 2006/512\)](#), arts. 1, 2

9 Offences

- (1) A person who, without reasonable excuse, contravenes an obligation imposed on him by a control order is guilty of an offence.
- (2) A person is guilty of an offence if—
- (a) a control order by which he is bound at a time when he leaves the United Kingdom requires him, whenever he enters the United Kingdom, to report to a specified person that he is or has been the subject of such an order;
 - (b) he re-enters the United Kingdom after the order has ceased to have effect;
 - (c) the occasion on which he re-enters the United Kingdom is the first occasion on which he does so after leaving while the order was in force; and
 - (d) on that occasion he fails, without reasonable excuse, to report to the specified person in the manner that was required by the order.
- (3) A person is guilty of an offence if he intentionally obstructs the exercise by any person of a power conferred by section 7(9).
- (4) A person guilty of an offence under subsection (1) or (2) shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine, or to both;
 - (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;
 - (c) on summary conviction in Scotland or Northern Ireland, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both.

Status: Point in time view as at 11/03/2006.

Changes to legislation: There are currently no known outstanding effects for the Prevention of Terrorism Act 2005 (repealed), Cross Heading: Control orders. (See end of Document for details)

- (5) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (4)(b) to 12 months is to be read as a reference to 6 months.
- (6) Where a person is convicted by or before any court of an offence under subsection (1) or (2), it is not to be open to the court, in respect of that offence—
- (a) to make an order under section 12(1)(b) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (conditional discharge);
 - (b) to make an order under section 228(1) of the Criminal Procedure (Scotland) Act 1995 (c. 46) (probation orders); or
 - (c) to make an order under Article 4(1)(b) of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)) (conditional discharge in Northern Ireland).
- (7) A person guilty of an offence under subsection (3) shall be liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 5 on the standard scale, or to both;
 - (b) on summary conviction in Scotland or Northern Ireland, to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both.
- (8) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (7)(a) to 51 weeks is to be read as a reference to 6 months.
- ^{F2}(9)
- (10) In Article 26(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (offences for which an arrest may be made without a warrant in Northern Ireland), at the end insert—
- “(o) an offence under section 9(3) of the Prevention of Terrorism Act 2005.”

Textual Amendments

F2 S. 9(9) repealed (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8)(8), [Sch. 17 Pt. 2](#); S.I. 2005/3495, art. 2(1)(u)

Modifications etc. (not altering text)

C1 Ss. 1-9 continued (temp.) (11.3.2006) by [Prevention of Terrorism Act 2005 \(Continuance in force of sections 1 to 9\) Order 2006 \(S.I. 2006/512\)](#), arts. 1, 2

Status:

Point in time view as at 11/03/2006.

Changes to legislation:

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