

# PREVENTION OF TERRORISM ACT 2005

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## EXPLANATORY NOTES

### COMMENTARY

#### *Section 13: Duration of sections 1 to 9*

##### **Subsections (1) to (3)**

80. Subsection (1) provides that sections 1 to 9 of this Act expire 12 months after the day on which this Act was passed (11 March 2005) but under subsection (2), they may be renewed for a period not exceeding one year by order made by statutory instrument. (Subsection (2) also includes provision for repeal and revival of sections 1 to 9). Subsection (3) states that, before making such an order, the Secretary of State must consult the independent reviewer appointed under section 14, the Intelligence Services Commissioner and the Director-General of the Security Service.

##### **Subsections (4) to (7)**

81. Subsections (4) to (7) deal with the procedure for making an order under this section. Subsection (4) provides that a draft of any order under this section must be approved by both Houses of Parliament before the order can be made. However, subsections (5) and (6) allow the Secretary of State to make an order under this section without the prior approval of Parliament if the order contains a declaration that the order had to be made without prior approval because of the urgency involved in the situation. In such cases, the Secretary of State must refer the order to Parliament after making it. If Parliament does not then approve the order within 40 days, it will cease to have effect at the end of that period. However, as subsection (7) makes clear, if such an order does lapse after 40 days, this will not affect anything done previously on the basis of the order, nor will it prevent the Secretary of State making a new order to the same or similar effect as the one which has ceased to have effect.

##### **Subsections (8) to (9)**

82. Subsection (8) states that the expiration or repeal of sections 1 to 9 does not prevent or affect:
- a) the court's consideration of a reference under section 3(3)(a) (to review a decision by the Secretary of State to impose a control order without the court's permission);
  - b) the court's consideration of a hearing under section 3(2)(c), section 3(6)(b) or section 3(6)(c) (full hearings to review the making of a non-derogating control order);
  - c) the court's consideration of a hearing to confirm the making of a derogating control order;
  - d) the bringing or continuation of any appeal or further appeal relating to the proceedings mentioned in paragraphs (a) to (c).

*These notes refer to the Prevention of Terrorism Act 2005  
(c.2) which received Royal Assent on 11 March 2005*

83. But proceedings may only be brought or continued by virtue of subsection (8) so far as they are for the purposes of determining if a certificate of the Secretary of State, a control order or an obligation imposed by such an order are to be quashed or treated as quashed.
84. Subsection (9) confirms that the Act does not permit a control order to be effective when the provision under which it was made has expired or been repealed.