

PREVENTION OF TERRORISM ACT 2005

EXPLANATORY NOTES

COMMENTARY

Section 4: Power of the court to make derogating control orders

Subsections (8) to (13)

46. Subsection (8) provides that a derogating control order will last six months, unless it ceases to have effect either because it is revoked or because it would otherwise continue beyond the period provided for in section 6 (ie there has been no order within the relevant period confirming that it continues to be necessary for the Secretary of State to have the power to impose derogating obligations) It can also continue for more than six months if the court renews it. The renewal procedure is described in subsection (9).
47. As subsection (10) explains, when the court is considering whether to renew a derogating control order on an application from the Secretary of State, it may only do so if:
 - a) the court considers that it is necessary for the derogating control order to continue in force for purposes connected with protecting members of the public from a risk of terrorism;
 - b) it appears to the court that the risk arises out of or is associated with a public emergency in respect of which there is a designated derogation from all or part of Article 5 ECHR;
 - c) the obligations are of a description that continues to be set out in a designation order; and,
 - d) the court considers that the obligations imposed in the renewed order are necessary for purposes connected with preventing or restricting the controlled person's involvement in terrorism-related activity.
48. Subsection (11) provides that the court may extend a control order in order to allow it to continue to operate while proceedings on an application for renewal take place. Subsection (12) notes that if a control order is extended under subsection (11) the renewed control order will be valid for six months from the date at which the order would have ceased to have effect.
49. Subsection (13) states that obligations may be imposed as part of a control order in order to prevent involvement in any terrorism-related activity, not just the activity which led the court to conclude that the individual was or had been involved in terrorism-related activity.