

TERRORISM ACT 2006

EXPLANATORY NOTES

COMMENTARY

Definitions

Part 3

Section 36 – Review of terrorism legislation

Subsections (1) to (6)

162. **Subsection (1)** provides that the Secretary of State must appoint a person to review the operation of the provisions of the TACT and of Part 1 of this Act. This will replace section 126 of the TACT that provides for the annual review of the TACT. **Subsection (2)** sets out that such a person may carry out such reviews from time to time and the outcome of such a review must be reported to the Secretary of State. Under **subsections (3) and (4)** the first review and report must be completed in the year following the laying before Parliament of the last report under section 126 of the TACT and subsequently reviews and reports must be conducted and produced at least annually. **Subsection (5)** sets out that the Secretary of State must lay a copy of any report before Parliament. **Subsection (6)** allows for the reimbursing of the reviewer for costs incurred in the course of his duties.

Section 37 – Consequential amendments and repeals

163. **Section 37** makes a number of consequential amendments to the TACT and introduces Schedule 3 to the Act which makes a number of repeals. All of these repeals are consequential on the substantive changes made elsewhere in the Act.

Subsections (1) to (4)

164. **Subsection (1)** amends the definition of “terrorist investigation” in the TACT to include investigation of the offences in Part 1 of this Act, other than sections 1 and 2. **Subsection (2)** amends section 117 of the TACT relating to consents to prosecutions. The amendment provides that, if it appears to the Director of Public Prosecutions or the Director of Public Prosecutions for Northern Ireland, that an offence to which the consent to prosecutions provisions in the TACT apply, has been carried out for a purpose wholly or partly connected with the affairs of a country other than the UK, prosecution will only proceed if the Attorney General, or, in Northern Ireland, the Advocate General for Northern Ireland, agrees with the DPP’s or the DPP for Northern Ireland’s decision to consent. The subsection also provides a transitional provision in relation to section 27(1) of the Justice (Northern Ireland) Act 2002. Before that provision comes into force the Advocate General for Northern Ireland will not be in existence and so during that time the Attorney General for Northern Ireland must agree with the DPP for Northern Ireland instead. **Subsection (3)** amends the TACT to provide for supplemental powers of the courts in respect of forfeiture orders made under sections 54, 58 and 103 of that Act, entitling the courts to make any such provision as appears

*These notes refer to the Terrorism Act 2006 (c.11)
which received Royal Assent on 30 March 2006*

to be necessary for giving effect to forfeiture. **Subsection (4)** adds the offences in Part 1 of this Act to the list of Scheduled Offences in Schedule 9 to the TACT. These are offences in respect of which special procedures, such as trial without jury, apply in Northern Ireland.

Section 39 – Short title, commencement and extent

165. Under section 39(5) the Act extends to the whole of the United Kingdom except the provisions in section 17 relating to the use of explosives for non terrorist purposes do not extend to Scotland (since this is a devolved matter). The section provides for the extension of any provisions of the Act, with such modifications as are seen fit, to the Channel Islands or Isle of Man by Her Majesty by Order in Council.