

COUNTER-TERRORISM ACT 2008

EXPLANATORY NOTES

OVERVIEW

4. The Act's Parts and Schedules are as follows.
5. **Part 1** (powers to gather and share information) contains provisions for new powers relating to the removal of documents for examination in the context of a search under existing terrorism legislation. It also provides a power for a constable to take fingerprints and samples from individuals subject to control orders and amends the law relating to the retention and use of fingerprints and DNA samples. It also contains provisions on the disclosure of information to and by the intelligence services and their use of such information.
6. **Part 2** (post-charge questioning of terrorist suspects) provides that terrorist suspects may be questioned after they have been charged. The questioning will be authorised by a judge and adverse inferences from the silence of the suspect may be drawn by a court in England and Wales or Northern Ireland.
7. **Part 3** (prosecution and punishment of offences) provides for specified terrorism offences committed anywhere in the UK to be tried in any part of the UK. It also requires the Attorney General's or Advocate General for Northern Ireland's consent for prosecution of certain terrorism offences committed outside the UK. This Part also deals with sentences for terrorism cases tried under the general criminal law: the court is to treat a terrorist connection as an aggravating factor when considering sentence. It also extends the forfeiture regime applicable in terrorist cases.
8. **Part 4** (notification requirements) makes provision about the notification of information to the police by certain individuals convicted of terrorism or terrorism-related offences. When in the community, such individuals must provide the police with certain personal information, must notify any subsequent changes to this information and confirm its accuracy annually. And under Schedule 5, a court may, on application, impose a foreign travel restriction order on an individual subject to the notification requirements, restricting that person's overseas travel.
9. **Part 5** (terrorist financing and money laundering) confers powers on the Treasury to direct persons operating in the financial sector to take certain actions in respect of transactions or business with persons in a country of money laundering, terrorist financing or proliferation concern.
10. **Part 6** (financial restrictions proceedings) creates a statutory basis for a person affected by certain kinds of Treasury decision to apply to have the decision set aside. The Treasury decisions to which this part relates are those made under (i) the UN Terrorism Orders, (ii) Part 2 of the Anti-terrorism, Crime and Security Act 2001, or (iii) Schedule 7 to this Act. It also provides for Rules of Court to make provision about such applications, in particular for the procedure which is to apply where the reason for the Treasury's decision (or part of it) cannot be disclosed to the applicant because disclosure would be contrary to the public interest (i.e. it involves "closed source material"). Closed source material relevant to the Treasury's decision

*These notes refer to the Counter-Terrorism Act 2008
(c.28) which received Royal Assent on 26 November 2008*

would be considered at a closed hearing, for which a special advocate (who has been security-vetted) would represent the interests of the applicant, with the detailed procedure set out in Rules of Court made under this part.

11. [Part 7](#) (miscellaneous) amends the Regulation of Investigatory Powers Act 2000 to allow intercept material to be disclosed in exceptional circumstances to counsel to an inquiry held under the Inquiries Act 2005 (in addition to the inquiry panel); it amends the definition of terrorism in section 1 of the Terrorism Act 2000 (“the 2000 Act”) (and various other pieces of terrorism legislation) by inserting a reference to a racial cause. This Part also creates an offence of eliciting, publishing or communicating information about members of the armed forces, members of the intelligence services or constables which is likely to be of use to terrorists, and amends the offence of failing to disclose information about a suspected terrorist finance offence. It also includes some amendments to the control order system under the Prevention of Terrorism Act 2005, minor amendments to the provisions on pre-charge detention of terrorist suspects under the 2000 Act, amendments to provisions on forfeiture of terrorist cash, a new scheme for the recovery of costs of policing at gas facilities and a provision on the appointment of special advocates in Northern Ireland.
12. [Part 8](#) contains supplementary provisions.