

COUNTER-TERRORISM ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 – Prosecution and Punishment of Terrorist Offences

Sentencing

Section 30 – Sentences for offences with a terrorist connection: England and Wales

88. *Section 30* is included in response to recommendation 8 of Lord Carlile’s January 2007 report on the definition of terrorism, that a terrorist connection should be considered to be an aggravating factor in sentencing. This is important where persons are convicted of offences other than those under the terrorism legislation but where the offence is connected with terrorism (for example an explosives-related offence).
89. Under *subsections (1) to (3)* a court in England and Wales considering a person’s sentence for an offence listed in Schedule 2 must, if it appears that there was or may have been a terrorist connection, make a determination (on the criminal standard of proof) as to whether there was such a connection. The court will make this determination on the basis of the usual information before it for the purposes of sentencing, that is the trial evidence or evidence heard at a *Newton* hearing (if necessary) following a guilty plea, and taking account of any representations by the prosecution or defence. A *Newton* hearing is where the judge hears evidence from both the prosecution and defence and comes to his or her own conclusion on the facts, applying the criminal standard of proof. If the court determines that there was a terrorist connection, it must treat that as an aggravating factor when sentencing the offender (*subsection (4)*). The meaning of an offence having a “terrorist connection” is defined in section 93 as being where the offence is or takes place in the course of an act of terrorism or is committed for the purposes of terrorism. *Subsection (6)* provides that this statutory aggravating factor in sentencing will apply only in relation to offences committed on or after commencement.