



Police, Crime, Sentencing and Courts Act 2022

2022 CHAPTER 32

PART 10

MANAGEMENT OF OFFENDERS

CHAPTER 4

MANAGEMENT OF TERRORIST OFFENDERS

189 Arrangements for assessing etc risks posed by certain offenders

- (1) Section 325 of the Criminal Justice Act 2003 (arrangements for assessing etc risks posed by certain offenders) is amended in accordance with subsections (2) to (6).
- (2) In subsection (1), in the definition of “relevant sexual or violent offender”, for “has the meaning” substitute “and “relevant terrorist offender” have the meanings”.
- (3) In subsection (2)—
 - (a) for the “and” at the end of paragraph (a) substitute—

“(aa) relevant terrorist offenders,”
 - (b) at the end of paragraph (b) insert “, and
 - (c) other persons who have committed offences (wherever committed) and are considered by the responsible authority to be persons who may be at risk of involvement in terrorism-related activity.”
- (4) For subsection (4) substitute—

“(4) A person to whom subsection (4A) applies may, for the purpose described in subsection (2), disclose information to another person to whom subsection (4A) applies.

Status: This is the original version (as it was originally enacted).

- (4A) This subsection applies to—
- (a) the responsible authority,
 - (b) a person specified in subsection (6), and
 - (c) a person who the responsible authority considers may contribute to the achievement of the purpose described in subsection (2).
- (4B) A disclosure under subsection (4) does not breach—
- (a) any obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (4C) But subsection (4) does not authorise a disclosure of information that—
- (a) would contravene the data protection legislation (but in determining whether it would do so, the power in that subsection is to be taken into account), or
 - (b) would be prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (4D) Subsection (4E) applies if a person who may disclose or receive information by virtue of subsection (4) would not otherwise be a competent authority for the purposes of Part 3 of the Data Protection Act 2018 (law enforcement processing) in relation to the processing by that person of personal data by virtue of that subsection.
- (4E) The person is to be treated as a competent authority for the purposes of that Part in relation to the processing by that person of personal data by virtue of subsection (4).
- (4F) But subsection (4E) does not apply to an intelligence service within the meaning of Part 4 of the Data Protection Act 2018 (see section 82(2) of that Act).
- (4G) Subsections (4) to (4F) do not affect any power to disclose information apart from that conferred by subsection (4).”
- (5) In subsection (6), in the opening words, after “(3)” insert “, (4A)(b)”.
- (6) In subsection (9), at the appropriate places insert—
- ““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);”;
- ““involvement in terrorism-related activity” has the same meaning as in the Terrorism Prevention and Investigation Measures Act 2011 (see section 4 of that Act);”;
- ““personal data” has the same meaning as in the Data Protection Act 2018 (see section 3(2) of that Act);”;
- ““processing” has the same meaning as in the Data Protection Act 2018 (see section 3(4) of that Act);”.
- (7) Section 327 of the Criminal Justice Act 2003 (interpretation of section 325) is amended in accordance with subsections (8) to (10).
- (8) In subsection (3)—

- (a) in paragraph (a)—
- (i) for “is” substitute “has been”, and
 - (ii) after “specified in” insert “Part 1 or 2 of”, and
- (b) in paragraph (b)—
- (i) in the words before sub-paragraph (i), for “is” substitute “was”,
 - (ii) in sub-paragraph (i), for “for a term of 12 months or more” substitute “that is not for a term of less than 12 months”, and
 - (iii) after sub-paragraph (v) insert—
 - “(va) a sentence of custody for life under section 93 or 94 of the Powers of Criminal Courts (Sentencing) Act 2000 or under section 272 or 275 of the Sentencing Code,”.
- (9) In subsection (4)(a), after “specified in” insert “Part 1 or 2 of”.
- (10) After subsection (4A) insert—
- “(4B) For the purposes of section 325, a person is a relevant terrorist offender if the person falls within one or both of subsections (4C) and (4D).
- (4C) A person falls within this subsection if the person is subject to the notification requirements of Part 4 of the Counter-Terrorism Act 2008.
- (4D) A person falls within this subsection if the person has been convicted of and sentenced for a relevant terrorist offence, or otherwise dealt within in relation to such an offence, as described in—
- (a) paragraph (a) or (b) of section 45(1) of the Counter-Terrorism Act 2008,
 - (b) paragraph (a) or (b) of section 45(2) of that Act,
 - (c) paragraph (a) or (b) of section 45(3) of that Act, or
 - (d) paragraph (a) or (b) of paragraph 5(1) of Schedule 6 to that Act.
- (4E) For the purposes of subsection (4D)—
- (a) any reference in the Counter-Terrorism Act 2008 to an offence to which Part 4 of that Act applies is to be read as if it were a reference to a relevant terrorist offence, and
 - (b) any reference in that Act to a hospital order is to be read as if it included a guardianship order within the meaning of the Mental Health Act 1983 or the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)).
- (4F) In subsections (4D) and (4E) “relevant terrorist offence” means—
- (a) an offence specified in Part 1 or 2 of Schedule 19ZA (terrorism offences punishable with imprisonment for life or for more than two years),
 - (b) a service offence as respects which the corresponding civil offence is so specified, or
 - (c) an offence which was determined to have a terrorist connection (see subsection (4G));
- and in paragraph (b) “service offence” and “corresponding civil offence” have the same meanings as in the Counter-Terrorism Act 2008 (see section 95 of that Act).

Status: This is the original version (as it was originally enacted).

- (4G) For the purposes of subsection (4F)(c), an offence was determined to have a terrorist connection if it was—
- (a) determined to have a terrorist connection under—
 - (i) section 69 of the Sentencing Code (including as applied by section 238(6) of the Armed Forces Act 2006),
 - (ii) section 30 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in England and Wales before the Sentencing Code applied, or an offender sentenced in Northern Ireland but now capable of posing a risk in an area in England and Wales), or
 - (iii) section 32 of that Act (in the case of a person sentenced for a service offence before the Sentencing Code applied), or
 - (b) proved to have been aggravated by reason of having a terrorist connection under section 31 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in Scotland but now capable of posing a risk in an area in England and Wales).”