



National Security Act 2023

2023 CHAPTER 32

PART 2

PREVENTION AND INVESTIGATION MEASURES

Imposition of prevention and investigation measures

40 Conditions A to E

- (1) Condition A is that the Secretary of State reasonably believes that the individual is, or has been, involved in foreign power threat activity.
- (2) Condition B is that some or all of the foreign power threat activity in which the individual is, or has been, involved is new foreign power threat activity.
- (3) Condition C is that the Secretary of State reasonably considers that it is necessary, for purposes connected with protecting the United Kingdom from the risk of acts or threats within section 33(3), for prevention and investigation measures to be imposed on the individual.
- (4) Condition D is that the Secretary of State reasonably considers that it is necessary, for purposes connected with preventing or restricting the individual's involvement in foreign power threat activity, for the prevention and investigation measures specified in the notice to be imposed on the individual.
- (5) Condition E is that—
 - (a) the court gives the Secretary of State permission under [section 42](#), or
 - (b) the Secretary of State reasonably considers that the urgency of the case requires prevention and investigation measures to be imposed without obtaining such permission.
- (6) In relation to prevention and investigation measures under [paragraph 1](#) of [Schedule 7](#) (residence measure), conditions A, B and D (and [subsection \(7\)](#)) apply as if the references to foreign power threat activity were to foreign power threat activity which relates to acts or threats within section 33(3)(b) or (c).

Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Section 40. (See end of Document for details)

- (7) In [this section](#) “new foreign power threat activity” means—
- (a) if no [Part 2](#) notice relating to the individual has ever been in force, foreign power threat activity occurring at any time;
 - (b) if only one [Part 2](#) notice relating to the individual has ever been in force, foreign power threat activity occurring after that notice came into force;
 - (c) if two or more [Part 2](#) notices relating to the individual have been in force, foreign power threat activity occurring after such a notice came into force most recently.
- (8) In this section references to foreign power threat activity, and to an individual’s involvement in such activity, include foreign power threat activity, and an individual’s involvement in such activity, occurring before [section 39](#) comes into force.

Commencement Information

- I1** S. 40 not in force at Royal Assent, see [s. 100\(1\)](#)
I2 [S. 40](#) in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(b\)](#)

Changes to legislation:

There are currently no known outstanding effects for the National Security Act 2023, Section 40.