

SCHEDULE 11A

Article 13

Provisions of the Counter-Terrorism and Security Act 2015 as extended to Jersey

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*Provision as extended to Jersey*

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PART 1

TEMPORARY RESTRICTIONS ON TRAVEL

SECTION 1

POWERS TO SEIZE TRAVEL DOCUMENTS

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**Seizure of passports etc from persons suspected of involvement in terrorism.**

1. Schedule 1 makes provision for the seizure and temporary retention of travel documents where a person is suspected of intending to leave Jersey in connection with terrorism-related activity.

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CHAPTER 2

TEMPORARY EXCLUSION FROM JERSEY

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*Imposition of temporary exclusion orders*

**Temporary exclusion orders.**

2.—(1) A “temporary exclusion order” is an order which requires an individual not to return to Jersey unless –

(a) the return is in accordance with a permit to return issued by the Minister before the individual began the return, or

(b) the return is the result of the individual’s deportation to Jersey.

(2) The Minister may impose a temporary exclusion order on an individual if conditions A to E are met.

(3) Condition A is that the Minister reasonably suspects that the individual is, or has been involved in terrorism-related activity outside the British Islands.

(4) Condition B is that the Minister reasonably considers that it is necessary, for purposes connected with protecting members of the public in Jersey from a risk of terrorism, for a temporary exclusion order to be imposed on the individual.

(5) Condition C is that the Minister reasonably considers that the individual is outside the British Islands.

(6) Condition D is that the individual has the right of abode in Jersey.

(7) Condition E is that –

(a) the Royal Court gives the Minister permission under section 3, or

(b) the Minister reasonably considers that the urgency of the case requires a temporary exclusion order to be imposed without obtaining such permission.

(8) During the period that a temporary exclusion order is in force, the Minister must keep under review whether condition B is met.

**Temporary exclusion orders: prior permission of the Royal Court.**

3.—(1) This section applies if the Minister –

(a) makes the relevant decisions in relation to an individual, and

(b) makes an application to the Royal Court for permission to impose a temporary exclusion order on the individual.

(2) The function of the Royal Court on the application is to determine whether the relevant decisions of the Minister are obviously flawed.

(3) The Royal Court may consider the application –

(a) in the absence of the individual,

(b) without the individual having been notified of the application, and

(c) without the individual having been given an opportunity (if the individual was aware of the application) of making any representations to the Royal Court.

(4) But that does not limit the matters about which rules of court may be made.

(5) In determining the application, the Royal Court must apply the principles applicable on an application for judicial review.

(6) In a case where the Royal Court determines that any of the relevant decisions of the Minister is obviously flawed, the Royal Court may not give permission under this section.

(7) In any other case, the Royal Court must give permission under this section.

(8) Schedule 2 makes provision for references to the Royal Court etc where temporary exclusion orders are imposed in cases of urgency.

(9) Only the Minister may appeal against a determination of the Royal Court under –

(a) this section, or

(b) Schedule 2;

and such an appeal may only be made on a question of law.

(10) In this section “the relevant decisions” means the decisions that the following conditions are met –

(a) condition A;

(b) condition B;

(c) condition C;

(d) condition D.

**Temporary exclusion orders: supplementary provision.**

4.—(1) The Minister must give notice of the imposition of a temporary exclusion order to the individual on whom it is imposed (the “excluded individual”).

(2) Notice of the imposition of a temporary exclusion order must include an explanation of the procedure for making an application under section 6 for a permit to return.

(3) A temporary exclusion order –

(a) comes into force when notice of its imposition is given; and

(b) is in force for the period of two years (unless revoked or otherwise brought to an end earlier).

(4) The Minister may revoke a temporary exclusion order at any time.

(5) The Minister must give notice of the revocation of a temporary exclusion order to the excluded individual.

(6) If a temporary exclusion order is revoked, it ceases to be in force when notice of its revocation is given.

(7) The validity of a temporary exclusion order is not affected by the excluded individual –

(a) returning to Jersey, or

(b) departing from Jersey.

(8) The imposition of a temporary exclusion order does not prevent a further temporary exclusion order from being imposed on the excluded individual (including in a case where an order ceases to be in force at the expiry of its two year duration).

(9) At the time when a temporary exclusion order comes into force, any British passport held by the excluded individual is invalidated.

(10) During the period when a temporary exclusion order is in force, the issue of a British passport to the excluded individual while he or she is outside the British Islands is not valid.

(11) In this section “British passport” means a passport, or other document which enables or facilitates travel from one state to another (except a permit to return), that has been –

(a) issued by or for Her Majesty’s Government in the United Kingdom, and

(b) issued in respect of a person’s status as a British citizen.

Permit to return

**Permit to return.**

5.—(1) A “permit to return” is a document giving an individual (who is subject to a temporary exclusion order) permission to return to Jersey.

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- (2) The permission may be made subject to a requirement that the individual comply with conditions specified in the permit to return.
- (3) The individual's failure to comply with a specified condition has the effect of invalidating the permit to return.
- (4) A permit to return must state –
  - (a) the time at which, or period of time during which, the individual is permitted to arrive on return to Jersey;
  - (b) the manner in which the individual is permitted to return to Jersey; and
  - (c) the place where the individual is permitted to arrive on return to Jersey.
- (5) Provision made under subsection (4)(a) or (c) may, in particular, be framed by reference to the arrival in Jersey of a specific flight, sailing or other transport service.
- (6) Provision made under subsection (4)(b) may, in particular, state –
  - (a) a route,
  - (b) a method of transport,
  - (c) an airline, shipping line or other passenger carrier, or
  - (d) a flight, sailing or other transport service,which the individual is permitted to use to return to Jersey.
- (7) The Minister may not issue a permit to return except in accordance with section 6 or 7.
- (8) It is for the Minister to decide the terms of a permit to return (but this is subject to section 6(3)).

**Issue of permit to return: application by individual.**

- 6.—**(1) If an individual applies to the Minister for a permit to return, the Minister must issue a permit within a reasonable period after the application is made.
- (2) But the Minister may refuse to issue the permit if –
    - (a) the Minister requires the individual to attend an interview with a police officer or immigration officer at a time and a place specified by the Minister, and
    - (b) the individual fails to attend the interview.
  - (3) Where a permit to return is issued under this section, the relevant return time must fall within a reasonable period after the application is made.
  - (4) An application is not valid unless it is made in accordance with the procedure for applications specified by the Minister.
  - (5) In this section –

“application” means an application made by an individual to the Minister for a permit to return to be issued;

“relevant return time” means –

(a) the time at which the individual is permitted to arrive on return to Jersey (in a case where the permit to return states such a time), or

(b) the start of the period of time during which the individual is permitted to arrive on return to Jersey (in a case where the permit to return states such a period).

**Issue of permit to return: deportation or urgent situation.**

7.—(1) The Minister must issue a permit to return to an individual if the Minister considers that the individual is to be deported to Jersey.

(2) The Minister may issue a permit to return to an individual if –

(a) the Minister considers that, because of the urgency of the situation, it is expedient to issue a permit to return even though no application has been made under section 6, and

(b) there is no duty to issue a permit to return under subsection (1).

(3) Subsection (1) or (2) applies whether or not any request has been made to issue the permit to return under that provision.

**Permit to return: supplementary provision.**

8.—(1) The Minister may vary a permit to return.

(2) The Minister may revoke a permit to return issued to an individual only if –

(a) the permit to return has been issued under section 6 and the individual asks the Minister to revoke it;

(b) the permit to return has been issued under section 7(1) and the Minister no longer considers that the individual is to be deported to Jersey;

(c) the permit to return has been issued under section 7(2) and the Minister no longer considers that, because of the urgency of the situation, the issue of the permit to return is expedient;

(d) the Minister issues a subsequent permit to return to the individual; or

(e) the Minister considers that the permit to return has been obtained by misrepresentation.

(3) The making of an application for a permit to return to be issued under section 6 (whether or not resulting in a permit to return being issued) does not prevent a subsequent application from being made.

(4) The issuing of a permit to return (whether or not resulting in the individual’s return to Jersey) does not prevent a subsequent permit to return from being issued (whether or not the earlier permit is still in force).

*Obligations after return to Jersey*

**Obligations after return to Jersey.**

- 9.—(1) The Minister may, by notice, impose any or all of the permitted obligations on an individual who –
- (a) is subject to a temporary exclusion order, and
  - (b) has returned to Jersey.
- (2) The “permitted obligations” are –
- (a) an obligation –
    - (i) to report to a police station at such times and in such manner as the Minister may by notice require, and to comply with any directions given by a police officer in relation to such reporting;
    - (ii) to attend appointments with specified persons or persons of specified descriptions at specified times and places, and to comply with any reasonable directions given by the Minister that relate to matters about which the individual is required to attend an appointment;
  - (b) an obligation to notify the police, in such manner as a notice under this section may require, of –
    - (i) the individual’s place (or places) of residence, and
    - (ii) any change in the individual’s place (or places) of residence.
- (2A) A notice under this section may provide that a requirement to report to a police station is not to apply if conditions specified in the notice are met.
- (3) A notice under this section –
- (a) comes into force when given to the individual; and
  - (b) is in force until the temporary exclusion order ends (unless the notice is revoked or otherwise brought to an end earlier).
- (4) The Minister may, by notice, vary or revoke any notice given under this section.
- (5) The variation or revocation of a notice under this section takes effect when the notice of variation or revocation is given to the individual.
- (6) The validity of a notice under this section is not affected by the individual –
- (a) departing from Jersey, or
  - (b) returning to Jersey.
- (7) The giving of any notice to an individual under this section does not prevent any further notice under this section from being given to that individual.

Offences and proceedings etc

**Offences.**

**10.**—(1) An individual subject to a temporary exclusion order is guilty of an offence if, without reasonable excuse, the individual returns to Jersey in contravention of the restriction on return specified in the order.

(2) It is irrelevant for the purposes of subsection (1) whether or not the individual has a passport or other similar identity document.

(3) An individual subject to an obligation imposed under section 9 is guilty of an offence if, without reasonable excuse, the individual does not comply with the obligation.

(4) In a case where a relevant notice has not actually been given to an individual, the fact that the relevant notice is deemed to have been given to the individual under an Order under section 13 does not (of itself) prevent the individual from showing that lack of knowledge of the temporary exclusion order, or of the obligation imposed under section 9, was a reasonable excuse for the purposes of this section.

(5) An individual guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 5 years or to a fine, or to both.

(7) In this section –

“relevant notice” means –

- (a) notice of the imposition of a temporary exclusion order, or
- (b) notice under section 9 imposing an obligation;

“restriction on return” means the requirement specified in a temporary exclusion order in accordance with section 2(1).

**Review of decisions relating to temporary exclusion orders.**

**11.**—(1) This section applies where an individual who is subject to a temporary exclusion order is in Jersey.

(2) The individual may apply to the Royal Court to review any of the following decisions of the Minister –

(a) a decision that any of the following conditions was met in relation to the imposition of the temporary exclusion order –

- (i) condition A;
- (ii) condition B;
- (iii) condition C;
- (iv) condition D;

(b) a decision to impose the temporary exclusion order;

(c) a decision that condition B continues to be met;

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- (d) a decision to impose any of the permitted obligations on the individual by a notice under section 9.
- (3) On a review under this section, the Royal Court must apply the principles applicable on an application for judicial review.
- (4) On a review of a decision within subsection (2)(a) to (c), the Royal Court has the following powers (and only those powers) –
- (a) power to quash the temporary exclusion order;
  - (b) power to give directions to the Minister for, or in relation to, the revocation of the temporary exclusion order.
- (5) If the Royal Court does not exercise either of its powers under subsection (4), the Royal Court must decide that the temporary exclusion order is to continue in force.
- (6) On a review of a decision within subsection (2)(d), the Royal Court has the following powers (and only those powers) –
- (a) power to quash the permitted obligation in question;
  - (b) if that is the only permitted obligation imposed by the notice under section 9, power to quash the notice;
  - (c) power to give directions to the Minister for, or in relation to –
    - (i) the variation of the notice so far as it relates to that permitted obligation, or
    - (ii) if that is the only permitted obligation imposed by the notice, the revocation of the notice.
- (7) If the Royal Court does not exercise any of its powers under subsection (6), the Royal Court must decide that the notice under section 9 is to continue in force.
- (8) If the Royal Court exercises a power under subsection (6)(a) or (c)(i), the Royal Court must decide that the notice under section 9 is to continue in force subject to that exercise of that power.
- (9) The power under this section to quash a temporary exclusion order, permitted obligation or notice under section 9 includes power to stay the quashing for a specified time, or pending an appeal or further appeal against the decision to quash.
- (10) An appeal against a determination of the Royal Court on a review under this section may only be made on a question of law.
- (11) For the purposes of this section, a failure by the Minister to make a decision whether condition B continues to be met is to be treated as a decision that it continues to be met.

**Temporary exclusion orders: proceedings and appeals against convictions.**

**12.**—(1) Schedule 3 makes provision about proceedings relating to temporary exclusion orders.

(2) Schedule 4 makes provision about appeals against convictions in cases where a temporary exclusion order, a notice under section 9 or a permitted obligation is quashed.

Supplementary

**Orders: giving of notices, legislation relating to passports.**

**13.**—(1) The Minister may by Order make provision about the giving of –

(a) notice under section 4, and

(b) notice under section 9.

(2) The Order may, in particular, make provision about cases in which notice is to be deemed to have been given.

(3) The Minister may make Orders providing for legislation relating to passports or other identity documents (whenever passed or made) to apply (with or without modifications) to permits to return.

**Chapter 2: interpretation.**

**14.**—(1) This section applies for the purposes of this Chapter.

(2) These expressions have the meanings given –

“act” and “conduct” include omissions and statements;

“act of terrorism” includes anything constituting an action taken for the purposes of terrorism, within the meaning of the Terrorism (Jersey) Law 2002 (see Article 1 of that Law);

“condition A”, “condition B”, “condition C”, “condition D” or “condition E” means that condition as set out in section 2;

“the Minister” means the Minister for Home Affairs;

“permit to return” has the meaning given in section 5;

“temporary exclusion order” has the meaning given in section 2;

“terrorism” has the same meaning as in the Terrorism (Jersey) Law 2002 (see Article 1 of that Law).

(3) An individual is –

(a) subject to a temporary exclusion order if a temporary exclusion order is in force in relation to the individual; and

(b) subject to an obligation imposed under section 9 if an obligation is imposed on the individual by a notice in force under that section.

(4) Involvement in terrorism-related activity is any one or more of the following –

(a) the commission, preparation or instigation of acts of terrorism;

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(b) conduct that facilitates the commission, preparation or instigation of such acts, or is intended to do so;

(c) conduct that gives encouragement to the commission, preparation or instigation of such acts, or is intended to do so;

(d) conduct that gives support or assistance to individuals who are known or believed by the individual concerned to be involved in conduct falling within paragraph (a).

It is immaterial whether the acts of terrorism in question are specific acts of terrorism or acts of terrorism in general.

(5) It is immaterial whether an individual’s involvement in terrorism-related activity occurs before or after the coming into force of section 2.

(6) References to an individual’s return to Jersey include, in the case of an individual who has never been in Jersey, a reference to the individual’s coming to Jersey for the first time.

(7) References to deportation include references to any other kind of expulsion.

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## PART 4

### AVIATION AND SHIPPING

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#### Commencement Information

II Sch. 11A Pt. 4 comes into force in accordance with [art. 1\(1\)](#)

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#### Authority-to-carry schemes.

**22.**—(1) The Minister may by Order make one or more schemes requiring a person (a “carrier”) to seek authority from the Minister to carry persons on aircraft or ships which are –

(a) arriving, or expected to arrive, in Jersey, or

(b) leaving, or expected to leave, Jersey.

A scheme made under this section is called an “authority-to-carry scheme”.

(2) An authority-to-carry scheme must specify or describe –

(a) the classes of carrier to which it applies (which may be all carriers or may be defined by reference to the method of transport or otherwise),

(b) the classes of passengers or crew in respect of whom authority to carry must be sought (which may be all of them or may be defined by reference to nationality, the possession of specified documents or otherwise), and

(c) the classes of passengers or crew in respect of whom authority to carry may be refused.

(3) An authority-to-carry scheme may specify or describe a class of person under subsection (2) (c) only if it is necessary in the public interest.

(4) An Order under subsection (1) may make different authority-to-carry schemes for different purposes and in particular may make different schemes for different types of carrier, journey or person.

(5) An authority-to-carry scheme must set out the process for carriers to request, and for the Minister to grant or refuse, authority to carry, which may include –

(a) a requirement for carriers to provide specified information on passengers or crew by a specified time before travel;

(b) a requirement for carriers to provide the information in a specified manner and form;

(c) a requirement for carriers to be able to receive, in a specified manner and form, communications from the Minister relating to the information provided or granting or refusing authority to carry.

(6) Information specified under subsection (5)(a) may be information that can be required to be supplied under paragraph 27, 27B or 27BA of Schedule 2 to the Immigration Act 1971, section 32 or 32A of the Immigration, Asylum and Nationality Act 2006 or otherwise.

(7) The grant or refusal of authority under an authority-to-carry scheme does not determine whether a person is entitled or permitted to enter Jersey.

**Penalty for breach of authority-to-carry scheme.**

**24.—**(1) The Minister may make provision by Order imposing penalties for breaching the requirements of an authority-to-carry scheme.

(2) An Order under subsection (1) must identify the authority-to-carry scheme to which they refer.

(3) An Order under subsection (1) may in particular make provision –

(a) about how a penalty is to be calculated;

(b) about the procedure for imposing a penalty;

(c) about the enforcement of penalties;

(d) allowing for an appeal against a decision to impose a penalty;

and the Order may make different provision for different purposes.

(4) Provision in the Order about the procedure for imposing a penalty must provide for a carrier to be given an opportunity to object to a proposed penalty in the circumstances set out in the Order.

(5) The Order must provide that no penalty may be imposed on a carrier for breaching the requirements of an authority-to-carry scheme where –

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- (a) the breach consists of a failure to provide information that the carrier has also been required to provide under paragraph 27, 27B or 27BA of Schedule 2 to the Immigration Act 1971 and –
  - (i) a penalty has been imposed on the person in respect of a failure to provide that information by virtue of an Order made under paragraph 27BB of Schedule 2 to that Act, or
  - (ii) proceedings have been instituted against the carrier under section 27 of that Act in respect of a failure to provide that information, or
- (b) the breach consists of a failure to provide information that the carrier has also been required to provide under section 32 or 32A of the Immigration, Asylum and Nationality Act 2006 and –
  - (i) a penalty has been imposed on the person in respect of a failure to provide that information by virtue of an Order made under section 32B of that Act, or
  - (ii) proceedings have been instituted against the carrier under section 34 of that Act in respect of a failure to provide that information.
- (6) Any penalty paid by virtue of this section must be paid to the Treasurer of the States and credited to the Annual Income of the States.

**Aviation and maritime security.**

- 25.**—(1) Schedule 5 makes amendments to do with aviation and maritime security.
- (2) Part 1 of that Schedule makes amendments about passenger, crew and service information in relation to aircraft and ships.
  - (3) Part 2 of that Schedule makes amendments of the provisions relating to directions etc in –
    - (a) the Aviation Security Act 1982,
    - (b) the Aviation and Maritime Security Act 1990.

**Short title.**

- 53.** This Act may be cited as the Counter-Terrorism and Security Act 2015.
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**Changes to legislation:**

There are currently no known outstanding effects for the The Immigration (Jersey) Order 2021, SCHEDULE 11A.