



Home Office

Rt Hon Ben Wallace MP
Minister of State for Security and
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Nick Thomas-Symonds MP
House of Commons
London
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6 September 2018

Dear Nick,

COUNTER-TERRORISM AND BORDER SECURITY BILL: FURTHER GOVERNMENT AMENDMENTS FOR COMMONS REPORT STAGE

I am writing to let you have details of the further Government amendments I tabled yesterday for Report stage.

“Designated area” offence (new clause “*Entering or remaining in a designated area*” and amendments to clauses 8, 9, 10 and 23 and Schedule 4)

At Second Reading, John Woodcock and other MPs pointed to the need to strengthen the legislation to tackle foreign terrorist fighters, and Assistant Commissioner Neil Basu argued for an Australian-style “designated area” offence in his oral evidence to the Public Bill Committee (Official Report, 26 June 2018, column 9). Gregor McGill, the Director of Legal Services at the Crown Prosecution Service, also indicated in his evidence that such an offence could help address some of the issues with foreign fighters in the future. The Government agrees with this assessment and new clause “*Entering or remaining in a designated area*” provides for such an offence.

The key features of this new measure are as follows:

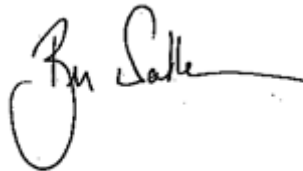
- It would be an offence for a UK national or UK resident to enter or remain in a designated area outside of the UK.
- The offence would not apply to a person who is in the service of, or acting on behalf of, the Crown (for example, as a member of the armed forces). For other persons, there would be a reasonable excuse defence. This would cover persons entering or remaining in the designated area, for example, for the purpose of providing humanitarian aid; to carry out work for a foreign government (including service in their armed forces) or the UN; to work as a journalist; or to attend a funeral of a close relative. It would be for the

defendant to demonstrate that the defence applied. Once a defendant has raised the defence the burden of proof (to the criminal standard) to disprove the defence would rest with the prosecution (see section 118 of the 2000 Act).

- Prosecution for the offence in England and Wales and Northern Ireland would require the consent of the Director of Public Prosecutions given with the permission of the Attorney General/Advocate General (see section 117 of the 2000 Act).
- The offence would be triable on indictment and subject to a maximum penalty of 10 years' imprisonment, a fine, or both. The offence would be added to the list of terrorism offences for which an extended sentence may be imposed.
- An area outside the UK would be designated by the Secretary of State by regulations (subject to the made affirmative procedure). The test for designation would be that the Secretary of State is satisfied that it is necessary to designate an area in order to protect the public from a risk of terrorism. The Secretary of State would be required to keep any designation under review.

I attach supplementary delegated powers and ECHR memoranda.

I am copying this letter to Diane Abbott, members of the Public Bill Committee, Yvette Cooper (Chair, Home Affairs Select Committee), Harriet Harman (Chair, Joint Committee on Human Rights), Dominic Grieve (Chair, Intelligence and Security Committee), Sir Edward Davey, John Woodcock, Lord Rosser and Lord Paddick; I am also placing a copy in the library of the House.

A handwritten signature in black ink, appearing to read 'Ben Wallace', with a long horizontal flourish extending to the right.

Rt Hon Ben Wallace MP

Minister of State for Security and Economic Crime