



Counter-Terrorism and Border Security Act 2019

Terrorism Offences Fact Sheet

What are we going to do?

- The Act closes gaps and updates various terrorism offences to ensure that they are up to date as the terrorist threat changes.
- The Act will also further extend the reach of the UK courts to bring to justice people who commit certain terrorism offences abroad.

Key quote

“The CPS successfully prosecutes terrorism offences. The nature of these offences is ever changing as technology increasingly provides opportunities for radicalisation, and the planning and execution of terrorist acts. The changes to the legislation will allow us to continue to adapt to combatting the threat from international terrorism in a modern digital world.”

Alison Saunders QC, Director of Public Prosecutions, 2013-18

How are we going to do it?

- Ensure that the police can act against people who promote proscribed terrorist organisations, by making it clear that it is illegal to make statements in support of a terrorist organisation being reckless as to whether others will be encouraged to support the organisation (by extending section 12 of the Terrorism Act 2000 (“the 2000 Act”).
- Make it clear that publishing an image of an item of clothing or other article (such as a flag) of a proscribed group online in circumstances arousing reasonable suspicion that a person is a supporter of the proscribed group is unlawful under section 13 of the 2000 Act; in addition, we will provide the police with the power to seize such articles from an individual who is displaying them in a public place, if an officer reasonably suspects that the item is evidence of an offence under section 13.
- Amend section 58 of the 2000 Act to make it clear that it is an offence to view or otherwise access terrorist material online without a reasonable excuse; it will be a reasonable excuse if the person does not know, or has no reason to believe, that the material is likely to be useful to a person preparing or committing an act of terrorism, or for a person to access such material for the purposes of carrying out work as a journalist or academic research.
- Enable the Secretary of State to designate an area outside the UK, if necessary in order to protect the public from a risk of terrorism, which it would be a criminal offence for a UK national or resident to travel to, or remain in, unless they were there solely for an exempted purpose or had a reasonable excuse.
- Make clear that an offence under section 1 or 2 of the Terrorism Act 2006 (“the 2006 Act”) may be committed where a person makes a statement or disseminates a publication encouraging terrorism even if the person to whom the statement or publication is communicated does not understand that they are being encouraged to engage in terrorism (for example because they are a child or vulnerable adult).



How are we going to do it?

- Extend extra-territorial jurisdiction to the offences of inviting or expressing support for a proscribed organisation (section 12(1) and (1A) of the 2000 Act); displaying an article associated with a proscribed organisation (section 13 of the 2000 Act); dissemination of terrorist publications (section 2 of the 2006 Act); making or possessing explosives under suspicious circumstances (section 4 of the Explosive Substances Act 1883) where the offence is committed for terrorist purposes; and extend the existing scope of extra-territorial jurisdiction for the encouragement of terrorism offence, so that individuals who commit these offences overseas can be prosecuted in the UK if appropriate.

Background

- There are a number of areas where it would be useful to update, clarify or strengthen the law, to ensure that individuals who pose a serious threat to the public by engaging in terrorist activity can be prosecuted.
- Operational experience has shown that there is a gap around individuals who make reckless statements expressing their own support for terrorist organisations, with the risk that other people will be encouraged to support the organisation, but who stop short of deliberately inviting others to do so (section 12 of the 2000 Act).
- The internet is being increasingly used for radicalisation by individuals in the UK and overseas. This can range from someone encouraging another to engage in terrorist activity (section 1 of the 2006 Act), to someone watching or reading material which could be of use to a terrorist (section 58 of the 2000 Act), and could involve publishing pictures of flags or clothing associated with a proscribed organisation (section 13 of the 2000 Act) in order to promote that organisation.
- Recent conflicts have seen UK-based individuals travelling overseas not only to join proscribed terrorist organisations, but to take up active roles in the fighting. The UK courts already have extra-territorial jurisdiction over a number of terrorism offences, including preparation of terrorist acts, encouragement of terrorism, training for terrorism, and membership of a proscribed organisation. Some foreign terrorist fighters have been particularly active online, reaching back to radicalise individuals in the UK and elsewhere. This includes promoting their affiliation to proscribed organisations such as Daesh and encouraging people to support those organisations, through methods such as displaying the flag of the organisation online. It has also included encouraging people to carry out attacks in the UK or elsewhere. At present, it is not always possible to prosecute in the UK returning foreign fighters who have engaged in such conduct.



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Does criminalising expressions of support for proscribed organisations interfere with freedom of speech?

- We are not making it unlawful to hold a private view in support of a terrorist organisation. But it is right to criminalise those who make clear expressions of support for terrorist organisations, and who are reckless as to whether that will encourage others to support the organisation. This type of activity can lead to a real risk of harm to the public. We believe that this type of radicalisation should be illegal in order to stop support for these groups and to protect the public.

What safeguards are in place for those who have a legitimate reason to publish an image of a proscribed terrorist organisation's flag?

- The offence requires not just that a person publish the image, but also that they do so in circumstances which would cause a reasonable person to suspect that they support the organisation. Where for example a journalist displays a flag in the course of legitimately reporting a news story, there would be no such suggestion and it would be clear that they do not themselves support the organisation.

What about people who have a legitimate reason to view terrorist material online?

- The existing offence of collecting or possessing information likely to be useful to a terrorist has a 'reasonable excuse defence' which might apply to an academic or journalist conducting legitimate research. This will continue to apply to the extended offence of viewing such material online.

Why is new legislation being introduced now?

- Radicalisation and terrorist activity is constantly evolving. It is right that we keep our counter-terrorism framework under review so that it can respond effectively to emerging trends in the terrorism threat.

Does extending extra-territorial jurisdiction mean that the UK will be responsible for prosecuting terrorist acts committed anywhere in the world?

- A prosecution would only take place in the UK if the accused were physically present in this jurisdiction, if it was in the public interest to prosecute, and with the consent of the Director of Public Prosecutions. And in a case where the offence is wholly or partly connected with the affairs of another country, the permission of the Attorney General is also required. In some cases, we might seek an individual's lawful repatriation (i.e. in accordance with



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extradition proceedings) to the UK for purposes of prosecution. However terrorism crosses international borders and this legislation is needed so that the UK can respond appropriately.

Will these measures apply across the United Kingdom?

- Yes; the existing offences already apply in England and Wales, Scotland and Northern Ireland.

Key facts

- 31 terrorist groups have been proscribed since 2010. The neo-Nazi group National Action was proscribed in December 2016, with the most recent proscription order proscribing four groups in December 2017. In total, 74 organisations are proscribed under the Terrorism Act 2000.
- In the year to 30 September 2018, 85 individuals were charged for terrorism-related offences.
- ETJ was extended under the Serious Crime Act 2015 to cover the preparation of terrorist acts and training for terrorism abroad.