



# Counter-Terrorism and Border Security Act 2019

## Counter-Terrorism Powers Fact Sheet

### What are we going to do?

- The Act enshrines in law the protection against self-incrimination where someone is questioned at a port under Schedule 7 to the Terrorism Act 2000.
- The Act ensures that the police are able to use the full period of pre-charge detention the law provides under the Terrorism Act 2000 to question a terrorist suspect before having to release or charge them.

### Key quotes

*“The law should be changed so as to allow the detention clock to be suspended in the case of detainees who are admitted to hospital”*

**David Anderson QC (now Lord Anderson), former Independent Review of Terrorism Legislation**

*“There should be a statutory bar to the introduction of Schedule 7 admissions to a subsequent criminal trial”*

**David Anderson QC**

### How are we going to do it?

- Introduce a statutory bar to the use of evidence in a criminal trial of any oral answers or information provided to an examining officer in the course of an examination at a port made under Schedule 7 to the Terrorism Act 2000 (the 2000 Act).
- Amend section 41 of the 2000 Act so that the detention clock is paused when a person detained under this section is transferred from police custody to hospital, allowing police the full 14 days where needed to question a suspect. This will bring the 2000 Act into line with the general power of arrest in the Police and Criminal Evidence Act 1984 (PACE).
- Pause the detention clock in the same circumstances for an individual detained under Schedule 7 to the 2000 Act, allowing officers the full 6 hours provided by the 2000 Act for questioning of an individual.
- The Act amends Schedule 7 to ensure that an individual detained under this power has the right to consult a solicitor in private, and makes clear that an individual is informed of their rights when they are first detained.

### Background

- Under PACE, which provides the general power of arrest, any period an individual spends receiving hospital treatment is excluded when calculating the time that a suspect has spent in detention, allowing police to interview an individual for the full duration permitted by law. Lord Anderson, the former Independent Reviewer of Terrorism Legislation, recommended that periods spent receiving hospital treatment, or travelling to or from hospital, should similarly be excluded where a person is arrested on suspicion of being a terrorist and detained under the 2000 Act, so that the amount of time available to the police to question a terrorist suspect is not reduced.



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- Schedule 7 to the 2000 Act allows police to stop, question and search individuals at a port for the purposes of determining whether they are, or have been, concerned with the commission, preparation or instigation of acts of terrorism. The Supreme Court has said that answers given during a Schedule 7 examination would generally be inadmissible in a criminal prosecution but that it would be desirable for this to be confirmed by statute.

### Will the detention clock remain paused for the entire duration that an individual is in hospital?

- The 'detention clock' will be paused whilst a detained suspect is receiving hospital treatment or travelling to or from hospital, unless the person is being questioned in hospital or during transit.

### What is 'Schedule 7'?

- Schedule 7 to the Terrorism Act 2000 allows the police or other examining officer to stop, question, detain and search individuals travelling through ports, airports, international rail stations or border areas to determine if they appear to be a person who is or has been concerned in the commission, preparation, or instigation of acts of terrorism.

### Can someone refuse to be subjected to a Schedule 7 examination?

- Wilful obstruction of a Schedule 7 examination, or refusing to answer questions or to provide information requested is a criminal offence and could result in three months in prison and/or a fine of up to £2500.

### Will there be any circumstances where a Schedule 7 admission can be used in criminal proceedings?

- Yes, but only in limited circumstances. Such admissions may be used as evidence in proceedings for an offence under Schedule 7 (including wilful failure to answer questions), in a prosecution for perjury, or in a prosecution for another offence where the defendant makes a statement inconsistent with information he or she provided in response to a Schedule 7 examination.

### Will these measures apply across the United Kingdom?

- Yes; the measures will apply across England and Wales, Scotland and Northern Ireland.

#### Key facts

- In the year to 30 September 2018, 16,919 examinations were made under Schedule 7. This represents a fraction of a percent of those travelling through UK international ports and airports.
- Under the Terrorism Act 2000, Police have up to 14 days to question a suspect.