



# **Memorandum to the Home Affairs Committee**

## **Post-Legislative Scrutiny of the Terrorism Prevention and Investigation Measures Act 2011**

Presented to Parliament  
by the Secretary of State for the Home Department  
by Command of Her Majesty

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Any enquiries regarding this publication should be sent to us at:

CT Pursue Unit  
5<sup>th</sup> Floor Peel Building  
Home Office  
2 Marsham Street  
London SW1P 4DF

[TPIMteam@homeoffice.x.gsi.gov.uk](mailto:TPIMteam@homeoffice.x.gsi.gov.uk)

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## **MEMORANDUM TO THE HOME AFFAIRS COMMITTEE**

### **POST-LEGISLATIVE ASSESSMENT OF THE TERRORISM PREVENTION AND INVESTIGATION MEASURES ACT 2011**

#### **INTRODUCTION**

1. The memorandum provides a preliminary assessment of the Terrorism Prevention and Investigation Measures Act 2011 (“the Act”) and has been prepared by the Home Office for submission to the Home Affairs Committee. It is published as part of the process set out in the document *Post Legislative Scrutiny – The Government’s Approach* (Cm 7320).

#### **OBJECTIVES OF THE TERRORISM PREVENTION AND INVESTIGATION MEASURES ACT 2011**

2. The Act introduced a new system of terrorism prevention and investigation measures (TPIMs), replacing the control order system. A key objective of the Act was to introduce a more focussed regime with increased safeguards for the civil liberties of those subject to the measures, which still protected the public from the risk of terrorism.
3. The Act allows for the imposition of measures on an individual where the Secretary of State is satisfied, on the balance of probabilities<sup>1</sup>, that the person is, or has been, involved in terrorism-related activity. Those measures are contained in a “TPIM notice”, the imposition of which must be necessary for purposes connected with protecting the public from the risk of terrorism and to prevent or restrict the individual’s involvement in terrorist-related activity.
4. TPIMs are civil preventative measures intended for use only when the prosecution, or deportation in the case of foreign nationals, of individuals considered to be involved in terrorist-related activity is not possible.

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<sup>1</sup> The Counter-Terrorism and Security Act 2015 amended section 3(1) of the Act, raising the threshold for which the Secretary of State can impose a TPIM from “a reasonable belief” that an individual is, or has been, involved in terrorism-related activity to satisfaction on the balance of probabilities of such involvement.

## 5. The Act:

- repealed the control orders regime contained in the Prevention of Terrorism Act 2005 (the “2005 Act”);
- introduced a replacement system of terrorism prevention and investigation measures;
- increased safeguards for the civil liberties of individuals subject to the measures, including a higher test for the measures to be imposed than existed under control orders<sup>2</sup> and a maximum duration of two years. Further TPIM notices can only be imposed if the person has engaged in new terrorism-related activity;
- made much clearer what restrictions can and cannot be imposed. Restrictions that impact on an individual’s ability to follow a normal pattern of daily life are kept to the minimum necessary to protect the public, and must be proportionate and clearly justified. Schedule 1 to the Act prescribes those restrictions that can potentially be imposed;
- provided for broad judicial oversight of the system, including: a requirement for high court permission to impose the measures (or for the high court immediately to confirm the measures imposed in urgent cases); an automatic full review of each case in which measures are imposed (unless the individual requests the hearing is discontinued); and rights of appeal for the individual against refusal of a request to revoke or vary the measures;
- placed a duty on the Secretary of State to consult on the prospects of prosecuting an individual before measures may be imposed and a duty to keep the necessity of measures under review while they are in force;
- provided for the Independent Reviewer Of Terrorism Legislation to publish regular reviews of the operation of the system.

## 6. In 2015, taking on board recommendations of David Anderson QC, the Independent Reviewer of Terrorism Legislation, the Counter-Terrorism and Security Act 2015

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<sup>2</sup> Under the 2005 Act the Secretary of State required a reasonable suspicion of an individual’s involvement in terrorism-related activity before imposing a Control Order. When the TPIM Act was first introduced in 2011 this threshold was raised: the Secretary of State required a reasonable belief that an individual was involved in terrorism-related activity before imposing a TPIM. An amendment to the Act introduced by the Counter-Terrorism and Security Act 2015 raised the threshold again so that the Secretary of State must be satisfied on the balance of probabilities that an individual is or has been involved in terrorism-related activity before imposing a TPIM.

(“CTSA”) introduced a number of amendments to the Act (annex A) to enhance the effectiveness of TPIMs as disruption measures and to strengthen the protections contained in the regime. These changes are detailed in the assessment section of this memorandum. That section also sets out in greater detail the policy objectives behind the specific provisions of the Act.

7. The Parliamentary Research Papers 11/46, 11/62 and 14/63 and the Commons Library Standard Notes 6799 and 7073 provide a summary of the policy background to the Act and subsequent amendments.

## **IMPLEMENTATION**

8. All of the provisions of the Act commenced in full on **15 December 2011**.
9. The CTSA amended the Act. The majority of the amendments commenced on **12 February 2015**, other than the amendments to section 20 of the Act concerning the Independent Reviewer’s functions, which came into force on **12 April 2015**. Details of these provisions are set out in the assessment section of this memorandum.

## **SECONDARY LEGISLATION AND SUPPORTING DOCUMENTS**

### *Secondary legislation*

10. Section 21 of the Act provides that the powers set out in the Act<sup>3</sup> expire upon the fifth anniversary of the Act being passed, but prior to expiry allows for the Secretary of State to provide for their continuation, by order, for up to five years, subject to the affirmative resolution procedure. The Secretary of State may also, by order, repeal TPIM powers or revive them after they have been allowed to expire. There is provision that such an order need not be made subject to the normal affirmative resolution procedure in a case where the Secretary of State declares that this is necessary by reasons of urgency. Instead, in those instances, the Order must be laid before Parliament after being made and must be approved by resolution of each House within 40 days, failing which it will cease to have effect.

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<sup>3</sup> The powers to impose, extend, vary and revive a TPIM notice (section 21(8)).

11. An Order (the Terrorism Prevention and Investigation Act 2011 (Continuation) Order 2016) has been made under section 21 of the Act, extending the Secretary of State's TPIM powers under the Act, which were due to expire on 14 December 2016, for a further five years until 13 December 2021. Details of this Order and its commencement are included at **Annex B**. The Order will be debated in the House of Commons on Wednesday 26 October.
12. Other statutory instruments have been made under Schedule 4 to the Act, providing for rules of court that apply to TPIM proceedings. These are:
- the Civil Procedure (Amendment No 3) Rules, SI 2011/2970, made under paragraph 7 of Schedule 4 to the Act; and
  - the Act of Sederunt (Rules of the Court of Session Amendment No 8 Terrorism Prevention and Investigation Measures) 2011, SSI 2011/44, made under paragraphs 2-4 of Schedule 4 to the Act and section 5 of the Court of Session Act 1988 (these rules apply in Scotland).
13. Sections 26 and 27 of the Act provide a power for the Secretary of State to introduce, by order, powers to impose enhanced TPIM notices. The provision that may be made by such an order would essentially correspond to that set out in the draft ETPIM Bill<sup>4</sup>. This power may only be used between the dissolution of a Parliament and the first Queen's Speech of the next Parliament when the case is urgent. The power has not been exercised.

## **LEGAL ISSUES**

14. There have been no legal challenges to the provisions of the Act itself.
15. In each case in which TPIM measures are imposed, there will be an automatic full review (unless the individual requests the hearing is discontinued). Overall the

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<sup>4</sup> The 2011 Counter Terrorism Review [<https://www.gov.uk/review-of-Counter-Terrorism-and-security-powers>] concluded that there may be exceptional circumstances in which the Government would need to seek Parliamentary approval for additional restrictive measures. The then Government committed to preparing draft emergency legislation for introduction should such exceptional circumstances arise. The draft Enhanced Terrorism Prevention and Investigation Measures Bill was published on 1 September 2011 [<https://www.gov.uk/government/uploads/system../etpim-draft-bill.pdf>]. It provides powers for the Secretary of State to impose enhanced TPIM notices, specifying more stringent restrictions than those available under the TPIM Act, including curfews of up to 16 hours; a total ban on access to communications equipment such as computers and mobile phones; and further restrictions on association.



Government has a strong record of success in terms of the courts granting permission to impose TPIM notices and in terms of those notices being upheld at the full review. Only in a minority of cases have particular measures been subsequently revoked or changed as a result of court direction.

16. The structure of the Act itself provides for such challenges. Sections 16-18 (appeals and court proceedings) provide that a person subject to measures may appeal against: the extension or revival of a notice; a variation of a measure specified in a notice without consent; and the Secretary of State's refusal of an application to revoke a notice, to vary a specified measure or to grant permission in relation to a specified measure. This has ensured that notices consist only of necessary restrictions, proportionate to the legitimate end of restricting a subject's involvement in terrorism-related activity.
17. The Act also provides for automatic review by the courts of a decision by the Secretary of State to impose a TPIM. Sections 6-9 and Schedule 2 (court scrutiny of imposition of measures) provide that before imposing measures on an individual the Secretary of State must seek the court's permission to do so – except in cases of urgency, where the notice must be immediately referred to the court for confirmation. If the court gives permission or confirms measures imposed urgently, it must give directions for a full review hearing at which the court will review the Secretary of State's decisions in relation to imposing the measures.
18. In his report on the operation of the Act in 2013,<sup>5</sup> the Independent Reviewer of Terrorism Legislation, David Anderson QC, recommended a number of changes including: strengthening the locational constraints available under a TPIM; introducing an appointments measure to require TPIM subjects to meet with organisations and other persons as required by the Secretary of State; increasing the threshold in the legal test to impose any TPIM notice from reasonable belief of past or current involvement in terrorism-related activity to satisfaction of such involvement on the balance of probabilities; and narrowing the definition of terrorism-

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<sup>5</sup> Terrorism Prevention and Investigation Measures in 2013: Second Report of the Independent Reviewer on the Operation of the Terrorism Prevention and Investigations Act 2011, David Anderson QC [<https://terrorismlegislationreviewer.independent.gov.uk/2014-tpims-report/>]

related activity in the Act to ensure that it is clear that it will only apply to cases that require the stringent measures available under the Act (i.e. removing from the definition conduct which gives ‘support or assistance’ to individuals who are known or believed by the individuals concerned to be involved in the ‘encouragement or facilitation of acts of terrorism’).

19. The Government accepted those recommendations and they formed part of the package of amendments to the Act introduced by CTSA. Further detail on the background to these changes is included in the assessment section of this Memorandum below.

### **OTHER REVIEWS**

20. There are a number of Commons Library Research papers relevant to the policy background to the Act and subsequent amendments.
21. The Independent Reviewer of Terrorism Legislation publishes before Parliament a regular report on the operation of the Act. The Government publishes responses to these reports.
22. The Joint Committee on Human Rights published a post-legislative scrutiny report on the Act on 23 January 2014 (HL Paper 113). The Government published a response in March 2014.
23. Statistics relating to the Secretary of State’s exercise of powers under the Act are published in a Written Ministerial Statement to Parliament every quarter (included at Annex C).
24. Details of the other relevant publications are included at **Annex D**.

### **PRELIMINARY ASSESSMENT OF THE ACT**

25. In line with the conclusions and recommendations of the 2011 Review of Counter Terrorism and Security Powers<sup>6</sup> (‘the 2011 Review’) the aim of the Act was to move

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<sup>6</sup> Review of Counter Terrorism and Security Powers <https://www.gov.uk/review-of-counter-terrorism-and-security-powers>

away from the previous control order regime to a system which would protect the public, but was less intrusive, more clearly and tightly defined, and more comparable to restrictions imposed under other powers in the civil justice system. The Act achieved those objectives in a number of ways:

- it introduced a higher threshold for imposing a TPIM of reasonable belief of involvement in terrorism-related activity - now even higher following the CTSA (satisfaction of such involvement on the balance of probabilities);
- it placed a maximum duration of two years on TPIM notices and specified that a new TPIM notice could only be imposed on the basis of evidence of new terrorism-related activity;
- it included a requirement for a warrant before a residence could be searched;
- it set out a finite range of restrictions that can be imposed, which does not include the removal of all access to computers and mobile phones;
- it maintained significant judicial oversight of the process and the rights for individuals to appeal both the imposition of a notice, and subsequent decisions, for example to extend or vary the terms.

26. In the five years since the Act received Royal Assent, TPIM notices have been and remain a crucial component of the Government's national security response. The threat the UK continues to face from terrorism is serious, complex and sustained. While prosecution and conviction of those individuals suspected of terrorism-related activity remains the Government's priority, the Act continues to provide appropriate, proportionate and effective powers for dealing with the risk posed by a small number of people in this country who are assessed to pose a terrorism-related threat to the public but who can neither be prosecuted nor, in the case of foreign nationals, deported – despite the best efforts of the police and the security and intelligence agencies.

27. David Anderson QC, the Independent Reviewer of Terrorism Legislation, has stated that TPIMs "...can be an effective method of disrupting the networks of dangerous terrorists and releasing resources for use in relation to other pressing national

security targets”.<sup>7</sup> He has also said that “the power to impose TPIMs or some analogous measure should remain on the statute book”.<sup>8</sup>

28. Since the Act came into force the Government has welcomed the analysis of subject matter experts and independent commentators, such as the Independent Reviewer and the Parliamentary Joint Committee on Human Rights, and their recommendations for ensuring the measures remain effective, credible and proportionate. The Government also recognises that the powers must be properly responsive to the operational reality of an evolving threat picture and the needs of the police, security and intelligence agencies. It is in that context that the Government made changes to the Act in the CTSA. This followed the decision on 29 August 2014 by the Joint Terrorism Analysis Centre to raise the threat level from ‘Substantial’ to ‘Severe’, meaning that a terrorist attack is highly likely.

29. The conflicts in Iraq and Syria and the emergence of groups such as Daesh raised the very serious prospect that UK-linked individuals who have fought with terrorist groups overseas could seek to radicalise others and carry out attacks in the United Kingdom. The CTSA strengthened the Government’s existing powers to disrupt the ability of people to travel abroad to fight, and enhanced our ability to monitor and control the actions of those in the UK that pose a threat. As part of this wider package of measures the amendments to the Act further strengthened the disruptive impact of TPIMs and enhanced the efficacy and protections provided by the regime as a whole, drawing on recommendations made by David Anderson QC in his 2014 report.

30. In addition, on 11 September 2014, the Home Secretary asked David Anderson QC to advise her, the Prime Minister and the Deputy Prime Minister on whether the operational management of TPIM subjects should be met through the sole use of exclusion zones or whether some form of relocation power was needed and, if so, what form the new power should take. He concluded that “a power to relocate

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<sup>7</sup> Third Report of the Independent Reviewer on the operation of the Terrorism Prevention and Investigation Measures Act 2011: <https://terrorismlegislationreviewer.independent.gov.uk/tpims-in-2014-march-2015/>

<sup>8</sup> Second Report of the Independent Reviewer on the operation of the Terrorism Prevention and Investigation Measures Act 2011: <https://terrorismlegislationreviewer.independent.gov.uk/2014-tpims-report/>

subjects from their home areas would be of real practical assistance to the police and MI5 in distancing subjects from their associates and reducing the risk of abscond...”<sup>9</sup> The CTSA introduced the ability to move TPIM subjects up to 200 miles away from their locality without their consent.

31. The following section considers the provisions of the Act in greater detail, setting out the policy intention/objectives and the impact these powers have had over the five year period.

### **Sections 1 - 4 and Schedule 1: New regime to protect the public from terrorism**

#### Background

32. Sections 1 to 4 and Schedule 1 are central to the key policy intention underpinning the Act: moving to a more focused and targeted system that achieves a better balance between liberty and security than the previous control order regime.

33. These sections repeal the 2005 Act and provide that the Secretary of State may impose measures on an individual by serving a “TPIM notice” on him or her if certain conditions are met. These include (including as modified by the CTSA):

- A. a higher threshold for the imposition of a TPIM notice (the Secretary of State must now be satisfied on the balance of probabilities that the individual is or has been involved in terrorism-related activity) than for control orders (reasonable suspicion of involvement in such activity);
- B. some or all of that activity must be “new”. New terrorism activity is defined in a number of ways depending on the circumstances of the case: (i) in a case where no TPIM notice has previously been in force this may be activity occurring at any time; (ii) in a case where one notice has previously been in force this must be activity occurring since the imposition of that notice; (iii) in a case where two or more notices have been in force, it must be activity occurring since the imposition of the most recent notice;
- C. the Secretary of State must reasonably consider it necessary for purposes connected with protecting members of the public from a risk of terrorism;

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<sup>9</sup> Third Report of the Independent Reviewer on the operation of the Terrorism Prevention and Investigation Measures Act 2011: <https://terrorismlegislationreviewer.independent.gov.uk/tpims-in-2014-march-2015/>

- D. the Secretary of State must reasonably consider that it is necessary for purposes connected with preventing or restricting the individual's involvement in terrorism-related activity;
- E. the High Court must give prior permission for the TPIM notice to be imposed (such permission to be withheld when the decisions of the Secretary of State on conditions A-D are "obviously flawed"), save in urgent cases where permission may be obtained retrospectively.

34. In line with the key purpose of the Act to protect the public from terrorism while providing clear and defined safeguards for the liberty of individuals subject to the measures, Schedule 1 sets out the type of restrictions that may be imposed. These are:

- **overnight residence measures** – requiring the subject of a TPIM notice to reside and to spend the night either in his own residence or in premises provided by Government in an "appropriate" or agreed locality. This section was amended by the Counter-Terrorism and Security Act 2015 to allow the Secretary of State to relocate a TPIM subject up to 200 miles from his/her residence without consent;
- **travel measures** – restricting travel outside the United Kingdom (or Great Britain, or Northern Ireland);
- **exclusion measures** – imposing restrictions on the individual entering a specific area or place, or a place or area of a specified description;
- **movement directions measures** - requiring compliance with police instructions for the purpose of securing compliance with other specified measures;
- **financial services measures** – imposing restrictions including not holding more than one bank account and on the possession of cash;
- **property measures** – placing restrictions on the transferring of property and a requirement to disclose ownership or interests in property;
- **electronic communication device measures** - limiting the possession and use of such devices, but allowing the individual to possess and use a minimum of a fixed line telephone, a computer connected to the internet by a fixed line and a mobile telephone without internet access;

- **association measures** – which may require permission to be obtained for association or communication with specified persons or descriptions of persons, or notice to be given prior to associating or communicating with other persons;
- **work or studies measures** – which may require permission to be obtained for specified activities or notice to be given prior to carrying out any work or studies;
- **reporting measures** – which may require regular reporting to a police station;
- **photography measures** – requiring the individual to allow himself to be photographed; and
- **monitoring measures** – which require an individual to submit to cooperate with arrangements to enable them to be monitored. In practice this generally requires the individual to wear an electronic tag and comply with procedures to make this effective, including ensuring it is kept charged.

35. Only measures described in Schedule 1 may be imposed. This gives the Secretary of State more tightly prescribed powers than were available under the 2005 Act, which provided a non-exhaustive list of the obligations that could be imposed under control orders and explicitly allowed the Secretary of State to impose any obligation considered necessary to prevent or restrict an individual's involvement in terrorism-related activity.

36. As noted above, the Government made a number of amendments to Sections 1-4 and Schedule 1 by means of the CTSA. These included:

- raising the threshold for imposing a TPIM notice to 'balance of probabilities';
- narrowing the definition of terrorism-related activity in the Act by removing conduct which gives 'support or assistance' to individuals who are known or believed by the individuals concerned to be involved in the 'encouragement or facilitation of acts of terrorism';
- allowing the Secretary of State to require TPIM subjects, without their consent, to reside in a particular location up to 200 miles from their current locality, and prohibiting travel outside that area;

- providing for an amendment removing the possibility of providing a reasonable excuse for a breach involving travelling abroad contrary to a travel measure;
- including a power to require a TPIM subject to meet with organisations or other persons specified by the Secretary of State; and
- creating a new measure prohibiting TPIM subjects from acquiring/holding a firearms licence, offensive weapons or explosives.

### Impact and Use

37. A summary of the number of individuals who have been subject to a TPIM notice since the Act came into force on 15 December 2011 is below. Further details are included in the Secretary of State's quarterly written ministerial statements to Parliament which are annexed to this memorandum.

<b>Time Period</b>	<b>No. of TPIMs in force (at the end of the reporting period)</b>	<b>TPIM notices in respect of British citizens</b>
<b>2011-2012</b>		
15 December 2011 to 29 February 2012	9 notices in force	9 in respect of British citizens
1 March 2012 – 31 May 2012	9 notices in force	9 in respect of British citizens
1 June 2012 – 31 August 2012	9 notices in force	9 in respect of British citizens
1 September 2012 – 30 November 2012	10 notices in force	9 in respect of British citizens
<b>2012-2013</b>		
1 December 2012 – 28 February 2013	8 notices in force 6 notices extended in the period 1 notice revoked in the period 1 notice revived in the period	7 in respect of British citizens
1 March 2013 – 31 May 2013	8 notices in force 1 notice revoked in	8 in respect of British citizens



	the period 1 notice revived in the period	
1 June 2013 – 31 August 2013	9 notices in force 1 notice revived in the period	8 in respect of British citizens
1 September 2013 – 30 November 2013	8 notices in force 1 notice revoked in the period	8 in respect of British citizens
<b>2013-2014</b>		
1 December 2013 – 28 February 2014	0 notices in force <sup>10</sup> 1 notice revoked in the period	0 in respect of British citizens
1 March 2014 – 31 May 2014	0 notices in force 1 notice revived in the period 1 notice revoked in the period	0 in respect of British citizens
1 June 2014 – 31 August 2014	1 notice in force 1 notice revived in the period	0 in respect of British citizens
1 September 2014 – 30 November 2014	1 notice in force 1 notice extended in the period	0 in respect of British citizens
<b>2014-2015</b>		
1 December 2014 – 28 February 2015	1 notice in force	0 in respect of British citizens
1 March 2015 – 31 May 2015	2 notices in force 1 subject relocated	1 in respect of British citizens
1 June 2015 – 31 August 2015	3 notices in force 2 subjects relocated	2 in respect of British citizens
1 September 2015 – 30 November 2015	2 notices in force 2 subjects relocated	2 in respect of British citizens

<sup>10</sup> The reduction in the number of TPIMs in force in this quarter from the previous quarter is due to the expiry of the 8 TPIMs which were imposed at the beginning of 2012.

<b>2015-2016</b>		
1 December 2015 – 29 February 2016	2 notices in force 2 subjects relocated	2 in respect of British citizens
1 March 2016 – 31 May 2016	1 notice in force 1 notice extended 1 notice revoked 1 subject relocated	1 in respect of a British citizen
1 June 2016 – 31 August 2016	6 notices in force 6 subjects relocated	5 in respect of British citizens

38. Given these powers are intended as measures of last resort, frequency of use alone cannot be taken as a measure of their effectiveness. Indeed David Anderson QC commented in his 2014 report that “the absence of new notices...owes much to the strong record of prosecuting terrorists in recent years, to the Government’s successful deportation of some high profile terrorist suspects and to the productive use of other means of disruption”. He also said that “the sparing use to date of...TPIMs is no cause for regret”.<sup>11</sup>

39. The measures set out in Schedule 1 are clear and defined. In line with the policy intention of these provisions they are not applied indiscriminately or without exception; rather particular restrictions are imposed on a case by case basis and are kept to the minimum necessary to protect the public and to prevent the individual from engaging in terrorism-related activity. The extension of the locational restrictions which the Secretary of State may impose (in particular the power to locate a TPIM subject 200 miles away from their home address without consent) was introduced by the CTSA in light of the very altered threat picture since the TPIM Act came into force, more specifically the increase in the number of UK-linked extremists returning and likely to return from Syria and Iraq and the attempts by Daesh to direct or inspire attacks elsewhere, including in the UK. This change has been of real

<sup>11</sup> Third Report of the Independent Reviewer on the operation of the Terrorism Prevention and Investigation Measures Act 2011 <https://terrorismlegislationreviewer.independent.gov.uk/tpims-in-2014-march-2015/>

practical assistance to the police and the security and intelligence agencies in allowing better risk management of individuals subject to a TPIM notice.

40. The CTSA also introduced changes to ensure that use of these powers remains proportionate and subject to appropriate safeguards. The threshold that must be met for the Secretary of State to impose a TPIM is now higher and the definition of terrorism in the TPIM Act is narrower. A maximum distance by which a subject could be relocated without his/her consent was specified. The Secretary of State was also required by law to publish factors that he or she will take into account when determining whether to impose travel measures. This was done by Written Ministerial Statement (12 February 2015 – HCWS287).
41. The new weapons and explosives measure (set out in Schedule 1 to the Act), allowing the Secretary of State to prohibit a TPIM subject from acquiring or holding a firearms licence, offensive weapons or explosives, tightens and clarifies existing provisions, complementing powers already available to the police.
42. The new appointments measure (Schedule 1 to the Act) implements the Independent Reviewer of Terrorism Legislation's recommendation that a new power should be introduced to require TPIM subjects to meet with relevant organisations or people who can contribute to their ongoing management – including their transition at the end of their TPIM – such as probation officers or JobCentre Plus staff.

## **Section 5: Two year limit on imposition of measures without new terrorism-related activity**

### Background

43. Control orders remained in force for 12 months unless renewed. The 2005 Act did not specify a limit to the number of times that a control order could be renewed. The 2011 Review (see footnote 6) concluded that the replacement system should be subject to a two-year time limit, beyond which a notice could not remain in force without evidence of further engagement in terrorism-related activity. This section gave effect to that time limit. The objective was to ensure that TPIM notices were

used only as short term preventative measures to protect the public and not as a long term solution or an alternative to prosecution.

### Impact and use

44. The Government maintains its commitment that a TPIM notice should only be in place against an individual on a short term basis and only when it is necessary and proportionate. This is reflected in the numbers of TPIMs imposed: when the first Written Ministerial Statement was published covering the period 15 December 2011 – 29 February 2012, it was reported that there were nine TPIM subjects at the end of the reporting period. The maximum two years that a notice is in force need not be a continuous period of time; for instance, a notice may be revoked as unnecessary for a period that an individual spends in custody, and revived if necessary when they are released, starting the clock again at that point (see below sections 12-15).
45. A TPIM notice will be imposed for one year and, if necessary to protect the public, this notice may be extended once for a further year, after which it expires. If an individual engages in new terrorism-related activity after the expiry then a new TPIM and new measures can be imposed with a further two year limit if the tests are satisfied. This is an essential safeguard to our national security. The Government is clear that restrictions should not and do not continue indefinitely on the basis of historical evidence, but it would be dangerous and irresponsible to ignore evidence of current involvement in terrorism-related activity and of a current threat to the safety of the public.

## **Sections 6-9 and Schedule 2: Court scrutiny of imposition of measures**

### Background

46. Sections 6-9 and Schedule 2 provide that, before imposing measures on an individual, the Secretary of State must seek the court's permission to do so – except in cases of urgency, where the notice, having been served, must immediately thereafter be referred to the court for consideration. If the court, having determined that the decisions to impose the TPIM notice and its particular measures are not “obviously flawed”, gives permission or confirms measures retrospectively, it must give directions for a full review hearing at which the court will review the Secretary of State's decisions in relation to imposing the measures, applying judicial review

principles. This replicates the position in relation to control orders under the 2005 Act.

47. The full review will be heard by a High Court judge. If the judge does not consider that the relevant conditions are met – whether in relation to the notice as a whole or specific measures within it – then the judge may quash the whole notice or a specific measure/s as appropriate. The individual will know enough of the case against them to enable them to instruct their own lawyer, and a special advocate who has access to all relevant material, including sensitive material.
48. Once a TPIM notice has been imposed there will be a further right of appeal against subsequent decisions, for example to extend or vary the terms of a TPIM notice.
49. The purpose of these sections and associated schedule was to allow for comprehensive judicial oversight of the TPIM process and ensure that notices are not imposed when there is insufficient justification for doing so, safeguarding the rights of the individual.

#### Impact and use

50. The Government has always sought to adhere to any court directions to enable the proper scrutiny of cases. When notices have been imposed by the Secretary of State it is in full knowledge that the exercise of these powers will be subject to intense and detailed scrutiny by the courts. The powers in the Act have been used sparingly and in each case the TPIM notice has been upheld following review by the court.
51. David Anderson QC in his report on the operation of the Act in 2013 (published December 2014) recommended that a working group be established, chaired by a High Court judge, to discuss and seek solutions to certain procedural and timing issues that may have arisen in TPIM cases and closed material cases more generally. These included issues relating to: disclosure of Government material; provision of expert evidence; perceived overuse of closed material proceedings; the bar on Special Advocates' ability to communicate with the subject and the open advocates after a case has gone into closed; and the time that cases take to come to court.

52. The Government accepted the recommendation. A working group chaired by Justice Mitting and including Special Advocates with experience of TPIM litigation, Counsel to HMG, and representatives from the Home Office and the Treasury Solicitor's Office, was established to discuss these concerns, seek solutions, and if necessary make recommendations for improvements. Representatives from defendants' legal teams also contributed to the discussion. The working group produced draft court directions, aiming to increase the speed with which the automatic court review is conducted. The group has now disbanded having completed its work.
53. It is already within the court's remit to address some of the perceived issues. For example if the court believes that a closed material proceeding is not appropriate it is not required to enter into such a proceeding. Even if a closed proceeding forms part of a case the court may require specific pieces of material to be disclosed in an open hearing if they are to be relied upon for the case – indeed as part of the important role carried out by Special Advocates they can and have successfully argued that some previously closed material should be disclosed to TPIM subjects.
54. There is no absolute bar on Special Advocates communicating with their clients and their legal representatives after a case has moved into a closed proceeding. Communications can and do take place where permission is granted by the court.

## **Section 10: Consultation requirements**

### Background

55. Section 10 makes provision relating to the duties of the Secretary of State and the police in relation to the prospects for prosecuting an individual subject to, or proposed to be made subject to, a TPIM notice for a terrorism-related activity. The section maintains all the requirements contained in the 2005 Act. In addition the Government's review of Counter-Terrorism Powers concluded that these requirements should include a statutory duty on the chief police officer to report to the Secretary of State on the ongoing review of the investigation of the individual's conduct.

56. Section 10 delivers this: the purpose was to ensure that TPIM notices were used as a last resort and where the police and security and intelligence agencies have concluded, having consulted the Crown Prosecution Service on the prospects of prosecution, that other or further disruptive measures must be taken.

### Impact /Use

57. The duty to consider prosecution prospects is built into the process for imposing TPIMs. David Anderson QC in his report on the operation of the Act in 2012<sup>12</sup> set out that process in detail. In summary:

- the request that a TPIM be considered is formulated by the Security Service with an accompanying dossier of information;
- a Crown Prosecution Service (CPS) lawyer examines both the evidence held by the police and any relevant intelligence with a view to assessing whether prosecution is a feasible option;
- the CPS lawyer prepares advice on the prospects for prosecution, summarised in a letter to the police, who in turn inform the Home Office.

58. Only where the assessment is that prosecution is not feasible is a TPIM considered. The law enforcement, security and intelligence agencies do not take a casual or unenthusiastic approach to the gathering of evidence that could be used to prosecute and do not abandon this process while there remains a realistic prospect of a prosecution. David Anderson QC noted “no undue reticence on the part of the CPS to prosecute”<sup>13</sup>. Nor did he find any unwillingness to prosecute on the part of the police or Security Service. Indeed he commented: “I take comfort, as I did last year, from the fact that both the limited term of TPIMs and the intensive work required for their operation provide the authorities with an incentive to put suspects on trial”.<sup>14</sup>

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<sup>12</sup> First Report of the Independent Reviewer on the operation of the Terrorism Prevention and Investigation Measures Act 2011: <https://terrorismlegislationreviewer.independent.gov.uk/report-on-terroris-prevention-and-investigation-measures-act-2011-in-2012/>

<sup>13</sup> First Report of the Independent Reviewer on the operation of the Terrorism Prevention and Investigation Measures Act 2011.

<sup>14</sup> Second Report of the Independent Reviewer on the operation of the Terrorism Prevention and Investigation Measures Act 2011: <https://terrorismlegislationreviewer.independent.gov.uk/2014-tpims-report>

59. The continuing police duty to keep a TPIM subject's conduct under review with a view to prosecution for an offence relating to terrorism is discharged through regular dialogue between the police and the CPS on casework. A Senior Investigative Officer is assigned to each TPIM subject. If evidence comes to light of a subject's engagement in terrorism-related activity prior to or during the time of a TPIM notice, there are mechanisms in place to ensure that the CPS revisits its advice on the feasibility of prosecution. Should there be a change to the position with respect to prosecution a report must then be made to the Secretary of State in the usual way. The TPIM Review Group (TRG) also brings together the departments and agencies involved in making, maintaining and monitoring TPIM notices to keep all cases under formal audited review on a quarterly basis, including the prospects for prosecution. A copy of the TRG's terms of reference is included at Annex E. The Independent Reviewer of Terrorism Legislation is invited to TRG discussions.
60. The Government recognises that the imposition of preventative measures such as TPIMs can mean that prosecution becomes less likely, because the obligations imposed intentionally disrupt the subject's ability to engage in terrorism-related activity, in order to protect the public. While prosecution must remain our priority and every effort is made while restrictions are in place to gather evidence and prosecute, imposing restrictions for the purpose of public protection will sometimes be an imperfect but necessary step.

## **Section 11: Review of ongoing necessity**

### Background

61. Section 11 places a statutory duty on the Secretary of State to keep the necessity of the measures contained in a TPIM notice under review while they remain in force. The purpose is to ensure that a TPIM notice and the specific measures within it only remain in place against an individual for as long as it is necessary to protect the public and prevent or restrict the individual from engaging in terrorism-related activity.

### Impact/Use



As above, the TRG provides a formal means for keeping all TPIM cases under review, including whether there is a continuing necessity for the TPIM notice. This group meets regularly to discuss every TPIM case. If it is assessed that a TPIM notice – or any of the specified measures that comprise a notice – is no longer necessary, then either the notice must be revoked or the particular measure or measures removed or modified.

### **Sections 12-15 and Schedule 3: Changes concerning TPIM notices**

#### Background

62. These sections make provision – equivalent to that in the 2005 Act in relation to control orders – for a person subject to the new measures to apply to the Secretary of State for the revocation of the notice or the variation of the measures imposed by it. There is further provision for the Secretary of State to revoke a TPIM notice or to vary the measures specified in it (including where necessary without the individual's consent). The sections also make provision for the Secretary of State to revive a TPIM notice where he or she has previously revoked it or allowed it to expire. Finally the sections make provision in relation to the quashing of a TPIM notice or directions by the court in relation to TPIM notices and the Secretary of State's powers to impose a replacement notice in those circumstances.

63. The purpose of these sections is to put in place a flexible and proportionate approach to restrictions to minimise the impact on the individual's daily life and provide them with a route to seek changes to specific or all measures while still protecting the public.

#### Impact/use

64. The Secretary of State's quarterly Written Ministerial Statements on the exercise of the powers in the Act include data on the extension, revocation and revival of TPIM notices, as well as any variations to measures within those notices. These figures demonstrate that notices and the specific measures within them are continually kept under review to ensure that they remain both necessary and proportionate to protect the public from a risk of terrorism.

65. In summary:

- In **2011/2012** (15 December 2011 to 30 November 2012):
  - 64 variations were made to measures specified in TPIM notices, and 45 applications by the legal representatives of TPIM subjects to vary such measures were refused.
- In **2012/2013** (1 December 2012 to 30 November 2013):
  - **52 variations** were made to measures specified in TPIM notices and **23 applications** to vary such measures were refused; and
  - **three notices were revoked** during the period when subjects were remanded in custody. **Three were revived** upon the subject's release from prison. **Two notices expired**: one as the subject was remanded in custody - it was later revived upon his release. In the case of the second, the subject (Ibrahim Magag) absconded and the TPIM notice expired during this period. **Seven notices were extended.**
- In **2013/2014** (1 December 2013 -30 November 2014):
  - **four variations** were made to measures specified in TPIM notices and two applications to vary such measures were refused; and
  - **two TPIM notices were revoked** during the period (in the case of one the subject, Mohamed Ahmed Mohamed, absconded). **Two** TPIM notices that had previously been revoked were **revived** upon the subjects' release from prison. **One TPIM notice was extended.**
- In **2014/2015** (1 December 2014 – 30 November 2015):
  - **31 variations** were made to measures specified in TPIM notices and **eight applications** to vary such measures were refused.
- In **2015/2016** (1 December 2015 – 31 August 2016):

- **five variations** were made to measures specified in TPIM notices and **three applications** to vary such measures were refused;
- **one TPIM notice was revoked** during the reporting period; and
- **one TPIM notice was extended** during the reporting period.

66. These provisions have been important in ensuring that the TPIM regime has been able to respond dynamically and flexibly to changing circumstances and allow individuals subject to a TPIM notice to live as normal a life as possible, commensurate with public protection. Changes have been made to restrictions in particular cases in response to an individual's personal or family circumstances or to the assessment of the risk they pose. This has been essential to the effective operational management of the TPIM system.

67. As already stated the Government is committed to ensuring that a TPIM notice and its constituent measures only remains in place where they are necessary, and this necessity is kept under ongoing review. There have been occasions since the Act came into force where a notice against an individual has been revoked and then later revived. As noted above, this has happened when the individual has been in custody, at which point the measures ceased to be necessary, and then subsequently been released, whereupon they have become necessary again to protect the public. These occasions are detailed in the Secretary of State's written statements to Parliament on the exercise of her powers (annex C).

### **Sections 16-18 and Schedule 4: Appeals and court proceedings**

#### Background

68. In addition to the mandatory court review of the imposition of a TPIM notice, sections 16 to 18 provide that a person subject to measures may appeal against: the extension or revival of a notice; a variation of a measure specified in a notice; or refusal to grant permission in relation to a specified measure. This provides similar rights of appeal to those that existed in relation to control orders.

69. These sections are an important element of the judicial safeguards in place under the Act to ensure that the Secretary of State's exercise of powers is necessary,

proportionate and tailored to the specific circumstances of a particular case. The court applies judicial review principles and takes into account existing case law - a particularly intense level of scrutiny that ensures the Secretary of State's decisions have been subject to careful review.

### Impact/Use

70. These appeal provisions have proved an effective safeguard and means of challenge for individuals subject to a TPIM notice. To date, no court has ruled that either the initial decision on the notice and measures was obviously flawed or, at the automatic court review hearing, any TPIM should be quashed. In a small number of cases, due to the specific circumstances of the TPIM subject, the judge has concluded that specific measures should be altered from that point onwards. For example, in the case of DD, as his family moved with him into the Home Office provided property, the judge ruled that his family members were allowed to bring in one electronic communications device each as long as they were password protected and the password was not shared with DD. In addition, individuals were allowed to visit DD's family members in the Home Office provided property without providing notification as long as they did not meet with DD.

### **Sections 19-22: Other safeguards**

#### Background

71. Sections 19 and 20 place requirements – equivalent to those contained in the 2005 Act in relation to control orders – on the Secretary of State to report to Parliament on a quarterly basis on the exercise of his or her powers, and to appoint a person to review the operation of the Act annually. Sections 21 and 22 provide for the operative powers of the Act to expire after five years unless renewed by order. The powers may also be repealed by order.

72. The primary purpose of these sections is to ensure appropriate transparency and independent oversight in relation to the operation of the Act and the exercise of the powers under it. They also provide for a time limit to the availability of the powers, subject to continuation by order, reflecting the underlying policy that such restrictive

measures should only be available if absolutely necessary in light of the current terrorist threat.

### Impact/use

73. The Secretary of State has placed a written statement on the exercise of her powers before the House every quarter since the Act came into force in December 2011. These statements are annexed to this Memorandum. They have ensured that key and up to date information about the operation of the TPIM regime is in the public domain, in line with the Government's commitment to make public as much information as possible.

74. In addition, David Anderson QC, Independent Reviewer of Terrorism Legislation, has published regular reports on the operation of the TPIM legislation. These reviews have proved an effective means of monitoring the Government's use of the powers. The reports have provided insight and informed assessment from an independent perspective which has shaped the powers as they are today – the amendments to the Act through the CTSA gave effect to several recommendations by the Reviewer. The Reviewer's annual reports and the Government's response to them are presented to Parliament and are publicly available [[www.terrorismlegislationreviewer.independent.gov.uk](http://www.terrorismlegislationreviewer.independent.gov.uk)].

75. The CTSA also changed the role of the Independent Reviewer in a number of respects, including the requirement that the operation of the Act be reviewed every year. This has moved to a more flexible arrangement whereby reviews of the Act may be more or less frequent than an annual basis and also to allow for thematic reviews. These changes have not impacted negatively on the visibility and public accountability of the TPIM regime.

76. In terms of renewal of powers, the terrorist threat remains serious and for the foreseeable future there will continue to be a small number of people in this country who are assessed to pose a terrorism-related threat to the public, but whom it is not feasible to prosecute or, in the case of foreign nationals, deport. The Government has therefore laid an Order (the Terrorism Prevention and Investigation Act 2011 (Continuation) Order 2016) under section 21 of the Act, seeking to extend the

Secretary of State's TPIM powers under the Act, which are due to expire on 14 December 2016, for a further five years until 13 December 2021.

## **Section 23: Offence**

### Background

77. Section 23 creates an offence of contravening a measure in a TPIM notice without reasonable excuse. This effectively recreates the main offence of the 2005 Act of contravening an obligation imposed under a control order.
78. The purpose of this section is to ensure that there is a deterrent to prevent breaches of TPIM notices; it is important that the measures specified in a TPIM notice are enforceable and underpinned by an effective sanction if an individual does not comply.

### Impact/use

79. Enforcement of TPIM measures is a matter for the police. They investigate all potential breaches of TPIM notices and consult with the CPS regarding the viability of prosecution in each case. Where there is sufficient admissible evidence and it is deemed in the public interest, a prosecution for breach of a measure/s in a TPIM notice will usually be taken forward. David Anderson QC has commented that enforcement of TPIM notices has been "reasonably good" and that there has been a "generally good record of compliance"<sup>15</sup> on the part of those individuals subject to a TPIM notice.
80. There are safeguards in place. The reasonable excuse defence allows for individuals to make a case that no offence has been committed because they had reasonable cause to not comply with a specific measure or measures within their TPIM notice: for example there may be circumstances where a TPIM subject breaches their boundary restrictions because of a genuine medical emergency that could not be addressed within their designated area. (There is however now no reasonable excuse allowed for breaching a travel measure by leaving the country: see below).

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<sup>15</sup> First Report of the Independent Reviewer on the operation of the Terrorism Prevention and Investigation Measures Act 2011.

As noted above, TPIM subject may also seek permission from the Home Office to depart from specific measures in their TPIM notice and these requests are considered on a case by case basis.

81. Despite the Government's overall very strong record on enforcement since the Act came into force, two TPIM subjects, Ibrahim Magag and Mohamed Ahmed Mohamed, absconded (on 26 December 2012 and 1 November 2013 respectively). However, as David Anderson QC has said "TPIMs cannot reduce the risk from their subjects to zero"<sup>16</sup> and "the only fool-proof way that I know of [preventing absconds] is to lock everybody whom the Home Secretary believes might be dangerous in a high security prison and leave them there for the rest of their lives. Thankfully, that is not the sort of country we live in."<sup>17</sup>
82. Nevertheless when such incidents take place, it is right and appropriate that the Government review existing practices. Thorough investigations followed both cases. In light of the seriousness of the risk posed by extremists travelling overseas to places such Syria to participate in terrorism, the CTSA removed the reasonable excuse defence if a TPIM subject breaches a travel measure in their TPIM notice by leaving the United Kingdom, and simultaneously increased the maximum penalty for a breach of this kind to ten years, to increase the deterrent effect of the criminal offence in relation to prospective TPIM absconders.

## **Section 24 and Schedule 5: Powers of entry, seizure, search and retention**

### Background

83. Schedule 5 introduces specific powers of entry, seizure, search and retention in relation to the measures. There is an explicit power for the police to undertake a search for compliance purposes – for example to check that the individual does not have prohibited communications devices – but they have to obtain a warrant first.

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<sup>16</sup> Second Report of the Independent Reviewer on the operation of the Terrorism Prevention and Investigation Measures Act 2011: <https://terrorismlegislationreviewer.independent.gov.uk/2014-tpims-report>

<sup>17</sup> Second Report of the Independent Reviewer – extract from Minutes of Evidence to Home Affairs Select Committee HC 231-iii, 12 November 2013, QQ 53-83

84. The purpose of these provisions is to ensure that the police have sufficient powers in circumstances where they have reasonable suspicion that an offence has been committed or that the public is in danger.

#### Impact /Use

85. These provisions have ensured the safe and effective management, monitoring and enforcement of the TPIM regime.

86. The Government is committed to ensuring these powers are only used in a necessary and proportionate manner which is why there is a requirement for the police to obtain a warrant before conducting a search for compliance purposes. David Anderson QC has said that the removal of the power to search premises at any time without a warrant has “reduced... the permanent anxiety that may understandably be experienced in houses occupied by a TPIM subject”.<sup>18</sup> This is in line with the Government’s aim of putting in place a less intrusive system that still protects the public.

### **Section 25 and Schedule 6: Fingerprints and non-intimate samples**

#### Background

87. Schedule 6 makes provision for the taking and retention of fingerprints and samples from individuals subject to the measures. These broadly reflect provisions in the Protection of Freedoms Act 2012 although clearly for use within a different context.

#### Impact/use

88. The Government considers it important to ensure that the rules on taking, retention and destruction of biometric material from individuals subject to TPIM notices is not exceptional, but is in line with provisions in place for other counter-terrorism cases. The regime set out in the Protection of Freedoms Act aims to strike a balance between protection of the public and individual civil liberties.

### **Sections 26-27: Temporary enhanced TPIM order**

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<sup>18</sup> First Report of the Independent Reviewer on the operation of the Terrorism Prevention and Investigation Measures Act 2011: <https://terrorismlegislationreviewer.independent.gov.uk/report-on-terrorism-prevention-and-investigation-measures-act-2011-in-2012/>



## Background

89. Sections 26 and 27 provide a power for the Secretary of State to introduce by order powers to impose enhanced TPIM notices. The provision that may be made by such an order would essentially correspond to that set out in the draft ETPIM Bill. This power may only be used between the dissolution of a Parliament and the first Queen's Speech of the next Parliament when the case is urgent.
90. In relation to Scotland, section 26(12) requires the Secretary of State to obtain the consent of the Scottish Ministers before making any provision in such an order that relates to or touches upon devolved matters in Scotland (other than devolved matters contained in the Act).
91. The Government's Review of Counter-Terrorism Powers concluded that in exceptional circumstances – for example in the event of a very serious terrorist risk that cannot be managed by any other means – more stringent measures than those currently available under the Act may be required to protect the public. To that end on 1 September 2011 the Government published a draft Enhanced TPIM Bill for pre-legislative scrutiny by a Joint Committee of Parliament. The Committee concluded, following examination and debate of the draft Bill, that the enhanced measures are a suitable response to the challenge they seek to tackle.

## Impact / use

92. Fortunately circumstances to date have not required the enactment of this legislation and so these powers have not, so far, been exercised.

## **Sections 28-31 and Schedules 7 and 8: Final provisions**

93. Section 28 makes provision in relation to the service of TPIM notices and related notices. Sections 29-31 make general provisions concerning financial matters, interpretation, the title of the Act and its extent.

## Impact / use

94. These are largely technical provisions. Amongst other things they make explicit that this Act applies in England, Wales, Scotland and Northern Ireland.

## **CONCLUSION**

95. The Terrorism Prevention and Investigation Measures Act 2011 was enacted to protect the public from the risk posed by individuals believed to have engaged in terrorism-related activity but who can neither be prosecuted nor deported. The key objective was to introduce a more focussed regime which placed clear limits on the restrictions that can be imposed on those subject to the measures and included increased safeguards for their civil liberties, in particular extensive judicial oversight of the system, while remaining commensurate with public safety.
96. It is clear from the assessment in this Memorandum that the Act has met its intended objectives.

## **Annex A: Amendments to the Act**

- Section 2(4): the Secretary of State must publish factors that he or she considers are appropriate to take into account when deciding whether to impose travel restrictions. Commenced **12 February 2015**
- Section 3 (1): before imposing a TPIM notice, the Secretary of State must be satisfied on the balance of probabilities that an individual is, or has been, involved in terrorism-related activity. Commenced: **12 February 2015**
- Section 4(1)(d): for the purposes of the Act, involvement in terrorism-related activity does not include conduct which gives support or assistance to individuals who are known or believed by the individual concerned to be involved in conduct which facilitates or gives encouragement to the commission, preparation or instigation of acts of terrorism, or which is intended to do so. Commenced: **12 February 2015**
- Section 23(1A): provides that an individual subject to a travel measure who leaves the UK or travels outside the UK will not be able to rely upon a defence of “reasonable excuse”. Section 23(3A) increases the custodial penalty on conviction on indictment of contravening the travel measure to a term not exceeding ten years’ imprisonment. Commenced: **12 February 2015**
- Schedule 1 paragraph 1(3)(b) and paragraph 1(3A): provide that the Secretary of State may either agree with an individual a locality in which that individual must reside or require an individual to live in a residence in a locality that the Secretary of State otherwise considers appropriate. If there are premises that are the individual’s own residence at the time when the TPIM notice is imposed, the Secretary of State may only require the individual to live in a residence that is more than 200 miles from those premises if the individual agrees. Commenced **12 February 2015**
- Schedule 1 paragraph 1(4) repealed by the Counter-Terrorism and Security Act 2015. Took effect on **12 February 2015**

- Schedule 1 paragraph 5A: specified residence may be provided by the Secretary of State. Commenced **12 February 2015**
- Schedule 1 paragraph 2(2): the Secretary of State may impose restrictions on an individual from leaving a specified area which may be either the United Kingdom or any area within the United Kingdom in which the individual's place of residence is located. Restrictions imposed may include a requirement not to leave the specified area without receiving permission from or, as the case may be, giving notice to the Secretary of State. Commenced: **12 February 2015**
- Schedule 1 paragraph 6A: allows the Secretary of State to impose on an individual subject to a TPIM notice, a prohibition on making an application for a firearm certificate or shotgun certificate, a prohibition on possessing an imitation firearm and a prohibition on possessing offensive weapons or explosives. Commenced **12 February 2015**
- Schedule 1 paragraph 10A: allows the Secretary of State to require an individual to attend meetings with such persons as the Secretary of State may specify, at such locations and at such times as the Secretary of State may by notice require. The specified person(s) may also choose the time and place of the meeting. Commenced **12 February 2015**
- Section 10 – consequential amendments on definitions (National Crime Agency and “chief officer”). Commenced **1 April 2013**
- Schedule 1 paragraph 5(4) – consequential amendment by the Financial Services Act. Commenced **1 April 2013**
- Schedule 3 paragraph (2) (b), paragraph (2)(c), paragraph 2(ca) - transitional provisions by Scottish statutory instrument. Commenced **22 September 2015**
- Schedule 3 paragraph (4)(4) – transitional provisions by Scottish statutory instrument. Commenced **22 September 2015**

- Schedule 6 paragraph 10 (1)(a)(ii) - insertion by the Legal Aid, Sentencing and Punishment of Offenders Act 2012; paragraph 10(1)(a)(iv), repealed by Legal Aid, Sentencing and Punishment of Offenders Act 2012. Commenced **8 April 2013**
- Schedule 6 paragraph 2A inserted by the Protection of Freedoms Act 2012. Commenced **31 October 2013**
- Schedule 6 paragraph 14 – definitions of police forces and responsible chief officer of police amended by statutory instrument (SI 2013/602). Commenced **1 April 2013**

## **Annex D**

### **Publications relevant to the policy background and operation of the Act**

- Terrorism Prevention and Investigation Measures Act 2011  
  
<http://www.legislation.gov.uk/ukpga/2011/23/contents>
- Terrorism Prevention and Investigation Measures Act 2011 – Explanatory Notes  
  
<http://www.legislation.gov.uk/ukpga/2011/23/notes/contents>
- Review of Counter-Terrorism and Security Powers, 26 January 2011  
  
<https://www.gov.uk/review-of-counter-terrorism-and-security-powers>
- Counter-Terrorism and Security Act 2015  
  
<http://www.legislation.gov.uk/ukpga/2015/6/notes/division/6/2>
- Counter-Terrorism and Security Act 2015 – Explanatory Notes  
  
<http://www.legislation.gov.uk/ukpga/2015/6/notes/contents>
- Draft Enhanced Terrorism Prevention and Investigations Measures Bill  
  
<https://www.gov.uk/government/uploads/system.../etpim-draft-bill.pdf>
- Commons Library Research Paper 11/46  
  
<http://www.parliament.uk/briefing-papers/RP11-46.pdf>
- Commons Library Research Paper 11/62

<http://www.parliament.uk/briefing-papers/RP11-62.pdf>

- Commons Library Research Paper

<http://www.parliament.uk/briefing-papers/RP11-63.pdf>

- Commons Library Standard Note 6799 Terrorism Prevention and Investigation Measures Act 2011

<http://www.researchbriefings.files.Parliament.uk/documents/SN06799.pdf>

- Commons Library Standard Note 7073 Counter-Terrorism and Security Bill 2014-15 Parliamentary Stages

<http://www.researchbriefings.files.Parliament.uk/documents/SN07073/SN07073.pdf>

- Reports by the Independent Reviewer of Terrorism Legislation on the operation of the Terrorism Prevention and Investigation Measures Act 2011

➤ 2012

<https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2013/04/first-report-tpims.pdf>

➤ 2013

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/298487/Un\\_Act\\_Independent\\_Review\\_print\\_ready.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/298487/Un_Act_Independent_Review_print_ready.pdf)

➤ 2014

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/411824/IRTL\\_TPIMs\\_2014\\_final\\_report\\_web\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/411824/IRTL_TPIMs_2014_final_report_web_.pdf)

- Government response to reports by the Independent Reviewer of Terrorism Legislation on the Terrorism Prevention and Investigation Measures Act 2011

➤ 2012

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/199897/response-tpim-2012.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/199897/response-tpim-2012.pdf)

➤ 2013

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/381060/Government Response to Independent Reviewer s report on TPIM Act web\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/381060/Government_Response_to_Independent_Reviewer_s_report_on_TPIM_Act_web_.pdf)

➤ 2014

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/411852/CM The Government Response to the Report by David Anderson QC WEB.PDF](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/411852/CM_The_Government_Response_to_the_Report_by_David_Anderson_QC_WEB.PDF)

- Joint Committee on Human Rights: Post-Legislative Scrutiny – Terrorism Prevention and Investigation Measures Act 2011

<http://www.publications.parliament.uk/pa/jt201314/jtselect/jtrights/113/113.pdf>

- Government response to Joint Committee on Human Rights: Post-Legislative Scrutiny – Terrorism Prevention and Investigation Measures Act 2011

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/298371/post-legislative\\_scrutiny\\_TPIM\\_2011.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/298371/post-legislative_scrutiny_TPIM_2011.pdf)

- Written Ministerial Statements on the operation of the Act

2012

<http://www.publications.parliament.uk/pa/cm201212/cmhansrd/cm120326/wmstext/120326m0001.htm#1203261000010>

<http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm120619/wmstext/120619m0001.htm#12061956000007>



<http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm120907/wmstext/120907m0001.htm#12090721000004>

<http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm121206/wmstext/121206m0001.htm#12120639000007>

2013

<http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm130314/wmstext/130314m0001.htm#13031441000008>

<http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm130613/wmstext/130613m0001.htm#13061331000008>

<http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm130912/wmstext/130912m0001.htm#13091223000009>

<http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm131212/wmstext/131212m0001.htm#13121259000009>

2014

<http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140327/wmstext/140327m0002.htm>

<http://www.publications.parliament.uk/pa/cm201415/cmhansrd/cm140612/wmstext/140612m0001.htm#14061244000005>

<http://www.publications.parliament.uk/pa/cm201415/cmhansrd/cm141016/wmstext/141016m0001.htm#14101660000010>

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