

Serious Crime Act 2015

Fact sheet: Extending extra-territorial jurisdiction to sections 5 and 6 of the Terrorism Act 2006

Background

1. The threat from 'foreign fighters', that is individuals who travel abroad, in particular to Syria and more recently Iraq, to engage in terrorist activities and who may pose a risk upon their return to the United Kingdom, is significant. Foreign fighters are not a problem unique to Syria and Iraq, but the scale of travel to those countries poses an unprecedented challenge. The Security Service is seeing more UK-linked individuals travelling there to take part in the fighting than any other place of conflict; it remains the number one destination for violent extremists anywhere in the world today.
2. The Government is committed to doing everything it can to protect the public from individuals who prepare and train for terrorism and may seek to harm the UK or UK interests. While our priority is to dissuade people from travelling abroad, we must ensure that the legislation we have in place to prosecute individuals engaging in terrorism on their return to the UK, is as robust as it can be.
3. Law enforcement partners, including the police, assess that where there may be evidence of individuals carrying out preparation activities and terrorist training abroad, a gap in our current legislation in respect of UK extra-territorial jurisdiction over activities carried out abroad, allows some of these dangerous individuals to go unpunished. This lack of prosecutorial capability in some instances could mean that terrorist attacks are successfully carried out.

Measure to extend extra-territorial jurisdiction to sections 5 and 6

4. To ensure that we are able to counter this threat, and to support wider Government efforts to address the challenge posed by foreign fighters (including the measures in the Counter-Terrorism and Security Act 2015¹), section 81 of the Serious Crime Act 2015 extends extra-territorial jurisdiction to two offences within the Terrorism Act 2006: section 5 (preparation of terrorist acts), and extends the existing scope of extra-territorial jurisdiction in respect of section 6 (training for terrorism)². Section 81 came into force on 3 March 2015, upon Royal Assent of the Serious Crime Act, and is available for use immediately by law enforcement agencies. As a safeguard, prosecutions cannot be brought retrospectively, that is, in respect of terrorist preparation or training undertaken abroad before the measure came into force.
5. The effect of this measure is that our law enforcement partners will be able to prosecute UK-linked individuals and those who seek to harm UK interests, who

¹ <https://www.gov.uk/government/collections/counter-terrorism-and-security-bill>

² Extra-territorial jurisdiction (ETJ) to section 6 of the Terrorism Act 2006 is currently limited to circumstances where individuals' terrorist training abroad involves one or more 'Convention Offences' contained at Schedule 1 to the Terrorism Act 2006. 'Convention offences' refer to those offences which EU Member States (including the UK) are required to extend ETJ pursuant to Article 14 of the EU Convention on the Prevention of Terrorism (16 May 2005).

have prepared abroad for an act of terrorism or who have trained abroad more generally³ for terrorist purposes, as if their actions had taken place in the UK. Any prosecution under this measure would require the Crown Prosecution Service to be satisfied that there is enough evidence to provide a "realistic prospect of conviction" and that the prosecution is needed in the public interest. In addition, the express consent of the Attorney General would be required to prosecute⁴. Each case will be considered on an individual basis.

6. It is often difficult to prove evidentially direct engagement in terrorism, but the very purpose of the 'preparatory' or 'precursor' offences in Part One of the Terrorism Act 2006, under which sections 5 and 6 fall, is to prevent escalation of criminal behaviours and to intervene before the public is in danger from those who seek to cause harm.
7. This measure closes a legislative gap in respect of two key terrorism offences and offer further opportunities for our law enforcement partners to take action against those involved in terrorist preparation.
8. The changes are in keeping with the spirit of the existing legislation, given that the UK already takes extra-territorial jurisdiction in respect of a number of other terrorism offences⁵.

Home Office
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³ The measure will allow for an individual to be prosecuted for the commission, preparation or instigation of an act of terrorism in addition to a Convention offence, where the activity falling within section 6, takes place abroad.

⁴ See section 19 of the Terrorism Act 2006.

⁵ See section 17 of the Terrorism Act 2006.