



HM Government

# Memorandum to the Home Affairs Committee

## Post-legislative scrutiny of the Counter-Terrorism and Border Security Act 2019

January 2025





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## **Post-legislative scrutiny of the Counter-Terrorism and Border Security Act 2019**

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

January 2025



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ISBN 978-1- 5286-5376-3

E03270728 01/25

Printed on paper containing 40% recycled fibre content minimum

Printed in the UK by HH Associates Ltd. on behalf of the Controller of His Majesty's Stationery Office

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## Introduction

This memorandum provides an assessment of the Counter-Terrorism and Border Security Act 2019 (CTBS Act) and has been prepared by the Home Office for submission to the Home Affairs Committee. It is published in accordance with the guidance document available on GOV.UK<sup>1</sup>

## Objectives of the Counter-Terrorism and Border Security Act 2019

In the context of the threat level at the time, the CTBS Act sought to strengthen various counter-terrorism measures and to close gaps in counter-terrorism legislation to ensure that it was, at the time, fit for the digital age and reflected contemporary patterns of radicalisation.

At the time of the CTBS Act the threat level set by the Joint Terrorism Analysis Centre (JTAC) was SEVERE, it had been SEVERE or higher since 29 August 2014 - this meant an attack was highly likely. The UK had seen large numbers of individuals travelling to Iraq and Syria to engage in terrorist-related activity with more than 900 UK-based individuals of national security concern traveling to engage with the conflict in Syria.

The CTBS Act:

- Strengthened the sentencing framework for terrorism-related offences and the powers for managing terrorist offenders following their release from custody, including by increasing the maximum penalty for certain offences, to ensure that the punishment better reflects the crime and to better prevent re-offending.
- Strengthened the powers of the police to prevent terrorism and investigate terrorist offences.
- Updated the offence of obtaining information likely to be useful to a terrorist to cover terrorist material that is viewed or streamed over the internet, rather than downloaded to form a permanent record.
- Added a new offence of entering or remaining in an area outside of the UK that has been designated in regulations by the Secretary of State to protect the public from a risk of terrorism.
- Provided for extra-territorial jurisdiction on a number of offences to ensure that individuals abroad could be prosecuted for having encouraged or carried out acts of terror overseas.
- Amended the notification requirements so that Registered Terrorist Offenders (RTO) must provide additional information to the police, including details of their bank accounts and vehicles to which they have access, and to register all trips outside of the UK instead of only those lasting three days or more.
- Added a new power for the police to enter and search the home of a RTO when in possession of a warrant (issued by the court) for the purpose of assessing the risks that the RTO may pose to the community. These changes bring the RTO

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<sup>1</sup> <https://www.gov.uk/government/publications/post-legislative-scrutiny-the-governments-approach>

notification requirements more closely into line with existing requirements on registered sex offenders (RSOs).

- Enabled local authorities, as well as the police, to refer persons at risk of being drawn into terrorism to local Channel panels. A Channel panel helps to deliver the aims of the Prevent strategy by ensuring that individuals who are identified as being at risk of being drawn into terrorism are given appropriate advice and support to turn away from radicalisation.
- Introduced a statutory duty for an independent review of Prevent.
- In response to the use of a military grade nerve agent by Russian Federation officers to poison Sergei and Yulia Skripal in Salisbury on 4 March 2018, the CTBS Act provided for a new power to strengthen the UK's defences at the border against hostile state activity.

## Territorial extent

Subject to several exceptions, the CTBS Act extends and applies to England and Wales, Scotland and Northern Ireland.

The provisions of the CTBS Act with a more limited territorial extent and/or application are:

- The extension to Northern Ireland of the provisions in section 30 of the Counter-Terrorism Act 2008 (CTA 2008), which require a court to treat a terrorist connection as an aggravating factor when sentencing for a specified non-terrorist offence (sections 8(2) and (3)) extend to the whole of the UK but applies to Northern Ireland only.
- The addition of certain offences to the list of offences found in Schedule 2 to the CTA 2008 for which a court is required to aggravate a sentence imposed if the offence has a terrorist connection (sections 8(5) and (6)) extend to the whole of the UK but the various offences being inserted into Schedule 2 are specific to the law of Scotland or Northern Ireland respectively.
- Amendments to the Criminal Justice Act 2003 (CJA 2003) in respect of extended determinate sentences and sentences for offenders of particular concern (section 9 and consequential amendments in Part 1 of Schedule 4) extend and apply to England and Wales only.
- Amendments to the Criminal Procedure (Scotland) Act 1995 (CPSA 1995) in respect of extended sentences (section 10) extend and apply to Scotland only.
- Amendments to the Criminal Justice (Northern Ireland) Order 2008 (2008 Order) in respect of extended custodial sentences (section 11), together with certain consequential amendments in Part 2 of Schedule 4 extend and apply to Northern Ireland only.
- Changes to the legislative framework governing the retention of fingerprints and DNA profiles (section 19 and Schedule 2). These changes amended seven enactments some of which extend and apply to England and Wales, Scotland or Northern Ireland only;



- Amendments to the Road Traffic Regulation Act 1984 (1984 Act) in respect of Anti-Terrorism Traffic Regulation Orders (ATTROs) (section 15) extend and apply to England, Wales and Scotland only.
- Provisions enabling local authorities to refer persons vulnerable to being drawn into terrorism to panels constituted under section 36 of the Counter-Terrorism and Security Act 2015 (CTSA 2015) (section 20) extend and apply to England and Wales and Scotland only.
- Amendments to the Reinsurance (Acts of Terrorism) Act 1993 (1993 Act) (section 21) extend and apply to England and Wales and Scotland only.

## Commencement

The following provisions came into force on the day on which the CTBS Act was passed (12 February 2019):

- Section 21
- Section 23(2) to (7)
- Section 26
- Section 27
- Section 28
- Paragraph 19 of Schedule 4 and section 23(1) so far as relating to that paragraph
- Any other provision so far as necessary for enabling the exercise on or after the day on which the Act was passed of any power under Schedule 3 to make regulations or to issue codes of practice.

The following provisions came into force on the following dates, as appointed by regulations by the Secretary of State;<sup>2</sup>

- Sections 16, 17 and 18 (13 August 2020)
- Section 19 and paragraphs 1-4 and 6-17 of Schedule 2 (13 August 2020)
- Section 22 and Schedule 3 (so far as not brought into force by subsection (1)(g) of section 27, but not including paragraphs 44 and 45 of that Schedule) (13 August 2020)
- Paragraphs 17 and 18, 20 to 26 and 28 to 33 of Schedule 4 and section 23(1) so far as relating to those paragraphs (13 August 2020)
- Paragraphs 44 and 45 of Schedule 3 (1 June 2021)

The other provisions of the CTBS Act came into force at the end of the period of two months beginning with the day on which the Act was passed – 12 April 2019.

The CTBS Act is split into seven parts and includes powers for which the Home Office, the Ministry of Justice, His Majesty's Treasury and the Department for Transport have responsibility. This Memorandum deals with each part of the CTBS

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<sup>2</sup> See regulation 2 of the Counter-Terrorism and Border Security Act 2019 (Commencement No. 1) Regulations 2020/792 and regulation 2 of the Counter-Terrorism and Border Security Act 2019 (Commencement No. 1) (Northern Ireland) Regulations 2021/622.

Act in turn and provides post-legislative scrutiny for each set of related powers as set out in the table below:

Table 1: Organisation of this post-legislative scrutiny memorandum

<u>Provision</u>
<b>Part 1 Counter-terrorism</b>
<b>Chapter 1 – Terrorist offences</b>
Section 1 - Expressions of support for a proscribed organisation
Section 2 - Publication of images and seizure of articles
Section 3 - Obtaining or viewing material over the internet
Section 4 - Entering or remaining in a designated area
Section 5 - Encouragement of terrorism and dissemination of terrorist publications
Section 6 – Extra-territorial jurisdiction
<b>Chapter 2 - Punishment and management of terrorist offenders</b>
Section 7 - Increase in maximum sentences
Section 8 - Sentences for offences with a terrorist connection
Section 9 - Extended sentences for terrorism offences; England and Wales
Section 10 – Scotland
Section 11 - Northern Ireland
Section 12 and Schedule 1 - Additional requirements
Section 13 - Power to enter and search home
Section 14 - Serious crime prevention orders
<b>Chapter 3 - Counter-terrorism powers</b>
Section 15 - Traffic regulation
Section 16 - Evidence obtained under port and border control powers
Section 17 - Persons detained under port and border control powers
Section 18 - Detention of terrorist suspects: hospital treatment
Section 19 and Schedule 2 - Retention of biometric data for counter-terrorism purposes etc
<b>Chapter - 4 Miscellaneous</b>
Section 20 - Persons vulnerable to being drawn into terrorism
Section 21 - Terrorism reinsurance
<b>Part 2 - Border security</b>
Section 22 and Schedule 3 - Port and border controls
<b>Part 3 - Final provisions</b>
Section 23 and Schedule 4 - Minor and consequential amendments
Section 24 - Notification requirements: transitional provisions
Section 25 - Other transitional provisions
Schedule 1 – Notification requirements: financial information and information about identification documents
Schedule 2 – Retention of biometric data for counter-terrorism purposes
Schedule 3 – Border Security
Schedule 4 - Minor and consequential amendments

## PART 1: CHAPTER 1 – TERRORIST OFFENCES

### Sections 1 – 6

#### Section 1 – expressions of support for a proscribed organisation

##### Introduction

1. Section 1 of the CTBS Act amended section 12 of the Terrorism Act 2000 (TACT 2000) to make it an offence to express an opinion or belief that is supportive of a proscribed organisation in circumstances where the perpetrator is reckless as to whether a person to whom the expression is directed will be encouraged to support a proscribed organisation.<sup>3</sup> The CTBS Act inserted a new subsection (1A) to give effect to this. Proscribed terrorist organisations are listed in Schedule 2 to TACT 2000.<sup>4</sup>
2. The recklessness test requires that the perpetrator be aware of the risk and unreasonably decide to act despite that risk. The offence, as with the section 12(1) offence, is not subject to a minimum number of people to whom the expression is directed, nor is it limited in terms of applying only to expressions in a public place. When the CTBS Act was passed the offence was subject to the same penalty as the existing section 12 offences, ten years imprisonment. The maximum penalty was subsequently increased to fourteen years by the Counter-Terrorism and Sentencing Act 2021 (CTSA 2021) for all section 11 and section 12 offences within TACT 2000.
3. The offence under section 12(1A) has two elements:
  - First, it requires that the individual expresses an opinion or a belief that is supportive of a proscribed organisation; and
  - Second, the mental element of the offence requires that they do so in circumstances where they are reckless as to whether a person to whom the expression is directed will be encouraged to support a proscribed organisation.
4. The scope of the section 12(1) offence was considered by the Court of Appeal in the case of *R v Choudhary and Rahman*<sup>5</sup>. The Court of Appeal was clear that a central ingredient of the offence was inviting support from third parties for a proscribed organisation with the knowledge that they were inviting support for a proscribed organisation. Section 12(1A) provides for a new offence which criminalises the expression of an opinion or belief that is supportive of a

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<sup>3</sup> Under section 3 of the 2000 Act, the Home Secretary may proscribe an organisation if she believes it is concerned in terrorism (as defined in section 1 of 2000 Act), that is the organisation: commits or participates in acts of terrorism; prepares for terrorism; promotes or encourages terrorism (including through the unlawful glorification of terrorism); or is otherwise concerned with terrorism.

<sup>4</sup> When the CTBS Act passed into law, there were 74 proscribed international terrorist organisations (including Al Qa'ida, Boko Haram, Islamic State of Iraq and the Levant (ISIL – also known as Daesh) and National Action) and 14 organisations in Northern Ireland that were proscribed under earlier legislation.

<sup>5</sup> [\[2016\] EWCA Crim 1436](#).

proscribed organisation in circumstances where the perpetrator is reckless as to whether a person to whom the expression is directed will be encouraged to support a proscribed organisation. This change ensures there is complete clarity regarding the *mens rea* or mental element of the offence - the recklessness test is a subjective one, requiring that the perpetrator be aware of the risk. Introducing section 12(1A) closed a gap in the proscription offences, ensuring 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.

5. Section 12(1A) is subject to extra-territorial jurisdiction as a result of section 6 of the CTBS Act. As a result of sections 9, 10 and 11 of the CTBS Act it is also within scope of the extended sentence provisions at: Chapters 5 and 5A of the Criminal Justice Act 2003 (CJA 2003) in England and Wales; section 210A of the Criminal Procedure (Scotland) Act 1995 in Scotland; and Part 2, Chapter 3 of the Criminal Justice (Northern Ireland) Order 2008 in Northern Ireland.

### **Implementation**

6. Section 1 came into force at the end of the period of two months beginning with the day on which the CTBS Act was passed – 12 April 2019.

### **Assessment from Operational Partners**

7. The Police Service of Northern Ireland (PSNI) has specifically commented that this section has been beneficial in cases of orations or public statements. For example, PSNI undertook an investigation into orations made by Republican dissidents, helping to secure charging decisions. Without the recklessness element in section 12(1A), similar conduct encountered previously was more difficult to charge.
8. In England & Wales, the Crown Prosecution Service (CPS) has provided a case example where section 12(1A) has been useful in addressing a potential gap where individuals who make reckless statements expressing their own support for terrorist organisations run the risk that other people will be encouraged to support the organisation, even if their statements stop short of deliberately inviting others to do so. The case related to an individual's use of social media and communication platforms to receive and disseminate material, or enable others to access material, supportive of Daesh which was capable of encouraging terrorism. This individual was charged with offences, including section 12(1A), and was subsequently found guilty and sentenced.

## **Section 2 – publication of images and seizure of articles**

### **Introduction**

9. Section 2 of the CTBS Act amended section 13 of TACT 2000 to create a new offence (section 13(1A)) covering circumstances where a person publishes an image (whether a still or moving image) of an item of clothing or an article (such as a flag) in such a way or in such circumstances that it arouses reasonable suspicion that the person is a member or supporter of a proscribed organisation.
10. Section 2 of the CTBS Act also conferred a power on the police to seize clothing or other articles as evidence in relation to the existing TACT 2000 section 13(1) offence.<sup>6</sup> This power is available if:
  - a constable reasonably suspects that it is evidence in relation to an offence under section 13(1) of TACT 2000; and
  - the constable is satisfied that it is necessary to seize the item to prevent the evidence being concealed, lost, altered or destroyed.
11. The maximum penalty of up to six months' imprisonment (on summary conviction only) for an offence under section 13 of TACT 2000 also applies to the section 13(1A) offence. Section 6 of the CTBS Act provides for extra-territorial jurisdiction for offences committed under section 13, if the offences are committed by UK nationals or residents.

### **Implementation**

12. Section 2 came into force at the end of the period of two months beginning with the day on which the CTBS Act was passed – 12 April 2019.

### **Assessment from Operational Partners**

13. Counter Terrorism Policing (CTP) has commented that prior to the CTBS Act, if the police wanted to seize an item from a person displaying it contrary to section 13 of TACT 2000, they would be forced to arrest them to do so. CTP had concerns with this approach, including whether it was necessary and proportionate to arrest a person simply for the purpose of seizing an item in their possession. The protocol of the Metropolitan Police, and agreed by the CPS, prior to the passage of the CTBS Act was that they would not arrest suspects simply for the purpose of seizing an article because it could be disproportionate to the summary only nature of the offence and also because doing so risked disorder if in a protest situation. Therefore, CTP was left in a situation where it

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<sup>6</sup> Section 13(1) of the 2000 Act makes it an offence to wear clothing, or wear, carry or display articles in a public place in such a way or in such circumstances as to arouse reasonable suspicion that an individual is a member or supporter of the proscribed organisation. Section 121 of the 2000 Act defines a public place as "a place to which members of the public have or are permitted to have access whether or not for payment".

would report a person for the section 13 offence, but the person was free to continue to display the offending article.

14. The change to section 13 of TACT 2000 made by the CTBS Act is particularly important in protest settings. It allows officers to seize an article, whilst at the same time taking the suspect's name and address for summons (or postal charge). This prevents the continuation of the offence and provides a clear demonstration of the police taking formal and positive steps to prevent the offence continuing. It also means that the suspect would not require arresting for a section 13 offence alone. Making arrests in a public order situation can have significant implications for crowd dynamics and officer safety. These changes mean that the matter can be dealt with at the appropriate level for a summary only offence, one which prevents escalations of violence but at the same time reassures those affected by the display of an offending article that positive steps have been taken.
15. One example of how the seizure power has been used was in London where a Kurdistan Workers' Party (PKK) flag and lapel badge were seized at a Westminster protest. The articles were used as evidence in the case, which resulted in the individual being charged with an offence under section 13(1) of TACT 2000.
16. The seizure power is considered to be a significant tool for specialist units deployed to police protests, who have commented that without the power policing would have little recourse to prevent the display of symbols that risk causing alarm and distress.
17. PSNI have commented that there are currently two national security investigations and a further investigation relating to a terrorist mural using the amendments introduced by this section. These cases have not yet been tested in court.
18. The CPS has successfully prosecuted an individual under section 13(1A) of TACT 2000. The individual had published an image of articles, namely two flags, in such a way that it aroused reasonable suspicion that they were a member or supporter of a proscribed organisation.

## **Other Reviews**

19. Reporting specifically on the utility of the amendments made to the seizure powers in section 13 in Northern Ireland<sup>7</sup>, the Independent Reviewer of Terrorism Legislation (IRTL) commented that, in his view, it is unlikely that the amendments were made with Northern Ireland in mind, or at least as a primary concern. In order to use the section 13 seizure powers introduced by the CTBS Act, the police must reasonably suspect that the article is evidence in relation to a section 13 offence and consider it necessary to seize the article in order to prevent the evidence being concealed, lost, altered or destroyed. The IRTL highlighted that in

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<sup>7</sup> [The Terrorism Acts in 2022 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Northern Ireland, in some cases articles associated with proscribed organisations, such as flags, appear without any connection to an individual, meaning that it is difficult for PSNI to make use of the seizure powers in section 13 to remove these articles, given there would be limited prospect of criminal proceedings being brought. To mitigate this issue, the IRTL recommended the Government make changes to the seizure powers inserted by the CTBS Act, so that the police can seize articles, such as flags, without the need for there to be relevant criminal proceedings for the section 13 offence. Following engagement with operational partners, the Government has accepted the recommendation to make this change<sup>8</sup>.

## **Legal Issues**

20. In January 2022, the Supreme Court gave judgment in an appeal against a conviction under section 13(1) of TACT 2000<sup>9</sup>. The Supreme Court confirmed that it was an offence of strict liability to display the flag of a proscribed organisation, and therefore it was not necessary that the defendant knew or intended that he was arousing any suspicion that he was a member or supporter of a proscribed organisation. The strict liability approach was justified by the purpose of the prohibition: to deny proscribed organisations “the oxygen or publicity or a projected air of legitimacy”, to stifle recruitment, and prevent disorder. The restriction on freedom of expression contained in the prohibition was justified as a “highly focused” provision to restrict or deter future violence. It was common ground that a defendant must know that he is wearing or carrying or displaying the relevant article, and to that extent a limited mental element was contained within the offence. It was also relevant that the penalty for the offence is comparatively (in relation to other terrorism offences) minor (no more than 6 months’ imprisonment), highlighting that this offence struck a fair balance between the impact on individuals’ freedom of expression and the potential national security risk stemming from conduct caught by the offence.

## **Section 3 – obtaining or viewing material over the internet**

### **Introduction**

21. Section 3 of the CTBS Act amended section 58 of TACT 2000 to make it an offence to view by means of the internet a document or record of information of a

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[https://assets.publishing.service.gov.uk/media/67486ba32ac8a6da30723993/E03244805\\_IRTL\\_Gov\\_Resp\\_2022\\_Accessible.pdf](https://assets.publishing.service.gov.uk/media/67486ba32ac8a6da30723993/E03244805_IRTL_Gov_Resp_2022_Accessible.pdf)

<sup>9</sup> *Pwr v Director of Public Prosecutions* [2022] UKSC 2.

kind likely to be useful to a person committing or preparing an act of terrorism. It also clarified the application of the offence in relation to online activity.<sup>10</sup>

22. While section 58(1)(a) already captured the downloading of material likely to be useful to a person committing or preparing an act of terrorism, it would not capture situations where a person viewed such material over the internet, for example by streaming a video, without obtaining permanent access to it by storing a copy of it on his or her computer or other storage media. Subsection (2) of this section makes it an offence to view such material over the internet (new section 58(1)(c) of TACT 2000).
23. All elements of the section 58 offence TACT 2000 are subject to a maximum penalty of 15 years' imprisonment as a result of the changes made by section 7(3) of the CTBS Act.
24. Section 58(3) of TACT 2000 provides a reasonable excuse defence. The defence applies to all elements of the offence.
25. The CTBS Act inserted subsection (3A) into section 58 of TACT 2000. Section 58(3) provides that a person does not commit the offence under that section if they have a reasonable excuse for their action or possession. New subsection (3A)(a) clarifies that the circumstances in which that reasonable excuse defence applies include those where a person downloads or views by means of the internet material not knowing, or having reason to believe, that the material contains, or is likely to contain, information likely to be useful for terrorist purposes. Unintentional or mistaken downloading or viewing of such material would therefore not be caught by the section 58 offence.
26. Subsection (3A)(b) provides that the circumstances in which the reasonable excuse defence applies includes where a person's act of viewing or accessing terrorist material or possession of such material was for the purposes of carrying out work as a journalist or academic research.
27. As a result of sections 9, 10 and 11 of the CTBS Act, section 58 of TACT 2000 is in scope of the extended sentence provisions at Chapters 5 and 5A of the Criminal Justice Act 2003 in England and Wales; section 210A of the Criminal Procedure (Scotland) Act 1995 in Scotland; and Part 2, Chapter 3 of the Criminal Justice (Northern Ireland) Order 2008 in Northern Ireland.

## **Implementation**

28. Section 3 came into force at the end of the period of two months beginning with the day on which the CTBS Act was passed – 12 April 2019.

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<sup>10</sup> Under section 58(1) of the 2000 Act it is an offence to: (a) collect or make a record of information of a kind likely to be useful to a person committing or preparing an act of terrorism, or (b) possess a document or record containing information of that kind. A "record" includes a photographic or electronic record (section 58(2) of the 2000 Act).



## **Assessment from Operational Partners**

29. CTP have highlighted that the changes brought in by section 3 of the CTBS Act to the section 58 offence have assisted police when the evidence for more serious offences is not available, e.g. section 5 of the Terrorism Act 2006 (TACT 2006) which criminalises the preparation of terrorist acts. Prior to this change, CTP have commented that it was difficult to prosecute individuals who freely accessed materials online containing information useful to preparing an act of terrorism. By amending the offence to include streaming material online it has provided CTP with more tactical options to deal with online terrorist content.
30. More widely, the changes have enabled the Counter-Terrorism Internet Referral Unit (CTIRU) to drive forward intelligence activities into investigations led by the wider CT network and national security partners. The changes have supported engagement with technology companies. Although there is no direct correlation given jurisdictional differences, the introduction of these amended offences may add weight when referrals by CTIRU are made to technology companies based overseas. Furthermore, through CTP's engagement work, the inclusion of the defences available for journalists and academics appears to have provided suitable protections.
31. PSNI have commented that this section has been beneficial for Extreme Right-Wing and Left-Wing Anarchist investigations, particularly in relation to so-called 'Terrorist Manuals' available online.
32. Section 58(1)(c) has been used in a successful prosecution by the CPS, namely where an individual had committed the offence by viewing a video providing instruction of bomb making. The individual was sentenced to four and a half years in prison.

## **Section 4 – entering or remaining in a designated area**

### **Introduction**

33. Section 4 of the CTBS Act amended TACT 2000 by inserting sections 58B and 58C into the Act to provide for a new offence of entering or remaining in a designated area overseas (the Designated Area Offence (DAO)).
34. Section 58C(1) and (2) of TACT 2000 permit the Home Secretary to designate an area by regulations if they are satisfied that it is necessary, for the purpose of protecting members of the public from a risk of terrorism, to restrict UK nationals and UK residents from entering or remaining in the area. Any overseas area can be designated if it meets the condition.
35. Section 58C(4) to (5) require that the Home Secretary must keep under review whether this condition continues to be met, and if it is not, must revoke the designation. In the event a designation is not revoked, it expires after 3 years from the day it was enacted.

36. Section 58B(9) establishes that the maximum penalty for the offence is 10 years' imprisonment, an unlimited fine, or both. A person is not guilty of the offence if they can demonstrate that they entered or remained in the area for a permitted purpose, that they had a reasonable excuse for entering or remaining in a designated area, or that they entered or remained in a designated area involuntarily. Whether a person acted for a permitted purpose, or has a reasonable excuse, is to be considered based on the circumstances of that case.

37. Section 58B(5) outlines the permitted purposes for entering or remaining in a designated area:

- Providing aid of a humanitarian nature.
- Satisfying an obligation to appear before a court or other body exercising judicial power.
- Carrying out work for the government of a country other than the United Kingdom (including service in or with the country's armed forces).
- Carrying out work for the United Nations or an agency of the United Nations.
- Carrying out work as a journalist.
- Attending the funeral of a relative or visiting a relative who is terminally ill.
- Providing care for a relative who is unable to care for themselves without such assistance.

## **Implementation**

38. Section 4 came into force at the end of the period of two months beginning with the day on which the CTBS Act was passed – 12 April 2019.

## **Preliminary Assessment**

39. Since the DAO came into force in April 2019, the Home Office has not designated an area.

40. Whilst the Home Office does not comment on which areas are considered for designation, it is assessed that the DAO continues to provide a potentially useful tool to reduce the risk of terrorism to the public by deterring UK nationals and residents from travelling overseas for the purposes of terrorism, for example by joining a terrorist group. Home Office officials continue to work closely with CTP, intelligence agencies and other partners to monitor risk and review the case for designating areas where terrorist groups are active. These considerations are based on careful assessment of all relevant information, including sensitive intelligence as well as open-source information, and careful assessment of necessity and proportionality.

41. In the event of a future conflict zone attracting travel for terrorist purposes by UK nationals or residents, the DAO would be a useful disruptive tool by providing an

additional offence which an individual could be prosecuted for on return to the UK, which may be easier than evidencing other terrorist activities performed overseas, as well as serving as a deterrent to travel. In his evidence to the Public Bill Committee, then Assistant Commissioner and National Lead for Counter-Terrorism Policing, Neil Basu, confirmed that an offence of banning travel to designated conflict zones would help to tackle the threat posed by foreign fighters.

## **Other reviews**

42. The IRTL has considered the utility of the DAO in his annual reports from 2021 and 2022. In his 2022 Report<sup>11</sup>, the IRTL acknowledged that the DAO, whilst it can be challenging to implement, offers several ways to manage the risk of those who travel to a designated area, including prosecution on return and deterrence of would-be travellers. He also noted that the DAO “was undoubtedly designed to fill a gap”, citing that there is no other offence of providing moral or intangible support to a terrorist organisation. In this context, the IRTL recommended that the Government consider introducing a new terrorist travel offence – under the IRTL’s proposed offence, a person who travelled to provide support (including moral support) to a proscribed organisation would commit an offence. Engagement with operational partners remains ongoing, including with CTP and the CPS, and the Government has accepted the recommendation to consider introducing this new offence<sup>12</sup>.

## **Section 5 – encouragement of terrorism and dissemination of terrorist publications**

### **Introduction**

43. Section 5 of the CTBS Act amended sections 1 and 2 of TACT 2006 which provide for the offences of encouragement of terrorism and dissemination of terrorist publications respectively.

44. The offence in section 1 is concerned with the publication of statements and section 1(1) sets out the type of statements to which it applies. Section 1(2) sets out the conduct and mental elements of the offence. The offence is committed if a person publishes a statement (as defined in section 1(1)) or causes another to publish such a statement and he or she has the necessary mental element.<sup>13</sup>

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<sup>11</sup> [The Terrorism Acts in 2022 \(publishing.service.gov.uk\)](https://assets.publishing.service.gov.uk/media/67486ba32ac8a6da30723993/E03244805_IRTL_Gov_Resp_2022_Accessible.pdf)

<sup>12</sup>

[https://assets.publishing.service.gov.uk/media/67486ba32ac8a6da30723993/E03244805\\_IRTL\\_Gov\\_Resp\\_2022\\_Accessible.pdf](https://assets.publishing.service.gov.uk/media/67486ba32ac8a6da30723993/E03244805_IRTL_Gov_Resp_2022_Accessible.pdf)

<sup>13</sup> The mental element is that, at the time of publishing or causing to publish, the person either intends members of the public to be directly or indirectly encouraged or otherwise induced, by the statement to commit, prepare or instigate acts of terrorism or Convention offences, or he or she is reckless as to whether members of the public will be so directly or indirectly encouraged by the statement. The term “publishing a statement” is defined in section 20(4) of the 2006 Act.

45. Prior to the amendments made by the CTBS Act, section 1(1) TACT 2006 required that a statement must be "likely to be understood" by some or all of the members of the public to whom it is directed as an encouragement or inducement to them to commit, prepare or instigate an act of terrorism. The encouragement offence would not have been made out for example if the statement was directed at children or vulnerable adults who did not understand the statement to be an encouragement to engage in acts of terrorism. Sections 5(3) and 5(4) of the CTBS Act amended section 1 of TACT 2006 to provide instead for a "reasonable person" test. As a consequence, the offence is now committed if a reasonable person would understand the statement as an encouragement or inducement to them to commit, prepare or instigate an act of terrorism.
46. Section 2 of TACT 2006 creates offences relating to the sale and other dissemination of books and other publications, including material on the internet, that encourage people to engage in terrorism, or provide information that could be useful to terrorists.
47. Prior to the amendments made by the CTBS Act the material contained in the publication must have been "likely to be understood" by some or all of the persons to whom it became available as an encouragement or inducement to them to commission, prepare or instigate an act of terrorism. The dissemination offence would therefore not be made out if a publication was disseminated to children or vulnerable adults who do not understand that its contents amount to encouragement to engage in acts of terrorism. Subsections 5(6) and 5(7) of the CTBS Act amended section 2 of TACT 2006 to provide instead for a "reasonable person" test so that the offence will be made out if a reasonable person would understand the content of the publication as being an encouragement or inducement to them to commission, prepare or instigate an act of terrorism.

## **Implementation**

48. Section 5 came into force at the end of the period of two months beginning with the day on which the CTBS Act was passed – 12 April 2019.

## **Assessment from Operational Partners**

49. CTP have commented that amendments made by section 5 of the CTBS Act to sections 1 and 2 of TACT 2006 have been useful in supporting national security efforts.
50. PSNI have commented that these amendments have been beneficial in cases of orations or public statements. PSNI also noted that the inclusion of the words 'reasonable person' has broadened the scope of this offence. Conduct that had previously not been considered an offence by the Public Prosecution Service (PPS), such as encouraging a crowd to raise their umbrellas to allow some of those participating in a public parade to change clothes and burn their clothing,

was now considered to be an offence and has led to the charging of an individual under section 1 of TACT 2006.

51. The CPS has highlighted that an individual has been sentenced to six years' imprisonment, alongside an extended licence period of 12 months, following being charged with six counts contrary to section 2(1)(a) of TACT 2006. This prosecution included dissemination to a potentially vulnerable young adult, and the 'reasonable person' test was engaged.

## **Section 6 – extra-territorial Jurisdiction**

### **Introduction**

52. Section 6 of the CTBS Act amended section 17 of TACT 2006 to extend the circumstances in which terrorist offending abroad may be prosecuted in the UK, whether the offence is committed by UK citizens or otherwise (subject to two exceptions).
53. Specifically it provides extra-territorial jurisdiction for the offences of: inviting or expressing support for a proscribed organisation (section 12(1) and (1A) of TACT 2000) (for UK nationals and residents); displaying an article associated with a proscribed organisation (section 13 of TACT 2000) (for UK nationals and residents); dissemination of terrorist publications (section 2 of TACT 2006); and making or possessing explosives under suspicious circumstances (section 4 of the Explosive Substances Act 1883) where the offence is committed for terrorist purposes. It also extended the scope of extra-territorial jurisdiction for the encouragement of terrorism offence (section 1 TACT 2006), so that individuals who commit these offences overseas can be prosecuted in the UK if appropriate.
54. The overall effect of the section is that if, for example, an individual was to commit one of these offences in a foreign country, they would be liable under UK law in the same way as if they had committed the offence in the UK.

### **Implementation**

55. Section 6 came into force at the end of the period of two months beginning with the day on which the CTBS Act was passed – 12 April 2019.

## **PART 1: CHAPTER 2 – PUNISHMENT AND MANAGEMENT OF TERRORIST OFFENDERS**

### **Sentencing: Sections 7 – 11; notification requirements: Sections 12 – 13 and Schedule 1; Serious Crime Prevention Orders: Section 14**

#### **Section 7 – increase in maximum sentences**

##### **Introduction**

56. The context to the CTBS Act was a changed terrorist threat, with individuals engaging in conduct that could move quickly on to attack planning, given the rapid trajectory of radicalisation. Section 7 of the CTBS Act amended the maximum penalty for several terrorism offences to recognise the increased risks associated with conduct forming such offences.

57. Subsections (2), (3), (4), (6) and (7) of section 7 increased the maximum penalty for five terrorism offences, as follows:

<b>Offence</b>	<b>Previous maximum penalty</b>	<b>Maximum penalty following CTBS Act</b>
Failure to disclose information about acts of terrorism (section 38B of TACT 2000)	5 years	10 years
Collection of information of a kind likely to be useful to a person committing or preparing an act of terrorism (section 58 of TACT 2000)	10 years	15 years
Eliciting, publishing or communicating information about members of armed forces etc which is of a kind likely to be useful to a person committing or preparing an act of terrorism (section 58A of TACT 2000)	10 years	15 years
Encouragement of terrorism (section 1 of TACT 2006)	7 years	15 years
Dissemination of terrorist publications (section 2 of TACT 2006)	7 years	15 years

## **Implementation**

58. Section 7 came into force at the end of the period of two months beginning with the day on which the CTBS Act was passed – 12 April 2019.

## **Preliminary assessment**

59. Prior to the CTBS Act, 75% (83 of 110) of principal convictions under the affected sections of TACT 2000 and TACT 2006 that resulted in a custodial sentence received a sentence length under 4 years. Following the introduction of the CTBS Act, this now stands at 48% (35 of 73). This data only relates to offences in England and Wales.<sup>14</sup>

60. This data indicates that the extended maximum penalty provided for by section 7 of the CTBS Act may be delivering as intended and supporting national security efforts, with courts handing down tougher sentences reflecting the severity of the offending. However, there are a wide range of factors that can affect sentence lengths and attributing any observed change directly to the CTBS Act is challenging.

## **Section 8 – sentences for offences with a terrorist connection**

### **Introduction**

61. Prior to amendment, section 30 of the CTA 2008 required that a court in England and Wales considering a person's sentence for an offence listed in Schedule 2 to that Act had to, if it appeared that there was or may have been a terrorist connection<sup>15</sup>, make a determination (on the criminal standard of proof) as to whether there was such a connection. If the court determined that the offence had a terrorist connection it had to treat that fact as a statutory aggravating factor and state in open court that the offence was so aggravated.

62. Section 8 of the CTBS Act amended section 30 of the CTA 2008 to require courts in Northern Ireland to consider whether specified offences have a terrorist connection and to extend the list of offences where such a connection must be considered in England and Wales, and Scotland.

63. Changes since made by the Sentencing Act 2020 (SA 2020) mean that section 30 no longer applies in England and Wales (section 69 of the SA 2020 is now the applicable provision). The CTSA 2021 made further changes to the terrorist connection regime across the three jurisdictions of the UK and it is now the case that any offence with a maximum penalty of more than two years' imprisonment

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<sup>14</sup> Based on data provided to the Home Office by the Crown Prosecution Service Counter Terrorism Division (CPS CTD) covering convictions between June 2009 – June 2023

<sup>15</sup> Section 93 of the 2008 Act provides that, for these purposes, an offence has a terrorist connection if it is an act of terrorism, takes place in the course of an act of terrorism, or is committed for the purposes of terrorism (section 69(3) of the Sentencing Act 2020 provides an identical definition for the purposes of that section).

committed on or after the day section 1 of the CTSA 2021 came into force (29 June 2021) is within scope to be determined by a court as having a terrorist connection.

64. Additionally, Part 4 of the CTA 2008 requires an individual convicted of a terrorism offence or of an offence determined to have a terrorist connection (a terrorism-related offence) and receiving a qualifying sentence to notify (under the registered terrorist offender notification requirements) specified information to the police. As a result of the amendment made by section 8(2) of the CTBS Act it automatically follows that persons sentenced to a qualifying sentence for a terrorism-related offence in Northern Ireland will henceforth also be subject to the notification requirements. Section 8(3) amended section 42 of the CTA 2008 to make this explicit.
65. Subsections (5) and (6)(b) to (d) amended Schedule 2 to the CTA 2008 to add offences under the law in Northern Ireland, namely the offences of false imprisonment, blackmail, intimidation and putting people in fear of violence and certain firearms offences, to the list of specified offences for the purposes of section 30 of that Act<sup>16</sup>.
66. Section 8(6)(a) amended Schedule 2 to the CTA 2008 to add the offence of wounding with intent (section 18 of the Offences against the Person Act 1861) to the list of specified offences for the purposes of section 30 of that Act<sup>17</sup>.

## **Implementation**

67. Section 8 came into force at the end of the period of two months beginning with the day on which the CTBS Act was passed – 12 April 2019.
68. Section 8(6)(a) was repealed in England and Wales by section 413 and paragraph 1 of Schedule 29 to the SA 2020.

## **Assessment from Operational Partners**

69. PSNI highlighted that this section has been beneficial in more effectively managing individuals whose offences were found to have a terrorism connection in the longer term.

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<sup>16</sup> Between February 2001 and March 2017, 411 individuals detained in Northern Ireland under section 41 of the 2000 Act were charged with firearms offences, 32 such individuals were charged with false imprisonment, 31 such individuals were charged with intimidation and 57 such individuals were charged with blackmail.

<sup>17</sup> Between 2012 and 2018, eight individuals have been charged in England and Wales with this offence where the offence was considered to be terrorist related.



## **Section 9 – extended sentences for terrorism offences; England and Wales**

### **Introduction**

70. Section 9 of the CTBS Act amended provisions in Part 12 of the Criminal Justice Act 2003 (CJA 2003). Provisions contained in Part 12 enabled a criminal court, in England and Wales, to impose an extended sentence of imprisonment ('extended determinate sentence' (EDS)) on an offender convicted of certain offences (section 226A and 226B) or a special custodial sentence for certain offenders of particular concern (section 236A) ('sentence for offenders of particular concern' (SOPC)). It was possible for EDSs to be imposed in respect of the sexual and violent offences listed in Schedule 15 to the CJA 2003 (referred to as 'specified offences') provided certain conditions were met.
71. At the time of the CTBS Act's introduction, the list of relevant violent offences for the purpose of the EDS regime in Part 1 of Schedule 15 to the CJA 2003 included a number of terrorism offences. Paragraph 9(2) of Schedule 4 to the CTBS Act, which made consequential amendments relating to section 9, removed those offences from Part 1, and section 9(5) placed them in a new Part 3 (specified terrorism offences) along with several additional terrorism offences.<sup>18</sup>
72. Amendments to sections 224, 226A and 226B of the CJA 2003 (made by section 9 subsections (2) to (4) of the CTBS Act) provided that the EDS regime, with an extended licence period of up to eight years, applied to the offences in the new Part 3. An EDS means that the prisoner must serve at least two-thirds of the custodial term imposed by the court, with release in the final third at the discretion of the Parole Board, and automatic release at the end of the custodial term. When released, the offender must serve the remainder of their custodial term (if any) on licence, plus an extended period subsequently on licence.
73. Section 9 subsection (6) of the CTBS Act added the additional terrorism offences referenced above into schedule 18A to the CJA 2003. Following the CTBS Act's commencement, an offender convicted of an offence listed in Schedule 18A to the CJA 2003 and sentenced to a term of imprisonment must have a SOPC imposed under section 236A of the 2003 Act unless they received a life sentence or an EDS. A SOPC consists of a custodial period set by the judge plus a further one-year licence period. At that time, offenders who received a SOPC were eligible to apply for parole at the half-way point of the custodial term, with any release on licence consisting of the remainder of the custodial period (if any) plus the further one-year licence period.

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<sup>18</sup> These offences are: Membership of a proscribed organisation (section 11 of the 2000 Act); Inviting support for a proscribed organisation (section 12 of the 2000 Act); Collection of information useful to a terrorist (section 58 of the 2000 Act); Publishing information about members of the armed forces etc. (section 58A of the 2000 Act); Entering or remaining in a designated area (new section 58B of the 2000 Act as inserted by section 4); Encouragement of terrorism (section 1 of the 2006 Act); Dissemination of terrorist publications (section 2 of the 2006 Act) and; Attendance at a place used for terrorism training (section 8 of the 2006 Act).

## **Implementation**

74. Section 9 came into force at the end of the period of two months beginning with the day on which the CTBS Act was passed – 12 April 2019.
75. Section 9(3) and 9(4) were repealed by section 413 and Schedule 28 to the SA 2020, which also repealed sections 226A and 226B and Schedule 18A to the CJA 2003. The SA 2020 consolidated the law governing sentencing procedure in England and Wales into a Sentencing Code and equivalent provisions can be found within it.

## **Assessment**

76. Offenders detained for a longer period of time, and spending longer on licence following their release, as a result of this section helps from a counter-terrorism risk management perspective and for national security purposes. Extended periods of licence are particularly helpful, enabling a greater degree of control over an offender and therefore supporting their risk management, following their release from prison and while they continue to rehabilitate in the community.

## **Section 10 – Scotland**

### **Introduction**

77. Section 10 amended provisions in Part 11 of the Criminal Procedure (Scotland) Act 1995 (CPSA 1995). Under these provisions a criminal court in Scotland is able to impose an "extended sentence" on an offender who is convicted of a relevant sexual or violent offence and receives a determinate sentence of imprisonment of any length in respect of a sexual offence or a sentence of four years or more in respect of a violent offence.
78. Section 210A(10) of the CPSA 1995 defines sexual and violent offence for the purposes of section 210A. A "violent offence" is defined as "any offence (other than an offence which is a sexual offence within the meaning of this section) inferring personal violence". This definition does not cover all of the terrorism offences listed in Part 3 of Schedule 15 to the CJA 2003 (inserted by section 8). Section 10 of the CTBS Act amends section 210A of the CPSA 1995, providing the court with the ability to impose an extended sentence to sexual, violent and also terrorism offences; inserting into section 210A(10) a new definition of a "terrorism offence" covering the same offences listed in Part 3 of Schedule 15 to the CJA 2003.<sup>19</sup> The extended licence period of up to ten years' applies to terrorism offences as it does to sexual and violent offences.
79. An extended sentence is defined, by section 210A(2) of the CPSA 1995, as being the aggregate of the term of imprisonment which the court would otherwise have

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<sup>19</sup> The new definition has been subsequently amended by section 19(2) of the CTSA.

passed ("the custodial term") and a further period, known as the "extension period", for which the offender is to be on licence (and which is in addition to any licence period attributable to the "custodial term"). The extension period must not exceed 10 years and the total length of an extended sentence must not exceed any statutory maximum for a particular offence.

## **Implementation**

80. Section 10 came into force at the end of the period of two months beginning with the day on which the CTBS Act was passed – 12 April 2019.

## **Assessment from Operational Partners**

81. The Crown Office and Procurator Fiscal Service (COPFS) are aware of a number of CT convictions which have resulted in a sentence of imprisonment plus a Serious Crime Prevention Order but are not aware of any cases with extended sentences imposed. CTP similarly are not aware of this being applied in Scotland in respect of terrorism cases yet, however affirmed that there is potential for this legislation to be of benefit to national security.

82. The Scottish Government publishes statistics on convictions and sentencing.<sup>20</sup>

## **Section 11 – Northern Ireland**

### **Introduction**

83. Section 11 amended provisions in Part 2 of the Criminal Justice (Northern Ireland) Order 2008 (2008 Order) which, amongst other things, enable a criminal court in Northern Ireland to impose an extended sentence of imprisonment ("extended custodial sentence" (ECS)) on a sex or violent offender when certain conditions are met.

84. Prior to this amendment the list of relevant violent offences for the purpose of the ECS regime in Part 1 of Schedule 2 to the 2008 Order included a number of terrorism offences. Paragraph 14 of Schedule 4 to the CTBS Act removed those offences from Part 1 and section 11(4) of the CTBS Act, placing them in new Part 3 (specified terrorism offences) within Schedule 2 of the 2008 Order.

85. Amendments to articles 12 and 14 of the 2008 Order (made by sections 11(2) and 11(3) of the CTBS Act) provide that the ECS regime, with an extended licence period of up to eight years, applies to the offences in Schedule 2, Part 3 of the 2008 Order.

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<sup>20</sup> The latest statistics are available at: Criminal proceedings in Scotland: 2020-2021 - gov.scot ([www.gov.scot](http://www.gov.scot)).

## Implementation

86. Section 11 came into force at the end of the period of two months beginning with the day on which the CTBS Act was passed – 12 April 2019.

## Assessment from Operational Partners

87. PSNI have commented that they welcome the additional powers conferred by the CTBS Act, which have been beneficial in assisting in the investigation, sentencing and subsequent management of offenders. PSNI also comment that whilst some parts of the CTBS Act have yet to be used or tested in the courts, they continue to seek opportunities to utilise the powers as appropriate.

## Section 12 and Schedule 1 - additional requirements

### Introduction

88. Section 12 and Schedule 1 made several changes to the registered terrorist offender notification requirements in Part 4 of the CTA 2008.

89. Part 4 of the CTA 2008 makes provision about the notification of information to the police by certain individuals (aged 16 or over) convicted of relevant terrorism offences (listed in section 41 of the CTA 2008) or offences that have a terrorist-connection (as provided for in section 42 of the CTA 2008). The notification requirements apply to a person who:

- is convicted of a relevant offence and receives a sentence of imprisonment or detention for a period or term of 12 months or more in relation to that offence; or
- is convicted, found not guilty by reason of insanity, or found to be under a disability and to have done the act charged in respect of such an offence punishable by 12 months' imprisonment or more and is made subject to a hospital order.

90. When in the community, such individuals – registered terrorist offenders (RTOs) - must provide the police with certain personal information, notify any changes to this information, confirm its accuracy periodically and notify any foreign travel. The period for which the notification requirement applies varies depending on the length of the sentence triggering the requirement, as follows:

<b>Length of sentence</b>	<b>Adults sentenced to 10 or more years' imprisonment or detention (including life or indeterminate sentences)</b>	<b>Adults sentenced to five or more years' but less than 10 years' imprisonment or detention</b>	<b>Adults sentenced to 12 months' or more but less than five years' imprisonment, and 16- or 17-year-olds</b>
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			<b>(irrespective of the length of sentence)</b>
<b>Period for which notification requirement applies</b>	30 years	15 years	10 years

91. Section 47 of the CTA 2008 sets out the information an RTO must supply to the police when first making a notification. Section 12(2) of the CTBS Act amended section 47 of the CTA 2008 to add further categories of information which must be provided on the initial notification; including financial information and information about any car that the person has use of.
92. Section 12(3) inserted new subsections (4A) to (4E) into section 48 of the CTA 2008, requiring an RTO to notify the police of certain changes in relation to their contact details or details of their car ownership or access. The effect of existing section 48(10) is that when a person provides notification of such changes, they must also provide re-notification of all of the information that they are required to provide under section 47(2).
93. Section 12(3) also replaced what was subsection (7) for a new section 48(7) CTA 2008, making changes to the time period within which any updates that are required by that section must be provided.
94. Section 12(4) of the CTBS Act inserted new section 48A into the CTA 2008. Section 48A requires an RTO to provide notification of certain changes to their financial information or information about their identity documents. When an RTO is required to notify a change relating to financial information or identity documents, as a result of section 48A(8) (as inserted by section 12(4) of the CTBS Act) they must at the same time re-notify all the information specified at section 47(2) of the CTA 2008, which is the information required on initial notification.
95. Under section 49 of the CTA 2008, an RTO must re-notify the police of their information on an annual basis, and within three days of any changes (save for information about motor vehicles). Section 12(5) of the CTBS Act inserted new subsection (1A) into section 49 to make additional provision in relation to RTOs who are homeless (who have “no sole or main residence in the UK” and must therefore notify where they may usually be found). Such RTOs must re-notify on a weekly, rather than an annual basis.
96. The CTBS Act made two further changes in relation to the travel notification requirements on RTOs. These requirements are set out in the Counter-Terrorism Act 2008 (Foreign Travel Notification Requirements) Regulations 2009 (2009 Regulations) and are amended by paragraph 51 of Schedule 4 to the CTBS Act.
97. Whereas RTOs had previously been required to notify certain details (set out at regulation 3 of the 2009 Regulations) of any intended travel outside the UK for a

period of three days or more, the changes made by the CTBS Act mean they are now required to notify the police of any intended travel for any period.

98. Under the 2009 Regulations, in a case where an RTO knows any of the required information about their intended travel more than seven days before the date of their intended departure, then they were required to notify that information at least seven days before that date. If any of the information was incomplete or was not known at that point, or subsequently became inaccurate, they were required to notify the remaining or corrected information not less than 24 hours before their intended date of departure. The CTBS Act amends this period from 24 to 12 hours, as a consequence of the new requirement to notify of any period of intended travel.

### **Implementation**

99. Section 12 came into force at the end of the period of two months beginning with the day on which the CTBS Act was passed – 12 April 2019.

### **Assessment from Operational Partners**

100. PSNI have commented that this amendment has added an additional and beneficial layer of information to the police.

### **Legal issues**

101. In October 2023, the Court of Appeal in NI dismissed an appeal<sup>21</sup> against a ruling by the High Court in NI<sup>22</sup> relating to the enhanced notification requirements brought in by the CTBS Act, specifically the changes made to notification of foreign travel (including to the Republic of Ireland).

## **Section 13 - power to enter and search home**

### **Introduction**

102. Section 13 inserted new section 56A into the CTA 2008 conferring a power on the police to enter and search the home address of an RTO.

103. Section 56A enables a justice of the peace in England and Wales (or a sheriff in Scotland or a magistrate in Northern Ireland), on application from a senior police officer (a superintendent or above) of the relevant force, to issue a warrant to allow a constable to enter and search the home of an RTO for the purposes of assessing the risks that the RTO may pose to the community. The warrant must

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<sup>21</sup> *Re Lancaster's application* [2023] NICA 63.

<sup>22</sup> The High Court judgment in February 2023 ([2023] NIKB 12) ruled in favour of the Home Office and PSNI.

be executed by a constable of the police force in whose area the premises are located. Section 56A(2) sets out the requirements that must be met before the warrant may be issued.<sup>23</sup>

104. Section 56A(5) requires that the warrant specifies each address to which it relates. Section 56A(6) allows a constable to use reasonable force if it is necessary to do so to enter and search the premises. Section 56A(7) provides that the warrant can authorise as many visits as the justice of the peace, sheriff or magistrate, as the case may be, considers to be necessary for the purposes of assessing the risks posed by the offender which, by virtue of section 56A(8), can be unlimited or limited to a maximum.

## **Implementation**

105. Section 13 came into force at the end of the period of two months beginning with the day on which the CTBS Act was passed – 12 April 2019.

## **Assessment from Operational Partners**

106. CTP has confirmed that this power is not regularly used because the majority of offenders understand the need to engage with the notification process and because its Nominal Management Team are skilled at building relationships with the subjects and encouraging them to engage with the CTA 2008 Part 4 notification requirements. There have been a small number of occasions where subjects have refused to engage with officers and not allowed police entry to their address and failed to engage with the risk assessment process. In one such case a multiple entry search warrant was authorised which allows police to enter on multiple occasions whilst the individual is subject to Part 4 notifications. This power is useful and prevents the need to return to the court every 3 months to obtain a new search warrant.

107. PSNI have commented that this power has not been used in Northern Ireland yet.

108. Police Scotland have utilised the amended provisions where an individual was being obstructive to offender management efforts and was not allowing police to enter and search the relevant address. Once in the knowledge that Police Scotland would seek a warrant if denied again, that individual complied, and the address has now been successfully searched.

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<sup>23</sup> These requirements set out that the address must be one that the RTO has notified to the police as his or her home address or one in respect of which there is a reasonable belief that the RTO can be regularly found there or resides there. The RTO must not be in custody, detained in a hospital or outside the United Kingdom at the time. A constable must have tried on at least two previous occasions to gain entry to the premises for the purpose of conducting a risk assessment and been unable to gain entry for that purpose.

## **Section 14 - Serious Crime Prevention Orders (SCPOs)**

### **Introduction**

109. Under the Serious Crime Act 2007 (SCA 2007) a court may make a Serious Crime Prevention Order (SCPO) when it is sentencing a person who has been convicted of a 'serious offence', or on application where it is satisfied that a person has been involved in 'serious crime', and where it has reasonable grounds to believe that the order would protect the public by preventing, restricting or disrupting further involvement by the subject of the order in serious crime. An SCPO may impose such prohibitions, restrictions or requirements on its subject as the court considers necessary for that purpose (although this power is subject to various safeguards imposed by sections 6 to 15 of the SCA 2007).
110. Schedule 1 to the 2007 Act contains the list of specified 'serious offences' in respect of which an SCPO may be made. Prior to the passage of the CTBS Act this list did not include any terrorism offences. Section 14 of the CTBS Act amended Schedule 1 of the SCA 2007 by adding to the list of specified offences for England and Wales, Scotland and Northern Ireland those terrorism offences capable of triggering the RTO notification requirements under Part 4 of the CTA 2008 (see the list of offences in section 41(1) of that Part).

### **Implementation**

111. Section 14 came into force at the end of the period of two months beginning with the day on which the CTBS Act was passed – 12 April 2019.

### **Assessment from Operational Partners**

112. Police Scotland have successfully utilised SCPOs on 3 occasions over the last 3 years for individuals convicted of terrorism offences, each order will apply for 5 years. In Scotland, in 2022 one SCPO was imposed by the High Court of Justiciary in Scotland in relation to a terrorism offence following application from the Lord Advocate.
113. PSNI have commented that 12 SCPOs have been applied for in Northern Ireland, one of which was specific to a terrorist offender and was taken out on a New IRA member. There are several significant terrorism-related cases where persons are awaiting trial and it is planned that each person be considered for a SCPO. As a result, PSNI may have further examples of the use of SCPOs in the coming years.
114. In 2021, 13 SCPOs were imposed by the Crown Court and in 2022 eight SCPOs were imposed by the Crown Court, following applications made by the CPS, and in relation to cases involving terrorism offences.



115. CTP has noted that SCPOs are increasingly being considered part of the risk management toolkit.

### **Other reviews**

116. Through the Counter-Terrorism and Sentencing Act (CTSA) 2021, the Government amended the SCA 2007 to enable chief police officers to apply directly to the High Court for an SCPO in terrorism-related cases.

117. Section 44 of the CTSA 2021 requires the Secretary of State to review the operation of the amendments made by the Act to the SCA 2007. This review was published in November 2024<sup>24</sup>.

118. The 2021 Counter-Terrorism Disruptive Powers Report<sup>25</sup> confirmed between 1 January and 31 December 2021:

- 13 SCPOs were imposed by the Crown Court in relation to cases involving terrorism offences, and following applications made by the CPS.
- No applications were made by Chief Officers of Police for High-Court SCPOs in terrorism-related cases.

119. The 2022 Counter-Terrorism Disruptive Powers Report (the 2022 Report)<sup>26</sup> confirmed that in 2022 in Scotland, one SCPO was imposed by the High Court of Justiciary in relation to a terrorism offence following application from the Lord Advocate. The 2022 Report also confirmed that in Northern Ireland, 5 SCPOs were imposed by the Crown Court following applications made by the Public Prosecution Service in Northern Ireland. None of the cases involved specific terrorist charges under terrorism legislation.

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<sup>24</sup> [Statutory review of police powers to apply for Serious Crime Prevention Orders in terrorism cases \(accessible\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statements/statutory-review-of-police-powers-to-apply-for-serious-crime-prevention-orders-in-terrorism-cases)

<sup>25</sup> [Counter-terrorism disruptive powers report 2021 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statements/counter-terrorism-disruptive-powers-report-2021)

<sup>26</sup> [Counter-terrorism disruptive powers report 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statements/counter-terrorism-disruptive-powers-report-2022)

## **PART 1: CHAPTER 3 - COUNTER-TERRORISM POWERS**

### **Sections 15 – 19 and Schedule 2**

#### **Section 15 - traffic regulation**

##### **Introduction**

120. Section 22C of the Road Traffic Regulation Act 1984 (RTRA) confers a power on a traffic authority (usually the local Council) to make an anti-terrorism traffic regulation order (ATTRO)<sup>27</sup> to regulate traffic or implement physical security measures in order to:

- Avoid or reduce, or reduce the likelihood of, danger connected with terrorism; and
- Prevent or reduce damage connected with terrorism.

121. ATTROs may be permanent or temporary and can only be made by a traffic authority on the recommendation of a Chief Officer of Police (unlike other traffic regulation orders that are initiated by the traffic authority, or after applications are approved by the authority from others who want to close roads).

122. ATTROs can:

- Provide for the installation of permanent vehicle control measures.
- Provide for the installation of temporary vehicle control measures.
- Provide for the installation of permanent vehicle control measures for later use, for example at times of raised threat or for specific events. These measures may include, for example, the installation of rising security bollards around a city centre used only when a secure conference was being hosted, i.e. whilst the rising bollard installation is permanent, its use in the secure position is temporary;
- Enable the commencement, suspension or resumption of provisions. The provisions also allow for the discretion of a Constable to apply, or not to apply, a provision of an ATTRO.
- Prohibit parking on a road, for example near a vulnerable site.
- Restrict pedestrian access to premises in roads affected.

123. Paragraph 16 of Part 3 of Schedule 2 to the Civil Contingencies Act 2004 amended section 67 of the RTRA, which introduced a complementary (non-ATTRO) provision that enables the police to place traffic signs to control vehicular or pedestrian traffic in an anticipatory way for counter-terrorism security reasons. This power can be used for up to 28 days, giving sufficient time to bring in a temporary ATTRO if the threat was deemed to be continuing.

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<sup>27</sup> Or an equivalent order in respect of a road in Greater London.

124. There were a number of significant changes made by section 15 of the CTBS Act for ATTROs. These changes:

- Enabled the discretion of a Constable to be delegated to a responsible third party such as event marshal, steward or local authority staff; and
- Allowed in exceptional circumstances ATTROs not to be advertised in the usual way, if advertising would risk undermining the security operation.

125. There were also a number of minor changes for ATTROs in the CTBS Act:

- Revised terminology to clarify parity between Orders and Notices (at short notice); and
- Allowing traffic authorities to impose charges for the ATTRO process.

126. There was also a single change made by the CTBS Act to section 67 powers in the RTRA, clarifying that hard measures (usually vehicle security barriers) rather than just signs, could be used if section 67 of the RTRA powers were used by the police.

### **Assessment from operational partners**

127. The amendments made to the operation of ATTROs have been useful in a number of circumstances.

- Where a decision has been made for an ATTRO not to be advertised by the Local Authority for exceptional circumstances. During COP26, ATTROs around hotels were not advertised by the local authority, due to concerns that this would highlight and provide early notification to any potential hostile individual that the hotel was being used to accommodate VIPs.
- Where optional delegation at the discretion of a Constable to a responsible third party (e.g. marshal, steward, Local Authority staff) to manage restrictions under an ATTRO has helped some non-policed events to have vehicle security barriers. During three parades in 2022, while not being completely free of police, all road closures were staffed by City Council traffic management teams, including before police were on duty. On these occasions, discretion was granted to permit access to residents within a defined time period. There have also been instances where responsibility has been delegated to private security where a public road ran through the centre of a festival site. The provisions in the CTBS Act have also been useful in providing for discussions with relevant City Council officials regarding the creation of specific routes (to be used for parades) with permanent ATTROs in place. During the Eurovision Song Contest in 2023, private security guards operated the vehicle gates, supported by police officers.

128. To date, there have been no issues in respect to charging for ATTROs.

## Legal Issues

129. A Judicial Review of three aspects of an ATTRO-backed gated security scheme around the Royal Albert Hall found in favour of a resident in one of the issues raised. The Court held that the ATTRO in question constituted a disproportionate restriction on the claimant's access to his home, which was contrary to Article 8 ECHR<sup>28</sup>. This is now embedded in the planning and process for ATTROs with a specific 'Human Rights - considerations' section contained within the initial recommendation letter. Following the Judicial Review and subsequent changes in the process, a second attempt at an application was made and has now led to the successful making of a permanent order.

## **Section 16 - evidence obtained under port and border control powers**

### Introduction

130. Schedule 7 to TACT 2000 provides for counter-terrorism port and border controls. It enables an Examining Officer (EO) who is accredited to a national standard to stop and question, and where necessary detain and search a person travelling through a port, airport, international rail station or the border area between Northern Ireland and the Republic of Ireland. Such an examination is for the purpose of determining whether the person appears to be someone who is, or has been, concerned with the commission, preparation or instigation of acts of terrorism. An EO may stop, question and search individuals and goods without grounds for suspicion. The legislation compels a person to answer questions (paragraphs 2 and 3 of Schedule 7) and provide information or certain documents (paragraph 5 of Schedule 7). A Schedule 7 examination cannot exceed six hours, with the person needing to be detained if their examination exceeds one hour. Wilful obstruction or frustration of an examination is an offence under paragraph 18 of Schedule 7.

131. Section 16 of the CTBS Act amended Schedule 7 to TACT 2000 to give effect to a recommendation made by Lord Anderson, then Independent Reviewer of Terrorism Legislation, that "there should be a statutory bar to the introduction of Schedule 7 admissions in a subsequent criminal trial". The bar applies to oral responses to questions by an EO (it remains open to prosecutors to rely on information, for example downloaded from an electronic device, obtained from a person during the course of a search conducted under Schedule 7). The bar is not however absolute; new paragraph 5A(2) enables an answer or information given orally by a person in response to a question asked as part of a Schedule 7 examination to be used in evidence in a criminal trial in the following circumstances:

- Proceedings for an offence under paragraph 18 of Schedule 7 (namely, wilful failure to comply with a duty imposed under or by virtue of Schedule 7, wilful

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<sup>28</sup> *Tchenguiz v Westminster City Council* [2022] EWHC 469 (Admin).

contravention of a prohibition imposed under or by virtue of Schedule 7 and wilful obstruction or frustration of search or examination imposed under or by virtue of Schedule 7);

- On a prosecution for perjury (as defined, in the case of England and Wales and Northern Ireland, in new paragraph 5A(4)); and
- On a prosecution for another offence where, in giving evidence, the defendant makes a statement inconsistent with the answer or information provided by him or her in response to a Schedule 7 examination.

## **Implementation**

132. The provisions in section 16 were brought into force on 13 August 2020 by the Counter-Terrorism and Border Security Act 2019 (Commencement No. 1) Regulations 2020 (reg.2(a)).

## **Assessment from Operational Partners**

133. All Counter-Terrorism Borders Policing (CTBP) EOs and Review Officers (ROs) must be professionally accredited to use Schedule 7 powers. They are mandated by law to undertake bi-annual training and legal examination as mandated by the Home Secretary via the National Police Chief's Council and College of Policing. This includes regular review of the legislation, Codes of Practice and associated guidance.

134. CTBP assess that there is a good level of knowledge of the relevant parts of Schedule 7 legislation, including the changes made by the CTBS Act. The Notice of Detention (NoD), which is issued (and read out) to the subject of every examination, details the circumstances under which an examination can be used as evidence.

## **Other reviews**

135. The IRTL concluded in his 2021 report that "I am pleased to report that the Schedule 7 power is responsibly exercised and, importantly from the point of view safeguards and rights, is the subject of strong internal data-driven scrutiny by CT Police. This scrutiny has however identified inconsistencies between different parts of the UK which indicate that improvements are possible."

## **Section 17 - persons detained under port and border control powers**

### **Introduction**

136. Section 17 amended provisions in Schedule 8 to TACT 2000.

137. Schedule 8 of TACT 2000 provides for the treatment and examination of suspects who are detained under Schedule 7, section 41 or section 43B of that Act for the purpose of determining whether they are, or have been, concerned with the commission, preparation or instigation of acts of terrorism.
138. Sections 17(2), 17(3) and 17(5)(b) of the CTBS Act inserted into Schedule 8 of TACT 2000 that a detainee must be informed of their rights when first detained.
139. Prior to the CTBS Act, a senior officer, in certain exceptional circumstances, could direct that a detainee under Schedule 7 or section 41 could only consult their solicitor in the sight and hearing of another officer. Sections 17(4) and 17(6) of the CTBS Act replaced this with a power under which a senior officer can, in exceptional circumstances, require the detainee to consult a different solicitor of the detainee's choosing (in practice, this is likely to be the duty solicitor).

### Implementation

140. The provisions in section 17 were brought into force on 13 August 2020 by the Counter-Terrorism and Border Security Act 2019 (Commencement No. 1) Regulations 2020 (reg.2(b)).
141. Sections 17(4) and 17(6) have been reflected in corresponding updates to Police and Criminal Evidence Act Code of Practice H<sup>29</sup>, the most recent version of which was published on 20 December 2023.

### Secondary legislation

Section	Related legislation/guidance	Purpose	Date of issue
Section 17	Counter-Terrorism and Border Security Act 2019 (Commencement No. 1) Regulations 2020	To bring into force section 17 of the CTBS Act	July 2020

### Preliminary assessment

142. Counter-Terrorism Borders Policing (CTBP) officers have a good understanding of this part of the legislation. It is covered within the Schedule 7 TACT 2000 training and accreditation exam, which CTBP officers must pass on a bi-annual basis.

<sup>29</sup> Paragraph 6.5 ([PACE Code H 2023 \(accessible\) - GOV.UK \(www.gov.uk\)](#)).

143. CTP are aware of the changes made by section 17 to sections 41 and 43B of TACT 2000 and are not aware of any problems with the use of this section.

## **Section 18 - detention of terrorist suspects: hospital treatment**

### **Introduction**

144. Under section 41 of TACT 2000, a constable may arrest without warrant a person whom they reasonably suspect to be a terrorist. Where a person is arrested under section 41, the provisions of Schedule 8 to TACT 2000 apply. Schedule 8 makes provision in respect of the treatment of detained persons and the review and extension of their detention.

145. Section 18(2) of the CBTS Act amended section 41 of TACT 2000 to give effect to a recommendation made by Lord Anderson, the then Independent Reviewer of Terrorism Legislation, that the law “be changed so as to allow the detention clock to be suspended in the case of detainees who are admitted to hospital.”

146. Section 18(3) of the CBTS Act amended Schedule 7 to TACT 2000 similarly to provide for the detention clock to be suspended where a person detained for the purpose of an examination under that Schedule is admitted to hospital. Under paragraph 6A of Schedule 7 to TACT 2000 there is a one-hour limit on the period during which a person may be examined without being detained and an overall limit of six hours on the period a person may be examined (including any period of detention).

### **Implementation**

147. The provisions in section 18 were brought into force on 13 August 2020 by the Counter-Terrorism and Border Security Act 2019 (Commencement No. 1) Regulations 2020 (reg.2(c)).

148. The latest version of Police and Criminal Evidence Act Code of Practice H (which was published on 20 December 2023) reflects the change made by the CTBS Act to update how the section 41 TACT 2000 detention clock is to be calculated in circumstances when the detainee is removed to and from hospital.

## Secondary legislation

Section	Related legislation/guidance	Purpose	Date of issue
Section 18	Counter-Terrorism and Border Security Act 2019 (Commencement No. 1) Regulations 2020	To bring into force section 18 of the CTBS Act	July 2020

## Assessment from Operational Partners

149. In relation to how this change affected Schedule 7, CTBP have commented that officers have a good understanding of this part of the legislation. It is covered within the Schedule 7 training and accreditation exam, which CTBP officers must pass on a bi-annual basis. Many of the questions in the re-accreditation process, surrounding hospital delays and the detention period under Schedule 7, relate to detention clocks, use of powers around travel to/from and at hospital and the impact this has on the overall 6-hour examination clock.

150. CTBP have provided an example of this provision being used during a recent examination at Edinburgh Airport, whereby the clock was paused for 4 hours to enable the subject access to healthcare at a hospital. In this case the EO suspected that the subject (who had been examined previously) was requesting medical treatment in an attempt to avoid further examination. At the point of pausing the clock, the subject had only provided basic background details and was yet to be questioned or provide PIN numbers for electronic devices, all of which were subsequently obtained on the subject's return from hospital. CTBP would not have been able to meet the intelligence requirements of the examination without this change in legislation.

151. CTBP regard this amendment as important, noting that the previous requirement to allow the detention clock to run caused difficulties in the past.

152. CTP are aware of the changes made by section 18 to section 41 of TACT 2000 and are not aware of any problems with the use of this section.

## **Section 19 and Schedule 2 - retention of biometric data for counter-terrorism purposes etc**

### Introduction

153. Section 19 gives effect to Schedule 2 which amended the legislative framework for making and renewing national security determinations (NSDs) that was inserted into a range of other enactments by the Protection of Freedoms Act (PoFA) 2012.



154. When an NSD is made, it has the effect of permitting a Chief Officer of a police force in England and Wales, the Chief Constable of the Police Service of Scotland, the Chief Constable of the Police Service of Northern Ireland, and other responsible officers to retain the fingerprints and DNA profile of an individual who has not been convicted of an offence for a specified period. An NSD may be made on national security grounds where it is necessary and proportionate to do retain the biometric material. NSDs must be reviewed by the Biometrics Commissioner<sup>30</sup>, who can order the destruction of the relevant biometric material if they are not satisfied that the necessity and proportionality criteria have been met.
155. There are various other powers set out in legislation which permit the retention of fingerprints and DNA profiles, either indefinitely or for specified periods, by the police and other law enforcement authorities. Only in the absence of one of those other grounds, where the biometric data is not otherwise capable of being lawfully retained, can an NSD be made by a Chief Officer.
156. Specifically, the changes made by the CTBS Act:
- Increased the maximum length of an NSD from two to five years.
  - Allowed any Chief Officer of a police force in England and Wales to make an NSD in respect of biometric material taken by any police force in England and Wales (previously only “the responsible Chief Officer”, that is a Chief Officer of the force which took the material, could make an NSD in relation to that material).
  - Allowed multiple sets of fingerprints relating to the same individual to be retained under a single NSD (previously a new NSD, with a different expiry date, would have to be made to authorise the retention of any further sets of fingerprints taken from an individual whose fingerprints were already retained under an existing NSD).
157. The CTBS Act also introduced an automatic retention period of three years in cases where a person without a previous conviction is arrested under the Police and Criminal Evidence Act (PACE) 1984 on suspicion of a qualifying terrorism offence, to mirror the existing provision where a suspected terrorist is arrested under TACT 2000.
158. These changes were supported by the then Biometrics Commissioner. In his Annual Report for 2017<sup>31</sup>, Professor Paul Wiles expressed the view that the evidence often supports the making of NSDs for longer than two years in appropriate cases and highlighted that in cases where individuals have been detained or arrested on multiple occasions, multiple NSDs have had to be made for the same individual. The Biometrics Commissioner suggested that the Government consider amending the legislation to address these issues.

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<sup>30</sup> The Data Protection and Digital Information (No2) Bill, currently before Parliament at the time of publication, includes clauses to transfer the oversight of NSDs to the Investigatory Powers Commissioner.

<sup>31</sup> <https://www.gov.uk/government/publications/biometrics-commissioner-annual-report-2017>

## Implementation

159. Section 19 of the CTBS Act has been brought into force, as have most of the provisions within Schedule 2.
160. The provisions brought into force by the Counter-Terrorism and Border Security Act 2019 (Commencement No. 1) Regulations 2020 amended legislation in England, Wales and Scotland only. The provisions within Schedule 2 which relate to the relevant powers in Northern Ireland to retain biometric data have not yet been commenced because the underlying enactments have not yet been commenced in Northern Ireland.
161. In August 2020, revised statutory guidance on the making or renewing of NSDs allowing the retention of biometric data came into force<sup>32</sup>. This guidance applies UK-wide and reflects the changes made by the CTBS Act to the framework for making NSDs.

## Secondary Legislation

Section	Related legislation/guidance	Purpose	Date of issue
19 and Schedule 2	<a href="#">The Counter-Terrorism and Border Security Act 2019 (Commencement No. 1) Regulations 2020</a>	Commenced section 19 and paragraphs 1 to 4 and 6 to 17 of Schedule 2	July 2020
19 and Schedule 2	<a href="#">The Port Examination Codes of Practice and National Security Determinations Guidance Regulations 2020</a>	Brought into force revisions to the statutory guidance on the making or renewing of NSDs to reflect the changes made by the CTBS Act	July 2020

## Assessment from Operational Partners

162. Overall, the changes are working as intended and delivering benefits for policing partners. Since the changes came into force, some NSDs have been made for a longer period than was previously possible, up to and including five years. Policing partners have commented that having the flexibility to impose

<sup>32</sup> <https://www.gov.uk/government/publications/national-security-determinations-that-allow-retention-of-biometric-data>

NSDs for a longer period than two years, when necessary and proportionate to do so, is operationally helpful. Operation of the NSD regime established by PoFA 2012 had shown that the previous two-year length was too short in many cases, and that those involved in terrorism will often pose an enduring threat. Extending the maximum duration of an NSD has reduced the need for the police and the Biometrics Commissioner to review NSDs more frequently than is necessary. There is ongoing work to ensure that decisions on the length of NSDs being made or renewed remain proportionate. For example, the revised statutory guidance makes clear that Chief Officers should consider making an NSD for a shorter period than the statutory maximum, if they are not satisfied that retention for the full period would be necessary and proportionate in all the circumstances of the case and keep NSDs under review.

163. The change permitting any Chief Officer of a police force in England and Wales to make an NSD in respect of biometric data taken by another police force in England and Wales has not yet been relied upon in practice. Policing partners have commented that it remains their intention to create a national cadre of Chief Officers who will take responsibility for all NSDs, e.g. on a regional basis, and are working towards this. The Government supports this ambition as it has the potential to improve the consistency in the standard of NSDs. The amendments made by the CTBS Act pave the way for this.
164. The change allowing multiple sets of fingerprints relating to the same individual to be retained under a single NSD has been applied in numerous cases since it came into force. Policing has commented that this is beneficial in terms of avoiding an unnecessary duplication of work and ensuring that in relevant cases an individual's biometrics are held under a single NSD. Former Biometrics Commissioner, Professor Paul Wiles, commented in his Annual Report for 2019<sup>33</sup>: "this is a sensible change since the risk being managed relates to a person".
165. The final change made by the CTBS Act to bring the rules applying to the automatic retention of biometric data of persons arrested for qualifying terrorism offences under PACE 1984 into line with those applying to persons arrested for the same offences under TACT 2000, has also been delivering operational benefits. Policing partners have commented that PACE 1984 is commonly relied upon, particularly in England and Wales, when arresting an individual on suspicion of a terrorism offence and this change has addressed what one former Biometrics Commissioner described as "an anomaly" in the legislation<sup>34</sup>.
166. The revised statutory guidance on NSDs, issued in 2020 to coincide with the above changes coming into force, made one further substantive change which is not a direct consequence of the CTBS Act. The revised guidance makes clear that in circumstances where an individual has been arrested but not convicted of a non-terrorist related offence, the biometric data can be further retained for a reasonable period to allow for an NSD to be considered if appropriate, and that if

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<sup>33</sup> [Biometrics Commissioner: annual report 2019 - GOV.UK \(www.gov.uk\)](#) – Page 61

<sup>34</sup> [Biometrics Commissioner: annual report 2019 - GOV.UK \(www.gov.uk\)](#) – Page 59

an NSD application is being considered a reasonable period may be up to six months. This change was recommended by a former Biometrics Commissioner and has been relied upon since it came into force. Policing partners have commented that this change is very helpful as it mitigates the need for them making 'pre-emptive' NSDs to ensure that biometric data is not lost in cases where it is not yet clear that an NSD will be required.

167. Biometrics are a critical capability for national security. Biometric material held under the NSD regime has contributed to the identification of individuals thought to have travelled to take part in conflict abroad e.g. in Syria and Iraq; linked individuals to other intelligence provided by overseas partners; linked individuals to unidentified crime stains; provided evidence of potential terrorist offences; and matched to potential visa and asylum applications, resulting in individuals being refused entry to the UK. The changes made by the CTBS Act support the operation of this vital capability.

### **Other Reviews**

168. Within his Annual Report for 2020<sup>35</sup>, which was published in November 2021, a former Biometrics Commissioner, Professor Fraser Sampson, highlighted his support for the changes: "The biometric provisions of the Counter-Terrorism and Border Security Act 2019 ... have improved decision making in relation to National Security Determinations...; the creation of a national cadre of trained chief officers will improve this further."

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<sup>35</sup> <https://www.gov.uk/government/publications/biometrics-commissioner-annual-report-2020>

## **PART 1: CHAPTER - 4 MISCELLANEOUS**

### **Sections 20 and 21**

#### **Section 20 - persons vulnerable to being drawn into terrorism**

##### **Introduction**

169. Sections 20(2) to (7) of the CBTS Act amended provisions in Part 5 of the Counter-Terrorism and Security Act 2015 (CTSA 2015) which provide the statutory underpinning of the Government's Prevent programme. The first objective of Prevent is to tackle the ideological causes of terrorism.
170. Prevent activity in local areas relies on the co-operation of many organisations to be effective. Chapter 1 of Part 5 of the CTSA 2015 underpins this co-operation with a general duty on specified authorities (listed in Schedule 6 to the Act), including local authorities, the police, prisons and probation providers, and education and health and social care providers, to have due regard, when performing their functions, to the need to prevent people being drawn into terrorism.
171. The Channel programme in England and Wales adopts a multi-agency approach to identify and provide tailored support to people who have been identified as at risk of being drawn into terrorism. Through the programme, agencies work together to assess the nature and the extent of this risk and, where necessary, provide an appropriate support package tailored to individual needs.
172. Chapter 2 of Part 5 of the CTSA 2015 underpins Channel's arrangements. Section 36 of the CTSA 2015 requires local authorities to establish a panel (known as a Channel panel) to discuss and, where appropriate, determine the provision of support for people who have been identified by the police as at risk of being drawn into terrorism. The panel must determine what support may be provided and in what circumstances. Sections 20(3) and (4) of the CTBS Act amended section 36 of the CTSA 2015 to enable a local authority, as well as the police, to refer an individual who they believe to be vulnerable to being drawn into terrorism to a Channel panel. Enabling local authorities to refer an individual to Channel allowed the Home Office to pilot moving ownership of Channel case management from CTP into selected local authorities.
173. Section 38 of the CTSA 2015 requires the partners of a panel (that is, those bodies listed in Schedule 7 to the Act) to cooperate with the panel to allow it to make informed decisions and carry out its functions. There is an associated duty to cooperate with the police, in particular, in relation to their function of determining whether an individual should be referred to a panel for the carrying out of an assessment. Sections 20(6) and 20(7) of the CTBS Act amended section 38 of the CTSA 2015 so that the duty on the partners of a panel to

cooperate with the police in discharging their functions under section 36 of the CTSA 2015 extends to a duty to co-operate with a local authority.

174. Sections 20(8) to (10) of the CTBS Act placed a duty on the Secretary of State to establish an independent review of "the Government strategy for supporting people vulnerable to being drawn into terrorism".

### **Implementation**

175. Section 20 came into force at the end of the period of two months beginning with the day on which the CTBS Act was passed – 12 April 2019.

### **Subsequent legislation**

176. Section 45(1) of the Counter-Terrorism and Sentencing Act (CTSA) 2021 amended section 20 of the CBTS Act to remove the statutory deadlines relating to the independent review of Prevent. Section 45 of the CTSA 2021 did not amend the obligations to which the Secretary of State is subject under those provisions, other than the specified deadlines.

### **Other Reviews**

#### Independent Review of Prevent

177. Sir William Shawcross was appointed as the Independent Reviewer on 26 January 2021. Sir William completed the Review and it was laid in both Houses of Parliament on 8 February 2023 alongside the Government's response.

#### Channel

178. Channel is a voluntary, confidential Prevent multi-agency programme which provides support at an early stage to people identified as being susceptible to terrorism. It is delivered in 173 Local Authority areas in England and Wales. The programme uses a multi-agency approach to identify individuals at risk, assessing the nature and extent of that risk and developing a tailored support plan for the individuals concerned.

179. In Scotland the Channel process is referred to as Prevent Multi-Agency Panels (PMAP) and largely follows the same process. Due to the nature of the threat and the geography of Scotland there is some nuance in the delivery, which is more embedded within existing safeguarding arrangements.

180. The case management for Channel is conventionally the responsibility of Prevent Policing. However, since the introduction of the Dovetail pilot this responsibility has been with the relevant local authorities in England and Wales as a pilot including Kirklees, Swansea, Luton, Croydon, Haringey, Kent and Brighton. Further, the North West region has also been included since January 2019 with Liverpool City Council, Manchester City Council and Blackburn with

Darwen becoming responsible for Channel case management delivery in Merseyside & Cheshire, Greater Manchester and Lancashire and Cumbria respectively. This is possible through the amendment of section 36(3) by the CTBS Act.

181. The Home Office evaluated the Dovetail pilot model in 2021. The evaluation concluded that the pilot had led to improved Channel processes, but it was unable to evaluate impact on terrorism risk and value for money. Further work to determine the future delivery model for Channel also concluded that the pilot models lacked operational resilience and were expensive.
182. The Independent Review of Prevent outlined concerns that the pilot minimises CTP's role in Channel case management, risks under-using the CTP skill set and may cause terrorism risk blind spots. The review recommended moving to a delivery model where CTP are responsible for all case information gathering and risk assessments. We have now fully transitioned to a single police-led model of Channel case management from March 2024, fully addressing the concerns raised by the Independent Review of Prevent.

## **Section 21 - terrorism reinsurance**

### **Introduction**

183. Section 21 of the CTBS Act amended section 2 of the Reinsurance (Acts of Terrorism) Act 1993 (the 1993 Act) to allow Pool Re, the government backed terrorism reinsurer, to provide reinsurance cover for any financial loss suffered by businesses that are not directly caused by physical damage to property, although still the result of an act of terrorism.
- A series of IRA terrorist attacks in the 1990s led to the withdrawal of commercial reinsurers from the terrorism insurance market in Great Britain, as they deemed terrorism too expensive to cover and too complex to model. The lack of available reinsurance limited the insurance available, resulting in a market failure.
184. To address this, the then Government worked with the insurance industry to establish a government-backed reinsurer of terrorism risk. In 1993, Pool Re, a mutual company and, following an Office for National Statistics classification in 2020, also an Arm's Length Body of HMT, was established to provide reinsurance to the commercial insurance market for terrorism risk. This ensured the continued availability of terrorism risk insurance for businesses, allowing businesses to continue to protect themselves from the costs of future attacks.
185. As a reinsurer, Pool Re enables insurers to manage their terrorism risk more efficiently. Insurers agree to take on businesses' terrorism-related financial risk in exchange for a premium. The insurers then cede some of these liabilities of this risk, as well as a share of the premiums, to Pool Re. This enables insurers to provide a greater amount of terrorism insurance cover than they would otherwise be able to.

186. The 1993 Act provides HM Treasury Parliamentary approval to pay out funds in line with its Retrocession Agreement with Pool Re. The agreement extends an unlimited guarantee to Pool Re by way of a loan should their pooled fund be exhausted by claims that could follow a terrorist attack(s).
187. The 1993 Act also sets out the scope of the reinsurance arrangements to which the Act applies. Under section 2(1) of that Act Pool Re was only able to offer reinsurance cover for costs that are contingent on physical damage to property following an act of terrorism, or any loss that is consequential on such damage. So, for example, Pool Re would cover bomb damage to commercial premises, including the consequential loss to the business arising from the need to close the business for a period to make good the damage.
188. In 2017, following the terrorist attack on Borough Market, a gap in terrorism insurance was identified. Despite limited physical damage to the properties in the market, 150 small business owners together lost at least £1.5m over 11 days of disruption, as a result of the week-long closure of the market to enable the police to investigate the crime scene. As the losses incurred by Borough Market businesses were not consequential on physical damage to commercial property, any terrorism-related insurance backed by Pool Re and held by those businesses did not cover such losses. This gap meant that businesses were uninsured for any business interruption losses linked to a terrorist attack but that were not the result of physical damage.
189. The terrorism insurance provisions in the CTBS Act addressed the gap in insurance provision, allowing Pool Re to provide reinsurance cover for any financial loss suffered by businesses that are not directly caused by physical damage to property, although still the result of an act of terrorism (as defined by the 1993 Act).

## **Implementation**

190. Section 21 came into force on the day the CTBS Act was passed – 12 February 2019. The changes were not applied retrospectively.

## **Preliminary Assessment**

191. Of Pool Re's 146 members, 54 are signed up to offer this type of cover (Class B Members) and of those 22 have paid premium for non-damage business interruption (NDBI) cover to Pool Re since 2019.
192. As of 30 June 2022, there were 18,333 NDBI policies ceded to Pool Re. This has fallen from 42,559 policies as of 30 June 2020.
193. This fall is partly attributable to a wider reluctance by insurers to offer non-damage business interruption cover, which is required for Pool Re's terrorism cover. This has partly been driven by insurers' experiences of Covid-19, where insurers experienced significant losses on this type of cover. This has led to a



reluctance of insurers to offer other NDBI products, and reinsurers to offer cost effective reinsurance for these risks.

194. The amendments made by the CTBS Act have successfully introduced a mechanism to allow NDBI cover for terrorism risk to be provided by the market, both now and in the future. This change made Pool Re the first terrorism reinsurance pool globally to extend its cover to NDBI losses.
195. To date, no NDBI claims have been made. This is because, since the CTBS Act was passed, no incidents have been certified by HM Treasury as terrorism under the Pool Re definition. Certification is a precondition for claims for terrorist incidents to be covered by Pool Re. The Government will continue to work collaboratively with Pool Re to encourage insurers to continue to offer NDBI terrorism cover.
196. The Government considers that Pool Re's expanded coverage supports the continued good functioning of the terrorism insurance market in Great Britain by addressing current threats. This enables businesses to protect themselves against future attacks, helping to protect the UK economy, and safeguarding society and livelihoods from acts of terrorism.

## PART 2 - BORDER SECURITY

### Section 22 and Schedule 3 – port and border controls

#### Introduction

197. Section 22 gives effect to Schedule 3 which gives nationally accredited Counter-Terrorism Border Police (CTBP) Examining Officers (EOs) powers to stop, question, search and detain a person at UK ports and the Northern Ireland border area for the purpose of determining whether the person appears to be someone who is, or has been, engaged in hostile activity.
198. The provisions are modelled on those in Schedule 7 to TACT 2000 which contains similar powers to stop, question, search and detain persons at a UK port or the Northern Ireland border area for the purpose of determining whether they are or have been concerned in the commission, preparation or instigation of acts of terrorism.
199. The powers are exercisable at a UK port, including airports, international rail stations and sea ports, or in the border area in Northern Ireland.
200. The Schedule includes ancillary powers to stop a person or vehicle, or detain a person, for the purpose of conducting an examination.
201. Time limits are set of one hour on the period during which a person may be examined without being detained and then provides for an overall limit of six hours on the period a person may be examined (including any period of detention). In calculating the time spent in detention, any period spent in hospital receiving medical treatment or in travelling to or from a hospital is to be disregarded provided the detainee is not being questioned during such time.
202. Schedule 3 also makes provision around searches. This includes the ability to search a ship or aircraft to ascertain whether there is anyone on board who CTBP officers may wish to examine; search a person, their possessions, and the vehicle they travelled in at a UK port. There is also a power to examine goods entering or leaving the country to determine whether they have been used in connection with hostile activity. There is then the ability to retain any documents or property found during these searches for up to seven days (this could be extended in certain instances such as for evidence in criminal proceedings). There are further procedures governing the retention of an article retained on the basis that it could be used in connection with the carrying out of a hostile act or that it is necessary to retain the article for the purpose of preventing death or significant injury.
203. Schedule 3 provides for two criminal offences, as follows:
- Wilful failure to comply with a duty imposed under Part 1 of the Schedule, for example the duty in paragraph 3(a) on a person subject to a Schedule 3 examination to give the EO any information that the officer requests; and

- Wilful obstruction or frustration of a search or examination under Part 1 of the Schedule, for example a refusal by a person subject to a Schedule 3 examination to provide an EO with the password for an electronic device so that the officer can examine its content.
204. The maximum penalty for the offence is imprisonment for a term not exceeding 51 weeks, or a fine of £2,500, or both.
205. Included is a power to photograph, measure or identify a detainee. The Schedule also requires the video recording (with sound) of any interview by a constable of a detainee conducted at a police station. The requirement to video record interviews does not apply to an examination that takes place at a port or border area.
206. Provision is made for the taking of fingerprints and DNA samples from persons detained in the UK with or without their consent alongside establishing rules governing the retention and destruction of fingerprints, DNA samples and DNA profiles derived from samples.
207. Schedule 3 ensures the review of detention of a person detained periodically by a review officer no later than one hour after the start of detention and at subsequent intervals of no more than two hours.
208. The Home Secretary is required to issue a code of practice covering the training of EOs, the exercise by EOs of the powers under the Schedule, the video recording of interviews of detainees and reviews of detention under Part 3 of the Schedule. The code of practice and any revisions to the code are to be brought into force by regulations (subject to the affirmative procedure).
209. The information acquired by an EO can be supplied to the Home Office for use in relation to immigration, by customs officers, a police officer, the National Crime Agency or other person specified in regulations (subject to the affirmative procedure).
210. A duty is placed on the Independent Reviewer of State Threats to keep under review the operation of the provisions in Schedule 3 and report annually to the Secretary of State (in practice, the Home Secretary). The report must be laid before Parliament (subject to a power to redact certain sensitive information).

## **Implementation**

211. Paragraphs 1 to 43, and paragraphs 46 to 64 of Schedule 3 were brought into force for specified purposes at Royal Assent and was brought into force, as far as not already in force, on 8 August 2020 by the Counter-Terrorism and Border Security Act 2019 (Commencement No. 1) Regulations (reg.2(g)).
212. Paragraphs 44 and 45, which relate to Northern Ireland, were brought into force on 1 June 2021 by the Counter-Terrorism and Border Security Act 2019 (Commencement No. 1) (Northern Ireland) Regulations 2021 (reg.2(b))

213. The latest version of Police and Criminal Evidence Act Code of Practice H (PACE Code H), (which was published on 20 December 2023) reflects that the Code of Practice issued under paragraph 56 of Schedule 3 to the CTBS Act 2019 applies to persons detained for examination under Schedule 3. The updated PACE Code H also includes references to Schedule 3 to the CTBS Act to reflect that persons detained under those powers do not have the PACE powers to detain and release on bail apply to them, and references to Schedule 3 to the CTBS Act 2019 to reflect the calculation of when the detainee's period in detention began.

### **Textual amendments**

214. The wording in paragraph 51 was amended on 1 May 2022 for specified purposes and on 5 December 2022 where otherwise not in force to reflect those references to a "police force" are to be read as including the "tri-service serious crime unit". This amendment was made by the Armed Forces Act 2021, Schedule 5 paragraph 50(a) and was brought into force by the Armed Forces Act 2021 (Commencement No. 1) Regulations 2022 (reg.2(e)) and the Armed Forces Act 2021 (Commencement No. 3) Regulations 2022 (reg. 4)

215. The wording in paragraph 51 was further amended on 1 May 2022 for specified purposes and on 5 December 2022 where otherwise not in force to reflect that a "tri-service serious crime unit" means the unit described in section 375(1A) of the Armed Forces Act 2006. This amendment was made by the Armed Forces Act 2021, Schedule 5, paragraph 50(b) and was brought into force by the Armed Forces Act 2021 (Commencement No. 1) Regulations 2022 (reg.2(e)) and the Armed Forces Act 2021 (Commencement No. 3) Regulations 2022 (reg. 4)

216. The wording in paragraph 12(11) of Schedule 3 was amended by section 29 of the National Security Act 2023. Section 29 amends paragraph 12(11) by removing "confidential business material" from the definition of protected material. It was brought into force by The Counter-Terrorism and Border Security Act 2019 (Port Examination Code of Practice) Regulations 2023.

217. The wording in paragraphs 62(1)-(5) and (7)-(8) were removed by Sch. 18 paragraph 11(a) & (b) of the National Security Act 2023. Part 3 of the National Security Act instead provides for an "independent reviewer" to review the operation of Schedule 3 to the CTBSA 2019, except the functions of the Investigatory Powers Commissioner under Part 1 of that Schedule. It was brought into force by The National Security Act 2023 (Commencement No. 1 and Saving Provision) Regulations 2023.

## Secondary legislation

Section	Related legislation/guidance	Purpose	Date of issue
Section 22 and Schedule 3	Counter-Terrorism and Border Security Act 2019 (Commencement No. 1) (Northern Ireland) Regulations 2021	To bring into force paragraphs 44 and 45 of Schedule 3, which relate to Northern Ireland.	June 2021
Section 22 and Schedule 3	Counter-Terrorism and Border Security Act 2019 (Commencement No. 1) Regulations 2020	To bring into force (where not in force already) paragraphs 1 to 43 and 46 to 64 of Schedule 3	August 2020
Schedule 3	Counter-Terrorism and Border Security Act (Port Examination Code of Practice) Regulations 2023.	To bring into operation the revised Code of Practice which takes account of the amends made to paragraph 12(11) of Schedule 3.	December 2023
Schedule 3	The National Security Act 2023 (commencement No. 1 and Saving Provision) Regulations 2023.	To bring into force the omission of paragraphs 62(1)-(5) and (7)-(8).	December 2023

## Assessment from Operational Partners

218. All CTBP EOs are professionally accredited to use Schedule 3 powers. They are mandated by law to undertake biennial training and legal examination as mandated by the Home Secretary via the NPCC and College of Policing. This includes regular review of the legislation, Codes of Practice and associated guidance. There is a very good level of knowledge of the Schedule 3 legislation and accompanying Code of Practice.

219. The growing threat of hostile state activity to the UK requires robust action to detect, disrupt and deter. Schedule 3 grants police the power to protect the public from this threat by enabling them to stop, question and detain individuals and goods at UK ports or the border area. CTP officers are thoroughly trained on the exercise of these powers, and have proven effective in the exercise of Schedule 3.

## PART 3 – FINAL PROVISIONS

### Sections 23 – 25

#### Section 23 and Schedule 4 - minor and consequential amendments

##### Introduction

220. Section 23(1) of the CTBS Act introduces Schedule 4 which makes minor and consequential amendments to other enactments.
221. Sections 23(2) to 23(7) confer on the Secretary of State (in practice the Home Secretary) a power, by regulations, to make further consequential amendments to other enactments which arise from the provisions in the CTBS Act. Any regulations that amend or repeal primary legislation are subject to the affirmative procedure. Any other regulations made under the power conferred by this section are subject to the negative procedure.

##### Implementation

222. Section 23(1) and Schedule 4 came into force at Royal Assent (12 February 2019) for specified purposes and the end of the period of two months beginning with the day on which the CTBS Act was passed (2 April 2019) for further specified purposes.
- Paragraphs 17 to 33 of Schedule 4 were brought into force on 13 August 2020 by the Counter-Terrorism and Border Security Act 2019 (Commencement No. 1) Regulations 2020 reg. 2(i).
  - The remaining provisions in Schedule 4 were brought into force at the end of the period of two months beginning with the day on which the CTBS Act was passed – 12 April 2019.
223. Section 23(2) to 23(7) came into force at Royal Assent (12 February 2019)
224. Section 23(1) came into force for specified purposes on 13 August 2020 by the Counter-Terrorism and Border Security Act 2019 (Commencement No. 1) Regulations 2020 (reg.2(h))

##### Secondary legislation

Section	Related legislation/guidance	Purpose	Date of issue
Section 23(1) – ie Schedule 4	Counter-Terrorism and Border Security Act 2019	To bring into force paragraphs 17	August 2020

	(Commencement No. 1) Regulations 2020	to 33 of Schedule 4	
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## **Section 24 – notification requirements; transitional provisions**

### **Introduction**

225. Section 24 made transitional provisions in respect of the changes made by sections 12 and 13 to RTOs who were subject to the notification requirements prior to the commencement of those sections. These are covered in the commentary on sections 12 and 13 of the CTBS Act 2019, respectively.

### **Implementation**

226. Section 24 came into force at the end of the period of two months beginning with the day on which the CTBS Act was passed – 12 April 2019.

## **Section 25 - Other transitional provisions**

### **Introduction**

227. Sections 25(1) and 25(2) provide that the changes to certain terrorism offences made by sections 1, 2, 3, 5 and 6 and the sentencing provisions in sections 7 and 8 do not have retrospective effect.

228. Section 25(3) provides that the changes to extended determinate sentences (EDS) and sentences for offenders of particular concern (SOPC) in England and Wales made by section 9, and those made by section 10 to extended sentences in Scotland, apply to an offender sentenced on or after the date that the section comes into force, including in cases where the relevant offence was committed prior to commencement.

229. Section 25(4) provides that, insofar as they have effect under certain provisions of the 2003 Act or the Armed Forces Act 2006, the changes made by section 9, and the consequential amendments in Part 1 of Schedule 4, apply only to offenders sentenced for an offence committed on or after the date that those provisions come into force.

230. Section 25(5) provides that the changes to extended custodial sentences in Northern Ireland made by section 11, apply to an offender sentenced for an offence committed on or after the date that the section comes into force.

231. The effect of section 25(6) is that a court may make an SCPO in respect of a person convicted of a relevant terrorism offence or conduct carried out prior to the commencement of section 14.



232. Section 25(7) and 25(8) provide that the amendments made by Schedule 2 extending the duration, from two to five years of a national security determination in respect of the retention of biometric material only applies to determinations made or renewed after commencement.

233. Section 25(9) provides that the powers in Schedule 3 to stop, question, search and detain a person at a port or the border area in Northern Ireland for the purpose of determining whether that person is or has been engaged in hostile activity are exercisable in respect of hostile acts commissioned, prepared or instigated prior to commencement of Schedule 3.

### **Textual Amendments**

234. The wording “or 8” in section 25(2) was omitted on 29 June 2021 by virtue of section 50(2)(v) of and Schedule 13 paragraph 5 to the Counter-Terrorism and Sentencing Act 2021.

### **Implementation**

235. The provisions in this section were brought into force at the end of the period of two months beginning with the day on which the CTBS Act was passed – 12 April 2019.

## **Schedule 1 – Notification requirements: financial information and information about identification documents**

236. Commentary on this Schedule is provided in commentary on section 12 of the CTBS Act.

## **Schedule 2 – Retention of biometric data for counter-terrorism purposes**

237. Commentary on this Schedule is provided in commentary on section 19 of the CTBS Act.

## **Schedule 3 – Border Security**

238. Commentary on this Schedule is provided in commentary on section 22 of the CTBS Act.

## **Schedule 4 – Minor and consequential amendments**

239. Commentary on this Schedule is provided in commentary on section 23 of the CTBS Act.

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978-1-5286-5376-3