



Home Office

Statutory Review of Police Powers to Apply for Serious Crime Prevention Orders in Terrorism Cases

Presented to Parliament pursuant to
section 44 of the Counter-Terrorism and
Sentencing Act 2021

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Introduction

This report provides a review of the amendments made under section 43 and Schedule 12 of the Counter-Terrorism and Sentencing Act 2021 (CTSA 2021) to the Serious Crime Act (SCA) 2007.

These amendments expanded the range of authorities able to apply for a Serious Crime Prevention Order (SCPO) to include chief officers of police.

These amendments enabled the police to make a direct application to the High Court (or in Scotland the Court of Session) for a SCPO in relation to individuals over the age of 18 involved in terrorism, supporting their use in terrorism cases.

Chief Officers of police have been subsequently permitted to apply to the High Court for SCPOs, following engagement with the Director of Public Prosecutions (England and Wales), the Lord Advocate (Scotland) or the Director for Public Prosecutions (in Northern Ireland). Prior to these amendments, the relevant prosecuting authority was the only authority permitted to apply for an SCPO.

Policy Background

SCPOs are civil orders aimed at preventing serious crime. These orders are used against those involved in serious crime to protect the public by preventing, restricting or disrupting involvement in serious crime.

SCPOs are made upon conviction and breaching the order is a criminal offence, as provided for by section 25 of the SCA 2007. The SCA 2007 provides for rights of appeal and variation or discharge of the order. An appeal may be made by the authority who apply for the SCPO, the subject of the SCPO or any person who made a representation against the decision to make an SCPO during original court proceedings.

Before the amendments under the CTSA 2021 came into force, SCPOs were only made on application of the relevant prosecuting authority to the High Court (or the Court of Session in Scotland), or the Crown Court upon conviction. Schedule 12 to the CTSA 2021 amended the SCA 2007 to enable the police to make a direct application to the High Court (or in Scotland the Court of Session) for a SCPO in relation to individuals over the age of 18 involved in terrorism.

The CTSA 2021 was introduced in response to the terror attacks at Fishmongers' Hall on 29 November 2019 and in Streatham on 2 February 2020. These attacks highlighted a need to strengthen the approach taken to the sentencing and release of terrorism offenders.

Under these amendments the functions of chief officers of police are limited to applying in civil courts for SCPOs in terrorism-related cases, and only where they have consulted the relevant prosecuting authority prior to making the application.

The inclusion of chief officers of police as an applicant authority does not alter the power of other applicant authorities from also applying for an SCPO in terrorism-related cases.

Legal Background

- Schedule 12 to the CTSA 2021 amends the SCA 2007.
- These amendments apply UK wide – to England and Wales, Scotland and Northern Ireland.
- These provisions came into force in June 2021.

Assessment from Operational Partners

Counter-Terrorism Policing across England, Wales, Police Scotland and the Police Service of Northern Ireland have provided their assessment of the operational use of the amendments made under section 43 of and Schedule 12 to the CTSA 2021.

As of 31 December 2023, in England and Wales, 2 applications were made by chief officers of police for High Court SCPOs in terrorism-related cases.

Counter-Terrorism Policing Headquarters (CTPHQ) for England and Wales, the Police Service of Northern Ireland and Police Scotland all agree that the changes made by the CTSA 2021 are beneficial. The changes streamlined the application process, supporting the increased use of SCPOs in terrorism cases instances. Jonathan Hall KC, the Independent Reviewer of Terrorism Legislation, encouraged the greater use of SCPOs in his annual report on the Operation of the Terrorism Acts in 2018.

CTPHQ suggested that one potential blocker to SCPOs being used more frequently in practice can be due to some regions having limited experience in dealing with the High Court, given that the applications must be made to the High Court and therefore they require an additional process that can be less familiar to some regional units.

Evaluation

Operational partners are clear and unified that there is national security benefit derived from these legislative amendments in the CTSA 2021.

