

EXPLANATORY MEMORANDUM TO
THE TEMPORARY EXCLUSION ORDERS (NOTICES) REGULATIONS 2015

2015 No. 438

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

- 2.1 The Temporary Exclusion Orders (Notices) Regulations 2015 make provision about the giving of notice in connection with temporary exclusion orders under the Counter-Terrorism and Security Act 2015 (“the Act”).

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 The Act received Royal Assent on 12th February 2015 and the power to make temporary exclusion orders (“TEOs”) came into force the following day. The urgency of the passage of the Act and the making of this instrument is due to the immediate requirement for the police and security services to have access to the power to make TEOs. The ability of the Home Secretary to impose TEOs on individuals would be hindered without these Regulations having been made. The requirement for early commencement was anticipated in the Act.
- 3.2 If there were to be a longer delay, it would restrict the ability of the Secretary of State to serve a TEO on an individual during that period and this would prejudice the protection of the public from a risk of terrorism.

4. **Legislative Context**

- 4.1 The Act provides for the imposition of a TEO if the following conditions are met:
 - Condition A is that the Secretary of State reasonably suspects that the individual is, or has been, involved in terrorism-related activity outside the United Kingdom.
 - Condition B is that the Secretary of State reasonably considers that it is necessary, for purposes connected with protecting members of the public in the United Kingdom from a risk of terrorism, for a temporary exclusion order to be imposed on the individual.
 - Condition C is that the Secretary of State reasonably considers that the individual is outside the United Kingdom.
 - Condition D is that the individual has the right of abode in the United Kingdom.

- Condition E is that—
 - (a) the court gives the Secretary of State permission, or
 - (b) the Secretary of State reasonably considers that the urgency of the case requires a temporary exclusion order to be imposed without obtaining such permission.

During the period that a temporary exclusion order is in force, the Secretary of State must keep under review whether condition B is met.

- 4.2 A TEO requires an individual not to return to the United Kingdom unless—
- (a) the return is in accordance with a permit to return issued by the Secretary of State before the individual began the return, or
 - (b) the return is the result of the individual's deportation to the United Kingdom.

The Secretary of State may also impose certain conditions on an individual who is subject to a TEO, on their return to the United Kingdom.

- 4.3 Section 13(1) and (2) of the Act makes provision for the Secretary of State, by regulations, to make provision about the giving of notice under section 4 and section 9 of the Act. The Regulations make provision for the timing and method of giving notice, and in respect of circumstances in which notice is to be deemed to have been given.

5. Territorial Extent and Application

- 5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

- 7.1 On 29 August 2014, the independent Joint Terrorism Analysis Centre raised the UK national terrorist threat level from SUBSTANTIAL to SEVERE. At least 500 British citizens have travelled to Syria and Iraq, many of whom have joined terrorist groups such as ISIL, and many others have travelled from other countries in Europe and further afield. The emergence of ISIL and the territorial gains they have made in Iraq, present a significant danger not just in the Middle East, but in the UK and across the West. ISIL's murders of British and American journalists have demonstrated the threat the UK faces from terrorism at home and abroad. The police and the security and intelligence agencies need further powers to prevent more people from travelling to Syria and Iraq to fight, and control them on return to the UK, in order to reduce the terrorist threat to the UK.

7.2 TEOs will be imposed on certain British citizens who are suspected of engagement in terrorism-related activity abroad. They will allow the Government to temporarily disrupt the return to the UK of such individuals and will ensure that when the individuals do return, they do so in a manner that the Government can control. TEO subjects may also be subject to certain obligations once they have returned, such as reporting to a police station or providing details of changes of address. This power does not render an individual stateless nor exile them from the UK.

- ***Consolidation***

7.3 These are the first regulations to be made under this power, so the issue of consolidation does not arise.

8. Consultation Outcome

8.1 Due to the urgency and nature of the power, there has been no public consultation on these specific Regulations.

9. Guidance

9.1 No further guidance will be published on these Regulations.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies of this instrument.

10.2 An Impact Assessment has not been prepared for this instrument. An Impact Assessment was prepared for the introduction of TEOs in the Act. It can be found on the Gov.uk website.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 These Regulations will not be subject to regular review but fall within scope of the responsibilities of the Independent Reviewer of Terrorism Legislation, who may choose to review the power as a whole.

13. Contact

The Temporary Exclusion Order team at the Home Office Tel: 020 7035 8736 or 020 7035 6009 or email: Teo.contact@homeoffice.x.gsi.gov.uk can answer any queries regarding the instrument.