

*Status: Point in time view as at 01/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism Act 2008, SCHEDULE 5. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 5 **U.K.**

Section 58

#### FOREIGN TRAVEL RESTRICTION ORDERS

##### *Introductory*

- 1 A foreign travel restriction order is an order prohibiting the person to whom it applies from doing whichever of the following is specified in the order—
- (a) travelling to a country outside the United Kingdom named or described in the order;
  - (b) travelling to any country outside the United Kingdom other than a country named or described in the order;
  - (c) travelling to any country outside the United Kingdom.

##### **Commencement Information**

**II** Sch. 5 para. 1 in force at 1.10.2009 by S.I. 2009/1493, art. 2(c)

##### *Conditions for making a foreign travel restriction order*

- 2 (1) The conditions for making a foreign travel restriction order in respect of a person are as follows.
- (2) The first condition is that the notification requirements apply to the person.
  - (3) The second condition is that the person's behaviour since the person was dealt with for the offence by virtue of which those requirements apply makes it necessary for a foreign travel restriction order to be made to prevent the person from taking part in terrorism activity outside the United Kingdom.
  - (4) If the person was dealt with for the offence before the commencement of this Part, the condition in sub-paragraph (3) is not met unless the person has acted in that way since the commencement of this Part.
  - (5) If on an application for a foreign travel restriction order the court is satisfied that the conditions in sub-paragraphs (2) and (3) are met, it may make a foreign travel restriction order.

##### **Commencement Information**

**I2** Sch. 5 para. 2 in force at 1.10.2009 by S.I. 2009/1493, art. 2(c)

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*Application for foreign travel restriction order*

- 3 (1) In England and Wales an application for a foreign travel restriction order in respect of a person may only be made by a chief officer of police.
- (2) An application may only be made if—
- (a) the person resides in the chief officer's police area, or
  - (b) the chief officer believes that the person is in, or is intending to come to, that area.
- (3) The application must be made by complaint to a magistrates' court whose commission area includes any part of the chief officer's police area.

**Commencement Information**

**I3** Sch. 5 para. 3 in force at 1.10.2009 by S.I. 2009/1493, art. 2(c)

- 4 (1) In Scotland an application for a foreign travel restriction order in respect of a person may only be made by a chief constable.
- (2) An application may only be made if—
- (a) the person resides in the area of the chief constable's police force, or
  - (b) the chief constable believes that the person is in, or is intending to come to, that area.
- (3) The application must be made by summary application to a sheriff within whose sheriffdom any part of the area of the chief constable's police force lies.
- (4) A record of evidence is to be kept on any such summary application.
- (5) Where the sheriff makes a foreign travel restriction order, the clerk of the court must give a copy of the order to the respondent or send a copy to the respondent by registered post or the recorded delivery service.
- (6) An acknowledgement or certificate of delivery issued by the Post Office is sufficient evidence of the delivery of the copy on the day specified in the acknowledgement or certificate.

**Commencement Information**

**I4** Sch. 5 para. 4 in force at 1.10.2009 by S.I. 2009/1493, art. 2(c)

- 5 (1) In Northern Ireland an application for a foreign travel restriction order in respect of a person may only be made by the Chief Constable of the Police Service of Northern Ireland.
- (2) An application may only be made if—
- (a) the person resides in Northern Ireland, or
  - (b) the Chief Constable believes that the person is in, or is intending to come to, Northern Ireland.
- (3) The application must be made by complaint under Part 8 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) to a court of summary jurisdiction.

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**Commencement Information**

**I5** Sch. 5 para. 5 in force at 1.10.2009 by S.I. 2009/1493, art. 2(c)

*Provisions of a foreign travel restriction order*

- 6 (1) A foreign travel restriction order may prohibit the person to whom it applies—
- (a) from travelling to any country outside the United Kingdom named or described in the order; or
  - (b) from travelling to any country outside the United Kingdom other than a country named or described in the order; or
  - (c) from travelling to any country outside the United Kingdom.
- (2) The order must only impose such prohibitions as are necessary for the purpose of preventing the person from taking part in terrorism activity outside the United Kingdom.
- (3) A foreign travel restriction order containing a prohibition within sub-paragraph (1) (c) must require the person to whom it applies to surrender all that person's passports, at a police station specified in the order—
- (a) on or before the date when the prohibition takes effect, or
  - (b) within a period specified in the order.
- (4) Any passports surrendered must be returned as soon as reasonably practicable after the person ceases to be subject to a foreign travel restriction order containing such a prohibition.

**Commencement Information**

**I6** Sch. 5 para. 6 in force at 1.10.2009 by S.I. 2009/1493, art. 2(c)

*Duration of foreign travel restriction order*

- 7 (1) A foreign travel restriction order has effect for a fixed period of not more than 6 months.
- (2) The period must be specified in the order.
- (3) A foreign travel restriction order ceases to have effect if a court (whether the same or another court) makes another foreign travel restriction order in relation to the person to whom the earlier order applies.

**Commencement Information**

**I7** Sch. 5 para. 7 in force at 1.10.2009 by S.I. 2009/1493, art. 2(c)

*Variation, renewal or discharge of order*

- 8 (1) In England and Wales an application for an order varying, renewing or discharging a foreign travel restriction order may be made by—
- (a) the person subject to the order;

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- (b) the chief officer of police on whose application the order was made;
  - (c) the chief officer of police for the area in which the person subject to the order resides; or
  - (d) a chief officer of police who believes that the person subject to the order is in, or is intending to come to, the officer's police area.
- (2) The application must be made by complaint to—
- (a) a magistrates' court for the same area as the court that made the order,
  - (b) a magistrates' court for the area in which the person subject to the order resides, or
  - (c) where the application is made by a chief officer of police, any magistrates' court whose commission area includes any part of that chief officer's police area.
- (3) On an application under this paragraph the court may make such order varying, renewing or discharging the foreign travel restriction order as it considers appropriate.
- (4) Before doing so it must hear the person making the application and (if they wish to be heard) the other persons mentioned in sub-paragraph (1).

#### **Commencement Information**

**18** Sch. 5 para. 8 in force at 1.10.2009 by S.I. 2009/1493, art. 2(c)

- 9
- (1) In Scotland an application for an order varying, renewing or discharging a foreign travel restriction order may be made by—
- (a) the person subject to the order;
  - (b) the chief constable on whose application the order was made;
  - (c) the chief constable in the area of whose police force the person subject to the order resides; or
  - (d) a chief constable who believes that the person subject to the order is in, or is intending to come to, the area of that chief constable's police force.
- (2) The application must be made by summary application—
- (a) to the sheriff who made the order, or
  - (b) to a sheriff—
    - (i) within whose sheriffdom the person subject to the order resides, or
    - (ii) where the application is made by a chief constable, within whose sheriffdom any part of the area of the chief constable's police force lies.
- (3) A record of evidence is to be kept on any summary application under this paragraph.
- (4) On an application under this paragraph the sheriff may make such order varying, renewing or discharging the foreign travel restriction order as the sheriff considers appropriate.
- (5) Before doing so the sheriff must hear the person making the application and (if they wish to be heard) the other persons mentioned in sub-paragraph (1).

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**Commencement Information**

**I9** Sch. 5 para. 9 in force at 1.10.2009 by S.I. 2009/1493, art. 2(c)

- 10 (1) In Northern Ireland an application for an order varying, renewing or discharging a foreign travel restriction order may be made by—
- (a) the person subject to the order; or
  - (b) the Chief Constable of the Police Service of Northern Ireland.
- (2) The application must be made by complaint under Part 8 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) to a court of summary jurisdiction for the petty sessions district which includes the area where the person subject to the order resides.
- (3) On an application under this paragraph the court may make such order varying, renewing or discharging the foreign travel restriction order as it considers appropriate.
- (4) It may do so only after hearing the person making the application and (if they wish to be heard) the other person mentioned in sub-paragraph (1).

**Commencement Information**

**I10** Sch. 5 para. 10 in force at 1.10.2009 by S.I. 2009/1493, art. 2(c)

*Provisions of renewed or varied order*

- 11 (1) A foreign travel restriction order may be renewed, or varied so as to impose additional prohibitions, but only if it is necessary to do so for the purpose of preventing the person subject to the order from taking part in terrorism activities outside the United Kingdom.
- (2) Any renewed or varied order must contain only the prohibitions necessary for that purpose.

**Commencement Information**

**I11** Sch. 5 para. 11 in force at 1.10.2009 by S.I. 2009/1493, art. 2(c)

*Appeals*

- 12 (1) In England and Wales—
- (a) a person against whom a foreign travel restriction order is made may appeal against the making of the order;
  - (b) a person subject to a foreign travel restriction order may appeal against—
    - (i) an order under paragraph 8 varying or renewing the order, or
    - (ii) a refusal to make an order under that paragraph varying or discharging the order.
- (2) The appeal lies to the Crown Court.

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- (3) On an appeal under this paragraph the court may make—
- (a) such orders as it considers necessary to give effect to its determination of the appeal, and
  - (b) such incidental and consequential orders as appear to it to be just.

**Commencement Information**

**I12** Sch. 5 para. 12 in force at 1.10.2009 by S.I. 2009/1493, art. 2(c)

- 13 (1) In Scotland an interlocutor of the sheriff granting or refusing a foreign travel restriction order, or an order under paragraph 9 (variation, renewal or discharge of foreign travel restriction order), is appealable.
- (2) Where an appeal is taken against such an interlocutor, the interlocutor continues in effect pending disposal of the appeal.

**Commencement Information**

**I13** Sch. 5 para. 13 in force at 1.10.2009 by S.I. 2009/1493, art. 2(c)

- 14 (1) In Northern Ireland—
- (a) a person against whom a foreign travel restriction order is made may appeal against the making of the order;
  - (b) a person subject to a foreign travel restriction order may appeal against—
    - (i) an order under paragraph 10 varying or renewing the order, or
    - (ii) a refusal to make an order under that paragraph varying or discharging the order.
- (2) The appeal lies to the county court.
- (3) On an appeal under this paragraph the court may make—
- (a) such orders as it considers necessary to give effect to its determination of the appeal, and
  - (b) such incidental and consequential orders as appear to it to be just.

**Commencement Information**

**I14** Sch. 5 para. 14 in force at 1.10.2009 by S.I. 2009/1493, art. 2(c)

*Breach of foreign travel restriction order an offence*

- 15 (1) A person commits an offence who, without reasonable excuse—
- (a) does anything they are prohibited from doing by a foreign travel restriction order, or
  - (b) fails to comply with a requirement imposed on them by such an order.
- (2) A person guilty of an offence under this paragraph is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both;

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- (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine or both.
- (3) In the application of sub-paragraph (2)(a)—
  - (a) in England and Wales, in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), or
  - (b) in Northern Ireland,for “12 months” substitute “ 6 months ”.
- (4) Where a person is convicted of an offence under this paragraph, it is not open to the court by or before which they are convicted—
  - (a) in England and Wales or Northern Ireland, to make an order for conditional discharge in respect of the offence;
  - (b) in Scotland, to make a probation order in respect of the offence.

**Commencement Information**

**I15** Sch. 5 para. 15 in force at 1.10.2009 by S.I. 2009/1493, art. 2(c)

*Meaning of “terrorism activity”*

- 16 In this Schedule “terrorism activity” means anything that—
- (a) if done in any part of the United Kingdom, would constitute an offence to which this Part applies by virtue of section 41, or
  - (b) is, or takes place in the course of, an act of terrorism or is for the purposes of terrorism.

**Commencement Information**

**I16** Sch. 5 para. 16 in force at 1.10.2009 by S.I. 2009/1493, art. 2(c)

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