

Status: Point in time view as at 31/10/2013.

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

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 [^{F1}the chief constable of the Police Service of Scotland] .
- (2) An application may only be made if—
- (a) the person resides in [^{F2}Scotland] , or
 - (b) the chief constable believes that the person is in, or is intending to come to, [^{F3}Scotland] .
- (3) The application must be made by summary application ^{F4}....
- (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.

Textual Amendments

- F1** Words in Sch. 5 para. 4(1) substituted (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 60(8)(a)**
- F2** Word in Sch. 5 para. 4(2)(a) substituted (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 60(8)(b)**
- F3** Word in Sch. 5 para. 4(2)(b) substituted (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 60(8)(c)**
- F4** Words in Sch. 5 para. 4(3) omitted (1.4.2013) by virtue of The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 60(8)(d)**

Commencement Information

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

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- 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.

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.

Status: Point in time view as at 31/10/2013.

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

- (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;
 - (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

I8 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;
 - [^{F5}(b) the chief constable of the Police Service of Scotland.]
 - ^{F6}(c)
 - ^{F6}(d)
- (2) The application must be made by summary application—
- ^{F7}(a)
 - (b) to a sheriff—
 - (i) within whose sheriffdom the person subject to the order resides, or

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

^{F8}(ii)

- (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).

Textual Amendments

- F5** Sch. 5 para. 9(1)(b) substituted (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 60(8)(e)(ii)**
- F6** Sch. 5 para. 9(1)(c)(d) omitted (1.4.2013) by virtue of The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 60(8)(e)(iii)**
- F7** Sch. 5 para. 9(2)(a) omitted (1.4.2013) by virtue of The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 60(8)(f)**
- F8** Sch. 5 para. 9(2)(b)(ii) omitted (1.4.2013) by virtue of The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 60(8)(f)**

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

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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.
- (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.

Status: Point in time view as at 31/10/2013.

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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

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;
 - (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.

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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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