



# Counter-Terrorism and Sentencing Act 2021

## 2021 CHAPTER 11

### PART 3

#### PREVENTION AND INVESTIGATION OF TERRORISM

##### *Terrorism prevention and investigation measures*

#### **34 TPIMs: condition as to involvement in terrorism-related activity**

In section 3 of the Terrorism Prevention and Investigation Measures Act 2011 (conditions for imposition of measures), in subsection (1), for “is satisfied, on the balance of probabilities,” substitute “reasonably believes”.

#### **35 TPIMs: extension of time limit**

- (1) The Terrorism Prevention and Investigation Measures Act 2011 (the “2011 Act”) is amended in accordance with subsections (2) to (6).
- (2) For the italic heading before section 5, substitute “Duration of measures”.
- (3) In section 5 (two year limit for TPIM notices)—
  - (a) in subsection (3)(b), for “only one occasion” substitute “up to four occasions”;
  - (b) in the heading, for “Two” substitute “Five”.
- (4) In section 12 (variation of measures), in subsection (9)(a), for “without being extended under section 5(2)” substitute “as mentioned in section 13(6)(a)”.
- (5) In section 13 (revocation and revival of TPIM notice)—
  - (a) in subsection (6)(a)—
    - (i) the words “without being extended under section 5(2)” become subparagraph (i);

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- (ii) at the end of that sub-paragraph (i) insert “, or
  - (ii) having been extended under section 5(2) on fewer than four occasions,”;
- (b) in subsection (7)(b), at the end insert “ (and regardless of how many times it has been so extended) ”;
- (c) in subsection (9)—
  - (i) omit the “and” at the end of paragraph (a);
  - (ii) after paragraph (b) insert “; and
    - (c) is treated as having been extended under section 5(2) on the same number of occasions (if any) as on which the revived notice had been so extended.”
- (6) In section 14 (replacement of quashed TPIM notice), for subsection (3) substitute—
  - “(3) The replacement TPIM notice is to be treated as having been extended under section 5(2) on the same number of occasions (if any) as on which the overturned notice had been so extended (including any extension that was quashed).”
- (7) The amendments made by this section do not apply in relation to—
  - (a) a TPIM notice served before the day on which this section comes into force, or
  - (b) a replacement TPIM notice served on or after that day in a case where—
    - (i) the overturned notice to which it relates was served before that day, and
    - (ii) the Secretary of State has not made a determination under section 14(6)(b) of the 2011 Act (certain provisions not to apply as if replacement notice was continuation of original notice) in relation to the replacement TPIM notice.
- (8) In subsection (7)—
  - “TPIM notice” has the meaning given by section 2(1) of the 2011 Act;
  - “replacement TPIM notice” and “overturned notice” have the meanings given by section 14(7) of that Act.

### **36 TPIMs: variation of measures**

- (1) The Terrorism Prevention and Investigation Measures Act 2011 is amended as follows.
- (2) In section 12 (variation of measures)—
  - (a) after subsection (1) insert—
    - “(1A) The Secretary of State may by variation notice vary a relocation measure so as to substitute a different specified residence if the Secretary of State reasonably considers that—
      - (a) the variation is necessary for reasons connected with the efficient and effective use of resources in relation to the individual; and
      - (b) the relocation measure (as varied) remains necessary for purposes connected with preventing or restricting the individual's involvement in terrorism-related activity.

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- (1B) A “relocation measure” is a measure under paragraph 1(2) of Schedule 1 which requires the individual to reside at a specified residence within paragraph 1(3)(b) of that Schedule (requirement to reside at premises specified by Secretary of State other than individual's own residence).”;
- (b) in each of subsections (7), (8), (9) and (10), after “subsection (1)” insert “ or (1A) ”;
- (c) at the end insert—
- “(11) Subsection (1A) does not limit the power under subsection (1).”
- (3) In section 16 (appeals)—
- (a) in subsection (2), in the words before paragraph (a)—
- (i) after “varies” insert “ under section 12(1)(c) ”;
- (ii) omit “(see section 12(1)(c))”;
- (b) after subsection (2) insert—
- “(2A) If the Secretary of State varies a relocation measure specified in a TPIM notice under section 12(1A)—
- (a) the individual may appeal to the court against the variation; and
- (b) the function of the court on such an appeal is to review the Secretary of State's decisions that—
- (i) the variation was necessary for reasons connected with the efficient and effective use of resources in relation to the individual, and
- (ii) the relocation measure (as varied) remained, and continues to be, necessary for purposes connected with preventing or restricting involvement by the individual in terrorism-related activity.
- (2B) In subsection (2A) “relocation measure” has the meaning given by section 12(1B).”
- (4) In section 21 (expiry and repeal of TPIM powers), in subsection (8), in the definition of “Secretary of State's TPIM powers”, in paragraph (c) after “12(1)(c)” insert “ or (1A) ”.
- (5) In Schedule 5 (powers of entry etc), in paragraph 5(2), for paragraph (c) (but not the final “or”) substitute—
- “(c) a notice varying a TPIM notice under section 12(1) as mentioned in paragraph (c) of that subsection or under section 12(1A);”.

### **37 TPIMs: extension of residence measure**

In Schedule 1 to the Terrorism Prevention and Investigation Measures Act 2011 (measures)—

- (a) in the heading before paragraph 1, omit “Overnight”, and
- (b) in paragraph 1(2)(c) and (8)(a), omit “overnight”.

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### 38 TPIMs: polygraph measure

- (1) In Schedule 1 to the Terrorism Prevention and Investigation Measures Act 2011 (measures), after paragraph 10 insert—

#### “Polygraph measure

- 10ZA (1) The Secretary of State may impose a requirement for the individual—
- (a) to participate in polygraph sessions conducted with a view to—
    - (i) monitoring the individual's compliance with other specified measures;
    - (ii) assessing whether any variation of the specified measures is necessary for purposes connected with preventing or restricting the individual's involvement in terrorism-related activity,
  - (b) to participate in those polygraph sessions at such times as may be specified in instructions given by the Secretary of State, and
  - (c) while participating in a polygraph session, to comply with instructions given to the individual by the polygraph operator.
- (2) The Secretary of State may by regulations made by statutory instrument make provision relating to the conduct of polygraph sessions, which may include in particular—
- (a) provision requiring polygraph operators to be persons who satisfy such requirements as to qualifications, experience and other matters as are specified in the regulations;
  - (b) provision about the keeping of records of polygraph sessions;
  - (c) provision about the preparation of reports on the results of polygraph sessions.
- (3) The measurement and recording of the physiological reactions of an individual while being questioned in the course of a polygraph examination must be done by means of equipment of a type approved by the Secretary of State.
- (4) The following may not be used in evidence against the individual in any proceedings for an offence—
- (a) any statement made by the individual while participating in a polygraph session;
  - (b) any physiological reaction of the individual while being questioned in the course of a polygraph examination.
- (5) Regulations under sub-paragraph (2) may make—
- (a) different provision for different purposes or different areas;
  - (b) incidental, supplemental, consequential, saving or transitional provision.
- (6) A statutory instrument containing regulations under sub-paragraph (2) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this paragraph—  
“polygraph examination” means a procedure in which—

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- (a) the polygraph operator questions the individual,
- (b) the questions and the individual's answers are recorded, and
- (c) physiological reactions of the individual while being questioned are measured and recorded;

“polygraph operator” means the person conducting a polygraph session;

“polygraph session” means a session during which the polygraph operator—

- (a) conducts one or more polygraph examinations of the individual, and
- (b) interviews the individual in preparation for, or otherwise in connection with, any such examination.”

- (2) In section 17 of that Act (jurisdiction in relation to decisions under the Act), in subsection (3), after paragraph (c) insert—

“(ca) a decision by a polygraph operator to give an instruction by virtue of paragraph 10ZA(1)(c) of Schedule 1 (polygraph measure);”.

### **39 TPIMs: drug testing measure**

- (1) In Schedule 1 to the Terrorism Prevention and Investigation Measures Act 2011 (measures), after paragraph 10ZA (inserted by section 38) insert—

#### **“Drug testing measure**

10ZB (1) The Secretary of State may impose a requirement for the individual—

- (a) to—
  - (i) attend such a testing place, at such times, and
  - (ii) provide an authorised person at the testing place with such a permitted sample,

as the Secretary of State may by notice require for the purpose of ascertaining whether the individual has any specified Class A drug or specified Class B drug in their body, and

- (b) to comply with any directions given by an authorised person in relation to the provision of the permitted sample.

- (2) In this paragraph—

“authorised person” means—

- (a) a constable, or
- (b) a person prescribed, or of a description prescribed, by regulations made by the Secretary of State;

“permitted sample” means—

- (a) a sample of hair other than pubic hair;
- (b) a sample taken from a nail or from under a nail;
- (c) a sample of urine;
- (d) saliva;
- (e) a swab taken from any part of a person's body except a person's genitals (including pubic hair) or a person's body orifice other than the mouth;

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- (f) a skin impression;  
“specified Class A drug” and “specified Class B drug” have the same meanings as in Part 3 of the Criminal Justice and Court Services Act 2000 (see section 70 of that Act);  
“testing place” means—
  - (a) a police station, or
  - (b) a place prescribed, or of a description prescribed, by regulations made by the Secretary of State.
- (3) Regulations under sub-paragraph (2) are to be made by statutory instrument.
- (4) Regulations under sub-paragraph (2) may make—
  - (a) different provision for different purposes or different areas;
  - (b) incidental, supplemental, consequential, saving or transitional provision.
- (5) A statutory instrument containing regulations under sub-paragraph (2) is subject to annulment in pursuance of a resolution of either House of Parliament.”
- (2) In section 17 of that Act (jurisdiction in relation to decisions under the Act), in subsection (3), after paragraph (ca) (inserted by section 38) insert—
  - “(cb) a decision by an authorised person to give a direction by virtue of paragraph 10ZB(1)(b) of Schedule 1 (drug testing measure);”.

#### **40 TPIMs: provision of information**

- (1) Schedule 1 to the Terrorism Prevention and Investigation Measures Act 2011 (measures) is amended as follows.
- (2) In paragraph 7 (electronic communication device measure)—
  - (a) in sub-paragraph (4), at the end insert—
    - “(f) the disclosure to the Secretary of State of such details as may be specified of any electronic communication device possessed or used by the individual or any other person in the individual's residence.”;
  - (b) in sub-paragraph (6)(c) and (d), after “designed or adapted” insert “, or capable of being adapted,”.
- (3) After paragraph 12 insert—

##### **12A “Provision of residence information measure**

- (1) The Secretary of State may impose a requirement for the individual to disclose to the Secretary of State—
  - (a) the address of the individual's residence;
  - (b) if the individual resides at multiple occupancy premises, such details as may be specified concerning where, in the premises, the individual's residence is located;

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- (c) such details as may be specified in relation to any change (or anticipated change) in the matters referred to in paragraphs (a) and (b).
- (2) The Secretary of State may impose a requirement for the individual to comply with any other specified conditions in connection with the disclosure of information within sub-paragraph (1).
- (3) “Multiple occupancy premises” are premises at which two or more individuals who are not members of the same household reside.”

#### **41 TPIMs: annual review**

- (1) In section 20 of the Terrorism Prevention and Investigation Measures Act 2011 (reviews of the operation of that Act)—
  - (a) after subsection (1) insert—
    - “(1A) The independent reviewer must carry out a review under this section in respect of each calendar year starting with 2022 and ending with 2026.
    - Each review must be completed as soon as reasonably practicable after the year to which it relates.”;
  - (b) in subsection (2), after “calendar year” insert “ after 2026 ”;
  - (c) in subsection (4), for “subsection (2)” substitute “ this section ”;
  - (d) after subsection (6) insert—
    - “(7) Subsection (1A) does not require a review to be carried out in respect of any calendar year during the whole of which the Secretary of State’s TPIM powers (within the meaning given by section 21(8)) do not exist because of their expiry or repeal under section 21.”
- (2) Subsection (1) does not affect any duty to carry out a review further to a notification given under section 20(2) of the Terrorism Prevention and Investigation Measures Act 2011 before the coming into force of this section.

*Notification requirements under Part 4 of the Counter-Terrorism Act 2008*

#### **42 Additional offences attracting notification requirements**

- In section 41(1) of the Counter-Terrorism Act 2008 (terrorism offences that attract notification requirements under Part 4 of that Act), after paragraph (e) insert—
- “(f) an offence under section 23 of the Terrorism Prevention and Investigation Measures Act 2011 (breach of notice imposing terrorism prevention and investigation measures) dealt with on or after the day on which section 42 of the Counter-Terrorism and Sentencing Act 2021 comes into force;
  - (g) an offence under section 10(1) or (3) of the Counter-Terrorism and Security Act 2015 (breach of temporary exclusion order or related obligation) dealt with on or after that day.”

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### *Serious crime prevention orders*

#### **43 Police powers to apply for serious crime prevention orders in terrorism cases**

Schedule 12 amends the Serious Crime Act 2007 to make provision conferring powers on chief officers of police to apply for serious crime prevention orders in terrorism-related cases.

#### **44 Serious crime prevention orders: review of operation of police powers**

- (1) The Secretary of State must—
  - (a) review the operation of the amendments made by this Act to the Serious Crime Act 2007 (see Schedule 12), and
  - (b) publish the outcome of the review in a report.
- (2) The report must be published before the end of the period of 3 years beginning with the day on which section 43 comes into force.
- (3) The Secretary of State must lay the report before Parliament.

### *“Prevent” strategy*

#### **45 Persons vulnerable to being drawn into terrorism: timing of independent review**

- (1) In section 20 of the Counter-Terrorism and Border Security Act 2019 (support for persons vulnerable to being drawn into terrorism)—
  - (a) in subsection (8), omit the words from “, within the period” to “passed,”;
  - (b) in subsection (9), omit the words from “, within the period” to the end.
- (2) The amendments made by subsection (1) are to be treated as having had effect from the time when section 20 of the Counter-Terrorism and Border Security Act 2019 came into force.



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