

**EXPLANATORY MEMORANDUM TO THE
PREVENTION OF TERRORISM ACT 2005 (CONTINUANCE IN FORCE OF
SECTIONS 1 TO 9) ORDER 2006**

2006 No. 512

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

2. Description

This instrument is made in exercise of the powers conferred under section 13(2)(c) of the Prevention of Terrorism Act 2005 (“the Act”). It provides for the continuation of the powers to make a control order against an individual where the Secretary of State has reasonable grounds for suspecting that individual is or has been involved in terrorism-related activity and it is necessary to impose obligations on that individual for purposes connected with protecting members of the public from a risk of terrorism, from 11 March 2006 (when they would otherwise expire) until the end of 10 March 2007.

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

None.

4. Legislative background

4.1 The above instrument continues in force sections 1 to 9 of the Act for a period of one year, beginning with 11 March 2006. These provisions would otherwise expire at the end of 10 March 2007.

4.2 It provides for the continuation of the powers to make a control order against an individual where the Secretary of State has reasonable grounds for suspecting that the individual is or has been involved in terrorism-related activity and it is necessary to impose obligations on that individual for purposes connected with protecting members of the public from a risk of terrorism.

4.3 The legislation makes provision for both derogating and non-derogating control orders. No derogating orders have been made and the Secretary of State has not sought a derogation.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Home Secretary Charles Clarke has made the following statement regarding Human Rights:

“In my view the provisions of the Prevention of Terrorism Act 2005 (Continuance in force of sections 1 to 9) Order 2005 are compatible with the Convention rights”.

7. Policy background

7.1 The above instrument extends, for a further year, sections 1 to 9 of the Act which provide for the imposition of control orders upon those believed to be involved in terrorist-related activity.

7.2 The orders themselves are based on a menu of options that can be employed to tackle particular terrorism activity on a case by case basis. This could for example include measures ranging from a ban on the use of communications equipment to a restriction on an individual’s movement.

7.3 Breach of any of the obligations of the control order without reasonable excuse is a criminal offence punishable with a prison sentence of up to 5 years or a fine or both.

7.4 The Secretary of State makes a ‘non-derogating’ control order after seeking permission from the court. However, in cases of urgency, the Secretary of State can make an order without first seeking the permission of the court, but he must refer it immediately to the court for confirmation.

7.5 Non-derogating control orders last for a period of 12 months but may be renewed.

7.6 There is an automatic review process – where the court will review the material put before it – to determine whether the Secretary of State’s decision to make a control order was obviously flawed. On review the court has the ability to quash the control order.

7.7 It is also open to the individual subject to the control order to apply for modifications or revocation of the order if circumstances change. There is a separate appeal mechanism to deal with these applications where the Secretary of State does not agree to such requests.

7.8 The Act further requires the Secretary of State to report quarterly to Parliament on the exercise of the powers under the Act.

7.9 The powers taken reflect a clear and present terrorist threat to the United Kingdom from people suspected of involvement in international terrorism.

7.10 There are currently 9 control orders in force.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is minimal.

9. Contact

Any enquiries on this instrument to 020 7035 3687.