
STATUTORY INSTRUMENTS

2011 No. 631

The Terrorism Act 2000 (Remedial) Order 2011

Citation and commencement

1. This Order may be cited as the Terrorism Act 2000 (Remedial) Order 2011 and shall come into force on 18th March 2011.

Current stop and search powers no longer to have effect

2. The Terrorism Act 2000 is to have effect as if sections 44 to 47(1) of that Act (power to stop and search) were repealed.

Replacement powers to stop and search in specified locations

3.—(1) The Terrorism Act 2000 is to have effect as if before section 48 (and the italic cross-heading before it) there were inserted—

“47A Searches in specified areas or places

(1) A senior police officer may give an authorisation under subsection (2) or (3) in relation to a specified area or place if the officer—

- (a) reasonably suspects that an act of terrorism will take place; and
- (b) considers that—
 - (i) the authorisation is necessary to prevent such an act;
 - (ii) the specified area or place is no greater than is necessary to prevent such an act; and
 - (iii) the duration of the authorisation is no longer than is necessary to prevent such an act.

(2) An authorisation under this subsection authorises any constable in uniform to stop a vehicle in the specified area or place and to search—

- (a) the vehicle;
- (b) the driver of the vehicle;
- (c) a passenger in the vehicle;
- (d) anything in or on the vehicle or carried by the driver or a passenger.

(3) An authorisation under this subsection authorises any constable in uniform to stop a pedestrian in the specified area or place and to search—

- (a) the pedestrian;

(1) Section 44 of the Terrorism Act 2000 was amended by section 78(2)(c) of the Police (Northern Ireland) Act 2000 (c.32), section 30(1), (2) and (3) of the Terrorism Act 2006 (c.11), section 101 of and paragraphs 29 and 31 of Schedule 7 to the Anti-Terrorism, Crime and Security Act 2001 (c. 24), article 12(6)(c) of S.I. 2004/1573, section 57(1) and (2) and section 197(9) of and Part 1 of Schedule 23 to the Energy Act 2004 (c. 20); section 45 of the Terrorism Act 2000 was amended by section 30(1) and (4) of the Terrorism Act 2006; and section 46 of the Terrorism Act 2000 was amended by section 57(1) and (3) of the Energy Act 2004.

(b) anything carried by the pedestrian.

(4) A constable in uniform may exercise the power conferred by an authorisation under subsection (2) or (3) only for the purpose of discovering whether there is anything which may constitute evidence that the vehicle concerned is being used for the purposes of terrorism or (as the case may be) that the person concerned is a person falling within section 40(1)(b).

(5) But the power conferred by such an authorisation may be exercised whether or not the constable reasonably suspects that there is such evidence.

(6) A constable may seize and retain anything which the constable—

(a) discovers in the course of a search under such an authorisation; and

(b) reasonably suspects may constitute evidence that the vehicle concerned is being used for the purposes of terrorism or (as the case may be) that the person concerned is a person falling within section 40(1)(b).

(7) Schedule 6B (which makes supplementary provision about authorisations under this section) has effect.

(8) In this section—

“driver”, in relation to an aircraft, hovercraft or vessel, means the captain, pilot or other person with control of the aircraft, hovercraft or vessel or any member of its crew and, in relation to a train, includes any member of its crew;

“senior police officer” has the same meaning as in Schedule 6B (see paragraph 14(1) and (2) of that Schedule);

“specified” means specified in an authorisation.”

(2) Schedule 1 (which provides for the Terrorism Act 2000 to have effect as if a new Schedule making supplementary provision about powers to stop and search in specified locations were inserted after Schedule 6A to that Act) has effect.

Code of Practice

4. The Terrorism Act 2000 is to have effect as if after section 47A (for which see article 3) there were inserted—

“47B Code of practice relating to section 47A

(1) The Secretary of State must issue a code of practice containing guidance about—

(a) the exercise of the powers to give an authorisation under section 47A(2) or (3),

(b) the exercise of the powers conferred by such an authorisation and section 47A(6), and

(c) such other matters in connection with the exercise of any of the powers mentioned in paragraphs (a) and (b) as the Secretary of State considers appropriate.

(2) Such a code may make different provision for different purposes.

(3) In the course of preparing such a code, the Secretary of State must, so far as is practicable, consult the Lord Advocate and such other persons as the Secretary of State considers appropriate.

(4) The requirement to consult in subsection (3), in relation to the preparation of a code of practice, may be satisfied by any such consultation which takes place before the day on which the Terrorism Act 2000 (Remedial) Order 2011 ([S.I. 2011/631](#)) comes into force.

(5) The Secretary of State must lay before Parliament a copy of a code of practice issued under subsection (1).

(6) The Secretary of State may revise such a code and must issue any such revised code.

(7) Subsections (2), (3), (5) and (6) have effect in relation to a revised code as they have effect in relation to the code first issued.

47C Effect of code

(1) A constable must have regard to the search powers code when exercising any powers to which the code relates.

(2) A failure on the part of a constable to act in accordance with any provision of the search powers code does not of itself make that person liable to criminal or civil proceedings.

(3) The search powers code is admissible in evidence in any such proceedings.

(4) A court or tribunal may, in particular, take into account a failure by a constable to have regard to the search powers code in determining a question in any such proceedings.

(5) The references in this section to a constable include, in relation to any functions exercisable by a person by virtue of paragraph 15 of Schedule 4 to the Police Reform Act 2002(2) or paragraph 16 of Schedule 2A to the Police (Northern Ireland) Act 2003(3) (search powers in specified areas or places for community support officers), references to that person.

(6) In this section “the search powers code” means the code of practice issued under section 47B(1) (as revised from time to time).”

Consequential amendments

5. Schedule 2 (which provides for various enactments to have effect as if certain consequential amendments were made) has effect.

Temporary effect of Order and transitional provision

6.—(1) If a public general Act passed in the same Session as the Session in which this Order is made makes provision to repeal sections 44 to 47 of the Terrorism Act 2000 (with or without savings), articles 2 to 5 and Schedules 1 and 2 cease to have effect on the coming into force of such provision.

(2) Paragraph (1) is subject to any transitional, transitory or saving provision made by virtue of the Act so passed.

(3) An authorisation—

(a) given under section 44 of the Terrorism Act 2000, and

(b) whose duration would otherwise extend beyond the coming into force of this Order,

ceases to have effect on the coming into force of this Order.

(4) An authorisation ceasing to have effect by virtue of paragraph (3) does not affect the lawfulness of anything done in reliance on it before it ceases to have effect.

(2) 2002 c.30.

(3) 2003 c.6. Schedule 2A was inserted by SI 2007/912.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Home Office
16th March 2011

Theresa May
One of Her Majesty's Principal Secretaries of
State