

EXPLANATORY MEMORANDUM TO
THE PROSCRIBED ORGANISATIONS (NAME CHANGES) (No. 2) ORDER 2014

2014 No. 2210

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 This instrument is made under the power in section 3(6) of the Terrorism Act 2000 (“TACT”) which permits the Secretary of State to specify names to be treated as other names for an organisation that is already a proscribed organisation listed in Schedule 2 to TACT. The proscribed organisation in question is “Islamic State of Iraq and the Levant (Islamic State of Iraq and al-Sham) (Dawat al Islamiya fi Iraq wa al Sham (DAISh))”. The alternative name specified by this instrument is “Islamic State (Dawlat al Islamiya)”.

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

3.1 This order comes into force on the day after it is laid before Parliament, and accordingly breaches the 21 day convention. Any significant delay between the laying and coming into force of the instrument would alert the organisation to the impending change to the law that would result in it being recognised as “Islamic State (Dawlat al Islamiya)”, and may result in pre-emptive action by the organisation’s members designed to circumvent the provisions of the Terrorism Act 2000 and/or the criminal law. Breaching the 21 day convention will also assist in any prosecutions that may be brought imminently since the Order will remove the need for the prosecuting authorities, in addition to making out the offence in question, to have to prove beyond reasonable doubt that “Islamic State” is one and the same as ISIL.

4. **Legislative Context**

4.1 Section 3(3) of TACT allows the Secretary of State, by Order, to add an organisation to the list of proscribed organisations in Schedule 2 to TACT, to remove an organisation from that list or to amend Schedule 2 in some other way.

4.2 Section 3(6) of TACT permits the Secretary of State, by Order, to provide that a name that is not specified in Schedule 2 is to be treated as an alternative name for an organisation that is already proscribed. This is the eighth order made under this power and the first made in respect of this proscribed organisation.

5. **Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 Section 3(3) of TACT provides a power to proscribe, by Order, an organisation which commits or participates in acts of terrorism, prepares for, promotes or encourages terrorism or is otherwise concerned in terrorism. Section 21 of the Terrorism Act 2006 amended the grounds for proscription in section 3 of TACT to include organisations which unlawfully glorify the commission or preparation of acts of terrorism.

7.2 Section 3(6) of TACT permits the Secretary of State, by Order, to provide that a name that is not specified in Schedule 2 to TACT is to be treated as an alternative name for a terrorist organisation that is already proscribed. Article 2 of this Order provides that “Islamic State (Dawlat al Islamiya)” is to be treated as an alternative name for the proscribed organisation that is listed in Schedule 2 as “Islamic State of Iraq and the Levant (Islamic State of Iraq and al-Sham) (Dawat al Islamiya fi Iraq wa al Sham (DAISh))”.

7.3 The organisation is proscribed in the UK. It is a criminal offence for a person to belong to or invite support for a proscribed organisation. It is also a criminal offence to arrange a meeting in support of a proscribed organisation or to wear clothing or to carry articles in public which arouse reasonable suspicion that an individual is a member or supporter of the proscribed organisation.

7.4 A proscribed organisation, or any person affected by the proscription of the organisation, may apply to the Secretary of State for deproscription and, if the Secretary of State refuses that application, the applicant may appeal to the Proscribed Organisations Appeal Commission.

- *Consolidation*

7.5 The Department does not assess that there is any need for consolidation measures.

8. Consultation outcome

8.1 No consultation was conducted.

9. Guidance

9.1 No guidance is necessary in connection with this instrument.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to small business.

12. Monitoring & review

- 12.1 If a proscribed organisation, or any person affected by the proscription of the organisation, applies to the Secretary of State for deproscription, the proscription of the organisation will be reviewed.

13. Contact

- 13.1 Any enquiries about the contents of this memorandum should be addressed to:
PDU, OSCT, 5th Floor, Peel Building, Home Office, 2 Marsham Street, London,
SW1P 4DF, telephone: 020 7035 4848.