

EXPLANATORY MEMORANDUM TO
THE TERRORISM ACT 2000 (PROSCRIBED ORGANISATIONS) (AMENDMENT)
(No. 3) ORDER 2016

2016 No. 1238

1. Introduction

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

2. Purpose of the instrument

- 2.1 This order amends Schedule 2 to the Terrorism Act 2000 (“the Act”) by adding “National Action” to the list of proscribed organisations “concerned in terrorism”.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 Disregarding minor or consequential changes, the territorial application of this instrument includes Scotland and Northern Ireland.

4. Legislative Context

- 4.1 Section 3 of the Act 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 the Act to include organisations which unlawfully glorify the commission or preparation of acts of terrorism. Section 3 also allows the Secretary of State, by order, to remove an organisation from the list of proscribed organisations in Schedule 2 to the Act, or amend the Schedule in some other way. Twenty Orders have been laid previously, in 2001, 2002, 2005, 2006, 2007, 2008 (2), 2010, 2011, 2012 (2), 2013 (2), 2014 (3), 2015 (2) and 2016 (2).

- 4.2 The Secretary of State has regard to several factors in deciding, as a matter of discretion, whether or not to proscribe an organisation. These are:

- the nature and scale of the organisation’s activities;
- the specific threat that it poses to the UK;
- the specific threat that it poses to British nationals overseas;
- the extent of the organisation’s presence in the UK; and
- the need to support international partners in the fight against terrorism.

- 4.3 An organisation is proscribed in the UK as soon as the order comes into force. 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 to support a proscribed organisation; or to wear clothing or carry articles in public which arouse reasonable suspicion that an individual is a member or supporter of a proscribed organisation.

- 4.4 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.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is the whole of the United Kingdom.
5.2 The territorial application of this instrument is the whole of the United Kingdom.

6. European Convention on Human Rights

- 6.1 The Home Secretary, Amber Rudd, has made the following statement regarding Human Rights:

“In my view the provisions of the Terrorism Act 2000 (Proscribed Organisations) (Amendment) (No. 3) Order 2016 are compatible with the Convention rights.”

7. Policy background

What is being done and why

- 7.1 The Home Secretary has decided to exercise the proscription power in section 3 of the Act in respect of the following organisations.
- 7.2 National Action is a racist neo-Nazi group that was established in 2013. It has a number of branches across the UK, which conduct provocative street demonstrations and stunts aimed at intimidating local communities. Its activities and propaganda materials are particularly aimed at recruiting young people.
- 7.3 The group is virulently racist, anti-Semitic and homophobic. Its ideology promotes the idea that Britain will inevitably see a violent ‘race war’, which the group claims it will be an active part of. The group rejects democracy, is hostile to the British state and seeks to divide society by implicitly endorsing violence against ethnic minorities and perceived ‘race traitors’.
- 7.4 National Action’s online propaganda material, disseminated via social media, frequently features extremely violent imagery and language. It condones and glorifies those who have used extreme violence for political or ideological ends. This includes two tweets posted by the group in 2016 in connection with the murder of Jo Cox (which the prosecutor described as a terrorist act), one stating “Only 649 MPs to go” and another containing a photo of Thomas Mair with the caption “don’t let this man’s sacrifice go in vain...Jo Cox would have filled Yorkshire with more subhumans!”. The group have also disseminated an image which was doctored to condone and celebrate the terrorist attack on the Pulse nightclub in Orlando and another depicting a police officer’s throat being slit. There are people who may have become aware of these messages who could reasonably be expected to infer that these acts should be emulated and therefore such propaganda amounts to the unlawful glorification of terrorism.

Consolidation

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

8. Consultation outcome

8.1 No consultation has been undertaken in connection with this instrument.

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 activities that are undertaken by small businesses.

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 The CT Pursue Unit at the Home Office can answer any queries regarding the instrument and can be contacted at the Home Office, 5th Floor, Peel Building, 2 Marsham Street, London, SW1P 4DF, telephone: 020 7035 4848.