

EXPLANATORY MEMORANDUM TO
THE TERRORISM ACT 2000 (PROSCRIBED ORGANISATIONS) (AMENDMENT)
ORDER 2019

2019 No. 406

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This Order adds three groups to the list of proscribed organisations in Schedule 2 to the Terrorism Act 2000 (“the Act”).
- 2.2 “Hizballah (Party of God)” is added to the list in substitution for the existing entry for “The military wing of Hizballah, including the Jihad Council and all units reporting to it (including the Hizballah External Security Organisation)”. This will extend the proscription of Hizballah to cover the group in its entirety. “Jamaat Nusrat al-Islam Wal-Muslimin (JNIM) (Nusrat al-Islam) (Nusrat al-Islam wal Muslimeen) (NIM), including (Ansar al-Dine) (AAD), (Macina Liberation Front) (MLF), (al-Murabitun), (al-Qa’ida in the Maghreb) (az-Zallaqa)” and “Ansaroul Islam (Ansar ul Islam) (Ansaroul Islam Lil Irchad Wal Jihad)” are added to the list as new entries.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This Order comes into force on the day after it is made. Although the 21 day convention does not apply to affirmative instruments, an instrument which imposes duties that are significantly more onerous than before should not usually be brought into force earlier than 21 days after it is made. This is such an instrument, as it has the effect of applying the offences in sections 11 to 13 of the Terrorism Act 2000 (TACT) to the three organisations. However any significant delay between the laying and coming into force of the instrument would alert the organisations to their impending proscription and may result in pre-emptive action by the organisations’ members designed to circumvent the provisions of TACT and/or the criminal law.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 The territorial application of this instrument includes Scotland and Northern Ireland.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the whole of the United Kingdom.
- 4.2 The territorial application of this instrument is the whole of the United Kingdom.

5. European Convention on Human Rights

5.1 The Home Secretary Sajid Javid has made the following statement regarding Human Rights:

“In my view the provisions of the Terrorism Act 2000 (Proscribed Organisations) (Amendment) Order 2019 are compatible with the Convention rights.”

6. Legislative Context

6.1 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 two orders have been laid previously, in 2001, 2002, 2005, 2006, 2007, 2008 (2), 2010, 2011, 2012 (2), 2013 (2), 2014 (3), 2015 (2), 2016 (3) and 2017.

6.2 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.

6.3 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.

6.4 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.

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 Hizballah was established during the Lebanese civil war and in the aftermath of the Israeli invasion of Lebanon in 1982. Hizballah is committed to armed resistance to the state of Israel and aims to seize all Palestinian territories and Jerusalem from Israel. It supports terrorism in Iraq and the Palestinian territories. Hizballah continues to amass an arsenal of weapons in Lebanon, in direct contravention of UN Security Council Resolutions 1701 and 1559, putting the security of the region at risk. Its involvement in the Syrian civil war, since 2012, continues to prolong the conflict and the regime’s

brutal and violent repression of the Syrian people - violating the Lebanese government's policy of disassociation from regional conflicts, and increasingly destabilising and undermining the region's long-term stability.

- 7.3 Hizballah, as a political entity in Lebanon, has won votes in legitimate elections and forms part of the Lebanese Government. It has the largest non-state military force in the country.
- 7.4 The UK Government proscribed Hizballah's External Security Organisation in 2001. In 2008, the proscription was extended to include the whole of Hizballah's military apparatus, namely the Jihad Council and all the units reporting to it.
- 7.5 Hizballah itself has publicly denied a distinction between its military and political wings. The group in its entirety is assessed to be concerned in terrorism.
- 7.6 The US, Canada, Netherlands, Israel, Gulf Co-operation Council and Bahrain also designate the group in its entirety as a terrorist organisation.
- 7.7 Jamaat Nusrat al-Islam Wal-Muslimin (JNIM) was established in March 2017, as a federation of AQ-aligned groups in Mali, including AQ-M Sahel Branch (AQ-MSB), Ansar al-Dine (AAD), Macina Liberation Front (MLF) and al-Murabitun. JNIM's area of operations encompasses northern and central Mali, northern Burkina Faso and western Niger (the western Sahel region). JNIM aims to eradicate state and Western presence from these areas, and to institute governance in accordance with a strict Salafist interpretation of Sharia law. Attacks on Western interests, in the region and across wider the wider West Africa, are one means by which JNIM seeks to achieve these goals. Kidnap of Western nationals for ransom purposes remains a lucrative source of income for the group.
- 7.8 JNIM attacks are typically claimed via az-Zallaqa the group's media foundation, examples include:
 - 18 June 2017 - firearms and IED attack on Le Campement Resort in Bamako, in which three civilians and two military personnel were killed;
 - 2 March 2018 - VBIED (Car bomb) and firearms attack on the French Embassy and Burkinabe Chief of Defence HQ in Ouagadougou in Burkina Faso;
 - 14 April 2018 - VBIED and firearms attack on BARKHANE (anti-insurgent operation) and United Nations Multidimensional Integrated Stabilisation Mission in Mali (MINUSMA) camp in Timbuktu, Mali;
 - 22 April 2018 - indirect fire attack on BARKHANE and MINUSMA camp in Timbuktu, Mali;
 - 28 June 2018 - VBIED attack on the G5 Sahel Force HQ at Sevare, Mopti region, Sahel;
 - 29 July 2018 - VBIED attack on the Malian Army and BARKHANE convoy in the Gao region, Mali on fire attack on BARKHANE and MINUSMA camp at Aguelhok, Kidal region, Mali.
- 7.9 Ansaroul Islam's overarching aim is to establish dominance over the historic Fulani kingdom of Djelgoodji (northern Burkina Faso and central Mali) and the implementation of its own strict Salafi Sharia. The group announced its existence on 16 December 2016 and claimed responsibility for an attack on an army outpost in Nassoumboia (Burkina Faso) which killed at least 12 soldiers. Ansaroul Islam seeks to

eradicate Burkinabe state presence from the country's northern regions including through attacks on government interests, such as: police stations, schools and civic officials; and through catalysing the departure of others from the region. Typical methodologies include small arms fire and IEDs. Further, the predominantly Fulani, Ansaroul Islam frequently target other ethnic groups leading to substantial internal displacement of persons.

- 7.10 Ansaroul Islam is highly likely supported by the federation of Al Qa'ida groups in Mali, Jamaat Nusrat al-Islam Wal-Muslimin (JNIM). Ansaroul Islam is designated as a terrorist by the US.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 The Government does not assess that there is any need for consolidation measures.

10. Consultation outcome

- 10.1 No consultation has been undertaken in connection with this instrument.

11. Guidance

- 11.1 No guidance is necessary in connection with this instrument.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
12.2 There is no, or no significant, impact on the public sector.
12.3 An Impact Assessment has not been prepared for this instrument.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 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.

15. Contact

- 15.1 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.
15.2 The Home Secretary, the Rt Hon Sajid Javid MP, can confirm that this Explanatory Memorandum meets the required standard.