



## Briefing Paper No 20

### Counter-Terrorist and Security Act 2015

#### Introduction

The Counter-Terrorism and Security Act 2015 came into force following Royal Assent on 12 February 2015. The Act aims to disrupt the ability of people to travel abroad to engage in terrorist activity or to return to the UK if involved in terrorist activities by enhancing the abilities of operational agencies to monitor and control the actions of those who pose a threat by providing powers to combat the underlying ideology that feeds, supports and sanctions terrorism.

The Counter-Terrorism and Security Act 2015 provides additional powers for organisations to monitor, investigate and tackle the threat of terrorism, The act also places responsibilities on local authorities; Health and Social Care, Education and Child Care, Criminal Justice and Police to take responsibility for the identification of individuals who are vulnerable and at risk of radicalisation.

The 'Prevent Duty Guidance for Scotland' provides specific Scottish authorities guidance on their duties to the Counter-Terrorism and Security Act 2015 and the 'due regard' they need to implement to prevent people from being drawn into terrorism.

#### Content Summary

The Act contains a range of powers which are aimed at reducing the risks associated with terrorism in all its guises. These measures include:

- The provision of powers to the authorities to temporarily seize a passport, for a period when an investigation can be conducted
- Facilitate the creation of Temporary Exclusion Orders that can disrupt the return to Great Britain of a British Citizen suspected of involvement in terrorist activity abroad and to provide control measures for those allowed to return
- Stronger terrorism prevention and investigation measures which will allow more constraints to be placed on individuals and the implement mandatory meetings which can be held at police stations or approved locations like job centres
- Increased law enforcement access to online information to facilitate online investigations and greater access to online activities and providers
- Enhanced border security for all types of travel relating to passenger information, no fly lists and increased security screening measures
- The creation of a "general duty" for organisations to prevent people from becoming drawn into terrorism

- Creation of Government Voluntary Programmes for people vulnerable to being drawn into terrorism on a statutory basis
- Changes to the Terrorism Act 2000 which puts beyond doubt the legal basis of measures relating to preventing the payment of ransoms to terrorist organisations and the scope and power to examine goods at or near ports

## **The Act – Seven Key Parts**

The Act is divided into seven parts and empowers authorities with a wide and far reaching set of legislative powers aimed at reducing the ability of individuals to become involved in terrorist activity outside the UK, reduce the risk of radicalisation by imposing responsibilities to tackle and prevent radicalisation within communities and with individuals. It offers a range of investigatory powers to enable improved access to online material and sources of information and imposes restrictions to prevent those involved in terrorism outside the UK from returning.

In all seven parts of the Act there are elements which specifically detail the role and responsibilities of the Scottish authorities, the actions required, the processes to adopt and the legal amendments required to allow The Act to be implemented UK wide.

### **Part One**

Part one increase's the power of authorities in preventing individuals from leaving the country to become involved in terrorism and also preventing the return to the UK of individuals suspected of involvement of terrorist activities. This is achieved through the temporary confiscation of travel documents; Part one provides detailed guidance on temporary exclusion orders their implementation, review and removal and provides details of a new offence which is returning to the UK when subjected to a temporary exclusion order, without a reasonable excuse. The penalty for which is 12 month imprisonment and/or a large fine. As a result of the wide range of changes a number of associated Acts have had to be amended, which include:

- Terrorism Act 2000
- Senior Courts Act 1981
- Criminal Justice Act 1988
- Regulation of Investigatory Powers Act 2000

### **Part Two**

Part Two provides guidance on protective measures which include restrictions to overnight residency, travel and restrictions to travel, the possession of weapons and explosive, attendance at mandatory meetings and other miscellaneous amendments, which have resulted in amendments to the Terrorism Prevention and Investigation Measures Act 2011.

## Part Three

Part Three provides amendments to the Data Retention and Investigatory Powers Act 2014 to make provision for the monitoring, accessing of data and investigation of online activities, providers and services, including accessing public telecommunications data.

## Part Four

Part Four details the implementation of the new authority-to-carry scheme which requires carriers to provide in specified formats details of those passengers and crew being carried and requires carriers to be contactable in the event of an emergency. It includes processes for granting and refusing authority to travel and penalties for breaches to the authority-to-carry scheme. Note, in Scotland the authority-to-carry scheme can only be made for purposes that relate to excepted or reserved matters under the Scotland Act 1998.

Part Four also provides details of the amendments to aviation, maritime and rail security, which combined require amendments to the following acts and legislation:

- Immigration Act 1971
- Immigration, Asylum and Nationality Act 2006
- Aviation Security Act 1982
- Aviation Maritime Security Act 1990
- The Channel Tunnel (Security) Order 1994

## Part Five

Part Five, Chapter 1 examines the risk of being drawn into terrorism and provides legislation which places a general duty on specified authorities to have 'due regard to the need to prevent people from being drawn into terrorism'. The authorities mentioned under Schedule Six of the Act are:

- Local Authority
- Criminal Justice
- Education, child care, youth services etc
- Health and Social Care
- Police

In Scotland the UK Secretary of State must consult with Scottish Ministers before making changes. Consultations must also be held with Scottish Government in regard to any powers to issue guidance or provision of direction.

Chapter One provides educational bodies with guidance on the 'due regard' required and detailed the importance of freedom of speech and academic freedom, however the educational organisations will be held to their responsibilities to maintain due regard in the prevention radicalisation. Educational bodies will be required to inform the monitoring authority reference performance and there will be enforcement and direction options open for use if educational organisations fail to meet the criteria of the Act.

Part 5, Chapter 2 provides guidance on the support for people vulnerable to being drawn into terrorism. The Act calls for action plans, support, reviews and further assessment, which is to be provided through local panels, to 'identified individuals' deemed at risk of being drawn into terrorism. The panel responsible for this is drawn from members detailed in Schedule 7 of the Act which includes:

- Ministers of the Crown and Government Departments
- Local Government
- Criminal Justice and Police
- Education, child care etc
- Health and Social Care

Partnership members are expected to cooperate which includes the provision of information; the specifics of which are detailed under the Act and include 'sensitive information'. Those Acts and legislation affected by the changes implemented in this Part of the Act are:

- Education Act 1996
- Education reform Act 1988
- Higher Education Act 2004

## Part Six

Part Six provides guidance and amendments that relate to the Terrorism Act 2000 and details the changes to the guidance with regard to insurance payments being made to terrorist demands and insurance against payments being made. The new Act makes it an offence for an insurer to make a payment under the contract using money or property. The act provides detailed guidance to corporate bodies regarding this issue and also examines the powers to examine goods at port and border controls.

## Part Seven

Part Seven is the miscellaneous section which examines the implementation of reviews, privacy and civil liberties boards, the review of certain naturalisation decisions by Special Immigration Appeals Commissions and transitional, financial powers; their extent and commencement.

## Links

For further information on the Act and the associated Prevent Duty Guidance for Scotland visit the following links:

Counter Terrorism and Security Act 2015 – Legislation

<http://www.legislation.gov.uk/ukpga/2015/6/contents/enacted>

Prevent Guidance for Scotland:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/417941/Prevent\\_Duty\\_Guidance\\_for\\_Scotland.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/417941/Prevent_Duty_Guidance_for_Scotland.pdf)

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