



House of Commons

CONSIDERATION OF BILL

COUNTER-TERRORISM AND BORDER SECURITY BILL

Secretary Sajid Javid

1

Clause 2, page 2, line 9, at end insert—

“() After subsection (3) insert—

- “(4) A constable may seize an item of clothing or any other article if the constable—
 - (a) reasonably suspects that it is evidence in relation to an offence under subsection (1), and
 - (b) is satisfied that it is necessary to seize it in order to prevent the evidence being concealed, lost, altered or destroyed.
- (5) In connection with exercising the power in subsection (4), a constable may require a person to remove the item of clothing or other article if the person is wearing it.
- (6) But the powers conferred by subsections (4) and (5) may not be exercised so as to seize, or require a person to remove, an item of clothing being worn next to the skin or immediately over a garment being worn as underwear.”

Member’s explanatory statement

Section 13 of the Terrorism Act 2000 provides for an offence of wearing, carrying or displaying an item of clothing or other article in such a way as to arouse reasonable suspicion that the person is a member or supporter of a proscribed organisation. This amendment would further amend that section so as to confer a power on constables in certain circumstances to seize such items or articles.

Secretary Sajid Javid

2

Clause 3, page 2, line 16, leave out “on three or more different occasions”

Member’s explanatory statement

Clause 3 amends section 58 of the Terrorism Act 2000 so as to make it an offence to view on 3 or more occasions over the internet documents or records containing information likely to be useful to terrorists. This amendment would remove the requirement for the material to be viewed 3 or more times. Instead amendment 4 makes it clear that the circumstances in which a reasonable excuse defence will apply include those where the person did not know that the document would contain such information.

Secretary Sajid Javid

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Clause 3, page 2, line 16, after “views” insert “, or otherwise accesses,”

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Member's explanatory statement

This amendment would broaden the offence of viewing material (see the explanatory statement to amendment 2) so that it also includes accessing the material in any other way.

Secretary Sajid Javid

4

Clause 3, page 2, line 19, leave out subsection (3) and insert—

“(3) After subsection (1) insert—

“(1A) The cases in which a person collects or makes a record for the purposes of subsection (1)(a) include (but are not limited to) those where the person does so by means of the internet (whether by downloading the record or otherwise).”

(4) After subsection (3) insert—

“(3A) The cases in which a person has a reasonable excuse for the purposes of subsection (3) include (but are not limited to) those in which at the time of the person's action or possession, the person did not know, and had no reason to believe, that the document or record in question contained, or was likely to contain, information of a kind likely to be useful to a person committing or preparing an act of terrorism.”

Member's explanatory statement

See the explanatory statement for amendment 2.

Secretary Sajid Javid

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Clause 6, page 3, line 28, at end insert—

“() In section 38B (information about acts of terrorism), in subsection (5)(a), for “five years” substitute “10 years.”

Member's explanatory statement

It is an offence under section 38B of the Terrorism Act 2000 to fail to disclose information that might be of material assistance in preventing an act of terrorism or in securing the apprehension, prosecution or conviction of a terrorist. This amendment would increase the maximum sentence for this offence from 5 years to 10 years.

Secretary Sajid Javid

6

Clause 14, page 15, line 24, at end insert—

- “(3A) But a charge may not be imposed in relation to the holding of a relevant event if the event is a public procession, or public assembly, held for the purpose of—
- (a) demonstrating support for, or opposition to, the views or actions of any person or body of persons,
 - (b) publicising a cause or campaign, or
 - (c) marking or commemorating an event.”

Member's explanatory statement

Clause 14 inserts a new section 22CA into the Road Traffic Regulation Act 1984 which enables charges to be imposed in connection with traffic regulation orders or notices made or issued in order to protect a relevant event from terrorism risks. This amendment would provide that such charges cannot be imposed in relation to public processions or assemblies held for certain purposes.

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COUNTER-TERRORISM AND BORDER SECURITY Bill, *continued*

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Clause 14, page 15, line 25, at end insert—

““public assembly” means an assembly of two or more persons in a public place which is wholly or partly open to the air;

“public place” means—

(a) any highway or, in Scotland, any road within the meaning of the Roads (Scotland) Act 1984, and

(b) any place to which at the material time the public, or any section of the public, has access (on payment or otherwise) as of right or by virtue of an express or implied permission;

“public procession” means a procession in a public place;”

Member’s explanatory statement

This amendment is consequential on amendment 6.

Secretary Sajid Javid

8

Clause 25, page 23, line 14, at end insert—

“() paragraph 18A of Schedule 4 and section 21(1) so far as relating to that paragraph,”

Member’s explanatory statement

This amendment is consequential on amendment 11.

Secretary Sajid Javid

9

Clause 25, page 23, line 24, leave out paragraph (d) and insert—

“(d) paragraphs 17 and 18, 19 to 25 and 26 to 31 of Schedule 4 and section 21(1) so far as relating to those paragraphs.”

Member’s explanatory statement

This amendment is consequential on amendments 8, 11 and 12.

Secretary Sajid Javid

10

Schedule 3, page 42, line 35, at end insert—

“() Representations under sub-paragraph (1) must be made in writing.”

Member’s explanatory statement

Paragraph 13 of Schedule 3 to the Bill provides for the making of representations by affected parties about how the powers of the Investigatory Powers Commissioner under paragraph 12 of that Schedule should be exercised. This amendment would require such representations to be made in writing.

Secretary Sajid Javid

11

Schedule 4, page 73, line 29, at end insert—

“Legal Aid (Scotland) Act 1986 (c. 47)

18A In section 8A of the Legal Aid (Scotland) Act 1986 (criminal advice and assistance: automatic availability in certain circumstances), in subsection (2) at the end insert—

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- “(d) a person who is detained under section 41 of, or Schedule 7 to, the Terrorism Act 2000, or
- (e) a person who is detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2018.”

Member’s explanatory statement

Section 8A of the Legal Aid (Scotland) Act 1986 confers power on the Scottish Ministers to provide for legal advice and assistance in relation to criminal matters to be available, without reference to certain financial limits or criteria, to the description of clients listed in that section. This amendment would add to that description persons who are detained in Scotland under Schedule 3 to the Bill or under section 41 of, or Schedule 7 to, the Terrorism Act 2000. See also the explanatory statement to amendment 12.

Secretary Sajid Javid

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Schedule 4, page 77, line 25, at end insert—

“Advice and Assistance and Civil Legal Aid (Financial Conditions and Contributions) (Scotland) Regulations 2011 (S.S.I. 2011/217)

- 25A (1) In regulation 8 of the Advice and Assistance and Civil Legal Aid (Financial Conditions and Contributions) (Scotland) Regulations 2011—
- (a) the words from “to whom” to the end become paragraph (a), and
 - (b) at the end of that paragraph insert “, or
 - (b) who is detained—
 - (i) under section 41 of, or Schedule 7 to, the Terrorism Act 2000, or
 - (ii) under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2018.”
- (2) Nothing in sub-paragraph (1) affects any power under the Legal Aid (Scotland) Act 1986 to revoke or amend any provision of the regulations amended by that sub-paragraph.”

Member’s explanatory statement

This amendment would secure that legal advice and assistance will be available to persons detained in Scotland under Schedule 3 to the Bill, or under section 41 of, or Schedule 7 to, the Terrorism Act 2000, without reference to the financial limits set out in section 8 of the Legal Aid (Scotland) Act 1986. See also the explanatory statement to amendment 11.