



Home Office

Rt Hon Ben Wallace MP
Minister of State for Security and
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Tony Lloyd MP
House of Commons
London
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4 October 2018

Dear Tony,

COUNTER-TERRORISM AND BORDER SECURITY BILL

I am writing following our exchange during Report Stage to the Counter-Terrorism and Border Security Bill concerning the new ports and border powers under Schedule 3. During the debate you sought reassurance on the exercise of new powers under Schedule 3 with respect to Northern Ireland and the mechanisms for accountability in relation to those powers (Official Report, 11 September 2018, column 705).

As the Bill has passed through the Commons, it has been pleasing to see the broad agreement for the fundamental objective of hardening this country's defences against the range of threats posed by hostile states. The introduction of the powers under Schedule 3 was brought forward as a direct response to the attempted murders in Salisbury earlier this year.

I note your concern about the exercise of these powers in Northern Ireland and wanted to take the opportunity to address some of the issues raised in the debate and recent media articles.

First, it is important to reiterate that the Schedule 3 powers were originally announced by the Prime Minister on 14 March as part of a package of measures detailing the UK response to the attempted murders in Salisbury. While I understand the sensitivities and issues relating to Northern Ireland, recent media commentary has wrongly attempted to conflate the introduction of these powers with the Government's position on the Irish border in the context of the UK exiting the European Union. On the contrary, these powers are to address an existing gap in our capabilities to tackle the threat posed by hostile state actors.

Second, these powers are modelled on the current powers for counter-terrorism purposes under Schedule 7 to the Terrorism Act 2000, which are already available at UK ports and the Northern Ireland border area. Neither power is concerned with interfering with a person's right to travel between jurisdictions and will not be used as a form of immigration control. Similarly to Schedule 7, the new powers under

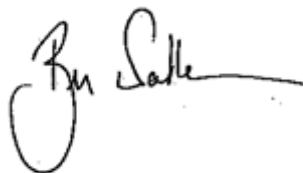
Schedule 3 will allow a trained and accredited examining officer (ordinarily a police constable) to stop, question, search and detain a person for the purpose of determining whether he or she appears to be a person who is, or has been, engaged in hostile activity.

It is worth noting that the Schedule 7 powers have been in force for eighteen years and in that time have not been used in a blanket fashion within Northern Ireland or anywhere else in the UK. The location and extent of the exercise of these powers are informed by the threat that they are seeking to mitigate and this will also be true for Schedule 3. In fact, the most recent statistics for financial year 2016/17 show that the number of persons examined under Schedule 7 in Northern Ireland was less than 10% of the total number of examinations for the UK as a whole.

Finally, with regards to ensuring oversight and proper use of the powers, we have provided specific mechanisms of accountability in the Bill. For example, as with Schedule 7 and the oversight of the Independent Reviewer of Terrorism Legislation, the police will make a record of every Schedule 3 examination and ensure that information is available to the Investigatory Powers Commissioner (IPC). The IPC will publish an annual report on the use of the powers, which will clearly highlight how they have been used with respect to Northern Ireland, as well as the rest of the UK. The IPC may also take the opportunity to review and report on any issues that arises through the use of these powers. Additionally, all persons examined under Schedule 3 will be given details about how to make a complaint to the Chief Constable of the examining force, should they wish to do so.

I hope this reassures you that the proposed powers under Schedule 3 to the Bill are not novel or unprecedented, but are designed to ensure that the citizens of Great Britain and Northern Ireland are protected from the threat from hostile state activity. The existing powers under Schedule 7 have been a vital counter-terrorism tool that has helped detect, disrupt and deter those who have been involved in terrorism. We aim for similar outcomes through the new powers in relation to hostile state activity.

I am copying this letter to Nick Thomas-Symonds, Gavin Robinson, Gavin Newlands, Sir Edward Davey and Stephen Doughty, I am also placing a copy in the library of the House.

A handwritten signature in black ink, appearing to read 'Ben Wallace', with a long horizontal flourish extending to the right.

Rt Hon Ben Wallace MP

Minister of State for Security and Economic Crime