



# Counter-Terrorism and Border Security Act 2019

## 2019 CHAPTER 3

### PART 1

#### COUNTER-TERRORISM

#### CHAPTER 3

##### COUNTER-TERRORISM POWERS

### 15 Traffic regulation

- (1) The Road Traffic Regulation Act 1984 is amended as follows.
- (2) After section 22C insert—

**“22CA Section 22C: power to impose charges**

- (1) This section applies where a traffic authority—
  - (a) makes, or proposes to make, an order by virtue of section 22C, or
  - (b) issues, or proposes to issue, a notice by virtue of that section,for the purpose of protecting a relevant event or a relevant site from danger or damage connected with terrorism.
- (2) The authority may impose a charge of such amount as it thinks reasonable in respect of anything done in connection with or in consequence of the order or notice (or proposed order or notice).
- (3) The charge is payable—
  - (a) in the case of a relevant event, by the person promoting or organising the event;

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- (b) in the case of a relevant site, by the occupier of the site.
- (4) 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.
- (5) In this section—
- “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;
- “relevant event” means—
- (a) a sporting event, social event or entertainment, or
  - (b) any other event that is organised for commercial, charitable or not for profit purposes;
- “relevant site” means a site on which activities are carried out in connection with the supply of essential goods or services.
- (6) The reference in the definition of “relevant site” to essential goods or services is a reference to goods or services disruption in the supply of which would cause, or would create a significant risk of, serious damage to—
- (a) human welfare in a place in the United Kingdom,
  - (b) the environment of a place in the United Kingdom,
  - (c) the economy of the United Kingdom, or
  - (d) the national security of the United Kingdom.
- (7) For the purposes of subsection (6)(a) disruption in the supply of goods, systems or services causes serious damage to human welfare only if it causes—
- (a) loss of human life,
  - (b) human illness or injury,
  - (c) disruption of a supply of money, food, water, energy or fuel,
  - (d) disruption of a system of communication,
  - (e) disruption of facilities for transport, or
  - (f) disruption of services relating to health.
- (8) References in this section to the supply of services include references to the provision of systems or facilities.”
- (3) Section 22D (section 22C: supplemental) is amended in accordance with subsections (4) to (9).

- (4) In subsection (1)—
- (a) after “made” insert “, and a notice may be issued,”;
  - (b) after “the order” insert “or notice”.
- (5) After subsection (1) insert—
- “(1A) Any statutory requirement to publish a proposal for, or a notice of, the making of an order does not apply to an order made by virtue of section 22C if the chief officer of police for the area to which the order relates considers that to do so would risk undermining the purpose for which the order is made.”
- (6) In subsection (2), after “made” insert “, or a notice issued,”.
- (7) In subsection (3), after “made” insert “, or a notice under that section issued,”.
- (8) In subsection (4)—
- (a) after “made” insert “, or a notice issued,”;
  - (b) after “the order,” insert “notice,”.
- (9) In subsection (5)—
- (a) in the words before paragraph (a), after “made” insert “, or a notice issued,”;
  - (b) in paragraph (a) after “order” insert “or notice”;
  - (c) after paragraph (c) insert—
    - “(d) enable a constable to authorise a person of a description specified in the order or notice to do anything that the constable could do by virtue of this subsection.”
- (10) In section 67 (emergencies and temporary obstructions), after subsection (1A) insert—
- “(1B) In the application of subsection (1) in connection with terrorism or the prospect of terrorism—
- (a) the reference to vehicular traffic is to be read as a reference to any kind of traffic (including pedestrians), and
  - (b) the other references to traffic are to be read accordingly.”
- (11) After section 94 insert (in Part 7)—

**“94A Bollards and other obstructions: terrorism**

- (1) This section applies where the passage, or the passage in any direction, of traffic (including pedestrians), or of traffic of any class, is prohibited at any point of a road by virtue of the exercise of a power under section 67 for a purpose relating to danger or damage connected with terrorism or the prospect of terrorism.
- (2) An authorised person may place at or near that point whatever bollards or other obstructions the person considers appropriate for preventing the passage of the traffic.
 

“Authorised person” means a constable or a person authorised or required to act on behalf of a constable.
- (3) The bollards or other obstructions that may be placed under this section—
  - (a) include obstructions of any description,

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- (b) may be either fixed or moveable, and
  - (c) may be placed so as to prevent the passage of traffic at all times or certain times only.
- (4) Where the passage of traffic along a stretch of road is prevented by virtue of the power under subsection (2) being exercised in respect of one or more points on the road, the power under that subsection includes placing, or authorising the placing of, further obstructions on that stretch of road.
- (5) A power conferred by this section to place an obstruction includes power to maintain or light it.
- (6) Nothing in this section affects any power that a constable has apart from this section.”

## 16 Evidence obtained under port and border control powers

In Schedule 7 to the Terrorism Act 2000 (port and border controls), after paragraph 5 insert—

- “5A (1) An answer or information given orally by a person in response to a question asked under paragraph 2 or 3 may not be used in evidence against the person in criminal proceedings.
- (2) Sub-paragraph (1) does not apply—
- (a) in the case of proceedings for an offence under paragraph 18 of this Schedule,
  - (b) on a prosecution for perjury, or
  - (c) on a prosecution for some other offence where, in giving evidence, the person makes a statement inconsistent with the answer or information mentioned in sub-paragraph (1).
- (3) An answer or information may not be used by virtue of sub-paragraph (2) (c) unless—
- (a) evidence relating to it is adduced, or
  - (b) a question relating to it is asked,
- by or on behalf of the person in the proceedings arising out of the prosecution.
- (4) In sub-paragraph (2)(b) the reference to a prosecution for perjury is—
- (a) in the case of England and Wales, a reference to a prosecution for an offence under section 5 of the Perjury Act 1911;
  - (b) in the case of Northern Ireland, a reference to a prosecution for an offence under Article 10 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/1714 (N.I. 19)).”

## 17 Persons detained under port and border control powers

(1) Schedule 8 to the Terrorism Act 2000 (detention) is amended as follows.

(2) In paragraph 6, after sub-paragraph (3) insert—

- “(4) A detained person must be informed of the right under this paragraph on first being detained.”

(3) In paragraph 7, after sub-paragraph (2) insert—

“(3) A detained person must be informed of the right under this paragraph on first being detained.”

(4) In paragraph 9—

(a) for sub-paragraphs (1) and (2) substitute—

“(1) This paragraph applies where a detained person exercises the right under paragraph 7 to consult a solicitor.

(2) A police officer of at least the rank of superintendent may direct that the right—

(a) may not be exercised (or further exercised) by consulting the solicitor who attends for the purpose of the consultation or who would so attend but for the giving of the direction, but

(b) may instead be exercised by consulting a different solicitor of the detained person’s choosing.

(2A) A direction under this paragraph may be given before or after a detained person’s consultation with a solicitor has started (and if given after it has started the right to further consult that solicitor ceases on the giving of the direction).”, and

(b) omit sub-paragraphs (4) and (5).

(5) In paragraph 16—

(a) in sub-paragraph (8), omit “Subject to paragraph 17,”, and

(b) after sub-paragraph (9) insert—

“(10) A detained person must be informed of the rights under sub-paragraphs (1) and (6) on first being detained.”

(6) In paragraph 17—

(a) for sub-paragraphs (1) and (2) substitute—

“(1) This paragraph applies where a detained person exercises the right under paragraph 16(6) to consult a solicitor.

(2) A police officer not below the rank of superintendent may, if it appears to the officer to be necessary on one of the grounds mentioned in sub-paragraph (3), direct that the right—

(a) may not be exercised (or further exercised) by consulting the solicitor who attends for the purpose of the consultation or who would so attend but for the giving of the direction, but

(b) may instead be exercised by consulting a different solicitor of the detained person’s choosing.

(2A) A direction under this paragraph may be given before or after a detained person’s consultation with a solicitor has started (and if given after it has started the right to further consult that solicitor ceases on the giving of the direction).”, and

(b) in sub-paragraph (3), in the opening words for “(1)” substitute “(2)”.

## 18 Detention of terrorist suspects: hospital treatment

(1) The Terrorism Act 2000 is amended as follows.

(2) In section 41 (arrest without a warrant), after subsection (8) insert—

“(8A) If a person detained under this section, including by virtue of a warrant under Part 3 of Schedule 8, is removed to hospital because the person needs medical treatment—

- (a) any time during which the person is being questioned in hospital or on the way there or back for the purpose of obtaining relevant evidence is to be included in calculating any period which falls to be calculated for the purposes of this section or Part 3 of Schedule 8, but
- (b) any other time when the person is in hospital or on the way there or back is not to be included.

(8B) In subsection (8A), “relevant evidence” means, in relation to the detained person, evidence which—

- (a) relates to the person’s commission of an offence under any of the provisions mentioned in section 40(1)(a), or
- (b) indicates that the person is a person falling within section 40(1)(b).”

(3) In Schedule 7 (port and border controls), in paragraph 6A, after sub-paragraph (3) insert—

“(3A) If a person detained under paragraph 6 is removed to hospital because the person needs medical treatment—

- (a) any time during which the person is being questioned under paragraph 2 or 3 in hospital or on the way there or back is to be included in calculating the 6 hour period, but
- (b) any other time when the person is in hospital or on the way there or back is not to be included.”

## 19 Retention of biometric data for counter-terrorism purposes etc

Schedule 2 contains amendments in relation to the retention of biometric data for counter-terrorism and other national security purposes.