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Terrorbekämpningens och yttrandefrihetens dilemma i Storbritannien

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Innehåll

Summary

This paper is in relations to Great Britain's new law regarding combat terrorism. A consequence of the law is that specific public institutions can be forced to prevent people to join terrorist causes. The law has received harsh criticism from the academic world as it is perceived that it will limit the freedom of expression.
This paper is asking the question of how would the European Court judge the law that diminish freedom of expression? To answer this question, I have used court/justice pragmatic methods. In the paper I use "Margin of appreciation" in the same way the European Court use to see if a limitation to the freedom of expression is warranted in a democratic society.
The paper uses law texts in ECHR article 10 that deal with freedom of expression. Different cases from the European Court will be used in the paper. The court cases are selected through the European Courts database. The database references the cases that has prejudicated values in references of limitations of freedom of expression in defense of the nation. The last source I have used is juridical literature that deals with the European Court. The parts used in these books deals with limitations of the freedom of expression due to protection of the nation.
The conclusion is that you could not directly judge if the law follows the ECHR but would have to be judged by the specific applications of the law. The paper concludes that the law is subject to may very broad degree of interpretation in how it can be applied. It is with a great degree of certainty that the law will be forwarded to the ECHR.

Sammanfattning

Uppsatsen behandlar Storbritanniens nya lag vars syfte är att motverka terrorism. Lagen innebär att specifika offentliga myndigheter kan tvingas att förhindra att människor in dras in i terrorism. Lagen har fått mycket kritik från den akademiska världen som menar att den kommer att begränsa yttrandefriheten.
Frågan som uppsatsen ställer är hur skulle Europadomstolen kunna komma bedöma lagen som inskränker yttrandefriheten? För att kunna besvara denna fråga så har jag använt mig av rättsdogmatisk metod. I uppsatsen används ”Margin of appreciation” som Europadomstolen använder för att avgöra om en inskränkning av en grundläggande rättighet är förenlig med ett demokratiskt samhälle eller inte.
Uppsatsen använder lagtexten i EKMR art. 10 som handlar om yttrandefrihet. Olika rättsfall från Europadomstolen används i uppsatsen. Rättsfallen är utvalda genom Europadomstolens databas. Databasen hänvisar till fall som har prejudikatvärde gällande begränsningar av yttrandefriheten för att skydda nationen. Den sista rättskälla som jag använder är juridisk doktrin som handlar om Europadomstolen. De delar som används från dessa böcker är delarna som handlar om inskränkning av yttrandefriheten p.g.a. skydd för nationen.
Resultatet blev att det inte gick direkt att avgöra om lagen är förenligt med EKMR utan får avgöras i de specifika fall där lagen tillämpas. Uppsatsen kom fram till är att lagens utformning gör att det finns utrymme för breda tolkningar om hur lagen ska tillämpas. Det är en hög sannolikhet att fall kommer att avgöras i Europadomstolen p.g.a. av lagen.

Förkortningar

EKMR/ECHR	Europeiska konventionen om skydd för de mänskliga rättigheterna och de grundläggande friheterna
CTS Act	Counter-Terrorism and Security Act 2015

1 Inledning

Uppsatsen handlar om Storbritanniens nya lagstiftning vars syfte är kontraterrorism och i vad mån lagstiftningen är i överenstämmelse med EKMR och Europadomstolens praxis. Lagen har fått kritik från den akademiska världen som hävdar att lagstiftningen kommer att inverka på yttrandefriheten.

1.1 Problemområde

Under de senaste åren har terrorattacker skett mot civila mål. Stater har då förändrat eller infört ny lag för att möta dessa hot.
Storbritannien har beslutat om en ny lag vars syften är att förhindra att riskgrupper blir rekryterade till terrororganisationer. Lagen ska genomföras genom att personer som arbetar inom lagstyrda organisationer måste rapportera individer som misstänks vara "potentiella terrorister" till externa organ för "av-radikalisering".
Lagen har fått kritik från den akademiska världen i Storbritannien. Kritikerna anser att lagen försöker förhindra radikalisering genom att förhindra information om religiös ideologi. Lagen kan dessutom inverka på andra politiska områden som miljöaktivism eller anti-åtstramningspolitik. Lagen påverkar inte de faktorer som gör att människor radikaliseras som sociala, ekonomiska och politiska faktorer samt utanförskap[1]. Lagen kan påverka det fria ordet genom att medborgare som yttrar sig politiskt kan få åtgärder emot sig för sin politiska övertygelse.
Storbritannien har ratificerat Europakonventionen[2] och Europakonventionens art. 10 handlar om yttrandefrihet. Det finns tillfällen när en stat får begränsa de mänskliga rättigheterna för sina medborgare. De gränserna är inte tydliga och det kan vara svårt att avgöra när begränsningarna är tillåtna.
Frågan jag ställer är hur skulle Europadomstolen för de mänskliga rättigheterna skulle bedöma Storbritanniens nya lag för att bekämpa terrorism om det samtidigt påverkar det fria ordet?

1.2 Syfte

Syftet är att undersöka och bedöma om hur Europadomstolen ser på den nya lagstiftningen i Storbritannien som kan inskränka yttrandefriheten. Undersöka om lagstiftningen är förenligt med Europakonventionen om de mänskliga rättigheterna. För att uppnå detta syfte så behöver jag avgöra hur Europadomstolen hade bedömt fall kring Counter-Terrorism and Security

[1] Lister Loughborough, Ruth m.fl., PREVENT will have a chilling effect on open debate, free speech and political dissent.
[2] United Kingdom // 47 States, one Europe.

Act 2015 (CTS Act) för att se om dess säkerhetssyfte är förenligt med Europakonventionen om de mänskliga rättigheterna.

1.3 Frågeställning

Hur hade Europadomstolen bedömt Counter-Terrorism and Security Act 2015 inskränkningar av yttrandefriheten med sitt säkerhetsyfte och är det förenligt med Europakonventionen om de mänskliga rättigheterna?

1.4 Avgränsningar

Uppsatsen avgränsas genom att enbart förhålla sig till art. 10 EKMR.
Data har inhämtats från ”High importance” rättsfall från Europadomstolen. Europadomstolen bedömer att rättsfallen bidrar till utveckling och förståelse av rättspraxis inom rättsområdet. Enbart rättsfall som översatts till engelska har använts. Engelska är ett av två officiella språk som Europadomstolen använder och det av de två officiella språken som jag behärskar.
Fallen handlar om olika fall där det har skett en inskränkning av yttrandefriheten p.g.a. nationens säkerhet.

1.5 Metod

En rättsdogmatisk metod används i uppsatsen. Uppsatsens frågeställning är att undersöka om Counter-Terrorism and Security Act 2015 inskränkningar av yttrandefriheten med sitt säkerhetsyfte är förenligt med Europakonventionen om de mänskliga rättigheterna enligt Europadomstolen. Genom en rättsdogmatisk metod görs en rättsregel som kan appliceras på problemet. Genom att skapa en rättsregel kan uppsatsens problemställning lösas.

1.5.1 Rättsdogmatisk metod

Rättsdogmatisk metod beskrivs som att rekonstruera en ny rättsregel och genom att applicera den på ett rättsproblem så löses det rättsliga problemet. Det görs genom att analysera de olika elementen i rättskällorna. Det ger förhoppningsvis ett slutresultat som speglar innehållet i gällande rätt eller hur det ska uppfattas i ett visst konkret sammanhang. Senare förklaras hur den nya rekonstruktionen av rättsregeln skall appliceras på det aktuella rättsfallet[3].
Det material som används i rättsdogmatisk metod är allmänt accepterade rättskällor. För att kunna rekonstruera en ny rättsregel utgår den ifrån lagstiftningen, rättspraxis, lagförarbeten och den rättsdogmatiska orienterade doktrin[4].

[3] Korling & Zamboni, s. 21, 23f, 26
[4] A a s. 32f

1.6 Material

Materialet till uppsatsen är konventionen art. 10 EKMR som handlar om yttrandefrihet samt frihet att ta emot uppgifter och tankar utan offentliga myndigheters inblandning.
Jag använder mig av Counter-Terrorism and Security Act 2015 för att kunna avgöra vilka sorters begränsningar denna lagstiftning innebär och hur den påverkar Storbritanniens medborgare.
Rättsfall från Europadomstolen kommer att användas i uppsatsen.
Rättsfallen som används presenters i 1.6.1. urval.
Den doktrin som jag använder mig av handlar om Europakonventionen om de mänskliga rättigheterna. Uppsatsens använder Europadomstolens praxis som handlar om art. 10 EKMR och då inskränkningar av yttrandefriheten p.g.a. nationens säkerhet. För att hitta doktrinen använder jag mig av boken *Finna rätt* (2014) av Ulf Bernitz m. fl.

1.6.1 Urval

Urvalet av rättsfallen är tagna från Europadomstolen är av så kallade ”High importance” fall. Europadomstolen anser att dessa fall bidrar till utveckling och förståelse av rättspraxis av rättsområdet.
doktrin som handlar om Europadomstolen och Europakonventionen om de mänskliga rättigheterna som används i uppsatsen har hittats med hjälp av boken *Finna rätt* (2014). Boken ger en lista över några arbeten som handlar om Europakonventionen. De böcker som jag använder mig av är:
Cameron, Iain (2011). *An introduction to the European Convention on Human Rights*
Danelius, Hans (2015). *Mänskliga rättigheter i europeisk praxis: en kommentar till Europakonventionen om de mänskliga rättigheterna.*
Fisher, David I. (2015). *Mänskliga rättigheter: en introduktion*

2 Grundläggande rättigheter

Alla stater som har ratificerat Europakonventionen är skyldiga att upprätthålla och skydda de grundläggande rättigheterna i sin egen jurisdiktion enligt EKMR art. 1. Europakonventionen gäller inom internationella medlemskap som ett europakonventionsland är anslutet till[5]. Europakonventionen och dess protokoll ska ses som en minimumstandard för de grundläggande rättigheterna. Rättigheterna i Europakonventionen reglerar huvudsakligen civila och politiska rättigheter. Rättigheterna och friheterna definieras olika och har olika karaktär inom Europakonventionen[6]. Rättighetskatalogen i Europakonventionen finns i art. 2-18[7].
Alla som befinner sig inom konventionens jurisdiktion åtnjuter konventionens skydd av rättigheterna. Det betyder att inte enbart konventionsstatens egna medborgare skyddas utan också utländska medborgare som befinner sig inom konventionslandet. Det är inte enbart fysiska personer som skyddas utan även juridiska personer. Det finns rättigheter i europakonventionen som inte är applicerbara på juridiska personer t.ex. rätt till liv[8].
De grundläggande rättigheterna kan begränsas, för att avgöra när det är tillåtet eller inte använder Europadomstolen av principen som benämns ”Margin of apperciation”

2.1 Margin of appreciation

Principen som jag använder är ”Margin of appreciation”.”Margin of appreciation” översatt till svenska är ”egen bedömningsmarginal”. Europadomstolen har i åtskilliga konventionsbestämmelser slagit fast principen om hur stor och liten bedömningsmarginal staternas utrymme är att begränsa medborgarnas rättigheter. De fall som används i uppsatsen diskuterar Europadomstolen om begräsningarna av yttrandefrihet för kontra-terrorismåtgärder och om dessa åtgärder är förenliga med det ”demokratiska samhället”. Vid diskussioner i Europadomstolen om en åtgärd är förenligt med det ”demokratiska samhället” använder den sig av ”Margin of appreciation”.
”Margin of appreciation” är graden av begränsningar av de mänskliga rättigheterna som kan anses vara nödvändiga för ett demokratiskt samhälle enligt Europadomstolen. De rättigheterna som brukar nämnas är de i EKMR och då specifikt art. 8-11[9].
Europadomstolen har ingen definition av vad som är ett demokratiskt samhälle. Däremot har Europadomstolen sagt vad som karakteriserar en

[5] Fisher. s 41
[6] Iain Cameron s 113
[7] Fisher. s 42
[8] A a. s 42-44
[9] Fischer, s. 45

demokrati. Att staten inkluderar pluralism och tolerans där den fria politiska debatten är central[10].
När jag läste den del som handlade om ”Margin of appreciation” i Camerons (2011) *An introduction to the European Convention on Human Rights* kunde jag se sex områden som Europadomstolen tar hänsyn till när de avgör om en stat har passerat gränssnittet för vilka begränsningar staten får göra av de mänskliga rättigheterna.

1. Proportionerligt – Det ska vara proportionerligt. Vad som är proportionerligt är beroende på situationen[11].
2. Begränsningens natur – Bredden av åtgärden, är den absolut eller generell, negativa konsekvenser av åtgärden och hur stort missbruket av åtgärden kan bli[12].
3. Andra sorters begränsningar – Om åtgärden som har begränsat en mänsklig rättighet också kan leda till att andra mänskliga rättigheter begränsas[13].
4. Implementeringen – Har implementeringen av åtgärden utförts försiktigt eller har den implementerats så att den har begränsat den mänskliga rättigheten mer än vad det var tänkt[14].
5. Statusen hos de medborgarna som drabbas – De som drabbas utav åtgärden är det en speciell del av befolkningen vars rättigheter legitimt kan begränsas. Är begränsningen p.g.a. att personerna har ett yrke som gör att det är av samhällsintresset att deras rättighet begränsas t.ex. begränsa yttrandefriheten för en läkare så att hen inte berättar om patienters sjukdomar[15].
6. Säkerheter – Finns det säkerheter som kan kompensera medborgarnas rättigheter om de skulle kränkas p.g.a. åtgärden[16].

När stater har begränsat rättigheterna i art. 8, 10-11 och staterna har hänvisat dessa begränsningar till ”statens säkerhet” har Europadomstolen i dessa fall ansett att staters nationella säkerhet är ett starkt samhällsintresse. Generellt har Europadomstolen i fall om inskränkningar låtit staterna själva bedöma hur dessa samhällsintressen bäst skyddas[17].
Europadomstolen har i de fall som gäller moral och rätten att begränsa yttrandefriheten p.g.a. moral gett medlemsstaterna en stor bedömningsmarginal. Orsaken till detta är att det inte finns någon enhetlig moraluppfattning[18].

[10] Cameron s. 111
[11] A a s. 112
[12] A a s
[13] A a s
[14] A a s. 112f
[15] A a s. 113
[16] A a s. 113
[17] Fischer, s. 45
[18] A a s

3 Begränsningar av yttrandefrihet p.g.a. kontra-terrorism

Här presenteras den nya lagstiftningen i Storbritannien som har fått kritik och att den kommer att begränsa yttrandefriheten i Storbritannien.
Jag presenterar här den lagstiftningen som har fått kritik. Jag kommer inte presentera lagstiftningen i sin helhet utan kommer presentera vad de olika delarna handlar om.

3.1 Counter-Terrorism and Security Act 2015

Lagen är indelad i 7 kapitel. Jag går igenom alla kapitel lite översiktligt för att senare gå in mer på den del som har fått kritik för att den kan negativt påverka det fria ordet. Den del av lagen som sägs påverka negativt på det fria ordet är *kapitel 5 - Risk of being drawn into terrorism.* Jag går mer på djupet i detta kapitel eftersom det är problemområdet uppsatsen avhandlar.

Kapitel 1 - Temporary restrictions on travel
Denna del av lagen har två funktioner. Det första är att den ger poliser och gränskontrollanter rätt att beslagta personers resedokument om de misstänks åka ut ur Storbritannien för att begå terroristbrott. Det andra är att brittiska medborgare som är utanför Storbritannien kan få inreseförbud om de misstänks för att ha bedrivit terrorism verksamhet utomlands[19].

Kapitel 2 - Terrorism prevention and investigation measures
Denna del av lagen har också två funktioner. Det första är om en person som är misstänks att vara terrorist kan förhindras att förflytta sig hur hen vill i Storbritannien. Det andra är ett förbud för att hen ska kunna skaffa sig skjutvapen eller explosiva ämnen[20].

Kapitel 3 - Data retention
Staten kan kräva att en kommunikationstjänstleverantör ger ut data om en terroristmisstänkts olika kommunikationer som personen har gjort[21].

Kapitel - 4 Aviation, shipping and rail
Den här delen omfattar ett antal åtgärder för gräns- och transportsäkerhet[22].

[19] legislation.gov.uk, *Counter-Terrorism and Security Act 2015 - Overview of the Structure of the Act*
[20] A a
[21] A a
[22] A a

Kapitel 5 - Risk of being drawn into terrorism,
Kapitel 5 är riktat emot personer som anses kunna bli attraherade av terrorism. Kapitel 5 innebär att personer som arbetar på specifika offentliga myndigheter kan bli tvungna att förhindra att människor dras in i terrorism verksamhet. En brittisk minister kan ge riktlinjer till olika specifika organ som måste beakta detta när de uppfyller skyldigheten. Lagen påtvingar också varje kommun att ha förberett åtgärder för att ge stöd till personer som är riskzonen för att dras in i terrorism[23].
Kapitel 5 påverkar inte universiteten eller de utbildningar som universiteten ger, enligt CTS Act 5.1.31.

Kapitel 6 Amendments of or relating to the Terrorism Act 2000
Del 6 handlar om terroristlagstiftningen från 2000. 42 avsnitt har ändrats i *Terrorism Act 2000.* Syftet är att säkerställa att en försäkringsgivare inte begår brott genom att det betalas ut pengar eller egendom enligt ett försäkringsavtal till en person där misstänks att försäkringsersättningen kan finansiera terrorism verksamhet[24].

Kapitel 7 Miscellaneous and general
Del 4 består diverse och allmänna bestämmelser[25].

[23] A a
[24] A a
[25] A a

4 Analys

Konventionstexten analyseras först och det är EKMR art. 10 som kommer att analyseras.
Jag analyserar senare de fall från Europadomstolen som ger praxis om hur stor begränsning en medlemsstat får göra av yttrandefriheten för att skydda nationen.
Till sist analyserar jag doktrinen som avhandlar Europadomstolens praxis om begränsningar av yttrandefriheten för att skydda nationen. Det är de tre böckerna från del. 1.6.1.

4.1 Lagtext i EKMR

Lagtexten kommer från EKMR art. 10 och handlar om yttrandefrihet. Den är uppdelad i två delar. Den första delen handlar om friheten att yttra sig. Den andra delen handlar om de begränsningar av yttrandefriheten som stater kan införa.
Art. 10(1) tillförsäkrar de personer som befinner sin inom en konventionsmedlemsstat rätt till yttrandefrihet. Europakonventionen skyddar både den som vill sprida information och den som vill mottaga information. Den innehåller rätten till åsiktsfrihet och den innehåller rätten om att sprida och ta emot uppgifter och tankar utan statlig inblandning. Rättigheten ska ses som en negativ rättighet[26] [27].
Inskränkningar av dessa friheter kan göras genom art. 10(2) dock måste begränsningarna vara nedskrivna i lag. Begränsningarna måste ses som nödvändiga i ett demokratiskt samhälle med avseende på statens säkerhet och territoriella integritet, förebyggande av brott och oordning, den allmänhetens säkerhet, för att skydda hälsa, moral eller annans goda rykte och namn eller ens rättigheter, förhindra så att underrättelser sprids och uppehålla domstolarnas auktoritet och opartiskhet[28].

> Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
> The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the

[26] Fisher, s 66
[27] Cameron, s 127
[28] Fisher, s 66

> reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Den första delen av art 10 handlar om rätten till yttrandefrihet. Den ger rätten att skapa opinion och få information utan statlig inblandning.
Stater får dock göra begränsningar i denna rättighet.
Art. 10(2) är appliceringsbar även på information och idéer som skulle kunna ses som stötande. Den skulle även kunna skydda från det som är förolämpande, chockande och oroande. Det finns ett antal undantag i art. 10(2) och dessa undantag bör tolkas snävt och en del av dessa restriktioner måste övertyga Europadomstolen[29].

4.2 Europadomstolens domar

Det är 11 fall som Europadomstolen bedömde som en överträdelse och ett fall där det inte var en överträdelse av Europakonventionen.
Jag kommer kort förklara vad de olika fallen handlar om för att senare berätta domskälet i den delen som handlar om EKMR art 10.

4.2.1 Överträdelse

Fallen som presenterar här är fall där Europadomstolen anser att det har varit en överträdelse av art. 10 EKMR.

4.2.1.1 Case of The Sunday Times v. The United Kingdom (No. 2)

Fallet handlade om Times Newspapers Ltd och Mr Andrew Neil deras redaktör, som de ville publicera en bok. Boken hade fått restriktioner för att publiceras i Australien och i Storbritannien p.g.a. olika detaljer som funnits i boken och information från författaren.
Författaren till boken var anställd av den brittiska regeringen i underrättelsetjänsten MI5. När han slutade skrev han sina memoarer. Boken innehöll information om hur MI5 fungerar, olika metoder som den använder, olika operationer som de har utfört, personal som arbetade på MI5 och olika aktiviteter som skulle vara illegala.
Beslutet om att boken inte fick publiceras överklagades. Publicisterna hävdade att det inte var en nödvändig åtgärd.
Publicisterna argumenterade att boken redan hade publicerats i USA.
Domstolen i Storbritannien skrev att de ville fortsätta ha restriktionen för boken inte skulle sprida känslig information.
Storbritannien argument var att det var en åtgärd för att skydda nationen säkerhet. Europadomstolen argumenterade att den informationen som fanns i boken hade redan publicerats en gång tidigare. Den skada som

[29] *Case of The Sunday Times v. The United Kingdom* (No. 2), p. 50(a)

informationen kunde ge hade redan skett. Därför ansåg Europadomstolen att åtgärden som Storbritannien har gjort inte varit ”nödvändigt i ett demokratiskt samhälle” och därigenom överträtt art. 10.
Restriktionen i fallet var en överträdelse eftersom den syftade till att förhindra skador på den nationella säkerheten dock hade dessa skador redan inträffat.

4.2.1.2 Case of Observer and Guardian v. The United Kingdom

Bakgrunden till fallet är det samma som i 4.2.1.1 där det handlar om en före detta brittisk agent från MI5.
Skillnaden från det tidigare fallet var att Europadomstolen dömer om det var nödvändigt för ett ”demokratiskt samhälle” med restriktionen under två olika tidsperioder. De perioder som Europadomstolen skulle döma över var den första perioden från den 11 juli 1986 (införande av restriktionen) till den 30 juli 1987 (då det brittiska överhuset förlängde restriktionen). Den andra perioden som Europadomstolen skulle döma över var om det var en överträdelse eller inte av art. 10 EKMR från den 30 juli 1987 till den 13 oktober 1988.
Om den första perioden skrev Europadomstolen att under denna period visste ingen vad för sorts information som boken innehöll. Det fanns farhågor om att boken skulle innehålla information som skulle kunna skada den nationella säkerheten i Storbritannien. Under den första perioden med restriktionen ansåg Europadomstolen att det var förenligt med ett ”demokratiskt samhälle” och var effektivt till sitt syfte att skydda den nationella säkerheten. Angående den andra perioden så skrev Europadomstolen att boken redan publicerades i USA den 14 juli 1987 och med publiceringen hade informationen redan utgetts. Den brittiska regeringen försökte inte att stoppa publiceringen i USA. Efter publiceringen i USA var det fortsatta restriktioner på bokens innehåll i Australien och Storbritannien. Eftersom uppgifterna var offentliggjorda såg Europadomstolen ingen anledning varför det skulle vara några restriktioner på boken. Åtgärden ansågs då inte vara ”nödvändig i ett demokratiskt samhälle”

4.2.1.3 Case of Vogt v. Germany

Fallet handlade om kvinna som var medlem i det tyska kommunistpartiet. Hon var utbildad lärare. Alla som arbetar inom det offentliga i Tyskland ska visa lojalitet med den tyska konstitutionen och det ansågs att hon inte lyckats visa. Weser-Ems regionala råd beslutade den 13 juli 1982 om att inleda disciplinära åtgärder mot henne. Hon argumenterade att hennes medlemskap i kommunistpartiet inte påverkade hennes roll som offentlig anställd. Hon hävdade att hon utövade sin politiska rätt och utövade sin politiska aktivitet inom lagens ramar. Hon argumenterade att de disciplinära åtgärderna hade kränkte hennes rätt i EKMR art. 10 då hon inte fått fritt bedriva sin politiska aktivitet. Europadomstolen ansåg att målet med

metoden för att skydda den nationella säkerheten i kombination med att offentligt anställda är en grupp vars yttrandefriheten kan begränsas. Europadomstolen undersökte tre områden för att avgöra om det hade varit en överträdelse. Europadomstolen bedömde om åtgärden var proportionerlig. Europadomstolen konstaterade att hon hade förlorat sitt arbete och det hade gjort det svårt för henne att hitta en ny statlig anställning som lärare. Det andra området var hur stor risken för att skada den tyska konstitutionen hon utgjort med sin position och det konstaterades att i hennes position som lärare så utgjorde det inte ett större hot mot den tyska konstitutionen. Det tredje området var om det fanns något på hennes arbetsplats som kunde leda till att skada den tyska konstitutionen. Europadomstolen ifrågasatte om hon ses som en fara för den tyska konstitutionen eftersom den tyska författningsdomstolen inte hade förbjudit det tyska kommunistpartiet.
Med alla områdena inräknade så dömde Europadomstolen att detta var en överträdelse av EKMR art. 10 och att åtgärden inte var ”nödvändig i ett demokratiskt samhälle”

4.2.1.4 Case of Arslan v. Turkey

Fallet handlade om en författare som hade skrivit boken ”History in Mourning, 33 bullets”. Boken innehåller i början ett förord av Musa Anter, en välkänd pro-kurdisk politiker och författare vars huvudtema var kurdfrågan i Turkiet.
En åklagare från Istanbuls Nationella säkerhetsdomstol bestämde att boken skulle beslagtas eftersom boken ansågs innehålla separatistisk propaganda. Boken påstod att Turkiet består av flera länder och Turkiet trakasserar kurderna.
Författaren till boken förnekade att boken innehöll något av anklagelserna från åklagaren. Boken hade ett litteraturhistoriskt perspektiv som kritiserade tidigare turkiska regeringars agerande mot minoriteter. Europadomstolen skrev att art. 10(2) i denna del så finns det litet utrymme för begränsningar som handlar om politik, debatter som är av allmänt intresse. Det måste finnas något sätt att granska sin regering och detta är ett sätt enligt Europadomstolen.
Europadomstolen konstaterar att det är en privatperson och att han offentliggjorde sina åsikter genom ett litterärt arbete snarare än genom massmedia, ett faktum som begränsade bokens potentiella inverkan på "nationell säkerhet", ”allmän ordning" och "territoriell integritet".
Europadomstolen skrev att även om vissa avsnitt i boken målar en extremt negativ bild av befolkningen av turkiskt ursprung och ger berättelsen en fientlig ton, utgör boken inte en uppmuntran till våld, väpnat motstånd eller uppror.
Författaren hade dömts till fängelse i åtta månaderna. Fängelsestraffet var något som Europadomstolen måste ta i beaktande när de skulle utvärdera om åtgärden var proportionerligt.
Europadomstolen ansåg att åtgärden mot författaren var oproportionerlig mot de eftersträvade målen och följaktligen inte "nödvändigt i ett demokratiskt samhälle".

4.2.1.5 Case of Polat v. Turkey

Fallet handlade om en författare och en bok som han publicerade i Turkiet. Boken handlade om den kurdiska motståndsrörelsen och hur kurdiska rebeller hade blivit behandlade i ett fängelse. Istanbuls Nationella säkerhetsdomstol hävdade att boken var ett hot mot den territoriella integriteten och Turkiets säkerhet. Alla exemplar av boken beslagtogs. Den turkiska domstolen ansåg att boken inte gav en korrekt bild av vad som hade hänt historiskt och innehöll enbart kurdisk nationalism och förespråkade separering från den turkiska staten. Författaren hävdade inför Europadomstolen att den turkiska domstolen hade överträtt hans rättighet enligt art. 10 EKMR.
Europadomstolen skrev att Turkiet hade argumenterat att boken skulle leda till terrorism och separering av nationen.
Europadomstolen bedömde att det handlar om en privatperson och att han offentliggjort sina åsikter genom en bok snarare än genom massmedia. Detta begränsade budskapets potentiella inverkan på "nationell säkerhet", ”allmän ordning" och "territoriell integritet". Europadomstolen skrev också att även om vissa avsnitt i boken kritiserar de turkiska myndigheternas inställning och ger berättelserna en fientlig ton, utgör de inte en uppmuntran till våld, väpnat motstånd eller uppror. Ytterligare en faktor som Europadomstolen påpekade var att det handlade om händelser i boken som hänförde sig till en tid som var relativt avlägsen.
När det gällde Europadomstolens avgörande om straffet var proportionerligt eller inte. Författaren i detta fall hade dömdes till två års fängelse. Sammanfattningsvis var straffet enligt Europadomstolen bedömning oproportionerlig mot de mål som eftersträvas och därmed inte "nödvändigt i ett demokratiskt samhälle".

4.2.1.6 Case of Sürek and Özdemir v. Turkey

Fallet handlade om en intervju med en av PKK:s ledare och att intervjun skulle komma att publiceras i en tidning. Tidningen blev beslagtagen på order av Istanbuls Nationella säkerhetsdomstol. Artikeln anklagades för att sprida propaganda och hade protesterat emot statens odelbarhet.
De hävdade inför Europadomstolen att Turkiets agerande var en överträdelse av deras rätt i art. 10 EKMR. Tidningen hävdade att deras intervju var objektiv och inte hyllade PKK.
Europadomstolen gjorde en analys om innehållet i de påstådda uttalandena och det sammanhang där de gjordes. Europadomstolen gjorde också ett avgörande om Turkiets restriktioner var "proportionella med de legitima målen som landet eftersträvade" och om de skäl som de nationella myndigheterna åberopade för att motivera sitt agerande var "relevanta och tillräckliga".
Europadomstolen konstaterade att texten inte består av hat eller uppmaning till våld, utan en kritik av den turkiska regeringen och en önskan om lösgörande från den turkiska staten. Författarna till texten och intervjun hade fått betala böter för texten och dömts till 6 månaders fängelse. Intervjun hade inte hunnits publiceras och därför inte orsakat någon skada. Även om

staten ska skydda medborgarna mot våld och terrorism så väger rätten till information till medborgarna mycket tungt.
Europadomstolen skrev att när de vägde ihop allt drog den slutsatsen att sökandenas dom och straff var oproportionerliga mot de eftersträvade målen och inte var "nödvändigt i ett demokratiskt samhälle".

4.2.1.7 Case of Sürek v. Turkey (No. 2)

Fallet handlade om en tidning där det var en artikel som gav information från en presskonferens hållen av en delegation som bestod av två parlamentsledamöter. Presskonferens handlade om en guvernör som hade informerat parlamentsledamöterna om att polischefen hade gett order om att skjuta mot en folkmassa.
Istanbuls Nationella säkerhetsdomstol hade givit order om att arrestera de som hade gjort granskningen. De blev arresterade för att de hade avslöjat identiteter på tjänstemän som arbetade med att bekämpa terrorism och därmed gjort dem till terroristmål.
De åtalade hävdade att detta hade överträtt deras rättigheter i EKMR art. 10.
Europadomstolen undersökte om detta kunde vara ”nödvändigt i ett demokratiskt samhälle”
Skjutningen som skedde i regionen av polisen var en allvarlig händelse. Trots att uttalandena inte presenterades på ett sätt som kunde betraktas som uppmuntran till våld mot de berörda poliserna eller myndigheterna, kunde detta skapa ett stort förakt mot poliserna och myndigheterna. Rapporten offentliggjordes under tiden då det var oroligheter i sydöstra Turkiet mellan turkiska säkerhetsstyrkor och medlemmar i PKK.
Om det var sant att polisen har fått order om att skjuta in i en folkmassa så hade det med hänsyn till allvarligheten av incidenten varit i allmänheten intresse att inte bara veta om vad som hände hänt utan även polisernas identiteter.
Rapporteringen av händelsen hade gjorts i andra tidningar. Det hade inte vidtagit några åtgärder mot dessa tidningar för att förhindra att informationen skulle spridas ytterligare. Intresset att skydda identiteten hos de berörda poliserna hade alltså minskat avsevärt och minskat syftet med att begränsa den potentiella skadan.
Europadomstolen ansåg att åtgärderna hade till syfte att avskräcka pressen från att bidra till en öppen diskussion om frågor av allmänt intresse av händelsen.
Europadomstolen ansåg att det inte var i regeringens intresse att skydda de berörda poliserna mot terroristattacker. Det fanns inte tillräckliga motiv för de restriktioner som utfördes mot de informationssökandes rätt till yttrandefrihet enligt artikel 10 i konventionen. I avsaknad av en balans mellan intressena för att skydda pressfriheten och det som skyddar identiteten hos polisernas. Europadomstolen bedömde att det var oproportionerlig mot de legitima målen som Turkiet eftersträvade och inte var "nödvändigt i ett demokratiskt samhälle”.

4.2.1.8 Case of Okcuoglu v. Turkey

Fallet handlade om en turk med kurdisk bakgrund som arbetade som advokat. Han skrev ett par artiklar i en tidskrift som hade delats ut under en period som hette ”The past and present of the Kurdish problem”. Artikeln ansågs av Istanbuls Nationella säkerhetsdomstol vara ett hot mot staten och syftade till att staten skulle separeras.
Europadomstolen skrev att det material som den turkiska domstolen hade varit emot hade offentliggjords i en period då tidskriftens omsättning var låg och därmed avsevärt minskade dens potentiella inverkan på "nationell säkerhet", "allmän ordning" eller "territoriell integritet". Europadomstolen skrev också att även om vissa av hans anmärkningar i texterna målade en negativ bild av befolkningen med turkiskt ursprung och gör sina kommentarer i en fientlig ton, så uppmuntrar den inte till våld, väpnat motstånd eller uppror mot Turkiet.
Den turkiska domstolen dömde honom till 1 år och 8 månaders fängelse.
Europadomstolen skrev att straffet var oproportionerlig mot de eftersträvade målen och följaktligen inte "nödvändigt i ett demokratiskt samhälle".

4.2.1.9 Case of Sürek v. Turkey (No. 4)

Fallet handlade om en tidning som publicerat en artikel som beskrev läget i en kurdisk region, hur det skulle kunna bli demonstrationer och PKK:s roll i demonstrationerna. Artikeln hade publicerats i en tidning ägd av PKK.
Istanbuls Nationella säkerhetsdomstol hade beordrade att alla nummer med denna artikel skulle beslagtas och ses som separatismpropaganda.
Publicisten hävdade att det var en överträdelse av hans rättigheter enligt EKMR art. 10. Den turkiska regeringen motsatte sig detta och hävdade att det inte var en överträdelse och yrkade på att Europadomstolen skulle lägga ner anklagelsen.
Europadomstolen skrev att artikeln måste uppfattas i ett sammanhang och att den beaktade artikelns övergripande litterära och metaforiska ton. Det finns en del i artikeln som kallar turkiska staten för en terroriststat, dock ser Europadomstolen detta som en del av det allt hårdare debattklimatet.
Europadomstolen uppfattar att artikeln inte uppmanade till våld. Skadan som artikeln kunde ha gjort hade minimerats genom beslaget som bör räknas in när straffet ska bedömas.
Den turkiska domstolen dömde publicisten till 1 år och 8 månaders fängelse och att han skulle betala 100 000 turkiska lira.
Europadomstolen skrev att straffet var oproportionerlig i förhållande de eftersträvade målen och följaktligen inte "nödvändigt i ett demokratiskt samhälle".

4.2.1.10 Case of Gerger v. Turkey

Fallet handlade om en turkisk journalist som skulle besöka en ceremoni vars syfta var att hylla tre vänner från 50-talet som var medlemmar en vänsterextrem rörelse vars mål var att störta den turkiska staten. Vännerna hade fått dödstraff av den turkiska staten på 50-talet och avrättats.

Journalisten fick inte komma till denna ceremoni och skickade ett meddelande som skulle läsas upp offentlig vid ceremonin.
Istanbuls Nationella säkerhetsdomstol hade gett order om att arrestera honom p.g.a. att meddelandet ansågs sprida propaganda mot den turkiska nationens enighet och statens territoriella integritet.
Europadomstolen skrev att hans tidigare uttalanden enbart skulle uppfattas som kritik mot den turkiska staten och inte som separatismpropaganda som Turkiet tolkade det. I ett demokratiskt samhälle måste det finnas utrymme för att kunna kritisera staten. I sina tal hade han uttalat ord som "motstånd", "kamp" och "befrielse", det fanns inga ord eller meningar som uppmanade till våld, väpnat motstånd eller uppror.
Straffet på 1 år och 8 månaders fängelse på journalisten var oproportionerligt för ändamålet och inte ”nödvändigt i ett demokratiskt samhälle” enligt Europadomstolen.

4.2.1.11 Case of Cox v. Turkey

Fallet handlar om en amerikansk lektor som arbetade på Istanbuls universitet. Vice guvernören ville att hon skulle utvisas p.g.a. att hon berättade om folkmordet på armenierna och hur Turkiet hade behandlat kurderna. Hon blev utvisad, men kom tillbaka och gav ut flyers mot filmen *The Last Temptation of Christ*. Hon blev återigen utvisad. Hon kom tillbaka till Turkiet en tredje gång.
Europadomstolen påpekade att det inte begåtts något brott genom att uttrycka sina åsikter om folkmordet på armenier och inget straffrättsligt åtal riktats mot henne.
Europadomstolen konstaterar att det är ett kontroversiellt ämne att diskutera i Turkiet men att det krävs tolerans och öppenhet i ett demokratiskt samhälle inför kontroversiella uttryck och idéer.
Europadomstolen skrev att det inte fanns några bevis att lektorn skulle habedrivit någon verksamhet vars syfte var att skada den turkiska staten.
Åtgärderna som Turkiet gjorde bedömdes av Europadomstolen syfta till att undertrycka utövandet av lektorns yttrandefrihet och kväva spridningen av hennes idéer.
De åtgärder som hade gjorts kan inte ses vara "nödvändigt i ett demokratiskt samhälle" och var en överträdelse av EKMR art. 10.

4.2.2 Ej överträdelse

I detta fall så var det inte en överträdelse av art. 10 EKMR.

4.2.2.1 Case of Sürek v. Turkey (No. 3)

Fallet handlar om en publicist som bodde i Istanbul. Publicisten publicerade en artikel som blev konfiskerad på order av Istanbuls Nationella säkerhetsdomstol. Anledningen till att artikeln blev konfiskerad var att artikeln handlade om separation från den turkiska staten. Publicisten

åtalades för att brutit enligt sektion 8 av ”Förebyggande av terrorism lagen” från 1991. Publicisten ansåg att hans rättigheter i EKMR art. 10 hade blivit kränkta och anmälde fallet till Europadomstolen.
Europadomstolen ansåg att publicistens rättigheter inte hade kränkts och att Turkiet har agerat inom ramen av art. 10. Europadomstolen argumenterade att turkiska domstolen måste se på kontexten som ingreppet gjordes i och om syftet var proportionerligt. Europadomstolen tog med i sin bedömning om tillvägagångsättet var ”relevant och effektivt”. Uppmuntrade artikeln till våld mot en individ eller en offentlig tjänsteman eller en befolkningsgrupp, har den statliga myndigheter ett större utrymme för att begränsa yttrandefriheten enligt Europadomstolen. Delar av artikeln beskrev delar av det turkiska territoriet som "Kurdistan" och att en nationell befrielsekamp. Denna del av texten är inte så extrem att man skulle kunna göra inskränkningar enligt Europadomstolen eftersom den inte uppmuntrade till våldshandlingar. Det fanns andra delar av texten som beskriver situationen som en kamp "krig riktat mot Republiken Turkiets styrkor" och "jag vill utöva en total befrielsekamp". Artikeln förknippade med PKK och uttryckte i denna del en uppmaning till användningen av väpnad våld för att uppnå Kurdistans nationella oberoende. När Europadomstolen bedömde om restriktionen var överträdelse eller ej så undersökte Europadomstolen kontexten under tiden artikeln gavs ut. Artikeln publicerades 1985 då det var kraftiga konfrontationer mellan de turkiska styrkorna och PKK. I kontexten så kunde texten uppmuntra till mer våld.
Europadomstolen vägde in de olika delarna och fann att det inte var en överträdelse av EKMR art. 10.

4.3 Doktrin

De delar som jag analyserar, i doktrinen är avsnitt som avhandlar hur Europadomstolen har dömt i mål som har handlat om art. 10 EKMR av nationella säkerhets karaktär och andra tolkningar om 10 EKMR och nationella säkerhet. Urvalet av doktrin finns i delen 1.6.1. i uppsatsen.

4.3.1 An introduction to the European Convention on Human Rights

Det framgår inte så tydligt i doktrinen om begränsning av yttrandefrihet och bekämpning av terrorism, mer än att det har skett en utveckling där länder begränsar yttrandefriheten i ett syfte att motverka terrorism[30]. Doktrinen ger inte mycket praxis eller vägledning om hur Europadomstolen hade dömt Counter-Terrorism and Security Act 2015. Den berättar om utvecklingen om länders terrorismbekämpning och att det har påverkat yttrandefriheten negativt.

[30] Cameron, s 133

4.3.2 Mänskliga rättigheter i europeisk praxis: en kommentar till Europakonventionen om de mänskliga rättigheterna.

Boken beskriver skydden för olika samhälleliga intressena och om olika fall som europadomstolen har avgjort.
Ett av dessa är *Özgür Gündem mot Turkiet*. Detta fall handlar om en kurdisk tidning som upplevde att den blev trakasserad i stor omfattning i syfte att försöka stänga ner tidningen. Det stod inte klart vem som stod bakom trakasserierna men staten hade utfört ett antal husransakningar och vid dessa tillfällen hade tidningsupplagor tagits i beslag. Vissa artiklar i tidningarna hade lett till åtal och sedan till straff. Turkiet hävdade att de gjort det i syfte att skydda statens säkerhet. Europadomstolen ansåg att åtgärderna var oproportionerliga[31].
Ett annat fall som ansågs oproportionerligt var *Halis mot Turkiet* där en person hade dömts till fängelse för att ha spridit PKK propaganda i en bokrecension trots att upplagan som recensionen funnits i hade beslagtagits innan den hade distribuerats[32]. De två fallen ger båda vägledning att vid bedömningen av straff så ska det inräknas om staten har lyckats stoppa informationen. Har staten lyckats stoppat informationen så har informationen inte gjort någon skada och det ska då inräknas i straffbedömningen.
I ett annat fall *Özgür Radyo-Ses Radyo Televisyon Yayin Ve Tanitim A.S. mot Turkiet* handlade om ett radioprogram som hade varnats flera gånger och fått sin licens indragen. Anledningen var att vissa program påstods ha varit ägnade åt att uppmuntra till våld, terrorism, etnisk diskriminering och uppmuntrat till hat. Europadomstolen skrev att programmen hade gällt frågor av allmänt intresse och att innehållet i programmen hade redan återgivits i publicerade tidningsartiklar. Även om tidningens artiklar kunde innehålla en fientlig ton mot statsmakten, innehöll de inte någon uppmaning till våld eller främjade hat mellan olika folkgrupper. Åtgärden stred mot art. 10[33]. Två saker är det Europadomstolen bedömer för att avgöra om det har varit en överträdelse av art. 10 EKMR eller inte i fallet. Det första är om informationen som de sände var av allmänhetens intresse. Det andra var om informationen var någon uppmaning till våld eller främjade hat mellan olika folkgrupper.

4.3.3 Mänskliga rättigheter: en introduktion

Syftet med yttrandefrihet är att ha en öppen politisk debatt för att främja demokratin. Inskränkningar av denna rättighet får göras om det är nerskrivet i lag och är nödvändigt i ett demokratiskt samhälle. Det som är nödvändigt i ett demokratiskt samhälle är att skydda statens säkerhet och territoriella integritet, den allmänna säkerheten, förebyggande av brott och oordning och

[31] Danelius, Hans s 466
[32] A a s 466
[33] A a s 466f

skydda hälsa[34]. Doktrinen ger inte något nytt för uppsatsen utan ger en introduktion om yttrandefriheten i EKMR.

[34] Fisher, s 66f

5 Resultat

Det som jag har upptäckte är att jag inte kan avgöra direkt om Counter-Terrorism and Security Act 2015 är förenligt med EKMR eller inte.
Det är inte själva lagtexten som inte kan vara förenligt med EKMR utan hur den appliceras i verkligheten.
För att kunna avgöra detta så får jag använda det material som jag har analyserat med hjälp av ”Margin of appreciation”. Genom ”Margin of appreciation” så kan man bedöma när en stat har begränsat yttrandefriheten för mycket för att skydda nationen.
De olika variablerna som presenterades tidigare som ska användas är
1. Proportionerligt
2. Begränsningens natur
3. Andra sorters begränsningar
4. Implementeringen
5. Statusen hos de medborgarna som drabbas
6. Säkerheter

Proportionalitet – I de olika fallen från Turkiet har deras åtgärder inte varit förenliga med kravet på att inskränkningarna ska vara ”nödvändigt i ett demokratiskt samhälle”. I de fallen hade Turkiet använt sig av fängelsestraff som ansågs vara oproportionerligt. I Storbritanniens lagstiftning så handlar det om att av-radikalisera som liknar fallet *case of Vogt v. Germany.* Fallet handlade om att få en lärare att ta avstånd från anti-konstitutionella åsikter och handlingar. Det var oproportionerligt p.g.a. effekten som den medförde för personens utpekande och att hotet inte tillräckligt stort mot konstitutionen.
Begränsningens natur – Det är en stor begränsning som påverkar alla människor förutom de som undervisar på universiteten. Den nya brittiska lagstiftningen är inte specifik om vilka som drabbas och därför kan det finnas en risk att den kan missbrukas.
Andra sorters begränsningar – Lagstiftningen tar sikte på att förhindra att misstänkta terrorister kan ta sig in och ut ur Storbritannien.
Implementeringen – Det finns inget fall att applicera detta på så det är svårt att avgöra om det har gjorts försiktigt. Det kan vara problematiskt om det skulle utföras innan man vet om det är ett hot mot allmänheten eller inte.
Statusen hos de medborgarna som drabbas – Textens uppbyggnad gör att det är den brittiska befolkningen i sin helhet som drabbas av den brittiska lagstiftningen. Syftet med texten är riktat mot personer med våldsideologier som hotar allmänhetens säkerhet. De som inte drabbas av lagstiftningen är de som undervisar i universiteten eftersom de har speciellt skydd i lagstiftningen.
Säkerheter – Det finns inget i lagtexten som skulle kunna ses som ett skydd emot handlingarna som offentliga myndigheter kan göra p.g.a. lagtexten.

Det som jag kan påpeka om lagen är att den ger ett stort tolkningsutrymme och pekar inte ut islamisk terrorism som kan göra att andra grupper kan påverkas. Det gör att jag kan förstå oron hos dem som skrev artikeln om att

yttrandefriheten kan påverkas negativt. Jag anser att det finns en risk att lagstiftningen kan missbrukas och kan komma att avgöras i Europadomstolen p.g.a. lagstiftningen.
Jag fann när jag läste praxisen från Europadomstolen att Europadomstolen inte bedömer om en lag är förenlig med EKMR eller inte utan dömer fall som kan vara ett resultat av den lagen.
Det som får göras är att man får tolka för de olika situationerna som kan hända med denna lagen när det gäller om den är förenlig med EKMR enligt Europadomstolen.

Bilaga A

Bilaga A är hela lagen Counter-Terrorism and Security Act 2015.

PART 1
Temporary restrictions on travel

CHAPTER 1
Powers to seize travel documents

1Seizure of passports etc from persons suspected of involvement in terrorism
(1)Schedule 1 makes provision for the seizure and temporary retention of travel documents where a person is suspected of intending to leave Great Britain or the United Kingdom in connection with terrorism-related activity.
(2)In Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services)—
(a)in Part 1 (services), after paragraph 45 insert—
"Extension of time for retention of travel documents
45A(1)Civil legal services provided in relation to proceedings under paragraph 8 of Schedule 1 to the Counter-Terrorism and Security Act 2015.
Exclusions
(2)Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.";
(b)in Part 3 (advocacy: exclusion and exceptions), after paragraph 22 insert—
"22AAdvocacy in proceedings before a District Judge (Magistrates' Courts) under paragraph 8 of Schedule 1 to the Counter-Terrorism and Security Act 2015."

(3)In Schedule 2 to the Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)) (civil legal services: excluded services), in paragraph 2(d) (proceedings in court of summary jurisdiction in relation to which funding for representation may be provided), after paragraph (xx) insert—
"(xxi)under paragraph 8 of Schedule 1 to the Counter-Terrorism and Security Act 2015;".

CHAPTER 2
Temporary exclusion from the United Kingdom
Imposition of temporary exclusion orders

2Temporary exclusion orders
(1)A "temporary exclusion order" is an order which requires an individual not to return to the United Kingdom unless—
(a)the return is in accordance with a permit to return issued by the Secretary of State before the individual began the return, or

(b)the return is the result of the individual's deportation to the United Kingdom.
(2)The Secretary of State may impose a temporary exclusion order on an individual if conditions A to E are met.
(3)Condition A is that the Secretary of State reasonably suspects that the individual is, or has been, involved in terrorism-related activity outside the United Kingdom.
(4)Condition B is that the Secretary of State reasonably considers that it is necessary, for purposes connected with protecting members of the public in the United Kingdom from a risk of terrorism, for a temporary exclusion order to be imposed on the individual.
(5)Condition C is that the Secretary of State reasonably considers that the individual is outside the United Kingdom.
(6)Condition D is that the individual has the right of abode in the United Kingdom.
(7)Condition E is that—
(a)the court gives the Secretary of State permission under section 3, or
(b)the Secretary of State reasonably considers that the urgency of the case requires a temporary exclusion order to be imposed without obtaining such permission.
(8)During the period that a temporary exclusion order is in force, the Secretary of State must keep under review whether condition B is met.
3Temporary exclusion orders: prior permission of the court
(1)This section applies if the Secretary of State—
(a)makes the relevant decisions in relation to an individual, and
(b)makes an application to the court for permission to impose a temporary exclusion order on the individual.
(2)The function of the court on the application is to determine whether the relevant decisions of the Secretary of State are obviously flawed.
(3)The court may consider the application—
(a)in the absence of the individual,
(b)without the individual having been notified of the application, and
(c)without the individual having been given an opportunity (if the individual was aware of the application) of making any representations to the court.
(4)But that does not limit the matters about which rules of court may be made.
(5)In determining the application, the court must apply the principles applicable on an application for judicial review.
(6)In a case where the court determines that any of the relevant decisions of the Secretary of State is obviously flawed, the court may not give permission under this section.
(7)In any other case, the court must give permission under this section.
(8)Schedule 2 makes provision for references to the court etc where temporary exclusion orders are imposed in cases of urgency.
(9)Only the Secretary of State may appeal against a determination of the court under—
(a)this section, or
(b)Schedule 2;and such an appeal may only be made on a question of law.

(10)In this section "the relevant decisions" means the decisions that the following conditions are met—
(a)condition A;
(b)condition B;
(c)condition C;
(d)condition D.
4Temporary exclusion orders: supplementary provision
(1)The Secretary of State must give notice of the imposition of a temporary exclusion order to the individual on whom it is imposed (the "excluded individual").
(2)Notice of the imposition of a temporary exclusion order must include an explanation of the procedure for making an application under section 6 for a permit to return.
(3)A temporary exclusion order—
(a)comes into force when notice of its imposition is given; and
(b)is in force for the period of two years (unless revoked or otherwise brought to an end earlier).
(4)The Secretary of State may revoke a temporary exclusion order at any time.
(5)The Secretary of State must give notice of the revocation of a temporary exclusion order to the excluded individual.
(6)If a temporary exclusion order is revoked, it ceases to be in force when notice of its revocation is given.
(7)The validity of a temporary exclusion order is not affected by the excluded individual—
(a)returning to the United Kingdom, or
(b)departing from the United Kingdom.
(8)The imposition of a temporary exclusion order does not prevent a further temporary exclusion order from being imposed on the excluded individual (including in a case where an order ceases to be in force at the expiry of its two year duration).
(9)At the time when a temporary exclusion order comes into force, any British passport held by the excluded individual is invalidated.
(10)During the period when a temporary exclusion order is in force, the issue of a British passport to the excluded individual while he or she is outside the United Kingdom is not valid.
(11)In this section "British passport" means a passport, or other document which enables or facilitates travel from one state to another (except a permit to return), that has been—
(a)issued by or for Her Majesty's Government in the United Kingdom, and
(b)issued in respect of a person's status as a British citizen.
Permit to return
5Permit to return
(1)A "permit to return" is a document giving an individual (who is subject to a temporary exclusion order) permission to return to the United Kingdom.
(2)The permission may be made subject to a requirement that the individual comply with conditions specified in the permit to return.
(3)The individual's failure to comply with a specified condition has the effect of invalidating the permit to return.

(4)A permit to return must state—
(a)the time at which, or period of time during which, the individual is permitted to arrive on return to the United Kingdom;
(b)the manner in which the individual is permitted to return to the United Kingdom; and
(c)the place where the individual is permitted to arrive on return to the United Kingdom.
(5)Provision made under subsection (4)(a) or (c) may, in particular, be framed by reference to the arrival in the United Kingdom of a specific flight, sailing or other transport service.
(6)Provision made under subsection (4)(b) may, in particular, state—
(a)a route,
(b)a method of transport,
(c)an airline, shipping line or other passenger carrier, or
(d)a flight, sailing or other transport service,which the individual is permitted to use to return to the United Kingdom.
(7)The Secretary of State may not issue a permit to return except in accordance with section 6 or 7.
(8)It is for the Secretary of State to decide the terms of a permit to return (but this is subject to section 6(3)).
6Issue of permit to return: application by individual
(1)If an individual applies to the Secretary of State for a permit to return, the Secretary of State must issue a permit within a reasonable period after the application is made.
(2)But the Secretary of State may refuse to issue the permit if—
(a)the Secretary of State requires the individual to attend an interview with a constable or immigration officer at a time and a place specified by the Secretary of State, and
(b)the individual fails to attend the interview.
(3)Where a permit to return is issued under this section, the relevant return time must fall within a reasonable period after the application is made.
(4)An application is not valid unless it is made in accordance with the procedure for applications specified by the Secretary of State.
(5)In this section—
"application" means an application made by an individual to the Secretary of State for a permit to return to be issued;
"relevant return time" means—
(a)the time at which the individual is permitted to arrive on return to the United Kingdom (in a case where the permit to return states such a time), or
(b)the start of the period of time during which the individual is permitted to arrive on return to the United Kingdom (in a case where the permit to return states such a period).
7Issue of permit to return: deportation or urgent situation
(1)The Secretary of State must issue a permit to return to an individual if the Secretary of State considers that the individual is to be deported to the United Kingdom.
(2)The Secretary of State may issue a permit to return to an individual if—

(a)the Secretary of State considers that, because of the urgency of the situation, it is expedient to issue a permit to return even though no application has been made under section 6, and
(b)there is no duty to issue a permit to return under subsection (1).
(3)Subsection (1) or (2) applies whether or not any request has been made to issue the permit to return under that provision.
8Permit to return: supplementary provision
(1)The Secretary of State may vary a permit to return.
(2)The Secretary of State may revoke a permit to return issued to an individual only if—
(a)the permit to return has been issued under section 6 and the individual asks the Secretary of State to revoke it;
(b)the permit to return has been issued under section 7(1) and the Secretary of State no longer considers that the individual is to be deported to the United Kingdom;
(c)the permit to return has been issued under section 7(2) and the Secretary of State no longer considers that, because of the urgency of the situation, the issue of the permit to return is expedient;
(d)the Secretary of State issues a subsequent permit to return to the individual; or
(e)the Secretary of State considers that the permit to return has been obtained by misrepresentation.
(3)The making of an application for a permit to return to be issued under section 6 (whether or not resulting in a permit to return being issued) does not prevent a subsequent application from being made.
(4)The issuing of a permit to return (whether or not resulting in the individual's return to the United Kingdom) does not prevent a subsequent permit to return from being issued (whether or not the earlier permit is still in force).
Obligations after return to the United Kingdom
9Obligations after return to the United Kingdom
(1)The Secretary of State may, by notice, impose any or all of the permitted obligations on an individual who—
(a)is subject to a temporary exclusion order, and
(b)has returned to the United Kingdom.
(2)The "permitted obligations" are—
(a)any obligation of a kind that may be imposed (on an individual subject to a TPIM notice) under these provisions of Schedule 1 to the Terrorism Prevention and Investigation Measures Act 2011—
(i)paragraph 10 (reporting to police station);
(ii)paragraph 10A (attendance at appointments etc);
(b)an obligation to notify the police, in such manner as a notice under this section may require, of—
(i)the individual's place (or places) of residence, and
(ii)any change in the individual's place (or places) of residence.
(3)A notice under this section—
(a)comes into force when given to the individual; and
(b)is in force until the temporary exclusion order ends (unless the notice is revoked or otherwise brought to an end earlier).

(4)The Secretary of State may, by notice, vary or revoke any notice given under this section.
(5)The variation or revocation of a notice under this section takes effect when the notice of variation or revocation is given to the individual.
(6)The validity of a notice under this section is not affected by the individual—
(a)departing from the United Kingdom, or
(b)returning to the United Kingdom.
(7)The giving of any notice to an individual under this section does not prevent any further notice under this section from being given to that individual.
Offences and proceedings etc
10Offences
(1)An individual subject to a temporary exclusion order is guilty of an offence if, without reasonable excuse, the individual returns to the United Kingdom in contravention of the restriction on return specified in the order.
(2)It is irrelevant for the purposes of subsection (1) whether or not the individual has a passport or other similar identity document.
(3)An individual subject to an obligation imposed under section 9 is guilty of an offence if, without reasonable excuse, the individual does not comply with the obligation.
(4)In a case where a relevant notice has not actually been given to an individual, the fact that the relevant notice is deemed to have been given to the individual under regulations under section 13 does not (of itself) prevent the individual from showing that lack of knowledge of the temporary exclusion order, or of the obligation imposed under section 9, was a reasonable excuse for the purposes of this section.
(5)An individual guilty of an offence under this section is liable—
(a)on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine, or to both;
(b)on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine, or to both;
(c)on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both;
(d)on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both.
(6)Where an individual is convicted by or before a court of an offence under this section, it is not open to that court to make in respect of the offence—
(a)an order under section 12(1)(b) of the Powers of Criminal Courts (Sentencing) Act 2000 (conditional discharge);
(b)an order under section 227A of the Criminal Procedure (Scotland) Act 1995 (community pay-back orders); or
(c)an order under Article 4(1)(b) of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)) (conditional discharge in Northern Ireland).
(7)In this section—
“relevant notice” means—

(a)notice of the imposition of a temporary exclusion order, or
(b)notice under section 9 imposing an obligation;
"restriction on return" means the requirement specified in a temporary exclusion order in accordance with section 2(1).
(8)In section 2 of the UK Borders Act 2007 (detention at ports), in subsection (1A), for "the individual is subject to a warrant for arrest" substitute "the individual—
(a)may be liable to be detained by a constable under section 14 of the Criminal Procedure (Scotland) Act 1995 in respect of an offence under section 10(1) of the Counter-Terrorism and Security Act 2015, or
(b)is subject to a warrant for arrest."
11Review of decisions relating to temporary exclusion orders
(1)This section applies where an individual who is subject to a temporary exclusion order is in the United Kingdom.
(2)The individual may apply to the court to review any of the following decisions of the Secretary of State—
(a)a decision that any of the following conditions was met in relation to the imposition of the temporary exclusion order—
(i)condition A;
(ii)condition B;
(iii)condition C;
(iv)condition D;
(b)a decision to impose the temporary exclusion order;
(c)a decision that condition B continues to be met;
(d)a decision to impose any of the permitted obligations on the individual by a notice under section 9.
(3)On a review under this section, the court must apply the principles applicable on an application for judicial review.
(4)On a review of a decision within subsection (2)(a) to (c), the court has the following powers (and only those powers)—
(a)power to quash the temporary exclusion order;
(b)power to give directions to the Secretary of State for, or in relation to, the revocation of the temporary exclusion order.
(5)If the court does not exercise either of its powers under subsection (4), the court must decide that the temporary exclusion order is to continue in force.
(6)On a review of a decision within subsection (2)(d), the court has the following powers (and only those powers)—
(a)power to quash the permitted obligation in question;
(b)if that is the only permitted obligation imposed by the notice under section 9, power to quash the notice;
(c)power to give directions to the Secretary of State for, or in relation to—
(i)the variation of the notice so far as it relates to that permitted obligation, or
(ii)if that is the only permitted obligation imposed by the notice, the revocation of the notice.
(7)If the court does not exercise any of its powers under subsection (6), the court must decide that the notice under section 9 is to continue in force.

(8)If the court exercises a power under subsection (6)(a) or (c)(i), the court must decide that the notice under section 9 is to continue in force subject to that exercise of that power.
(9)The power under this section to quash a temporary exclusion order, permitted obligation or notice under section 9 includes—
(a)in England and Wales or Northern Ireland, power to stay the quashing for a specified time, or pending an appeal or further appeal against the decision to quash; or
(b)in Scotland, power to determine that the quashing is of no effect for a specified time or pending such an appeal or further appeal.
(10)An appeal against a determination of the court on a review under this section may only be made on a question of law.
(11)For the purposes of this section, a failure by the Secretary of State to make a decision whether condition B continues to be met is to be treated as a decision that it continues to be met.
12Temporary exclusion orders: proceedings and appeals against convictions
(1)Schedule 3 makes provision about proceedings relating to temporary exclusion orders.
(2)Schedule 4 makes provision about appeals against convictions in cases where a temporary exclusion order, a notice under section 9 or a permitted obligation is quashed.
Supplementary
13Regulations: giving of notices, legislation relating to passports
(1)The Secretary of State may by regulations make provision about the giving of—
(a)notice under section 4, and
(b)notice under section 9.
(2)The regulations may, in particular, make provision about cases in which notice is to be deemed to have been given.
(3)The Secretary of State may make regulations providing for legislation relating to passports or other identity documents (whenever passed or made) to apply (with or without modifications) to permits to return.
(4)The power to make regulations under this section—
(a)is exercisable by statutory instrument;
(b)includes power to make transitional, transitory or saving provision.
(5)A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
14Chapter 2: interpretation
(1)This section applies for the purposes of this Chapter.
(2)These expressions have the meanings given—
"act" and "conduct" include omissions and statements;
"act of terrorism" includes anything constituting an action taken for the purposes of terrorism, within the meaning of the Terrorism Act 2000 (see section 1(5) of that Act);
"condition A", "condition B", "condition C", "condition D" or "condition E" means that condition as set out in section 2;
"court" means—
(a)in the case of proceedings relating to an individual whose principal place of residence is in Scotland, the Outer House of the Court of Session;

(b)in the case of proceedings relating to an individual whose principal place of residence is in Northern Ireland, the High Court in Northern Ireland;
(c)in any other case, the High Court in England and Wales;
"permit to return" has the meaning given in section 5;
"temporary exclusion order" has the meaning given in section 2;
"terrorism" has the same meaning as in the Terrorism Act 2000 (see section 1(1) to (4) of that Act).
(3)An individual is—
(a)subject to a temporary exclusion order if a temporary exclusion order is in force in relation to the individual; and
(b)subject to an obligation imposed under section 9 if an obligation is imposed on the individual by a notice in force under that section.
(4)Involvement in terrorism-related activity is any one or more of the following—
(a)the commission, preparation or instigation of acts of terrorism;
(b)conduct that facilitates the commission, preparation or instigation of such acts, or is intended to do so;
(c)conduct that gives encouragement to the commission, preparation or instigation of such acts, or is intended to do so;
(d)conduct that gives support or assistance to individuals who are known or believed by the individual concerned to be involved in conduct falling within paragraph (a).It is immaterial whether the acts of terrorism in question are specific acts of terrorism or acts of terrorism in general.
(5)It is immaterial whether an individual's involvement in terrorism-related activity occurs before or after the coming into force of section 2.
(6)References to an individual's return to the United Kingdom include, in the case of an individual who has never been in the United Kingdom, a reference to the individual's coming to the United Kingdom for the first time.
(7)References to deportation include references to any other kind of expulsion.
15Chapter 2: consequential amendments
(1)In paragraph 2 of Schedule 1 to the Senior Courts Act 1981 (business allocated to the Queen's Bench Division), after paragraph (bd) insert—
"(be)all TEO proceedings (within the meaning given by paragraph 1 of Schedule 3 to the Counter-Terrorism and Security Act 2015 (proceedings relating to temporary exclusion orders));".
(2)In section 133(5) of the Criminal Justice Act 1988 (compensation for miscarriages of justice)—
(a)omit "or" at the end of paragraph (e);
(b)after paragraph (f) insert "or
(g)on an appeal under Schedule 4 to the Counter-Terrorism and Security Act 2015."
(3)In section 18 of the Regulation of Investigatory Powers Act 2000 (exclusion of matter from legal proceedings: exceptions)—
(a)in subsection (1), after paragraph (dd) insert—
"(de)any TEO proceedings (within the meaning given by paragraph 1 of Schedule 3 to the Counter-Terrorism and Security Act 2015 (temporary

exclusion orders: proceedings)) or any proceedings arising out of such proceedings;";
(b)in subsection (2), after paragraph (zc) insert—
"(zd)in the case of proceedings falling within paragraph (de), to—
(i)a person, other than the Secretary of State, who is or was a party to the proceedings, or
(ii)any person who for the purposes of the proceedings (but otherwise than by virtue of appointment as a special advocate under Schedule 3 to the Counter-Terrorism and Security Act 2015) represents a person falling within sub-paragraph (i);".

CHAPTER 2
Temporary exclusion from the United Kingdom
Imposition of temporary exclusion orders

2Temporary exclusion orders
(1)A "temporary exclusion order" is an order which requires an individual not to return to the United Kingdom unless—
(a)the return is in accordance with a permit to return issued by the Secretary of State before the individual began the return, or
(b)the return is the result of the individual's deportation to the United Kingdom.
(2)The Secretary of State may impose a temporary exclusion order on an individual if conditions A to E are met.
(3)Condition A is that the Secretary of State reasonably suspects that the individual is, or has been, involved in terrorism-related activity outside the United Kingdom.
(4)Condition B is that the Secretary of State reasonably considers that it is necessary, for purposes connected with protecting members of the public in the United Kingdom from a risk of terrorism, for a temporary exclusion order to be imposed on the individual.
(5)Condition C is that the Secretary of State reasonably considers that the individual is outside the United Kingdom.
(6)Condition D is that the individual has the right of abode in the United Kingdom.
(7)Condition E is that—
(a)the court gives the Secretary of State permission under section 3, or
(b)the Secretary of State reasonably considers that the urgency of the case requires a temporary exclusion order to be imposed without obtaining such permission.
(8)During the period that a temporary exclusion order is in force, the Secretary of State must keep under review whether condition B is met.
3Temporary exclusion orders: prior permission of the court
(1)This section applies if the Secretary of State—
(a)makes the relevant decisions in relation to an individual, and
(b)makes an application to the court for permission to impose a temporary exclusion order on the individual.
(2)The function of the court on the application is to determine whether the relevant decisions of the Secretary of State are obviously flawed.

(3)The court may consider the application—
(a)in the absence of the individual,
(b)without the individual having been notified of the application, and
(c)without the individual having been given an opportunity (if the individual was aware of the application) of making any representations to the court.
(4)But that does not limit the matters about which rules of court may be made.
(5)In determining the application, the court must apply the principles applicable on an application for judicial review.
(6)In a case where the court determines that any of the relevant decisions of the Secretary of State is obviously flawed, the court may not give permission under this section.
(7)In any other case, the court must give permission under this section.
(8)Schedule 2 makes provision for references to the court etc where temporary exclusion orders are imposed in cases of urgency.
(9)Only the Secretary of State may appeal against a determination of the court under—
(a)this section, or
(b)Schedule 2;and such an appeal may only be made on a question of law.
(10)In this section "the relevant decisions" means the decisions that the following conditions are met—
(a)condition A;
(b)condition B;
(c)condition C;
(d)condition D.
4Temporary exclusion orders: supplementary provision
(1)The Secretary of State must give notice of the imposition of a temporary exclusion order to the individual on whom it is imposed (the "excluded individual").
(2)Notice of the imposition of a temporary exclusion order must include an explanation of the procedure for making an application under section 6 for a permit to return.
(3)A temporary exclusion order—
(a)comes into force when notice of its imposition is given; and
(b)is in force for the period of two years (unless revoked or otherwise brought to an end earlier).
(4)The Secretary of State may revoke a temporary exclusion order at any time.
(5)The Secretary of State must give notice of the revocation of a temporary exclusion order to the excluded individual.
(6)If a temporary exclusion order is revoked, it ceases to be in force when notice of its revocation is given.
(7)The validity of a temporary exclusion order is not affected by the excluded individual—
(a)returning to the United Kingdom, or
(b)departing from the United Kingdom.
(8)The imposition of a temporary exclusion order does not prevent a further temporary exclusion order from being imposed on the excluded individual

(including in a case where an order ceases to be in force at the expiry of its two year duration).
(9)At the time when a temporary exclusion order comes into force, any British passport held by the excluded individual is invalidated.
(10)During the period when a temporary exclusion order is in force, the issue of a British passport to the excluded individual while he or she is outside the United Kingdom is not valid.
(11)In this section "British passport" means a passport, or other document which enables or facilitates travel from one state to another (except a permit to return), that has been—
(a)issued by or for Her Majesty's Government in the United Kingdom, and
(b)issued in respect of a person's status as a British citizen.
Permit to return
5Permit to return
(1)A "permit to return" is a document giving an individual (who is subject to a temporary exclusion order) permission to return to the United Kingdom.
(2)The permission may be made subject to a requirement that the individual comply with conditions specified in the permit to return.
(3)The individual's failure to comply with a specified condition has the effect of invalidating the permit to return.
(4)A permit to return must state—
(a)the time at which, or period of time during which, the individual is permitted to arrive on return to the United Kingdom;
(b)the manner in which the individual is permitted to return to the United Kingdom; and
(c)the place where the individual is permitted to arrive on return to the United Kingdom.
(5)Provision made under subsection (4)(a) or (c) may, in particular, be framed by reference to the arrival in the United Kingdom of a specific flight, sailing or other transport service.
(6)Provision made under subsection (4)(b) may, in particular, state—
(a)a route,
(b)a method of transport,
(c)an airline, shipping line or other passenger carrier, or
(d)a flight, sailing or other transport service,which the individual is permitted to use to return to the United Kingdom.
(7)The Secretary of State may not issue a permit to return except in accordance with section 6 or 7.
(8)It is for the Secretary of State to decide the terms of a permit to return (but this is subject to section 6(3)).
6Issue of permit to return: application by individual
(1)If an individual applies to the Secretary of State for a permit to return, the Secretary of State must issue a permit within a reasonable period after the application is made.
(2)But the Secretary of State may refuse to issue the permit if—
(a)the Secretary of State requires the individual to attend an interview with a constable or immigration officer at a time and a place specified by the Secretary of State, and
(b)the individual fails to attend the interview.

(3)Where a permit to return is issued under this section, the relevant return time must fall within a reasonable period after the application is made.
(4)An application is not valid unless it is made in accordance with the procedure for applications specified by the Secretary of State.
(5)In this section—
"application" means an application made by an individual to the Secretary of State for a permit to return to be issued;
"relevant return time" means—
(a)the time at which the individual is permitted to arrive on return to the United Kingdom (in a case where the permit to return states such a time), or
(b)the start of the period of time during which the individual is permitted to arrive on return to the United Kingdom (in a case where the permit to return states such a period).
7Issue of permit to return: deportation or urgent situation
(1)The Secretary of State must issue a permit to return to an individual if the Secretary of State considers that the individual is to be deported to the United Kingdom.
(2)The Secretary of State may issue a permit to return to an individual if—
(a)the Secretary of State considers that, because of the urgency of the situation, it is expedient to issue a permit to return even though no application has been made under section 6, and
(b)there is no duty to issue a permit to return under subsection (1).
(3)Subsection (1) or (2) applies whether or not any request has been made to issue the permit to return under that provision.
8Permit to return: supplementary provision
(1)The Secretary of State may vary a permit to return.
(2)The Secretary of State may revoke a permit to return issued to an individual only if—
(a)the permit to return has been issued under section 6 and the individual asks the Secretary of State to revoke it;
(b)the permit to return has been issued under section 7(1) and the Secretary of State no longer considers that the individual is to be deported to the United Kingdom;
(c)the permit to return has been issued under section 7(2) and the Secretary of State no longer considers that, because of the urgency of the situation, the issue of the permit to return is expedient;
(d)the Secretary of State issues a subsequent permit to return to the individual; or
(e)the Secretary of State considers that the permit to return has been obtained by misrepresentation.
(3)The making of an application for a permit to return to be issued under section 6 (whether or not resulting in a permit to return being issued) does not prevent a subsequent application from being made.
(4)The issuing of a permit to return (whether or not resulting in the individual's return to the United Kingdom) does not prevent a subsequent permit to return from being issued (whether or not the earlier permit is still in force).
Obligations after return to the United Kingdom
9Obligations after return to the United Kingdom

(1)The Secretary of State may, by notice, impose any or all of the permitted obligations on an individual who—
(a)is subject to a temporary exclusion order, and
(b)has returned to the United Kingdom.
(2)The "permitted obligations" are—
(a)any obligation of a kind that may be imposed (on an individual subject to a TPIM notice) under these provisions of Schedule 1 to the Terrorism Prevention and Investigation Measures Act 2011—
(i)paragraph 10 (reporting to police station);
(ii)paragraph 10A (attendance at appointments etc);
(b)an obligation to notify the police, in such manner as a notice under this section may require, of—
(i)the individual's place (or places) of residence, and
(ii)any change in the individual's place (or places) of residence.
(3)A notice under this section—
(a)comes into force when given to the individual; and
(b)is in force until the temporary exclusion order ends (unless the notice is revoked or otherwise brought to an end earlier).
(4)The Secretary of State may, by notice, vary or revoke any notice given under this section.
(5)The variation or revocation of a notice under this section takes effect when the notice of variation or revocation is given to the individual.
(6)The validity of a notice under this section is not affected by the individual—
(a)departing from the United Kingdom, or
(b)returning to the United Kingdom.
(7)The giving of any notice to an individual under this section does not prevent any further notice under this section from being given to that individual.
Offences and proceedings etc
10Offences
(1)An individual subject to a temporary exclusion order is guilty of an offence if, without reasonable excuse, the individual returns to the United Kingdom in contravention of the restriction on return specified in the order.
(2)It is irrelevant for the purposes of subsection (1) whether or not the individual has a passport or other similar identity document.
(3)An individual subject to an obligation imposed under section 9 is guilty of an offence if, without reasonable excuse, the individual does not comply with the obligation.
(4)In a case where a relevant notice has not actually been given to an individual, the fact that the relevant notice is deemed to have been given to the individual under regulations under section 13 does not (of itself) prevent the individual from showing that lack of knowledge of the temporary exclusion order, or of the obligation imposed under section 9, was a reasonable excuse for the purposes of this section.
(5)An individual guilty of an offence under this section is liable—
(a)on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine, or to both;

(b)on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine, or to both;
(c)on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both;
(d)on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both.
(6)Where an individual is convicted by or before a court of an offence under this section, it is not open to that court to make in respect of the offence—
(a)an order under section 12(1)(b) of the Powers of Criminal Courts (Sentencing) Act 2000 (conditional discharge);
(b)an order under section 227A of the Criminal Procedure (Scotland) Act 1995 (community pay-back orders); or
(c)an order under Article 4(1)(b) of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)) (conditional discharge in Northern Ireland).
(7)In this section—
"relevant notice" means—
(a)notice of the imposition of a temporary exclusion order, or
(b)notice under section 9 imposing an obligation;
"restriction on return" means the requirement specified in a temporary exclusion order in accordance with section 2(1).
(8)In section 2 of the UK Borders Act 2007 (detention at ports), in subsection (1A), for "the individual is subject to a warrant for arrest" substitute "the individual—
(a)may be liable to be detained by a constable under section 14 of the Criminal Procedure (Scotland) Act 1995 in respect of an offence under section 10(1) of the Counter-Terrorism and Security Act 2015, or
(b)is subject to a warrant for arrest."
11Review of decisions relating to temporary exclusion orders
(1)This section applies where an individual who is subject to a temporary exclusion order is in the United Kingdom.
(2)The individual may apply to the court to review any of the following decisions of the Secretary of State—
(a)a decision that any of the following conditions was met in relation to the imposition of the temporary exclusion order—
(i)condition A;
(ii)condition B;
(iii)condition C;
(iv)condition D;
(b)a decision to impose the temporary exclusion order;
(c)a decision that condition B continues to be met;
(d)a decision to impose any of the permitted obligations on the individual by a notice under section 9.
(3)On a review under this section, the court must apply the principles applicable on an application for judicial review.
(4)On a review of a decision within subsection (2)(a) to (c), the court has the following powers (and only those powers)—

(a)power to quash the temporary exclusion order;
(b)power to give directions to the Secretary of State for, or in relation to, the revocation of the temporary exclusion order.
(5)If the court does not exercise either of its powers under subsection (4), the court must decide that the temporary exclusion order is to continue in force.
(6)On a review of a decision within subsection (2)(d), the court has the following powers (and only those powers)—
(a)power to quash the permitted obligation in question;
(b)if that is the only permitted obligation imposed by the notice under section 9, power to quash the notice;
(c)power to give directions to the Secretary of State for, or in relation to—
(i)the variation of the notice so far as it relates to that permitted obligation, or
(ii)if that is the only permitted obligation imposed by the notice, the revocation of the notice.
(7)If the court does not exercise any of its powers under subsection (6), the court must decide that the notice under section 9 is to continue in force.
(8)If the court exercises a power under subsection (6)(a) or (c)(i), the court must decide that the notice under section 9 is to continue in force subject to that exercise of that power.
(9)The power under this section to quash a temporary exclusion order, permitted obligation or notice under section 9 includes—
(a)in England and Wales or Northern Ireland, power to stay the quashing for a specified time, or pending an appeal or further appeal against the decision to quash; or
(b)in Scotland, power to determine that the quashing is of no effect for a specified time or pending such an appeal or further appeal.
(10)An appeal against a determination of the court on a review under this section may only be made on a question of law.
(11)For the purposes of this section, a failure by the Secretary of State to make a decision whether condition B continues to be met is to be treated as a decision that it continues to be met.
12Temporary exclusion orders: proceedings and appeals against convictions
(1)Schedule 3 makes provision about proceedings relating to temporary exclusion orders.
(2)Schedule 4 makes provision about appeals against convictions in cases where a temporary exclusion order, a notice under section 9 or a permitted obligation is quashed.
Supplementary
13Regulations: giving of notices, legislation relating to passports
(1)The Secretary of State may by regulations make provision about the giving of—
(a)notice under section 4, and
(b)notice under section 9.
(2)The regulations may, in particular, make provision about cases in which notice is to be deemed to have been given.

(3)The Secretary of State may make regulations providing for legislation relating to passports or other identity documents (whenever passed or made) to apply (with or without modifications) to permits to return.
(4)The power to make regulations under this section—
(a)is exercisable by statutory instrument;
(b)includes power to make transitional, transitory or saving provision.
(5)A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
14Chapter 2: interpretation
(1)This section applies for the purposes of this Chapter.
(2)These expressions have the meanings given—
"act" and "conduct" include omissions and statements;
"act of terrorism" includes anything constituting an action taken for the purposes of terrorism, within the meaning of the Terrorism Act 2000 (see section 1(5) of that Act);
"condition A", "condition B", "condition C", "condition D" or "condition E" means that condition as set out in section 2;
"court" means—
(a)in the case of proceedings relating to an individual whose principal place of residence is in Scotland, the Outer House of the Court of Session;
(b)in the case of proceedings relating to an individual whose principal place of residence is in Northern Ireland, the High Court in Northern Ireland;
(c)in any other case, the High Court in England and Wales;
"permit to return" has the meaning given in section 5;
"temporary exclusion order" has the meaning given in section 2;
"terrorism" has the same meaning as in the Terrorism Act 2000 (see section 1(1) to (4) of that Act).
(3)An individual is—
(a)subject to a temporary exclusion order if a temporary exclusion order is in force in relation to the individual; and
(b)subject to an obligation imposed under section 9 if an obligation is imposed on the individual by a notice in force under that section.
(4)Involvement in terrorism-related activity is any one or more of the following—
(a)the commission, preparation or instigation of acts of terrorism;
(b)conduct that facilitates the commission, preparation or instigation of such acts, or is intended to do so;
(c)conduct that gives encouragement to the commission, preparation or instigation of such acts, or is intended to do so;
(d)conduct that gives support or assistance to individuals who are known or believed by the individual concerned to be involved in conduct falling within paragraph (a).It is immaterial whether the acts of terrorism in question are specific acts of terrorism or acts of terrorism in general.
(5)It is immaterial whether an individual's involvement in terrorism-related activity occurs before or after the coming into force of section 2.
(6)References to an individual's return to the United Kingdom include, in the case of an individual who has never been in the United Kingdom, a reference to the individual's coming to the United Kingdom for the first time.

(7)References to deportation include references to any other kind of expulsion.

15Chapter 2: consequential amendments

(1)In paragraph 2 of Schedule 1 to the Senior Courts Act 1981 (business allocated to the Queen's Bench Division), after paragraph (bd) insert—

"(be)all TEO proceedings (within the meaning given by paragraph 1 of Schedule 3 to the Counter-Terrorism and Security Act 2015 (proceedings relating to temporary exclusion orders));".

(2)In section 133(5) of the Criminal Justice Act 1988 (compensation for miscarriages of justice)—

(a)omit "or" at the end of paragraph (e);

(b)after paragraph (f) insert "or

(g)on an appeal under Schedule 4 to the Counter-Terrorism and Security Act 2015."

(3)In section 18 of the Regulation of Investigatory Powers Act 2000 (exclusion of matter from legal proceedings: exceptions)—

(a)in subsection (1), after paragraph (dd) insert—

"(de)any TEO proceedings (within the meaning given by paragraph 1 of Schedule 3 to the Counter-Terrorism and Security Act 2015 (temporary exclusion orders: proceedings)) or any proceedings arising out of such proceedings;";

(b)in subsection (2), after paragraph (zc) insert—

"(zd)in the case of proceedings falling within paragraph (de), to—

(i)a person, other than the Secretary of State, who is or was a party to the proceedings, or

(ii)any person who for the purposes of the proceedings (but otherwise than by virtue of appointment as a special advocate under Schedule 3 to the Counter-Terrorism and Security Act 2015) represents a person falling within sub-paragraph (i);".

PART 3
Data retention

21Retention of relevant internet data

(1)Section 2(1) of the Data Retention and Investigatory Powers Act 2014 (temporary provision about the retention of relevant communications data subject to safeguards: definitions) is amended as follows.

(2)In the definition of "relevant communications data"—

(a)for "means communications data" substitute "means—

(a)communications data";

(b)after "Regulations" insert ", or

(b)relevant internet data not falling within paragraph (a),";

(c)the words from "so far as" to the end of the definition become full-out words beneath the new paragraphs (a) and (b).

(3)After the definition of "relevant communications data" insert—

""relevant internet data" means communications data which—

(a)relates to an internet access service or an internet communications service,

(b)may be used to identify, or assist in identifying, which internet protocol address, or other identifier, belongs to the sender or recipient of a communication (whether or not a person), and
(c)is not data which—
(i)may be used to identify an internet communications service to which a communication is transmitted through an internet access service for the purpose of obtaining access to, or running, a computer file or computer program, and
(ii)is generated or processed by a public telecommunications operator in the process of supplying the internet access service to the sender of the communication (whether or not a person);".
(4)In addition—
(a)before the definition of "communications data" insert—
""communication" has the meaning given by section 81(1) of the Regulation of Investigatory Powers Act 2000 so far as that meaning applies in relation to telecommunications services and telecommunication systems;";
(b)after the definition of "functions" insert—
""identifier" means an identifier used to facilitate the transmission of a communication;";
(c)after the definition of "notice" insert—
""person" includes an organisation and any association or combination of persons;".
(5)Subsections (1) to (4) are repealed on 31 December 2016.

PART 4
Aviation, shipping and rail

22Authority-to-carry schemes
(1)The Secretary of State may make one or more schemes requiring a person (a "carrier") to seek authority from the Secretary of State to carry persons on aircraft, ships or trains which are—
(a)arriving, or expected to arrive, in the United Kingdom, or
(b)leaving, or expected to leave, the United Kingdom.A scheme made under this section is called an "authority-to-carry scheme".
(2)An authority-to-carry scheme must specify or describe—
(a)the classes of carrier to which it applies (which may be all carriers or may be defined by reference to the method of transport or otherwise),
(b)the classes of passengers or crew in respect of whom authority to carry must be sought (which may be all of them or may be defined by reference to nationality, the possession of specified documents or otherwise), and
(c)the classes of passengers or crew in respect of whom authority to carry may be refused.
(3)An authority-to-carry scheme may specify or describe a class of person under subsection (2)(c) only if it is necessary in the public interest.
(4)The Secretary of State may make different authority-to-carry schemes for different purposes and in particular may make different schemes for different types of carrier, journey or person.

(5)An authority-to-carry scheme must set out the process for carriers to request, and for the Secretary of State to grant or refuse, authority to carry, which may include—
(a)a requirement for carriers to provide specified information on passengers or crew by a specified time before travel;
(b)a requirement for carriers to provide the information in a specified manner and form;
(c)a requirement for carriers to be able to receive, in a specified manner and form, communications from the Secretary of State relating to the information provided or granting or refusing authority to carry.
(6)Information specified under subsection (5)(a) may be information that can be required to be supplied under paragraph 27, 27B or 27BA of Schedule 2 to the Immigration Act 1971, section 32 or 32A of the Immigration, Asylum and Nationality Act 2006 or otherwise.
(7)The grant or refusal of authority under an authority-to-carry scheme does not determine whether a person is entitled or permitted to enter the United Kingdom.
(8)So far as it applies in relation to Scotland, an authority-to-carry scheme may be made only for purposes that are, or relate to, reserved matters (within the meaning of the Scotland Act 1998).
(9)So far as it applies in relation to Northern Ireland, an authority-to-carry scheme may be made only for purposes that are, or relate to, excepted or reserved matters (within the meaning of the Northern Ireland Act 1998).
(10)In the Nationality, Immigration and Asylum Act 2002 omit section 124 (authority to carry).
23Authority-to-carry schemes: entry into force etc
(1)An authority-to-carry scheme comes into force in accordance with regulations made by the Secretary of State by statutory instrument.
(2)The Secretary of State must not make regulations bringing a scheme into force unless—
(a)a draft of the regulations and the scheme to which they relate have been laid before Parliament, and
(b)the draft regulations have been approved by a resolution of each House.
(3)If the Secretary of State revises an authority-to-carry scheme, the revised scheme comes into force in accordance with regulations made by the Secretary of State by statutory instrument.
(4)The Secretary of State must not make regulations bringing a revised scheme into force unless—
(a)a draft of the regulations and the revised scheme to which they relate have been laid before Parliament, and
(b)the draft regulations have been approved by a resolution of each House.
(5)Regulations under this section may include transitional or saving provision.
24Penalty for breach of authority-to-carry scheme
(1)The Secretary of State may make regulations imposing penalties for breaching the requirements of an authority-to-carry scheme.
(2)Regulations under subsection (1) must identify the authority-to-carry scheme to which they refer.
(3)Regulations under subsection (1) may in particular make provision—

(a)about how a penalty is to be calculated;
(b)about the procedure for imposing a penalty;
(c)about the enforcement of penalties;
(d)allowing for an appeal against a decision to impose a penalty;and the regulations may make different provision for different purposes.
(4)Provision in the regulations about the procedure for imposing a penalty must provide for a carrier to be given an opportunity to object to a proposed penalty in the circumstances set out in the regulations.
(5)The regulations must provide that no penalty may be imposed on a carrier for breaching the requirements of an authority-to-carry scheme where—
(a)the breach consists of a failure to provide information that the carrier has also been required to provide under paragraph 27, 27B or 27BA of Schedule 2 to the Immigration Act 1971 and—
(i)a penalty has been imposed on the person in respect of a failure to provide that information by virtue of regulations made under paragraph 27BB of Schedule 2 to that Act, or
(ii)proceedings have been instituted against the carrier under section 27 of that Act in respect of a failure to provide that information, or
(b)the breach consists of a failure to provide information that the carrier has also been required to provide under section 32 or 32A of the Immigration, Asylum and Nationality Act 2006 and—
(i)a penalty has been imposed on the person in respect of a failure to provide that information by virtue of regulations made under section 32B of that Act, or
(ii)proceedings have been instituted against the carrier under section 34 of that Act in respect of a failure to provide that information.
(6)Any penalty paid by virtue of this section must be paid into the Consolidated Fund.
(7)Regulations under this section are to be made by statutory instrument; and any such statutory instrument may not be made unless a draft of the instrument has been laid before each House of Parliament and approved by a resolution of each House.
25Aviation, maritime and rail security
(1)Schedule 5 makes amendments to do with aviation, maritime and rail security.
(2)Part 1 of that Schedule makes amendments about passenger, crew and service information in relation to aircraft and ships.
(3)Part 2 of that Schedule makes amendments of the provisions relating to directions etc in—
(a)the Aviation Security Act 1982,
(b)the Aviation and Maritime Security Act 1990, and
(c)the Channel Tunnel (Security) Order 1994 (S.I. 1994/570).

PART 5
Risk of being drawn into terrorism

CHAPTER 1
Preventing people being drawn into terrorism

26General duty on specified authorities
(1)A specified authority must, in the exercise of its functions, have due regard to the need to prevent people from being drawn into terrorism.
(2)A specified authority is a person or body that is listed in Schedule 6.
(3)In the case of a specified authority listed in Schedule 6 in terms that refer to the exercise of particular functions or to a particular capacity that it has, the reference in subsection (1) to the authority's functions is to those functions or its functions when acting in that capacity.
(4)Subsection (1) does not apply to the exercise of—
(a)a judicial function;
(b)a function exercised on behalf of, or on the instructions of, a person exercising a judicial function;
(c)a function in connection with proceedings in the House of Commons or the House of Lords;
(d)a function in connection with proceedings in the Scottish Parliament;
(e)a function in connection with proceedings in the National Assembly for Wales.
(5)References to a judicial function include a reference to a judicial function conferred on a person other than a court or tribunal.
27Power to specify authorities
(1)The Secretary of State may by regulations made by statutory instrument amend Schedule 6.
(2)The power under subsection (1) may not be exercised so as to extend the application of section 26(1) to—
(a)the exercise of a function referred to in section 26(4);
(b)the House of Commons;
(c)the House of Lords;
(d)the Scottish Parliament;
(e)the National Assembly for Wales or the Assembly Commission within the meaning of the Government of Wales Act 2006;
(f)the General Synod of the Church of England;
(g)the Security Service;
(h)the Secret Intelligence Service;
(i)the Government Communications Headquarters;
(j)any part of Her Majesty's forces, or of the Ministry of Defence, which engages in intelligence activities.
(3)Regulations under this section may amend this Chapter so as to make consequential or supplemental provision.
(4)A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before each House of Parliament and approved by a resolution of each House.
(5)Subsection (4) does not apply to a statutory instrument containing regulations that only make provision for—
(a)the omission of an entry where the authority concerned has ceased to exist, or
(b)the variation of an entry in consequence of a change of name or transfer of functions.

(6)A statutory instrument that falls within subsection (5) is subject to annulment in pursuance of a resolution of either House of Parliament.

28Power to specify authorities: Welsh and Scottish authorities

(1)The Secretary of State must consult the Welsh Ministers before making regulations under section 27(1) that—

(a)add a Welsh authority to Schedule 6, or

(b)amend or remove an entry that relates to a Welsh authority.

(2)The Secretary of State must consult the Scottish Ministers before making regulations under section 27(1) that—

(a)add a Scottish authority to Schedule 6, or

(b)amend or remove an entry that relates to a Scottish authority.

29Power to issue guidance

(1)The Secretary of State may issue guidance to specified authorities about the exercise of their duty under section 26(1).

(2)A specified authority must have regard to any such guidance in carrying out that duty.

(3)The Secretary of State—

(a)may issue separate guidance in relation to different matters;

(b)may issue guidance to all specified authorities, to particular specified authorities or to specified authorities of a particular description.

(4)Before issuing guidance under subsection (1) the Secretary of State must (whether before or after this Act is passed) consult—

(a)the Welsh Ministers so far as the guidance relates to the devolved Welsh functions of a Welsh authority;

(b)the Scottish Ministers so far as the guidance relates to the devolved Scottish functions of a Scottish authority;

(c)any person whom the Secretary of State considers appropriate.

(5)Guidance issued under subsection (1) takes effect on whatever day the Secretary of State appoints by regulations made by statutory instrument.A statutory instrument containing regulations under this subsection may not be made unless a draft of the instrument has been laid before each House of Parliament and approved by a resolution of each House.

(6)The Secretary of State may from time to time revise any guidance issued under this section.

(7)Subsections (2), (3) and (5) have effect in relation to any revised guidance.

(8)Subsection (4) has effect in relation to any revised guidance unless the Secretary of State considers that the proposed revisions to the guidance are insubstantial.

(9)The Secretary of State must publish the current version of any guidance issued under this section.

30Power to give directions: general

(1)Where the Secretary of State is satisfied that a specified authority has failed to discharge the duty imposed on it by section 26(1), the Secretary of State may give directions to the authority for the purpose of enforcing the performance of that duty.

(2)A direction given under this section may be enforced, on an application made on behalf of the Secretary of State, by a mandatory order.

(3)The Secretary of State must consult the Welsh Ministers before giving directions under subsection (1) so far as relating to the devolved Welsh functions of a Welsh authority.
(4)The Secretary of State must consult the Scottish Ministers before giving directions under subsection (1) so far as relating to the devolved Scottish functions of a Scottish authority.
31Freedom of expression in universities etc
(1)This section applies to a specified authority if it is the proprietor or governing body of—
(a)an institution that provides further education (within the meaning given by section 2(3) of the Education Act 1996), or
(b)an institution that provides courses of a description mentioned in Schedule 6 to the Education Reform Act 1988 (higher education courses).
(2)When carrying out the duty imposed by section 26(1), a specified authority to which this section applies—
(a)must have particular regard to the duty to ensure freedom of speech, if it is subject to that duty;
(b)must have particular regard to the importance of academic freedom, if it is the proprietor or governing body of a qualifying institution.
(3)When issuing guidance under section 29 to specified authorities to which this section applies, the Secretary of State—
(a)must have particular regard to the duty to ensure freedom of speech, in the case of authorities that are subject to that duty;
(b)must have particular regard to the importance of academic freedom, in the case of authorities that are proprietors or governing bodies of qualifying institutions.
(4)When considering whether to give directions under section 30 to a specified authority to which this section applies, the Secretary of State—
(a)must have particular regard to the duty to ensure freedom of speech, in the case of an authority that is subject to that duty;
(b)must have particular regard to the importance of academic freedom, in the case of an authority that is the proprietor or governing body of a qualifying institution.
(5)In this section—
"the duty to ensure freedom of speech" means the duty imposed by section 43(1) of the Education (No. 2) Act 1986;
"academic freedom" means the freedom referred to in section 202(2)(a) of the Education Reform Act 1988;
"qualifying institution" has the meaning given by section 202(3) of that Act.
32Monitoring of performance: further and higher education bodies
(1)In this section—
"monitoring authority" has the meaning given by subsection (4);
"relevant further education body" means the governing body or proprietor of an institution in England or Wales that—
(a)is subject to the duty imposed by section 26(1), and
(b)is subject to that duty because it is an institution at which more than 250 students are undertaking courses in preparation for examinations related to qualifications regulated by the Office of Qualifications and Examinations Regulation or the Welsh Government;

“relevant higher education body” means the governing body or proprietor of an institution in England or Wales that is subject to the duty imposed by section 26(1) because it is—
(a)a qualifying institution within the meaning given by section 11 of the Higher Education Act 2004, or
(b)an institution at which more than 250 students are undertaking courses of a description mentioned in Schedule 6 to the Education Reform Act 1988 (higher education courses).
(2)A relevant further education body or relevant higher education body must give to the monitoring authority any information that the monitoring authority may require for the purposes of monitoring that body’s performance in discharging the duty imposed by section 26(1).
(3)The information that the monitoring authority may require under subsection (2) includes information which specifies the steps that will be taken by the body in question to ensure that it discharges the duty imposed by section 26(1).
(4)The “monitoring authority” for a relevant further education body or a relevant higher education body is—
(a)the Secretary of State, or
(b)a person to whom the Secretary of State delegates the function under subsection (2) in relation to that body.The Secretary of State must consult the Welsh Ministers before delegating the function under subsection (2) in relation to institutions in Wales.
(5)A delegation under subsection (4)(b) must be made by giving notice in writing to the person to whom the delegation is made if—
(a)that person is Her Majesty’s Chief Inspector of Education, Children’s Services and Skills or Her Majesty’s Chief Inspector of Education and Training in Wales, and the function is delegated in relation to relevant further education bodies;
(b)that person is the Higher Education Funding Council for England or the Higher Education Funding Council for Wales, and the function is delegated in relation to relevant higher education bodies.
(6)Otherwise, a delegation under subsection (4)(b) must be made by regulations.
(7)The Secretary of State must publish any notice given under subsection (5).
(8)Regulations under subsection (6) are to be made by statutory instrument; and any such instrument is subject to annulment in pursuance of a resolution of either House of Parliament.
(9)In this section—
(a)“institution in England” means an institution whose activities are carried on, or principally carried on, in England, and includes the Open University;
(b)“institution in Wales” means an institution whose activities are carried on, or principally carried on, in Wales.
33Power to give directions: section 32
(1)Where the Secretary of State is satisfied that a relevant further education body or a relevant higher education body has failed to comply with a requirement under section 32(2), the Secretary of State may give directions to the body for the purpose of enforcing compliance.

(2)A direction under this section may be enforced, on an application made on behalf of the Secretary of State, by a mandatory order.
(3)The Secretary of State must consult the Welsh Ministers before giving directions under subsection (1) in relation to institutions in Wales.
(4)In this section "relevant further education body", "relevant higher education body" and "institution in Wales" have the same meaning as in section 32.

34Enforcement

A failure in respect of a performance of a duty imposed by or under this Chapter does not confer a cause of action at private law.

35Chapter 1: interpretation

(1)This section applies for the purposes of this Chapter.
(2)"Function" does not include a function so far as it is exercised outside Great Britain.
(3)"Terrorism" has the same meaning as in the Terrorism Act 2000 (see section 1(1) to (4) of that Act).
(4)"Welsh authority" means a person or body that has any function which—
(a)is exercisable in or as regards Wales, and
(b)is a devolved Welsh function.
(5)A function is a "devolved Welsh function" if it relates to—
(a)a matter in respect of which functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Government, or
(b)a matter within the legislative competence of the National Assembly for Wales.
(6)"Scottish authority" means a person or body that has any devolved Scottish function.
(7)A function is a "devolved Scottish function" if—
(a)it is exercisable in or as regards Scotland, and
(b)it does not relate to reserved matters (within the meaning of the Scotland Act 1998).

CHAPTER 2

Support etc for people vulnerable to being drawn into terrorism

36Assessment and support: local panels

(1)Each local authority must ensure that a panel of persons is in place for its area—
(a)with the function of assessing the extent to which identified individuals are vulnerable to being drawn into terrorism, and
(b)with the other functions mentioned in subsection (4).
(2)"Identified individual", in relation to a panel, means an individual who is referred to the panel by a chief officer of police for an assessment of the kind mentioned in subsection (1)(a).
(3)A chief officer of police may refer an individual to a panel only if there are reasonable grounds to believe that the individual is vulnerable to being drawn into terrorism.
(4)The functions of a panel referred to in subsection (1)(b) are—

(a)to prepare a plan in respect of identified individuals who the panel considers should be offered support for the purpose of reducing their vulnerability to being drawn into terrorism;
(b)if the necessary consent is given, to make arrangements for support to be provided to those individuals in accordance with their support plan;
(c)to keep under review the giving of support to an identified individual under a support plan;
(d)to revise a support plan, or withdraw support under a plan, if at any time the panel considers it appropriate;
(e)to carry out further assessments, after such periods as the panel considers appropriate, of an individual's vulnerability to being drawn into terrorism in cases where—
(i)the necessary consent is refused or withdrawn to the giving of support under a support plan, or
(ii)the panel has determined that support under a plan should be withdrawn;
(f)to prepare a further support plan in such cases if the panel considers it appropriate.
(5)A support plan must include the following information—
(a)how, when and by whom a request for the necessary consent is to be made;
(b)the nature of the support to be provided to the identified individual;
(c)the persons who are to be responsible for providing it;
(d)how and when such support is to be provided.
(6)Where in the carrying out of its functions under this section a panel determines that support should not be given to an individual under a support plan, the panel—
(a)must consider whether the individual ought to be referred to a provider of any health or social care services, and
(b)if so, must make such arrangements as the panel considers appropriate for the purpose of referring the individual.
(7)In exercising its functions under this section a panel must have regard to any guidance given by the Secretary of State about the exercise of those functions.
(8)Before issuing guidance under subsection (7) the Secretary of State must (whether before or after this Act is passed) consult—
(a)the Welsh Ministers so far as the guidance relates to panels in Wales;
(b)the Scottish Ministers so far as the guidance relates to panels in Scotland;
(c)any person whom the Secretary of State considers appropriate.
37Membership and proceedings of panels
(1)The members of a panel must include—
(a)the responsible local authority;
(b)the chief officer of police for a police area the whole or any part of which is in the area of that authority.
(2)Each of those members must appoint a person to represent them on the panel; and the representative must be a person whom the member concerned considers to have the required skills and experience.
(3)Where more than one chief officer of police comes within subsection (1)(b), a person may represent more than one of the chief officers; but at any meeting of the panel at which an identified individual is to be discussed

there must be a person present from the police force for the area in which the individual resides to act as the representative.
(4)A panel may also include such other persons as the responsible local authority considers appropriate (whether generally or in the case of a particular identified individual).
(5)The chair of a panel is the responsible local authority; but where more than one local authority is the responsible local authority, the authorities may determine that one (or more) of them is to be the chair.
(6)If a panel cannot reach a unanimous decision on a question arising before it, the question must be decided—
(a)according to the opinion of the majority of the panel, or
(b)if there is no majority opinion, by the chair.
(7)Subject to subsection (6), a panel may determine its own procedure.
38Co-operation
(1)The partners of a panel must, so far as appropriate and reasonably practicable, act in co-operation with—
(a)the panel in the carrying out of its functions;
(b)the police in the carrying out of their functions in connection with section 36.
(2)The partners of a panel are the persons and bodies specified in Schedule 7.
(3)The duty of a partner of a panel to act in co-operation with the panel—
(a)includes the giving of information (subject to subsection (4));
(b)extends only so far as the co-operation is compatible with the exercise of the partner's functions under any other enactment or rule of law.
(4)Nothing in this section requires or authorises the making of—
(a)a disclosure that would contravene the Data Protection Act 1998;
(b)a disclosure of any sensitive information.
(5)"Sensitive information" means information—
(a)held by an intelligence service,
(b)obtained (directly or indirectly) from, or held on behalf of, an intelligence service,
(c)derived in whole or part from information obtained (directly or indirectly) from, or held on behalf of, an intelligence service, or
(d)relating to an intelligence service.
(6)In carrying out the duty imposed by subsection (1), partners of a panel must have regard to any guidance given by the Secretary of State about the carrying out of that duty.
(7)Before issuing guidance under subsection (6) the Secretary of State must (whether before or after this Act is passed) consult—
(a)the Welsh Ministers so far as the guidance relates to panels in Wales;
(b)the Scottish Ministers so far as the guidance relates to panels in Scotland;
(c)any person whom the Secretary of State considers appropriate.
(8)The reference in subsection (1)(b) to functions of the police in connection with section 36 includes, in particular, a chief officer's function of determining whether an individual should be referred to a panel for the carrying out of an assessment of the kind mentioned in subsection (1)(a) of that section.
39Power to amend Chapter 2

(1)The Secretary of State may by regulations made by statutory instrument amend—
(a)the definition of "local authority" in section 41;
(b)Schedule 7.
(2)The Secretary of State must consult the Welsh Ministers before making regulations under subsection (1) that—
(a)add a Welsh authority to Schedule 7, or
(b)amend or remove an entry in that Schedule relating to a Welsh authority.
(3)The Secretary of State must consult the Scottish Ministers before making regulations under subsection (1) that—
(a)add a description of authority in Scotland to the definition of "local authority",
(b)add a Scottish authority to Schedule 7, or
(c)amend or remove an entry in that Schedule relating to a Scottish authority.
(4)Regulations under this section may amend this Chapter so as to make consequential or supplemental provision.
(5)A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before each House of Parliament and approved by a resolution of each House.
(6)Subsection (5) does not apply to a statutory instrument containing regulations that only make provision for—
(a)the omission of an entry in Schedule 7 where the body concerned has ceased to exist, or
(b)the variation of an entry in consequence of a change of name or transfer of functions.
(7)A statutory instrument that falls within subsection (6) is subject to annulment in pursuance of a resolution of either House of Parliament.
(8)In this section "Welsh authority" and "Scottish authority" have the same meaning as in Chapter 1.

40Indemnification

(1)The Secretary of State may agree to indemnify a support provider against any costs and expenses that the provider reasonably incurs in connection with any decision or action taken by the provider in good faith in carrying out functions as a provider.
(2)The agreement may be made in whatever manner, and on whatever terms, the Secretary of State considers appropriate.
(3)In this section "support provider" means a person who provides support under a support plan.

41Chapter 2: interpretation

(1)In this Chapter—
"health or social care services" means services relating to health or social care within the meaning given by section 9 of the Health and Social Care Act 2008;
"identified individual" has the meaning given in section 36(2);
"intelligence service" means—
(a)the Security Service,
(b)the Secret Intelligence Service,
(c)the Government Communications Headquarters, or

(d)any part of Her Majesty's forces, or of the Ministry of Defence, which engages in intelligence activities;
"local authority" means—
(a)a county council in England;
(b)a district council in England, other than a council for a district in a county for which there is a county council;
(c)a London Borough Council;
(d)the Common Council of the City of London in its capacity as a local authority;
(e)the Council of the Isles of Scilly;
(f)a county council or county borough council in Wales;
"the necessary consent", in relation to an identified individual, means—
(a)if the individual is aged 18 years or over, his or her consent;
(b)if the individual is aged under 18 years, the consent of his or her parent or guardian;
"panel" means a panel of persons in place under the duty imposed by section 36(1);
"responsible local authority", in relation to a panel, means the local authority responsible for ensuring that the panel is in place under the duty imposed by section 36(1);
"support plan" means a plan prepared by a panel in carrying out its functions mentioned in section 36(4)(a) or (f);
"terrorism" has the same meaning as in the Terrorism Act 2000 (see section 1(1) to (4) of that Act).
(2)For the purposes of the definition of "local authority" in subsection (1), the Inner Temple and the Middle Temple are to be taken as falling within the area of the Common Council of the City of London.
(3)Where two or more local authorities exercise their respective duties under section 36(1) by ensuring that a panel is in place for their combined area—
(a)a reference in this Chapter to the responsible local authority is to be read as a reference to the responsible local authorities for the panel;
(b)a reference in this Chapter to the authority's area is to be read as a reference to the combined area.

PART 6
Amendments of or relating to the Terrorism Act 2000

42Insurance against payments made in response to terrorist demands
(1)After section 17 of the Terrorism Act 2000 insert—
"17AInsurance against payments made in response to terrorist demands
(1)The insurer under an insurance contract commits an offence if—
(a)the insurer makes a payment under the contract, or purportedly under it,
(b)the payment is made in respect of any money or other property that has been, or is to be, handed over in response to a demand made wholly or partly for the purposes of terrorism, and
(c)the insurer or the person authorising the payment on the insurer's behalf knows or has reasonable cause to suspect that the money or other property has been, or is to be, handed over in response to such a demand.

(2)If an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
(a)a director, manager, secretary or other similar officer of the body corporate, or
(b)any person who was purporting to act in any such capacity,that person, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.
(3)The reference in subsection (2) to a director, in relation to a body corporate whose affairs are managed by its members, is a reference to a member of the body corporate.
(4)If an offence under this section is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
(a)a partner, or
(b)any person who was purporting to act in that capacity,that person, as well as the partnership, is guilty of the offence and liable to be proceeded against and punished accordingly.
(5)In this section "insurance contract" means a contract under which one party accepts significant insurance risk from another party ("the policyholder") by agreeing to compensate the policyholder if a specified uncertain future event adversely affects the policyholder."
(2)In section 23 of that Act (forfeiture: terrorist property offences), after subsection (5) insert—
"(5A)Where a person is convicted of an offence under section 17A the court may order the forfeiture of the amount paid under, or purportedly under, the insurance contract."
(3)The section inserted by subsection (1) applies to any payment made by an insurer on or after the day on which this Act is passed, even if made—
(a)under (or purportedly under) a contract entered into before that day, or
(b)(subject to subsection (4)) in respect of money or other property handed over before that day.
(4)The section inserted by subsection (1) does not apply to a payment made in respect of money or other property handed over before 27 November 2014.
43Port and border controls: power to examine goods
Schedule 8 amends paragraph 9 of Schedule 7 to the Terrorism Act 2000 (port and border controls: power to examine goods) and other enactments relating to the power in that paragraph.

PART 7
Miscellaneous and general

Miscellaneous
44Reviews of operation of Part 1 etc
(1)The person appointed under section 36(1) of the Terrorism Act 2006 ("the independent reviewer") is also responsible for reviewing the operation of the provisions listed in subsection (2).

(2)The provisions are—
(a)Part 1 of the Anti-Terrorism, Crime and Security Act 2001;
(b)Part 2 of that Act as it applies in cases where a use or threat of the action referred to in section 4(2) of that Act would constitute terrorism;
(c)the Counter-Terrorism Act 2008;
(d)Part 1 of this Act.
(3)In each calendar year the independent reviewer must, by 31 January, inform the Secretary of State and the Treasury what (if any) reviews under this section the reviewer intends to carry out in that year.Those reviews must be completed during that year or as soon as reasonably practicable after the end of it.
(4)The independent reviewer must send to the Secretary of State a report on the outcome of each review as soon as reasonably practicable after the review is completed.
(5)On receiving a report under subsection (4), the Secretary of State must lay a copy of it before Parliament.
(6)The expenses and allowances that may be paid under section 36(6) of the Terrorism Act 2006 include expenses and allowances in respect of functions under this section.
(7)In this section "terrorism" has the same meaning as in the Terrorism Act 2000 (see section 1(1) to (4) of that Act).
45Reviews of operation of other terrorism legislation
(1)In section 36 of the Terrorism Act 2006 (review of terrorism legislation)—
(a)in subsection (2), for "carry out a review of those provisions and," substitute "carry out—
(a)a review of the provisions of the Terrorism Act 2000, and
(b)a review of the provisions of Part 1 of this Act,and,";
(b)in subsection (4), for "subsection (2)" substitute "subsection (2)(a)";
(c)after subsection (4B) insert—
"(4C)In each calendar year the person appointed under subsection (1) must, by 31 January, inform the Secretary of State what (if any) reviews under subsection (2)(b) the person intends to carry out in that year.Those reviews must be completed during that year or as soon as reasonably practicable after the end of it."
(2)In section 31 of the Terrorist Asset-Freezing etc. Act 2010 (independent review of operation of Part 1 of that Act), for subsection (2) substitute—
"(2)In each calendar year the person appointed under subsection (1) must, by 31 January, inform the Treasury what (if any) reviews under this section the person intends to carry out in that year.Those reviews must be completed during that year or as soon as reasonably practicable after the end of it."
(3)In section 20 of the Terrorism Prevention and Investigation Measures Act 2011 (reviews of the operation of that Act)—
(a)for subsections (2) and (3) substitute—
"(2)In each calendar year the independent reviewer must, by 31 January, inform the Secretary of State what (if any) reviews under this section the reviewer intends to carry out in that year.Those reviews must be completed during that year or as soon as reasonably practicable after the end of it.";

(b)omit subsections (7) to (9).
46Privacy and Civil Liberties Board
(1)The Secretary of State may by regulations made by statutory instrument establish a body to provide advice and assistance to the persons appointed under—
(a)section 36(1) of the Terrorism Act 2006,
(b)section 31(1) of the Terrorist Asset-Freezing etc. Act 2010, and
(c)section 20(1) of the Terrorism Prevention and Investigation Measures Act 2011,in the discharge of their functions.
(2)The body is to be known as the Privacy and Civil Liberties Board.
(3)Regulations under this section may include provision about—
(a)the membership of the board;
(b)the payment of expenses and allowances to members;
(c)the circumstances in which a person ceases to be a member;
(d)the appointment of staff, their terms and conditions of employment and their pensions, allowances or gratuities;
(e)the organisation and procedure of the board;
(f)particular things that the board may or must do;
(g)the preparation and publication of reports and accounts.
(4)Regulations under this section must—
(a)provide for the Secretary of State to appoint members of the board after considering any recommendations made by the person appointed under section 36(1) of the Terrorism Act 2006;
(b)provide for the board to be chaired by that person and to be subject to his or her direction and control.
(5)Regulations under this section may contain incidental, consequential, transitional or supplementary provision.This includes provision amending, applying (with or without modifications), disapplying, repealing or revoking any provision of primary legislation, whenever passed or made.
(6)A statutory instrument—
(a)containing the first regulations under this section, or
(b)containing any regulations under this section that amend, repeal or revoke anything in primary legislation (whether alone or with other provision),may not be made unless a draft of the instrument has been laid before each House of Parliament and approved by a resolution of each House.
(7)A statutory instrument containing regulations under this section to which subsection (6) does not apply is subject to annulment in pursuance of a resolution of either House of Parliament.
(8)In this section “primary legislation” has the same meaning as in section 48.
47Review of certain naturalisation decisions by Special Immigration Appeals Commission
In section 2D of the Special Immigration Appeals Commission Act 1997 (jurisdiction: review of certain naturalisation and citizenship decisions), in subsection (1)(a)(i), after “6” insert “or 18”.
General
48Power to make consequential provision

(1)The Secretary of State may by regulations make provision that is consequential on any provision of this Act.
(2)The power to make regulations under this section—
(a)is exercisable by statutory instrument;
(b)includes power to make transitional, transitory or saving provision;
(c)may, in particular, be exercised by amending, repealing, revoking or otherwise modifying any provision made by or under primary legislation passed before this Act or in the same Session.
(3)Before making regulations under this section the Secretary of State must—
(a)if the regulations contain provision that would fall within the legislative competence of the Scottish Parliament if included in an Act of that Parliament, consult the Scottish Ministers;
(b)if the regulations contain provision that would fall within the legislative competence of the National Assembly for Wales if included in an Act of that Assembly, consult the Welsh Ministers;
(c)if the regulations contain provision that would fall within the legislative competence of the Northern Ireland Assembly if included in an Act of that Assembly, consult the Department of Justice in Northern Ireland.
(4)A statutory instrument containing regulations under this section that amend, repeal or revoke anything in primary legislation (whether alone or with other provision) may be made only if a draft of the instrument has been laid before each House of Parliament and approved by a resolution of each House.
(5)Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
(6)In this section "primary legislation" means—
(a)an Act of Parliament;
(b)an Act of the Scottish Parliament;
(c)a Measure or Act of the National Assembly for Wales;
(d)Northern Ireland legislation.
49Transitional provision
(1)In relation to offences committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in section 10(5)(b) to 12 months is to be read as a reference to 6 months.
(2)In relation to offences committed before section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force—
(a)the reference in section 10(5)(b) to a fine is to be read as a reference to a fine not exceeding the statutory maximum;
(b)paragraph 15(3)(b) of Schedule 1 has effect as if the words "in Scotland or Northern Ireland" were omitted.
(3)The amendments made by subsections (3) and (4) of section 17 apply only to things done and offences committed after that section comes into force.
(4)A reference to a calendar year in the following subsections does not include a year before 2016—
(a)subsection (3) of section 44;

(b)subsection (4C) of section 36 of the Terrorism Act 2006 (inserted by section 45(1) above);
(c)subsection (2) of section 31 of the Terrorist Asset-Freezing etc. Act 2010 (substituted by section 45(2) above);
(d)subsection (2) of section 20 of the Terrorism Prevention and Investigation Measures Act 2011 (substituted by section 45(3) above).

50Financial provision

There is to be paid out of money provided by Parliament any increase attributable to this Act in the sums payable under any other Act out of money so provided.

51Extent

(1)Part 5 extends to England and Wales and Scotland.
(2)The other provisions of this Act extend to England and Wales, Scotland and Northern Ireland.
(3)Her Majesty may by Order in Council direct that any of the provisions of Parts 1 and 4 are to extend, with whatever modifications appear to Her Majesty to be appropriate, to any of the Channel Islands or the Isle of Man.
(4)The power under section 39(6) of the Terrorism Act 2006 (extension to the Channel Islands or the Isle of Man) may be exercised in relation to any amendments made to that Act by this Act.
(5)The power under section 31(4) of the Terrorism Prevention and Investigation Measures Act 2011 (extension to the Isle of Man) may be exercised in relation to any amendments made to that Act by this Act.
(6)The power under section 39(3) of the Aviation Security Act 1982 (extension to the Channel Islands, Isle of Man etc) may be exercised in relation to any amendments made to that Act by this Act.
(7)The power under section 51(1) of the Aviation and Maritime Security Act 1990 (extension to the Channel Islands, Isle of Man etc) may be exercised in relation to any amendments made to that Act by this Act.
(8)The power under section 9(3) of the Special Immigration Appeals Commission Act 1997 (extension to the Channel Islands or the Isle of Man) may be exercised in relation to any amendments made to that Act by this Act.

52Commencement

(1)Chapter 1 of Part 1 comes into force on the day after the day on which this Act is passed.
(2)The following provisions come into force at the end of the period of two months beginning with the day on which this Act is passed—
(a)sections 36 to 38 and 40;
(b)sections 44 to 46.
(3)The following provisions come into force on whatever day or days the Secretary of State appoints by regulations made by statutory instrument—
(a)Part 3;
(b)section 22(10);
(c)paragraphs 12 to 14 of Schedule 5 and section 25 so far as relating to those paragraphs;
(d)sections 26 and 30, section 31(2) and (4) and sections 32 to 34.
(4)Regulations under subsection (3)—
(a)may make different provision for different purposes;

(b)may make transitory, transitional or saving provision.
(5)The other provisions of this Act come into force on the day on which this Act is passed.
53Short title
This Act may be cited as the Counter-Terrorism and Security Act 2015.

Bilaga B

Bilaga B är den förkortade sammanställningen av lagn Counter-Terrorism and Security Act 2015 som den brittiska regeringen har gett ut.

Overview of the Structure of the Act

7.This Act is in 7 parts.

Part 1 of the Act brings forward measures on temporary restrictions on travel. Chapter 1 provides police officers, designated immigration officers and customs officials, and Border Force officers acting under the direction of a police officer, with a power to search for and seize a passport at the border and retain it for a period of time, when it is suspected that an individual is travelling for the purpose of involvement in terrorism-related activity outside of the United Kingdom. Chapter 2 provides for the creation of a temporary exclusion order to disrupt and control the return to the UK of a British citizen reasonably suspected of involvement in terrorist activity abroad.

Part 2 of the Act amends the Terrorism Prevention and Investigation Measures Act 2011. The provisions allow the Secretary of State to require a subject to reside in a particular location in the UK; restrict a subject's travel outside their area of residence; prohibit a subject from obtaining or possessing firearms, offensive weapons or explosives; and require a subject to meet with specified persons or persons of specified descriptions as part of their ongoing management. It also amends the wording of the test for issuing a TPIM and amends the definition of terrorism-related activity in the TPIM Act.

Part 3 amends the Data Retention and Investigatory Powers Act 2014. It enables the Secretary of State to require communications service providers to retain the data that would allow relevant authorities to identify the individual or the device that was using a particular internet protocol address at any given time.

Part 4 of the Act brings forward a number of measures on border and transport security. These provisions extend the scope for authority-to-carry ("no fly") schemes; allow the Secretary of State to make regulations in relation to passenger, crew and service information; and to give directions in relation to security measures to aviation, shipping or rail transport operating to the UK. The Act also introduces powers to make regulations which impose penalties for failure to comply with requirements to provide passenger, crew and service information; an authority-to-carry scheme; or, in the case of aircraft, screening requirements.

Part 5 addresses the risk of being drawn into terrorism. Chapter 1 creates a duty for specified bodies to have due regard, in the exercise of their functions, to the need to prevent people from being drawn into terrorism. It also gives the Secretary of State a power to publish guidance to which specified bodies must have regard when fulfilling this duty. The legislation puts the existing Prevent programme on a statutory footing. Chapter 2 provides that each local authority must have a panel to provide support for people vulnerable to being drawn into terrorism. The legislation puts the existing voluntary programme for people at risk of radicalisation on a statutory footing (in England and Wales this is the "Channel Programme").

Part 6 of the Act makes amendments relating to the Terrorism Act 2000. Section 42 amends the Terrorism Act 2000 to provide that an insurer commits an offence if they make a payment under an insurance contract for money or property handed over in response to a demand made wholly or partly for the purposes of terrorism, when the insurer knows or has reasonable cause to suspect that the money has been handed over for that purpose. This clarifies the intent of the original legislation to prohibit such payments. Section 43 introduces Schedule 8, which amends paragraph 9 of Schedule 7 to the Terrorism Act 2000 regarding the power to examine goods at ports and the border, together with amending other enactments relating to that power. The amendments in this Act clarify the legal position in relation to where this power may be exercised and the examination of goods which comprise items of post.

Part 7 of the Act relates to miscellaneous and general provisions. In the miscellaneous provisions, sections 44 and 45 make amendments to the role of the Independent Reviewer of Terrorism Legislation by extending his statutory remit to cover other counter-terrorism legislation, including Part 1 of this Act. They also amend the reporting arrangements for the Independent Reviewer, requiring him to set out a work programme at the beginning of each calendar year specifying the matters which will be subject to review in the following 12 month period and to notify this to the Secretary of State or, in the case of reviews of the Terrorist Asset-Freezing etc Act 2010, the Treasury. The Terrorism Act 2000 will continue to be subject to annual review. Section 46 provides a power enabling the Secretary of State to establish a Privacy and Civil Liberties Board which will support the statutory role of the Independent Reviewer. Section 47 provides for the review of certain naturalisation decisions by the Special Immigration Appeals Commission; specifically applications for British Overseas Territories citizenship. The general provisions at sections 48 to 53 relate to matters such as consequential amendments and territorial extent.

6 Käll- och litteraturförteckning

6.1 Källförteckning

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Case of Observer and Guardian v. The United Kingdom, nr. 13585/88, dom meddelad den 26 november 1991
Case of Vogt v. Germany, nr. 17851/91, dom meddelad den 26 september 1995
Case of Arslan v. Turkey, nr. 23462/94, dom meddelad den 8 juli 1999
Case of Polat v. Turkey, nr. 23500/94, dom meddelad den 8 juli 1999
Case of Sürek and Özdemir v. Turkey, nr. 23927/94, och 24277/94, dom meddelad den 8 juli 1999
Case of Sürek v. Turkey (No. 2), nr. 24122/94, dom meddelad den 8 juli 1999
Case of Okcuoglu v. Turkey, nr. 24246/94, dom meddelad den 8 juli 1999
Case of Sürek v. Turkey (No. 3), nr. 24735/94, dom meddelad den 8 juli 1999
Case of Sürek v. Turkey (No. 4), nr. 24762/94, dom meddelad den 8 juli 1999
Case of Gerger v. Turkey, nr. 24919/94, dom meddelad den 8 juli 1999
Case of Cox v. Turkey, nr. 2933/03, dom meddelad den 20 maj 2010