

2015 No. 928

PREVENTION AND SUPPRESSION OF TERRORISM

**The Counter-Terrorism and Security Act 2015 (Risk of Being
Drawn into Terrorism) (Amendment and Guidance)
Regulations 2015**

Made - - - - *24th March 2015*

Coming into force in accordance with regulation 2

These Regulations are made in exercise of the powers conferred by sections 27(1) and (3), 29(5) and 39(1) and (4) of the Counter-Terrorism and Security Act 2015 (“the Act”)(a).

The Secretary of State has consulted in accordance with sections 28(2), 29(4) and 39(3)(a) and (b) of the Act.

In accordance with sections 27(4), 29(5) and 39(5) of the Act, a draft of these Regulations was laid before Parliament and approved by a resolution of each House of Parliament.

Accordingly, the Secretary of State makes the following Regulations:

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Counter-Terrorism and Security Act 2015 (Risk of Being Drawn into Terrorism) (Amendment and Guidance) Regulations 2015.
2. These Regulations come into force on the day after the day on which they are made, other than regulation 8 which comes into force on 12th April 2015.

PART 2

GUIDANCE UNDER SECTION 29(1) OF THE ACT

3. The “Prevent duty guidance (England and Wales)” and the “Prevent duty guidance (Scotland)” issued by the Secretary of State on 12th March 2015 under section 29(1) and (3)(b) of the Act take effect on the day on which this regulation comes into force.

PART 3
AMENDMENTS TO PART 5 OF THE ACT

Enforcement of directions under section 30 in Scotland

4. In section 30 of the Act, for subsection (2) substitute—

“(2) A direction given under this section may be enforced—

- (a) in England and Wales, on an application made on behalf of the Secretary of State, by a mandatory order,
- (b) in Scotland, on an application made on behalf of the Secretary of State to the Court of Session, by an order of specific implement.”

Freedom of expression in Scottish universities etc

5.—(1) Section 31 of the Act is amended in accordance with this regulation.

(2) In subsection (1), omit “or” at the end of paragraph (a) and after “(higher education courses)” in paragraph (b) add—

“, or

- (c) a post-16 education body within the meaning of the Further and Higher Education (Scotland) Act 2005(a)”.

(3) In subsection (2), after paragraph (a) add—

“(aa) must have particular regard to the need to ensure freedom of speech, if it is the proprietor or governing body of an institution mentioned in subsection (1)(c);”.

(4) In subsection (3), after paragraph (a) add—

“(aa) must have particular regard to the need to ensure freedom of speech, in the case of authorities that are proprietors or governing bodies of institutions mentioned in subsection (1)(c);”.

(5) In subsection (4), after paragraph (a) add—

“(aa) must have particular regard to the need to ensure freedom of speech, in the case of an authority that is the proprietor or governing body of an institution mentioned in subsection (1)(c);”.

(6) In subsection (5), after the definition of “the duty to ensure freedom of speech” add—

““the need to ensure freedom of speech” means the need to take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, students and employees of the institution in question and for visiting speakers;”.

Application of Chapter 2 of Part 5 to Scotland

6.—(1) Section 41 of the Act is amended in accordance with this regulation.

(2) In subsection (1), in the definition of “local authority”, after paragraph (f) add—

“(g) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(b);”.

(3) After subsection (3) add—

“(4) References in this Chapter to a chief officer of police are to be read as including references to the chief constable of the Police Service of Scotland.”.

(a) 2005 asp 6, amended by the Post-16 Education (Scotland) Act 2013, asp 12.

(b) 1994 c. 39, amended by the Environment Act 1995, c. 25; there are other amending enactments but none is relevant.

PART 4
AMENDMENTS TO SCHEDULES 6 AND 7 TO THE ACT

Amendments to Schedule 6 to the Act (specified authorities)

7. Schedule 1 amends Schedule 6 to the Act (specified authorities).

Amendments to Schedule 7 to the Act (partners of local panels)

8. Schedule 2 amends Schedule 7 to the Act (partners of local panels).

Home Office
24th March 2015

James Brokenshire
Minister of State

SCHEDULE 1

Regulation 7

Amendments to Schedule 6 to the Act (specified authorities)

1. Schedule 6 to the Act is amended in accordance with this Schedule.
2. After the heading “SPECIFIED AUTHORITIES” add—

“PART 1
GENERAL; ENGLAND AND WALES”

3. After “The Civil Nuclear Police Authority” add—

“PART 2
SCOTLAND

Local government

A council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.

Criminal justice

The governor of a prison in Scotland (or, in the case of a contracted out prison, its director).

The governor of a young offenders institution (or, in the case of a contracted out young offenders institution, its director).

Education, child care etc

The proprietor or governing body of an independent school within the meaning given by section 135(1) of the Education (Scotland) Act 1980(a).

(a) 1980 c. 44, amended by the Self-Governing Schools etc. (Scotland) Act 1989, c. 39; there are other amending enactments but none is relevant.

The proprietor or governing body of a grant-aided school within the meaning given by that section.

The proprietor or governing body of a post-16 education body within the meaning of the Further and Higher Education (Scotland) Act 2005.

Health and social care

A Health Board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978(a).

A Special Health Board constituted under section 2(1)(b) of that Act.

Healthcare Improvement Scotland.

Police

The Scottish Police Authority.”.

SCHEDULE 2

Regulation 8

Amendments to Schedule 7 to the Act (partners of local panels)

1. Schedule 7 to the Act is amended in accordance with this Schedule.
2. After the heading “PARTNERS OF LOCAL PANELS” add—

“PART 1

GENERAL; ENGLAND AND WALES”

3. After “A chief officer of police for a police area in England and Wales (other than a chief officer who is a member of the panel in question).” add—

“PART 2

SCOTLAND

Criminal justice

The governor of a prison in Scotland (or, in the case of a contracted out prison, its director).

The governor of a young offenders institution (or, in the case of a contracted out young offenders institution, its director).

Education, child care etc

The proprietor or governing body of an independent school within the meaning given by section 135(1) of the Education (Scotland) Act 1980.

(a) 1978 c. 29; relevant amending enactments are the National Health Service and Community Care Act 1990, c. 19; the Health and Social Services and Social Security Adjudications Act 1983, c. 41; the Smoking, Health and Social Care (Scotland) Act 2005, asp 13; and the National Health Service Reform (Scotland) Act 2004, asp 7.

The proprietor or governing body of a grant-aided school within the meaning given by that section.

The proprietor or governing body of a post-16 education body within the meaning of the Further and Higher Education (Scotland) Act 2005.

Health and social care

A Health Board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978.

A Special Health Board constituted under section 2(1)(b) of that Act.

Healthcare Improvement Scotland.”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision under Part 5 of the Counter-Terrorism and Security Act 2015 (“the Act”) in relation to the risk of being drawn into terrorism.

Regulation 3 brings into effect statutory guidance about the performance by specified authorities listed in Schedule 6 to the Act of their duty under section 26(1) of the Act. The section 26(1) duty requires each specified authority, in the exercise of its functions, to have due regard to the need to prevent people from being drawn into terrorism. Regulation 3 provides that guidance issued by the Secretary of State under section 29(1) of the Act in relation to the exercise of the duty in England and Wales, and separate guidance issued by the Secretary of State in relation to the exercise of the duty in Scotland, takes effect on the day on which regulation 3 comes into force.

Regulations 4 and 5 make amendments to Chapter 1 of Part 5 of the Act which are consequential on certain Scottish authorities being added to the list of specified authorities in Schedule 6 to the Act.

Regulation 4 provides for the enforcement in Scotland of directions issued by the Secretary of State to Scottish authorities under section 30 of the Act, to secure those authorities’ compliance with their duty under section 26(1).

Regulation 5 has the effect of ensuring that certain Scottish further and higher educational institutions which are subject to the duty in section 26(1) of the Act are required, when carrying out that duty, to have particular regard to the need to ensure freedom of speech and the importance of academic freedom. Regulation 5 also ensures that where the Secretary of State is issuing guidance under section 29(1) of the Act, or is considering whether to give directions under section 30, to such Scottish further and higher educational institutions, the Secretary of State must have particular regard to the need to ensure freedom of speech and the importance of academic freedom.

Regulation 6 amends Chapter 2 of Part 5 of the Act so that it applies in Scotland. This is achieved by amending the “local authority” definition so it includes local authorities in Scotland. This ensures that Scottish local authorities are subject to the duty in section 36(1) to ensure that panels are in place in those authorities’ areas with the functions of assessing the extent to which identified individuals are vulnerable to being drawn into terrorism and, where appropriate, providing support to such individuals if they consent to receive it. Regulation 6 also ensures that references to a chief officer of police in Chapter 2 of Part 5 are to be read as including references to the chief constable of the Police Service of Scotland.

Regulation 7 and Schedule 1 have the effect of including various Scottish authorities as specified authorities in Schedule 6 to the Act, so as to impose on them the duty in section 26(1).

Regulation 8 and Schedule 2 have the effect of including in Schedule 7 to the Act various Scottish authorities as partners of local authority panels which are in place as a consequence of being subject to the section 36(1) duty.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available and is published with the Explanatory Memorandum alongside the instrument on www.gov.uk.

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