

# STATES OF JERSEY



## COUNTER-TERRORISM AND SECURITY ACT 2015: EXTENSION TO JERSEY BY ORDER IN COUNCIL

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Lodged au Greffe on 23rd May 2017  
by the Chief Minister

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STATES GREFFE

## **PROPOSITION**

**THE STATES are asked to decide whether they are of opinion –**

to agree, pursuant to Article 31(1)(b)(i) of the States of Jersey Law 2005, that a request be made to Her Majesty in Council for the making of an Order in Council that would extend to Jersey, with appropriate modifications and adaptations, the provisions of –

- (a) Part 1 and Part 4 of the Counter-Terrorism and Security Act 2015; and
  - (b) Schedules 1, 2, 3, 4 and 5 to the said Act dependent on those Parts,
- as summarised in the attached Report.

**CHIEF MINISTER**

## REPORT

1. In July 2016 the Jersey Government informed the United Kingdom Government of its wish to extend Parts 1 and 4 of the Counter-Terrorism and Security Act 2015 (“the 2015 Act”) to Jersey.
2. The background to the 2015 Act was that the UK Government considered that there was a need to legislate in order to reduce the terrorism threat to the UK. In August 2014, the independent Joint Terrorism Analysis Centre had raised the UK national terrorist threat level from SUBSTANTIAL to SEVERE. This meant that a terrorist attack was “highly likely”. In September of that year, it was announced that legislation would be brought forward in a number of areas to stop people travelling overseas to fight for terrorist organisations or engage in terrorism-related activity and subsequently returning to the UK, and to deal with those already in the UK who pose a risk to the Public. The provisions in the 2015 Act were intended to ensure that the law enforcement and intelligence agencies were able to disrupt the ability of people to travel abroad to fight, such as in Syria and Iraq, and control their return to the UK.
3. The provisions of the Act extendable to Jersey are Part 1 and Part 4.

Annex A to this Proposition shows the draft Order in Council as settled by Jersey and United Kingdom legal advisers.

### *Part 1 of the 2015 Act*

4. Part 1 brought forward measures on temporary restrictions on travel. It consists of Chapters 1 and 2.

Annex B to this Proposition shows full text of Part 1 in its extended form.

### *Part 1, Chapter 1*

5. Chapter 1, together with Schedule 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.
6. The draft Order in Council will apply Chapter 1 and Schedule 1 to Jersey so as to make provision for the seizure and temporary retention of travel documents where a person is suspected of intending to leave Jersey in connection with terrorism-related activity.
7. In particular, under Schedule 1 as extended –
  - (a) search and seizure powers will be able to be used where a police officer has reasonable grounds to suspect that a person at a port in Jersey intends to leave Jersey to become involved in terrorism-related activity outside the British Islands;

- (b) the police officer will be able to exercise the search and seizure powers himself or herself, or direct that a qualified immigration officer or customs official does;
  - (c) a qualified officer or official will be one who has been designated by the Minister for Home Affairs for the purposes of the Schedule, and will have received training in the exercise of these powers;
  - (d) a travel document will generally not be able to be retained beyond 14 days beginning with the day after the day the document was seized, unless that period is extended by the Magistrate.
8. Schedule 1 makes further detailed provision about retention of seized documents, whether for Court proceedings or in connection with a decision whether to make a deportation order; and about orders by the Magistrate regarding the retention of a travel document.
9. In general terms, the powers exercisable under Schedule 1 in the UK by the Minister will be exercisable in Jersey by the Minister for Home Affairs.
10. It should be noted especially that, under paragraph 18 of Schedule 1 as extended, the Minister will be required to issue a code of practice with regard to the exercise of functions under the Schedule. The code of practice must in particular deal with the following matters –
- (a) the procedure for making designations of qualified officers (*see 7(c) above*) and in respect of accrediting immigration officers and customs officials;
  - (b) training to be undertaken by persons who are to exercise powers under Schedule 1;
  - (c) the exercise by police officers, immigration officers and customs officials of functions conferred on them by virtue of Schedule 1;
  - (d) information to be given to a person in whose case a power under Schedule 1 is exercised;
  - (e) how and when that information is to be given;
  - (f) reviews of retentions of travel documents.
11. A police officer, immigration officer or customs official will be required to perform functions conferred on him or her by virtue of Schedule 1 in accordance with any relevant provision included in the Minister's code. A tentative draft of the code of practice under paragraph 18 of Schedule 1 as extended has been prepared.

**Annex C1** to this Proposition shows the full text of Schedule 1 in its extended form.

**Annex C2** to this Proposition shows the text of the tentative draft of the code of practice under paragraph 18 of Schedule 1 as extended.

*Part 1, Chapter 2*

12. The draft Order in Council will apply Chapter 2 and Schedule 2 to Jersey so as to provide for the creation of a temporary exclusion order to disrupt and control the return to Jersey of a British citizen reasonably suspected of involvement in terrorist activity abroad.
13. Under section 2 as extended, a “temporary exclusion order” (“**TEO**”) will require the individual on whom it is imposed not to return to Jersey unless his or her return is in accordance with a permit to return issued by the Minister before the individual began the return, or the return is the result of the individual’s deportation to Jersey.
14. The Minister will be able to impose a TEO only where 5 conditions have been met. *Subsections (3) to (7)* of section 2 outline those conditions. The Minister must reasonably suspect that the individual is, or has been, involved in terrorism-related activity outside the British Islands, and must reasonably consider that it is necessary to impose a TEO for purposes connected with protecting the Public in Jersey from a risk of terrorism. While the TEO is in place, the Minister must keep under review whether the second of these conditions is met.
15. Additionally, the Minister must reasonably consider that the individual is outside the British Islands when the order is imposed, and the individual must have the right of abode in Jersey. Section 2(1) of the Immigration Act 1971 as extended to Jersey provides that British citizens and certain Commonwealth citizens have the right of abode in Jersey.
16. The Minister will be able to impose a TEO only if the Royal Court (“**the Court**”) has given prior permission, or if he or she reasonably considers that the urgency of the case requires an order to be imposed without obtaining such permission.
17. Section 3 as extended will make provision for the role of the Court in providing prior permission to the Minister to impose a TEO. It details the function of the Court, allows the Court to consider the application even if the person is not aware of the proposal to impose a TEO on him or her, and requires the Court to apply judicial review principles in determining it. It also introduces Schedule 2.

**Annex D** to this Proposition shows the full text of Schedule 2 in its extended form.

18. This Schedule requires the Minister to refer an urgent TEO to the Court after imposing it. The Schedule requires the Court to apply judicial review principles and gives the Court power to quash an urgent TEO.
19. Section 4 as extended will make supplementary provision in relation to temporary exclusion orders. In particular, provision is made for giving notice of a TEO to the person on whom it has been imposed. There will be a duty on the Minister to give notice; including an explanation of how the individual can apply for a permit to return. Provision is also made as to how revocation of an order will operate; and, among other things, provision that any British passport held by the individual subject to a TEO is invalidated as soon as the order comes

into force, and that any passport issued while the TEO remains in force and the individual is outside the British Islands is invalid.

20. Sections 5 and 6 as extended will make provision that an individual subject to a TEO may in certain circumstances be given a permit to return which gives him or her permission to return to Jersey. The document may include conditions with which the individual is required to comply. The Minister will be able to refuse to issue a permit to return if the Minister has required the individual to attend an interview and the individual has failed to do so.
21. Section 7 as extended will provide that that the Minister must issue a travel document if the individual is being deported by another country to Jersey, whether or not a request has been made by the individual. The Minister will be able to issue a permit to return to an individual if the Minister considers that, because of the urgency of the situation, it is expedient to do so, even though no application has been made for one, and the Minister does not consider that the individual is to be deported to Jersey.
22. Under section 8 as extended, the Minister will be able to vary a permit to return.
23. Section 9 as extended will make provision enabling the Minister to impose obligations on an individual subject to a TEO when he or she has returned to Jersey. The obligations which the Minister may impose include obligations to report to a police station and attendance at appointments with specified persons. The individual may also be required to notify the police of his or her place of residence and any change of address.
24. Section 10 as extended will provide that it is an offence for an individual subject to a TEO to return to Jersey in contravention of the TEO, without a reasonable excuse; and it will be irrelevant for the purposes of this offence whether or not the individual has a passport or similar other identity document. It will be an offence for an individual subject to a TEO not to comply, without a reasonable excuse, with obligations imposed by the Minister under section 9.
25. The maximum penalties for conviction of an individual for the 2 new offences will be imprisonment for a term not exceeding 5 years, or a fine, or both.
26. Section 11 as extended will make provision for an individual subject to a TEO to be able to apply to the Court for a statutory review of the decision to impose a TEO, and any associated in-country measures, once the individual is back in Jersey. It details which decisions the individual may apply to have reviewed, the principles the Court must apply in reviewing the decisions, and the powers it has on review.
27. Section 12 as extended will make provision –
  - (a) in conjunction with Schedule 3, as extended, about proceedings relating to temporary exclusion orders;
  - (b) in conjunction with Schedule 4, as extended, about appeals against convictions in certain cases under the 2015 Act.

Annex E to this Proposition shows the full text of Schedule 3 in its extended form.

Annex F to this Proposition shows the full text of Schedule 4 in its extended form.

28. [Schedule 3](#) as extended details the provisions that will be able to be made by Rules of Court (*i.e.* Rules made by the Superior Number of the Royal Court) in relation to temporary exclusion order proceedings, and the provisions that must be made in relation to disclosure. Under paragraph 8 of the Schedule, in certain proceedings the court may call in aid one or more advisers, and hear and dispose of the proceedings with their assistance. Rules of Court will be able to regulate the use of, and payment of remuneration, expenses and allowances to, such advisers.
29. Provision is also made under paragraph 10 of Schedule 3 as extended, for the appointment by the Attorney General if need be of special counsel, that is to say, a person to represent the interests of a party in any TEO proceedings or appeal proceedings from which the party (and any legal representative of the party) is excluded.
30. Schedule 4 as extended details the appeal proceedings available to an individual where a TEO or associated measure under it is quashed or altered, and the individual has already been convicted of an offence under section 10(1) or (3), as extended, in connection with the TEO or measure.
31. Section 13 as extended will empower the Minister to make provision by Order about the giving of notice under sections 4 and 9. The Minister will also be empowered to provide for legislation relating to passports or other identity documents to apply (with or without modifications) to permits to return.
32. Section 14 as extended provides definitions for terms set out in Chapter 2 of Part 1 (as extended).

*Part 4 of the 2015 Act (and Schedule 5)*

33. Part 4 as extended will enable the Minister for Home Affairs to introduce authority-to-carry schemes. Such schemes will be made by Order, and will be schemes requiring a person (a “carrier”) to seek authority from the Minister to carry persons on aircraft or ships which are –
  - (a) arriving, or expected to arrive, in Jersey, or
  - (b) leaving, or expected to leave, Jersey.
34. In particular, the Minister will be able to provide by Order for imposing penalties for breaching the requirements of an authority-to-carry scheme (*section 24*). Any such penalty will have to be paid to the Treasurer of the States and credited to the Annual Income of the States.
35. Part 4, in conjunction with Schedule 5, as extended, will also amend existing legislation to enhance the provision of passenger, crew and service information; provide that carriers may be required to use passenger information systems capable of receiving directions when authority to carry is refused or specific security measures are required, and enable enforceable standing requirements

for passenger, crew and service information to be imposed on specified categories of incoming and outgoing non-scheduled traffic.

36. Amendments are also to be made to current provisions for directions relating to aviation and shipping, in order to strengthen the Minister's ability to impose security measures on aircraft operators as a condition of their operation to Jersey, and on shipping operators as a condition of their entry into Jersey ports.

**Annex G** to this Proposition shows the full text of Part 4 and Schedule 5 in their extended form.

### **Collective responsibility under Standing Order 21(3A)**

Under Standing Order 68A, this Proposition will be proposed by the Minister for Home Affairs. Paragraph 5 of the Code of Conduct and Practice for Ministers and Assistant Ministers states that the principle of collective responsibility extends to the Assistant Ministers of the Minister proposing a matter to the States Assembly.

The Council of Ministers has a single policy position on this proposition, and as such, all Ministers, and the Assistant Minister for Home Affairs, are bound by the principle of collective responsibility to support the proposition, as outlined in the Code of Conduct and Practice for Ministers and Assistant Ministers ([R.11/2015](#) refers).

### **Financial and manpower implications**

There are no financial or manpower implications for the States arising from this Proposition.



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STATUTORY INSTRUMENTS

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**2017 No.**

XXXXX

**Counter-Terrorism and Security (Jersey) Order 2017**

*Made* - - - - - \*\*\*

*Coming into force in accordance with article 1(1)*

At the Court at Buckingham Palace, the \*\*\* day of \*\*\*

Present,

The Queen’s Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 51(3) of the Counter-Terrorism and Security Act 2015(a) is pleased, by and with the advice of Her Privy Council, to order as follows:

**Citation, commencement and interpretation**

1—(1) This Order may be cited as the Counter-Terrorism and Security (Jersey) Order 2017 and comes into force on the seventh day after the day on which it is registered by the Royal Court of Jersey.

(2) In this Order—

“the 2015 Act” means the Counter-Terrorism and Security Act 2015;

“Jersey” means the Bailiwick of Jersey.

(3) For the purposes of construing provisions of the 2015 Act as part of the law of Jersey, a reference to an enactment which extends to Jersey is construed as a reference to that enactment as it has effect in Jersey.

**Extension of the 2015 Act to Jersey**

2 The following provisions of the 2015 Act shall extend to Jersey, that is to say –

- (a) Part 1 subject to the modifications specified in Schedule 1 to this Order;
- (b) Part 4 subject to the modifications specified in Schedule 2 to this Order;
- (c) Schedule 1 subject to the modifications specified in Schedule 3 to this Order;
- (d) Schedule 2 subject to the modifications specified in Schedule 4 to this Order;
- (e) Schedule 3 subject to the modifications specified in Schedule 5 to this Order;
- (f) Schedule 4 subject to the modifications specified in Schedule 6 to this Order; and
- (g) Schedule 5 subject to the modifications specified in Schedule 7 to this Order.

Date

*Richard Tilbrook*  
Clerk of the Privy Council

## SCHEDULE 1

Article 2(a)

### Modifications of Part 1 of the Counter-Terrorism Act 2015 as it extends to Jersey

1. For section 1 substitute –

**“1 Seizure of passports etc from persons suspected of involvement in terrorism**

Schedule 1 makes provision for the seizure and temporary retention of travel documents where a person is suspected of intending to leave Jersey in connection with terrorism-related activity.”.

2. In the heading to Chapter 2 for the “THE UNITED KINGDOM” substitute “JERSEY”

3. In section 2 –

- (a) for “the United Kingdom” wherever it occurs (except subsections (3) and (5)) substitute “Jersey”;
- (b) for “United Kingdom” in subsections (3) and (5) substitute “British Islands”;
- (c) for “Secretary of State” wherever it occurs substitute “Minister”;
- (d) for “court” in subsection (7)(a) substitute “Royal Court”.

4. In section 3 –

- (a) for “Secretary of State” wherever it occurs substitute “Minister”;
- (b) for “court” wherever it occurs substitute “Royal Court”.

5. In section 4 –

- (a) for “Secretary of State” wherever it occurs substitute “Minister”;
- (b) for “the United Kingdom” in subsection (7) substitute “Jersey”;
- (c) for “United Kingdom” in subsection (10) substitute “British Islands”.

6. In section 5 –

- (a) for “the United Kingdom” wherever it occurs substitute “Jersey”;
- (b) for “Secretary of State” wherever it occurs substitute “Minister”.

7. In section 6 –

- (a) for “Secretary of State” wherever it occurs substitute “Minister”;
- (b) for “constable” in subsection (2)(a) substitute “police officer”;

- (c) for “the United Kingdom” in subsection (5) (in the definition of “relevant return time”) substitute “Jersey”.

**8.** In section 7 –

- (a) for “Secretary of State” wherever it occurs substitute “Minister”;
- (b) for “the United Kingdom” in subsection (1) substitute “Jersey”.

**9.** In section 8 –

- (a) for “Secretary of State” wherever it occurs substitute “Minister”;
- (b) for “the United Kingdom” in subsection (4) substitute “Jersey”.

**10.** In section 9 –

- (a) for “the United Kingdom” in the heading substitute “Jersey”;
- (b) for “Secretary of State” in subsections (1) and (4) substitute “Minister”;
- (c) for “the United Kingdom” wherever it occurs in subsections (1) and (6) substitute “Jersey”;
- (d) for subsection (2)(a) substitute –
  - “(a) an obligation –
    - (i) to report to a police station at such times and in such manner as the Minister may by notice require, and to comply with any directions given by a police officer in relation to such reporting;
    - (ii) to attend appointments with specified persons or persons of specified descriptions at specified times and places, and to comply with any reasonable directions given by the Minister that relate to matters about which the individual is required to attend an appointment;”
- (e) after subsection (2) insert –
  - “(2A) A notice under this section may provide that a requirement to report to a police station is not to apply if conditions specified in the notice are met.”.

**11.** In section 10 –

- (a) for “the United Kingdom” in subsection (1) substitute “Jersey”;
- (b) for “regulations” in subsection (4) substitute “an Order”;
- (c) for subsection (5) substitute –
  - “(5) An individual guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 5 years or to a fine, or to both.”;
- (d) for subsection (6) substitute –
  - “(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 an order for a conditional discharge.”;
- (e) omit subsection (8).

**12.** In section 11 –

- (a) for “the United Kingdom” in subsection (1) substitute “Jersey”;
- (b) for “court” wherever it occurs substitute “Royal Court”;
- (c) for “Secretary of State” wherever it occurs substitute “Minister”;
- (d) for subsection (9) substitute –
  - “(9) The power under this section to quash a temporary exclusion order, permitted obligation or notice under section 9 includes power to stay the quashing for a

specified time, or pending an appeal or further appeal against the decision to quash.”.

**13. In section 13 –**

- (a) in the heading for “Regulations” substitute “Orders”;
- (b) in subsection (1) for “Secretary of State may by regulations” substitute “Minister may by Order”;
- (c) in subsection (2) for “regulations” substitute “Order”;
- (d) in subsection (3) for “Secretary of State may make regulations” substitute “Minister may make Orders”;
- (e) for subsection (4) substitute –
  - “(4) The Subordinate Legislation (Jersey) Law 1960 shall apply to Orders under this section.”;
- (f) omit subsection (5).

**14. In section 14 –**

- (a) in subsection (2) –
  - (i) in definition of “act of terrorism” for “Terrorism Act 2000 (see section 1(5) of that Act)” substitute “Terrorism (Jersey) Law 2002 (see Article 1 of that Law)”;
  - (ii) omit the definition of “court”;
  - (iii) after that definition insert –
    - ““Jersey” means the Bailiwick of Jersey;
    - “Minister” means the Minister for Home Affairs;”;
  - (iv) after the definition of “permit to return” insert –
    - ““police officer” has the same meaning as in Part 1 of the Schedule to the Interpretation (Jersey) Law 1954;”;
  - (v) in the definition of “terrorism” for “Terrorism Act 2000 (see section 1(1) to (4) of that Act)” substitute “Terrorism (Jersey) Law 2002 (see Article 1 of that Law)”;
- (b) in subsection (6) for “the United Kingdom” (in all places) substitute “Jersey”.

**15. Omit section 15.**

## SCHEDULE 2

Article 2(b)

### Modifications of Part 4 of the Counter-Terrorism Act 2015 as it extends to Jersey

- 1.** For the heading to Part 4 substitute “Aviation and shipping”.
- 2.** In section 22 –
  - (a) for subsection (1) substitute –
    - “(1) The Minister may by Order make one or more schemes requiring a person (a “carrier”) to seek authority from the Minister to carry persons on aircraft or ships which are—
      - (a) arriving, or expected to arrive, in Jersey, or
      - (b) leaving, or expected to leave, Jersey.”;
  - (b) in subsection (4) for “The Secretary of State” substitute “An Order under subsection (1)”
  - (c) in subsection (5) for “Secretary of State” (in both places) substitute “Minister”;

- (d) in subsection (7) for “the United Kingdom” substitute “Jersey”;
- (e) for subsection (8) substitute –
  - “(8) The Subordinate Legislation (Jersey) Law 1960 shall apply to Orders under this section.”;
- (f) omit subsections (9) and (10).

**3. Omit section 23.**

**4. In section 24 –**

- (a) in subsection (1) for “Secretary of State may make regulations” substitute “Minister may make provision by Order”;
- (b) in subsection (2) for “Regulations” substitute “An Order”;
- (c) in subsection (3) –
  - (i) for “Regulations” substitute “An Order”;
  - (ii) for “regulations” substitute “Order”;
- (d) in subsection (4) for “regulations” (in both places) substitute “Order”;
- (e) in subsection (5) –
  - (i) for “regulations must” substitute “Order must”;
  - (ii) for “regulations made” substitute “an Order made”;
- (f) for subsections (6) and (7) substitute –
  - “(6) Any penalty paid by virtue of this section must be paid to the Treasurer of the States and credited to the Annual Income of the States.
  - (7) The Subordinate Legislation (Jersey) Law 1960 shall apply to Orders under this section.”

**5. In section 25 –**

- (a) for the heading substitute “Aviation and maritime security”;
- (b) in subsection (1) for “aviation, maritime and rail” substitute “aviation and maritime”;
- (c) in subsection (3) for paragraphs (a), (b) and (c) substitute –
  - “(a) the Aviation Security Act 1982, and
  - (b) the Aviation and Maritime Security Act 1990.”.

## SCHEDULE 3

Article 2(c)

### Modifications of Schedule 1 to the Counter-Terrorism Act 2015 as it extends to Jersey

**1. In paragraph 1 –**

- (a) after sub-paragraph (1) insert –
  - “(1A) “Jersey” means the Bailiwick of Jersey.
  - (1B) “Minister” means the Minister for Home Affairs.”;
- (b) in sub-paragraph (2) after “Immigration Act 1971” insert “, as extended to Jersey by the Immigration (Jersey) Order 1993”;
- (c) in sub-paragraph (3) for all the words after “designated as” substitute “an officer of the Impôts within the meaning of Article 4 of the Customs and Excise (Jersey) Law 1999.”;
- (d) after sub-paragraph (3) insert –

- “(3A) “Police officer” has the same meaning as in Part 1 of the Schedule to the Interpretation (Jersey) Law 1954.”;
- (e) in sub-paragraph (4) for “Secretary of State” substitute “Minister”;
- (f) in sub-paragraph (5) for “superintendent” substitute “chief inspector”
- (g) for sub-paragraph (6)(b) substitute –
  - “(b) a ticket or other document that permits a person to make a journey by any means from Jersey to a place outside Great Britain or the Bailiwick of Guernsey or the Isle of Man”;
- (h) in sub-paragraph (7) –
  - (ii) in sub-sub-paragraph (a) after “Immigration Act 1971” insert “, as extended to Jersey by the Immigration (Jersey) Order 1993”;
  - (iii) in sub-sub-paragraph (b) for “United Kingdom” substitute “British Islands”;
- (i) in sub-paragraph (8) –
  - (iv) omit sub-sub-paragraphs (c), (d) and (e);
  - (v) in sub-sub-paragraph (f) for “Great Britain and Northern Ireland” substitute “Jersey”;
- (j) omit sub-paragraph (9);
- (k) for sub-paragraphs (11) and (12) substitute –
  - “(11) “Terrorism” and “terrorist” have the same meaning as in the Terrorism (Jersey) Law 2002 (see Articles 2 and 36 of that Law).
  - (12) “Judicial authority” means the Magistrate.”;
- (l) omit sub-paragraphs (13) and (14);
- (m) after sub-paragraph (15) insert –
  - “(16) “The standard scale” means the scale set out in the Schedule to the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993.”.

2. In paragraph 2 –

- (a) in sub-paragraph (1) –
  - (i) for “Great Britain” wherever it occurs substitute “Jersey”;
  - (ii) for “constable” substitute “police officer”;
  - (iii) for “United Kingdom” (in sub-sub-paragraph (a)) substitute “British Islands”;
- (b) omit sub-paragraph (2);
- (c) in sub-paragraphs (3) and (4) for “constable” substitute “police officer”;
- (d) in sub-paragraph (5) –
  - (i) for “constable” wherever it occurs substitute “police officer”;
  - (ii) for “or officer” (in sub-sub-paragraphs (b) and (d)) substitute “or the qualified officer”;
- (e) in sub-paragraph (7) for “constable” substitute “police officer”;
- (f) for sub-paragraph (8) substitute –
  - “(8) A police officer or qualified officer exercising a power in sub-paragraph (5)(a) or (b) must tell the person that—
    - (a) the person is suspected of intending to leave Jersey for the purpose of involvement in terrorism-related activity outside the British Islands, and
    - (b) the police officer or the qualified officer is therefore entitled under this Schedule to exercise the power.”;
- (g) in sub-paragraph (9) –

- (i) for “constable” in both places substitute “police officer”;
- (ii) for “The officer or official” substitute “The immigration officer or customs official”.

**3.** In paragraph 3, sub-paragraph (1) for “constable” wherever it occurs substitute “police officer”.

**4.** In paragraph 4 –

- (a) for “constable” wherever it occurs substitute “police officer”;
- (b) in sub-paragraph (3) –
  - (i) for sub-sub-paragraph (a) substitute –

“(a) the person is suspected of intending to leave Jersey for the purpose of involvement in terrorism-related activity outside the British Islands, and”
  - (ii) in sub-sub-paragraph (b) for “or officer” substitute “or qualified officer”;
- (c) in subparagraph (4) for sub-sub-paragraph (a) substitute –

“(a) the person is suspected of intending to leave Jersey for the purpose of involvement in terrorism-related activity outside the British Islands, and”.

**5.** In paragraph 5 –

- (a) in sub-paragraph (1) –
  - (i) in sub-sub-paragraph (a) for “the Secretary of State considers” substitute “consideration is given to”;
  - (ii) in sub-sub-paragraph (c) for “Secretary of State” substitute “the Minister”;
- (b) for “constable” in sub-paragraphs (4) and (5) substitute “police officer”;
- (c) in sub-paragraph (5) –
  - (i) for “Great Britain or (as the case may be) the United Kingdom” substitute “Jersey”;
  - (ii) for “outside the United Kingdom” substitute “outside the British Islands”.

**6.** In paragraph 6 –

- (a) in sub-paragraph (1)(b) for “constable” wherever it occurs substitute “police officer”;
- (b) in sub-paragraph (2)(a) omit “chief”;
- (c) in sub-paragraph (3)(c) for “relevant chief constable” substitute “Chief Officer”;
- (d) in sub-paragraph (4) for “relevant chief constable” substitute “Chief Officer”;
- (e) in sub-paragraph (5) for “Secretary of State” substitute “Minister”;
- (f) in sub-paragraph (6) for the definition of “relevant chief constable” substitute –

“Chief Officer means the Chief Officer of the States of Jersey Police Force”.

**7.** For paragraph 7 substitute –

- “7 (1) A requirement under paragraph 4 or 5 to return a travel document in the possession of a police officer or qualified officer does not apply while either officer has power to detain it under sub-paragraph (2).
- (2) Either officer may detain the document—
  - (a) while he or she believes that it may be needed for use as evidence in criminal proceedings, or
  - (b) while he or she believes that it may be needed in connection with a decision by the Minister whether to make a deportation order under the Immigration Act 1971.”.

**8.** In paragraph 10, sub-paragraph (2)–

- (a) in sub-sub-paragraph (a) for “section 40(1)(a) of the Terrorism Act 2000” substitute “Article 36(a) of the Terrorism (Jersey) Law 2002”;
- (b) in sub-sub-paragraph (c) for “section 23 or 23A of that Act” substitute “Article 27 of (and Schedule 3 to) that Law”.

**9.** In paragraph 14 –

- (a) for “the United Kingdom” wherever it occurs (including the heading) substitute “Jersey”;
- (b) in sub-paragraph (2) for “Secretary of State” substitute “Minister”.

**10.** In paragraph 15 for sub-paragraph (3) substitute –

“(3) A person guilty of an offence under this paragraph is liable too imprisonment for a term not exceeding 6 months, or to a fine not exceeding level 3 on the standard scale, or to both.”.

**11.** In paragraph 16 for “constable” substitute “police officer”.

**12.** In paragraph 17 –

- (a) for “Secretary of State” in sub-paragraph (1) substitute “Minister”;
- (b) for “constable” in sub-paragraphs (2) and (5) substitute “police officer”.

**13.** In paragraph 18 –

- (a) in sub-paragraph (1) for “Secretary of State” substitute “Minister”;
- (b) for “constables” in sub-paragraph (2)(c) substitute “police officers”;
- (c) for “constable” in sub-paragraphs (3) and (4) substitute “police officer”.

**14.** Omit paragraph 19.

**15.** In paragraph 20 –

- (a) in sub-paragraph (1) for “Secretary of State” substitute “Minister”;
- (b) omit sub-paragraph (2).

## SCHEDULE 4

Article 2(d)

### Modifications of Schedule 2 to the Counter-Terrorism Act 2015 as it extends to Jersey

**1.** In paragraph 1 for “Secretary of State” substitute “Minister”.

**2.** In paragraph 2 –

- (a) for “Secretary of State” substitute “Minister”;
- (b) for “court” substitute “Royal Court”.

**3.** In paragraph 3 –

- (a) for “Secretary of State” in sub-paragraph (1) substitute “Minister”;
- (b) for “court” wherever it occurs substitute “Royal Court”;
- (c) for “court’s” in sub-paragraph (3) substitute “Royal Court’s”.

**4.** In paragraph 3 –

- (a) For “court” wherever it occurs (including the heading) substitute “Royal Court”;
- (b) “Secretary of State” wherever it occurs substitute “Minister”.

**5.** In paragraph 5 –

- (a) for “court” wherever it occurs substitute “Royal Court”;



(b) for “court’s” in sub-paragraph (2) substitute “its”.

6. In paragraph 6, sub-paragraph (1) for “court” substitute “Royal Court”.

## SCHEDULE 5

Article 2(e)

### Modifications of Schedule 3 to the Counter-Terrorism Act 2015 as it extends to Jersey

1. In paragraph 1 –

(a) omit “or the Inner House of the Court of Session” in the definitions of “appeal proceedings”, “the relevant court” and “rules of court”;

(b) in the definition of “the relevant court” for “the court” substitute “the Royal Court”;

(c) in the definition of “rules of court” for “the court,” substitute “the Royal Court or”.

2. In paragraph 2 –

(a) in sub-paragraph (1) for “A person making rules of court relating to TEO proceedings or appeal proceedings must have regard” substitute “Regard must be had, in making rules of court relating to TEO proceedings or appeal proceedings,”;

(b) in sub-paragraph (2) for “as a special advocate” substitute “as special counsel”;

(c) in sub-paragraph (3) –

(i) for “Secretary of State” in sub-sub-paragraph (a) substitute “Minister”;

(ii) for “as a special advocate” in sub-sub-paragraph (b) substitute “as special counsel”.

3. In paragraph 3 for “Secretary of State” and “Secretary of State’s” wherever they occur substitute “Minister” and “Minister’s” respectively.

4. In paragraph 4 –

(a) for “Secretary of State” and “Secretary of State’s” wherever they occur substitute “Minister” and “Minister’s” respectively;

(b) for “as a special advocate” in sub-paragraphs (1)(a) and (4)(b) substitute “as special counsel”.

5. In paragraph 5 for sub-paragraph (2) substitute –

“(2) The “Human Rights Convention” means the Convention within the meaning of the Human Rights (Jersey) Law 2000 (see Article 1(1) of that Law).”.

6. In paragraph 6 –

(a) for “Secretary of State” in sub-paragraphs (1) and (4) substitute “Minister”;

(b) for “court” wherever it occurs in sub-paragraph (1) substitute “Royal Court”;

(c) omit “or the Inner House of the Court of Session” in sub-paragraph (2).

7. Omit paragraph 7.

8. In paragraph 8 –

(a) in sub-paragraph (1) for sub-sub-paragraph (a) substitute –

“(a) call in aid one or more advisers able to be called in aid by the equivalent court in England and Wales, and”;

(b) omit sub-paragraph (2);

(c) in sub-paragraph (3) after “the use of” insert “, and payment of remuneration, expenses and allowances to,”;

(d) omit sub-paragraph (4)

9. Omit paragraph 9.

10. In paragraph 10 –

- (a) for “special advocate” in the heading substitute “special counsel”;
- (b) in sub-paragraph (1) for “appropriate law officer” substitute “Attorney General”;
- (c) in sub-paragraph (2) for “as a “special advocate”” substitute “as “special counsel””;
- (d) omit sub-paragraph (3);
- (e) in sub-paragraph (4) for “as a special advocate” substitute “as special counsel”;
- (f) for sub-paragraph (5) substitute –
  - “(5) A person may be appointed as special counsel only if –
    - (a) the person is a member of the panel referred to in sub-paragraph (6); or
    - (b) the person is eligible to be appointed as a special advocate in equivalent TEO proceedings or appeal proceedings in any part of the United Kingdom.
  - (6) The Attorney General shall appoint a panel of persons, such panel consisting of not less than 10 advocates of the Royal Court, for the purposes of this paragraph.
  - (7) A person appointed under sub-paragraph (6) may be removed from the panel at any time by the Attorney General whether or not at the person’s request.”.

11. In paragraph 11 omit sub-paragraph (b).

## SCHEDULE 6

Article 2(f)

### Modifications of Schedule 4 to the Counter-Terrorism Act 2015 as it extends to Jersey

1. For paragraph 2 substitute –

“2 An appeal under this Schedule is to be made—

- (a) in the case of a conviction before the Royal Court, to the Court of Appeal;
- (b) in the case of a conviction before the Magistrate’s Court, to the Royal Court.”.

2. In paragraph 4 –

(a) in sub-paragraph (2) –

- (i) for “on indictment” substitute “before the Royal Court”;
- (ii) for sub-sub-paragraph (c) substitute –

“(c) is to be treated as an appeal under Article 24 of the Court of Appeal (Jersey) Law 1961, but does not require leave.”;

(b) omit sub-paragraphs (3) and (4);

(c) in sub-paragraph (5) –

- (i) for “to the Crown Court or to the county court in Northern Ireland against a summary conviction” substitute “to the Royal Court against a conviction before the Magistrate’s Court”;
- (ii) in sub-sub-paragraph (b) for “section 111 of the Magistrates’ Courts Act 1980 or Article 146 of the Magistrates’ Courts (Northern Ireland) Order 1981 ([S.I. 1981/1675 \(N.I. 26\)](#))” substitute “under Article 21 of the Magistrate’s Court (Miscellaneous Provisions) (Jersey) Law 1949”;

- (iii) in sub-sub-paragraph (d) for “under section 108(1)(b) of that Act or, in Northern Ireland, under Article 140(1)(b) of that Order” substitute “under Article 17(1)(b) of that Law”.

## SCHEDULE 7

Article 2(g)

### Modifications of Schedule 5 to the Counter-Terrorism Act 2015 as it extends to Jersey

1. For the heading to Part 1 substitute “AVIATION AND MARITIME SECURITY”.
2. In paragraph 1 –
  - (a) in sub-paragraph (2), in the inserted paragraph (ba), omit “the Secretary of State or”;
  - (b) in sub-paragraph (3), in the inserted sub-paragraph (8A), for “Secretary of State” substitute “Minister”;
  - (c) in sub-paragraph (4) –
    - (i) for sub-paragraph (1) of the inserted paragraph 27BA substitute –

“(1) The Minister may make provision by Order requiring responsible persons in respect of ships or aircraft—

      - (a) which have arrived, or are expected to arrive, in Jersey, or
      - (b) which have left, or are expected to leave, Jersey,

to supply information to an immigration officer.”;
    - (ii) in sub-paragraph (3) of the inserted paragraph 27BA for “The regulations” substitute “An Order under this paragraph”;
    - (iii) in sub-paragraph (4) of the inserted paragraph 27BA –
      - (bb) for “The regulations” substitute “An Order under this paragraph”;
      - (cc) omit “the Secretary of State or”;
    - (iv) in sub-paragraph (6) of the inserted paragraph 27BA for “Regulations” substitute “An Order”;
    - (v) for sub-paragraph (6) of the inserted paragraph 27BA substitute –

“(7) The Subordinate Legislation (Jersey) Law 1960 shall apply to Orders under this paragraph.”
    - (vi) for the inserted paragraph 27BB substitute –

“27BB(1) The Minister may make provision by Order imposing penalties for failure to comply with—

      - (a) a Direction under paragraph 27(2) (Direction requiring passenger list or particulars of member of crew),
      - (b) any request or requirement under paragraph 27B (passenger and service information), or
      - (c) an Order under paragraph 27BA (passenger, crew and service information).

(2) An Order under this paragraph 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 may make different provision for different purposes.
- (3) Provision in an Order under this paragraph about the procedure for imposing a penalty must include provision for a person to be given an opportunity to object to a proposed penalty in the circumstances set out in the Order.
- (4) An Order under this paragraph must provide that no penalty may be imposed on a person for failure to comply with a Direction under paragraph 27(2), a request or requirement under paragraph 27B or an Order under paragraph 27BA where—
  - (a) proceedings have been instituted against the person under section 27 in respect of the same failure; or
  - (b) the failure consists of a failure to provide information that the person has also been required to provide under section 32 or 32A 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 an Order made under section 32B of that Act, or
    - (ii) proceedings have been instituted against the person under section 34 of that Act in respect of a failure to provide that information; or
  - (c) the failure consists of a failure to provide information that the person has also been required to provide under an authority-to-carry scheme made by the Minister by Order under section 22 of the Counter-Terrorism and Security Act 2015 and a penalty has been imposed on the person in respect of a failure to provide that information by virtue of an Order made under section 24 of that Act.
- (5) Any penalty paid by virtue of this paragraph must be paid to the Treasurer of the States and credited to the Annual Income of the States.
- (6) The Subordinate Legislation (Jersey) Law 1960 shall apply to Orders under this paragraph.”.

3. In paragraph 2, in the inserted subsection (2)(a), for “regulations made” substitute “an Order made by the Minister”.

4. Omit paragraph 4.

5. In paragraph 7 for the inserted sections 32A and 32B substitute –

**“32A Orders requiring information to be provided to police**

- (1) The Minister may make provision by Order requiring responsible persons in relation to ships or aircraft—
  - (a) which have arrived, or are expected to arrive, in Jersey, or
  - (b) which have left, or are expected to leave, Jersey,
 to provide information to the police.
- (2) The following information may be required under subsection (1)—
  - (a) information about the persons on board;
  - (b) information about the voyage or flight.
- (3) An Order under this section may impose a requirement to provide the information only if the Minister thinks it necessary for police purposes  
 In this subsection “police purposes” has the same meaning as in section 32.
- (4) An Order under this section must—
  - (a) specify or describe the classes of ships or aircraft to which they apply;
  - (b) specify the information required to be provided;
  - (c) specify the time by which the information must be provided;
  - (d) specify the form and manner in which the information must be provided.
- (5) An Order under this section may require responsible persons to be able to receive, in a specified form and manner, communications sent by the police, the Minister or an immigration officer relating to the information.
- (6) An Order under this section—
  - (a) may apply generally or only to specified cases or circumstances, and
  - (b) may make different provision for different cases or circumstances.
- (6A) The Subordinate Legislation (Jersey) Law 1960 shall apply to Orders under this section.
- (7) For the purposes of this section, the following are responsible persons in respect of a ship or aircraft—
  - (a) the owner or agent, and
  - (b) the captain.

**32B Penalty for breach of section 32 or 32A**

- (1) The Minister may make provision by Order imposing penalties for failure to comply with a requirement imposed—
  - (a) under section 32(2) (provision of passenger, crew or service information), or
  - (b) by an Order made by the Minister under section 32A (Orders requiring information to be provided to police).
- (2) An Order under this section 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 may make different provision for different purposes.
- (3) Provision in an Order under this section about the procedure for imposing a penalty must provide for a person to be given an opportunity to object to a proposed penalty in the circumstances set out in the Order.
  - (4) An Order under this section must provide that no penalty may be imposed on a person for failure to comply with a requirement imposed under section 32(2) or by an Order made by the Minister under section 32A where—
    - (a) proceedings have been instituted against the person under section 34 in respect of the same failure, or
    - (b) the failure consists of a failure to provide information that the person 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 an Order made by the Minister under paragraph 27BB of that Schedule, or
      - (ii) proceedings have been instituted against the person under section 27 of that Act in respect of a failure to provide that information, or
    - (c) the failure consists of a failure to provide information that the person has also been required to provide under an authority-to-carry scheme made by the Minister by Order under section 22 of the Counter-Terrorism and Security Act 2015 and a penalty has been imposed on the person in respect of a failure to provide that information by virtue of an Order made by the Minister under section 24 of that Act.
  - (5) Any penalty paid by virtue of this section must be paid to the Treasurer of the States and credited to the Annual Income of the States.
  - (6) The Subordinate Legislation (Jersey) Law 1960 shall apply to Orders under this section.”.

**6. In paragraph 8 –**

- (a) for sub-paragraph (2) substitute –
  - “(2) In subsection (1), for “imposed under section 32(2) or (3)” substitute “imposed—
    - (a) under section 32(2) or (3), or
    - (b) by an Order made by the Minister under section 32A”;
- (b) in sub-paragraph (3), in the inserted subsection (1A), for “regulations” in both places substitute “an Order made by the Minister”;

- (c) omit sub-paragraph (4).

**7.** In the heading to Part 2 for “AVIATION, SHIPPING AND RAIL” substitute “AVIATION AND SHIPPING”.

**8.** In paragraph 9 –

- (a) in sub-paragraph (3) for “the United Kingdom” substitute “Jersey”;
- (b) in sub-paragraph (4) for all the words after “12 to 14),” substitute “for subsection (5) substitute –

“(5) In so far as a direction requires anything to be done or not done at a place outside Jersey—

- (a) it shall have effect only in relation to—
  - (i) aircraft registered in Jersey, or
  - (ii) a requirement not to cause or permit an aircraft to fly in or into Jersey unless certain things have, or have not, been done, and
- (b) it shall not have effect so as to require anything to be done or not done in contravention of any provision of the law (whether civil or criminal) in force at that place, other than any such provision relating to breach of contract.”;

- (c) omit sub-paragraph (5);

- (d) in sub-paragraph (6) –

- (i) omit “paragraph (b) of”,
- (ii) for “registered or operating in the United Kingdom” substitute “operating in Jersey”.

**9.** Omit paragraphs 10 and 11.

**10.** In paragraph 12 –

- (a) in sub-paragraph (2) for “Secretary of State” substitute “Minister”;
- (b) in sub-paragraph (3)(a) for “Secretary of State” substitute “Minister”;
- (c) omit sub-paragraph (5).

**11.** Omit paragraphs 13 and 14.

#### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order extends to Jersey, with modifications, Part 1 and Part 4 of the Counter-Terrorism and Security Act 2015 together with provisions of Schedules 1 to 5 to the Act dependent on those Parts.

# Counter-Terrorism and Security Act 2015

## 2015 CHAPTER 6

### PART 1

#### TEMPORARY RESTRICTIONS ON TRAVEL

#### CHAPTER 1

##### POWERS TO SEIZE TRAVEL DOCUMENTS

### 1 Seizure 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~~ Jersey 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 —~~
- ~~“22A Advocacy 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~~ JERSEY

##### *Imposition of temporary exclusion orders*



## 2 Temporary exclusion orders

- (1) A “temporary exclusion order” is an order which requires an individual not to return to ~~the United Kingdom~~Jersey unless—
  - (a) the return is in accordance with a permit to return issued by the ~~Secretary of State~~Minister before the individual began the return, or
  - (b) the return is the result of the individual’s deportation to ~~the United Kingdom~~Jersey.
- (2) The ~~Secretary of State~~Minister 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~~Minister reasonably suspects that the individual is, or has been, involved in terrorism-related activity outside the ~~United Kingdom~~British Islands.
- (4) Condition B is that the ~~Secretary of State~~Minister reasonably considers that it is necessary, for purposes connected with protecting members of the public in ~~the United Kingdom~~Jersey 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~~Minister reasonably considers that the individual is outside the ~~United Kingdom~~British Islands.
- (6) Condition D is that the individual has the right of abode in ~~the United Kingdom~~Jersey.
- (7) Condition E is that—
  - (a) the Royal eCourt gives the ~~Secretary of State~~Minister permission under section 3, or
  - (b) the ~~Secretary of State~~Minister 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~~Minister must keep under review whether condition B is met.

## 3 Temporary exclusion orders: prior permission of the court

- (1) This section applies if the ~~Secretary of State~~Minister—
  - (a) makes the relevant decisions in relation to an individual, and
  - (b) makes an application to the Royal eCourt for permission to impose a temporary exclusion order on the individual.
- (2) The function of the Royal eCourt on the application is to determine whether the relevant decisions of the ~~Secretary of State~~Minister are obviously flawed.
- (3) The Royal eCourt 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 eCourt.
- (4) But that does not limit the matters about which rules of court may be made.
- (5) In determining the application, the Royal eCourt must apply the principles applicable on an application for judicial review.
- (6) In a case where the Royal eCourt determines that any of the relevant decisions of the ~~Secretary of State~~Minister is obviously flawed, the eCourt may not give permission under this section.
- (7) In any other case, the eCourt must give permission under this section.
- (8) Schedule 2 makes provision for references to the Royal eCourt etc where temporary exclusion orders are imposed in cases of urgency.
- (9) Only the ~~Secretary of State~~Minister may appeal against a determination of the Royal eCourt 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.

#### **4 Temporary exclusion orders: supplementary provision**

- (1) The ~~Secretary of State~~Minister 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~~Minister may revoke a temporary exclusion order at any time.
- (5) The ~~Secretary of State~~Minister 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~~ Jersey, or
  - (b) departing from the ~~United Kingdom~~ Jersey.
- (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~~ British Islands 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*

**5 Permit 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~~ Jersey.
- (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~~ Jersey;

- (b) the manner in which the individual is permitted to return to ~~the United Kingdom~~Jersey; and
  - (c) the place where the individual is permitted to arrive on return to ~~the United Kingdom~~Jersey.
- (5) Provision made under subsection (4)(a) or (c) may, in particular, be framed by reference to the arrival in ~~the United Kingdom~~Jersey 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~~Jersey.
- (7) The ~~Secretary of State~~Minister may not issue a permit to return except in accordance with section 6 or 7.
- (8) It is for the ~~Secretary of State~~Minister to decide the terms of a permit to return (but this is subject to section 6(3)).

## **6 Issue of permit to return: application by individual**

- (1) If an individual applies to the ~~Secretary of State~~Minister for a permit to return, the ~~Secretary of State~~Minister must issue a permit within a reasonable period after the application is made.
- (2) But the ~~Secretary of State~~Minister may refuse to issue the permit if—
- (a) the ~~Secretary of State~~Minister requires the individual to attend an interview with a ~~constable~~police officer or immigration officer at a time and a place specified by the ~~Secretary of State~~Minister, 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~~Minister.
- (5) In this section—
- “application” means an application made by an individual to the ~~Secretary of State~~Minister 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~~Jersey (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~~Jersey (in a case where the permit to return states such a period).

## 7 Issue of permit to return: deportation or urgent situation

- (1) The ~~Secretary of State~~Minister must issue a permit to return to an individual if the ~~Secretary of State~~Minister considers that the individual is to be deported to ~~the United Kingdom~~Jersey.
- (2) The ~~Secretary of State~~Minister may issue a permit to return to an individual if—
  - (a) the ~~Secretary of State~~Minister 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.

## 8 Permit to return: supplementary provision

- (1) The ~~Secretary of State~~Minister may vary a permit to return.
- (2) The ~~Secretary of State~~Minister 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~~Minister to revoke it;
  - (b) the permit to return has been issued under section 7(1) and the ~~Secretary of State~~Minister no longer considers that the individual is to be deported to ~~the United Kingdom~~Jersey;
  - (c) the permit to return has been issued under section 7(2) and the ~~Secretary of State~~Minister 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~~Minister issues a subsequent permit to return to the individual; or
  - (e) the ~~Secretary of State~~Minister 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~~Jersey) does not prevent a subsequent permit to return from being issued (whether or not the earlier permit is still in force).

9 Obligations after return to ~~the United Kingdom~~Jersey

- (1) The ~~Secretary of State~~Minister 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~~Jersey.
  
- (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);~~an obligation –
    - (i) to report to a police station at such times and in such manner as the Minister may by notice require, and to comply with any directions given by a police officer in relation to such reporting;
    - (ii) to attend appointments with specified persons or persons of specified descriptions at specified times and places, and to comply with any reasonable directions given by the Minister that relate to matters about which the individual is required to attend an appointment;
  - (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.
  
- (2A) A notice under this section may provide that a requirement to report to a police station is not to apply if conditions specified in the notice are met.
  
- (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~~Minister 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~~Jersey, or
  - (b) returning to ~~the United Kingdom~~Jersey.

- (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*

**10 Offences**

- (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~~ Jersey 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~~ an Order 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 ~~for a conditional discharge 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.”~~

## 11 Review 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~~Jersey.
- (2) The individual may apply to the ~~court~~Royal Court to review any of the following decisions of the ~~Secretary of State~~Minister—
  - (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~~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~~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~~Minister for, or in relation to, the revocation of the temporary exclusion order.
- (5) If the ~~court~~Court does not exercise either of its powers under subsection (4), the ~~e~~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~~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~~Minister 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~~Court does not exercise any of its powers under subsection (6), the ~~e~~Court must decide that the notice under section 9 is to continue in force.
- (8) If the ~~court~~Court exercises a power under subsection (6)(a) or (c)(i), the ~~court~~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~~Royal 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~~Minister to make a decision whether condition B continues to be met is to be treated as a decision that it continues to be met.

## 12 Temporary 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*

## 13 ~~Regulations~~Orders: giving of notices, legislation relating to passports

- (1) The ~~Secretary of State~~Minister may by ~~regulations~~Order make provision about the giving of—
  - (a) notice under section 4, and
  - (b) notice under section 9.

- (2) The ~~regulations~~Order may, in particular, make provision about cases in which notice is to be deemed to have been given.
- (3) The ~~Secretary of State~~Minister may make ~~regulations~~Orders 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 Subordinate Legislation (Jersey) Law 1960 shall apply to Orders under this section~~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.~~

## 14 Chapter 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~~(Jersey) Law 2002 (see ~~section 1(5) of that Act~~Article 1 of that Law);

“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;~~

“Jersey” means the Bailiwick of Jersey;

“Minister” means the Minister For Home Affairs;

“permit to return” has the meaning given in section 5;

“police officer” has the same meaning as in Part 1 of the Schedule to the Interpretation (Jersey) Law 1954.

“temporary exclusion order” has the meaning given in section 2;

“terrorism” has the same meaning as in the Terrorism ~~Act 2000~~(Jersey) Law 2002 (see ~~section 1(1) to (4) of that Act~~Article 2 of that Law).

- (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~~Jersey include, in the case of an individual who has never been in ~~the United Kingdom~~Jersey, a reference to the individual’s coming to ~~the United Kingdom~~Jersey for the first time.
- (7) References to deportation include references to any other kind of expulsion.

## 15 Chapter 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);”.~~

# Counter-Terrorism and Security Act 2015

## 2015 CHAPTER 6

### SCHEDULE 1

### Section 1

#### SEIZURE OF PASSPORTS ETC FROM PERSONS SUSPECTED OF INVOLVEMENT IN TERRORISM

##### *Interpretation*

- 1 (1) The following definitions have effect for the purposes of this Schedule.
- (1A) “Jersey” means the Bailiwick of Jersey.
- (1B) “Minister” means the Minister for Home Affairs.
- (2) “Immigration officer” means a person who is appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971, as extended to Jersey by the Immigration (Jersey) Order 1993.
- (3) “Customs official” means a person who is designated as an officer of the Impôts within the meaning of Article 4 of the Customs and Excise (Jersey) Law 1999a general customs official under section 3(1) of the Borders, Citizenship and Immigration Act 2009 or as a customs revenue official under section 11(1) of that Act.
- (3A) “Police officer” has the same meaning as in Part 1 of the Schedule to the Interpretation (Jersey) Law 1954.
- (4) “Qualified officer” means an immigration officer or customs official who is designated by the ~~Secretary of State~~Minister for the purposes of this Schedule.
- (5) “Senior police officer” means a police officer of at least the rank of ~~superintendent~~chief inspector.
- (6) “Travel document” means anything that is or appears to be—
- (a) a passport, or
  - (b) a ticket or other document that permits a person to make a journey by any means from a place within Great Britain Jersey to a place outside Great Britain or the Bailiwick of Guernsey or the Isle of Man, or from

~~a place within Northern Ireland to a place outside the United Kingdom.~~

(7) “Passport” means—

- (a) a United Kingdom passport (within the meaning of the Immigration Act 1971, as extended to Jersey by the Immigration (Jersey) Order 1993),
- (b) a passport issued by or on behalf of the authorities of a country or territory outside the ~~United Kingdom~~British Islands, or by or on behalf of an international organisation, or

a document that can be used (in some or all circumstances) instead of a passport.

(8) “Port” means—

- (a) an airport,
- (b) a sea port,
- ~~(c) a hoverport,~~
- ~~(d) a heliport,~~
- ~~(e) a railway station where passenger trains depart for, or arrive from, places outside the United Kingdom, or~~
- (f) any other place at which a person is able, or attempting, to get on or off any craft, vessel or vehicle in connection with entering or leaving ~~Great Britain or Northern Ireland~~Jersey.

~~(9) A place is “in the border area” if it is in Northern Ireland and is no more than one mile from the border between Northern Ireland and the Republic of Ireland.~~

(10) “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 person 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.

- (11) “Terrorism” and “terrorist” have the same meaning as in the ~~Terrorism Act 2000~~Terrorism (Jersey) Law 2002 (see ~~sections~~Articles ~~1(1) to (4) and 40 2 and 36~~ of that ~~Act~~Law).
- (12) “Judicial authority” means the Magistrate.—
- (a) ~~in England and Wales, a District Judge (Magistrates’ Courts) who is—~~
    - (i) ~~designated under paragraph 29(4)(a) of Schedule 8 to the Terrorism Act 2000, or~~
    - (ii) ~~designated for the purposes of this Schedule by the Lord Chief Justice of England and Wales;~~
  - (b) ~~in Scotland, the sheriff;~~
  - (c) ~~in Northern Ireland, a county court judge, or a district judge (magistrates’ courts) who is—~~
    - (i) ~~designated under paragraph 29(4)(c) of Schedule 8 to the Terrorism Act 2000, or~~
    - (ii) ~~designated for the purposes of this Schedule by the Lord Chief Justice of Northern Ireland.~~
- ~~(13) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his or her functions under sub-paragraph (12)(a)(ii).~~
- ~~(14) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his or her functions under sub-paragraph (12)(c)(ii)—~~
  - (i) ~~the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;~~
  - (ii) ~~a Lord Justice of Appeal (as defined in section 88 of that Act).~~
- (15) “The 14-day period” and “the 30-day period” have the meanings given by paragraphs 5(2) and 8(7) respectively.
- (16) “The standard scale” means the scale set out in the Schedule to the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993.

*Powers of search and seizure etc*

- 2 (1) This paragraph applies in the case of a person at a port in ~~Great Britain~~Jersey if a ~~constable~~police officer has reasonable grounds to suspect that the person—
- (a) is there with the intention of leaving ~~Great Britain~~Jersey for the purpose of involvement in terrorism-related activity outside the ~~United Kingdom~~British Islands, or
  - (b) has arrived in ~~Great Britain~~Jersey with the intention of leaving it soon for that purpose.

~~(2) This paragraph applies in the case of a person at a port in Northern Ireland, or in the border area, if a constable has reasonable grounds to suspect that the person—~~

- ~~(a) — is there with the intention of leaving the United Kingdom for the purpose of involvement in terrorism-related activity outside the United Kingdom, or~~
- ~~(b) — has arrived in Northern Ireland with the intention of leaving the United Kingdom soon for that purpose.~~

(3) The constable~~police officer~~ may—

- (a) exercise any of the powers in sub-paragraph (5) in the case of the person, or
- (b) direct a qualified officer to do so.

(4) A qualified officer must (if able to do so) comply with any direction given by a constable~~police officer~~ under sub-paragraph (3)(b).

(5) The powers are—

- (a) to require the person to hand over all travel documents in his or her possession to the constable~~police officer~~ or (as the case may be) the qualified officer;
- (b) to search for travel documents relating to the person and to take possession of any that the constable~~police officer~~ or the qualified officer finds;
- (c) to inspect any travel document relating to the person;
- (d) to retain any travel document relating to the person that is lawfully in the possession of the constable~~police officer~~ or the qualified officer.

(6) The power in sub-paragraph (5)(b) is a power to search—

- (a) the person;
- (b) anything that the person has with him or her;
- (c) any vehicle in which the officer believes the person to have been travelling or to be about to travel.

(7) A constable~~police officer~~ or qualified officer—

- (a) may stop a person or vehicle for the purpose of exercising a power in sub-paragraph (5)(a) or (b);
- (b) may if necessary use reasonable force for the purpose of exercising a power in sub-paragraph (5)(a) or (b);
- (c) may authorise a person to carry out on the constable's or officer's behalf a search under sub-paragraph (5)(b).

(8) A constable~~police officer~~ or qualified officer exercising a power in sub-paragraph (5)(a) or (b) must tell the person that—



- (a) the person is suspected of intending to leave ~~Great Britain or (as the case may be) the United Kingdom Jersey~~ for the purpose of involvement in terrorism-related activity outside the ~~United Kingdom British Islands~~, and
  - (b) the ~~constable~~police officer or ~~the qualified~~ officer is therefore entitled under this Schedule to exercise the power.
- (9) Where a travel document relating to the person is in the possession of an immigration officer or customs official (whether a qualified officer or not), the ~~constable~~police officer may direct the officer or official—
- (a) to pass the document to a ~~constable~~police officer as soon as practicable, and
  - (b) in the meantime to retain it.

The ~~immigration~~ officer or ~~customs~~ official must comply with any such direction.

*Travel documents in possession of immigration officers or customs officials*

3 (1) Where—

- (a) a travel document lawfully comes into the possession of an immigration officer or customs official (whether a qualified officer or not) without a power under paragraph 2 being exercised, and
- (b) as soon as possible after taking possession of the document, the officer or official asks a ~~constable~~police officer whether the ~~constable~~police officer wishes to give a direction under paragraph 2(9) in relation to the document,

the officer or official may retain the document until the ~~constable~~police officer tells him or her whether or not the ~~constable~~police officer wishes to give such a direction.

- (2) A request under sub-paragraph (1) must be considered as soon as possible.

*Authorisation by senior police officer for retention of travel document*

4 (1) Where a travel document is in the possession of a ~~constable~~police officer or qualified officer as a result of the exercise of a power under paragraph 2, the relevant ~~constable~~police officer must as soon as possible either—

- (a) seek authorisation from a senior police officer for the document to be retained, or
- (b) ensure that the document is returned to the person to whom it relates.

“The relevant ~~constable~~police officer” means the ~~constable~~police officer by whom, or on whose direction, the power was exercised.

- (2) The document may be retained while an application for authorisation is considered.

Any such application must be considered as soon as possible.

- (3) A constablepolice officer or qualified officer retaining a travel document under sub-paragraph (2) must tell the person to whom the document relates that—
- (a) the person is suspected of intending to leave ~~Great Britain or (as the case may be) the United Kingdom~~Jersey for the purpose of involvement in terrorism-related activity outside the ~~United Kingdom~~British Islands, and
  - (b) the constablepolice officer or qualified officer is therefore entitled under this Schedule to retain the document while the matter is considered by a senior police officer.

This does not apply if the constablepolice officer or qualified officer expects the application for authorisation to be dealt with immediately, or if sub-paragraph (4) has been complied with.

- (4) An immigration officer or customs official to whom a direction is given under paragraph 2(9) must tell the person to whom the travel document in question relates that—
- (a) the person is suspected of intending to leave ~~Great Britain or (as the case may be) the United Kingdom~~Jersey for the purpose of involvement in terrorism-related activity outside the ~~United Kingdom~~British Islands, and
  - (b) a constablepolice officer is therefore entitled under this Schedule to retain the document while the matter is considered by a senior police officer.

This does not apply if the immigration officer or customs official expects the application for authorisation to be dealt with immediately.

- (5) If an application for authorisation is granted—
- (a) the travel document must be passed to a constablepolice officer if it is not already in the possession of a constablepolice officer, and
  - (b) paragraph 5 applies.
- (6) If an application for authorisation is refused, the travel document must be returned to the person as soon as possible.
- (7) A senior police officer may grant an application for authorisation only if satisfied that there are reasonable grounds for the suspicion referred to in paragraph 2(1) or (2).
- (8) An authorisation need not be in writing.
- (9) Sub-paragraphs (1)(b) and (6) are subject to paragraph 7 and to any power or provision not in this Schedule under which the document may be lawfully retained or otherwise dealt with.

*Retention or return of documents seized*

5 (1) Where authorisation is given under paragraph 4 for a travel document relating to a person to be retained, it may continue to be retained—

- (a) while ~~the Secretary of State considers~~ consideration is given to whether to cancel the person's passport,
- (b) while consideration is given to charging the person with an offence,
- (c) while consideration is given to making the person subject to any order or measure to be made or imposed by a court, or by the ~~Secretary of State~~ Lieutenant-Governor or the Minister, for purposes connected with protecting members of the public from a risk of terrorism, or
- (d) while steps are taken to carry out any of the actions mentioned in paragraphs (a) to (c).

(2) But a travel document may not be retained under this Schedule after the end of the period of 14 days beginning with the day after the document was taken ("the 14-day period"), unless that period is extended under paragraph 8 or 11(3).

(3) The travel document must be returned to the person as soon as possible—

- (a) once the 14-day period (or the 14-day period as extended under paragraph 8 or 11(3)) expires;
- (b) once the power in sub-paragraph (1) ceases to apply, if that happens earlier.

This is subject to paragraph 7 and to any power or provision not in this Schedule under which the document may be lawfully retained or otherwise dealt with.

(4) The ~~constable~~ police officer to whom a travel document is passed under paragraph 2(9) or 4(5)(a), or who is in possession of it when authorisation is given under paragraph 4, must explain to the person the effect of sub-paragraphs (1) to (3).

(5) The ~~constable~~ police officer must also tell the person, if he or she has not been told already under paragraph 2(8) or 4(3) or (4), that the person is suspected of intending to leave ~~Great Britain or (as the case may be) the United Kingdom~~ Jersey for the purpose of involvement in terrorism-related activity outside the ~~United Kingdom~~ British Islands.

#### *Review of retention of travel documents*

6 (1) This paragraph applies where—

- (a) authorisation is given under paragraph 4 for a travel document relating to a person to be retained, and
- (b) the document is still being retained by a ~~constable~~ police officer at the end of the period of 72 hours beginning when the document was taken from the person ("the 72-hour period").

(2) A police officer who is—

- (a) of at least the rank of ~~chief~~ superintendent, and
- (b) of at least as high a rank as the senior police officer who gave the authorisation,

must carry out a review of whether the decision to give authorisation was flawed.

(3) The reviewing officer must—

- (a) begin carrying out the review within the 72-hour period,
- (b) complete the review as soon as possible, and
- (c) communicate the findings of the review in writing to the ~~relevant~~Chief Officer. ~~chief constable~~.

(4) The ~~relevant~~Chief Officer~~chief constable~~ must consider those findings and take whatever action seems appropriate.

(5) If a power under paragraph 2 was exercised in relation to the travel document by an immigration officer or customs official designated under paragraph 17, the reviewing officer must also communicate the findings of the review in writing to the ~~Secretary of State~~Minister.

(6) In this paragraph—

“reviewing officer” means the officer carrying out a review under this paragraph;

“~~relevant chief constable~~” means—

- (a) ~~—(except where paragraph (b) or (c) applies) the chief officer of police under whose direction and control is the constable retaining the document;~~
- (b) ~~—the chief constable of the Police Service of Scotland, if the constable retaining the document is under that chief constable’s direction and control;~~
- (c) ~~—the chief constable of the Police Service of Northern Ireland, if the constable retaining the document is under that chief constable’s direction and control.~~

#### *Detention of document for criminal proceedings etc*

7 (1) A requirement under paragraph 4 or 5 to return a travel document in the possession of a ~~constable~~police officer or qualified officer does not apply while ~~the constable~~ ~~or~~either officer has power to detain it under sub-paragraph (2).

(2) ~~The constable or qualified~~Either officer may detain the document—

- (a) while ~~the constable or officer~~he or she believes that it may be needed for use as evidence in criminal proceedings, or

- (b) while ~~the constable or officer~~ he or she believes that it may be needed in connection with a decision by the ~~Secretary of State~~ Lieutenant-Governor whether to make a deportation order under the Immigration Act 1971.

*Extension of 14-day period by judicial authority*

- 8 (1) A senior police officer may apply to a judicial authority for an extension of the 14-day period.
  - (2) An application must be made before the end of the 14-day period.
  - (3) An application may be heard only if reasonable efforts have been made to give to the person to whom the application relates a notice stating—
    - (a) the time when the application was made;
    - (b) the time and place at which it is to be heard.
  - (4) On an application—
    - (a) the judicial authority must grant an extension if satisfied that the relevant persons have been acting diligently and expeditiously in relation to the matters and steps referred to in sub-paragraph (5);
    - (b) otherwise, the judicial authority must refuse to grant an extension.
  - (5) In sub-paragraph (4) “the relevant persons” means—
    - (a) the persons responsible for considering whichever of the matters referred to in paragraph 5(1)(a) to (c) are under consideration, and
    - (b) the persons responsible for taking whichever of the steps referred to in paragraph 5(1)(d) are being taken or are intended to be taken.
  - (6) An extension must be for a further period ending no later than the end of the 30-day period.
  - (7) “The 30-day period” means the period of 30 days beginning with the day after the document in question was taken.
- 9 (1) The person to whom an application under paragraph 8 relates—
- (a) must be given an opportunity to make oral or written representations to the judicial authority about the application;
  - (b) subject to sub-paragraph (3), is entitled to be legally represented at the hearing.
- (2) A judicial authority must adjourn the hearing of an application to enable the person to whom the application relates to obtain legal representation where the person—
- (a) is not legally represented,

- (b) is entitled to be legally represented, and
  - (c) wishes to be legally represented.
- (3) A judicial authority may exclude any of the following persons from any part of the hearing—
- (a) the person to whom the application relates;
  - (b) anyone representing that person.
- 10 (1) A person who has made an application under paragraph 8 may apply to the judicial authority for an order that specified information upon which he or she intends to rely be withheld from—
- (a) the person to whom the application relates, and
  - (b) anyone representing that person.
- (2) A judicial authority may make an order under sub-paragraph (1) in relation to specified information only if satisfied that there are reasonable grounds for believing that if the information was disclosed—
- (a) evidence of an offence under any of the provisions mentioned in ~~section 40(1)(a) of the Terrorism Act 2000~~Article 36(a) of the Terrorism (Jersey) Law 2002 would be interfered with or harmed,
  - (b) the recovery of property obtained as a result of an offence under any of those provisions would be hindered,
  - (c) the recovery of property in respect of which a forfeiture order could be made under ~~section 23 or 23A of that Act~~Article 27 of (and Schedule 3 to) that Law would be hindered,
  - (d) the apprehension, prosecution or conviction of a person who is suspected of being a terrorist would be made more difficult as a result of the person being alerted,
  - (e) the prevention of an act of terrorism would be made more difficult as a result of a person being alerted,
  - (f) the gathering of information about the commission, preparation or instigation of an act of terrorism would be interfered with,
  - (g) a person would be interfered with or physically injured, or
  - (h) national security would be put at risk.
- (3) The judicial authority must direct that the following be excluded from the hearing of an application under this paragraph—

- (a) the person to whom the application under paragraph 8 relates;
- (b) anyone representing that person.

11 (1) A judicial authority may adjourn the hearing of an application under paragraph 8 only if the hearing is adjourned to a date before the expiry of the 14-day period.

(2) Sub-paragraph (1) does not apply to an adjournment under paragraph 9(2).

(3) If an application is adjourned under paragraph 9(2) to a date after the expiry of the 14-day period, the judicial authority must extend the period until that date.

12 (1) If an extension is granted under paragraph 8 for a period ending before the end of the 30-day period, one further application may be made under that paragraph.

(2) Paragraphs 8 to 11 apply to a further application as if references to the 14-day period were references to that period as previously extended.

#### *Restriction on repeated use of powers*

13 (1) Where—

- (a) a power under paragraph 4 or 5 to retain a document relating to a person is exercised, and
- (b) powers under this Schedule have been exercised in the same person's case on two or more occasions in the previous 6 months,

this Schedule has effect with the following modifications.

(2) References to 14 days (in paragraph 5(2) and elsewhere) are to be read as references to 5 days.

(3) Paragraph 8 has effect as if the following were substituted for sub-paragraph (4)—

“(4) On an application, the judicial authority must grant an extension if satisfied that—

- (a) the relevant persons have been acting diligently and expeditiously in relation to the matters and steps referred to in sub-paragraph (5), and
- (b) there are exceptional circumstances justifying the further use of powers under this Schedule in relation to the same person.

Otherwise, the judicial authority must refuse to grant an extension.”

| *Persons unable to leave ~~the United Kingdom~~ Jersey*

- 14 (1) This paragraph applies where a person’s travel documents are retained under this Schedule with the result that, for the period during which they are so retained (“the relevant period”), the person is unable to leave ~~the United Kingdom~~Jersey.
- (2) The ~~Secretary of State~~Minister may make whatever arrangements he or she thinks appropriate in relation to the person—
- (a) during the relevant period;
- (b) on the relevant period coming to an end.
- (3) If at any time during the relevant period the person does not have leave to enter or remain in ~~the United Kingdom~~Jersey, the person’s presence in ~~the United Kingdom~~Jersey at that time is nevertheless not unlawful for the purposes of the Immigration Act 1971.

### *Offences*

- 15 (1) A person who is required under paragraph 2(5)(a) to hand over all travel documents in the person’s possession commits an offence if he or she fails without reasonable excuse to do so.
- (2) A person who intentionally obstructs, or seeks to frustrate, a search under paragraph 2 commits an offence.
- (3) A person guilty of an offence under this paragraph is liable~~—on summary conviction—~~
- (a) —to imprisonment for a term not exceeding 6 months, or
- (b) to a fine, ~~which in Scotland or Northern Ireland may not exceed~~ing level ~~35~~ on the standard scale<sup>1</sup>,
- or to both.
- 16 A qualified officer exercising a power under paragraph 2 has the same powers of arrest without warrant as a ~~constable~~police officer in relation to an offence under paragraph 15.

### *Accredited immigration officers and customs officials*

- 17 (1) For the purposes of this paragraph, a qualified officer is an “accredited” immigration officer or customs official if designated as such by the ~~Secretary of State~~Minister.
- (2) Sub-paragraphs (1), (2) and (3)(a) of paragraph 2 apply to an accredited immigration officer or customs official as they apply to a ~~constable~~police officer.

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<sup>1</sup> *i.e.* £10,000



- (3) In paragraph 2(3)(b) and (4) “qualified officer” does not include an accredited immigration officer or customs official.
- (4) In paragraphs 2(9) and 3 “immigration officer or customs official” does not include an accredited immigration officer or customs official.
- (5) Paragraph 4(1) has effect, in relation to a travel document that is in the possession of an accredited immigration officer or customs official as a result of the exercise of a power under paragraph 2 by that officer or official, as if the reference to the relevant ~~constable~~police officer were a reference to that officer or official.

### *Code of practice*

- 18 (1) The ~~Secretary of State~~Minister must issue a code of practice with regard to the exercise of functions under this Schedule.
  - (2) The code of practice must in particular deal with the following matters—
    - (a) the procedure for making designations under paragraphs 1(4) and 17;
    - (b) training to be undertaken by persons who are to exercise powers under this Schedule;
    - (c) the exercise by ~~constables~~police officers, immigration officers and customs officials of functions conferred on them by virtue of this Schedule;
    - (d) information to be given to a person in whose case a power under this Schedule is exercised;
    - (e) how and when that information is to be given;
    - (f) reviews under paragraph 6.
  - (3) A ~~constable~~police officer, immigration officer or customs official must perform functions conferred on him or her by virtue of this Schedule in accordance with any relevant provision included in the code by virtue of sub-paragraph (2)(c) to (e).
  - (4) The failure by a ~~constable~~police officer, immigration officer or customs official to observe any such provision does not of itself make him or her liable to criminal or civil proceedings.
  - (5) The code of practice—
    - (a) is admissible in evidence in criminal and civil proceedings;
    - (b) is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

~~19 (1) Before issuing the code of practice the Secretary of State must—~~

- ~~(a) — publish it in draft,~~
- ~~(b) — consider any representations made about the draft, and~~
- ~~(c) — if the Secretary of State thinks it appropriate, modify the draft in the light of any representations made.~~

~~— (2) The Secretary of State must lay a draft of the code before Parliament.~~

~~(3) Anything done before the day on which this Act is passed is as valid as if done on or after that day for the purposes of sub-paragraphs (1) and (2).~~

~~(4) Once the code has been laid in draft before Parliament the Secretary of State may bring it into operation by regulations made by statutory instrument.~~

~~(5) The first regulations under sub-paragraph (4) cease to have effect at the end of the period of 40 days beginning with the day on which the Secretary of State makes the regulations, unless a resolution approving the regulations is passed by each House of Parliament during that period.~~

~~— (6) A statutory instrument containing any subsequent regulations under sub-paragraph (4) 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) If regulations cease to have effect under sub-paragraph (5) —~~

- ~~(a) — the code of practice to which the regulations relate also ceases to have effect, but~~
- ~~(b) — that does not affect anything previously done, or the power to make new regulations or to issue a new code.~~

~~(8) For the purposes of sub-paragraph (5), the period of 40 days is to be computed in accordance with section 7(1) of the Statutory Instruments Act 1946.~~

20 (1) The ~~Secretary of State~~Minister may revise the code of practice and issue the revised code.

~~— (2) Paragraph 19 has effect in relation to the issue of a revised code as it has effect in relation to the first issue of the code.~~

## **Minister for Home Affairs**

### **DRAFT FORM OF**

**Jersey Code of Practice for Officers exercising functions under Schedule 1 to the Counter-Terrorism and Security Act 2015<sup>1</sup> in connection with seizing and retaining travel documents.**

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<sup>1</sup> As extended to Jersey by the Counter-Terrorism and Security (Jersey) Order 2017

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## **INTRODUCTION**

1. This code of practice is issued under paragraph 18 of Schedule 1 to the Counter-Terrorism and Security Act 2015 as extended to Jersey by the Counter-Terrorism and Security (Jersey) Order 2017 (referred to hereafter in this code as “Schedule 1”). It includes:

- i. the procedure under which the Minister may designate immigration officers and customs officials (“JCIS officers”) to exercise functions under Schedule 1;
  - ii. the training to be undertaken by persons who are to exercise powers under Schedule 1;
  - iii. the exercise by police and JCIS officers of their functions under Schedule 1;
  - iv. the information to be provided to a person subject to the exercise of powers under Schedule 1 and when and how that information should be provided; and
  - v. the process for reviewing the decision to authorise retention of travel documents<sup>1</sup> within 72 hours of the taking of the documents.
2. The code applies to police officers and JCIS officers only when they are exercising their functions under Schedule 1.
3. Schedule 1 provides a power to allow for the taking and retention of travel documents for a period of up to 14 days where a person is at a port and the police officer reasonably suspects that the person is there:
- i. with the intention of leaving Jersey for the purpose of involvement in terrorism-related activity outside the British Islands; or
  - ii. has arrived in Jersey with the intention of leaving again soon for the purpose of involvement in terrorism-related activity outside the British Islands.

For the purposes of this code of practice, the above is referred to as “the test”.

4. Under Schedule 1, the 14 day retention period begins at 00.00 hours on the day after the documents were first taken, e.g. if the documents were retained at 22.00 on Monday, the retention period starts from 00.00 on Tuesday and would end a fortnight later at 23.59 Monday. A senior police officer of at least the rank of chief inspector may apply to the Magistrate to extend the retention period beyond 14 days if more time is required to investigate the case or consider further disruptive action (this is referred to as the “14 day retention period”). The Magistrate cannot extend the retention period by more than 30 days, beginning at the next 00.00 hours the day after the documents were first taken (this is referred to as “the 30 day retention period”).
5. Unless travel documents need to be retained for use in criminal or deportation proceedings, they must be returned, as soon as possible, if any of the following circumstances occur (whichever comes first):
- i. if the statutory test to retain travel documents is no longer met;
  - ii. if an authorising officer has declined to authorise retention of the passport;
  - iii. where consideration of further disruptive activity has been completed and no further action taken;
  - iv. if the 14 day retention period has ended and the Magistrate has not extended.

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<sup>1</sup> Definition of travel documents can be found at paragraph 30 (see also Glossary of Terms in the **Annex**)

6. Unless travel documents need to be retained for use in criminal or deportation proceedings, then where the Magistrate has extended the period of retention of travel documents, the documents must be returned:
  - i. if the statutory test to retain travel documents is no longer met;
  - ii. where consideration of further disruptive activity has been completed and no further action taken;
  - iii. at the end of the extended period of retention set by the Magistrate, if no further extension up to 30 days has been granted;
  - iv. at the end of the 30 day period.

### Key roles

7. A police officer may determine whether the test to exercise the power is met and exercise the power to search, take, inspect and retain documents.

A police officer may:

- i. require a person to hand over all travel documents in his or her possession;
  - ii. search for travel documents relating to the person and to take possession of any the officer finds;
  - iii. inspect any travel documents relating to the person; and
  - iv. where authorisation is obtained, retain travel documents for up to 14 days.
8. In order to retain documents for a period of up to 14 days, the police officer must seek the authority of an 'authorising officer'. An 'authorising officer' means a senior police officer of at least the rank of Chief Inspector. The authorising officer must be satisfied that the test has been met. If the authorising officer does not give authorisation to retain the documents, then they must be returned to the person as soon as reasonably practicable. This procedure is referred to in this code as "authorisation". A decision on authorisation must be provided in writing or verbally as soon as is reasonably practicable. If provided verbally it should be recorded in writing as soon as is reasonably practicable.
9. JCIS officers may also exercise powers under Schedule 1. The scope of a JCIS officers' powers will depend on whether he or she has been certified by the Minister to perform specific powers under the Schedule. A JCIS officer may or may not be a designated JCIS officer.<sup>2</sup>
10. A designated JCIS officer is one who has been designated by the Minister to exercise powers under Schedule 1 where directed to do so by a police officer. Designated JCIS officers are not entitled to determine whether the test has been met. Designated JCIS Officers are entitled to exercise powers under Schedule 1 only where directed to do so by a police officer. The police officer is responsible for determining whether the test is met and for seeking authorisation. Where a designated JCIS officer has been given a direction he or she must, where possible, comply with that direction. A designated JCIS officer should pass travel documents to a police officer as soon as reasonably practicable and must do so where authorisation for retention has been given.
11. A police officer may, therefore, where satisfied that the test is met, direct a designated JCIS officer to exercise powers under Schedule 1. A police officer may direct a designated JCIS officer to:

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<sup>2</sup> Although Schedule 1 makes provision for JCIS officers to be designated by the Minister as 'accredited', no such designation is intended to be made for the time being.

- i. require a person to hand over all travel documents in his or her possession;
  - ii. search for travel documents relating to the person and take possession of any the JCIS officer finds;
  - iii. inspect any travel documents relating to the person; and
  - iv. retain travel documents relating to the person while a police officer seeks authorisation<sup>3</sup> and, where authorisation is obtained, pass the documents to a police officer.
12. There may be occasions where a JCIS officer (whether designated or not) has a concern that an individual at port may be travelling for terrorism-related purposes. If so, the JCIS officer should refer his or her concern to the police in the usual way.
13. If through the course of routine immigration duties the JCIS officer is already in lawful possession of travel documents, Schedule 1 entitles the JCIS officer to retain them while the concern is referred to the police. This referral may result in a police officer giving direction to a designated JCIS officer at a port to exercise the power under Schedule 1 or directing a JCIS officer already in possession of documents who is not designated to pass the documents to a police officer. In summary, a JCIS officer who is not designated may on direction by a police officer:
- i. retain any travel documents that have lawfully come into their possession whilst they seek advice from a police officer (which they must do as soon as possible);
  - ii. pass any travel documents that have lawfully come into their possession to a police officer.
14. Within 72 hours of a travel document first coming into the possession of a police officer or a designated JCIS officer and where retention of the document under Schedule 1 has been authorised, a reviewing officer must carry out a review of the decision by the authorising officer to authorise the retention of the documents. The term 'reviewing officer' means a senior police officer of at least the rank of Superintendent and of at least as high a rank as the authorising officer for the particular case under consideration. The reviewing officer should be outside the chain of command of the authorising officer. The review must commence *before* the 72 hour period has lapsed, beginning from the time at which the travel documents first came into possession of a police officer or JCIS officer (even if taken under a power other than Schedule 1, which means that it is crucial that the time at which the documents were first taken is recorded). The reviewing officer must write to the Chief Officer of the force to which the police officer retaining the documents belongs (or is on secondment to) in order to advise of his or her findings. The Chief Officer must consider those findings and take whatever action is appropriate. This may include either returning travel documents or upholding the original decision to retain the travel documents.
15. Under Schedule 1, there is no power to detain a person whose travel documents have been seized and retained. These powers are not intended to be used as a long-term disruption tool but as a means to take immediate action to disrupt travel where it is assessed that the purpose of the travel is involvement in terrorism-related activity outside the British Islands. This allows consideration of whether other long-term disruption action would be appropriate.

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<sup>3</sup> From a Chief Inspector



16. Once the power has been exercised, if investigations conclude that the person was not intending to leave Jersey for the purpose of involvement in terrorism-related activity outside the British Islands, travel documents must be returned to the person at the earliest opportunity.

#### Use of the power when individuals are arriving in Jersey

17. If an individual is arriving in Jersey, the power may be used if a police officer reasonably suspects that the person will leave soon for the purpose of involvement in terrorism related activity outside the British Islands. In determining 'soon' the police officer should assess whether the individual will remain in Jersey for a sufficient period to allow for alternative disruptive action to be taken in relation to the individual without the need to seize and retain his or her travel documents. If so, Schedule 1 must not be used.

#### Legal status of this code of practice

18. Police officers (of any rank) and JCIS officers (whether or not designated) must exercise any functions conferred upon them by Schedule 1 in accordance with this code of practice. This code of practice is admissible in evidence in civil and criminal proceedings and may be taken into account by a court or tribunal in any case where it is considered relevant.

19. This code of practice must be available at police offices at ports, and JCIS offices as appropriate, where the power is, or is likely to be used. The code must form part of the published departmental instructions/guidance for JCIS officers. The code should also be accessible to members of the public on the websites of the relevant agencies, including the police, Home Affairs and JCIS.

## **SCOPE OF THE POWERS**

### Reasonable suspicion

20. The power to seize and retain travel documents at a port may be exercised if the test is met. The test uses the evidential standard of 'reasonable suspicion' which is used in relation to many other police powers. What constitutes reasonable grounds for suspicion will depend on the circumstances in each individual case. There must be an objective basis for the police officer's state of mind based on facts. Such information must be specific to the personal conduct of the person. It can include observation of the behaviour of the person; information obtained from any other source; or a combination of these. Reasonable suspicion cannot be formed on the basis of assumptions about the attitudes, beliefs or behaviour of persons who belong to particular groups or categories of people. To exercise powers under Schedule 1 on this basis would be discriminatory.
21. There are two probable scenarios where a potential case for exercise of Schedule 1 may be identified:
- i. information is provided to the police before or when a person arrives at a port; or
  - ii. at port, on the basis of observation of behaviour, information obtained from any other source, or a combination of these.

### Applicability

22. Schedule 1 powers can be exercised at a port in respect of any person of any age, of any nationality, and whether or not they are resident in Jersey.
23. The power to seize and retain travel documents can play an important role in the detection and prevention of terrorism, and using the power fairly makes it more effective. The power contained in Schedule 1 must be used fairly and proportionately, with respect for the person to whom the power has been applied. The power must be exercised in accordance with the prescribed procedures and without discrimination. A failure to use the power in the proper manner may reduce its effectiveness.
24. It is unlawful for officers to discriminate against, harass or victimize any person on the grounds of the protected characteristics<sup>4</sup> of: race, sex, sexual orientation, gender reassignment, pregnancy and maternity or age when using their powers.

### Children

25. Special care must be taken when considering exercising the power where it is evident that the person is a child. For the purposes of this Code, a child means anyone who appears to be under the age of 18 in the absence of clear evidence that he or she is older.

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<sup>4</sup> See Discrimination (Jersey) Law 2013 <https://www.jerseylaw.ie/laws/revised/Pages/15.260.aspx>

26. When dealing with cases involving children (whether in family groups or unaccompanied), police officers, or designated JCIS officers, need to be aware of the necessity to safeguard a child's safety and welfare. This includes being alert to potential indicators of abuse or neglect and to the risks which abusers may pose to children.
27. Officers exercising powers under Schedule 1 must bear in mind that children can be easily intimidated especially if they are travelling alone but, equally, that they can be vulnerable to exploitation by adults wishing to further terrorist aims. While officers are not precluded from seizing and/or retaining travel documents from children, in doing so they must have due regard to the vulnerability of the child.
28. Where a police officer or JCIS officer exercises powers under Schedule 1, the following points must be considered:
- i. If it is proposed to search the child and the child is travelling with a responsible adult, the child must be searched in the presence of that responsible adult, unless that person is thought to be exerting influence or pressure which could be detrimental to the child's interest or is obstructive, or the child objects to the presence of this individual.
  - ii. If the police officer or JCIS officer decides to search the child in the absence of the responsible adult with whom that child is travelling then:
    - o the reasons for taking that decision must be recorded in writing;
    - o two officers of the same sex as the child should, where reasonably practicable, be present during the search.
  - iii. If the child is travelling unaccompanied, the officer:
    - o must attempt to contact the child's parent or legal guardian; if they cannot be contacted, the officer must assess the child's safety and welfare and consider, if necessary, the provisions of legislation such as Article 41 of the Children (Jersey) Law 2002<sup>4</sup>; and
    - o where the officer has child protection concerns, referral should be made to the appropriate police unit and/or the Children's Service. It is routine for both police and JCIS officers to make referrals to the Children's Service where child protection issues are identified and where the Children's Service will assume responsibility for the welfare of the child.

#### Location

29. The power can be exercised when the person is present at a port, that is to say, the Airport, any sea port or any other place at which a person is able, or attempting, to get on or off any craft, vessel or vehicle in connection with entering or leaving Jersey.

<sup>4</sup> <https://www.jerseylaw.je/laws/revised/PDFs/12.200.pdf>

## Travel documents

30. Under the power contained in Schedule 1, a travel document means anything that is, or appears to be:
- i. a passport; or
  - ii. a ticket or other document that permits a person to make a journey by any means, from Jersey to a place outside Great Britain or the Bailiwick of Guernsey or the Isle of Man.

This means that a boarding pass or ticket permitting travel from Jersey to Northern Ireland is 'a travel document' for the purpose of Schedule 1 and, where the test is met, can be taken and retained. However any other ticket permitting travel from Jersey to any part of the British Islands (other than Northern Ireland) cannot be taken and retained.

A passport means:

- i. a United Kingdom passport;
- ii. a passport issued by, or on behalf of, the authorities of a country or territory outside the British Islands, or by, or on behalf of, an international organisation; or
- iii. a document that can be used (in some or all circumstances) instead of a passport, such as an identity card.

## Criminal offence

31. It is a criminal offence under Schedule 1 for a person to:
- i. refuse to hand over all travel documents in his or her possession without reasonable excuse to do so; or
  - ii. intentionally obstruct or seek to frustrate a search.

A person guilty of either or both of these offences is liable to imprisonment for a term not exceeding 6 months or a fine not exceeding level 3 on the (Jersey) standard scale of fines.<sup>5</sup> A designated JCIS officer exercising this power has the same powers of arrest without warrant as a police officer in relation to these offences.

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<sup>5</sup> *i.e.* £10,000

## **EXERCISING THE POWER**

### Police training

32. Before the power comes into force, a briefing package will be rolled out to police officers located at ports and to officers of the rank of Chief Inspector and higher who will act as authorising officers and of the rank of Superintendent and higher who will act as reviewing officers. This will provide guidance on the use of the power and their functions under Schedule 1.

### Directing JCIS officers

33. In the majority of cases, it is expected that the power will be exercised by the police. However where a police officer is satisfied that the test is met, he or she has a discretion to direct a designated JCIS officer to exercise powers under Schedule 1 or to direct any other JCIS officer to retain a travel document (which the JCIS officer is already in lawful possession of) in order to pass it to a police officer as soon as reasonably practicable.

34. The discretion to direct may be useful, for example, where the police officer has received information which gives grounds to suspect that a person is en route to a particular port where there is no police presence, with the intention of leaving Jersey for the purpose of involvement in terrorism-related activity. In these circumstances, the police officer should contact JCIS at the port in question and explain that the test in Schedule 1 may be met should the person arrive at the port. The JCIS officer should make contact with the police in the event that the person arrives at a port. The police officer may then make a determination as to whether the test is met on the basis of both the prior information and any additional information offered by the JCIS officer, for example, confirmation that the person is at the port.

35. Examples of scenarios in which a police officer may exercise their power to direct a designated JCIS officer include when:

- i. a police officer determines that the test is met but he or she may not be available at a port to exercise the power;
- ii. a police officer determines that the test is met on the basis of information (such as following a conversation with JCIS officers or other law enforcement officers at a port) but it is not reasonably practicable for the police to exercise the power themselves, for example, because there is no police presence at the port.

36. A police officer may direct a designated JCIS officer verbally or in writing, but the details of the direction must be recorded in writing both by the directing police officer and by the receiving JCIS officer.

### JCIS Officer training, designation and accreditation processes

37. The Minister has the power to designate JCIS officers for the purpose of exercising functions under Schedule 1. A 'designated officer' may exercise powers under Schedule 1 where directed by a police officer to do so. 'Designated' JCIS officers will have completed the required training in the exercise of the power and received confirmation of their designated status. Designated JCIS officers will at all times require police direction to exercise the power.

38. When a JCIS officer has undertaken the training programme, it is expected that that that officer will be suitably prepared to exercise the power. At this point, the officer will receive a letter of designation from or on behalf of the Minister which will confirm his or her designation.
39. Schedule 1 provides for “accredited” JCIS officers to be able both to determine whether the test is met and to exercise the powers under that Schedule. As mentioned previously the Minister has not designated any of the JCIS officers as accredited officers; and will not do so without first having revised this code of practice.

## **APPLYING THE POWERS**

### Terrorism-related activity

40. Schedule 1 powers may only be exercised where a police officer is satisfied that a person is at a port and the officer has reasonable grounds to suspect that the person is there with the intention of travelling for the purpose of involvement in terrorism-related activity outside the British Islands. Under the power, terrorism-related activity is any one or more of the following:
- i. the commission, preparation or instigation of acts of terrorism;
  - ii. conduct that facilitates the commission, preparation or instigation of such acts, or is intended to do so;
  - iii. conduct that gives encouragement to the commission, preparation or instigation of such acts, or is intended to do so;
  - iv. conduct that gives support or assistance to individuals who are known or believed by the person concerned to be involved in the commission, preparation, or instigation of acts of terrorism.

### Searches

41. Where the test is met, a police officer or a designated JCIS officer (on the direction of a police officer) may search a person for travel documents relating to that person. Police officers and designated JCIS officers have the power to search:
- i. a person;
  - ii. anything that person has with him or her; and
  - iii. any vehicle in which the officer believes the person to have been travelling or to be about to travel.

To enable a search under this power a police officer or designated JCIS officer may:

- i. stop a person or vehicle for the purpose of exercising the power;
  - ii. if necessary, use reasonable force for the purpose of exercising the power;
  - iii. authorise a person to carry out a search on the officer's behalf.
42. Every reasonable effort must be made to minimize potential embarrassment or offence that may be caused to a person being searched. A search of a person shall be carried out by a police officer or a designated JCIS officer or another person authorised to do so on their behalf. A person authorised to carrying out a search on behalf of a police officer or a designated JCIS officer shall be of the same sex as the person searched.
43. A baggage search need not be carried out by a person of the same sex, but where that is requested or where an objection is raised to the search being conducted by a person of the opposite sex, the search should be conducted by a person of the same sex where that is reasonably practicable. If it is not reasonably practicable, the police officer or designated JCIS officer should record the objection in writing, but may proceed with the search.
44. Searches under these powers do not preclude a search being carried out under other powers if appropriate, for example where a police officer has other powers by virtue of Jersey customary law or of statute.
45. When a search of a person is carried out the police officer or designated JCIS officer must, if not uniformed, show a warrant card or similar evidence of his or her authority, but need not give his or her name. If requested, the police officer or designated JCIS officer must provide sufficient information to the person or his or her representative, such as an identification number and location, which would enable the officer to be identified in the event of any query or complaint.

## **RETENTION OF TRAVEL DOCUMENTS**

46. Travel documents may be retained for up to 14 days for the purpose of disrupting an individual's ability to leave Jersey while investigations are undertaken into whether it is appropriate to take further disruptive action against the individual.
47. Travel documents may continue to be retained:
- i. while consideration is given to canceling the person's passport;
  - ii. while consideration is given to charging the person with an offence;
  - iii. while consideration is given to making the person subject to any order or measure to be made or imposed by a court, or by the Minister for purposes connected with protecting members of the public from a risk of terrorism; or
  - iv. while steps are taken to carry out any of these measures.

### **Temporary support arrangements**

48. This power can be used against any person of any nationality. The person does not need to be resident in Jersey or elsewhere in the British Islands.
49. Retaining the passport (and other travel documents, if applicable) of a person who is not resident in Jersey or elsewhere in the British Islands will have the effect of preventing the individual from returning to their country of residence for the 14 day retention period (or potentially up to 30 days if the retention period is extended by the Magistrate). The power to retain travel documents of persons not resident in the British Islands must be exercised only where there are compelling reasons to do so. This is because the exercise of the power in relation to persons not resident in the British Islands is likely to have a significantly greater impact upon that person's freedoms than if that person were so resident. Accordingly for the exercise of the power to be proportionate in these circumstances, the police officer must be able to demonstrate that there are particularly compelling reasons for exercising it.
50. Where the power to retain the passport is exercised against a non-resident person, a police officer or designated JCIS officer must inform the person that if he or she does not have the means to cover basic living costs for the duration of the retention period, provision may be made for basic accommodation and living costs.

### **Immigration status**

51. Where authorisation is obtained for retention of travel documents belonging to a person who is a foreign national, the officer exercising the power must inform the person that his or her presence in Jersey is lawful whilst the person's documents are being retained. Individuals who do not have leave to remain in Jersey will be expected to take all reasonable steps to leave Jersey once their travel documents are returned. If the foreign national has leave to remain in Jersey, he or she would remain on those leave conditions unless/until they are altered under immigration powers. This information should form part of the notice that is served in writing to the individual at port, as described at paragraph 69 of the code.
52. If the exercise of this power means that travel companions are also unable to leave Jersey during the retention period, JCIS may use pre-existing immigration powers to permit entry or leave to remain in Jersey, if required. Applications for leave or entry should be considered on a case-by-cases basis.



## 72 hour review of authorisation

53. Within 72 hours of travel documents being seized and retained, beginning from the time at which the travel documents first came into possession of the officer (even if taken under a power other than Schedule 1, in which case the time documents were first taken must be recorded) a reviewing officer must consider whether the decision to authorise the retention of the documents was flawed. The reviewing officer must be a senior police officer of at least the rank of Superintendent and of at least as high a rank as the authorising officer in the case under review. The reviewing officer should be outside the chain of command of the authorising officer. All relevant papers and records held by any officer exercising functions under Schedule 1 must be made available to the reviewing officer for the purposes of their review.
54. The findings of the review must be communicated in writing to the Chief Officer. The Chief Officer must consider it and take whatever action he or she deems appropriate. This may include returning travel documents or upholding the original decision to retain the travel documents. If the Chief Officer decides to take action that is not in accordance with the findings of the review then he or she must record their reasoning in writing.
55. All 72 hour review letters should if possible be copied to the National Policing Lead for Counter-Terrorism for their information. If designated JCIS officers were involved in the incident, the reviewing officer should consider whether their chain of command should also be involved in this correspondence, for information.
56. Application to the Magistrate for an extension of the 14 day retention period

If it is assessed that additional time is required to investigate whether it is appropriate to take alternative disruptive measures against a person, a police officer of at least the rank of Chief Inspector may apply to the Magistrate for an extension of the retention period beyond the 14 day period. The Magistrate cannot grant an extension that exceeds the 30 day retention period. Any application must be made before the end of the initial 14 day retention period. An application will only be heard if reasonable efforts have been made to notify the person to whom the application relates of the time when the application was made and of the date, time and location of the hearing.

57. At a hearing, the Magistrate will neither examine the merits of the exercise of the power nor review the officer's decision to exercise it. The Magistrate will instead consider whether persons responsible for considering the possibility of taking additional disruptive action (and taking steps in relation to that) have been acting diligently and expeditiously in the investigation. If the Magistrate concludes that they have been, then he or she must grant an extension. Any extension granted by the Magistrate cannot extend the retention period beyond the 30 day period. If the Magistrate grants an extension for a period ending before the end of the 30 day period the police may make one further application to extend the retention period but not beyond the 30 day retention period.
58. The person to whom the application relates must be given the opportunity to make oral or written representations to the Magistrate in relation to the application. The person is entitled to be legally represented at the hearing. An adjournment may be granted by the Magistrate to enable the person to obtain legal representation. The adjournment must be to a date before the end of the 30 day period, and the retention of the travel documents must also be extended until that date.

59. The Magistrate may exercise discretion to exclude the person to whom the application relates and their legal representative from any part of the court hearing. Any application to invite the Magistrate to exclude must be made to him or her only where it is considered that disclosure of matters referred to in that part of the hearing to the person or his legal representatives would damage national security. In addition, the police may apply to the Magistrate for an order to withhold specified information from the individual or their legal representative. To make this order, the Magistrate must be satisfied that there are reasonable grounds for believing that if the specified information were disclosed:
- i. evidence of an offence under the Terrorism (Jersey) Law 2002 would be interfered with or harmed;
  - ii. the recovery of property obtained as a result of an offence under the Terrorism (Jersey) Law 2002 would be hindered;
  - iii. the recovery of property in respect of which a forfeiture order could be made under the Terrorism (Jersey) Law 2002 would be hindered;
  - iv. the apprehension, prosecution or conviction of a person who is suspected of being a terrorist would be made more difficult as a result of the person being alerted;
  - v. the prevention of an act of terrorism would be made more difficult as a result of a person being alerted;
  - vi. the gathering of information about the commission, preparation or instigation of an act of terrorism would be interfered with;
  - vii. a person would be interfered with or physically injured; or
  - viii. national security would be put at risk.
60. Where an application is made to withhold such information from the person, the Magistrate must exclude the person and his or her legal representatives from the hearing of that application.
61. If the Magistrate does not grant an extension of the retention period, the travel documents must be returned no later than the expiry of the retention period.

#### Restrictions on repeated use of the powers against the same person

62. If the power is exercised against the same person more than twice in any six month period, on the third occasion (and on any subsequent occasion in that six month period), then the retention period is limited to five days, instead of 14 days, beginning from 00.00 hours on the day after the travel documents were taken. To extend retention beyond this period, a senior police officer of at least the rank of Chief Inspector must apply to the Magistrate under the same procedure as that outlined above. A further extension (of up to 30 days) may only be granted where the Magistrate is satisfied that the relevant persons are acting diligently and expeditiously in relation to the matters referred to at paragraph 47 of the code and there are circumstances justifying the further use of the power in relation to the same person.
63. The power is not meant to be used as a long term disruptive tool but as a means to enable the police to take immediate action to disrupt travel while investigations are undertaken into whether an alternative disruptive action would be appropriate. It would be highly unusual for the power to be exercised in such quick succession against the same individual in a six month period. There must be exceptional circumstances justifying the further use of this power in relation to the same person.

## Notification requirements

64. A police officer or designated JCIS officer exercising a power to take possession of travel documents or to search for travel documents must inform the person subject to the exercise of those powers that:
- i. the person is suspected of intending to leave Jersey for the purpose of involvement in terrorism-related activity outside the British Islands, and
  - ii. the police officer or designated JCIS officer is therefore entitled under Schedule 1 to the Counter Terrorism and Security Act to exercise the power to take possession of these documents.
65. A police officer or designated JCIS officer is entitled to retain travel documents that have come into his or her possession under Schedule 1 while an application for authorisation is considered by a senior officer. Where the officer is retaining the documents pending authorisation, and the officer does not expect the authorisation to be dealt with immediately, the officer must additionally inform the person that:
- i. the person is suspected of intending to leave Jersey for the purposes of involvement in terrorism-related activity outside the British Islands (if the person has not already been informed of this during exercise of powers referred to above); and
  - ii. the police officer or designated JCIS officer is therefore entitled under Schedule 1 to the Counter-Terrorism and Security Act to retain the document while the matter is considered by a senior police officer (authorising officer).
66. A JCIS officer (whether designated or not) may be directed by a police officer to pass travel documents which are already lawfully in the officer's possession to a police officer. The JCIS officer must tell the person that the person's travel documents have been passed to the police because he or she is suspected of intending to leave Jersey for the purpose of involvement in terrorism-related activity outside the British Islands, and that the police are holding the person's documents whilst consideration is given to whether the documents should be retained. This does not apply if the JCIS officer expects the police to deal with the application for authorisation immediately.
67. Where authorisation is granted, the police officer or designated JCIS officer must inform the person that authorisation from a senior police officer has been given to retain their travel documents and that this means that the documents may be retained for up to 14 days while any of the following takes place:
- i. while consideration is given to canceling the person's passport (in the case of a British passport);
  - ii. while consideration is given to charging the person with an offence;
  - iii. while consideration is given to making the person subject to any order or measure to be made or imposed by a court, or by the Minister for purposes connected with protecting members of the public from a risk of terrorism; or
  - iv. while steps are taken to carry out any of these measures.
68. The individual must also be informed that the travel documents cannot be retained beyond 14 days, beginning 00.00 the day after the documents were seized, unless the retention period is extended by the Magistrate, in which case the documents cannot be retained for more than 30 days in total; and that the travel documents must be returned once the 14 day period (or extended period) expires, or if the above conditions no longer apply, whichever comes first.

## Written notification

69. Where authorisation has been granted by a senior police officer, the officer (whether a police officer or a designated JCIS officer) in possession of the travel documents must issue a written notice at port informing the individual that his or her travel documents are being retained under Paragraph 5 of Schedule 1 to the Counter Terrorism and Security Act 2015. The notice should:
- i. provide a case reference number;
  - ii. state the date and time at when the documents first came into possession of the officer (whether or not by means of exercise of Schedule 1 powers);

- iii. inform the person that his or her travel documents are being retained under Paragraph 5 of Schedule 1 to the Counter-Terrorism and Security Act 2015;
- iv. inform the person that if he or she is a foreign national who requires leave to enter or remain in Jersey and is already in possession of valid leave that:
  - o he or she would remain on those leave conditions unless/until action is taken to review that leave status under immigration law, or that
  - o if he or she is a foreign national who requires leave to enter or remain in Jersey and does not have leave or the person's leave expires within the next 30 days that he or she will be deemed to be not unlawfully in Jersey during the retention period;
- v. provide contact details to enable the individual to contact the police regarding the retention of their travel documents;
- vi. advise that the documents may be retained by the police for up to 14 days (or 30 if extended by the Magistrate) and that the retention period begins at 00.00 on the day after the day on which documents are seized;
- vii. explain that the person's documents will be securely stored;
- viii. inform the person that, where the police are in possession of the person's address, they will, if appropriate, return the documents to him or her by secure post, or advise of how to make alternative arrangements to collect the travel documents;
- ix. provide information about where this Code of Practice can be accessed;
- x. provide information about how an individual can make a complaint;
- xi. confirm that the individual has a right to legal representation at any court hearing to extend the period of retention;
- xii. inform the person that they may write to the police at a given address to request reasons for the retention of their travel documents and the police must provide a response within 42 days. This notice should inform the person that they will not be provided with any information that might prejudice national security; and
- xiii. invite the person to notify the police of the person's place of residence or the contact details of his or her lawyer so that the lawyer can be notified if an application for further extension of the documents' retention is made.

70. If a person's travel documents are returned within 14 days from the day after they were retained, an accompanying notice will be issued with the travel documents by the police reminding the individual that he or she may formally request reasons as to why their travel documents were seized and retained. If a formal request is received, as full a response as possible (consistent with protecting national security and other data protection considerations) must be provided within 42 days.

71. If an application is made to the Magistrate to extend the retention period of the travel documents, a notice must be issued by the police to the person concerned informing him or her of the application to extend the retention period. While the court hearing will not examine the merits of the exercise of this power nor review the officer's decision to exercise it, this notice should inform the individual of the reasons why his or her travel documents were seized and retained as fully as possible without prejudicing national security (and consistent with other data protection considerations). This will enable a person to understand why the person is under investigation and in turn to consider whether the case is being considered diligently and expeditiously. The notice should also inform the individual of the time on which the application to the Magistrate was made and the time and location of the hearing. It must confirm the person's right to make written or oral representations to the Magistrate and his or her entitlement to legal representation.

### Written disclosure

72. A police officer exercising the power to retain documents under Schedule 1 must issue the person subject to the exercise of this power with reasons for its exercise in their case if requested. The reasons must be as full as possible but without prejudicing national security. Accordingly, the police officer must very carefully consider the level of detail provided. A case-by-case assessment should take place to consider what information can be disclosed to an individual without damaging national security.

### Monitoring of the use of the power

73. The police must monitor the use of this power and should consider in particular whether there is any evidence that it is being exercised on the basis of stereotyped images or inappropriate generalisations. Consideration should be given to whether the records reveal any trends or patterns which give cause for concern, and if so take appropriate action to address this. Monitoring records should, where possible, include:

- i. Age;
- ii. Disability;
- iii. Gender;
- iv. Race;
- v. Religion and Beliefs; and
- vi. Sexuality.

### Return of travel documents

74. The individual should have been informed at the point of retention that his or her travel documents will be returned by secure post (if appropriate). If alternative arrangements are necessary, the individual should be informed of these arrangements as required.

## **COMPLAINTS**

### Complaints about the Police

75. Complaints about the conduct of police officers exercising the powers under Schedule 1 should be directed to the appropriate authorities and dealt with in accordance with the Police (Complaints and Discipline) (Jersey) Law 1999.<sup>6</sup> This is the link to the official website of the Jersey Police Complaints Authority (JPCA) <https://www.gov.je/Government/Comments/Pages/PoliceComplaintsAuthority.aspx>.

### Complaints about JCIS officers

76. Complaints about the conduct of JCIS officers exercising the power should be sent to:

- Jersey Customs and Immigration Service, Maritime House, Avenue de la Reine, St Helier, Jersey.

Notification of the outcome of any complaint must include information about how to appeal the decision and any time limits involved.

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<sup>6</sup> <https://www.jerseylaw.je/laws/revised/PDFs/23.325.pdf>

## ANNEX

### GLOSSARY OF KEY TERMS

<b>14 day period</b>	The 14 day period starts from the next 00.00 hours the day after the taking of the travel documents e.g. if the documents were retained at 22.00 on Monday, the retention period starts from 00.00 on Tuesday and would end a fortnight later on 23.59 Monday.
<b>30 day period</b>	The 30 day period starts the next 00.00 hours the day after the taking of the travel documents
<b>Schedule 1</b>	Schedule 1 to the Counter Terrorism and Security Act 2015, as extended to Jersey by the Counter Terrorism and Security (Jersey) Order 2017
<b>The power</b>	The power under Schedule 1 to seize and retain travel documents
<b>Authorising officer</b>	A police officer of at least the rank of Chief Inspector who must authorise the retention of travel documents.
<b>JCIS officer</b>	A Jersey immigration officer or a customs official.
<b>Police officer</b>	A member of the States of Jersey Police Force or a Member of the Honorary Police
<b>Designated JCIS officer</b>	A JCIS officer who has been designated by the Minister to exercise the power, but only on direction from a police officer.
<b>Involvement in terrorism-related activity</b>	<p>Involvement in terrorism-related activity is any one or more of the following:</p> <ul style="list-style-type: none"> <li>a) the commission, preparation or instigation of acts of terrorism;</li> <li>b) conduct that facilitates the commission, preparation or instigation of such acts, or is intended to do so;</li> <li>c) conduct that gives encouragement to the commission, preparation or instigation of such acts, or is intended to do so;</li> <li>d) conduct that gives support or encouragement to individuals who are known or believed by the person concerned to be involved in conduct falling within paragraph a).</li> </ul> <p>It is immaterial whether the acts of terrorism in question are specific acts of terrorism or acts of terrorism in general.</p>
<b>Judicial Authority</b>	The Magistrate is the judicial authority referred to in Schedule 1 that presides over applications to extend travel document retention periods.
<b>Passport</b>	A United Kingdom passport or a passport issued by or on behalf of

	the authorities of a country or territory outside the British Islands, or by or on behalf of an international organisation, or a document that can be used (in some or all circumstances) instead of a passport.
<b>Port</b>	An airport, a sea port, or any other place in Jersey at which a person is able, or attempting, to get on or off any craft, vessel or vehicle in connection with entering or leaving Jersey.
<b>Reviewing officer</b>	A senior police officer of at least the rank of Superintendent and of at least the same rank as the authorising officer who took the decision in the case, who will review the decision to authorise retention of documents within 72 hours.
<b>Senior police officer</b>	A police officer of at least the rank of Chief Inspector.
<b>Travel documents</b>	Anything that is or appears to be (a) a passport, or (b) a ticket or other document that permits a person to make a journey by any means from Jersey to a place outside Great Britain or the Bailiwick of Guernsey or the Isle of Man <i>i.e.</i> a ticket permitting travel outside the UK or from Jersey to Northern Ireland (but not from Northern Ireland to Jersey).

SCHEDULE 2

URGENT TEMPORARY EXCLUSION ORDERS: REFERENCE TO THE COURT ETC

*Application*

- 1 This Schedule applies if the ~~Secretary of State~~Minister—
- (a) makes the urgent case decisions in relation to an individual, and
  - (b) imposes a temporary exclusion order on the individual.

*Statement of urgency*

- 2 The temporary exclusion order must include a statement that the ~~Secretary of State~~Minister reasonably considers that the urgency of the case requires the order to be imposed without obtaining the permission of the ~~court~~Royal Court under section 3.

*Reference to ~~court~~Royal Court*

- 3
- (1) Immediately after giving notice of the imposition of the temporary exclusion order, the ~~Secretary of State~~Minister must refer to the ~~court~~Royal Court the imposition of the order on the individual.
  - (2) The function of the ~~court~~Court on the reference is to consider whether the urgent case decisions were obviously flawed.
  - (3) The ~~court's~~Court's consideration of the reference must begin within the period of 7 days beginning with the day on which notice of the imposition of the temporary exclusion order is given to the individual.
  - (4) The ~~court~~Court may consider the reference—
    - (a) in the absence of the individual,
    - (b) without the individual having been notified of the reference, and
    - (c) without the individual having been given an opportunity (if the individual was aware of the reference) of making any representations to the ~~court~~Court.
  - (5) But that does not limit the matters about which rules of court may be made.

*Decision by ~~court~~Royal Court*



- 4 (1) In a case where the ~~eourt~~Royal Court determines that any of the relevant decisions of the ~~Secretary of State~~Minister is obviously flawed, the ~~eourt~~Court must quash the temporary exclusion order.
- (2) If sub-paragraph (1) does not apply, the ~~eourt~~Court must confirm the temporary exclusion order.
- (3) If the ~~eourt~~Court determines that the decision of the ~~Secretary of State~~Minister that the urgency condition is met is obviously flawed, the ~~eourt~~Court must make a declaration of that determination (whether it quashes or confirms the temporary exclusion order under the preceding provisions of this paragraph).

#### *Procedures on reference*

- 5 (1) In determining a reference under paragraph 3, the ~~eourt~~Royal Court must apply the principles applicable on an application for judicial review.
- (2) The ~~eourt~~Court must ensure that the individual is notified of the ~~eourt's~~Court's decision on a reference under paragraph 3.

#### *Interpretation*

- 6 (1) References in this Schedule to the urgency condition being met are references to condition E being met by virtue of section 2(7)(b) (urgency of the case requires a temporary exclusion order to be imposed without obtaining the permission of the ~~eourt~~Royal Court).
- (2) In this Schedule “the urgent case decisions” means the relevant decisions and the decision that the urgency condition is met.
- (3) In this Schedule “the relevant decisions” means the decisions that the following conditions are met—
  - (a) condition A;
  - (b) condition B;
  - (c) condition C;
  - (d) condition D.

SCHEDULE 3  
TEMPORARY EXCLUSION ORDERS: PROCEEDINGS

*Introductory*

1 In this Schedule—

“appeal proceedings” means proceedings in the Court of Appeal ~~or the Inner House of the Court of Session~~ on an appeal relating to TEO proceedings;

“the relevant court” means—

- (a) in relation to TEO proceedings, the ~~court~~ Royal Court;
- (b) in relation to appeal proceedings, the Court of Appeal ~~or the Inner House of the Court of Session~~;

“rules of court” means rules for regulating the practice and procedure to be followed in the ~~court~~ Royal Court or the Court of Appeal ~~or the Inner House of the Court of Session~~;

“TEO proceedings” means proceedings on—

- (a) an application under section 3,
- (b) a reference under Schedule 2,
- (c) a review under section 11, or
- (d) an application made by virtue of paragraph 6 of this Schedule (application for order requiring anonymity).

*Rules of court: general provision*

2 (1) ~~A person~~ Regard must be had, in making rules of court relating to TEO proceedings or appeal proceedings, ~~must have regard~~ to the need to secure the following—

- (a) that the decisions that are the subject of the proceedings are properly reviewed, and
- (b) that disclosures of information are not made where they would be contrary to the public interest.

(2) Rules of court relating to TEO proceedings or appeal proceedings may make provision—

- (a) about the mode of proof and about evidence in the proceedings;

- (b) enabling or requiring the proceedings to be determined without a hearing;
  - (c) about legal representation in the proceedings;
  - (d) enabling the proceedings to take place without full particulars of the reasons for the decisions to which the proceedings relate being given to a party to the proceedings (or to any legal representative of that party);
  - (e) enabling the relevant court to conduct proceedings in the absence of any person, including a party to the proceedings (or any legal representative of that party);
  - (f) about the functions of a person appointed as—~~a~~ special advocatecounsel (see paragraph 10);
  - (g) enabling the relevant court to give a party to the proceedings a summary of evidence taken in the party’s absence.
- (3) In this paragraph—
- (a) references to a party to the proceedings do not include the ~~Secretary of State~~Minister;
  - (b) references to a party’s legal representative do not include a person appointed as~~a~~ special advocatecounsel.

*Rules of court: disclosure*

- 3 (1) Rules of court relating to TEO proceedings or appeal proceedings must secure that the ~~Secretary of State~~Minister is required to disclose—
- (a) material on which the ~~Secretary of State~~Minister relies,
  - (b) material which adversely affects the ~~Secretary of State’s~~Minister’s case, and
  - (c) material which supports the case of another party to the proceedings.
- (2) This paragraph is subject to paragraph 4.
- 4 (1) Rules of court relating to TEO proceedings or appeal proceedings must secure—
- (a) that the ~~Secretary of State~~Minister has the opportunity to make an application to the relevant court for permission not to disclose material otherwise than to the relevant court and any person appointed as~~a~~ special advocatecounsel;
  - (b) that such an application is always considered in the absence of every party to the proceedings (and every party’s legal representative);

- (c) that the relevant court is required to give permission for material not to be disclosed if it considers that the disclosure of the material would be contrary to the public interest;
  - (d) that, if permission is given by the relevant court not to disclose material, it must consider requiring the ~~Secretary of State~~Minister to provide a summary of the material to every party to the proceedings (and every party's legal representative);
  - (e) that the relevant court is required to ensure that such a summary does not contain material the disclosure of which would be contrary to the public interest.
- (2) Rules of court relating to TEO proceedings or appeal proceedings must secure that provision to the effect mentioned in sub-paragraph (3) applies in cases where the ~~Secretary of State~~Minister—
- (a) does not receive the permission of the relevant court to withhold material, but elects not to disclose it, or
  - (b) is required to provide a party to the proceedings with a summary of material that is withheld, but elects not to provide the summary.
- (3) The relevant court must be authorised—
- (a) if it considers that the material or anything that is required to be summarised might adversely affect the ~~Secretary of State's~~Minister's case or support the case of a party to the proceedings, to direct that the ~~Secretary of State~~Minister—
    - (i) is not to rely on such points in the ~~Secretary of State's~~Minister's case, or
    - (ii) is to make such concessions or take such other steps as the court may specify, or
  - (b) in any other case, to ensure that the ~~Secretary of State~~Minister does not rely on the material or (as the case may be) on that which is required to be summarised.
- (4) In this paragraph—
- (a) references to a party to the proceedings do not include the ~~Secretary of State~~Minister;
  - (b) references to a party's legal representative do not include a person appointed as ~~a special~~ advocatecounsel.

*Article 6 rights*

- 5
- (1) Nothing in paragraphs 2 to 4, or in rules of court made under any of those paragraphs, is to be read as requiring the relevant court to act in a manner inconsistent with Article 6 of the Human Rights Convention.
  - (2) The “Human Rights Convention” means the Convention within the meaning of the ~~Human Rights Act 1998~~Human Rights (Jersey) Law 2000 (see ~~section 21(1) of that Act~~Article 1(1) of that Law).

*Rules of court: anonymity*

- 6
- (1) Rules of court relating to TEO proceedings may make provision for—
    - (a) the making by the ~~Secretary of State~~Minister or the relevant individual of an application to the ~~court~~Royal Court for an order requiring anonymity for that individual, and
    - (b) the making by the ~~court~~Royal Court, on such an application, of an order requiring such anonymity;and the provision made by the rules may allow the application and the order to be made irrespective of whether any other TEO proceedings have been begun in the ~~court~~Court.
  - (2) Rules of court may provide for the Court of Appeal ~~or the Inner House of the Court of Session~~ to make an order in connection with any appeal proceedings requiring anonymity for the relevant individual.
  - (3) In sub-paragraphs (1) and (2) the references, in relation to a court, to an order requiring anonymity for the relevant individual are references to an order by that court which imposes such prohibition or restriction as it thinks fit on the disclosure—
    - (a) by such persons as the court specifies or describes, or
    - (b) by persons generally,of the identity of the relevant individual or of any information that would tend to identify the relevant individual.
  - (4) In this paragraph “relevant individual” means an individual on whom the ~~Secretary of State~~Minister is proposing to impose, or has imposed, a temporary exclusion order.

*~~Initial exercise of rule-making powers by Lord Chancellor~~*

- ~~7~~
- ~~(1) The first time after the passing of this Act that rules of court are made in exercise of the powers conferred by this Schedule in relation to proceedings in England and Wales or in Northern Ireland, the rules may be made by the Lord Chancellor instead of by the person who would otherwise make them.~~

- ~~(2) — Before making rules of court under sub-paragraph (1), the Lord Chancellor must consult—~~
- ~~(a) — in relation to rules applicable to proceedings in England and Wales, the Lord Chief Justice of England and Wales;~~
  - ~~(b) — in relation to rules applicable to proceedings in Northern Ireland, the Lord Chief Justice of Northern Ireland.~~
- ~~(3) — But the Lord Chancellor is not required to undertake any other consultation before making the rules.~~
- ~~(4) — A requirement to consult under sub-paragraph (2) may be satisfied by consultation that took place wholly or partly before the passing of this Act.~~
- ~~(5) — Rules of court made by the Lord Chancellor under sub-paragraph (1)—~~
- ~~(a) — must be laid before Parliament, and~~
  - ~~(b) — if not approved by a resolution of each House before the end of 40 days beginning with the day on which they were made, cease to have effect at the end of that period.~~
- ~~(6) — In determining that period of 40 days no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.~~
- ~~(7) — If rules cease to have effect in accordance with sub-paragraph (5)—~~
- ~~(a) — that does not affect anything done in previous reliance on the rules, and~~
  - ~~(b) — sub-paragraph (1) applies again as if the rules had not been made.~~
- ~~(8) — The following provisions do not apply to rules of court made by the Lord Chancellor under this paragraph—~~
- ~~(a) — section 3(6) of the Civil Procedure Act 1997 (parliamentary procedure for civil procedure rules);~~
  - ~~(b) — section 56(1), (2) and (4) of the Judicature (Northern Ireland) Act 1978 (statutory rules procedure).~~
- ~~(9) — Until the coming into force of section 85 of the Courts Act 2003, the reference in sub-paragraph (8)(a) to section 3(6) of the Civil Procedure Act 1997 is to be read as a reference to section 3(2) of that Act.~~

### *Use of advisers*

- 8 (1) In any TEO proceedings or appeal proceedings the relevant court may if it thinks fit—
- (a) call in aid one or more advisers ~~appointed for the purposes of this paragraph by the Lord Chancellor~~ able to be called in aid by the equivalent court in England and Wales, and

(b) hear and dispose of the proceedings with the assistance of the adviser or advisers.

~~(2) The Lord Chancellor may appoint advisers for the purposes of this paragraph only with the approval of—~~

~~(a) the Lord President of the Court of Session, in relation to an adviser who may be called in aid wholly or mainly in Scotland;~~

~~(b) the Lord Chief Justice of Northern Ireland, in relation to an adviser who may be called in aid wholly or mainly in Northern Ireland;~~

~~(c) the Lord Chief Justice of England and Wales, in any other case.~~

(3) Rules of court may regulate the use of, and payment of remuneration, expenses and allowances to, advisers in proceedings who are called in aid under sub-paragraph (1).

~~(4) The Lord Chancellor may pay such remuneration, expenses and allowances to advisers appointed for the purposes of this paragraph as the Lord Chancellor may determine.~~

~~9 (1) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise the function under paragraph 8(2)(a).~~

~~(2) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise the function under paragraph 8(2)(b)—~~

~~(a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;~~

~~(b) a Lord Justice of Appeal (as defined in section 88 of that Act).~~

~~(3) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise the function under paragraph 8(2)(c).~~

#### *Appointment of special advocate counsel*

10 (1) The ~~appropriate law officer~~ Attorney General may appoint a person to represent the interests of a party in any TEO proceedings or appeal proceedings from which the party (and any legal representative of the party) is excluded.

(2) A person appointed under sub-paragraph (1) is referred to in this Schedule as appointed as a “special advocate counsel”.

~~(3) The “appropriate law officer” is—~~

~~(a) in relation to proceedings in England and Wales, the Attorney General;~~

- ~~(b) in relation to proceedings in Scotland, the Advocate General for Scotland;~~
- ~~(c) in relation to proceedings in Northern Ireland, the Advocate General for Northern Ireland.~~
- (4) A person appointed as a special advocatecounsel is not responsible to the party to the proceedings whose interests the person is appointed to represent.
- ~~(5) A person may be appointed as a special advocate only if—~~
- ~~(a) in the case of an appointment by the Attorney General, the person has a general qualification for the purposes of section 71 of the Courts and Legal Services Act 1990;~~
- ~~(b) in the case of an appointment by the Advocate General for Scotland, the person is an advocate or a solicitor who has rights of audience in the Court of Session or the High Court of Justiciary by virtue of section 25A of the Solicitors (Scotland) Act 1980;~~
- ~~(c) in the case of an appointment by the Advocate General for Northern Ireland, the person is a member of the Bar of Northern Ireland.~~
- (5) A person may be appointed as special counsel only if –
- (a) the person is a member of the panel referred to in sub-paragraph (6);  
or
- (b) the person is eligible to be appointed as a special advocate in equivalent TEO proceedings or appeal proceedings in any part of the United Kingdom.
- (6) The Attorney General shall appoint a panel of persons, such panel consisting of not less than 10 advocates of the Royal Court, for the purposes of this paragraph.
- (7) A person appointed under sub-paragraph (6) may be removed from the panel at any time by the Attorney General whether or not at the person's request.

*Relationship with other powers to make rules of court and other proceedings*

- 11 Nothing in this Schedule is to be read as restricting—
- (a) the power to make rules of court or the matters to be taken into account when doing so, ~~or~~
- ~~(b) the application of sections 6 to 14 of the Justice and Security Act 2013 (closed material proceedings).~~



SCHEDULE 4  
TEMPORARY EXCLUSION ORDERS: APPEALS AGAINST CONVICTIONS

*Right of appeal*

- 1 (1) An individual who has been convicted of an offence under section 10(1) or (3) may appeal against the conviction if—
  - (a) a temporary exclusion order is quashed, and
  - (b) the individual could not have been convicted had the quashing occurred before the proceedings for the offence were brought.
- (2) An individual who has been convicted of an offence under section 10(3) may appeal against the conviction if—
  - (a) a notice under section 9, or a permitted obligation imposed by such a notice, is quashed, and
  - (b) the individual could not have been convicted had the quashing occurred before the proceedings for the offence were brought.

*Court in which appeal to be made*

- 2 An appeal under this Schedule is to be made—
  - (a) in the case of a conviction ~~before the Royal Court on indictment in England and Wales or Northern Ireland~~, to the Court of Appeal;
  - (b) in the case of a conviction ~~before the Magistrate’s Court on indictment or summary conviction in Scotland~~, to the ~~High Court of Justiciary~~ Royal Court;
  - ~~(c) in the case of a summary conviction in England and Wales, to the Crown Court; or~~
  - ~~(d) in the case of a summary conviction in Northern Ireland, to the county court.~~

*When the right of appeal arises*

- 3 (1) The right of appeal under this Schedule does not arise until there is no further possibility of an appeal against—
  - (a) the decision to quash the temporary exclusion order, notice or permitted obligation (as the case may be), or
  - (b) any decision on an appeal made against that decision.

- (2) In determining whether there is no further possibility of an appeal against a decision of the kind mentioned in sub-paragraph (1), any power to extend the time for giving notice of application for leave to appeal, or for applying for leave to appeal, must be ignored.

### *The appeal*

- 4 (1) On an appeal under this Schedule to any court, that court must allow the appeal and quash the conviction.
- (2) An appeal under this Schedule to the Court of Appeal against a conviction ~~on indictment~~before the Royal Court—
- (a) may be brought irrespective of whether the appellant has previously appealed against the conviction;
  - (b) may not be brought after the end of the period of 28 days beginning with the day on which the right of appeal arises by virtue of paragraph 3; and
  - (c) is to be treated as an appeal under ~~section 1 of the Criminal Appeal Act 1968 or, in Northern Ireland, under section 1 of the Criminal Appeal (Northern Ireland) Act 1980~~Article 24 of the Court of Appeal (Jersey) Law 1961, but does not require leave ~~in either case~~.
- ~~(3) An appeal under this Schedule to the High Court of Justiciary against a conviction on indictment—~~
- ~~(a) may be brought irrespective of whether the appellant has previously appealed against the conviction;~~
  - ~~(b) may not be brought after the end of the period of 28 days beginning with the day on which the right of appeal arises by virtue of paragraph 3; and~~
  - ~~(c) is to be treated as an appeal under section 106 of the Criminal Procedure (Scotland) Act 1995 for which leave has been granted.~~
- ~~(4) An appeal under this Schedule to the High Court of Justiciary against a summary conviction—~~
- ~~(a) may be brought irrespective of whether the appellant pleaded guilty;~~
  - ~~(b) may be brought irrespective of whether the appellant has previously appealed against the conviction;~~

- ~~(c) — may not be brought after the end of the period of two weeks beginning with the day on which the right of appeal arises by virtue of paragraph 3;~~
- ~~(d) — is to be by note of appeal, which shall state the ground of appeal;~~
- ~~(e) — is to be treated as an appeal for which leave has been granted under Part 10 of the Criminal Procedure (Scotland) Act 1995; and~~
- ~~(f) — must be in accordance with such procedure as the High Court of Justiciary may, by Act of Adjournal, determine.~~

(5) An appeal under this Schedule to the ~~Crown Court~~ Royal Court ~~or to the county court in Northern Ireland~~ against a ~~summary~~ conviction before the Magistrate's Court—

- (a) may be brought irrespective of whether the appellant pleaded guilty;
- (b) may be brought irrespective of whether the appellant has previously appealed against the conviction or made an application in respect of the conviction under ~~section 111 of the Magistrates' Courts Act 1980 or Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26))~~ Article 21 of the Magistrate's Court (Miscellaneous Provisions) (Jersey) Law 1949 (case stated);
- (c) may not be brought after the end of the period of 21 days beginning with the day on which the right of appeal arises by virtue of paragraph 3; and
- (d) is to be treated as an appeal under Article 17(1)(b) of that Law ~~section 108(1)(b) of that Act or, in Northern Ireland, under Article 140(1)(b) of that Order.~~

**PART 4**

AVIATION; ~~AND SHIPPING AND RAIL~~

**22 Authority-to-carry schemes**

- (1) The ~~Minister~~Secretary of State may by Order make one or more schemes requiring a person (a “carrier”) to seek authority from the ~~Minister~~Secretary of State to carry persons on aircraft, or ~~ships or trains~~ which are—
  - (a) arriving, or expected to arrive, in ~~Jersey~~the United Kingdom, or
  - (b) leaving, or expected to leave, ~~Jersey~~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) An Order under subsection (1)~~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 ~~Minister~~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 ~~Minister~~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 ~~Jersey~~the United Kingdom.
- (8) The Subordinate Legislation (Jersey) Law 1960 shall apply to Orders under this section.
- ~~(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).~~

### ~~23 — Authority 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.~~

## 24 Penalty for breach of authority-to-carry scheme

- (1) ~~The Minister may make provision by Order~~ ~~The Secretary of State may make regulations~~ imposing penalties for breaching the requirements of an authority-to-carry scheme.
- (2) ~~An Order~~ ~~Regulations~~ under subsection (1) must identify the authority-to-carry scheme to which ~~it~~ ~~they~~ refers.
- (3) ~~Regulations~~ ~~An Order~~ 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 ~~Order~~ ~~regulations~~ may make different provision for different purposes.
- (4) Provision in the ~~Order~~ ~~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 ~~Order~~ ~~regulations~~.
- (5) The ~~Order~~ ~~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 ~~an Order~~ ~~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 an Orderregulations 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 to the Treasurer of the States and credited to the Annual Income of the States.
- (7) The Subordinate Legislation (Jersey) Law 1960 shall apply to Orders under this section.
- ~~(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.~~

## **25 Aviation, and maritime ~~and rail~~ security**

- (1) Schedule 5 makes amendments to do with aviation, and 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, and
  - (b) the Aviation and Maritime Security Act 1990, ~~and~~
  - ~~(c) the Channel Tunnel (Security) Order 1994 (S.I. 1994/570).~~

SCHEDULE 5  
AVIATION, AND ~~M~~MARITIME ~~AND RAIL~~ SECURITY  
PART 1  
PASSENGER, CREW AND SERVICE INFORMATION  
Amendments of the Immigration Act 1971

1(1) Schedule 2 to the Immigration Act 1971 (administrative provisions as to control on entry etc) is amended as follows.

(2) In paragraph 27 (requirement to provide passenger lists etc), in sub-paragraph (5), after paragraph (b) insert—

“(ba) may require a responsible person to be able to receive, in a specified form and manner, communications sent by ~~the Secretary of State~~ or an immigration officer relating to the information.”.

(3) In paragraph 27B (passenger information or service information), after sub-paragraph (8) insert—

“(8A) The officer may require a carrier to be able to receive communications from the officer in such form and manner as the ~~Lieutenant-Governor~~Secretary of State may direct.”

(4) After paragraph 27B insert—

“27BA(1) The ~~Minister~~Secretary of State may make provision by Order~~regulations~~ requiring responsible persons in respect of ships or aircraft—

(a) which have arrived, or are expected to arrive, in ~~Jersey~~the United Kingdom, or

(b) which have left, or are expected to leave, ~~Jersey~~the United Kingdom,

to supply information to ~~the Secretary of State~~ or an immigration officer.

(2) The following information may be required under sub-paragraph (1)—

(a) information about the persons on board;

(b) information about the voyage or flight.

(3) An Order under this paragraph~~The regulations~~ must—

(a) specify or describe the classes of ships or aircraft to which they apply;

(b) specify the information required to be supplied;

(c) specify the time by which the information must be supplied;

(d) specify the form and manner in which the information must be supplied.

(4) An Order under this paragraph~~The regulations~~ may require responsible persons to be able to receive, in a specified form and manner,



communications sent by ~~the Secretary of State or~~ an immigration officer relating to the information.

- (5) For the purposes of this paragraph, the following are responsible persons in respect of a ship or aircraft—
    - (a) the owner or agent, and
    - (b) the captain.
  - (6) ~~An Order~~Regulations under this paragraph may make different provision for different purposes, and in particular may make different provision for different types of carrier, journey or person on board.
  - (7) ~~The Subordinate Legislation (Jersey) Law 1960 shall apply to Orders under this paragraph. The power to make regulations under this paragraph is exercisable by statutory instrument; but no regulations under this paragraph are to be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.~~
- 27BB(1) The ~~Minister~~Secretary of State may make provision by Order~~regulations~~ imposing penalties for failure to comply with—
- (a) a ~~Direction~~n-order under paragraph 27(2) (~~Direction~~order requiring passenger list or particulars of member of crew),
  - (b) any request or requirement under paragraph 27B (passenger and service information), or
  - (c) ~~R~~regulations under paragraph 27BA (passenger, crew and service information).
- (2) ~~An Order under this paragraph~~Regulations under sub-paragraph (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.
  - (3) Provision in an Order under this paragraph~~the regulations~~ about the procedure for imposing a penalty must provide for a person to be given an opportunity to object to a proposed penalty in the circumstances set out in the Order ~~regulations~~.

(4) ~~An Order under this paragraph~~~~The regulations~~ must provide that no penalty may be imposed on a person for failure to comply with a Direction ~~an order~~ under paragraph 27(2), a request or requirement under paragraph 27B or an Order ~~regulations~~ under paragraph 27BA where—

(a) proceedings have been instituted against the person under section 27 in respect of the same failure; or

(b) the failure consists of a failure to provide information that the person 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 an Order ~~regulations~~ made under section 32B of that Act, or

(ii) proceedings have been instituted against the person under section 34 of that Act in respect of a failure to provide that information; or

(c) the failure consists of a failure to provide information that the person has also been required to provide under an authority-to-carry scheme made by the Minister by Order under section 22 of the Counter-Terrorism and Security Act 2015 and a penalty has been imposed on the person in respect of a failure to provide that information by virtue of an Order ~~regulations~~ made under section 24 of that Act.

(5) Any penalty paid by virtue of this paragraph must be paid to the Treasurer of the States and credited to the Annual Income of the States ~~paid into the Consolidated Fund~~.

(6) The Subordinate Legislation (Jersey) Law 1960 shall apply to Orders under this paragraph.

~~(6) The power to make regulations under this paragraph is exercisable by statutory instrument; but no regulations under this paragraph are to be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.”~~

(5) Omit paragraph 27C (notification of non-EEA arrivals).

2 In section 27 of that Act (offences by persons connected with ships or aircraft or with ports)—

- (a) the existing provision becomes subsection (1);
  - (b) at the end insert—
- “(2) Proceedings may not be instituted against a person under subsection (1)(a)(i) or (1)(b)(iv) for a failure to provide information or otherwise to comply with a requirement imposed under paragraph 27, 27B or 27BA of Schedule 2 where—
- (a) the person has paid a penalty in respect of the same failure, or a failure to provide the same information, by virtue of an Orderregulations made by the Minister under—
    - (i) paragraph 27BB of Schedule 2,
    - (ii) section 32B of the Immigration, Asylum and Nationality Act 2006, or
    - (iii) section 24 of the Counter-Terrorism and Security Act 2015 (penalty for breach of authority-to-carry scheme); or
  - (b) proceedings have been instituted against the person under section 34 of the Immigration, Asylum and Nationality Act 2006 in respect of a failure to provide the same information.”

#### Amendments consequential upon paragraph 1

3 Omit section 19 of the Immigration and Asylum Act 1999.

~~4 In Schedule 7 to the Terrorism Act 2000 (port and border controls), in paragraph 17 (provision of passenger information), in sub-paragraph (6), for “or 27B” substitute “, 27B or 27BA”.~~

#### Amendments of the Immigration, Asylum and Nationality Act 2006

5 The Immigration, Asylum and Nationality Act 2006 is amended as set out in paragraphs 6 to 8.

6 In section 32 (passenger and crew information: police powers), at the end of subsection (6) insert—

- “(e) may include a requirement for the owner or agent of a ship or aircraft to be able to receive, in a specified form and manner, communications relating to the information.”

7 After that section insert—

**“32A ~~Orders~~Regulations requiring information to be provided to police**

(1) The ~~Minister~~Secretary of State may make provision by Order~~regulations~~ requiring responsible persons in relation to ships or aircraft—

- (a) which have arrived, or are expected to arrive, in ~~Jersey~~the United Kingdom, or
- (b) which have left, or are expected to leave, ~~Jersey~~the United Kingdom,

to provide information to the police.

(2) The following information may be required under subsection (1)—

- (a) information about the persons on board;
- (b) information about the voyage or flight.

(3) An Order~~Regulations under this section~~ may impose a requirement to provide the information only if the ~~Minister~~Secretary of State thinks it necessary for police purposes —

- ~~(a) — in the case of a requirement to provide information to the police in England and Wales, for police purposes;~~
- ~~(b) — in the case of a requirement to provide information to the police in Scotland, for police purposes which are or relate to reserved matters (within the meaning of the Scotland Act 1998);~~
- ~~(c) — in the case of a requirement to provide information to the police in Northern Ireland, for police purposes which are or relate to excepted or reserved matters (within the meaning of the Northern Ireland Act 1998).~~

In this subsection “police purposes” has the same meaning as in section 32.

(4) An Order~~The regulations under this section~~ must—

- (a) specify or describe the classes of ships or aircraft to which they apply;
- (b) specify the information required to be provided;
- (c) specify the time by which the information must be provided;
- (d) specify the form and manner in which the information must be provided.

- (5) ~~An Order~~The regulations under this section may require responsible persons to be able to receive, in a specified form and manner, communications sent by the police, the ~~Minister~~Secretary of State or an immigration officer relating to the information.
- (6) ~~An Order~~Regulations under this section—
- (a) may apply generally or only to specified cases or circumstances, and
  - (b) may make different provision for different cases or circumstances;
  - ~~(c) shall be made by statutory instrument, and~~
  - ~~(d) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.~~
- (6A) The Subordinate Legislation (Jersey) Law 1960 shall apply to Orders under this section.
- (7) For the purposes of this section, the following are responsible persons in respect of a ship or aircraft—
- (a) the owner or agent, and
  - (b) the captain.

### **32B Penalty for breach of section 32 or 32A**

- (1) The ~~Minister~~Secretary of State may make provision by Order regulations imposing penalties for failure to comply with a requirement imposed—
- (a) under section 32(2) (provision of passenger, crew or service information), or
  - (b) by an Order regulations made by the Minister under section 32A (Orders regulations requiring information to be provided to police).
- (2) ~~An Order~~Regulations under this 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.

- (3) Provision in an Order under this section~~the regulations~~ about the procedure for imposing a penalty must provide for a person to be given an opportunity to object to a proposed penalty in the circumstances set out in the Order~~regulations~~.
- (4) An Order under this section~~The regulations~~ must provide that no penalty may be imposed on a person for failure to comply with a requirement imposed under section 32(2) or by an Order~~regulations~~ made by the Minister under section 32A where—
  - (a) proceedings have been instituted against the person under section 34 in respect of the same failure, or
  - (b) the failure consists of a failure to provide information that the person 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 an Order~~regulations~~ made by the Minister under paragraph 27BB of that Schedule, or
    - (ii) proceedings have been instituted against the person under section 27 of that Act in respect of a failure to provide that information, or
  - (c) the failure consists of a failure to provide information that the person has also been required to provide under an authority-to-carry scheme made by the Minister by Order under section 22 of the Counter-Terrorism and Security Act 2015 and a penalty has been imposed on the person in respect of a failure to provide that information by virtue of an Order~~regulations~~ made by the Minister under section 24 of that Act.
- (5) Any penalty paid by virtue of this section must be paid to the Treasurer of the States and credited to the Annual Income of the States~~paid into the Consolidated Fund~~.
- ~~(6) The Subordinate Legislation (Jersey) Law 1960 shall apply to Orders under this section.~~
- ~~(6) Regulations under this section—~~
  - ~~(a) must be made by statutory instrument, and~~

~~(b) — may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.”~~

8(1) Section 34 (offence of failure to provide passenger information etc) is amended as follows.

(2) In subsection (1), for “imposed under section 32(2) or (3) ~~or 33(2)~~” substitute “imposed—

(a) under section 32(2) or (3) ~~or 33(2)~~, or

(b) by an Order ~~regulations~~ made by the Minister under section 32A”.

(3) After subsection (1) insert—

“(1A) Proceedings may not be instituted against a person under subsection (1) for a failure to comply with a requirement imposed under section 32(2) or by an Order ~~regulations~~ made by the Minister under section 32A where—

(a) the person has paid a penalty in respect of the same failure, or a failure to provide the same information, by virtue of an Order ~~regulations~~ made by the Minister under—

(i) section 32B,

(ii) paragraph 27BB of Schedule 2 to the Immigration Act 1971, or

(iii) section 24 of the Counter-Terrorism and Security Act 2015 (penalty for breach of authority-to-carry scheme); or

(b) proceedings have been instituted against the person under section 27 of the Immigration Act 1971 in respect of a failure to provide the same information.”

~~(4) — In subsection (2), at the end insert “, and~~

~~(c) — where a person fails without reasonable excuse to comply with a requirement imposed by regulations made under section 32A to provide information to the police in England and Wales—~~

~~(i) — if the required information does not relate to a reserved matter (within the meaning of the Scotland Act 1998), the person shall not be treated as having committed the offence in Scotland (but has committed the offence in England and Wales);~~

~~(ii) — if the required information does not relate to an excepted or reserved matter (within the meaning of the Northern Ireland Act 1998), the person shall not be treated as having committed the offence in Northern Ireland (but has committed the offence in England and Wales)."~~

## PART 2

### DIRECTIONS ETC RELATING TO AVIATION; AND SHIPPING ~~AND RAIL~~ Amendments of the Aviation Security Act 1982: information and directions

- 9(1) The Aviation Security Act 1982 is amended as follows.
- (2) In section 11 (power to require information)—
- (a) in subsection (2), for the words from “a date” to “before” substitute “a period before the end of”;
- (b) in subsection (4) omit “(not being less than seven days from the date on which the change of circumstances occurs)”.
- (3) In section 12 (power to impose restrictions in relation to aircraft), in subsection (1)(b), for “fly unless such searches of the aircraft” substitute “fly in or into Jersey ~~the United Kingdom~~ unless such searches (of persons or property or of the aircraft itself)”.
- (4) In section 16 (limitations on scope of directions under sections 12 to 14), ~~in subsection (5), for paragraph (a) (including the word “and” at the end) substitute —~~
- ~~“(a) — it shall have effect only in relation to —~~
- ~~(i) — aircraft registered in the United Kingdom, or~~
- ~~(ii) — a requirement not to cause or permit an aircraft to fly in or into the United Kingdom unless certain things have, or have not, been done, and”.~~
- “for subsection (5) substitute —
- “(5) In so far as a direction requires anything to be done or not done at a place outside Jersey—
- (a) it shall have effect only in relation to—
- (i) aircraft registered in Jersey, or
- (ii) a requirement not to cause or permit an aircraft to fly in or into Jersey unless certain things have, or have not, been done, and



(b) it shall not have effect so as to require anything to be done or not done in contravention of any provision of the law (whether civil or criminal) in force at that place, other than any such provision relating to breach of contract.”

~~(5) In section 24 (service of documents) —~~

~~(a) at the end of subsection (2) insert “, or~~

~~(f) in the case of a person who is required by regulations to be able to accept service electronically in a manner and form specified in the regulations, in that manner and form.”;~~

~~(b) after subsection (9) insert —~~

~~“(10) Regulations under this section —~~

~~(a) may make different provision for different cases,~~

~~(b) may include incidental, supplemental or transitional provision,~~

~~(c) shall be made by the Secretary of State by statutory instrument, and~~

~~(d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”~~

(6) In section 38(1) (interpretation), in ~~paragraph (b) of~~ the definition of “aircraft ~~registered or~~ operating in ~~Jersey~~the United Kingdom”, for the words from “flights” to “aerodromes” substitute “a flight any part of which is”.

10 ~~In consequence of the amendments made by paragraph 9(2), in Schedule 1 to the Aviation and Maritime Security Act 1990 (amendments of the Aviation Security Act 1982) omit paragraph 2(3) and (5).~~

~~Amendments of the Aviation Security Act 1982: civil penalties for breach of directions~~

~~11(1) Part 2 of the Aviation Security Act 1982 (protection of aircraft etc against acts of violence) is amended as follows.~~

~~(2) After section 22 insert —~~

~~“22A Civil penalties for failure to provide information or comply with a direction~~

~~(1) The Secretary of State may make regulations imposing penalties for —~~

- ~~(a) — failure to comply with a requirement imposed by a notice under section 11 (notice requiring information);~~
  - ~~(b) — making a false statement in furnishing information required by a notice under that section;~~
  - ~~(c) — failure to comply with a direction under any of sections 12 to 14.~~
- ~~(2) — 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.~~
- ~~(3) — Provision in the regulations about the procedure for imposing a penalty must provide for a person to be given an opportunity to object to a proposed penalty in the circumstances set out in the regulations.~~
- ~~(4) — The regulations must provide that no penalty may be imposed on a person for failure to comply with the requirements of a notice under section 11, or for making a false statement in furnishing information required by such a notice, where proceedings have been instituted against the person for an offence under section 11(5) in respect of the same failure or false statement.~~
- ~~(5) — The regulations must provide that no penalty may be imposed on a person for failure to comply with a direction under any of sections 12 to 14 where proceedings have been instituted against the person for an offence under any of those sections in respect of the same failure.~~
- ~~(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.”~~
- ~~(3) — In section 11 (power to require information), after subsection (5) insert —~~
  - ~~“(5A) Proceedings for an offence under subsection (5) above may not be instituted against a person who has paid a penalty in respect of the same~~

~~failure, or the same false statement, by virtue of regulations made under section 22A.”~~

~~(4) In section 12 (power to impose restrictions in relation to aircraft), after subsection (9) insert—~~

~~“(9A) Proceedings for an offence under subsection (9) above may not be instituted against a person who has paid a penalty in respect of the same failure by virtue of regulations made under section 22A.”~~

~~(5) In section 13 (power to require aerodrome managers to promote searches at aerodromes), after subsection (4) insert—~~

~~“(4ZA) Proceedings for an offence under subsection (4) above may not be instituted against a person who has paid a penalty in respect of the same failure by virtue of regulations made under section 22A.”~~

~~(6) In section 13A (power to require other persons to promote searches), after subsection (3) insert—~~

~~“(3A) Proceedings for an offence under subsection (3) above may not be instituted against a person who has paid a penalty in respect of the same failure by virtue of regulations made under section 22A.”~~

~~(7) In section 14 (general power to direct measures for purposes of protecting aircraft etc against acts of violence), after subsection (7) insert—~~

~~“(7ZA) Proceedings for an offence under subsection (7)(a) above may not be instituted against a person who has paid a penalty in respect of the same failure by virtue of regulations made under section 22A.”~~

Amendments of the Aviation and Maritime Security Act 1990: information and directions

12(1) Part 3 of the Aviation and Maritime Security Act 1990 (protection of ships and harbour areas against acts of violence) is amended as follows.

(2) In section 19 (power of ~~Minister~~~~Secretary of State~~ to require information)—

(a) in subsection (2), for the words from “a date” to “before” substitute “a period before the end of”;

(b) in subsection (4), omit “(not being less than seven days from the date on which the change of circumstances occurs)”.

- (3) In section 21 (power to impose restrictions in relation to ships), in subsection (1)—
- (a) in the opening words, after “is in” insert “, or appears to the MinisterSecretary of State to be likely to enter.”;
  - (b) in paragraph (b), for “go to sea unless such searches of the ship” substitute “enter or (as the case may be) to leave a harbour area unless such searches (of persons or property or of the ship itself)”.
- (4) In section 26 (limitations on scope of directions under sections 21 to 24), in subsection (5), for paragraph (a) (including the word “and” at the end) substitute—
- “(a) it shall have effect only in relation to—
- (i) British ships, or
  - (ii) a requirement not to cause or permit a ship to enter a harbour area unless certain things have, or have not, been done, and”.

~~(5) In section 45 (service of documents)—~~

~~(a) at the end of subsection (2) insert “, or~~

~~(f) in the case of a person who is required by regulations to be able to accept service electronically in a manner and form specified in the regulations, in that manner and form.”;~~

~~(b) after subsection (9) insert—~~

~~“(9A) Regulations under subsection (2)(f)—~~

~~(a) may make different provision for different cases,~~

~~(b) may include incidental, supplemental or transitional provision,~~

~~(c) shall be made by the Secretary of State by statutory instrument, and~~

~~(d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”~~

~~Amendments of the Channel Tunnel (Security) Order 1994: information and directions~~

~~13(1) Part 3 of the Channel Tunnel (Security) Order 1994 (S.I. 1994/570) (protection of Channel Tunnel trains and the tunnel system against acts of violence) is amended as follows.~~

~~(2) In article 11 (powers of Secretary of State to require information) —~~

~~(a) in paragraph (2), for the words from “a date” to “before” substitute “a period before the end of”;~~

~~(b) in paragraph (4) omit “(not being less than seven days from the date on which the change of circumstances occurs)”.~~

~~(3) In article 13 (power to impose restrictions in relation to Channel Tunnel trains), in paragraph (1)(b), for “unless such searches of the train” substitute “in or into the United Kingdom unless such searches (of persons or property or of the train itself)”.~~

~~(4) In article 36 (service of documents) —~~

~~(a) at the end of paragraph (2) insert “, or~~

~~(f) in the case of a person who is required by regulations to be able to accept service electronically in a manner and form specified in the regulations, in that manner and form.”;~~

~~(b) after paragraph (8) insert —~~

~~“(9) Regulations under paragraph (2)(f) —~~

~~(a) may make different provision for different cases,~~

~~(b) may include incidental, supplemental or transitional provision,~~

~~(c) shall be made by the Secretary of State by statutory instrument, and~~

~~(d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”~~

~~14 The amendments made by paragraph 13 do not affect the power to make further subordinate legislation amending or revoking the amended provisions.~~