

Control Orders Quarterly Statement

22 March 2007

The Home Secretary has released the quarterly statement to Parliament on the exercise of control order powers

Control Order Powers (11th December 2006 – 10th March 2007)

The Secretary of State for the Home Department (Dr. John Reid):

Section 14(1) of the Prevention of Terrorism Act 2005 (the 2005 Act) requires me to report to Parliament as soon as reasonably practicable after the end of every relevant three-month period on the exercise of the control order powers during that period.

The level of information provided will always be subject to slight variations based on operational advice and legal requirements.

Control orders continue to be an essential tool to protect the public from terrorism, particularly where it is not possible to prosecute individuals for terrorist-related activity and, in the case of foreign nationals, where they cannot be removed from the UK.

During the period 11 December 2006 to 10 March 2007, four new control orders were made. Three were made with the permission of the court under section 3(1)(a) of the 2005 Act; two were served on British citizens – one on 28 December 2006 and one on 3 January 2007 – and one was served on a foreign national on 9 March 2007. A control order was already in force at the beginning of this reporting period in relation to the foreign national; it was revoked and the new order made and served in its place.

The fourth control order was made using the urgency procedures under section 3(1)(b) of the 2005 Act, and was served on 16 February 2007. This replaced a control order on the same individual that was already in force at the beginning of this reporting period. The previous control order was revoked at the same time the new control order was served. The court confirmed the new control order on 21 February 2007. The revocation of the old order and service of the new control order was as a result of the High Court judgment of 16 February in the case of Secretary of State for the Home Department v E [2007] EWHC 233 (Admin). This was the third control order review hearing under section 3(10) of the Prevention of Terrorism Act 2005 but the first hearing with full evidence about the factual issues of a particular case. The court accepted that the Secretary of State had reasonable grounds for suspecting that E was involved in terrorism-related activity. However, the court found that the control order obligations cumulatively amounted to a deprivation of E's liberty under Article 5(1) ECHR and that the Secretary of State's decision to maintain E's control order was flawed because he failed to review the prospects of prosecuting E in the light of certain Belgian judgments after they were received and translated. The control order was quashed on that basis. The full judgment is available via <http://www.judiciary.gov.uk/>. The Secretary of State is appealing this judgment. Before making the new order against E, the Crown Prosecution Service reviewed the Belgian judgments referred to above as well as other recent material. The position remains that there is currently insufficient admissible evidence available to the police that could realistically be used for the purpose of prosecuting him for an offence relating to terrorism. However, the position will be kept under review.

Two other control order review hearings have taken place pursuant to section 3(10) of the 2005 Act. We await the outcome of both.

Two control orders on British citizens were renewed in accordance with Section 2(4)(b) of the 2005 Act, and served on 22 February 2007.

No control orders have expired since the last report.

In total, therefore, there are eighteen control orders currently in force, nine of which are in respect of British citizens. Eight of the individuals live in the Metropolitan police area; the rest fall within other police force areas.

During the period, one modification of control order obligations was made, three modification requests remain outstanding, and ten requests to modify a control order obligation were refused. A right of appeal exists in section 10(3) of the 2005 Act against a decision by the Secretary of State not to modify an obligation contained in a control order. This has not yet been exercised in respect of these refusals. An appeal has been made in respect of a modification made during the previous quarter. In addition, an appeal has been considered as part of one of the control order review hearings; in the other control order review hearing that took place during the period, there was no formal appeal against modifications refused, but the issues raised by the refusals were considered by the court.

Control order obligations are tailored to the individual concerned, and are based on the risk that individual poses. Each control order is kept under review to ensure their continuance and obligations remain necessary and proportionate. Specifically, as Lord Carlile recommended in his February 2006 report on the operation of the control order system, the Home Office has established a review group, with representation from law enforcement and intelligence agencies, to keep the obligations in every control order under regular (quarterly), formal and audited review.

Breaches of control orders could arise from any obligation, and could include arriving home after commencement of a curfew period or breaking geographical boundary restrictions on movement. As reported in the additional statement of 16 January 2007, an individual charged with breach of control order obligations during the period covered by the 11 December 2006 quarterly report was convicted in January of failure to comply with daily reporting requirements and failure to notify the Home Office of a change of residence. He was sentenced to five months' imprisonment. This is the first conviction for an offence under the 2005 Act. Also as reported on 16 January, another individual has been charged with failure to comply with control order obligations and is currently on remand in prison. The charges relate to failure to comply with curfew requirements and failure to comply with restrictions on communications. The individual mentioned in the 11 December report as having been charged with failure to comply with a daily reporting requirement but not failure to notify the Home Office of a change of residence has, since 16 January, been charged with additional offences of failure to comply with a daily reporting requirement, and with failure to notify the Home Office of a change of residence.

As Parliament will be aware, two of the eighteen individuals currently subject to a control order absconded while subject to a control order (one in September 2006 and one in January 2007). Details in relation to the January abscond were given in the statement of 16 January. Another individual absconded in August 2006, after a control order was made (i.e. signed) against that individual, but before the order had been served. This order is therefore not in operation. I have been informed that the individual who absconded in August 2006 is currently believed to be abroad; the High Court has been notified of this. The individual in question has been excluded from the UK.

On 29 January, the Appeal Committee of the House of Lords confirmed that the House of Lords will hear two appeals against judgments handed down by the Court of Appeal on 1 August 2006 in respect of control orders. The Court of Appeal ruled in favour of the Secretary of State in one case (*Secretary of State for the Home Department v MB* [2006] EWCA Civ 1140, an appeal in relation to Article 6 of the European Convention on Human Rights – right to a fair trial) and against the Secretary of State in the other case (*Secretary of State for the Home Department v JJ, KK, GG, HH, NN & LL* [2006] EWCA Civ 1141, an appeal in relation to Article 5 of the European Convention on Human Rights – right to liberty).

Sections 1 to 9 of the 2005 Act are subject to annual renewal by Parliament. The draft renewal Order for those sections of the Act was debated and approved by the House of Commons on 22 February and the House of Lords on 5 March. The Secretary of State subsequently signed the renewal Order, so sections 1 to 9 of the Act now continue in force until the end of 10 March 2008.
