REPORT ON THE OPERATION
IN 2007 OF THE
TERRORISM ACT 2000 and of
PART I OF THE TERRORISM ACT 2006

BY

LORD CARLILE OF BERRIEW Q.C.

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INTRODUCTION

1. I write this report six years after my original appointment as Independent Reviewer of the *Terrorism Act 2000 [TA2000]*. My reports can be found most easily online, via www.homeoffice.gov.uk and following the 'security' links.

2. For consistency and ease of reference, this report follows a similar sequence to those I have written previously on this subject.

3. Also in 2001, I was appointed reviewer of the detention provisions of the *Anti-Terrorism Crime and Security Act 2001*[ATCSA2001]. Those were repealed and replaced by the Control Orders system provided by the *Prevention of Terrorism Act 2005*: I review those provisions too. My report on the third period of operation of that Act was published in February 2008.[1]

4. Until last year I prepared separate reports on the provisions of *Part VII* of TA2000. That part applied to Northern Ireland only. It was replaced by continuance (subject to some repeal) in the *Terrorism (Northern Ireland) Act 2006* [TNIA2006]. Its continuance was time limited to the 31st July 2007 plus a possible one year extension. The *Justice and Security (Northern Ireland) Act 2007* [JaSNIA2007] now in effect has replaced *TA2000 Part VII* altogether, subject to some transitional provisions: the replacement consists of public order (as opposed to counter-terrorism) legislation. *A* new reviewing mechanism, entirely domestic to Northern Ireland, replaces my role in relation to *Part VII*, with a different reviewer with responsibilities entirely particular to Northern Ireland. My last separate report on the operation of *Part VII* was in January 2006. It should be noted that the statistical material in the Annexes to this report excludes Northern Ireland other than as specifically stated in the Tables.

5. This is my sixth report on the working of the TA2000 as a whole. I am the first Independent Reviewer of the *TA2000* in its full range of applicability. I have been reappointed as independent reviewer until 2010, when I shall be replaced. My predecessors' reports were principally upon the operation of the *Prevention of Terrorism (Temporary Provisions) Act 1989*. That Act, and the *Northern Ireland (Emergency Provisions) Act 1996* ceased to have effect when the *TA2000* came into force on the 19th February 2001.

6. *TA2000* has itself been the subject of significant amendment by *ATCSA2001*. For example, *sections 24-31* were repealed from the 20th December 2001, and form no part of this review.[2] A consequence of the repeal of parts of the *TA2000* without substituting new sections into the same

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[1] security.homeoffice.gov.uk/news-publications/publication-search/general/report-control-orders-2008

[2] Anti-Terrorism, Crime and Security Act 2001, sections 1(4), 125, Sch 8 Pt 1; and SI 2001/4019, art 2(1)(a), (d)

Act is that those parts are no longer subject to this form of review, whereas new sections inserted into the *TA2000* are. *The Prevention of Terrorism Act 2005* and the *Terrorism Act 2006*[3] *[TA2006]* add further elements. The *Counter-Terrorism Bill 2008* has embarked on its passage through Parliament, including a Special Standing Committee of the House of Commons. Such committees not only consider the Bill clause by clause, but also hear evidence as part of the process. I have given evidence to that Committee. Part of the Bill's provisions, particularly that relating to extended periods of pre-charge detention, is controversial politically. In the past it has been no part of my role to review individual cases. In the Bill it is proposed that the independent reviewer should review cases where there has been extended detention of more than 28 days between arrest and release or charge.

7. I am delighted that the website www.statutelaw.gov is now a readily available and well-used resource for reviewing legislation and its current state. Although its functionality still has some limitations, it is being improved. At the time of writing it was not completely up to date, and therefore must be used carefully. It is intended to provide a complete free online library of all UK primary and secondary legislation. In 2007 the *TA2000* was amended in 27 separate particulars, 26 of them by secondary legislation – information readily available from the free database. Where those amendments have any significance, they are dealt with below.

8. My reviewing tasks continue to demand a high proportion of my professional life. I do not have a fixed number of days for the work involved, but it occupies approximately half of my working time. This proportion will increase in the event of the enactment and use of detention of more than 28 days between arrest and charge or release.

9. I make myself available to Ministers, officials, the political parties throughout the UK, pressure groups and other outside bodies, the media and of course members of the public on reasonable requirements, and give many lectures and speeches on the subject of terrorism. Generally the political parties have been ready to engage in discussion with me, hopefully for the better performance of my task as well as to assist a more accurate approach to political debate. I regret that my letters to the then Shadow Home Secretary have gone largely unanswered, and that in his undoubtedly hectic life he was able only to offer me an appointment as long as nearly 12 months distant from my first request.

10. When opposition (from any quarter, not just the political Parties) is voiced to proposals for changes in counter-terrorism law, it would be useful from time to time to see worked-up alternatives. This is a rarity.

[3] Royal Assent 30th March 2006

11. I consider it important that the review of counter-terrorism legislation should be the subject of public knowledge and debate. I encourage government to make available to the public as much information as possible on terrorism and how it is countered, subject to the constraints of national security and necessary operational policing. Good counter-terrorism law is law understood by the public, as to rationale and means. Equally, it is an ethical obligation that opponents of the provisions should oppose accurately, informatively, and (as emphasised above) suggesting clear alternatives to the parts they oppose.

12. National security is a civil liberty of every citizen. This should never be forgotten, unfashionable though it is to refer to it as such. Reciprocally, every citizen has a duty to assist the government of the day in ensuring the security of fellow citizens. The importance of reporting responsibly felt concerns and suspicions is high. Members of the public of all ethnicities generally take this seriously. Nobody should feel reluctant about reporting a genuinely held concern. They will not be criticised: confidentiality will be respected. The terrorism hotline telephone number is 0800 789 321, and should be known widely.

13. My observations in relation to *TA2000* in 2007 and throughout the past six years have confirmed the shift of emphasis towards international terrorism, as the process of normalisation in Northern Ireland has become more evident in the evolution of the Good Friday Agreement and more recently the St Andrews Agreement. There remains justification for continual vigilance in Northern Ireland, despite recent and remarkable progress. There is clear evidence that small, dissident and active paramilitary groups do not accept the political settlement achieved there. However, my periodic contacts with the political parties and others in Northern Ireland leave me optimistic about the future of political and legal institutions there. The willingness of all political parties to be involved in political responsibility for the police service there is an important and now achieved step.

14. As against that, the material I have seen and briefings received, together with the large volume of publicly available material, leave me as pessimistic as a year ago about the future of international terrorism as evidenced by violent Islamist jihad. Complacency founded upon the recent absence of fatal terrorist attacks would be misplaced and unwise. Several terrorist conspiracies have been disrupted. The police and other control authorities have made numerous arrests. An increasing number of trials is taking place or are pending, founded on allegations of Jihadist violence.

15. Trials have demonstrated that there is now no doubt that juries are likely to convict in cases where the evidence is sufficient. There is increasing evidence of willingness of defendants to plead guilty in the face of a solid prosecution case and a realistic approach to pleas by prosecutors and judges.

Plea agreements, and the obtaining from defendants of information useful in preventing and detecting terrorism, should be encouraged – in some cases by substantial discounts from sentences that otherwise would be served.

16. There is undoubtedly an improving level of disruption and penetration of terrorism plots by the police and other control authorities.

17. I am grateful for the very considerable and patient help received from officials in the Home Office, the Northern Ireland Office, and elsewhere in government, as well as from my many consultees and correspondents from well outside government. I am conscious that there are numerous persons and organisations with much to offer my review. I attempted during 2007 to widen as well as consolidate my range of such contacts, and to learn as much as possible from the experience and opinions of others.

18. I was provided during 2007 with all the resources I needed to complete this and my other reports. I note that Parliamentary written questions were asked about the days I have spent on my reviews and the fees earned. These are matters of public record, and I am happy to answer any reasonable questions direct. My current daily fee received is £900, plus out of pocket expenses. The Home Office supplies me with some administrative facilities, with such office support as I reasonably require, and with research support as needed.

19. My purpose and the requirement of this report are to assist the Secretaries of State and Parliament in relation to the operation of *TA2000* and *TA2006 Part 1*. My terms of reference may be found in the letters of appointment to my predecessors and myself. They are to be found too in the Official Report of the House of Lords debate of the 8th March 1984, which shows clearly what Parliament intended when the post of reviewer was first established: the Reviewer should make detailed enquiries of people who use the Act, or are affected by it, and the Reviewer may see sensitive material. All this I have attempted to do to the extent necessary for the proper fulfilment of my function.

20. The statutory foundation for this report used to be found in *section 126* of *TA2000*. This has been replaced by *TA2006 section 36. Section 36(1)* simply provides:

> *"The Secretary of State must appoint a person to review the operation of the provisions of the Terrorism Act 2000 and Part 1 of this Act".*

21. It is outside my terms of reference to advise as to whether such legislation is required at all. Nevertheless I take it as part of my role to make recommendations accordingly, if it be my view that a particular section or part of the Act is otiose, redundant, unnecessary or counter-productive. I have

been informed that this is considered useful. Some repeals have occurred in consequence.

22. Once again this year I have received almost complete co-operation from all whom I have approached. There are still many whose interest in the subject I have yet to identify. However, there is a steady increase in the number of informal contacts and suggestions I receive from members of the public. They are sometimes of real value, and I welcome them all. The worldwide academic community has been especially generous in its advice to me during the past year: this has included many contributions from Canada, Australia and New Zealand. My knowledge of the subject has been increased by attendance at numerous seminars and workshops, and I have been a speaker at some. There are now so many such events that, unfortunately, I am unable to attend them all.

23. I do not offer any kind of appeal procedure for individual cases. However, I do read some documents referring to individual cases. Where appropriate I ask questions about them and can offer advice and comments. I am particularly anxious to obtain the assistance of more members of the public who have had some contact with the *TA2000* and *TA2006*, whether as observers, witnesses, persons made subject to powers given under the Act or as terrorist suspects. It is not always as easy as one would wish to make contact with those who have had these real-life experiences. In the past year several members of the public have complained to me about their experiences on being searched under *section 44*. Where appropriate, these have been referred to the appropriate authority for formal investigation or comment.

24. Lawyers who are instructed by persons arrested under the provisions rarely provide me with material even when they feel driven to make public comments. More feedback connected with terrorism trials would be welcome. I cannot realistically intervene in individual cases simply because I might wish to, without statutory authority so to do. Had I received complaints from or on behalf of any identifiable suspect about the way detention has operated between arrest and charge or release, I would have caused appropriate enquiries to be made. I have received no such complaints, whether from solicitors, pressure groups, political representatives, or suspects themselves. Anyone wishing to provide me with information is very welcome to do so by writing to me at the House of Lords, London SW1A 0PW or sending me information via the Internet on carlilea@parliament.uk.

25. I travel seeking the views of as wide a range as possible of people, offices and departments having anything to do with *TA2000*. I have found it valuable to make some comparisons with foreign jurisdictions.

26. As in previous years, my activities have included visits to port units and other establishments listed in Annex B. I find it extremely valuable to watch and speak to police officers, Revenue and Customs officers and others as they do the real everyday work of policing those who enter and leave the UK, or import and export freight.

27. The persons I have seen include those listed in Annex A; for reasons of requested or implicit confidentiality I have excluded some names from that list.

28. In preparing this report I have taken it once again as a basic tenet, not open to question as part of this review process, that specific anti-terrorism legislation is necessary as an adjunct to and strengthening of the ordinary criminal law.

29. After the current Bill has completed its stages and received the Royal Assent, I hope very much that a Consolidation Bill will be introduced, with the intention that all counter-terrorism legislation can be included in a single Act of Parliament. This would be of immense value to all whose work touches on terrorism.

30. I seek out and receive such briefings as are needed from time to time to ensure that I have an appropriate state of knowledge. I remain of the clear opinion that there are active and present threats to the security of the nation as a result of terrorist activity. The risks of a terrorist attack on places of public congregation are real. There is no justification for the slightest complacency. The potential means of perpetrating terrorist acts continue to be subtle and difficult to anticipate and detect, and thereby present a greater challenge for the authorities than ever before. Recent experience has indicated that some terrorists are highly educated and technically or scientifically qualified. Such terrorists represent an especially dangerous threat to national security and the well-being of the public at large.

31. In so far as I have judged it necessary, I have seen and examined closed material relevant to the operation of the *TA2000*. I have not been refused access to any information requested by me. I have been briefed as fully as has been necessary, in my judgment. I have taken all that material into account on what I hope is a proportional basis, in preparing this report.

32. Once again I would highlight early in this report issues related to *TA2000 section 44*. As I have reported repeatedly, difficult problems arise in connection with the use of *section 44* by police around the country. There is inconsistency of approach among chief officers as to why, and if so when, *section 44* should be used. The section, which permits stopping and searching for terrorism material without suspicion, is rightly perceived as a significant intrusion into personal liberties.

33. The Prime Minister has commenced a review of stop and search powers. *Section 44* is included in this process. The Rt Hon Tony McNulty M.P., Minister of State at the Home Office, is consulting widely as part of that process. Much work has continued in 2007 to improve the way in which *section 44* is used. However, I believe that it is still used too much in England and Wales (all comments below about *section 44* relate to Great Britain, not to Northern Ireland). It should not be used where there is an acceptable alternative under other powers. Before each *section 44* decision is made the chief officer concerned should ask him/herself very carefully if it is really necessary, without reasonable alternative. The geographical area covered should be as limited as possible. It is fully recognised as important that police officers on the ground (in sometimes challenging situations) must have a fuller understanding of the differences between the various stop and search powers open to them. The aim should be that in all circumstances they stop and search in appropriate circumstances only, and that they use the powers most fit for purpose.

34. Although during my years as independent reviewer there has been a general increase in caution before utilising *section 44*, I have no doubt that its use could be halved from present levels without risk to national security or to the public. This would not mean halving the number of stops/searches: searches for weapons should be conducted under public order legislation, and for drugs under misuse of drugs laws. The additional competency required of police officers at all levels is to know when to use other powers, including when to switch from a terrorism search to other legislation.

1 PART I OF THE ACT: DEFINITION OF TERRORISM

35. In 2006, I conducted a separate review of the definition of terrorism.[4] Consistent with that, *Part 7* of the *Counter-Terrorism Bill* now before Parliament would amend the definition of terrorism in *TA2000 section 1* to include reference to acts made for the purpose of advancing a racial cause.

36. The *TA 2006 section 5* provided a new offence of preparation of terrorist acts. This offence is providing a way of dealing with suspects more acceptable in perceptual terms than *control orders*.[5] This may account in part for the relatively small number of control orders now in existence, fewer than 20 at the time of writing. All are agreed that it is better that state sanctions should follow conviction of crime, rather than being the result of administrative decisions.

4 www.homeoffice.gov.uk/documents/carlile-terrorism-definition

5 *Control Orders* are civil orders against terrorist suspects, introduced by the *Prevention of Terrorism Act 2005*.

2 PART II OF THE ACT: PROSCRIBED ORGANISATIONS AND THE PROSCRIBED ORGANISATIONS APPEAL COMMISSION [POAC].

37. The current list of organisations proscribed under the Act at the end of 2007 is at Annex F. They comprise:

- 46 international terrorist organisations currently proscribed under the Terrorism Act 2000
- 14 organisations in Northern Ireland, proscribed under previous legislation.
- 2 organisations proscribed under powers introduced in the Terrorism Act 2006 for glorifying terrorism (included in the 46 above)

The 46 international organisations proscribed were placed in the list in the following order:

- 21 in March 2001
- 4 in October 2002
- 15 in October 2005
- 4 in July 2006
- 2 in July 2007

38. I have continued to take a close interest in the operation of the regime of proscription of organisations and the appeals process. Unlike previous years, I have not received representations that proscription as such is an inappropriate part of the law. It should be borne in mind that proscription is a common measure around the world, seen as valuable by all comparable jurisdictions.

39. No organisations were removed during the period 2002-2007. 14 of the scheduled organisations have their origins in Northern Ireland and/or Ireland.

40. I believe that there is general public acceptance that the proscription of organisations prepared to use or encourage terrorism is proportionate and necessary.

41. A working group exists within the government service at which relevant officials meet and scrutinise proscriptions.

42. The group reviews all proscriptions every 12 months in the light of intelligence and other information, all of which is quality assessed. The Foreign and Commonwealth Office is involved in the process. They are conscious of the human rights implications of rendering unlawful membership of political organisations whose targets are well outside the UK. The prospect of further proscriptions continues, though subject to the Parliamentary affirmative resolution procedure.

43. It is important that the scrutiny of proscribed organisations should be such as to enable organisations to be removed from the list should they genuinely and permanently eschew violence as part of their policy.

44. I have received representations from supporters of two organisations to the effect that they should not be proscribed. These are the LTTE (support for Sri Lankan Tamils), and the MeK (opposition to the current government of Iran).

45. The LTTE has made no application to be deproscribed, though an application made on their behalf in 2007 was refused by the Home Secretary and not pursued through the Court: they complain that their rights to campaign politically and legitimately for the Tamils of Sri Lanka are unfairly limited by proscription. At the time of writing a trial is pending including a charge under *TA2000 section 12* connected with campaigning for self-determination for the Tamils of Sri Lanka. I make no judgment of the legitimacy of the prosecution or defence in that case. I shall be watching its progress with interest, as an example of one of the effects of proscription.

46. The Iran opposition group the MeK did challenge its proscription before POAC. The papers were extensive and the issues complex both factually and in terms of law. The Commission, chaired by Sir Harry Ognall, was expeditious in its case management and procedure. Judgment was handed down on the 30th November 2007. The MeK were successful in securing an Order requiring the Secretary of State to deproscribe the organisation,[6] effectively on the grounds that the organisation had desisted from terrorism in about 2001 and become a political and campaigning body, a kind of purported government of Iran in exile. The Secretary of State was unsuccessful in an appeal against the decision of SIAC.[7] In that case the Court of Appeal said:

> *".. an organisation that has no capacity to carry on terrorist activities and is taking no steps to acquire such capacity or otherwise to promote or encourage terrorist activities cannot be said to be 'concerned in terrorism' just because its leaders have the contingent intention to resort to terrorism in the future".*[8]

At the time of writing, therefore, the 46 remain, but will soon will be reduced to 45 by Orders to be laid before Parliament to reflect the decision in the case.

47. The MeK case shows the POAC system of law to be sound. Paragraph 57 of the revised open judgment is critical of the Secretary of State's refusal to deproscribe, and certainly provides robust guidance for the future. Special

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6 http://www.siac.tribunals.gov.uk/poac/outcomes.htm

7 *Secretary of State for the Home Department v Lord Alton of Liverpool & ors* [2008] EWCA Civ 443

8 Ibid per Lord Phillips of Worth Matravers CJ at para 37

advocates were used to good effect during the hearing. Other organisations wishing to be deproscribed should be mindful of the POAC system. By clearly and genuinely removing itself from any terrorism purpose, over a significant period and with unlimited future intent, deproscription can be achieved even by a formerly terrorist group.

48. It can be difficult for the authorities to keep track of proscribed organisations and their members. On the whole members do not carry membership cards. The task of the security services in keeping up with changes in terrorist organisational structures (in so far as any formal structures exist) is extremely difficult.

49. It appears to me that the Joint Terrorism Analysis Centre (JTAC), a multi-agency approach to information and evidence, continues to offer a good resource in the context of developing understanding of terrorist organisations. Taken as part of the *Contest Strategy* pursued by the control authorities, JTAC's work contributes significantly towards effective public protection.

50. The grounds of proscription were amended by *TA2006 section 21*. 'Glorification' of terrorism was added as a basis for proscription. It still remains to be seen how much difference this makes in practice: I tend to think that it will make little difference.

51. *Section 22* has the sensible effect of preventing a group of people evading proscription by simply changing the name of their group. There have been consequential changes to secondary legislation,[9] mainly to incorporate the procedural results of *section 22*.

52. I have received representations from various quarters to the effect that the proscription system is unfair in the way in which decisions are both made and reviewed. As I make clear above, the system of law provided is there to be used. I urge those who feel that their organisation or affiliations have been treated unfairly in the system to use it, by applying for deproscription.

53. On the basis of the material that I have seen and the representations received, I repeat the conclusions of my previous reports. It is clear to me that there are organisations that present a significant threat to the security of the state and its citizens. There are some extremely dangerous groups, with a loose but reasonably definable membership, whose aims include activities defined in *section 1* of the *TA2000* as terrorism and which if carried out would injure UK citizens and interests at home and/or abroad. The level of danger is well demonstrated by events around the world.

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[9] *Proscribed Organisations Appeal Commission (Human Rights Act 1998 Proceedings) Rules 2006* SI 2006/2290; *Proscribed Organisations (Appeals for Deproscription etc) Regulations 2006* SI 2006/2299

54. I have concluded that the retention of proscription is a necessary and proportionate response to terrorism.

55. The inevitably confidential processes used to determine whether an organisation should be proscribed are generally efficient and fair. In this context at least, intelligence information appears to be cautious and reliable.

56. POAC was established under *section 5 of the TA2000*. Procedural provisions are made under *Schedule 3*. Where proscription has taken place, the proscribed organisation or any person affected by the organisation's proscription may apply to the Secretary of State to remove the organisation from the list contained in *Schedule 2*. The Secretary of State must decide within 90 days. Where an application under *section 4* is refused, the applicant may appeal to POAC. By *section 5(3)*:

> *"The Commission shall allow an appeal against a refusal to deproscribe an organisation or to provide for a name to cease to be treated as a name for an organisation if it considers that the decision to refuse was flawed when considered in the light of the principles applicable on an application for judicial review."*

57. *Schedule 3 to TA2000* gives the basic requirements for the constitution, administration and procedure of POAC. One of the three members sitting on a POAC hearing must be a current or past holder of high judicial appellate office. The other members are not full-time judges, and are appointed by the Lord Chancellor. The MeK case at POAC was heard by a retired High Court Judge with considerable criminal judicial experience, sitting with two practising Queens Counsel with full judicial qualifications.

58. There are not many cases heard by POAC, and it is to be hoped that they can be dealt with expeditiously – as was the MeK case after some initial procedural delays. Hopefully, energetic case management can ensure that no application for deproscription need take more than 6 months from application to decision, save where inordinate delays are caused by the applicant.

59. POAC sits in public in Central London. It is able to hear closed evidence in camera and with the applicant and their representatives excluded. Where an organisation's appeal to POAC has been refused, a party to that appeal may bring a further appeal to the Court of Appeal (or its Scotland and Northern Ireland counterparts) on a question of law with the permission of POAC or the Court of Appeal. There may also be an appeal on a question of law in connection with proceedings brought before POAC under the *Human Rights Act 1998*, by virtue of *sections 6(1) and 9 of TA2000*. The procedural rules for appeals from POAC to the Court of Appeal require that the Court of

Appeal[10] must secure that information is not disclosed contrary to the interests of national security. This enables the Court of Appeal, like POAC, to exclude any party (other than the Secretary of State) and his representative from the proceedings on the appeal.[11]

60. Pursuant to *TA2000 Schedule 3 paragraph 7*, special advocates are appointed by the Law Officers of the Crown *"to represent the interests of an organisation or other applicant in [the] proceedings …"*[12]. They are selected for the purposes of this legislation from advocates with special experience of administrative and public law, and criminal law.

61. The role of the special advocates is to represent the interests of an organisation or other applicant, but they are not instructed by or responsible to that organisation or person. Like the members of POAC, the special advocates see all the closed material. They are not permitted to disclose any part of that material to those whose interests they represent.

62. Thus they may face the difficult task of being asked by or on behalf of those whose interests they are instructed to serve to present facts or versions of events in relation to which there is the strongest contradictory evidence, but evidence which they are not permitted to reveal in any form. Those whose interests they represent can and in practice do have their own lawyers too, but those lawyers are excluded from closed evidence and closed sessions of POAC. Special advocates have a difficult task, and as much help as possible should be given to them in organising the material with which they have to deal. A dedicated team and office assists the special advocates, and they are given considerable informed help. For example, in each case the Security Service has lawyers and other staff (with operational experience) who can and do act as a resource for the special advocates. In general, however, there is a shortage of fully directly vetted lawyers in the government service. There was a particular shortage in the Crown Prosecution Service: this has been remedied during the past year.

63. The quality of those instructed as special advocates is very high. I have received no criticism of them, and considerable praise.

64. Amnesty International, Liberty and other respected lobby and campaign groups continue to take a very straightforward view of POAC and its sister organisation the Special Immigration Appeals Commission [SIAC], which deals with immigration cases in which there is a national security concern. This view is that international and European human rights law do not permit of a jurisdiction in which an individual or organisation is not told

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[10] The Court of Appeal (Appeals from Proscribed Organisations Appeal Commission) Rules 2002 and subsequent SIs amending the procedural rules

[11] See rule 4

[12] Paragraph 7(1)

the nature of all the evidence to be deployed against them. That approach begs certain obvious questions about national security and the need for the continuing use of material gained from hard-won intelligence in relation to alleged terrorists.

65. *Sections 11-13 of the TA2000* provide for offences in relation to membership (*section 11*), support (*section 12*) and uniform (*section 13*) in connection with proscribed organisations. In the previous five years I have expressed concerns about the breadth of these offences.

66. The statistics appended as Annex C to this report continue to show a restrained use of the discretion to prosecute. There were 7 charges of this group of offences in 2007 (15 in 2006), a small number given the scale of the problem faced.

67. Such problems as I have encountered with these provisions relate not to the existence of the offences, but rather to whether certain organisations are correctly proscribed. As stated above, the appropriate response to that objection is to apply for deproscription.

68. However, I believe that some of the proscribed organisations connected with Northern Ireland may have dwindled to almost or actually nothing. Given the good level of intelligence probably available about such organisations, Ministers should consider carefully whether some should be removed from the list on the grounds of effective redundancy.

3 PART III OF THE ACT: TERRORIST PROPERTY

69. *Part III, sections 14 to 31*, dealt with terrorist property, offences in relation to such property, and seizure of terrorist cash. *Sections 24-31* were repealed and replaced by provisions contained in the *ATCSA2001*.

70. The offences provided under *sections 14 to 19* impose considerable responsibilities on members of the public. They include the offence of providing money or other property in the knowledge, or having reasonable cause to suspect, that it will or may be used for the purposes of terrorism. Money laundering with a terrorism connection is very broadly defined in *Section 18*. If charged, the statutory defence made available under *Section 18(2)* would place a reverse burden upon the accused to show *"that he did not know and had no reasonable cause to suspect that the arrangement related to terrorist property"*. The maximum sentence on indictment for a money laundering offence is 14 years' imprisonment.

71. *Section 19*, to be read with *section 21A* which applies to the 'regulated sector' as defined in *Schedule 3A*, imposes the positive duty on a citizen to disclose to the police a suspicion of an offence connected with terrorism funds, if the suspicion comes to his/her attention in the course of a trade, profession, business or employment. This is a wide and still under-publicised duty, to which the only major statutory exception is genuine legal professional privilege. Also relevant are broader money-laundering and disclosure requirements, for example the *Proceeds of Crime Act 2002 sections 327-329*.[13]

72. As shown in Annex C below, there were 19 funding offences charged in 2007, compared with 5 in 2006. Although the raw numbers are low, the percentage increase demonstrates a high degree of vigilance by the authorities against the possession, potential transfer and use of terrorist funds.

73. *Section 20 and section 21B* provide essential whistle-blower protection to any person making such a disclosure (see paragraph 75 below). Like all material provisions in *TA2000*, this section has been amended to take into account the role of the Serious Organised Crime Agency established in 2005.

74. *ATCSA2001* inserted new *sections 21A and 21B* into the *TA2000*. These have been in force since the 20th December 2001. They deal with the regulated sector, as defined in new *Schedule 3A*. These provisions have led to a terrorism based focus on compliance in financial sector firms. Generally issues of money-laundering and similar type information are being

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[13] A very useful summary of these provisions can be found in *Millington and Williams: The Proceeds of Crime [2nd Edition] OUP 2007, Chapter 26*

taken extremely seriously, and the aims of the various items of legislation in this broad context are recognised and effective. However, the following paragraphs demonstrate the developing complexity of the financial aspects of counter-terrorism law, and underline my plea for a consolidation of counter-terrorism law in one Act of Parliament.

75. On the 26th December 2007 *Part 3* of *TA2000* was amended to take account of the *Directive 2005/60/EC* of the European Parliament and of the Council of 26th October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (*The Third EU Money Laundering Directive*). *Part 3* was amended by the *TA2000* and *Proceeds of Crime Act 2002 (Amendment) Reguations 2007*[14] to give effect to Chapter 3 of the Directive. The regulations inserted three new sections into *TA2000* to cover the requirements of *Article 24* of the Directive. New *section 21ZA* provides a defence to the offences in *TA2000 sections 15-18* if the person has made a disclosure to an authorised officer before becoming involved in a transaction or an arrangement and the person acts with the consent of the authorised officer. New *section 21ZB* provides a further defence to the offences in *sections 15 to 18* to cover those who become involved in a transaction or an arrangement and then make a disclosure, so long as there is a reasonable excuse for failure to make a disclosure in advance. New *section 21ZC* provides a defence for those who have a reasonable excuse for failure to make a disclosure.

76. *Article 28.1* of the Directive prohibits the persons covered by the Directive from disclosing to the customer concerned or to other third persons the fact that information about known or suspected money laundering or terrorist financing has been transmitted in accordance with *Articles 22 and 23* or that a money laundering or terrorist financing investigation is being, or may be, carried out. The remainder of *Article 28* provides a number of exceptions. The regulations amended *TA2000* to give effect to *Article 28*. New *section 21D* contains a new offence of tipping off and new *sections 21E to 21G* set out the exceptions from *Article 28*.

77. *Article 21* of the Directive requires Member States to establish a Financial Intelligence Unit (“FIU”). The Serious Organised Crime Agency is the United Kingdom’s FIU. This is further expanded on in *Recital 29* of the Directive. *Recital 29* makes it clear that reports of suspicious activity may be made to persons other than the FIU so long as the information is forwarded promptly and unfiltered to the FIU. *TA2000* allows disclosures to be made to a person other than the Serious Organised Crime Agency and so new *section 21C* of the *TA2000* as inserted by the regulations gave effect to the requirements of *Article 21* together with *recital 29*.

[14] SI2007/3398

78. The regulations amended *TA2000 sections 21A and 21B*, in order to give full effect to the requirements of *Article 22.1* of the Directive. *Article 22.1* requires those covered by the Directive to make reports of knowledge and suspicions of money laundering and terrorist financing that have been attempted as well as committed. The regulations further amended *TA2000 section 21A* to give effect to *Article 23.2* of the Directive, which provides that Member States are not required to apply the reporting obligations to legal and other professionals when giving legal advice.

79. *TA2000 Schedule 3A*, which defines the regulated sector, has been amended by the *Terrorism Act 2000 (Business in the Regulated Sector and Supervisory Authorities) Order 2007)*[15] to take account of the Directive.

80. The powers for the seizure and forfeiture of terrorist cash and property remain useful and necessary powers, though there are some problems with the collection of statistics. The powers under *TA2000 section 23* arise only when there has been a conviction of a terrorist finance offence. Other powers are available where there has not been a conviction. The amount of money seized in 2007 under those other powers was substantial. £9,155 was seized by the National Terrorist Financial Investigation Unit (NTFIU) under counter-terrorism powers, and a further £534,429 under the *Proceeds of Crime Act 2002*. The NTFIU is based in the Metropolitan Police. Other police forces' terrorism cash seizures are not collected centrally. Thus the NTFIU seizures do not give the full picture. In 2006 £81,818 was seized specifically referable to terrorism, in 2005 £9,318-13. For the future, the sums collected should be collated centrally, so that a judgment can be made as to the effectiveness of the provisions. It should be borne in mind that terrorist devices can be extremely cheap to make, and cash remains a difficult area for detection. Terrorists are astute to such statutory provisions.

[15] SI2007/3288

4 PART IV OF THE ACT: TERRORIST INVESTIGATIONS

81. *Part IV* provides for the cordoning of areas for the purposes of a terrorist investigation, and powers of entry, search and seizure.

82. Cordoning may occur as a matter of urgency under the direction of any constable. It must be recorded fully and placed under the supervision of a police officer of at least the rank of superintendent as soon as reasonably practicable. The maximum initial period for designation is 14 days, subject to extension to a total maximum of 28 days (*section 35(5)*). Police powers are provided by *section 36* to clear persons and vehicles from cordoned areas. Maximum sentences for offences in relation to offences of failure to comply have been increased from three months to 51 weeks.[16] Annex E describes cordons used in London during 2007.

83. I am informed that full data are not available for the Paddington Division as in that area the appropriate systems for collecting the information were not in place. This unsatisfactory position should and need not have occurred; it is currently being remedied. In the future cordons data will be collected under the Home Office's statutory Annual Data Requirement. It is to be hoped that there will be a full data set for 2008.

84. Extensive cordoning was used in 2005 for investigation and public protection in the aftermath of the London events of the 7th and 21st July 2005. In 2006 the main concentration of cordons was around arrests in August/September in Manchester. Arising from those arrests a major trial has commenced recently connected with an alleged extensive plot to destroy aircraft in flight. In 2007 the most noticeable cordons occurred in the West End of London following the Glasgow Airport incident and the finding of two cars in London containing explosives.

85. My conclusions are the same as for 2002-2006. I have received no representations during 2007 in relation to *sections 32 to 36*. They are proportional and necessary, and are working satisfactorily. The infromation at Annex E is acceptable in proportion to the risk. Indeed, it is commendable that cordons are used only rarely, and for limited periods, given their obvious convenience as a means of control and security.

86. *Section 37* and *Schedule 5*, and *section 38* and *Schedule 6* are important provisions of the *TA2000*. *Schedule 5* contains the regime for requiring production of persons and/or material, and also for carrying out searches of premises for the purposes of a terrorist investigation. Separate provisions make appropriate arrangements for Scotland and Northern Ireland respectively. The material sought will often include documents, which by their

[16] Criminal Justice Act 2003, Schedule 26, para55.

very nature are likely to be confidential. Excluded and special procedure material, familiar concepts from the *Police and Criminal Evidence Act 1984*, are subject to the Order of a Circuit Judge. *Paragraph 13* and corresponding Scotland and Northern Ireland provisions deal with cases of 'great emergency' requiring 'immediate action'.

87. A cadre of Circuit Judges has experience of dealing with applications under this part of the Act. The judges concerned have specific training. Problems of court building security have been addressed apparently successfully by the provision of secure storage facilities in the court building, and of secure recording of hearings. Reasons are given at the conclusion of hearings.

88. I have concluded again this year that the *Schedule 5* procedure works smoothly. I remain confident that genuine judicial inquisition, and the regular experience of presenting police officers, act as quality control mechanisms. The Metropolitan Police view is that the judges involved are far from acquiescent, but rather are aware of the implications of their orders and scrutinise carefully the material placed before them. Defence lawyers are less confident in their general comments about the degree of scrutiny of applications.

89. However, I have received no specific complaints from lawyers or others about the operation of these provisions.

90. *Schedule 6* relates to financial information. A parallel regime is provided to the *Schedule 5* system. Most of the applications heard by Circuit Judges relate to bank and credit card accounts. *Schedule 6* ranges widely over the kind of information financial institutions hold about their customers.

91. Once again I have received no representations of concern about the operation of *schedule 6*. There is now well established cooperation between the police and the financial services industry.

92. In addition, an effective system of law is needed to empower the obtaining of financial information under compulsion where necessary, subject to solid judicial protection against arbitrariness. That appears to be accomplished by *Schedule 6*. Most other countries now have similar provisions. An increasing level of international co-operation on the financial front undoubtedly is proving fruitful in the countering of terrorism.

93. I have concluded once again this year that *Schedule 6* as amended works well and is an essential part of the legislation.

94. *Section 38A*, together with *Schedule 6A*, deals with account monitoring orders. An account monitoring order may be made only by a circuit judge or

District Judge (Magistrates' Courts)[17] or equivalent in Scotland and Northern Ireland. The schedule makes it clear that there must be an evidential basis for the Order if it is to be made: speculation or a 'fishing expedition' will not do. The measure and the control of its use are necessary and proportionate.

95. *Section 38B* covers information about acts of terrorism. It is widely drawn. Its clear intention is to secure the maximum possible information so as to avoid acts of terrorism that might otherwise be prevented. In my view it remains necessary and proportional, given the danger to human life and to the economy posed by terrorist acts. It was used in 2007 – as Annex C shows, there were 5 charges under the section in 2007 (6 in 2006).

96. *Section 39*, which corresponds to *sections 17(2)-(6)* of the former *Prevention of Terrorism (Temporary Provisions) Act 1989*, makes it an offence punishable on indictment by up to 5 years' imprisonment for a person to disclose to another anything likely to prejudice a current or anticipated terrorist investigation of which he has knowledge or has reasonable cause to suspect. Although not used in 2006 or 2007, this remains a reasonable and proportional provision, similar in effect to other offences against justice such as doing an act tending and intended to obstruct the course of justice.

[17] District Judges (Magistrates' Courts) were added by the Courts Act 2003, section 65 and Schedule 4 paragraph 11.

5 PART V OF THE ACT: COUNTER-TERRORIST POWERS: ARREST AND DETENTION; STOP AND SEARCH; PARKING; PORT POWERS

97. *Part V* of the Act contains counter-terrorism powers available to the police to deal with operational situations. *Section 44* in particular continued to provoke heated debate in 2007, as in every previous year for which I have been the independent reviewer.

98. *Section 41* provides a constable with the power to arrest without warrant any person whom he reasonably suspects to be a terrorist. The ordinary powers of arrest available to the police under the *Police and Criminal Evidence Act 1984 [PACE]* require them to have reasonable grounds for suspecting that the person concerned has committed or is about to commit an offence. In his report on terrorism legislation Lord Lloyd of Berwick considered[18] that the pre-emptive power of arrest under *Section 14(b) of the PTA* was useful, because it enabled the police to intervene before a terrorist act was committed. If the police had to rely on their general powers of arrest, he argued, they would be obliged to hold back until they had sufficient information to link a particular individual with a particular offence. In some cases that would be too late to prevent the prospective crime.[19] However, Lord Lloyd expressed concern that the *Section 14(b)* power under the *PTA* contravened a fundamental principle that a person should be liable to arrest only when he was suspected of having committed, or being about to commit, a specific crime. He was especially mindful of *Article 5(1) (c) of the European Convention on Human Rights*, now part of our domestic law. Since then ECHR rights have been capable of assertion in British courts, and have been relied on extensively and successfully in cases involving terrorism and suspected terrorists.

99. *Section 41 of the TA2000* was the government's response to the concerns expressed by Lord Lloyd and others. The government of the time rejected his view that it was necessary to introduce a new offence of being involved in the preparation etc. of an act of terrorism.[20] Such an offence is included now by *Terrorism Act 2006 section 5*, and has been used for the purposes of prosecution.

100. The basis for the power of arrest, set out in *Section 41* subject to definition of 'terrorist' in *section 40*, works satisfactorily in my view. I have not been presented with arguments for its amendment or repeal.

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18 1996 Cm 3420, Chapter 8

19 1996 Cm 3420 paragraph 8.5

20 Repeated by Lord Lloyd in House of Lords debate on the Terrorism Act 2005: see House of Lords Hansard for the 10th March 2005 (via www.parliament.uk; follow debates links).

101. *Section 41* and the accompanying procedural system for detention set out in *Schedule 8*[21] were designed to bring the UK into compliance with *ECHR Article 5(3)-(5)* following the decision of the European Court of Human Rights in 1988 the case of *Brogan v UK*[22] that there had been a breach of *Article 5(3)* where a person had been detained for 4 days and 6 hours without judicial authorisation. In its decision on the narrow facts of that case the Court held that the power of arrest had been justified, in the light of the fact that on arrest the applicants had been questioned immediately about specific offences of which they were suspected. Substantially as a consequence of that case the UK government derogated from the relevant parts of the ECHR and of the UN International Convention on Civil and Political Rights – clearly not a desirable position. There have been various procedural changes to *Schedule 8*, none of substantive concern.[23]

102. Annex D shows the level of arrests under the TA2000 and associated legislation as a whole in 2007. Of a total of 257 persons arrested (185 in 2006), 126, just under half, were released without charge (94 in 2006). Two of the 126 released were remanded under extradition warrants. Whilst at first glance the number released may seem a high proportion, the nature of terrorism investigations means that those associated with or accompanying a suspect may well find themselves arrested out of an abundance of caution by the authorities. This should be avoided whenever possible, but the realities of this kind of policing increase the possibility of arrests later found to be of innocent members of the public. It may be small comfort to those arrested, but in other comparable countries the same issue arises commonly. I am satisfied that the level of arrests is proportionate to perceived risk, especially when set against the high level of vigilance operated by the statutory services and the large number of stops at ports of entry.

103. Detention under *section 41* and under *Schedule 7* is subject to the regime set out in Schedule 8. Codes of Practice have been issued under *Schedule 8*. By *section 306 of the Criminal Justice Act 2003, Schedule 8* of the *TA2000* was amended to allow up to 14 days' detention for the purposes of questioning and associated investigation. This was extended further to 28 days by the *TA2006 sections 23-24*. The adequacy of this extended period remains the subject of heated and frequent debate. Senior circuit judges supervise 14-28 day detentions, pursuant to the *Terrorism Act 2006*. I have not been asked by Minsiters to provide a detailed analysis of this system. It would be difficult for me to do so in any meaningful way without becoming effectively embedded in some cases from arrest to verdict, to gain the full picture. This has not been part of the reviewer's tasks, but could be included if required by Parliament. I should welcome clarity as to whether this is

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[21] As amended in paragraph 4 by section 456 and Schedule 11 paras 1, 39(1) and (5) of the Proceeds of Crime Act 2002; see SI 2003/333, art 2, Schedule; and SI 2003/210, art 2(1)(b), Schedule

[22] Brogan v United Kingdom [1988] 11 EHRR 193

[23] See Courts Act 2003, section109(1), Schedule 8 paragraph 391; section 109(3), Schedule 10.

required, even if the current *Bill* in the final analysis does not amend the existing law.

104. In the *current Counter-Terrorism Bill* the government has proposed a further extension to 42 days, subject to various overlapping safeguards including ongoing judicial scrutiny, Parliamentary debate, and a subsequent review of each case where there has been detention beyond 28 days. That review would be carried out by the person holding my current office as independent reviewer of terrorism legislation.

105. I suggest that the involvement of judges in the scrutiny of detention should be proportional to the length of detention sought. By this I mean that judges should be permitted to intervene more and make greater demands as the length of detention is extended. The greater involvement of senior judges from the 7th day of detention might well result in some suspects being held for shorter periods than have occurred hitherto. The government should consider empowering judges to scrutinise the reasons for detention, and the adequacy of the work done to bring the case to charge, from the 7th day after arrest. There should be a presumption that extended detention should <u>not</u> occur unless there are reasonable grounds for believing that extended detention would be likely to further the interests of justice. Judges scrutinising extended detention should have vested in them the power to request specific explanations or material from the prosecution side and possibly from the suspect too, albeit the failure of the suspect to respond could not be used against him/her at any subsequent trial. A suspect has every right to complain about unjustified extended detention; but equally might be seen to have a reasonable duty not to delay police enquiries by, for example, refusing to provide the security settings needed to unlock electronically protected material. I would expect experienced defence lawyers to welcome the possibility of judicial intervention as broadly described here, at a very early stage.

106. The element of Parliamentary debate proposed in the Bill is of interest, in its unique proposal that there should be such debate about an ongoing police investigation. I doubt that such debate would add light or clarity, given the importance of not discussing publicly the merits of cases likely to be tried later in a criminal court.

107. I should add that I am opposed to the use of merely holding charges designed to secure a remand in custody, but not truly representative of the criminality suspected. It would be all too easy for this practice, accepted in some Continental jurisdictions and undoubtedly the cause of excessive custodial remands, to become accepted practice in the United Kingdom. I have serious worries about the CPS using the so-called ‘threshold test’ for the charging of offences in terrorism cases, rather than the normal and more demanding ‘full code test’. The threshold test contains at least as many, and

certainly more concealed risks of causing unfair extended detention as the current *Bill* proposes in increasing the maximum to 42 days.

108. In the event of the independent reviewer being required to provide a report on each case of detention beyond a specified number of days, there are practical implications. These would require the reviewer to be informed as that point was reached; and for the reviewer to be given the opportunity to observe the process contemporaneously. In addition, I suggest that the Secretary of State should report regularly – say every six months – on the use of such extended detention powers.

109. I expect in the course of time to see cases in which the current maximum of 28 days will be proved inadequate. I have seen no such cases since the increase to 28 days. I would cite as examples:

- A situation in which a suspect was injured at the time of the terrorism event and unfit to be interviewed for more than 28 days. This is not at all fanciful: Dr Ahmed, a suspect who died without regaining consciousness more than 28 days after the Glasgow Airport attack of June 2007, would have been outside the 28 day period had he subsequently regained consciousness. There are several circumstances in which analogous events might occur – for example if a police officer or member of the public injured a suspect lawfully in the defence of him/herself and others under potential threat.
- A large scale terrorism event or simultaneous multiple events in different parts of the country, so that police and other resources were extremely stretched. This could fall well short of a formal state of emergency. Dealing with more than about a dozen terrorism suspects at the same time would place the specialised services under pressure – by this I refer to prosecution and defence lawyers, doctors, interpreters, scenes of crime staff, forensic scientists, computer experts, and custodial staff.

110. Last year I visited by request the police custody suites for terrorist suspects in Northern Ireland, Scotland and London (including the reserve facility at Belgravia Police Station for Paddington Green).

111. The facilities I saw were all acceptable for up to 14 days detention. In my view it is only acceptable for prisoners detained after 14 days to be held overnight in conditions equivalent in levels of comfort, food and exercise to prison conditions. In London this remains a problem. In Scotland and Northern Ireland changes have been made to render the facilities fit for detention of up to 28 days.

112. In my corresponding report for 2006 I expressed the view that the Metropolitan Police need a new custody suite suitable for up to 30 terrorism suspects, and possibly for use in other serious inquiries. I suggested

that such a facility ideally would be purpose built, very secure, and in a location causing as little disruption as possible to nearby residents and businesses. I am aware that the Metropolitan Police Authority has embarked on the inevitably lengthy process of planning and constructing or adapting an appropriate facility. They asked me to look at one proposed site, an adaptation, which I regard as less than ideal.

113. District Judges (Criminal) with particular knowledge and experience of the system for extension of detention under *section 41 and Part III of Schedule 8* have dealt with extended detention up to now. They do a valuable job, are careful and consistent. Their role includes dealing with the detention of persons stopped at a port and dealt with under *Schedule 7*, and subsequently arrested under *section 41*. If the detention system is to be changed to raise the seniority of judges dealing with it or parts of it, this certainly should not be taken as a criticism of district judges.

114. Rather, it is a reflection of the importance of the issue of detention in terms of civil liberties and fundamental freedoms. *Section 42* permits the search of premises under a warrant issued by a justice of the peace on the application of a constable if the justice of the peace is satisfied that there are reasonable grounds for suspecting that a person "falling within *Section 40(1)(b)* is to be found there". There has been no evidence presented to me that this provision is misused or presents any problems.

115. I turn next to *sections 43-45*. *Section 43* provides stop and search powers connected with *sections 41 and 42*. *Sections 44-45* provide stop and search powers in relation to persons and vehicles within specified geographical areas, for the purpose of seizing and detaining articles of a kind that could be used in connection with terrorism. It is an offence not to comply. Such stops and searches can occur only within an area authorised by a police officer of at least the rank of or equivalent to assistant chief constable.

116. Every year since I became independent reviewer there have been severe criticisms of the provisions of *sections 44 and 45*, and of their operation. This criticism has increased in the past year.

117. An intensive amount of work has been done, especially by the Metropolitan Police, towards providing a clearer understanding throughout police forces of the utility and limitations of *sections 43-45*.

118. As stated in paragraph 33 above, at the time of writing, a review of all stop and search powers is being carried out at the request of the Prime Minister. As part of this process, I have taken part in Home Office consultation on the efficacy, application and future of *section 44*.

119. *Section 44* was considered by the House of Lords in *R (Gillan) v (1) Commissioner of Police for the Metropolis (2) Secretary of State for the Home Department*.[24] It was held there that *section 44* is *ECHR* compliant. It was held that the powers are lawful, if properly authorised and confirmed under the Act. However, the precision of the legislation means that any person stopped and searched must be given all the information he needs to know, and the police in stopping and searching cannot act arbitrarily. Thus, if a citizen is stopped and searched pursuant to a lawful *section 44* authorisation, and is searched in a lawful way, and has explained to him/her that the search is for terrorism materials pursuant to the Act, that is lawful. Any arbitrariness on the part of the police is unlawful, and gives rise to potential civil liability.

120. From the above it can be seen that it is essential that the police must know what they are doing, accurately briefed. This means that police officers on the ground, exercising relatively unfamiliar powers sometimes in circumstances of some stress, should have a reasonable degree of knowledge of the scope and limitations of those powers.

121. Most important, I repeat my mantra that *terrorism related powers should be used only for terrorism related purposes*; otherwise their credibility is severely damaged. The damage to community relations if they are used incorrectly can be considerable. The use of *section 44* has attracted particular criticism as having a negative effect on good community relations. Its purpose and deployment are ill understood.

122. During 2007 I have discussed the nature and use of section 44 and section 45 with police and others wherever possible.

123. Section 43 is relatively straightforward. It allows a constable to stop and search *"a person whom he reasonably suspects to be a terrorist to discover whether he has in his possession anything which may constitute evidence that he is a terrorist"*. The familiar thread of reasonable suspicion flows throughout this stop and search procedure, and that for the seizure and retention of material discovered during the *section 43* search.

124. In contrast, *section 44* provides for the authorisation of geographical areas for the purposes of *section 45 searches*, which do not have to be founded on reasonable suspicion. Authorisations may only be given by an ACPO rank officer,[25] and solely *"if the person giving it considers it expedient for the prevention of acts of terrorism"*.[26] Pursuant to *section 46* the Secretary of State must be informed as soon as possible, and authorisation lapses if not confirmed by the Secretary of State within 48 hours.[27]

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[24] [2006] UKHL 12; and via www.parliament.uk and follow House of Lords and judgments links

[25] Sections 44 (4)-(4C)

[26] Section 44(3)

[27] Section 46(4)

125. Routinely now, I am given details of *section 44* activity. It continues to be used throughout London on a continuous basis, and in other police areas. I have examined every authorisation issued during 2007 in England and Wales. The Home Secretary deals with all *section 44* applications in England and Wales.

126. I have been made aware of five episodes in which *section 44* powers were treated by the local police force as being available when the relevant authorisations were not in place. Two arose in Sussex, one in South Wales, and two in Greater Manchester. The purported use of the powers without authorisation is an intolerable invasion of the civil liberties of those affected. I hope that all police forces concerned accept that each of the 12 individuals affected should have been or be informed in writing, so that they might consider whether they wish to pursue civil proceedings against the police. The 12 members of the public concerned were all stopped unlawfully in Sussex on the 12th February 2007 (none were arrested). All the incidents concerned were brief, but their brevity cannot right the wrong that occurred. Procedures have been examined critically at Ministerial level and in the police forces, and are now strengthened. In both cases, had the authorisation process been dealt with in the correct form, at the time a *section 44* authorisation would have been made and approved.

127. My view continues as expressed in the past three years – that I find it hard to understand why *section 44* authorisations are perceived to be needed in some force areas, and in relation to some sites, but not others with strikingly similar risk profiles.

128. I consider that it would not be in the public interest for me to describe the differences between police forces and in relation to similar sites. However, I can say that it is clear to me that *section 44* is used by some forces without full consideration, and that in future authorisations should be examined more critically by the Home Office. Where other stop and search powers are adequate to meet need, there is no need to apply for or to approve the use of the section. Its primary purpose is to deal with operationally difficult places at times of stress, when there is a heightened likelihood of terrorists gaining access to a significant location. For example, I have no criticism of its careful use at the time of a major demonstration at London Heathrow Airport: terrorists might well use the opportunity of participation in such a demonstration to enter, photograph or otherwise reconnoitre, and otherwise add to their knowledge of a potential target such as Heathrow. On the other hand, I can see no or very little justification for using *section 44* to speed up the process of stopping and examining lorries bound for a medium-sized sea port, when other powers will do perfectly well.

129. I hope that the Metropolitan Police will feel soon that the time has arrived for them to limit their *section 44* authorisations to some boroughs only, not to the entire force area.

130. I am sure beyond any doubt that *section 44* could be used less and expect it to be used less. There is little or no evidence that the use of *section 44* has the potential to prevent an act of terrorism as compared with other statutory powers of stop and search. Whilst arrests for other crime have followed searches under the section, none of the many thousands of searches has ever related to a terrorism offence. Its utility has been questioned publicly by senior Metropolitan Police staff with wide experience of terrorism policing.

131. Subject to the views expressed above, in my view *section 44* and *section 45* remain necessary and proportional to the continuing and serious risk of terrorism. A Home Office Circular[28] provides helpful further guidance in respect of the use of *section 44*. Its general emphasis is on the reduced use of the section only when necessary. This should be more evident in practice.

132. *Section 44* has been amended by the *Energy Act 2004 section 57* to allow authorisations by an officer of the rank of Assistant Chief Constable in the British Transport Police Force, the Ministry of Defence Police and the Civil Nuclear Constabulary. These are appropriate changes and are causing no difficulty. It was amended too by *section 30* of the *TA2006*. This amendment extended its scope to internal waters: this was a sensible and necessary change in the law.

133. *Sections 48-51* provide similar powers for the designation of areas by ACPO rank officers, in this instance to prohibit or restrict the parking of vehicles on roads specified in the authorisation. This is a proportionate provision in the public interest. As in past years, there is no evidence of excessive use, nor of insensitive use of prosecution for contravention. It is noted that possession of a disabled person's badge is not of itself a defence to a contravention offence.[29]

134. *Section 53* and *Schedule 7* provide for port and border controls. This remains a very important aspect of the *TA2000*. In the past I have suggested repeatedly that the number of random or intuitive stops could be reduced considerably. From my discussions with counter-terrorism police officers I know that considerable attention is being focused by the police, especially by the National Co-Ordinator of Special Branch and the National Co-Ordinator of Ports Policing, on behavioural analysis and the better use of intelligence. This

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[28] Circular 038/2004, 1st July 2004.

[29] Section 51(3)(4)

is entirely consistent with my view that there should be a policy and practical drive towards a stronger intelligence base for all counter-terrorism activity.

135. I do not reject the value of intuitive stops by police officers with observational experience. If modern analytical methods can distil something of the operation of quality intuition, and use it for training purposes, that is to the benefit of all. Nevertheless, I remain of the view that stops at ports can still be reduced in number without risk to national security.

136. As I have said before, what would be of real help towards national security would be a more efficient system of reading passports electronically. A great deal of information about terrorist activity can be gleaned from the travel patterns of individuals. If all passports were read electronically on departure form the United Kingdom, the prevention and detection of terrorist plans and offences would be assisted greatly. Whilst this suggestion may give rise to some civil liberties concerns, these could be met by clear protocols limiting the period for which such information could be retained, in what form and by whom.

137. Recently I have seen demonstrated the latest in passport reading technology. Small, portable equipment is being rolled out into pilot projects at air and sea ports. The development and use of versatile and fast electronics for this purpose will enable checks to be made on passports with almost no delay, so that important information will reach ports officers almost immediately.

138. I continue to be impressed by the level of co-operation regionally and nationally between police forces, supervised by ACPO and its Scottish equivalent ACPOS, together with the chief officers of the other, non-territorial police forces. Cooperation between police and Security Service appears to be very high in frequency and quality. Real-time and other exercises are carried out regularly, and lessons are learned from them.

139. In my corresponding report last year I expressed what I called *'real concerns'*, arising from my observations of ports policing and special branches, summarised as follows:

- **Concern** Some police forces have small special branches (or equivalent) with little experience of and expertise in terrorism. All are well organised and determined, and well-led. However, they are entirely dependent on regional structures to provide the critical mass of officers and expertise necessary for effective results. A national equivalent of special branches could prove more efficient, and would improve career prospects for expert counter-terrorism police.
  Current view. There is continuing and effective work at ACPO and Home Office level to ensure national co-ordination and consistency. The NCSB and the NCPP, with ACPO and significant input from the

Metropolitan Police, provide the impetus for these efforts. Within the police service there is not unanimity as to the future structure of these special police services. Performance is far more important than structure.

- **Concern** Under the present system, it would make operational sense if the role of special branch was recognised fully by raising the ranks available to experienced, and to younger highly capable officers. There are many Detective Constables and Detective Sergeants performing work important to national security. The increased availability of promotion of to higher ranks within special branch (whilst enabling officers to continue their existing work) would in my view recognise the importance of that work.
  Current View I have yet to see any evidence of this concern being addressed in any convincing way.
- **Concern** From time to time police officers are still being abstracted from counter-terrorism work to other police duties. This is rarely acceptable, especially where the special branch is small.
  Current View I remain as concerned as before about so-called abstractions from special branches. These occur when an officer is removed temporarily from special branch work to other activities in his/her home force. If an abstraction is a legitimate part of a properly formed individual training or career plan, generally that is acceptable. However, I have received complaints that abstractions still occur to fill in when other policing is short-staffed. Save in genuine emergencies, this should stop.
- **Concern** There is a continuing and regrettable problem about the exchange and sharing of information. Computer systems available to one control authority cannot readily be accessed by others. Information provided by passenger carriers may be available to the police but not Revenue and Customs, and vice-versa: I have seen real examples of this. These impediments to the effective countering of terrorism must be removed, if the results of intelligence-gathering and its analysis are to have full value. Good work is being done to improve this, and in my view should be a priority.
  Current view Considerable work is being done in this regard, and the current *Counter-Terrorism Bill* addresses some aspects of this problem.
- **Concern** There is uncertainty about the legality of sharing of information in some contexts – for example passenger information in the hands of airlines. Ministers should consider whether greater legal statutory clarity is required, so that useful information can be shared quickly and seamlessly. This is extremely important.
  Current view This has been the subject of consideration. Improvements are continuing.
- **Concerns** I have received a great deal of assistance this year from HM Revenue and Customs. They perform excellent work in many

circumstances. However, in my view their intelligence-led ‘brigading’ system of deployment leaves some potentially vulnerable ports of entry without Customs officers at times. Probably they simply do not have enough officers to provide the sort of cover that could be regarded as best practice in the effort against terrorism. This is certainly the view of some Customs officers on the ground.

- In addition, HM Revenue and Customs, as its name implies, is led by the imperative of revenue collection. The discovery from personal baggage of a small piece of information potentially useful in detecting a terrorist cell is of far more value to the national interest than the discovery of a few thousand bootleg cigarettes. Current Revenue and Customs performance indicators give full value to the discovery of the cigarettes, and almost none to the small but potentially significant sliver of counter-terrorism observational intelligence. That is not to say that individual customs officers fail to pass on such intelligence: many do. However, it is clear to me that the introduction of terrorism-related performance indicators by HM Revenue and Customs would be a valuable step. Customs officers need to feel that they are part of a border control effort, and that their help in detecting terrorism is valued by their employers.

  Current view The UK Border Agency has been established by the Home Office. It does not include the police. It covers issues concerning visas, overseas students, overseas citizens working in the UK, residency, citizenship and asylum. From the 3rd April 2008 it commenced responsibility for border, immigration, customs and visa checks at all UK ports. Plainly it is too early to say how this agency will develop. Its existence infers a realistic recognition of the need for a comprehensive and unified approach to all those issues. Hopefully it will enable the development of performance indicators which provide a sound rating to counter-terrorism information.

- **Concern** The ability of the Security Service to recruit and operate as diverse a workforce as possible remains of self-evident importance. I know that Ministers and senior management of the Service are committed to expansion to achieve this.

  Current view This is being dealt with. The Security Service is growing to meet need.

140. The points set out in the previous paragraphs at least in part arise from my visits to ports of entry in my capacity as reviewer; and whenever and wherever I travel privately I am sensitised and watchful of security issues. I have received maximum cooperation from officers and staff in all control authorities and at all levels, and from those representing airlines, shipping companies and the ports themselves.

141. I have continued to take note of search arrangements developed for airports and seaports. These have continued to improve.

142. In relation to *Schedule 7*, there is no requirement that the officer should have conceived any suspicion in the initial stages of an examination about the passengers, crew, vehicle or goods subject to the stop. This means that it is a wider power than is normally available to police, immigration or customs officers. I and past reviewers have commented before that the obvious presence of port officers is a deterrent to terrorists. This has not changed. Knowledge on their part that a port is manned efficiently and the subject of strong and well-informed vigilance is a significant inhibition against targeting that port.

143. I remain firmly of the opinion that the terrorist traveller has at least as great a prospect of being caught at UK ports of entry as anywhere else.

144. Whilst the adequacy of accommodation for police at seaports and airports remains a matter of less than universal contentment, I have received fewer complaints this year than ever before. The importance of such facilities is generally recognised. *Paragraph 14(1) (b) of Schedule 7*, whereby port managers can be required to provide at their own expense specified facilities, is always an available option.

145. I have received no complaints about the treatment of members of the public at ports in 2007. Other such complaints are made to the police and the Home Office. Most relate to being stopped at all. Conversations with passengers at air and sea ports suggest general public acquiescence that searches and other form of vigilance are reassuring as long as they are proportional.

146. Language difficulties do occur from time to time and will be liable to cause occasional problems at ports of entry. Considerable sums are spent on the provision of interpreters, though the system is bound to be imperfect in some places. Suitable interpreters of Arabic and other languages are not always available. The use of telephone-based interpretation facilities is now well developed, and a useful stop-gap. However, inevitably problems arise where the authorities are under-staffed or hard-pressed. I repeat as last year that the provision of interpretation to a good standard is an increasingly important aspect of the protection of travellers against unjustified suspicion.

147. In my previous reports I have expressed concern on the subject of general aviation.

148. I continue to give close attention this year to the organisation, supply and security of business and general aviation. I have received acceptable cooperation from the industry, through both industry representatives and individual companies. It is possible to purchase, from reputable international companies, piloted flying hours in sophisticated executive jets capable of high

speed travel from continent to continent. The risk of hijacking of such aircraft is a matter of potential concern.

149. Another real anxiety is the potential use of light aircraft as vehicle bombs against places of public aggregation. This is not founded on any particular intelligence, or on any operation as such. However, I know that some knowledgeable police officers and officials have ongoing concerns about the relative simplicity of terrorism conducted in this way, given the very large number of private aircraft and small airfields. This has led to some well thought out local policing plans, involving special branch and other police officers working together and with local communities. There is real co-operation from pilots of all kinds of aircraft and owners/operators of air fields of all sizes.

150. The business and private aviation sector continues to respond well to such threat as terrorism presents to them. The operators of airfields to which volume business and general aviation fly are well aware of terrorism concerns.

151. The information available to the control authorities about incoming business and general aviation needs to be as full as possible, to ensure that the real embarkation point of aircraft is known to the UK authorities. As last year, if a plane flies from outside Europe, and stops for a short time en route at a European airfield, it would generally be shown in information to the UK authorities as coming from that European point. This is self-evidently unsatisfactory.

152. Companies operating in general aviation are growing and often dynamic businesses. They need clarity in the rules under which they operate. Trusted traveller programmes and the equivalent in freight are an important part of their trade. Hopefully there will always be clear and effective channels of communication with government departments and agencies – so that the industry can remain competitive whilst meeting high security standards. In 2008 I shall be looking closely at the security of fast-moving freight, especially the performance and possible vulnerabilities of large-volume despatch businesses.

153. Government and the aviation industry have a high responsibility to ensure full passenger information and the effective international policing of such aircraft. The operators, wishing to retain their certifications and reputations, have a strong interest in full cooperation with the authorities.

154. The Maritime and Coastguard Agency continues to play an important role in the policing of small ports and general aviation issues. The Agency should always be seen as a full participant in the stemming of the threat of terrorism.

155. Joint UK and French operations are now in being on both sides of the English Channel. These are designed to secure better quality of information sharing between the two countries, a freer flow of legitimate passengers, and the stemming of the tide of hopeless asylum seekers. This last aspiration is being achieved, with a continuing reduction in the number of illegal entrants through Dover and Folkestone, and the Channel Tunnel. The juxtaposed controls (British and French alongside each other) on each side of the Channel are operating with improved efficiency.

156. It is part of my annual litany to repeat in connection with aircraft and passenger shipping that manifests are a cause for concern. As has been said by me and previous reviewers again and again, the information provided by shippers and carriers is of great value to port officers. If police know who is on board an aircraft or vessel, or what is being carried, their knowledge is increased, and they may be able to further important enquiries. If the manifest information is inaccurate, inadequate and given a low level of importance by transport operators, a vital clue may be missed. Good manifest information can save lives.

157. As in previous years, given the fluidity of terrorist organisations, I trust that attention to crew-related terrorism issues is kept under continuing review and the advice of the police and security services heeded.

158. *Schedule 7 of the TA2000* sets out the powers of officers performing port and border controls. The powers under the Act are circumscribed in purpose by *paragraph 2(1)* of the Schedule, to determining if the person stopped *"appears to be a person falling within section 40(1)(b)"* [i.e. a 'terrorist'] whether there are grounds for suspicion or not.

159. Whilst I am not able to scrutinise every port stop, generally I am satisfied that in 2007 the port powers and the checks and balances on those powers worked well and remained necessary. Recording systems are sound and accountable. Each port examination (as opposed to short stop) is recorded in written form, and senior officers examine written records routinely. Special Branch officers generally function to a very high professional standard. In relation to freight too, solid tactics and systems are in place. Given that there are so many ports, and so extensive a coastline, the effort against terrorism via freight and small vessels is remarkably proficient. Co-ordination of the efforts of the various police forces and agencies is improving all the time.

6 PART VI OF THE ACT: ADDITIONAL TERRORIST OFFENCES

160. *Sections 54 and 55* provide for an offence of instructing and training another, or receiving instruction or training, in the making or use of firearms, explosives or chemical, biological or nuclear weapons. The offence includes recruitment for training that is to take place outside the UK.

161. Lord Lloyd reported that the precedent for this offence applicable only in Northern Ireland had never been used, and presented real evidential difficulties.[30] The government responded in its consultation paper prior to the *TA2000*[31] with references to international terrorism and its recruitment methods.

162. In my reports for the previous four years I have expressed the view that the events of September 11th 2001, and of July 2005 in the UK, and evidence available since then demonstrate that international terrorists have recruited young people in the UK, with the potential for use against the UK and around the world. This remains of extreme concern.

163. Any person who invites, incites or encourages young people to receive instruction or training in terrorist violence (wherever in the World such instruction or training was to be given) is guilty of an offence.[32] In the present international climate of general terrorist threat this provision is proportionate and necessary. The threat of terrorist use of weapons capable of injuring whole communities is serious enough to warrant the measures of which *sections 54-55* are part. New offences in relation to preparation for terrorism, training and training camps were included in the *TA2006 sections 5-9* (see *TA2006* consideration from paragraph 297 below). Those too are a proper response to the threat.

164. I remain satisfied that the existing provisions are potentially very useful and effective for dealing with aspects of international terrorism. They have been used for the purposes of prosecutions, and feature in some pending trials. As can be seen from Annex C, 59 persons were charged under *sections 54-58* during 2007, an increase of 20 compared with 2006.

165. *Sections 56-58* deal, respectively, with directing terrorist organisations, possession of articles giving rise to a reasonable suspicion of a terrorist purpose, and possession or collection of information likely to be useful for terrorism.

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[30] CM 3420 Volume 1 Paras 14.26-14.28

[31] CM4178 Para 12.12

[32] Section 54(3)

166. It is not part of my terms of reference to debate the merits or otherwise of reverse onus provisions of the type contained in *sections 57 and 58*, unless they do not work satisfactorily. They were considered by the House of Lords in *R v DPP ex p Kebilene*[33]. The working of *sections 56-58* is satisfactory, and they remain a necessary and proportionate part of the legislation.

167. *Sections 59-62* provide for offences of inciting terrorism overseas. These provisions incorporate the substance of what was formerly *Sections 5-7* of the *Criminal Justice (Terrorism and Conspiracy) Act 1998*. Whilst the provisions are wide, the consent of the DPP is required before a prosecution can be brought. With the protection of the requirement of such consent, the existence of an offence to criminalize, for example, incitement by a person within the UK to murder a British ambassador abroad is a proportionate response. As I observed in my four previous reports, the deaths of a senior British diplomat and others in Istanbul in 2003 has demonstrated the reality of the worst fears that such events may occur. Seven persons were charged in 2007 under *section 59* (9 in 2006).

168. *Section 63* extends jurisdiction so that if a person does anything outside the UK that would have constituted a terrorist finance offence contrary to *sections 15-18*, he shall be guilty of the offence as if it had been done in the UK. It is my continuing view that this provision remains useful and necessary, and enhances the working of the Act.

169. *Sections 63A-63E* made further provision for extra-judicial jurisdiction for terrorist offences, in accordance with the *Crime (International Co-operation) Act 2003, section 52*. These provisions extend domestic law to take into account various treaty obligations, which in broad terms apply ‘zero tolerance’ to terrorism acts wherever they are committed and whatever their purpose or political or other target. Criminal liability in our own jurisdictions is extended to any UK national or resident who commits outside the UK any act which would be a terrorism offence within the UK. The extension of UK jurisdiction applies too to terrorism acts by any person (whatever their nationality or residence) wherever committed, against UK nationals, residents and diplomatic staff. *Section 63D* makes a similar provision in relation to terrorist attacks or threats abroad in connection with UK diplomatic premises and vehicles. All such prosecutions are subject to the consent of the Attorney General, or the Advocate General for Northern Ireland.

170. *Section 64* has been repealed.

[33] [2000] 2 AC 326

PART VII OF THE ACT: ANNUALLY RENEWABLE NORTHERN IRELAND PROVISIONS

171. As before, in Northern Ireland I have been greatly assisted by the patient and purposeful support which I have been given by officials of the Northern Ireland Office, the Police Service of Northern Ireland and other law enforcement bodies, those involved in administering justice and running the courts, the regional political parties, human rights organisations, and many, many other organisations and individuals who have advised, helped and contacted me. I have drawn extensively upon their generously given time and documentation.

172. *Part VII* of the Act was replaced from the 16th February 2006 by the *Terrorism (Northern Ireland) Act 2006 [TNIA2006]*. The main (and temporary) purpose of that Act was to extend the life of *Part VII* for a limited period.[34]

173. The *Justice and Security (Northern Ireland) Act 2007 [JaSNIA2007]*, in force substantially since the 31st July 2007,[35] provides from the 1st August 2007 for a considerably revised system of non-jury trial, to be used in restricted circumstances. That system will be subject to separate review. *JaSNIA2007* introduces other important changes to the law concerning the Northern Ireland Human Rights Commission, powers of the military and the police to stop and search, road closures, compensation and connected criminal justice matters, and the private security industry. Unfortunately the statute law database www.statutelaw.gov.uk has not been updated regularly with the dates of coming into force of the new Northern Ireland provisions. In effect, *Part VII* has now been repealed by *JaSNIA2007*, and former counter-terrorism laws have been succeeded by new public order legislation. My comments in this report are on the last months of *Part VII*.

174. The *TA2000 Part VII* provisions were temporary in nature and subject to annual renewal by Parliamentary order. *Part VII* was also time-limited and in the absence of further primary legislation would have expired at the end of 18th February 2006.

175. The IRA's statement of 28th July 2005 gave notice that its leadership had formally ordered an end to its armed campaign. The Government responded to this statement by updating and triggering *Annex 1* to the Joint Declaration on 1st August 2005. Under the Annex the Government committed to the repeal of the *Part VII* provisions by 31st July 2007 provided the enabling environment is established and maintained.

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[34] See the explanatory notes to the Act at www.opsi.gov.uk/acts/en2006/2006en04.htm

[35] See section 53 for commencement provisions; and *The Justice and Security (Northern Ireland) Act 2007 (Commencement No. 1 and Transitional Provisions) Order 2007* [2007] No. 2045; and *The Justice and Security (Northern Ireland) Act 2007* (Commencement No. 2) Order 2007 [2007] No. 3069

176. At the time the Bill which resulted in *TNIA2006* was introduced into Parliament, the Government assessed the security situation and determined that the *Part VII* provisions remain necessary until the end of the normalisation programme. *TNIA2006* therefore made provision for the *Part VII* provisions currently in force (excluding *section 78*) to remain in force until 31st July 2007.

177. The Government also took the view that it would be prudent to make legislative provision in case the security situation did not improve sufficiently to allow for the *Part VII* provisions to cease to have effect in July 2007. *TNIA2006* therefore made provision to enable the Secretary of State to extend the provisions of *Part VII* by order for a specified period ending before 1st August 2008.

178. *TNIA2006* additionally made provision to:

- Add the offences created by the *Prevention of Terrorism Act 2005* to the list of scheduled offences under *Part VII* of *TA2000*;
- Ensure that all scheduled offences are subject to the Attorney General's discretionary power to deschedule an offence;
- Repeal those provisions of *Part VII* which are not currently in force together with *section 78* (which relates to the sentencing of children convicted of a scheduled offence);
- Retain in force *section 11 of, and Schedule 2 to, the Justice (Northern Ireland) Act 2004* until the 31st July 2007. These provisions ensured that breaches of bail in scheduled cases were dealt with in a similar way to non-scheduled cases; and
- Allow the Secretary of State to make, by order, the transitional and consequential provision necessary on the *Part VII* provisions ceasing to have effect.

179. I remain convinced of the increasing realisation that the democratic process is a speedier vehicle towards acceptable change than an armed struggle, even when the political parties may seem irreconcilable on some key issues. Most citizens of Northern Ireland are as opposed to terrorist acts and other heavy crime as their fellow citizens elsewhere in Great Britain and Ireland. The remarkable and courageous decision announced on the 26th March 2007 to resume the Assembly government process provided real grounds for optimism. The process of normalisation is continuing as smoothly as could realistically have been expected. I have found the political parties in Northern Ireland to be committed to the changes, though vigilant as ever of each other and of the UK government.

180. In carrying out my assessment of *Part VII* as amended by *TNIA2006*, I must examine whether, in the limited period the subject of this review, it has been used fairly. In the past, part of my role was to determine whether

I should recommend that there was a continuing need for each of its provisions, and if so whether any amendments should be made.

181. I have been briefed by the military in relation to their role in Northern Ireland. The same applies to the Police Service of Northern Ireland. The continuing reduction in Army activity, together with the dismantling of watch towers and some other military infrastructure, are clear signs of normalisation. Troops in Northern Ireland are now doing other work, for example training for activities in the Middle East. Rear-based troops stationed outside Northern Ireland remain ready for the unexpected in Northern Ireland, and are brought over if required. I was able to witness some of the continuing training for possible civil unrest there.

182. I am in contact with the legal checks and balances in the Northern Ireland situation, having spent time in discussions with (amongst others) the Lord Chief Justice of Northern Ireland and other senior judges, the Public Prosecution Service for Northern Ireland, senior management of the PSNI, the Police Ombudsman, the Independent Assessor of Military Complaints Procedures, and the Chief Commissioner of the Human Rights Commission, as well as the political parties as mentioned above. Their contributions have helped my work greatly.

SCHEDULED OFFENCES: SECTION 65 AND SCHEDULE 9

183. *Schedule 9* sets out in three parts those offences which are made subject to special provisions in *Sections 65 to 80* and *Section 82* of the Act. During 2007 the Secretary of State made no orders to add or remove offences from *Schedule 9*, or to amend the Schedule in some other way.

184. Annexed to this report are Northern Ireland Statistics similar to those I have produced in past reports. Table NIO/A demonstrates that, in the first half of 2007, 98 indictable offences, representing 37% of the total, remained scheduled. This compares with 25 % in 2006, and 15.25% for 2005. However, the increase must be set against a large and continuing reduction in the number of persons involved, in the first half of 2007 148, as against 415 in 2006 and 528 for 2005. I remain satisfied that there continued a desire and attempt to try as many cases as possible in jury courts.

185. As many trials as possible should occur in the normal way, with the ultimate fact-finding responsibility in the hands of the jury. Nevertheless there has been no evidence that any defendant was at a disadvantage in a Diplock court, where the conviction/acquittal rate over recent years has compared closely with jury courts.

186. There is some evidence of former paramilitaries having become involved in serious organised crime – including drugs importation and

distribution, and protection racketeering. These activities are becoming increasingly distant from any political objectives. One can reasonably expect that sentences for such offences will be severe in the future, especially if any attempt is used by what effectively are no more than gangsters to destabilise the political process or communities. Any evidence of intimidation of witnesses and jurors should be met by swingeing penalties, as in Great Britain, and in Ireland.

187. No new issues have been drawn to my attention arising from the provisions of *TA2000 Section 66*, which required a Magistrates' Court to conduct a preliminary inquiry into the offence in proceedings before such a Court for a scheduled offence. I have received no adverse representations on the working of this section.

REMANDS AND LIMITATIONS ON BAIL – SECTIONS 67-71 TA2000

188. *Section 67* in essence removed the normal presumption in favour of bail. The wording of *Section 67(3)* provided that a judge *"may, in his discretion"* admit to bail a person charged with a non-summary scheduled offence unless satisfied that there exist circumstances which are strong contra-indications to bail.

189. Consistent with recommendations I made in previous reports, *section 67(3)* and *(4)* were repealed in 2006.[36] The effect of this has been to normalise legal standards for the granting of bail between Great Britain and Northern Ireland.

190. Bail applications in scheduled offences could only be made to a judge of the High Court or the Court of Appeal, prior to being listed in the court of trial (*Section 67(2)*). High Court judges sit at weekends if necessary, to deal with bail applications. Good quality video conferencing court facilities are available for this purpose, so that applicants do not have to be transported to Belfast for applications.

191. Table NIO/B includes details of High Court bail applications in Northern Ireland in respect of persons charged with scheduled offences during the first three quarters of 2007. These reveal that 35% of such bail applications were refused [2006:21% and 2005: 21%]. However, the 2007 figures should be read with caution: the number of cases is significantly reduced, which means that it is likely that the average seriousness of those considered was greater; and a new system called the Integrated Court Operations System was introduced so that direct comparison is not realistic. My conclusion is that the prospects of bail in like for like cases has not altered materially.

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[36] *Terrorism (Northern Ireland) Act 2006, section 5(2)*

192. Table NIO/C shows that in the first three quarters of 2007 2006 approaching 80% of defendants charged with scheduled offences were on bail at the time of trial. This compares with 72% of those charged with non-scheduled offences. This compares satisfactorily with the previous four years. The figures bear out the welcome conclusion that bail is more often unopposed than used to be the case.

193. *Section 68*, made provision relating to legal aid for bail applications. It has caused no difficulty.

194. *Section 69* made provision limiting to 28 days remands in custody by magistrates' courts in respect of scheduled offences. It has caused no difficulty. *Sections 70* and *71* have been repealed.[37]

TIME LIMITS FOR PRELIMINARY PROCEEDINGS – SECTIONS 72 TO 74

195. *Sections 72-73* concerned time limits for preliminary proceedings. They empowered the Secretary of State to make regulations by negative resolution procedure to specify, in respect of any of the preliminary stages of proceedings for a scheduled offence, the maximum period for the prosecution to complete a particular stage, and the maximum period for which the accused may be remanded or committed in custody awaiting the completion of that stage. Detailed provisions were made in *Sections 72* and *73* for the contents of such statutory regulations and their consequences. No such regulations were made, and in my view none were necessary.

196. Table NIO/D shows case progression times between committal and final hearing, and all stages in between. In my view a reasonably successful case management system is in operation, including an administrative time limit scheme. The criminal justice reforms have case management and better regulation as a priority.

NON-JURY TRIALS – SECTIONS 74 AND 75

197. Non-jury trials in Northern Ireland resulted from Lord Diplock's 1972 Commission to *"consider what arrangements for the administration of justice in Northern Ireland could be made in order to deal more effectively with terrorist organisations."*[38] There evolved an effective and fair system of trial, robust enough to deal with the special challenges of terrorism without diluting in any way the quality of justice achieved. Fortunately, today we have a less threatening and dangerous situation to contend with.

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[37] *Terrorism (Northern Ireland) Act 2006, section 5(3)*

[38] Report of the Commission to consider legal procedures to deal with terrorist activities in Northern Ireland; CM 5185, Dec 1972

198. The central recommendation of the 1972 Commission was that trials of terrorist related crimes, defined as “scheduled offences”, should be heard by a judge of the High Court or County Court sitting without a jury, but with all the powers, authorities and jurisdiction of the jury court. Added to this was an unfettered right of appeal. This was first given effect by the *Northern Ireland (Emergency Provisions) Act 1973*. Lord Diplock’s rationale for this recommendation was that the jury system as a means for trying such crime was under strain and that there existed no safeguard against the danger of perverse verdicts – a danger which could arise either because of intimidation or partisan juries.

199. The Diplock Courts were retained briefly by *TNIA2006*, but now have been replaced in *JaSNIA2007* by a non-jury court triggered on a different basis. The use of non-jury courts is certain to diminish.

200. The new provisions for non-jury trial are time-limited to two years from the 19th July 2007, extendable for two years at a time by affirmative resolution of each House of Parliament.[39]

201. *Sections 10-13* of *JaSNIA2007* make welcome and necessary provision to safeguard jurors from identification and intimidation.

202. *Section 76* has been repealed, with no adverse consequences.

POSSESSION OF EXPLOSIVE SUBSTANCES AND FIREARMS – SECTION 77

203. My conclusion in relation to *Section 77 TA 2000* is as before. *Section 77* imposed a form of evidential onus on a defendant charged with a scheduled offence of possessing explosives and petrol bombs, and various offences relating to firearms. It was for the defendant to prove that he did not know of the presence of articles on premises or that he had no control over them if he is to rebut the presumption that he was in possession of such articles (and, if relevant to the offence, knowingly). The effect of the onus placed on the defendant has been illustrated clearly by the Court of Appeal of Northern Ireland in the 2003 judgment of Kerr J in *R v Shoukri*.[40]

204. The presumption referred to above is unusual in such legislation, in that it is one permitted to the Court rather than required of the Court. This leaves room for judicial discretion in appropriate circumstances.

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[39] *section 9, Justice and Security (Northern Ireland) Act 2007* and *The Justice and Security (Northern Ireland) Act 2007 (Commencement No. 1 and Transitional Provisions) Order 2007* [2007] No. 2045

[40] R v Andre Shoukri; reference KERC4062

205. Having regard to the terrorist history, and the difficulty in obtaining evidence as to the source and chain of provision of explosives and firearms, in my view the necessity for *Section 77* was clear, for the time being. It did not cause any injustice.

SENTENCING AND REMISSION – SECTIONS 78-80

206. *Section 78* has been repealed.[41]

207. *Sections 79-80*, dealing with remission for convictions of scheduled offences, and with reconviction during remission, lapsed with the coming into force of *JaSNIA2007*.

208. Table NIO/E shows there were no convictions during remission for scheduled offences during the material part of 2007.

POWERS OF ARREST, SEARCH, SEIZURE AND EXAMINATION OF DOCUMENTS – SECTIONS 81 TO 88 TA 2000: SCHEDULE 5

209. These provisions provided powers enabling the army to operate independently of the police in Northern Ireland.

210. They also provided additional powers to the police for use in the prevention and investigation of terrorist crime. The provisions include powers to enter premises, to arrest, to stop and search, to search and seize, to examine documents and to stop and question. In this section my conclusions are as in the 3 previous years.

211. All these provisions have been repealed and have ceased to have effect as a result of *TNIA2006*. New and different provisions have been incorporated in *JaSNIA2007*, which as stated above is subject to its own (pending) independent review and outside the scope of this one.

212. *Section 81* allowed a police officer to enter and search any premises if he had reasonable suspicion that a person who is or has been concerned in the commission, preparation or instigation of acts of terrorism is to be found there. Table NIO/F shows a reduction in the use of the powers in the first half of 2007.

213. *Section 82* allowed any police officer to arrest without warrant any person whom he had reasonable grounds to suspect of committing, having committed or being about to commit a scheduled offence or an offence under the Act which was not a scheduled offence, and to enter and search any premises or other place for that purpose. *Section 82(3)* empowered an officer

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[41] *Section 5(2) Terrorism (Northern Ireland) Act 2006*

to seize and retain anything which he suspected of being, having been or intended to be used in the commission of a scheduled offence or an offence under the Act which was not a scheduled offence. *Section 83* provided a power of arrest and detention for a period not exceeding 4 hours to a member of Her Majesty's Forces on duty who reasonably suspected a person of committing, having committed or being about to commit any offence, together with corresponding powers of entry and seizure.

214. Table NIO/G shows a reduction to nil in 2007 of the use of the *section 82-83* powers. The Army was last involved in an arrest under the powers in the first quarter of 2006, and then only in a single instance.

215. Table NIO/H shows a similar level of searches by the Army (in every instance in conjunction with the PSNI) in the first three quarters of 2007 as in 2006. This is not surprising, given that almost all such searches were for explosives.

216. The disappearance of the Army from the streets of Northern Ireland is a welcome part of the normalisation process.

217. Table NIO/I shows a further dramatic decrease in the use of the *section 84* powers to search premises for munitions and transmitters. This too is welcome evidence of less violence, and of normalisation. In 2003 there were 1,686 such searches, in 2004 there were 361, and in the first three quarters of 2007 there were 40.

218. Table NIO/J shows a reduction to almost none in the use of the examination of documents powers provided by *section 87*. This too is welcome.

POWER TO STOP AND QUESTION – SECTION 89 TA 2000

219. *Section 89* empowered an officer to stop a person for so long as necessary to question him and ascertain his identity and movements, what he knew about a recent explosion or another recent incident endangering life, and what he knew about a person killed or injured in a recent explosion or incident. It was an offence to fail to comply and respond.

220. Table NIO/K shows the number of persons stopped pursuant to Section 89 in January to July 2007.

221. This has been a huge reduction as compared with previous years, with the military no longer involved at all. The reduction in the use of these powers was not accompanied by any increase in public disorder. This is welcome news.

222. Nobody failed to stop or answer police questions in 2007, as in the previous two years.

223. The oral and documentary evidence available to me leads me to the conclusion that the power to stop and question was administered and supervised to a high standard.

224. In due course it will be possible to make comparisons between the use of the powers in *TA2000* and those in *JaSNIA2007*.

POWERS OF ENTRY, TAKING POSSESSION OF LAND, ROAD CLOSURE ETC. – SECTIONS 90 TO 95 TA 2000.

225. The powers under these sections were vested severally and in some cases jointly in the police, the military and the Secretary of State. In the past all have regarded them as key aids to public order.

226. In 2007 the *Section 91* power to take possession of land by requisition was not exercised at all, as is shown by Table NIO/L. This provides evidence of increasing public goodwill as well as of judicious policing.

227. Eighteen de-requisition orders were made in 2007. The requisitioning and road closure provisions were useful in the difficult past, for the preservation of the peace and public order.

228. There is nothing material to report about *sections 92-95*.

229. *Sections 21-32* of the 1997 Act replace but do not replicate the powers described in this part of my review.

REGULATIONS FOR PRESERVATION OF THE PEACE: SECTION 96

230. *Section 96* provided a general power to the Secretary of State to make regulations for the preservation of the peace.

231. The power was wide ranging. Regulations made under it were subject to the affirmative resolution procedure. The *Northern Ireland (Emergency Provisions) Regulations 1991 (S.I.1991/1759)* and the *Northern Ireland (Emergency Provisions) Regulations 1975 (S.I. 1975/2213)* were made under the predecessor of this power.

232. These included rules concerning the halting of trains and the regulation of funerals. The power has been used in the past to prevent the use of certain border roads in South Armagh in order to disrupt an organised fuel smuggling enterprise.

233. *Sections 96-97* have been repealed.[42]

SAFEGUARDS: SECTIONS 98-104

234. *Sections 98-101* and *104* provided safeguards in the operation of *Part VII* including the provision for the appointment of an Independent Assessor of Military Complaints Procedures and a power for the Secretary of State to make Codes of Practice in relation to the police and army powers under *Part VII*.

235. These powers operated well. All have been repealed and replaced by new arrangements under *JaSNIA2007*.

COMPENSATION – SECTION 102 AND SCHEDULE 12

236. *Schedule 12* provided for compensation to be paid for certain action taken under *Part VII* of the Act. *Section 38* and *Schedule 4* of *JaSNIA2007* replace these provisions.

237. *Paragraph 1 of Schedule 12* provided for compensation where under *Part VII* property was taken, occupied, destroyed or damaged; or any other act was done which interfered with private rights of property.

238. The Schedule contained provisions removing the right to compensation for persons convicted of a scheduled offence in connection with which the *Part VII* act was done.

239. Table NIO/M sets out the compensation paid in 2007. This was significantly less than in 2006. There has been no indication to me that the compensation system did not work well. The proper provision of compensation for disturbance to private rights is appropriate.

TERRORIST INFORMATION – SECTION 103.

240. *Section 103* was concerned with terrorist information. It created offences if a person collected, recorded, published, communicated or attempted to elicit information, or had in his possession records or documents containing information that might be useful in committing or preparing an act of terrorism. The offences were limited to information concerning those who might be regarded as particularly vulnerable to terrorist acts, namely judges, constables, members of Her Majesty's Forces, court officers and full-time employees of the Prison Service in Northern Ireland. It included the disclosure of information, whether maliciously or innocently, and plainly was directed at the media as well as at terrorist organisations.

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[42] *Sections 1(1),(2)(b) and 5(2) Terrorism (Northern Ireland) Act 2006*

241. *Section 103* applied only to Northern Ireland. This was because of the specific historic nature of the threat posed there against certain categories of people working within sensitive areas of security.

242. It has been repealed by *TNIA2006*. However, *sections 57-58* of the *Terrorism Act 2000* provide protection for the armed forces, and it is intended that these protections be strengthened under proposals in the current *Counter-Terrorism Bill*.

SECTION 106 AND SCHEDULE 13: REGULATION OF PRIVATE SECURITY INDUSTRY

243. These provisions provided for the regulation of the private security industry in Northern Ireland. They have been replaced by new provisions set out in *section 48* and *Schedule 6* of the 2007 Act. These new provisions are not yet fully in force.

244. *Section 106* brought into effect *Schedule 13*, which provided a regime for the licensing of private security services. The provision of unlicensed services was and is an offence. Table NIO/N reveals that no applications for licenses and renewals in the relevant part of 2007 were refused or made subject to conditions.

245. I consider that an active licensing regime is desirable and necessary, given the number of persons with criminal records involved in the security industry in some parts of Great Britain.

SPECIFIED ORGANISATIONS – SECTIONS 107 TO 110

246. The specification of proscribed organisations remains necessary, having regard to the continuing danger posed by dissident terrorist groups, those which have placed themselves entirely outside the sphere of influence of the Northern Ireland democratic institutions and political parties despite recent developments. Careful consideration is given to issues of proscription and de-proscription, with the public interest as the key factor. Where organisations are no longer a threat, or no longer exist, they should be deproscribed.

247. Pursuant to *Section 11 TA 2000* a person commits an offence if he belongs or professes to belong to a proscribed organisation. *Sections 108-110* were introduced following the Omagh bombing.

248. *Section 108* made provisions for the evidence that may lead a Court to conclude that a *Section 11* offence has been committed.

249. *Section 108(2) and (3)* rendered admissible, under a *section 11* charge, hearsay evidence by a senior police officer as to whether an accused belonged to a proscribed organisation.

250. *Section 108* was not used, so far as I am aware. I found it difficult to envisage a situation in which a court would find itself able to attach significant weight to evidence given under *Section 108*.

251. *Section 109* allowed adverse inferences to be drawn from a failure to mention a fact which was material to a *Section 11* offence and which the accused could reasonably be expected to have mentioned when being questioned or on being charged.

252. These separate and specific provisions relating to proscription and Northern Ireland have ceased to have effect as a result of *TNIA2006*. The proscription law applicable to Northern Ireland is now the same as that for the whole of the United Kingdom.

FORFEITURE ORDERS – SECTION 111: SCHEDULE 4 PART III

253. *Section 111* (no longer in effect) provided for the forfeiture of money or any other property if a person was convicted of an offence under *Section 11* (Membership of a Proscribed Organisation) or *Section 12* (Support for a Proscribed Organisation).

254. Again this year I have received no representations in relation to *Section 111*.

255. *Schedule 4 part III* made provision in relation to forfeiture orders made by a court in Northern Ireland under *TA2000 Section 23*, where there was a conviction of an offence contrary to *sections 15-18* (fund-raising, use and possession of terrorist money or other property, entering into funding arrangements and money laundering for terrorism).

256. *Paragraph 36* of the Schedule enabled the Secretary of State, rather than the courts, to make and enforce restraint orders. *Section 112(5)(a)* made it clear that this paragraph was to be treated as temporary.

257. The *paragraph 36* powers and their predecessor had not been used for many years. They were allowed to lapse.[43]

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[43] IS 2003/427, art 1

8 PART VIII OF THE ACT: GENERAL PROVISIONS

258. *Part VIII* contains general powers necessary to give the Act full effectiveness, definitions and regulation-making powers.

259. *Sections 114-116* have provoked some complaints, specifically concerning the exercise of *section 44* powers. In general, the powers seem to me to be a necessary part of counter-terrorism policing.

260. *Section 117* requires the consent of the DPP or the Attorney General to prosecutions in respect of most offences under *TA2000*. This is an important safeguard against the arbitrary use of wide powers that could be misused in the wrong hands. The effectiveness of consent to prosecute as a protection against arbitrariness depends on far more than the astuteness and level of knowledge held by the DPP or Attorney General concerned. It depends too on the accuracy and integrity of the information provided for the purpose of the exercise of consent.

261. *Section 118*, which in my previous reports I described as an interesting and apparently effective example of a double-reverse-onus provision, deals with the prosecution's burden of disproving a statutory defence once the defence has complied with the evidential burden of raising it. No problems have been identified about its fitness for purpose.

262. *Sections 119 to 125*, as amended to reflect other legislative changes, are largely formal or definitions consequent upon the Act as a whole. Section 120A was inserted by *TA2006* to supplement the powers of the Court in respect of forfeiture orders. I have reviewed these provisions fully, and have no basis for suggesting that they do not work to meet purpose.

263. The transitional provisions contained in *section 129* have worked satisfactorily, and now are historic.

9 SCHEDULES TO THE ACT

264. Since enactment, all the schedules have been the subject of amendment and partial repeal.

265. *Schedule 1* deals with transitional matters, and has served its purpose.

266. *Annex E* lists those organisations currently proscribed under *Schedule 2*, pursuant to *section 3*.

267. *Schedule 3* provides for the constitution, administration and procedure of POAC. New procedural rules were introduced during 2007, and appear to be appropriate and durable.[44]

268. *Schedule 3A* defines the regulated sector and supervisory authorities. It has been the subject of considerable amendment to take account of post-2000 legislation. Nothing has been drawn to my attention in 2007 to indicate any real concern. However, in 2008 I shall be looking closely at the effect of the Act on the regulated sector.

269. *Schedule 4* was amended by *ATCSA2001* and subsequently. The schedule covers forfeiture, restraint and connected compensation orders. It remains a necessary part of the Act, and its mechanisms work. The enforceability of freezing orders arising from international treaty obligations is currently subject to appeal to the House of Lords.[45]

270. *Schedule 5* deals with procedures for search warrants. The Schedule was amended by *ATCSA2001*, *TA2006*, and by the amending Northern Ireland legislation referred to above. I have received no representations from the police or elsewhere during the past year concerning the working of these provisions. They appear to be fit for purpose.

271. *Schedule 6* concerns the obtaining by the police of financial information relating to a terrorist investigation. I have received no suggestions of concern about the operation of this provision.

272. *Schedule 6A* introduced the system of account monitoring orders. They can be obtained only by order of a circuit judge or equivalent, and on grounds set out in reasonably clear terms in *paragraph 2*. Their potential as a route towards useful evidence is self-evident.

273. *Schedule 7* (port powers) is discussed above. It too was amended, albeit not extensively, by *ATCSA2001* and *TA2006*. It allows police, and

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[44] *Proscribed Organisations Appeal Commission (Procedure) Rules 2007, SI 2007/1286*
Proscribed Organisations Appeal Commission (Procedure) (Amendment) Rules 2007, SI 2007/3377

[45] From the judgment of Collins J in *A,K,M,Q & C v HM Treasury* [2007] EWHC Admin

officers of the new UK Borders Agency, to stop and question, and detain, a person for the purpose of determining whether he appears to be a terrorist. The power is available on ships, in aircraft, and in premises at ports and in the Northern Ireland border area. There are requirements that the questioned person must fulfil, relating to identification and documents. Powers extend to vehicles. The maximum period of detention of a person under the provision is 9 hours, and 7 days of a thing. I have watched the powers being exercised at many ports in recent years. Generally they are exercised politely and with restraint – but more frequently than is necessary in the protection of national security.

274. *Schedule 8* contains the procedures concerning the detention of terrorist suspects under *section 41* or *Schedule 7*, is discussed above. A significant amendment introduced by *ATCSA2001* allowed authorisation for the obtaining from a detained person of fingerprints, restricted to cases of refusal of identity or where there are reasonable grounds to doubt the claimed identity.[46] Used fairly, this is a proportional and reasonable provision, and should work adequately. Four years ago I recommended that statistics should be kept by the Home Office of the use of this power. Frustratingly, I have yet to be provided with them: they should now be made available.

275. The period of maximum and judicially supervised detention has been extended to 28 days. The Bill currently before Parliament provides a complicated framework for the extension of that maximum period to 42 days. As I have repeated above and elsewhere,[47] subject to a suitable framework with strong judicial oversight, I see empirical justification for a carefully controlled and restricted extension of the 28 day maximum. There is a small number of potentially very serious cases for which 28 days could well prove an insufficient period before charge, to enable a sound investigation, well-constructed interviews under caution, and appropriate charges.

276. *Schedules 9-13* related to Northern Ireland. Subject to transitional provisions, they ceased to have effect on the 31st July 2007. The new Northern Ireland legislation (not subject of this review) incorporates some aspects of the Schedules.

277. The remaining schedules, *14-15*, have not given any cause for comment.

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[46] See Schedule 8 paragraphs 10-15, 20

[47] See, for example, evidence on the 24th April 2008 to the House of Commons Standing Committee on the Counter-Terrorism Bill, available from The Official Report via www.parliament.uk

10 SCOTLAND

278. My travels as reviewer take me reasonably frequently to Scotland. I have been there again in the past year. Scottish special branches have close working relationships together, and I am impressed by their commitment to sharing information. They operate well at both the macro and micro level. There exists in Scottish police forces a very high level of expertise on terrorism matters, and a real sense of purpose. There is a very impressive level of partnership between police and coastal communities in parts of Scotland, with reference to any terrorism threat from incoming boats.

279. Since my last report *section 44* has been used in Scotland a little more than before, but sparingly.

280. The frequent presence in Scotland of members of the Royal Family has given Scottish forces a long-standing expertise in anticipating and analysing any terrorist threat, as well as of the necessary close protection issues.

11 CONCLUSIONS ON THE TA2000

281. My conclusions in general are as before. As always, throughout my travels, reading and discussions in connection with the *TA2000* I have been fully conscious of the delicate nature of the balance between political freedoms and the protection of the public from politically driven violence and disorder. This is nowhere more evident than in relation to *section 44*, the use of which should be less frequent; and in relation to the period of detention before charge.

282. I always have in mind and repeat that national security is a civil liberty, to which every citizen is entitled.

283. Overall, and subject to some detailed comment above, I regard the *Terrorism Act 2000* as continuing to be fit for purpose.

284. Counter-terrorism legislation is now spread over several statutes and statutory instruments. A consolidation Act would be very welcome, and would enable all involved in this very serious and complex area to have better access to the provisions. I hope that, following the passage of the Bill currently before Parliament, real consideration will be given to consolidation.

12 THE TERRORISM ACT 2006, PART 1

285. This is the first time I have prepared a report on the operation of *TA2006 Part 1* in conjunction with my responsibilities in respect of the *TA2000*.

286. The absence of meaningful statistics to date in relation to *TA2006* makes this a task that can be only incomplete. I am assured by the Home Office and the Metropolitan Police that a dataset of informative statistics is being devised and will be available shortly.

287. *Section 1* contains the offence of *encouragement of terrorism* by statements. Although the section contains the word *'glorifies'*[48], *subsection (1)* makes it clear that the section has limited applicability, to:

(a) *"a statement that is likely to be understood by some or all of the members of the public to whom it is published as a direct or indirect encouragement or other inducement to them to the commission, preparation or instigation of acts of terrorism or Convention offences".*

288. *Section 1(3)* provides:

"(3) For the purposes of this section, the statements that are likely to be understood by members of the public as indirectly encouraging the commission or preparation of acts of terrorism or Convention offences include every statement which:

(b) glorifies the commission or preparation (whether in the past, in the future or generally) of such acts or offences; and

(c) is a statement from which those members of the public could reasonably be expected to infer that what is being glorified is being glorified as conduct that should be emulated by them in existing circumstances".

289. There have been successful prosecutions brought under the section, and others are pending. Although I am unattracted by the use (uniquely in this legislation) of the word *'glorifies'*, it is linked so closely to the more conventional inchoate concept of incitement that the criminalisation of the conduct described is proportionate. However, it remains desirable that as many prosecutions as possible should be linked to specific terrorism acts and conspiracies.

290. The purpose of the section is to tackle the undoubted problem of radicalisation. How this occurs has been described in many places, and it is certain that it is a real phenomenon.[49] There has been considered and repeated concern about the effect of the section on the freedom of speech.

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[48] Section 1(3)(a)

[49] A good description is given in *The Islamist*: Ed Husain, [Penguin, 2007]

Such criticism must be taken very seriously, and I shall continue to observe the operation of the provision with that in mind. No specific case has been drawn to my attention so far to justify the allegation of inappropriate use of the offence in a way that has affected the legitimate freedom of speech.

291. Having said that, it must be recognised that prosecution potentially is an instrument of last resort against radicalisation. The *'Prevent'* strand of counter-terrorism strategy recognises this. It is better by far to discuss and persuade at community level, so that those minded to radicalise or to be radicalised have the opportunity to consider and reflect upon their own and their community or group's interests before risking offences under *section 1*.

292. I have embarked on a series of meetings and consultation focused on the issue of radicalisation and how it can be countered. A heavy-handed use of the law would be counter-productive. Initiatives to persuade radicalised young people that they have been misled must face up to the power of the heresies, influences and misconceptions that power this form of radicalisation. Criminal prosecutions can sometimes risk fuelling the radicalisation of others rather than removing it.

293. A statutory defence is provided under *section 1(6)*. This should protect academics, journalists, commentators and others who quote from material for legitimate reasons and in an appropriately detached way.

294. *Section 2* renders it an offence to disseminate terrorist publications, in circumstances parallel to those criminalised in *section 1*. Convictions have been secured under the section.

295. *Sections 3* and *4* apply to statements and publications appearing electronically. They provide for a system of notices to lead to the removal from the internet of terrorism-related unlawful material.

296. During the past year I have discussed the issue of terrorism related material with a senior representative of the leading search facility Google. Their worldwide reach (and that of other search engines) is now so huge that it is impossible for them to police sites individually. They are subject to many different jurisdictions in different ways. They seem willing to react quickly when informed of specific concerns, but are not proactive save in the most glaring of situations.

297. I have received no complaints from any source about these provisions. It is important to be reassured that they are working fairly and are used only when appropriate. I hope very much, indeed expect, that UK wide and individual police force statistics will be available so that the use of *sections 3-4* in 2008 can be scrutinised in detail, if they are used. *Section 3* has never been

used, and there is Home Office guidance to encourage informal resolution, and the use of the section only as a last resort.

298. *Section 5* makes the preparation of terrorist acts an offence if done with the intention of committing acts of terrorism, or assisting another to commit such acts. This section is consistent with recommendations made by Lord Lloyd of Berwick prior to the introduction of the *TA2000*, and by myself since 2001. It has been used, and is a sensible provision. It applies to a broad range of potential actions, whether a particular act or target of terrorism has yet been identified by the offender or not.

299. *Section 6* makes it an offence to provide training for terrorism, and to receive such training. The section has been used successfully in prosecutions, and other trials are pending. The offence is reasonably tightly defined, and is proportionate. It is now beyond doubt that terrorism training has occurred within Great Britain, sometimes using the facilities of regular businesses providing outdoor and combat-themed activities. I have little doubt that such businesses are aware of the need to scrutinise their customer base and to inform the authorities of any suspicions.

300. *Section 7* reasonably provides for the forfeiture of anything found in a convicted offender's possession for purposes connected with an offence under *section 6*.

301. *Section 8* has caused me some concern since it was first proposed. Reasonably, it makes it an offence to attend any place, worldwide, used for terrorism training. However, it has the effect of also criminalising a journalist who enters a terrorist training camp for the purposes of reporting on the activities there. He or she would not commit an offence if they stood outisde the perimeter reporting upon activities inside; but an investigative journalist who went inside the perimeter could be prosecuted. I would feel more comfortable with the section if there was a statutory defence for bona fide journalists acting in a legitimate professional fashion. Nevertheless it is right that I should say that I have received no represnetaions on this matter from the media during the past year.

302. *Section 9* provides that it is an offence to make or possess a radioactive device, or to possess radioactive material with a terrorist intention. This is an extremely serious offence, with a maximum sentence of life imprisonment. This is a necessary and proportionate provision. Fortunately, it has not been tested in the courts.

303. *Sections 10* and *11* provide for other offences concerning the misuse of radioactive devices or material, and the damage of a nuclear facility; and terrorist threats relating to devices, materials or facilities. These too attract

maximum sentences of life imprisonment, and are proportionate to the risk involved.

304. *Section 12* amends the *Serious Organised Crime and Police Act 2005*, in relation particularly to trespass on nuclear sites. It is an offence to trespass within the outer perimeter boundary of a nuclear site. Whilst this inhibits the ambition of some anti-nuclear protesters, effective protest can be and is mounted at or near to the perimeters of such sites. The risk of infiltration of legitimate protests by terrorists is real, and the amended law is proportionate. I have not been told of any problems connected with this provision during the past year.

305. *Sections 13-15* provide for increased penalties for certain offences. These are uncontroversial changes.

306. *Section 16* provides revised arrangements for preparatory hearings in the Crown Court in terrorism cases.

307. A preparatory hearing is an important stage in the development of a Crown Court criminal trial. At such a hearing the trial judge may determine points of law, including whether there is sufficient evidence on paper for the case to proceed to trial. The judge may consider arguments concerning abuse of process, admissibility of evidence, courtroom protection of witnesses, and issues of case management. Preparatory hearings sometimes have the effect of shortening trials considerably.

308. There must be preparatory hearings in all cases where at least one person charged faces a terrorism offence, and where other serious offences have a terrorist connection.

309. This provision should result in the better management of trials and reduced disruption for the jury. There have been some very good examples of effective preparatory hearings, and of effective judicial case management. For example, in one trial the time taken to cross-examine expert witnesses was reduced by the insistence of the judge that there should be a 'lead' cross-examination by one of the defence QCs rather than serial repetition of the same points.

310. *Section 17* makes it an offence in the UK to do anything outside the UK which, if done in a part of the UK, would constitute a terrorism offence under the Act. The provision applies to attempts and other inchoate offences.

311. Thus, for example, the dissemination of a publication designed to encourage terrorist action against the despotic ruler of a foreign State is rendered a criminal offence in the UK.

312. This provision often raises concerns about the legitimacy of support for freedom fighters, as they are often described. Historic examples such as Nelson Mandela are cited. I well understand that concern. However, under various treaty obligations reached through the United Nations and the Council of Europe, *section 17* puts into effect an obligation on all member States of the UN and the Council. In international law there is zero tolerance of terrorism, whatever the nature of the regime proposed for attack.

313. In a great many cases there is no criticism of the extra-territorial provision made in *section 17*. Where there is potential controversy, an important protection is the discretion that is exercised whether or not to prosecute. Whilst informal in its process, the exercise of that discretion and the involvement of the Director of Public Prosecutions, the Attorney General, and their equivalents in Northern Ireland should provide reassurance. The discretion is enshrined in *section 19*: the Attorney General's consent (Advocate General in Northern Ireland) is required for all extra-territorial matters. I have seen no evidence of inappropriate use of the section, though some pending matters may give rise to complaints. I shall keep a vigilant eye on the effect of the provision.

314. *Section 18* provides that where a body corporate or a Scottish firm commits an offence under *Part 1*, a director, manager, partner or person purporting to act as such is also liable to be proceeded against personally for the offence. This has not yet given rise to any difficulties in the operation of the Act.

315. *Section 20* is an interpretation and definition provision. It is too early to judge how robust and clear the definitions are. I am unaware of any case to date in which they have caused very serious problems.

Lord Carlile of Berriew Q.C.
9-12 Bell Yard, London WC2A 2JR
June 2008.

ANNEX A: PERSONS AND ORGANISATIONS SEEN AND/ OR INVOLVED IN CONSULTATIONS AND ACTIVITIES AND CORRESPONDENCE INCLUDED:

- **Mohammed Abbasi**
- **ACPO**
- **ACPO TAM**
- **ACPOS and Scottish Terrorist Detention Centre**
- **Ahmaddiya Muslim Association UKAlliance Party**
- **Amnesty International EU, Brussels**
- **Amnesty International UK**
- **Amnesty International Shrewsbury branch**
- **Frances Amrani**
- **The Army, HQ Northern Ireland**
- **Australian High Commission**
- **The Australian Security Intelligence Organisation**
- **BBC and many other broadcasters and columnists**
- **Baconian Club of St Albans**
- **Klaus Uwe Benneter M.P. (Germany)**
- **The Hon Pierre Blais, Federal Appeals Judge, Canada**
- **SW Bonney**
- **Border management Programme**
- **British Business and General Aviation Association**
- **British Irish Rights Watch**
- **Dr Thom Brooks**
- **Derek W Broome**
- **Malcolm Budd**
- **Robert Budd**
- **Peter Burt**
- **Canadian High Commission**
- **Canada: International Round Table on the Administration of Justice and National Security in Democracies**
- **Canadian Parliament, Standing Committee on Justice**
- **ARF Carter**
- **John Casson**
- **CENTREX (National Centre for Policing Excellence)**
- **Chamber of Shipping**
- **The Change Institute**
- **Chatham House**
- **Christ College Brecon**
- **Civitas**
- **Citizens Against Terror**
- **City Forum**
- **City of London Police**
- **Civil Nuclear Police Authority**

- **Clove Systems**
- **Committee for the Administration of Justice, Northern Ireland**
- **Commonwealth Human Rights Initiative**
- **David W Coley**
- **Council of Europe**
- **Steven Cromio M.P. (Australia)**
- **TJ Crowther**
- **DUP**
- **Durham University Human Rights Centre**
- **Dyfed-Powys Police**
- **Mark Dziecielewskij**
- **Eden Intelligence**
- **Edinburgh University Politics Society**
- **Equality and Human Rights Commission**
- **Faith Matters**
- **Graham Foulkes**
- **Peter French**
- **Gangmasters Licensing Authority**
- **Diana Gardner**
- **Professor Conor Gearty**
- **Timothy Goodwin**
- **Google**
- **Hampshire Constabulary**
- **Home Affairs Committee, House of Commons**
- **Home Office Ministers and officials**
- **Howard League**
- **Human Rights Watch**
- **Josephine Hyde-Hartley**
- **Independent Assessor of Military Complaints Procedures, N Ireland**
- **Independent Monitoring Commission**
- **Independent Police Complaints Commission**
- **Institute of Advanced Legal Studies**
- **Intelligence and Security Committee**
- **International Monitoring Commission**
- **Islamic Human Rights Commission**
- **Embassy of Israel**
- **Joint Border Operations Centre**
- **Joint Committee on Human Rights**
- **Joint Terrorism Analysis Centre (JTAC)**
- **Lord Judd**
- **Judges (various)**
- **JUSTICE**
- **Tim Kavanagh**
- **T keating**
- **Bruce Kent**

- **Kent Police**
- **Raja Dr Z U Khan**
- **King’s College London**
- **The Labour Party**
- **Dr Sally Leivesley**
- **Liberal Democrat Party**
- **Liberty**
- **Conrad Libischer**
- **London School of Economics, Centre for the Study of Human Rights**
- **Lord Advocate**
- **Lord Chief Justice of Northern Ireland**
- **Hon Allan Lufty, Chief Justice Federal Court of Canada**
- **Allen Mackey, Chair Refugee Status Appeals Authority New Zealand**
- **Mrs MI McLaughlin**
- **James Mallinson**
- **Manchester University**
- **Metropolitan Police**
- **John K Milner**
- **Ministry of Justice**
- **National Coordinator of Ports Policing**
- **National Coordinator of Special Branches**
- **National Joint Unit**
- **National Council of Resistance of Iran**
- **Netjets**
- **Newcastle University**
- **New Zealand High Commission**
- **Northern Ireland Human Rights Commission**
- **Northern Ireland Office**
- **Northern Ireland Policing Board**
- **David and Sue Oakley**
- **PUP**
- **Northern Ireland Office Ministers and Officials**
- **Northern Ireland Policing Board**
- **Northern Ireland Public Prosecution Service**
- **National Ports Analysis Centre**
- **Pakistan-India and UK Friendship Forum**
- **Parliamentary Intelligence and Security Committee**
- **Parliamentary Joint Committee on Intelligence and Security, Australia**
- **Michael Petek**
- **PICTU (Police International Counter Terrorism Unit)**
- **Police Service of Northern Ireland**
- **Police Ombudsman of Northern Ireland**
- **Policy Exchange**

- **Privy Council Review of Intercept Evidence**
- **Pysdens Solicitors (Samuel Perez-Goldzveig)**
- **Raj Law Solicitors**
- **Mrs Rajavi, NCRI, Paris**
- **R Rajkumar**
- **Ramadhan Foundation**
- **Robert Razzell**
- **Maik Reichel M.P. (Germany)**
- **Reform Club**
- **Refugee Council**
- **HM Revenue and Customs**
- **Royal College of Defence Studies**
- **Royal United Services Institute**
- **Professor Martin Rudner**
- **S2S Productions Ltd**
- **Scotland Against Criminalising Communities**
- **Scottish Police College, Tullyallan**
- **SDLP**
- **Professor Philippe Sands Q.C.**
- **Secret Intelligence Service**
- **The Security Institute**
- **Security Service**
- **Darius Sepahy**
- **Dr Majid Shehab, Minister of Legal Affairs Egypt, and colleagues**
- **Sinn Fein**
- **Alison Smith**
- **South Wales Police**
- **Professor Anne Speckhard**
- **Statute Law Society**
- **Strathclyde Police**
- **Tayside Police**
- **The Rt Hon Lord Tebbitt**
- **Clive Thorp**
- **Toronto University**
- **Caroline Tosh**
- **Glenmore Trenear-Harvey**
- **University College London**
- **UUP**
- **Vodafone**
- **Professor Clive Walker**
- **Robin Watts**
- **WECTU Wales Special Branches Conference**
- **Westminster Magistrates' Court**
- **Professor Paul Wilkinson**
- **World Mulism-Sikh Federation**

ANNEX B: PORTS VISITED

- **Belfast City Airport**
- **Channel Tunnel Folkestone**
- **Port of Dover**
- **Farnborough Airport**
- **Port of Felixstowe**
- **London Gatwick Airport**
- **London Heathrow Airport**
- **London Stansted Airport**
- **Luton Airport**
- **RAF Northolt Airport**
- **Oxford Airport**
- **Port of Portsmouth**

ANNEX C: 2007 (JAN – DEC) TERRORISM ACT CHARGES FOR PERSONS DETAINED IN UK (EXCLUDING N/IRELAND) UNDER TERRORISM ACT 2000 AND TERRORISM ACT 2006.

	No. in 2007
Sections 11-13 (membership offences)	7
Section 15-19 (Funding offences)	19
Section 38B (Information about acts of terrorism)	5
Sections 54-58 (Training/Terrorism Information)	59
Schedule 7 para. 18 offences (Ports breaches)	13
Offences under Terrorism Act 2006	17
TOTAL NUMBER OF CHARGES	120
TOTAL NUMBER OF PERSONS CHARGED	64

(some people are charged with more than one offence)

ANNEX D: UK POLICE TERRORISM ARREST STATISTICS (EXCLUDING N. IRELAND)

2007

185 people were arrested under the Terrorist Act 2000
72 arrests under legislation other than terrorism legislation, where the investigation was conducted as a terrorist investigation.
257 **Total**

OUTCOMES

45 Charged with terrorism legislation offences only
19 Charged with terrorism legislation offences and other criminal offences
27 Charged under other legislation. E.g. murder, grievous bodily harm, firearms, explosives offences, fraud, false documents
6 Handed over to Immigration Authorities
23 On police bail awaiting charging decisions
1 Cautioned
0 Dealt with under youth offending procedures
4 Dealt with under mental health legislation
0 Transferred to PSNI custody
126 Released without charge
2 Remanded under extradition warrant
3 Result of Investigation awaits
1 Breach of bail, not charged
257 **Total**

4 Terrorism Act convictions
4 Convicted with Terrorism Act offences AND one or more offence under other legislation (E.g. murder, grievous bodily harm, firearms, explosives offences, fraud, false documents, etc includes conspiracies)
10 Convicted under other legislation only.E.g. murder, grievous bodily harm, firearms, explosives offences, fraud, false documents, etc includes conspiracies.

43 At or awaiting trial for terrorism related offences at time of publication
22 At or awaiting trial for non-terrorism related offences only
0 Awaiting sentence

These statistics have been provided by the Metropolitan Police Service. They relate to those arrested in 2007 and the outcome of those arrests. It does not include those arrested in previous years but convicted in 2007.

ANNEX E: CORDONS ESTABLISHED UNDER THE TERRORISM ACT IN 2007

METROPOLITAN POLICE SERVICE

Borough	Date	Duration
West End Central	30 May 2007	1 hr 28 mins
West End Central	13 August 2007	44 mins
West End Central	15 March 2007	1 hr 35 mins
West End Central	20 April 2007	19 mins
West End Central	15 May 2007	15 mins
West End Central	29 June 2007	Not available
West End Central	29 June 2007	24 hrs
West End Central	18 January 2007	51 mins
Paddington	5 July 2007	Not available
Paddington	18 August 2007	Not available
Paddington	13 October 2007	Not available
Paddington	5 November 2007	Not available
Paddington	8 February 2007	Not available
Paddington	9 March 2007	Not available
Paddington	16 April 2007	Not available
Paddington	19 May 2007	Not available
Paddington	5 July 2007	Not available
Paddington	9 August 2007	Not available
Paddington	13 October 2007	Not available
Paddington	12 November 2007	Not available
Kensington and Chelsea	4 July 2007	19 mins
Kensington and Chelsea	18 August 2007	48 mins
Kensington and Chelsea	31 August 2007	38 mins
Kensington and Chelsea	22 May 2007	40 mins
Kensington and Chelsea	21 April 2007	36 mins
Camden	16 December 2007	41 mins
Camden	5 December 2007	43 mins
Camden	25 September 2007	46 mins
Camden	2 February 2007	59 mins
Camden	1 July 2007	10 mins
Camden	23 May 2005	44 mins
Hammersmith and Fulham	3 July 2007	2 hrs 26 mins
Hammersmith and Fulham	14 March 2007	49 mins
Hammersmith and Fulham	3 July 2007	1 hr 14 mins
Tower Hamlets	15 February 2007	50 mins
Tower Hamlets	8 March 2007	49 mins
Tower Hamlets	24 June 2007	12 mins
Tower Hamlets	27 June 2007	1 hr 18 mins
Tower Hamlets	9 July 2007	24 mins
Tower Hamlets	23 October 2007	32 mins

Tower Hamlets	15 November 2007	1 hr 26 mins
Tower Hamlets	11 December 2007	43 mins
Tower Hamlets	2 January 2007	46 mins
Tower Hamlets	15 November 2007	1 hr 41 mins
Redbridge	12 January 2007	58 mins
Redbridge	28 July 2007	30 mins
Islington	12 October 2007	7 mins
Islington	2 July 2007	11 mins
Islington	12 July 2007	6 mins
Brent	24 March 2007	8 mins
Bexley	22 March 2007	1 hr 30 mins
Enfield	2 November 2007	36 mins

CITY OF LONDON

Princes St	11 January 2007	57 mins
Millennium Bridge	9 February 2007	49 mins
Snow Hill	9 February 2007	26 mins
Bishopsgate	13 February 2007	53 mins
Broadgate	30 March 2007	25 mins
Creechurch Lane	14 June 2007	16 mins
Bouverie Street	29 June 2007	76 mins
Queen Victoria Street	29 June 2007	57 mins
London Wall	30 June 2007	19 mins
Embankment	1 July 2007	9 mins
Fetter Lane	3 July 2007	29 mins
West Smithfield	4 July 2007	46 mins
Barbican	5 July 2007	15 mins
Holborn	3 September 2007	55 mins
Creechurch Lane	8 November 2007	52 mins
Bishopsgate	21 September 2007	44 mins
Barbican	28 September 2007	48 mins
Worship Street	28 October 2007	20 mins
Holborn Viaduct	11 November 2007	41 mins
Breams Buildings	14 November 2007	36 mins
London Wall	26 November 2007	100 mins
Newgate Street	3 December 2007	51 mins

ANNEX F: PROSCRIBED ORGANISATIONS[50]

PROSCRIBED TERRORIST GROUPS

These terrorist organisations are currently proscribed under UK legislation, and therefore outlawed in the UK.

46 international terrorist organisations are currently proscribed under the Terrorism Act 2000, which means they are outlawed in the UK

14 organisations in Northern Ireland are proscribed under previous legislation.

2 organisations are currently proscribed under powers introduced in the Terrorism Act 2006 for glorifying terrorism

The 46 organisations proscribed were added to the list in the following order:

21 in March 2001

4 in October 2002

15 in October 2005

4 in July 2006

2 in July 2007

LIST OF PROSCRIBED GROUPS

Note: the information below is taken from data provided to Parliament when each group was proscribed.

17 November Revolutionary Organisation (N17): Aims to highlight and protest at what it deems to be imperialist and corrupt actions, using violence. Formed in 1974 to oppose the Greek military Junta, its stance was initially anti-Junta and anti-US, which it blamed for supporting the Junta.

Abu Nidal Organisation (ANO): ANO's principal aim is the destruction of the state of Israel. It is also hostile to 'reactionary' Arab regimes and states supporting Israel.

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[50] http://security.homeoffice.gov.uk/legislation/current-legislation/terrorism-act-2000/proscribed-terrorist-groups

Abu Sayyaf Group (ASG): The precise aims of the ASG are unclear, but its objectives appear to include the establishment of an autonomous Islamic state in the Southern Philippine island of Mindanao.

Al-Gama'at al-Islamiya (GI): The main aim of GI is through all means, including the use of violence, to overthrow the Egyptian Government and replace it with an Islamic state. Some members also want the removal of Western influence from the Arab world.

Al Gurabaa: Al Gurabaa is a splinter group of Al-Muajiron and disseminates materials that glorify acts of terrorism.

Al Ittihad Al Islamia (AIAI): The main aims of AIAI are to establish a radical Sunni Islamic state in Somalia, and to regain the Ogaden region of Ethiopia as Somali territory via an insurgent campaign. Militant elements within AIAI are suspected of having aligned themselves with the 'global jihad' ideology of Al Qaida, and to have operated in support of Al Qaida in the East Africa region.

Al Qaida: Inspired and led by Osama Bin Laden, its aims are the expulsion of Western forces from Saudi Arabia, the destruction of Israel and the end of Western influence in the Muslim world.

Ansar Al Islam (AI): AI is a radical Sunni Salafi group from northeast Iraq around Halabja. The group is anti-Western, and opposes the influence of the US in Iraqi Kurdistan and the relationship of the KDP and PUK to Washington. AI has been involved in operations against Multi-National Forces-Iraq (MNF-I).

Ansar Al Sunna (AS): AS is a fundamentalist Sunni Islamist extremist group based in Central Iraq and what was the Kurdish Autonomous Zone (KAZ) of Northern Iraq. The group aims to expel all foreign influences from Iraq and create a fundamentalist Islamic state.

Armed Islamic Group (Groupe Islamique Armée) (GIA): The aim of the GIA is to create an Islamic state in Algeria using all necessary means, including violence.

Asbat Al-Ansar ('League of Parisans' or 'Band of Helpers'): Sometimes going by the aliases of 'The Abu Muhjin' group/faction or the 'Jama'at Nour', this group aims to enforce its extremist interpretation of Islamic law within Lebanon, and increasingly further afield.

Babbar Khalsa (BK): BK is a Sikh movement that aims to establish an independent Khalistan within the Punjab region of India.

Basque Homeland and Liberty (Euskadi ta Askatasuna) (ETA): ETA seeks the creation of an independent state comprising the Basque regions of both Spain and France.

Baluchistan Liberation Army (BLA): BLA are comprised of tribal groups based in the Baluchistan area of Eastern Pakistan, which aims to establish an independent nation encompassing the Baluch dominated areas of Pakistan, Afghanistan and Iran.

Egyptian Islamic Jihad (EIJ): The main aim of the EIJ is to overthrow the Egyptian Government and replace it with an Islamic state. However, since September 1998, the leadership of the group has also allied itself to the 'global Jihad' ideology expounded by Osama Bin Laden and has threatened Western interests.

Groupe Islamique Combattant Marocain (GICM): The traditional primary objective of the GICM has been the installation of a governing system of the caliphate to replace the governing Moroccan monarchy. The group also has an Al Qaida-inspired global extremist agenda.

Hamas Izz al-Din al-Qassem Brigades: Hamas aims to end Israeli occupation in Palestine and establish an Islamic state.

Harakat-Ul-Jihad-Ul-Islami (HUJI): The aim of HUJI is to achieve though violent means accession of Kashmir to Pakistan, and to spread terror throughout India. HUJI has targeted Indian security positions in Kashmir and conducted operations in India proper.

Harakat-Ul-Jihad-Ul-Islami (Bangladesh) (Huji-B): The main aim of HUJI-B is the creation of an Islamic regime in Bangladesh modelled on the former Taleban regime in Afghanistan.

Harakat-Ul-Mujahideen/Alami (HuM/A) and Jundallah: The aim of both HuM/A and Jundallah is the rejection of democracy of even the most Islamic-oriented style, and to establish a caliphate based on Sharia law, in addition to achieving accession of all Kashmir to Pakistan. HuM/A has a broad anti-Western and anti-President Musharraf agenda.

Harakat Mujahideen (HM): HM, previously known as Harakat Ul Ansar (HuA), seeks independence for Indian-administered Kashmir. The HM leadership was also a signatory to Osama Bin Laden's 1998 fatwa, which called for worldwide attacks against US and Western interests.

Hizballah External Security Organisation: Hizballah is committed to armed resistance to the state of Israel itself and aims to liberate all Palestinian

territories and Jerusalem from Israeli occupation. It maintains a terrorist wing, the External Security Organisation (ESO), to help it achieve this.

Hezb-E Islami Gulbuddin (HIG): Led by Gulbuddin Hekmatyar who is in particular very anti-American, HIG desires the creation of a fundamentalist Islamic State in Afghanistan and is anti-Western.

International Sikh Youth Federation (ISYF): ISYF is an organisation committed to the creation of an independent state of Khalistan for Sikhs within India.

Islamic Army of Aden (IAA): The IAA's aims are the overthrow of the current Yemeni government and the establishment of an Islamic State following Sharia Law.

Islamic Jihad Union (IJU): The primary strategic goal of the IJU is the elimination of the current Uzbek regime. The IJU would expect that following the removal of President Karimov, elections would occur in which Islamic-democratic political candidates would pursue goals shared by the IJU leadership.

Islamic Movement of Uzbekistan (IMU): The primary aim of IMU is to establish an Islamic state in the model of the Taleban in Uzbekistan. However, the IMU is reported to also seek to establish a broader state over the entire Turkestan area.

Jaish e Mohammed (JeM): JeM seeks the 'liberation' of Kashmir from Indian control as well as the 'destruction' of America and India. JeM has a stated objective of unifying the various Kashmiri militant groups.

Jammat-ul Mujahideen Bangladesh (JMB): JMB first came to prominence on 20 May 2002 when eight of its members were arrested in possession of petrol bombs. The group has claimed responsibility for numerous fatal bomb attacks across Bangladesh in recent years, including suicide bomb attacks in 2005.

Jeemah Islamiyah (JI): JI's aim is the creation of a unified Islamic state in Singapore, Malaysia, Indonesia and the Southern Philippines.

Khuddam Ul-Islam (Kul) and splinter group Jamaat Ul-Furquan (JuF): The aim of both KUI and JuF are to unite Indian administered Kashmir with Pakistan; to establish a radical Islamist state in Pakistan; the 'destruction' of India and the USA; to recruit new jihadis; and the release of imprisoned Kashmiri militants

Kongra Gele Kurdistan (KG): PKK/KADEK/KG is primarily a separatist movement that has sought an independent Kurdish state in southeast Turkey. The PKK changed its name first to KADEK and then to Kongra Gele Kurdistan, although the PKK name is still used by parts of the movement.

Lashkar e Tayyaba (LT): LT seeks independence for Kashmir and the creation of an Islamic state using violent means.

Liberation Tigers of Tamil Eelam (LTTE): The LTTE is a terrorist group fighting for a separate Tamil state in the North and East of Sri Lanka.

Libyan Islamic Fighting Group (LIFG): The LIFG seeks to replace the current Libyan regime with a hard-line Islamic state. The group is also part of the wider global Islamist extremist movement, as inspired by Al Qaida. The group has mounted several operations inside Libya, including a 1996 attempt to assassinate Mu'ammar Qadhafi.

Mujaheddin e Khalq (MeK): The MeK is an Iranian dissident organisation based in Iraq. It claims to be seeking the establishment of a democratic, socialist, Islamic republic in Iran.

Palestinian Islamic Jihad - Shaqaqi (PIJ): PIJ is a Shi'a group which aims to end the Israeli occupation of Palestine and create an Islamic state similar to that in Iran. It opposes the existence of the state of Israel, the Middle East Peace Process and the Palestinian Authority.

Revolutionary Peoples' Liberation Party - Front (Devrimci Halk Kurtulus Partisi - Cephesi) (DHKP-C): DHKP-C aims to establish a Marxist Leninist regime in Turkey by means of armed revolutionary struggle.

Salafist Group for Call and Combat (Groupe Salafiste pour la Predication et le Combat) (GSPC): Its aim is to create an Islamic state in Algeria using all necessary means, including violence.

Saved Sect or Saviour Sect: The Saved Sect is a splinter group of Al-Muajiron and disseminates materials that glorify acts of terrorism.

Sipah-E Sahaba Pakistan (SSP) (Aka Millat-E Islami Pakistan (MIP) (SSP was renamed MIP in April 2003 but is still referred to as SSP)) and splinter group Lashkar-E Jhangvi (LeJ): The aim of both SSP and LeJ is to transform Pakistan by violent means into a Sunni state under the total control of Sharia law. Another objective is to have all Shia declared Kafirs and to participate in the destruction of other religions, notably Judasim, Christianity and Hinduism.

Note: Kafirs means non-believers: literally, one who refused to see the truth. LeJ does not consider members of the Shia sect to be Muslim, hence they can be considered a ‘legitimate’ target

Tehrik Nefaz-e Shari’at Muhammadi (TNSM): TNSM regularly attacks Coalition and Afghan government forces in Afghanistan and provides direct support to Al Qaida and the Taliban. One faction of the group claimed responsibility for a suicide attack on an army training compound on 8 November 2006 in Dargai, Pakistan, in which 42 soldiers were killed.

Teyre Azadiye Kurdistan (TAK): TAK Kurdish terrorist group currently operating in Turkey.

PROSCRIBED IRISH GROUPS

Continuity Army Council

Cumann na mBan

Fianna na hEireann

Irish National Liberation Army

Irish People’s Liberation Organisation

Irish Republican Army

Loyalist Volunteer Force

Orange Volunteers

Red Hand Commando

Red Hand Defenders

Saor Eire

Ulster Defence Association

Ulster Freedom Fighters

Ulster Volunteer Force

NORTHERN IRELAND STATISTICAL TABLES

NB: All quarterly statistics may be subject to minor revision

TABLE NIO/A

Number of instances in Northern Ireland for which offences are certified out of the scheduled mode of trial by the Attorney General (Section 65, Schedule 9).

Year	Total number of offences for which applications made[1]	Number of persons involved	Number of offences for which applications	
			1. Granted	2. Refused
2002				
Jan-Mar	221	141	207	14
Apr-Jun	299	200	267	32
Jul-Sept	361	277	323	38
Oct-Dec	484	315	419	65
2002 Total	**1,365**	**933**	**1,216**	**149**
2003				
Jan-Mar	525	314	418	107
Apr-Jun	314	229	282	32
Jul-Sept	403	272	348	55
Oct-Dec	325	219	283	42
2003 Total	**1,567**	**1,034**	**1,331**	**236**
2004				
Jan-Mar	228	160	195	33
Apr-Jun	251	188	214	37
Jul-Sept	159	122	126	33
Oct-Dec	102	88	94	8
2004 Total	**740**	**558**	**629**	**111**
2005				
Jan-Mar	189	130	145	44
Apr-Jun	346	185	273	73
Jul-Sept	195	131	192	3
Oct-Dec	129	82	118	11
2005 Total	**859**	**528**	**728**	**131**
2006				
Jan-Mar	180	135	129	51
Apr-Jun	173	126	148	25
Jul-Sept	163	89	98	65
Oct-Dec	120	65	101	19
2006 Total	**636**	**415**	**476**	**160**
2007				
Jan-Mar	165	81	87	78
Apr-Jun	101	67	81	20
Jul-Sept	N/A	N/A	N/A	N/A

Note: 1. An application may relate to one person charged with one offence, or one person charged with a number of offences, or a number of persons with the same offence.

Source: Northern Ireland Court Service.

TABLE NIO/B

Limitation of Power to grant bail: High Court bail applications in Northern Ireland in respect of persons charged with scheduled offences (Section 67).[1]

Year	Number of applications	granted	% granted[2]	refused	% refused[2]	Other outcome[3]	% other outcome[2]
2002							
Jan-Mar	317	194	61	55	17	68	21
Apr-Jun	321	176	55	62	19	83	26
Jul-Sept	408	187	46	102	25	119	29
Oct-Dec	448	217	48	107	24	124	28
2002 Total	**1,494**	**774**	**52**	**326**	**22**	**394**	**26**
2003							
Jan-Mar	416	188	45	97	23	131	31
Apr-Jun	429	203	47	96	22	130	30
Jul-Sept	455	242	53	79	17	134	29
Oct-Dec	475	228	48	108	23	139	29
2003 Total	**1,775**	**861**	**49**	**380**	**21**	**534**	**30**
2004							
Jan-Mar	401	171	**43**	90	**22**	140	**35**
Apr-Jun	434	187	**43**	81	**19**	166	**38**
Jul-Sept	429	225	**52**	85	**20**	119	**28**
Oct-Dec	505	273	**54**	90	**18**	142	**28**
2004 Total	**1,769**	**856**	**48**	**346**	**20**	**567**	**32**
2005							
Jan-Mar	271	139	**51**	52	**19**	80	**30**
Apr-Jun	394	208	**53**	67	**17**	119	**30**
Jul-Sept	529	266	**50**	120	**23**	143	**27**
Oct-Dec	647	343	**53**	156	**24**	148	**23**
2005 Total	**1,841**	**956**	**52**	**395**	**21**	**490**	**27**
2006							
Jan-Mar	365	193	**53**	61	**17**	111	**30**
Apr-Jun	533	265	**50**	101	**19**	167	**31**
Jul-Sept	548	266	**49**	120	**22**	162	**30**
Oct-Dec	436	277	**64**	108	**25**	51	**12**
2006 Total	**1,882**	**1,001**	**53**	**390**	**21**	**491**	**26**
2007							
Jan-Mar	364	238	65	112	31	14	4
Apr-Jun	149	92	62	26	18	31	21
Jul-Sept	14	10	71	3	21	1	7

Notes:
1. Figures exclude applications for compassionate home leave, variation of bail conditions, surety discharges and revocation of bail.
2. Percentages may not add to 100 due to rounding.
3. In 2007, a new court operations system called the Integrated Court Operations System (ICOS) was introduced in the Bails office and caution should be taken when comparing figures with previous years. Figures under ‘Other outcomes’ include applications withdrawn, dismissed and adjourned except for 2007, were adjourned applications are no longer included.
4. Scheduled offences are those offences defined by Schedule 9 to the Terrorism Act 2000.

Source: Northern Ireland Court Service.

TABLE NIO/C

Limitation of power to grant bail: Percentage of persons on bail at time of trial in Northern Ireland (Section 67).

Year	Persons charged with	
	Scheduled offences (%)	Non-scheduled offences (%)
2002		
Jan-Mar	33	78
Apr-Jun	63	74
Jul-Sept	48	77
Oct-Dec	68	71
2002 Total	**58**	**73**
2003		
Jan-Mar	65	77
Apr-Jun	82	75
Jul-Sept	71	69
Oct-Dec	86	73
2003 Total	**78**	**74**
2004		
Jan-Mar	65	73
Apr-Jun	46	73
Jul-Sept	71	61
Oct-Dec	78	74
2004 Total	**67**	**71**
2005		
Jan-Mar	77	74
Apr-Jun	75	71
Jul-Sept	71	73
Oct-Dec	60	76
2005 Total	**71**	**73**
2006		
Jan-Mar	50	74
Apr-Jun	84	69
Jul-Sept	78	77
Oct-Dec	58	70
2006 Total	**68**	**72**
2007		
Jan-Mar	79	73
Apr-Jun	61	74
Jul-Sept	100	68

Source: Northern Ireland Court Service.

TABLE NIO/D

Time limits for preliminary proceedings: Average processing times in Northern Ireland for scheduled defendants remanded in custody and dealt with by the Crown Court (Section 72).

Year	Average processing time – weeks					
	Remand to Committal		Committal to Arraignment		Arraignment to Hearing	
	Average processing time	Number of defendants	Average processing time	Number of defendants	Average processing time	Number of defendants
2002						
Jan-Mar	35.1	17	4.9	13	6.7	12
Apr-Jun	43.8	29	3.0	11	13.6	11
Jul-Sept	41.8	18	12.4	10	4.1	10
Oct-Dec	44.5	25	9.0	11	11.8	11
2002 Total	**42.3**	**94**	**7.0**	**47**	**8.7**	**46**
2003						
Jan-Mar	41.0	18	8.5	8	12.3	8
Apr-Jun	47.5	38	5.3	10	46.0	9
Jul-Sept	45.3	6	8.4	2	17.1	2
Oct-Dec	36.2	11	8.0	5	3.1	5
2003 Total	**44.1**	**73**	**7.1**	**25**	**23.4**	**24**
2004						
Jan-Mar	34.6	14	4.6	10	12.0	9
Apr-Jun	55.6	7	6.8	6	38.1	6
Jul-Sept	41.1	13	4.7	5	31.7	5
Oct-Dec	46.5	10	10.1	6	7.4	4
2004 Total	**41.9**	**50**	**6.5**	**28**	**23.1**	**25**
2005						
Jan-Mar	45.3	9	11.0	3	5.1	3
Apr-Jun	46.4	18	6.7	8	28.2	7
Jul-Sept	32.7	21	5.6	7	25.9	7
Oct-Dec	51.9	17	6.6	8	16.4	8
2005 Total	**43.3**	**65**	**6.9**	**26**	**21.0**	**25**
2006						
Jan-Mar	28.1	6	5.5	5	15	3
Apr-Jun	75.1	19	5.6	4	10.6	4
Jul-Sept	35.4	5	7.1	2	49.1	2
Oct-Dec	25.2	29	7.4	16	28.6	14
2006 Total	**42.4**	**59**	**6.8**	**27**	**25.5**	**23**
2007	38					
Jan-Mar	30.91	4	8.83	21	40.92	7
Apr-Jun	48.79	19	9.57	30	13.86	14
Jul-Sep		2	6.43	5	0	0

Notes: The table is based on defendants disposed of within the time period. It includes only those in custody in each separate remand stage and where a waiting time has been recorded. (Not all defendants experience a waiting time between arraignment (plea entry and hearing). Figures include defendants with bench warrants and court recesses.

2007 figures exclude defendants on a bench warrant and those defendants who had a deferred sentence order made.
The three periods are treated separately and cannot be totalled as some defendants may change status (custody to bail and vice-versa) between stages.
Hearing: 1st day of trial (i.e. commencement of trial at court).
Quarterly components (i.e. number of defendants) may not sum to annual total due to ongoing revisions of administrative systems.
Source: Northern Ireland Court Service.

TABLE NIO/E

Section 80 – Scheduled Convictions during Remission

Year	Number of persons sentenced for scheduled offences	Number convicted while on remission from prison or young offenders centre
2004		
Jan-Mar	N/A	N/A
Apr-Jun	N/A	N/A
Jul-Sept	N/A	N/A
Oct-Dec	13	0
2004 Total[1]	**13**	**0**
2005		
Jan-Mar	13	0
Apr-Jun	16	0
Jul-Sept	23	0
Oct-Dec	14	1
2005 Total	**66**	**1**
2006		
Jan-Mar	6	0
Apr-Jun	28	0
Jul-Sept	7	0
Oct-Dec	29	0
2006 Total	**70**	**0**
2007		
Jan-Mar	42	0
Apr-Jun	36	N/A
Jul-Sept	12	N/A

Note:
1. Data prior to October 2004 not available. 2004 total includes October –December only.
2. Figures are sourced to administrative databases and may be subject to revision due to late returns.
3. Includes persons with mixed outcomes. Figures are based on persons disposed of at court during the time period.

Source: Northern Ireland Court Service; Northern Ireland Office

TABLE NIO/F

Section 81 – Arrest of suspected terrorists (Power of entry).

Year	Number of premises entered	Number of premises searched[1]
2002		
Jan-Mar	9	0
Apr-Jun	0	0
Jul-Sept	14	N/A
Oct-Dec	11	N/A
2002 Total	**34**	**N/A**
2003		
Jan-Mar	4	N/A
Apr-Jun	12	10
Jul-Sept	32	29
Oct-Dec	15	15
2003 Total	**63**	**54**
2004		
Jan-Mar	8	8
Apr-Jun	15	14
Jul-Sept	2	1
Oct-Dec	6	6
2004 Total	**31**	**29**
2005		
Jan-Mar	3	3
Apr-Jun	6	6
Jul-Sept	3	2
Oct-Dec	12	12
2005 Total	**24**	**23**
2006		
Jan-Mar	12	12
Apr-Jun	5	5
Jul-Sept	1	1
Oct-Dec	1	1
2006 Total	**19**	**19**
2007		
Jan-Mar	3	2
Apr-Jun	4	4
Jul-Sept	0	0

Note: 1. Information from July 2002 to March 2003 not available
Source: Police Service of Northern Ireland.

TABLE NIO/G

Persons arrested in Northern Ireland by members of the PSNI and Her Majesty's forces under Sections 82 and 83 respectively.

Year	Section 82		Section 83
	Persons arrested by Police	Persons subsequently charged[1]	Persons arrested by Her Majesty's forces
2002			
Jan-Mar	2	N/A	4
Apr-Jun	7	N/A	4
Jul-Sept	12	N/A	8
Oct-Dec	10	N/A	7
2002 Total	**31**	**N/A**	**23**
2003			
Jan-Mar	6	N/A	4
Apr-Jun	12	1	0
Jul-Sept	9	4	1
Oct-Dec	12	5	**0**
2003 Total	**39**	**10**	**5**
2004			
Jan-Mar	1	0	1
Apr-Jun	5	2	3
Jul-Sept	0	0	1
Oct-Dec	1	0	1
2004 Total	**7**	**2**	**6**
2005			
Jan-Mar	12	4	5
Apr-Jun	20	0	0
Jul-Sept	0	0	1
Oct-Dec	6	0	0
2005 Total	**38**	**4**	**6**
2006			
Jan-Mar	0	0	1
Apr-Jun	5	2	0
Jul-Sept	1	0	0
Oct-Dec	0	0	0
2006 Total	**6**	**2**	**1**
2007			
Jan-Mar	0	0	0
Apr-Jun	0	0	0
Jul-Sept	0	0	0

Note: 1. Information not available prior to April 2003.
Source: Police Service of Northern Ireland
Her Majesty's forces Headquarters Northern Ireland.

TABLE NIO/H

Numbers of occasions in which premises in Northern Ireland were searched by police and Her Majesty's forces under Sections 82 and 83 respectively.

Year	PSNI Searches	Searches by Her Majesty's forces[1]
2002		
Jan-Mar	7	6
Apr-Jun	2	26
Jul-Sept	5	33
Oct-Dec	11	41
2002 Total	**25**	**106**
2003		
Jan-Mar	7	7
Apr-Jun	0	38
Jul-Sept	8	9
Oct-Dec	9	18
2003 Total	**24**	**72**
2004		
Jan-Mar	0	16
Apr-Jun	15	2
Jul-Sept	0	4
Oct-Dec	1	0
2004 Total	**16**	**22**
2005		
Jan-Mar	2	19
Apr-Jun	4	34
Jul-Sept	21	10
Oct-Dec	0	16
2005 Total	**27**	**79**
2006		
Jan-Mar	0	20
Apr-Jun	7	46
Jul-Sept	0	32
Oct-Dec	0	27
2006 Total	**7**	**125**
2007		
Jan-Mar	0	35
Apr-Jun	0	29
Jul-Sept	0	32

Note: 1. All searches conducted by Her Majesty's forces are in conjunction with the Police Service of Northern Ireland.

Source: Police Service of Northern Ireland
Her Majesty's forces Headquarters Northern Ireland.

TABLE NIO/I

Section 84 – Premises searches (Munitions and Transmitters)

Year	Number of Premises Searched by Police			Number of Premises searched by Her Majesty's forces[1]
	Dwellings	Other	Total	Total
2002				
Jan-Mar	91	22	113	32
Apr-Jun	90	27	117	61
Jul-Sept	100	34	134	92
Oct-Dec	188	39	227	98
2002 Total	**469**	**122**	**591**	**283**
2003				
Jan-Mar	171	34	205	385
Apr-Jun	125	21	146	415
Jul-Sept	96	10	106	489
Oct-Dec	94	14	108	397
2003 Total	**486**	**79**	**565**	**1,686**
2004				
Jan-Mar	44	7	51	142
Apr-Jun	109	19	128	50
Jul-Sept	61	6	67	86
Oct-Dec	64	12	76	83
2004 Total	**278**	**44**	**322**	**361**
2005				
Jan-Mar	44	8	52	62
Apr-Jun	63	7	70	50
Jul-Sept	137	36	173	76
Oct-Dec	82	11	93	51
2005 Total	**326**	**62**	**388**	**239**
2006				
Jan-Mar	55	2	57	25
Apr-Jun	33	10	43	39
Jul-Sept	54	11	65	27
Oct-Dec	59	8	67	13
2006 Total	**201**	**31**	**232**	**104**
2007				
Jan-Mar	29	6	35	18
Apr-Jun	43	2	45	15
Jul-Sept	15	8	23	7

Note: 1. Searches conducted by Her Majesty's forces are in conjunction with the Police Service of Northern Ireland. Figures represent the aggregate of all Route, Area, Vehicle, Railway and Venue searches conducted by Her Majesty's forces

Source: Police Service of Northern Ireland
Her Majesty's forces Headquarters Northern Ireland

TABLE NIO/J

Section 87 – Examination of Documents

Year	Number of Occasions documents examined	Number of Occasions documents removed
2002		
Jan-Mar	4	4
Apr-Jun	16	16
Jul-Sept	16	9
Oct-Dec	15	14
2002 Total	**51**	**43**
2003		
Jan-Mar	28	22
Apr-Jun	23	23
Jul-Sept	28	28
Oct-Dec	25	24
2003 Total	**104**	**97**
2004		
Jan-Mar	17	17
Apr-Jun	36	30
Jul-Sept	12	11
Oct-Dec	18	15
2004 Total	**83**	**73**
2005		
Jan-Mar	25	15
Apr-Jun	12	5
Jul-Sept	33	18
Oct-Dec	36	21
2005 Total	**106**	**59**
2006		
Jan-Mar	11	11
Apr-Jun	15	14
Jul-Sept	4	3
Oct-Dec	6	5
2006 Total	**36**	**33**
2007		
Jan-Mar	7	7
Apr-Jun	0	0
Jul-Sept	1	1

Source: Police Service of Northern Ireland.

TABLE NIO/K

Section 89 – Stop and Question

Year	Police Service for Northern Ireland		Her Majesty's forces
	Number of persons stopped	Number of persons failing to stop or answer questions	Number of persons stopped and questioned
2002			
Jan-Mar	63	0	2,286
Apr-Jun	307	0	2,251
Jul-Sept	1,471	0	3,561
Oct-Dec	607	0	1,775
2002 Total	**2,448**	**0**	**9,873**
2003			
Jan-Mar	282	1	2,952
Apr-Jun	294	0	1,763
Jul-Sept	360	0	3,366
Oct-Dec	432	0	2,840
2003 Total	**1,368**	**1**	**10,921**
2004			
Jan-Mar	252	0	2,279
Apr-Jun	352	0	966
Jul-Sept	739	1	1,040
Oct-Dec	619	1	871
2004 Total	**1,962**	**2**	**5,156**
2005			
Jan-Mar	974	0	753
Apr-Jun	438	0	1,165
Jul-Sept	597	0	1,086
Oct-Dec	464	0	97
2005 Total	**2,473**	**0**	**3,101**
2006			
Jan-Mar	407	0	24
Apr-Jun	283	0	0
Jul-Sept	269	0	0
Oct-Dec	145	0	0
2006 Total	**1,104**	**0**	**24**
2007			
Jan-Mar	365	0	0
Apr-Jun	16	0	0
Jul-Sept	8	0	0

Source: Police Service of Northern Ireland
Her Majesty's forces Headquarters Northern Ireland.

TABLE NIO/L

Section 91 – Taking Possession of land – numbers of requisition and de-requisition orders

Year	Number of Requisition Orders	Number of De-requisition Orders
2002		
Jan-Mar	0	1
Apr-Jun	14	0
Jul-Sept	0	14
Oct-Dec	0	0
2002 Total	**14**	**15**
2003		
Jan-Mar	0	0
Apr-Jun	13	0
Jul-Sept	1	20
Oct-Dec	0	2
2003 Total	**14**	**22**
2004		
Jan-Mar	0	0
Apr-Jun	14	0
Jul-Sept	0	14
Oct-Dec	0	0
2004 Total	**14**	**14**
2005		
Jan-Mar	0	0
Apr-Jun	0	0
Jul-Sept	13	13
Oct-Dec	2	3
2005 Total	**15**	**16**
2006		
Jan-Mar	0	0
Apr-Jun	2	0
Jul-Sept	0	2
Oct-Dec	0	0
2006 Total	**2**	**2**
2007		
Jan-Mar	0	12
Apr-Jun	0	4
Jul-Sept	0	2

Source: Northern Ireland Office.

TABLE NIO/M

Compensation (Northern Ireland) (Section 102, Schedule 12)1

Year	Amount £		
	Compensation Payments[2]	Agency Payments[3]	Total
2002			
Jan-Mar	1,087,298	150,638	1,237,936
Apr-Jun	597,716	141,352	739,068
Jul-Sept	1,192,755	124,643	1,317,398
Oct-Dec	1,149,152	126,007	1,275,159
2002 Total	**4,026,921**	**542,640**	**4,569,561**
2003			
Jan-Mar	496,186	116,587	612,773
Apr-Jun	802,268	85,391	887,659
Jul-Sept	322,498	76,904	399,402
Oct-Dec	264,745	34,727	299,472
2003 Total	**1,885,697**	**313,609**	**2,199,306**
2004			
Jan-Mar	175,802	20,553	196,355
Apr-Jun	165,239	13,138	178,377
Jul-Sept	52,577	9,899	62,476
Oct-Dec	31,930	4,653	36,583
2004 Total	**425,548**	**48,243**	**473,791**
2005			
Jan-Mar	47,880	6,444	54,324
Apr-Jun	42,623	5,152	47,775
Jul-Sept	29,211	4,061	33,272
Oct-Dec	44,504	3,293	47,797
2005 Total	**164,218**	**18,950**	**183,168**
2006			
Jan-Mar	41,683	1,708	43,391
Apr-Jun	107,729	1,011	108,740
Jul-Sept	30,290	3,343	33,633
Oct-Dec	14,652	2,285	16,937
2006 Total	**194,354**	**8,347**	**202,701**
2007			
Jan-Mar	14,199	981	15,180
Apr-Jun	36,723	1,028	37,751
Jul-Sept	26,465	658	27,123

Notes:
1. Figures relate solely to claims paid during the relevant period.
2. Includes solicitors' and loss assessors' fees.
3. Comprises loss adjusters' fees (employed by the Compensation Agency).

Source: The Compensation Agency.

TABLE NIO/N

Private Security Services: Applications for licence to provide security for reward (Northern Ireland) (Section 106, Schedule 13).

Year	Number of applications for licence	Number of licences issued	Number issued with conditions	Number of appeals against conditions	Number of licences refused	Number of refusals appealed
2002						
Jan-Mar	32	32	0	0	0	0
Apr-Jun	26	26	0	0	0	0
Jul-Sept	22	22	0	0	0	0
Oct-Dec	19	19	0	0	0	0
2002 Total	**99**	**99**	**0**	**0**	**0**	**0**
2003						
Jan-Mar	33	33	0	0	0	0
Apr-Jun	30	30	0	0	0	0
Jul-Sept	22	21	1	0	0	0
Oct-Dec	22	21	1	0	0	0
2003 Total	**107**	**105**	**2**	**0**	**0**	**0**
2004						
Jan-Mar	29	29	0	0	0	0
Apr-Jun	29	29	0	0	0	0
Jul-Sept	24	24	0	0	0	0
Oct-Dec	16	15	1	0	0	0
2004 Total	**98**	**97**	**1**	**0**	**0**	**0**
2005						
Jan-Mar	27	27	0	0	0	0
Apr-Jun	30	30	0	0	0	0
Jul-Sept	26	26	0	0	0	0
Oct-Dec	20	20	0	0	0	0
2005 Total	**103**	**103**	**0**	**0**	**0**	**0**
2006						
Jan-Mar	15	15	0	0	0	0
Apr-Jun	32	20	0	0	0	0
Jul-Sept	18	18	0	0	0	0
Oct-Dec	28	40	7	0	0	0
2006 Total	**93**	**93**	**7**	**0**	**0**	**0**
2007						
Jan-Mar	26	7	0	0	0	0
Apr-Jun	32	30	0	0	0	0
Jul-Sept	30	35	0	0	0	0

Note: 1. Includes application for renewal of existing licences and applications for new licences.

Source: Northern Ireland Office.

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