

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Fifth Delegated Legislation Committee

DRAFT TERRORISM PREVENTION AND  
INVESTIGATION MEASURES ACT 2011  
(CONTINUATION) ORDER 2021

*Tuesday 30 November 2021*

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**The Committee consisted of the following Members:**

*Chair:* CHRISTINA REES

- |   |   |
|---|---|
| † Cherry, Joanna ( <i>Edinburgh South West</i> ) (SNP)            | † Kawczynski, Daniel ( <i>Shrewsbury and Atcham</i> ) (Con)               |
| Cryer, John ( <i>Leyton and Wanstead</i> ) (Lab)                  | Leadbeater, Kim ( <i>Batley and Spen</i> ) (Lab)                          |
| † Daly, James ( <i>Bury North</i> ) (Con)                         | † McGinn, Conor ( <i>St Helens North</i> ) (Lab)                          |
| † Elmore, Chris ( <i>Ogmore</i> ) (Lab)                           | † Saxby, Selaine ( <i>North Devon</i> ) (Con)                             |
| † Green, Chris ( <i>Bolton West</i> ) (Con)                       | † Tracey, Craig ( <i>North Warwickshire</i> ) (Con)                       |
| † Green, Damian ( <i>Ashford</i> ) (Con)                          | Trickett, Jon ( <i>Hemsworth</i> ) (Lab)                                  |
| † Hayes, Sir John ( <i>South Holland and The Deepings</i> ) (Con) | † Whittaker, Craig ( <i>Lord Commissioner of Her Majesty's Treasury</i> ) |
| † Hinds, Damian ( <i>Minister for Security and Borders</i> )      | Nick Taylor, Stella-Maria Gabriel, <i>Committee Clerks</i>                |
| Hollern, Kate ( <i>Blackburn</i> ) (Lab)                          |   |
| † Holmes, Paul ( <i>Eastleigh</i> ) (Con)                         | † <b>attended the Committee</b>   |

# Fifth Delegated Legislation Committee

Tuesday 30 November 2021

[CHRISTINA REES *in the Chair*]

## Draft Terrorism Prevention and Investigation Measures Act 2011 (Continuation) Order 2021

9.25 am

**The Chair:** Before we begin, I remind Members that they are expected to wear face coverings and to maintain distancing as far as possible. This is in line with current Government guidance and that of the House of Commons Commission. Please give each other and members of staff space when seated and when entering and leaving the room. I remind Members that they are asked by the House to have a covid lateral flow test twice a week if coming in to the parliamentary estate. That can be done either at the testing centre in the House or at home. Members should send their speaking notes by email to [hansardnotes@parliament.uk](mailto:hansardnotes@parliament.uk). Similarly, officials in the Gallery should communicate electronically with Ministers.

**The Minister for Security and Borders (Damian Hinds):** I beg to move,

That the Committee has considered the draft Terrorism Prevention and Investigation Measures Act 2011 (Continuation) Order 2021.

Good morning, Ms Rees. Thank you for that introduction and for your reminders to us all. The order provides for the continuation of the Secretary of State's TPIM powers, or terrorism prevention and investigation measures powers, for a period of five years.

The Government take all necessary steps to protect the public. The threat we face from individuals and groups who wish us harm is significant and enduring. It is vital that we have the tools necessary to keep our country safe. Although it is right that our first response to terrorism-related activity should be to prosecute or deport those involved, this is not always possible. This is why we continue to require the powers conferred on the office of the Home Secretary in the Terrorism Prevention and Investigation Measures Act 2011.

Section 21(1) of the Act states that the Secretary of State's TPIM powers will expire at the end of five years from the date the Act was passed. Because of the continuing threat to the UK from terrorism, and following consultation with the Independent Reviewer of Terrorism Legislation, the Investigatory Powers Commissioner and the director-general of the Security Service, there can be no doubt that TPIMs remain an essential component of our toolkit to manage the threat from terrorism.

The Act provides the Secretary of State with powers to impose a TPIM notice on an individual if the conditions set out in section 3 of the Act are assessed by the Secretary of State to have been met, namely that she reasonably believes that the individual is, or has been, involved in terrorism-related activity, and that she reasonably considers that it is necessary, for purposes connected with protecting members of the public from a risk of

terrorism, to impose such measures on the individual. In addition to the power to impose a TPIM notice, the Secretary of State has powers to extend and vary a TPIM notice that is in force, and to revive a TPIM notice that has been revoked.

Since the introduction of the Act in 2011, 24 TPIMs have been imposed. As of the last published set of figures on 21 October, five TPIMs were in force. If the TPIM powers are not extended, those five dangerous individuals will be at large without any measures in place to reduce the risk they pose to the public. TPIMs are imposed as a tool of last resort when the Security Service judges there are no other means, or that a TPIM notice is the only satisfactory means, to manage that risk.

It may be helpful for me to provide some background on the TPIM powers. They are civil preventative measures designed to manage the threat posed by individuals who cannot be prosecuted for a terrorism-related offence—or deported in the case of foreign nationals. There is no question but that TPIMs are extraordinary measures. That is why the 2011 Act provides for broad judicial oversight, including: a requirement for High Court permission to impose the measures, except in urgent cases, where the notice must be immediately referred to the Court for confirmation; an automatic review hearing in each case, unless the individual requests the hearing be discontinued; and rights of appeal for the individual against the refusal of a request to revoke or vary a measure.

The TPIM legislation also places a duty on the Secretary of State to consult on the prospects of prosecuting an individual before measures may be imposed, and a duty to keep the necessity of measures under review while they are in force. The Counter-Terrorism and Sentencing Act 2021, which amended existing and introduced new TPIM measures, also reintroduced a requirement on the Independent Reviewer of Terrorism Legislation publicly to report on the operation of the TPIM Act. The Act has been extended once already, in 2016. Unless a new order is made under section 21(2)(c), the powers in the Act will expire at midnight on 13 December. Just as was the case five years ago, it is essential that we have now all the necessary powers to protect the public from terrorism-related activity.

Having consulted as required by the Act, the Home Secretary has, due to the significant terrorist threat facing this country, decided to make this statutory instrument to provide for the continuation of TPIM powers for a further five years—the maximum period allowable in the legislation. It is essential that our counter-terrorism strategy enables us to tackle the full spectrum of activity. TPIMs have been endorsed by the courts and successive Independent Reviewers of Terrorism Legislation, while the police and Security Service believe they have been effective in reducing the national security risk posed by those subject to the measures.

Our message is clear: we remain steadfast in our determination to defeat terrorism and we will take every necessary action to counter the threat from those who hate the values that we cherish. The safety and security of the public is our No. 1 priority. I commend the order to the Committee.

9.31 am

**Conor McGinn** (St Helens North) (Lab): Bore da, Ms Rees. It is a pleasure to serve under your chairmanship and opposite the Minister. It is important to say that the security job, both in opposition and in government—I see a former Security Minister here—is unique, because such is the nature of our Parliament and politics that we debate these matters robustly. The current Minister has been impeccable in ensuring that the Opposition are briefed on all these important measures. We appreciate that, and I hope we can continue to work together in that constructive spirit.

Although these are technical measures, the statutory instrument has important implications for security and keeping our citizens, their families and communities safe. That is the priority for all hon. Members across the House. As I said during the passage of the Counter-Terrorism and Sentencing Act 2021, we want TPIMs to be robust and impactful, but agile enough to adapt to fast-changing threats. TPIMs are, without doubt, a critical tool in our arsenal, but given the potentially far-reaching implications for subjects of a TPIM, we also recognise the need for them to be proportional, exceptional and imposed only where necessary, backed by the strongest safeguards and clear exit strategies.

We made important progress through amendments that we, with the hon. and learned Member for Edinburgh South West, won during the passage of the 2021 Act, particularly on maintaining a higher standard of proof than was initially envisaged, on time limits for a TPIMs notice, and on vital additional oversight and review functions for the Independent Reviewer. Given TPIMs' importance, we all agree it would be incomprehensible were we to let these powers lapse suddenly at midnight on 13 December, as they would if the instrument was not passed. We will not let that happen. We welcome the clarity the measures gives law enforcement, the security services and their partners, who work so hard on our behalf to protect people. We also acknowledge the support of the Independent Reviewer and the Investigatory Powers Commissioner.

I have a few questions for the Minister. Are the Government happy with the effectiveness of TPIMs and the level of the resources given to administer and monitor them? What impact have recent changes had operationally? As he said, as of October, there are five TPIMs in force, which is a relatively stable number. Does he envisage that continuing? We know that the terrorism threat is evolving in complexity, as we saw most recently in my region, Merseyside, at the Liverpool Women's Hospital, and of course our tools must keep up. The impact of self-initiated, lone actor terrorism is growing rapidly. That is why we called on Ministers to look into that specifically and to publish their findings. I hope the Government will consider doing that. Tools such as TPIMs combat such threats and help to tackle individuals radicalised under the authorities' radar—for example, online.

**Sir John Hayes** (South Holland and The Deepings) (Con): I am grateful for the hon. Gentleman's early remarks and the tone of his speech. On lone actors, as he notes, there is a growing fear that people like the fellow in Liverpool—we acknowledge that the investigation is in its early stages—may not be known to the security services prior to their attack. How important does he

think it is that we monitor internet activity closely, given that it is clearly being used by people to self-radicalise? These are very difficult and challenging matters, but that may well be the means by which we try to anticipate those kinds of activity.

**Conor McGinn:** The right hon. Gentleman makes hugely important point. That is the sphere that poses the fastest growing and most dangerous threat. I know the Government are bringing forward their draft Online Safety Bill, and I hope it will enable us to consider measures that directly address this threat. It is hugely important to ensure that our security services, the National Cyber Security Centre and GCHQ have all the tools they need to have at their disposal to monitor internet activity, but the truth is that it is very difficult, given people's ability to remain anonymous, to self-radicalise and to plot acts of terrorism from a bedsit. I think we need to look at that alongside lone actor activity generally and specifically at how online activity is used. We will of course work with the Government however we can to support that, but the right hon. Gentleman makes a hugely important point.

We support the statutory instrument and the clarity the renewal of the powers brings. It would be a dereliction of duty were we to allow the tools to lapse suddenly, and we will act with the Government to prevent that. We will continue to hold the Government to account, working together in the national interest but scrutinising in the national interest too.

9.37 am

**Joanna Cherry** (Edinburgh South West) (SNP): It is a real pleasure to serve under your chairpersonship, Ms Rees. I rise to associate myself with the comments made by the hon. Member for St Helens North and to thank him for the questions he asked the Minister. I will find the answers interesting and helpful.

I have consulted my colleagues and Scotland's Justice Secretary about this matter. The Scottish Government are very content to support the continuation of the measures, as is the Scottish National party Westminster group. I have one question for the Minister, though. What ongoing discussions has he had with Scottish Government counterparts about these matters?

9.38 am

**Damian Hinds:** I thank all members of the Committee for being here today. I also thank the Opposition speaker, the hon. Member for St Helens North, not only for his kind words, which I reflect back at him, but more generally for his constructive approach and specifically for his and the Opposition's support for this important measure. He is quite right that the Opposition's most important role is to hold the Government to account and to make sure measures are subjected to scrutiny, whereby we end up with better laws and better public administration. We greatly appreciate that and we know it can be done constructively and co-operatively when it comes to matters of the utmost importance that affect our national security.

The hon. Gentleman says he wants TPIMs to be robust, impactful and agile. That sums up the objectives well. The 2011 Act was updated by the Counter-Terrorism and Sentencing Act 2021, as he mentioned, to improve our ability to monitor and manage the risk posed by

*[Damian Hinds]*

terrorist offenders and individuals of concern outside custody. That allows for more effective intervention. As he also said, if the powers are not extended, those essential changes will not be effective and our ability to manage the risk posed by individuals will be severely compromised. Subject to the agreement of the Committee and the other place, the order will come into force on 13 December.

In response to the points raised by the hon. Member for St. Helens North and the hon. and learned Member for Edinburgh South West, I reassure the hon. and learned Lady that officials are in regular contact, and rightly so. These are national matters of security that affect us all. I am conscious, however, that there is a different legal system and tradition in Scotland and we must always be mindful of that.

The hon. Gentleman asked whether we are happy with the regime's effectiveness, and referred to the relatively small number of TPIMs in force. He asked whether that would continue to be the case. We are content with its effectiveness. The Committee will understand that I cannot comment on individual cases, but when the courts have renewed the imposition of a notice, they have all ruled that the TPIM has been imposed lawfully. The system continues to have the support of the Security Service, the Independent Reviewer of Terrorism Legislation and the Investigatory Powers Commissioner. It remains a tool of last resort and is not something that any Government would want to use extensively. That said, we cannot predict the future and we must retain the flexibility and agility to do what is required.

The hon. Gentleman also asked about lone actors and how the terrorist threat has evolved and referred to the Opposition's argument that one should look further into the development of lone acts. I reassure him that

we are constantly looking at the evolution of the terror threat and its different aspects, part of which is the development of lone acts. We can make some of that analysis available to the Intelligence and Security Committee, if desired.

The hon. Gentleman and my right hon. Friend the Member for South Holland and The Deepings also referred to the online aspect of terrorist plots—pretty much every such plot has some sort of online angle these days. That is an incredibly important front of our resistance to terrorism and mitigating that threat. The draft Online Safety Bill is important landmark legislation that specifically contains important provisions to tackle terror content. Two categories of illegal content have been identified as priority legal harms to tackle through the legislation from the very start—there will be others—namely, child sexual abuse and exploitation and terrorism. The interim codes of practice have been published and are in effect.

TPIMs give the Security Service and the police powerful and vital measures to help manage the risk posed by people of national security concern. They are used as a last resort when prosecution or deportation is not available. The TPIM Act provides the Secretary of State with the power to impose measures on an individual where she reasonably believes that that individual is, or has been, involved in terrorism-related activity. I urge all right hon. and hon. Members to support this essential order to keep our country safe.

*Question put and agreed to.*

9.43 am

*Committee rose.*