

National Security (State Threats) Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

[Amendments marked ★ are new or have been altered]

Amendment
No.

Clause 1

BARONESS HAYTER OF KENTISH TOWN
LORD ALTON OF LIVERPOOL
BARONESS LUDFORD
BARONESS FOSTER OF AGHADRUMSEE

- 1 Clause 1, page 1, line 10, after “activity” insert “including espionage”

Member's explanatory statement

This probing amendment seeks to clarify whether all aspects of espionage are covered by the reference to “foreign power threat activity”, in the light of the recent conviction of two Chinese spies, one of whom worked for the Hong Kong Economic and Trade Office in London.

LORD WALNEY
LORD MENDELSON

- 2★ Clause 1, page 1, line 12, at end insert —

- “(1A) A body may be designated under this section if it is a media organ which the Secretary of State reasonably believes is —
- (a) owned, controlled, directed or substantially funded by a foreign power or by a designated body, and
 - (b) used, whether wholly or partly, to promote, disseminate or amplify content that supports, glorifies or encourages foreign power threat activity, or that promotes an ideology of hatred, intolerance or violence in connection with such activity,
- and the Secretary of State considers that designating the media organ is necessary to protect the safety or interests of the United Kingdom.

- (1B) For the purposes of subsection (1A), a media organ includes any television or radio broadcaster, any online publication, platform or channel disseminating news, commentary or political content, and any entity that commissions, produces or distributes such content, whether or not based in the United Kingdom.”

LORD ALTON OF LIVERPOOL

3 Clause 1, page 2, line 12, at end insert –

“33AA Conduct relevant to designation

- (1) For the purposes of section 33A, a body is to be regarded as involved in foreign power threat activity if the Secretary of State reasonably believes that the body is, or has been, involved in –
 - (a) transnational repression,
 - (b) abusive lawfare connected to a foreign power, a designated body or foreign power threat activity,
 - (c) sanctions evasion connected to a foreign power, a designated body or foreign power threat activity,
 - (d) the concealment, movement or control of assets for or on behalf of a foreign power or a body acting for or on behalf of a foreign power, or
 - (e) conduct which enables, facilitates, assists or conceals any activity falling within paragraphs (a) to (d).
- (2) For the purposes of this section, “transnational repression” means conduct carried out by, for, or on behalf of, or with the intention of benefiting, a foreign power, where the conduct has the purpose, or effect, of intimidating, coercing, punishing, silencing, controlling or retaliating against –
 - (a) a person in the United Kingdom,
 - (b) a United Kingdom national,
 - (c) a person resident in the United Kingdom,
 - (d) a person with a substantial connection to the United Kingdom, or
 - (e) a family member, associate or representative of a person falling within paragraphs (a) to (d).
- (3) Conduct falling within subsection (2) includes, but is not limited to –
 - (a) surveillance, harassment, intimidation, threats or coercion,
 - (b) threats or reprisals against family members or associates overseas,
 - (c) forced return, attempted forced return, abduction or attempted abduction,
 - (d) misuse of criminal, civil, immigration, extradition or administrative processes,
 - (e) misuse of Interpol notices or other international police cooperation mechanisms,

- (f) targeting of journalists, activists, human rights defenders, lawyers, political opponents, dissidents, whistleblowers or members of diaspora communities, and
 - (g) conduct intended to conceal, enable or facilitate any activity falling within paragraphs (a) to (f).
- (4) For the purposes of this section “abusive lawfare” means the use, or threatened use, of legal, regulatory, administrative, criminal, civil, immigration, extradition or other proceedings where the predominant purpose, or one of the predominant purposes, is to –
 - (a) intimidate, silence, punish or deter a person from engaging in public interest speech, journalism, advocacy, democratic participation or human rights work,
 - (b) deter investigation or scrutiny of corruption, human rights abuses, sanctions evasion, hostile state activity or foreign power threat activity,
 - (c) impose disproportionate cost, delay, pressure or reputational harm on the target, or
 - (d) protect, conceal or advance the interests of a foreign power or a body acting for or on behalf of a foreign power.
- (5) Proceedings, or threatened proceedings, are not abusive merely because they are brought by, or on behalf of, a foreign power, or a person connected to a foreign power.
- (6) For the purposes of this section “sanctions evasion” means conduct which has the purpose, or effect, of enabling or facilitating the evasion, circumvention or frustration of –
 - (a) sanctions imposed under the Sanctions and Anti-Money Laundering Act 2018,
 - (b) asset-freezing measures,
 - (c) trade sanctions,
 - (d) export controls,
 - (e) immigration restrictions,
 - (f) public procurement restrictions, or
 - (g) any other restrictive measure imposed by or under an enactment for the purpose of protecting the safety or interests of the United Kingdom.
- (7) Nothing in this section is to be read as preventing legal advice, representation or advocacy, provided that such activity is not undertaken for the purpose of facilitating foreign power threat activity, transnational repression, sanctions evasion, abusive lawfare or the concealment of assets connected to a designated body.”

Member's explanatory statement

This amendment would specify categories of conduct that may be regarded as involvement in foreign power threat activity for the purposes of designation.

LORD GOODMAN OF WYCOMBE

- ★ *Lord Goodman of Wycombe gives notice of his intention to oppose the Question that Clause 1 stand part of the Bill.*

After Clause 1

LORD ALTON OF LIVERPOOL

- 4 After Clause 1, insert the following new Clause —

“The foreign power condition: amendment

- (1) Section 31 of the National Security Act 2023 (the foreign power condition) is amended as follows.
- (2) In subsection (2), after paragraph (d) insert —
 - “(e) it is carried out in alignment with, or for the purpose of advancing or giving effect to, a foreign power policy.”
- (3) After subsection (7) insert —
 - “(8) For the purposes of subsection (2)(e), a “foreign power policy” means a formal policy, strategy, or directive that —
 - (a) is published, issued, or otherwise authenticated by a foreign power, and
 - (b) contains information from which a reasonable person would conclude that the policy explicitly or implicitly permits, encourages, or directs interference in the affairs or interests of another state.”

Member's explanatory statement

This amendment seeks to clarify that those motivated by a state policy, such as those pursuing the united front strategy in the UK, meet the foreign power condition for the purposes of the National Security Act 2023.

BARONESS DOOCEY
LORD MARKS OF HENLEY-ON-THAMES
LORD ALTON OF LIVERPOOL

- 5 After Clause 1, insert the following new Clause —

“Foreign power threat activity: artificial superintelligence systems

- (1) The National Security Act 2023 is amended as follows.
- (2) In section 18 (preparatory conduct), in subsection (4) —
 - (a) in paragraph (b), omit “or”;
 - (b) at the end of paragraph (c) insert “, or”;

- (c) after paragraph (c) insert –
 - “(d) involve the development of an artificial superintelligence system.”
- (3) In section 33 (foreign power threat activity and involvement in that activity), in subsection (4) –
 - (a) in paragraph (b), omit “or”;
 - (b) at the end of paragraph (c) insert “, or”;
 - (c) after paragraph (c) insert –
 - “(d) involve the development of an artificial superintelligence system.”
- (4) In section 34 (interpretation), in the appropriate places, insert –
 - ““artificial intelligence system” (“AI system”) means a system that is capable of adapting its behaviour, in response to inputs or changes in its operating environment, in ways not fully specified in advance by its developers;
 - “artificial superintelligence system” (“ASI system”) means an AI system which can cause serious damage to the security of the United Kingdom because of its capability to neutralise, displace, circumvent, subvert, or render ineffective relevant human authorities in the exercise of their functions;”;
 - ““relevant human authorities”, in relation to an AI system, means –
 - (a) the armed forces of the Crown;
 - (b) the Government of the United Kingdom;
 - (c) the intelligence services;
 - (d) police forces.””

Member's explanatory statement

This new clause would extend the acts covered by the National Security Act 2023 in relation to foreign powers to those that involve the development of artificial superintelligence, because of the grave threat it poses to the national security of the United Kingdom.

Clause 2

LORD DAVIES OF GOWER
LORD CAMERON OF LOCHIEL

6 Clause 2, page 3, leave out line 9

LORD DAVIES OF GOWER
LORD CAMERON OF LOCHIEL

7 Clause 2, page 3, leave out lines 23 to 25

LORD DAVIES OF GOWER
LORD CAMERON OF LOCHIEL
BARONESS JONES OF MOULSECOOMB

8 Clause 2, page 3, line 32, at end insert —

“(5A) It is a defence for a person charged under this section to show that the conduct was carried out solely for the purposes of journalism, academic research, diplomacy, legal representation or humanitarian assistance.”

LORD MARKS OF HENLEY-ON-THAMES
BARONESS NORTHOVER

9 Clause 2, page 4, line 23, at end insert —

“(3A) The conduct specified in subsection (3) includes establishing, administering or maintaining a company, trust, partnership or similar arrangement which conceals, or is intended to conceal, the beneficial ownership of assets connected with a designated body.”

Member's explanatory statement

This amendment makes the concealment of beneficial ownership, and the establishment and maintenance of that concealment of finance and assets relating to a designated organisation, an offence.

LORD WALNEY
LORD MENDELSON

10★ Clause 2, page 4, line 23, at end insert —

- “(3A) A person commits an offence if the person —
- (a) produces, presents, contributes to or disseminates content for or on behalf of a media organ which is a designated body under section 33A(1A),
 - (b) knows or has reasonable cause to know that it is a media organ which is a designated body, and
 - (c) does so for a prohibited purpose within the meaning of section 17A(4).
- (3B) It is a defence to an offence under subsection (3A) to show that the contribution was limited to factual reporting and did not involve the promotion, glorification or encouragement of foreign power threat activity or of an ideology of hatred, intolerance or violence in connection with such activity, or that it was made for the purposes of journalistic activity, legitimate academic research, or preventing or detecting crime under the authority of a UK law enforcement or intelligence agency.
- (3C) The defence in subsection (3B) is not available to a person who regularly presents, hosts or produces content for the media organ as a primary

professional activity, or who receives financial remuneration from the organ in connection with the content in question.”

BARONESS NORTHOVER
LORD ALTON OF LIVERPOOL
BARONESS HELIC
BARONESS D'SOUZA

11★ Clause 2, page 4, line 34, at end insert —

“(5A) Subsections (1) and (2) do not apply to conduct engaged in on behalf of an impartial humanitarian organisation that is necessary to ensure the delivery of humanitarian assistance or to support other activities that support basic human needs.”

Member's explanatory statement

This amendment would create an exemption from the offence in section 17B of assisting a designated body if the assistance is provided on behalf of an impartial humanitarian organisation.

BARONESS NORTHOVER
LORD ALTON OF LIVERPOOL
BARONESS HELIC
BARONESS D'SOUZA

12★ Clause 2, page 5, line 7, at end insert —

“(e) for the purposes of providing aid of a humanitarian nature.”

Member's explanatory statement

This amendment, together with others in the name of Baroness Northover, provides a defence to the section 17B prohibition for the provision of humanitarian aid in accordance with internationally recognised principles and standards.

BARONESS NORTHOVER
LORD ALTON OF LIVERPOOL
BARONESS HELIC
BARONESS D'SOUZA

13★ Clause 2, page 5, line 12, at end insert —

“(7A) The reference to the provision of aid of a humanitarian nature does not include the provision of aid in contravention of internationally recognised principles and standards applicable to the provision of humanitarian aid.”

Member's explanatory statement

This amendment, together with others in the name of Baroness Northover, provides a defence to the section 17B prohibition for the provision of humanitarian aid in accordance with internationally recognised principles and standards.

LORD WALNEY
LORD MENDELSON

- 14★ Clause 2, page 5, line 13, after “section” insert “other than under subsection (3A)”

LORD WALNEY
LORD MENDELSON

- 15★ Clause 2, page 5, line 15, at end insert –

“(8A) A person who commits an offence under subsection (3A) is liable on conviction on indictment to imprisonment for a term not exceeding 10 years or a fine (or both).”

BARONESS NORTHOVER
LORD ALTON OF LIVERPOOL
BARONESS HELIC
BARONESS D'SOUZA

- 16★ Clause 2, page 6, line 7, at end insert –

“(4A) A material benefit is an excluded benefit if it is provided to an impartial humanitarian organisation, or a person acting on behalf of an impartial humanitarian organisation, in order to ensure the delivery of humanitarian assistance or to support other activities that support basic human needs.”

Member's explanatory statement

This amendment would mean the offence in section 17C of obtaining etc material benefits from a designated body would not apply if the benefit is provided to an impartial humanitarian organisation for humanitarian purposes.

LORD ANDERSON OF IPSWICH
LORD VERDIRAME
THE LORD BISHOP OF MANCHESTER

- 17 Clause 2, page 6, line 23, at end insert –

“(7A) In proceedings for the offences of obtaining and accepting information under subsection (1), and for the offence of agreeing to accept information under subsection (2), it shall be a defence to show that the information relates to activity outside the United Kingdom, and that the person had a reasonable excuse for obtaining, accepting or agreeing to accept the information.”

Member's explanatory statement

Suggested by Jonathan Hall KC, this would create a reasonable excuse defence for obtaining, accepting or agreeing to accept information from a designated body relating to activity outside the UK.

BARONESS NORTHOVER
LORD ALTON OF LIVERPOOL
BARONESS HELIC
BARONESS D'SOUZA

18★ Clause 2, page 6, line 35, at end insert —

“(d) for the purpose of providing aid of a humanitarian nature.”

Member's explanatory statement

This amendment, together with others in the name of Baroness Northover, provides a defence to the section 17C prohibition for the provision of humanitarian aid in accordance with internationally recognised principles and standards.

BARONESS NORTHOVER
LORD ALTON OF LIVERPOOL
BARONESS HELIC
BARONESS D'SOUZA

19★ Clause 2, page 6, line 40, at end insert —

“(9A) The reference to the provision of aid of a humanitarian nature does not include the provision of aid in contravention of internationally recognised principles and standards applicable to the provision of humanitarian aid.”

Member's explanatory statement

This amendment, together with others in the name of Baroness Northover, provides a defence to the section 17C prohibition for the provision of humanitarian aid in accordance with internationally recognised principles and standards.

LORD DAVIES OF GOWER
LORD CAMERON OF LOCHIEL
LORD VERDIRAME
LORD WALNEY

20 Clause 2, page 7, line 8, at end insert —

“17D Uniform and publication of images in relation to a designated body

- (1) A person in a public place commits an offence if the person —
 - (a) wears an item of clothing, or
 - (b) wears, carries or displays an article,in such a way or in such circumstances as to arouse reasonable suspicion that the person is a supporter of a designated body.
- (2) A person commits an offence if the person publishes an image of —
 - (a) an item of clothing, or
 - (b) any other article,

in such a way or in such circumstances as to arouse reasonable suspicion that the person is a supporter of a designated body.

- (3) In subsection (2) the reference to an image is a reference to a still or moving image (produced by any means).
- (4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale (or both).
- (5) A constable may seize an item of clothing or any other article if the constable—
 - (a) reasonably suspects that it is evidence in relation to an offence under subsection (1), and
 - (b) is satisfied that it is necessary to seize it in order to prevent the evidence being concealed, lost, altered or destroyed.
- (6) In connection with exercising the power in subsection (5), a constable may require a person to remove the item of clothing or other article if the person is wearing it.
- (7) The powers conferred by subsections (5) and (6) may not be exercised so as to seize, or require a person to remove, an item of clothing being worn next to the skin or immediately over a garment being worn as underwear.”

Member's explanatory statement

This amendment would create an offence of wearing or displaying in public, or publishing an image of, an article in a way that arouses reasonable suspicion that a person is a supporter of a designated body.

LORD DAVIES OF GOWER
LORD CAMERON OF LOCHIEL

21★ Clause 2, page 7, line 8, at end insert —

“17D Dissemination of publications relating to a designated body

- (1) A person commits an offence if the person engages in conduct falling within subsection (2) and, at the time of doing so —
 - (a) intends an effect of the conduct to be a direct or indirect encouragement or other inducement to support, or to provide assistance to, a designated body, or
 - (b) is reckless as to whether the conduct has that effect.
- (2) A person engages in conduct falling within this subsection if the person—
 - (a) distributes or circulates a publication relating to a designated body,
 - (b) gives, sells or lends such a publication,
 - (c) offers such a publication for sale or loan,
 - (d) provides a service to others that enables them to obtain, read, listen to or look at such a publication, or to acquire it by means of a gift, sale or loan,

- (e) transmits the contents of such a publication electronically, or
 - (f) has such a publication in the person's possession with a view to its becoming the subject of conduct falling within any of paragraphs (a) to (e).
- (3) For the purposes of this section a publication relates to a designated body if matter contained in it is likely to be understood by a reasonable person as a direct or indirect encouragement or other inducement to support, or to provide assistance to, a designated body.
- (4) For the purposes of this section matter that is likely to be understood by a reasonable person as indirectly encouraging the support or the provision of assistance to a designated body includes any matter which—
 - (a) glorifies the support or provision of assistance (whether in the past, in the future or generally) to a designated body, and
 - (b) is matter from which a person could reasonably be expected to infer that what is being glorified is being glorified as conduct that should be emulated by the person in existing circumstances.
- (5) In subsection (1) references to the effect of a person's conduct in relation to a publication relating to a designated body include references to an effect of the publication on one or more persons to whom it is or may become available as a consequence of that conduct.
- (6) It is irrelevant for the purposes of this section whether anything mentioned in subsections (1) to (4) is in relation to the direct or indirect encouragement or other inducement to support, or provide assistance to, one or more particular designated bodies, of designated bodies of a particular description or of designated bodies generally.
- (7) For the purposes of this section it is also irrelevant, in relation to matter contained in any article whether any person is in fact encouraged or induced by that matter to support or provide assistance to a designated body.
- (8) It is a defence for a person charged with an offence under this section to show that—
 - (a) the matter by reference to which the publication was treated as relating to a designated body neither expressed the person's views nor had the person's endorsement, and
 - (b) it was clear, in all the circumstances of the conduct, that the matter did not express the person's views and did not have the person's endorsement.
- (9) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for a term not exceeding 14 years or a fine (or both).

17E Application of section 17D to internet activity etc.

- (1) This section applies for the purposes of section 17D in relation to cases where conduct falling within subsection (2) was in the course of, or in connection with, the provision or use of a service provided electronically.
- (2) The cases in which the article or record to which the conduct relates is to be regarded as having the endorsement of a person (“the relevant person”) at any time include a case in which—
 - (a) a constable has given the relevant person a notice under subsection (3),
 - (b) that time falls more than two working days after the day on which the notice was given, and
 - (c) the relevant person has failed, without reasonable excuse, to comply with the notice.
- (3) A notice under this subsection is a notice which—
 - (a) declares that, in the opinion of the constable giving it, the article or record is unlawfully related to a designated body,
 - (b) requires the relevant person to secure that the article or record, so far as it is so related, is not available to the public or is modified so as no longer to be so related,
 - (c) warns the relevant person that a failure to comply with the notice within two working days will result in the article or record being regarded as having the relevant person’s endorsement, and
 - (d) explains how, under subsection (4), the relevant person may become liable by virtue of the notice if the article or record becomes available to the public after the relevant person has complied with the notice.
- (4) Where—
 - (a) a notice under subsection (3) has been given to the relevant person in respect of an article or record, and the relevant person has complied with it, but
 - (b) the relevant person subsequently publishes or causes to be published an article or record which is, or is for all practical purposes, the same or to the same effect as the matter contained in the article or record to which it related (a “repeat publication”),
 the requirements of subsection (2)(a) to (c) shall be regarded as satisfied in the case of the repeat publication in relation to the times of its subsequent publication by the relevant person.
- (5) In proceedings against a person (“P”) for an offence under section 17D the requirements of subsection (2)(a) to (c) are not, in relation to P’s case, to be regarded as satisfied in relation to any time by virtue of subsection (4) if P shows that—
 - (a) P has, before that time, taken every step P reasonably could to prevent a repeat publication from becoming available to the public and to ascertain whether it does, and
 - (b) was, at that time, a person to whom subsection (6) applied.

- (6) This subsection applies to a person (“C”) at any time when C—
 - (a) is not aware of the publication of the repeat publication, or
 - (b) having become aware of its publication, has taken every step that C reasonably could to secure that it either ceased to be available to the public or was modified as mentioned in subsection (3)(b).
- (7) For the purposes of this section an article or record is unlawfully related to a designated body if it constitutes, or if matter contained in the article or record constitutes, something that is likely to be understood, by any one or more of the persons to whom it has or may become available, as a direct or indirect encouragement or other inducement to support or provide assistance to a designated body.
- (8) For the purposes of this section matter that is likely to be understood by a reasonable person as indirectly encouraging the support or the provision of assistance to a designated body includes any matter which—
 - (a) glorifies the support or provision of assistance (whether in the past, in the future or generally) to a designated body, and
 - (b) is matter from which a person could reasonably be expected to infer that what is being glorified is being glorified as conduct that should be emulated by the person in existing circumstances.
- (9) In this section “working day” means any day other than—
 - (a) a Saturday or a Sunday,
 - (b) Christmas Day or Good Friday, or
 - (c) a day which is a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.”

Member's explanatory statement

This amendment seeks to create a specific offence of the dissemination of publications for a designated body, mirroring the provisions in the Terrorist Act 2006, and provides for content removal notices.

LORD ALTON OF LIVERPOOL
BARONESS D'SOUZA

22★ Clause 2, page 7, line 8, at end insert —

“17D Humanitarian activities: exemption

No offence is committed under sections 17A to 17C if a person is carrying out exclusively humanitarian activities on behalf of an impartial humanitarian organisation in accordance with international humanitarian law.”

After Clause 2

LORD DAVIES OF GOWER
LORD CAMERON OF LOCHIEL

23★ After Clause 2, insert the following new Clause —

“Seizure of passports

- (1) The National Security Act 2023 is amended as follows.
- (2) After section 58, insert —

“58A Seizure of passports etc from persons suspected of assisting a designated body

- (1) Schedule (*Seizure of passports etc from persons suspected of assisting a designated body*) makes provision for the seizure and temporary retention of travel documents where a person is suspected of intending to leave Great Britain or the United Kingdom to assist a designated body.
- (2) In Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services) in Part 1 (services), after paragraph 45B insert —

“Extension of time for retention of travel documents

- 45C(1) Civil legal services provided in relation to proceedings under paragraph 8 of Schedule (*Seizure of passports etc from persons suspected of assisting a designated body*) to the National Security Act 2023.
- (2) Sub-paragraph (1) is subject to —
 - (a) the exclusions in Part 2 of this Schedule, with the exception of paragraph 18 of that Part, and
 - (b) the exclusion in Part 3 of this Schedule.”
- (3) In Schedule 2 to the Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)) (civil legal services: excluded services), in paragraph 2(d) (proceedings in court of summary jurisdiction in relation to which funding for representation may be provided), after paragraph (xxvi) insert —

“(xxvii) under paragraph 8 of Schedule (*Seizure of passports etc from persons suspected of assisting a designated body*) to the National Security Act 2023;”.

- (3) After Schedule 12, insert the following new Schedule –

“SCHEDULE

SEIZURE OF PASSPORTS ETC FROM PERSONS SUSPECTED OF ASSISTING A
DESIGNATED BODY

Interpretation

- 1 (1) The following definitions have effect for the purposes of this Schedule.
- (2) “Designated body” has the same meaning as in section 33A(3) of this Act.
- (3) “Immigration officer” means a person who is appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971.
- (4) “Customs official” means a person who is designated as a general customs official under section 3(1) of the Borders, Citizenship and Immigration Act 2009 or as a customs revenue official under section 11(1) of that Act.
- (5) “Qualified officer” means an immigration officer or customs official who is designated by the Secretary of State for the purposes of this Schedule.
- (6) “Senior police officer” means a police officer of at least the rank of superintendent.
- (7) “Travel document” means anything that is or appears to be –
 - (a) a passport, or
 - (b) a ticket or other document that permits a person to make a journey by any means from a place within Great Britain to a place outside Great Britain, or from a place within Northern Ireland to a place outside the United Kingdom.
- (8) “Passport” means –
 - (a) a United Kingdom passport (within the meaning of the Immigration Act 1971),
 - (b) a passport issued by or on behalf of the authorities of a country or territory outside the United Kingdom, or by or on behalf of an international organisation, or
 - (c) a document that can be used (in some or all circumstances) instead of a passport.
- (9) “Port” means –
 - (a) an airport,
 - (b) a sea port,
 - (c) a hoverport,
 - (d) a heliport,

- (e) a railway station where passenger trains depart for, or arrive from, places outside the United Kingdom, or
 - (f) any other place at which a person is able, or attempting, to get on or off any craft, vessel or vehicle in connection with entering or leaving Great Britain or Northern Ireland.
- (10) A place is “in the border area” if it is in Northern Ireland and is no more than one mile from the border between Northern Ireland and the Republic of Ireland.
- (11) “Assisting a designated body” has the same meaning as in section 17B of this Act.
- (12) “Judicial authority” means –
 - (a) in England and Wales, a District Judge (Magistrates' Courts) who is –
 - (i) designated under paragraph 29(4)(a) of Schedule 8 to the Terrorism Act 2000, or
 - (ii) designated for the purposes of this Schedule by the Lord Chief Justice of England and Wales;
 - (b) in Scotland, the sheriff;
 - (c) in Northern Ireland, a county court judge, or a district judge (magistrates' courts) who is –
 - (i) designated under paragraph 29(4)(c) of Schedule 8 to the Terrorism Act 2000, or
 - (ii) designated for the purposes of this Schedule by the Lord Chief Justice of Northern Ireland.
- (13) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his or her functions under sub-paragraph (12)(a)(ii).
- (14) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his or her functions under sub-paragraph (12)(c)(ii) –
 - (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
 - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).
- (15) “The 14-day period” and “the 30-day period” have the meanings given by paragraphs 5(2) and 8(7) respectively.

Powers of search and seizure

- 2 (1) This paragraph applies in the case of a person at a port in Great Britain, if a constable has reasonable grounds to suspect that the person –
 - (a) is there with the intention of leaving Great Britain for the purpose of assisting a designated body outside the United Kingdom, or

- (b) has arrived in Great Britain with the intention of leaving it soon for that purpose.
- (2) This paragraph applies in the case of a person at a port in Northern Ireland, or in the border area, if a constable has reasonable grounds to suspect that the person –
 - (a) is there with the intention of leaving the United Kingdom for the purpose of assisting a designated body outside the United Kingdom, or
 - (b) has arrived in Northern Ireland with the intention of leaving the United Kingdom soon for that purpose.
- (3) The constable may –
 - (a) exercise any of the powers in sub-paragraph (5) in the case of the person, or
 - (b) direct a qualified officer to do so.
- (4) A qualified officer must (if able to do so) comply with any direction given by a constable under sub-paragraph (3)(b).
- (5) The powers are –
 - (a) to require the person to hand over all travel documents in the person's possession to the constable or (as the case may be) the qualified officer;
 - (b) to search for travel documents relating to the person and to take possession of any that the constable or officer finds;
 - (c) to inspect any travel document relating to the person;
 - (d) to retain any travel document relating to the person that is lawfully in the possession of the constable or officer.
- (6) The power in sub-paragraph (5)(b) is a power to search –
 - (a) the person;
 - (b) anything that the person has with him or her;
 - (c) any vehicle in which the officer believes the person to have been travelling or to be about to travel.
- (7) A constable or qualified officer –
 - (a) may stop a person or vehicle for the purpose of exercising a power in sub-paragraph (5)(a) or (b);
 - (b) may if necessary use reasonable force for the purpose of exercising a power in sub-paragraph (5)(a) or (b);
 - (c) may authorise a person to carry out on the constable's or officer's behalf a search under sub-paragraph (5)(b).
- (8) A constable or qualified officer exercising a power in sub-paragraph (5)(a) or (b) must tell the person that –
 - (a) the person is suspected of intending to leave Great Britain or (as the case may be) the United Kingdom for the purpose of assisting a designated body, and
 - (b) the constable or officer is therefore entitled under this Schedule to exercise the power.

- (9) Where a travel document relating to the person is in the possession of an immigration officer or customs official (whether a qualified officer or not), the constable may direct the officer or official –
- (a) to pass the document to a constable as soon as practicable, and
 - (b) in the meantime to retain it.
- The officer or official must comply with any such direction.

Travel documents in possession of immigration officers or customs officials

- 3 (1) Where –
- (a) a travel document lawfully comes into the possession of an immigration officer or customs official (whether a qualified officer or not) without a power under paragraph 2 being exercised, and
 - (b) as soon as possible after taking possession of the document, the officer or official asks a constable whether the constable wishes to give a direction under paragraph 2(9) in relation to the document,
- the officer or official may retain the document until the constable tells him or her whether or not the constable wishes to give such a direction.
- (2) A request under sub-paragraph (1) must be considered as soon as possible.

Authorisation by senior police officer for retention of travel document

- 4 (1) Where a travel document is in the possession of a constable or qualified officer as a result of the exercise of a power under paragraph 2, the relevant constable must as soon as possible either –
- (a) seek authorisation from a senior police officer for the document to be retained, or
 - (b) ensure that the document is returned to the person to whom it relates.
- “The relevant constable” means the constable by whom, or on whose direction, the power was exercised.
- (2) The document may be retained while an application for authorisation is considered.
- (3) A constable or qualified officer retaining a travel document under sub-paragraph (2) must tell the person to whom the document relates that –
- (a) the person is suspected of intending to leave Great Britain or (as the case may be) the United Kingdom for the purpose of assisting a designated body outside the United Kingdom, and

- (b) the constable or officer is therefore entitled under this Schedule to retain the document while the matter is considered by a senior police officer.

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

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

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

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

Retention or return of documents seized

- 5 (1) Where authorisation is given under paragraph 4 for a travel document relating to a person to be retained, it may continue to be retained—
 - (a) while the Secretary of State considers whether to cancel the person's passport,
 - (b) while consideration is given to charging the person with an offence,
 - (c) while consideration is given to making the person subject to any order or measure to be made or imposed by a court, or by the Secretary of State, under this Act, or

- (d) while steps are taken to carry out any of the actions mentioned in paragraphs (a) to (c).
- (2) But a travel document may not be retained under this Schedule after the end of the period of 14 days beginning with the day after the document was taken (“the 14-day period”), unless that period is extended under paragraph 8 or 11(3).
- (3) The travel document must be returned to the person as soon as possible –
 - (a) once the 14-day period (or the 14-day period as extended under paragraph 8 or 11(3)) expires;
 - (b) once the power in sub-paragraph (1) ceases to apply, if that happens earlier.

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

- (4) The constable to whom a travel document is passed under paragraph 2(9) or 4(5)(a), or who is in possession of it when authorisation is given under paragraph 4, must explain to the person the effect of sub-paragraphs (1) to (3).
- (5) The constable must also tell the person, if he or she has not been told already under paragraph 2(8) or 4(3) or (4), that the person is suspected of intending to leave Great Britain or (as the case may be) the United Kingdom for the purpose of assisting a designated body outside the United Kingdom.

Review of retention of travel documents

- 6 (1) This paragraph applies where –
 - (a) authorisation is given under paragraph 4 for a travel document relating to a person to be retained, and
 - (b) the document is still being retained by a constable at the end of the period of 72 hours beginning when the document was taken from the person (“the 72-hour period”).
- (2) A police officer who is –
 - (a) of at least the rank of chief superintendent, and
 - (b) of at least as high a rank as the senior police officer who gave the authorisation,
 must carry out a review of whether the decision to give authorisation was flawed.
- (3) The reviewing officer must –
 - (a) begin carrying out the review within the 72-hour period,
 - (b) complete the review as soon as possible, and
 - (c) communicate the findings of the review in writing to the relevant chief constable.

- (4) The relevant chief constable must consider those findings and take whatever action seems appropriate.
- (5) If a power under paragraph 2 was exercised in relation to the travel document by an immigration officer or customs official designated under paragraph 17, the reviewing officer must also communicate the findings of the review in writing to the Secretary of State.
- (6) In this paragraph –
 - “reviewing officer” means the officer carrying out a review under this paragraph;
 - “relevant chief constable” means –
 - (a) (except where paragraph (b) or (c) applies) the chief officer of police under whose direction and control is the constable retaining the document;
 - (b) the chief constable of the Police Service of Scotland, if the constable retaining the document is under that chief constable’s direction and control;
 - (c) the chief constable of the Police Service of Northern Ireland, if the constable retaining the document is under that chief constable’s direction and control.

Detention of document for criminal proceedings etc

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

Extension of 14-day period by judicial authority

- 8 (1) A senior police officer may apply to a judicial authority for an extension of the 14-day period.
- (2) An application must be made before the end of the 14-day period.
- (3) An application may be heard only if reasonable efforts have been made to give to the person to whom the application relates a notice stating –
 - (a) the time when the application was made;
 - (b) the time and place at which it is to be heard.
- (4) On an application –

- (a) the judicial authority must grant an extension if satisfied that the relevant persons have been acting diligently and expeditiously in relation to the matters and steps referred to in sub-paragraph (5);
 - (b) otherwise, the judicial authority must refuse to grant an extension.
- (5) In sub-paragraph (4) “the relevant persons” means –
 - (a) the persons responsible for considering whichever of the matters referred to in paragraph 5(1)(a) to (c) are under consideration, and
 - (b) the persons responsible for taking whichever of the steps referred to in paragraph 5(1)(d) are being taken or are intended to be taken.
- (6) An extension must be for a further period ending no later than the end of the 30-day period.
- (7) “The 30-day period” means the period of 30 days beginning with the day after the document in question was taken.
- 9 (1) The person to whom an application under paragraph 8 relates –
 - (a) must be given an opportunity to make oral or written representations to the judicial authority about the application;
 - (b) subject to sub-paragraph (3), is entitled to be legally represented at the hearing.
- (2) A judicial authority must adjourn the hearing of an application to enable the person to whom the application relates to obtain legal representation where the person –
 - (a) is not legally represented,
 - (b) is entitled to be legally represented, and
 - (c) wishes to be legally represented.
- (3) A judicial authority may exclude any of the following persons from any part of the hearing –
 - (a) the person to whom the application relates;
 - (b) anyone representing that person.
- 10 (1) A person who has made an application under paragraph 8 may apply to the judicial authority for an order that specified information upon which he or she intends to rely be withheld from –
 - (a) the person to whom the application relates, and
 - (b) anyone representing that person.
- (2) A judicial authority may make an order under sub-paragraph (1) in relation to specified information only if satisfied that there are reasonable grounds for believing that if the information was disclosed –

- (a) evidence of an offence under this Act would be interfered with or harmed,
 - (b) the recovery of property obtained as a result of an offence under this Act would be hindered,
 - (c) the apprehension, prosecution or conviction of a person who is suspected of assisting a designated body would be made more difficult as a result of the person being alerted,
 - (d) the gathering of information about offences under this Act would be interfered with,
 - (e) a person would be interfered with or physically injured, or
 - (f) national security would be put at risk.
- (3) The judicial authority must direct that the following be excluded from the hearing of an application under this paragraph –
 - (a) the person to whom the application under paragraph 8 relates;
 - (b) anyone representing that person.
- 11 (1) A judicial authority may adjourn the hearing of an application under paragraph 8 only if the hearing is adjourned to a date before the expiry of the 14-day period.
- (2) Sub-paragraph (1) does not apply to an adjournment under paragraph 9(2).
- (3) If an application is adjourned under paragraph 9(2) to a date after the expiry of the 14-day period, the judicial authority must extend the period until that date.
- 12 (1) If an extension is granted under paragraph 8 for a period ending before the end of the 30-day period, one further application may be made under that paragraph.
- (2) Paragraphs 8 to 11 apply to a further application as if references to the 14-day period were references to that period as previously extended.

Restriction on repeated use of powers

- 13 (1) Where –
 - (a) a power under paragraph 4 or 5 to retain a document relating to a person is exercised, and
 - (b) powers under this Schedule have been exercised in the same person's case on two or more occasions in the previous 6 months, this Schedule has effect with the following modifications.
- (2) References to 14 days (in paragraph 5(2) and elsewhere) are to be read as references to 5 days.

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

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

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

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

Persons unable to leave the United Kingdom

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

Offences

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

Accredited immigration officers and customs officials

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

Code of practice

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

- (b) is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.
- 19 (1) Before issuing the code of practice the Secretary of State must –
 - (a) publish it in draft,
 - (b) consider any representations made about the draft, and
 - (c) if the Secretary of State thinks it appropriate, modify the draft in the light of any representations made.
- (2) The Secretary of State must lay a draft of the code before Parliament.
- (3) Anything done before the day on which this Act is passed is as valid as if done on or after that day for the purposes of sub-paragraphs (1) and (2).
- (4) Once the code has been laid in draft before Parliament the Secretary of State may bring it into operation by regulations made by statutory instrument.
- (5) The first regulations under sub-paragraph (4) cease to have effect at the end of the period of 40 days beginning with the day on which the Secretary of State makes the regulations, unless a resolution approving the regulations is passed by each House of Parliament during that period.
- (6) A statutory instrument containing any subsequent regulations under sub-paragraph (4) may not be made unless a draft of the instrument has been laid before each House of Parliament and approved by a resolution of each House.
- (7) If regulations cease to have effect under sub-paragraph (5) –
 - (a) the code of practice to which the regulations relate also ceases to have effect, but
 - (b) that does not affect anything previously done, or the power to make new regulations or to issue a new code.
- (8) For the purposes of sub-paragraph (5), the period of 40 days is to be computed in accordance with section 7(1) of the Statutory Instruments Act 1946.
- 20 (1) The Secretary of State may revise the code of practice and issue the revised code.
- (2) Paragraph 19 has effect in relation to the issue of a revised code as it has effect in relation to the first issue of the code.”

Member's explanatory statement

This new Clause would replicate existing powers to seize travel documents from individuals suspected of terrorism, applying those powers in relation to individuals suspected of assisting a designated body.

National Security (State Threats) Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

26 June 2026

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