EXPLANATORY MEMORANDUM TO

THE TERRORISM ACT 2000 (PROSCRIBED ORGANISATIONS) (AMENDMENT) (No.2) ORDER 2015

2015 No. [XXXX]

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order amends the Terrorism Act 2000 by adding Jamaat ul-Ahrar (JuA) and the Haqqani Network (HQN) to the list of proscribed organisations in Schedule 2.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 Section 3 of the Terrorism Act 2000 provides a power to proscribe, by Order, an organisation which commits or participates in acts of terrorism, prepares for, promotes or encourages terrorism or is otherwise concerned in terrorism. Section 21 of the Terrorism Act 2006 amended the grounds for proscription in section 3 of the Terrorism Act 2000 to include organisations which unlawfully glorify the commission or preparation of acts of terrorism. Section 3 also allows the Secretary of State, by Order, to remove an organisation from the list of proscribed organisations in Schedule 2 to the Act, or amend the Schedule in some other way. Seventeen Orders have been laid previously, in 2001, 2002, 2005, 2006, 2007, 2008 (2), 2010, 2011, 2012 (2), 2013 (2), 2014 (3) and 2015.

4.2 The Secretary of State has regard to several factors in deciding, as a matter of discretion, whether or not to proscribe an organisation. These are:

- the nature and scale of the organisation's activities;
- the specific threat that it poses to the UK;
- the specific threat that it poses to British nationals overseas;
- the extent of the organisation's presence in the UK; and
- the need to support international partners in the fight against terrorism.

4.3 An organisation is proscribed in the UK as soon as the Order comes into force. It is a criminal offence for a person to belong to, or invite support for, a proscribed organisation. It is also a criminal offence to arrange a meeting to support a proscribed organisation; or to wear clothing or carry articles in public which arouse reasonable suspicion that an individual is a member or supporter of a proscribed organisation.

4.4 A proscribed organisation, or any person affected by the proscription of the organisation, may apply to the Secretary of State for deproscription and, if the Secretary of State refuses that application, the applicant may appeal to the Proscribed Organisations Appeal Commission.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The Immigration and Security Minister, James Brokenshire, has made the following statement regarding Human Rights:

> "In my view the provisions of The Terrorism Act 2000 (Proscribed Organisations) (Amendment) (No. 2) Order 2015 are compatible with the Convention rights".

7. Policy background

- ***What is being done and why***

7.1 The organisations have been assessed as being concerned in terrorism such that there is a case for proscribing them under section 3 of the Terrorism Act 2000, in order that it becomes an offence to be a member of, or invite support for, them.

7.2 Jamaat ul-Ahrar (JuA) is a militant Islamist group that split away from Tehrik-e-Taliban Pakistan (TTP) in August 2014. JuA aims to establish an Islamic caliphate in Pakistan and aspires to extend global jihad into the Indian subcontinent. The group have claimed responsibility for a number of recent attacks:

- on 21 November 2014, a grenade attack on the Muttahida Qaumi Movement (MQM) in Orangi Town area of Karachi that killed three members of the Sindh Assembly and injured 50 workers;
- on 7 November 2014, twin bombings targeting peace committee volunteers in Chinari village of Safi Tehsil in the Mohmand Agency killed at least six people. JuA's spokesman, Ehsanullah Ehsan, claimed responsibility and vowed to continue attacking tribal peace committees; and
- on 2 November 2014, the suicide bomber attack on the Pakistan side of Wagah border crossing, shortly after the famous flag-lowering ceremony had concluded, that killed over 60 people.

7.3 In September 2014, Ehsanullah Ehsan released a statement criticising the British Government for arresting Al Muhajiroun (ALM) associates and made a threat, stating that "your future security depends upon how nicely you treat the Muslims in Britain".

7.4 There have been a number of media reports stating that Ehsanullah Ehsan had attempted to use professional networking site, LinkedIn, to recruit supporters.

7.5 The Haqqani Network (HQN) is an Islamist, nationalist group seeking to establish sharia law and control territory in Afghanistan. It is ideologically aligned with the Taliban, and aims to eradicate Western influence, disrupt the Western military and political efforts in Afghanistan. The group are demanding that US and Coalition Forces withdraw from Afghanistan. The group is led by Jalaluddin Haqqani and his son, Sirajuddin.

7.6 HQN has links with a number of terrorist groups in the region including proscribed Central Asian group Islamic Jihad Union (IJU) and maintains a longstanding

relationship with Al Qa'ida (AQ). HQN have long established links that date back to the Soviet occupation of Afghanistan and were strengthened after the removal of the Taleban by the US when AQ leader Osama bin Laden was probably sheltered by Jalaluddin in North Waziristan (NWA).

7.7 HQN continues to play an active and influential role in the Afghan insurgency in the East of the country and is seeking to expand its influence in to other areas of Afghanistan. While it can be difficult to identify specific HQN responsibility for attacks, given the Taleban practice of claiming attacks on behalf of the insurgency as a whole, the group was involved in the August 2011 attack against the British Council Compound, the April 2012 attack against the British Embassy and most recently believed to have been responsible for the attack against the British Embassy vehicle in November 2014 which killed a UK national.

7.8 It is likely that HQN will continue to view Kabul as a key target location due to the concentration of UK and Western interests in the capital.

7.9 HQN has been banned as a terrorist group by the USA since September 2012, Canada since May 2013 and the UN since November 2012.

- ***Consolidation***

7.10 The Department does not assess that there is any need for consolidation measures.

8. Consultation outcome

8.1 No consultation was conducted.

9. Guidance

9.1 No guidance is necessary in connection with this instrument.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 If a proscribed organisation, or any person affected by the proscription of the organisation, applies to the Secretary of State for deproscription, the proscription of the organisation will be reviewed.

13. Contact

13.1 Any enquiries about the contents of this memorandum should be addressed to: Pursue Unit, Home Office, 5th Floor, Peel Building, 2 Marsham Street, London, SW1P 4DF, telephone: 020 7035 4848.