EXPLANATORY MEMORANDUM TO

THE TERRORISM ACT 2000 (PROSCRIBED ORGANISATIONS) (AMENDMENT) (NO. 2) ORDER 2020

2020 No. [XXXX]

1. Introduction

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

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This Order amends the list of proscribed organisations in Schedule 2 to the Terrorism Act 2000 ("the Act") by adding "Feuerkrieg Division" to the list of proscribed organisations "concerned in terrorism".

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This Order comes into force on the day after it is made. Although the 21 day convention does not apply to affirmative instruments, an instrument which imposes duties that are significantly more onerous than before should not usually be brought into force earlier than 21 days after it is made. This is such an instrument, as it has the effect of applying the offences in sections 11 to 13 of the Terrorism Act 2000 (TACT) to the three organisations. However, any significant delay between the laying and coming into force of the instrument would alert the organisations to their impending proscription and may result in pre-emptive action by the organisations' members designed to circumvent the provisions of TACT and/or the criminal law.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 The territorial application of this instrument includes Scotland and Northern Ireland.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the whole of the United Kingdom.

4.2 The territorial application of this instrument is the whole of the United Kingdom.

5. European Convention on Human Rights

5.1 The Home Secretary Priti Patel has made the following statement regarding Human Rights:

"In my view the provisions of the Terrorism Act 2000 (Proscribed Organisations) (Amendment) (No.2) Order 2020 are compatible with the Convention rights."

6. Legislative Context

6.1 Section 3 of the Act 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 Act 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. Twenty-five orders have been laid previously, in 2001, 2002, 2005, 2006, 2007, 2008 (2), 2010, 2011, 2012 (2), 2013 (2), 2014 (3), 2015 (2), 2016 (3), 2017, 2019 (2) and 2020.

6.2 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.

6.3 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.

6.4 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.

7. Policy background

What is being done and why?

7.1 The Home Secretary has decided to exercise the proscription power in section 3 of the Act in respect of the following organisation.

7.2 Feuerkrieg Division (FKD) is a white supremacist group founded in late 2018 that has an international footprint, with members across North America and Europe. The group celebrates the concepts promoted in a collection of essays which advocate the use of violence and mass murder in pursuit of an apocalyptic race war.

7.3 Whilst the bulk of FKD's activity is online, members have engaged in distributing violent, racist and anti-Semitic propaganda. In mid-2019 the group reportedly called for the deaths of a European Parliament politician and YouTube's chief executive officer.

7.4 FKD's members have been arrested on terrorism charges both in the UK and overseas. In 2019, US authorities charged several individuals with a variety of offences, including weapons charges, plotting to bomb a synagogue and attack members of the LGBTQ community, plotting to bomb a major news network, and distributing information related to explosives and weapons of mass destruction.

7.5 In September 2019, UK police apprehended a 16-year-old on suspicion of the commission, preparation, and instigation of acts of terrorism. As a result, the group distributed among its members a list of police buildings and an image of the Chief Constable of West Midlands Police, with a gun to his head and the words "Race Traitor" across his eyes, urging members to carry out attacks in retaliation for the arrest of one of its followers. In October 2019, a 21-year-old appeared in court in London charged with terror offences relating to his purported support for FKD. He allegedly encouraged the mass murder of members of the Jewish and LGBTQ communities.

7.6 FKD members have condoned and glorified acts of terrorism. This includes the Charleston church shooting; the Synagogue shooting in Pittsburgh; the Oklahoma City bombing; and the Christchurch shooting.

7.7 On 8 February FKD announced on its Telegram channel that it would be dissolving. However, no reason was given for the group's dissolution and it is assessed that the group and its members remain active through other channels.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 The Government does not assess that there is any need for consolidation measures.

10. Consultation outcome

10.1 No consultation has been undertaken in connection with this instrument.

11. Guidance

11.1 No guidance is necessary in connection with this instrument.

12. Impact

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

12.2 There is no, or no significant, impact on the public sector.

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

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 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.

15. **Contact**

15.1 The CT Pursue Unit at the Home Office can answer any queries regarding the instrument and can be contacted at the Home Office, 5th Floor, Peel Building, 2 Marsham Street, London, SW1P 4DF, Telephone: 020 7035 4848.

15.2 The Deputy Director for CT Pursue Unit at the Home Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Rt. Hon. James Brokenshire MP at the Home Office can confirm that this Explanatory Memorandum meets the required standard.