EXPLANATORY MEMORANDUM TO

THE TERRORISM ACT 2000 (PROSCRIBED ORGANISATIONS) (AMENDMENT) ORDER 2010

2010 No. [DRAFT]

1. This explanatory memorandum has been prepared by the Home Department 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 Al Shabaab to the list of proscribed organisations in Schedule 2.

2.2 Al Shabaab has waged a violent campaign against the Somali Transition Federal Government and African Union peacekeeping troops in Somalia since the beginning of 2007. A feature of their campaign has been the adoption of terrorist tactics such as suicide operations, close quarter assassinations and road-side bombings. On 2 February 2010, members of AS announced their intention to combine the jihad in the Horn of Africa with the global jihad led by AQ. It has also openly expressed a desire to attack targets in Kenya, where a number of British interests are present.

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

3.1 None.

4. Legislative Context

4.1 Part 2 of the Terrorism Act 2000 provides that the Secretary of State may, by Order, add an organisation to the list of proscribed organisations in Schedule 2 to the Act, remove an organisation from that list or to amend the Schedule in some other way. Seven Orders have been laid previously in 2001, 2002, 2005, 2006, 2007 and 2008.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Home Secretary, Alan Johnson, has made the following statement regarding Human Rights:

"In my view the provisions of The Terrorism Act 2000 (Proscribed Organisations) (Amendment) Order 2010 are compatible with Convention rights".

7. Policy background

7.1 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.

7.2 Additional criteria (announced by the Secretary of State in 2001) 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
- The need to support international partners in fight against terrorism

7.3 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 encourage support for a proscribed organisation. It is also a criminal offence to arrange a meeting in support of a proscribed organisation or to wear clothing or to carry articles in public which arouse reasonable suspicion that an individual is a member or supporter of the proscribed organisation. Proscription means that the financial assets of the organisation become terrorist property and can be subject to freezing and seizure.

7.4 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 Appeals Commission.

8. Consultation outcome

8.1 None.

9. Guidance

9.1 None.

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 All proscribed organisations are reviewed on an annual basis.

13. Contact

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