EXPLANATORY MEMORANDUM TO

THE TERRORISM ACT 2000 (PROSCRIBED ORGANISATIONS) (AMENDMENT) ORDER 2011

2011 No. [XXXX]

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 Tehrik-e Taliban Pakistan to the list of proscribed organisations in Schedule 2.

2.2 Tehrik-e Taliban Pakistan has carried out a high number of mass casualty attacks in Pakistan and Afghanistan since 2007. The group have announced various objectives and demands, such as the enforcement of sharia, resistance against the Pakistani army and the removal of NATO forces from Afghanistan. While the majority of attacks are against Pakistani military and government targets, the group is also known to target and claim responsibility for attacks on Western interests. The organisation has also been involved in attacks in the West, such as the attempted Times Square car-bomb attack in May 2010. It has recently been designated by the US and is also proscribed by Pakistan.

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. Eight Orders have been laid previously in 2001, 2002, 2005, 2006, 2007, 2008 and 2010.

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 Home Secretary, Theresa May, has made the following statement regarding Human Rights:

"In my view the provisions of The Terrorism Act 2000 (Proscribed Organisations) (Amendment) Order 2011 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 The Secretary of State has regard to 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 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 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

Any enquiries about the contents of this memorandum should be addressed to: J. Fanshaw, Home Office, 2 Marsham Street, London, SW1P 4DF, telephone: 020 7035 3230.