EXPLANATORY MEMORANDUM TO

THE TERRORISM ACT 2000 (PROSCRIBED ORGANISATIONS) (AMENDMENT) ORDER 2017

2017 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 Schedule 2 to the Terrorism Act 2000 ("the Act") by adding "al-Ashtar Brigades (Saraya al-Ashtar) (The Wa'ad Allah Brigades) (Islamic Allah Brigades) (Imam al-Mahdi Brigades) (al-Haydariyah Brigades)", "al-Mukhtar Brigades (Saraya al-Mukhtar)", "Hasam (Harakat Sawa'd Misr) (Harakat Hasm) (Hasm)" and "Liwa al-Thawra" to the list of proscribed organisations "concerned in terrorism".

2.2 This Order amends Schedule 2 to the Terrorism Act 2000 ("the Act") by removing "Hezb-e Islami Gulbuddin" from the list of proscribed organisations in Schedule 2, so that the organisation is no longer proscribed as an organisation "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 and accordingly breaches the 21 day convention. Any significant delay between the making and coming into force of the instrument would alert the organisations to their impending proscriptions and may result in pre-emptive action by the organisations' members designed to circumvent the provisions of TACT and/or the criminal law.

Other matters of interest to the House of Commons

3.2 Disregarding minor or consequential changes, the territorial application of this instrument includes Scotland and Northern Ireland.

4. Legislative Context

4.1 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 one Orders have been laid previously, in 2001, 2002, 2005, 2006, 2007, 2008 (2), 2010, 2011, 2012 (2), 2013 (2), 2014 (3), 2015 (2) and 2016 (3).

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. Extent and Territorial Application

5.1 The extent of this instrument is the whole of the United Kingdom.

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

6. European Convention on Human Rights

6.1 The Home Secretary, Amber Rudd, has made the following statement regarding Human Rights:

"In my view the provisions of the Terrorism Act 2000 (Proscribed Organisations) (Amendment) Order 2017 are compatible with the Convention rights."

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 organisations.

7.2 Hasam is an extremist group using violent tactics against the Egyptian security forces, and the Egyptian regime. The group announced its creation on 16 July 2016 following an attack in Fayoum Governate, Egypt. In September 2016 the group claimed responsibility for the attempted assassination of Assistant Prosecutor General Zakaria Abdel-Aziz. On 5 August 2016 the group also claimed responsibility for the attempted assassination of the former Grand Mufti of Egypt Ali Gomaa.

7.3 The group have claimed responsibility for over 15 attacks including:

- 8 March 2017 - Small arms fire in Cairo;
- 26 March 2017 - IED attack in Cairo;
- 1 May 2017 - Small arms fire in Cairo;

- 18 June 2017 – IED attack in Cairo;
- 7 July 2017 - Small arms fire in Cairo;
- 20 July 2017 - Small arms fire in Fayoum Governate; and
- 30 September 2017 – IED explosion close to the Myanmar Embassy Cairo.

7.4 Liwa al-Thawra is an extremist group using violent tactics against Egyptian security forces, and the Egyptian regime. It announced its creation on 21 August 2016 following an attack in Monofeya, Egypt. The group is responsible for assassination attempts against Egyptian officials. The group have claimed responsibility for attacks including:

- 21 August 2016 the group claimed responsibility for the attack in Monofeya, Egypt;
- 22 October 2016 the group claimed responsibility for the assassination of Egyptian Brigadier General Adel Regali; and
- On 1 April 2017 the group claimed responsibility for the bombing of the Egyptian police training centre in Tanta, Egypt.

7.5 The al-Ashtar Brigades is a Shia militant extremist organisation that was established during 2013. Its aim is to overthrow the Bahraini al-Khalifa ruling family through violent militant operations. It lists the ruling al-Khalifa family, Bahrain security forces and Saudi Arabia as targets for attacks. The group has been responsible for numerous attacks since being established, which it has claimed responsibility for, including:

- On 1 January 2017 – 10 inmates (all convicted of terrorism offences in Bahrain) were broken out of Jaw Reformation and Rehabilitation Centre, which led to the death of a police officer.
- An IED attack in a bus station in Sitrah, which was claimed by the group under the name Wa'ad Allah Brigades on 7 February 2017.
- An operation titled 'Call of Honour 1' which targeted a police vehicle near the village of al Qadeem on 7 July 2017.

7.6 The group has promoted violent activity against the Bahraini Government, as well as the British, American and Saudi Arabian Governments on social media.

7.7 The al-Mukhtar Brigades is a Shia militant organisation that was established during 2013. It lists the al-Khalifa ruling family, Bahrain security forces and Saudi Arabia as targets for attacks. The group's activities include the continued promotion and glorification of terrorism via social media throughout 2017.

7.8 Hezb-e Islami Gulbuddin was added to the list of proscribed organisations by the Terrorism Act 2000 (Proscribed Organisations) (Amendment) Order 2005 (S.I. 2005/2892) in October 2005, since when it has remained proscribed.

7.9 Under section 4 of the Act, 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 under section 5 of the Act.

7.10 An application was made to the Secretary of State for the deproscription of Hezb-e Islami Gulbuddin. The Secretary of State has now decided that there is insufficient information to conclude that the group remains concerned in terrorism. Accordingly,

this instrument removes Hezb-e Islami Gulbuddin from the list in Schedule 2 to the Act.

Consolidation

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

8. Consultation outcome

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

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 activities that are undertaken by small businesses.

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 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.