EXPLANATORY MEMORANDUM TO

THE TERRORISM ACT 2000 (PROSCRIBED ORGANISATIONS) (AMENDMENT) 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").

2.2 This Order removes the entry for "Teyrebaz Azadiye Kurdistan" from the list of proscribed organisations in Schedule 2 to the Terrorism Act 2000 ("the Act"). For "Kurdistan Workers' Party (Partiya Karkeren Kurdistan) (PKK)" substitute "Kurdistan Workers' Party (Partiya Karkeren Kurdistan) (PKK) including Teyrebazene Azadiye Kurdistan (TAK) and Hezen Parastina Gel (HPG)". This will extend the proscription of Kurdistan Workers' Party (Partiya Karkeren Kurdistani) (PKK) to cover Teyrebazene Azadiye Kurdistan (TAK) and Hezen Parastina Gel (HPG). "Sonnenkrieg Division " is added to the list as a new entry.

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) 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 four 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, and 2019 (2).

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 organisations.

7.2 The PKK is primarily a separatist movement that seeks an independent Kurdish state in southeast Turkey. The group was formed in 1978 by Abdullah Ocalan. In 1984 the group launched an armed struggle calling for an independent Kurdish state. The PKK changed its name to KADEK and then to Kongra Gele Kurdistan, although the PKK acronym is still used by parts of the movement.

7.3 The PKK has been involved in the fighting in both Syria and Iraq, mainly against Daesh. The PKK has been proscribed as a terrorist organisation in the UK since March 2001 and is also listed as a terrorist organisation in over a dozen other countries, as well by the EU. The Government laid an Order in 2006 recognising KADEK and Kongra Gele Kurdistan as alternative names for that organisation.

7.4 TAK has been proscribed as a terrorist organisation in its own right in the UK since July 2006. The Government now assesses that TAK is an alias of the PKK. In addition, HPG is also assessed to be an alias of the PKK.

7.5 Sonnenkrieg Division is a white supremacist group, formed in March 2018 as a splinter group of System Resistance Network (an alias of the proscribed group National Action). Members of the group were convicted of encouraging terrorism and possession of documents useful to a terrorist in June 2019. The group has encouraged and glorified acts of terrorism via its posts and images: e.g. an image depicting Prince Harry being shot as part of their campaign against 'race traitors' following his marriage to Meghan Markle; and home-made propaganda using Nazi imagery calling for attacks on minorities.

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, Minister of State for Security at the Home Office, can confirm that this Explanatory Memorandum meets the required standard.