EXPLANATORY MEMORANDUM TO

THE TERRORISM ACT 2000 (PROSCRIBED ORGANISATIONS) (AMENDMENT) ORDER 2023

2023 No. []

1. Introduction

1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of His 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 "Wagner Group" 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 Act to the organisation in question. However, any significant delay between the laying and coming into force of the Order would alert the organisation to its impending proscription and may result in pre-emptive action by the organisation's members designed to circumvent the provisions of the Act and/or the criminal law.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) includes Scotland and Northern Ireland.

4.3 Section 17 of the Terrorism Act 2006 makes provision for extra-territorial jurisdiction and has effect that where a person takes an action outside of the United Kingdom that if done in a part of the United Kingdom would have amounted to an offence under section 11 of the Act, they shall be guilty of that offence. Section 17 similarly applies to the offences under sections 12 and 13 of the Act, but only applies if at the time of committing the offence the person is a United Kingdom national or a United Kingdom resident.

5. European Convention on Human Rights

5.1 The Home Secretary, the Rt Hon Suella Braverman KC MP has made the following statement regarding Human Rights:

"In my view the provisions of the Terrorism Act 2000 (Proscribed Organisations) (Amendment) Order 2023 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-nine Orders have been made previously, in 2001, 2002, 2005, 2006, 2007, 2008 (2), 2010, 2011, 2012 (2), 2013 (2), 2014 (3), 2015 (2), 2016 (3), 2017, 2019 (2), 2020 (2), and 2021 (3).

6.2 The Secretary of State has regard to all relevant factors in deciding, as a matter of discretion, whether or not to proscribe an organisation. These include (but are not limited to):

- 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 rouse 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 Wagner Group is a Russian Private Military Company which has acted as a proxy military force on behalf of the Russian state. Founded in 2014, Wagner Group has operated in a range of theatres including Ukraine, Syria, the Central African Republic, Sudan, Libya, Mozambique, and Mali. Wagner has operated in pursuit of Russia's foreign policy objectives and the objectives of host Governments who have contracted Wagner's services.

7.3 The UK Government assesses that Wagner Group is concerned in terrorism.

7.4 Wagner commits and participates in terrorism. This is based on their use of serious violence against Ukrainian Armed Forces, and against civilians to advance Russia's

political cause. Following Russia's invasion of Ukraine in 2022, Wagner Group's forces were deployed as a force multiplier to support the Russian military, receiving financial, logistical and military support from the Russian state. Wagner Group played a central role in combat operations against Ukrainian Armed Forces to seize the city of Popasna in May 2022, and during the assault of Bakhmut, which was occupied by Russian forces by June 2023.

7.5 Wagner Group has carried out preparatory acts for terrorism, including undertaking activities intended to cause serious violence against people or serious damage to property, to directly advance a political cause and to intimidate opponents in Ukraine.

7.6 Wagner Group is otherwise concerned in terrorism. Wagner Group has been implicated in serious acts of violence and damage to property whilst working in certain states in Africa, demonstrating Wagner's broader involvement in terrorism.

7.7 Despite Wagner Group's failed mutiny against the Russian Ministry of Defence on 24 and 25 June 2023 and the reported death of its leadership, Wagner Group remains a violent and destructive organisation, whose destabilising activities help advance Russia's political goals.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union or 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 UK 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 Counter-Terrorism 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 (9am-5pm):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 Home Secretary, the Rt Hon Suella Braverman KC MP can confirm that this Explanatory Memorandum meets the required standard.