EXPLANATORY MEMORANDUM TO

THE NATIONAL SECURITY ACT 2023 (PROHIBITED PLACE) REGULATIONS 2024

2024 No. 1257

1. Introduction

1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Dan Jarvis MP, Minister of State at the Home Department confirms that this Explanatory Memorandum meets the required standard.

2.2 Hannah Thomson, Deputy Director for the State Threats Unit at the Home Office, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 The State Threats Legislation Team at the Home Office nsactlegislationteam@homeoffice.gov.uk can be contacted with any queries regarding this instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument will designate the Counter Terrorism Operations Centre (CTOC) (Empress State Building, Empress Approach, Lillie Road, West Brompton, SW6 1TR) as a Prohibited Place (PP) under Section 8 (s.8) of the National Security (NS) Act 2023. It will give the police additional powers to protect a site and those who work within it. For example, under Section 6 it creates a police power to direct a person not to approach, not to inspect, or to leave a PP or the area adjacent to it, and the power to prosecute a person who fails to comply with a police direction.

Where does the legislation extend to, and apply?

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

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

5.1 The NS Act was introduced in response to the threat of hostile activity from states targeting the UK's democracy, economy, and values. It provides law enforcement and intelligence agencies with new and updated powers, as well as offences, which can be used to deter, detect, and disrupt modern threats. Designating CTOC as a PP under s.8

of the NS Act will afford the site protections available under the Act, including police powers to deter, capture and prosecute harmful activity in and around PPs. This includes physically entering a site in person, causing unmanned devices or vehicles to enter or inspect these sites remotely, and cyber methods to access the site electronically. The provisions introduce a suite of tools and measures to protect sensitive sites that are particularly vulnerable to threats from foreign powers and others, providing greater scope to respond to new tactics and technology, and deterring those who would violate the security of places vital to the safety or interests of the UK. These include powers that allow police to compel an individual to leave a site immediately, and to move a vehicle immediately.

What was the previous policy, how is this different?

5.2 Before this instrument came into effect, CTOC did not have the necessary PP protections under the NS Act. While measures are in place to protect the site, the police currently lack the ability to arrest and prosecute individuals under the NS Act PP provisions.

6. Legislative and Legal Context

How has the law changed?

6.1 As a consequence of these Regulations, the necessary protections will be given to CTOC under provisions in sections 4-6 of the NS Act. This instrument makes no change to existing legislation but instead utilises a power afforded by it. For context, the NS Act replaced the Official Secrets Act 1911 which contained similar provisions relating to PPs.

Why was this approach taken to change the law?

6.2 This is the only possible approach to make the necessary changes.

7. Consultation

7.1 No formal consultation was undertaken on these Regulations, as they relate to one specific site, meaning no other locations are affected. There is limited wider impact as mentioned separately in this document.

8. Applicable Guidance

8.1 No guidance is required in respect of this instrument.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it affects only the designation of CTOC as a PP under the NS Act, and there is no, or no significant economic impact on its operations. An Impact Assessment was prepared in relation to the NS Act, a copy of which is available on the Gov.UK website[1]. Paragraph 92 of this assessment notes the limited impact this legislation will have on government, or the public.

[1] https://assets.publishing.service.gov.uk/media/64f9f5099ee0f2000db7c070/Annex_B_-_20230421-National_Security_Bill_Impact_Assessment-Main__Non-FIRS_-Enactment-FINAL.pdf

Impact on businesses, charities, and voluntary bodies

9.2 There is no, or no significant, impact on business, charities, or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector. There may be limited costs associated with familiarisation and training for officers and operational costs linked to increased police powers.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring the NS Act is subject to the normal post-legislative review three to five years after Royal Assent.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").