

National Security Bill

RUNNING LIST OF ALL AMENDMENTS ON REPORT

Tabled up to and including

24 February 2023

[Sheets HL Bill 88 (a) to (l)]

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Schedule 9	Title

Clause 1

LORD SHARPE OF EPSOM

Clause 1, page 1, line 9, after “or” insert “having regard to other matters known to them”

Member's explanatory statement

This amendment clarifies the meaning of “ought reasonably to know”.

Clause 2

LORD SHARPE OF EPSOM

Clause 2, page 2, line 17, after “or” insert “having regard to other matters known to them”

Member's explanatory statement

This amendment clarifies the meaning of “ought reasonably to know”.

Clause 3

LORD SHARPE OF EPSOM

Clause 3, page 3, line 25, leave out “it is reasonably possible may” and insert “is likely to”

Member's explanatory statement

This amendment changes the test for when a person commits an offence under clause 3(2).

LORD SHARPE OF EPSOM

Clause 3, page 3, line 27, after “or” insert “having regard to other matters known to them”

Member's explanatory statement

This amendment clarifies the meaning of “ought reasonably to know”.

LORD SHARPE OF EPSOM

Clause 3, page 3, line 27, leave out “it is reasonably possible their conduct may” and insert “their conduct is likely to”

Member's explanatory statement

This amendment changes the test for when a person commits an offence under clause 3.

LORD SHARPE OF EPSOM

Clause 3, page 3, line 30, after “may” insert “be likely to”

Member's explanatory statement

This amendment is consequential on Lord Sharpe's amendments to clause 3, page 3, line 25 and his second amendment to clause 3, page 3, line 27.

LORD SHARPE OF EPSOM

Clause 3, page 4, line 13, at end insert –

“(ba) as a lawyer carrying on a legal activity, or”

Member's explanatory statement

This amendment creates a defence to the offence in clause 3 for lawyers carrying on legal activities.

LORD SHARPE OF EPSOM

Clause 3, page 4, line 14, after “with” insert “, or in relation to UK-related activities carried out in accordance with,”

Member's explanatory statement

This amendment clarifies that the defence in subsection (7)(c) applies where a person assists a foreign intelligence service carrying out UK-related activities in accordance with an agreement with the UK.

LORD BLACK OF BRENTWOOD
LORD STEVENSON OF BALMACARA
BARONESS STOWELL OF BEESTON
LORD FAULKES

Clause 3, page 4, line 21, at end insert –

“(8A) In proceedings for an offence under subsection (2) it is a defence to show that the person engaged in the conduct in question was acting with a view to publication of material by a recognised news publisher as defined in Schedule 15.”

LORD SHARPE OF EPSOM

Clause 3, page 4, line 33, at end insert –

““lawyer” has the meaning given by paragraph 5(3) of Schedule 15;

“legal activity” has the meaning given by paragraph 5(4) of Schedule 15;”

Member's explanatory statement

This amendment defines terms used in Lord Sharpe’s amendment to clause 3, page 4, line 13.

Clause 4

LORD SHARPE OF EPSOM

Clause 4, page 5, line 4, after “or” insert “having regard to other matters known to them”

Member's explanatory statement

This amendment clarifies the meaning of “ought reasonably to know”.

Clause 5

LORD SHARPE OF EPSOM

Clause 5, page 5, line 29, after “or” insert “having regard to other matters known to them”

Member's explanatory statement

This amendment clarifies the meaning of “ought reasonably to know”.

Clause 7

LORD CARLILE OF BERRIEW
LORD ANDERSON OF IPSWICH
LORD WALLACE OF SALTAIRE

Clause 7, page 6, line 39, leave out “or the Sovereign Base Areas of Akrotiri and Dhekelia”

Member's explanatory statement

Clause 97 (amended by the Government) adequately reflects the context and importance of Sovereign Base Areas to UK national security and defence, and allows for Orders in Council, with appropriate modifications, to extend Part 1 to the Cyprus SBAs. This is consistent with other UK legislation to date.

LORD CARLILE OF BERRIEW
LORD ANDERSON OF IPSWICH
LORD WALLACE OF SALTAIRE

Clause 7, page 7, line 5, leave out “or the Sovereign Base Areas of Akrotiri and Dhekelia”

Member's explanatory statement

Clause 97 (amended by the government) adequately reflects the context and importance of Sovereign Base Areas to UK national security and defence, and allows for Orders in Council, with appropriate modifications, to extend Part 1 to the Cyprus SBAs. This is consistent with other UK legislation to date.

LORD CARLILE OF BERRIEW
LORD ANDERSON OF IPSWICH
LORD WALLACE OF SALTAIRE

Clause 7, page 7, line 10, leave out “or the Sovereign Base Areas of Akrotiri and Dhekelia”

Member's explanatory statement

Clause 97 (amended by the Government) adequately reflects the context and importance of Sovereign Base Areas to UK national security and defence, and allows for Orders in Council, with appropriate modifications, to extend Part 1 to the Cyprus SBAs. This is consistent with other UK legislation to date.

LORD CARLILE OF BERRIEW
LORD ANDERSON OF IPSWICH
LORD WALLACE OF SALTAIRE

Clause 7, page 7, line 13, leave out “or the Sovereign Base Areas of Akrotiri and Dhekelia”

Member's explanatory statement

Clause 97 (amended by the Government) adequately reflects the context and importance of Sovereign Base Areas to UK national security and defence, and allows for Orders in Council, with appropriate

modifications, to extend Part 1 to the Cyprus SBAs. This is consistent with other UK legislation to date.

LORD SHARPE OF EPSOM

Clause 7, page 8, line 1, after “a” insert “United Kingdom”

Member's explanatory statement

This amendment clarifies that “Crown interest” includes interests belonging to a government department of the United Kingdom only.

LORD SHARPE OF EPSOM

Clause 7, page 8, line 2, after “a” insert “United Kingdom”

Member's explanatory statement

This amendment clarifies that “Crown interest” includes interests held in trust for His Majesty for the purposes of a government department of the United Kingdom only.

Clause 8

LORD CARLILE OF BERRIEW
LORD ANDERSON OF IPSWICH
LORD WALLACE OF SALTAIRE

Clause 8, page 8, line 15, leave out “or the Sovereign Base Areas of Akrotiri and Dhekelia”

Member's explanatory statement

Clause 97 (amended by the Government) adequately reflects the context and importance of Sovereign Base Areas to UK national security and defence, and allows for Orders in Council, with appropriate modifications, to extend Part 1 to the Cyprus SBAs. This is consistent with other UK legislation to date.

Clause 11

LORD SHARPE OF EPSOM

Clause 11, page 10, line 21, leave out “prove” and insert “show”

Member's explanatory statement

This amendment reduces the burden of proof on the defendant from a legal burden to an evidential burden.

LORD SHARPE OF EPSOM

Clause 11, page 10, line 21, at end insert –

- “(5A) A person is taken to have shown a matter mentioned in subsection (5) if –
- (a) sufficient evidence of the matter is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.”

Member's explanatory statement

This amendment clarifies how the burden of proof may be satisfied in relation to the defence in subsection (5).

Clause 12

LORD SHARPE OF EPSOM

Clause 12, page 10, line 33, after “or” insert “having regard to other matters known to them”

Member's explanatory statement

This amendment clarifies the meaning of “ought reasonably to know”.

Clause 13

LORD SHARPE OF EPSOM

Clause 13, page 12, line 11, leave out subsection (8)

Member's explanatory statement

This amendment removes an amendment to the Online Safety Bill which makes an offence under clause 13 a priority offence.

Clause 14

LORD SHARPE OF EPSOM

Clause 14, page 12, line 23, leave out “as it has effect under the law of” and insert “in”

Member's explanatory statement

This amendment clarifies the scope of subsection (1)(a).

LORD SHARPE OF EPSOM

Clause 14, page 12, line 27, after “person” insert “(other than in the exercise of a public function)”

Member's explanatory statement

This amendment restricts clause 14(1)(d) to participation in political processes otherwise than in the exercise of public functions. The exercise of public functions is caught by clause 14(1)(b).

LORD SHARPE OF EPSOM

Clause 14, page 12, line 27, after “in” insert “relevant”

Member's explanatory statement

This amendment reflects the changes to the definition of political processes by Lord Sharpe's amendments to clause 14, page 12, line 36 and clause 14, page 13, line 1.

LORD SHARPE OF EPSOM

Clause 14, page 12, line 29, after “person” insert “(other than in the exercise of a public function)”

Member's explanatory statement

This amendment restricts clause 14(1)(e) to participation in legal proceedings otherwise than in the exercise of public functions. The exercise of public functions is caught by clause 14(1)(b).

LORD SHARPE OF EPSOM

Clause 14, page 12, line 34, after “(1)(d)” insert ““relevant”

Member's explanatory statement

This amendment is consequential on Lord Sharpe's amendment to clause 14, page 12, line 27.

LORD SHARPE OF EPSOM

Clause 14, page 12, line 36, leave out paragraph (b)

Member's explanatory statement

This amendment removes from the definition of “political processes” proceedings in the UK Parliament, Scottish Parliament, Northern Ireland Assembly and Senedd Cymru.

LORD SHARPE OF EPSOM

Clause 14, page 13, line 1, at end insert –

- “(e) the activities of an informal group consisting of or including members of –
 - (i) one or both of Houses of Parliament,
 - (ii) the Northern Ireland Assembly,
 - (iii) the Scottish Parliament, or
 - (iv) Senedd Cymru,(acting in that capacity).”

Member's explanatory statement

This amendment adds to the definition of “political processes” the activities of groups such as all party parliamentary groups.

LORD SHARPE OF EPSOM

Clause 14, page 13, line 3, leave out “the government of the United Kingdom” and insert “a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975), a United Kingdom government department”

Member's explanatory statement

This amendment clarifies that the definition of “political decisions” includes decisions taken by a Minister of the Crown or a government department.

After Clause 16

LORD CARLILE OF BERRIEW
LORD WALLACE OF SALTIRE

After Clause 16, insert the following new Clause –

“Foreign interference in elections: duties on political parties

- (1) A UK-registered political party must, within three months of the passing of this Act, publish a policy statement to ensure the identification of donations from a foreign power (whether made directly or through an intermediary), and must keep that policy updated in accordance with guidance issued under subsection (2).
- (2) Within three months of the passing of this Act the Secretary of State must publish guidance on the provisions of this section.
- (3) A UK-registered political party must provide the Electoral Commission with an annual statement of risk management that identifies how risks relating to donations from a foreign power (whether made directly or through an intermediary) have been managed, and what measures have been put in place by the party to such effect.
- (4) In this section, “UK-registered political party” means a political party registered under Part 2 of the Political Parties, Elections and Referendums Act 2000.”

Clause 17

LORD SHARPE OF EPSOM

Clause 17, page 15, line 18, after first “or” insert “having regard to other matters known to them”

Member's explanatory statement

This amendment clarifies the meaning of “ought reasonably to know”.

LORD SHARPE OF EPSOM

Clause 17, page 15, line 26, after “or” insert “having regard to other matters known to them”

Member's explanatory statement

This amendment clarifies the meaning of “ought reasonably to know”.

LORD SHARPE OF EPSOM

Clause 17, page 16, line 30, at end insert –

““Crown employment”;

Member's explanatory statement

This amendment incorporates into clause 17 a definition of “Crown employment” (by reference to clause 3).

Schedule 2

LORD SHARPE OF EPSOM

Schedule 2, page 71, line 15, at end insert –

- “(v) Schedule 3 (disclosure orders);
- (vi) Schedule 4 (customer information orders);”

Member's explanatory statement

This amendment adds offences under Schedules 3 and 4 to the list of offences to which the powers in Part 1 of Schedule 2 do not apply.

LORD SHARPE OF EPSOM

Schedule 2, page 75, leave out line 36 and insert “produce the material”

Member's explanatory statement

This amendment adjusts the test for the grant of a warrant under paragraph 9, to align with paragraph 12 of Schedule 5 to the Terrorism Act 2000.

LORD SHARPE OF EPSOM

Schedule 2, page 75, line 37, leave out from beginning to “it” in line 38

Member's explanatory statement

This amendment adjusts the test for the grant of a warrant under paragraph 9, to align with paragraph 12 of Schedule 5 to the Terrorism Act 2000.

LORD SHARPE OF EPSOM

Schedule 2, page 75, line 40, leave out paragraphs (c) and (d) and insert—

- “(c) the investigation may be seriously prejudiced unless a constable can secure immediate access to the material.”

Member's explanatory statement

This amendment adjusts the test for the grant of a warrant under paragraph 9, to align with paragraph 12 of Schedule 5 to the Terrorism Act 2000.

LORD SHARPE OF EPSOM

Schedule 2, page 81, line 3, at end insert—

- “(v) Schedule 3 (disclosure orders);
- (vi) Schedule 4 (customer information orders);”

Member's explanatory statement

This amendment adds offences under Schedules 3 and 4 to the list of offences to which the powers in Part 2 of Schedule 2 do not apply.

LORD SHARPE OF EPSOM

Schedule 2, page 83, line 38, leave out “Provision may be made” and insert “Without prejudice to section 305 of the Criminal Procedure (Scotland) Act 1995, provision may be made by the High Court of Justiciary”

Member's explanatory statement

This amendment clarifies that an Act of Adjournal made under paragraph 24(1) of Schedule 2 would be made by the High Court of Justiciary and would be without prejudice to the general power in section 305 of the Criminal Procedure (Scotland) Act 1995.

LORD SHARPE OF EPSOM

Schedule 2, page 84, leave out line 38 and insert “produce the material”

Member's explanatory statement

This amendment adjusts the test for the grant of a warrant under paragraph 25, to align with paragraph 29 of Schedule 5 to the Terrorism Act 2000.

LORD SHARPE OF EPSOM

Schedule 2, page 84, line 39, leave out from beginning to “it” in line 40

Member's explanatory statement

This amendment adjusts the test for the grant of a warrant under paragraph 25, to align with paragraph 29 of Schedule 5 to the Terrorism Act 2000.

LORD SHARPE OF EPSOM

Schedule 2, page 85, line 1, leave out paragraphs (c) and (d) and insert—

“(c) the investigation may be seriously prejudiced unless a constable can secure immediate access to the material.”

Member's explanatory statement

This amendment adjusts the test for the grant of a warrant under paragraph 25, to align with paragraph 29 of Schedule 5 to the Terrorism Act 2000.

Schedule 6

LORD SHARPE OF EPSOM

Schedule 6, page 124, line 5, at end insert “or, in Northern Ireland, Article 53(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12))”

Member's explanatory statement

This amendment adds a reference to Northern Ireland legislation to a defined term.

Clause 30

LORD BEITH

Clause 30, page 22, line 30, at end insert “when carried out in support of and with the authority of the Security Service, the Secret Intelligence Service or GCHQ”

Member's explanatory statement

The purpose of this amendment is to clarify that any immunity from prosecution conferred by this Clause does not extend to the activities of the Armed Forces in general, but only to those activities carried out in support of the Intelligence Agencies.

LORD PONSONBY OF SHULBREDE
LORD PURVIS OF TWEED
BARONESS D'SOUZA

Leave out Clause 30

LORD SHARPE OF EPSOM

Leave out Clause 30 and insert the following new Clause –

“Offences under Part 2 of the Serious Crime Act 2007

- (1) Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) is amended as follows.
- (2) After section 50 insert –

“50A Extra-territorial offences: defence for intelligence services and armed forces

- (1) This section applies where a person is charged with an offence under this Part by reason of a provision of Schedule 4 (extra-territorial jurisdiction).
- (2) It is a defence for the person to show that their act was necessary for –
 - (a) the proper exercise of a function of an intelligence service, or
 - (b) the proper exercise of a function of the armed forces.
- (3) A person is taken to have shown that their act was so necessary if –
 - (a) sufficient evidence of that fact is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (4) The head of each intelligence service must ensure that the service has in place arrangements designed to ensure that acts of a member of the service to which a provision of Schedule 4 applies are necessary for the proper exercise of a function of the service.
- (5) The Defence Council must ensure that the armed forces have in place arrangements designed to ensure that acts of –
 - (a) a member of the armed forces, or
 - (b) a civilian subject to service discipline when working in support of a member of the armed forces,
 to which a provision of Schedule 4 applies are necessary for the proper exercise of a function of the armed forces.
- (6) The arrangements which must be in place by virtue of subsection (4) or (5) must be arrangements which the Secretary of State considers to be satisfactory.
- (7) In this section –
 - “armed forces” means His Majesty’s forces (within the meaning of the Armed Forces Act 2006);
 - “civilian subject to service discipline” has the same meaning as in the Armed Forces Act 2006;
 - “GCHQ” has the meaning given by section 3(3) of the Intelligence Services Act 1994;
 - “head” means –

- (a) in relation to the Security Service, the Director General of the Security Service,
 - (b) in relation to the Secret Intelligence Service, the Chief of the Secret Intelligence Service, and
 - (c) in relation to GCHQ, the Director of GCHQ;
- “intelligence service” means the Security Service, the Secret Intelligence Service or GCHQ.”

(3) For the heading before section 50 substitute “Defences”.

Member's explanatory statement

This amendment replaces clause 30 with a new clause which provides a defence for extra-territorial offences under Part 2 of the Serious Crime Act 2007.

LORD WEST OF SPITHEAD

As an amendment to the amendment in the name of Lord Sharpe of Epsom to Clause 30, printed on sheet HL Bill 88(j).

In inserted section 50A(2), after “necessary” insert “and proportionate”

Member's explanatory statement

This amendment seeks to incorporate a proportionality requirement into the overarching defence.

LORD WEST OF SPITHEAD

As an amendment to the amendment in the name of Lord Sharpe of Epsom to Clause 30, printed on sheet HL Bill 88(j).

In inserted section 50A(3), after “necessary” insert “and proportionate”

Member's explanatory statement

This amendment seeks to incorporate a proportionality requirement into the overarching defence.

Clause 31

LORD SHARPE OF EPSOM

Clause 31, page 23, line 7, after “or” insert “having regard to other matters known to them”

Member's explanatory statement

This amendment clarifies the meaning of “ought reasonably to know”.

BARONESS JONES OF MOULSECOOMB

LORD PANNICK

This is a revised version of the amendment tabled by Baroness Jones of Moulsecoomb on HL Bill 88(b)

Clause 31, page 23, line 19, at end insert “but, where the conduct or course of conduct is for the purposes of journalism, subsections (1)(a) and (2) may be satisfied only if the

conduct or course of conduct is instigated by or under the direction and control of a foreign power within the meaning of subsection (2)(a) or (b).”

Clause 32

BARONESS HAYTER OF KENTISH TOWN

Clause 32, page 23, line 39, leave out paragraph (e)

Member's explanatory statement

This amendment removes an element from the definition of “foreign power”.

Clause 33

LORD SHARPE OF EPSOM

Clause 33, page 24, line 29, leave out from “to” to end of line 30 and insert “a person (“P”), where the person who engages in the conduct –

- (i) knows or believes P to be involved in, and
- (ii) engages in the conduct for the purpose of giving support or assistance to,”

Clause 34

LORD SHARPE OF EPSOM

Clause 34, page 25, line 30, at end insert –

““information” includes information about tactics, techniques and procedures;”

Clause 37

LORD SHARPE OF EPSOM

Clause 37, page 27, line 26, at end insert –

- “(e) Schedule 3 (disclosure orders);
- (f) Schedule 4 (customer information orders).”

Member's explanatory statement

This amendment excepts offences under Schedules 3 and 4 from the requirement to obtain the consent of the Attorney General or Advocate General to proceedings for an offence under Part 1.

After Clause 38

LORD MARKS OF HENLEY-ON-THAMES
LORD GARNIER
LORD PANNICK

After Clause 38, insert the following new Clause –

“Public interest defence

- (1) For any offence under sections 1 to 5 of this Act or section 5(6) of the Official Secrets Act 1989, as amended by paragraph 6 of Schedule 17 to this Act, it is a defence for the accused to show that the conduct alleged to constitute the offence was carried out in the public interest.
- (2) Where a defence under subsection (1) is raised, it is for the accused to establish, on the balance of probabilities, that the conduct was in the public interest.
- (3) Whether such conduct was in the public interest is determined by having regard to –
 - (a) the nature of the alleged conduct;
 - (b) the harm caused by the alleged conduct;
 - (c) whether the manner in which the person engaged in the alleged conduct was in the public interest;
 - (d) whether the person engaged in the alleged conduct in good faith;
 - (e) whether the person engaged in the alleged conduct for personal gain;
 - (f) the availability of any other effective authorised procedures for achieving the purpose of the alleged conduct and whether any such procedures were exercised, and if any such procedures were not exercised, the reasons why they were not so exercised;
 - (g) any other relevant feature of the alleged conduct.”

Member's explanatory statement

This amendment provides for a public interest defence to the offences under Clauses 1 to 5 of the Bill and to offences under Section 5(6) of the Official Secrets Act 1989.

Clause 56

LORD COAKER

Leave out Clause 56 and insert the following new Clause –

“Reviews of Parts 1, 2, 4 and 5

- (1) The operation of Parts 1, 2, 4 and 5 of this Act must be reviewed by a person, or people, appointed by the Secretary of State.
- (2) The operation of Part 4 must be reviewed by the person appointed by the Secretary of State under section 36(1) of the Terrorism Act 2006 (review of terrorism legislation).

- (3) The operation of Parts 1, 2 and 5 must be reviewed by either –
 - (a) the person appointed by the Secretary of State under section 36(1) of that Act, or
 - (b) a different person appointed by the Secretary of State.
- (4) Reviews under this section must be carried out in respect of –
 - (a) the 12-month period beginning with the day on which any section in this Part comes into force, and
 - (b) each subsequent 12-month period.
- (5) Each review under subsection (1) must be completed as soon as reasonably practicable after the period to which it relates.
- (6) The person or people mentioned in subsections (2) and (3) must send to the Secretary of State a report on the outcome of each review carried out under subsection (1) as soon as reasonably practicable after completion of the review.
- (7) On receiving a report under subsection (6), the Secretary of State must lay a copy of it before each House of Parliament.
- (8) Section 36(6) of the Terrorism Act 2006 has effect as if the references to “expenses” and “allowances” in that subsection included “expenses” and “allowances” in connection with the discharge by the person or people of functions under this section.”

Member's explanatory statement

This amendment would provide for the regular review of the operation of Parts 1, 4, and 5 of the Act as well as of Part 2.

LORD SHARPE OF EPSOM

Leave out Clause 56.

Member's explanatory statement

This amendment is consequential on Lord Sharpe's new Clause (Reviews: general). The new Clause provides for reviews of Part 2 and other provisions by the independent reviewer appointed under the new Clause, superseding clause 56.

Schedule 12

LORD SHARPE OF EPSOM

Schedule 12, page 175, line 15, at end insert “or, in Northern Ireland, Article 53(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12))”

Member's explanatory statement

This amendment adds a reference to Northern Ireland legislation to a defined term.

LORD SHARPE OF EPSOM

Schedule 12, page 175, line 17, at end insert “or, in Northern Ireland, Article 53(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12))”

Member's explanatory statement

This amendment adds a reference to Northern Ireland legislation to a defined term.

LORD SHARPE OF EPSOM

Schedule 12, page 176, line 28, at end insert “or, in Northern Ireland, Part 6 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12)) (see Article 53(1) and (3) of that Order)”

Member's explanatory statement

This amendment adds a reference to Northern Ireland legislation to a defined term.

After Clause 63

LORD SHARPE OF EPSOM

After Clause 63, insert the following new Clause –

“Reviews: general

- (1) The Secretary of State must appoint a person (the “independent reviewer”) to review the operation of –
 - (a) Part 1, except section (*Offences under Part 2 of the Serious Crime Act 2007*);
 - (b) Part 2;
 - (c) Schedule 3 to the Counter-Terrorism and Border Security Act 2019, except the functions of the Investigatory Powers Commissioner under Part 1 of that Schedule.
- (2) The independent reviewer –
 - (a) must carry out a review of the operation of those provisions for each calendar year (an “annual review”), and
 - (b) may carry out such other reviews of the operation of any of those provisions as they consider appropriate.
- (3) An annual review must be completed as soon as reasonably practicable after the calendar year to which it relates.
- (4) The independent reviewer must, by 31 January in each calendar year, inform the Secretary of State what (if any) reviews under subsection (2)(b) they intend to carry out in that year.
- (5) The independent reviewer must send to the Secretary of State a report on the outcome of each review carried out under this section as soon as reasonably practicable after completion of the review.

- (6) On receiving a report under this section, the Secretary of State must lay before Parliament—
 - (a) the report (but not any material removed under subsection (7)), and
 - (b) a statement as to whether any material has been removed under that subsection.
- (7) The Secretary of State may, after consulting the independent reviewer, remove from the report any material whose publication the Secretary of State thinks would be contrary to the public interest, or prejudicial to—
 - (a) national security,
 - (b) the prevention or detection of crime,
 - (c) the economic well-being of the United Kingdom, or
 - (d) the continued discharge of the functions of any public authority whose activities include activities that are subject to review by the independent reviewer.
- (8) “Public authority” means a public authority within the meaning of section 6 of the Human Rights Act 1998, other than a court or tribunal.
- (9) The Secretary of State may pay to the independent reviewer—
 - (a) expenses incurred in carrying out the functions of the reviewer under this section, and
 - (b) such allowances as the Secretary of State determines.”

Member's explanatory statement

This new Clause provides for independent review of Parts 1 and 2 of the Bill, and Schedule 3 to the Counter-Terrorism and Border Security Act 2019. It is intended that this new Clause, together with new Clause “Reviews of detention under Part 1” will form a new Part of the Bill after Part 2.

LORD SHARPE OF EPSOM

After Clause 63, insert the following new Clause—

“Reviews of detention under Part 1

- (1) An annual review under section (*Reviews: general*)(2)(a) must in particular consider compliance with the relevant requirements in relation to persons detained under section 27 by virtue of a warrant of further detention under Part 6 of Schedule 6.
- (2) The relevant requirements are requirements imposed—
 - (a) by or under Parts 1 to 5, and paragraph 45, of Schedule 6;
 - (b) by any relevant code of practice under section 66 of the Police and Criminal Evidence Act 1984 or Article 65 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).
- (3) The independent reviewer must ensure that a review is carried out into any case where—
 - (a) a person is detained under section 27 by virtue of a warrant of further detention under Part 6 of Schedule 6, and

- (b) the period specified in that warrant is further extended under paragraph 44 of that Schedule to a time that is more than 14 days after the person's arrest under section 27.
- (4) A review under subsection (3) may be carried out by the independent reviewer or by another person.
- (5) The independent reviewer must ensure that a report on the outcome of a review under subsection (3) is sent to the Secretary of State as soon as reasonably practicable after completion of the review.
- (6) Section (*Reviews: general*) (6) to (8) applies to a report of a review under subsection (3).
- (7) The expenses mentioned in section (*Reviews: general*)(9) include any expenses incurred by the independent reviewer in ensuring that another person carries out, and reports on, a review under subsection (3).
- (8) "Independent reviewer" has the same meaning as in section (*Reviews: general*)."

Member's explanatory statement

This new Clause makes provision about independent reviews of the powers of detention in Part 1 of the Bill.

Clause 64

LORD SHARPE OF EPSOM

Clause 64, page 45, line 18, after "out" insert "relevant"

Member's explanatory statement

This amendment, together with Lord Sharpe's other amendments to clause 64 relating to relevant activities, allow the Secretary of State to make regulations specifying which activities of a specified person are subject to the provisions about foreign activity arrangements.

LORD SHARPE OF EPSOM

Clause 64, page 45, line 19, after "for" insert "relevant"

Member's explanatory statement

This amendment, together with Lord Sharpe's other amendments to clause 64 relating to relevant activities, allow the Secretary of State to make regulations specifying which activities of a specified person are subject to the provisions about foreign activity arrangements.

LORD SHARPE OF EPSOM

Clause 64, page 45, line 19, at end insert –

“(1A) In this section “relevant activities” –

- (a) if regulations under subsection (1B) apply in relation to the specified person, has the meaning given by the regulations, and
 - (b) otherwise, means all activities.
- (1B) The Secretary of State may by regulations make provision about activities which are relevant activities for the purposes of this section, either in relation to all specified persons or in relation to such specified persons as the regulations may provide.”

Member's explanatory statement

This amendment, together with Lord Sharpe's other amendments to clause 64 relating to relevant activities, allow the Secretary of State to make regulations specifying which activities of a specified person are subject to the provisions about foreign activity arrangements.

LORD SHARPE OF EPSOM

Clause 64, page 45, line 23, leave out from beginning to “ought” in line 26 and insert “P commits an offence if P—

- (a) fails to comply with subsection (2), and
- (b) knows, or having regard to other matters known to them”

Member's explanatory statement

This amendment is to ensure consistency with subsections (1) and (2) of clause 64, which refer to the person who makes the arrangement as “P”. It also clarifies the meaning of “ought reasonably to know”.

Clause 66

LORD SHARPE OF EPSOM

Clause 66, page 46, line 13, leave out from beginning to end of line 16 and insert—

- “(A1) This section applies where a person (“P”) makes a foreign activity arrangement required to be registered under section 64(2).
- (1) P commits an offence if—
 - (a) P carries out a relevant activity, or arranges for a relevant activity to be carried out, in the United Kingdom pursuant to the arrangement,”

Member's explanatory statement

This amendment confines the offence in clause 66(1) to the person who makes a foreign activity arrangement with a specified person.

LORD SHARPE OF EPSOM

Clause 66, page 46, line 18, leave out “the person knows, or” and insert “P knows, or having regard to other matters known to them”

Member's explanatory statement

This amendment is consequential on Lord Sharpe's amendment to clause 66, page 46, line 13, and clarifies the meaning of "ought reasonably to know".

LORD SHARPE OF EPSOM

Clause 66, page 46, leave out line 19 and insert "pursuant to a foreign activity arrangement."

Member's explanatory statement

This amendment clarifies the mens rea where P acts pursuant to a foreign activity arrangement.

LORD SHARPE OF EPSOM

Clause 66, page 46, line 20, leave out subsection (2) and insert—

- “(2) A person other than P commits an offence if—
- (a) the person carries out a relevant activity, or arranges for a relevant activity to be carried out, in the United Kingdom pursuant to the arrangement,
 - (b) the arrangement is not registered, and
 - (c) the person knows, or having regard to other matters known to them ought reasonably to know, that they are acting pursuant to a foreign activity arrangement.
- (3) In proceedings for an offence under subsection (2) it is a defence to show that the person—
- (a) took all steps reasonably practicable to determine whether the arrangement was registered, and
 - (b) reasonably believed that the arrangement was registered.
- (4) A person is taken to have shown a matter mentioned in subsection (3) if—
- (a) sufficient evidence of the matter is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (5) In this section “relevant activity” has the same meaning as in section 64.”

Member's explanatory statement

This amendment clarifies the applicable mens rea where a person other than P carries out the activities in question, or arranges for them to be carried out.

LORD CARLILE OF BERRIEW
BARONESS HAYTER OF KENTISH TOWN

Leave out Clause 66

Clause 67

LORD SHARPE OF EPSOM

Clause 67, page 46, line 22, after “out” insert “relevant”

Member's explanatory statement

This amendment, together with Lord Sharpe's other amendments to clause 67 relating to relevant activities, allow the Secretary of State to make regulations specifying which activities of a specified person are subject to clause 67.

LORD SHARPE OF EPSOM

Clause 67, page 46, line 26, at end insert “relevant”

Member's explanatory statement

This amendment, together with Lord Sharpe's other amendments to clause 67 relating to relevant activities, allow the Secretary of State to make regulations specifying which activities of a specified person are subject to clause 67.

LORD SHARPE OF EPSOM

Clause 67, page 46, line 30, at end insert “relevant”

Member's explanatory statement

This amendment, together with Lord Sharpe's other amendments to clause 67 relating to relevant activities, allow the Secretary of State to make regulations specifying which activities of a specified person are subject to clause 67.

LORD SHARPE OF EPSOM

Clause 67, page 46, line 36, at end insert –

“(3A) In this section “relevant activities” –

- (a) if regulations under subsection (3B) apply in relation to the specified person, has the meaning given by the regulations, and
- (b) otherwise, means all activities.

(3B) The Secretary of State may by regulations make provision about activities which are relevant activities for the purposes of this section, either in relation to all specified persons or in relation to such specified persons as the regulations may provide.”

Member's explanatory statement

This amendment, together with Lord Sharpe's other amendments to clause 67 relating to relevant activities, allow the Secretary of State to make regulations specifying which activities of a specified person are subject to clause 67.

LORD SHARPE OF EPSOM

Clause 67, page 47, line 6, leave out from “offence” to end of line 7.

Member's explanatory statement

This amendment removes the requirement for knowledge that an activity is not registered from the offence in clause 67(7). Knowledge of registration is now dealt with in the defence inserted by Lord Sharpe's amendment to clause 67, page 47, line 10.

LORD SHARPE OF EPSOM

Clause 67, page 47, line 9, after first “or” insert “having regard to other matters known to them”

Member's explanatory statement

This amendment clarifies the meaning of “ought reasonably to know”.

LORD SHARPE OF EPSOM

Clause 67, page 47, line 9, leave out “or (b)”

Member's explanatory statement

This amendment adjusts the test for committing an offence under clause 67.

LORD SHARPE OF EPSOM

Clause 67, page 47, line 10, at end insert –

- “(9) In proceedings for an offence under subsection (7) or (8) it is a defence to show that the person –
- (a) took all steps reasonably practicable to determine whether the activities were registered, and
 - (b) reasonably believed that the activities were registered.
- (10) A person is taken to have shown a matter mentioned in subsection (9) if –
- (a) sufficient evidence of the matter is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.”

Member's explanatory statement

This amendment provides a defence to an offence under clause 67(7) and (8).

LORD CARLILE OF BERRIEW
BARONESS HAYTER OF KENTISH TOWN

Leave out Clause 67

Clause 68

LORD SHARPE OF EPSOM

Clause 68, page 47, line 14, leave out first “principal” and insert “power”

Member's explanatory statement

This amendment and Lord Sharpe's other amendment to clause 68(1) restrict the definition of foreign influence arrangements to arrangements with foreign powers.

LORD SHARPE OF EPSOM

Clause 68, page 47, line 14, leave out second “principal” and insert “power”

Member's explanatory statement

This amendment and Lord Sharpe's other amendment to clause 68(1) restrict the definition of foreign influence arrangements to arrangements with foreign powers.

LORD SHARPE OF EPSOM

Clause 68, page 47, line 17, at end insert –

“(1A) Where the foreign power is a specified person, the arrangement is not a foreign influence arrangement to the extent that it relates to political influence activities that are relevant activities for the purposes of section 64.”

Member's explanatory statement

This amendment prevents overlap between foreign activity arrangements required to be registered under clause 64 and foreign influence arrangements required to be registered under clause 68.

LORD SHARPE OF EPSOM

Clause 68, page 47, line 19, leave out “10” and insert “28”

Member's explanatory statement

This amendment increases the time limit for registering a foreign influence agreement after it has been made.

LORD SHARPE OF EPSOM

Clause 68, page 47, line 23, leave out “10” and insert “28”

Member's explanatory statement

This amendment is consequential on Lord Sharpe's amendment to clause 68, page 47, line 19.

LORD SHARPE OF EPSOM

Clause 68, page 47, line 25, leave out from beginning to “knows” in line 26 and insert “P commits an offence if P—

(a) fails to comply with subsection (2), and”

Member's explanatory statement

This amendment is to ensure consistency with subsections (1) and (2) of clause 68, which refer to the person who makes an arrangement as “P”.

LORD CARLILE OF BERRIEW
BARONESS HAYTER OF KENTISH TOWN

Leave out Clause 68

Clause 69LORD SHARPE OF EPSOM
BARONESS HAYTER OF KENTISH TOWN

Leave out Clause 69

Member's explanatory statement

This amendment is consequential on Lord Sharpe's amendments to Clause 68(1).

Clause 70

LORD SHARPE OF EPSOM

Clause 70, page 48, line 25, leave out “principal” and insert “power”

Member's explanatory statement

This amendment is consequential on Lord Sharpe's amendments to clause 68(1).

LORD SHARPE OF EPSOM

Clause 70, page 48, line 28, leave out “the conduct of”

Member's explanatory statement

This amendment adjusts the matters within subsection (3)(a), for consistency with clause 14(3).

LORD SHARPE OF EPSOM

Clause 70, page 48, line 29, leave out “the government of the United Kingdom” and insert “a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975), a United Kingdom government department”

Member's explanatory statement

This amendment clarifies that the matters within clause 70(3) include a decision of a Minister of the Crown or a government department.

LORD SHARPE OF EPSOM

Clause 70, page 48, line 32, leave out paragraph (c)

Member's explanatory statement

This amendment removes reference to the proceedings of Parliament, the Northern Ireland Assembly, the Scottish Parliament and Senedd Cymru. Persons in these assemblies are caught by other paragraphs in subsection (3).

LORD SHARPE OF EPSOM

Clause 70, page 48, line 38, at end insert “(acting in that capacity)”.

Member's explanatory statement

This amendment clarifies that the conduct of Members of Parliament etc is relevant only where those persons are acting in that capacity.

LORD CARLILE OF BERRIEW
BARONESS HAYTER OF KENTISH TOWN

Leave out Clause 70

Clause 71

LORD SHARPE OF EPSOM

Clause 71, page 49, line 13, leave out from beginning to “carries” in line 14 and insert –
“(A1) This section applies where a person (“P”) makes a foreign influence arrangement required to be registered under section 68(2).

- (1) P commits an offence if –
 - (a) after the end of the registration period P”

Member's explanatory statement

This amendment and the remaining amendments to clause 71 tabled by Lord Sharpe are to make separate provision for an offence under clause 71 depending on whether the political influence activities in question are carried out by P or another person. It also provides that an offence under subsection (1) cannot be committed before the period for registering the arrangement has expired.

LORD SHARPE OF EPSOM

Clause 71, page 49, line 16, leave out from first “to” to end of line 17 and insert “the arrangement”

Member's explanatory statement

This amendment is consequential on Lord Sharpe's amendment to clause 71, page 49, line 13.

LORD SHARPE OF EPSOM

Clause 71, page 49, line 19, leave out paragraph (c) and insert –

- “(c) P knows, or having regard to other matters known to them ought reasonably to know, that they are acting pursuant to a foreign influence arrangement.”

Member's explanatory statement

This amendment adjusts the test in clause 71(1)(c).

LORD SHARPE OF EPSOM

Clause 71, page 49, line 20, leave out subsection (2) and insert –

- “(2) A person other than P commits an offence if –
- (a) after the end of the registration period the person carries out a political influence activity, or arranges for a political influence activity to be carried out, in the United Kingdom pursuant to the arrangement,
 - (b) the arrangement is not registered, and
 - (c) the person knows, or having regard to other matters known to them ought reasonably to know, that they are acting pursuant to a foreign influence arrangement.
- (3) In this section the “registration period” means the period before the end of which P must register the arrangement (see section 68(2) and (3)).
- (4) In proceedings for an offence under subsection (2) it is a defence to show that the person –
- (a) took all steps reasonably practicable to determine whether the arrangement was registered, and
 - (b) reasonably believed that the arrangement was registered.
- (5) A person is taken to have shown a matter mentioned in subsection (4) if –
- (a) sufficient evidence of the matter is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.”

Member's explanatory statement

This amendment clarifies the applicable mens rea where a person other than P carries out the political influence activities in question.

Clause 72

LORD SHARPE OF EPSOM

Clause 72, page 49, line 22, leave out subsections (1) and (2)

Member's explanatory statement

This amendment is consequential on Lord Sharpe's amendments to clause 68(1).

LORD SHARPE OF EPSOM

Clause 72, page 49, line 30, leave out "a foreign principal who is"

Member's explanatory statement

This amendment is consequential on Lord Sharpe's amendments to clause 68(1).

LORD SHARPE OF EPSOM

Clause 72, page 49, line 37, leave out "principal" and insert "power"

Member's explanatory statement

This amendment is consequential on Lord Sharpe's amendments to clause 68(1).

LORD SHARPE OF EPSOM

Clause 72, page 49, line 37, at end insert –

“(3A) Where the foreign power is a specified person, the prohibition in subsection (3) does not apply to the extent that the political influence activities are relevant activities for the purposes of section 67.”

Member's explanatory statement

This amendment prevents overlap between the offence in clause 67 and the offence in clause 72.

LORD SHARPE OF EPSOM

Clause 72, page 50, line 7, leave out subsection (7)

Member's explanatory statement

This amendment is consequential on Lord Sharpe's amendment to leave out clause 72(1) and (2).

LORD SHARPE OF EPSOM

Clause 72, page 50, line 11, after first "or" insert "having regard to other matters known to them"

Member's explanatory statement

This amendment clarifies the meaning of "ought reasonably to know".

LORD SHARPE OF EPSOM

Clause 72, page 50, line 11, leave out “or (b)”

Member's explanatory statement

This amendment adjusts the test in subsection (8).

LORD SHARPE OF EPSOM

Clause 72, page 50, line 12, at end insert –

- “(9) In proceedings for an offence under subsection (8) it is a defence to show that the person –
- (a) took all steps reasonably practicable to determine whether the activities were registered, and
 - (b) reasonably believed that the activities were registered.
- (10) A person is taken to have shown a matter mentioned in subsection (9) if –
- (a) sufficient evidence of the matter is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.”

Member's explanatory statement

This amendment provides a defence to an offence under clause 72(8).

Schedule 15

LORD SHARPE OF EPSOM

Schedule 15, page 184, line 7, leave out “(1) to”

Member's explanatory statement

This amendment is consequential on Lord Sharpe's amendments to omit clause 72(1) and (2).

LORD SHARPE OF EPSOM

Schedule 15, page 184, line 16, after “66(1)” insert “or (2)”

Member's explanatory statement

This amendment is consequential on Lord Sharpe's amendment to clause 66, page 46, line 20.

LORD SHARPE OF EPSOM

Schedule 15, page 184, line 19, after “71(1)” insert “or (2)”

Member's explanatory statement

This amendment is consequential on Lord Sharpe's amendment to clause 71, page 49, line 20.

LORD SHARPE OF EPSOM

Schedule 15, page 185, line 31, after “71(1)” insert “or (2)”

Member's explanatory statement

This amendment is consequential on Lord Sharpe's amendment to clause 71, page 49, line 20.

LORD SHARPE OF EPSOM

Schedule 15, page 185, line 33 leave out paragraph (c)

Member's explanatory statement

This amendment is consequential on Lord Sharpe's amendments to omit clause 72(1) and (2).

LORD SHARPE OF EPSOM

Schedule 15, page 185, line 37, leave out sub-paragraph (2)

Member's explanatory statement

This amendment is consequential on Lord Sharpe's amendments to omit clause 72(1) and (2).

LORD SHARPE OF EPSOM

Schedule 15, page 186, line 5, after “71(1)” insert “or (2)”

Member's explanatory statement

This amendment is consequential on Lord Sharpe's amendment to clause 71, page 49, line 20.

LORD SHARPE OF EPSOM

Schedule 15, page 186, line 10, leave out “principal” and insert “power”.

Member's explanatory statement

The amendment is consequential on Lord Sharpe's amendments to clause 68(1).

LORD SHARPE OF EPSOM

Schedule 15, page 186, leave out lines 14 to 18 and insert –

““news-related material”, “publish”, and “recognised news publisher” have the meaning given by paragraph 4A.”

Member's explanatory statement

This amendment and Lord Sharpe's proposed new paragraph 4A of Schedule 15 incorporate the definitions of “news-related material”, “publish” and “recognised news publisher” in Schedule 15 rather than by cross-referring to the definitions in the Online Safety Bill.

LORD SHARPE OF EPSOM

Schedule 15, page 186, line 18, at end insert –

- “4A (1) In paragraph 4, “recognised news publisher” means any of the following entities –
- (a) the British Broadcasting Corporation,
 - (b) Sianel Pedwar Cymru,
 - (c) the holder of a licence under the Broadcasting Act 1990 or 1996 who publishes news-related material in connection with the broadcasting activities authorised under the licence, and
 - (d) any other entity which –
 - (i) meets all of the conditions in sub-paragraph (2),
 - (ii) is not an excluded entity (see sub-paragraph (3)), and
 - (iii) is not a sanctioned entity (see sub-paragraph (4)).
- (2) The conditions referred to in sub-paragraph (1)(d)(i) are that the entity –
- (a) has as its principal purpose the publication of news-related material, and such material –
 - (i) is created by different persons, and
 - (ii) is subject to editorial control,
 - (b) publishes such material in the course of a business (whether or not carried on with a view to profit),
 - (c) is subject to a standards code,
 - (d) has policies and procedures for handling and resolving complaints,
 - (e) has a registered office or other business address,
 - (f) is the person with legal responsibility for material published by it in the United Kingdom, and
 - (g) publishes –
 - (i) the entity’s name, the address mentioned in paragraph (e) and the entity’s registered number (if any), and
 - (ii) the name and address of any person who controls the entity (including, where such a person is an entity, the address of that person’s registered or principal office and that person’s registered number (if any)).
- (3) An “excluded entity” is an entity –
- (a) which is a proscribed organisation under the Terrorism Act 2000 (see section 3 of that Act), or
 - (b) the purpose of which is to support a proscribed organisation under that Act.
- (4) A “sanctioned entity” is an entity which –
- (a) is designated by name under a power contained in regulations under section 1 of the Sanctions and Anti-Money Laundering Act 2018 that authorises the Secretary of State or the Treasury to designate persons for the purposes of the regulations or of any provisions of the regulations, or

- (b) is a designated person under any provision included in such regulations by virtue of section 13 of that Act (persons named by or under UN Security Council Resolutions).
- (5) For the purposes of sub-paragraph (2) –
 - (a) news-related material is “subject to editorial control” if there is a person (whether or not the publisher of the material) who has editorial or equivalent responsibility for the material, including responsibility for how it is presented and the decision to publish it;
 - (b) “control” has the same meaning as it has in the Broadcasting Act 1990 by virtue of section 202 of that Act.
- (6) In this paragraph –
 - “news-related material” means material consisting of –
 - (a) news or information about current affairs,
 - (b) opinion about matters relating to the news or current affairs, or
 - (c) gossip about celebrities, other public figures or other persons in the news;
 - “publish” means publish by any means (including by broadcasting), and references to a publisher and publication are to be construed accordingly;
 - “standards code” means –
 - (a) a code of standards that regulates the conduct of publishers, that is published by an independent regulator, or
 - (b) a code of standards that regulates the conduct of the entity in question, that is published by the entity itself.”

Member's explanatory statement

This amendment and Lord Sharpe's amendment to paragraph 4 of Schedule 15 incorporate the definitions of “news-related material”, “publish” and “recognised news publisher” in Schedule 15 rather than by cross-referring to the definitions in the Online Safety Bill.

LORD SHARPE OF EPSOM

Schedule 15, page 186, line 29, leave out “(1) to”

Member's explanatory statement

This amendment is consequential on Lord Sharpe's amendment leaving out clause 72(1) and (2).

Clause 74

LORD SHARPE OF EPSOM

Clause 74, page 50, line 22, leave out “an” and insert “a relevant”

Member's explanatory statement

This amendment is consequential on changes to the definition of foreign activity arrangement in clause 64.

LORD SHARPE OF EPSOM

Clause 74, page 50, line 27, at end insert –

“(2A) Regulations under subsection (1)(c) may, in particular, require the person to provide information about any political influence activities carried out, or arranged to be carried out, during the registration period by any person pursuant to the arrangement which is required to be registered.

(2B) In subsection (2A) “registration period” has the same meaning as in section 71.”

Member's explanatory statement

This amendment clarifies the breadth of the regulation-making power in clause 74(1), and is consequential on Lord Sharpe's amendment to clause 71 allowing for political influence activities to be carried out during the registration period.

Clause 75

LORD SHARPE OF EPSOM

Clause 75, page 51, line 13, at end insert –

“(ba) a person the Secretary of State reasonably believes to be carrying out relevant activities, or arranging for relevant activities to be carried out, in the United Kingdom pursuant to a foreign activity arrangement within paragraph (a) or (b);”

Member's explanatory statement

This amendment allows the Secretary of State to give an information notice to persons carrying out relevant activities pursuant to a foreign activity arrangement who are not themselves a party to the arrangement.

LORD SHARPE OF EPSOM

Clause 75, page 51, line 14, after “registered” insert “relevant”

Member's explanatory statement

This amendment is consequential on changes to the definition of foreign activity arrangement in clause 64.

LORD SHARPE OF EPSOM

Clause 75, page 51, line 15, at end insert “relevant”

Member's explanatory statement

This amendment is consequential on changes to the definition of foreign activity arrangement in clause 64.

LORD SHARPE OF EPSOM

Clause 75, page 51, line 17, at end insert “relevant”

Member's explanatory statement

This amendment is consequential on changes to the definition of foreign activity arrangement in clause 64.

LORD SHARPE OF EPSOM

Clause 75, page 51, line 24, at end insert –

“(ba) a person the Secretary of State reasonably believes to be carrying out political influence activities, or arranging for political influence activities to be carried out, in the United Kingdom pursuant to a foreign influence arrangement within paragraph (a) or (b);”

Member's explanatory statement

This amendment allows the Secretary of State to give an information notice to persons carrying out political influence activities pursuant to a foreign influence arrangement who are not themselves a party to the arrangement.

LORD SHARPE OF EPSOM

Clause 75, page 51, line 25, after “registered” insert “political influence”

Member's explanatory statement

This amendment is for consistency with subsection (2)(e).

LORD SHARPE OF EPSOM

Clause 75, page 51, line 26, at end insert “political influence”

Member's explanatory statement

This amendment is for consistency with subsection (3)(e).

Clause 77

LORD SHARPE OF EPSOM

Clause 77, page 52, line 24, leave out “an” and insert “a relevant”

Member's explanatory statement

This amendment is consequential on changes to the definition of foreign activity arrangement in clause 64.

LORD SHARPE OF EPSOM

Clause 77, page 52, line 32, after “or” insert “having regard to other matters known to them”

Member's explanatory statement

This amendment clarifies the meaning of “ought reasonably to know”.

LORD SHARPE OF EPSOM

Clause 77, page 53, line 1, after “or” insert “having regard to other matters known to them”

Member's explanatory statement

This amendment clarifies the meaning of “ought reasonably to know”.

Clause 78

LORD SHARPE OF EPSOM

Clause 78, page 53, line 6, leave out first “an” and insert “a relevant”

Member's explanatory statement

This amendment is consequential on changes to the definition of foreign activity arrangement in clause 64.

LORD SHARPE OF EPSOM

Clause 78, page 53, line 6, leave out second “an” and insert “a relevant”

Member's explanatory statement

This amendment is consequential on changes to the definition of foreign activity arrangement in clause 64.

LORD SHARPE OF EPSOM

Clause 78, page 53, line 13, after “or” insert “having regard to other matters known to them”

Member's explanatory statement

This amendment clarifies the meaning of “ought reasonably to know”.

LORD SHARPE OF EPSOM

Clause 78, page 53, line 24, after “or” insert “having regard to other matters known to them”

Member's explanatory statement

This amendment clarifies the meaning of “ought reasonably to know”.

Clause 79

LORD SHARPE OF EPSOM

Clause 79, page 53, line 32, after “(1)” insert “(a)”

Member's explanatory statement

This amendment clarifies that clause 79(2) only relates to the power in clause 79(1)(a).

Clause 80

LORD SHARPE OF EPSOM

Clause 80, page 54, line 15, leave out “an” and insert “a relevant”

Member's explanatory statement

This amendment is consequential on changes to the definition of foreign activity arrangement in clause 64.

LORD SHARPE OF EPSOM

Clause 80, page 54, line 36, leave out “(7) or”

Member's explanatory statement

This amendment is consequential on Lord Sharpe’s amendment omitting clause 72(7).

Clause 82

LORD SHARPE OF EPSOM

Clause 82, page 55, line 21, leave out “principals” and insert “powers”

Member's explanatory statement

This amendment is consequential on Lord Sharpe’s amendments to clause 68(1).

LORD SHARPE OF EPSOM

Clause 82, page 55, line 23, leave out “principals” and insert “powers”

Member's explanatory statement

This amendment is consequential on Lord Sharpe’s amendments to clause 68(1).

Clause 83

LORD SHARPE OF EPSOM

Clause 83, page 56, leave out line 3

Member's explanatory statement

This amendment omits the definition of “foreign principal” and is consequential on Lord Sharpe’s amendments to clause 68(1).

Clause 84LORD MARKS OF HENLEY-ON-THAMES
LORD PANNICK

Leave out Clause 84

Clause 85

LORD SHARPE OF EPSOM

Clause 85, page 57, line 18, leave out from “wrongdoing” to “and” on line 21 and insert “that –

- (i) involves the commission of a terrorism offence or other involvement in terrorism-related activity, and
- (ii) has a connection with the conduct of the Crown complained of in the proceedings,”

Member's explanatory statement

This amendment, together with the other Government amendments to this clause, would mean that the court may consider the matters in clause 85(3)(b) only if there was a connection between the terrorist wrongdoing and the conduct of the Crown complained of in the proceedings.

LORD SHARPE OF EPSOM

Clause 85, page 57, line 22, leave out “terrorist” and insert “such”

Member's explanatory statement

This amendment is consequential on the Government amendment to clause 85(3)(a) removing the defined term “terrorist wrongdoing”.

LORD SHARPE OF EPSOM

Clause 85, page 57, line 23, after “wrongdoing” insert “and of its connection with the conduct of the Crown”

Member's explanatory statement

This amendment is consequential on the Government amendment to clause 85(3)(a) requiring consideration of whether there was a connection between the wrongdoing and the conduct of the Crown before considering its extent.

LORD SHARPE OF EPSOM

Clause 85, page 57, line 26, leave out paragraph (a)

Member's explanatory statement

This amendment is consequential on the matters referred to in this paragraph being referred to in clause 85(3) as a result of the Government amendments to that subsection.

LORD SHARPE OF EPSOM

Clause 85, page 57, line 30, leave out “that conduct” and insert “the conduct complained of in the proceedings”

Member's explanatory statement

This amendment is consequential on the Government amendment leaving out clause 85(4)(a).

LORD MARKS OF HENLEY-ON-THAMES
LORD PANNICK

Leave out Clause 85

Clause 86

LORD SHARPE OF EPSOM

Clause 86, page 58, line 19, leave out from “out” to “to” and insert “how the Crown considers the national security factors”

Member's explanatory statement

This amendment is consequential on the Government amendments to clause 85.

LORD MARKS OF HENLEY-ON-THAMES
LORD PANNICK

Leave out Clause 86

Clause 87

LORD MARKS OF HENLEY-ON-THAMES
LORD PANNICK

Leave out Clause 87

Clause 88

LORD MARKS OF HENLEY-ON-THAMES
LORD PANNICK

Leave out Clause 88

Schedule 16

LORD SHARPE OF EPSOM

Schedule 16, page 188, line 21, leave out from “proceedings” to end of line 26 and insert –

- “(a) in relation to England and Wales, has the meaning given by section 75(3) of the Courts Act 2003;
- (b) in relation to Northern Ireland, has the meaning given by Article 12(5) of the Family Law (Northern Ireland) Order 1993 (S.I. 1993/1576 (N.I. 6));
- (c) in relation to Scotland, has the meaning given by section 135 of the Courts Reform (Scotland) Act 2014 and includes proceedings under the Children (Scotland) Act 1995 and the Children’s Hearings (Scotland) Act 2011 (asp 1).”

Member’s explanatory statement

This amendment provides a definition of “family proceedings” in relation to Scotland and Northern Ireland, as well as England and Wales.

Clause 89

LORD SHARPE OF EPSOM

Clause 89, page 60, line 11, after “Schedule 1” insert “other than those in paragraph 12 of Schedule 1”

Member’s explanatory statement

This amendment would remove the limitation on the availability of civil legal aid to an offender where the services are provided to them as victims of domestic violence in relation to a matter arising out of a family relationship in which there has been, or is a risk of, domestic violence.

LORD SHARPE OF EPSOM

Clause 89, page 60, line 17, at beginning insert “the Director determines that”

Member's explanatory statement

This amendment would clarify that the Director has to determine that one or more of the additional conditions is met in order for civil legal services to be available to offenders.

LORD SHARPE OF EPSOM

Clause 89, page 60, line 17, leave out “F” and insert “G”

Member's explanatory statement

This amendment is consequential on the amendment to this clause inserting a new Condition G.

LORD SHARPE OF EPSOM

Clause 89, page 60, line 35, at end insert –

“(7A) Condition G is met where –

- (a) the general case services are those described in paragraph 11, 33, 34 or 35 of Schedule 1 (services in relation to domestic violence and housing), and
- (b) the offender –
 - (i) was or is a victim of domestic violence occurring after the relevant date, or
 - (ii) is at risk of being a victim of domestic violence.

(7B) In subsection (7A) –

“domestic violence” has the meaning given in paragraph 12(9) of Schedule 1;

“relevant date” means the date five years before the application date.”

Member's explanatory statement

This amendment would allow offenders to access civil legal aid in relation to services relating to domestic violence and housing where they were at any time in the five years preceding their application, or at any time after their application, victims of domestic violence, or are at risk of being victims of domestic violence.

LORD PANNICK
LORD CARLILE OF BERRIEW

Clause 89, page 61, line 33, at end insert –

“(10A) This section only applies to an offender who has been sentenced to a term of imprisonment of seven years or more.”

Member's explanatory statement

This would confine the exclusion from legal aid to those convicted of very serious terrorist offences.

BARONESS LUDFORD
LORD PANNICK

Leave out Clause 89

Clause 90

BARONESS LUDFORD
LORD PANNICK

Leave out Clause 90

After Clause 91

LORD SHARPE OF EPSOM

After Clause 91, insert the following new Clause –

“Amendments of Terrorism Act 2000

Schedule (*Amendments of Terrorism Act 2000*) contains amendments to the Terrorism Act 2000.”

Member's explanatory statement

This amendment introduces the new Schedule inserted by Lord Sharpe before Schedule 17.

LORD COAKER
LORD WALLACE OF SALTIRE

After Clause 91, insert the following new Clause –

“Duty to implement recommendations of the ISC report on Russia

The Secretary of State has a duty to implement the recommendations of the report of the Intelligence and Security Committee of Parliament on Russia (HC 632 of Session 2019–21) insofar as they relate to national security.”

Member's explanatory statement

This amendment would ensure the government implements the ISC report on Russia.

LORD COAKER

After Clause 91, insert the following new Clause –

“Duty to update the Intelligence and Security Committee of Parliament's memorandum of understanding

- (1) The Prime Minister must ensure that the memorandum of understanding between the Prime Minister and the Intelligence and Security Committee of Parliament (the “ISC”) under section 2 of the Justice and Security Act 2013 (the “MoU”) is

revised to reflect any changes to the intelligence or security activities of His Majesty's Government as a result of this Act.

- (2) Any revisions to the MoU under subsection (1) must be agreed between the Prime Minister and the ISC in accordance with the process set out in section 2 of the Justice and Security Act 2013.
- (3) Any engagement between the Prime Minister and the ISC relating to revisions to the MoU under subsection (1) must commence within the 6-month period beginning with the day on which this Act is passed."

Member's explanatory statement

This amendment ensures that the ISC's Memorandum of Understanding is updated to reflect this Act.

Before Schedule 17

LORD SHARPE OF EPSOM

Before Schedule 17, insert the following new Schedule –

“SCHEDULE

AMENDMENTS OF TERRORISM ACT 2000

- 1 (1) Section 41 to the Terrorism Act 2000 (arrest without warrant) is amended as follows.
 - (2) In subsection (3)(b) –
 - (a) for the words from “Schedule 7” to “2019,” substitute “a provision listed in subsection (3A)”;
 - (b) for “examination under that Schedule” substitute “detention under that provision”.
 - (3) After subsection (3) insert –

“(3A) Those provisions are –

 - (a) section 24 of the Police and Criminal Evidence Act 1984;
 - (b) Article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12));
 - (c) Schedule 7;
 - (d) section 1 of the Criminal Justice (Scotland) Act 2016 (asp 1);
 - (e) Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019;
 - (f) section 27 of the National Security Act 2022.”
 - (4) After subsection (8) insert –

“(8ZA) Subsection (8A) applies where –

 - (a) a person is detained under this section in hospital, or

- (b) a person detained under this section is removed to hospital because the person needs medical treatment.”
- (5) In subsection (8A) –
- (a) for the words before paragraph (a) substitute “Where this subsection applies”;
 - (b) in paragraph (a) after “hospital or” insert “(where this subsection applies by virtue of subsection (8ZA)(b))”;
 - (c) in paragraph (b) after “hospital or” insert “(where this subsection applies by virtue of subsection (8ZA)(b))”.
- 2 (1) Schedule 5 to the Terrorism Act 2000 (terrorist investigations) is amended as follows.
- (2) In paragraph 3 (power to search premises within cordoned area) –
- (a) in sub-paragraph (1) for the words from “Subject” to “superintendent” substitute “A constable”;
 - (b) in sub-paragraph (2) for the words from “who” to “paragraph” substitute “may exercise the power in sub-paragraph (1) only”.
- (3) In paragraph 15 (search and seizure in urgent cases: England, Wales and Northern Ireland) –
- (a) at the end of sub-paragraph (1) insert “(subject to sub-paragraph (1A))”;
 - (b) after sub-paragraph (1) insert –
 - “(1A) An order under this paragraph giving the authority which may be given by a search warrant under paragraph 11 does not authorise a constable to retain confidential journalistic material.
 - (1B) “Confidential journalistic material” means material which is excluded material by virtue of section 11(1)(c) of the Police and Criminal Evidence Act 1984.”
- (4) After paragraph 15 insert –
- “15A(1) This paragraph applies where confidential journalistic material is seized by virtue of an order under paragraph 15 giving the authority which may be given by a search warrant under paragraph 11.
- (2) A constable may apply to a Circuit judge for the issue of a warrant under this paragraph.
 - (3) An application under sub-paragraph (2) must be made as soon as reasonably practicable after the material is seized.
 - (4) The judge may grant an application under sub-paragraph (2) if satisfied that conditions 1 to 3 are met.
 - (5) Condition 1 is that the warrant is sought for the purposes of a terrorist investigation.
 - (6) Condition 2 is that there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or with other material, to a terrorist investigation.

- (7) Condition 3 is that there are reasonable grounds for believing that it is in the public interest that the material should be retained having regard to the benefit likely to accrue to the terrorist investigation if the material is retained.
 - (8) A warrant under this paragraph is a warrant authorising the retention of confidential journalistic material.
 - (9) A warrant under this paragraph may impose conditions on the retention and use of the material.
 - (10) If the judge does not grant an application for the issue of a warrant under this paragraph in relation to any of the material to which the application relates, the judge may direct that the material is –
 - (a) returned to the person from whom it was seized, or
 - (b) destroyed.
 - (11) “Confidential journalistic material” has the same meaning as in paragraph 15.”
- (5) In paragraph 18 (application to Northern Ireland) before paragraph (f) insert –
- “(ea) the reference in paragraph 15(1B) to section 11(1)(c) of the Police and Criminal Evidence Act 1984 is to be taken as a reference to Article 13(1)(c) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)),”.
- (6) In paragraph 31 (search and seizure in urgent cases: Scotland) –
- (a) at the end of sub-paragraph (1) insert “(subject to sub-paragraph (1A)).”;
 - (b) after sub-paragraph (1) insert –
 - “(1A) An order under this paragraph does not authorise a constable to retain confidential journalistic material.
 - (1B) “Confidential journalistic material” has the same meaning as in the Investigatory Powers Act 2016 (see section 264(6) and (7) of that Act).”
- (7) After paragraph 31 insert –
- “31A(1) This paragraph applies where confidential journalistic material is seized by virtue of an order under paragraph 31.
 - (2) The procurator fiscal may apply to a sheriff for the issue of a warrant under this paragraph.
 - (3) An application under sub-paragraph (2) must be made as soon as reasonably practicable.
 - (4) The sheriff may grant an application under sub-paragraph (2) if satisfied that conditions 1 to 3 are met.
 - (5) Condition 1 is that the warrant is sought for the purposes of a terrorist investigation.

- (6) Condition 2 is that there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or with other material, to a terrorist investigation.
- (7) Condition 3 is that there are reasonable grounds for believing that it is in the public interest that the material should be retained having regard to the benefit likely to accrue to the terrorist investigation if the material is retained.
- (8) A warrant under this paragraph is a warrant authorising the retention of confidential journalistic material.
- (9) A warrant under this paragraph may impose conditions on the retention and use of the material.
- (10) If the sheriff does not grant an application for the issue of a warrant under this paragraph in relation to any of the material to which the application relates, the sheriff may direct that the material is—
 - (a) returned to the person from whom it was seized, or
 - (b) destroyed.
- (11) “Confidential journalistic material” has the same meaning as in paragraph 31.””

Member's explanatory statement

The amendments to section 41 of the Terrorism Act reflect provision in clause 27 of the Bill. The amendments to paragraph 3 of Schedule 5 amend powers to authorise searches. The remaining amendments to Schedule 5 restrict powers to retain confidential journalistic material to reflect provision in Schedule 2 to the Bill.

Schedule 17

LORD SHARPE OF EPSOM

Schedule 17, page 194, line 16, at end insert—

“Investigatory Powers Act 2016 (c. 25)

- 10 (1) Schedule 3 to the Investigatory Powers Act 2016 (exceptions to the exclusion of certain matters from legal proceedings) is amended as follows.
- (2) After paragraph 8 insert—

“Proceedings under Part 2 of the National Security Act 2023

 - 8A (1) Section 56(1) does not apply in relation to—
 - (a) any proceedings which are relevant proceedings within the meaning of Part 2 of the National Security Act 2023 (see section 63(1) of that Act), or
 - (b) any proceedings arising out of any proceedings within paragraph (a).
 - (2) But sub-paragraph (1) does not permit the disclosure of anything to—

- (a) any person, other than the Secretary of State, who is or was a party to the proceedings, or
 - (b) any person who –
 - (i) represents such a person for the purposes of the proceedings, and
 - (ii) does so otherwise than by virtue of an appointment as a special advocate under Schedule 10 to the National Security Act 2023.”
- (3) In paragraph 20(2) (proceedings for certain offences) –
- (a) after paragraph (h) insert –
 - “(ha) an offence under section 1 or 3 of the National Security Act 2023 relating to any information, document or other article which, or an offence under section 12 of that Act relating to any asset which –
 - (i) incorporates, or relates to, the content of any intercepted communication or any secondary data obtained from a communication, or
 - (ii) tends to suggest that any interception-related conduct has or may have occurred or may be going to occur;
 - (hb) an offence under section 18 of the National Security Act 2023 in relation to an offence falling within paragraph (ha);”
 - (b) in paragraph (i), for “(h)” substitute “(ha)”.”

Member's explanatory statement

This amendment makes consequential amendments to the Investigatory Powers Act 2016.

LORD SHARPE OF EPSOM

Schedule 17, page 194, line 16, at end insert –

“Counter-Terrorism and Border Security Act 2019 (c. 3)

- 10 In paragraph 62 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 (review of Schedule 3 by Investigatory Powers Commissioner) omit –
- (a) sub-paragraphs (1) to (5);
 - (b) sub-paragraphs (7) and (8).”

Member's explanatory statement

This amendment omits provision for the review of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 by the Investigatory Powers Commissioner. It is superseded by new Clause (Reviews: general), which provides for reviews of Schedule 3 by the independent reviewer appointed to review Parts 1 and 2 of the Bill.

Clause 94

LORD SHARPE OF EPSOM

Clause 94, page 64, line 19, at end insert –

“(za) regulations under section 64(1B);”

Member's explanatory statement

This amendment provides for the affirmative procedure to apply to regulations under clause 64(1B), which is inserted by Lord Sharpe's amendment to clause 64, page 45, line 19.

LORD SHARPE OF EPSOM

Clause 94, page 64, line 22, at end insert –

“(aa) regulations under section 67(3B);”

Member's explanatory statement

This amendment provides for the affirmative procedure to apply to regulations under clause 67(3B), which is inserted by Lord Sharpe's amendment to clause 67, page 46, line 36.

LORD SHARPE OF EPSOM

Clause 94, page 64, line 22, at end insert –

“(ab) regulations under section 79(1)(a);”

Member's explanatory statement

This amendment provides for the affirmative procedure to apply to regulations under clause 79(1)(a) (provision about the publication of information provided to the Secretary of State under clause 74 or 75).

LORD SHARPE OF EPSOM

Clause 94, page 65, line 3, leave out “63” and insert “64, 65 or 67”

Member's explanatory statement

This amendment is consequential on the additional regulation making powers in relation to specified persons conferred by Lord Sharpe's amendments to clause 64, page 45, line 19 and clause 67, page 46, line 36.

Title

LORD SHARPE OF EPSOM

Title, line 7, after “terrorism;” insert “to amend the Terrorism Act 2000;”

Member's explanatory statement

This amendment is consequential on the new Schedule inserted by Lord Sharpe before Schedule 17.

National Security Bill

RUNNING LIST OF ALL AMENDMENTS ON REPORT

Tabled up to and including

24 February 2023

[Sheets HL Bill 88 (a) to (l)]

24 February 2023
