

# Britain: government issues first “control orders” imposing house arrest

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Within hours of the Prevention of Terrorism Act 2005 (PTA) being signed into law on March 11, Britain’s home secretary, Charles Clarke, personally authorised the first control orders.

The PTA is a fundamental attack on democratic rights and overturns long-standing legal protections. It enables a wide range of restrictions to be imposed on those subjected to a control order. These can range from house arrest to electronic tagging, prohibitions from meeting certain individuals, restrictions on travel and bans on using telephones or the Internet.

The legislation contains no definitive list of what measures can be imposed under a control order. The potential scope of provisions goes far beyond the notorious “banning orders” imposed on opponents of the apartheid regime in South Africa.

The bill was passed backwards and forwards between the House of Commons and the House of Lords during 30 hours of debate. Although enjoying a majority in the Commons, the Labour government required the support of both Conservative and Liberal Democrat peers in the Lords.

Opposition in the House of Lords had a largely token character. The opposition parties had previously signalled their readiness to support the legislation provided the granting of control orders was supervised by the judiciary and the law included a so-called “sunset clause,” under which the legislation automatically lapses unless renewed.

In the end, the government for the most part got what it wanted. The protests of the Lords evaporated when the Labour government made some minor changes giving judges the power to decide upon a control order, but also allowing the home secretary to impose such orders “in an emergency.” No sooner had the law been passed, when the home secretary imposed control

orders under the cloak of an “emergency.”

A promise from Prime Minister Tony Blair that the legislation would be subject to a future “review” combined with a threat to call a snap election, on the grounds that the opposition was “soft on terrorism,” ensured the swift compliance of the bill’s opponents.

That those such as Baroness Margaret Thatcher felt compelled to offer some opposition to Labour’s plans for control orders was hardly an expression of fidelity to democratic principles. The Tories inflicted their own attacks on democratic rights while they were in power—particularly in Northern Ireland and in the Thatcher government’s union-busting attack on the 1984-1985 miners’ strike. Moreover, the Conservatives have signed off on every previous anti-democratic measure enacted by Blair’s government.

The PTA is only the latest in a series of laws that constitute a frontal assault on basic legal and human rights. These include ending the right to silence, allowing double jeopardy, and weakening the right to jury trials.

Sections of the political establishment might regard Labour’s reckless tinkering with Britain’s constitutional setup as potentially dangerous, but they too are driven to support measures to curb democratic freedoms because such measures are required to suppress opposition to predatory wars such as that waged against Iraq and stifle resistance to domestic policies that have produced bitter social divisions.

The legislation provides for governmental powers traditionally associated with a dictatorship. Writing in the press, Gareth Peirce, the solicitor representing several of those now subject to control orders, described the legislation as “the ultimate demand of any totalitarian regime: the executive is the accuser; the moment of accusation is also the moment of imposition

of the penalty. Wherever in the process a judge comes to be involved, the executive has already pre-determined that the individual will be stigmatised and punished on the basis of suspicion.”

A control order can be imposed where there is a “reasonable” suspicion that an individual is engaged in “terrorist-related” activity. Not only is the burden of proof far lower than in cases where a custodial sentence is involved, the range of activities that can lead to a control order is very widely defined. Furthermore, the suspect and his legal representatives can be prohibited from seeing the evidence upon which an order is based on the grounds that this might compromise the intelligence services.

The readiness of the Lords to accept such measures highlights the absence of any significant constituency within ruling circles committed to the preservation of democratic rights. If this is the position of the Lords, which through the Law Lords functions as Britain’s highest court, it is clear that no section of the judiciary will offer serious safeguards against arbitrary action by the government, should they be called on to do so.

Home Secretary Clarke issued his first control orders before the ink was dry on the new law. Ten men who had already, under previous legislation, been held in detention for some three years as terror suspects—without any charges being laid against them, without evidence of any crime being produced and without a public trial—found themselves subject to house arrest on the word of Clarke.

The breaching of a control order is now a criminal offence that carries a penalty of up to five years imprisonment.

The introduction of control orders is a wedge that will be used to launch further attacks on democratic rights both in Britain and throughout Europe. A recent report by the civil liberties organisation Statewatch notes: “Behind the scenes in G8, the Council of the European Union and the Council of Europe, far-reaching changes are being planned.”

These include broadening the definition of “terrorist offences” to include “preparatory and associated acts”—i.e., circumstances in which no actual terrorist attack has been carried out or even planned. Those accused of condoning or sympathising with terrorism could then be seized by the state.

Also See:

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[4 March 2005]

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[9 February 2005]

Britain: government proposes house arrest of terror suspects

[28 January 2005]



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