



# Counter-Terrorism and Border Security Act

## Introduction

The Counter-Terrorism and Border Security Bill was introduced into parliament on 6 June 2018. It aims to amend the Reinsurance (Acts of Terrorism) Act of 1993 to enable an extension of cover provided by the government-backed terrorism reinsurer Pool Re to include non-damage business interruption losses resulting from acts of terrorism. It also makes provisions regarding national security and updates existing counter-terrorism legislation to reflect the digital age, including the way in which people view content online. It also reflects the speed at which terrorism plots develop.

The Bill received Royal Assent on 12 February 2019 and is now an Act of Parliament.

### Core aims of the Bill

- Businesses can claim business interruption insurance to include losses from terrorism, which do not arise from physical damage to property.
- To include cyber terrorism along with chemical, biological, radioactive and nuclear risks – thereby creating the largest terrorism retro placement in the world.
- Adapting the Pool Re scheme to accommodate real life events.

“ We will not allow terrorists to change our way of life. So when businesses raised their concerns about a gap in insurance cover following a terrorist attack, we worked with Pool Re to come up with a solution. Today, we’ve changed the law to give businesses peace of mind, helping them to insure themselves against financial loss as a result of a terrorist attack, even if there is no physical damage to their property. This means businesses will be able to take out new and comprehensive policies to protect them in the future. ”

*John Glen, Economic Secretary to the Treasury*

## Background

The purpose of the Act is to make provisions to extend definitions of offences and punishments and to enable persons at ports and borders to be questioned for national security and other related purposes.

The government hopes that the Act will ensure that law enforcement and intelligence agencies are equipped with the most up to date and relevant powers necessary to counter the threat of terrorism.

The Act updated existing counter-terrorism legislation to reflect the advancements in technology and contemporary patterns of radicalisation. The government intends for the punishment to properly reflect the crime and for improvements in preventing re-offending.

The Bill is split into three parts:

- Part 1 sets out definitions of terrorist offences and defines the sentencing and management of terrorist offences.
- Part 2 covers border security at ports and borders and gives powers to question and detain persons suspected of involvement in hostile activity.
- Part 3 outlines the final provisions.

## Key points

### Terrorism reinsurance amendment

The Act means more insurers will offer new policies to businesses that include ‘losses from a terror attack that are not contingent on damage to commercial property. Currently, Pool Re, the government-backed terrorism reinsurer, can only reinsure losses incurred if a company’s premises had been physically damaged by terrorists. Business owners will now find it easier to buy terrorism insurance that will pay-out if they lose custom in the wake of a terror attack because they cannot trade or are prevented from accessing their premises.

The Bill will mean that businesses can claim business interruption insurance to include losses from terrorism, which do not arise from physical damage to property.

This is part of an amendment to the Reinsurance (Acts of Terrorism) Act of 1993, which set up the government-backed Pool Reinsurance Company Limited (Pool Re) to guarantee that insurance companies could cover losses resulting from acts of terrorism, regardless of the scale of the claims.



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The expansion of cyber cover will mean that cyber terrorism is now included along with chemical, biological, radioactive and nuclear risks – representing the most comprehensive and largest terrorism retro placement in the world.

As has been the case in the past the Pool Re scheme has adapted to accommodate real life events. The Explanatory Notes give the terrorist attack on Borough Market in June 2017 as the reasoning behind the clause:

“... there was limited physical damage to [Borough] market, but traders lost business as a result of the week-long closure of the market to enable police to investigate the crime scene. As the losses incurred by Borough Market businesses were not consequential on physical damage to commercial property, any terrorism-related insurance backed by Pool Re and held by those businesses may not have covered such losses...”

## Industry reaction

**Julian Enoizi, Chief Executive Officer at Pool Re:** “This amendment will close the terrorism insurance gap for businesses up and down the country, which, combined with our efforts to make cover more affordable for SMEs and regional businesses across Great Britain, will increase the resilience of the economy.”

**Graeme Trudgill, Executive Director at Biba:** “Both Biba members and MPs had raised with us the changing nature of terrorism which is leaving businesses exposed. We raised our concerns with Pool Re on the need to extend their scheme. We also recognise the need to encourage more small businesses to buy any kind of terrorism cover as fewer than 3% of SMEs take up any cover at all.”

**Bob Neill MP, Justice Select Committee Chair:** “With recent terrorist attacks in mind, the Sentencing Council has accelerated the process of producing new guidelines to ensure that they are available as soon as possible. While I commend the urgency with which the council has responded, it must not in any way compromise the full and careful consideration of the responses that it has received to its consultation, including our own.”

**Professor Colin Harvey of QUB School of Law:** “There is a risk that the broad scope of this new offence will have a chilling effect and further undermine guarantees on freedom of expression. Although notionally targeted at a member or supporter of a proscribed organisation the offence is of such breadth as to raise legitimate human rights concerns about its scope and potential application.”

## Contact

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