

Committee(s): City of London Police Authority Board Policy and Resources Committee	Dated: 20/09/2023 21/09/2023
Subject: National Security Act 2023	Public
Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?	1, 5, 6
Does this proposal require extra revenue and/or capital spending?	N
If so, how much?	N/A
What is the source of Funding?	N/A
Has this Funding Source been agreed with the Chamberlain's Department?	N/A
Report of: Remembrancer	For Information
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Summary

This report provides an update on the National Security Act 2023, which was first introduced into the Commons in May 2022 and received Royal Assent on 11 July 2023. Formerly called the Counter State Threats Bill, the Act introduces new measures to modernise existing counter espionage laws to address modern threats. The Corporation's main interest in the Act is the Foreign Interest Registration Scheme (FIRS) which it introduces and applies to the City of London Police Commissioner and Assistant Commissioners. The Act's substantive provisions, including its requirements to register under the FIRS, will come into force by regulations which have not yet been made. The scheme is expected to be implemented in 2024.

Recommendation(s)

Members are asked to note the report.

Main Report

Background

1. Initially known as the Counter State Treats Bill, the renamed National Security Bill was introduced into the Commons by the then Home Secretary Dame Priti Patel MP in May 2022 and was first debated by MPs during the Second Reading in June

2022. The intention of the Bill was to address threats to national security from espionage, sabotage and persons acting for foreign powers by:

- a. reforming existing espionage laws;
- b. introducing new offences to tackle state-backed sabotage and foreign interference;
- c. creating a registration scheme requiring individuals in the UK to register certain arrangements with foreign governments;
- d. enhancing police powers to support the investigation of state threats activity;
- e. reforming existing prohibited places provisions to protect the UK's most sensitive sites;
- f. providing powers to allow state threats to be tackled at an early stage;
- g. introducing new tools of last resort to manage those who pose a threat but have not met the threshold for prosecution;
- h. restricting the ability of convicted terrorists to receive civil legal aid and prevent their exploitation of civil damage systems.

Parliamentary Response to the Foreign Interest Registration Scheme

2. The Act aims to tackle state-backed sabotage and foreign interference by creating the Foreign Interest Registration Scheme (FIRS). It is a criminal offence for a person to carry out "political influence activity" or arrange for it to be carried out where this arrangement is not registered under the FIRS, and the person knows that the arrangement is not registered. The Act specifies what would constitute "political influence activity", and this is addressed below.
3. The scheme was initially met with criticism by both Peers and the financial services industry, owing to concerns that the FIRS could have a chilling effect on inward investment. The scope of the FIRS initially extended to activities of financial and professional services firms.
4. TheCityUK worked with partner organisations across the financial and professional services industry, including the City of London Corporation (which undertook Parliamentary briefing), to persuade the Government to narrow the scope of FIRS. This led to the Government amending the Bill in late February 2023 to reduce its scope. Under the Act, foreign businesses, charities and other bodies that act in their own interests and are not directed by a foreign state will not fall within the scheme and will not be required to register. Organisations and individuals carrying out political influence activities on behalf of a foreign state must register under the scheme or face a criminal sanction with a maximum two-year sentence, a fine or both.
5. At the Bill's Report stage in March 2023, Home Office Minister Lord Sharpe introduced the Government amendments to narrow the scheme. He assured peers that it was "a targeted regime, allowing the Secretary of State to require the registration of arrangements with specified foreign Governments or entities subject to foreign power control where she believes it is necessary to protect the safety or interests of the United Kingdom." The Minister argued that the scheme "will play a significant role in the deterrence and disruption of state threats activities by those countries, and entities linked to them, which are of greatest concern." The

amendments were passed in the Lords. Opposition spokesperson Baroness Hayter of Kentish Town recognised the significant changes made by the Government, commenting, “we have ended up with a FIRS that is very different from what we started with.”

Scope of the Foreign Interest Registration Scheme

6. The registration requirement applies where a foreign power or entity directs a person to publish or disseminate information publicly, distribute money, goods or services to UK persons, or communicate with listed persons for the purpose of influencing:
 - a) an election or referendum in the UK;
 - b) a decision of a Minister or a Government department;
 - c) proceedings of a UK registered political party; or
 - d) a Member of either House of Parliament.

7. The Act includes a list of persons, communication with whom is capable of being a political influence activity. These include:
 - a) Ministers
 - b) MPs
 - c) The Mayor of London;
 - d) Mayors of the Combined Authority Areas;
 - e) political party officials;
 - f) candidates for election to specified offices;
 - g) senior civil servants
 - h) Senior military officers (commodore/brigadier/air commodore and above);
 - i) Senior police officers outside London (Chief Constables and Deputy Chief Constables);
 - j) Police and Crime Commissioners (including any mayors or deputy mayors who hold this role).

8. This list of persons with whom communication must be registered also includes the City of London Police Commissioner and Assistant Commissioners. This applies the FIRS to the City of London Police in the same way that it applies to the Metropolitan Police. The FIRS does not apply to the Police Authority Board.

9. The Act includes a regulation making power which would enable the Government to add “a person exercising public functions” to the list. This definition appears broad enough to enable the Government in the future to add Corporation members or Officers. The regulations may not be made unless and until they have been approved by each House of Parliament.

10. The Act provides for several exemptions from the scheme aimed at ensuring proportionality, including for recognised news publishers, legal activities carried out by a lawyer, diplomats and their family members and activities carried out under international agreements to which the UK is a party. Guidance will be published by the Government ahead of the scheme’s requirements coming into force some time in 2024.

Conclusion

11. Following criticism from peers and from the financial and professional services industry, the Government narrowed the scope of the FRIS. The scheme's application to the City of London Police Commissioner and Assistant Commissioners means that any communication for a listed purpose with the Commissioner or Assistant Commissioners by an individual in an arrangement with a foreign power must be registered by that individual. The scheme is expected to be implemented in 2024. It cannot be implemented until the Act's substantive provisions have been brought into force by regulations, which have not yet been made.

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