Neutral Citation Number: [2025] EWHC 1708 (Admin)

Case No: AC-2025-LON-002122

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 04/07/2025

Before :

MR JUSTICE CHAMBERLAIN

- -

Between :

THE KING
on the application of
HUDA AMMORI — **Claimant**

- and -

SECRETARY OF STATE FOR THE HOME DEPARTMENT — **Defendant**

- -

Raza Husain KC, Blinne Ní Ghrálaigh KC, Paul Luckhurst, Owen Greenhall, Audrey Cherryl Mogan, Mira Hammad and Grant Kynaston (instructed by **Birnberg Peirce Solicitors**) for the **Claimant**
Ben Watson KC, Stephen Kosmin, Andrew Deakin and Karl Laird (instructed by **the Government Legal Department**) for the **Defendant**

Hearing dates: 4 July 2025

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Approved Judgment
(Revised Version)

Mr Justice Chamberlain:

Introduction

1. The claimant is one of the founders of Palestine Action ("PA"), which she describes as "a national network created by a number of direct action groups and activists from across the UK". She says that PA aims:

> "(i) to prevent serious violations of international law by Israel… against the Palestinian people, including war crimes, crimes against humanity, apartheid and genocide, and the aiding, abetting and facilitation thereof by others, including corporate actors; and
>
> (ii) to expose and target property and premises connected to such crimes and violations".

2. On 20 June 2025, two protestors linked to PA entered RAF Brize Norton and sprayed red paint on two RAF aircraft. The claimant says that the base is a departure point for flights to RAF Akrotiri in Cyprus, which she describes as "a key site of British military support for Israel's genocide in Gaza". A defence source was quoted in an article on the BBC website as saying that they "did not expect the incident to affect operations".

3. On 23 June 2025, the Home Secretary made a written ministerial statement in the House of Commons. She explained that she proposed to make an order adding Palestine Action to the list of proscribed organisations under the Terrorism Act 2000 ("the 2000 Act"). In all but urgent situations, before making such an order, a draft must be laid before Parliament and approved by affirmative resolution of both Houses.

4. The proscription order was laid in draft on Monday 30 June. The draft order adds PA, together with two other organisations—the Maniacs Murder Cult and the Russian Imperial Movement—to the list of proscribed organisations. It has since been debated in and affirmed by each House (the House of Commons on 2 July and the House of Lords on 3 July). It is intended that the order will be made today (4 July) and will come into force tomorrow (5 July), subject to any interim relief the court may grant.

5. Judicial review claim documents were sent to the court late on the evening of Friday 27 June. They include an application for interim relief to restrain the Secretary of State from making the proscription order or, if made before the hearing, to suspend its effect.

6. After considering a response from the Home Secretary and a reply by the claimant over the weekend, I gave directions for a case management hearing on Monday 30 June. Following that hearing, I gave directions for an interim relief hearing today (4 July) and a separate permission hearing in the week commencing 21 July 2025.

7. The Secretary of State has indicated that she is likely to apply for a declaration under s. 6 of the Justice and Security Act 2013 ("the 2013 Act") so that the court can consider CLOSED material at the permission hearing. There has been no time for a closed material procedure before the interim relief hearing.

Evidence

The claimant's evidence

8. In her witness statement, the claimant says this:

> "3… In 2020, I co-founded Palestine Action, a direct-action protest group aimed at preventing military targets in the UK from facilitating gross abuses of international law. The aim of terrorists is to take lives and hurt people: that is the opposite of what Palestine Action is about.
>
> …
>
> 30. Palestine Action's aim is to take direct action against Israel's arms trade in Britain. Our aims have never included, and we have never encouraged, harm to any person at all. The goal is simple: to put our bodies in the way of military machine perpetrating genocide. The main target has been stopping Elbit Systems [a defence company which is said to supply the Israeli government].
>
> 31. I am not the leader. We are a horizontal movement and everyone is the same. We have different working groups for different things and all work together. I sometimes do more of the public speaking. We encourage people to have their own ideas and take their own actions. These do involve damage to property contributing to the arms industry, but also have involved demonstrations, talks, sit ins, posters/banners and sieges. For example, supporters of Palestine Action from the local community in Leicester hold a demonstration outside an Elbit factory there weekly."

9. The claimant predicts that, if the proscription takes effect, she will be labelled as the co-founder of a terrorist organisation and this will make her "incredibly unsafe". Those who have taken direct action with PA, including many who have not yet completed their university degrees, are likely to lose their jobs or be unable to get one. The claimant would have to avoid travelling to the Middle East for fear of assassination. Many Palestinian supporters would be unable to go home. Proscription may have a reputational impact on the claimant's immediate family.

10. People all over the country will have to discard their PA tee-shirts, banners and badges or risk committing a terrorist offence. Hundreds who are waiting to be charged or tried after taking direct action with PA, including the claimant herself, will be unable to receive a fair trial or to speak in favour of their own actions. When they stand trial, they will be unable to receive emotional or financial support.

11. The claimant predicts that, if PA is proscribed, she will never be given a platform to speak publicly, because PA will be "ranked alongside ISIS and National Action (both being groups I detest)". The claimant also fears that proscription may have an impact

on the release of a film called *To kill a war machine*, which was due to be screened in the UK and globally.

12. The claimant concludes:

> "45. At the time I write this statement, Palestinians in Gaza are trapped in a nightmare. A population has been pushed into a tiny space, starved, killed, maimed, tormented and is at the verge of destruction. Our movement seeks to end this suffering: not through hurting people or fighting but through direct action, like many protestors before us. We are not the terrorists."

13. The claim was filed with supporting witness statements from Anna Ost, Senior Legal Officer at the European Legal Support Centre; Sam Grant, Director of External Relations at the National Council for Civil Liberties ("Liberty"); and Sacha Deshmukh, Chief Executive Officer of Amnesty UK. This evidence shows that PA has widespread support among those supportive of Palestinian rights and claims and that the proposed proscription has given rise to serious concern on the part of some journalists, politicians and mainstream civil society groups and non-governmental organisations.

14. Further evidence was filed on 2 July from the claimant, Ms Ost and other individuals.

15. In her second witness statement, the claimant records her shock and frustration that PA is to be proscribed alongside the Maniacs Murder Cult and the Russian Imperial Movement. She points out that it has taken 5 years to build up the network that is PA and that it would be extremely difficult to rebuild it if it were de-proscribed after a period of proscription for several months. She gives details of requests under the Freedom of Information Act 2000 for documents recording contact between the Israeli government, Elbit Systems and others in the defence sector and ministers, officials and senior police officers. Details are given of public statements by a lobby group called We Believe in Israel, claiming credit for the proscription of PA, and of two letters sent by the Campaign Against Antisemitism to the Secretary of State calling for the proscription of PA, among other groups.

16. In her second witness statement, Ms Ost gives details of cases of which her organisation is aware, where those accused of association with terrorists have encountered problems at university, at work, with professional regulatory bodies and/or in relation to their immigration status.

17. The other individuals whose evidence is relied upon are Zoe Stormonth Darling (a pupil barrister), Selma Dabbagh (a British-Palestinian solicitor and novelist), Sally Rooney (a novelist), Alexei Sayle (a comedian, presenter and writer), Lydia Dagostino (a solicitor representing persons charged with offences arising out of direct action by PA), Kevin John McEvoy (a journalist), Joe Irving (a campaigner and freelance web developer), Ibrahim Takey (a protestor against Elbit UK in Leicester), Basma Ghalayini (a Palestinian Gazan office manager), Andrew Feinstein (writer, sometime politician and Executive Director of Shadow World Investigations) and Aimee Shalan (Chair of the British Palestinian Committee). It is not possible to summarise here the content of these statements, but each attests to the anticipated adverse impact of the order.

18. In her statement, Ms Dagostino outlines the potential consequences of the proscription of PA for individuals who continue to express support for it. These include arrest, deprivation of liberty, stigma and loss of employment. She also explains her concerns about the effects of proscription on persons awaiting trial for offences connected with PA direct action in the past. She points out that, if interim relief were granted, the criminal law would still supply a range of offences which would offer protection to the public until the judicial review claim were determined and that there does not seem to be a substantial case for urgency. Finally, she refers to and exhibits a statement from a panel of experts appointed by the UN Human Rights Council, which includes five UN special rapporteurs. The statement includes the following:

> "While there is no binding definition of terrorism in international law, best practice international standards limit terrorism to criminal acts intended to cause death, serious personal injury or hostage taking, in order to intimidate a population or compel a government or an international organisation to do or to abstain from doing any act."

19. Ms Dagostino also refers to a statement of intention by one prominent journalist and writer to continue to support PA even if it is proscribed. He refers to this as "our 'I am Spartacus' moment".

20. The following is an extract from Sally Rooney's witness statement:

> "9. Though I am based in Ireland, my work is published in the UK. My novels regularly appear in bestseller lists and I often travel to Britain to speak in public about my work. I am and will continue to be a committed supporter of Palestine Action. If it that support is criminalised, I will effectively be prevented from speaking at any future public events in the UK, since I could not in good conscience disguise or lie about my principles in public. If I continue to voice support for Palestine Action from my home in Ireland, what are the likely consequences? Will I be denounced publicly by the Prime Minister? Will bookshops go on stocking the work of an author the Home Secretary has branded a 'terrorist' simply for supporting a protest group?
>
> 10. The BBC has adapted two of my books for television; both series are presently promoted on the iPlayer service. Normal People, which I co-wrote and produced, was the BBC's most-streamed series in 2020, with over 62 million views. My beliefs have not changed since the making of that series, and I have done nothing but continue to express them. If the expression of those beliefs becomes a terror offence under UK law, would the BBC continue to screen and promote my work? Is it likely that I could ever again collaborate with British public institutions like the BBC as I have done in the past?
>
> 11. The cultural effects of proscription could not be easily mended, even if the Home Secretary later changed her mind. For

> any public figure to be labelled a 'supporter of terrorism' by the state would have serious consequences. It would likely end or severely restrict the careers of many emerging artists. 'Terrorism' is not a trivial word."

The application to intervene by the UN Special Rapporteur

21. On the afternoon of 3 July, Prof. Ben Saul, the UN Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, filed an application for permission to intervene in the proceedings pursuant to CPR 54.17. He explained in a "preliminary witness statement" that his mandate was created specifically to address concerns over the misuse of legislation and policies to combat terrorism and the growing adverse impact on human rights and fundamental freedoms. He explained that it is his view that "treating 'direct action' against property interests as 'terrorism' seriously over-classifies the nature of the conduct, and is fundamentally contrary to best practice international standards on the nature and scope of terrorist acts". He argues that the domestic legislation should be read consistently with this view.

22. Prof. Saul adds this:

> "27. Proscription of Palestine Action would set a precedent for the proscription of other robust protest and 'direct action' movements hitherto regarded as unruly but never as terrorist, such as certain climate change activism. It would also be out of step with comparable liberal democracies, including in Europe and various common law States, where mere property damage has seldom been a sufficient basis for designating groups as terrorist.
>
> 28. Most responsible States globally have limited terrorism designations to extremist actors engaged in grave large scale atrocities, such as Al Qaeda or ISIL and their associates, groups involved in intense armed conflict against State authorities (e.g. Hezbollah, Hamas, PKK, LTTE and so on), or other organized campaigns of intense violence by separatist, socialist, far-right, religious or other causes. Protest movements claiming to defend human rights, that are an irritant to property rights or affect certain national security interests, but which do not engage in sustained campaigns of murder, are not typically treated as 'terrorist', even where they could technically come within a national terrorism definition. Definitions are frequently over-inclusive, but good judgment and restraint also need to be exercised in a democracy committed to human rights and a substantive not merely procedural conception of the rule of law."

The Home Secretary's reasons for proscription

23. The Home Secretary's written ministerial statement to the House of Commons on 16 June 2025 includes the following:

"…The disgraceful attack on Brize Norton in the early hours of the morning on Friday 20 June is the latest in a long history of unacceptable criminal damage committed by Palestine Action. The UK's defence enterprise is vital to the nation's national security and this Government will not tolerate those who put that security at risk…

Since its inception in 2020, Palestine Action has orchestrated a nationwide campaign of direct criminal action against businesses and institutions, including key national infrastructure and defence firms that provide services and supplies to support Ukraine, NATO, Five Eyes allies and the UK defence enterprise. Its activity has increased in frequency and severity since the start of 2024 and its methods have become more aggressive, with its members demonstrating a willingness to use violence. Palestine Action has also broadened its targets from the defence industry to include financial firms, charities, universities and Government buildings. Its activities meet the threshold set out in the statutory tests established under the Terrorism Act 2000. This has been assessed through a robust, evidence-based process, by a wide range of experts from across Government, the police and the security services.

In several attacks, Palestine Action has committed acts of serious damage to property with the aim of progressing its political cause and influencing the Government. These include attacks at Thales in Glasgow in 2022; and last year at Instro Precision in Kent and Elbit Systems UK in Bristol. The seriousness of these attacks includes the extent and nature of damage caused, including to targets affecting UK national security, and the impact on innocent members of the public fleeing for safety and subjected to violence. The extent of damage across these three attacks alone, spreading the length and breadth of the UK, runs into the millions of pounds.

...

I have considered carefully the nature and scale of Palestine Action's activity. Proscription represents a legitimate response to the threat posed by Palestine Action. The first duty of Government is to keep our country safe, which is the foundation of our plan for change.

Given significant public concern over recent activities by this group, including the incident in Brize Norton last week, and balancing the relevant considerations, I have decided to confirm this decision to proscribe to the House in advance of laying the relevant order."

24. The draft proscription order laid on 30 June was accompanied by an Explanatory Memorandum. The part of the Memorandum which deals with PA says this:

> "5.2 Palestine Action is a pro-Palestinian group with the stated aim to support Palestinian sovereignty by using direct criminal action tactics to halt the sale and export of military equipment to Israel. Since its inception in 2020, Palestine Action has orchestrated a nationwide campaign of direct criminal action against businesses and institutions, including key national infrastructure and defence firms that provide services and supplies to support Ukraine, the North Atlantic Treaty Organisation (NATO), 'Five Eyes' allies and the UK defence enterprise. Palestine Action has also broadened its targets from the defence industry to include financial firms, charities, universities and government buildings. Its activity has increased in frequency and severity since the start of 2024 and its methods have become more aggressive, with its members demonstrating a willingness to use violence. Its activities meet the threshold of being concerned in terrorism as set out in the Terrorism Act 2000.
>
> 5.3 The UK Government assesses that Palestine Action commits and participates in acts of terrorism. In several attacks, Palestine Action has committed acts of serious damage to property with the aim of progressing its political cause and influencing the Government. These include attacks at Thales in Glasgow in 2022, and in 2024 at Instro Precision in Kent and Elbit Systems UK in Bristol. The seriousness of these attacks includes the extent and nature of damage caused, including to targets affecting UK national security, and the impact on innocent members of the public.
>
> 5.4 Palestine Action prepares for terrorism. The organisation has provided practical advice to assist its members with conducting attacks that have resulted in serious damage to property at targets across the UK to further its cause. In late 2023, Palestine Action released the 'The Underground Manual' which can be accessed via its website. The guide encourages the creation of cells and provides practical guidance about how to carry out activity against private companies and government buildings on behalf of Palestine Action, including how to evade arrest. The document provides a link to a website also created by Palestine Action which contains a map of specific targets across the UK. The manual encourages members to undertake a number of operational security measures to protect the covert nature of their activity.
>
> 5.5 Palestine Action promotes and encourages terrorism. Through its media output, Palestine Action publicises and promotes its attacks involving serious property damage, as well

> as celebrating the perpetrators. Palestine Action activists often record footage of their activity and Palestine Action publicises this imagery and other details on its media channels. Palestine Action encourages its followers to support the perpetrators of such attacks and to send messages of support to those who are imprisoned as a result of their activity, demonstrating a sympathetic and celebratory posture.
>
> 5.6 Since 2020, Palestine Action's campaign has resulted in hundreds of millions of pounds worth of criminal damage and lost revenue. Members of Palestine Action have been charged with serious offences for activity carried out during attacks, including offences involving violence and weapons. Attackers caused over a million pounds worth of damage at the Thales defence factory in Glasgow in 2022. The Sheriff, in passing custodial sentences for the attacker's violent crimes, spoke of the panic among staff who feared for their safety as pyrotechnics and smoke bombs were thrown.
>
> 5.7 Palestine Action has a considerable online presence that has enabled the organisation to galvanise popular support; recruit and train members across the UK; and raise considerable funds through online donations. Palestine Action has a footprint in all 45 policing regions in the UK.
>
> 5.8 Proscription will enable law enforcement to effectively disrupt Palestine Action. It will help undermine the convert [sic] methods that Palestine Action uses and help reduce the risk that Palestine Action radicalises people wishing to demonstrate legitimate support for the Palestinian cause into becoming members or supporters of the organisation."

25. As to why the proscription order is being brought into force on the day after it is made, the Memorandum says this:

> "11.1… any significant delay between the laying and coming into force of the Order would alert the organisation to its impending proscription and may result in pre-emptive action by the organisation's members designed to circumvent the provisions of the Act and/or the criminal law."

Liberty and Amnesty International

26. By a letter sent to the court on the evening of 3 July, Liberty and Amnesty International have given notice that they are also considering applying to intervene in the proceedings "if interim relief is granted". They argue that proscription of PA is not a proportionate interference with freedom of expression and association, but are concerned that, if interim relief is not granted, there is a real risk that advocacy for the de-proscription of PA could amount to one or more offences under the 2000 Act.

Legal framework

The Terrorism Act 2000

27. Section 1(1) defines "terrorism" as

> "the use or threat of action where—
>
> (a) the action falls within subsection (2),
>
> (b) the use or threat is designed to influence the government or an international governmental organisation or to intimidate the public or a section of the public, and
>
> (c) the use or threat is made for the purpose of advancing a political, religious, racial or ideological cause."

28. Section 1(2) provides that action falls within it if it:

> "(a) involves serious violence against a person,
>
> (b) involves serious damage to property,
>
> (c) endangers a person's life, other than that of the person committing the action,
>
> (d) creates a serious risk to the health or safety of the public or a section of the public, or
>
> (e) is designed seriously to interfere with or seriously to disrupt an electronic system."

29. It may be noted that action done for the purposes set out in s. 1(1)(b) and (c) can constitute terrorism if it involves serious damage to property even if it does not involve violence against any person or endanger life or create a risk to health or safety. In this respect it may fairly be observed that the statutory concept is wider than the colloquial meaning of the term.

30. Section 3(3) gives the Secretary of State the power by order to proscribe an organisation by adding it to Schedule 2 to the Act. By s. 3(4) and (5), the power may be exercised only if the Secretary of State believes that it is "concerned in terrorism", which means that the organisation "(a) commits or participates in acts of terrorism, (b) prepares for terrorism, (c) promotes or encourages terrorism, or (d) is otherwise concerned in terrorism".

31. By s. 123(1) orders under the 2000 Act must be made by statutory instrument. By s. 123(4) and (5), an order under s. 3(3) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament, save where the Secretary of State is of the opinion that it is necessary to proceed urgently, in which

case the instrument ceases to have effect 40 days later, unless in the intervening period it has been approved by a resolution of each House.

32. There is no express statutory requirement to consult with anyone (including the organisation concerned) before making a proscription order. Once the order has been made, however, s. 4 provides for an application to be made to the Secretary of State for an order de-proscribing it. If this is refused, s. 5 confers a right of appeal to the Proscribed Organisations Appeal Commission ("POAC"), which must allow the appeal if it considers that the decision to refuse to de-proscribe was flawed when considered in the light of the principles applicable on an application for judicial review. In that case, POAC can order the Secretary of State to lay an order removing the organisation from Schedule 2 or, in an urgent case, make an order removing it. POAC is chaired by a High Court judge. It operates a closed material procedure, but has no power to grant interim relief.

33. If the proscription order comes into force, and for as long as it remains in force, it will be an offence:

    (a) to belong to or profess to belong to PA, subject to a defence established by the defendant proving that the organisation was not proscribed on the last (or only) occasion on which he became a member or began to profess to be a member and that he has not taken part in the activities of the organisation at any time while it was proscribed. (s. 11 of the 2000 Act);

    (b) to invite support for PA (if the support is not restricted to the provision of money or other property within the meaning of s. 15) (s. 12(1));

    (c) to express an opinion or belief that is supportive of PA, reckless as to whether a person to whom the expression is directed will be encouraged to support it (s. 12(1A));

    (d) to arrange, manage or assist in arranging or managing a meeting which one knows is to support PA, to further the activities of PA or to be addressed by a person who belongs or professes to belong to PA (s. 12(2)); or

    (e) to address a meeting with the purpose of encouraging support for PA or furthering its activities (s. 12(3)).

34. On conviction on indictment, these offences carry a maximum sentence of 14 years' imprisonment or a fine or both (ss. 11(3)(a) and 12(6)(a)).

35. In addition, it will be an offence:

    (a) in a public place to wear an item of clothing or wear, carry or display an article in such a way as to arouse reasonable suspicion of being a member or supporter of PA (s. 13(1)); or

    (b) to publish an image of an item of clothing or any other article in such a way as to arouse reasonable suspicion of being a member or supporter of PA (s. 13(1A)).

36. On summary conviction, these offences carry a maximum sentence of 6 months' imprisonment or a level 5 fine or both (s. 13(3)).

37. There are further offences, punishable by up to 14 years' imprisonment, under s. 15 in relation to fund-raising for the purposes of terrorism, under s. 16 in relation to the use or possession of money or other property for the purposes of terrorism, under s. 17 in relation to arrangements to make money or property available for the purposes of terrorism (funding arrangements) and under s.18 in relation to arrangements facilitating the retention or control of terrorist property by concealment, removal, transfer etc. (money laundering). Those offences are not limited to proscribed organisations, but s. 14 defines "terrorist property" as including any resources of a proscribed organisation and s. 1(5) provides that action "for the purposes of terrorism" includes action taken for the benefit of a proscribed organisation.

38. By s. 40, a person who has committed an offence under any of ss. 11, 23 or 15 to 18 is a "terrorist".

39. Under s. 19 it is an offence to fail to disclose any belief or suspicion that another person has committed an offence under any of ss. 15-18 if that belief or suspicion is based on information which comes to a person's attention in the course of a trade, profession, business or employment.

The availability of interim relief in principle

40. When the claim was initially sent to the court on 27 June, the claimant sought interim relief to prevent the Home Secretary from laying the draft proscription order in Parliament. This form of relief would have given rise to difficult constitutional issues, to which the Secretary of State drew attention in written submissions on 28 June and in her skeleton argument for today's hearing. I do not need to decide whether that relief would have been available, because the directions I gave on 30 June involve consideration of the application for interim relief after the order has been laid in and affirmed by a resolution of each House of Parliament.

41. At the hearing on 30 June, I raised another point. If the order were made by the Secretary of State before the end of the hearing today, would there be jurisdiction to grant interim relief suspending its legal effect? David Blundell KC for the Secretary of State submitted that there would. In their skeleton argument, the Secretary of State's counsel submitted: "The position is orthodox—if secondary legislation can be quashed by way of final relief by the court, it necessarily follows that its effect can be suspended pending the determination of an application for judicial review."

42. There is force in this reasoning. There is no doubt that the court has jurisdiction to grant final relief quashing an order made by a Minister under statutory powers, even where the order has been affirmed by each House of Parliament: see e.g. *R (Asif Javed) v Secretary of State for the Home Department* [2001] EWCA Civ 789, [2002] QB 129. Equally, if the order has not yet been made, there is no doubt that the court could grant an injunction restraining the Secretary of State from making it. It would be anomalous if the court were powerless to grant effective interim relief in circumstances where, for one reason or other, it has not been possible to get to court until after the order has been made. As a matter of principle, I agree with the Secretary of State that it should be

possible to make an order suspending the effect of the order until some future date (eg the permission hearing).

43. The most obvious way to do this would be to grant a stay. That remedy applies to decisions by Ministers as well as proceedings before courts and tribunals (*R v Secretary of State for Education, ex p. Avon County Council* [1991] 1 QB 558, 561F-562B) and can be granted even after the decision has been fully implemented (*R (H) v Ashworth Special Hospital Authority* [2002] EWCA Civ 923, [2003] 1 WLR 127, [42]-[46]). At [47] of his judgment in the *Ashworth* case, Dyson LJ said that CPR 54.10 makes the grant of permission a necessary condition for a stay. If that is the correct interpretation of CPR 54.10, it would be necessary to consider other forms of relief.

44. In a note filed on 3 July by the defendant's counsel, it was said that the Secretary of State still planned to make the order on the morning of 4 July but that, if the court were minded to grant interim relief, it could grant an interim declaration in the following form:

> "It is hereby declared that the following shall have no legal effect until further order of the Court insofar as it concerns 'Palestine Action': the Secretary of State's signature making the Order, specifically Articles 1(2), 2, and 3 of the Order".

45. The claimant submitted that it was not clear that this form of relief would be proper and therefore applied on the afternoon of 3 July for a very short-term injunction restraining the Secretary of State from making the order until after the conclusion of the hearing on 4 July.

46. I decided that it was not necessary to grant the short-term interim relief sought by the claimant. As I have said, as a matter of principle, it would be anomalous if there were no way of effecting the suspension of the order. Although an interim declaration is an unusual remedy, there is no good reason why it should not be made in this situation if the court were otherwise minded to grant relief.

The test for interim relief

47. Both parties agree that *American Cyanamid Co. v Ethicon Ltd* [1975] AC 396 provides the basic framework for consideration of interim relief. It has sometimes been suggested that the basic merits threshold ("serious question to be tried") is raised in the public law context. In *R (FTDI Holding Ltd) v Chancellor of the Duchy of Lancaster* [2025] EWHC 241 (Admin), Singh LJ and I said this:

> "15. We do not consider that the appellate authorities support the proposition that a uniform, higher merits threshold applies in every public law case. Even in *R v Secretary of State for Transport ex p. Factortame (No. 2)* [1991] 1 AC 603, a case about the potential disapplication of primary legislation, Lord Goff of Chieveley was careful to say, at 674A, that 'the discretion conferred upon the court cannot be fettered by a rule'. Rather, the importance of the public law context came in at the balance of convenience stage, when the court would accord great

> weight to the public interest in the enforcement of an apparently valid law and a claimant seeking to enjoin such enforcement would have to show that his challenge was 'prima facie so firmly based as to justify so exceptional a course being taken'.
>
> 16. This seems to us to be consistent with what was said by Lord Walker of Gestingthorpe in the Privy Council in *Belize Alliance v Department of the Environment of Belize* [2003] 1 WLR 2839, at [39]: '(because the range of public law cases is so wide) the court has a discretion to take the course which seems most likely to produce a just result'. Similarly, in *R (Governing Body of X) v Office of Standards in Education, Children's Services and Skills* [2020] EWCA Civ 594, [2020] EMLR 22, Lindblom LJ (with whom Sir Geoffrey Vos MR and Henderson LJ agreed) held at [66] that there was no separate 'threshold' or 'gateway' in public law cases. Rather, 'the underlying strength of the substantive challenge is likely to be a significant factor in the balance of considerations weighing for or against the granting of an injunction'.
>
> 17. In our judgment, this is an accurate and sufficient statement of the law as regards interim relief in public law cases. The special feature of such cases is that, other things being equal, it is likely to be in the public interest to allow a defendant public authority to enforce the law (as it understands it), or exercise powers in what it considers to be a lawful manner. The weight to be accorded to this public interest will vary from context to context, but may be considerable. In many cases, the claimant would need to point to something very compelling to outweigh it. In deciding whether a claimant has done so, the court will consider both the prima facie strength of the claim and the gravity of the consequences that would follow if interim relief were not granted. It is not possible, and would not be desirable, to lay down anything more prescriptive than that."

48. Applying these principles, the interim relief sought here would suspend the effect of an order which the Secretary of State considers is required in the public interest and which has been affirmed by both Houses of Parliament. In those circumstances, other things being equal, there is strong reason to allow the Secretary of State to make the order in what she considers to be a lawful manner.

49. The context here increases the weight to accorded to public interest in allowing the Secretary of State to make the order. For institutional and constitutional reasons, the courts accord a wide margin of discretion to the executive when taking decisions about how to protect the public from risks associated with terrorism: *Secretary of State for the Home Department v Rehman* [2001] UKHL 47, [2003] 1 AC 153, esp. at [50] (Lord Hoffmann); *R (Begum) v. Special Immigration Appeals Commission* [2021] UKSC 7, [2021] AC 765, esp. at [70] (Lord Reed); and, most recently, *U3 v. Secretary of State for the Home Department* [2025] UKSC 19, [2025] 2 WLR 1041, [66]-[67]. The application of these principles to decisions about interim relief was considered in

Attorney General v BBC [2022] EWHC 826 (QB), [2022] 4 WLR 74, [31]-[33] and *FTDI* at [40]. In the latter case, Singh LJ and I summarised the approach as follows:

> "It is the court, not the executive, which holds the scales, deciding where the balance falls between the competing public and private interests. However, where one of the interests is national security, the court must show great respect to the judgment of the executive about whether the relevant risk is made out and about the weight to be attached to it. This means that, subject to review on rationality or other public law grounds, both the existence of a risk to national security and the weight to be ascribed to it are matters for the executive. In many cases it may be difficult to find interests sufficiently weighty to outweigh the public interest in national security."

Submissions for the claimant

50. Raza Husain KC for the claimant submitted that interim relief should be granted restraining the Secretary of State from making the order or suspending its effect until the permission hearing fixed for the week of 21 July. He submits that the claimant's grounds raise serious issues to be tried.

51. The claimant and many others will suffer serious harm and in many cases irremediable prejudice between now and judgment if the claim is successful and relief is not granted. In particular:

    (a) PA, a grassroots direct action network built up over five years, will be destroyed overnight. All distribution lists, social media accounts, and literature will be deleted or destroyed. Any funds or property will be immediately deemed terrorist property.

    (b) The claimant will be unable to continue the political campaigning to which she has dedicated her life. People will not risk inviting her to meetings given the offence punishable by 14 years' imprisonment of arranging a meeting at which a member of a proscribed organisation speaks. Other individuals linked to Palestine Action will be similarly affected.

    (c) Insofar as individuals do breach the prohibitions to which proscription gives rise, the effects on them will be extremely severe. They face deprivation of liberty upon arrest and potentially on remand pending trial; the acute stigma of arrest and charge for a terrorism office; and potential loss of employment due to either of these things.

    (d) Overall, this unprecedented proposed proscription of a grassroots protest movement will have a profoundly chilling effect on freedom of speech at a time of acute public concern about the serious breaches of international law being perpetrated against Palestinians in Gaza.

52. By contrast, if interim relief is granted:

    (a) A range of legal powers are already in place to deal with unlawful direct action by persons associated with Palestine Action. These include: the ordinary criminal law;

terrorist offences which do not depend on proscription; and civil injunctions backed by criminal sanctions (as used against groups like Just Stop Oil or Insulate Britain).

(b) The Secretary of State has not proceeded with any urgency. Palestine Action was founded in 2020. The Home Secretary was advised as early as 13 March 2025 that the statutory tests for proscription were met, yet the decision to proscribe was announced over three months later, on 23 June 2025. Moreover, she did not use the urgent procedure under the 2000 Act, which meant a further delay of around two further weeks between the announcement of the decision to proscribe and the coming into force of any proscription order.

(c) Against that background, the Home Secretary has not put any reasoning or evidence before the Court which demonstrates that proscription needs to be brought into force before the permission hearing in under three weeks' time (or judgment on the substantive claim thereafter). Still less has she established that this asserted need outweighs the serious prejudice which would be caused to the claimant.

Discussion

Preliminary

53. The proscription order will undoubtedly have severe effects on the claimant and many others. The exercise of the power in respect of a group such as PA may also have wider consequences for the way the public understands the concept of "terrorism" and for public confidence in the regime of the 2000 Act. It is not, however, the court's function to comment on the wisdom of the use of the power in this case.

54. My task is a narrower and more focussed one. In the light of the authorities set out at [47]-[49] above, it has two parts. These are, first, to consider whether any of the claimant's grounds of challenge raises a serious question to be tried as to whether the proscription order is unlawful. If I find that any ground does raise such a question, I must assess the strength of the case under that ground. Secondly, and in the light of that assessment, I must balance the harm that will ensue if interim relief is granted and the claim later fails against the harm if interim relief is refused and the claim later succeeds.

55. In striking this balance, I bear in mind that the 2000 Act confers the function of deciding when proscription is necessary in the public interest on the Secretary of State, not the court; that the judgment the Secretary of State has reached is entitled to considerable respect especially where, as here, it is made in part at least for reasons of national security; and that the order whose effect the claimant asks me to suspend is secondary legislation which has been affirmed by both Houses of Parliament.

Serious issue to be tried/strength of the claim

Identification of the grounds of challenge

56. The grounds of challenge set out in the Statement of Facts and Grounds (which was filed at short notice on 27 June) are expanded upon considerably in the claimant's 38-page skeleton argument, filed on 2 July. Raza Husain KC made clear that the latter contains the grounds which the claimant wishes to advance. To the extent that

amendments are required to the Statement of Facts and Grounds to incorporate the points in the skeleton argument, I grant that permission.

Alternative remedy

57. Ben Watson KC for the defendant makes a general point which is potentially relevant to all the claimant's grounds of challenge. He submits that judicial review is inappropriate because an application for de-proscription and an appeal from any refusal together constitute an alternative remedy. In this respect he relies on the decision of Richards J in *R (Kurdistan Workers' Party) v Secretary of State for the Home Department* [2002] EWHC 644 (Admin).

58. In my judgment, while the reasoning *Kurdistan Workers' Party* case provides support for Mr Watson's submission, it does not on its own enable me to conclude that this claim raises no serious question to be tried. I have reached that conclusion for two reasons.

59. First, part at least of Richards J's reasoning was based on the unavailability in the High Court of a statutory closed material procedure, with the result that POAC was the more appropriate forum for a challenge which might involve sensitive intelligence material: see e.g. at [76]-[78]. Since the decision in that case, the 2013 Act has provided the option of a closed material procedure in judicial review proceedings. This is a potentially material change to the legal framework upon which Richards J's decision was based.

60. Secondly and in any event, Richards J's decision is not binding on this court (though I should follow it unless convinced that it is wrong). It is arguable, however, that his reasoning gives too little weight to the potentially far-reaching impact of proscription on the fundamental rights of the claimant and others in the immediate term, the requirement to seek de-proscription before appealing to POAC, the lack of any jurisdiction in POAC to grant interim relief and the practical reality that a substantive hearing before POAC would not be likely to be listed many months hence.

61. Mr Watson made a series of further points about the statutory regime, which he said pointed to the conclusion that Parliament intended POAC to be the exclusive remedy. These matters will have to be considered further at the permission hearing. For present purposes, I proceed on the basis that the existence of a right to apply for de-proscription and then to appeal to POAC is not, on its own, a sufficient basis for denying that there is a serious question to be tried, at this stage at least. When considering the strength of the claim, however, I bear the point in mind as one of the hurdles which the claimant will in due course have to surmount.

Ground 1

62. Ground 1 is that the order is ultra vires and/or was made for an improper purpose. The ultra vires case is that the legislation does not on its true construction authorise proscription of a "direct action civil disobedience network" such as PA. The improper purpose case is that the Secretary of State acted for an improper purpose by exercising the power conferred by s. 3(3) of the 2000 Act in relation to such a group.

63. In advancing this claim, the claimant faces five difficulties.

64. First, the starting point for the interpretation of a statute is the language Parliament used, in its statutory context: *R (O) v Secretary of State for the Home Department* [2022] UKSC 3, [2023] AC 255, [29]-[30]. On its face, the language used is clear and the context does not make it any less so. An action done for the purposes set out in s. 1(1)(b) and (c) constitutes terrorism if it involves serious damage to property even if it does not involve violence against any person or endanger life or create a risk to health or safety. As I have said, this definition of "terrorism" makes the statutory concept wider than the colloquial meaning of the word. If it is problematic that those who use or threaten action which involves serious damage to property but do not target or aim to endanger people are "terrorists", the problem lies with the statute and has existed for 25 years.

65. Secondly, it is sometimes legitimate to interpret a statute more narrowly than its express language suggests, for example in accordance with the principle of legality or consistently with unincorporated international law. But neither the principle of legality, nor the principle that legislation should be interpreted in accordance with unincorporated international law allows a domestic court to interpret legislation contrary to its express language, read in context. In the present case, it is not possible to read that language as incorporating a restriction on the use of the power against "civil society or dissent groups" if the groups concerned fall within the definition in the Act. If Parliament had intended such a restriction, it would have included it expressly. If it had done so, it would no doubt have defined "civil society or dissent group", a phrase whose meaning is far from clear. It is not the function of the court to rewrite statutory powers by introducing vague and undefined limitations such as these.

66. Thirdly, in 2000, Parliament would have been well aware that proscription decisions under s. 3(3) would be subject to control under s. 6 of the Human Rights Act 1998 ("HRA"). The effect of that provision is that any interference with ECHR rights (including those under Articles 10 and 11) must be proportionate to a legitimate aim. There is no reason to suppose that Parliament intended any other constraint on the scope of the power.

67. Fourthly, the clarity of the statutory language also presents a problem for any use of Hansard to inform the meaning of the 2000 Act. Even if the statement by the then Minister of State (Charles Clarke MP) qualified as the kind of "categorical assurance" referred to by Lord Bingham in *Spath Holme v Secretary of State for the Environment, Transport and the Regions* [2001] 2 AC 349, 392C-D, it would still have to satisfy the three conditions identified by Lord Browne-Wilkinson in *Pepper v Hart* [1993] AC 593, at 640. The first of these is that the legislation is ambiguous, obscure or leads to an absurdity. That condition is not satisfied here. If there is some separate principle that a "categorical assurance" can be relied upon as a kind of estoppel, even without satisfying the principles in *Pepper v Hart*, the meaning of Mr Clarke's statement seems to me to depend critically on the facts of the cases he was addressing. It does not seem to me to be sufficiently clear to count as an assurance that the power would not be used in a case where an organisation was involved in activity which, in fact, constitutes "serious damage to property".

68. Fifthly, in this context, the suggestion that exercising the power to proscribe a "civil society or dissent group" involves acting for an improper purpose adds little to the arguments on statutory interpretation. This is not a case where the Secretary of State is said to have acted for some extraneous purpose such as to quell political views with which she disagrees. That being so, if the group concerned is "concerned in terrorism" within the meaning of the Act, it is difficult to see how the fact that it may also be described as a "civil society or dissent group" can make the exercise of the power unlawful.

69. For these reasons, I do not consider that ground 1 raises a serious question to be tried.

Ground 2

70. Ground 2 is that the proscription order is contrary to s. 6 of the Human Rights Act 1998 because it is incompatible with the rights of the claimant and others under Article 10, 11 and 14 ECHR.

71. I can deal with this relatively shortly. At this early stage of the proceedings, it seems to me likely that the proscription order interferes with the rights of the claimant and many other supporters under Article 10 and 11 ECHR. I doubt that Article 14 adds much in this regard. It also seems likely that the order serves a legitimate aim, namely protection of the rights of others and maintaining national security. The key question is likely to be whether the order is proportionate.

72. I bear in mind that, if the Secretary of State has reached the stage of considering whether to exercise her discretion, she will ex hypothesi have concluded that PA is "concerned in terrorism". This is relevant to the degree of weight to be given to the Article 10 and 11 interests involved, even if those Articles continue in principle to be relevant. Furthermore, in this field, the court will be likely to accord considerable weight to the assessment of the Secretary of State and to the view of Parliament, reflected in its resolution affirming the order: see the cases cited at [49] above and in particular *U3*, at [107]. The views of the Secretary of State and Parliament will not, however, be determinative.

73. The strength of this ground of challenge is difficult to evaluate at this stage, because it is likely to depend on the evidence filed by the Secretary of State. If the intended application for a declaration under s. 6 of the JSA is successful, this will include both OPEN and CLOSED evidence. The latter, in particular, may put a different complexion on the arguments about proportionality.

74. At this stage, I consider that ground 2 raises a serious question to be tried. At present, it is not possible to say that this ground has a strong prospect of success.

Ground 3

75. Ground 3 is that PA is not "concerned in terrorism". As elucidated in the skeleton argument, it has two limbs. First, PA's acts are not designed to influence the UK government (as required by s. 1(1)(b) of the 2000 Act) because its actions are directed only at "corporate enablers of Israel's military industrial complex". Secondly, PA is not

a structured, hierarchical group and in those circumstances there is "no sufficient nexus" between its activities and the commission of acts of terrorism.

76. The first of these points seems ambitious in circumstances where the action which immediately preceded the announcement of the decision to lay a proscription order was against an RAF base. PA explains in para. 12 of its Statement of Facts and Grounds that "RAF Brize Norton is a base for flights to RAF Akrotiri, a key site of British military support for Israel's genocide in Gaza". At para. 15, it says:

> "The action resulted in the mainstream domestic and international media reporting on ongoing British military assistance being provided to Israel in its military assaults on Gaza and the West Bank, including the use of the RAF Akrotiri base in Cyprus, and the sending of almost daily spy flights over Gaza, gathering intelligence for the Israeli military. This is a matter of clear public interest which has been significantly underreported."

It is a reasonable—not to say irresistible—inference from PA's own statement of case that the attack was intended to influence the UK Government to cease providing this support for Israel (if, as PA alleges, it is in fact doing so). The argument that this was a one-off action does not seem to me to take the claimant very far.

77. The second point also faces serious difficulties, both on the law and on the facts. As to the law, "organisation" is defined broadly in s. 121 of the 2000 Act as including "any association or combination of persons". POAC held in *Arumugam v Secretary of State for the Home Department* (2024 PC/06/2022) at [12] that:

> "…The statutory definition contains no such requirements for such formal mechanisms of 'centralised command' and/or 'hierarchy'. Parliament has used deliberately loose language to ensure that the net is wide enough to catch entities where the links and interactions between the component individuals may be little more than the sharing of the common purpose to be 'concerned in terrorism', as defined in section 3(5), and some degree of interaction between them."

78. On the facts, the claimant's own first witness statement establishes that she, with others, "co-founded" PA (para. 29). She speaks of "Palestine Action's aim" (para. 30). Although she disclaims the role of "leader", she says "we have different working groups for different things and we all work together" (para. 31). This seems an inauspicious basis for an argument that there is no sufficient nexus between the group and the acts carried out in its name.

79. In the light of these difficulties, I do not consider that ground 3 raises a serious question to be tried.

Grounds 4 and 5

80. These grounds allege that the Secretary of State took into account irrelevant considerations, namely the views of the Israeli Government, Elbit Systems and pro-Israel lobby groups, while failing to take into account matters which told against proscription, namely that:

    (a) PA seeks to disrupt conduct which it and large sections of the public reasonably consider to be in breach of international law;

    (b) PA enjoys widespread and mainstream support among the British public, in circumstances where proscription would render such support a criminal offence under s. 12 of the 2000 Act;

    (c) individuals associated with PA engage in a range of tactics and methods which do not pass the threshold for criminal liability (let alone proscription), such as low-level demonstrations and public campaigns;

    (d) the existing measures under the criminal and civil law are adequate to address and regulate unlawful conduct by persons associated with PA;

    (e) the proscription of PA would cause substantial prejudice to those who support PA and/or the use of direct action in the campaign for the Palestinian cause, and is likely to chill speech in support of that cause;

    (f) the proscription of PA would be differential and unprecedented treatment directed exceptionally at one direct action protest group.

81. In addition, it is said that the Secretary of State failed to discharge her duty to gather information necessary for the decision as required by *Secretary of State for Education v Tameside Metropolitan Borough Council* [1977] AC 1014, as to:

    (a) the scope of PA's activities;

    (b) the impact of proscription on individuals associated with PA;

    (c) the broader implications for other protest groups, such as environmental and trade union groups.

82. It is important to put these points in their proper legal context. Where a statute does not prescribe the factors that the decision-maker must take into account, it is for the decision-maker herself to decide what is relevant—and her decision is subject to review only on grounds of rationality: *R (Friends of the Earth) v Secretary of State for Transport* [2020] UKSC 52, [2021] PTSR 190, [116]-[121]. Similarly, the obligation on a decision-maker to take steps to gather information extends only to taking such steps as are reasonable; and the decision as to what steps are reasonable to take is for the decision-maker, again subject to review only on grounds of rationality: *R (Balajigari) v Secretary of State for the Home Department* [2019] EWCA Civ 673, [2019] 1 WLR 4647, [70].

83. Bearing these principles in mind, these grounds may face an uphill struggle if (as the Secretary of State asserts in her skeleton argument) "[t]he Secretary of State was provided a range of detailed reports and assessments, including a Community Impact Assessment". It is, however, difficult to gauge whether these grounds raise a serious question to be tried, and if so the strength of the claim in this respect, in advance of disclosure of the materials before the Secretary of State.

Ground 6

84. Ground 6 is that the Secretary of State failed to apply her published policy, which requires her to take into account the nature and scale of an organisation's activities, the specific threat that it poses to the UK, the specific threat that it poses to British national overseas, the extent of the organisation's presence in the UK and the need to support other members of the international community in the global fight against terrorism.

85. In her skeleton argument, the Secretary of State asserts that she took into account both statutory and non-statutory factors. If so, and assuming that the reference to "non-statutory factors" includes those set out in the policy document, this ground may face difficulties. As with grounds 4 and 5, however, there is an inherent difficulty in assessing the strength of this ground prior to disclosure of the materials before the Secretary of State.

Ground 7

86. Ground 7 is that the Secretary of State breached the public sector equality duty in s. 149 of the Equality Act 2010.

87. The Secretary of State asserts in her skeleton argument that the public sector equality duty was expressly addressed in the submission to the Secretary of State. Again, it is difficult accurately to assess the strength of this challenge at this stage, without knowing in more detail what was before the Secretary of State at the time the challenged decision was taken.

Ground 8

88. Ground 8 is that the decision was taken in breach of natural justice and/or in breach of Article 6 ECHR because PA was not consulted in advance.

89. Here, there are two answers available to the Secretary of State in principle. First, it may be said that the statutory scheme of the 2000 Act is such as to exclude any common law duty to consult before making the order. That argument has sometimes succeeded in other analogous contexts (e.g. deprivation of citizenship on national security grounds: see *Begum v Secretary of State for the Home Department (No. 2)* [2024] EWCA Civ 152, [2024] 1 WLR 4269, [112]) but not always (e.g. in relation to financial restrictions designed to counter nuclear proliferation: see *Bank Mellat v HM Treasury* [2013] UKSC 39, [2014] AC 700, [29]-[37] of the substantive judgment).

90. Secondly, it may be said that, even if there is in principle a duty to consult, it may be excluded if on the facts of the case there is a national security or public interest reason not to give notice. Paragraph 11.1 of the Explanatory Memorandum (set out at [24]

above) is directed to the separate question of when the proscription order should come into force once made. However, its contents are relevant here. If it is true that delay "would alert the organisation to its impending proscription and may result in pre-emptive action by the organisation's members", that delay would equally tell against consulting the organisation in advance of the decision to lay the order. On the face of it, therefore, even if the statutory scheme does not exclude the duty to consult in principle, the Secretary of State had a reason not to consult. Whether such a defence succeeds will depend on the evidence.

Conclusions on the strength of the claim

91. For the reasons I have given, I accept that the claimant's grounds contain at least one serious issue to be tried, namely that the order is a disproportionate interference with the rights of the claimant and others under Article 10 and 11 ECHR (ground 2). It is possible that grounds 4-8 may also raise serious issues to be tried, but these grounds are not obviously well-founded and their ultimate prospects are at this stage difficult to assess. Some of them may be affected by evidence from the Secretary of State, OPEN and/or CLOSED, to be filed between today and the date of the permission hearing. If the Secretary of State's alternative remedy point is a good one, it may provide an answer to all the claimant's grounds.

The balance of convenience

The harm that will ensue if interim relief is granted and the claim later fails

92. In assessing the harm to the public interest of delaying proscription by a few weeks or months while the claim is determined, the materials before the court are necessarily limited because of the urgency with which this hearing has been listed. The evidence of the Secretary of State's assessment consists at this stage of her written ministerial statement to Parliament and the Explanatory Memorandum which accompanied the draft order. In my judgment, these documents can properly be used as the starting point for the evaluation of the extent of any harm that would be caused by delay. At this stage, it may be assumed that the conclusions contained in them are based on the entirety of the material available to the Secretary of State, OPEN and CLOSED and the assessments of those with the relevant institutional expertise. This means that they are entitled to respect in any evaluation by the court: see the authorities set out at [47].

93. The Explanatory Memorandum makes plain that the proscription order has been made on the footing that:

    (a) PA has orchestrated a nationwide campaign of direct criminal action against businesses and institutions, including key national infrastructure and defence firms that provide services and supplies to support Ukraine, NATO, 'Five Eyes' allies and the UK defence enterprise and against financial firms, charities, universities and government buildings (para. 5.2);

    (b) this activity has increased in frequency and severity since the start of 2024 and its methods have become more aggressive, with its members demonstrating a willingness to use violence (para. 5.2);

(c) in 2023, PA released and published a guide called "The Underground Manual", which encourages the creation of cells and provides practical guidance about how to carry out activities against private companies and government buildings, including how to evade arrest and other advice on covert action (para. 5.4);

(d) through its media output, PA publicises and promotes its attacks involving serious property damage, as well as celebrating the perpetrators (para. 5.5);

(e) PA's campaign has resulted in hundreds of millions of pounds worth of criminal damage and lost revenue. Members of PA have been charged with serious offences for activity carried out during attacks, including offences involving violence and weapons (para. 5.6);

(f) PA has a considerable online presence that has enabled the organisation to galvanise popular support, recruit and train members across the UK and raise considerable funds through online donations (para. 5.7);

(g) proscription will enable law enforcement to effectively disrupt PA, help to undermine the covert methods it uses and reduce the risk that PA radicalises people wishing to demonstrate legitimate support for the Palestinian cause into becoming members or supporters of the organisation (para. 5.8).

94. Mr Husain questioned whether, on a proper reading of the written ministerial statement and Explanatory Memorandum, the Secretary of State is actually advancing a national security justification for proscription. In my judgment, there is no doubt that she is. As the Explanatory Memorandum makes clear, PA's targets include both "key national infrastructure" and firms which provide defence supplies to the UK and its allies. The attack which immediately preceded the announcement of the decision to proscribe was on a UK defence facility.

95. I have considered the claimant's submission that the grant of interim relief for a short period would cause little if any prejudice, given that PA has been active since 2000 and that the decision to proscribe was based on an assessment first made in March 2025. While these points have some weight, it may be noted that a similar argument was made in *FTDI*. As the decision in that case shows, in the national security context, where interim relief would expose the public to increased risk even for a short period, the applicant needs to point to something "very compelling" to outweigh the public interest in allowing the Secretary of State to make the order. On the facts of this case, if the written ministerial statement and Explanatory Memorandum are taken at face value, suspending the effect of the order even for a short period would deny the public important protections which the order is intended to confer.

<u>The harm that will ensue if interim relief is refused and the claim later succeeds</u>

96. In my judgment, some of the consequences feared by the claimant and others who have given evidence are overstated.

97. It will remain lawful for the claimant and other persons who were members of PA prior to proscription to continue to express their opposition to Israel's actions in Gaza and elsewhere, including by drawing attention to what they regard as Israel's genocide and

other serious violations of international law. They will remain legally entitled to do so in private conversations, in print, on social media and at protests. Even if their protests take the form of direct action which involves criminality, the fact that they were previously members of an organisation which is now proscribed would not as a matter of law aggravate their criminal conduct. It follows that it is hyperbole to talk of the claimant or others being "gagged" in this respect (as the claimant has alleged). They could not incur criminal liability based on their past association with a group which was not proscribed at the time.

98. That said, there is no doubt that there will be serious consequences if the order comes into effect immediately and interim relief is refused. If individuals choose to continue to express their support for PA, or do any of the other things set out in [33] or [35] above, they will incur criminal liability. It will be for them to decide whether to do so. This, however, is the intended effect of the order. It is how it achieves its aim of disrupting the activities of the proscribed organisation. It would be wrong to accord significant weight in the balance to the interests of those who plan deliberately to flout the law.

99. I bear in mind that there may be some who do not know of the existence of the proscription order. There is a danger that they may unwittingly commit one the strict liability offences, for example the offence in s. 13 of wearing an item of clothing in such a way as to arouse reasonable suspicion that they are members or supporters of PA. This is a risk which cannot be ignored, though it may be hoped that sensible charging decisions will be taken. More importantly, however, para. 11.1 of the Explanatory Memorandum makes clear that the Secretary of State has formed the view that it is necessary for the order to come into effect immediately to avoid the risk of pre-emptive action by PA. Parliament must be taken to have endorsed this position.

100. There are other possible effects, whose gravity should not be underestimated. Those who founded and assist in the administration of the organisation will have to consider carefully whether to retain contact lists or other information key to its organisational structure. It is possible that some who have been protesting legitimately under the banner of PA will be deterred from continuing to protest for fear of incurring criminal liability (for example on the basis that continuing their protest might be perceived as expressing support for PA or as organising on its behalf). The evidence I have seen establishes that the broad criminal prohibitions imposed by the 2000 Act, and the very long sentences potentially available for breach of them, can cast a long shadow over legitimate speech. This, however, is the inherent consequence of a regime which aims to disrupt and disable organisations which meet the threshold for proscription and which the Secretary of State and Parliament decide to proscribe.

101. It is also possible that those associated with PA will face social stigma and other more serious consequences at university or at work. The evidence contains numerous examples of cases where this has occurred, even though as a matter of logic a person's association with an organisation prior to its proscription should not (on its own, and distinct from any criminality committed under its aegis) be regarded as blameworthy. It can, moreover, be assumed that rational actors would alter their view of anyone associated with PA if the proscription order were later quashed in these judicial review proceedings. I am therefore not satisfied that the stigma which the claimant and others fear would be indelible in the event that the proceedings were ultimately to succeed.

Decision

102. Having read the claimant's evidence and that of the UN Special Rapporteur carefully, and taken note of the oral submission made, I have concluded that the harm which would ensue if interim relief is refused but the claim later succeeds is insufficient to outweigh the strong public interest in maintaining the order in force. In reaching this decision I have borne in mind my assessment of the merits of the claim at this early stage.

103. I have considered separately whether I should grant very short-term interim relief to protect the position in advance of any application to the Court of Appeal. I have decided, however, that any application for relief of that nature should be made to the Court of Appeal directly.

Conclusion

104. For these reasons, the application for interim relief is refused.