

# **ANTI-TERRORISM, CRIME AND SECURITY ACT 2001**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 13: Miscellaneous**

#### **Third Pillar of the European Union**

##### ***Section 111 Implementation of the third pillar***

293. This section will allow a specific list of measures adopted under Title VI of the Treaty on European Union (Police and Judicial Co-operation in Criminal Matters) to be implemented by secondary legislation. The measures listed are all included in the European Union's anti-terrorism "road-map", a list of measures identified for urgent agreement and implementation after 11 September. The measures are: the 1995 and 1996 European Conventions on Extradition; three Framework Decisions on combating terrorism, on joint investigation teams and on the freezing of property and evidence; and the 2000 Convention on Mutual Assistance in Criminal Matters together with its Protocol.
294. The section follows closely the wording of section 2(2) of the European Communities Act 1972, which allows measures adopted under the Treaties establishing the European Communities and related treaties to be implemented by secondary legislation. Like the power in section 2(2) of the 1972 Act, the section enables such provision to be made as might be made by Act of Parliament but subject to a number of limitations. The power conferred by the section does not include power to raise taxes, to legislate retrospectively, or to create further legislative powers. The power to create new criminal offences is also limited. The powers conferred by the section are not exercisable after 30 June 2002.

##### ***Section 112 Third pillar: supplemental***

295. This section sets out supplementary provisions concerning the exercise of the powers conferred by section 111.
296. The enabling power would be exercised by any Secretary of State, the Lord Chancellor, the Chancellor of the Exchequer or by the Devolved Administrations where the powers relate to devolved issues. The secondary legislation will be subject to the draft affirmative procedure.

#### **Dangerous Substances**

##### ***Section 113 Use of noxious substances to cause harm***

297. Under this section it will become an offence for a person to use or threaten to use a biological, chemical, radioactive or other noxious substance to cause various kinds of

serious harm in a manner designed to influence the government or to intimidate the public. Offences under this section carry a sentence of up to 14 years and a fine.

***Section 114 Hoaxes involving noxious substances or things***

- 298. Section 51 of the Criminal Law Act 1977 (as amended by the Criminal Justice Act 1991) makes it an offence for someone to place or send any article intending to make another person believe that it is likely to explode or ignite and thereby cause personal injury or damage to property. It is also an offence for someone to communicate any information which he knows or believes to be false intending to make another person believe that a bomb is likely to explode or ignite. Section 63 of the act makes similar provision for Scotland. The Criminal Law (Amendment) Northern Ireland) Order 1977 created a similar offence in Northern Ireland.
- 299. These offences relate only to hoax explosive devices. Other hoaxes, such as sending powders or liquids through the post and claiming that they are harmful, are not covered. This section fills that gap
- 300. *Subsection (1)* makes it an offence to place anywhere or send any substance or article intending to make others believe that that it is likely to be or contain a noxious substance or thing which could endanger human life or health.
- 301. *Subsection (2)* makes it an offence for a person to falsely communicate any information to another that a noxious substance or thing is or will be in a place and so likely to cause harm to endanger human life or health.
- 302. *Subsection (3)* sets out the penalties for these offences. On summary conviction a person may be imprisoned for up to six months, or receive a fine up to the statutory maximum or both. On conviction on indictment a person may be imprisoned for up to seven years, or receive a fine or both.