



Nuclear Safeguards Act 2000

2000 CHAPTER 5

An Act to enable effect to be given to the protocol signed at Vienna on 22nd September 1998 additional to the agreement for the application of safeguards in the United Kingdom in connection with the Treaty on the Non-Proliferation of Nuclear Weapons; to allow effect to be given to that agreement in certain territories outside the United Kingdom; and for connected purposes. [25th May 2000]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Interpretation

(1) In this Act—

“Additional Protocol” means the protocol signed at Vienna on 22nd September 1998 (Cm. 4282) additional to the Safeguards Agreement;

“Additional Protocol information” means information which the Secretary of State needs or will need in order to enable the obligations of the United Kingdom under Article 2 of, or the third or fourth paragraph of Annex III to, the Additional Protocol to be met;

“Agency” means the International Atomic Energy Agency;

“Agency inspector” means a person designated under Article 85 of the Safeguards Agreement or Article 11 of the Additional Protocol;

“authorised officer” means a person authorised by the Secretary of State for the purpose of exercising powers under this Act; and

“Safeguards Agreement” means the agreement made on 6th September 1976 between the United Kingdom, the European Atomic Energy Community and the Agency for the application of safeguards in the United Kingdom in connection with the Treaty on the Non-Proliferation of Nuclear Weapons.

(2) References in the following provisions of this Act to Articles or Annexes are to articles of or annexes to the Additional Protocol.

- (3) For the purposes of this Act the text of the Additional Protocol is that signed on 22nd September 1998 but subject, in the case of Annexes I and II, to any amendments made under Article 16.b.

2 Information and records for purposes of the Additional Protocol

- (1) No obligation as to secrecy or other restriction on disclosure (whether imposed by statute or otherwise) prevents a person voluntarily giving information to the Secretary of State if that person has reasonable cause to believe that it is Additional Protocol information.
- (2) The Secretary of State may serve a notice on any person requiring him to give the Secretary of State information, or information of a description, specified in the notice—
- (a) within a period or at times specified in the notice; and
 - (b) if the notice so provides, in such form as the notice may require.
- (3) The information required by a notice—
- (a) must be information which the Secretary of State has reasonable cause to believe is Additional Protocol information; and
 - (b) may relate to a state of affairs subsisting before the coming into force of this Act or of the Additional Protocol.
- (4) A notice shall not require a person to give information which is required only for the purposes of sub-paragraph (ii) of Article 2.a. unless the notice sets out the terms, agreed by the United Kingdom, in which the Agency has identified information for the purposes of that sub-paragraph.
- (5) A person who refuses or fails without reasonable excuse to comply with a notice is guilty of an offence.
- (6) The duty to comply with a notice is not affected by any obligation or restriction mentioned in subsection (1).
- (7) A person on whom a notice is served shall keep and retain such records of information in his possession (and retain any existing records) as may be necessary to enable him to comply with the notice; and a failure to do so shall be taken into account in proceedings for an offence under subsection (5) in determining whether a reasonable excuse exists for a refusal or failure to comply with the notice.
- (8) In this section “notice” means a notice served under subsection (2).

3 Identifying persons who have information

- (1) The Secretary of State may make regulations requiring persons of any description specified in the regulations to inform him that they are of such a description and to give such supplementary particulars as may be so specified.
- (2) Any such description must be so framed that persons within it are—
- (a) persons about whose activities the United Kingdom is or will be obliged under the Additional Protocol to provide information to the Agency; or
 - (b) other persons likely to be in possession of information which the Secretary of State has reasonable cause to believe is Additional Protocol information.

- (3) The regulations may—
 - (a) require persons to notify the Secretary of State of changes in their circumstances; and
 - (b) include incidental and supplementary provisions.
- (4) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) If regulations are made under this section the Secretary of State shall arrange for a statement of the fact that they have been made to be published in such manner as is likely to bring them to the attention of persons affected by them.
- (6) A person who fails without reasonable excuse to comply with a requirement imposed by regulations under this section is guilty of an offence.

4 Powers of entry in relation to Additional Protocol information

- (1) If a justice of the peace is satisfied, on information on oath, that a person served with a notice under section 2(2) has refused to give all or any of the information required by the notice, or has failed to give all or any of that information within the period or at the time required by the notice, and that there are reasonable grounds for believing—
 - (a) that the Secretary of State is not in possession of all or any of the information which that person has refused or failed to give; and
 - (b) that a document or other thing, containing any of the information which that person has refused or failed to give and which is not in the possession of the Secretary of State, is to be found on any premises,he may issue a warrant authorising an authorised officer to enter the premises, if necessary by force, at any reasonable hour within one month from the time of the issue of the warrant and to search them.
- (2) If a justice of the peace is satisfied, on information on oath, that the Secretary of State has specified information, or information of a description, in a notice served under section 2(2) or in a certificate for the purposes of this subsection, and that there are reasonable grounds for believing—
 - (a) that the Secretary of State is not in possession of all or any of the information so specified or all or any information of the description so specified;
 - (b) that a document or other thing containing any of the information so specified or any information of the description so specified is to be found on any premises; and
 - (c) that the document or other thing is likely to be altered, destroyed or otherwise disposed of without all the information so specified or all the information of the description so specified which is contained in it and is not in the possession of the Secretary of State having been given to him,he may issue a warrant authorising an authorised officer to enter the premises, if necessary by force, at any reasonable hour within one month from the time of the issue of the warrant and to search them.
- (3) For the purposes of subsection (2) there may be specified in a certificate only information, or information of a description, which could be specified in a notice under section 2(2).
- (4) Subsections (1) and (2) apply to Scotland with the substitution—

Status: This is the original version (as it was originally enacted).

- (a) for “justice of the peace” of “justice (within the meaning of section 307 of the Criminal Procedure (Scotland) Act 1995)”; and
 - (b) for “on information on oath” of “by evidence on oath”.
- (5) The powers of an authorised officer who enters premises under the authority of a warrant under this section include power—
- (a) to take with him such other persons and such equipment as appear to him to be necessary;
 - (b) to inspect anything found on the premises;
 - (c) to require any information which is held in electronic form and is accessible from the premises to be produced in a form in which he can read and copy it; and
 - (d) to copy, or to seize and remove, any document or other thing which he has reasonable cause to believe is something which contains Additional Protocol information.
- (6) A constable who enters premises under the authority of a warrant or by virtue of subsection (5)(a) may—
- (a) give such assistance as an authorised officer may request for the purpose of facilitating the exercise of any power under this section; and
 - (b) search or cause to be searched any person on the premises who the constable has reasonable cause to believe may have in his possession any document or other thing falling within subsection (5)(d).
- (7) No constable shall, by virtue of subsection (6)(b), search a person of the opposite sex.
- (8) The powers conferred by a warrant under this section shall only be exercisable, if the warrant so provides, in the presence of a constable.
- (9) A person who—
- (a) wilfully obstructs an authorised officer in the exercise of a power conferred by a warrant under this section; or
 - (b) fails without reasonable excuse to comply with a reasonable request made by an authorised officer or a constable for the purpose of facilitating the exercise of such a power,
- is guilty of an offence.
- (10) In this section any reference to information contained in a document or other thing includes a reference to information which may be obtained from that document or other thing.

5 Rights of access etc. for Agency inspectors

- (1) This section has effect for securing that the Agency’s rights under the Additional Protocol—
- (a) of access to locations of a description mentioned in Article 5, for purposes permitted by Article 4 or any other provision of the Additional Protocol in relation to locations of that description;
 - (b) of access to locations specified by the Agency for the purposes of Article 9, for the purpose of carrying out wide-area environmental sampling; and
 - (c) to carry out activities at those locations,
- are exercisable in the United Kingdom by Agency inspectors.

- (2) An Agency inspector may, at any location falling within subsection (1)—
- (a) exercise such rights of access and entry as are required for the purposes of the Additional Protocol; and
 - (b) do anything which the Agency is entitled to do by virtue of Article 6 (if the location falls within subsection (1)(a)) or Article 9 (if it falls within subsection (1)(b));
- but only in accordance with and subject to the provisions of the Additional Protocol and the Safeguards Agreement (including any arrangements for managed access made under Article 7, procedural arrangements for wide-area environmental sampling approved under Article 9, or subsidiary arrangements agreed under Article 13).
- (3) For the purposes of subsection (2)—
- (a) the reference to “other objective measures” in any paragraph of Article 6 shall be taken to refer only to measures specified by the Secretary of State in relation to that paragraph in an order made by statutory instrument; and
 - (b) the reference to procedural arrangements for wide-area environmental sampling in Article 9 shall be taken to refer only to arrangements specified by the Secretary of State in an order made by statutory instrument.
- (4) An authorised officer may accompany an Agency inspector while he is exercising powers under this section.
- (5) A constable may—
- (a) give such assistance as an Agency inspector, or an authorised officer accompanying that inspector, may request for the purpose of facilitating the exercise of powers under this section; and
 - (b) use such reasonable force as he considers necessary for that purpose.
- (6) If in any proceedings any question arises whether a person at any time when purporting to exercise powers under this section was or was not an Agency inspector, a certificate issued by or under the authority of the Secretary of State stating any fact relevant to that question shall be conclusive evidence of that fact.
- (7) A person who—
- (a) wilfully obstructs an Agency inspector or authorised officer in the exercise of a power under this section;
 - (b) fails without reasonable excuse to comply with a reasonable request made by an Agency inspector, an authorised officer or a constable for the purpose of facilitating the exercise of such a power; or
 - (c) interferes without reasonable excuse with anything placed on any land in exercise of such a power,
- is guilty of an offence.
- (8) In this section “wide-area environmental sampling” has the meaning given by Article 18.g.

6 Restriction on disclosure

- (1) This section applies to information if—
- (a) it is obtained by any person under, or in connection with anything done under, this Act or the Additional Protocol; and
 - (b) it relates to a particular business or other activity carried on by any person.

- (2) So long as the business or activity continues to be carried on the information shall not be disclosed except—
- (a) with the consent of the person for the time being carrying on the business or activity;
 - (b) in connection with anything done for the purposes of this Act, the Additional Protocol or the Safeguards Agreement;
 - (c) in connection with the investigation of a criminal offence or for the purposes of criminal proceedings;
 - (d) in connection with the enforcement of a restriction on imports or exports;
 - (e) in dealing with an emergency involving danger to the public; or
 - (f) with a view to ensuring the security of the United Kingdom.
- (3) A person who discloses information in contravention of this section is guilty of an offence.
- (4) It is not an offence under this section to disclose information which has previously been disclosed to the public otherwise than in contravention of this section.
- (5) A disclosure of any information to which this section applies may be made in circumstances in which any of paragraphs (b) to (f) of subsection (2) prevents there being a contravention of this section, notwithstanding any obligation as to secrecy or other restriction on disclosure that would otherwise apply.

7 Giving false or misleading information

A person who knowingly or recklessly makes a statement which is false or misleading in a material particular in giving—

- (a) any information to the Secretary of State or an authorised officer for the purposes of this Act or the Additional Protocol;
 - (b) any information to the Secretary of State in response to a requirement of regulations under section 3; or
 - (c) any information to an Agency inspector exercising powers under section 5,
- is guilty of an offence.

8 Power to search and obtain evidence

- (1) If—
- (a) a justice of the peace is satisfied on information on oath that there are reasonable grounds for suspecting that evidence of the commission of an offence under this Act is to be found on any premises; or
 - (b) in Scotland a justice (within the meaning of section 307 of the Criminal Procedure (Scotland) Act 1995) is satisfied by evidence on oath as mentioned in paragraph (a) above,
- he may issue a warrant authorising an authorised officer to enter the premises, if necessary by force, at any time within one month from the time of the issue of the warrant and to search them.
- (2) The powers of an authorised officer who enters the premises under the authority of the warrant include power—
- (a) to take with him such other persons and such equipment as appear to him to be necessary;

- (b) to inspect anything found on the premises;
 - (c) to require any information which is held in electronic form and is accessible from the premises to be produced in a form in which he can read and copy it;
 - (d) to copy, or to seize and remove, any document or other thing which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of an offence under this Act; and
 - (e) to sample any substance found on the premises which he has reasonable cause to believe may be required as such evidence.
- (3) A constable who enters premises under the authority of a warrant or by virtue of subsection (2)(a) may—
- (a) give such assistance as an authorised officer may request for the purpose of facilitating the exercise of any power under this section; and
 - (b) search or cause to be searched any person on the premises who the constable has reasonable cause to believe may have in his possession any document or other thing which may be required as evidence for the purposes of proceedings in respect of an offence under this Act.
- (4) No constable shall, by virtue of subsection (3)(b), search a person of the opposite sex.
- (5) The powers conferred by a warrant under this section shall only be exercisable, if the warrant so provides, in the presence of a constable.
- (6) A person who—
- (a) wilfully obstructs an authorised officer in the exercise of a power conferred by a warrant under this section; or
 - (b) fails without reasonable excuse to comply with a reasonable request made by an authorised officer or a constable for the purpose of facilitating the exercise of such a power,
- is guilty of an offence.

9 Penalty for offences and offences by bodies corporate

- (1) A person guilty of an offence under any provision of this Act except section 6 or 7 is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; and
 - (b) on conviction on indictment, to a fine.
- (2) A person guilty of an offence under section 6 or 7 is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; and
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine (or both).
- (3) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
- (a) a director, manager, secretary or other similar officer of the body corporate; or
 - (b) a person who was purporting to act in any such capacity,
- he as well as the body corporate is guilty of that offence and liable to be proceeded against and punished accordingly.

- (4) In subsection (3) “director”, in the case of a body corporate whose affairs are managed by its members, means a member of the body corporate.
- (5) Where an offence under this Act committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership is guilty of the offence and may be proceeded against and punished accordingly.

10 Service of notices

- (1) Any notice under this Act may be served on a person by delivering it to him, by leaving it at his proper address or by sending it by post to him at that address.
- (2) Any such notice may be served—
 - (a) in the case of a body corporate, on the secretary or clerk of that body;
 - (b) in the case of a partnership, on any partner or a person having control or management of the partnership business; and
 - (c) in the case of an unincorporated association (other than a partnership), on any member of its governing body.
- (3) For the purposes of this section and section 7 of the Interpretation Act 1978 (service of documents) in its application to this section, the proper address of any person is—
 - (a) in the case of a body corporate, its secretary or clerk, the address of its registered or principal office in the United Kingdom;
 - (b) in the case of an unincorporated association (other than a partnership) or a member of its governing body, the address of its principal office in the United Kingdom; and
 - (c) in any other case, his usual or last-known address (whether of his residence or of a place where he carries on business or is employed).

11 Minor and consequential amendments

- (1) In section 6(3) of the Atomic Energy Authority Act 1954 (persons exempted from prohibition on entry to certain premises) in paragraph (bb), at the end there is inserted “or under Article 11 of the Additional Protocol (within the meaning of the Nuclear Safeguards Act 2000)”.
- (2) In paragraph 3(2) of Schedule 1 to the Nuclear Installations Act 1965 (persons exempted from prohibition on entry to certain sites) in paragraph (bb), at the end there is inserted “or under Article 11 of the Additional Protocol (within the meaning of the Nuclear Safeguards Act 2000)”.
- (3) In section 2 of the Nuclear Safeguards and Electricity (Finance) Act 1978 (rights of Agency inspectors)—
 - (a) in subsection (1), after “article 85” there is inserted “of the Safeguards Agreement or Article 11 of the Additional Protocol (within the meaning of the Nuclear Safeguards Act 2000)”;
 - (b) in subsection (4), for the words from “shall be liable” to the end there is substituted “shall be guilty of an offence.

(4A) A person guilty of an offence under subsection (4) above shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment, to a fine.”; and
- (c) after subsection (7), there is inserted—

“(8) If in any proceedings any question arises whether a person at any time when purporting to exercise powers under this section was or was not a person designated as mentioned in subsection (1) above, a certificate issued by or under the authority of the Secretary of State stating any fact relevant to that question shall be conclusive evidence of that fact.”

12 Short title etc

- (1) This Act may be cited as the Nuclear Safeguards Act 2000.
- (2) This Act (except for this section) shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed for different purposes.
- (3) Nothing in this Act affects the exercise of powers exercisable under any other enactment.
- (4) Her Majesty may by Order in Council direct that any of the provisions of this Act or of the Nuclear Safeguards and Electricity (Finance) Act 1978 shall extend, with such modifications as appear to Her Majesty to be appropriate, to any of the Channel Islands, the Isle of Man or any colony.
- (5) This Act extends to Northern Ireland.