

ANTI-TERRORISM, CRIME AND SECURITY ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7: Security of Pathogens and Toxins

Section 58 Pathogens and toxins in relation to which requirements under Part 7 apply

133. This section identifies those dangerous pathogens and toxins which have been brought immediately within the controls set out in this part of the Act when Part 7 is brought into effect. These pathogens and toxins - listed in Schedule 5 - are those that potentially pose the greatest risk to human life if misused by terrorists. The section gives the Secretary of State a power, by order, to modify the list.
134. *Subsections (4) and (5)* defines “dangerous substance” to include, in addition to the substances listed in Schedule 5 themselves, anything (such as a plant or animal) that is infected by or is a carrier of a pathogen listed in Schedule 5 unless it satisfies prescribed conditions or is kept or used in prescribed conditions. This allows, for instance, for certain medicinal substances to be exempt from control provided that conditions guaranteeing the public against harm are met.

Section 59 Duty to notify Secretary of State before keeping or using any dangerous substances

135. This places a duty on the occupiers of premises to notify the Secretary of State before keeping or using any dangerous substance there. Occupiers of premises holding these substances when this Part of the Act is implemented must notify the Secretary of State within one month. Similarly, occupiers of premises holding substances which are subsequently added to the Schedule have one month in which to notify the Secretary of State of their holdings once any such modification comes into effect.

Section 60 Information about security of dangerous substances

136. This section is concerned with the security of dangerous substances and the premises in which they are kept or used. It allows the police to require occupiers to provide information about the security of any dangerous substances kept or used on their premises.

Section 61 Information about persons with access to dangerous substances

137. This allows the police to request information about persons who have access to dangerous substances or to the premises in which they are kept or used. When such a request has been made, the section also places a duty on occupiers to ensure that other persons do not have access to the premises or substances ;where it is intended to give

access to anyone else, notification of this must be given to the police, and access should be denied until 30 days following the notification unless otherwise agreed by the police.

Section 62 Directions requiring security measures

138. This gives the police the power to require the occupier of premises holding dangerous substances to make improvements to the security arrangements operating there.

Section 63 Directions requiring disposal of dangerous substances

139. This gives the Secretary of State a power to require the disposal of any dangerous substances kept or used on premises where security arrangements are unsatisfactory.

Section 64 Directions requiring denial of access

140. This section gives the Secretary of State the power to require that any specified person be denied access to dangerous substances or the premises in which they are held. The Secretary of State is able to do so only where this is necessary in the interest of national security.

Section 65 Powers of entry

141. This gives the police the power to enter relevant premises, following notice, with any other persons, to assess security measures. This includes power to search or inspect the premises.

Section 66 Search warrants

142. This section deals with the issue of search warrants to enable the police to enter and search premises. They may be issued where the police believe that dangerous substances are kept or used on premises for which no notification has been given, or where it is believed that the occupier may not be complying with directions under Part 7.

Section 67 Offences

143. This section makes it an offence for occupiers of premises to fail, without reasonable excuse, to comply with any duty or directions imposed by or under this Part of the Act.

Section 68 Bodies corporate

144. This section concerns offences committed by a body corporate, as the occupier of premises, under this Part of the Act. It enables the prosecution of certain officers or employees, in addition to the body corporate.

Section 69 Partnerships and unincorporated associations

145. This section clarifies how the provisions relating to offences apply to an unincorporated association or partnership where it is the occupier of the premises.

Section 70 Denial of access: appeals

146. This section provides for the establishment of the Pathogens Access Appeal Commission to receive appeals made by any person denied access on the direction of the Secretary of State under section 64. It also clarifies that a further appeal may be made on a question of law and brings Schedule 6 into effect, defining the constitution and procedures of the new commission.

Section 71 Other appeals

147. This section provides occupiers of premises with a right of appeal against directions relating to compliance with security directions, disposal of dangerous substances or

These notes refer to the Anti-terrorism, Crime and Security Act 2001 (c.24) which received Royal Assent on 14th December 2001

the provision of information about security arrangements, on the grounds that the requirement is unreasonable.

Section 72 Giving of directions or notices

148. This allows directions or notices under Part 7 to be sent by post.

Section 73 Orders and regulations

149. This contains supplementary provisions about orders or regulations under Part 7. They will be made by statutory instrument subject to the draft affirmative resolution procedure (in the case of orders amending Schedule 5) and the negative resolution procedure (in other cases).

Section 75 Power to extend Part 7 to animal or plant pathogens, pests or toxic chemicals

150. This provides the Secretary of State with the power to add toxic chemicals, animal and plant pathogens and pests to the controls set out in this part of the Act. The powers may be extended where the Secretary of State is satisfied that the chemicals concerned could be used in an act of terrorism to endanger life or cause serious harm to human health or the pathogens or pests could be used in an act of terrorism to cause widespread damage to property, significant disruption or alarm. Orders under this section are subject to the draft affirmative resolution procedure.