

ANTI-TERRORISM, CRIME AND SECURITY ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8: Civil Nuclear Security

Section 76 Atomic Energy Authority special constables

151. *Subsection (1)* extends the places within which the AEAC has powers of constables to include any licensed nuclear sites, and not just those of those of UKAEA, BNFL and Urenco Limited.
152. *Subsections (2) and (8)* provide an order-making power which can be used to list the sites used primarily or exclusively for defence purposes at which the AEAC will not operate. It is intended that the AEAC will operate on civil nuclear sites only.
153. *Subsection (3)* extends the constabulary powers and privileges of AEAC officers to 5 km from any licensed site. It is intended that administrative arrangements between the AEAC and local police forces set out how the two exercise their powers in relation to the other.
154. *Subsection (4)* gives the AEAC power to escort nuclear material and to pursue, arrest and detain any person who steals, attempts to steal or otherwise interferes with nuclear material whilst it is in the care of the AEAC.
155. *Subsection (5)* confers constabulary powers to prepare a trans-shipment or storage point that nuclear material will pass through or be stored whilst it is being transported. A trans-shipment point is a point of transport interchange, such as from road to air, sea to air, train to train, etc.
156. The definition of “nuclear material” in *subsection (7)* is a narrower definition than that contained in the current legislation. It includes only fissile material, and not non-nuclear radioactive material, which is less sensitive and does not require AEAC escort.

Section 77 Regulation of security of civil nuclear industry

157. *Subsection (1)* contains a power to make regulations to ensure security in the civil nuclear industry. The main areas covered by the regulations are the security of nuclear sites, nuclear material in course of transport, and sensitive information relating to the security of nuclear sites, nuclear material and sensitive nuclear technology, in particular uranium enrichment technology.
158. *Subsection (2)* provides that the regulations may, for the purposes of security regulation, include specified measures which are set out in the Health and Safety at Work Act 1974. These include the enforcement provisions, since the new security regulations have borrowed the existing enforcement provisions in that Act. Subsection (2) also provides that the new regulations may create criminal offences.

Section 78 Repeals relating to security of civil nuclear installations

159. This repeals certain provisions which are no longer needed.
160. *Subsection (1)* repeals paragraphs 5 and 6 of Schedule 1 to the Nuclear Installations Act 1965. Paragraph 5 gives the Secretary of State powers to issue directions to certain designated nuclear operating bodies (BNFL, UKAEA, and later Urenco Ltd). This is the basis of the current system of nuclear security regulation at sites other than nuclear generating stations. This system has been replaced by the regulations which made under section 77.
161. *Paragraph 6* has become redundant. It provided a safeguard for employees in the bodies listed above through requiring the Minister's consent to be obtained before dismissing an employee on security grounds. In recent years however, the appeal procedures established under the security vetting system have replaced the need for this provision.
162. *Subsection (2)* amends section 19(1) of the Atomic Energy Authority Act 1971 to reflect the changes in subsection 1.

Section 79 Prohibition of disclosures in relation to nuclear security

163. *Subsections (1) and (2)* set out the circumstances in which the offence is committed. The offence covers disclosures that might prejudice the security of nuclear sites or of nuclear material held on such sites or being transported to or from such sites or being carried on a British ship.
164. *Subsection (3)* sets out the penalties for the offence.
165. *Subsection (4)* defines terms used in the section. The definition of "nuclear site" covers all sites which require a licence under s.1(1) of the Nuclear Installations Act 1965.
166. *Subsections (5) and (6)* ensure that the offence can be committed outside the United Kingdom by United Kingdom persons as defined in Section 81 (i.e. as well as by any person in the UK). Such persons may be prosecuted in the United Kingdom.

Section 80 Prohibition of disclosures of uranium enrichment technology

167. *Subsections (1) and (2)* confer a power to make regulations prohibiting the disclosure of uranium enrichment technology and define what is meant by uranium enrichment for the purposes of this section.
168. *Subsection (3)* makes it an offence to contravene a prohibition in the regulations and sets out the penalties for the offence.
169. *Subsection (4)* enables the regulations to provide for disclosures not to be prohibited in prescribed circumstances or when authorised by the Secretary of State, and enables the regulations to create defences to the offence.
170. *Subsection (5a)* enables the regulations to provide that the prohibition on disclosure applies to United Kingdom persons abroad.
171. *Subsections (6) and (7)* provide that the regulations are to be made by statutory instrument subject to affirmative resolution in both Houses of Parliament.
172. *Subsection (8)* defines terms used in this section.

Section 81 Part 8: supplementary

173. *Subsection (1)* provides that a prosecution under section 79 or 80 can only be instituted by, or with the consent of, the Attorney General (as regards a prosecution in England and Wales) and the Attorney General for Northern Ireland (as regards a prosecution in Northern Ireland).

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

174. *Subsections (2) and (3) define what is meant by a United Kingdom person for the purposes of sections 79 and 80.*