

ENERGY ACT 2008

EXPLANATORY NOTES

Part 5: Miscellaneous

Nuclear Information

Commentary on Sections

Paragraph 21 of Schedule 5: Energy Act 2004 (c.20)

593. The [Energy Act 2004 \(c.20\)](#) established the Civil Nuclear Constabulary to protect civil nuclear sites and nuclear materials. The Civil Nuclear Police Authority was established at the same time to ensure the Civil Nuclear Constabulary carries out its policing functions effectively and efficiently.
594. *Paragraph 2* of Schedule 13 to the [Energy Act 2004 \(c.20\)](#) sets out the directions which the Secretary of State may give to the Civil Nuclear Police Authority. These include making sure the Civil Nuclear Constabulary completes tasks as it is required, and allowing authorised persons access to Civil Nuclear Police Authority premises. [Paragraph 2\(1\)\(h\)](#) of that Schedule provides that “officers of the Secretary of State’s department” are authorised to access Civil Nuclear Police Authority premises for the purposes of enabling them to monitor and inspect their activities.
595. Until the Office for Civil Nuclear Security was transferred to the Health and Safety Executive in April 2007, it was a division of the then Department of Trade and Industry and as such, its inspectors were “officers of the Secretary of State’s department”. This meant they had a statutory right to access Civil Nuclear Police Authority premises. This right of access is necessary to allow them to ensure the security of all licensed civil nuclear sites and sensitive nuclear information wherever it may be, including on Civil Nuclear Police Authority premises. However, when the regulator transferred to the Health and Safety Executive in April 2007, they ceased to be “officers of the Secretary of State’s department”. As a result, they no longer have an automatic right of access to Civil Nuclear Police Authority premises.
596. To rectify this, [paragraph 21](#) of Schedule 5 substitutes “persons authorised by the Secretary of State” for “officers of the Secretary of State’s department”. The effect of the paragraph is that the civil nuclear security regulator can once again access Civil Nuclear Police Authority premises, since the Secretary of State will issue a letter specifically confirming that officers of the OCNS are authorised persons.