



Energy Act 2004

2004 CHAPTER 20

PART 1

THE CIVIL NUCLEAR INDUSTRY

CHAPTER 3

CIVIL NUCLEAR CONSTABULARY

Civil Nuclear Police Authority

51 The Civil Nuclear Police Authority

- (1) There shall be a body corporate to be known as the Civil Nuclear Police Authority (“the Police Authority”).
- (2) Schedule 10 (which makes further provision about the Police Authority) has effect.

Civil Nuclear Constabulary

52 The Civil Nuclear Constabulary

- (1) It shall be the function of the Police Authority to secure the maintenance of an efficient and effective constabulary, to be known as the Civil Nuclear Constabulary (“the Constabulary”).
- (2) The primary function of the Constabulary is—
 - (a) the protection of licensed nuclear sites which are not used wholly or mainly for defence purposes; and
 - (b) safeguarding nuclear material in Great Britain and elsewhere.
- (3) The Police Authority may allocate to the Constabulary the function of carrying on such other activities relating to, or connected with, the security of—

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- (a) nuclear material, or
- (b) sites where such material is being, has been or is to be used, processed or stored,

as the Police Authority thinks fit.

- (4) The Constabulary shall have the function of carrying on such other activities as may be allocated to it by the Police Authority in accordance with directions given to that Authority for the purposes of this section by the Secretary of State.
- (5) The Secretary of State may give the Police Authority directions restricting the exercise of its powers under subsection (3).
- (6) Subject to the provisions of this Chapter, the Police Authority may do anything which appears to it to be likely to facilitate the carrying out of its functions, or to be incidental to carrying them out.
- (7) Nothing in this section limits what a member of the Constabulary may do in the exercise of the powers and privileges conferred on him by section 56.

53 Chief constable and other senior officers

- (1) The Police Authority—
 - (a) must appoint a chief constable of the Constabulary and a deputy chief constable of the Constabulary; and
 - (b) may appoint one or more assistant chief constables of the Constabulary.
- (2) Before appointing the deputy chief constable or an assistant chief constable, the Police Authority must consult the chief constable.
- (3) The chief constable, the deputy chief constable and every assistant chief constable are to be members of the Constabulary.
- (4) The approval of the Secretary of State is required for the making of an appointment under this section.
- (5) Schedule 11 (which makes provision about the removal and suspension of the chief constable and other senior officers) has effect.

54 Functions of senior officers

- (1) In carrying out his functions in any financial year, the chief constable must have regard to—
 - (a) the annual policing plan for that year issued by the Police Authority under paragraph 2 of Schedule 12; and
 - (b) the three-year strategy plan most recently issued by the Police Authority under paragraph 3 of that Schedule for a period that includes that year.
- (2) The deputy chief constable may perform a function of the chief constable—
 - (a) while the chief constable is unable to act or unavailable;
 - (b) during a vacancy in the office of chief constable; or
 - (c) with the consent of the chief constable.
- (3) A consent for the purposes of subsection (2)(c) may be either general or specific.

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- (4) The Police Authority may authorise an assistant chief constable to perform a function of the chief constable—
 - (a) while both the chief constable and the deputy chief constable are unable to act or unavailable; or
 - (b) while the offices of chief constable and deputy chief constable are both vacant.
- (5) At any one time, only one person may be authorised to act under subsection (4).
- (6) No person shall be entitled by virtue of subsection (2)(a) or (b) or an authorisation under subsection (4) to act for a continuous period exceeding three months, except with the consent of the Secretary of State.

55 Members of the Constabulary

- (1) The Police Authority may appoint persons to be members of the Constabulary.
- (2) Members of the Constabulary are to be employees of the Police Authority and (apart from the chief constable himself) under the direction and control of the chief constable.
- (3) A person appointed as a member of the Constabulary must, on appointment—
 - (a) be attested as a constable by making the required declaration before a justice of the peace in England and Wales; or
 - (b) make the required declaration before a sheriff or a justice of the peace in Scotland.
- (4) The required declaration is—
 - (a) in the case of a declaration before a justice of the peace in England and Wales, the declaration required by section 29 of the Police Act 1996 (c. 16) in the case of a member of a police force maintained under that Act; and
 - (b) in the case of a declaration before a sheriff or a justice of the peace in Scotland, a declaration faithfully to execute the duties of the office of a member of the Civil Nuclear Constabulary.

Jurisdiction and powers of Constabulary

56 Jurisdiction of Constabulary

- (1) A member of the Constabulary shall have the powers and privileges of a constable—
 - (a) at every place comprised in a relevant nuclear site; and
 - (b) everywhere within 5 kilometres of such a place.
- (2) A member of the Constabulary shall have the powers and privileges of a constable at every trans-shipment site where it appears to him expedient to be in order to safeguard nuclear material while it is at the site.
- (3) A member of the Constabulary shall have the powers and privileges of a constable at every other place where it appears to him expedient to be in order to safeguard nuclear material which is in transit.
- (4) A member of the Constabulary shall have the powers and privileges of a constable at every place where it appears to him expedient to be in order to pursue or to detain a person whom he reasonably believes—

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- (a) to have unlawfully removed or interfered with nuclear material being safeguarded by members of the Constabulary; or
 - (b) to have attempted to do so.
- (5) A member of the Constabulary shall have the powers and privileges of a constable throughout Great Britain for purposes connected with—
- (a) a place mentioned in subsections (1) to (4);
 - (b) anything that he or another member of the Constabulary is proposing to do, or has done, at such a place; or
 - (c) anything which he reasonably believes to have been done, or to be likely to be done, by another person at or in relation to such a place.
- (6) This section has effect in United Kingdom waters adjacent to Great Britain as it has effect in Great Britain, but as if references to the powers and privileges of a constable were references to the powers and privileges of a constable in the nearest part of Great Britain.
- (7) In this section—
- “detain”, in relation to a person, includes transferring him to the custody of another or to a place where he may be held in custody;
 - “relevant nuclear site” means a licensed nuclear site other than a designated defence site;
 - “trans-shipment site” means a place which a member of the Constabulary reasonably believes to be—
 - (a) a place where a consignment of nuclear material in transit is trans-shipped or stored; or
 - (b) a place to which a consignment of nuclear material may be brought to be trans-shipped or stored while it is in transit;
 - “United Kingdom waters” means waters within the seaward limits of the territorial sea;
- and nuclear material is “in transit” for the purposes of this section if it is being carried (or is being trans-shipped or stored incidentally to carriage) before its delivery at its final destination.
- (8) In subsection (7) “designated defence site” means a site designated by order made by the Secretary of State as a site which appears to him to be used wholly or mainly for defence purposes.
- (9) An order under subsection (8) must be laid before Parliament after being made.
- (10) Where an order designating a site for the purposes of section 76(2) of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (jurisdiction of Atomic Energy Authority special constables) is in force immediately before the commencement of this section, that order shall have effect after the commencement of this section as an order made under and for the purposes of subsection (8).

57 Stop and search under Terrorism Act 2000

- (1) The Terrorism Act 2000 (c. 11) is amended as follows.
- (2) In section 44 (authorisation to stop and search in connection with terrorism)—
 - (a) after subsection (4B) insert—

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“(4BA) In a case in which the specified area or place is a place in which members of the Civil Nuclear Constabulary have the powers and privileges of a constable, an authorisation may also be given by a member of that Constabulary who is of at least the rank of assistant chief constable.”;

- (b) in subsection (4C), after paragraph (b) insert “or
- (c) a member of the Civil Nuclear Constabulary,”.

(3) In section 46 (duration of authorisation), after subsection (2) insert—

“(2A) An authorisation under section 44(4BA) does not have effect except in relation to times when the specified area or place is a place where members of the Civil Nuclear Constabulary have the powers and privileges of a constable.”

Administration of Constabulary

58 Government, administration and conditions of service

(1) Where—

- (a) the Police Authority makes provision about the government, administration or conditions of service of the Constabulary or its members, and
- (b) the provision relates to matters which are the subject of regulations under section 50 of the Police Act 1996 (c. 16) (regulations about the government, administration and conditions of service of police forces),

the provision made by the Police Authority may differ from those regulations only so far as necessary to take account of differences relating to the structure and circumstances of the Constabulary.

(2) Before making provision about the government, administration or conditions of service of the Constabulary or its members, the Police Authority must consult—

- (a) the chief constable;
- (b) the Civil Nuclear Police Federation; and
- (c) if the proposed provision relates to members of a rank-related association, that association.

59 Members of Constabulary serving with other forces

(1) This section applies where a member of the Constabulary serves with a relevant force under arrangements made between the chief officer of that force and the chief constable.

(2) The member of the Constabulary—

- (a) shall be under the direction and control of the chief officer of the relevant force; and
- (b) shall have the same powers and privileges as a member of that force.

(3) In this section—

“chief officer” means—

- (a) a chief officer of police of a police force for a police area in Great Britain;
- (b) the Chief Constable of the Police Service of Northern Ireland;
- (c) the Director General of the National Criminal Intelligence Service;

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- (d) the Director General of the National Crime Squad;
 - (e) the chief constable of the British Transport Police Force; or
 - (f) the chief constable of the Ministry of Defence Police;
- “relevant force” means—
- (a) a police force for a police area in Great Britain;
 - (b) the Police Service of Northern Ireland;
 - (c) the National Criminal Intelligence Service;
 - (d) the National Crime Squad;
 - (e) the British Transport Police Force; or
 - (f) the Ministry of Defence Police.

60 Charges

- (1) A person falling within subsection (2) must pay to the Police Authority such charges (if any) in respect of services provided by the Constabulary as are—
 - (a) agreed between that person and the Police Authority; or
 - (b) in the absence of agreement, determined by the Secretary of State.
- (2) A person falls within this subsection if—
 - (a) he is the owner or occupier of a site in respect of which services are provided by the Constabulary;
 - (b) he is a person with an interest in, or with custody or control of, nuclear material in respect of which services are so provided; or
 - (c) he is a person not falling within paragraph (a) or (b) who is the recipient of services provided by the Constabulary.
- (3) The Secretary of State may pay to the Police Authority such sums as are—
 - (a) agreed between him and that Authority, or
 - (b) in the absence of agreement, determined by the Secretary of State,
 in respect of services provided by the Constabulary to such persons as he may determine.
- (4) The services in respect of which charges or sums may be imposed or paid under this section include—
 - (a) services which it is the duty of the Constabulary to provide; and
 - (b) services which it is the duty of the person charged to have provided.

Supervision and inspection etc.

61 Planning and reports

Schedule 12 (which makes provision about planning and reporting) has effect.

62 Inspection

- (1) Her Majesty’s Inspectors of Constabulary must inspect the Constabulary from time to time.
- (2) Her Majesty’s Inspectors of Constabulary must also inspect the Constabulary if requested to do so by the Secretary of State either—

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- (a) generally; or
 - (b) in respect of a particular matter.
- (3) Before carrying out an inspection under this section wholly or partly in Scotland, Her Majesty’s Inspectors of Constabulary must consult the Scottish inspectors—
- (a) in the case of any inspection by virtue of subsection (1) or (2)(a), about the scope and conduct in Scotland of the proposed inspection; and
 - (b) in any other case, about its conduct in Scotland.
- (4) Following an inspection under this section, Her Majesty’s Inspectors of Constabulary must report to the Secretary of State on the efficiency and effectiveness of the Constabulary either—
- (a) generally; or
 - (b) in the case of an inspection under subsection (2)(b), in respect of the matter to which the inspection related.
- (5) A report under subsection (4) must be in such form as the Secretary of State may direct.
- (6) The Secretary of State must arrange for every report which he receives under subsection (4) to be published in such manner as appears to him to be appropriate.
- (7) The Secretary of State may exclude from publication under subsection (6) any part of a report if, in his opinion, the publication of that part—
- (a) would be against the interests of national security; or
 - (b) might jeopardise the safety of any person.
- (8) The Secretary of State must send a copy of the published report—
- (a) to the Police Authority; and
 - (b) to the chief constable.
- (9) The Police Authority must pay to the Secretary of State such amounts as he may determine in respect of an inspection carried out under this section.
- (10) The Secretary of State must pay sums received by him under subsection (9) into the Consolidated Fund.
- (11) In this section “the Scottish inspectors” means the inspectors of constabulary appointed under section 33(1) of the Police (Scotland) Act 1967 (c. 77).

63 Supervision by Secretary of State

- (1) The Police Authority must comply with directions given by the Secretary of State under Schedule 13.
- (2) The Secretary of State must exercise his powers under this Chapter in such manner, and to such extent, as appears to him best calculated to promote the efficiency and effectiveness of the Constabulary.
- (3) The Police Authority must pay to the Secretary of State such amounts as he may determine in respect of things done by him for or in relation to the Authority or its employees in connection with matters relating to security.
- (4) The Secretary of State must pay sums received by him under subsection (3) into the Consolidated Fund.

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Rights etc. of members of the Constabulary

64 Civil Nuclear Police Federation

- (1) The Secretary of State may approve a body (whether corporate or unincorporate) as the body approved to carry out the functions conferred by this section.
- (2) The body approved by the Secretary of State shall be known as the Civil Nuclear Police Federation.
- (3) The function of the Civil Nuclear Police Federation shall be to represent members of the Constabulary (other than senior officers) in all matters affecting their welfare and efficiency.
- (4) Those matters do not include—
 - (a) the promotion in rank of particular individuals; or
 - (b) (except to the extent provided in subsection (5)) discipline matters affecting particular individuals.
- (5) The Civil Nuclear Police Federation may represent a member of the Constabulary (other than a senior officer)—
 - (a) at disciplinary proceedings conducted in accordance with arrangements made by the Police Authority; or
 - (b) on an appeal under any such arrangements from a decision in such proceedings.
- (6) But representation under subsection (5) must comply with any restrictions imposed by section 66.
- (7) Except so far as otherwise authorised by the Secretary of State, the Civil Nuclear Police Federation must be entirely independent of, and unassociated with, bodies and other persons who are without appropriate police connections.
- (8) But it may employ in an administrative or advisory capacity persons who are without appropriate police connections.
- (9) An authorisation for the purposes of subsection (7)—
 - (a) may be given either conditionally or unconditionally; and
 - (b) may be varied or revoked at any time.
- (10) Only the following have appropriate police connections for the purposes of this section—
 - (a) persons within the service of the Constabulary, of the Ministry of Defence Police, of the British Transport Police Force, of a police force for a police area in Great Britain or of the Police Service of Northern Ireland;
 - (b) persons not falling within paragraph (a) who are members of or employed by the Police Authority;
 - (c) a federation referred to in section 59 of the Police Act 1996 (c. 16), section 3 of the Ministry of Defence Police Act 1987 (c. 4) or section 39 of the Railways and Transport Safety Act 2003 (c. 20) (police federations);
 - (d) the Police Association for Northern Ireland;
 - (e) a rank-related association;

- (f) a body recognised under, and for the purposes specified in, section 64(5) of the Police Act 1996 or section 35(4) of the Police (Northern Ireland) Act 1998 (c. 32) (recognition of other bodies for trade union purposes).

65 Rank-related associations

- (1) The Secretary of State may approve one or more bodies (whether corporate or unincorporate) as bodies approved to carry out the functions conferred by this section.
- (2) A body approved by the Secretary of State under this section shall be known as a rank-related association.
- (3) The function of a rank-related association shall be to represent, in all matters affecting their welfare and efficiency, members of the Constabulary who—
 - (a) are not members of the Civil Nuclear Police Federation or of another rank-related association; and
 - (b) hold such ranks as may be specified in the approval given for the purposes of this section by the Secretary of State.
- (4) Those matters do not include—
 - (a) the promotion in rank of particular individuals; or
 - (b) (except to the extent provided in subsection (5)) discipline matters affecting particular individuals.
- (5) A rank-related association may represent a member of the association—
 - (a) at disciplinary proceedings conducted in accordance with arrangements made by the Police Authority; or
 - (b) on an appeal under any such arrangements from a decision in such proceedings.
- (6) But representation under subsection (5) must comply with any restrictions imposed by section 66.
- (7) Except so far as otherwise authorised by the Secretary of State, a rank-related association must be entirely independent of, and unassociated with, bodies and other persons who are without appropriate police connections.
- (8) But it may employ in an administrative or advisory capacity persons who are without appropriate police connections.
- (9) An authorisation for the purposes of subsection (7)—
 - (a) may be given either conditionally or unconditionally; and
 - (b) may be varied or revoked at any time.
- (10) In relation to a rank-related association, only the following have appropriate police connections for the purposes of this section—
 - (a) persons within the service of the Constabulary, of the Ministry of Defence Police, of the British Transport Police Force, of a police force for a police area in Great Britain or of the Police Service of Northern Ireland;
 - (b) persons not falling within paragraph (a) who are members of or employed by the Police Authority;
 - (c) the Civil Nuclear Police Federation;
 - (d) another rank-related association;

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- (e) a federation referred to in section 59 of the Police Act 1996 (c. 16), section 3 of the Ministry of Defence Police Act 1987 (c. 4) or section 39 of the Railways and Transport Safety Act 2003 (c. 20) (police federations);
- (f) the Police Association for Northern Ireland;
- (g) a body recognised under, and for the purposes specified in, section 64(5) of the Police Act 1996 or section 35(4) of the Police (Northern Ireland) Act 1998 (c. 32) (recognition of other bodies for trade union purposes).

66 Representation at certain disciplinary proceedings

- (1) This section applies where disciplinary proceedings conducted in accordance with arrangements made by the Police Authority may lead to a member of the Constabulary who is not a senior officer being—
 - (a) dismissed;
 - (b) required to resign; or
 - (c) reduced in rank.
- (2) The member of the Constabulary must be given an opportunity to elect to be legally represented—
 - (a) in those proceedings; and
 - (b) on any appeal under the arrangements.
- (3) If he so elects, he may be represented, at his option, by counsel or by a solicitor.
- (4) The member of the Constabulary, if he is not legally represented, may be represented in the proceedings or on an appeal only by a person who is—
 - (a) a member of the Constabulary;
 - (b) a member of a police force maintained under the Police Act 1996 (c. 16);
 - (c) a constable of a police force maintained under the Police (Scotland) Act 1967 (c. 77);
 - (d) a constable of the British Transport Police Force; or
 - (e) a member of the Ministry of Defence Police.

67 Trade union membership

- (1) A member of the Constabulary must not be a member of—
 - (a) a trade union; or
 - (b) an association whose objects are or include controlling or influencing the pay, pensions or conditions of service of members of the Constabulary.
- (2) Subsection (1) does not prevent a member of the Constabulary—
 - (a) from being a member of the Civil Nuclear Police Federation;
 - (b) from being a member of a rank-related association; or
 - (c) with the consent of the chief constable, from continuing to be a member of a trade union to which he belonged before becoming a member of the Constabulary.
- (3) In this section “trade union” has the meaning given by section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52).

Supplementary provisions of Chapter 3 of Part 1

68 Application of offences etc. applying to constables

- (1) The references in section 89(1) and (2) of the Police Act 1996 and section 41(1) and (2) of the Police (Scotland) Act 1967 (assaults on constables) to a constable in the execution of his duty shall have effect as if they included references to a member of the Constabulary who—
 - (a) is exercising any of the powers or privileges conferred on him by section 56; or
 - (b) is otherwise performing his duties under the direction and control of the chief constable or as an employee of the Police Authority.
- (2) Section 90 of the Police Act 1996 (impersonation of member of a police force) shall have effect as if the references to a member of a police force included references to a member of the Constabulary.
- (3) In section 91 of the Police Act 1996 (causing disaffection), for subsection (2) substitute—

“(2) This section applies in the case of—

 - (a) special constables appointed for a police area,
 - (b) members of the Civil Nuclear Constabulary, and
 - (c) members of the British Transport Police Force,

as it applies in the case of members of a police force.”
- (4) In section 42 of the Police (Scotland) Act 1967 (c. 77) (causing disaffection), after subsection (2) insert—

“(3) In this section—

 - (a) references to the constables of any police force include references to the members of the Civil Nuclear Constabulary; and
 - (b) references to a constable include references to a member of that Constabulary.”
 - (5) In section 43 of the Police (Scotland) Act 1967 (impersonation of police)—
 - (a) in subsection (1)(b) (wearing a police uniform without permission), after “without” insert “being a member of the Civil Nuclear Constabulary or having”; and
 - (b) in subsection (3), after “police authority” insert “or by the Civil Nuclear Police Authority”.
 - (6) After subsection (3) of that section insert—

“(3A) In its application to articles of the uniform of the Civil Nuclear Constabulary, subsection (1)(b) has effect as if for the words “or having the permission of the police authority for the police area in which he is” there were substituted the words “and in circumstances where it gives him an appearance so nearly resembling that of a constable as to be calculated to deceive”.

(3B) For the purposes of this section—

 - (a) “constable” includes a member of the Civil Nuclear Constabulary; and
 - (b) any reference to “police” includes a reference to that Constabulary.”

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(7) In any enactment—

- (a) references to a person's being in the custody of a constable, or to his being detained in the charge of a constable, include references to his being detained by a member of the Constabulary in the exercise of any of the powers or privileges conferred on him by section 56; and
- (b) references to a person's accompanying a constable include references to his accompanying a member of the Constabulary.

69 Minor amendments relating to the Constabulary

- (1) Schedule 14 (which contains minor amendments relating to the Constabulary) has effect.
- (2) The Secretary of State may by order make such modifications of subordinate legislation as appear to him to be appropriate in consequence of any provision of this Chapter.
- (3) Orders under subsection (2) are subject to the negative resolution procedure.

70 Nuclear transfer scheme for UKAEA Constabulary

- (1) The Secretary of State must make a nuclear transfer scheme providing for the transfer to the Police Authority of—
 - (a) the employees of the UKAEA who are members of the UKAEA Constabulary;
 - (b) such other persons employed by the UKAEA for purposes connected with that Constabulary as he considers appropriate;
 - (c) such property held by the UKAEA for purposes connected with the activities of members of the UKAEA Constabulary as he considers appropriate; and
 - (d) such rights and liabilities of the UKAEA relating to any of those activities, or to any such property, as he considers appropriate.
- (2) The nuclear transfer scheme that provides for the transfer of members of the UKAEA Constabulary to the Police Authority must provide for the transfer to the Police Authority, at the same time, of everyone who immediately before that time is employed by the UKAEA exclusively for purposes connected with that Constabulary.
- (3) Chapter 2 of this Part shall have effect as if the nuclear transfer scheme required by this section were a scheme authorised by section 39 but did not require the consent of the Police Authority to any of its provisions.
- (4) From the date on which the nuclear transfer scheme required by this section comes into force, the members of the UKAEA Constabulary who are transferred by the scheme shall hold office as members of the Constabulary as if they had—
 - (a) been appointed by the Police Authority in accordance with section 55; and
 - (b) on appointment made the declaration required by that section.
- (5) In this section “members of the UKAEA Constabulary”, in relation to a nuclear transfer scheme, means persons who, on the date on which the scheme comes into force, are special constables appointed on the nomination of the UKAEA under section 3 of the Special Constables Act 1923 (c. 11).

71 Interpretation of Chapter 3 of Part 1

(1) In this Chapter—

“chief constable” means the chief constable of the Constabulary;

“the Civil Nuclear Police Federation” is to be construed in accordance with section 64(2);

“the Constabulary” means the Civil Nuclear Constabulary;

“licensed nuclear site” means a site in respect of which a nuclear site licence is or is required to be in force;

“nuclear material” means—

(a) any fissile material in the form of—

(i) uranium metal, alloy or chemical compound; or

(ii) plutonium metal, alloy or chemical compound;

(b) any other fissile material prescribed by regulations made by the Secretary of State;

“the Police Authority” means the Civil Nuclear Police Authority;

“rank-related association” is to be construed in accordance with section 65(2);

“senior officer” means the chief constable or the deputy chief constable or an assistant chief constable of the Constabulary.

(2) References in this Chapter to the functions of the Police Authority include references to securing that the functions of the Constabulary are carried out.

(3) Any power of the Secretary of State under this Chapter to give directions—

(a) restricting the exercise by the Police Authority of its powers,

(b) requiring functions to be carried out or objectives to be met by the Constabulary or the Police Authority, or

(c) imposing obligations on the Police Authority or any of its members or employees,

includes power to impose restrictions, confer functions, require objectives to be met or impose obligations at or in relation to places outside Great Britain.

(4) Regulations under subsection (1) are subject to the negative resolution procedure.

(5) Where regulations under subsection (7) of section 76 of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (jurisdiction of Atomic Energy Authority special constables) prescribing material to be treated as nuclear material for the purposes of that section are in force immediately before the commencement of this section, those regulations shall have effect after the commencement of this section as regulations made under and for the purposes of subsection (1).