



Nuclear Explosions (Prohibition and Inspections) Act 1998

1998 CHAPTER 7

PROSPECTIVE

Inspections under the Treaty

4 Interpretation of inspection provisions.

For the purposes of this section and sections 5 to 9—

“inspection team”, in relation to an on-site inspection, means the team of inspectors and inspection assistants selected, in accordance with the Treaty’s inspection provisions, for the purposes of the inspection;

“observer”, in relation to an on-site inspection, means a representative of a party to the Treaty who, in accordance with the Treaty’s inspection provisions, is sent by that party to observe the conduct of the inspection;

“on-site inspection” means an on-site inspection carried out in accordance with the Treaty’s inspection provisions;

“the Treaty” means the Comprehensive Nuclear-Test-Ban Treaty adopted in New York on 10th September 1996;

“the Treaty’s inspection provisions” means the provisions of Article IV of, and Part II of the Protocol to, the Treaty;

“UK representative”, in relation to an on-site inspection, means a representative of the United Kingdom who, in accordance with the Treaty’s inspection provisions, liaises with and accompanies the inspection team during the performance of its duties.

5 Rights of entry etc. for purposes of on-site inspections.

(1) If it is proposed to conduct an on-site inspection in the United Kingdom, the Secretary of State may issue an authorisation under this section in respect of that inspection.

(2) An authorisation under this section shall—

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- (a) contain a description of the area (the specified area) in which the inspection is to be conducted,
 - (b) state the names of the members of the inspection team,
 - (c) state the name of any observer, and
 - (d) state the name of the UK representative or representatives.
- (3) An authorisation under this section shall have the effect of authorising the inspection team—
 - (a) to exercise within the specified area such rights of access, entry and unobstructed inspection as are conferred on them by the Treaty's inspection provisions, and
 - (b) to do such other things within that area in connection with the inspection as they are entitled to do by virtue of those provisions.
- (4) An authorisation under this section shall, in addition, have the effect—
 - (a) of authorising the UK representative or representatives to accompany the inspection team in accordance with the Treaty's inspection provisions,
 - (b) of authorising any constable to give such assistance as a UK representative requests for the purpose of facilitating the conduct of the inspection in accordance with those provisions, and
 - (c) of authorising any observer to exercise within the specified area such rights of access and entry as are conferred on him by the Treaty's inspection provisions.
- (5) Any constable giving assistance in accordance with subsection (4)(b) may use such reasonable force as he considers necessary for the purpose mentioned in that provision.

6 Provisions supplementary to section 5.

- (1) The occupier of any premises—
 - (a) in relation to which it is proposed to exercise a right of entry in reliance on an authorisation under section 5, or
 - (b) on which an on-site inspection is being carried out in reliance on such an authorisation,or a person acting on behalf of the occupier of any such premises, shall be entitled to require a copy of the authorisation to be shown to him by any UK representative.
- (2) The validity of any authorisation purporting to be issued under section 5 in respect of an on-site inspection shall not be called in question in any court of law at any time before the conclusion of that inspection.
- (3) Accordingly, where an authorisation purports to be issued under that section in respect of an on-site inspection, no proceedings (of whatever nature) shall be brought at any time before the conclusion of the inspection if they would, if successful, have the effect of preventing, delaying or otherwise affecting the carrying out of the inspection.
- (4) If in any proceedings any question arises whether a person at any time was or was not a member of the inspection team, an observer or a UK representative a certificate signed by or on behalf of the Secretary of State stating any fact relating to that question shall be conclusive evidence of that fact; and a certificate purporting to be so signed shall be deemed to be so signed without further proof, unless the contrary is shown.
- (5) If an authorisation is issued under section 5, the Secretary of State may issue an amendment varying the specified area, and—

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- (a) from the time when an amendment is expressed to take effect, that section shall apply as if the specified area were the area as varied;
- (b) subsection (2) above shall apply to the amendment as it applies to the authorisation;
- (c) the Secretary of State may issue further amendments varying the specified area and in such a case paragraphs (a) and (b) shall apply.

7 Offences in connection with on-site inspections.

- (1) If an authorisation has been issued under section 5 in respect of an on-site inspection, a person is guilty of an offence if—
 - (a) he refuses without reasonable excuse to comply with any request made by a constable or a UK representative for the purpose of facilitating the conduct of that inspection in accordance with the Treaty's inspection provisions, or
 - (b) he wilfully obstructs a member of the inspection team, an observer or a UK representative in the performance of his functions under the Treaty's inspection provisions.
- (2) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to a fine of an amount not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.

8 Privileges and immunities in connection with on-site inspections.

- (1) Members of inspection teams and observers shall enjoy the same privileges and immunities as are enjoyed by diplomatic agents in accordance with the following provisions of the 1961 Articles, namely—
 - (a) Article 29,
 - (b) paragraphs 1 and 2 of Article 30,
 - (c) paragraphs 1, 2 and 3 of Article 31, and
 - (d) Article 34.
- (2) Such persons shall, in addition, enjoy the same privileges as are enjoyed by diplomatic agents in accordance with paragraph 1(b) of Article 36 of the 1961 Articles, except in relation to articles the importing or exporting of which is prohibited by law or controlled by the enactments relating to quarantine.
- (3) Samples and approved equipment carried by members of an inspection team shall be inviolable and exempt from customs duties.
- (4) The privileges and immunities accorded to members of inspection teams and observers by virtue of this section shall be enjoyed by them at any time when they are in the United Kingdom—
 - (a) in connection with the carrying out there of an on-site inspection, or
 - (b) while in transit to or from the territory of another party to the Treaty in connection with the carrying out of such an inspection there.
- (5) If—
 - (a) immunity from jurisdiction of a member of an inspection team is waived in accordance with paragraph 30 of Part II of the Protocol to the Treaty, and

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- (b) a notice made by the Secretary of State and informing the member of the waiver is delivered to him in person,
then, from the time the notice is so delivered, this section shall not have effect to confer that immunity on the member.
- (6) If in any proceedings any question arises whether a person is or is not entitled to any privilege or immunity by virtue of this section, a certificate signed by or on behalf of the Secretary of State stating any fact relating to that question shall be conclusive evidence of that fact; and a certificate purporting to be so signed shall be deemed to be so signed without further proof, unless the contrary is shown.
- (7) In this section—
“the 1961 Articles” means the Articles which are set out in Schedule 1 to the ^{M1}Diplomatic Privileges Act 1964 (Articles of the Vienna Convention on Diplomatic Relations of 1961 having force of law in United Kingdom);
“approved equipment” and “samples” shall be construed in accordance with the Treaty’s inspection provisions;
“enactment” includes an enactment comprised in subordinate legislation (within the meaning of the ^{M2}Interpretation Act 1978).
- (8) The Secretary of State may, by order, apply this section with such modifications as he considers appropriate to the Director General and members of the staff of the Technical Secretariat established in accordance with the Treaty.
- (9) An order under subsection (8) shall be made by statutory instrument, but no order shall be made unless a draft has been laid before, and approved by a resolution of, each House of Parliament.

Marginal Citations

M1 1964 c. 81.

M2 1978 c. 30.

9 Reimbursement of expenditure.

The Secretary of State may reimburse any person in respect of expenditure incurred in connection with an on-site inspection.

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