



Anti-terrorism, Crime and Security Act 2001

2001 CHAPTER 24

PART 7

SECURITY OF PATHOGENS AND TOXINS

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

- (1) Schedule 5 (which lists the pathogens and toxins in relation to which the requirements of this Part apply) has effect.
- (2) The Secretary of State may by order modify any provision of Schedule 5 (including the notes).
- (3) The Secretary of State may not add any pathogen or toxin to that Schedule unless he is satisfied that the pathogen or toxin could be used in an act of terrorism to endanger life or cause serious harm to human health.
- (4) In this Part “dangerous substance” means—
 - (a) anything which consists of or includes a substance for the time being mentioned in Schedule 5; or
 - (b) anything which is infected with or otherwise carries any such substance.
- (5) But something otherwise falling within subsection (4) is not to be regarded as a dangerous substance if—
 - (a) it satisfies prescribed conditions; or
 - (b) it is kept or used in prescribed circumstances.

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

- (1) The occupier of any premises must give a notice to the Secretary of State before any dangerous substance is kept or used there.

- (2) Subsection (1) does not apply to premises in respect of which a notice has previously been given under that subsection (unless it has been withdrawn).
- (3) The occupier of any premises in respect of which a notice has been given may withdraw the notice if no dangerous substance is kept or used there.
- (4) A notice under this section must—
 - (a) identify the premises in which the substance is kept or used;
 - (b) identify any building or site of which the premises form part; and
 - (c) contain such other particulars (if any) as may be prescribed.
- (5) The occupier of any premises in which any dangerous substance is kept or used on the day on which this section comes into force must give a notice under this section before the end of the period of one month beginning with that day.
- (6) Where—
 - (a) a substance which is kept or used in any premises becomes a dangerous substance by virtue of a modification of Schedule 5, but
 - (b) no other dangerous substance is kept or used there,the occupier of the premises must give a notice under this section before the end of the period of one month beginning with the day on which that modification comes into force.

60 Information about security of dangerous substances

- (1) A constable may give to the occupier of any relevant premises a notice requiring him to give the chief officer of police such information as is specified or described in the notice by a time so specified and in a form and manner so specified.
- (2) The required information must relate to—
 - (a) any dangerous substance kept or used in the premises; or
 - (b) the measures taken (whether by the occupier or any other person) to ensure the security of any such substance.
- (3) In this Part references to measures taken to ensure the security of any dangerous substance kept or used in any relevant premises include—
 - (a) measures taken to ensure the security of any building or site of which the premises form part; and
 - (b) measures taken for the purpose of ensuring access to the substance is given only to those whose activities require access and only in circumstances that ensure the security of the substance.
- (4) In this Part “relevant premises” means any premises—
 - (a) in which any dangerous substance is kept or used, or
 - (b) in respect of which a notice under section 59 is in force.

61 Information about persons with access to dangerous substances

- (1) A police officer of at least the rank of inspector may give to the occupier of any relevant premises a notice requiring him to give the chief officer of police a list of—
 - (a) each person who has access to any dangerous substance kept or used there;

Status: This is the original version (as it was originally enacted).

- (b) each person who, in such circumstances as are specified or described in the notice, has access to such part of the premises as is so specified or described;
 - (c) each person who, in such circumstances as are specified or described in the notice, has access to the premises; or
 - (d) each person who, in such circumstances as are specified or described in the notice, has access to any building or site of which the premises form part.
- (2) A list under subsection (1) must be given before the end of the period of one month beginning with the day on which the notice is given.
- (3) Where a list under subsection (1) is given, the occupier of the premises for the time being—
- (a) must secure that only the persons mentioned in the list are given the access identified in the list relating to them; but
 - (b) may give a supplementary list to the chief officer of police of other persons to whom it is proposed to give access.
- (4) Where a supplementary list is given under subsection (3)(b), the occupier of the premises for the time being must secure that persons mentioned in that list do not have the proposed access relating to them until the end of the period of 30 days beginning with the day on which that list is given.
- (5) The chief officer of police may direct that a person may have such access before the end of that period.
- (6) The Secretary of State may by order modify the period mentioned in subsection (4).
- (7) Any list under this section must—
- (a) identify the access which the person has, or is proposed to have;
 - (b) state the full name of that person, his date of birth, his address and his nationality; and
 - (c) contain such other matters (if any) as may be prescribed.

62 Directions requiring security measures

- (1) A constable may give directions to the occupier of any relevant premises requiring him to take such measures to ensure the security of any dangerous substance kept or used there as are specified or described in the directions by a time so specified.
- (2) The directions may—
- (a) specify or describe the substances in relation to the security of which the measures relate; and
 - (b) require the occupier to give a notice to the chief officer of police before any other dangerous substance specified or described in the directions is kept or used in the premises.

63 Directions requiring disposal of dangerous substances

- (1) Where the Secretary of State has reasonable grounds for believing that adequate measures to ensure the security of any dangerous substance kept or used in any relevant premises are not being taken and are unlikely to be taken, he may give a direction to the occupier of the premises requiring him to dispose of the substance.

Status: This is the original version (as it was originally enacted).

- (2) The direction must—
- (a) specify the manner in which, and time by which, the dangerous substance must be disposed of; or
 - (b) require the occupier to produce the dangerous substance to a person specified or described in the notice in a manner and by a time so specified for him to dispose of.

64 Directions requiring denial of access

- (1) The Secretary of State may give directions to the occupier of any relevant premises requiring him to secure that the person identified in the directions—
- (a) is not to have access to any dangerous substance kept or used there;
 - (b) is not to have, in such circumstances (if any) as may be specified or described in the directions, access to such part of the premises as is so specified or described;
 - (c) is not to have, in such circumstances (if any) as may be specified or described in the directions, access to the premises; or
 - (d) is not to have, in such circumstances (if any) as may be specified or described in the directions, access to any building or site of which the premises form part.
- (2) The directions must be given under the hand of the Secretary of State.
- (3) The Secretary of State may not give the directions unless he believes that they are necessary in the interests of national security.

65 Powers of entry

- (1) A constable may, on giving notice under this section, enter any relevant premises, or any building or site of which the premises form part, at a reasonable time for the purpose of assessing the measures taken to ensure the security of any dangerous substance kept or used in the premises.
- (2) The notice must be given to the occupier of the premises, or (as the case may be) the occupier of the building or site of which the premises form part, at least 2 working days before the proposed entry.
- (3) The notice must set out the purpose mentioned in subsection (1).
- (4) A constable who has entered any premises, building or site by virtue of subsection (1) may for the purpose mentioned in that subsection—
- (a) search the premises, building or site;
 - (b) require any person who appears to the constable to be in charge of the premises, building or site to facilitate any such inspection; and
 - (c) require any such person to answer any question.
- (5) The powers of a constable under this section include power to take with him such other persons as appear to him to be necessary.

66 Search warrants

- (1) If, in England and Wales or Northern Ireland, on an application made by a constable a justice of the peace is satisfied that there are reasonable grounds for believing—
 - (a) that a dangerous substance is kept or used in any premises but that no notice under section 59 is in force in respect of the premises, or
 - (b) that the occupier of any relevant premises is failing to comply with any direction given to him under section 62 or 63,and that any of the conditions mentioned in subsection (4) apply, he may issue a warrant authorising a constable to enter the premises, if necessary by force, and to search them.
- (2) If, in Scotland, on an application made by the procurator fiscal the sheriff is satisfied as mentioned in subsection (1), he may issue a warrant authorising a constable to enter the premises, if necessary by force, and to search them.
- (3) A constable may seize and retain anything which he believes is or contains a dangerous substance.
- (4) The conditions mentioned in subsection (1) are—
 - (a) that it is not practicable to communicate with any person entitled to grant entry to the premises;
 - (b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to any substance which may be a dangerous substance;
 - (c) that entry to the premises will not be granted unless a warrant is produced;
 - (d) that the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.

67 Offences

- (1) An occupier who fails without reasonable excuse to comply with any duty or direction imposed on him by or under this Part is guilty of an offence.
- (2) A person who, in giving any information to a person exercising functions under this Part, knowingly or recklessly makes a statement which is false or misleading in a material particular is guilty of an offence.
- (3) A person guilty of an offence under this section is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine (or both); and
 - (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum (or both).

68 Bodies corporate

- (1) If an offence under this Part committed by a body corporate is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
 - (a) any officer, or
 - (b) any other employee of the body corporate who is in charge of any relevant premises or the access to any dangerous substance kept or used there,

he, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

- (2) In this section “officer”, in relation to a body corporate, means—
 - (a) any director, manager, secretary or other similar officer of the body corporate; or
 - (b) any person purporting to act in any such capacity.
- (3) Where the affairs of a body corporate are managed by its members, this section applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

69 Partnerships and unincorporated associations

- (1) Proceedings for an offence alleged to have been committed by a partnership or an unincorporated association must be brought in the name of the partnership or association (and not in that of any of its members).
- (2) A fine imposed on the partnership or association on its conviction of an offence is to be paid out of the funds of the partnership or association.
- (3) Rules of court relating to the service of documents are to have effect as if the partnership or association were a body corporate.
- (4) In proceedings for an offence brought against the partnership or association—
 - (a) section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43) (procedure) apply as they do in relation to a body corporate;
 - (b) sections 70 and 143 of the Criminal Procedure (Scotland) Act 1995 (c. 46) (procedure) apply as they do in relation to a body corporate;
 - (c) section 18 of the Criminal Justice (Northern Ireland) Act 1945 (c. 15 (N.I.)) and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) (procedure) apply as they do in relation to a body corporate.
- (5) If an offence under this Part committed by a partnership is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
 - (a) a partner or a person purporting to act as a partner, or
 - (b) any employee of the partnership who is in charge of any relevant premises or the access to any dangerous substance kept or used there,
 he, as well as the partnership, is guilty of the offence and liable to be proceeded against and punished accordingly.
- (6) If an offence under this Part committed by an unincorporated association is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
 - (a) any officer, or
 - (b) any employee of the association who is in charge of any relevant premises or the access to any dangerous substance kept or used there,
 he, as well as the association, is guilty of the offence and liable to be proceeded against and punished accordingly.

- (7) In subsection (6) “officer”, in relation to any association, means—
- (a) any officer of the association or any member of its governing body; or
 - (b) any person purporting to act in such a capacity.

70 Denial of access: appeals

- (1) There shall be a commission, to be known as the Pathogens Access Appeal Commission.
- (2) Any person aggrieved by directions given under section 64 may appeal to the Commission.
- (3) The Commission must allow an appeal if it considers that the decision to give the directions was flawed when considered in the light of the principles applicable on an application for judicial review.
- (4) A party to any appeal under this section which the Commission has determined may bring a further appeal on a question of law to—
- (a) the Court of Appeal, if the first appeal was heard in England and Wales;
 - (b) the Court of Session, if the first appeal was heard in Scotland; or
 - (c) the Court of Appeal in Northern Ireland, if the first appeal was heard in Northern Ireland.
- (5) An appeal under subsection () may be brought only with the permission of—
- (a) the Commission; or
 - (b) where the Commission refuses permission, the court to which the appeal would be brought.
- (6) Schedule 6 (constitution of the Commission and procedure) has effect.

71 Other appeals

- (1) Any person who is required to do any act in response to—
- (a) any notice under section 60, or
 - (b) any directions under section 62 or 63,
- may appeal to a magistrates' court against the requirement on the ground that, having regard to all the circumstances of the case, it is unreasonable to be required to do that act.
- (2) An appeal may not be brought after the end of the period of one month beginning with the day on which the notice or directions were given.
- (3) If the magistrates' court allows the appeal, it may—
- (a) direct that the required act need not be done; or
 - (b) make such modification of the requirement as it considers appropriate.
- (4) An appeal shall lie to the Crown Court against any decision of the magistrates' court.
- (5) Subsections (1) to (3) apply to Scotland with the substitution for references to the magistrates' court of references to the sheriff.
- (6) The appeal to the sheriff is by way of summary application.

- (7) A further appeal shall lie—
- (a) to the sheriff principal from the decision of the sheriff; and
 - (b) with the leave of the sheriff principal, to the Court of Session from the decision of the sheriff principal.
- (8) In the application of this section to Northern Ireland references to a magistrates' court are to a court of summary jurisdiction.

72 Giving of directions or notices

Any direction or notice under this Part may be given by post.

73 Orders and regulations

- (1) The power to make an order or regulations under this Part is exercisable by statutory instrument.
- (2) A statutory instrument containing an order under section 58 shall not be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (3) A statutory instrument containing—
- (a) an order under section 61, or
 - (b) regulations under section 58, 59 or 61,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.

74 Interpretation of Part 7

- (1) In this Part—
- “act of terrorism” has the same meaning as in the Terrorism Act 2000 (c. 11);
 - “chief officer of police” means—
 - (a) in relation to any premises in Great Britain, the chief officer of police for the area in which the premises are situated; and
 - (b) in relation to any premises in Northern Ireland, the Chief Constable of the Police Service of Northern Ireland;
 - “dangerous substance” has the meaning given in section 58;
 - “direction” means a direction in writing;
 - “notice” means a notice in writing;
 - “occupier” includes a partnership or unincorporated association and, in relation to premises that are unoccupied, means any person entitled to occupy the premises;
 - “prescribed” means prescribed in regulations made by the Secretary of State; and
 - “relevant premises” has the meaning given in section 60.
- (2) In this Part references to measures taken to ensure the security of any dangerous substance are to be construed in accordance with section 60.

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

- (1) The Secretary of State may, in relation to anything to which this section applies, make an order applying, or making provision corresponding to, any provision of this Part, with or without modifications.
- (2) This section applies to—
 - (a) toxic chemicals (within the meaning of the Chemical Weapons Act 1996 (c. 6));
 - (b) animal pathogens;
 - (c) plant pathogens; and
 - (d) pests.
- (3) The power under this section may be exercised in relation to any chemical only if the Secretary of State is satisfied that the chemical could be used in an act of terrorism to endanger life or cause serious harm to human health.
- (4) The power under this section may be exercised in relation to any pathogen or pest only if the Secretary of State is satisfied that there is a risk that the pathogen or pest is of a description that could be used in an act of terrorism to cause—
 - (a) widespread damage to property;
 - (b) significant disruption to the public; or
 - (c) significant alarm to the public.
- (5) An order under this section may—
 - (a) provide for any reference in the order to an instrument or other document to take effect as a reference to that instrument or document as revised or re-issued from time to time;
 - (b) make different provision for different purposes; and
 - (c) make such incidental, supplementary and transitional provision as the Secretary of State thinks fit.
- (6) A statutory instrument containing an order under this section shall not be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.