

ANTI-TERRORISM, CRIME AND SECURITY ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6: Weapons of Mass Destruction

Amendment of the Biological Weapons Act 1974 and the Chemical Weapons Act 1996

Section 43 Transfers of biological agents and toxins

117. This section amends the Biological Weapons Act 1974 to make it an offence to transfer biological agents or toxins outside the UK or to assist another person to do so. Biological agents and toxins are defined in the Act as "any microbial or other biological agent and any toxin, whatever its origin or method of production".

Section 44 Extraterritorial application of biological weapons offences

118. This section extends UK jurisdiction over offences under section 1 of the Biological Weapons Act 1974 carried out overseas by a United Kingdom person.
119. A United Kingdom person is a UK national, Scottish partnership, body incorporated under the law of a part of the UK or, on extension by Order in Council, a body incorporated under the law of any of the Channel Islands, the Isle of Man or any Overseas Territory.

Sections 45 and 46 Customs and excise prosecutions for biological and chemical weapons offences

120. These sections permit the Customs and Excise Commissioners to enforce proceedings under the Biological Weapons Act 1974 and the Chemical Weapons Act 1996, in cases involving the movement of a biological or chemical weapon across a border. Officers of the Commissioners will be able to institute offences in England and Wales and Northern Ireland (assuming the Attorney General gives his consent under section 2 of the 1974 Act and section 31 of the 1996 Act).

Nuclear weapons

Section 47 Use etc. of nuclear weapons

121. This section makes it an offence to knowingly cause a nuclear weapon explosion, develop, produce, transfer, possess or engage in military preparations to use or threaten to use a nuclear weapon. In this section "nuclear weapon" is taken to include nuclear explosive devices not intended for use as a weapon.
122. *Subsection (6)* makes the offences apply to acts outside the United Kingdom by a United Kingdom person.

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

123. *Subsection (8)* provides for the offence of knowingly causing a nuclear weapon explosion to cease to have effect under this Act on the coming into force of the Nuclear Explosions (Prohibitions and Inspections) Act 1998. That Act will come into force following the entry into force of the Comprehensive Test Ban Treaty, and includes a similar offence.

Section 48 Exceptions

124. This section makes exceptions for actions carried out in the course of an armed conflict or for actions authorised by the Secretary of State.

Section 49 Defences

125. This section sets out defences for lack of knowledge that a thing was a nuclear weapon or for an attempt to inform the authorities as soon as practicable after discovering that an object was a nuclear weapon.

Assisting or inducing weapons-related acts overseas

Section 50 Assisting or inducing certain weapons-related activities overseas

126. Under this section it has become an offence for a United Kingdom person outside the UK to assist a foreigner to do an act which would (for a UK person) be contrary to section 1 of the Biological Weapons Act, section 2 of the Chemical Weapons Act, or Section 47 of the Act. Offences under this section carry a sentence of up to life imprisonment.

Supplemental provisions relating to [sections 47](#) and [50](#)

Section 51 Extraterritorial application

127. This section supplements the provisions of sections 47 and 50 that extend to acts of United Kingdom persons overseas.

Section 52 Powers of entry

128. This Section gives powers of entry under warrant to constables and officers of the Secretary of State to search for evidence for the commission of an offence under sections 47 and 50.

Section 53 Customs and Excise prosecutions

129. This section permits the Customs and Excise Commissioners to enforce proceedings under sections 47 and 50, in cases involving the movement of a nuclear weapon across a border. Officers of the Commissioners is able to institute offences in England and Wales and Northern Ireland (assuming the Attorney General gives his consent under section 55).

Section 54 Offences

130. *Subsection (1)* sets out additional offences in relation to obtaining an authorisation from the Secretary of State under section 49 by fraud. These offences carry a sentence of up to two years imprisonment and a fine.
131. *Subsection (3)* lays out individual liability of the relevant senior office holder in a body corporate, in addition to corporate responsibility.

Section 55 Consent to prosecution

132. This section requires the Attorney General's consent for prosecutions under section 47 and 50 in England and Wales and Northern Ireland.