

ANTI-TERRORISM, CRIME AND SECURITY ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10: Police Powers

MOD and transport police

Section 98 Jurisdiction of MOD police

244. The Ministry of Defence Police (“MDP”) is a civilian police force exercising full constabulary powers within its jurisdiction. This jurisdiction is defined in the Ministry of Defence Police Act 1987 (“the 1987 Act”), which is the principal legislation governing the force. The limitations on the jurisdiction of the force have been reviewed in the light of the threat of terrorism and of the changed deployment pattern of the MDP. The changes in deployment include the increased use of mobile patrols, involving movement between defence establishments and bringing MDP officers more into contact with the public than previously.
245. The jurisdiction of the MDP is governed by section 2 of the 1987 Act. The overall effect is to give the force jurisdiction in relation to defence land, property and personnel within the United Kingdom and its territorial waters. The MDP is also able to operate on land in the vicinity of defence land where a constable of a local force has asked for assistance.
246. The section extends the MDP’s jurisdiction, by amending section 2 of the 1987 Act.
247. *Subsection (2)* amends section 2(2) of the 1987 Act, which deals with the places where the MDP have jurisdiction. *It* repeals the existing power in relation to acting on land in the vicinity of defence land in response to specific requests from a member of a local force. The repealed power is superseded by a new power provided for by *subsection (4)*.
248. Section 2(3)(b) of the 1987 Act currently provides for the MDP to have an additional jurisdiction in relation to defence personnel. It applies anywhere in the United Kingdom in which the MDP do not have jurisdiction under section 2(2) of the 1987 Act. The jurisdiction is thought to be confined to the alleged commission of offences by defence personnel. *Subsection (3)* extends the jurisdiction to offences against defence personnel; for example, an attempt to bribe defence personnel to disclose confidential information.
249. *Subsection (4)* confers powers on the MDP where a request is made by a member of a local police force, the Police Service of Northern Ireland, the British Transport Police or the United Kingdom Atomic Energy Authority Constabulary. The new powers supersede those repealed by *subsection (2)*. Unlike those repealed by *subsection (2)*, the new powers are restricted to the particular incident, investigation or operation in relation to which assistance is requested, but they are not restricted to the vicinity of defence land. They will be exercisable within the police area of a requesting local police force, within Northern Ireland (in the case of a request by the Police Service

for Northern Ireland), within their railway jurisdiction (in the case of a request by the British Transport Police), or (in the case of a request by the United Kingdom Atomic Energy Authority Constabulary) where an officer of that force may act.

250. *Subsection (4)* also deals with occasions on which MDP officers face emergencies where their normal jurisdiction would not apply. It may not be possible for the MDP officer to obtain timely authority from the local police force to deal with the incident. *Subsection (4)* empowers an MDP officer in uniform (or having proof of being an MDP officer) to act without a request for assistance from an officer of a local police force or other police officer, in limited circumstances, if he reasonably believes that waiting for such a request would frustrate or jeopardise the purpose of his intended action. These circumstances are where the MDP officer has reasonable grounds for suspecting that an offence is about to be committed, is being committed or has been committed, or where he reasonably believes that action is necessary to save life or prevent or minimise personal injury.

Section 99 Provision of assistance by MoD police

251. This section inserts a new section (section 2A) in the 1987 Act. It deals with cases where another police force requires extra resources to meet a special burden. The new section allows such assistance to be given by the MDP, where requested by the chief police officers listed in subsection (4), to enable their force to meet any special demand on its resources. It provides that, where MDP officers serve with other forces as a part of such assistance, they come under the direction of the chief officer of the force with which they are serving for the time being and have full powers of a constable of that force, (i.e. without the jurisdictional limits applying to MDP officers).

Overview

250. **Sections 100, 101** and Schedule 7 allow the British Transport Police (“BTP”) to act outside their railways jurisdiction when asked to assist in relation to a specific incident by a constable from the local police force, the UKAEA constabulary or a Ministry of Defence Police (“MDP”) officer, and in an emergency. The changes also give BTP officers certain powers already available to local police officers, including powers under the Terrorism Act 2000 and the ability to enter into mutual aid agreements with other forces.

Section 100 Jurisdiction of transport police

251. This section permits British Transport Police (“BTP”) officers to act outside their normal railways jurisdiction. These measures are to improve the effectiveness of the BTP by enabling it to play a full role in protecting the public from terrorism and other crimes.
252. The BTP’s railways jurisdiction gives its officers the powers and privileges of a constable on, and in the vicinity of, the railways and elsewhere on railways matters. However they need to move between railway sites and often have a presence in city centres. BTP officers are frequently called upon to intervene outside their ‘railways’ jurisdiction and it is estimated that some such 8,000 incidents occur each year. In these circumstances BTP officers previously only had the powers of an ordinary citizen, despite being police officers fully trained to the standards of a local police force, and routinely dealing with the same range of incidents in the course of their railway activities.
253. *Subsection (1)* allows a BTP officer to assist a member of a local police force, the MDP or the UK Atomic Energy Authority Constabulary (“UKAEAC”) when assistance is requested by a constable of one of those forces. The BTP officer can only assist in relation to a specific incident, investigation or operation but will have the same powers and privileges as a constable of the requesting police force. This is to avoid confusion,

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

so that there will be no difference in the powers available to the BTP officer on such an occasion and an officer from the other force whom he is assisting.

254. *Subsection (2)* allows a BTP officer to intervene if he reasonably believes that an offence has been, is being committed or is about to be committed; or to prevent injury or save life. In these circumstances the BTP officer will have the same powers and privileges as an officer of a local police force. A BTP officer can only act under *subsection (2)* if he satisfies the requirements of *subsection (3)*.
255. *Subsection (3)* sets out the circumstances in which a BTP officer can act under *subsection (2)*. He must be able to show evidence that he is a BTP officer, i.e. be in uniform or have documentary proof, such as his warrant card. In addition, he can only act if he reasonably believes that waiting for a request for assistance from the police force with primary jurisdiction (i.e. the local police force, MDP or UKAEAC) or waiting for a constable of one of those forces to act, would frustrate or seriously prejudice the purpose of his intended action.

Section 101 Further provisions about transport police and MoD police

256. This section gives effect to Schedule 7 which provides the BTP with additional police powers in certain circumstances. These powers were only previously available to local police force constables, and not BTP officers. Certain powers are also extended to the MDP. The BTP and MDP are under the same restrictions as local police forces regarding the application and use of these powers. Details of the amendments to the certain Acts of Parliament are contained in the note on Schedule 7.