

ANTI-TERRORISM, CRIME AND SECURITY ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 13: Miscellaneous

Intelligence Services Act 1994

Section 116 Amendments of the Intelligence Services Act 1994

303. This amendment serves two purposes: it amends and extends to Government Communications Headquarters (GCHQ) the authorisation procedure which currently applies only to the Secret Intelligence Service (SIS) by adding their name to Section 7 of the Intelligence Services Act 1994; and it brings the definition of the prevention and detection of crime which applies to SIS into line with the definition used by the Security Service, as set out in the Regulation of Investigatory Powers Act 2000.
304. *Section 7* sets out the authorisation procedure for acts necessary for the proper discharge of the functions of the SIS which take place abroad. The amendment extends this authorisation to GCHQ, for the purpose of discharging its own functions, and allows both GCHQ and SIS to be authorised under section 7 to act in this country when the intention is for those actions to have an effect only on apparatus located abroad.
305. *Subsection (1)* adds GCHQ to the agencies entitled to seek authorisation under Section 7 of the Intelligence Service Act and ensures that safeguards are in place concerning GCHQ's functions and disclosures in relation to its activities under this section.
306. *Subsection (2)* makes an amendment to Section 7 which affects the location at which acts authorised under Section 7 may take place. Section 7, Subsection (1) provides that the acts to be authorised must take place abroad. This extra subsection provides that the authorisation procedure in Section 7 may also apply to acts undertaken in this country, if they are intended only to have an effect on apparatus located outside the British Islands or on material originating from such apparatus.
307. The definition of "apparatus" used here is the same as in the Regulation of Investigatory Powers Act 2000, i.e. any equipment, machinery or device, or any wire or cable.
308. *Subsection (3)* provides for the meaning of the prevention and detection of crime as set out in Section 81(5) of the Regulation of Investigatory Powers Act 2000 for the purposes of the provisions of that Act not contained in Chapter 1 of Part 1 to be applied to the Secret Intelligence Service. The same definition will therefore apply to the Secret Intelligence Service as applies to the Security Service in the Security Service Act 1989. The effect is to clarify that the Secret Intelligence Service can support evidence gathering activities.