

ENERGY ACT 2004

EXPLANATORY NOTES

THE ACT

Part 1: the Civil Nuclear Industry

Summary and Background

Chapter 3: Civil Nuclear Constabulary

16. Chapter 3 implements proposals in the White Paper, “*Managing the Nuclear Legacy – A Strategy for Action*” (Cm. 5552), to reform the governance arrangements for the UKAEA Constabulary, and to set it up on a statutory basis similar to that for other police forces.
17. The UKAEA Constabulary operates in England, Scotland and Wales but not in Northern Ireland. Accordingly the Constabulary provisions (with some minor exceptions) extend only to England, Wales and Scotland.
18. The [Atomic Energy Authority Act 1954 \(c.32\)](#) conferred power on UKAEA to nominate persons to be special constables for the purposes of section 3 of the [Special Constables Act 1923 \(c.11\)](#). The body of special constables so nominated by UKAEA and appointed under section 3 forms the existing UKAEA Constabulary. Members of the existing Constabulary have police powers to enable them to protect certain civil licensed nuclear sites and nuclear material in transit. The Constabulary is currently part of UKAEA, and is fully funded by the nuclear site licensees whose sites it polices (currently UKAEA, BNFL and URENCO). It is overseen by a non-statutory committee of UKAEA – the UKAEA Constabulary police authority - composed of representatives of the nuclear site licensees, the Director of the Office for Civil Nuclear Security (part of the DTI), an expert police adviser and another representative of DTI. The Chair rotates on an annual basis between UKAEA and BNFL.
19. sites and escorts sensitive nuclear material in the course of transport. It has a specialist anti-terrorist policing role focussed on the protection of proliferation-sensitive nuclear material. It is an integral part of the civil nuclear security framework and works within security parameters set by the Director of Civil Nuclear Security on behalf of the Secretary of State. The Constabulary has limited contact with the public or with general crime for which Home Office and Scottish Executive forces continue to have operational responsibility within the areas in which the Constabulary operates.
20. The Act provides for the separation of the UKAEA Constabulary from UKAEA, and its transfer to a statutory Police Authority (a Non-Departmental Public Body) created by the Act, to become the new Civil Nuclear Constabulary. The Police Authority will be accountable to the Secretary of State and have overall supervisory responsibility for the force and for ensuring that it carries out its role effectively.
21. The [Anti-terrorism, Crime and Security Act 2001 \(c.24\)](#) (the “ACTS Act”) modified and extended the UKAEA Constabulary’s jurisdiction to bring it into line with its core nuclear security role. This Act essentially restates those provisions (with the consequent repeal of the relevant ATCS Act provisions). It makes minor changes to the

Constabulary's current jurisdiction to focus this more firmly on its specialist nuclear security role, and gives the Constabulary police powers and privileges throughout Great Britain for any purpose connected with the core jurisdiction set out in section 56(1) to 56(4). It also enables a senior officer of the Civil Nuclear Constabulary to authorise, under section 44 of the [Terrorism Act 2000 \(c.11\)](#), stop and search for articles which could be used in connection with terrorism without grounds for suspicion, and extends the offences of assault on constables and impersonation of police to members of the Civil Nuclear Constabulary. The existing staff of the UKAEA Constabulary (both constables and civilian support staff) will be transferred to the new Police Authority under the provisions of the Act. The Transfer of Undertakings (Protection of Employment) Regulations 1981 ("TUPE") will apply to the transfer, and employees will continue to be eligible for membership of the UKAEA pension scheme.

22. Members of the Constabulary will be prohibited from joining trade unions (subject to limited exceptions). In this and other respects the Act puts on a statutory footing the current informal arrangements, and brings those arrangements into line with the long established principles incorporated in other police legislation. For example, it will also be made an offence to induce a member of the Constabulary to withhold his services. The Act also makes provision for recognition of a Civil Nuclear Police Federation, and requires the Police Authority to align any provision it makes about conditions of service with the provision made on such matters by police regulations (unless differences are justified due to the circumstances and structure of the Constabulary). Civilian staff are not affected by these arrangements.