

# TERRORISM ACT 2006

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## EXPLANATORY NOTES

### COMMENTARY

#### *Definitions*

#### *Section 12 - Trespassing etc. on nuclear sites*

71. This section amends sections 128 and 129 of the Serious Organised Crime and Police Act 2005 ("the SOCAP") to extend those sections to include nuclear sites. Section 128 covers England, Wales and Northern Ireland and section 129 covers Scotland. They make it an offence to enter or to be on a designated site as a trespasser. The maximum penalty for the offence under these provisions is, in England and Wales, 51 weeks imprisonment, a fine up to level 5 on the standard scale, or both, in Scotland, 12 months imprisonment, a fine up to level 5 on the standard scale, or both and in Northern Ireland, 6 months imprisonment, a fine up to level 5 on the standard scale or both. The reference to 51 weeks in relation to England and Wales is subject to a transitional provision as set out in section 175(3) of the SOCAP, which provides that, in relation to offences committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference to 51 weeks is to be read as a reference to 6 months.

#### **Subsection (2)**

72. **Subsection (2)** amends sections 128 and 129 of SOCAP to refer to protected site rather than designated site.

#### **Subsection (3)**

73. **Subsection (3)** amends section 128 of the SOCAP so that it applies to protected sites. A protected site is either a designated site (the type of site that section 128 already applied to) or a nuclear site. A nuclear site is defined within section 128 (as amended) and as a consequence there is no need for the Secretary of State to make an order defining a nuclear site as there is with a designated site. A nuclear site is defined, in new subsection (1B) of section 128, as so much of any premises for which a nuclear site licence is in force as lies within the outer perimeter fence, wall or other obstacle securing the protection of the site, plus any other premises falling within this outer perimeter fence etc. This is to make clear that in cases where there are differences between the alignment of the outer perimeter fence etc. and the area of the licensed site, it is an offence to be inside the outer perimeter fence etc. and the area of the licensed site, it is an offence to be inside the outer perimeter fence etc. Conversely, where there is land that is part of a licensed nuclear site, but which falls outside the outer perimeter fence etc., it is not an offence to be on this land. The powers of a constable to arrest a person suspected of committing the offence in section 130 of the SOCAP apply.

#### **Subsection (4)**

74. **Subsection (4)** amends section 129 of the SOCAP in the same manner as section 128.