Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Nuclear Security (Secretary of State Security Directions) Regulations 2018. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

2018 No. 408

ATOMIC ENERGY AND RADIOACTIVE SUBSTANCES NUCLEAR SECURITY

The Nuclear Security (Secretary of State Security Directions) Regulations 2018

Made - - - -	*21st March 2018*
Laid before Parliament	*26th March 2018*
Coming into force - -	*1st October 2018*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 77(1) to (4) of the Anti-terrorism, Crime and Security Act 2001 [F1].

In accordance with section 77(5) of that Act, the Secretary of State has consulted the Office for Nuclear Regulation and such other persons as the Secretary of State considered appropriate.

F1 2001 c. 24; section 77 was amended by the Energy Act 2004 (c. 20), **section 77** and Schedule 14, paragraph 10(1); by the Energy Act 2011 (c. 16) section 105 and by the Energy Act 2013 (c. 32), **Schedule 12**, paragraphs 31 and 32.

Citation and commencement

1.—(1) These Regulations may be cited as the Nuclear Security (Secretary of State Security Directions) Regulations 2018.

(2) These Regulations come into force on 1st October 2018.

Interpretation

2. In these Regulations—

"carrier" means a person undertaking the transport of nuclear material;

"developer" means a person who is lawfully entitled to carry out works on a site with a view to its becoming a nuclear site;

"enforcement officer" means a person appointed by the Secretary of State under regulation 8(1);

"further direction" means any direction given in accordance with regulation 3(4);

"hovercraft" has the meaning given in section 4(1) of the Hovercraft Act 1968 [F2];

"instrument of appointment" has the meaning given in regulation 8(2);

"nuclear site licence" has the same meaning as in section 1 of the Nuclear Installations Act 1965 [F3];

"protected information" has the meaning given in regulation 9(1);

"relevant power" means a power conferred by any of the relevant provisions contained in the Schedule on an enforcement officer if and so far as authorised;

"responsible person" means any person who—

(a) holds a nuclear site licence;

(b) uses or stores nuclear material or other radioactive material on premises that form part of a nuclear site (but does not hold the nuclear site licence for that site);

(c) is a developer of a nuclear construction site;

(d) is responsible for nuclear or other radioactive material used or stored on other nuclear premises;

(e) is a carrier;

(f) is in possession or control of sensitive nuclear information in the United Kingdom and who is involved in—

(i) activities on or in relation to a nuclear site, nuclear construction site or other nuclear premises or who is proposing to become so involved;

(ii) the enrichment of uranium (whether in the United Kingdom or elsewhere); or

(iii) activities with a view to, or in connection with, the enrichment of uranium (whether in the United Kingdom or elsewhere);

(g) is in possession or control of uranium enrichment equipment or uranium enrichment software in the United Kingdom and who is involved or proposing to become involved in the following activities (whether in the United Kingdom or elsewhere)—

(i) the enrichment of uranium;

(ii) activities with a view to, or in connection with, the enrichment of uranium; or

(iii) the production, storage or transport of equipment or software on behalf of a person involved in the activities mentioned in sub-paragraph (i) or (ii);

"security direction" has the meaning given in regulation 3(1);

"transport" means transport by any means, but excludes transport within nuclear sites or within other nuclear premises or between adjoining nuclear sites or adjoining other nuclear premises;

"uranium enrichment equipment" means equipment capable of being used in or in connection with the enrichment of uranium;

"uranium enrichment software" means any software capable of being used in or in connection with the enrichment of uranium.

F2 1968 c. 59.
F3 1965 c. 57; section 1 was replaced by the Energy Act 2013, Schedule 12, paragraph 17.

Security direction

3.—(1) Where the Secretary of State is satisfied that there is a relevant security threat, the Secretary of State may give a direction ("a security direction") to any responsible person, to ensure the security of—

(a) the whole or any part of a nuclear site, nuclear construction site or other nuclear premises;

(b) nuclear or other radioactive material used or stored on the whole or any part of a nuclear site, or used or stored on the whole or any part of other nuclear premises;

(c) any transport of nuclear material, whether the transport is due to commence or is in progress;

(d) any sensitive nuclear information; or

(e) any uranium enrichment equipment or uranium enrichment software.

(2) A security direction may require the responsible person to whom the direction is addressed to implement any measures specified in the direction, at such times as may be so specified.

(3) A security direction remains in force from the time it is given until the earlier of—

(a) the time and date specified in that security direction;

(b) the time and date on which that security direction is revoked in accordance with paragraph (4); or

(c) the expiry of a period of 120 hours since that security direction was given, unless the duration of the security direction is extended in accordance with paragraph (4).

(4) The Secretary of State may, by further direction, vary, extend or revoke a security direction, but a further direction may not extend the duration of a security direction by more than an additional 48 hours.

(5) The Secretary of State must consult the Office for Nuclear Regulation before giving a further direction extending the duration of a security direction in accordance with paragraph (4).

(6) In paragraph (1), "relevant security threat" means an imminent threat that—

(a) relates to—

(i) a nuclear site, a nuclear construction site, or other nuclear premises;

(ii) nuclear material or other radioactive material used or stored on the whole or any part of a nuclear site, or used or stored on the whole or any part of other nuclear premises;

(iii) any transport of nuclear material whether that transport is due to commence or is in progress;

(iv) sensitive nuclear information; or

(v) uranium enrichment equipment or uranium enrichment software; and

(b) involves, in respect of—

(i) sites, premises and materials at sub-paragraphs (a)(i) to (iii), an act of terrorism, espionage, sabotage or theft; or

(ii) sensitive nuclear information or uranium enrichment equipment or uranium enrichment software, an act of terrorism, espionage, sabotage or theft concerning that information, equipment or software, or the threat of that information, equipment or software being compromised or disclosed.

Giving a security direction

4.—(1) A security direction or further direction is given when the Secretary of State communicates it to the responsible person to whom it applies.

(2) A security direction or further direction given otherwise than in writing must be confirmed in writing as soon as reasonably practicable after being given.

(3) Such written confirmation must include the time of the giving of the security direction or further direction.

Obligation to comply with security directions

5. Each responsible person to whom a security direction or further direction is given must—

(a) comply with that direction;

(b) ensure that the responsible person's officers, employees and contractors—

(i) are made aware of any measures required to be taken under the direction which are relevant to those persons; and

(ii) take all steps necessary to comply with such measures.

Notification to Parliament and relevant organisations

6.—(1) The Secretary of State must, within a reasonable time of giving a security direction or a further direction, lay a memorandum before Parliament stating that a security direction or further direction, as the case may be, has been given.

(2) As soon as reasonably practicable, the Secretary of State must provide the Office for Nuclear Regulation with a copy of any security direction or further direction given.

(3) Where a security direction or further direction is given otherwise than in writing, the Secretary of State must provide the Office for Nuclear Regulation with a copy of the written confirmation of that direction.

Application in relation to a carrier undertaking or planning transportation by ship

7.—(1) These Regulations apply to a carrier undertaking or planning transportation of nuclear material by ship—

(a) in the case of a carrier who is a United Kingdom person, when a transport of nuclear material is due to commence or is in progress—

(i) within the United Kingdom or its territorial sea; or

(ii) outside the United Kingdom or its territorial sea, to or from any nuclear site or other nuclear premises in the United Kingdom;

(b) in the case of a carrier who is not a United Kingdom person, when a transport of nuclear material is due to commence or is in progress, within the United Kingdom or its territorial sea.

(2) Paragraph (1)(b) does not apply to the transport of nuclear material in a ship that is owned by the government of a country outside the United Kingdom, or a department or agency of such a government, except at a time when the ship is being used for commercial purposes.

(3) In this regulation any reference to a ship includes reference to a hovercraft.

Appointment and powers of enforcement officers

8.—(1) The Secretary of State may appoint a suitably qualified person for the purposes of enforcing these Regulations.

(2) An enforcement officer is authorised to exercise such of the relevant powers as are set out in the instrument by which the officer is appointed (“instrument of appointment”).

(3) Any instrument of appointment—

(a) must be in writing;

(b) may authorise an enforcement officer to exercise any relevant power—

(i) without restriction; or

(ii) only to a limited extent or for limited purposes.

(4) The Secretary of State may vary in writing any authority given to an enforcement officer in respect of the exercise of any relevant power.

(5) An enforcement officer may bring proceedings for an offence before a magistrates' court in England and Wales if authorised to do so by that officer's instrument of appointment.

(6) When exercising or seeking to exercise any relevant power, an enforcement officer must, if asked, produce the officer's instrument of appointment (including any instrument varying it) or a duly authenticated copy.

(7) The Schedule (powers which may be exercised by enforcement officers) has effect.

Prohibition on disclosure of information obtained by enforcement officers

9.—(1) This regulation applies where an enforcement officer obtains or holds information in the exercise of a relevant power ("protected information").

(2) Except as provided by paragraphs (3) and (5) to (7), protected information must not be disclosed by—

(a) the enforcement officer who originally obtained or held the information ("the relevant enforcement officer"); or

(b) any other person who holds it where that person has received it directly or indirectly from the relevant enforcement officer, by virtue of a disclosure made in accordance with this regulation.

(3) Paragraph (2) does not prohibit the disclosure of protected information to—

(a) the Office for Nuclear Regulation, its officers or any inspector appointed by it; or

(b) a relevant authority, including an officer of a relevant authority;

by a person or bodies listed within sub-paragraph (a) or (b) where the disclosure of the protected information is necessary for the purposes of the Office for Nuclear Regulation or the relevant authority in question.

(4) Any person to whom protected information is disclosed by virtue of paragraph (3) may only use that information for, as applicable, the purposes of the Office for Nuclear Regulation or the relevant authority in question.

(5) Paragraph (2) does not prohibit a disclosure of protected information—

(a) with the consent of the person from whom the information was obtained;

(b) by the enforcement officer who originally obtained or held the information for the purposes of exercising any of the officer's functions;

(c) for the purposes of any legal proceedings brought for the purposes of enforcing these Regulations; or

(d) in a form calculated to prevent the information from being identified as relating to a particular person or case.

(6) Paragraph (2) does not prohibit a disclosure of protected information which is made in accordance with an obligation under—

(a) the Freedom of Information Act 2000 [F4];