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STATUTORY INSTRUMENTS

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**2014 No. 469**

**ENERGY**

The Energy Act 2013 (Office for Nuclear  
Regulation) (Consequential Amendments,  
Transitional Provisions and Savings) Order 2014

<i>Made</i>	- - - -	<i>3rd March 2014</i>
<i>Laid before Parliament</i>		<i>10th March 2014</i>
<i>Coming into force</i>	- -	<i>1st April 2014</i>

The Secretary of State, in exercise of the powers conferred by sections 113, 114 and 116 of the Energy Act 2013(1), makes the following Order:

**Citation and commencement**

1.—(1) This Order may be cited as the Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014.

(2) This Order comes into force on 1st April 2014.

**Interpretation**

2.—(1) In this Order—

“the 1965 Act” means the Nuclear Installations Act 1965(2);

“the 2001 Act” means the Anti-terrorism, Crime and Security Act 2001(3);

“the 2013 Act” means the Energy Act 2013;

“the 2003 Regulations” means the Nuclear Industries Security Regulations 2003(4);

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- (1) [2013 c. 32](#)
- (2) [1965 c.57](#); sections 1, 3, 4, 5, 6 and 22 were substituted by the Energy Act [2013 \(c.32\)](#), Schedule 12, paragraphs 16 to 23. Section 26 was amended by the Energy Act [1983 \(c.25\)](#), sections 27 and 32, the Environment Act [1995 \(c.25\)](#), Schedule 22, paragraph 10, [S.I. 1974/2056](#), Schedule 2, and [S.I. 1999/2786](#), article 3(1). Section 27 was amended by the Northern Ireland Constitution Act [1973 \(c.36\)](#), Schedule 6, the Energy Act [2004 \(c.24\)](#), section 78 and Schedule 23, and the Energy Act 2013, Schedule 12, paragraph 27. There are other amendments to the 1965 Act not relevant to this Order.
- (3) [2001 c.24](#); section 77 was amended by the Energy Act [2004 \(c.24\)](#), section 77 and Schedule 14, paragraph 10(1), by the Energy Act [2011 \(c.16\)](#), section 105, and by [S.I. 2008/960](#), Schedule 3. There are other amendments to the 2001 Act not relevant to this Order.
- (4) [S.I. 2003/403](#), amended by [S.I. 2006/2815](#), [S.I. 2009/229](#) and [S.I. 2013/190](#).

“the 2009 Regulations” means the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009(5);

“HSE” means the Health and Safety Executive;

“United Kingdom ship” has the meaning given in section 70(3) of the 2013 Act;

(2) For the purposes of this Order “ADN”, “ADR” and “RID” have the meanings given in section 73(3) of the 2013 Act.

(3) For the purposes of this Order “hovercraft” and “United Kingdom hovercraft” have the meaning given in regulation 28 of the 2003 Regulations.

### **Extent and application**

3.—(1) Subject to paragraphs (2) to (5), this Order extends to England and Wales, Scotland and Northern Ireland.

(2) Article 7 extends to England and Wales only.

(3) In Schedule 1—

(a) paragraph 3 extends to England and Wales and Scotland only;

(b) paragraph 8(2)(b) to (d) extends to England and Wales and Scotland only.

(4) The amendments made by Schedule 2 have the same extent as the provisions which they amend, except that the amendments made by paragraphs 11 to 13 of that Schedule extend to Scotland only.

(5) The amendments made by Schedule 3 have the same extent as the provisions which they amend, except that—

(a) the amendments made by paragraphs 164 to 176 of that Schedule, in so far as they make provision for ONR inquiries, extend to England and Wales, Scotland and Northern Ireland;

(b) the amendments made by paragraph 178 of that Schedule, extend to Scotland only;

(c) the amendments made by paragraphs 182(2) and (4) and 187 to 189 of that Schedule apply in relation to England only;

(d) the amendments made by paragraph 182(3) and (5) apply in relation to Wales only.

### **Regulations to be treated as regulations under the 2013 Act**

4. Schedule 1 which—

(a) makes provision for existing regulations to be treated as regulations under the 2013 Act, and

(b) makes transitional modifications to the application of the 2013 Act in consequence of the provisions mentioned in sub-paragraph (a),

has effect.

### **Agreements concerning functions related to the transport of radioactive materials to be treated as agreements entered into by the ONR**

5.—(1) The agreements and authorisation specified in paragraph (3) continue to have effect on and after 1st April 2014 as if they had been duly entered into between—

(a) the Secretary of State or relevant public authority; and

(b) the ONR in exercise of its powers under section 90(1) of the 2013 Act.

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(5) [S.I. 2009/1348](#), amended by [S.I. 2011/1885](#), [S.S.I. 2013/119](#) and [S.I. 2013/235](#).

(2) In those agreements all references to the Health and Safety Executive, or the Executive, are, so far as necessary for the purposes, or in consequence, of paragraph (1) to be read as references to the ONR.

(3) The specified agreements are—

- (a) the agreement under section 13(4) of the 1974 Act<sup>(6)</sup> and authorisation under paragraph 15 of Schedule 1 to the Civil Aviation Act 1982 made on 26th October 2011 by the Civil Aviation Authority and the HSE<sup>(7)</sup>;
- (b) the agreement made under section 13(4) of the 1974 Act on 28th October 2011 by the Secretary of State for Transport and the HSE<sup>(8)</sup>;
- (c) the agreement made under section 13(4) of the 1974 Act and section 28(1) of the Northern Ireland Act 1998 on 25th January 2012 by the Department of the Environment (Northern Ireland) and the HSE<sup>(9)</sup>.

### **Consequential amendments**

6.—(1) Schedule 2, which contains amendments to primary legislation in consequence of Part 3 of the 2013 Act, has effect.

(2) Schedule 3, which contains amendments to instruments in consequence of Part 3 of the 2013 Act and of this Order, has effect.

### **Transitional provisions: fines on conviction by magistrates' court**

7.—(1) This article makes transitional modifications to the 1965 Act, the 2001 Act and the 2013 Act as they apply to England and Wales.

(2) In relation to an offence which is committed before the relevant commencement date, each of the references to a fine specified in paragraph (3) is to be treated as a reference to a fine not exceeding £20,000.

(3) The specified references are—

- (a) in the 1965 Act, the first references in each of sections 1(8)(b), 4(11)(b), 5(10)(b) and 22(4)(b)<sup>(10)</sup>;
- (b) the first reference in section 77(3)(a)(ii) of the 2001 Act<sup>(11)</sup>;
- (c) in the 2013 Act—
  - (i) the first reference in section 103(2)(a)(ii);
  - (ii) the reference in section 104(2)(a)(i);
  - (iii) the first reference in section 105(7)(a)(ii);
  - (iv) the first references in each of paragraphs 7(2)(a)(ii) and 17(3)(a)(ii) of Schedule 8;
  - (v) the first reference in paragraph 13(7)(a)(ii) of Schedule 10.

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<sup>(6)</sup> “The 1974 Act” has the meaning given in section 112(1) of the Energy Act 2013 (c.32).

<sup>(7)</sup> A copy of the agreement and authorisation is available here: <http://www.hse.gov.uk/aboutus/howwework/framework/aa/transport-hse-aa.pdf>

<sup>(8)</sup> A copy of the agreement is available here: <http://www.hse.gov.uk/aboutus/howwework/framework/aa/secretary-of-state-hse-mou-2011.pdf>

<sup>(9)</sup> A copy of the agreement is available here: <http://www.hse.gov.uk/aboutus/howwework/framework/aa/onr-transport-agency-250112.pdf>.

<sup>(10)</sup> Section 1 was substituted by the Energy Act 2013 (c.32) (“the 2013 Act”), Schedule 12, paragraph 17. Section 4 was substituted by the 2013 Act, Schedule 12, paragraph 19. Section 5 was substituted by the 2013 Act, Schedule 12, paragraph 20. Section 22 was substituted by the 2013 Act, Schedule 12, paragraph 23.

<sup>(11)</sup> Section 77(3)(a)(ii) was amended by the Energy Act 2013, Schedule 12, paragraph 32(3).

(4) In relation to an offence which is committed before the relevant commencement date, section 75(2)(b)(ii) of the 2013 Act has effect as if for “a fine or” there were substituted “a fine not exceeding the amount specified (which must not exceed £20,000) or”.

(5) In relation to an offence which is committed before the relevant commencement date, each of the references in the 2013 Act to a fine specified in paragraph (6) is to be treated as a reference to a fine not exceeding the statutory maximum.

(6) The specified references are—

- (a) the reference in section 97(6)(a)(i);
- (b) the first reference in section 102(3)(a)(ii);
- (c) the first reference in paragraph 6(1)(a)(ii) of Schedule 9.

(7) In relation to an offence which is committed before the relevant commencement date each of the references in the 2013 Act to a fine specified in paragraph (8) is to be treated as a reference to a fine not exceeding level 5 on the standard scale.

(8) The specified references are—

- (a) the reference in section 99(3)(b)(i);
- (b) the references in paragraphs 18(2)(b)(i) and 19(2)(a) of Schedule 8.

(9) In relation to an offence which is committed before the relevant commencement date, each of the provisions of the 2013 Act specified in paragraph (10) has effect as if for the words following the first reference to “a fine” there were substituted “not exceeding level 5 on the standard scale”.

(10) The specified provisions are—

- (a) section 75(4)(b)(i); and
- (b) section 85(6)(a).

(11) In this article “the relevant commencement date” means the date on which section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012<sup>(12)</sup> (removal of limit on certain fines on conviction by magistrates’ court) comes into force.

#### **Transitional provisions and savings: general**

8. Schedule 4, which makes transitional provisions and savings, has effect.

Signed by authority of the Secretary of State for Work and Pensions,

3rd March 2014

*Mike Penning*  
Minister of State  
Department for Work and Pensions

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(12) 2012 c.10.

## SCHEDULE 1

Article 4

### Regulations to be treated as regulations under the 2013 Act

## PART 1

### Regulations to be treated as nuclear regulations

#### **Nuclear Industries Security Regulations 2003**

1.—(1) The 2003 Regulations are to be treated as nuclear regulations and as if identified in accordance with section 74(9) of the 2013 Act as made for the nuclear security purposes<sup>(13)</sup>.

(2) Sub-paragraph (1) does not apply to the following provisions of the 2003 Regulations—

- (a) regulation 2(4);
- (b) regulation 3(1) and (2).

(3) Despite sub-paragraph (1), the 2003 Regulations are not—

- (a) to be treated as relevant provisions for the purposes of section 102 or 104 of the 2013 Act;
- (b) to be treated as relevant statutory provisions for the purposes of section 99 of that Act.

(4) Nothing in this paragraph affects the continued application of regulations 2(4) and 3(1) and (2) of the 2003 Regulations for the purposes of the 2001 Act.

#### **Nuclear Safeguards (Notification) Regulations 2004**

2. The Nuclear Safeguards (Notification) Regulations 2004<sup>(14)</sup> are to be treated as nuclear regulations and as if identified in accordance with section 74(9) of the 2013 Act as made for the nuclear safeguards purposes<sup>(15)</sup>.

#### **Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009**

3.—(1) Insofar as they have effect in relation to the civil carriage of class 7 goods, the 2009 Regulations are to be treated as nuclear regulations.

(2) Sub-paragraph (1) does not apply to—

- (a) regulation 27 and, to the extent it relates to the charging of fees, regulation 29(6) of the 2009 Regulations; and
- (b) paragraphs 1, 3 and 4 of Schedule 3 to those Regulations.

(3) Nothing in this paragraph affects the continued application of the 2009 Regulations to carriage other than the civil carriage of class 7 goods.

(4) For the purposes of this paragraph—

- (a) “civil carriage of class 7 goods” means the carriage of class 7 goods otherwise than for the purposes of the department of the Secretary of State with responsibility for defence;
- (b) “class 7 goods”—
  - (i) in relation to carriage by road, has the same meaning as in ADR;

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<sup>(13)</sup> “Nuclear security purposes” has the meaning given by section 70 of the Energy Act 2013.

<sup>(14)</sup> S.I. 2004/1255, amended by S.I. 2007/3224.

<sup>(15)</sup> “Nuclear safeguards purposes” has the meaning given by section 72 of the Energy Act 2013.

- (ii) in relation to carriage by rail, has the same meaning as in RID;
- (iii) in relation to carriage by inland waterway, has the same meaning as in ADN.

## PART 2

### Application of the 2013 Act to the Nuclear Industries Security Regulations 2003 – modification of provisions relating to offences

#### **Application to transport other than transport in a ship which is not a United Kingdom ship or in a hovercraft which is not a United Kingdom hovercraft**

4.—(1) Subject to sub-paragraph (2), this paragraph makes transitional modifications to Schedule 10 to the 2013 Act (provisions relating to offences) as it applies in relation to the provisions of the 2003 Regulations other than the non-UK transport provisions by virtue of paragraph 1 of this Schedule.

- (2) Paragraphs 3 to 5 and 12 of Schedule 10 to the 2013 Act do not apply in relation to—
  - (a) any offence under regulation 25 of the 2003 Regulations committed on or after 1st April 2014; or
  - (b) a nuclear security offence.
- (3) For the purposes of this paragraph—
  - (a) “the non-UK transport provisions” means the provisions of the 2003 Regulations as they apply in relation to transport in a ship which is not a United Kingdom ship or in a hovercraft which is not a United Kingdom hovercraft;
  - (b) “nuclear security offence” means an offence—
    - (i) specified in sub-paragraph (4); and
    - (ii) committed on or after 1st April 2014.
  - (c) “nuclear security inspector” means an ONR inspector so far as acting for the purpose of carrying into effect any provision of the 2003 Regulations.
- (4) The specified offences are—
  - (a) the offence under section 97(5) of the 2013 Act to the extent that it relates to a refusal or a failure by a person to comply with a notice given under that section requiring that person to provide information which the ONR needs for carrying out its functions under or in connection with the 2003 Regulations;
  - (b) the offence under section 105(1) of that Act to the extent that it relates to the making of a statement by a person which that person knows to be false, or a person recklessly making a statement which is false—
    - (i) in purported compliance with any requirement to provide information imposed by or under the 2003 Regulations; or
    - (ii) for the purpose of obtaining the issue of a document under those Regulations;
  - (c) the offence under section 105(3) of that Act to the extent that it relates to a person—
    - (i) intentionally making a false entry in any register, record, notice or other document which is required to be kept or given by or under the 2003 Regulations; or
    - (ii) with intent to deceive, making use of any such entry which the person knows to be false;

- (d) the offence under section 105(5) of that Act to the extent that it relates to a person, with intent to deceive—
  - (i) using a document issued or authorised to be issued under the 2003 Regulations or required for the purpose of those Regulations; or
  - (ii) making or having possession of a document so closely resembling a document mentioned in paragraph (i) as to be calculated to deceive;
- (e) the offence under paragraph 17(1) of Schedule 8 to the 2013 Act to the extent that it relates to the contravention by a person of any requirement imposed by a nuclear security inspector under Part 3 of that Schedule;
- (f) the offence under paragraph 17(2) of that Schedule to the extent that it relates to a person preventing or attempting to prevent any other person from—
  - (i) appearing before a nuclear security inspector; or
  - (ii) answering any question to which a nuclear security inspector may require an answer by virtue of paragraph 15 of that Schedule;
- (g) the offence under paragraph 18(1) of that Schedule to the extent that it relates to a person intentionally obstructing a nuclear security inspector in the exercise or performance of the inspector's functions;
- (h) the offence under paragraph 19(1) of that Schedule to the extent that it relates to a person falsely pretending to be a nuclear security inspector;
- (i) the offence under paragraph 3 of Schedule 9 to the 2013 Act to the extent that it relates to a person disclosing protected information which is information—
  - (i) obtained by the ONR under a notice mentioned in paragraph (a) above;
  - (ii) disclosed to the ONR, or a nuclear security inspector, under section 98 of the 2013 Act for the purpose of facilitating the carrying out of their functions under the 2003 Regulations;
  - (iii) obtained by a nuclear security inspector as a result of the exercise of any relevant power (within the meaning given in paragraph 2(5) of Schedule 8 to the 2013 Act); or
  - (iv) provided to a person pursuant to a requirement imposed by the 2003 Regulations, in contravention of paragraph 2 of Schedule 9 to the 2013 Act;
- (j) the offence under paragraph 4 of Schedule 9 to the 2013 Act to the extent that it relates to a person using protected information of the type mentioned in paragraph (i)(i) to (iv) above in contravention of a restriction under paragraph 10(3), 11(2), 12(2), 13(2), 14(2) or 15(2) of that Schedule;
- (k) the offence under sub-paragraph (6) of paragraph 13 of Schedule 10 to that Act to the extent that it relates to a failure by a person to comply with an order made under that paragraph where the person is convicted of—
  - (i) an offence under the 2003 Regulations; or
  - (ii) an offence mentioned within any of paragraphs (a) to (j) above.

### **Transport in a ship which is not a United Kingdom ship**

5.—(1) This paragraph makes transitional modifications to the 2013 Act as it applies by virtue of paragraph 1 of this Schedule in relation to the provisions of the 2003 Regulations as they apply in relation to transport in a ship which is not a United Kingdom ship.

(2) Any obligation arising under the provisions of the 2013 Act specified in sub-paragraph (3) is to be read, in relation to transport in a ship which is not a United Kingdom ship, as an obligation that must be met in respect of the ship in question as a condition of its entry to the relevant UK port.

*Status: This is the original version (as it was originally made).*

- (3) The provisions specified for the purposes sub-paragraph (2) are—
- (a) section 97;
  - (b) Schedule 8, so far as it relates to a requirement imposed by an inspector under Part 3 of the Schedule.

(4) The provisions of the 2013 Act specified in sub-paragraph (5) apply as if the following paragraph were inserted at the beginning of each of them—

“Where this provision has effect in relation to the Nuclear Industries Security Regulations 2003 as they apply to transport in a ship by virtue of regulation 27A of those Regulations (transport in a ship which is not a United Kingdom ship) and the ship in question enters or has entered a port in the United Kingdom or an attempt is or has been made for it to do so,”

- (5) The provisions specified for the purposes of sub-paragraph (4) are—
- (a) section 97(5);
  - (b) section 105(1), (3) and (5);
  - (c) paragraphs 17(1) and (2), 18(1) and 19(1) of Schedule 8;
  - (d) paragraphs 3 and 4 of Schedule 9;
  - (e) paragraph 13(6) of Schedule 10.
- (6) Paragraphs 3 to 5 and 12 of Schedule 10 to the 2013 Act do not apply to—
- (a) any offence under regulation 29 of the 2003 Regulations (as inserted by Schedule 3 to this Order) committed on or after 1st April 2014; or
  - (b) any port of entry offence.
- (7) In this paragraph—
- (a) “port of entry offence” means an offence—
    - (i) under the provisions of the 2013 Act as modified by sub-paragraph (4) of this paragraph; and
    - (ii) committed on or after 1st April 2014;
  - (b) “relevant UK port” means, in relation to a ship which is not a United Kingdom ship, the port in the United Kingdom—
    - (i) to which it is proceeding in order to enter it;
    - (ii) which it is entering; or
    - (iii) which it has entered.

#### **Transport in a hovercraft which is not a United Kingdom hovercraft**

**6.—**(1) Subject to sub-paragraph (2), paragraph 5 of this Schedule applies as if any reference to a ship (other than in the expression “United Kingdom ship”) included a reference to a hovercraft.

- (2) Paragraph 5 applies as if—
- (a) any reference in that paragraph to a United Kingdom ship included a reference to a United Kingdom hovercraft;
  - (b) the reference to regulation 27A of the 2003 Regulations included a reference to regulation 28 of those Regulations.



## PART 3

Regulations to be treated as regulations under section 85 of the 2013 Act

### **Health and Safety Inquiries (Procedure) Regulations 1975**

7.—(1) The Health and Safety Inquiries (Procedure) Regulations 1975(**16**) are, for the purposes of holding an ONR inquiry(**17**), to be treated as regulations under section 85 of the 2013 Act.

(2) This paragraph does not affect the application of the 1975 Regulations to an inquiry held under section 14(2A) of the 1974 Act (power of the Executive to direct investigations and inquiries).

## PART 4

Regulations to be treated as regulations under section 101 of the 2013 Act

### **Regulations to be treated as regulations under section 101 of the 2013 Act**

8.—(1) The regulations specified in sub-paragraph (2) are to be treated as regulations under section 101 of the 2013 Act (fees).

(2) The regulations are—

- (a) the Nuclear Industries Security (Fees) Regulations 2005(**18**);
- (b) insofar as they relate to the functions of the ONR as GB competent authority—
  - (i) regulation 27 and, to the extent it relates to the charging of fees, regulation 29(6) of the 2009 Regulations(**19**); and
  - (ii) paragraph 1 and, to the extent it relates to the payment of fees, paragraph 4 of Schedule 3 to those Regulations;
- (c) insofar as they relate to a function carried out by a relevant appointee—
  - (i) to the extent it relates to the charging of fees by that appointee, regulation 29(6) of the 2009 Regulations; and
  - (ii) paragraph 3 of Schedule 3 to those Regulations;
- (d) in the Health and Safety (Fees) Regulations 2012(**20**)—
  - (i) regulation 12 in so far as it relates to the provisions of those Regulations mentioned in paragraph (ii) below;
  - (ii) regulation 16(1) and (2);
  - (iii) regulation 16(3) insofar as it relates to the enforcement of any provision which—
    - (aa) was a relevant statutory provision (within the meaning of Part 1 of the 1974 Act) immediately before 1st April 2014(**21**); but

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(16) S.I. 1975/335, amended by S.I. 1976/1246, S.I. 2008/960 and S.I. 2008/2683.

(17) “ONR inquiry” has the meaning given in section 85(2) of the Energy Act 2013 (section 112(1) of the 2013 Act).

(18) S.I. 2005/1654.

(19) The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 are amended by this Order to appoint the Office for Nuclear Regulation as the GB competent authority in relation to civil carriage of class 7 goods.

(20) S.I. 2012/1652, amended by S.I. 2013/448, S.I. 2013/1506, S.I. 2013/1512 and S.I. 2013/1948.

(21) For the purposes of Part 1 of the Health and Safety at Work etc. Act 1974, “relevant statutory provisions” has the meaning given in section 53(1) of that Act.

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- (bb) becomes a relevant statutory provision (within the meaning of Part 3 of the 2013 Act), on or after that date, in consequence of any provision made by or under the 2013 Act<sup>(22)</sup>;
- (iv) regulation 17 insofar as it relates to the provisions mentioned in paragraphs (ii) and (iii).

## SCHEDULE 2

Article 6(1)

### Consequential amendments to primary legislation

#### **Fireworks Act 1951 (c.58)**

1. In section 1 of the Fireworks Act 1951 (destruction of dangerous fireworks)<sup>(23)</sup>, after subsection (5) insert—

“(6) The reference to an inspector appointed by the Health and Safety Executive under section 19 of the Health and Safety at Work etc. Act 1974 (“the 1974 Act”) is to be read, in relation to a relevant nuclear site, as a reference to an inspector appointed by the Office for Nuclear Regulation under that section.

(7) For this purpose a relevant nuclear site is one in relation to which the Office for Nuclear Regulation has responsibility for the enforcement of any of the relevant statutory provisions (within the meaning of Part 1 of the 1974 Act) by virtue of section 18(1A) or (2) of the 1974 Act.”.

#### **Public Records Act 1958 (c.51)**

2. In Schedule 1 to the Public Records Act 1958 (definition of public records)<sup>(24)</sup> in Part 2 of the Table at the end of paragraph 3, after the entry for the Office for Legal Complaints, insert—

“Office for Nuclear Regulation”.

#### **Building Act 1984 (c.55)**

3.—(1) Section 81 of the Building Act 1984 (local authority’s power to serve notice about demolition)<sup>(25)</sup> is amended as follows.

(2) In subsection (2)—

- (a) after “Health and Safety at Work etc. Act 1974” insert “or the relevant provisions”;
- (b) after “Act of 1974” insert “or the relevant provisions”.

(3) After subsection (2) insert—

“(2A) For the purposes of subsection (2), “relevant provisions” means the relevant statutory provisions (within the meaning of Part 3 of the Energy Act 2013) other than—

- (a) the provisions of the Nuclear Safeguards Act 2000; and

<sup>(22)</sup> For the purposes of Part 3 of the Energy Act 2013, “relevant statutory provisions” has the meaning given in section 82(2) of that Act (section 112(1) of the 2013 Act).

<sup>(23)</sup> 1951 c.58; section 1 was amended by the Criminal Justice Act 1982 (c. 48), sections 37, 38 and 46, S.I. 1974/1885 and S.I. 2005/1082.

<sup>(24)</sup> 1958 c.51; the entry for the Office for Legal Complaints was inserted in the Table at the end of paragraph 3 by the Legal Services Act 2007 (c.29), Schedule 15, paragraph 33. There are other amendments to the Table which are not relevant to this Order.

<sup>(25)</sup> 1984 c.55; to which there are amendments not relevant to this Order.

- (b) any provision of nuclear regulations identified in accordance with section 74(9) of the 2013 Act as being made for the nuclear safeguards purposes.”.

**Environment and Safety Information Act 1988 (c.30)**

4. In the Schedule to the Environment and Safety Information Act 1988 (authorities and statutory provisions)(26), at the appropriate place, insert—

“2013 c. 32	Energy Act 2013	The Office for Nuclear Regulation	Schedule 8, paragraphs 3 and 4”
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**Planning (Hazardous Substances) Act 1990 (c.10)**

5. The Planning (Hazardous Substances) Act 1990(27) is amended as follows.

6. In section 7(3) (applications for hazardous substances consent) for “means consultations with the Health and Safety Executive and with” substitute “means consultations with the safety regulator and with”.

7. In section 9(2)(e) (determination of applications for hazardous substances consent) for “Health and Safety Executive have” substitute “safety regulator has”.

8. In section 10(2) (power to impose conditions on grant of hazardous substances consent) for “Health and Safety Executive have” substitute “safety regulator has”.

9. In section 18(2)(b) (determination of applications for continuation of hazardous substances consent) for “Health and Safety Executive have” substitute “safety regulator has”.

10.—(1) Section 29 (health and safety requirements) is amended as follows.

(2) In subsection (1)—

- (a) for “relevant statutory provisions” substitute “relevant provisions”;
- (b) omit “served under or by virtue of any of those provisions”.

(3) In subsection (3) for “Health and Safety Executive” substitute “safety regulator”.

(4) In subsection (4) for “Health and Safety Executive advise” substitute “safety regulator advises”.

(5) In subsection (5) for “they advise” substitute “the safety regulator advises”.

(6) For subsection (6) substitute—

“(6) In this section—

“improvement notice” means a notice served under section 21 of the Health and Safety at Work etc. Act (“the 1974 Act”) or given under paragraph 3 of Schedule 8 to the Energy Act 2013 (“the 2013 Act”);

“prohibition notice” means a notice served under section 22 of the 1974 Act or given under paragraph 4 of Schedule 8 to the 2013 Act;

(26) 1988 c.30.

(27) 1990 c.10; section 7 was amended by the Environmental Protection Act 1990 (c.43), Schedule 13, paragraphs 2 and 3. Section 9 was amended by the Environmental Protection Act 1990, Schedule 16, and by the Planning Act 2008 (c.29), Schedule 2, paragraphs 42 and 43. Section 10 was amended by the Environmental Protection Act 1990, Schedule 13, paragraph 2 and the Planning Act 2008, Schedule 2, paragraphs 42 and 44. Section 18 of the 1990 Act was amended by the Environmental Protection Act 1990, Schedule 16. Section 29 was amended by the Environmental Protection Act 1990, Schedule 13, paragraph 2, and Schedule 16. Section 39 was amended by the Environmental Protection Act 1990, Schedule 13, paragraph 2, and Schedule 16, the Transport Act 2000 (c.38), Schedule 5, paragraph 9, the Planning Act 2008, Schedule 2, paragraphs 42 and 47, the Postal Services Act 2011 (c.5), Schedule 12, paragraph 132, S.I. 2001/1149, S.I. 2009/1941, and S.I. 2013/755.

*Status: This is the original version (as it was originally made).*

“relevant provisions” means—

- (a) the relevant statutory provisions within the meaning of Part 1 of the 1974 Act; and
- (b) the relevant statutory provisions within the meaning of the 2013 Act other than—
  - (i) the provisions of the Nuclear Safeguards Act 2000; and
  - (ii) any provision of nuclear regulations identified in accordance with section 74(9) of the 2013 Act as being made for the nuclear safeguards purposes.”.

(7) In section 39(1) (interpretation) after the definition of “the principal Act” insert—

““the safety regulator” means—

- (a) in relation to land which is, or is on, a nuclear site (within the meaning of Part 3 of the Energy Act 2013), the Office for Nuclear Regulation;
- (b) otherwise, the Health and Safety Executive.”.

#### **Environmental Protection Act 1990 (c.43)**

**11.** The Environmental Protection Act 1990(28) is amended as follows.

**12.**—(1) Section 36 (grant of licences) is amended as follows.

(2) In subsection (4)—

- (a) in paragraph (a) for “Health and Safety Executive” substitute “safety regulator”,
- (b) in paragraph (b) for “Executive” substitute “safety regulator”.

(3) In subsection (10)—

- (a) for “Health and Safety Executive” substitute “safety regulator”,
- (b) for “Executive” substitute “safety regulator”.

(4) In subsection (11) after the definition of “the relevant land” insert—

““the safety regulator” means—

- (a) where the relevant land is, or is on, a nuclear site (within the meaning of Part 3 of the Energy Act 2013), the Office for Nuclear Regulation;
- (b) otherwise, the Health and Safety Executive.”.

**13.** Paragraph 2(2) of Schedule 13 is repealed.

#### **Atomic Weapons Establishment Act 1991 (c.46)**

**14.** After paragraph 10C of the Schedule to the Atomic Weapons Establishment Act 1991 (application of certain enactments)(29) insert—

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(28) 1990 c.43; section 36 was repealed, in relation to England and Wales, by S.I. 2007/3538, Schedule 23. Section 36, as it extends to Scotland, was amended by the Natural Heritage (Scotland) Act 1991 (c.28), Schedule 2, paragraph 10, the Environment Act 1995 (c.25), Schedule 22, paragraph 68 and Schedule 24, the Natural Environment and Rural Communities Act 2006 (c.16), Schedule 11, paragraph 116, the Nature Conservation (Scotland) Act 2004 (asp. 6), Schedule 7, paragraph 7, and S.I. 2013/755.

(29) 1991 c.46; the Schedule was amended by the Clean Air Act 1993 (c.11), Schedule 4, paragraph 5, and Schedule 6, the Radioactive Substances Act 1993 (c.12), Schedule 6, S.I. 1997/1396 and S.I. 2010/675.

**“Energy Act 2013 (c.32)**

**10D.**—(1) The power of the Secretary of State under section 111(6) of the Energy Act 2013 (Crown exemptions) shall include power to provide for exemptions, in relation to designated premises or activities carried on by a contractor at such premises, from all or any of the relevant provisions.

(2) In this paragraph “relevant provisions” means the relevant statutory provisions within the meaning of Part 3 of the Energy Act 2013 other than—

- (a) a provision of the Nuclear Safeguards Act 2000; and
- (b) any provision of nuclear regulations identified in accordance with section 74(9) of the Energy Act 2013 as being made for the nuclear safeguards purposes.”.

**Planning (Hazardous Substances) (Scotland) Act 1997 (c.10)**

**15.** The Planning (Hazardous Substances) (Scotland) Act 1997(**30**) is amended as follows.

**16.** In section 5(3) (applications for hazardous substances consent) for “Health and Safety Executive” substitute “safety regulator”.

**17.** In section 7(2)(e) (determination of applications for hazardous substances consent) for “Health and Safety Executive have” substitute “safety regulator has”

**18.** In section 8(2) (power to impose conditions on grant of hazardous substances consent) for “Health and Safety Executive have” substitute “safety regulator has”.

**19.** In section 16(2)(b) (determination of applications for continuation of hazardous substances consent) for “Health and Safety Executive have” substitute “safety regulator has”.

**20.**—(1) Section 28 (health and safety requirements) is amended as follows.

(2) In subsection (1)—

- (a) for “relevant statutory provisions” substitute “relevant provisions”,
- (b) omit “served under or by virtue of any of those provisions”.

(3) In subsection (3) for “Health and Safety Executive” substitute “safety regulator”.

(4) In subsection (4) for “Health and Safety Executive advise” substitute “safety regulator advises”.

(5) In subsection (5) for “they advise” substitute “the safety regulator advises”.

(6) For subsection (6) substitute—

“(6) In this section—

“improvement notice” means a notice served under section 21 of the Health and Safety at Work etc. Act 1974 (“the 1974 Act”) or given under paragraph 3 of Schedule 8 to the Energy Act 2013 (“the 2013 Act”);

“prohibition notice” means a notice served under section 22 of the 1974 Act or given under paragraph 4 of Schedule 8 to the 2013 Act;

“the relevant provisions” means—

- (a) the relevant statutory provisions within the meaning of Part 1 of the 1974 Act; and

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(30) 1997 c.10; section 7 was amended by the Planning Act 2008 (c.29), Schedule 2, paragraphs 59 and 60. Section 8 was amended by the Planning Act 2008, Schedule 2, paragraphs 59 and 61. Section 38 was amended by the Utilities Act 2000 (c.27), section 76(7), the Transport Act 2000 (c.38), Schedule 5, paragraph 13, the Planning Act 2008, Schedule 2, paragraphs 59 and 64, the Postal Services Act 2011 (c.5), Schedule 12, paragraph 149, S.I. 2001/1149 and S.I. 2009/1941.

*Status: This is the original version (as it was originally made).*

- (b) the relevant statutory provisions within the meaning of Part of the 2013 Act other than—
  - (i) the provisions of the Nuclear Safeguards Act 2000; and
  - (ii) any provision of nuclear regulations identified in accordance with section 74(9) of the 2013 Act as being made for the nuclear safeguards purposes;”.
- (7) In section 38(1) (interpretation) after the definition of “the principal Act” insert—
  - ““the safety regulator” means—
    - (a) in relation to land which is, or is on, a nuclear site (within the meaning of Part 3 of the Energy Act 2013), the Office for Nuclear Regulation;
    - (b) otherwise, the Health and Safety Executive.”.

#### **Utilities Act 2000 (c.27)**

**21.** After section 105(4)(b) of the Utilities Act 2000 (general restrictions on disclosure of information)(**31**) insert—

- “(ba) for the purpose of facilitating the performance by the Office for Nuclear Regulation of any of its functions;”.

#### **Enterprise Act 2002 (c.40)**

**22.** In Schedule 15 to the Enterprise Act 2002 (enactments conferring functions)(**32**), at the appropriate place, insert—

- “the relevant statutory provisions within the meaning of Part 3 of the Energy Act 2013 (c.32).”

#### **Domestic Violence, Crime and Victims Act 2004 (c.28)**

**23.** In Schedule 9 to the Domestic Violence, Crime and Victims Act 2004 (authorities within the Commissioner’s remit)(**33**) after paragraph 20 insert—

- “**20A.** The Office for Nuclear Regulation.”.

#### **Local Government and Public Involvement in Health Act 2007 (c.28)**

**24.** In section 104(4) of the Local Government and Public Involvement in Health Act 2007 (application of Chapter: partner authorities)(**34**), after paragraph (d) insert—

- “(da) the Office for Nuclear Regulation;”.

#### **Local Democracy, Economic Development and Construction Act 2009 (c.20)**

**25.** In section 23(2) of the Local Democracy, Economic Development and Construction Act 2009 (duty of public authorities to secure involvement)(**35**), after paragraph (d) insert—

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(31) 2000 c.27.

(32) 2002 c.40; Schedule 15 was amended by the Communications Act 2003 (c.21), Schedule 17, paragraph 174(7), the Fireworks Act 2003 (c.22), section 12(3), the Water Act 2003 (c.37), Schedule 7, paragraph 36(4), the Railways Act 2005 (c.14), Schedule 12, paragraph 16(4), the Consumers, Estate Agents and Redress Act 2007 (c.17), section 29(2), the Postal Services Act 2011 (c.5), Schedule 12, paragraph 166, the Civil Aviation Act 2012 (c.19), Schedule 9, paragraph 15, and the Groceries Code Adjudicator Act 2013 (c.19), section 21(4), S.I. 2003/1400, S.I. 2006/2909, S.I. 2006/3336, S.I. 2007/2194, S.I. 2007/2977, S.I. 2009/1941, S.I. 2010/2960, S.I. 2011/2491 and S.I. 2013/1575.

(33) 2004 c.28; there are amendments to Schedule 9 which not relevant to this Order.

(34) 2007 c.28; there are amendments to section 104 which are not relevant to this Order.

(35) 2009 c.20; there are amendments to section 23 not relevant to this Order.

“(da) the Office for Nuclear Regulation;”.

**Civil Aviation Act 2012 (c.19)**

**26.** In Schedule 6 to the Civil Aviation Act 2012 (restrictions on disclosing information)(**36**), after paragraph 5(h) insert—

“(ha) for the purpose of facilitating the carrying out by the Office for Nuclear Regulation of its functions under an enactment;”.

SCHEDULE 3

Article 6(2)

Consequential amendments to instruments

PART 1

Nuclear security and nuclear safeguards

**Nuclear Industries Security Regulations 2003**

1. The 2003 Regulations are amended as follows.
- 2.—(1) Subject to paragraph (2)—
  - (a) for “Secretary of State” substitute “ONR” in each place occurring;
  - (b) for “she” or “her” substitute “the ONR” or “the ONR’s” (as the case may be) in each place occurring.(2) Paragraph (1) does not apply to—
  - (a) regulation 4(4)(a);
  - (b) the opening words in regulation 11(1);
  - (c) the opening words in regulation 21(1);
  - (d) regulation 22(5)(a)(iii);
  - (e) regulations 23, 24 and 26.
- 3.—(1) Regulation 2 (interpretation: general) is amended as follows.
  - (2) In paragraph (1)—
    - (a) omit the definitions of—
      - (i) “the 1974 Act”;
      - (ii) “the 1978 Order”;
      - (iii) “nuclear construction site”;
      - (iv) “nuclear site”;
      - (v) “other nuclear premises”;
      - (vi) “sensitive nuclear information”;
      - (vii) “United Kingdom ship”;

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(36) 2012 c.19; there are amendments to Schedule 6 which are not relevant to this Order.

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- (b) after the definition of “the 2001 Act” insert—
  - ““the 2013 Act” means the Energy Act 2013;
  - “2001 Act direction” means a direction given by the Secretary of State on or after 1st April 2014 under regulations made under section 77(1) of the 2001 Act;”.
- (c) for the definition of “nuclear material” substitute—
  - ““nuclear material” has the meaning given in section 70 of the 2013 Act (as extended under subsection (3) of that section);”;
- (d) in the definition of “nuclear premises”—
  - (i) in paragraph (a)—
    - (aa) for “nuclear site” substitute “civil nuclear site”;
    - (bb) omit “(within the meaning given in Chapter 1 of Part 1 of the Energy Act 2004)”;
  - (ii) in paragraph (aa) for “nuclear construction site” substitute “civil nuclear construction site”;
  - (iii) in paragraph (b) for “nuclear site”, in the first place it occurs, substitute “civil nuclear site”;
  - (iv) in paragraph (c) for “nuclear premises” substitute “civil nuclear premises”;
- (e) after the definition of “nuclear site licence” insert—
  - ““the ONR” means the Office for Nuclear Regulation;”;
- (f) for the definition of “United Kingdom person” substitute—
  - ““United Kingdom person” has the meaning given in section 74(6) of the 2013 Act;”.
- (3) In paragraph (2)—
  - (a) in sub-paragraph (a) for “nuclear site” substitute “civil nuclear site”;
  - (b) in sub-paragraph (aa) for “nuclear construction site” substitute “civil nuclear construction site”.
- (4) In paragraph (4) omit “In these Regulations and”.
- 4.** In regulation 4 (requirement for approved security plan for nuclear premises)—
  - (a) in paragraph (2)(f) for “nuclear construction site” substitute “civil nuclear construction site”;
  - (b) in paragraph (3A)—
    - (i) in sub-paragraph (a) for “nuclear site”, in both places in which it occurs, substitute “civil nuclear site”; and
    - (ii) in sub-paragraph (b) for “nuclear construction site” substitute “civil nuclear construction site” in each place occurring;
  - (c) omit paragraph (4).
- 5.** In regulation 8 (temporary security plans during building works etc.)—
  - (a) in paragraph (1) for “nuclear construction site” substitute “civil nuclear construction site”;
  - (b) omit paragraph (9).
- 6.—**(1) Regulation 11 (directions to responsible persons) is amended as follows.
  - (2) In paragraph (1), in the opening words, for “Secretary of State for the purpose specified in section 77(1) of the 2001 Act” substitute “ONR for the nuclear security purposes (within the meaning of section 70 of the Energy Act 2013)”.



- (3) After paragraph (2) insert—
- “(3) Any direction given by the ONR to a person on or after 1st April 2014 under paragraph (1)—
- (a) is subject to any 2001 Act direction given to the person whenever given; and
  - (b) must state that it is subject to any such 2001 Act direction.”.

7. Omit regulation 12.

8.—(1) Regulation 21 (directions to carriers) is amended as follows.

(2) In paragraph (1), in the opening words, for “Secretary of State for the purpose specified in section 77(1) of the 2001 Act” substitute “ONR for the nuclear security purposes (within the meaning of section 70 of the Energy Act 2013”.

- (3) After paragraph (2) insert—
- “(3) Any direction given by the ONR to a carrier on or after 1st April 2014 under paragraph (1)—
- (a) is subject to any 2001 Act direction given to the carrier whenever given; and
  - (b) must state that it is subject to any such 2001 Act direction.”.

9. After regulation 22(7) (regulation of sensitive nuclear information etc.) insert—

- “(7A) Any direction given by the ONR to a person on or after 1st April 2014 under paragraph (7)(b)—
- (a) is subject to any 2001 Act direction given to the person whenever given; and
  - (b) must state that it is subject to any such 2001 Act direction.”.

10. Omit regulations 23 and 24.

11.—(1) Regulation 25 (offences) is amended as follows.

- (2) After paragraph (1) insert—
- “(1A) For the purposes of paragraph (1), a person is not to be regarded as failing to comply with any provision mentioned in that paragraph by reason of anything done, or omitted to be done, by that person in order to comply with a 2001 Act direction.”.
- (3) In paragraph (2) omit the words from “, under section 33” to “by virtue of regulation 24”.

12. After regulation 25 insert—

**“Notification of compliance with a 2001 Act direction**

- 25A.**—(1) Where a person to whom these Regulations apply—
- (a) is required to comply with a 2001 Act direction; and
  - (b) is of the opinion that the person cannot comply both with that direction and any provision of these Regulations (a “relevant provision”),
- that person must notify the ONR.
- (2) A notification under paragraph (1) must—
- (a) be given as soon as reasonably practicable;
  - (b) give details of the relevant 2001 Act direction; and
  - (c) specify the relevant provision.”.

13. After regulation 26 insert—

“PART 5A

*Transport by ship or hovercraft”.*

14. For regulation 27 (transport by ship) substitute—

**“Transport by United Kingdom ship**

27. These Regulations apply to transport in a United Kingdom ship whether or not that ship is in the territorial sea of the United Kingdom.

**Transport by a ship other than a United Kingdom ship**

27A.—(1) Subject to the provisions of this regulation, these Regulations do not apply to transport in a ship that is not a United Kingdom ship.

(2) The relevant provisions apply to transport within the United Kingdom or its territorial sea in a ship that is not a United Kingdom ship if the ship—

- (a) is proceeding to a port in the United Kingdom in order to enter it, or entering, leaving or proceeding from such a port and is carrying nuclear material, or
- (b) is proceeding to such a port for nuclear material to be loaded on to it there.

(3) Paragraph (2) applies to transport in a Government ship only at a time when the ship is being used for commercial purposes.

(4) In their application to transport in a ship that is not a United Kingdom ship the provisions of Part 1 and regulations 18 to 21 of these Regulations apply with the following modifications—

- (a) subject to paragraph (5), any obligation imposed by those provisions is to be read as an obligation that must be met in respect of the ship in question as a condition of its entry to the port in question;
- (b) in regulations 18, 20 and 21 a reference to “an approved carrier”, or “the approved carrier” is to be read as a reference to “a carrier” or “the carrier” (as the case may be);
- (c) regulation 18 applies as if in paragraph (5)(j) of that regulation the words from “the standards” to “or” were omitted;
- (d) in regulation 19—
  - (i) subject to paragraph (ii), any reference to a “Class A carrier” is to be read as a reference of to “a carrier”;
  - (ii) the reference to “any other Class A carrier” in paragraph (5)(a) is to be read as a reference to “any other carrier”;
- (e) regulation 21(1) applies as if sub-paragraphs (c) and (d) were omitted.

(5) Paragraph (4)(a) is without prejudice to the continuation of an obligation in so far as it is capable of remaining operative after a ship leaves the port in question.

(6) For the purposes of this regulation—

- (a) “the relevant provisions” are the following provisions of these Regulations—
  - (i) Part 1;
  - (ii) regulations 18 to 21;
  - (iii) this Part;
- (b) “Government ship” means a ship which—

- (i) is not a United Kingdom ship; and
- (ii) is owned by the Government of a country outside the United Kingdom or a department or agency of such a Government.”.

**15.** In regulation 28—

- (a) for paragraph (3) substitute—

“(3) Regulation 27 applies as if the reference to a United Kingdom ship included a reference to a United Kingdom hovercraft.”;

- (b) after paragraph (3) insert—

“(3A) Paragraphs (2) to (6) of regulation 27A apply as if the references in those paragraphs to a United Kingdom ship included a reference to a United Kingdom hovercraft.”.

**16.** After regulation 28 insert—

**“Transport in a ship other than a United Kingdom ship or a hovercraft other than a United Kingdom hovercraft: offences**

**29.—(1)** If—

- (a) any person fails to comply with an obligation that by virtue of—

(i) paragraph 5(2) of Schedule 1 to the Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014,

(ii) regulation 27A(2), or

(iii) regulation 27A(2) as applied by regulation 28,

is to be met in respect of a ship as a condition of its entry to a port in the United Kingdom, and

- (b) the ship enters or has entered the port or an attempt is or has been made for it to do so,

that person is guilty of an offence.

(2) For the purposes of paragraph (1), a person is not to be regarded as failing to comply with any obligation mentioned in that paragraph by reason of anything done, or omitted to be done, by that person in order to comply with a 2001 Act direction.

- (3) A person guilty of an offence under paragraph (1) is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both), and

(b) on summary conviction, to imprisonment for a term not exceeding six months or in England and Wales a fine or, in Scotland and Northern Ireland, a fine not exceeding the statutory maximum (or both).

(4) Proceedings for an offence to which paragraph (3) applies that is committed outside the United Kingdom may be taken, and the offence may for incidental purposes be treated as having been committed, in any place in the United Kingdom.

(5) In paragraph (3)(b) as it has effect in England and Wales, the reference to a fine is to be read until the date on which section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (removal of limit on certain fines on conviction by magistrates’ court) comes into force as a reference to a fine not exceeding the statutory maximum.

*Status: This is the original version (as it was originally made).*

### **Application of these Regulations to a person who is not a United Kingdom person**

30. Notwithstanding the provisions of this Part, nothing in these Regulations applies to acts done outside the United Kingdom by a person other than a United Kingdom person.”.

### **Nuclear Safeguards (Notification) Regulations 2004**

17. The Nuclear Safeguards (Notification) Regulations 2004<sup>(37)</sup> are amended as follows.

18.—(1) Subject to paragraph (2) for “Secretary of State” substitute “ONR” in each place occurring.

(2) Paragraph (1) does not apply to regulation 3.

19. In regulation 2 (interpretation) at the appropriate place insert—

““the ONR” means the Office for Nuclear Regulation;”.

20. In regulation 5(2) and (3) (persons not required to notify the Secretary of State) omit “3 or” in both places it occurs.

21. In regulation 6 (form of notification to the Secretary of State)—

(a) in paragraph (1) omit “3 or”;

(b) in paragraph (3)—

(i) for the words from “the UK Safeguards” to “SE1 9HS” substitute “the Office for Nuclear Regulation at the address given on its website as its postal address”;

(ii) for “UKSO@hse.gsi.gov.uk” substitute “the address given on the Office’s website as its address for electronic communications”.

### **Uranium Enrichment Technology (Prohibition on Disclosure) Regulations 2004**

22. The Uranium Enrichment Technology (Prohibition on Disclosure) Regulations 2004<sup>(38)</sup> are amended as follows.

23. In regulation 1(2) (citation, commencement and interpretation)—

(a) after the definition of “the Act” insert—

““appropriate authority”—

(a) in relation to persons within England and Wales or Scotland, means the ONR;

(b) in relation to—

(i) persons within Northern Ireland; or

(ii) United Kingdom persons outside the United Kingdom,  
means the Secretary of State;”;

(b) after the definition of “information” insert—

““the ONR” means the Office for Nuclear Regulation;”.

24.—(1) Regulation 3 (exempt disclosures) is amended as follows.

(2) In paragraph (1)—

(a) for paragraph (ii)(aa) substitute—

“(aa) the ONR; or”;

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<sup>(37)</sup> S.I. 2004/1255, amended by S.I. 2007/3224.

<sup>(38)</sup> S.I. 2004/1818, amended by S.I. 2011/1043.

(b) in sub-paragraph (g) for “Secretary of State” substitute “appropriate authority”.

**25.** In regulation 4 (authorisation of disclosures)—

(a) for “Secretary of State” substitute “appropriate authority”. in each place occurring;

(b) for “she” substitute “the authority”, in each place occurring; and

(c) for “her”, in each place in which it occurs other than in paragraphs (4) and (7), substitute “the authority”.

(2) In paragraphs (4) and (7) for “her” substitute “the authority’s”.

**26.** In regulation 5 (withdrawal or variation of authorisations)—

(a) for “Secretary of State” substitute “appropriate authority”, in each place occurring;

(b) in paragraph (5) for “her” substitute “the authority’s”.

**27.** In regulation 6(5)(b) (sending and giving of applications, information, representations and notices) after “body corporate” insert “(including the ONR)”.

## PART 2

### Transport functions

#### Carriage of Dangerous Goods and Transportable Pressure Equipment Regulations 2009

**28.**—(1) The 2009 Regulations(**39**) are amended as follows.

(2) In the Table in paragraph (5) of regulation 2 (interpretation – general) after the row in which the expression “armed forces” is defined insert—

““civil carriage of class 7 goods”	The carriage of class 7 goods by road, rail or inland waterway otherwise than for the purposes of the department of Secretary of State having responsibility for Defence.”
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(3) In the Table in regulation 12(1) for the row containing the entry for the Secretary of State for Energy and Climate Change substitute—

“The Office for Nuclear Regulation	The carriage is national carriage and the authorisation relates to prohibitions and requirements arising out of functions for which the Office for Nuclear Regulation is the GB competent authority.”
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(4) In regulation 25(3A) (competent authority) for “the Secretary of State for Energy and Climate Change” substitute “the Office for Nuclear Regulation”.

(5) For regulation 32 (enforcement) substitute—

**“32.**—(1) The enforcing authorities for these Regulations are—

(a) the Secretary of State for Defence in relation to road, rail and inland waterways but only in connection with those functions for which the Secretary of State for Defence is the GB competent authority;

(39) [S.I. 2009/1348](#), as amended by [S.I. 2011/1885](#), [SSI 2013/119](#) and [S.I. 2013/235](#).

*Status: This is the original version (as it was originally made).*

- (b) in so far as they apply to carriage of dangerous goods other than civil carriage of class 7 goods, the persons specified in paragraph (2).
- (2) The enforcing authorities are—
  - (a) the Health and Safety Executive in relation to road and, subject to paragraph (3), rail,
  - (b) the Secretary of State for Transport in relation to road and inland waterways,
  - (c) the chief of police of each area in relation to road.
- (3) The Health and Safety Executive is not an enforcing authority in relation to rail to the extent that the Office of Rail Regulation is an enforcing authority pursuant to regulation 3(1) of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006.
- (4) Despite paragraphs (1) to (3), the Secretary of State for Transport is the only enforcing authority in relation to the carriage of all classes of goods, except civil carriage of class 7 goods, to the extent that these Regulations require compliance with the security provisions.”.
- (6) After regulation 32 insert—

**“Offences in connection with the civil carriage of class 7 goods**

- 32A.**—(1) It is an offence for a person to contravene—
- (a) any provision of these Regulations as they apply to the civil carriage of class 7 goods, or
  - (b) any requirement or prohibition imposed under any provision of these Regulations as they apply to such carriage (including any requirement or prohibition to which that person is subject by virtue of the terms of or any condition or restriction attached to any approval, exemption or other authority issued, given or granted under them).
- (2) A person who commits an offence under this regulation is liable—
- (a) on summary conviction to—
    - (i) imprisonment for a term not exceeding 12 months, or
    - (ii) a fine, or
    - (iii) both;
  - (b) on conviction on indictment to—
    - (i) imprisonment for a term not exceeding two years, or
    - (ii) a fine, or
    - (iii) both.
- (3) Paragraphs (4) and (5) make transitional modifications to paragraph (2) as it applies to England and Wales.
- (4) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (general limit on magistrates’ court powers to imprison), the reference in paragraph (2)(a)(i) to imprisonment for a term not exceeding 12 months is to be read as reference to imprisonment for a term not exceeding six months.
- (5) In relation to an offence committed before the commencement of section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (removal of limit on certain fines on conviction by magistrates’ court) the reference to a fine in paragraph (2)(a)(ii) is to be read as a reference to a fine not exceeding £20,000.”.

## PART 3

### Safety functions

#### **Nuclear Installations (Dangerous Occurrences) Regulations 1965**

**29.** For regulation 4 of the Nuclear Installations (Dangerous Occurrences) Regulations 1965 (manner in which and persons to whom occurrences are to be reported)(**40**) substitute—

**“Manner in which occurrences are to be reported to the appropriate national authority**

**4.—**(1) A report required to be made under section 22(2) of the Act to the appropriate national authority must be made in the manner prescribed in paragraph (2).

(2) The report must—

- (a) be made by the quickest means available; and
- (b) be subsequently confirmed in writing.

(3) Where a report is confirmed in writing, it must contain the information (or such part of that information as may be applicable to the occurrence concerned) specified in the Schedule.

**Other persons to whom occurrences are to be reported and manner of reporting**

**4A.—**(1) A report must be made under section 22(2)(b) of the Act of an occurrence of a class or description specified in regulation 3(1)(a)(i) or (b)—

- (a) to the persons prescribed by paragraph (2); and
- (b) in the manner prescribed by paragraph (3).

(2) The prescribed persons are—

- (a) the local authority in whose area the occurrence happened; and
- (b) the chief officer of police for the police area in which the occurrence happened.

(3) The report must be made by the quickest means available.

(4) In the application of this regulation to Scotland the reference to the local authority in whose area the occurrence happened is to be read as a reference to every local authority in whose area the occurrence happened.”.

#### **Safety Representatives and Safety Committees Regulations 1977**

**30.** The Safety Representatives and Safety Committees Regulations 1977(**41**) are amended as follows.

**31.** In regulation 2(1) (interpretation) after the definition of “recognised trade union” insert—

““relevant nuclear provisions” means—

- (a) sections 1, 3 to 6, 22 and 24A of the Nuclear Installations Act 1965;
- (b) to the extent they are treated as nuclear regulations, the provisions of the Carriage of Dangerous Goods and Transportable Pressure Equipment Regulations 2009;
- (c) the provisions of the Nuclear Industries Security Regulations 2003;

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(40) S.I. 1965/1824

(41) S.I.1977/500 amended by S.I. 1998/1658, S.I. 1999/860, S.I. 2006/594, S.I. 2008/960 and S.I. 2012/199.

*Status: This is the original version (as it was originally made).*

- (d) the provisions of nuclear regulations other than any provision of such regulations identified in accordance with section 74(9) of the Energy Act 2013 as made for the nuclear safeguards purposes;

“relevant nuclear site” means a site which is—

- (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013);  
 (b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998); or  
 (c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations);”.

**32.**—(1) Regulation 4 (functions of safety representatives) is amended as follows.

(2) In paragraph (1)—

- (a) in sub-paragraph (f) after “Executive” insert “, the Office for Nuclear Regulation”;  
 (b) for sub-paragraph (g) substitute—  
     “(g) to receive information—  
         (i) in relation to premises which are, or are on, a relevant nuclear site, from inspectors under paragraph 23 of Schedule 8 to the Energy Act 2013;  
         (ii) otherwise, from inspectors in accordance with section 28(8) of the 1974 Act;”;  
 (c) in the full-out words after “the 1974 Act” insert “or sections 102 and 103 of the Energy Act 2013”.

**33.**—(1) In regulation 4A(1)—

- (a) in sub-paragraph (c) after “relevant statutory provisions” insert “or the relevant nuclear provisions”;  
 (b) in sub-paragraph (d) after “relevant statutory provisions” insert “or the relevant nuclear provisions”.

**34.**—(1) Regulation 5 (inspections of the workplace) is amended as follows.

(2) In paragraph (2) for “Health and Safety Executive” substitute “relevant authority”.

(3) After paragraph (2) insert—

- “(2A) In paragraph (2), “relevant authority” means—  
 (a) in relation to a workplace which is, or is on, a relevant nuclear site, the Office for Nuclear Regulation;  
 (b) otherwise, the Health and Safety Executive.”.

**35.** In regulation 6(3) (inspections following notifiable accidents, occurrences and diseases) in the definition of “notifiable accident or dangerous occurrence” and “notifiable disease” after “the 1974 Act” insert “or the relevant nuclear provisions”.

**36.** In regulation 7(1) (inspection of documents and provision of information) after “the 1974 Act” insert “or the relevant nuclear provisions”.

### **Dangerous Substances in Harbour Areas Regulations 1987**

**37.** The Dangerous Substances in Harbour Areas Regulations 1987(42) are amended as follows.

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(42) [S.I. 1987/37](#); relevant amending instruments are [S.I. 1988/12](#) and [S.I. 2004/568](#).



**38.** In regulation 2(1) (interpretation)—

(a) after the definition of “ADR” insert—

““appropriate authority” means—

- (a) in relation to a harbour which is, or forms part of, an ONR regulated site, the Office for Nuclear Regulation,
- (b) otherwise, the Health and Safety Executive;”;

(b) in the definition of “explosives licence” after “Executive” insert “or the Office for Nuclear Regulation”;

(c) after the definition of “monobuoy area” insert—

““ONR regulated site” means a site which is—

- (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013);
- (b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998); or
- (c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations).”.

**39.**—(1) Regulation 35 (applications for explosives licences) is amended as follows.

(2) In paragraph (1)—

- (a) in the opening words for “Health and Safety Executive” substitute “appropriate authority”;
- (b) in the full-out words for “Executive” substitute “appropriate authority”.

**40.**—(1) Regulation 36 (consideration of licence applications) is amended as follows.

(2) In paragraph (1) for “Health and Safety Executive” substitute “appropriate authority”.

(3) In paragraph (2) for “Executive”, in both places in which it occurs, substitute “appropriate authority”.

**41.** After regulation 36 insert—

**“Harbours ceasing to be nuclear harbours**

**36A.**—(1) Where this regulation applies any explosives licence issued by, or treated as issued by, the Office for Nuclear Regulation (“ONR”) is to be treated on and after the relevant date as an explosives licence issued by the Health and Safety Executive.

(2) This regulation applies where—

- (a) the harbour in respect of which the licence was issued ceases to be a nuclear harbour; and
- (b) the licence mentioned in sub-paragraph (a) remained in force (with or without variations) immediately before the date on which the harbour ceased to be a nuclear harbour

(3) In this regulation—

- (a) “nuclear harbour” means a harbour which is, or forms part of an ONR regulated site;
- (b) “relevant date” means, in relation to a harbour, the date on which it ceased to be a nuclear harbour.

### **Harbours becoming nuclear harbours**

**36B.**—(1) Where this regulation applies any explosives licence issued by, or treated as issued by, the Health and Safety Executive (“HSEs to be treated on and after the relevant date as an explosives licence issued by the Office for Nuclear Regulation.

(2) This regulation applies where—

- (a) the harbour in respect of which the licence was issued becomes a nuclear harbour; and
- (b) the licence mentioned in sub-paragraph (a) remained in force (with or without variations) immediately before the date on which the harbour became a nuclear harbour.

(3) For the purposes of this regulation—

- (a) “nuclear harbour” has the meaning given by regulation 36A;
- (b) “relevant date” means, in relation to a harbour, the date on which the harbour became a nuclear harbour.”.

**42.** In regulation 41 (deteriorated explosives) for “Health and Safety Executive” substitute “appropriate authority”.

**43.**—(1) Regulation 44 (enforcement) is amended as follows.

(2) In paragraph (1) for “paragraph (2)” substitute “section 18(1A) of the Health and Safety at Work etc. Act 1974 and paragraphs (2) and (3)”.

(3) After paragraph (2) insert—

“(3) The Office for Nuclear Regulation shall be responsible for enforcing these Regulations in any harbour which is, or forms part of, an authorised defence site or new nuclear build site.

(4) In this regulation “authorised defence site” and “new nuclear build site” have the meanings given in the Health and Safety (Enforcing Authority) Regulations 1998.”.

**44.**—(1) In Schedule 7 (procedure for explosives licence applications)—

- (a) for “Health and Safety Executive” substitute “appropriate authority”, in each place occurring;
- (b) for “Executive” substitute “appropriate authority”, in each place occurring.

### **Dangerous Substances (Notification and Marking of Sites) Regulations 1990**

**45.** For regulation 8 of the Dangerous Substances (Notification and Marking of Sites) Regulations 1990 (enforcing authority)(**43**) substitute—

“**8.**—(1) The enforcing authority for these Regulations is the appropriate fire body.

(2) The appropriate fire body is not the enforcing authority—

- (a) for regulation 4(1) and 4(2);
- (b) for regulations 5 to 7 in relation to a site occupied by a body specified in regulation 4(3) of the 1998 Regulations.

(3) The enforcing authority for regulation 4(1) and 4(2) is the ONR, the Executive, local authority or Office of Rail Regulation determined in accordance with the Health and Safety

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(43) [S.I. 1990/304](#) to which there are amendments not relevant to this Order.

(Enforcing Authority) Regulations 1998 (“the 1998 Regulations”) and the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006.

(4) The enforcing authority for regulations 5 to 7 in relation to a site occupied by a body specified in regulation 4(3) of the 1998 Regulations is—

- (a) where that site is an authorised defence site or new nuclear build site, the Office for Nuclear Regulation,
- (b) otherwise, the Executive.

(5) This regulation applies subject to section 18(1A) of the Health and Safety at Work etc. Act 1974.

(6) In this regulation—

- (a) “appropriate fire body” means—
  - (i) in England and Wales, the fire authority;
  - (ii) in Scotland, the Scottish Fire and Rescue Authority.
- (b) “authorised defence site” and “new nuclear build site” have the meanings given in the 1998 Regulations.”.

### **Control of Explosives Regulations 1991**

**46.** The Control of Explosives Regulations 1991<sup>(44)</sup> are amended as follows.

**47.** In regulation 2(1) (interpretation) after the definition of “occupier” insert—

““the ONR” means the Office for Nuclear Regulation;”.

**48.** After regulation 3(4)(d) (application) insert—

“(e) the ONR.”.

**49.** In regulation 11(1)(a) (licensed occupier to appoint person responsible for the security of explosives) after “Executive” insert “or the ONR”.

**50.** After regulation 13(8) (reporting loss) insert—

“(9) Where any loss of explosive occurs at a site in relation to which the ONR is the licensing authority by virtue of paragraph 4 of Schedule 1 to the 2005 Regulations, then any requirement in this regulation to report or supply information to a chief officer of police shall also include a like requirement to report or supply the same information to the ONR.”.

**51.** For regulation 15 (enforcement) substitute—

“**15.**—(1) This regulation applies subject to section 18(1A) of the Health and Safety at Work etc. Act 1974.

(2) Subject to the following paragraphs of this regulation, the enforcing authority for these Regulations in any area of Great Britain is the chief officer of police for that area.

(3) Subject to paragraph (3), the Executive is the enforcing authority—

- (a) in relation to regulation 11;
- (b) in relation to regulation 12—
  - (i) in respect of any place within a site in relation to which the Executive is the licensing authority by virtue of paragraph 1(c) of Schedule 1 to the 2005 Regulations;

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<sup>(44)</sup> S.I. 1991/1531, amended by S.I. 2005/1082. There are other amending instruments but none is relevant to this Order.

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- (ii) in respect of any place in premises occupied on behalf of the Crown for naval, military or air force purposes or for the purposes of the department of the Secretary of State having responsibility for defence; and
  - (iii) under regulation 12(1) in respect of any place below ground in any mine;
  - (c) for these Regulations for any area outside Great Britain.
- (4) The ONR is the enforcing authority in relation to regulations 11 and 12 in respect of any place—
- (a) within a site in relation to which the ONR is the licensing authority by virtue of paragraph 4 of Schedule 1 to the 2005 Regulations;
  - (b) within—
    - (i) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998); or
    - (ii) a new nuclear build site (within the meaning given in regulation 2A of those Regulations).
- (5) The enforcing authority for these Regulations against a police force or any member of a police force is—
- (a) in so far as these Regulations apply in relation to activities carried out on, or in relation to, an authorised defence site or new nuclear build site, the ONR;
  - (b) otherwise, the Executive.”.

### **Simple Pressure Vessels (Safety) Regulations 1991**

**52.**—(1) Schedule 5 (Enforcement) to the Simple Pressure Vessels (Safety) Regulations 1991(45) is amended as follows.

- (2) In paragraph 1(a) for “Executive”, in both places it occurs, substitute “appropriate authority”.
- (3) In paragraph 9—
  - (a) after the definition of “the 1987 Act” insert—
    - ““appropriate authority”—
    - (a) in so far as these Regulations apply—
      - (i) to vessels intended exclusively or primarily for use on relevant nuclear sites; or
      - (ii) the taking of vessels or relevant assemblies into service on such sites, means the Office for Nuclear Regulation;
    - (b) otherwise, the Executive;”;
  - (b) in the definition of “enforcement authority” after “Executive” insert “, the Office for Nuclear Regulation”;
  - (c) after the definition of “the Order” insert—
    - ““relevant nuclear site” means a site which is—
    - (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013);
    - (b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998); or

(45) S.I. 1991/2749, amended by S.I. 1994/3098: there are other amending instruments but none is relevant to this Order.

- (c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations);”.

### **Placing on the Market and Supervision of Transfers of Explosives Regulations 1993**

**53.** The Placing on the Market and Supervision of Transfers of Explosives Regulations 1993(46) are amended as follows.

**54.** In regulation 3 (application)—

- (a) at the end of paragraph (3)(b) omit “or”;
- (b) at the end of paragraph (c) insert—  
“; or
- (d) the Office for Nuclear Regulation.”.

**55.—**(1) Regulation 9 (enforcement) is amended as follows.

(2) For paragraph (1) substitute—

“(1) Notwithstanding the provisions of the Health and Safety (Enforcing Authority) Regulations 1998 and subject to section 18(1A) of the 1974 Act, the enforcing authority for these Regulations is—

- (a) in so far as these Regulations apply on, or in relation to, any activity carried out wholly or mainly on nuclear premises, the Office for Nuclear Regulation;
- (b) otherwise, the Executive.”.

(3) After paragraph (4) insert—

“(5) For the purposes of this regulation “nuclear premises” means premises which are, or are on—

- (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013);
- (b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 2008); or
- (c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations).”.

### **Electrical Equipment (Safety) Regulations 1994**

**56.** The Electrical Equipment (Safety) Regulations 1994(47) are amended as follows.

**57.** In regulation 11 (internal production control) after “the Health and Safety Executive” insert “, the Office for Nuclear Regulation”.

**58.—**(1) Regulation 17 (regulations to be treated as safety regulations within the meaning of the 1987 Act) is amended as follows.

(2) In paragraph (3)—

- (a) in sub-paragraph (a) for “Health and Safety Executive” (“the Executive”) substitute “appropriate GB authority”;
- (b) in sub-paragraph (b)(ii) for “Executive” substitute “appropriate GB authority”.

(3) In paragraph (6) for “Executive” substitute “appropriate GB authority”.

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(46) [S.I. 1993/2714](#); to which there are amendments not relevant to this Order.

(47) [S.I. 1994/3260](#), amended by [S.I. 2000:730](#): there are other amending instruments but none is relevant to this Order.

*Status: This is the original version (as it was originally made).*

(4) After paragraph (6) insert—

“(7) For the purposes of this regulation “appropriate GB authority” means—

- (a) in relation to electrical equipment intended exclusively or primarily for use on—
  - (i) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013);
  - (ii) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998); or
  - (iii) a new nuclear build site (within the meaning given in regulation 2A of those Regulations),the Office for Nuclear Regulation;
- (b) otherwise, the Health and Safety Executive.”.

### **Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations 1996**

**59.** The Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations 1996(48) are amended as follows.

**60.** In regulation 2(2) (interpretation)—

- (a) omit the definition of “enforcement authority”;
- (b) after the definition of “equipment group II” insert—

““the Executive” means the Health and Safety Executive established under section 10 of the Health and Safety at Work etc. Act 1974;”.

**61.** In regulation 14(2)(a) (conditions for equipment etc. being taken to comply with the provisions of the ATEX Directive) for “enforcement authority”, in both places it appears, substitute “Executive”.

**62.** After regulation 15(5) (enforcement) insert—

- “(6) For the purposes of this regulation “enforcement authority” means—
- (a) in any case where it is responsible for the enforcement of these Regulations in accordance with Schedule 14, the Office for Nuclear Regulation;
  - (b) otherwise, the Executive.”.

**63.—**(1) Schedule 14 (enforcement) is amended as follows.

(2) For paragraph 1(a) substitute—

- “(a) subject to sub-paragraph (aa), it shall be the duty of the Executive to make adequate arrangements for the enforcement of these Regulations;”.

(3) After paragraph 1(a) insert—

- “(aa) it shall be the duty of the Office for Nuclear Regulation to make adequate arrangements for the enforcement of these Regulations as they apply to—
- (i) any person who places on the market or supplies a relevant product intended exclusively or primarily for use on a GB nuclear site;
  - (ii) any person who puts a relevant product into service on a relevant nuclear site;

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(48) S.I. 1996/192, to which there are amendments not relevant to this Order.

- (ab) accordingly a reference to the provisions applied for the purposes of such enforcement by sub-paragraph (b) below to an “enforcing authority” shall be construed as a reference to the Executive or the Office for Nuclear Regulation (as the case may be).”.
- (4) In paragraph 2—
  - (a) for “An enforcement authority” substitute “The Executive”;
  - (b) After paragraph 2(1) insert—
    - “(1A) The Office for Nuclear Regulation may apply under this paragraph for an order for the forfeiture of any relevant product on the grounds that there has been a contravention in relation thereto of—
      - (a) regulation 6 in so far as it applies to—
        - (i) the placing on the market of any relevant product which is intended exclusively or primarily for use on a GB nuclear site;
        - (ii) putting a relevant product into service on a relevant nuclear site;
      - (b) regulation 7 in so far as it applies to the supply of any relevant product intended exclusively or primarily for use on a GB nuclear site;
      - (c) regulation 8 in so far as it applies to the placing on the market of any component intended exclusively or primarily for use on a GB nuclear site;”.
- (5) In paragraph 4 for “enforcement authority” substitute “Executive or the Office for Nuclear Regulation”.
- (6) In paragraph 6 for “enforcement authority” substitute “Executive or the Office for Nuclear Regulation”.
- (7) In paragraph 7—
  - (a) after the definition of “the 1974 Act” insert—
    - ““GB nuclear site” has the meaning given in section 68 of the Energy Act 2013;
    - “relevant nuclear site” means a site which is—
      - (a) a GB nuclear site;
      - (b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998);
      - (c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations).”.

### **Health and Safety (Safety Signs and Signals) Regulations 1996**

**64.** For regulation 7 (enforcement) of the Health and Safety (Safety Signs and Signals) Regulations 1996(49) substitute—

“7.—(1) Subject to section 18(1A) of the 1974 Act and despite the provision made by the Health and Safety (Enforcing Authority) Regulations 1998 (“the 1998 Regulations”), the enforcing authority in relation to fire safety signs provided in pursuance of regulation 4(4) as applied by regulation 4(3) (signs provided to comply with the provisions of any enactment) is—

- (a) in the case of premises and activities to which these Regulations apply by virtue of paragraph (2)(b) of regulation 3, the Health and Safety Executive;

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(49) S.I. 1996/341, to which there are amendments not relevant to this Order.

*Status: This is the original version (as it was originally made).*

- (b) in the case of premises which are, or are on, or activities carried out on, an authorised defence site or new nuclear build site, the Office for Nuclear Regulation;
  - (c) in any other case, the authority or class of authorities responsible for enforcing the relevant provision of the enactment which applies to the case.
- (2) In this regulation, “authorised defence site” and “new nuclear build site” have the meanings given in the 1998 Regulations.”.

### **Marking of Plastic Explosives for Detection Regulations 1996**

**65.** For regulation 6 of the Marking of Plastic Explosives for Detection Regulations 1996(50) (enforcement) substitute—

“6.—(1) Notwithstanding the provisions of the Health and Safety (Enforcing Authority) Regulations 1998 (“the 1998 Regulations”) and subject to section 18(1A) of the Health and Safety at Work etc. Act 1974 and paragraph (2), the Executive shall be the enforcing authority for these Regulations—

- (a) in Great Britain; and
- (b) in those areas outside Great Britain where these Regulations apply by virtue of regulation 7.

(2) The Office for Nuclear Regulation shall be the enforcing authority for regulations 3 and 4 of these Regulations as they apply on or in relation to authorised defence sites and new nuclear build sites.

(3) In this regulation, “authorised defence site” and “new nuclear build site” have the meanings given in the 1998 Regulations.”.

### **Lifts Regulations 1997**

**66.** The Lifts Regulations 1997(51) are amended as follows.

**67.** In regulation 2(2) (interpretation)—

- (a) for paragraph (a)(i) of the definition of “enforcement authority” substitute—

“(i) in Great Britain—

- (aa) in so far as these Regulations apply on, or in relation to, any premises which are, or are on, or any activity carried out on, a relevant nuclear site, the Office for Nuclear Regulation;
- (bb) otherwise, the Health and Safety Executive established under section 10 of the Health and Safety at Work etc. Act 1974;”;

- (b) after the definition of “relevant essential health and safety requirements” insert—

““relevant nuclear site” means a site which is—

- (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013);
- (b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998); or
- (c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations).”.

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(50) S.I. 1996/890; to which there are amendments not relevant to this Order.

(51) S.I. 1997/831; to which there are amendments not relevant to this Order.



**68.**—(1) Schedule 15 (enforcement) is amended as follows.

(2) In paragraph 1(a) (enforcement in Great Britain) for “Executive”, in each place it occurs, substitute “appropriate authority”.

(3) In paragraph 8 (interpretation) after the definition of “the 1987 Act” insert—

““appropriate authority” means—

- (a) in so far as these Regulations apply on, or in relation to, any premises which are, or are on, or any activity carried out on, a relevant nuclear site, the Office for Nuclear Regulation;
- (b) otherwise, the Executive.”.

### **Diving at Work Regulations 1997**

**69.**—(1) The Diving at Work Regulations 1997(**52**) are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) after the definition of “the 1995 Order” insert—

““appropriate authority” means—

- (a) in any case where the diving project is a nuclear diving project, the Office for Nuclear Regulation;
- (b) otherwise, the Executive.”;

(b) after the definition of “Executive” insert—

““nuclear diving project” means a diving project made up wholly or mainly of diving operations carried out on or in relation to a site which is—

- (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013);
- (b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998);
- (c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations).”.

(3) In regulation 7 (information to be supplied by diving contractor) for “Executive” substitute “appropriate authority” in each place it occurs.

(4) In Schedule 1 (particulars to be included in written notice by the diving contractor) for “Executive” substitute “appropriate authority” in each place it occurs.

### **Health and Safety (Enforcing Authority) Regulations 1998**

**70.** The Health and Safety (Enforcing Authority) Regulations 1998(**53**) are amended as follows.

**71.** After regulation 1 insert—

#### **“Application**

**1A.** Nothing in these Regulations applies to the enforcement of the relevant statutory provisions as they apply in relation a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013).”.

**72.** In regulation 2(1) (interpretation)—

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(52) S.I. 1997/2776; to which there are amendments not relevant to this Order.

(53) S.I. 1998/494, amended by S.I. 1999/2024, S.I.1999/3232, S.I. 2002/2675, S.I. 2005/1082, S.I. 2005/1541, S.I. 2006/557, S.I. 2007/320, S.I. 2008/960, S.I. 2009/693, S.I. 2009/716, S.I. 2011/3058, S.I. 2012/632 and S.I. 2013/602.

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- (a) after the definition of “agricultural activities” insert—
  - ““authorised defence site” means a site in England and Wales or Scotland—
  - (a) that is used for any purpose which, if section 1 of the Nuclear Installations Act 1965 applied to the Crown, would require the authority of a nuclear site licence in respect of that site; and
  - (b) for which there is in force an authorisation granted by or on behalf of the Secretary of State having responsibility for defence authorising it to be used for that purpose;”;
- (b) after the definition of “mine” insert—
  - ““the ONR” means the Office for Nuclear Regulation;
  - “new nuclear build site” has the meaning given in regulation 2A;
  - “nuclear warship site” has the meaning given in regulation 2B;”.

**73.** After regulation 2 insert—

**“New nuclear build sites**

**2A.**—(1) Subject to paragraphs (3) and (4), “new nuclear build site” means a site which—

- (a) is immediately adjacent to a GB nuclear site (“the associated site”);
- (b) is, or forms part of, a construction site where construction work is being carried out—
  - (i) wholly or mainly for the purpose of the installation of one or more nuclear installations on the associated site; and
  - (ii) by or on behalf of the person to whom the nuclear site licence for the associated site has been granted.

(3) A site is not a new nuclear build site if, on the date construction work starts on that site, there is a nuclear installation installed on the associated site.

(4) A site ceases to be a new nuclear build site on the completion of the construction work mentioned in paragraph (1)(b).

(5) In this regulation—

- (a) “construction site” and “construction work” have the meanings given in regulation 2(1) of the Construction and Design Management Regulations 2007;
- (b) “GB nuclear site” has the meaning given in section 68 of the Energy Act 2013;
- (c) “nuclear site licence” and “nuclear installation” have the meanings given in section 26 of the Nuclear Installations Act 1965.

**Interpretation: nuclear warship site**

**2B.**—(1) For the purposes of these Regulations, “nuclear warship site” means a site which falls within paragraph (2).

(2) A site falls within this paragraph if—

- (a) it is, or contains, a berth or an anchorage; and
- (b) relevant arrangements have—
  - (i) been made for the use of the berth or anchorage (as the case may be) by a nuclear powered warship; and

(ii) been notified to the ONR by the Secretary of State.

(3) A site ceases to fall within paragraph (2) if the Secretary of State notifies the ONR that the relevant arrangements made for the use of the berth or anchorage by a nuclear powered warship are no longer in place.

(4) In this regulation, “relevant arrangements” means, in relation to a berth or an anchorage (as the case may be), arrangements—

(a) made between the Secretary of State and the owner or occupier in any case where the Secretary of State is not the owner or occupier of the site which is, or contains, the berth or anchorage,

(b) otherwise, made by the Secretary of State.”.

**74.** In regulation 3(7) (local authorities to be enforcing authorities in certain cases) for “regulations, 4, 5 and 6” substitute “regulations 4 to 6A”.

**75.**—(1) Regulation 4 (exceptions) is amended as follows.

(2) In paragraph (6) for “regulations 5 and 6” substitute “regulations 4A to 6A”.

(3) In paragraph (7)—

(a) in sub-paragraph (b) after “paragraph 1” insert “or 4”;

(b) in sub-paragraph (c) after “paragraph 1” insert “or 4”.

(4) For paragraph (8) substitute—

“(8) The enforcing authority in respect of manufacture and storage of ammonium nitrate blasting intermediate shall be—

(a) in relation to manufacture or storage on an authorised defence site or new nuclear build site, the ONR;

(b) otherwise, the Executive.”.

(5) In paragraph (10)—

(a) after sub-paragraph (a) insert—

“(aa) where the disposal or decontamination is carried out by, or on behalf of, a person who holds a licence granted by, or treated as granted by, the ONR under those Regulations in a case in which the assent of the local authority was required under regulation 13(3) of those Regulations before the licence was granted, the ONR;”;

(b) in sub-paragraph (b) for “sub-paragraph (a)” substitute “sub-paragraphs (a) and (aa)”.

**76.** After regulation 4 insert—

**“The Office for Nuclear Regulation**

**4A.**—(1) The ONR shall be the enforcing authority for premises which are or are on—

(a) an authorised defence site; or

(b) a new nuclear build site.

(2) The ONR shall also be the enforcing authority for—

(a) the provisions of—

(i) the Ionising Radiation Regulations 1999; and

(ii) the Radiation Emergency Preparedness and Public Information Regulations 2001,

*Status: This is the original version (as it was originally made).*

- in so far as they apply to premises which are or are on a nuclear warship site;
- (b) subsections (1), (2), (4) and (5) of section 6 of the 1974 Act (general duties of manufacturers etc. as regards articles and substances for use at work) but only in so far as those requirements relate to—
    - (i) articles for use at work which are designed, manufactured, imported or supplied; or
    - (ii) substances which are manufactured, imported or supplied, to be used exclusively or primarily in the installation, operation or decommissioning of a GB nuclear site or an authorised defence site;
  - (c) subsection (3) of section 6 of the 1974 Act in so far as the requirements of that provision relate to the erection or installation of any article for use at work in any premises which are or are on an authorised defence site or a new nuclear build site.
- (3) For the purposes of paragraph (2)(a) above “premises” includes a nuclear powered warship during any period it is berthed or anchored at a nuclear warship site.
- (4) The preceding provisions of this regulation have effect subject to—
- (a) regulation 6A; and
  - (b) any provisions made for enforcement responsibility by other regulations made under the 1974 Act or any of the existing statutory provisions.”.

77. Before regulation 5(1) (arrangements enabling responsibility for enforcement to be transferred) insert—

“(A1) This regulation applies in relation to any relevant statutory provision to the extent that either the Executive or the local authority is the enforcing authority for the provision.”.

78.—(1) Regulation 6 (arrangements enabling responsibility for enforcement to be assigned in cases of uncertainty) is amended as follows.

(2) For the heading substitute—

*“Assignment of responsibility for enforcement in cases of uncertainty: the Executive and the local authority”.*

(3) For paragraph (1) substitute—

“(1A) This regulation applies where there is uncertainty as to what are the respective responsibilities of the Executive and the local authority by virtue of regulations made under section 18(2) of the 1974 Act for the enforcement of any of the relevant statutory provisions in respect of any particular premises, part of premises or any activity carried on there.

(1B) The responsibility for enforcing the relevant statutory provision in question in the respect in question may be assigned by the Executive and the local authority (acting jointly) to the Executive or to the local authority.

(1C) An assignment under paragraph (1B) may only be made where the Executive and the local authority agree—

- (a) that there is uncertainty in the particular case as to what are their respective responsibilities by virtue of regulations made under section 18(2) of the 1974 Act; and
- (b) which of them is the more appropriate to be responsible for enforcement in that case.

(1D) Where an assignment is made under paragraph (1B) the authority to which responsibility is assigned must give notice of the assignment to any person affected by it.”.

79. After regulation 6 insert—

**“Assignment of responsibility for enforcement in cases of uncertainty: the Executive and the ONR**

**6A.—**(1) This regulation applies where there is uncertainty as to what are the respective responsibilities of the Executive and the ONR by virtue of regulations made under section 15 or 18(2) of the 1974 Act for the enforcement of—

- (a) section 6 of the 1974 Act in respect of any particular article for use at work or substance; or
- (b) any other relevant statutory provision in respect of any premises, part of premises or any activity carried on there.

(2) The responsibility for enforcing the relevant statutory provision in question in the respect in question may be assigned by the Executive and the ONR (acting jointly) to the Executive or the ONR.

(3) An assignment under paragraph (2) may be made only where the Executive and the ONR agree—

- (a) that there is uncertainty in the particular case as to what are their respective responsibilities by virtue of regulations made under section 15 or 18(2) of the 1974 Act are; and
- (b) which of them is more appropriate to be responsible for enforcement in that case.

(4) Where an assignment is made under paragraph (2), the authority to which responsibility is assigned must give notice of the assignment to any person affected by it.

**Assignment of responsibility for enforcement in cases of uncertainty: the ONR and the local authority**

**6B.—**(1) This regulation applies where there is uncertainty as to what are the respective responsibilities of the ONR and a local authority by virtue of regulations made under section 18(2) of the 1974 Act for the enforcement of any of the relevant statutory provisions in respect of any particular premises, part of premises or any activity carried on there.

(2) The responsibility for enforcing the relevant statutory provision in question in the respect in question may be assigned by the ONR and the local authority (acting jointly) to the ONR or the local authority.

(3) An assignment under paragraph (2) may be made only where the ONR and the local authority agree—

- (a) that there is uncertainty in the particular case as to what are their respective responsibilities by virtue of regulations made under 18(2) of the 1974 Act are; and
- (b) which of them is more appropriate to be responsible for enforcement in that case.

(4) Where an assignment is made under paragraph (2), the authority to which responsibility is assigned must give notice of the assignment to any person affected by it.”.

**Working Time Regulations 1998**

**80.** The Working Time Regulations 1998<sup>(54)</sup> are amended as follows.

**81.**—(1) Regulation 28 (enforcement) is amended as follows.

(2) In paragraph (1)—

(a) after the definition of “the 1974 Act” insert—

““2013 Act” means the Energy Act 2013;”;

(b) in the definition of “enforcement authority” after “VOSA” insert “, the ONR”;

(c) after the definition of “local authority” insert—

““ONR” means the Office for Nuclear Regulation;”;

(d) after the definition of “relevant civil aviation worker” insert—

““relevant nuclear provisions” means—

(a) sections 1, 3 to 6, 22 and 24A of the Nuclear Installations Act 1965;

(b) the provisions of the 2013 Act;

(c) the provisions of nuclear regulations other than any provision of such regulations identified in accordance with section 74(9) of the 2013 Act as made for the nuclear safeguards purposes;

“relevant nuclear site” means a site which is—

(a) a GB nuclear site (within the meaning given by section 68 of the 2013 Act);

(b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998); or

(c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations);”.

(3) After paragraph (2)(d) insert—

“(e) the ONR is made responsible for their enforcement by paragraph (3AA).”.

(4) After paragraph (3A) insert—

“(3AA) Where the relevant requirements apply in relation to workers employed in premises which are or are on a relevant nuclear site, it shall be the duty of the ONR to enforce those requirements.”.

**82.**—(1) In paragraph 8 of Schedule 3 (restrictions on disclosure of information)—

(a) in sub-paragraph (3)—

(i) in paragraph (a) after “the Commission” insert “, the ONR”;

(ii) in paragraph (b) after “relevant statutory provisions” insert “, relevant nuclear provisions”;

(b) in sub-paragraph (4) after “the Commission” insert “, the ONR”;

(c) after sub-paragraph (4) insert—

“(4A) In sub-paragraph (3) a reference to the ONR also includes a reference to—

(a) a person performing functions of the ONR on its behalf by virtue of section 95 of the 2013 Act;

(b) an officer of a body which is so performing any such functions; and

<sup>(54)</sup> S.I. 1998/1833; amended by S.I. 2003/1684, S.I. 2006/557 and S.I. 2008/960. There are other amending instruments but none is relevant to this Order.

- (c) a person appointed to provide advice to the ONR.”;
- (d) in sub-paragraph (5)—
  - (i) in paragraph (a)—
    - (aa) after “the Commission” insert “, or the ONR”;
    - (bb) after “these Regulations” insert “, the relevant nuclear provisions”;
  - (ii) in paragraph (b) after “relevant statutory provisions” insert “, the relevant nuclear provisions”;
  - (iii) in paragraph (c) after “relevant statutory provisions” insert “, the relevant nuclear provisions”.

### **Control of Major Accident Hazards Regulations 1999**

**83.** The Control of Major Accident Hazards Regulations 1999(55) are amended as follows.

**84.** In regulation 2(1) (interpretation)—

- (a) for the definition of “competent authority” substitute—
  - ““competent authority” means
  - (a) in relation to a nuclear establishment, the ONR and the appropriate agency acting jointly;
  - (b) otherwise, the Executive and the appropriate agency acting jointly.”;
- (b) after the definition of “notify” insert—
  - ““nuclear establishment” means an establishment which is or is wholly or partly within—
  - (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013); or
  - (b) a new nuclear build site (within the meaning given in regulation 2A of the Health and Safety (Enforcing Authority) Regulations 1998);”;
- (c) after the definition of “off-site emergency plan” insert—
  - ““the ONR” means the Office for Nuclear Regulation;”.

**85.** In Regulation 7(11) (safety report) after “the Executive” insert “, the ONR”.

**86.**—(1) Regulation 15 (provision of information to the competent authority) is amended as follows.

- (2) In paragraph (4) after “Executive” insert “or the ONR”.
- (3) For paragraph (5) substitute—
  - “(5) Anything required to be sent by an operator of an establishment to the competent authority pursuant to these Regulations shall be sent to the authority—
  - (a) at an office of the ONR in the case of a nuclear establishment;
  - (b) at an office of the Executive in the case of any other establishment. ”.

**87.** After regulation 16(3) (provision of information to other establishments) insert—

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(55) S.I. 1999/743; amended by S.I. 1999/2597, S.I. 2002/2469, S.I. 2005/676, S.I. 2005/1088, S.I. 2008/736, S.I. 2008/960, S.I. 2008/1087, S.I. 2008/2337, S.I. 2013/235, S.I. 2013/755 and S.I. 2013/1471. There are other amending instruments but none is relevant to this Order.

*Status: This is the original version (as it was originally made).*

“(4) The Executive, ONR and appropriate agency acting jointly shall, using the information received from operators in notifications sent pursuant to regulation 6 and in safety reports in their role as competent authority, designate groups of nuclear and other establishments where the likelihood or consequences of a major accident may be increased because of the location and proximity of the nuclear and other establishments in the group and the dangerous substances present there.

(5) The Executive, ONR and appropriate agency shall notify each operator of an establishment in a group designated pursuant to paragraph (4) of the names and addresses of the other establishments within the same group.

(6) Paragraph (3) applies to any operator of an establishment in a group designated pursuant to paragraph (4) as it applies to an operator of an establishment in a group designated pursuant to paragraph (1).”.

**88.** In Regulation 19(4) (inspections and investigations) for “or the Executive” substitute “, the Executive or the ONR”.

**89.**—(1) Regulation 20 (enforcement) is amended as follows.

(2) At the beginning of paragraph (6) insert “Subject to section 18(1A) of the 1974 Act and paragraphs (6A) and (6B) but,”.

(3) After paragraph (6) insert—

“(6A) Paragraph (6) does not apply in relation to any establishment which is a nuclear establishment.

(6B) The ONR shall, for the purposes of the 1974 Act, be the enforcing authority for the relevant statutory provisions at an establishment which is a nuclear establishment.”.

**90.**—(1) Regulation 22 (fee payable by operator) is amended as follows.

(2) In paragraph (1) for “Executive” substitute “appropriate authority”.

(3) In paragraph (2)—

(a) in the opening words for “Executive” substitute “appropriate authority”;

(b) in paragraphs (a) and (b) for “the Executive”, in each place in which it occurs, substitute “that authority”.

(4) In paragraph (2A)—

(a) for “the Executive”, in the first place in which it occurs, substitute “the appropriate authority”;

(b) for “the Executive”, in each other place in which it occurs, substitute “that authority”.

(5) In paragraph (3)(a) and (b) for “Executive”, in both places in which it occurs, substitute “appropriate authority”.

(6) In paragraph (4) for “Executive” substitute “appropriate authority”.

(7) In paragraph (7) after “the Executive” insert “or the ONR”.

(8) After paragraph (8) insert—

“(9) In this regulation “appropriate authority” means—

(a) in relation to an establishment which is a nuclear establishment, the ONR;

(b) otherwise, the Executive.”.



## **Pressure Equipment Regulations 1999**

**91.** The Pressure Equipment Regulations 1999<sup>(56)</sup> are amended as follows.

**92.** In regulation 2(2) (interpretation)—

(a) before the definition of “assembly” insert—

““appropriate authority”—

(a) insofar as these Regulations apply to—

- (i) the manufacture of pressure equipment or assemblies intended exclusively or primarily for use on a relevant nuclear site; or
- (ii) the putting into service of pressure equipment or assemblies on premises which are, or are on, a relevant nuclear site,

means the Office for Nuclear Regulation;

(b) otherwise, means the Health and Safety Executive established under section 10 of the Health and Safety at Work etc. Act 1974;”;

(b) for paragraph (i) of sub-paragraph (a) of the definition of “enforcement authority” substitute—

“(i) in Great Britain, the appropriate authority and”;

(c) after the definition of “relevant essential requirements” insert—

““relevant nuclear site” means a site which is—

- (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013);
- (b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998); or
- (c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations).”.

**93.** In paragraph 1(a) of Schedule 8 (enforcement) for “Executive”, in both places in which it appears, substitute “appropriate authority”.

## **Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999**

**94.** The Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999<sup>(57)</sup> are amended as follows.

**95.** Subject to paragraphs 96 and 97, for “Executive” substitute “ONR” in each place occurring.

**96.** In regulation 2(1) (definitions)—

(a) omit the definition of “the Executive”;

(b) after the definition of “local planning authority” insert—

““the ONR” means the Office for Nuclear Regulation;”.

**97.** In regulation 16(1) (enforcement) for “Health and Safety Executive” substitute “ONR”.

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<sup>(56)</sup> S.I. 1999/2001, amended by S.I. 2002/1267, S.I. 2004/693 and S.I. 2008/960. There are other amending instruments but none is relevant to this Order.

<sup>(57)</sup> S.I. 1999/2892; amended by the Countryside and Rights of Way Act 2000 (c.37), section 73, S.I. 2006/657, S.I. 2008/960 and S.I. 2013/755.

**Ionising Radiations Regulations 1999**

**98.** The Ionising Radiations Regulations 1999(**58**) are amended as follows.

**99.** In regulation 2(1) (interpretation) after the definition of “radioactive substance” insert—

““relevant authority” means—

- (a) in so far as these Regulations apply in relation to, or in relation to any activity carried out on, any nuclear premises, the Office for Nuclear Regulation;
- (b) otherwise, the Executive.

“nuclear premises” means premises which are or are on—

- (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013);
- (b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998);
- (c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations); or
- (d) a nuclear warship site (within the meaning given in regulation 2B of those Regulations).”.

**100.**—(1) In the provisions specified in paragraph (2) for “Executive” substitute “relevant authority” in each place occurring.

(2) The specified provisions are—

- (a) regulation 21(3)(f);
- (b) regulation 32(6);
- (c) regulation 36(1)(b);
- (d) regulation 37(1) and (2);
- (e) regulation 39(8);
- (f) paragraphs (5) and (8) of regulation 40;
- (g) regulation 41(4);
- (h) the heading for Schedule 3;
- (i) paragraphs 13(c), 14(b), 18, 19, 20 and 22 of Part 2 of Schedule 4;
- (j) note 1 to Part 1 of Schedule 8.

**101.**—(1) Regulation 5 (authorisation of specified practices) is amended as follows.

(2) In paragraphs (1), (2), (4), (5) and (7) for “Executive”, in each place it occurs, substitute “appropriate authority”.

(3) After paragraph (7) insert—

“(8) In this regulation “appropriate authority” means—

- (a) in relation to practices carried out exclusively or primarily on nuclear premises, the ONR;
- (b) otherwise, the Executive.”.

**102.**—(1) Regulation 6 (notification of specified practices) is amended as follows.

(2) For “Executive”, in each place it occurs, substitute “appropriate authority”.

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(58) S.I. 1999/3232; amended by S.I. 2001/2975: there are other amending instruments but none is relevant to this Order.

(3) After paragraph (9) insert—

“(10) In this regulation “appropriate authority” means—

- (a) in relation to practices carried out exclusively or primarily on premises which are or are on—
  - (i) an authorised defence site;
  - (ii) a new nuclear build site;
  - (iii) a nuclear warship site,the ONR;
- (b) otherwise, the Executive.”.

**103.**—(1) Regulation 22 (estimated doses and special entries) is amended as follows.

(2) In paragraphs (6), (7) and (8) for “Executive”, in each it occurs, substitute “appropriate authority”

(3) After paragraph (8) insert—

“(9) In this regulation “appropriate authority” means—

- (a) in relation to a classified person employed wholly or mainly on nuclear premises, the ONR;
- (b) otherwise, the Executive.”.

**104.**—(1) Regulation 25 (investigation and notification of overexposure) is amended as follows.

(2) In paragraph (1)(a)(i) for “Executive” substitute “appropriate authority”.

(3) After paragraph (3) insert—

“(4) In this regulation “appropriate authority” means—

- (a) in relation to overexposure as a result of work carried out on nuclear premises, the ONR;
- (b) otherwise, the Executive.”.

### **Radiation (Emergency Preparedness and Public Information) Regulations 2001**

**105.**—(1) The Radiation (Emergency Preparedness and Public Information) Regulations 2001<sup>(59)</sup> are amended as follows.

(2) After regulation 18(A)(a) (modifications relating to the Office of Rail Regulation) insert—

“(aa) regulation 18B (modifications relating to the Office for Nuclear Regulation);”

(3) After regulation 18A insert—

#### **“Modifications relating to the Office for Nuclear Regulation**

**18B.**—(1) Subject to paragraph (2), in so far as these Regulations apply in relation to any premises, or in relation to any activity carried out on premises, which are, or are on, a relevant nuclear site, they have effect as if any reference to the Executive were a reference to the Office for Nuclear Regulation.

(2) Paragraph (1) does not apply to—

- (a) the definition of “the Executive” in regulation 2(1) (interpretation);
- (b) regulation 18A (modifications relating to the Office of Rail Regulation);

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<sup>(59)</sup> S.I. 2001/2975; amended by S.I. 2006/557: there are other amending instruments but none is relevant to this Order.

*Status: This is the original version (as it was originally made).*

- (c) regulation 20 (transitional provisions);
  - (d) note 6 at the end of Part 1 of Schedule 4 (specified quantities for the transport of radionuclides).
- (4) In this regulation “relevant nuclear site” means a site which is—
- (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013);
  - (b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998);
  - (c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations); or
  - (d) a nuclear warship site (within the meaning given in regulation 2B of those Regulations).”.

### **Control of Lead at Work Regulations 2002**

- 106.**—(1) The Control of Lead at Work Regulations 2002(**60**) are amended as follows.
- (2) In regulation 2(1) (interpretation) after the definition of “appointed doctor” insert—
- ““appropriate authority” means—
- (a) in relation to a record which relates to employment wholly or mainly on—
    - (i) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013);
    - (ii) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998); or
    - (iii) a new nuclear build site (within the meaning given in regulation 2A of those Regulations),
 the Office for Nuclear Regulation;
  - (b) otherwise, the Executive.”.
- (3) In regulation 9 (air monitoring) in paragraph (6)(b) for “Executive” substitute “appropriate authority” in each place it occurs.
- (4) In regulation 10 (medical surveillance) in paragraph (6)(b) for “Executive” substitute “appropriate authority” in each place it occurs.
- (5) In regulation 15 (revocation and savings)—
- (a) in paragraph (2) for “Executive” substitute “relevant authority”;
  - (b) after paragraph (2) insert—
    - “(3) In this regulation “relevant authority” means—
      - (a) where it is the enforcing authority for the purposes of these Regulations, the Office for Nuclear Regulation;
      - (b) otherwise, the Executive.”.

### **Control of Substances Hazardous to Health Regulations 2002**

- 107.**—(1) The Control of Substances Hazardous to Health Regulations 2002(**61**) are amended as follows.
- (2) In regulation 2(1) (interpretation) after the definition of “appointed doctor” insert—

**(60)** S.I. 2002/2676, to which there are amendments not relevant to this Order.

**(61)** S.I. 2002/2677, to which there are amendments not relevant to this Order.

““appropriate authority” means—

- (a) in relation to a record which relates to employment wholly or mainly on—
  - (i) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013);
  - (ii) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998); or
  - (iii) a new nuclear build site (within the meaning given in regulation 2A those Regulations),the Office for Nuclear Regulation;
- (b) otherwise, the Executive.”.

(3) In regulation 10 (monitoring exposure at the workplace) in paragraph (7)(b) for “Executive” substitute “appropriate authority” in each place it occurs.

(4) In regulation 11 (health surveillance) in paragraph (4)(b) for “Executive” substitute “appropriate authority” in each place it occurs.

(5) In regulation 18 (revocation and savings)—

- (a) in paragraph (2) for “Executive” substitute “relevant authority”;
- (b) after paragraph (2) insert—

“(3) In this regulation “relevant authority” means—

- (a) where it is the enforcing authority for the purposes of these Regulations, the Office for Nuclear Regulation;
- (b) otherwise, the Executive.”.

### **Ammonium Nitrate Materials (High Nitrate Content) Safety Regulations 2003**

**108.**—(1) Regulation 11 of the Ammonium Nitrate Materials (High Nitrate Content) Safety Regulations 2003(**62**) (enforcing authorities) is amended as follows.

(2) In paragraphs (1), (2) and (3) for “paragraph (4)” substitute “paragraph (4) or (5)”.

(3) At the start of paragraph (4) insert “Subject to paragraph (5).”.

(4) After paragraph (4) insert—

“(5) It shall be the duty of the Office for Nuclear Regulation to enforce these Regulations (including compliance by any person with any conditions imposed on that person by or under regulation 10(2)) as they apply on, or in relation to, any site, or any activities carried out on a site, which is—

- (a) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998); or
- (b) a new nuclear build site (within the meaning given in regulation 2A of those Regulations).

(6) Nothing in this regulation affects the application of section 18(1A) of the Health and Safety at Work etc. Act 1974.”.

### **Justification of Practices Involving Ionising Radiation Regulations 2004**

**109.**—(1) The Justification of Practices Involving Ionising Radiation Regulations 2004(**63**) are amended as follows.

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(62) *S.I. 2003/1082*, to which there are amendments not relevant to this Order.

(63) *S.I. 2004/1769*, amended by *S.I. 2013/235* and *S.I. 2013/1821*: there are other amending instruments but none is relevant to this Order.

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- (2) In regulation 18 (consultation) after paragraph (1)(a)(i) insert—  
“(ia) the Office for Nuclear Regulation;”.
- (3) In regulation 22 (contravention notices) after paragraph (3)(b) insert—  
“(ba) the Office for Nuclear Regulation;”.

### **Manufacture and Storage of Explosives Regulations 2005**

**110.** The Manufacture and Storage of Explosives Regulations 2005<sup>(64)</sup> are amended as follows.

**111.** In regulation 2 (interpretation)—

- (a) in paragraph (1) after the definition of “non-sensitised” insert—  
““the ONR” means the Office for Nuclear Regulation;  
“ONR regulated site” has the meaning given in paragraph (1A);”;
- (b) after paragraph (1) insert—  
“(1A) A site is an ONR regulated site if it, or any part of it, is—  
(a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013),  
(b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998, or  
(c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations).”.

**112.** After regulation 3(4)(a) (application) insert—

“(aa) the ONR;”.

**113.** In regulation 5(2)(b) (separation distances) after “Executive” insert “or the ONR”.

**114.—**(1) Regulation 11 (registration in relation to storage) is amended as follows.

- (2) In paragraph (4A) for “or the Executive” substitute “, the Executive or the ONR”.
- (3) In paragraph (9A) for “or the Executive” substitute “, the Executive or the ONR”.

**115.** After regulation 11 insert—

#### **“Sites which cease to be an ONR regulated site – effect on registration**

**11A.—**(1) Where this regulation applies a registration granted by, or treated as granted by, the ONR is to be treated on and after the relevant date as a registration granted by the relevant licensing authority.

- (2) This regulation applies where—  
(a) the site in respect of which the registration was granted ceases to be an ONR regulated site; and  
(b) the registration mentioned in sub-paragraph (a) remained in force immediately before the date on which the site ceased to be an ONR regulated site.
- (3) In this regulation—  
(a) “relevant date” means, in relation to a site, the date on which the site ceased to be an ONR regulated site;

<sup>(64)</sup> S.I. 2005/1082, amended by S.I. 2009/693: there are other amending instruments but none is relevant to this Order.

- (b) “relevant licensing authority” means the licensing authority for that site determined in accordance with Schedule 1.

**Sites which become an ONR regulated site – effect on registration**

**11B.**—(1) Where this regulation applies a registration granted by, or treated as granted by, a licensing authority (other than the ONR) is to be treated on and after the relevant date as a registration granted by the ONR.

(2) This regulation applies where—

- (a) the site in respect of which the registration was granted becomes an ONR regulated site; and
- (b) the registration mentioned in sub-paragraph (a) remained in force immediately before the date on which the site became an ONR regulated site.

(3) In this regulation “relevant date” means, in relation to a site, the date on which the site became an ONR regulated site.”.

**116.**—(1) Regulation 13 (grant of licences) is amended as follows.

(2) In paragraph (1)(b) for “or the Executive” substitute “, the Executive or the ONR”.

(3) In paragraph (3)—

- (a) in the opening words after “Executive” insert “or the ONR”;
- (b) after “and the Executive” insert “or, as the case may be, the ONR”.

(4) In paragraph (4)(a) after “Executive” insert “or the ONR”.

(5) After paragraph (4) insert—

“(4A) In paragraph (4)(d)(ii) the reference to the Executive is to be read, in relation to an application relating to manufacture or storage of explosives on, or within any part of, a site which is an ONR regulated site, as a reference to the ONR.”.

(6) In paragraph (6)—

- (a) in the opening words after “Executive” insert “or the ONR”;
- (b) in each of sub-paragraphs (a) and (b) after “Executive” insert “or, as the case may be, the ONR”.

(7) In paragraph (9)(b) for “or the Executive” substitute “, the Executive or the ONR”.

**117.** After regulation 13 insert—

**“Licences for sites which cease to be ONR regulated sites**

**13A.**—(1) Where this regulation applies a licence granted by, or treated as granted by, the ONR is to be treated on and after the relevant date as a licence granted by the relevant licensing authority.

(2) This regulation applies where—

- (a) the site in respect of which the licence was granted ceases to be an ONR regulated site; and
- (b) the licence mentioned in sub-paragraph (a) remained in force immediately before the date on which the site ceased to be an ONR regulated site.

(3) In this regulation—

- (a) “relevant date” means, in relation to a site, the date on which the site ceased to be an ONR regulated site;

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- (b) “relevant licensing authority” means the licensing authority for the site determined in accordance with Schedule 1.

**Licences for sites which become ONR regulated sites**

**13B.**—(1) Where this regulation applies a licence granted by, or treated as granted by, a licensing authority (other than the ONR) is to be treated on and after the relevant date as a licence granted by the ONR.

(2) This regulation applies where—

- (a) the site in respect of which the licence was granted becomes an ONR regulated site; and
- (b) the licence mentioned in sub-paragraph (a) remained in force immediately before the date on which the site became an ONR regulated site.

(3) In this regulation “relevant date” means, in relation to a site, the date on which the site became an ONR regulated site.”.

**118.**—(1) Regulation 14 (local authority assent) is amended as follows.

- (2) In paragraph (1) for “Executive”, in both places it appears, substitute “appropriate authority”.
- (3) In paragraph (8)(c) for “Executive” substitute “appropriate authority”.
- (4) In paragraph (9) for “Executive” substitute “appropriate authority”.
- (5) In paragraph (10)—
  - (a) in each of sub-paragraphs (a) and (b) for “Executive” substitute “appropriate authority”;
  - (b) in the full-out words for “Executive” substitute “appropriate authority”.
- (6) After paragraph (13) insert—
  - “(14) In this regulation “appropriate authority” means—
    - (a) where the application is made to the Executive, the Executive;
    - (b) where the application is made to the ONR, the ONR.”.

**119.**—(1) Regulation 16 (variation of licences) is amended as follows.

- (2) In paragraph (1)(b) after “Executive” insert “or the ONR”.
- (3) In paragraph (3) after “Executive” insert “or the ONR”.
- (4) In paragraph (4) after “Executive” insert “or (as the case may be) the ONR”.

**120.**—(1) Regulation 23 (defences) is amended as follows.

- (2) In paragraph (1)(d) for “Executive” substitute “appropriate authority”.
- (3) After paragraph (1) insert—
  - “(1A) In paragraph (1) “appropriate authority” means—
    - (a) in the case of a licence granted by the ONR, the ONR;
    - (b) otherwise, the Executive.”.

**121.** In Schedule 1 (licensing authority)—

- (a) in paragraph 1 for “paragraphs 2 and 3” substitute “paragraphs 2 to 4”.
- (b) after paragraph 3 insert—



“4. The ONR shall be the licensing authority in relation to any application for registration in relation to storage, or for a licence for the manufacture or storage of, explosives on an ONR regulated site.”.

122. In Schedule 4 (registers) in paragraph 8 after “local authority” insert “or the ONR”.

### **Control of Vibration at Work Regulations 2005**

123. In regulation 2(1) of the Control of Vibration at Work Regulations 2005(65) for the definition of “enforcing authority” substitute—

““enforcing authority” means the Executive, the Office for Nuclear Regulation, local authority or Office of Rail Regulation determined in accordance with—

- (a) section 18(1A) of the Health and Safety at Work etc. Act 1974;
- (b) the provisions of the Health and Safety (Enforcing Authority) Regulations 1998; and
- (c) the provisions of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006.”.

### **Regulatory Reform (Fire Safety) Order 2005**

124. For article 4(2)(b) of the Regulatory Reform (Fire Safety) Order 2005(66) substitute—

“(b) are required to be taken or observed to ensure any compliance with any requirement of—

- (i) the relevant statutory provisions within the meaning given in Part 1 of the Health and Safety at Work etc. Act 1974;
- (ii) sections 1, 3 to 6, 22 and 24A of the Nuclear Installations Act 1965;
- (iii) the provisions of Part 3 of the Energy Act 2013;
- (iv) the provisions of nuclear regulations other than any provisions of such regulations identified in accordance with section 74(9) of the Energy Act 2013 as made for the nuclear safeguards purposes;”.

### **Control of Noise at Work Regulations 2005**

125. In regulation 2(1) of the Control of Noise at Work Regulations 2005(67) for the definition of “enforcing authority” substitute—

““enforcing authority” means the Executive, the Office for Nuclear Regulation, local authority or Office of Rail Regulation determined in accordance with—

- (a) section 18(1A) of the Health and Safety at Work etc. Act 1974;
- (b) the provisions of the Health and Safety (Enforcing Authority) Regulations 1998; and
- (c) the provisions of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006.”.

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(65) S.I. 2005/1093. There are amendments to the Regulations which are not relevant to this Order.

(66) S.I. 2005/1541; to which there are amendments not relevant to this Order.

(67) S.I. 2005/1643; to which there are amendments not relevant to this Order.

## **Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006**

**126.**—(1) The Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006(**68**) are amended as follows.

- (2) In regulation 2 (interpretation)—
  - (a) after the definition of “miniature railway” insert—
 

““the ONR” means the Office for Nuclear Regulation;”;
  - (b) omit the definition of “nuclear licensed site”.
- (3) In regulation 3(6) (enforcing authority) after “regulations 5” insert “, 5A”.
- (4) For sub-paragraph (f) of regulation 4(3)(exceptions) substitute—
 

“(f) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013);”.
- (5) After regulation 5 insert—

### **“Assignment of responsibility for enforcement in cases of uncertainty: the Office of Rail Regulation and the ONR**

**5A.**—(1) This regulation applies where there is uncertainty as to what are the respective responsibilities of the Office of Rail Regulation and the ONR by virtue of regulations made under sections 15 or 18(2) of the 1974 Act for the enforcement of—

- (a) section 6 of the 1974 Act in respect of any particular article for use at work or substance; or
- (b) any other relevant statutory provision in respect of any particular site or any activity carried on there.

(2) The responsibility for enforcing the relevant statutory provision in question in the respect in question may be assigned by the Office of Rail Regulation and the ONR (acting jointly) to the Office of Rail Regulation or the ONR.

(3) An assignment under paragraph (2) may be made only where the Office of Rail Regulation and the ONR agree—

- (a) that there is uncertainty in the particular case as to what are their respective responsibilities by virtue of regulations made under section 15 or 18(2) of the 1974 Act; and
- (b) which authority is more appropriate to be responsible for enforcement in that case.

(4) Where an assignment is made under paragraph (2), the authority to which responsibility is assigned must give notice of the assignment to any person affected by it.”.

## **Construction (Design and Management) Regulations 2007**

**127.**—(1) The Construction (Design and Management) Regulations 2007(**69**) are amended as follows.

(2) In regulation 19(1)(c) (additional duties of contractors) after “the Office of Rail Regulation” insert “or the Office for Nuclear Regulation”.

- (3) In regulation 21 (notification of project by CDM co-ordinator) after paragraph (4) insert—
 

“(5) Insofar as the project includes construction work on premises which are or are on—

**(68)** [S.I. 2006/557](#), amended by [S.I. 2006/2739](#), [S.I. 2007/1573](#), [S.I. 2008/2323](#) and [S.I. 2012/632](#); there are other amending instruments but none is relevant to this Order.

**(69)** [S.I. 2007/320](#), to which there are amendments not relevant to this Order.

- (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013);
- (b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998); or
- (c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations),

paragraphs (1) and (2) shall have effect as if any reference to the Executive were a reference to the Office for Nuclear Regulation.”.

(4) In the heading to Schedule 1, after “REGULATION” insert “OR OFFICE FOR NUCLEAR REGULATION”.

### **Supply of Machinery (Safety) Regulations 2008**

**128.** The Supply of Machinery (Safety) Regulations 2008(70) are amended as follows.

**129.**—(1) Regulation 2(2) (interpretation) is amended as follows.

(2) In the definition of “enforcement authority”—

(a) in sub-paragraph (a) after “(b)” insert “and (ba)”.

(b) after sub-paragraph (b) insert—

“(ba) the Office for Nuclear Regulation in relation to—

(i) machinery and partly completed machinery which is intended exclusively or primarily for use on a relevant nuclear site; or

(ii) putting machinery into service on such a site.”.

(3) After the definition of “put into service” insert—

““relevant nuclear site” means a site which is—

(a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013);

(b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998); or

(c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations);”.

(4) In regulation 21(2)(a) (non-compliance with CE marking) after “Executive” insert “, the Office for Nuclear Regulation”.

**130.**—(1) Schedule 5 (enforcement) is amended as follows.

(2) In paragraphs 1 and 2 for “paragraph 3” substitute “paragraphs 3 and 3A”.

(3) After paragraph 3 insert—

“**3A.** It shall be the duty of the Office for Nuclear Regulation to make adequate arrangements for the enforcement of these Regulations in relation to—

(a) machinery, or partly completed machinery, which is intended exclusively or primarily for use on a relevant nuclear site; or

(b) putting machinery into service on such a site.”.

(4) In the heading before paragraph 7 after “Executive” insert “, the Office for Nuclear Regulation”.

(5) In paragraph 7 after “Executive” insert “, the Office for Nuclear Regulation”.

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(70) [S.I. 2008/1597](#), to which there are amendments not relevant to this Order.

*Status: This is the original version (as it was originally made).*

- (6) In paragraph 8—
- (a) in the opening words; and
  - (b) sub-paragraph (c),
- after “Executive” insert “, the Office for Nuclear Regulation”.

### **REACH Enforcement Regulations 2008**

**131.** The REACH Enforcement Regulations 2008<sup>(71)</sup> are amended as follows.

**132.** Regulation 2(2) (interpretation) is amended as follows—

- (a) in the definition of “enforcing authority” after paragraph (fa) insert—
  - “(fb) the Office for Nuclear Regulation;”;
- (b) after the definition of “offshore installation” insert—
  - ““relevant nuclear site” means a site which is—
  - (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013);
  - (b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998); or
  - (c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations).”.

**133.** In regulation 3(2) (enforcement) for “regulation 6” substitute “regulations 3A and 6”.

**134.** After regulation 3 insert—

#### **“Enforcement: relevant nuclear sites**

**3A.—**(1) This regulation applies where the Office for Nuclear Regulation is named in any column of the REACH table against any listed REACH provision.

(2) The enforcement duty, so far as it relates to that provision of REACH, in relation to anything done or omitted to be done, on a relevant nuclear site—

- (a) applies to the Office for Nuclear Regulation;
- (b) does not apply to any other enforcing authority.

(3) No enforcement duty applies to the Office for Nuclear Regulation except as provided by this regulation.

(4) Paragraph (5) applies where there is uncertainty as to what are the respective responsibilities of the Office for Nuclear Regulation and any other enforcing authority or enforcing authorities for the enforcement of any listed REACH provision in respect of any particular circumstances.

(5) The responsibility for enforcing the relevant listed REACH provision in that respect may be assigned by the Office for Nuclear Regulation and the other enforcing authority or enforcing authorities to—

- (a) the Office for Nuclear Regulation; or
  - (b) any other enforcing authority or enforcing authorities.
- (6) An assignment may only be made under paragraph (5)—

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(71) *S.I. 2008/2852*, amended by *S.I. 2012/1513* and *S.I. 2013/2919*: there are other amending instruments but none is relevant to this Order.

- (a) by the Office for Nuclear Regulation and the other enforcing authority or all the other enforcing authorities acting jointly;
- (b) where the Office for Nuclear Regulation and the other enforcing authority or all the other enforcing authorities agree—
  - (i) that there is uncertainty in the particular circumstances as to what are their respective responsibilities in relation to enforcement of the listed REACH provision in question; and
  - (ii) which authority is, or authorities are (as the case may be), more appropriate to be responsible for the enforcement in those circumstances.

(7) Where such an assignment is made, the authority or authorities to which responsibility is assigned must give notice of the assignment to persons affected by it.

(8) Nothing in this regulation affects the power of the Office for Nuclear Regulation and any other enforcing authority to agree arrangements under regulation 5(2).”.

**135.** In regulation 6(4) (health and safety enforcement) after “varied by” insert “an assignment made in accordance with regulation 3A or”.

**136.** In regulation 17(1) (appearance of authorised persons before a court of summary jurisdiction)—

- (a) omit “or” at the end of sub-paragraph (a);
- (b) after sub-paragraph (b) insert—
  - “or
  - (c) the Office for Nuclear Regulation.”.

**137.** In regulation 21(2)(b) (appeals against notices) after “Northern Ireland” insert “, Office for Nuclear Regulation.”

**138.** In the table in Schedule 1 (table of REACH provisions) in the entries relating to each of the following REACH provisions, in the third and fourth columns (enforcing authorities for England and Wales and Scotland), after “The Health and Safety Executive” insert “The Office for Nuclear Regulation”—

- (a) Article 9(6);
- (b) Article 14(6);
- (c) Article 33(1);
- (d) Article 33(2);
- (e) Article 35;
- (f) the first entry relating to Article 36(1);
- (g) Article 37(4);
- (h) both entries relating to Article 37(5);
- (i) Article 37(6);
- (j) Article 38(1);
- (k) Article 38(3);
- (l) Article 56(1);
- (m) Article 56(2);
- (n) Article 60(10);
- (o) Article 67(1).

*Status: This is the original version (as it was originally made).*

**139.** In Schedule 2 (functions of enforcing authorities) in paragraph 2 after “Northern Ireland” insert “, the Office for Nuclear Regulation”.

**140.**—(1) Part 2 of Schedule 6 (powers of enforcement) is amended as follows.

(2) In the heading after “the Office of Rail Regulation” insert “, the Office for Nuclear Regulation”.

(3) In paragraph 9 for “Executive”, in each place in which it occurs, substitute “appropriate authority”.

(4) After paragraph 9A insert—

“**9B.** For the purposes of this section of this Schedule “the appropriate authority” means—

(a) in Great Britain—

(i) in relation to a relevant nuclear site, the Office for Nuclear Regulation;

(ii) otherwise, the Health and Safety Executive;

(b) in Northern Ireland, the Health and Safety Executive for Northern Ireland.”.

**141.**—(1) Section 3 of Schedule 7 (authorisations) is amended as follows.

(2) In the heading after “Office of Rail Regulation” insert “, the Office for Nuclear Regulation”.

(3) In paragraph 3—

(a) omit “or” after sub-paragraph (b);

(b) after sub-paragraph (c) insert—

“; or

(c) the Office for Nuclear Regulation.”.

**142.**—(1) Part 2 of Schedule 8 (appeals) is amended as follows.

(2) In the heading after “Northern Ireland” insert “, the Office for Nuclear Regulation”.

(3) After paragraph 2(a) insert—

“(aa) the Office for Nuclear Regulation;”.

### **Transfrontier Shipment of Radioactive Waste and Spent Fuel Regulations 2008**

**143.**—(1) Schedule 1 to the Transfrontier Shipment of Radioactive Waste and Spent Fuel Regulations 2008(72) is amended as follows.

(2) In paragraph 2(4) (authorisations granted by a competent authority in the United Kingdom) for “Health and Safety Executive” substitute “Office for Nuclear Regulation”.

(3) In paragraph 6(4) (authorisations) for “Health and Safety Executive” substitute “Office for Nuclear Regulation”.

### **Control of Artificial Optical Radiation at Work Regulations 2010**

**144.** In regulation 1 of the Control of Artificial Optical Radiation at Work Regulations 2010(73) (citation, commencement and interpretation) for the definition of “enforcing authority” substitute—

““enforcing authority” means the Health and Safety Executive, the Office for Nuclear Regulation, local authority or Office of Rail Regulation determined in accordance with—

(72) S.I. 2008/3087.

(73) S.I. 2010/1140.

- (a) section 18(1A) of the Health and Safety at Work etc. Act 1974;
- (b) the provisions of the Health and Safety (Enforcing Authority) Regulations 1998; and
- (c) the provisions of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006.”.

### **Control of Asbestos Regulations 2012**

**145.**—(1) The Control of Asbestos Regulations 2012(74) are amended as follows.

(2) In Regulation 2 (interpretation)—

(a) for the definition of “enforcing authority” substitute—

““enforcing authority” means the Executive, the Office for Nuclear Regulation, local authority or Office of Rail Regulation determined in accordance with—

- (a) section 18(1A) of the Health and Safety at Work etc. Act 1974;
- (b) the provisions of the Health and Safety (Enforcing Authority) Regulations 1998; and
- (c) the provisions of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006;”;

(b) after the definition of “relevant doctor” insert—

““relevant nuclear premises” means premises which are, or are on—

- (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013),
- (b) authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998),
- (c) a nuclear new build site (within the meaning given in regulation 2A of those Regulations);”.

(3) In regulation 19 (air monitoring)—

(a) in paragraph (5)(b) for “Executive”, in both places in which it occurs, substitute “appropriate authority”,

(b) after paragraph (5) insert—

“(6) In this regulation “the appropriate authority” means—

- (a) in relation to any record which relates to employment wholly or mainly on relevant nuclear premises, the Office for Nuclear Regulation,
- (b) otherwise, the Executive.”.

(4) In regulation 22 (health records and medical surveillance)—

(a) in paragraph (8)(b) for “Executive”, in both places in which it occurs, substitute “appropriate authority”;

(b) after paragraph (8) insert—

“(8A) In paragraph (8) “the appropriate authority” has the same meaning as in regulation 19.”.

(5) In regulation 33 (revocation and savings)—

(a) in paragraph (3) for “Executive” substitute “appropriate authority”,

(b) after paragraph (3) insert—

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(74) [S.I. 2012/632](#).

- “(4) In this regulation “the appropriate authority” means—
- (a) in any case in which it is the enforcing authority for these Regulations, the Office for Nuclear Regulations;
  - (b) otherwise, the Executive.”.

### **Identification and Traceability of Explosives Regulations 2013**

**146.**—(1) Regulation 8 of the Identification and Traceability of Explosives Regulations 2013(75) is amended as follows.

- (2) After paragraph (2) insert—
  - “(2A) Despite paragraphs (1) and (2), the Office for Nuclear Regulation is the enforcing authority for—
    - (a) regulation 5 to the extent that it imposes requirements on manufacturers who—
      - (i) are established in Great Britain; and
      - (ii) manufacture explosives on an ONR regulated site;
    - (b) the remainder of these Regulations as they apply on, or in relation to, a site which is an ONR regulated site.”.
- (3) In paragraph (3), after the definition of “chief officer of police” insert—
  - ““ONR regulated site” means a site in Great Britain which is or forms part of—
    - (a) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998); or
    - (b) a nuclear new build site (within the meaning given in regulation 2A of those Regulations).”.
- (4) After paragraph (3) insert—
  - “(4) This regulation is subject to section 18(1A) of the Health and Safety at Work etc. Act 1974.”.

### **Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013**

**147.**—(1) Regulation 9 of the Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013(76) (allocation of enforcement responsibility) is amended as follows.

- (2) In paragraph (1) for “paragraphs (2) to (6)” substitute “section 18(1A) of the 1974 Act and to paragraphs (2) to (7)”.
- (3) In paragraph (5) before “paragraph (6)” insert “section 18(1A) of the 1974 Act and”.
- (4) After paragraph (6) insert—
  - “(7) Paragraph (6) does not apply in relation to any use which occurs on premises which are or are on—
    - (a) an authorised defence site (within the meaning given in regulation 2(1) of the 1998 Regulations);
    - (b) a new nuclear build site (within the meaning given in regulation 2A of those Regulations).”.

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(75) S.I. 2013/449

(76) S.I. 2013/1506.



## PART 4

### Fees

#### **Nuclear Industries Security (Fees) Regulations 2005**

**148.** The Nuclear Industries Security (Fees) Regulations 2005(77) are amended as follows.

**149.** In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) omit the definitions of “the 1974 Act” and “the 1978 Order”;

(ii) before the definition of “the principal Regulations” insert—

““the 2013 Act” means the Energy Act 2013;”;

(b) in paragraph (2) after “carrier” insert “ONR;”.

**150.** In regulation 3 (fees payable for regulation of nuclear industries security)—

(a) subject to paragraph (b), for “Secretary of State” substitute “ONR” in each place occurring;

(b) in paragraph (2) for the opening words substitute—

“Where an inspector performs functions in exercise of their powers under Schedule 8 to the 2013 Act for the purpose of carrying into effect the principal Regulations, a fee is payable to the ONR—”.

**151.** In regulation 4 (supplementary provisions) for “Secretary of State” substitute “ONR” in each place occurring.

**152.** In the Table in the Schedule—

(a) in the header of column 2 for “Secretary of State” substitute “ONR”;

(b) in the entry in column 2 corresponding to the entry in column 1 relating to regulation 13, 14(1) of the principal Regulations, for “he” substitute “it”.

#### **Health and Safety (Fees) Regulations 2012**

**153.** The Health and Safety (Fees) Regulations 2012(78) are amended as follows.

**154.** In regulation 1(3) (interpretation)—

(a) before the definition of “approval” insert—

““the 2013 Act” means the Energy Act 2013;”;

(b) after the definition of “mines and quarries provisions” insert—

““the ONR” means the Office for Nuclear Regulation;”.

**155.** For regulation 8(6) (fees payable in connection with the Ionising Radiations Regulations 1999 and the Radiation (Emergency Preparedness and Public Information) Regulations 2001) substitute—

“(6) A fee is payable by the applicant to the Executive where the Executive requires any work to be carried out by—

(a) its inspectors, or

(b) a person appointed to advise the Executive,

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(77) [S.I. 2005/1654](#).

(78) [S.I. 2012/1652](#), to which there are amendments not relevant to this Order.

*Status: This is the original version (as it was originally made).*

in connection with any application in respect of which a fee is payable by virtue of paragraph (1), (2) or (4), and the fee for such work in connection with each matter described in column 1 of Tables 1 and 2 in Schedule 7 is that specified in the corresponding entry in column 3 of those Tables for each hour worked adjusted pro rata for a period worked of less than an hour.”.

**156.** Regulation 9(1) (fees payable under the Manufacture and Storage of Explosives Regulations 2005 etc.) is amended as follows—

- (a) after “the 2005 Regulations,” insert “or the ONR, where it is the licensing authority by virtue of paragraph 4 of that Schedule”;
- (b) after “Executive”, in the second place in which it occurs, insert “or the ONR (as the case may be)”.

**157.** In regulation 11 (fees for application for or changes to an explosives licence under Part 9 of the Dangerous Substances in Harbour Areas Regulations 1987)—

- (a) in paragraph (1) for “Executive” substitute “appropriate authority”;
- (b) after paragraph (2) insert—
  - “(3) For the purposes of this regulation “appropriate authority”—
  - (a) where the application is required to be made to the ONR under the 1987 Regulations, means the ONR;
  - (b) otherwise, means the Executive.”.

**158.** For regulation 12 (estimate of cost of work) substitute—

“**12.**—(1) Where any fee is to be assessed on the reasonable cost to the Executive, the ONR or the licensing authority of carrying out relevant work, the Executive, the ONR or the licensing authority (as the case may be) must—

- (a) on receipt of the application or request, as the case may be, prepare and send to the person making that application or request an estimate of the cost of carrying out the relevant work; and
  - (b) before carrying out the relevant work, obtain confirmation from the person making the application or request that the person wishes the work to be carried out on the basis of that estimate of cost.
- (2) In this regulation “relevant work” means—
- (a) in relation to the Executive, any work or testing under regulation 2(3)(b) or 9(9);
  - (b) in relation to the ONR, any work under regulation 16(1) or (2);
  - (c) in relation to the licensing authority, any work pursuant to regulation 9(3).”.

**159.**—(1) Regulation 16 (fees payable in relation to nuclear installations) is amended as follows.

- (2) For “Executive” substitute “ONR” in each place occurring;
- (3) In paragraph (3) after “relevant statutory provisions” insert “or by the 2013 Act which relates to the enforcement of any of the nuclear provisions”.
- (4) In paragraph (4) after the definition of “nuclear installation” insert—
  - ““nuclear provisions” means the relevant statutory provisions (within the meaning given in section 82 of the 2013 Act) other than—
  - (a) a provision of the Nuclear Safeguards Act 2000; or
  - (b) any provision of nuclear regulations identified in accordance with section 74(9) of the 2013 Act as made for the nuclear safeguards purposes.”.

**160.**—(1) Regulation 17 (provisions supplementary to regulations 14 to 16) is amended as follows.

(2) In paragraph (1)—

(a) for sub-paragraph (a) substitute—

“(a) is not to exceed the sum of the costs reasonably incurred—

(i) in the case of regulation 16(1) or (2), by the ONR in carrying out the work referred to in the respective paragraph;

(ii) in any other case, by the Executive or the ONR (as the case may be) in performing the function referred to in the respective regulation.”;

(b) in sub-paragraph (b) after “Executive” insert “or the ONR”.

(3) After paragraph (7) insert—

“(8) Any reference in regulation 16 to a function conferred on an inspector by the 2013 Act which relates to enforcement against a person of any of the nuclear provisions includes a reference to any function conferred on an inspector by that Act which is exercised for the purpose of carrying into effect those provisions in relation to that person.

(9) In this regulation “nuclear provisions” has the meaning given in regulation 16.”.

**161.** In regulation 24(9) (provisions supplementary to regulation 23)—

(a) in sub-paragraph (a) omit “or”;

(b) omit sub-paragraph (b).

**162.** In Schedule 7 (Fees payable in connection with the Ionising Radiation Regulations 1999 and the Radiation (Emergency Preparedness and Public Information) Regulations 2001)—

(a) in the heading for Column 3 of Table 1 for “Nuclear or other Specialist Inspector” substitute “Specialist Inspector or person appointed to advise the Executive”;

(b) in the heading for Column 3 of Table 2 omit “Nuclear or other Specialist Inspector” substitute “Specialist Inspector or person appointed to advise the Executive”.

**163.** In Schedule 13 (Fees payable in relation to nuclear assessments, design proposals and potential nuclear site applications under section 1(1) of the 1965 Act)—

(a) in column 1 of Table 1 for “section 11(1) of the 1974 Act”, in both places in which it occurs, substitute “section 78 of the 2013 Act”,

(b) in column 1 of Table 2 for “section 11(1) of the 1974 Act”, in both places in which it occurs, substitute “section 78 of the 2013 Act”.

## PART 5

### General

#### **Health and Safety Inquiries (Procedure) Regulations 1975**

**164.** The Health and Safety Inquiries (Procedure) Regulations 1975(**79**) are amended as follows.

**165.** In regulation 2(1) (interpretation)—

(a) after the definition of “the 1974 Act” insert—

““the 2013 Act” means the Energy Act 2013;”;

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(79) S.I. 1975/335, amended by S.I. 1976/1246, S.I. 2008/960 and S.I. 2008/2683.

*Status: This is the original version (as it was originally made).*

- (b) omit the definition of “appointed person”;
- (c) after the definition of “inquiry” insert—
  - ““the ONR” means the Office for Nuclear Regulation;
  - “ONR inquiry” has the meaning given in section 85 of the Energy Act 2013;
  - “relevant appointed person” means—
    - (a) in relation to an ONR inquiry, a person appointed by the ONR to hold such an inquiry;
    - (b) in relation to a safety inquiry, a person appointed by the Executive to hold such an inquiry;
  - “relevant authority” means—
    - (a) in relation to an ONR inquiry, the ONR;
    - (b) in relation to a safety inquiry, the Executive;
  - “safety inquiry” means an inquiry under section 14(2A) of the 1974 Act;”.

**166.** In regulation 3(1) (application of Regulations) after “the 1974 Act” insert “(referred to in these Regulations as “safety inquiries”) and ONR inquiries”.

**167.** In regulation 4 (notification of inquiry) for “Executive” substitute “relevant authority”, in each place occurring.

**168.** In regulation 5 (appearances at inquiry)—

- (a) in the heading for “inquiry” substitute “a safety inquiry”;
- (b) for “inquiry”, in each place it occurs, substitute “safety inquiry”;
- (c) in paragraph (2) for “appointed person” substitute “relevant appointed person”.

**169.** After regulation 5 insert—

**“Appearances at an ONR inquiry**

**5A.—**(1) The persons entitled to appear at the ONR inquiry shall be—

- (a) the ONR;
- (b) where the ONR inquiry relates to any matter arising in Scotland, the Procurator Fiscal;
- (c) any employers’ association or trade union representing respectively employers or employees who are concerned;
- (d) any person who was injured or suffered damage as a result of the accident, occurrence, situation, or other matter the subject of the ONR inquiry or that person’s personal representatives;
- (e) the owner or occupier of any premises in which there occurred or arose the accident, occurrence, situation or other matter the subject of the ONR inquiry;
- (f) any person carrying on activities giving rise to the accident, occurrence, situation or other matter the subject of the ONR inquiry.

(2) Any other person may appear at the ONR inquiry at the discretion of the relevant appointed person.”.

**170.** In regulation 6(1) (representation) after “so appointed” insert “and in the case of the ONR by an officer of the ONR so appointed”.

**171.**—(1) Regulation 7 (power to require attendance of witnesses and production of documents) is amended as follows.

(2) In paragraph (1) before “appointed person” insert “relevant”.

(3) For paragraph (3) substitute—

“(3) A notice containing a requirement under paragraph (1) shall contain a reference—

(a) where the notice requires attendance at an ONR inquiry, to the fact that under regulation 13 of these Regulations a person who contravenes such a requirement is liable on summary conviction to a fine;

(b) where the notice requires attendance at a safety inquiry, to the fact that under section 33(2) of the 1974 Act a person who contravenes such a requirement is liable on summary conviction to a fine not exceeding level 5 on the standard scale.”.

(4) After paragraph (3) insert—

“(3A) Paragraph (3B) makes transitional modifications to paragraph (3) as it applies to England and Wales.

(3B) In relation to a notice served on any person before the commencement of section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (removal of limit on certain fines on conviction by magistrates’ court), the reference in paragraph (3) (a) to a fine is to be read as a reference to a fine not exceeding level 5 on the standard scale.”.

**172.** In regulation 8 (procedure at inquiry) for “appointed person”, in each place in which it appears, substitute “relevant appointed person”.

**173.** In regulation 9 (site inspections) for “appointed person” substitute “relevant appointed person”.

**174.**—(1) Regulation 10 (procedure after inquiry)(**80**) is amended as follows.

(2) In paragraph (1)—

(a) for “appointed person” substitute “relevant appointed person”;

(b) for “Executive” substitute “relevant authority”.

(3) In paragraph (2)—

(a) for “Except where the said report” substitute “Except where a report made following a safety inquiry”;

(b) for “the report” substitute “that report”.

**175.** For regulation 11 (notices) substitute—

“**11.**—(1) This regulation applies to the service of notices required or authorised to be served or given by these Regulations.

(2) Where such a notice is required or authorised to be served or given in connection with an ONR inquiry, the provisions of sections 109 (notices etc.) and 110 (electronic delivery of notices etc.) of the 2013 Act apply to that notice as they apply to a notice required or authorised to be given by Part 3 of the 2013 Act.

(3) Where such a notice is required or authorised to be served or given in connection with a safety inquiry, the provisions of section 46 of the 1974 Act apply to that notice as they apply to notices required or authorised to be served or given by the 1974 Act.”.

**176.** After regulation 11 insert—

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(80) Any report made by a person holding an ONR inquiry is to be published (Energy Act 2013, section 85(4)(b)).

**“Offences in connection with an ONR inquiry**

**12.**—(1) It is an offence for any person to—

- (a) contravene any requirement imposed by or under these Regulations as they apply to an ONR inquiry; or
- (b) intentionally obstruct any person in the exercise of their powers under section 85 of the 2013 Act.

(2) A person who commits an offence under this regulation is liable on summary conviction—

- (a) in England and Wales, to a fine;
- (b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.

(3) Paragraph (4) makes transitional modifications to paragraph (2) as it applies to England and Wales.

(4) In relation to an offence committed before the commencement of section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2013 (removal of limit on certain fines on conviction by magistrates’ court) the reference to a fine in paragraph (2)(a) is to be read as a reference to a fine not exceeding level 5 on the standard scale.”.

**Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1990**

**177.** In Schedule 2 to the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1990<sup>(81)</sup> (conditions precedent)—

- (a) in paragraph (6)(i) for “Nuclear Installations Inspectorate” substitute “Office for Nuclear Regulation”;
- (b) in the note to the Schedule omit the words from “; and” to the end.

**Environmental Protection (Applications, Appeals and Registers) Regulations 1991**

**178.**—(1) Regulation 4 of the Environmental Protection (Applications, Appeals and Registers) Regulations 1991<sup>(82)</sup> (consultation) is amended as follows.

(2) In paragraph (1)—

(a) for sub-paragraph (a) substitute—

“(a) the Health and Safety Executive, in all cases except—

- (i) where the prescribed process is to be carried on on a nuclear site, or
- (ii) in the case of a prescribed process designated for local control, where the enforcing authority has, within the period specified in paragraph (2) below, notified the Health and Safety Executive that the application has been made or, as the case may be, that notification has been given pursuant to section 10(5) of the 1990 Act;”

(b) after sub-paragraph (a) insert—

“(aa) the Office for Nuclear Regulation in any case where the prescribed process is to be carried on on a nuclear site except, in the case of a prescribed process designated for local control, where the enforcing authority has, within the period

<sup>(81)</sup> S.I. 1990/263, amended by S.I. 1990/494.

<sup>(82)</sup> S.I. 1991/507. S.I. 1991/507 was revoked, in so far as it applied in relation to England and Wales, by S.I. 2007/3538. S.I. 1991/507, as it extends to Scotland, was amended by S.I. 1994/1271, S.I. 1996/667, S.I. 1996/2678, SSI 2000/62 and S.S.I. 2011/418. There are other amendments but none is relevant to this Order.

specified in paragraph (2) below, notified the Office for Nuclear Regulation that the application has been made or, as the case may be, that notification has been given pursuant to section 10(5) of the 1990 Act;”.

(3) After paragraph (2) insert—

“(2A) In this regulation “nuclear site” has the meaning given in section 112(1) of the Energy Act 2013.”.

### **Planning (Hazardous Substances) Regulations 1992**

**179.** The Planning (Hazardous Substances) Regulations 1992(**83**) are amended as follows.

**180.** In regulation 10(1) (consultation before the grant of hazardous substances consent) after sub-paragraph (a) insert—

“(aa) where the land to which the application relates is, or is on, a nuclear site (within the meaning in section 112(1) of the Energy Act 2013), the Office for Nuclear Regulation;”.

**181.** In regulation 11(5) (determination of applications for hazardous substances consent) after sub-paragraph (a) insert—

“(aa) where the land to which the decision relates is, or is on, a nuclear site (within the meaning given in section 112(1) of the Energy Act 2013), the Office for Nuclear Regulation;”.

**182.**—(1) Schedule 1 (Hazardous Substances and Controlled Quantities) is amended as follows.

(2) In the entry number 54 in Column 1 of Part A as it applies in relation to England—

- (a) for “Health and Safety Executive (HSE)” substitute “Health and Safety Executive or the Office for Nuclear Regulation”;
- (b) for “HSE is” substitute “either of them is”;
- (c) for “1(c)” substitute “1(c) or 4”.

(3) In the entry number 54 in Column 1 of Part A as it applies in relation to Wales—

- (a) for “Health and Safety Executive (HSE)” substitute “Health and Safety Executive or the Office for Nuclear Regulation”;
- (b) for “HSE is” substitute “either of them is”;
- (c) for “1(c)” substitute “1(c) or 4”.

(4) In entry number 4 and entry number 5 in Column 1 of Part B as it applies in relation to England—

- (a) after “Executive” insert “or the Office for Nuclear Regulation”;
- (b) for “HSE is” substitute “either of them is”;
- (c) for “1(c)” substitute “1(c) or 4”.

(5) In entry number 4 and entry number 5 in Column 1 of Part B as it applies in relation to Wales—

- (a) after “Executive” insert “or the Office for Nuclear Regulation”;
- (b) for “HSE is” substitute “either of them is”;

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**(83)** [S.I. 1992/656](#). Part A of Schedule 1 to the Planning (Hazardous Substances) Regulations 1992 (“the 1992 Regulations”) was substituted, in relation to England, by [S.I. 2009/1901](#) and has been amended by [S.I. 2010/1050](#) and [S.I. 2014/162](#). Part A of Schedule 1 to the 1992 Regulations was substituted, in relation to Wales, by [S.I. 2010/450](#). Part B of Schedule 1 to the 1992 Regulations was substituted, in relation to England, by [S.I. 1999/1901](#) and has been amended by [S.I. 2010/1050](#). Part B of Schedule 1 to the 1992 Regulations was substituted, in relation to Wales, by [S.I. 2010/450](#). There are other amending instruments but none is relevant to this Order.

*Status: This is the original version (as it was originally made).*

(c) for “1(c)” substitute “1(c) or 4”.

### **Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993**

**183.** The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993<sup>(84)</sup> are amended as follows.

**184.** After regulation 11(1)(a) (consultation before the grant of hazardous substances consent) insert—

“(aa) where the land to which the application relates is or is on a nuclear site (within the meaning given in section 112(1) of the Energy Act 2013), the Office for Nuclear Regulation;”.

**185.** After regulation 12(4)(a) (determination of applications for hazardous substances consent) insert—

“(aa) where the land to which the decision relates is or is on a nuclear site (within the meaning given in section 112(1) of the Energy Act 2013), the Office for Nuclear Regulation;”.

**186.—**(1) Schedule 1 (hazardous substances and controlled quantities) is amended as follows.

(2) In the entry number 54 in Column 1 of Part A—

- (a) for “Health and Safety Executive (HSE)” substitute “Health and Safety Executive or the Office for Nuclear Regulation”;
- (b) for “HSE is” substitute “either of them is”;
- (c) for “1(c)” substitute “1(c) or 4”.

(3) In entry number 4 and entry number 5 in Column 1 of Part B—

- (a) after “Executive” insert “or the Office for Nuclear Regulation”;
- (b) for “HSE is” substitute “either of them is”;
- (c) for “1(c)” substitute “1(c) or 4”.

### **Town and Country Planning (General Permitted Development) Order 1995**

**187.** Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995<sup>(85)</sup> is amended as follows.

**188.** In paragraph O of Part 3 (changes of use), as it applies in relation to England, for the definition of “safety hazard area” substitute—

““safety hazard area” means an area notified to the local planning authority—

- (a) by the Health and Safety Executive for the purposes of paragraph (e) of the Table in Schedule 5 to the 2010 Order (or any previous powers to the like effect); or
- (b) by the Office for Nuclear Regulation for the purposes of paragraph (ea) of that Table.”.

**189.** In paragraph E of Part 4 (temporary buildings and use), as it applies in relation to England, for the definition of “safety hazard area” substitute—

““safety hazard area” means an area notified to the local planning authority—

<sup>(84)</sup> [S.I. 1993/323](#), amended by [S.S.I. 2009/378](#), [S.S.I. 2010/171](#). There are other amending instruments but none is relevant to this Order.

<sup>(85)</sup> [S.I. 1995/418](#). Paragraph O of Part 3 of Schedule 2, as it applies in relation to England only, was substituted by [S.I. 2013/1101](#). Paragraph E of Part 4 of that Schedule, as it applies in relation to England, was substituted by [S.I. 2013/2011](#). There are other amending instruments but none is relevant to this Order.



- (a) by the Health and Safety Executive for the purposes of paragraph (e) of the Table in Schedule 5 to the 2010 Order (or any previous powers to the like effect); or
- (b) by the Office for Nuclear Regulation for the purposes of paragraph (ea) of that Table.”.

### **Public Interest Disclosure (Prescribed Persons) Order 1999**

**190.**—(1) The Schedule to the Public Interest Disclosure (Prescribed Persons) Order 1999<sup>(86)</sup> is amended as follows.

(2) In the entry for the Health and Safety Executive, for the entry in the second column substitute—

“Matters which may affect the health and safety of any individual at work other than individuals at work wholly or mainly on premises which are, or are on—

- (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013);
- (b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998; or
- (c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations).

Matters which may affect the health and safety of any member of the public arising out of or in connection with the activities of persons at work other than persons at work on a GB nuclear site, an authorised defence site or new nuclear build site.”.

(3) After that entry insert—

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“Office for Nuclear Regulation

Matters which may affect the health and safety of any individual at work wholly or mainly on premises which are, or are on—

- (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013);
- (b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998; or
- (c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations).

Matters which may affect the health and safety of any member of the public, arising out of or in connection with the activities of persons at work on premises which are, or are on, such sites.”.

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### **Greater London Authority (Disqualification) Order 2000**

**191.** In the Schedule to the Greater London Authority (Disqualification) Order 2000<sup>(87)</sup>—

- (a) in Part 1 (bodies whose members are disqualified) after paragraph 7 insert—  
“**7A.** The Office for Nuclear Regulation.”;

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<sup>(86)</sup> S.I. 1999/1549, amended by S.I. 2003/1993. There are other amending instruments but none is relevant to this Order.

<sup>(87)</sup> S.I. 2000/432, to which there are amendments not relevant to this Order.

*Status: This is the original version (as it was originally made).*

(b) in Part 2 (other disqualifying offices and appointments) after paragraph 20 insert—

“**20A.** Member of staff of the Office for Nuclear Regulation (within the meaning of Part 3 of the Energy Act 2013).”.

### **Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005**

**192.** After regulation 54 of the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005<sup>(88)</sup> insert—

#### **“Energy Act 2013**

**54A.**—(1) Paragraph 2 of Schedule 9 to the Energy Act 2013 (prohibition on disclosing protected information) does not apply to the disclosure of information by the Office for Nuclear Regulation to another responder if the disclosure is made—

(a) in connection with the performance by that other responder of a duty under—

(i) section 2 or 4;

(ii) a provision of these Regulations; or

(iii) a provision in regulations made by the Scottish Ministers under Part 1;

(b) in connection with another function of that responder which relates to emergencies; or

(c) in connection with a function of the Office for Nuclear Regulation which relates to emergencies.

(2) For the purposes of paragraph (1), it is immaterial whether the disclosure is made pursuant to a request made under regulation 47.

(3) In paragraph (1), the reference to the Office for Nuclear Regulation includes a reference to an officer of the Office.”.

### **Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006**

**193.** In Schedule 5 to the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006<sup>(89)</sup> (those to be served a copy of the application and documents) in column (2) of entry number 21 for “and the Health and Safety Executive” substitute “, the Health and Safety Executive and, where the operation requiring hazardous substances consent is to take place on a nuclear site (within the meaning given in section 112(1) of the Energy Act 2013), the Office for Nuclear Regulation.”.

### **Legislative and Regulatory Reform (Regulatory Functions) Order 2007**

**194.**—(1) The Schedule to the Legislative and Regulatory Reform (Regulatory Functions) Order 2007<sup>(90)</sup> (regulatory functions to which sections 21 and 22 of the Legislative and Regulatory Reform Act 2006 apply) is amended as follows.

(2) In Part 1—

(a) in the entry for the Health and Safety Executive, omit the words from “other than” to the end;

(b) in the appropriate place insert—

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<sup>(88)</sup> [S.I. 2005/2042](#), to which there are amendments not relevant to this Order.

<sup>(89)</sup> [S.I. 2006/1466](#), to which there are amendments not relevant to this Order.

<sup>(90)</sup> [S.I. 2007/3544](#), to which there are amendments not relevant to this Order.

“Office for Nuclear Regulation other than any regulatory function exercised under or by virtue of—

section 2 of or Schedule 1 to the Nuclear Installations Act 1965

The Import of Goods (Control) Order 1954

The Nuclear Industries Security Regulations 2003

Regulations 4 and 5 of the Uranium Enrichment Technology (Prohibition on Disclosure) Regulations 2004.”.

(3) In Part 2 omit the entry relating to the Radioactive Material (Road Transport) Act 1991.

### **Companies (Disclosure of Address) Regulations 2009**

**195.** In Schedule 1 to the Companies (Disclosure of Address) Regulations 2009(91) (specified public authorities) after “the Health and Safety Executive;” insert “the Office for Nuclear Regulation;”.

### **Overseas Companies Regulations 2009**

**196.** In Schedule 1 to the Overseas Companies Regulations 2009(92) at the end insert—

“the Office for Nuclear Regulation”.

### **Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009**

**197.** In Schedule 1 to the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(93) (persons who must be consulted or notified in certain circumstances) after the final entry in the Table insert—

“The Office for Nuclear Regulation (“the ONR”)	All proposed applications likely to affect matters relevant to the ONR’s purposes within the meaning of Part 3 of the Energy Act 2013 (see section 67 of that Act).	All applications likely to affect matters relevant to the ONR’s purposes within the meaning of Part 3 of the Energy Act 2013 (see section 67 of that Act)”.
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### **Company, Limited Liability Partnership and Business Names (Public Authorities) Regulations 2009**

**198.** In the Schedule to the Company, Limited Liability Partnership and Business Names (Public Authorities) Regulations 2009 (specified “public authorities” and list of other Government departments and other bodies whose views must be sought)(94)—

(a) in column 1 insert at the appropriate place “Office for Nuclear Regulation”;

(b) in column 2 insert at the appropriate place “Office for Nuclear Regulation”.

(91) S.I. 2009/214, to which there are amendments not relevant to this Order.

(92) S.I. 2009/1801, amended by the Crime and Courts Act 2013 (c.22), Schedule 8, paragraph 190 and by S.I. 2011/2085, S.I. 2012/700 and S.I. 2013/472. There are other amending instruments but none is relevant to this Order.

(93) S.I. 2009/2264, amended by S.I. 2012/439, S.I. 2012/659, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522 and S.I. 2013/755. There are other amending instruments but none is relevant to this Order.

(94) S.I. 2009/2982, amended by S.I. 2012/2007, S.I. 2013/472 and S.I. 2013/1466.

*Status: This is the original version (as it was originally made).*

**Infrastructure Planning (Interested Parties) Regulations 2010**

**199.** In the Table in the Schedule to the Infrastructure Planning (Interested Parties) Regulations 2010(95) (persons who are statutory parties for the purposes of section 102 of the Planning Act 2008) after the entry applicable to “The Health and Safety Executive” insert—

“The Office for Nuclear Regulation	All proposed provisions likely to affect matters relevant to the ONR’s purposes within the meaning of Part 3 of the Energy Act 2013 (see section 67 of that Act).”.
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**Infrastructure Planning (Compulsory Acquisition) Regulations 2010**

**200.** In the table in Schedule 2 to the Infrastructure Planning (Compulsory Acquisition) Regulations 2010(96) (persons to whom notice of proposed provision must be given) after the entry applicable to “The Health and Safety Executive” insert—

“The Office for Nuclear Regulation	All proposed provisions likely to affect matters relevant to the ONR’s purposes within the meaning of Part 3 of the Energy Act 2013 (see section 67 of that Act).”.
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**Town and Country Planning (Development Management Procedure) (England) Order 2010**

**201.**—(1) Schedule 5 to the Town and Country Planning (Development Management Procedure) (England) Order 2010(97) is amended as follows.

(2) In the Table—

- (a) in paragraph (e) after “substances” insert “(otherwise than on a relevant nuclear site)”; and
- (b) after paragraph (e) insert—

“(ea)	Development within an area which has been notified to the local planning authority by the Office for Nuclear Regulation for the purpose of this provision because of the presence within the vicinity of toxic, highly reactive, explosive or inflammable substances on a relevant nuclear site and which involves the provision of—	The Office for Nuclear Regulation”.
	(i) residential accommodation;	
	(ii) more than 250 square metres of retail floor space;	
	(iii) more than 500 square metres of office floor space; or	

(95) [S.I. 2010/102](#), amended by [S.I. 2012/1659](#), [S.I. 2012/2654](#), [2012/2732](#), [S.I. 2013/522](#) and [S.I. 2013/755](#). There are other amending instruments but none is relevant to this Order.

(96) [S.I. 2010/104](#), amended by [S.I. 2012/1659](#), [S.I. 2012/2654](#), [S.I. 2012/2732](#), [S.I. 2013/522](#) and [S.I. 2013/755](#). There are other amending instruments but none is relevant to this Order.

(97) [S.I. 2010/2184](#), amended by [S.I. 2012/636](#) and [S.I. 2012/1659](#). There are other amending instruments but none is relevant to this Order.

(iv) more than 750 square metres of floor space to be used for an industrial process,

or which is otherwise likely to result in a material increase in the number of persons working within or visiting the notified area.

(3) In paragraph 1 (interpretation of the table)—

(a) in sub-paragraph (a) for “paragraph (e)(iv)” substitute “paragraphs (e)(iv) and (ea)(iv)”;

(b) after sub-paragraph (a) insert—

“(aa) in paragraphs (e) and (ea) “relevant nuclear site” means a site which is—

(i) a nuclear site (within the meaning given in section 112(1) of the Energy Act 2013);

(ii) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998); or

(iii) a new nuclear build site (within the meaning given in regulation 2A those Regulations).”.

### **Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011**

**202.**—(1) The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011(**98**) are amended as follows.

(2) In regulation 2(1) (interpretation) after the definition of “application for multi-stage consent” insert—

““the appropriate authority” means—

(a) where it is required to be consulted under paragraph 3 or 4 of Schedule 5 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 in relation to the application for planning permission for the proposed development, the Health and Safety Executive;

(b) where it is required to be consulted under paragraph 3A of Schedule 5 to those Regulations in relation to such an application, the Office for Nuclear Regulation;”.

(3) For regulation 14(3)(a)(iii) (scoping opinions of the planning authority) substitute—

“(iii) the appropriate authority; and”.

(4) For regulation 15(6)(a)(iii) (scoping directions of the Scottish Ministers) substitute—

“(iii) the appropriate authority; and”.

(5) In regulation 19(1)(d) (consultation where environmental statement received by planning authority) for the words from “Health and Safety Executive” to “proposed development” substitute “appropriate authority”.

### **Disclosure (Persons engaged in the Investigation and Reporting of Crime or Sudden Deaths) (Scotland) Regulations 2011**

**203.** In the Schedule to the Disclosure (Persons engaged in the Investigation and Reporting of Crime or Sudden Deaths) (Scotland) Regulations 2011(**99**) (prescribed persons for the purposes of

(98) S.S.I. 2011/139, to which there are amendments not relevant to this Order.

(99) S.S.I. 2011/146, to which there are amendments not relevant to this Order.

*Status: This is the original version (as it was originally made).*

the provision of information to the prosecutor and the code of practice) after the entry relating to the Office of Communications insert—

“The Office for Nuclear Regulation;”.

### **Equality Act 2010 (Specific Duties) Regulations 2011**

**204.** In Schedule 1 to the Equality Act 2010 (Specific Duties) Regulations 2011(**100**) (public authorities required to publish information) after the entry for the “Health and Safety Executive” insert—

“The Office for Nuclear Regulation”.

### **Postal Services Act 2011 (Disclosure of Information) Order 2012**

**205.**—(1) The Postal Services Act 2011 (Disclosure of Information) Order 2012(**101**) is amended as follows.

(2) In article 3, at the appropriate place, insert “the Office for Nuclear Regulation”.

(3) In article 4, at the appropriate place, insert “the Energy Act 2013”.

### **Pollution Prevention and Control (Scotland) Regulations 2012**

**206.**—(1) Part 2 of Schedule 4 to the Pollution Prevention and Control (Scotland) Regulations 2012(**102**) is amended as follows.

(2) For paragraph 13(d) substitute—

“(d) in the case of a permit for an installation on a site—

(i) in respect of which a nuclear site licence is required under section 1 of the Nuclear Installations Act 1965; or

(ii) which is a relevant nuclear site and in respect of which—

(aa) a major accident prevention policy document is required under regulation 5 of the Control of Major Accident Hazards Regulations 1999 (“the 1999 Regulations”); or

(bb) a safety report is required under regulation 7 of the 1999 Regulations,  
the Office for Nuclear Regulation;

(da) in the case of a permit for an installation on a site in respect of which—

(i) a major accident prevention policy document is required under regulation 5 of the 1999 Regulations; or

(ii) a safety report is required under regulation 7 of the 1999 Regulations,  
the Health and Safety Executive unless the application is required to be given to the Office for Nuclear Regulation under sub-paragraph (d).”.

(3) After paragraph 13 insert—

“**13A.** For the purposes of paragraph 13 a site is a relevant nuclear site if it is—

(a) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998); or

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(100) S.I. 2011/2260, to which there are amendments not relevant to this Order.

(101) S.I. 2012/1128, amended by S.I. 2013/472 and S.I. 2013/1575. There are other amending instruments but none is relevant to this Order.

(102) SSI 2012/360, to which there are amendments not relevant to this Order.

- (b) a new nuclear build site (within the meaning given in regulation 2A of those Regulations).”.

### **Town and Country Planning (Development Management Procedure) (Wales) Order 2012**

**207.**—(1) The English text of Schedule 4 to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012(**103**) (consultations before the grant of permission) is amended as follows.

(2) In the Table—

- (a) in paragraph (c) after “substances” insert “(otherwise than on a relevant nuclear site)”;  
(b) after paragraph (c) insert—

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“(ca)	Development within an area which has been notified to the local planning authority by the Office for Nuclear Regulation for the purpose of this provision because of the presence within the vicinity of toxic, highly reactive, explosive or inflammable substances on a relevant nuclear site and which involves the provision of—  (i) residential accommodation;  (ii) more than 250 square metres of retail floor space;  (iii) more than 500 square metres of office floor space; or  (iv) more than 750 square metres of floor space to be used for an industrial process,  or which is otherwise likely to result in a material increase in the number of persons working within or visiting the notified area.	The Office for Nuclear Regulation”.
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(3) In the interpretation provision following the Table—

- (a) in sub-paragraph (a) for “paragraph (c)(iv)” substitute “paragraphs (c)(iv) and (ca)(iv)”;  
(b) after sub-paragraph (a) insert—

- “(aa) in paragraphs (c) and (ca) “relevant nuclear site” (“*safle niwclear perthnasol*”) means a site which is—
  - (i) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013);
  - (ii) an authorised defence site (within the meaning given by the Health and Safety (Enforcing Authority) Regulations 1998); or
  - (iii) a new nuclear build site (within the meaning given by those Regulations).”.

**208.**—(1) The Welsh text of Schedule 4 to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (*ymgynghoriadau cyn rhoi caniatâd cynllunio*) is amended as follows.

*Status: This is the original version (as it was originally made).*

(2) In the Table—

- (a) in paragraph (c) after “chyffiniau” insert “(ac eithrio ar safle niwclear perthnasol)”;
- (b) after paragraph (c) insert—

“(ca)	Datblygiad, o fewn ardal yr hysbyswyd yr awdurdod cynllunio lleol yn ei chylch gan y Swyddfa dros Reoli Niwclear at ddiben y ddarpariaeth hon, oherwydd presenoldeb sylweddau gwenwynig, tra adweithiol, ffrwydrol neu fflamadwy o fewn ei chyffiniau, ar safle niwclear perthnasol ac sy’n cynnwys darparu—	Y Swyddfa dros Reoli Niwclear”.
	(i) llety preswyl;	
	(ii) mwy na 250 metr sgwâr o arwynebedd llawr manwerthu;	
	(iii) mwy na 500 metr sgwâr o arwynebedd llawr swyddfa; neu	
	(iv) mwy na 750 metr sgwâr o arwynebedd llawr i’w ddefnyddio ar gyfer proses ddiwydiannol,	
	neu sydd, rywfodd arall, yn debygol o arwain at gynnydd sylweddol yn nifer y personau sy’n gweithio yn yr ardal yr hysbyswyd yn ei chylch neu’n ymweld â hi.	

(3) In the interpretation provision following the Table—

- (a) in sub-paragraph (a) for “mharagraff (c)(iv)” substitute “mharagraffau (c)(iv) ac (ca)(iv)”;
- (b) after sub-paragraph (a) insert—

“(aa) ym mharagraffau (c) ac (ca) ystyr “safle niwclear perthnasol” (“*relevant nuclear site*”) yw safle sydd—

- (i) yn safle niwclear ym Mhrydain Fawr (o fewn yr ystyr a roddir i “GB nuclear site” yn adran 68 o Ddeddf Ynni 2013);
- (ii) yn safle amddiffyn awdurdodedig (o fewn yr ystyr a roddir i “authorised defence site” gan Reoliadau Iechyd a Diogelwch (Awdurdod Gorfodi) 1998); neu
- (iii) yn safle adeiladu niwclear newydd (o fewn yr ystyr a roddir i “new nuclear build site” gan y Rheoliadau hynny).”.

### **Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013**

**209.**—(1) Schedule 5 (consultation by the planning authority) to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013(**104**) are amended as follows.

- (2) In paragraph 3 after “substances” insert “(otherwise than on a relevant nuclear site)”.
- (3) After paragraph 3 insert—

(104) S.S.I. 2013/155, amended by S.I. 2013/155.



“**3A.** The Office for Nuclear Regulation where the development is within an area which has been notified to the planning authority by the Office for Nuclear Regulation for the purpose of this provision because of the presence within the vicinity of toxic, highly reactive, explosive or inflammable substances on a relevant nuclear site and which involves the provision of—

- (a) residential accommodation;
- (b) more than 250 square metres of retail floor space;
- (c) more than 500 square metres of office floor space; or
- (d) more than 750 square metres of floor space to be used for an industrial process, or which is otherwise likely to result in a material increase in the number of persons working within or visiting the notified area.”.

(4) In sub-paragraph (1) of the interpretation section after the definition of “outdoor sports facility” insert—

““relevant nuclear site” means a site which is—

- (a) a nuclear site (within the meaning given in section 112(1) of the Energy Act 2013);
- (b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998);
- (c) a new nuclear build site (within the meaning given in regulation 2A of those 1998 Regulations).”.

## PART 6

### Revocations

**210.** In consequence of the provisions made by this Order, the instruments listed in the following Table are revoked to the extent specified—

<i>Instrument</i>	<i>Extent of revocation</i>
Nuclear Installations Act 1965 etc. (Repeals and Modifications) Regulations 1974	regulation 2(2)
The Atomic Energy (Americium) Order 2002	The whole Order
Nuclear Industries Security Regulations 2003	In regulation 2, the definitions of— <ul style="list-style-type: none"> <li>(a) “the 1974 Act”;</li> <li>(b) “the 1978 Order”;</li> <li>(c) “nuclear construction site”;</li> <li>(d) “nuclear site”;</li> <li>(e) “other nuclear premises”;</li> <li>(f) “sensitive nuclear information”; and</li> <li>(g) “United Kingdom ship”.</li> </ul>

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<i>Instrument</i>	<i>Extent of revocation</i>
	Regulation 4(4)
	Regulation 8(9)
	Regulations 12, 23 and 24
Nuclear Industries Security (Fees) Regulations 2005	In regulation 2(1), the definitions of “the 1974 Act” and “the 1978 Order”
Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006	In the Schedule, paragraphs 13 and 14
Nuclear Industries Security (Amendment) Regulations 2006 <b>(105)</b>	regulation 8
Carriage of Dangerous Goods and Transportable Pressure Equipment (Amendment) Regulations 2011	regulation 13

#### SCHEDULE 4

Article 8

#### Transitional Provisions and Savings

### PART 1

#### Interpretation

**1.—(1)** In this Schedule—

“the 1978 Order” means the Health and Safety at Work (Northern Ireland) Order 1978**(106)**;

“the 2005 Act” means the Fire (Scotland) Act 2005**(107)**;

“the 2005 Order” means the Regulatory Reform (Fire Safety) Order 2005;

“ELCI Agreement” means, in so far as it relates to the administration and enforcement of the Employers’ Liability (Compulsory Insurance) Regulations 1998 in relation to employers who are required by regulation 5 of those Regulations to display a certificate of insurance at a place of business that is solely within a GB nuclear site, an authorised defence site or new nuclear build site, the agreement under section 13 of the 1974 Act between the HSE and the Secretary of State concerning the discharge of administrative and enforcement functions under the Employers’ Liability (Compulsory Insurance) Act 1969;

“enforcement officer” means an enforcement officer appointed under section 61(3) of the 2005 Act;

“fire inspector” means an inspector appointed under article 26 of the 2005 Order;

“HSE nuclear health and safety inspector” means an inspector appointed by the HSE or any other enforcing authority under section 19 of the 1974 Act acting within the transferred health and safety field of responsibility;

**(105)**S.I. 2006/2815.

**(106)**S.I. 1978/1039 (N.I. 9).

**(107)**2005 asp 5.

“nuclear inspector” means an inspector appointed by, or on behalf of, the HSE or the Secretary of State so far as acting for the purpose of carrying into effect any relevant provision;

“nuclear security inspector” means an inspector appointed by, or on behalf of, the Secretary of State under section 19 of the 1974 Act as applied by regulation 23 of the 2003 Regulations to carry into effect any of the provisions of those Regulations;

“relevant provision” means—

- (a) any provision of sections 1, 3 to 6, 22 and 24A of the 1965 Act;
- (b) any provision of regulations which, by virtue of Part 1 of Schedule 1 to this Order, is to be treated as a provision of nuclear regulations on and after 1st April 2014;
- (c) sections 7 to 9 of the 1974 Act as they apply before 1st April 2014 in relation to any duty or requirement imposed by a provision within paragraph (a) or (b);

“restated provision” means any of the following provisions as it has effect on and after 1st April 2014—

- (a) a provision of the 1965 Act (as replaced (with or without modification) by virtue of Schedule 12 to the 2013 Act);
- (b) a provision of Part 3 of the 2013 Act so far as it corresponds (with or without modification) to a provision of Parts 1 and 4 of the 1974 Act;

“superseded provision” means any of the following provisions as it has effect immediately before 1st April 2014—

- (a) a provision of the 1965 Act that is to be replaced (with or without modification) by virtue of a provision of Schedule 12 to the 2013 Act;
- (b) a provision of Parts 1 and 4 of the 1974 Act so far as it corresponds (with or without modification) to any provision of Part 3 of the 2013 Act;

“transferor”, in relation to a transferred function, means the person by whom that function was exercisable immediately before 1st April 2014;

“transferred function” means any function which the Secretary of State or the HSE has immediately before 1st April 2014—

- (a) which, by virtue of any provision of Part 3 of the 2013 Act or this Order, is to become exercisable by the ONR on 1st April 2014; or
- (b) to the extent that it corresponds to a function which the ONR is to have on and after 1st April 2014 under a restated provision;

“transferred health and safety field of responsibility” means the field of responsibility (within the meaning of Part 1 of the 1974 Act) of any enforcing authority (within the meaning of that Part) so far as it becomes the ONR’s field of responsibility on 1st April 2014 by virtue of Schedule 12 to the 2013 Act and Schedule 3 to this Order;

“United Kingdom person” has the meaning given in section 70 of the 2013 Act.

(2) In this Schedule “authorised defence site” and “new nuclear build site” have the meaning given in the Health and Safety (Enforcing Authority) Regulations 1998 (as amended by Schedule 3 to this Order).

(3) References in this Schedule to the transfer of a function are to its transfer by any provision of or made under Part 3 of the 2013 Act (including this Order) and include—

- (a) references to its becoming exercisable by a person by virtue of any such provision;
- (b) in the case of a function exercisable by any person immediately before 1st April 2014 which corresponds (to any extent, and with or without modification) to a function conferred on that or any other person by virtue of any provision of Part 3 of the 2013 Act (the “new function”), references to the new function’s being conferred.

(4) In this Schedule references to things done include references to things omitted to be done.

## PART 2

### General Transitional Provisions

#### **Continuity of the law: restatement of provisions of the 1965 Act and 1974 Act**

2. The repeal and re-enactment of provisions by Part 3 of the 2013 Act or by this Order does not affect the continuity of the law.

3.—(1) Any subordinate legislation made or other thing done, or having effect as if made or done, under or for the purposes of any superseded provision, if in force or effective immediately before 1st April 2014, has effect, so far as is required for continuing its effect on and after that date, as if made or done under or for the purposes of the corresponding restated provision.

(2) Sub-paragraph (1) is subject to Parts 1, 3 and 4 of Schedule 1 to this Order.

4. Any reference (whether express or implied) in any enactment, instrument or document passed or made before 1st April 2014—

(a) to a restated provision, or

(b) to things done or falling to be done under or for the purposes of a restated provision,

is to be read as including (in relation to times, circumstances or purpose in relation to which the corresponding superseded provision had effect) a reference to the corresponding superseded provision or (as the case may be) to things done or falling to be done under or for the purposes of the corresponding superseded provision.

5. Any reference (whether express or implied) in any enactment, instrument or document passed or made before 1st April 2014—

(a) to a superseded provision, or

(b) to things done or falling to be done under or for the purposes of a superseded provision,

is to be read as including (in relation to times, circumstances or purpose in relation to which the corresponding restated provision has effect) a reference to the corresponding restated provision or (as the case may be) to things done or falling to be done under or for the purposes of the corresponding restated provision.

#### **Continuity of the law: regulations treated as regulations under Part 3 of the 2013 Act**

6.—(1) Anything done before 1st April 2014 under or for the purposes of a provision of transposed regulations has effect, so far as is required for its continuing effect on and after that date, as if done under or for the purposes of that provision of transposed regulations as made under the 2013 Act.

(2) In this paragraph “provision of transposed regulations” means a provision which, by virtue of Part 1, 3 or 4 of Schedule 1 to this Order is treated on and after 1st April 2014 as a provision of regulations made under Part 3 of the 2013 Act.

#### **Penalties for offences committed before 1st April 2014**

7.—(1) Notwithstanding any provision made by Part 3 of the 2013 Act or paragraphs 17 and 18, where—

(a) any superseded provision,

- (b) a relevant provision of the 1978 Order, or
- (c) any provision of legislation modified by Schedule 3 or 4 to this Order,

prescribed a penalty for an offence of any kind, that penalty continues to apply to offences of that kind committed before 1st April 2014.

(2) In this paragraph “relevant provision of the 1978 Order” means, to the extent it corresponds (with or without modification) to any provision of Part 3 of the 2013 Act, a provision of the 1978 Order applied for the purposes of the 2003 Regulations.

### **Functions of the HSE and the Secretary of State**

8.—(1) Anything which immediately before 1st April 2014 is in the process of being done by or in relation to the transferor for the purposes of, or in connection with, a transferred function may be continued on or after that date by or in relation to the ONR.

(2) Anything done (or having effect as if done) by or in relation to the transferor for the purposes of, or in connection with, any transferred function before 1st April 2014 has effect, so far as is required for continuing its effect on and after that date, as if done by or in relation to the ONR.

(3) Any instrument or document made before 1st April 2014 has effect on and after that date, so far as is required for the purposes of or in consequence of the transfer of a transferred function, as if references to the transferor (and references which are to be read as references to the transferor) were or included references to the ONR.

### **Investigations**

9.—(1) This paragraph applies where before 1st April 2014 the HSE authorised a person to investigate and make a special report under section 14(2) of the 1974 Act on a relevant matter.

(2) For the purposes of carrying out or continuing that investigation and the making of a special report on or after 1st April 2014 the authorisation is to be treated as an authorisation by the ONR under section 84 of the 2013 Act.

(3) If, immediately before 1st April 2014—

- (a) the person to whom the HSE gave the authorisation has made a special report to the HSE, but
- (b) the HSE had not caused the report, or a part of it, to be made public under section 14(5) of the 1974 Act,

the report is to be treated as if it had been made to the ONR under section 84(1) of the 2013 Act.

(4) If the person to whom the HSE gave the authorisation has not immediately before 1st April 2014 made a special report to the HSE, the ONR may direct that person to—

- (a) abandon the investigation without making a special report, or
- (b) continue the investigation in such manner as the ONR may direct.

(5) Where the HSE agreed before 1st April 2014 to exercise its power under section 14(6)(a) or (c) of the 1974 Act to pay remuneration or expenses to any person in respect of the investigation and special report, or to defray costs of the investigation and report, the ONR must pay such remuneration or expenses or defray the costs of the investigation and report as agreed except so far as they have been paid or defrayed before 1st April 2014 by the HSE.

(6) Sub-paragraph (5) does not affect the ONR’s power under section 84(5) of the 2013 Act to make other payments of remuneration or expenses or to defray costs.

(7) For the purposes of this paragraph “relevant matter” means any accident, occurrence, situation or other matter which—

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- (a) is relevant to any of the ONR's purposes (within the meaning of the 2013 Act) other than the nuclear site health and safety purposes; and
- (b) the HSE considered it necessary or desirable to investigate before 1st April 2014—
  - (i) for the purposes within paragraph (a); or
  - (ii) with a view to making regulations under section 15 of the 1974 Act so far as they could be made before that date for any of those purposes.

### **Inquiries**

**10.**—(1) This paragraph applies where before 1st April 2014 the HSE directed an inquiry to be held under section 14(2A) of the 1974 Act for any relevant purpose.

(2) Sections 85 and 86(1) to (3) of the 2013 Act apply in relation to that inquiry on or after 1st April 2014 as if the ONR had directed that the inquiry be held under section 85(1) of the 2013 Act.

(3) Where the HSE agreed before 1st April 2014 to exercise its power under section 14(6)(b) or (c) of the 1974 Act to pay remuneration or expenses to any person in respect of the inquiry or to defray costs of the inquiry, the ONR must pay such remuneration or expenses or defray the costs of the inquiry as agreed except so far as they have been paid or defrayed before 1st April 2014 by the HSE.

(4) Sub-paragraph (3) does not affect the ONR's power under section 86(3) of the 2013 Act to make other payments of remuneration or expenses or to defray costs.

(5) For the purposes of this paragraph “relevant purpose” means a purpose which—

- (a) was, immediately before 1st April 2014, within the general purposes of Part 1 of the 1974 Act; but
- (b) on or after that date falls only within the ONR's purposes (within the meaning of the 2013 Act).

### **Continuity of exercise of functions by inspectors**

**11.**—(1) Anything which immediately before 1st April 2014 is in the process of being done by or in relation to an HSE nuclear health and safety inspector may be continued on or after that date by or in relation to a health and safety inspector.

(2) Anything done (or having effect as if done) before 1st April 2014 by or in relation to an HSE nuclear health and safety inspector is, so far as is required for continuing its effect on and after that date, to have effect as if done by or in relation to a health and safety inspector.

(3) Any instrument or document made before 1st April 2014 has effect on and after that date so far as is required for the purposes or in consequence of the transfer of any function of an HSE nuclear health and safety inspector as if references to an HSE nuclear health and safety inspector (and references which are to be read as references to an HSE nuclear health and safety inspector) were or included references to a health and safety inspector.

(4) Anything which, immediately before 1st April 2014 is in the process of being done by or in relation to a nuclear inspector may be continued on or after that date by or in relation to an ONR inspector in the exercise of the ONR inspector's powers or duties as such.

(5) Anything done (or having effect as if done) before 1st April 2014 by or in relation to a nuclear inspector is, so far as is required for continuing its effect on and after that date, to have effect as if done by or in relation to an ONR inspector in the exercise of the ONR inspector's powers or duties as such.

(6) Any instrument or document made before 1st April 2014 has effect on and after that date so far as is required for the purposes or in consequence of the transfer of any function of a nuclear

inspector as if references to a nuclear inspector (and references which are to be read as references to a nuclear inspector) were or included references to an ONR inspector.

(7) Anything which immediately before 1st April 2014 is in the process of being done by or in relation to—

- (a) an HSE working time inspector may be continued on or after that date by or in relation to an ONR working time inspector;
- (b) an HSE ELCI inspector may be continued on or after that date by or in relation to an ONR ELCI inspector.

(8) Anything done before 1st April 2014—

- (a) by or in relation to an HSE working time inspector is, so far as is required for continuing its effect on and after that date, to have effect as if done by or in relation to an ONR working time inspector;
- (b) by or in relation to an HSE ELCI inspector is, so far as is required for continuing its effect on and after that date, to have effect as if done by or in relation to an ONR ELCI inspector.

(9) Any instrument or document made before 1st April 2014 has effect on and after that date so far as is required for the purposes of or in consequence of the transfer of any function of an HSE working time inspector or an HSE ELCI inspector as if references to an HSE working time inspector or an HSE ELCI inspector (and references which are to be read as references to an HSE working time inspector or an HSE ELCI inspector) were or included references to an ONR working time inspector or (as the case may be) an ONR ELCI inspector.

(10) In this paragraph—

- (a) “HSE ELCI inspector” means an inspector authorised by the HSE in exercise of powers conferred on the Secretary of State by section 4(2)(b) of the Employers’ Liability (Compulsory Insurance) Act 1969 and pursuant to the ELCI Agreement;
- (b) “HSE working time inspector” means an inspector—
  - (i) appointed by the HSE under regulation 28(7) of and paragraph 1(1) of Schedule 3 to the Working Time Regulations 1998; and
  - (ii) acting within the field of responsibility of the HSE (within the meaning of those Regulations) so far as it becomes the ONR’s field of responsibility on 1st April 2014 by virtue of Schedule 3 to this Order;
- (c) “ONR ELCI inspector” means an inspector authorised by the ONR in exercise of powers conferred on the Secretary of State by section 4(2)(b) of the Employers’ Liability (Compulsory Insurance) Act 1969 and pursuant to an agreement under section 90 of the 2013 Act between the ONR and the Secretary of State;
- (d) “ONR working time inspector” means an inspector appointed by the ONR under regulation 28(7) of and paragraph 1(1) of Schedule 3 to the Working Time Regulations 1998.

### **Continuity of exercise of fire safety functions**

**12.—**(1) Anything which immediately before 1st April 2014 is in the process of being done by or in relation to an HSE fire officer may be continued on or after that date by or in relation to an ONR fire officer.

(2) Anything done (or having effect as if done) before 1st April 2014 by or in relation to an HSE fire officer is, so far as is required for continuing its effect on and after that date, to have effect as if done by or in relation to an ONR fire officer.

(3) Any instrument or document made before 1st April 2014 has effect so far as is required for the purposes of or in consequence of the transfer of any function of an HSE fire officer as if references

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to an HSE fire officer (and references which are to be read as references to an HSE fire officer) were or included references to an ONR fire officer.

(4) Any arrangements made with the HSE pursuant to section 61(7) of the 2005 Act are, so far as is required for continuing their effect on and after that date, to have effect as if made with the ONR pursuant to section 61(7) of the 2005 Act as amended by virtue of Schedule 12 to the 2013 Act.

(5) In this paragraph—

(a) “the transferred enforcement responsibility” means—

- (i) in relation to premises in England and Wales, the duty of the HSE to enforce any provision of the 2005 Order so far as it becomes the ONR’s duty on 1st April 2014 by virtue of Schedule 12 to the 2013 Act;
- (ii) in relation to premises in Scotland, the duty of the HSE to enforce any provision of the 2005 Act so far as it becomes the ONR’s duty on that date by virtue of Schedule 12 to the 2013 Act;

(b) “HSE fire officer” means—

- (i) in relation to premises in England and Wales, a fire inspector appointed by the HSE for the purposes of carrying out the transferred enforcement responsibility; or
- (ii) in relation to premises in Scotland, an enforcement officer appointed by HSE for the purposes of carrying out the transferred enforcement responsibility;

(c) “ONR fire officer” means—

- (i) in relation to premises in England and Wales, a fire inspector appointed by the ONR;
- (ii) in relation to premises in Scotland, an enforcement officer appointed by the ONR.

### **Supplementary**

**13.—(1)** This Part of this Schedule—

(a) is—

- (i) subject to any provision made by the 2013 Act or this Order; and
- (ii) without prejudice to any transfer scheme made under Schedule 11 to the 2013 Act;

(b) does not apply in relation to—

- (i) any appointment of an inspector (whether under section 19 of the 1974 Act or otherwise) made by, or on behalf of, the HSE or the Secretary of State;
- (ii) any appointment of an enforcement officer by the HSE under section 61 of the 2005 Act;
- (iii) any authorisation of an inspector by the HSE in exercise of powers conferred on the Secretary of State by section 4(2)(b) of the Employers’ Liability (Compulsory Insurance) Act 1969 and pursuant to the ELCI agreement;
- (iv) any appointment of a member of HSE;
- (v) any contract of employment made by the HSE.

(2) Any specific provision in Part 3 of this Schedule is not to be taken to affect the generality of the provisions of this Part.



## PART 3

### Specific matters

#### CHAPTER 1

##### Enforcement and criminal proceedings

#### **Improvement notices issued before 1st April 2014**

**14.** An improvement notice (within the meaning given in section 21 of the 1974 Act) which is in force or effective immediately before 1st April 2014 has effect on and after that date—

- (a) in the case of an improvement notice served by an HSE nuclear health and safety inspector, as an improvement notice served by a health and safety inspector under the 1974 Act;
- (b) in the case of an improvement notice served by a nuclear inspector, as an improvement notice given by an ONR inspector under paragraph 3 of Schedule 8 to the 2013 Act.

#### **Prohibition notices issued before 1st April 2014**

**15.** A prohibition notice (within the meaning given in section 22 of the 1974 Act) which is in force or effective immediately before 1st April 2014 has effect on and after that date—

- (a) in the case of a prohibition notice served by an HSE nuclear health and safety inspector, as a prohibition notice served by a health and safety inspector under the 1974 Act;
- (b) in the case of a prohibition notice served by a nuclear inspector, as a prohibition notice given by an ONR inspector under paragraph 4 of Schedule 8 to the 2013 Act.

#### **Prohibition notice appeals - directions**

**16.—(1)** Any relevant direction given by the employment tribunal, so far as is required for its continuing effect, is to have effect on and after 1st April 2014 as if made under paragraph 6(6) of Schedule 8 to the 2013 Act.

(2) In this paragraph “relevant direction” means a direction given by the employment tribunal—

- (a) before 1st April 2014; and
- (b) under section 24(3)(b) of the 1974 Act,

for the purpose of suspending the operation of a prohibition notice (within the meaning given in section 22 of the 1974 Act) served by a nuclear inspector until the relevant appeal was finally disposed of or withdrawn.

#### **Offences — proceedings commenced before 1st April 2014**

**17.—(1)** Any proceedings in connection with an offence or alleged offence which have been commenced by, or on behalf of, the HSE or (as the case may be) the Secretary of State under a superseded provision before 1st April 2014 may be continued and completed by or on behalf of the ONR as if the superseded provision continued to have effect on and after 1st April 2014.

(2) Any proceedings in connection with an offence or an alleged offence which have been commenced by an HSE nuclear health and safety inspector or a nuclear inspector under a superseded provision before 1st April 2014 may be continued and completed by a relevant inspector as if the superseded provision continued to have effect on and after that date.

(3) For the purposes of sub-paragraph (2), “relevant inspector” means—

- (a) in the case of proceedings commenced by an HSE nuclear health and safety inspector, a health and safety inspector;

- (b) in the case of proceedings commenced by a nuclear inspector, an ONR inspector.

**Offences — proceedings not commenced before 1st April 2014**

**18.—(1) Where—**

- (a) an offence has been, or is alleged to have been, committed under a superseded provision before 1st April 2014, but
- (b) proceedings have not been commenced before that date in connection with that offence, or alleged offence, by, or on behalf of, the HSE or the Secretary of State or by a HSE nuclear health and safety inspector or a nuclear inspector,

proceedings in connection with the offence or alleged offence under the superseded provision may be commenced under the 2013 Act by a relevant person in the same manner as if the offence had been committed under the corresponding restated provision.

(2) Sub-paragraph (1) does not apply in any case where it was determined before 1st April 2014 by the HSE, the Secretary of State, an HSE nuclear health and safety inspector or a nuclear inspector (as the case may be) not to commence proceedings in connection with the offence or alleged offence.

(3) In this paragraph “relevant person” means the ONR, an ONR inspector or a health and safety inspector (as the case may be).

**Remedial orders made before 1st April 2014**

**19.—(1)** An existing remedial order, so far as is required for its continuing effect on and after 1st April 2014, is to have effect as an order made under paragraph 13 of Schedule 10 to the 2013 Act.

**(2)** In this paragraph “existing remedial order” means—

- (a) so far as this paragraph applies in England and Wales and Scotland, an order made, before 1st April 2014 under section 42(1) or (2) of the 1974 Act (including that section as it applied for the purposes of the 2003 Regulations) following a person being convicted of—
  - (i) an offence under sections 1, 3 to 6 or 22 of the 1965 Act;
  - (ii) an offence under section 33 of the 1974 Act—
    - (aa) so far as that offence corresponds (with or without modification) to an offence under any provision of Part 3 of the 2013 Act;
    - (bb) so far as that offence corresponds (with or without modification) to an offence under any provision of regulations treated as nuclear regulations under Part 1 of Schedule 1 to this Order; or
    - (cc) as it applied for the purposes of the 2003 Regulations;
  - (iii) an offence under regulation 25 of the 2003 Regulations;
- (b) so far as this paragraph applies in Northern Ireland, an order made, before 1st April 2014, under article 39 of the 1978 Order, as applied for the purposes of the 2003 Regulations, following a person being convicted of—
  - (i) in so far as it applied in Northern Ireland, an offence under regulation 25 of the 2003 Regulations;
  - (ii) an offence under Article 31 of the 1978 Order as it applied for the purposes of the 2003 Regulations.

## CHAPTER 2

### Information

#### **Requests for information**

**20.**—(1) A relevant notice requiring any person to furnish information to the transferor has effect on and after 1st April 2014 as a notice served by the ONR under section 97(1) of the 2013 Act.

(2) Despite sub-paragraph (1), a person is not, for the purposes of section 97(4) of the 2013 Act to be treated as having failed or refused to comply with a relevant notice if, before the period within which the information is required to be furnished, that person furnishes the information to the transferor.

(3) For the purposes of this paragraph a notice is a relevant notice if—

- (a) it was served, before 1st April 2014, by, or on behalf of, the transferor under—
  - (i) section 27(1) of the 1974 Act,
  - (ii) article 29 of the 1978 Order, or
  - (iii) section 2 of the Nuclear Safeguards Act 2000;
- (b) it required any person to furnish information to the transferor which the transferor needed to discharge any transferred function; and
- (c) the period within which the information was required to be furnished had not expired immediately before 1st April 2014.

#### **Disclosure of information relevant to transferred functions: transitional modifications to Schedule 9 to the 2013 Act**

**21.**—(1) Schedule 9 to the 2013 Act applies to transitional information, on and after 1st April 2014, as it applies to protected information (within the meaning given in paragraph 1(1) of that Schedule) but as if—

- (a) any reference to the original holder were a reference to the ONR;
- (b) in paragraph 7(2) (definition of appropriate consent)—
  - (i) where the information was obtained before 1st April 2014 by an HSE nuclear health and safety inspector or a nuclear inspector as a result of premises being entered in exercise of a power under section 20 of the 1974 Act or article 22 of the 1978 Order, the reference to the consent of a person having responsibilities in relation to the premises in paragraph (a) were a reference to the consent of the person having responsibilities in relation to those premises on and after 1st April 2014;
  - (ii) in any other case, the reference to the consent of the person from whom the information was obtained, or who provided it, as mentioned in paragraph 1(1) of Schedule 9 to the 2013 Act, were a reference to the consent of the person from whom the transitional information was obtained by or on behalf of the transferor, HSE nuclear health and safety inspector or nuclear inspector (as the case may be);
- (c) in any case where the information is nuclear security information, the following text were inserted at the start of each of paragraphs 3 and 4—

“Where the Nuclear Industries Security Regulations 2003 apply to transport in a ship which is not a United Kingdom ship within the United Kingdom or its territorial sea and the ship in question enters or has entered the port in question or an attempt is or has been made for it to do so.”.

*Status: This is the original version (as it was originally made).*

(2) The modifications made by sub-paragraph (1)(c) above do not apply to acts done outside the United Kingdom by a person other than a United Kingdom person.

(3) Information is transitional information for the purposes of this paragraph if—

(a) it was obtained by, or on behalf of, or provided to—

(i) the transferor before 1st April 2014, or in accordance with a notice served by the transferor before that date, for the purposes of carrying out, or facilitating the carrying out of, a transferred function;

(ii) an HSE nuclear health and safety inspector or a nuclear inspector, before 1st April 2014, for the purpose of carrying out, or facilitating the carrying out of, the inspector's functions as such;

(b) it is transferred from the transferor to the ONR (whether under a scheme made under Schedule 11 to the 2013 Act or otherwise) for the purpose of—

(i) enabling the ONR to carry out any transferred function; or

(ii) enabling ONR inspectors or health and safety inspectors to carry out their functions as such; and

(c) it—

(i) was not originally provided in a form calculated to prevent the information from being identified as relating to a particular person or case;

(ii) had not immediately before 1st April 2014 been made available to the public—

(aa) in accordance with an obligation under the Freedom of Information Act 2000 ("the 2000 Act"), the Freedom of Information (Scotland) Act 2002 or environmental information regulations (within the meaning given in section 39(1A) of the 2000 Act);

(bb) under the 1974 Act or the 1978 Order; or

(cc) lawfully from other sources.

(4) Information ceases to be transitional information for the purposes of this paragraph if on or after 1st April 2014 it—

(a) is disclosed as is mentioned in paragraph 16 of Schedule 9 to the 2013 Act; or

(b) is otherwise made available to the public by virtue of a disclosure in accordance with Part 3 of that Schedule or lawfully from other sources.

(5) In this paragraph "nuclear security information" means transitional information which was obtained by, or on behalf of, or provided to—

(a) the transferor before 1st April 2014 for the purpose of carrying out, or facilitating the carrying out of, any function under or in connection with—

(i) the 2003 Regulations;

(ii) any provision of the 1974 Act or the 1978 Order as applied for the purposes of the 2003 Regulations;

(iii) the Uranium Enrichment Technology (Prohibition on Disclosure) Regulations 2004;

(iv) the Nuclear Industries Security (Fees) Regulations 2005;

(b) a nuclear security inspector, before that date, for the purpose of carrying out, or facilitating the carrying out of, any function of the inspector's functions as such.

(6) Nothing in this paragraph affects any obligation imposed by, or under, any provision of primary legislation on the transferor, an HSE nuclear health and safety inspector or a nuclear inspector not to disclose transitional information.

## CHAPTER 3

Other transitionals in connection with primary legislation amended by or under the 2013 Act

### **Nuclear Installations Act 1965**

**22.**—(1) Any nuclear site licence, and any variation of that licence, in force immediately before 1st April 2014 has effect so far as is required for continuing its effect on or after that date as if granted or made by the relevant appropriate national authority and as if granted or made under section 1 of the 1965 Act as amended by virtue of Schedule 12 to 2013 Act.

(2) Any condition attaching to a nuclear site licence immediately before 1st April 2014 has effect on or after that date as if the condition was attached by the relevant appropriate national authority and as if it was attached under section 4 of the 1965 Act as amended by virtue of Schedule 12 to the 2013 Act.

(3) In this paragraph “appropriate national authority” has the meaning given in section 26 of the 1965 Act (as amended by paragraphs 16 and 26 of Schedule 12 to the 2013 Act).

**23.**—(1) Relevant expenses which are not transitional expenses remain repayable to the HSE on and after 1st April 2014 despite the amendments made to section 24A of the 1965 Act by virtue of Schedule 12 to the 2013 Act.

(2) Relevant expenses which are transitional expenses are repayable to the ONR.

(3) In this paragraph—

(a) “relevant expenses” means expenses repayable to the HSE, immediately before 1st April 2014, under section 24A(3) or (4) of the 1965 Act;

(b) relevant expenses are transitional expenses if—

(i) they are expenses to which section 24A of the 1965 Act applies and which are incurred by the HSE before 1st April 2014; and

(ii) an invoice relating to the period in which those expenses were incurred had not been sent or given before that date by the HSE to the person to whom the HSE considered those expenses to be attributable.

### **Health and Safety at Work etc. Act 1974 – civil liability**

**24.**—(1) A breach of duty continues to be actionable on and after 1st April 2014 if—

(a) the duty breached was imposed by or under—

(i) the 2003 Regulations; or

(ii) the 2009 Regulations as they apply to the civil carriage of class 7 goods;

(b) the breach occurred before 1st October 2013; and

(c) the breach was actionable under section 47 of the 1974 Act immediately before 1st April 2014.

(2) Sub-paragraph (1) is without prejudice to any right of action or defence which otherwise exists or may be available.

(3) Any term of an agreement entered into before 1st April 2014 which purported to exclude or restrict any liability for such a breach continues to be void in relation to the breach mentioned in sub-paragraph (1).

**Nuclear Safeguards Act 2000**

25. The provisions of section 4 of the Nuclear Safeguards Act 2000 continue in full force and effect on and after 1st April 2014 to the extent that they relate to a warrant issued under that section before 1st April 2014 but where the warrant has not been executed before that date.

**Environment and Safety Information Act 1988**

26.—(1) Nothing in the 2013 Act or this Order affects the duties placed on the HSE by the Environment and Safety Information Act 1988 (“the 1988 Act”)—

- (a) to make an entry in the register it is required to maintain under section 1 of that Act (“the HSE register”) for any relevant notice;
- (b) to amend any such entry in accordance with section 3(3) or (4) of that Act;
- (c) to keep any such entry in the register for the period specified in section 3(5) of that Act;
- (d) by section 4 of that Act in relation to any notice to which sub-paragraph (3) applies.

(2) Nothing in the 2013 Act or this Order affects the right of appeal under section 4(3) of the 1988 Act of person affected by a relevant notice.

(3) Where as a result of any provision of this Order a relevant notice is to be treated for any purpose as a notice given by an ONR inspector under the 2013 Act or as a notice served by a health and safety inspector, the ONR must notify the HSE—

- (a) where there is a right of appeal in connection with that notice, if no appeal is brought within the time limit for doing so,
- (b) where an appeal has been brought in connection with that notice—
  - (i) when the appeal is finally disposed of, and
  - (ii) the outcome of the appeal,
- (c) when the ONR is satisfied that the relevant notice has been complied with, or
- (d) if that relevant notice is withdrawn or amended.

(4) The notice given by the ONR under sub-paragraph (3) must be given to the HSE before the expiry of the time limit specified in section 3 of the 1988 Act for making or amending the relevant entry in the HSE register.

(5) The HSE is to be treated as complying with the requirements of section 3(3) of the 1988 Act where it updates the relevant entry in the HSE register in consequence of a notification given by the ONR under sub-paragraph (3)(c).

(6) For the purposes of this paragraph “relevant notice” means a notice served, before 1st April 2014, by an inspector appointed under section 19 of the 1974 Act by the HSE—

- (a) under section 21 of the 1974 Act in connection with a contravention of—
  - (i) any relevant provision;
  - (ii) any superseded provision; or
  - (iii) any of the relevant statutory provisions (within the meaning of Part 1 of the 1974 Act) which is within the transferred health and safety field of responsibility; or
- (b) under section 22 of the 1974 Act in connection with any activities to which the provisions mentioned in paragraph (a) above applied.

## CHAPTER 4

### Fees and expenses

#### **Control of Major Accident Hazards Regulations 1999**

27.—(1) Despite Part 2 of this Schedule, any outstanding fee remains payable to the HSE in accordance with regulation 22 of the Control of Major Accident Hazards Regulations 1999 (“the 1999 Regulations”) but as if the amendments made to that regulation by this Order had not come into force.

(2) For the purposes of this paragraph, “outstanding fee” means a fee which is payable to the HSE immediately before 1st April 2014 by operator of an establishment which is a nuclear establishment.

(3) For the purposes of this paragraph—

- (a) “nuclear establishment” means an establishment which is, or is wholly or partly within—
  - (i) a GB nuclear site; or
  - (ii) a new nuclear build site.
- (b) “operator” has the meaning given by the 1999 Regulations.

#### **Nuclear Reactors (Environmental Impact for Decommissioning) Regulations 1999**

28.—(1) Any transitional expenses—

- (a) are to be treated on and after 1st April 2014 as expenses of the ONR; and
- (b) subject to sub-paragraph (2), the ONR shall require each licensee to repay the liability sum in accordance with regulation 15 of the 1999 Regulations.

(2) Where a licensee has made one or more relevant payments, the ONR may only require that licensee to repay so much of the relevant liability sum as exceeds the total amount of the relevant payments made by the licensee.

(3) Any relevant expenses which are not transitional expenses are recoverable by the HSE under regulation 15 of the 1999 Regulations as if the amendments to that regulation by Schedule 3 of this Order had not been made.

(4) Nothing in this paragraph affects the liability of the HSE to make a repayment to a licensee in accordance with regulation 15(5) of the 1999 Regulations in any case where any relevant payment or payments made by the licensee exceed the liability sum.

(5) In this paragraph—

- (a) “the 1999 Regulations” means the Nuclear Reactors (Environmental Impact for Decommissioning) Regulations 1999;
- (b) “liability sum” means, in relation to a licensee, so much of the transitional expenses as appeared to the HSE, immediately before 1st April 2014, to be attributable to that licensee in accordance with regulation 15(2)(a) of the 1999 Regulations;
- (c) “relevant expenses” means expenses—
  - (i) incurred by the HSE immediately before 1st April 2014; and
  - (ii) to which regulation 15(1) of the 1999 Regulations applied immediately before that date;
- (d) “relevant payment” means, in relation to a licensee, a payment made by the licensee under regulation 15(2)(b) of the 1999 Regulations before 1st April 2014;

- (e) “transitional expenses” means any relevant expenses which, immediately before 1st April 2014, had not been invoiced to the licensees to whom HSE considered those expenses to be attributable.

### **Nuclear Industries Security (Fees) Regulations 2005**

**29.**—(1) Any relevant fees which are not transitional fees are payable to the Secretary of State despite the amendments made to the Nuclear Industries Security (Fees) Regulations 2005 (“the 2005 Regulations”) by Schedule 3 to this Order.

(2) Any relevant fees which are transitional fees—

- (a) are payable to the ONR; and
- (b) are payable within 30 days from the date of the invoice sent or given by the ONR to the person who is required to pay those fees.

(3) Any transitional fees may be apportioned by the ONR between different persons for a function performed by the Secretary of State or an inspector (as the case may be) where such function is reasonably attributable to those different persons.

(4) The invoice sent or given by the ONR under sub-paragraph (2)(b) must include a statement of the functions performed by the Secretary of State during the final quarter of the financial year ending on 31st March 2014 for which fees were payable and the costs incurred in that quarter in performing those functions.

(5) For the purposes of this paragraph—

- (a) “relevant fees” means the fees payable to the Secretary of State under the 2005 Regulations immediately before 1st April 2014 in accordance with regulations 3 and 4 of those Regulations;
- (b) relevant fees are transitional fees if they relate to costs incurred by the Secretary of State in the final quarter of the financial year ending on 31st March 2014 in performing the functions for which the fees are payable.

### **Health and Safety (Fees) Regulations 2012**

**30.** Paragraphs 31 and 32 make transitional provisions and savings in connection with the Health and Safety (Fees) Regulations 2012 (“the 2012 Regulations”).

**31.**—(1) A relevant fee which is not a transitional fee remains payable to the HSE on and after 1st April 2014 despite the amendments made to the 2012 Regulations by Schedule 3 to this Order.

(2) A relevant fee which is a transitional fee is—

- (a) payable to the ONR; and
- (b) payable within 30 days from the invoice sent or given by the ONR to the person who is required to pay those fees.

(3) The invoice sent by the ONR under sub-paragraph (2)(b) must include a statement of—

- (a) the period to which the invoice relates;
- (b) the work done by the HSE during that period; and
- (c) the costs incurred by the HSE during that period.

(4) In this paragraph—

- (a) “relevant fee” means a fee payable to the HSE, immediately before 1st April 2014, under regulation 16(1), (2) or (3) of the 2012 Regulations in accordance with regulations 12, 16 and 17 of those Regulations;



- (b) a relevant fee is a transitional fee if—
  - (i) it relates to costs reasonably incurred by the HSE for the performance of a function or carrying out of work (as the case may be) before 1st April 2014; and
  - (ii) an invoice relating to the period in which those costs were incurred had not been sent or given, before that date, by the HSE to the person liable to pay the fee.

**32.**—(1) Despite Part 2 of this Schedule, any outstanding fee remains payable to the HSE in accordance with the provisions of the 2012 Regulations but as if the amendments made to those Regulations by this Order had not come into force

- (2) For the purposes of this paragraph, “outstanding fee” means a fee—
  - (a) which was payable to the HSE, immediately before 1st April 2014, under any provision of the 2012 Regulations other than regulation 16 of those Regulations; and
  - (b) relates to work done before 1st April 2014 in the performance of a transferred function by or on behalf of the HSE.

## CHAPTER 5

### Explosives licences

#### **Dangerous Substances in Harbour Areas Regulations 1987**

**33.**—(1) An explosives licence issued by the HSE for the purposes of Part 9 of the Dangerous Substances in Harbour Areas Regulations 1987 (“the 1987 Regulations”) in respect of a nuclear harbour which is in force immediately before 1st April 2014—

- (a) has effect on and after that date as an explosives licence issued by the ONR;
  - (b) in the case of a licence for a specified period, the licence will remain in force, subject to the provisions of the 1987 Regulations, for so much of that period as falls after 1st April 2014.
- (2) For the purposes of this paragraph—
- (a) a reference to an explosives licence includes a reference to—
    - (i) an amending licence;
    - (ii) a provisional explosives licence; and
    - (iii) a provisional amending licence;
  - (b) a harbour is a nuclear harbour if, immediately before 1st April 2014, it is or forms part of—
    - (i) a GB nuclear site;
    - (ii) an authorised defence site; or
    - (iii) a new nuclear build site.

#### **Manufacture and Storage of Explosives Regulations 2005**

**34.**—(1) A licence (within the meaning given by the Manufacture and Storage of Explosives Regulations 2005 (“the 2005 Regulations”)) granted by the HSE in respect of an ONR regulated site which is in force immediately before 1st April 2014—

- (a) has effect on and after that date as if granted by the ONR;
  - (b) in the case of a licence for a specified period, the licence will remain in force, subject to the provisions of the 2005 Regulations, for so much of that period as falls after 1st April 2014.
- (2) For the purposes of this paragraph a site (within the meaning of the 2005 Regulations) is an ONR regulated site if on 1st April 2014 it, or any part of it is—

- (a) a GB nuclear site;
- (b) an authorised defence site; or
- (c) a new nuclear build site.

## CHAPTER 6

Other transitionals in connection with subordinate legislation amended by this Order

### **Nuclear Industries Security Regulations 2003**

**35.** Paragraphs 36 to 38 make transitional provisions in connection with the 2003 Regulations in consequence of the provisions made by this Order.

**36.**—(1) A relevant approval which is in force immediately before 1st April 2014 has effect on and after that date as an approval given by the ONR.

(2) In this paragraph an approval is a relevant approval if it was given by, or on behalf of, the Secretary of State for the purposes of any of the following provisions of the 2003 Regulations—

- (a) regulation 5;
- (b) regulation 6;
- (c) regulation 8;
- (d) regulation 9;
- (e) regulation 14;
- (f) regulation 16;
- (g) regulation 19;
- (h) regulation 20.

**37.** A notification given by, or on behalf of, the Secretary of State under regulation 7(2) of the 2003 Regulations immediately before 1st April 2014 has effect, so far as is required for its continuing effect, on and after that date as a notification given by the ONR.

**38.**—(1) Any direction—

- (a) issued by, or on behalf of, the Secretary of State under regulation 11(1), 21(1) or 22(7)(b) of the 2003 Regulations before 1st April 2014; and
- (b) continuing in force on and after that date as a direction issued by the ONR,

has effect subject to any 2001 Act direction issued on or after that date.

(2) In this paragraph “2001 Act direction” means a direction given by the Secretary of State on or after 1st April 2014 under regulations made under section 77(1) of the 2001 Act.

### **Uranium Enrichment Technology (Prohibition on Disclosure) Regulations 2004**

**39.**—(1) This paragraph applies in relation to the Uranium Enrichment Technology (Prohibition on Disclosure) Regulations 2004 (“the 2004 Regulations”).

(2) Any—

- (a) authorisation under regulation 4 of the 2004 Regulations, or
- (b) variation of such an authorisation,

in force immediately before 1st April 2014 has effect, on and after that date, as if granted by the relevant appropriate national authority under the 2004 Regulations as amended by this Order.

### **Carriage of Dangerous Goods and Transportable Pressure Equipment Regulations 2009**

**40.** Paragraphs 41 to 43 makes transitional provisions and savings in connection with the 2009 Regulations in consequence of the provisions made by Schedule 3 to this Order.

**41.** An authorisation granted, or deemed to be granted, pursuant to regulation 12 of the 2009 Regulations by the Secretary of State for Energy and Climate Change which is in force immediately before 1st April 2014—

- (a) has effect, so far as is required for its continuing effect on and after that date, as an authorisation granted, or deemed to be granted (as the case may be) pursuant to that regulation by the ONR;
- (b) is subject to the same conditions as were in force immediately before that date.

**42.—(1)** A class 7 approval which is in force immediately before 1st April 2014—

- (a) has effect, so far as is required for its continuing effect on and after that date, as a certificate of approval issued by the ONR;
- (b) is subject to the same conditions as were in force immediately before that date.

**(2)** For the purposes of this paragraph—

- (a) “approval”—
  - (i) in relation to carriage by road, has the same meaning as in ADR,
  - (ii) in relation to carriage by rail, has the same meaning as in RID,
  - (iii) in relation to carriage by inland waterway, has the same meaning as in ADN;
- (b) “class 7 approval” means an approval issued by, or on behalf of, the Secretary of State for Energy and Climate Change before 1st April 2014 pursuant to regulation 26 of the 2009 Regulations.

**43.—(1)** Where—

- (a) the Secretary of State for Energy and Climate Change (“the Secretary of State”) is deemed to have performed a function by regulation 30 of the 2009 Regulations, and
- (b) action taken by the Secretary of State, as a consequence of the performance of that function, had effect immediately before 1st April 2014,

the ONR is deemed to have performed the function under the same provision of ADR or RID as it was performed by the Secretary of State or (as the case may be) the equivalent provision of ADN.

(2) In this paragraph “ADR”, “RID” and “ADN” have the meanings given in section 73(3) of the 2013 Act.

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### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order makes consequential amendments to existing primary and subordinate legislation in consequence of the coming into force of the majority of the provisions of Part 3 of the Energy Act

*Status: This is the original version (as it was originally made).*

[2013 \(c.32\)](#) (“the 2013 Act”) on 1st April 2014. This Order also makes various transitional provisions and savings in consequence of Part 3 of the 2013 Act and the provisions made by this Order.

Article 4 of and Schedule 1 to this Order make provision to enable certain existing subordinate legislation to be treated on and after 1st April 2014 as if made under the 2013 Act. This provision ensures that there will be continuity in the regulatory regime when functions under the Regulations specified in that Schedule, and in connection with their enforcement, are transferred from the Health and Safety Executive (“the HSE”) or the Secretary of State to the Office for Nuclear Regulation (“the ONR”). It also ensures that existing legislation requiring the payment of fees in connection with the exercise of the transferred functions continues to apply when the functions are transferred to the ONR.

Schedule 1 to this Order also makes transitional modifications to the way in which various offence provisions in the 2013 Act apply in relation to the Nuclear Industries Security Regulations 2003 to the extent that those Regulations are treated as made under the 2013 Act.

Article 5 of this Order makes transitional provision enabling agreements made by the HSE under section 13 of the Health and Safety at Work etc. Act 1974 to be treated as made by the ONR under section 90 of the 2013 Act on and after 1st April 2014.

Schedule 2 to this Order makes consequential amendments to existing primary legislation. The majority of amendments to primary legislation were made by Schedule 12 to the 2013 Act. Some additional amendments are, however, required to be made by this Order.

Schedule 3 to this Order makes consequential amendments to existing subordinate legislation. Part 1 of the Schedule amends legislation relevant to the nuclear security and nuclear safeguards purposes of the ONR (“nuclear security purposes” has the meaning given in section 70 of the 2013 Act and “nuclear safeguards purposes” has the meaning given in section 72 of that Act). Part 2 of the Schedule amends legislation relating to the nuclear site health and safety purposes of the ONR (“nuclear site health and safety purposes” has the meaning given in section 69 of the 2013 Act). Part 3 of the Schedule amends legislation to enable the ONR to recover fees in connection with the performance of various of its functions on and after 1st April 2014. These include functions relevant to the Generic Design Assessment and the enforcement of the Nuclear Installations Act 1965 and the Health and Safety at Work etc. Act 1974 as they apply to the civil nuclear industry. Part 4 of the Schedule amends various legislation as it applies in relation to GB nuclear sites. The majority of these changes ensure that the ONR, rather than the HSE, is consulted in relation to applications for consent under various planning regimes relevant to nuclear sites.

Article 7 of the Order makes transitional modifications to offence provisions of the Nuclear Installations Act 1965, the Anti-terrorism, Crime and Security Act 2001 and the 2013 Act as they apply in relation to offences committed before the date on which section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act [2012 \(c.10\)](#) (*removal of limit on certain fines on conviction by magistrates’ court*) comes into force.

Article 8 of and Schedule 4 to this Order make general transitional provisions and savings in consequence of the provisions of Part 3 of the 2013 Act and the provisions made by this Order.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.