

ENERGY ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Chapter 1: Nuclear Decommissioning

Section 7: Supplemental functions

64. **Section 7** gives the NDA other functions to the extent that it considers these appropriate. As foreshadowed in the White Paper, these include the carrying out and promotion of research into matters relating to its functions; raising the profile of nuclear decommissioning through the provision of information; educating and training persons about those matters. Subsection (1)(e) also provides for the encouragement and support of initiatives to promote socio-economic development or that produce other environmental benefits for communities living near its sites, recognising that in some areas the NDA will be a major contributor to local economic activity and, consistent with its principal functions, will have a role to play in local socio-economic and environmental development.
65. The function in subsection (2) is required as a consequence of the restructuring plan for British Energy (“BE”) under which the Government has given certain undertakings underwriting the cost of decommissioning and clean up of BE sites (subject to approval of the agreement by the European Commission). The intention is that, in order to safeguard the interests of the taxpayer, the NDA should have the capacity to act as the nominee of the Secretary of State under the terms of the agreements with BE and generally to ensure that BE’s decommissioning plans and the basis on which it operates its stations and subsequently carries out decommissioning and clean up of its sites are such as to minimise any call on public funds. Subsection (3) enables the Secretary of State to require NDA to meet the costs of such an agreement so that all Government’s responsibilities in respect of nuclear clean up can be managed within the same framework.
66. Subsection (4) additionally gives the NDA the functions where required to do so by the Secretary of State of providing advice (generally or in relation to a particular installation site or facility) either to the Secretary of State or to third parties where the NDA has particular expertise in respect of its functions (set out in subsection (5)). Scottish Ministers can also require such advice to be given to them as far as Scotland is concerned. The NDA can also provide general advice to the Secretary of State or Scottish Ministers on its own initiative where the NDA thinks it appropriate.
67. Subsection (6) ensures that the NDA’s principal functions, defined in section 3(1), are not to be adversely affected by the carrying out of any of the NDA’s supplemental functions under subsection (1) or by its giving general advice. This duty on the NDA does not apply where the Secretary of State is requiring the NDA to act on his behalf under subsection (2) or (3) or where the Secretary of State or Scottish Ministers require advice.
68. Where the NDA is required to provide advice to Scottish Ministers without the agreement of the Secretary of State the NDA can charge them for the advice given.