



Energy Act 2004

2004 CHAPTER 20

PART 1

THE CIVIL NUCLEAR INDUSTRY

CHAPTER 1

NUCLEAR DECOMMISSIONING

Principal function of NDA

3 Designated responsibilities

- (1) The principal function of the NDA shall be to have responsibility for securing—
 - (a) the operation, pending the commencement of their decommissioning, of designated nuclear installations;
 - (b) the decommissioning of those and other designated nuclear installations;
 - (c) the cleaning-up of designated nuclear sites;
 - (d) the operation of designated facilities for treating, storing, transporting or disposing of hazardous material;
 - (e) the treatment, storage, transportation and disposal, in designated circumstances, of hazardous material; and
 - (f) the decommissioning of designated installations comprised in NDA facilities.
- (2) The responsibilities of the NDA under this section are responsibilities to be discharged by the performance of its duties under sections 15 and 16.
- (3) A designation for the purposes of this section—
 - (a) of an installation, site or facility, and
 - (b) of the circumstances in which the NDA is to have responsibility for securing the treatment, storage, transportation or disposal of matter or waste,

Status: This is the original version (as it was originally enacted).

has (subject to section 6) to be in the form of a direction given by the Secretary of State to the NDA.

- (4) A direction must not give the NDA a responsibility mentioned in this section in relation to an installation, site or facility unless the person with control of it at the time when the direction is given is—
- (a) a Crown appointee;
 - (b) the UKAEA;
 - (c) a publicly owned company;
 - (d) the NDA itself; or
 - (e) a person who has consented to the giving of the direction.
- (5) A direction designating an installation, site or facility must specify the paragraph or paragraphs of subsection (1) for the purposes of which it is being designated.
- (6) But, except in so far as the direction containing the designation otherwise provides, the designation of a principal nuclear site for cleaning-up is to have effect for the purposes of this Chapter as including a designation, as an installation to be decommissioned, of every installation situated in or on that site.
- (7) The Secretary of State must—
- (a) lay before Parliament a copy of every direction containing a designation;
 - (b) publish the contents of every such direction in the manner which, in his opinion, is most appropriate for bringing it to the attention of persons likely to be affected by it; and
 - (c) send a copy of every direction giving the NDA a responsibility in relation to an installation, site or facility to the person with control of that installation, site or facility.
- (8) The Scottish Ministers must lay before the Scottish Parliament a copy of every direction which by virtue of section 6 is given jointly by them and the Secretary of State.
- (9) The Secretary of State may exclude—
- (a) from what he lays before Parliament and publishes under this section, and
 - (b) from what is to be laid before the Scottish Parliament by the Scottish Ministers,
- anything the publication of which he considers to be against the interests of national security.

4 Additional responsibilities under designating directions

- (1) Where the NDA is given a responsibility for securing the operation of an installation or facility, a direction may also give the NDA further responsibilities in relation to the management of the site where that installation or facility is situated.
- (2) Where the NDA is given a responsibility in relation to a principal nuclear site, a direction may give the NDA further responsibilities in relation to the operation or management of any one or more of the following—
- (a) research facilities situated in or on that site;
 - (b) facilities other than research facilities which are situated in or on that site and are neither nuclear installations nor NDA facilities;

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

- (c) other land (whether or not adjacent to that site) which is owned or occupied, together with it, by the person with control of the principal nuclear site; and
 - (d) facilities of any description situated in or on such other land.
- (3) The NDA is not to be given further responsibilities under subsection (1) or (2) except where the Secretary of State considers it appropriate to do so—
- (a) for the purpose of facilitating the carrying out by the NDA of any of its functions; or
 - (b) for a purpose otherwise incidental to the carrying out of those functions.
- (4) Where a direction gives the NDA a responsibility for securing the treatment, storage, transportation or disposal of matter or waste, it may also give the NDA responsibility for securing the design, construction and operation of a facility for that purpose.
- (5) Subsection (4) of section 3 applies to giving the NDA a responsibility mentioned in this section as it applies to giving it a responsibility mentioned in that section.
- (6) In this section “direction” means a direction under section 3.

5 Supplemental provisions of designating directions

- (1) A direction comes into force at the time which is specified in the direction or determined in accordance with provision contained in it.
- (2) A direction giving the NDA responsibilities in relation to an installation, site or facility which—
- (a) is a nuclear installation, a principal nuclear site or a facility situated in or on a principal nuclear site, but
 - (b) is not one in relation to which the NDA is to have a financial responsibility under section 21,
- may require the person with control of the installation, site or facility to make payments to the Secretary of State.
- (3) A direction may also impose requirements with respect to the charges which (subject to section 21) are to be imposed by the NDA in connection with the discharge of responsibilities given to the NDA by the direction.
- (4) Subject to subsections (5) and (6), a direction may be modified or revoked by a subsequent direction.
- (5) A direction must not modify or revoke a direction relating to the responsibility of the NDA in relation to an installation, site or facility unless the person with control of the installation, site or facility is, at the time when the modification or revocation comes into force—
- (a) a Crown appointee;
 - (b) the UKAEA;
 - (c) a publicly owned company;
 - (d) the NDA itself; or
 - (e) a person who has consented to the modification or revocation.
- (6) A direction in so far as it gives the NDA responsibility—
- (a) for the decommissioning of an installation, or
 - (b) for the cleaning-up of a principal nuclear site,

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

may be revoked only if the condition set out in subsection (7) is satisfied.

- (7) The condition is—
- (a) in the case of a direction given by the Secretary of State, that he is satisfied that the NDA has discharged all its responsibilities in relation to the decommissioning or cleaning-up of the installation or site; and
 - (b) in the case of a direction given jointly by the Secretary of State and the Scottish Ministers, that he and those Ministers are so satisfied.
- (8) The Secretary of State must pay sums received by him by virtue of subsection (2) into the Consolidated Fund.
- (9) In this section “direction” means a direction under section 3.

6 Designations relating to Scotland

- (1) A direction under section 3 which—
- (a) gives the NDA responsibilities falling within subsection (2), or
 - (b) removes or varies any such responsibilities,
- may be given only by the Secretary of State and the Scottish Ministers, acting jointly.
- (2) The following responsibilities fall within this subsection—
- (a) responsibility for the cleaning-up of a site in Scotland which is a principal nuclear site without being a licensable site;
 - (b) responsibility for the cleaning-up of a contaminated site in Scotland;
 - (c) responsibility for the operation of facilities for treating or storing hazardous material in or on a site in Scotland which is a principal nuclear site without being a licensable site;
 - (d) responsibility for the operation in or on a nuclear site in Scotland of a facility for the disposal of hazardous material;
 - (e) responsibility, in specified circumstances, for the disposal at a site in Scotland of hazardous material;
 - (f) responsibility for the treatment or storage of hazardous material that may, in the discharge of that responsibility, be treated or stored in or on a site in Scotland which is not a licensable site;
 - (g) responsibility for the decommissioning of an installation comprised in NDA facilities that are situated in or on a site in Scotland which is a principal nuclear site without being a licensable site.
- (3) Before giving a direction under section 3 which—
- (a) gives the NDA responsibilities for the operation in or on a licensable site in Scotland of a facility for the non-processing treatment of hazardous material;
 - (b) gives it responsibilities not falling within subsection (2)(f) for the non-processing treatment or the storage of hazardous material the treatment or storage of which, in the discharge of those responsibilities, may take place in or on a site in Scotland;
 - (c) gives it responsibilities for the operation in or on a licensable site in Scotland of a facility for the storage of hazardous material; or
 - (d) removes or varies any responsibilities mentioned in paragraph (a) or (c),
- the Secretary of State must consult the Scottish Ministers.

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

(4) In this section—

“licensable site” means a site that falls within paragraph (a), (b) or (d) of the definition of a “principal nuclear site” in section 36(2);

“non-processing treatment” means treatment that does not consist in the processing or reprocessing of spent or irradiated nuclear fuel.