

**Changes to legislation:** Energy Act 2004, SCHEDULE 3 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULES

### SCHEDULE 3 U.K.

Section 13

#### PROCEDURAL REQUIREMENTS APPLICABLE TO NDA'S ANNUAL PLANS

##### *Preparation and revision of plan*

- 1 (1) A plan prepared or revised by the NDA has effect only if it is approved—
  - (a) by the Secretary of State; and
  - (b) to the extent that it relates to responsibilities of the NDA falling within section 6(2), also by the Scottish Ministers.
- (2) The NDA may revise its plan at any time before or during the year to which it relates.

#### **Commencement Information**

**II** Sch. 3 para. 1 in force at 24.8.2004 by S.I. 2004/2184, art. 2(1), Sch. 1

##### *Consultation by NDA*

- 2 (1) Before preparing or revising a plan the NDA must consult—
  - [<sup>F1</sup>(za) the Office for Nuclear Regulation;]
  - (a) the Health and Safety Executive;
  - (b) the Environment Agency;
  - [<sup>F2</sup>(ba) the Natural Resources Body for Wales;]
  - (c) the Scottish Environment Protection Agency;
  - (d) such persons with responsibilities in relation to nuclear security as have been nominated for the purposes of this sub-paragraph by the Secretary of State;
  - (e) every local authority whose area includes a designated installation, designated site or designated facility or a locality affected by activities at such an installation, site or facility;
  - (f) every person with control of such an installation, site or facility;
  - (g) the employees of every such person and the persons appearing to the NDA to represent them; and
  - (h) every body established—
    - (i) by the NDA, or
    - (ii) by a person with control of a designated installation, designated site or designated facility,for the purpose of consulting persons about activities carried on at, or in connection with, such an installation, site or facility.
- (2) In the case of a revision of a plan, the Secretary of State may allow the NDA to proceed without consulting one or more of the persons mentioned in sub-paragraph (1).

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- (3) In preparing or revising a plan the NDA must have regard to—
- (a) every representation made to it by or on behalf of a person mentioned in subparagraph (1); and
  - (b) the representations made to it by members of the public.
- (4) In this paragraph references, in relation to the preparation or revision of a plan, to a designated installation, designated site or designated facility include references to an installation, site or facility designated by a direction which—
- (a) is not yet in force; but
  - (b) is to come into force during the year to which the plan relates.

#### Textual Amendments

- F1** Sch. 3 para. 2(1)(za) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\), s. 156\(1\), Sch. 12 para. 80\(2\)](#); [S.I. 2014/251, art. 4](#)
- F2** Sch. 3 para. 2(1)(ba) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 428\(2\)](#) (with Sch. 7)

#### Commencement Information

- I2** Sch. 3 para. 2 in force at 24.8.2004 by [S.I. 2004/2184, art. 2\(1\), Sch. 1](#)

#### *Approval of annual plan*

- 3 (1) This paragraph applies where a draft of the NDA's plan for a financial year, or of a revision of such a plan, is submitted for approval—
- (a) to the Secretary of State; or
  - (b) to the Secretary of State and the Scottish Ministers.
- (2) The submission must be accompanied by a report by the NDA of the representations about the contents of its plan or revision that it received in the course of its preparation.
- (3) Before determining whether or not to approve anything relating to responsibilities mentioned in section 6(3), the Secretary of State must consult the Scottish Ministers.
- (4) The Secretary of State must also consult the Scottish Ministers before approving anything relating to proposals for the non-processing treatment, the storage or the disposal of hazardous materials if it appears to him that the proposals would have an effect (notwithstanding that they relate only to England and Wales)—
- (a) on the management of hazardous materials located in Scotland; or
  - (b) on the use of a site in England and Wales for the non-processing treatment, the storage or the disposal of hazardous materials that could be brought to that site from Scotland.
- (5) If—
- (a) the Secretary of State approves what has been submitted to him, and
  - (b) the Scottish Ministers approve it so far as it relates to responsibilities of the NDA falling within section 6(2),
- it takes effect, in relation to the financial year to which it relates, as an approved plan of the NDA.

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- (6) If it is not so approved, the NDA must—
- (a) modify what was submitted; and
  - (b) re-submit it for approval to the Secretary of State and (if the case so requires) to the Scottish Ministers.
- (7) Where the NDA makes modifications of a plan for the purpose of resubmitting it, it must do so in accordance with any directions given to it—
- (a) in relation to any matter other than responsibilities of the NDA falling within section 6(2), by Secretary of State; or
  - (b) in relation to those responsibilities, by the Secretary of State and the Scottish Ministers, acting jointly.
- (8) Before giving a direction under sub-paragraph (7), the Secretary of State or (as the case may be) the Secretary of State and the Scottish Ministers must consult —
- (a) the NDA;
  - [<sup>F3</sup>(aa) the Office for Nuclear Regulation;]
  - (b) the Health and Safety Executive;
  - (c) the Environment Agency;
  - [<sup>F4</sup>(ca) the Natural Resources Body for Wales;]
  - (d) the Scottish Environment Protection Agency; and
  - (e) such persons with responsibilities in relation to nuclear security as have been nominated for the purposes of this sub-paragraph by the Secretary of State.
- (9) In this paragraph “non-processing treatment” has the same meaning as in section 6.

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#### Textual Amendments

- F3** Sch. 3 para. 3(8)(aa) inserted (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), **Sch. 12 para. 80(3)**; S.I. 2014/251, art. 4
- F4** Sch. 3 para. 3(8)(ca) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 428(3)** (with Sch. 7)
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#### Commencement Information

- I3** Sch. 3 para. 3 in force at 24.8.2004 by S.I. 2004/2184, art. 2(1), **Sch. 1**

#### *Publication of plan*

- 4 (1) The NDA must publish its plan for a financial year in the manner which, in its opinion, is most appropriate for bringing it to the attention of persons likely to be affected by it.
- (2) Where it revises that plan, it must so publish the revised plan.
- (3) The Secretary of State must lay before Parliament a copy of anything that the NDA publishes in accordance with sub-paragraph (1) or (2), and the Scottish Ministers must lay before the Scottish Parliament a copy of anything that is so published.
- (4) Where the NDA publishes a plan or revised plan under this paragraph it must, in the same manner, publish a report on the representations it received about what the plan or revision should contain.

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- (5) The NDA must exclude from what it publishes under this paragraph anything that it has been notified by the Secretary of State is a matter the publication of which he considers to be against the interests of national security.
- (6) The NDA may also exclude from what it publishes under this paragraph—
- (a) anything relating to the private affairs of an individual the publication of which the NDA considers would seriously and prejudicially affect the interests of that individual; and
  - (b) anything of a commercial nature relating specifically to the affairs of a particular body of persons the publication of which the NDA considers would seriously and prejudicially affect the interests of that body.
- (7) In determining whether to exclude anything from publication under subparagraph (6) the NDA must have regard to whether the harm that would be caused by publication is likely to outweigh the benefits.

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**Commencement Information**

**I4** [Sch. 3 para. 4](#) in force at 24.8.2004 by [S.I. 2004/2184](#), art. 2(1), [Sch. 1](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 137(3)(c)-(e) inserted by [2011 c. 16 s. 117\(b\)](#)
- s. 173(2C) inserted by [2023 c. 52 Sch. 14 para. 10](#)
- Sch. 22 para. 4(1A) inserted by [2023 c. 52 Sch. 14 para. 11\(2\)\(b\)](#)