Energy Act 2013

2013 CHAPTER 32

PART 3

NUCLEAR REGULATION

CHAPTER 4

FUNCTIONS OF THE ONR

Functions of ONR: general

78 Principal function

(1) The ONR must do whatever it considers appropriate for the ONR's purposes.

(2) That includes, so far as it considers appropriate, assisting and encouraging others to further those purposes.

79 Codes of practice

(1) The ONR may, in accordance with section 80—

(a) issue codes of practice giving practical guidance as to the requirements of any provision of the relevant statutory provisions;

(b) revise or withdraw a code of practice issued under this section.

(2) A code of practice (including a revised code) must specify the relevant statutory provisions to which it relates.

(3) References in this Part to an approved code of practice are references to a code issued under this section as it has effect for the time being.

(4) A person's failure to observe any provision of an approved code of practice does not of itself make the person liable to any civil or criminal proceedings.

(5) But subsections (6) to (8) apply to any proceedings for an offence where—

(a) the offence consists of failing to comply with any requirement or prohibition imposed by or under any of the relevant statutory provisions, and

(b) at the time of the alleged failure, there was an approved code of practice relating to the provision.

(6) Any provision of the code of practice which appears to the court to be relevant to the alleged offence is admissible in evidence in the proceedings.

(7) Where—

(a) in order to establish that the defendant failed to comply with the requirement or prohibition, the prosecution must prove any matter,

(b) the court is satisfied that a provision of the code of practice is relevant to that matter, and

(c) the prosecution prove that, at a material time, the defendant failed to observe that provision of the code of practice,

that matter is to be taken as proved unless the defendant proves that the requirement or prohibition was complied with in some other way.

(8) A document purporting to be an approved code of practice is to be taken to be such an approved code unless the contrary is proved.

80 Procedure for issue, revision or withdrawal of codes of practice

(1) The ONR may—

(a) issue or revise a code of practice under section 79 only in accordance with subsection (8);

(b) withdraw a code of practice under that section only in accordance with subsection (11).

(2) Before issuing, or revising or withdrawing, a code of practice, the ONR must submit a proposal to the Secretary of State.

(3) Before submitting a proposal to the Secretary of State the ONR must consult—

(a) any government department or other person that the Secretary of State has directed the ONR to consult, and

(b) any other government department or other person that the ONR considers it appropriate to consult,

about the proposal.

(4) A direction under subsection (3)(a) may be general or may relate to a particular code, or codes of a particular kind.

(5) A proposal for issuing or revising a code of practice must include a draft code of practice or, as the case may be, proposed revisions of a code of practice.

(6) Where the ONR submits a proposal for issuing or revising a code of practice to the Secretary of State, the Secretary of State may approve the draft code of practice, or proposed revisions, as the case may be—

(a) without modification, or

(b) with the consent of the ONR, with modifications.

(7) If the Secretary of State approves the draft code or proposed revisions, the Secretary of State must lay before Parliament the draft code or proposed revisions in the form approved.

(8) Where—

(a) the Secretary of State has laid a draft code or proposed revisions of a code before Parliament, and

(b) no negative resolution is made within the 40-day period,

the ONR may issue the code in the form of the draft laid before Parliament or, as the case may be, make the proposed revisions in the form so laid.

(9) For the purpose of subsection (8)—

(a) a "negative resolution", in relation to a draft code or proposed revisions, means a resolution of either House of Parliament not to approve the draft code or proposed revisions;

(b) the "40-day period", in relation to a draft of a code or proposed revisions, means the period of 40 days beginning with the day on which the draft is laid before Parliament (or, if it is not laid before each House of Parliament on the same day, the later of the 2 days on which it is laid).

(10) For the purposes of calculating the 40-day period, no account is to be taken of any period during which—

(a) Parliament is dissolved or prorogued, or

(b) both Houses are adjourned for more than 4 days.

(11) Where—

(a) the ONR submits to the Secretary of State a proposal for the withdrawal of a code of practice, and

(b) the Secretary of State approves the proposal,

it may withdraw the code.

(12) The ONR must—

(a) publish any code of practice issued under section 79;

(b) when it revises such a code, publish—

(i) a notice to that effect, and

(ii) a copy of the revised code;

(c) when it withdraws such a code, publish a notice to that effect.

81 Proposals about orders and regulations

(1) The ONR may from time to time—

(a) submit proposals to the Secretary of State for—

(i) nuclear regulations,

(ii) regulations under section 85,

(iii) regulations under section 101,

(iv) health and safety fees regulations, or

(v) orders or regulations under a relevant enactment;

(b) submit proposals to the Health and Safety Executive for relevant health and safety regulations.

(2) In this section—

"health and safety fees regulations" means regulations under section 43(2) of the 1974 Act in relation to fees payable for or in connection with the performance of a function by or on behalf of—

(a) the ONR, or

(b) a health and safety inspector;

"relevant enactment" means—

(a) section 3 of the Nuclear Safeguards and Electricity (Finance) Act 1978 (regulations for giving effect to certain provisions of Safeguards Agreement);

(b) section 3 of the Nuclear Safeguards Act 2000 (identifying persons who have information);

(c) section 5(3) of that Act (rights of access for Agency inspectors);

(d) section 80 of the Anti-terrorism, Crime and Security Act 2001 (prohibition of disclosures of uranium enrichment technology);

"relevant health and safety regulations" means regulations under section 15 of the 1974 Act so far as they can be made for the nuclear site health and safety purposes.

(3) Before submitting any such proposal, the ONR must consult—

(a) any government department or other person that the Secretary of State has directed the ONR to consult, and

(b) any other government department or other person that the ONR considers it appropriate to consult.

(4) A direction under subsection (3)(a) may be general or may relate to a particular proposal, or to proposals of a particular kind.

82 Enforcement of relevant statutory provisions

(1) The ONR must make adequate arrangements for the enforcement of the relevant statutory provisions.

(2) In this Part, "relevant statutory provisions" means—

(a) the provisions of—

this Part, and

nuclear regulations;

(b) the provisions made by or under the following sections of the Nuclear Installations Act 1965, so far as they have effect in England and Wales or Scotland—

section 1;

sections 3 to 6;

section 22;

section 24A; and

(c) the provisions of the Nuclear Safeguards Act 2000.

83 Inspectors

Schedule 8 (appointment and powers of inspectors) has effect.

84 Investigations

(1) The ONR may—

(a) investigate and make a report ("a special report") on any relevant matter, or

(b) authorise another person to do so.

(2) The ONR may publish or arrange for the publication of—

(a) a special report, or

(b) so much of a special report as the ONR considers appropriate.

(3) In this section "relevant matter" means any accident, occurrence, situation or other matter which the ONR considers it necessary or desirable to investigate—

(a) for any of the ONR's purposes, or

(b) with a view to the making of—

(i) nuclear regulations, or

(ii) regulations under section 15 of the 1974 Act (health and safety regulations) so far as they can be made for the nuclear site health and safety purposes.

(4) The ONR may pay such remuneration, expenses and allowances as it may determine to a person who—

(a) is not a member or member of staff of the ONR, and

(b) investigates a relevant matter or makes a special report under subsection (1), or assists in doing so.

(5) The ONR may make such payments as it may determine to meet the other costs (if any) of an investigation or special report under subsection (1).

(6) The ONR must consult the Office of Rail Regulation before taking any step under subsection (1) in relation to a matter which appears to the ONR to be, or likely to be, relevant to the railway safety purposes (within the meaning given in paragraph 1 of Schedule 3 to the Railways Act 2005).

(7) Subsection (2) is subject to section 94.

85 Inquiries

(1) The ONR may, with the consent of the Secretary of State, direct an inquiry to be held into any matter if it considers the inquiry necessary or desirable for any of the ONR's purposes.

(2) In this Part "ONR inquiry" means an inquiry under this section.

(3) An ONR inquiry must be held in accordance with regulations made by the Secretary of State.

(4) Except as provided by the regulations—

(a) an ONR inquiry is to be held in public; and

(b) any report made by the person holding an ONR inquiry is to be published.

(5) The regulations may in particular make provision—

(a) conferring on the person holding an ONR inquiry and any person assisting that person—

(i) powers of entry and inspection;

(ii) powers of summoning witnesses to give evidence or produce documents;

(iii) power to take evidence on oath and to administer oaths;

(iv) power to require the making of declarations;

(b) as to circumstances in which—

(i) an ONR inquiry or any part of it is to be held in private;

(ii) any report, or part of a report, made by the person holding an ONR inquiry is not to be published;

(c) conferring functions on the ONR or the Secretary of State;

(d) creating summary offences.

(6) An offence under the regulations may be made punishable with—

(a) in England and Wales, a fine (or a fine not exceeding an amount specified, which must not exceed level 4 on the standard scale), or

(b) in Scotland or Northern Ireland, a fine not exceeding the amount specified, which must not exceed level 5 on the standard scale.

(7) Subsection (8) applies where—

(a) the ONR directs an ONR inquiry to be held into a matter arising in Scotland, and

(b) the matter in question causes the death of a person.

(8) Unless the Lord Advocate otherwise directs, no inquiry is to be held with regard to the death of that person under the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976.

86 Inquiries: payments and charges

(1) The ONR may pay such remuneration, expenses and allowances as it may determine to—

(a) a person holding an ONR inquiry;

(b) any assessor appointed to assist a person holding an ONR inquiry.

(2) The ONR may pay to persons attending an ONR inquiry as witnesses such expenses as it may determine.

(3) The ONR may make such payments as it may determine to meet the other costs (if any) of an ONR inquiry.

(4) The ONR may require such person or persons to make such payments to it as it considers appropriate in connection with an ONR inquiry.

(5) The aggregate of the payments required under subsection (4) must not exceed the ONR's costs that are attributable to the ONR inquiry.

(6) No payment may be required under subsection (4) except with the consent of the Secretary of State.