



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.

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- (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.

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- (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.

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(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;

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- (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.

Other functions

87 Provision of information

- (1) The ONR must make such arrangements as it considers appropriate for providing information that it holds that is relevant to the ONR's purposes.
- (2) Arrangements that may be made under subsection (1) are arrangements of any description, including arrangements—
 - (a) for providing information to any person or category of persons (whether or not concerned with matters relevant to the ONR's purposes);
 - (b) for providing information on request or on the ONR's initiative;
 - (c) for providing only such information as the ONR considers appropriate.
- (3) This section is subject to section 94.

88 Research, training etc

- (1) The ONR—
 - (a) may carry out research in connection with the ONR's purposes, or arrange for such research to be carried out on its behalf, and
 - (b) must, if it considers it appropriate to do so, publish the results of any such research or arrange for them to be published.
- (2) The ONR may make payments for research to be carried out in connection with the ONR's purposes and for the dissemination of information derived from such research.
- (3) The ONR may provide, or make arrangements for the provision of, training to any person in connection with the ONR's purposes.
- (4) Arrangements under subsection (3) may include provision for payments to be made to the ONR by or on behalf of—
 - (a) other parties to the arrangements,
 - (b) persons to whom the training is provided.

89 Provision of information or advice to relevant authorities

- (1) The ONR must, on request, provide a relevant authority with relevant information or relevant advice.
- (2) Relevant information is information about the ONR's activities which is requested—
 - (a) in the case of information requested by a Minister of the Crown—
 - (i) for the purpose of monitoring the ONR's performance of its functions,
or
 - (ii) for the purpose of any proceedings in Parliament,
 - (b) in any case, in connection with any matter with which the relevant authority requesting it is concerned.
- (3) The reference in subsection (2) to the ONR's activities includes a reference to—
 - (a) the activities of inspectors appointed by the ONR under—
 - (i) Schedule 8,
 - (ii) section 19 of the 1974 Act, or

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- (iii) Article 26 of the Regulatory Reform (Fire Safety) Order 2005 ([S.I. 2005/1541](#)),
in their capacity as such inspectors, and
 - (b) the activities of enforcing officers appointed by the ONR under section 61(3) of the Fire (Scotland) Act 2005 ([asp. 5](#)) in their capacity as such enforcing officers.
- (4) Relevant advice is advice on a matter with which the relevant authority requesting it is concerned where the matter—
- (a) is relevant to the ONR’s purposes, or
 - (b) is one on which expert advice is obtainable from any member or member of staff of the ONR.
- (5) The ONR may require a relevant authority to whom information or advice is provided under subsection (1) to pay a fee in respect of the ONR’s costs reasonably incurred in providing the authority with—
- (a) relevant information requested under subsection (2)(b), or
 - (b) relevant advice.
- (6) The Secretary of State may by regulations provide that subsection (5) is not to apply in particular cases or classes of case or in particular circumstances.
- (7) The duty under subsection (1) is in addition to any other duty or power of the ONR to provide information or advice.
- (8) In this section “relevant authority” means any of the following—
- (a) a Minister of the Crown;
 - (b) the Scottish Ministers;
 - (c) the Welsh Ministers;
 - (d) a Northern Ireland Department;
 - (e) the Health and Safety Executive;
 - (f) the Health and Safety Executive for Northern Ireland;
 - (g) the Civil Aviation Authority;
 - (h) the Office of Rail Regulation.

90 Arrangements with government departments etc

- (1) If the condition in subsection (2) is met, the ONR may enter into an agreement with a Minister of the Crown, a government department or a public authority for the ONR to perform any function exercisable by the Minister, department or authority.
- (2) The condition is that—
- (a) the function is—
 - (i) a function of the Health and Safety Executive of investigating or making a special report under section 14 of the 1974 Act, or
 - (ii) a function of the Office of Rail Regulation of investigating or making a special report under paragraph 4 of Schedule 3 to the Railways Act 2005, or
 - (b) the Secretary of State considers that the function in question can appropriately be performed by the ONR.
- (3) The functions to which an agreement under subsection (1) may relate—

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- (a) in the case of an agreement with a Minister of the Crown, include a function not conferred by an enactment;
 - (b) do not include any power to make regulations or other instruments of a legislative character.
- (4) An agreement under subsection (1) may provide for functions to be performed with or without payment.
- (5) The ONR may provide services or facilities, with or without payment, otherwise than for the ONR's purposes, to a government department or public authority in connection with the exercise of that department's or authority's functions.

91 Provision of services or facilities

- (1) The ONR may provide services and facilities for the ONR's purposes to any person.
- (2) The ONR may, with the consent of the Secretary of State, provide any relevant services to any person, whether or not in the United Kingdom.
- (3) In subsection (2), "relevant services" means services which—
- (a) are not relevant to the ONR's purposes, but
 - (b) are in a field in which any member or member of staff of the ONR has particular expertise.
- (4) The Secretary of State may give consent for the purposes of subsection (2)—
- (a) in relation to particular arrangements for the provision of services, or
 - (b) generally in relation to such arrangements of a particular description.
- (5) Arrangements for the provision of services to a person under subsection (2) are to be on such terms as to payment as that person and the ONR may agree.

Exercise of functions: general

92 Directions from Secretary of State

- (1) The Secretary of State may give the ONR a direction as to the exercise by it of—
- (a) its functions generally, or
 - (b) any of its functions specifically.
- (2) A direction given by the Secretary of State under subsection (1)—
- (a) may modify a function of the ONR, but
 - (b) must not confer functions on the ONR (other than a function of which it was deprived by a previous direction given under this section).
- (3) The Secretary of State may give the ONR such directions as appear to the Secretary of State to be necessary or desirable in the interests of national security.
- (4) A direction given by the Secretary of State under subsection (3) may—
- (a) modify a function of the ONR,
 - (b) confer a function on the ONR.
- (5) A direction under subsection (1) or (3) must not be given in relation to the exercise of a regulatory function in a particular case.

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- (6) If the Secretary of State is satisfied that there are exceptional circumstances relating to national security which justify giving a direction under this subsection, the Secretary of State may give the ONR a direction as to the exercise by the ONR of a regulatory function in a particular case.
- (7) A direction given under subsection (6) must be for the nuclear security purposes.
- (8) The Secretary of State must lay before Parliament a copy of any direction given under this section.
- (9) Subsection (8) does not apply to a direction under subsection (6) if the Secretary of State considers that publishing the direction would be contrary to the interests of national security; but, in that event, the Secretary of State must lay before Parliament a memorandum stating that such a direction has been given and the date on which it was given.

93 Compliance with nuclear safeguards obligations

- (1) The ONR must do such things as it considers best calculated to secure compliance by the United Kingdom or, as the case may be, to enable or facilitate compliance by a Minister of the Crown, with the safeguards obligations.
- (2) For the purposes of this Part “the safeguards obligations” are—
 - (a) Articles 77 to 85 of the Treaty establishing the European Atomic Energy Community, signed at Rome on 25 March 1957,
 - (b) the agreement made on 6 September 1976 between the United Kingdom, the European Atomic Energy Community and the International Atomic Energy Agency for the application of safeguards in the United Kingdom in connection with the Treaty on the Non-Proliferation of Nuclear Weapons,
 - (c) the protocol signed at Vienna on 22 September 1998 additional to the agreement mentioned in paragraph (b), and
 - (d) such other obligations, agreements or arrangements relating to nuclear safeguards as may be specified in a notice given to the ONR by the Secretary of State;

and any reference in paragraphs (a) to (c) to a treaty, agreement or protocol is to it as it has effect for the time being.
- (3) The Secretary of State may vary or revoke a notice given under subsection (2)(d) by giving a further notice to the ONR.
- (4) Before giving a notice under this section, the Secretary of State must consult the ONR.
- (5) The ONR must publish any notice given under this section.
- (6) Subsection (1) is not to be taken to affect the generality of section 78.

94 Consent of Secretary of State for certain communications

- (1) The ONR must not issue any communication to which this section applies except with the consent of the Secretary of State.
- (2) This section applies to—
 - (a) any—
 - (i) security guidance, or

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(ii) statement of the ONR’s nuclear security policy,
that the ONR considers concerns any matter to which any government policy on national security relates;

- (b) any other communication of a description that the Secretary of State has directed should be submitted to the Secretary of State before being issued.

This is subject to subsection (3).

- (3) This section does not apply to—

- (a) a code of practice issued under section 79;
(b) the ONR’s strategy or annual plan or a report under paragraph 24 of Schedule 7;
(c) advice given in a particular case.

- (4) In this section—

“government policy on national security” means any current policy which relates to national security and—

- (a) has been published by or on behalf of Her Majesty’s Government, or
(b) has been notified to the ONR by the Secretary of State;

“security guidance” means any guidance to which the ONR’s nuclear security policy is relevant;

“the ONR’s nuclear security policy” means the ONR’s policy with respect to the exercise of its functions, or the functions of inspectors, so far as relevant to the nuclear security purposes.

- (5) The Secretary of State may give a direction under subsection (2)(b) in relation to a description of communication only if it appears to the Secretary of State—

- (a) that—
(i) a communication of that description might contain security guidance or information about the ONR’s nuclear security policy, or
(ii) the ONR’s nuclear security policy might otherwise be relevant to such a communication, and
(b) that such a communication might concern any matter to which any government policy on national security relates.

- (6) The Secretary of State may give the ONR a general consent in relation to the issue of a particular description of communication which would otherwise fall within subsection (2)(a).

- (7) If the Secretary of State has given such a general consent, the ONR need not seek the Secretary of State’s particular consent in relation to the issue of a communication of that description unless directed by the Secretary of State to do so.

95 Power to arrange for exercise of functions by others

- (1) If the condition in subsection (2) is satisfied, the ONR may make arrangements with a government department or other person for that department or person to perform any of the ONR’s functions, with or without payment.
- (2) That condition is that the Secretary of State considers that the function or functions in question can appropriately be performed by the government department or other person.

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96 Co-operation between ONR and Health and Safety Executive

- (1) The Health and Safety Executive and the ONR must enter into and maintain arrangements with each other for securing co-operation and the exchange of information in connection with the carrying out of any of their functions.
- (2) The Health and Safety Executive and the ONR must—
 - (a) review the arrangements from time to time, and
 - (b) revise them when they consider it appropriate to do so.

Information etc

97 Power to obtain information

- (1) The ONR may by notice require a person to provide information which the ONR needs for carrying out its functions.

This is subject to subsection (4).

- (2) A notice may require information to be provided—
 - (a) in a specified form or manner;
 - (b) at a specified time;
 - (c) in respect of a specified period.
- (3) In particular, a notice may require the person to whom it is given to make returns to the ONR containing information about matters specified in the notice at times or intervals so specified.
- (4) No notice may be given under this section which imposes a requirement which could be imposed by a notice served by the ONR under section 2 of the Nuclear Safeguards Act 2000 (information and records for purposes of the Additional Protocol).
- (5) It is an offence to refuse or fail to comply with a notice under this section.
- (6) A person who commits an offence under this section is liable—
 - (a) on summary conviction, to—
 - (i) in England and Wales, a fine, or
 - (ii) in Scotland or Northern Ireland, a fine not exceeding the statutory maximum, or
 - (b) on conviction on indictment, to a fine.

98 Powers of HMRC in relation to information

- (1) The Commissioners for Her Majesty's Revenue and Customs may disclose information about imports to—
 - (a) the ONR,
 - (b) an inspector, or
 - (c) a health and safety inspector,for the purpose of facilitating the ONR, inspector or health and safety inspector to carry out any function.

- (2) For this purpose, “information about imports” means information obtained or held by the Commissioners for the purposes of the exercise of their functions in relation to imports.
- (3) Information may be disclosed to the ONR, an inspector or a health and safety inspector under subsection (1) whether or not the disclosure of the information has been requested by or on behalf of the ONR, inspector or health and safety inspector.

99 HMRC power to seize articles etc to facilitate ONR and inspectors

- (1) An officer of Revenue and Customs may seize any imported article or substance and detain it for the purpose of facilitating the ONR or an inspector to carry out any function under the relevant statutory provisions.
- (2) It is an offence for a person intentionally to obstruct an officer of Revenue and Customs in the exercise of powers under subsection (1).
- (3) A person who commits an offence under subsection (2) is liable on summary conviction—
 - (a) to imprisonment for a term not exceeding 51 weeks (in England and Wales), 12 months (in Scotland) or 6 months (in Northern Ireland),
 - (b) to—
 - (i) in England and Wales, a fine, or
 - (ii) in Scotland or Northern Ireland, a fine not exceeding level 5 on the standard scale, or
 - (c) to both.
- (4) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for summary offences), the reference in subsection (3)(a), as it has effect in England and Wales, to 51 weeks is to be read as a reference to 6 months.
- (5) Anything seized and detained under subsection (1)—
 - (a) must not be detained for more than 2 working days, and
 - (b) must be dealt with during the period of detention in such manner as the Commissioners for Her Majesty’s Revenue and Customs may direct.
- (6) In subsection (5), the reference to 2 working days is a reference to the period of 48 hours beginning when the article or substance in question is seized but disregarding any time falling on a Saturday or Sunday, or on Good Friday or Christmas Day or on a day which is a bank holiday in the part of the United Kingdom where it is seized.

100 Disclosure of information

Schedule 9 (disclosure of information) has effect.

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

Fees

101 Fees

- (1) The Secretary of State may by regulations provide for fees to be payable for, or in connection with, the performance of any of the following functions (whenever conferred)—
 - (a) any function of the ONR or an inspector under any of the relevant statutory provisions;
 - (b) any function of the ONR under regulations under section 80 of the Anti-terrorism, Crime and Security Act 2001 (prohibition of disclosures of uranium enrichment technology);
 - (c) any function of any other person under any of the relevant statutory provisions.
- (2) The amount of any fee under regulations under this section must be—
 - (a) specified in the regulations, or
 - (b) determined by or in accordance with the regulations.
- (3) Regulations under this section may provide for the amounts of fees to be different in different cases and, in particular, for fees in respect of the same function to be of different amounts in different circumstances.
- (4) Regulations under this section may not provide for a fee to be payable by anyone in the capacity of—
 - an employee,
 - a person seeking employment,
 - a person training for employment, or
 - a person seeking training for employment.
- (5) For the purposes of subsection (4)—
 - (a) “employee” and “employment” have the same meanings as in Part 1 of the 1974 Act, and
 - (b) an industrial rehabilitation course provided by virtue of the Employment and Training Act 1973 is to be treated as training for employment.
- (6) Before making regulations under subsection (1), the Secretary of State must consult—
 - (a) the ONR, and
 - (b) such other persons (if any) as the Secretary of State considers it appropriate to consult.
- (7) Subsection (6)(a) does not apply if the regulations give effect, without modification, to any proposals submitted by the ONR under section 81(1)(a)(iii).