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STATUTORY INSTRUMENTS

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**2016 No. 562**

**The Nuclear Installations (Liability for Damage) Order 2016**

**Right to compensation with respect to injury, damage and significant impairment of the environment**

**11.**—(1) Section 12 of the 1965 Act (right to compensation) is amended as follows.

(2) For subsection (1) (when compensation is payable in accordance with section 16) substitute—

“(1) Where any injury or damage has been caused in breach of a duty imposed by section 7, 7B, 8, 9 or 10, compensation is payable in accordance with section 16 wherever the injury or damage was incurred.

(1A) Where any significant impairment of the environment has been caused in breach of a duty imposed by section 7, 7B, 8, 9 or 10, such compensation as may be claimed by virtue of section 11A(1) or 11G(1) or paragraph 1 of Schedule 1A is payable in accordance with section 16 wherever the impairment arises.

(1B) Where preventive measures are taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10, such compensation as may be claimed by virtue of section 11H(1) is payable in accordance with section 16 wherever the preventive measures are taken.

(1C) Where any injury to a person or damage to property is caused by preventive measures taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10, such compensation as may be claimed by virtue of section 11H(2) is payable in accordance with section 16 wherever the injury or damage was incurred.

(1D) Subsections (1) to (1C) are subject to—

- (a) section 13(1), (1C), (3), (4) and (4A),
- (b) section 15, and
- (c) section 17(1).

(1E) No liability other than that imposed by subsections (1) to (1C) may be incurred by any person in respect of—

- (a) injury, damage or significant impairment of the environment caused or threatened in breach of a duty imposed by section 7, 7B, 8, 9 or 10,
- (b) preventive measures taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10, or
- (c) injury or damage caused by preventive measures taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10.

(1F) Subsection (1E) is subject to—

- (a) subsections (1G), (3) and (4), and
- (b) section 21(2).

(1G) Subsection (1E) does not affect such liability as may be incurred in relation to—

- (a) a preventive measure or part of a preventive measure in respect of which a claim for compensation under section 11H(1) may not be made, or

- (b) such injury or damage as is excluded from a claim for compensation under this Act by section 11H(3).”
- (3) For subsection (2) substitute—
- “(2) Subject to subsection (3), any injury, damage or significant impairment of the environment which, though not caused in breach of a duty imposed by section 7, 7B, 8, 9 or 10, is not reasonably separable from injury, damage or significant impairment so caused, is to be deemed for the purposes of subsections (1) to (1C) to have been so caused.”
- (4) In subsection (3) (injury or damage attributable to breach of duty under the Act and another cause: double compensation not allowed)—
- (a) for “any injury or damage” substitute “any injury, damage or significant impairment of the environment”;
- (b) for “same injury or damage” substitute “same injury, damage or significant impairment of the environment”.
- (5) For subsection (3A)(1) (special provision for property on site) substitute—
- “(3A) Subject to subsection (4), where damage to any property has been caused which was not caused in breach of a duty imposed by section 7, 7B, 8, 9 or 10 but which would have been caused in breach of such a duty if in section 7(1A)(b) and (1C)(b) the words “other than the licensee” or in section 10(1)(b) the words “other than that operator” had not been enacted, no liability which, apart from this subsection, would have been incurred by any person in respect of that damage is to be so incurred except—
- (a) in pursuance of an agreement to incur liability in respect of such damage entered into in writing before the occurrence of the damage, or
- (b) where the damage was caused by an act or omission of that person done with intent to cause injury or damage.”
- (6) After subsection (3A) insert—
- “(3B) Subject to subsection (4), where compensation for damage to any property would have been payable by virtue of a claim under section 11H(2) if section 11H(4) had not been enacted, no liability which, apart from this subsection, would have been incurred by any person in respect of that damage is to be so incurred except—
- (a) in pursuance of an agreement to incur liability in respect of such damage entered into in writing before the occurrence of the damage, or
- (b) where the damage was caused by an act or omission done maliciously or negligently by the person whose breach of a duty imposed by section 7, 7B, 8, 9 or 10 is the reason for the claim.”
- (7) In subsection (4)(2) (saving for conventions on international carriage), for the words from “subsection (1)(b)” to “this section” substitute “subsection (1E), (3A) or (3B)”.
- (8) In the heading of section 12, omit “by virtue of ss. 7 to 10”.

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(1) 1965 c.57. Section 12(3A) was inserted by the Nuclear Installations Act 1969 c.18, section 1.

(2) Section 12(4) was amended by the Nuclear Installations Act 1969 c.18, section 1 and the Carriage of Goods by Sea Act 1971 c.19, section 6(3).