
STATUTORY INSTRUMENTS

2016 No. 562

The Nuclear Installations (Liability for Damage) Order 2016

Obligation of licensee or operator to arrange cover for compensation

- 32.**—(1) Section 19 of the 1965 Act (special cover for licensee’s liability) is amended as follows.
- (2) In subsection (1)(1) (provision by licensee for meeting claims in cover periods)—
- (a) for “subsection” substitute “subsections (2E) and”;
 - (b) for “the Minister” substitute “the appropriate authority”;
 - (c) after “the required amount” insert “appropriate to the category or categories into which any such claims would fall”;
 - (d) in paragraph (b), for “ten years” substitute “30 years”;
 - (e) in paragraph (c), for the words from “a claim made” to the end substitute “a claim made within the limitation period applicable to the claim (as defined for the purposes of section 18(1))”;
 - (f) in the words following paragraph (c), for “the relevant period aforesaid” substitute “that limitation period”.
- (3) For subsection (1A)(2) (meaning of “the required amount”, in relation to the provision to be made by a licensee for a cover period), substitute—
- “(1A) In this section—
- (a) “the required amount”, in relation to the provision to be made by a licensee in respect of a cover period for claims of a particular category, means an aggregate amount equal to the amount applying under paragraph (a), (c), (d) or (as the case may be) (f) of section 16(1) to the licensee, as licensee of the licensed site in question, in respect of an occurrence or event within that cover period;
 - (b) the category of a claim depends on which of paragraphs (a), (c), (d) and (f) of section 16(1) applies to the occurrence or event in respect of which the claim is made.
- (1B) Where the amount applying under section 16(1)(f) increases because one of the periods in section 16B comes to an end during a cover period, the aggregate amount that is the required amount as regards that cover period and claims in respect of such occurrences or events as fall within section 16(1)(f) increases accordingly.”
- (4) In subsection (2)(3) (definition of “cover period” as period of licensee’s responsibility), for “section 7(2)(b) or (c) of this Act” substitute “section 7(1B)(b)”.
- (5) For subsection (2A)(4) (effect of change in amounts under section 16 etc) substitute—

(1) Section 19(1) was amended by the Energy Act 2013 c.32, section 116 and Schedule 12, Part 2, paragraph 22 and the Energy Act 1983 c.25, section 27(4). The function conferred on the Minister by section 19(1) has been transferred, in so far as it is exercisable in or as regards Scotland, to the Scottish Ministers by S.I. 1999/1750, article 2, Schedule 1.

(2) Section 19(1A) was inserted by the Energy Act 1983 c.25, section 27(4).

(3) Section 19(2) was amended by the Atomic Energy Act 1989 c.7, section 4 and the Energy Act 1983 c.25, section 27(5).

(4) Section 19(2A) was inserted by the Energy Act 1983 c.25, section 27(5).

“(2A) When the amount applicable to a licensee, as licensee of a licensed site, under paragraph (a), (c), (d) or (f) of section 16(1) changes as a result of—

- (a) the coming into force of regulations made under section 16(1)(a), (c) or (d),
- (b) an alteration relating to the site which brings it within, or takes it outside, the description prescribed by regulations made under section 16(1)(a) or (c), or
- (c) the coming into force of an order made under section 16(1A),

the current cover period relating to that person as licensee of that site is to end and a new cover period is to begin.”

(6) After subsection (2B)(5) insert—

“(2C) The current cover period continues to run (and no new cover period begins) in a case where—

- (a) the licensee of a licensed site, not having been involved earlier in that cover period in such carriage of nuclear matter as would make the amount referred to in section 16(1)(d) applicable to the licensee, becomes involved in such carriage of nuclear matter as makes the amount referred to in section 16(1)(d) applicable to the licensee, or
- (b) the licensee of a licensed site, not having been involved earlier in that cover period in such carriage of nuclear matter as would make the amount referred to in section 16(1)(f) applicable to the licensee, becomes involved in such carriage of nuclear matter as makes the amount referred to in section 16(1)(f) applicable to the licensee.

(2D) The current cover period continues to run (and no new cover period begins) if the amount applicable under section 16(1)(f) to the licensee of a licensed site is increased because one of the periods in section 16B comes to an end.”

(7) After subsection (2D) (inserted by paragraph (6)) insert—

“(2E) If—

- (a) two or more amounts referred to in section 16(1) are applicable to a licensee, as licensee of a licensed site, in any cover period, and
- (b) the licensee, as licensee of that site, has made such provision as subsection (1) requires with respect to the greater or greatest of the corresponding required amounts,

the licensee is to be treated as having made such provision as subsection (1) requires with respect to the other, or each of the other, required amounts.”

(8) In subsection (3)(6) (provision not relying on insurance may be made for sites collectively), for “the Minister” substitute “the appropriate authority”.

(9) In subsection (4)(7) (discretion to direct that a new cover period begin)—

- (a) after “occurrence” insert “or event”;
- (b) after “occurrences” insert “or events”;
- (c) for “the Minister” substitute “the appropriate authority”;
- (d) for “he” substitute “the appropriate authority”.

(5) Section 19(2B) was inserted by the Atomic Energy Act 1989 c.7, section 4.

(6) The function conferred by section 19(3) has been transferred, in so far as it is exercisable in or as regards Scotland, to the Scottish Ministers by S.I. 1999/1750, article 2, Schedule 1.

(7) The function conferred by section 19(4) has been transferred, in so far as it is exercisable in or as regards Scotland, to the Scottish Ministers by S.I. 1999/1750, article 2, Schedule 1.

- (10) After subsection (5)(8) insert—
- “(6) Subsections (1) to (5) apply to operators of relevant disposal sites as they apply to licensees of licensed sites, but with the following modifications—
- (a) a reference to a licensed site is to be read as a reference to a relevant disposal site, except in subsection (3);
 - (b) the reference in subsection (1) to claims established against a licensee as licensee of that site by virtue of section 7 is to be read as a reference to claims established against an operator of a relevant disposal site as operator of that site by virtue of section 7B;
 - (c) a reference to the period of a licensee’s responsibility is to be read as a reference to the period indicated by section 7B(1)(f);
 - (d) the time deemed by virtue of subsection (2) to be included in the period of a licensee’s responsibility is to be read as the time, after the expiration of the period indicated by section 7B(1)(f), during which the operator might incur liability—
 - (i) by virtue of section 7B, so far as relating to section 7(1B)(b), or
 - (ii) by virtue of any relevant foreign law made for purposes corresponding to those of section 10;
 - (e) a reference to section 16(1)(a) is to be read as a reference to section 16(1)(b);
 - (f) a reference to section 16(1)(c) is to be disregarded;
 - (g) a reference to section 16(1)(d) is to be read as a reference to section 16(1)(e);
 - (h) subsection (2B) is to be read as if for the words from “on the grant” to the end there were substituted “if an appropriate permit relating to a relevant disposal site is replaced by another appropriate permit relating to the same site (or that site and a further area), and the permit is given to the same person”;
 - (i) a reference in subsection (3) to a licensed site is to be read as including a reference to a relevant disposal site.”
- (11) After subsection (6) (inserted by paragraph (10)) insert—
- “(7) In this section “appropriate authority” means—
- (a) in relation to England and Wales and Northern Ireland, the Secretary of State;
 - (b) in relation to Scotland, the Scottish Ministers.”
- (12) In the heading of the section—
- (a) for “Special cover” substitute “Cover”;
 - (b) after “licensee’s” insert “or operator’s”.
- (13) In section 25 (general provision as to offences), in subsection (1) (liability of directors of company etc)—
- (a) after “nuclear site licence” insert “or an operator of a relevant disposal site”;
 - (b) after “were the licensee” insert “or the operator”.

(8) Section 19(5)(a) was amended as regards England and Wales by the Magistrates Court Act 1980 c.43, section 32(2) and as regards Scotland by the Criminal Procedure (Scotland) Act 1975 c.21, section 289B(1); section 19(5)(b) was amended as regards England and Wales by the Criminal Law Act 1977 c.45, section 32(1) and as regards Scotland by the Criminal Procedure (Scotland) Act 1975 c.21, section 193A(1).