
STATUTORY INSTRUMENTS

2016 No. 562

The Nuclear Installations (Liability for Damage) Order 2016

Interpretation of the 1965 Act

38.—(1) Section 26 of the 1965 Act (interpretation) is amended as follows.

(2) In subsection (1)—

(a) in the definition of “occurrence”⁽¹⁾—

(i) for “16(1) and (1A),” substitute “11G(2)(c), 16(1), (1ZA), (1ZB), (1A), (3B) and (3C), 16B and 16C”;

(ii) after “of this Act” insert “and subsection (2B) of this section”;

(iii) omit the “and” following paragraph (a);

(iv) after paragraph (b) insert—

“and

(c) in the case of an occurrence which is one of a succession of occurrences, all of which are attributable to a particular happening and take place during one course of carriage, means all those occurrences collectively;”;

(b) in the definition of “relevant carriage”—

(i) after paragraph (a) (and the “or” following it) insert—

“(aa) an operator of a relevant disposal site; or”;

(ii) in paragraph (e), after “be used” insert “or was used or was intended to be used”;

(c) in the definition of “relevant site”—

(i) after paragraph (a) insert—

“(aa) a relevant disposal site at any time during the period that, in the case of any particular operator of the site, is indicated by section 7B(1)(f);”;

(ii) in paragraph (c), for “section 9” substitute “section 9(1) or (2)”;

(d) in the definition of “relevant territory”, for the words from “means” to the end substitute—

“means—

(a) a country that is a party to a relevant international agreement, or

(b) an overseas territory of such a country, if the relevant international agreement in question applies to the overseas territory;”;

(e) in the definition of “territorial limits”, for “waters” substitute “sea”.

(3) In subsection (1), at the appropriate place insert—

““appropriate permit” has the meaning given by section 7B;”;

““continental shelf”, in relation to a country or territory, means—

(1) The definition of “occurrence” was amended by the Energy Act 1983 c.25, section 27(7).

- (a) in the case of the United Kingdom, areas designated under section 1(7) of the Continental Shelf Act 1964;
- (b) in the case of a country or territory outside the United Kingdom, an area outside its territorial sea within which rights are exercisable in relation to the sea bed and subsoil and their natural resources by that country or territory;”;

““event”, in sections 11H, 16(1), (1ZA), (1ZB), (1A), (3B) and (3C), 16B, 16C, 17(3) and 18 and subsection (2B) of this section, means—

- (a) in the case of an event that continues for any time, the whole of that event;
- (b) in the case of an event which is one of a succession of events all attributable to a particular happening on a particular relevant site, all those events collectively;
- (c) in the case of an event which is one of a succession of events, all of which are attributable to a particular happening and take place during one course of carriage, all those events collectively;”;

““exclusive economic zone”, in relation to a country or territory, means the exclusive economic zone established in respect of the country or territory in accordance with international law, subject to subsection (1E);”;

““operator”, in relation to a relevant disposal site, has the meaning given by section 7B;”;

““overseas territory”, in relation to a country, means a territory, not part of the metropolitan territories of the country, for whose international relations the country is responsible;”;

““preventive measure” has the meaning given by section 11H;”;

““relevant disposal site” has the meaning given by section 7B;”;

““relevant maritime zone”, in relation to a country or territory, means—

- (a) the zone that has been established in respect of the country or territory as its exclusive economic zone and that has been identified in accordance with a relevant international agreement for the purposes of establishing jurisdiction under such an agreement, or
- (b) in the case of a country or territory in respect of which no exclusive economic zone is established, a zone that has been established in accordance with international law, being a zone adjacent to the territorial sea of that country or territory and extending no more than 200 nautical miles from the baselines from which that territorial sea is measured, and that has been identified in accordance with a relevant international agreement for the purposes of establishing jurisdiction under such an agreement;”;

““significant impairment of the environment” does not include damage to the environment which is not significant enough to be eligible for compensation under this Act as damage to property, whether or not the part affected is property in respect of which such compensation can be sought;”;

““special relevant claim” has the meaning given by section 16A;”;

““special relevant territory” has the meaning given by section 16A;”;

““trust” has the meaning given by Article 2 of the Convention on the Law Applicable to Trusts and on Their Recognition, concluded at The Hague on 1 July 1985.”

(4) After subsection (1) insert—

“(1A) A reference in this Act to a relevant reciprocating territory is a reference to—

- (a) a country that is not a party to a relevant international agreement but whose law—
 - (i) with a view to reciprocating benefits conferred as regards it by parties to that relevant international agreement, confers benefits as regards the parties to that relevant international agreement on a basis corresponding to the basis

required of a party to that agreement, disregarding for these purposes that agreement's limits on the amount of liability, and

- (ii) in that respect is based on principles identical to those of that relevant international agreement, or
 - (b) an overseas territory of a country falling within paragraph (a), if the law of the country or the territory provides for, or they together provide for, the benefits in question to be reciprocated on a basis that includes that territory.
- (1B) A reference in this Act to a qualifying territory is a reference to—
- (a) a relevant territory,
 - (b) a country in the case of which there is no nuclear installation—
 - (i) within its territorial limits or its exclusive economic zone or on its continental shelf, or
 - (ii) within the territorial limits or the exclusive economic zone of, or on the continental shelf of, any overseas territory of the country,
 - (c) an overseas territory of a country falling within paragraph (b),
 - (d) an overseas territory of a country that is a party to a relevant international agreement where the territory—
 - (i) is not a territory to which that agreement applies, and
 - (ii) has no nuclear installation within its territorial limits or its exclusive economic zone or on its continental shelf, or
 - (e) a relevant reciprocating territory.

(1C) In sections 13(5), 16(1ZB) and (3C), 16A(6)(b) and (9) and 17D(3), subsection (1A) of this section and paragraphs 2 and 3 of Schedule 1A, a reference to the law of a country or territory includes a reference to the law of part of it.

(1D) In the case of an overseas territory of a country (including an overseas territory of the United Kingdom), a reference in this Act to the law of the territory is to be treated as including a reference to law that has effect with respect to the territory.”

- (5) After subsection (1D) (inserted by paragraph (4)) insert—

“(1E) A reference in this Act to the exclusive economic zone of a country or territory, except in the definitions of “exclusive economic zone” and “relevant maritime zone” in subsection (1), includes a reference to any zone established in accordance with international law which—

- (a) is adjacent to the territorial sea of that country or territory, and
- (b) extends no more than 200 nautical miles from the baselines from which that territorial sea is measured, and

in which the country or territory exercises some of the rights that are exercisable under Part V of the United Nations Convention on the Law of the Sea (Cmnd 8941).”

- (6) After subsection (2) insert—

“(2A) If nuclear matter is in a place at a particular time as a consequence of an occurrence falling within section 7(1B) (including section 7(1B) as applied by section 7B, 8 or 9), 10(1) or 11, neither the presence of the matter in that place at that time nor any effect that the matter produces at that time is to be treated as a separate occurrence falling within any of those provisions.”

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

“(2B) In relation to an occurrence or event in respect of which one or more persons incur liability—

- (a) by virtue of section 7, 7B, 8, 9 or 10, or
- (b) by virtue of any relevant foreign law made for purposes corresponding to those of any of those sections,

a country or overseas territory of a country is not to be treated as a relevant territory, special relevant territory, relevant reciprocating territory or qualifying territory, unless it is such a country or territory at the time of the occurrence or event.”

(8) In subsection (3)—

- (a) in the opening words, after “as to whether” insert “at any given time”;
- (b) omit the “or” after paragraph (a);
- (c) omit the “or” after paragraph (b);
- (d) for paragraph (c) substitute—
 - “(c) any country or territory is a relevant territory;
 - (d) a relevant territory satisfies the conditions in section 16A(7);
 - (e) an overseas territory of a country is a territory to which a particular relevant international agreement applies;
 - (f) a country or territory is a relevant reciprocating territory;
 - (g) a place is within an exclusive economic zone or relevant maritime zone or on the continental shelf of a country or territory; or
 - (h) a country or territory has a nuclear installation within its territorial limits or its exclusive economic zone or on its continental shelf.”.