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STATUTORY INSTRUMENTS

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**2016 No. 562**

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

**Duties in respect of relevant disposal sites**

- 4.—(1) In section 6 of the 1965 Act<sup>(1)</sup> (list of licensed sites)—
- (a) in subsection (1), for the words from “showing” to the end substitute—  
“showing—
    - (a) every site in respect of which a nuclear site licence has been granted, and
    - (b) every site which is or was a relevant disposal site.”;
  - (b) in subsection (2)(a), after “part of a site” insert “falling within subsection (1)(a)”;
  - (c) after subsection (2)(a) insert—
    - “(aa) need not show any site or part of a site falling within subsection (1)(b) in the case of which—
      - (i) no appropriate permit is for the time being in force; and
      - (ii) 30 years have passed since the date on which the appropriate environment authority gave notice to an operator of the site that in the opinion of that authority there has ceased to be any danger from ionising radiations from anything on the site or, as the case may be, part of it.”;
  - (d) in the heading, after “licensed sites” insert “and relevant disposal sites”.
- (2) After section 7A of the 1965 Act (inserted by article 3) insert—

**“7B Duties in respect of relevant disposal sites**

- (1) Sections 7 and 7A apply in relation to the operator of a relevant disposal site as they apply in relation to the licensee of a licensed site, but with the following modifications—
- (a) a reference in those sections to a case in which a nuclear site licence has been granted is to be read as a reference to a case in which an appropriate permit has been granted;
  - (b) a reference in those sections to a site in respect of which a nuclear site licence has been granted is to be read as a reference to a relevant disposal site;
  - (c) a reference in those sections to the licensee of a licensed site is to be read as a reference to the operator of a relevant disposal site;
  - (d) a reference in those sections to a nuclear installation is to be read as a reference to an installation for the disposal of nuclear matter;
  - (e) paragraph (d) of section 7(3B) is to be disregarded;
  - (f) the reference in section 7(1B)(a) to the period of responsibility of a licensee under a nuclear site licence is to be read, when applied in relation to the operator of a relevant disposal site, as a reference to the period during which the operator is responsible for the relevant disposal site.

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<sup>(1)</sup> Section 6 was amended by the Energy Act 2013 c.32, section 116 and Schedule 12, Part 2, paragraph 21 (this amendment supersedes a previous amendment).

- (2) For the purposes of subsection (1)(f) an operator of a relevant disposal site is responsible for the relevant disposal site or any part of it during the period that—
- (a) begins—
    - (i) when article 4 of the Nuclear Installations (Liability for Damage) Order 2016 comes fully into force, or
    - (ii) if later, when the person becomes the operator of the site or, as the case may be, part of it, and
  - (b) ends with whichever of the dates in subsection (3) is the earliest.
- (3) The dates referred to in subsection (2)(b) are—
- (a) the date when the appropriate environment authority gives notice in writing to the operator of the site that in the opinion of that authority there has ceased to be any danger from ionising radiations from anything on the site or, as the case may be, part of it;
  - (b) the date when another person becomes the operator of the site or, as the case may be, part of it;
  - (c) the date when the following conditions have both become satisfied—
    - (i) the site or, as the case may be, part of it ceases to be used by the operator, and
    - (ii) the site or, as the case may be, that part of it is used or occupied by or on behalf of the Crown;
  - (d) the date when a nuclear site licence is granted in respect of the site or, as the case may be, part of it.
- (4) Subject to subsections (5), (6) and (7), a site is a relevant disposal site for the purposes of this section if—
- (a) it is used for the operation of an installation for the disposal of nuclear matter, and
  - (b) that use is a use for which the authority of an appropriate permit is required.
- (5) A site is not a relevant disposal site if it is—
- (a) a site or part of a site in respect of which a nuclear site licence has been granted,
  - (b) premises treated because of section 8 as a site for which a nuclear site licence has been granted or part of such premises, or
  - (c) a site or part of a site used or occupied by or on behalf of the Crown.
- (6) A site is not a relevant disposal site if—
- (a) any person using the site ceased, before article 4 of the Nuclear Installations (Liability for Damage) Order 2016 came fully into force, to accept on the site any nuclear matter for the purposes of disposal on the site, and
  - (b) no person using the site has, after article 4 came fully into force, accepted on the site any nuclear matter for the purposes of disposal on the site.
- (7) A site is not a relevant disposal site if the nuclear matter disposed of in the installation or installations on the site consists only of nuclear matter that is excepted matter.
- (8) If a site ceases to be a relevant disposal site, no liability may arise by virtue of this section after the time it ceases to be a relevant disposal site, except in relation to an occurrence or event that began to happen before that time.
- (9) In this section—
- “appropriate permit” means—

- (a) in relation to a site in England or Wales, a permit under regulations made under section 2 of the Pollution Prevention and Control Act 1999 authorising a person to use the site for the disposal of radioactive waste;
- (b) in relation to a site in Scotland or Northern Ireland, an authorisation under section 13 of the Radioactive Substances Act 1993 authorising a person to use the site for the disposal of radioactive waste;

“operator”, in relation to a relevant disposal site, means the person who uses the site to operate the installation by virtue of which the site is a relevant disposal site.”