
STATUTORY INSTRUMENTS

2003 No. 403

The Nuclear Industries Security Regulations 2003

PART 5

GENERAL AND SUPPLEMENTARY PROVISIONS

Application of provisions of the 1974 Act

23.—(1) The following provisions of the 1974 Act⁽¹⁾ apply for the purposes of these Regulations as they apply for the purposes of that Act, but with the modifications specified in paragraphs (3) to (6).

(2) Those provisions are—

- (a) section 19 (appointment of inspectors);
- (b) section 20 (powers of inspectors);
- (c) section 26 (power of enforcing authorities to indemnify their inspectors);
- (d) section 27(1) (obtaining of information);
- (e) section 28⁽²⁾ (restrictions on disclosure of information);
- (f) section 33(1)(e), (f), (h), (i), (j), (k), (l), (m), (n) and (o) ⁽³⁾ (offences);
- (g) section 35 (venue);
- (h) section 36 (offences due to fault of other person);
- (i) section 37 (offences by bodies corporate);
- (j) section 38 (restriction on institution of proceedings in England and Wales);
- (k) section 42 (power of court to order cause of offence to be remedied or, in certain cases, forfeiture);
- (l) section 46 (service of notices).

(3) In those sections—

- (a) references to an enforcing authority are to be taken as references to the Secretary of State with responsibility for Trade and Industry, and
- (b) references to the relevant statutory provisions are to be taken as references to section 77 of the 2001 Act (regulation of security of civil nuclear industry), these Regulations and any provisions of the 1974 Act which apply for the purposes of these Regulations.

(1) Most of these provisions are modified by [S.I. 1992/3073](#), regulation 28 and Schedule 6, paragraph 1.

(2) Section 28 is amended by the Local Government Act 1985 (c. 51), section 84 and Schedule 14, paragraph 52; the Consumer Protection Act 1987 (c. 43), section 36 and Schedule 3; the Education Reform Act 1988 (c. 40), section 237 and Schedule 13; the Water Act 1989 (c. 15), section 190 and Schedule 25, paragraph 46; the Environment Act 1995 (c. 25), sections 78 and 120, Schedule 10, paragraph 12, Schedule 22, paragraph 30 and Schedule 24; and the Greater London Authority Act 1999 (c. 29), section 328 and Schedule 29, paragraph 23.

(3) Section 33(1) is amended by the Employment Protection Act 1975 (c. 71), section 116 and Schedule 15, paragraph 9, and the Consumer Protection Act 1987 (c. 43), section 36 and Schedule 3, and in part repealed by the Forgery and Counterfeiting Act 1981 (c. 45), section 30 and Schedule.

- (4) In section 20 (powers of inspectors)—
- (a) in subsection (2)(a) for the words “which in his opinion is or may be dangerous” there are substituted the words “where in his opinion delay would be prejudicial to ensuring effective security”,
 - (b) in subsection (2)(h) for the words from “being an article” to “safety” there are substituted the words “where it appears to him to be desirable to do so in the interests of ensuring effective security”, and
 - (c) in subsection (4) for the words “the safety of the State” there are substituted the words “national security”.
- (5) In section 27(1) (obtaining of information)—
- (a) in paragraph (a) for the words “the Commission may, with the consent of the Secretary of State,” there are substituted the words “the Secretary of State may”,
 - (b) in that paragraph, the words “to the Commission or, as the case may be,” are omitted, and
 - (c) the second sentence is omitted.
- (6) In section 38 (restriction on institution of proceedings in England and Wales) for the words from “an inspector” to the end there are substituted the words “the Secretary of State”.

Application of provisions of the 1978 Order

24.—(1) The following provisions of the 1978 Order⁽⁴⁾ apply for the purposes of these Regulations as they apply for the purposes of that Order, but with the modifications specified in paragraphs (3) to (6).

- (2) Those provisions are—
- (a) Article 21 (appointment of inspectors);
 - (b) Article 22 (powers of inspectors);
 - (c) Article 28 (power of enforcing authorities to indemnify their inspectors);
 - (d) Article 29(1) (obtaining of information);
 - (e) Article 30⁽⁵⁾ (restrictions on disclosure of information);
 - (f) Article 31(1)(e), (f), (h), (i), (j), (k), (l), (m), (n) and (o) ⁽⁶⁾ (offences);
 - (g) Article 33 (venue);
 - (h) Article 34 (offences due to fault of other person);
 - (i) Article 34A (offences by bodies corporate);
 - (j) Article 35 (restriction on institution of proceedings); and
 - (k) Article 39 (power of court to order cause of offence to be remedied and, in certain cases, forfeiture).
- (3) In those Articles—
- (a) references to “the enforcing authority” are to be taken as references to the Secretary of State with responsibility for Trade and Industry, and

⁽⁴⁾ Most of these provisions are modified by [S.I. 1992/3073](#), regulation 28 and Schedule 6, paragraph 2.

⁽⁵⁾ Article 30 is amended by [S.I. 1987/2049 \(N.I. 20\)](#), Article 28 and Schedule 2, and [S.I. 1998/2795 \(N.I. 18\)](#), Schedule 1, paragraph 8.

⁽⁶⁾ Article 31 is amended by [S.I. 1987/2049 \(N.I. 20\)](#), Article 28 and Schedule 2; [S.I. 1992/1728 \(N.I. 17\)](#), Article 6; and [S.I. 1996/1883 \(N.I. 15\)](#), Articles 9 and 13(3) and Schedule 5; and in part repealed by the Forgery and Counterfeiting Act 1981 (c. 45), section 30 and Schedule Part III; [S.I. 1988/595 \(N.I. 3\)](#) Article 10(1); [S.I. 1992/1728 \(N.I. 17\)](#), Articles 6, 8 and Schedule 2; and [S.I. 1998/2795 \(N.I. 18\)](#), Schedule 1, paragraph 15 and Schedule 2.

- (b) references to “the relevant statutory provisions” are to be taken as references to section 77 of the 2001 Act (regulation of security of civil nuclear industry), these Regulations and any provisions of the 1978 Order which apply for the purposes of these Regulations.
- (4) In Article 22 (powers of inspectors)—
 - (a) in paragraph (2)(a) for the words “which in his opinion is or may be dangerous” there are substituted the words “where in his opinion delay would be prejudicial to ensuring effective security”,
 - (b) in paragraph (2)(h) for the words from “being an article” to “safety” there are substituted the words “where it appears to him to be desirable to do so in the interests of ensuring effective security”,
 - (c) in paragraph (3) for the words “the Department concerned” there are substituted the words “the Secretary of State”, and
 - (d) in paragraph (4) for the words “the safety of the State” there are substituted the words “national security”.
- (5) In Article 29(1) (obtaining of information)—
 - (a) for the words “the Department concerned or the Executive” there are substituted the words “the enforcing authority”, and
 - (b) the words “to the Executive or, as the case may be,” are omitted.
- (6) In Article 35 (restriction on institution of proceedings) for the words from “an inspector” to the end there are substituted the words “the Secretary of State”.

Offences

25.—(1) If any person fails to comply with any provision of regulation 5, 7, 8, 9, 10, 11, 12, 13, 17, 18, 19, 20, 21, or 22, he shall be guilty of an offence.

(2) A person guilty of an offence under paragraph (1), under section 33 of the 1974 Act as it applies by virtue of regulation 23 or under Article 31 of the 1978 Order as it applies by virtue of regulation 24 is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both), and
- (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum (or both).

(3) Proceedings for an offence to which paragraph (2) applies that is committed outside the United Kingdom may be taken, and the offence may for incidental purposes be treated as having been committed, in any place in the United Kingdom.

Exclusion of defence premises and transports

26. These Regulations do not apply—

- (a) to any nuclear premises controlled or operated wholly or mainly for the purposes of the department of the Secretary of State with responsibility for defence, or
- (b) to any transport of nuclear material for the purposes of the department of the Secretary of State with responsibility for defence.

Transport by ship

27.—(1) These Regulations apply to transport in a United Kingdom ship whether or not that ship is in the territorial sea of the United Kingdom.

(2) These Regulations do not apply to transport in a ship that is not a United Kingdom ship, except that (subject to paragraphs (3) to (12)) Part 1 of these Regulations, regulations 18 to 21 and this Part apply to transport within the United Kingdom or its territorial sea in such a ship if the ship—

- (a) is proceeding to a port in the United Kingdom in order to enter it, or entering, leaving or proceeding from such a port, and is carrying nuclear material, or
- (b) is proceeding to such a port in order for nuclear material to be loaded on to it there.

(3) Part 1 of these Regulations, regulations 18 to 21 and this Part do not apply to transport in a ship that is not a United Kingdom ship and is owned by the Government of a country outside the United Kingdom or a department or agency of such a Government except at a time when such a ship is being used for commercial purposes.

(4) In relation to transport in a ship that is not a United Kingdom ship—

- (a) any obligation imposed by virtue of these Regulations (including any obligation arising under the 1974 Act as it applies by virtue of regulation 23 or under the 1978 Order as it applies by virtue of regulation 24) is to be regarded as an obligation that must be met in respect of the ship in question as a condition of its entry into the port in question (but without prejudice to the continuation of that obligation, in so far as it is capable of remaining operative, after it leaves the port), and
- (b) any offence to which regulation 25(2) applies is to be regarded as an offence constituted by a breach of such a condition in respect of the ship in question.

(5) In relation to transport in a ship that is not a United Kingdom ship, regulations 18 to 21 and 23 to 25 have effect with the following modifications.

(6) Regulation 18 applies—

- (a) with the substitution in paragraph (1) for the words “An approved carrier” of the words “A carrier”, and
- (b) with the omission in paragraph (5)(j) of the words from “the standards” to “or”.

(7) Regulation 19 applies—

- (a) with the substitution in paragraphs (1), (2), (6) and (7) for the words “Class A carrier” of the word “carrier”, and
- (b) with the omission in paragraph (5)(a) of the word “other”.

(8) Regulation 20 applies—

- (a) with the substitution in paragraphs (1) and (3) for the words “approved carrier” of the word “carrier”, and
- (b) with the substitution in paragraph (4) for the words “an approved carrier” of the words “a carrier”.

(9) Regulation 21(1) applies—

- (a) with the substitution for the words “An approved carrier” and “the approved carrier” of the words “A carrier” and “the carrier” respectively, and
- (b) with the omission of sub-paragraphs (c) and (d).

(10) Regulation 23 applies with the insertion after paragraph (5) of the following paragraph—

“(5A) At the beginning of section 33(1) (offences) there are inserted the words ‘Without prejudice to regulation 25(1) of the Nuclear Industries Security Regulations 2003, in any case where this section applies by virtue of regulation 27(2) of those Regulations and the ship enters or has entered the port in question or an attempt is or has been made for it to do so,’.

(11) Regulation 24 applies with the insertion after paragraph (5) of the following paragraph—

“(5A) At the beginning of Article 31(1) (offences) there are inserted the words ‘Without prejudice to regulation 25(1) of the Nuclear Industries Security Regulations 2003, in any case where this Article applies by virtue of regulation 27(2) of those Regulations and the ship enters or has entered the port in question or an attempt is or has been made for it to do so.’”.

(12) Regulation 25 applies with the substitution for paragraph (1) of the following paragraph—

“(1) If—

- (a) any person fails to comply with an obligation that, by virtue of regulation 27(4), is to be met in respect of a ship as a condition of its entry into a port in the United Kingdom, and
- (b) the ship enters or has entered the port or an attempt is or has been made for it to do so,

he shall be guilty of an offence.”.

(13) Notwithstanding anything in this regulation, nothing in these Regulations applies to acts done outside the United Kingdom by a person other than a United Kingdom person.

Application to hovercraft

28.—(1) Subject to paragraph (3), these Regulations apply as if any reference to a ship (other than in the expression “United Kingdom ship”) included a reference to a hovercraft.

(2) These Regulations apply to transport in a United Kingdom hovercraft if and only if the transport is—

- (a) within the United Kingdom or its territorial sea, or
- (b) to or from any nuclear premises in the United Kingdom.

(3) Paragraphs (2) to (13) of regulation 27 apply as if—

- (a) the references in paragraphs (2) to (5) of that regulation to a United Kingdom ship included references to a United Kingdom hovercraft,
- (b) the references to a ship in the words inserted in section 33(1) of the 1974 Act by paragraph (10) of that regulation and in Article 31(1) of the 1978 Order by paragraph (11) of that regulation included references to a hovercraft, and
- (c) the reference in paragraph (13) of that regulation to that regulation included references to paragraph (2) of this regulation.

(4) In this regulation—

“hovercraft” has the meaning given in section 4(1) of the Hovercraft Act 1968(7), and

“United Kingdom hovercraft” means a hovercraft registered under the Hovercraft (General) Order 1972(8).

(7) 1968 c. 59.

(8) S.I. 1972/674.