

SCHEDULE 1

Article 8(2)

Measures of reinstatement outside the United Kingdom

The following is the Schedule to be inserted as Schedule 1A to the 1965 Act—

“SCHEDULE 1A

MEASURES OF REINSTATEMENT OUTSIDE THE UNITED KINGDOM

Measures of reinstatement

1.—(1) Where as a result of a breach of a duty imposed by section 7, 7B, 8, 9 or 10 there is significant impairment of the environment within the territorial limits, in or above the exclusive economic zone, or on the continental shelf of a qualifying territory other than the United Kingdom, a person may make a claim under this Act for compensation in respect of the reasonable cost of measures of reinstatement relating to that impairment, to the extent that they are relevant measures of reinstatement.

(2) Sub-paragraph (1) is subject to paragraphs 2 and 3.

(3) A relevant measure of reinstatement, in relation to significant impairment of the environment, is a measure reasonably taken for the purpose of—

- (a) reinstating or restoring what has been destroyed or damaged as part of that impairment, or
- (b) establishing the equivalent of what has been destroyed or damaged as part of that impairment.

(4) A measure of reinstatement is reasonably taken for the purposes of this paragraph if taking that measure is appropriate and proportionate in the circumstances.

Persons able to take measures

2. No compensation under this Act is payable by virtue of a claim under paragraph 1 unless the person taking the relevant measures of reinstatement is entitled to take the measures in question under the law of the qualifying territory.

Approval of measures of reinstatement

3. Compensation under this Act is payable by virtue of a claim under paragraph 1 only if the claim relates to measures of reinstatement approved by a person who is competent to do so under any law of the qualifying territory made for purposes corresponding to section 11B (a “competent authority”).”

SCHEDULE 2

Article 39

Further amendments

PART 1

Primary legislation

Nuclear Installations Act 1969

1. The Nuclear Installations Act 1969(1) is repealed.

Congenital Disabilities (Civil Liability) Act 1976

2.—(1) Section 3 of the Congenital Disabilities (Civil Liability) Act 1976(2) (disabled birth due to radiation) is amended as follows.

- (2) In subsection (1), for the words from “respect of” to the end substitute—
“respect of—
 - (a) injury, damage or significant impairment of the environment caused by occurrences involving nuclear matter or the emission of ionising radiations, or
 - (b) injury or damage caused by preventive measures taken after a breach of duty under section 7, 7B, 8, 9 or 10 of that Act.”.
- (3) In subsection (3)—
 - (a) after “parents” insert “that is”;
 - (b) after “etc)” insert “or that is an injury falling within subsection (3A)”.
- (4) After subsection (3) insert—
“(3A) An injury falls within this subsection if—
 - (a) it is caused by ionising radiations, and
 - (b) exposure to those ionising radiations is the result of preventive measures having been taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10 of that Act.”.
- (5) In subsection (4)—
 - (a) for “13(6)” substitute “13(7)”;
 - (b) for the words from “reference” to “fault of” substitute “references in section 13(7) to a person’s act or omission were references to the act or omission of”.

Deregulation and Contracting Out Act 1994

3. In section 37 of the Deregulation and Contracting Out Act 1994(3) (power to repeal certain health and safety provisions etc), in subsection (10)—

- (a) in paragraph (a), for “6” substitute “5”;
- (b) after paragraph (a) (and before the “and”) insert—

(1) 1969 c.18.

(2) 1976 c.28.

(3) 1994 c.40. Section 37(10) was inserted by the Energy Act 2013 c.32, Schedule 12, paragraph 71(6).

“(aa) section 6 of that Act, so far as it relates to sites in respect of which nuclear site licences (within the meaning of that Act) have been granted.”.

Energy Act 2013

4. In section 82(2) of the Energy Act 2013(4) (meaning of “relevant statutory provisions”), in paragraph (b), for “sections 3 to 6;” substitute—

“sections 3 to 5;

section 6, so far as it relates to sites in respect of which nuclear site licences have been granted;”.

PART 2

Secondary legislation

The Safety Representatives and Safety Committees Regulations 1977

5. In regulation 2 of the Safety Representatives and Safety Committees Regulations 1977(5) (interpretation), in paragraph (1), in the definition of “relevant nuclear provisions”, in paragraph (a), for “3 to 6” substitute “3 to 5, 6 (so far as it relates to sites in respect of which nuclear site licences have been granted)”.

The Nuclear Installations (Increase of Operators’ Limits of Liability) Order 1994

6. The Nuclear Installations (Increase of Operators’ Limits of Liability) Order 1994(6) is revoked.

The Employers’ Liability (Compulsory Insurance) Regulations 1998

7.—(1) The Employers’ Liability (Compulsory Insurance) Regulations 1998(7) are amended as follows.

(2) In regulation 9(2) (employers exempted to an extent from the requirement to insure and maintain insurance), after “13” insert “, 13A”.

(3) In Schedule 2 (employers exempted from insurance requirement), after paragraph 13 insert—

“**13A.** Any operator of a relevant disposal site within the meaning of the Nuclear Installations Act 1965, in respect of any liability to pay compensation under that Act to any of the operator’s employees in respect of a breach of duty imposed on the operator by virtue of section 7B of that Act.”

The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999

8.—(1) The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999(8) is amended as follows.

(4) [2013 c.32](#).

(5) [S.I. 1977/500](#). The definition of “relevant nuclear provisions” in regulation 2(1) was inserted by [S.I. 2014/469](#), Schedule 3, paragraph 31. There are other amending instruments not relevant to this Order.

(6) [S.I. 1994/909](#).

(7) [S.I. 1998/2573](#). There are amending instruments not relevant to this Order.

(8) [S.I. 1999/1750](#). The entries for the 1965 Act in Schedules 1 and 3 were amended by the Energy Act [2013 c.32](#), Schedule 12, paragraph 30. There are other amending instruments not relevant to this Order.

(2) In Schedule 1 (enactments conferring functions transferred to the Scottish Ministers), in the entry for the 1965 Act—

- (a) in column 1, omit paragraphs (b), (c), (d) and (e);
- (b) in column 2, omit the entries relating to paragraphs (c) and (e).

(3) In Schedule 3 (enactments conferring functions to be exercised subject to agreement or consultation), in the entry for the 1965 Act, in column 1, omit the words from “sections” to “21(1A) and (3) and”.

The Radioactive Contaminated Land (Modification of Enactments) (England) Regulations 2006

9.—(1) The Radioactive Contaminated Land (Modification of Enactments) (England) Regulations 2006(9) are amended as follows.

(2) In regulation 5(2) (modification of section 78A of the Environmental Protection Act 1990), in the inserted section 78A(2A) (definition of “land contaminated by a nuclear occurrence”)—

- (a) in paragraph (a), after “7,” insert “7B,”;
- (b) in paragraph (b), for “7(1)(a) or (b)” substitute “7(1A)(b) or (1C)(b)”;
- (c) in paragraph (b), for “10(1)” substitute “10(1)(b)”;
- (d) after paragraph (b) (and before the “or”) insert—

“(ba) damage caused by preventive measures taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10 of the 1965 Act in respect of which a claim for compensation may be made under section 11H(2) of the 1965 Act or could have been made if section 11H(4) of the 1965 Act had not been enacted;”;

- (e) in paragraph (c)(i), for “16(1) and (2)” substitute “16(1), (1ZA), (1ZB), (2), (3B) or (3C)”.

(3) In regulation 17 (modification of section 78YB of the Environmental Protection Act 1990), in paragraph (3) (insertion of section 78YB(4A) to (4C))—

- (a) after inserted subsection (4A) insert—

“(4AA) Nothing in this Part applies in respect of land which, except for this subsection, would otherwise fall to be regarded as contaminated land within a relevant disposal site.”;
- (b) after inserted subsection (4B) insert—

“(4BA) Nothing in this Part applies in respect of land which, except for this subsection, would otherwise fall to be regarded as contaminated land within a site used by the Secretary of State for Defence for a purpose which, if section 7B of the 1965 Act applied to the Crown, would cause the site to be a relevant disposal site.”.

(4) In regulation 17(4), in the substituted section 78YB(5) (definitions), at the appropriate place insert—

““relevant disposal site” has the meaning given by section 7B of the 1965 Act.”

The Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006

10.—(1) The Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006(10) are amended as follows.

(9) *S.I. 2006/1379*. Regulation 5 was substituted by *S.I. 2007/3245*, regulation 3(2), and regulation 17 was substituted by *S.I. 2008/520*, regulation 2(3). There are other amending instruments not relevant to this Order.

(10) *S.I. 2006/2988 (W. 277)*. Regulation 5 was substituted by *S.I. 2007/3250*, regulation 3(3), and regulation 17 was substituted by *S.I. 2008/521*, regulation 2(3). There are other amending instruments not relevant to this Order.

(2) In regulation 5(2) (modification of section 78A of the Environmental Protection Act 1990), in the inserted section 78A(2A) (definition of “land contaminated by a nuclear occurrence”)—

- (a) in paragraph (a), after “7,” insert “7B,”;
- (b) in paragraph (b), for “7(1)(a) or (b)” substitute “7(1A)(b) or (1C)(b)”;
- (c) in paragraph (b), for “10(1)” substitute “10(1)(b)”;
- (d) after paragraph (b) (and before the “or”) insert—

“(ba) damage caused by preventive measures taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10 of the 1965 Act in respect of which a claim for compensation may be made under section 11H(2) of the 1965 Act or could have been made if section 11H(4) of the 1965 Act had not been enacted;”;

- (e) in paragraph (c)(i), for “16(1) and (2)” substitute “16(1), (1ZA), (1ZB), (2), (3B) or (3C)”.

(3) In regulation 17 (modification of section 78YB of the Environmental Protection Act 1990), in paragraph (3) (insertion of section 78YB(4A) to (4C))—

- (a) after inserted subsection (4A) insert—

“(4AA) Nothing in this Part applies in respect of land which, except for this subsection, would otherwise fall to be regarded as contaminated land within a relevant disposal site.”;

- (b) after inserted subsection (4B) insert—

“(4BA) Nothing in this Part applies in respect of land which, except for this subsection, would otherwise fall to be regarded as contaminated land within a site used by the Secretary of State for Defence for a purpose which, if section 7B of the 1965 Act applied to the Crown, would cause the site to be a relevant disposal site.”.

(4) In regulation 17(4), in the substituted section 78YB(5) (definitions), at the appropriate place insert—

““relevant disposal site” has the meaning given by section 7B of the 1965 Act.”

The Radioactive Contaminated Land (Scotland) Regulations 2007

11.—(1) The Radioactive Contaminated Land (Scotland) Regulations 2007(**11**) are amended as follows.

(2) In regulation 1(3) (interpretation), in the definition of “land contaminated by a nuclear occurrence”—

- (a) in paragraph (a), after “7,” insert “7B,”;
- (b) in paragraph (b), for “7(1)(a) or (b)” substitute “7(1A)(b) or (1C)(b)”;
- (c) in paragraph (b), for “10(1)” substitute “10(1)(b)”;
- (d) after paragraph (b) (and before the “or”) insert—

“(ba) damage caused by preventive measures taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10 of the 1965 Act in respect of which a claim for compensation may be made under section 11H(2) of the 1965 Act or could have been made if section 11H(4) of the 1965 Act had not been enacted;”;

- (e) in paragraph (c)(i), for “16(1) and (2)” substitute “16(1), (1ZA), (1ZB), (2), (3B) or (3C)”.

(3) In regulation 3(a) (insertion of section 78A(2ZA) to (2A) of the Environmental Protection Act 1990), in the inserted section 78A(2A) (definition of “land contaminated by a nuclear occurrence”)—

- (a) in paragraph (a), after “7,” insert “7B,”;

(11) *S.I. 2007/179*. Regulations 1(3), 3 and 15 were substituted by *S.I. 2007/3240*, regulation 3(2), (4) and (8) respectively. There are other amending instruments not relevant to this Order.

- (b) in paragraph (b), for “7(1)(a) or (b)” substitute “7(1A)(b) or (1C)(b)”;
 - (c) in paragraph (b), for “10(1)” substitute “10(1)(b)”;
 - (d) after paragraph (b) (and before the “or”) insert—
 - “(ba) damage caused by preventive measures taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10 of the 1965 Act in respect of which a claim for compensation may be made under section 11H(2) of the 1965 Act or could have been made if section 11H(4) of the 1965 Act had not been enacted;”;
 - (e) in paragraph (c)(i), for “16(1) and (2)” substitute “16(1), (1ZA), (1ZB), (2), (3B) or (3C)”.
- (4) In regulation 15 (modification of section 78YB of the Environmental Protection Act 1990)—
- (a) after the inserted section 78YB(5) insert—
 - “(5A) This Part does not apply in respect of contaminated land within a relevant disposal site.”;
 - (b) after the inserted section 78YB(6) insert—
 - “(6A) This Part does not apply in respect of contaminated land within a site used by the Secretary of State for Defence for a purpose which, if section 7B of the 1965 Act applied to the Crown, would cause the site to be a relevant disposal site.”;
 - (c) in the inserted section 78YB(8), for the definition of “nuclear site licence” and “period of responsibility” substitute—
 - ““nuclear site licence”, “period of responsibility” and “relevant disposal site” have the meanings given by the 1965 Act.”.