



# Energy Act 2004

## 2004 CHAPTER 20

### PART 1

#### THE CIVIL NUCLEAR INDUSTRY

### CHAPTER 1

#### NUCLEAR DECOMMISSIONING

##### *Establishment of NDA*

## 2 Constitution of NDA

- (1) The NDA—
  - (a) shall consist of not fewer than seven and not more than thirteen members; and
  - (b) shall have a membership comprising both non-executive members and executive members.
- (2) The non-executive members shall be—
  - (a) a chairman appointed by the Secretary of State; and
  - (b) a number of other persons appointed by the Secretary of State (after consultation with the chairman);and (subject to subsection (1)) it is for the Secretary of State to determine how many non-executive members there are to be in addition to the chairman.
- (3) The executive members shall be—
  - (a) a person appointed by the non-executive members to be the NDA's chief executive; and
  - (b) the other persons (if any) appointed by them (after consultation with the chief executive) to be executive members in addition to the chief executive;

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**Changes to legislation:** Energy Act 2004, Section 2 is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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- and it is for the non-executive members to determine (subject to subsection (8)) whether there are to be executive members in addition to the chief executive, and (if so) how many.
- (4) The approval of the Secretary of State is required for the appointment of the chief executive.
- (5) Before—
- (a) appointing a person to be the chairman or otherwise to be a non-executive member of the NDA, or
  - (b) approving the appointment of a person to be the chief executive,
- the Secretary of State must consult the Scottish Ministers.
- (6) Subsection (5) may be satisfied by consultation that took place wholly or partly before the commencement of this section.
- (7) If there are executive members in addition to the chief executive, each must be a member of the staff of the NDA.
- (8) Where the Secretary of State so provides by a direction to the NDA, the non-executive members must secure that the number of executive members in addition to the chief executive—
- (a) is not less than the minimum set by the direction; and
  - (b) does not exceed the maximum so set;
- and the direction must not set a maximum of more than three.
- (9) The Secretary of State must exercise his powers under this section to secure, so far as practicable, that the number of executive members is at all times less than the number of non-executive members.
- (10) Schedule 1 (which contains further provision about the constitution, staffing and proceedings of the NDA) has effect; and subsections (1) to (9) have effect subject to paragraph 4 of that Schedule.

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**Commencement Information**

**II** S. 2 in force at 27.7.2004 by S.I. 2004/1973, art. 2, Sch.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 137(3)(c)-(e) inserted by [2011 c. 16 s. 117\(b\)](#)
- s. 173(2C) inserted by [2023 c. 52 Sch. 14 para. 10](#)
- Sch. 22 para. 4(1A) inserted by [2023 c. 52 Sch. 14 para. 11\(2\)\(b\)](#)