

SCHEDULES

SCHEDULE 7

Section 77

THE OFFICE FOR NUCLEAR REGULATION

Status

- 1 (1) The ONR is not to be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (2) The ONR's property is not to be regarded as the property of, or property held on behalf of, the Crown.

Membership

- 2 (1) The ONR is to consist of—
 - (a) not more than 4 executive members, who are employees of the ONR, and
 - (b) not more than 7 non-executive members, who are not members of the ONR's staff.
- (2) References in this Part of this Act to members of the ONR's staff are to persons who—
 - (a) are employees of the ONR, or
 - (b) have been seconded to it.
- 3 The executive members consist of—
 - (a) the Chief Nuclear Inspector,
 - (b) the Chief Executive Officer, and
 - (c) not more than 2 other members (or not more than 3 other members, if the Chief Nuclear Inspector and the Chief Executive Officer are the same person) appointed by the ONR.
- 4 (1) The non-executive members consist of—
 - (a) a chair appointed by the Secretary of State,
 - (b) the member (if any) appointed under sub-paragraph (4), and
 - (c) not more than 5 other members appointed by the Secretary of State.
- (2) The Secretary of State must, so far as practicable, ensure that at any given time there are no fewer than 5 non-executive members of the ONR.
- (3) One non-executive member must have experience of, or expertise in, matters relevant to the ONR's nuclear security purposes.
- (4) The Health and Safety Executive may—
 - (a) appoint a non-executive member from among the members of the Health and Safety Executive (an "HSE member"), or
 - (b) authorise the Secretary of State to appoint a non-executive member.

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- (5) The Health and Safety Executive must notify the ONR and the Secretary of State whenever it appoints an HSE member.
- 5 Service as a member of the ONR is not service in the civil service of the State, but this is subject to paragraph 6.
- 6 Members of the ONR are to be regarded as Crown servants for the purposes of the Official Secrets Act 1989.

Terms of appointment

- 7 Subject to the following provisions of this Schedule, members of the ONR hold and vacate office in accordance with the terms of their respective appointments.
- 8 (1) The terms of a person's appointment as an executive member are to be determined by the ONR.
- (2) The terms of a person's appointment as a non-executive member, other than an HSE member, are to be determined by the Secretary of State.
- (3) The terms of a person's appointment as an HSE member are to be determined by the Health and Safety Executive.
- 9 (1) An executive member—
- (a) ceases to be a member of the ONR upon ceasing to be an employee of the ONR, and
- (b) may at any time resign from office by notice to the ONR.
- (2) A person who is—
- (a) the Chief Nuclear Inspector, or
- (b) the Chief Executive Officer,
- ceases to be a member of the ONR on ceasing to hold that appointment (unless the person was appointed as both Chief Nuclear Inspector and Chief Executive Officer and continues to hold one of those appointments).
- (3) A non-executive member other than an HSE member—
- (a) ceases to be a member of the ONR upon becoming a member of the ONR's staff, and
- (b) may at any time resign from office by notice to the Secretary of State.
- (4) An HSE member—
- (a) ceases to be a member of the ONR upon ceasing to be a member of the Health and Safety Executive, and
- (b) may at any time resign from office by notice to the Health and Safety Executive.
- 10 (1) The Secretary of State may by notice remove any non-executive member, other than an HSE member, from office.
- (2) A notice may not be given under sub-paragraph (1) unless at least one of the conditions in sub-paragraph (3) or (4) is met.
- (3) The conditions in this sub-paragraph are that the member—
- (a) has been absent from meetings of the ONR for a period longer than 6 months without the permission of the ONR;

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- (b) is an undischarged bankrupt or has had his or her estate sequestrated without being discharged;
 - (c) is a person in relation to whom a moratorium period under a debt relief order applies;
 - (d) is subject to a bankruptcy restrictions order or an interim bankruptcy restrictions order;
 - (e) is subject to a debt relief restrictions order or an interim debt relief restrictions order;
 - (f) has made an arrangement with his or her creditors, or has entered into a trust deed for creditors, or has made a composition contract with his or her creditors;
 - (g) is subject to a disqualification order or a disqualification undertaking under the Company Directors Disqualification Act 1986 or equivalent legislation in Northern Ireland;
 - (h) has been convicted of a criminal offence (but this does not apply in relation to any conviction which is a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974 or the Rehabilitation of Offenders (Northern Ireland) Order 1978 (S.I. 1978/1908 (N.I. 27))).
- (4) The conditions in this sub-paragraph are that the Secretary of State is satisfied that the member—
- (a) has a financial or other interest that is likely to affect prejudicially the carrying out of his or her functions as a member of the ONR;
 - (b) has been guilty of misbehaviour;
 - (c) is otherwise incapable of carrying out, or unfit to carry out, the functions of his or her office.
- (5) The Health and Safety Executive may by notice remove an HSE member from office.
- (6) The Health and Safety Executive must notify the ONR and the Secretary of State whenever an HSE member—
- (a) ceases to be a member of the Health and Safety Executive,
 - (b) resigns from office, or
 - (c) is removed from office.
- (7) In sub-paragraph (3) “debt relief order”, “debt relief restrictions order” and “interim debt relief restrictions order” mean the orders of those names made under—
- (a) Part 7A of the Insolvency Act 1986, or
 - (b) Part 7A of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).

Remuneration, allowances and pensions etc of non-executive members

- 11 (1) The ONR may pay to non-executive members other than an HSE member such remuneration as the Secretary of State may determine.
- (2) The ONR may pay to or in respect of the non-executive members such sums as the Secretary of State may determine by way of allowances and expenses.
- (3) The ONR may pay, or make provision for paying, to or in respect of the non-executive members other than an HSE member, such sums as the Secretary of State may determine in respect of pensions or gratuities.

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- (4) Where—
- (a) a person ceases, otherwise than on the expiry of his or her term of office, to be a non-executive member other than an HSE member, and
 - (b) it appears to the ONR that there are special circumstances that make it right for that person to receive compensation,
- the ONR may pay the person such amount by way of compensation as the Secretary of State may determine.
- (5) Where—
- (a) a non-executive member appointed under paragraph 2(3A) of Schedule 2 to the 1974 Act to be a member of the Health and Safety Executive (the “ONR member of the HSE”)—
 - (i) ceases to be the ONR member of the HSE otherwise than on the expiry of his or her term of office as ONR member of the HSE, but
 - (ii) does not cease to be a non-executive member of the ONR, and
 - (b) it appears to the ONR that there are special circumstances that make it right for that person to receive compensation,
- the ONR may make pay the person such amount by way of compensation as the Secretary of State may determine.

Employees and other members of staff

- 12 (1) The ONR may appoint persons to serve as its employees.
- (2) A person appointed to serve as an employee of the ONR is to be employed on such terms and conditions, including terms and conditions as to remuneration, as the ONR may determine.
- (3) One employee of the ONR is to be appointed as the Chief Nuclear Inspector.
- (4) One employee of the ONR is to be appointed as the Chief Executive Officer.
- (5) The appointment of the Chief Nuclear Inspector or the Chief Executive Officer also requires the approval of the Secretary of State.
- (6) A person may be both the Chief Nuclear Inspector and the Chief Executive Officer.
- (7) The ONR may make arrangements for persons to be seconded to the ONR to serve as members of the ONR’s staff.
- (8) A period of secondment to the ONR does not affect the continuity of a person’s employment with the employer from whose service he or she is seconded.
- 13 (1) The ONR may pay to or in respect of an employee sums by way of or in respect of allowances, expenses, pensions, gratuities or compensation for loss of employment.
- (2) The ONR may pay to or in respect of a person seconded to it sums by way of or in respect of allowances, expenses, pensions or gratuities.
- (3) An executive member may not take part in the determination of the amount of any remuneration, allowance, expense, pension, gratuity or compensation payable to or in respect of him or her.
- 14 (1) Service as an employee of the ONR is not service in the civil service of the State.

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- (2) A person employed in the civil service of the State continues to be employed in the civil service of the State during any period of secondment to the ONR.
 - (3) Members of the ONR’s staff are to be regarded as Crown servants for the purposes of the Official Secrets Act 1989.
 - (4) Employment by the ONR is not Crown employment for the purposes of the Trade Union and Labour Relations (Consolidation) Act 1992 (see section 273 of that Act).
- 15
- (1) The persons to whom section 1 of the Superannuation Act 1972 (persons to or in respect of whom benefits may be provided by schemes under that section) applies are to include the employees of the ONR.
 - (2) Accordingly, in Schedule 1 to that Act (employment to which superannuation schemes may extend), in the list of other bodies, at the appropriate place insert—
“Office for Nuclear Regulation.”
 - (3) The ONR must pay to the Minister for the Civil Service, at such times as that Minister may direct, such sums as that Minister may determine in respect of the increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under that Act.

Committees

- 16
- (1) The ONR may establish committees, and any committee may establish sub-committees.
 - (2) The members of a committee may include persons who are not members of the ONR or the ONR’s staff (and the members of a sub-committee of a committee may include persons who are not members of the committee or members of the ONR or the ONR’s staff).
 - (3) The ONR may make arrangements for the payment of such remuneration, allowances and expenses as it considers appropriate to any person who—
 - (a) is a member of a committee or sub-committee, but
 - (b) is not a member of the ONR or of the ONR’s staff.
 - (4) Payments made by the ONR under sub-paragraph (3) are to be of such amounts as may be determined by the Secretary of State.

Procedure

- 17
- (1) The ONR may make such provision as it considers appropriate to regulate—
 - (a) its own proceedings (including quorum), and
 - (b) the proceedings (including quorum) of its committees and sub-committees.
 - (2) The ONR may, to any extent, permit any of its committees and sub-committees to regulate their own proceedings (including quorum).
 - (3) The validity of any proceedings of the ONR is not affected by any vacancy among the members or by any defect in the appointment of a member.
 - (4) The ONR must from time to time publish a summary of its rules and procedures.

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Performance of functions

- 18 (1) The ONR may authorise—
- (a) a member of the ONR,
 - (b) a member of the ONR’s staff,
 - (c) a health and safety inspector, or
 - (d) a committee of the ONR,
- to do anything required or authorised to be done by the ONR (and such authorisation may include authorisation to exercise the power conferred on the ONR by this paragraph).
- (2) The ONR must give an authorisation or authorisations under this paragraph in respect of all its functions which consist of the exercise of a regulatory function in a particular case.
- (3) Only the following may be authorised under this paragraph to do anything in the exercise of a regulatory function in a particular case—
- (a) a member of the ONR’s staff;
 - (b) a health and safety inspector;
 - (c) a committee of the ONR of which every member is a member of the ONR’s staff or a health and safety inspector.
- (4) An authorisation under this paragraph—
- (a) may be general or specific;
 - (b) does not affect the ability of the ONR to exercise the function in question.
- (5) Any authorisations given by the ONR under this paragraph must be in writing.
- (6) The ONR must publish any authorisations which it gives under this paragraph.

Payment of allowances and expenses

- 19 The ONR may pay allowances or expenses to any person in connection with the performance of any of its functions.

Indemnities

- 20 (1) The ONR may, in the circumstances specified in sub-paragraph (2), indemnify persons who are ONR officers against all or any part of any liability which they incur in the execution, or purported execution, of their functions as such ONR officers.
- (2) Those circumstances are that the ONR is satisfied that the person in question honestly believed that the act giving rise to the liability—
- (a) was within the person’s relevant powers, and
 - (b) was one that the person was required or entitled to do by virtue of the person’s position as an ONR officer.
- (3) Sub-paragraph (1)—
- (a) applies only so far as the ONR is not otherwise required to indemnify ONR officers, and
 - (b) is not to be taken to affect any other powers that the ONR has to indemnify its members or members of staff or persons appointed by it.
- (4) In this paragraph—

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“liability” includes damages, costs and expenses (and a reference to liability incurred by a person includes a reference to any such sums which the person is ordered to pay);

“ONR officer” means—

- (a) an inspector appointed under Schedule 8;
- (b) an enforcing officer appointed by the ONR under section 61(3) of the Fire (Scotland) Act 2005 (asp. 5) (enforcing authorities);
- (c) an inspector appointed by the ONR under Article 26(1) of the Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541) (enforcement of Order);
- (d) a member of staff of the ONR who is authorised by the Secretary of State under section 4(2)(b) of the Employers’ Liability (Compulsory Insurance) Act 1969 (certificates of insurance);

“relevant powers”—

- (a) in relation to a person within paragraph (a), (b) or (c) of the definition of “ONR officer”, means the powers which the person has in the capacity of an inspector or enforcing officer of the kind in question;
- (b) in relation to a person within paragraph (d) of that definition, means the person’s powers under the Employers’ Liability (Compulsory Insurance) Act 1969.

Accounts

- 21 (1) It is the duty of the ONR—
- (a) to keep proper accounts and proper records in relation to the accounts;
 - (b) to prepare in respect of each financial year a statement of accounts in such form as the Secretary of State, with the approval of the Treasury, may direct;
 - (c) to send copies of the statement to the Secretary of State and the Comptroller and Auditor General before the end of November next following the financial year to which the statement relates.
- (2) The Comptroller and the Auditor General must examine, certify and report on the statement and must lay copies of the statement and of the report on it before Parliament.

Strategy

- 22 (1) The ONR must prepare a strategy for carrying out its functions, including any general priorities it will apply, or principal objectives to which it will have regard, in carrying out its functions.
- (2) The ONR must act in accordance with its strategy, or any revision of it, approved under sub-paragraph (7).
- (3) Before preparing or revising its strategy the ONR must consult such persons as it considers it appropriate to consult.
- (4) The first proposal for the ONR’s strategy must be submitted to the Secretary of State within 8 months beginning with the day on which this paragraph comes into force.
- (5) The ONR—
- (a) may review its strategy at any time, and

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- (b) must do so—
 - (i) within 5 years beginning with the day on which its strategy is first published, and
 - (ii) within 5 years beginning with the most recent review of its strategy.
- (6) The ONR—
 - (a) may revise its strategy following a review under sub-paragraph (5), and
 - (b) must submit any revision of its strategy to the Secretary of State.
- (7) The Secretary of State may approve the ONR’s strategy, or any revision of it, with or without modifications.
- (8) The Secretary of State must consult the ONR before approving with modifications the ONR’s strategy or any revision of it.

Annual plan

- 23
- (1) The ONR—
 - (a) must prepare, for each financial year, a plan for the performance during that year of its functions (“the annual plan”), and
 - (b) may revise the annual plan.
 - (2) The ONR must take all reasonable steps to act in accordance with the annual plan, or any revision of it, approved under sub-paragraph (4).
 - (3) The ONR must submit the proposed annual plan and any revision of it to the Secretary of State.
 - (4) The Secretary of State may approve the annual plan and any revision of it with or without modifications.
 - (5) The Secretary of State must consult the ONR before approving with modifications the ONR’s annual plan or any revision of it.

Reporting requirements of the ONR

- 24
- (1) As soon as reasonably practicable after the end of each financial year, the ONR must make a report to the Secretary of State on the performance of the ONR’s functions during the year.
 - (2) The report for a financial year must contain—
 - (a) a general description of what the ONR has done in the exercise of its functions during the year,
 - (b) a description of how, and the extent to which, what the ONR has done during the year has enabled it to—
 - (i) act in accordance with its strategy in force during the year, and
 - (ii) meet any objectives set out in its annual plan, and
 - (c) a description of any relevant services provided by the ONR during the year to any person, whether or not in the United Kingdom, under section 91(2) (provision of services or facilities).

Laying and publication

- 25 (1) This paragraph applies to—
- (a) the ONR’s strategy, and any revision of it, approved under paragraph 22(7),
 - (b) the ONR’s annual plan, and any revision of it, approved under paragraph 23(4), and
 - (c) a report made to the Secretary of State under paragraph 24.
- (2) The documents mentioned in sub-paragraph (1) are referred to in this paragraph as “relevant documents”.
- (3) The Secretary of State must lay a copy of each relevant document before Parliament, together with a statement as to whether any matter has been excluded from that copy in accordance with sub-paragraph (4).
- (4) If it appears to the Secretary of State, after consultation with the ONR, that the publication of any matter in a relevant document would be contrary to the interests of national security, the Secretary of State may exclude that matter from the copy of it as laid before Parliament.
- (5) The ONR must arrange for a relevant document to be published in the form in which it was laid before Parliament under sub-paragraph (3).

Payments and borrowing

- 26 (1) The Secretary of State must pay to the ONR such sums as are approved by the Treasury and as the Secretary of State considers appropriate for the purpose of enabling the ONR to perform its functions.
- (2) The ONR may, with the consent of the Secretary of State, borrow money.
- (3) The ONR may not borrow money if the effect of the borrowing would be to cause the aggregate amount outstanding in respect of the principal of sums borrowed by the ONR to be, or to remain, in excess of the ONR’s borrowing limit.
- (4) The ONR’s borrowing limit is £35 million.
- (5) The Secretary of State may by order amend sub-paragraph (4) so as to substitute, for the sum for the time being specified in that sub-paragraph, the sum specified in the order, which must not be—
- (a) less than £35 million, or
 - (b) greater than £80 million.
- (6) Before making an order under this paragraph, the Secretary of State must consult the ONR.

Supplementary powers

- 27 (1) The ONR may do anything which is calculated to facilitate, or is conducive or incidental to, the performance of its functions.
- (2) The power in sub-paragraph (1) is subject to any restrictions imposed by or under any provision of any enactment.

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Financial year

- 28 (1) In this Part of this Act “financial year” means a period of 12 months ending with 31st March.
- (2) But the first financial year of the ONR is—
- (a) the period beginning with the date on which section 77 comes into force and ending with the following 31st March, or
 - (b) if the Secretary of State so directs, such other period not exceeding 2 years as may be specified in the direction.