



# Nuclear Energy (Financing) Act 2022

## 2022 CHAPTER 15

### PART 3

#### SPECIAL ADMINISTRATION REGIME

##### *Licence modifications*

#### **35 Licence modifications: relevant licensee nuclear company administration**

- (1) The Secretary of State may modify—
  - (a) a condition of a relevant licensee nuclear company's relevant licence;
  - (b) a term of a relevant licensee nuclear company's relevant licence.
- (2) The Secretary of State may exercise the power under subsection (1) only—
  - (a) if an RLNC administration order is in force in relation to the relevant licensee nuclear company, and
  - (b) for the purpose of furthering the objective of a relevant licensee nuclear company administration.
- (3) When exercising the power under subsection (1), the Secretary of State must have regard to—
  - (a) the duties of the Secretary of State under sections 1 and 4(1)(b) of the Climate Change Act 2008 (carbon targets and budgets);
  - (b) the interests of existing and future consumers of electricity, including their interests in relation to the cost and security of supply of electricity;
  - (c) costs, expenditure or liabilities of any description that the relevant licensee nuclear company may reasonably be expected to incur in carrying out its activities;
  - (d) the need to secure that the relevant licensee nuclear company is able to finance its activities;
  - (e) the need to secure that the relevant licensee nuclear company has appropriate incentives in relation to the carrying out of its activities;
  - (f) such other matters as the Secretary of State considers appropriate.

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*Changes to legislation: There are currently no known outstanding effects for the Nuclear Energy (Financing) Act 2022, Cross Heading: Licence modifications. (See end of Document for details)*

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- (4) Modifications made under subsection (1)(a) may include, for example—
- (a) provision about the revenue that the relevant licensee nuclear company may receive in respect of its activities;
  - (b) provision about how the relevant licensee nuclear company’s revenue referred to in paragraph (a) is to be calculated;
  - (c) provision about the amounts that the relevant licensee nuclear company is entitled to receive, or is required to pay, under any revenue collection contract (within the meaning of Part 2) to which it is a party;
  - (d) provision requiring the relevant licensee nuclear company to co-operate with the Authority and to provide such information and assistance to the Authority as the Authority may require for the purposes of carrying out any of its functions;
  - (e) provision about RLNC administration orders, including provision about the raising of funds for the purpose of meeting expenses arising by virtue of such an order;
  - (f) provision about the disclosure or publication of information by the relevant licensee nuclear company.
- (5) The Secretary of State may modify—
- (a) the standard conditions incorporated in licences under section 6(1)(a) to (d) of the Electricity Act 1989 by virtue of section 8A of that Act;
  - (b) a document maintained in accordance with the conditions of licences under section 6(1)(a) to (d) of the Electricity Act 1989 or an agreement that gives effect to a document so maintained.
- (6) The Secretary of State may exercise the power under subsection (5) only if the Secretary of State considers it appropriate to do so in consequence of, or for purposes incidental or supplementary to, the making of a modification under subsection (1).
- (7) References in this section to the activities of a relevant licensee nuclear company are references to the company’s activities in relation to the design, construction, commissioning and operation of the nuclear energy generation project in respect of which it holds a relevant licence, including its activities in complying with any obligations it has under an approved funded decommissioning programme under Chapter 1 of Part 3 of the Energy Act 2008.

**Commencement Information**

- I1** S. 35 in force at Royal Assent for specified purposes, see [s. 44\(1\)\(c\)](#)  
**I2** S. 35 in force at 1.6.2022 in so far as not already in force, see [s. 44\(2\)\(c\)](#)

**36 Procedure etc relating to modifications under [section 35](#)**

- (1) Before making a modification under a power conferred by section [35\(1\)](#) or [\(5\)](#), the Secretary of State must consult—
- (a) the nuclear administrator (including as agent of the relevant licensee nuclear company),
  - (b) the Authority,
  - (c) the Office for Nuclear Regulation,
  - (d) where any part of the relevant site is in England, the Environment Agency,

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- (e) where any part of the relevant site is in Wales, the Welsh Ministers and Natural Resources Wales,
  - (f) where any part of the relevant site is in Scotland, the Scottish Ministers and the Scottish Environment Protection Agency,
  - (g) in the case of a modification under section 35(5), other holders of a licence being modified, and
  - (h) such other persons as the Secretary of State considers appropriate.
- (2) For the purposes of subsection (1), the “relevant site” is the site of the nuclear installation (within the meaning of the Nuclear Installations Act 1965) in respect of which the relevant licensee nuclear company holds a relevant licence.
- (3) The powers under section 35(1) and (5)—
- (a) may be exercised generally, only in relation to specified cases, or subject to exceptions (including provision for a case to be excepted only so long as specified conditions are satisfied);
  - (b) may be exercised differently for different purposes;
  - (c) include a power to make incidental, supplementary, consequential or transitional modifications.
- (4) Provision included in a licence, or in a document or agreement described in section 35(5)(b), by virtue of section 35(1) or (5)—
- (a) may make different provision for different purposes;
  - (b) need not relate to the activities authorised by the licence;
  - (c) may do anything authorised for licences of that type by section 7(4), (5)(a) or (6A) of the Electricity Act 1989.
- (5) The Secretary of State must publish details of any modifications made under section 35(1) or (5) as soon as reasonably practicable after they are made.
- (6) The Secretary of State may exclude from publication under subsection (5) anything the publication of which the Secretary of State considers—
- (a) would be likely to prejudice the commercial interests of any person, or
  - (b) would be contrary to the interests of national security.
- (7) If under section 35(5) the Secretary of State makes a modification of the standard conditions of a licence, the Authority must—
- (a) make the same modification of those standard conditions for the purposes of their incorporation in licences of that type granted after that time, and
  - (b) publish the modification.
- (8) A modification made under section 35(1) or (5) of part of a standard condition of a licence does not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of Part 1 of the Electricity Act 1989.

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#### Commencement Information

**I3** S. 36 in force at Royal Assent for specified purposes, see s. 44(1)(c)

**I4** S. 36 in force at 1.6.2022 in so far as not already in force, see s. 44(2)(c)

**Changes to legislation:**

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