



Energy Act 2023

2023 CHAPTER 52

PART 14

CIVIL NUCLEAR SECTOR

CHAPTER 1

CIVIL NUCLEAR SITES

PROSPECTIVE

302 Application to the territorial sea of requirement for nuclear site licence

- (1) The Nuclear Installations Act 1965 is amended in accordance with subsections (2) and (3).
- (2) In section 1 (restriction of certain nuclear installations to licensed sites), after subsection (11) insert—
 - “(12) In this section, “site” includes a site situated wholly or partly in or under the territorial sea adjacent to the United Kingdom.”
- (3) In section 26(1) (interpretation), in the definition of “the appropriate national authority”—
 - (a) in paragraph (a), after “Scotland” insert “(including the territorial sea adjacent to them)”;
(b) in paragraph (b), after “Northern Ireland” insert “(including the territorial sea adjacent to it)”.
- (4) In section 68 of the Energy Act 2013 (nuclear safety purposes), after subsection (3) insert—

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Changes to legislation: There are currently no known outstanding effects
for the Energy Act 2023, Chapter 1. (See end of Document for details)*

“(4) In the definition of “relevant nuclear installation” in subsection (3), the reference to a site in England, Wales or Scotland includes a site situated wholly or partly in or under the territorial sea adjacent to them.”

Commencement Information

II S. 302 not in force at Royal Assent, see [s. 334\(1\)](#)

PROSPECTIVE

303 Decommissioning of nuclear sites etc

- (1) The Nuclear Installations Act 1965 is amended as follows.
- (2) In section 1 (restriction of certain nuclear installations to licensed sites), after subsection (12) (inserted by [section 302](#) of this Act) insert—
 - “(13) The reference in subsection (1) to operating a nuclear reactor or an installation of a prescribed kind includes a reference to decommissioning a nuclear reactor or such an installation.”
- (3) In section 3 (grant and variation of nuclear site licences)—
 - (a) in subsection (12)(b), for the words from “there” to the end substitute “the applicable condition or conditions set out in [section 3A](#) are met.”;
 - (b) after subsection (12) insert—
 - “(12A) The appropriate national authority must consult the Health and Safety Executive before varying a nuclear site licence under subsection (12).”
- (4) After section 3 insert—

“3A Exclusion of part of site from licence: applicable conditions

- (1) This section sets out the applicable condition or conditions for excluding any part of a licensed site (“the relevant part”) from a nuclear site licence.
- (2) Where a prescribed disposal installation is or has at any time been situated within the relevant part, the applicable condition is that there is no danger from ionising radiations from anything on the relevant part.
- (3) Where any nuclear installation, other than a prescribed disposal installation, is or has at any time been situated within the relevant part, the applicable conditions (subject to [subsection \(5\)](#)) are that—
 - (a) the use of any such installation within the relevant part has permanently ceased,
 - (b) appropriate measures for the containment and control of any remaining radioactivity are in place,
 - (c) the relevant part meets the radioactivity exclusion criteria and the dose exclusion criteria, and

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- (d) it is no longer necessary or desirable in the interests of safety for a nuclear site licence to be in force in respect of the relevant part.
- (4) In any other case, the applicable conditions (subject to [subsection \(5\)](#)) are that—
 - (a) the relevant part meets the dose exclusion criteria, and
 - (b) it is no longer necessary or desirable in the interests of safety for a nuclear site licence to be in force in respect of the relevant part.
- (5) In a case to which, but for this subsection, subsection (3) or (4) would apply, the licensee may elect that the condition set out in [subsection \(2\)](#) is to apply to the relevant part (instead of the conditions in subsection (3) or (4)).
- (6) In this section—
 - “2014 Decision” means the Decision and Recommendation of the Steering Committee Concerning the Application of the Paris Convention to Nuclear Installations in the Process of Being Decommissioned, published on 30 October 2014 by the Steering Committee for Nuclear Energy of the Nuclear Energy Agency of the Organisation for Economic Co-operation and Development;
 - “dose exclusion criteria” means the criteria described in paragraph 3(b) of the Appendix to the 2014 Decision;
 - “prescribed disposal installation” means an installation—
 - (a) designed or adapted for the disposal of nuclear matter, and
 - (b) of a kind prescribed under section 1(1)(b) at any time after [section 303](#) of the Energy Act 2023 comes into force;
 - “radioactivity exclusion criteria” means the criteria described in paragraph 3(a) of the Appendix to the 2014 Decision;
 - “safety”, in relation to the relevant part of a site, is to be construed in accordance with section 4(2).”
- (5) In section 5 (revocation and surrender of licences)—
 - (a) in the heading, omit “and surrender”;
 - (b) in subsection (1)—
 - (i) omit the “or” after paragraph (a);
 - (ii) omit paragraph (b);
 - (c) in subsection (2), after “consult” insert “the Health and Safety Executive and”;
 - (d) in subsection (3), omit “or surrendered”;
 - (e) in subsection (15)(a), for the words from “that in the authority’s opinion” to the end substitute “—
 - (i) as respects the licensee’s period of responsibility for the licensed site, that in the authority’s opinion each part of the site meets the condition or conditions set out in [section 5A](#) that apply in relation to that part of the site, or
 - (ii) as respects the licensee’s period of responsibility for any part of the site, that in the authority’s opinion the part in question meets the condition or conditions set out in [section 5A](#) that apply in relation to that part.”;
 - (f) after subsection (15)(b) insert—

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- “(ba) the date when a person (whether the licensee or some other person) becomes the operator of a relevant disposal site comprising the site in question or, as the case may be, that part of it;
- (bb) the date when the site or, as the case may be, the part of it in question becomes an excluded disposal site;”.

(6) After section 5 insert—

“5A End of period of responsibility: applicable conditions

- (1) This section sets out the applicable condition or conditions for determining when a licensee’s period of responsibility for a part of a licensed site (“the relevant part”) ends under section 5(15)(a)(i) or (ii).
- (2) Where a prescribed disposal installation or a licensed disposal site is or has at any time been situated within the relevant part, the applicable condition is that there is no danger from ionising radiations from anything on the relevant part.
- (3) Where any nuclear installation, other than a prescribed disposal installation, is or has at any time been situated within the relevant part, the applicable conditions (subject to [subsection \(5\)](#)) are that—
 - (a) the use of any such installation within the relevant part has permanently ceased,
 - (b) appropriate measures for the containment and control of any remaining radioactivity are in place, and
 - (c) the relevant part meets the radioactivity exclusion criteria and the dose exclusion criteria.
- (4) In any other case, the applicable condition (subject to [subsection \(5\)](#)) is that the relevant part meets the dose exclusion criteria.
- (5) In a case to which, but for this subsection, subsection (3) or (4) would apply, the licensee may elect that the condition set out in subsection (2) is to apply to the relevant part (instead of the conditions in subsection (3) or (4)).
- (6) In this section—

“2014 Decision” means the Decision and Recommendation of the Steering Committee Concerning the Application of the Paris Convention to Nuclear Installations in the Process of Being Decommissioned, published on 30 October 2014 by the Steering Committee for Nuclear Energy of the Nuclear Energy Agency of the Organisation for Economic Co-operation and Development;

“dose exclusion criteria” means the criteria described in paragraph 3(b) of the Appendix to the 2014 Decision;

“licensed disposal site” means a site that would be, or would at any time have been, a relevant disposal site but for section 7B(5)(a) (nuclear site licence granted in respect of site);

“prescribed disposal installation” means an installation—

- (a) designed or adapted for the disposal of nuclear matter, and
- (b) of a kind prescribed under section 1(1)(b) at any time after [section 303](#) of the Energy Act 2023 comes into force;

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“radioactivity exclusion criteria” means the criteria described in paragraph 3(a) of the Appendix to the 2014 Decision.”

(7) In section 7B (duties in respect of relevant disposal sites)—

(a) after subsection (2) insert—

“(2A) The operator of a site that would be a relevant disposal site but for subsection (5)(a) is to be treated for the purposes of subsection (2)(a) (ii) as becoming the operator of the site on the date when—

(a) the nuclear site licence in question is varied under section 3(12) to exclude the site from it, or

(b) the nuclear site licence in question is revoked under section 5(1).”;

(b) in subsection (5)(a), after “granted” insert “(subject to subsection (5A))”;

(c) after subsection (5) insert—

“(5A) Subsection (5)(a) does not apply where a licence has ceased to be in force in respect of the site as a result of section 3(12) (exclusion of part of site from licence) or section 5(1) (revocation of licence).”

(8) In section 27(1) (application of Act to Northern Ireland), after paragraph (a) insert—

“(aa) a reference to the Health and Safety Executive is to be construed as a reference to the Health and Safety Executive for Northern Ireland.”

Commencement Information

I2 S. 303 not in force at Royal Assent, see [s. 334\(1\)](#)

304 Excluded disposal sites

(1) The Nuclear Installations Act 1965 is amended as follows.

(2) In section 7B (duties in respect of relevant disposal sites)—

(a) after subsection (2A) (inserted by [section 303](#) of this Act) insert—

“(2B) The operator of a site that would be a relevant disposal site but for subsection (7A) is to be treated for the purposes of subsection (2)(a) (ii) as becoming the operator of the site on the date when the site ceases to be an excluded disposal site.”;

(b) after subsection (3)(d) insert—

“(e) the date when the Secretary of State gives notice under [section 7C\(1\)\(b\)](#) that the site is an excluded disposal site.”;

(c) after subsection (3) insert—

“(3A) Where a site to which [subsection \(2B\)](#) applies was a relevant disposal site before it became an excluded disposal site, subsection (2) has effect in respect of—

(a) the period beginning by virtue of subsection (2)(a), and

(b) any further period beginning by virtue of [subsection \(2B\)](#).”;

(d) in subsection (4), for “and (7)” substitute “, (7) and (7A)”;

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- (e) after subsection (7) insert—
 - “(7A) A site is not a relevant disposal site if it is an excluded disposal site.”;
 - (f) in subsection (9), in the definition of “appropriate permit”—
 - (i) after paragraph (a) insert—
 - “(aa) in relation to a site in Scotland, a permit under regulations made under section 18 of the Regulatory Reform (Scotland) Act 2014 (2014 asp 3) authorising a person to use the site for the disposal of radioactive waste;”;
 - (ii) in paragraph (b), omit “Scotland or”.
- (3) After section 7B insert—

“7C Excluded disposal sites

- (1) A site that is used or intended to be used for the operation of an installation for the disposal of nuclear matter is an excluded disposal site if—
 - (a) the Secretary of State is satisfied, on an application by the operator of the site, that the site meets—
 - (i) the permit condition,
 - (ii) the site history condition, and
 - (iii) such other conditions as may be prescribed, and
 - (b) the Secretary of State gives the operator notice in writing to that effect.
- (2) In this section, “disqualifying matter” means nuclear matter that exceeds the radioactivity concentration limits set out in paragraph 3(a) of the Appendix to the 2016 Decision.
- (3) The permit condition is that—
 - (a) an appropriate permit is in force in respect of the site, and
 - (b) that permit includes a condition preventing the site from receiving disqualifying matter.
- (4) The site history condition is that—
 - (a) disqualifying matter has not at any time been accepted for disposal at the site, or
 - (b) any disqualifying matter previously accepted for disposal at the site has been removed from the site.
- (5) An application under [subsection \(1\)\(a\)](#) must be accompanied by such documents as may be prescribed.
- (6) Regulations made under [subsection \(5\)](#) may—
 - (a) specify requirements relating to the preparation, approval or review of a prescribed document;
 - (b) require an operator to provide a copy of a prescribed document to a person other than the Secretary of State;
 - (c) make different provision for different purposes.
- (7) A site ceases to be an excluded disposal site if the site no longer meets the permit condition or any condition prescribed under [subsection \(1\)\(a\)\(iii\)](#).

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- (8) Where the appropriate permit in force in respect of an excluded disposal site is transferred to a new operator, the site ceases to be an excluded disposal site at the end of the period of one month beginning with the date on which the permit is transferred unless, before the end of that period—
- (a) the new operator notifies the Secretary of State of the transfer, and
 - (b) the Secretary of State gives the new operator notice in writing that the Secretary of State consents to the site continuing to be an excluded disposal site.
- (9) The Secretary of State must notify the Scottish Ministers of any notification given under [subsection \(1\)\(b\)](#) in relation to a site in Scotland.
- (10) In this section—
- “2016 Decision” means the Decision and Recommendation Concerning the Application of the Paris Convention on Third Party Liability in the Field of Nuclear Energy to Nuclear Installations for the Disposal of Certain Types of Low-level Radioactive Waste published on 16 January 2017 by the Steering Committee for Nuclear Energy of the Nuclear Energy Agency of the Organisation for Economic Co-operation and Development;
- “appropriate permit” has the meaning given in section 7B(9).

7D Excluded disposal sites: acceptance of disqualifying matter

- (1) This section applies where disqualifying matter is accepted at an excluded disposal site; and for the purposes of this section the acceptance of such matter is referred to as “the breach”.
- (2) The operator of the site must notify the Secretary of State of the breach before the end of the notification period.
- (3) “The notification period” means the period of 21 days beginning with the day on which the operator becomes aware of the breach.
- (4) The site ceases to be an excluded disposal site at the end of the notification period unless the operator complies with the duty under [subsection \(2\)](#).
- (5) An operator who has complied with the duty under [subsection \(2\)](#) must remove the disqualifying waste from the site before the end of the removal period.
- (6) “The removal period” means—
- (a) the period of 90 days beginning with the day on which the operator notifies the Secretary of State of the breach, or
 - (b) such longer period as the Secretary of State may specify before the end of the period mentioned in [paragraph \(a\)](#) if satisfied that the operator is taking all reasonable steps to remove the disqualifying matter from the site.
- (7) The site ceases to be an excluded disposal site at the end of the removal period unless before the end of that period—
- (a) the Secretary of State is satisfied that the disqualifying waste has been removed from the site, and

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- (b) the Secretary of State gives the operator notice in writing to that effect.
- (8) In this section, “disqualifying matter” has the meaning given by [section 7C](#).”
- (4) In section 20 (furnishing of information relating to operator’s cover), after subsection (5) insert—
- “(5A) Subsection (4) does not apply where the operator of a relevant disposal site makes an application to the Secretary of State under section 7C(1)(a) (application for site to be excluded disposal site).”
- (5) In section 26(1) (interpretation), at the appropriate place insert—
- ““excluded disposal site” has the meaning given by section 7C;”.

Commencement Information

- I3** S. 304 not in force at Royal Assent, see [s. 334\(1\)](#)
- I4** [S. 304\(3\)](#) in force at 11.1.2024 for specified purposes by [S.I. 2024/32, reg. 2\(e\)](#)

305 Accession to Convention on Supplementary Compensation for Nuclear Damage

[Schedule 22](#) contains amendments to the Nuclear Installations Act 1965 to implement the Convention on Supplementary Compensation for Nuclear Damage.

Commencement Information

- I5** [S. 305](#) comes into force in accordance with [s. 334\(4\)](#)

306 Power to implement Convention on Supplementary Compensation for Nuclear Damage

- (1) The Secretary of State may by regulations make such provision as the Secretary of State considers appropriate—
- (a) to implement the CSC, or
- (b) otherwise for the purposes of dealing with any other matter arising out of, or related to, the CSC.
- (2) The provision that may be made by virtue of subsection (1) includes provision that is authorised by the CSC to be made in relation to a particular matter.
- (3) Regulations under this section may amend—
- (a) [Schedule 22](#),
- (b) the Nuclear Installations Act 1965, or
- (c) any other enactment having effect in relation to a matter to which the CSC relates.
- (4) In this section, “the CSC” means the Convention on Supplementary Compensation for Nuclear Damage (as amended or supplemented from time to time).
- (5) Regulations under this section are subject to the affirmative procedure.

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Changes to legislation: *There are currently no known outstanding effects for the Energy Act 2023, Chapter 1. (See end of Document for details)*

Commencement Information

I6 S. 306 in force at 26.12.2023, see **s. 334(3)(k)**

Status:

This version of this chapter contains provisions that are prospective.

Changes to legislation:

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