



Energy Act 2023

2023 CHAPTER 52

PART 14

CIVIL NUCLEAR SECTOR

CHAPTER 1

CIVIL NUCLEAR SITES

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)”;
 - (e) after subsection (7) insert—

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- “(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

- I1** S. 304 not in force at Royal Assent, see [s. 334\(1\)](#)
- I2** [S. 304\(3\)](#) in force at 11.1.2024 for specified purposes by [S.I. 2024/32](#), [reg. 2\(e\)](#)

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