

SCHEDULE 1

Regulations to be treated as regulations under the 2013 Act

PART 2

Application of the 2013 Act to the Nuclear Industries Security Regulations 2003 – modification of provisions relating to offences

Application to transport other than transport in a ship which is not a United Kingdom ship or in a hovercraft which is not a United Kingdom hovercraft

4.—(1) Subject to sub-paragraph (2), this paragraph makes transitional modifications to Schedule 10 to the 2013 Act (provisions relating to offences) as it applies in relation to the provisions of the 2003 Regulations other than the non-UK transport provisions by virtue of paragraph 1 of this Schedule.

(2) Paragraphs 3 to 5 and 12 of Schedule 10 to the 2013 Act do not apply in relation to—

- (a) any offence under regulation 25 of the 2003 Regulations committed on or after 1st April 2014; or
- (b) a nuclear security offence.

(3) For the purposes of this paragraph—

- (a) “the non-UK transport provisions” means the provisions of the 2003 Regulations as they apply in relation to transport in a ship which is not a United Kingdom ship or in a hovercraft which is not a United Kingdom hovercraft;
- (b) “nuclear security offence” means an offence—
 - (i) specified in sub-paragraph (4); and
 - (ii) committed on or after 1st April 2014.
- (c) “nuclear security inspector” means an ONR inspector so far as acting for the purpose of carrying into effect any provision of the 2003 Regulations.

(4) The specified offences are—

- (a) the offence under section 97(5) of the 2013 Act to the extent that it relates to a refusal or a failure by a person to comply with a notice given under that section requiring that person to provide information which the ONR needs for carrying out its functions under or in connection with the 2003 Regulations;
- (b) the offence under section 105(1) of that Act to the extent that it relates to the making of a statement by a person which that person knows to be false, or a person recklessly making a statement which is false—
 - (i) in purported compliance with any requirement to provide information imposed by or under the 2003 Regulations; or
 - (ii) for the purpose of obtaining the issue of a document under those Regulations;
- (c) the offence under section 105(3) of that Act to the extent that it relates to a person—
 - (i) intentionally making a false entry in any register, record, notice or other document which is required to be kept or given by or under the 2003 Regulations; or
 - (ii) with intent to deceive, making use of any such entry which the person knows to be false;

Changes to legislation: *There are currently no known outstanding effects for the The Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014, PART 2. (See end of Document for details)*

- (d) the offence under section 105(5) of that Act to the extent that it relates to a person, with intent to deceive—
 - (i) using a document issued or authorised to be issued under the 2003 Regulations or required for the purpose of those Regulations; or
 - (ii) making or having possession of a document so closely resembling a document mentioned in paragraph (i) as to be calculated to deceive;
- (e) the offence under paragraph 17(1) of Schedule 8 to the 2013 Act to the extent that it relates to the contravention by a person of any requirement imposed by a nuclear security inspector under Part 3 of that Schedule;
- (f) the offence under paragraph 17(2) of that Schedule to the extent that it relates to a person preventing or attempting to prevent any other person from—
 - (i) appearing before a nuclear security inspector; or
 - (ii) answering any question to which a nuclear security inspector may require an answer by virtue of paragraph 15 of that Schedule;
- (g) the offence under paragraph 18(1) of that Schedule to the extent that it relates to a person intentionally obstructing a nuclear security inspector in the exercise or performance of the inspector's functions;
- (h) the offence under paragraph 19(1) of that Schedule to the extent that it relates to a person falsely pretending to be a nuclear security inspector;
- (i) the offence under paragraph 3 of Schedule 9 to the 2013 Act to the extent that it relates to a person disclosing protected information which is information—
 - (i) obtained by the ONR under a notice mentioned in paragraph (a) above;
 - (ii) disclosed to the ONR, or a nuclear security inspector, under section 98 of the 2013 Act for the purpose of facilitating the carrying out of their functions under the 2003 Regulations;
 - (iii) obtained by a nuclear security inspector as a result of the exercise of any relevant power (within the meaning given in paragraph 2(5) of Schedule 8 to the 2013 Act); or
 - (iv) provided to a person pursuant to a requirement imposed by the 2003 Regulations, in contravention of paragraph 2 of Schedule 9 to the 2013 Act;
- (j) the offence under paragraph 4 of Schedule 9 to the 2013 Act to the extent that it relates to a person using protected information of the type mentioned in paragraph (i)(i) to (iv) above in contravention of a restriction under paragraph 10(3), 11(2), 12(2), 13(2), 14(2) or 15(2) of that Schedule;
- (k) the offence under sub-paragraph (6) of paragraph 13 of Schedule 10 to that Act to the extent that it relates to a failure by a person to comply with an order made under that paragraph where the person is convicted of—
 - (i) an offence under the 2003 Regulations; or
 - (ii) an offence mentioned within any of paragraphs (a) to (j) above.

Transport in a ship which is not a United Kingdom ship

5.—(1) This paragraph makes transitional modifications to the 2013 Act as it applies by virtue of paragraph 1 of this Schedule in relation to the provisions of the 2003 Regulations as they apply in relation to transport in a ship which is not a United Kingdom ship.

(2) Any obligation arising under the provisions of the 2013 Act specified in sub-paragraph (3) is to be read, in relation to transport in a ship which is not a United Kingdom ship, as an obligation that must be met in respect of the ship in question as a condition of its entry to the relevant UK port.

- (3) The provisions specified for the purposes sub-paragraph (2) are—
- (a) section 97;
 - (b) Schedule 8, so far as it relates to a requirement imposed by an inspector under Part 3 of the Schedule.

(4) The provisions of the 2013 Act specified in sub-paragraph (5) apply as if the following paragraph were inserted at the beginning of each of them—

“Where this provision has effect in relation to the Nuclear Industries Security Regulations 2003 as they apply to transport in a ship by virtue of regulation 27A of those Regulations (transport in a ship which is not a United Kingdom ship) and the ship in question enters or has entered a port in the United Kingdom or an attempt is or has been made for it to do so,”

- (5) The provisions specified for the purposes of sub-paragraph (4) are—
- (a) section 97(5);
 - (b) section 105(1), (3) and (5);
 - (c) paragraphs 17(1) and (2), 18(1) and 19(1) of Schedule 8;
 - (d) paragraphs 3 and 4 of Schedule 9;
 - (e) paragraph 13(6) of Schedule 10.
- (6) Paragraphs 3 to 5 and 12 of Schedule 10 to the 2013 Act do not apply to—
- (a) any offence under regulation 29 of the 2003 Regulations (as inserted by Schedule 3 to this Order) committed on or after 1st April 2014; or
 - (b) any port of entry offence.
- (7) In this paragraph—
- (a) “port of entry offence” means an offence—
 - (i) under the provisions of the 2013 Act as modified by sub-paragraph (4) of this paragraph; and
 - (ii) committed on or after 1st April 2014;
 - (b) “relevant UK port” means, in relation to a ship which is not a United Kingdom ship, the port in the United Kingdom—
 - (i) to which it is proceeding in order to enter it;
 - (ii) which it is entering; or
 - (iii) which it has entered.

Transport in a hovercraft which is not a United Kingdom hovercraft

6.—(1) Subject to sub-paragraph (2), paragraph 5 of this Schedule applies as if any reference to a ship (other than in the expression “United Kingdom ship”) included a reference to a hovercraft.

- (2) Paragraph 5 applies as if—
- (a) any reference in that paragraph to a United Kingdom ship included a reference to a United Kingdom hovercraft;
 - (b) the reference to regulation 27A of the 2003 Regulations included a reference to regulation 28 of those Regulations.

Changes to legislation:

There are currently no known outstanding effects for the The Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014, PART 2.