



# Atomic Energy Act 1989

## 1989 CHAPTER 7

An Act to alter the financial limit imposed by section 2(1) of the Nuclear Industry (Finance) Act 1977 in relation to British Nuclear Fuels plc; to make provision with respect to the recovery of certain expenses by the Health and Safety Executive; to amend sections 18 and 19 of the Nuclear Installations Act 1965; to make provision in connection with the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency; and for connected purposes. [25th May 1989]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Financial limit of British Nuclear Fuels plc*

#### **1 Financial limit of British Nuclear Fuels plc**

In section 2(1)(a) of the Nuclear Industry (Finance) Act 1977 (under which the limit on the commitment of public finance to British Nuclear Fuels plc stands at £1,500 million), for the words from “£1,000 million” to the end of the paragraph there shall be substituted the words “£2,000 million;”.

### *Recovery of expenses by Health and Safety Executive*

#### **2 Recovery of expenses by Health and Safety Executive**

(1) The following section shall be inserted after section 24 of the Nuclear Installations Act 1965—

**“24A Recovery of expenses by Health and Safety Executive**

- (1) This section applies to any expenses incurred by the Health and Safety Executive (“the Executive”) and any expenses incurred by the Health and Safety Commission (“the Commission”) which, in either case, the Executive may determine to be incurred wholly or partly in connection with—
    - (a) the carrying into effect of such of the provisions of this Act as are mentioned in Schedule 1 to the Health and Safety at Work etc. Act 1974; or
    - (b) the carrying out of research into nuclear safety at the direction of the Commission.
  - (2) Without prejudice to the generality of subsection (1) of this section, the reference in that subsection to expenses incurred by the Executive includes any sums paid by it by way of remuneration, allowances or other payments to inspectors appointed under the Health and Safety at Work etc. Act 1974.
  - (3) In such cases and to such extent as it may appear to the Executive appropriate to do so, the Executive shall require a person who has applied for a nuclear site licence to repay to it so much of any expenses to which this section applies as may appear to it to be attributable to dealing with the application.
  - (4) In such cases and to such extent as it may appear to the Executive to be appropriate to do so, the Executive shall require a person to whom a nuclear site licence has been granted to repay to it—
    - (a) so much of any expenses to which this section applies as may appear to it to be attributable to any nuclear installation in respect of which the licence has been granted; and
    - (b) so much of any expenses to which this section applies which are not otherwise recoverable under this section as it thinks fit.
  - (5) A person shall comply with any requirement made of him under this section.
  - (6) Any liability of a person in respect of sums payable by him under this section on account of pensions shall, if the Executive so determines, be satisfied by way of contributions calculated, at such rate as may be determined by the Treasury, by reference to remuneration.
  - (7) Where the Executive anticipates that a person who has applied for or has been granted a nuclear site licence will become subject to a liability under this section, it may require him to make to it a payment or payments on account of the liability.
  - (8) Where a person has made a payment under subsection (7) of this section on account of an anticipated liability, then—
    - (a) if he does not become subject to the liability, the Executive shall be liable to repay the payment to him; and
    - (b) if the amount of the liability to which he becomes subject is less than the amount paid under that subsection, the Executive shall be liable to repay the difference to him.”
- (2) Subject to subsection (3) below, section 24A(3) of the Nuclear Installations Act 1965 applies to an application made, and to expenses incurred, before the commencement

of this section as well as to an application made, and to expenses incurred, after the commencement of this section.

- (3) That subsection does not apply to an application disposed of before the commencement of this section.
- (4) Where an application to which that subsection applies is made before the commencement of this section and is disposed of after the commencement of this section without a licence being granted, the Health and Safety Executive (or, in Northern Ireland, the Department of Economic Development) shall repay to the applicant any payment made under that subsection in respect of expenses attributable to dealing with the application which were incurred before the commencement of this section.
- (5) Section 24A(4) of the Nuclear Installations Act 1965 applies to expenses incurred before as well as to expenses incurred after the commencement of this section, except in the case of expenses of the description mentioned in subsection (1)(b) of that section.

*Amendment of sections 18 and 19 of the Nuclear Installations Act 1965*

**3 Nuclear installations : cover for compensation**

In section 18(1) of the Nuclear Installations Act 1965 (availability of public funds to meet claims for compensation not met from other sources), after paragraphs (a) and (b) (which specify the other sources) there shall be inserted—

“; and

- (c) in the case of an occurrence in respect of which the Authority incurs liability, with any amounts payable under a contract of insurance or other arrangements for satisfying claims in respect of that occurrence against the Authority.”.

**4 Effect of grant of new nuclear site licence to existing licensee**

(1) In section 19 of the Nuclear Installations Act 1965 (duty of licensee to provide insurance or other cover)—

- (a) in subsection (2), for the words from “subject to subsection (2A)” to the end of paragraph (c) there shall be substituted the words “, subject to the following provisions of this section, the period of the licensee’s responsibility;”; and
- (b) the following subsection shall be inserted after subsection (2A)—

“(2B) The current cover period continues to run (and no new cover period begins) on the grant of a new nuclear site licence to the same licensee in respect of a site consisting of or including the site in respect of which his existing nuclear site licence is in force.”

(2) The amendments made by this section shall be deemed always to have had effect.

*Mutual Assistance Convention*

**5 Mutual Assistance Convention**

(1) The Secretary of State—

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*Status: This is the original version (as it was originally enacted).*

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- (a) may pay out of money provided by Parliament any expenses which he incurs in connection with assistance provided under the Convention; and
  - (b) shall pay into the Consolidated Fund any sums which he receives under the Convention by way of reimbursement of any expenses which he so incurs.
- (2) Subject to subsection (3) below, the provisions of the Convention set out in the Schedule to this Act shall have the force of law in the United Kingdom and shall for that purpose be construed as granting any privilege or immunity which they require to be afforded.
- (3) At any time when a declaration under paragraph 9 of Article 8 of the Convention is in force, the provisions mentioned in subsection (2) above shall only have the force of law in the United Kingdom to the extent that the United Kingdom considers itself bound by them in accordance with the terms of the declaration.
- (4) Her Majesty may by Order in Council certify whether Her Majesty's Government in the United Kingdom has made or withdrawn a declaration under paragraph 9 of Article 8 of the Convention.
- (5) Nothing in this section shall be construed as granting any privilege or immunity to a person who is a United Kingdom national or permanently resident in the United Kingdom or prejudice any privilege or immunity afforded pursuant to any other international agreement or rule of customary international law.
- (6) If in any proceedings any question arises whether a person is or is not entitled to any privilege or immunity by virtue of this section, a certificate issued by or under the authority of the Secretary of State stating any fact relevant to that question shall be conclusive evidence of that fact.
- (7) If at any time Her Majesty's Government in the United Kingdom calls for assistance under paragraph 1 of Article 2 of the Convention, the Secretary of State shall take such steps as are necessary to make public the fact that a call for assistance has been made, the nature of the assistance called for and the reasons for making the call.
- (8) In this section—
- “the Convention” means the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency done at Vienna on 26 September 1986;
  - “United Kingdom national” means an individual who is a British citizen, a British Dependent Territories citizen, a British National (Overseas) or a British Overseas citizen.

### *Supplementary*

## **6 Consequential amendments and repeals**

- (1) In section 24(3) of the Nuclear Installations Act 1965 (recovery by Secretary of State of expenses incurred in connection with the enforcement and execution of the Act)—
- (a) the following paragraph shall be substituted for paragraph (a)—
    - “(a) any sums paid by the Secretary of State under subsection (1) of this section;”;
  - (b) in paragraph (b), the words “whenever incurred” and sub-paragraph (ii) are hereby repealed and for the words “enforcement or execution of this Act”

there shall be substituted the words “exercise by the Secretary of State of his powers under the said subsection (1)”; and

(c) the words from “except” to the end are hereby repealed.

(2) In section 27(1) of that Act (Northern Ireland adaptations)—

(a) for “to 24” there shall be substituted “to 24A”; and

(b) the following paragraph shall be inserted after paragraph (g)—

“(gg) in section 24A—

(i) references to the Health and Safety Executive shall be construed as references to the Department of Economic Development;

(ii) references to the Health and Safety Commission shall be construed as references to the Health and Safety Agency for Northern Ireland;

(iii) references to the Health and Safety at Work etc. Act 1974 shall be construed as references to the Health and Safety at Work (Northern Ireland) Order 1978; and

(iv) in subsection (1)(b), for the words “at the direction” there shall be substituted the words “on the recommendation”.”

(3) In Schedule 1 to the Health and Safety at Work etc. Act 1974 (which lists the provisions which are relevant statutory provisions for the purposes of Part I of the Act), in the entry relating to the Nuclear Installations Act 1965, for “24” there shall be substituted “24A”.

(4) In section 2(1)(b) of the Nuclear Industry (Finance) Act 1977, for the words “so specified” there shall be substituted the words “specified by order”.

(5) In Schedule 1 to the Health and Safety at Work (Northern Ireland) Order 1978 (which makes provision corresponding to Schedule 1 to the Health and Safety at Work etc. Act 1974), in the entry relating to the Nuclear Installations Act 1965, for “24” there shall be substituted “24A”.

(6) The Nuclear Industry (Finance) Act 1981 is hereby repealed.

## **7 Short title, commencement and extent**

(1) This Act may be cited as the Atomic Energy Act 1989.

(2) This Act shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument and different days may be appointed for different provisions.

(3) This Act, except section 6(1) to (3) and (5), extends to the United Kingdom.

(4) Section 6(1) and (3) of this Act extend to Great Britain only.

(5) Section 6(2) and (5) of this Act extend to Northern Ireland only.

## SCHEDULE

Section 5.

### PROVISIONS OF ARTICLE 8 OF THE CONVENTION HAVING THE FORCE OF LAW IN THE UNITED KINGDOM

- 2 The requesting State shall afford the following privileges and immunities to personnel of the assisting party or personnel acting on its behalf who have been duly notified to and accepted by the requesting State:
- (a) immunity from arrest, detention and legal process, including criminal, civil and administrative jurisdiction, of the requesting State, in respect of acts or omissions in the performance of their duties; and
  - (b) exemption from taxation, duties or other charges, except those which are normally incorporated in the price of goods or paid for services rendered, in respect of the performance of their assistance functions.
- 3 The requesting State shall:
- (a) afford the assisting party exemption from taxation, duties or other charges on the equipment and property brought into the territory of the requesting State by the assisting party for the purpose of the assistance; and
  - (b) provide immunity from seizure, attachment or requisition of such equipment and property.