



Energy Act 2004

2004 CHAPTER 20

PART 1

THE CIVIL NUCLEAR INDUSTRY

CHAPTER 1

NUCLEAR DECOMMISSIONING

General duties and powers of NDA

9 General duties when carrying out functions

- (1) It shall be the duty of the NDA, in carrying out its functions, to have particular regard to each of the following—
 - (a) relevant Government policy;
 - (b) the need to safeguard the environment;
 - (c) the need to protect persons from risks to their health and safety from activities involving the use, treatment, storage, transportation or disposal of hazardous material; and
 - (d) the need to preserve nuclear security.
- (2) It shall also be the duty of the NDA, in carrying out its functions—
 - (a) to promote, and to ensure, the maintenance and development in the United Kingdom of a skilled workforce able to undertake the work of decommissioning nuclear installations and of cleaning up nuclear sites;
 - (b) to promote effective competition for contracts to provide it with the services it must secure in order to discharge its responsibilities;
 - (c) to secure the adoption of what it considers to be good practice by the persons with control of designated installations, designated sites and designated facilities; and

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- (d) subject to subsection (1) and to paragraphs (a) to (c) of this subsection, to secure value for money in all its dealings with others.
- (3) In the carrying out of its functions with respect to—
- (a) the operation of the installations and facilities designated as installations or facilities whose operation is to be secured by the NDA, and
 - (b) the management of designated sites,
- the NDA shall have the further duty to act in the manner that it considers is most beneficial to the public.
- (4) In the case of each designated installation, designated site or designated facility, it shall be the duty of the NDA, in carrying out its function by virtue of section 7(1)(e)—
- (a) to have regard, in particular, to the extent to which the person with control of the installation, site or facility was doing anything falling within subsection (5) prior to its designation; and
 - (b) to consider what obligations in relation to the doing of anything falling within that subsection should be imposed on any person with whom the NDA is proposing, in connection with the discharge of any of its responsibilities in relation to the installation, site or facility, to enter into a contract for that person to provide services.
- (5) What falls within this subsection is anything that is done for the purpose of giving encouragement and other support to—
- (a) activities benefiting the social or economic life of communities living near the installation, site or facility; or
 - (b) activities producing other environmental benefits for those communities.
- (6) Where the NDA is proposing, in connection with the discharge of any of its responsibilities in relation to a designated installation, designated site or designated facility, to enter into a contract with any person for him to provide any services, it shall be the duty of the NDA, before entering into that contract—
- (a) to require that person to produce his proposed strategy for the procurement of the goods and services that he will need to procure for the purpose of carrying out his obligations under the contract; and
 - (b) to consider the likely effect of the implementation of that strategy on the economic life of communities living near the installation, site or facility.
- (7) In this section “relevant Government policy” means all current policies which—
- (a) relate to the decommissioning of nuclear installations, the cleaning-up of nuclear sites or other activities in relation to which the NDA has functions; and
 - (b) have been published by or on behalf of Her Majesty’s Government in the United Kingdom or a devolved administration, have been notified to the NDA by the Secretary of State or have been notified both to the NDA and to the Secretary of State by a devolved administration.
- (8) In subsection (7) “devolved administration” means the Scottish Ministers, the National Assembly for Wales or a department in Northern Ireland.
- (9) In this Chapter “nuclear security” means the security of each of the following—
- (a) nuclear installations and nuclear sites;
 - (b) hazardous material;
 - (c) apparatus and software used or stored in or on a nuclear installation or nuclear site;

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- (d) apparatus and software used in connection with the treatment, storage, transportation or disposal of hazardous material;
 - (e) sensitive nuclear information.
- (10) In subsection (9) “sensitive nuclear information” means—
- (a) information relating to a treatment of uranium that increases the proportion of the isotope 235 contained in the uranium;
 - (b) information capable of being used in connection with such a treatment of uranium;
 - (c) information relating to activities carried out in, on or in relation to—
 - (i) nuclear installations or nuclear sites, or
 - (ii) hazardous material,which the NDA has been notified by the Secretary of State is information that needs to be protected in the interests of national security; and
 - (d) information about nuclear security.

Commencement Information

II S. 9 in force at 24.8.2004 by S.I. 2004/2184, art. 2(1), Sch. 1

10 Powers for carrying out functions

- (1) The NDA shall have power, for the purpose of carrying out its functions, to do all such things as appear to it to be likely to facilitate the carrying out of its functions, or to be incidental to carrying them out.
- (2) The powers of the NDA include, in particular—
 - (a) power to operate electricity generating stations;
 - (b) [^{F1}power to apply for and hold authorisations (within the meaning of the Environmental Authorisations (Scotland) Regulations 2018) that relate to radioactive substances activities (within the meaning given in regulation 4 of those Regulations);]
 - (c) power to make grants or loans to persons undertaking activities that benefit the social or economic life of communities living near designated installations, designated sites or designated facilities or that produce other environmental benefits for such communities;
 - (d) power to make grants or loans to persons carrying out research into matters relating to the decommissioning of nuclear installations, the cleaning-up of nuclear sites or other activities in relation to which the NDA has functions;
 - (e) power to use its facilities, and facilities on designated sites, for the carrying out of research on behalf of others into any matter whatever;
 - (f) power to use those facilities for the carrying on of any activities, in addition to such research, that it considers appropriate for generating funds for application towards the carrying out of its functions;
 - (g) power to delegate to the UKAEA the maintenance of any such scheme as is referred to in section 8(1)(a) and (b);
 - (h) power itself to do anything that the NDA has a function of securing others to do;

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- (i) power to enter into contracts for others to secure the things that it has a function of securing;
 - (j) power to enter into contracts for others to do anything else that it may do for the purpose of, or in connection with, the carrying out of its functions;
 - (k) power to acquire or establish subsidiaries and to carry out its functions through subsidiaries.
- (3) The NDA may impose charges in respect of the things that it does or secures in the discharge of its responsibilities—
- (a) on persons with control of installations, sites and facilities in the case of which it does not have a financial responsibility under section 21; and
 - (b) on other persons for whom it does or secures the doing of anything for which it does not have a financial responsibility under that section.
- (4) Charges imposed under subsection (3) must not be imposed except—
- (a) in accordance with a direction under section 3; or
 - (b) with the approval of the Secretary of State.

Textual Amendments

- F1** S. 10(2)(b) substituted (S.) (1.9.2018) by [The Environmental Authorisations \(Scotland\) Regulations 2018 \(S.S.I. 2018/219\)](#), reg. 1, **sch. 6 para. 5** (with reg. 78, sch. 5 para. 2)
 - F2** Words in s. 10(2)(b) substituted (E.W.) (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010 \(S.I. 2010/675\)](#), reg. 1(1)(b), **Sch. 26 para. 17(2)** (with reg. 1(2), Sch. 4)
 - F3** Words in s. 10(2)(b) substituted (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), **Sch. 29 para. 16(2)** (with regs. 1(3), 77-79, Sch. 4)
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Commencement Information

- I2** S. 10 in force at 27.7.2004 by [S.I. 2004/1973](#), art. 2, **Sch.**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 137(3)(c)-(e) inserted by [2011 c. 16 s. 117\(b\)](#)
- s. 173(2C) inserted by [2023 c. 52 Sch. 14 para. 10](#)
- Sch. 22 para. 4(1A) inserted by [2023 c. 52 Sch. 14 para. 11\(2\)\(b\)](#)