



# Energy Act 2004

## 2004 CHAPTER 20

### PART 1

#### THE CIVIL NUCLEAR INDUSTRY

### CHAPTER 1

#### NUCLEAR DECOMMISSIONING

##### *Strategies, plans and reports*

## 11 Strategy for carrying out functions

- (1) It shall be the duty of the NDA—
  - (a) to prepare its strategy for carrying out its functions; and
  - (b) from time to time to revise that strategy.
- (2) On the NDA being given a new responsibility for securing the decommissioning or cleaning-up of an installation or site, it must consider—
  - (a) whether the objectives and policy already contained in its current strategy apply in the case of that installation or site in a manner that it considers appropriate; and
  - (b) if it considers that they do not, what revision of its strategy is required.
- (3) Schedule 2 (which makes provision about the preparation and revision of the NDA's strategy, about consultation and about the approval and publication of the strategy) has effect.

#### Commencement Information

**11** S. 11 in force at 31.3.2005 by S.I. 2005/442, art. 2(2), Sch. 2

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## 12 Contents of strategy

- (1) The strategy prepared under section 11 must include both—
  - (a) the NDA’s strategy for decommissioning and cleaning up the installations and sites designated as installations or sites to be decommissioned or cleaned up; and
  - (b) its strategy for the operation of the installations and facilities designated as installations or facilities whose operation it is to secure.
- (2) The strategy must set out—
  - (a) the priorities the NDA has adopted with respect to the discharge of its responsibilities;
  - (b) how it proposes 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;
  - (c) how it proposes to promote effective competition for contracts to provide it with the services it must secure in order to discharge its responsibilities;
  - (d) its proposals for ensuring the adoption of what it considers to be good practice by the persons with control of designated installations, designated sites and designated facilities;
  - (e) how it proposes to give encouragement or other support to 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; and
  - (f) an explanation of how and why it arrived at the decisions and proposals which are set out in the strategy.
- (3) The strategy must also set out the steps that the NDA proposes to take—
  - (a) for giving appropriate publicity to its responsibilities and strategy;
  - (b) for explaining them both to persons having a particular interest in matters relating to the carrying out by the NDA of its functions and to the general public;
  - (c) for ensuring that the NDA is kept informed at all times of the opinions about such matters of persons having such a particular interest; and
  - (d) for facilitating the communication by such persons of their opinions to the NDA.
- (4) The strategy required by subsection (1)(a) must contain—
  - (a) objectives describing what the NDA intends decommissioning or cleaning-up to achieve in the case of different installations and sites; and
  - (b) the NDA’s policy as to the means by which it intends those objectives to be achieved.
- (5) In the case of a site which is to be cleaned up, those objectives must include, in particular, a statement of the condition to which the site needs to be restored.
- (6) In setting out its policy as to the means of achieving the objectives mentioned in subsection (4), the NDA must describe—
  - (a) the procedure it proposes to adopt for ensuring the preparation, and revision from time to time, of plans for the identification and carrying out of the decommissioning or cleaning-up work that is or continues to be needed in the case of each designated installation or designated site;

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- (b) the manner in which it proposes to secure that the work identified by such plans is carried out in accordance with them;
  - (c) an outline of the work that has been identified as needed in the case of each designated installation or designated site for which plans have been prepared;
  - (d) the period over which that work is to be carried out in the case of each installation or site; and
  - (e) the expenses it expects to incur in respect of the carrying out of the decommissioning and cleaning-up work for which it has a responsibility.
- (7) The strategy required by subsection (1)(b) must set out—
- (a) the expenditure that the NDA expects to incur on the running costs of installations and facilities whose operation it has a responsibility to secure, and on the management of the sites where they are located;
  - (b) capital expenditure that the NDA expects to incur in connection with the discharge of its responsibilities in relation to those installations and facilities, and with the management of those sites; and
  - (c) the income that it considers it is likely to secure from the operation of those installations and facilities and from the management of those sites.
- (8) An objective or policy set out in the NDA’s strategy may be framed in one or more of the following ways—
- (a) by reference to a particular installation or site;
  - (b) by reference to different descriptions of installation or site;
  - (c) so as to become applicable to an installation or site of a particular description on the NDA being given responsibility for an installation or site of that description.
- (9) In this section references, in relation to the preparation of a strategy, to a site, installation or facility designated for any purpose include references to a site, installation or facility designated by a direction which is not yet in force.

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**Commencement Information**

**I2** S. 12 in force at 31.3.2005 by S.I. 2005/442, art. 2(2), Sch. 2

## 13 Annual plans

- (1) The NDA must, for each financial year, prepare a plan—
- (a) for the carrying out, during that year, of work towards decommissioning the installations designated as installations to be decommissioned;
  - (b) for the carrying out, during that year, of work towards cleaning up the sites designated as sites to be cleaned up;
  - (c) for the operation, during that year, of the installations and facilities designated as installations or facilities whose operation is to be secured by the NDA; and
  - (d) for the carrying out during that year of its other functions.
- (2) The plan must be prepared and, not less than three months before the commencement of the financial year to which it relates, submitted for approval—
- (a) in a case where it contains anything relating to responsibilities of the NDA falling within section 6(2), to the Secretary of State and the Scottish Ministers; and

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- (b) in any other case, to the Secretary of State.
- (3) The plan for a financial year, so far as it relates to decommissioning and cleaning-up, must set out—
- (a) a summary of the decommissioning and cleaning-up work which the NDA is intending should be carried out during that year;
  - (b) the arrangements that have been made, or are to be made, for securing that agreements for the carrying out of that work are entered into;
  - (c) the agreements (if any) that have already been entered into for that purpose or under which that work is to be carried out;
  - (d) an estimate of the expenditure that will be incurred by the NDA during that year in respect of decommissioning or cleaning-up work carried out during that year or previously or in respect of decommissioning and cleaning-up work to be carried out in subsequent years;
  - (e) any proposals to which it intends to give effect during that year that relate to, or will affect, the management of installations or sites designated as installations or sites to be decommissioned or cleaned up; and
  - (f) the extent to which its plans for the year contribute to the achievement of the objectives set out in its strategy.
- (4) The plan for a financial year, so far as it relates to the operation of installations and facilities, must set out—
- (a) an estimate of the expenditure that will be incurred during that year on the running costs of the installations and facilities and on the management of the sites where they are located;
  - (b) an estimate of the capital expenditure that will be incurred during that year in connection with the discharge of the NDA's responsibilities in relation to those installations and facilities and with the management of those sites;
  - (c) an estimate of the income it is likely to secure during that year from the operation of the installations and facilities and from the management of those sites; and
  - (d) any proposals to which the NDA intends to give effect during that year that relate to or will affect the operation of the installations or facilities, or the management of the sites where they are located.
- (5) The plan for a financial year, so far as it relates to the NDA's other functions, must—
- (a) set out all the activities of significance that the NDA proposes to carry on during that year in the carrying out of those other functions; and
  - (b) an estimate of the expenditure that will be incurred in the carrying out of those other functions.
- (6) The plan for a financial year must also set out any other matters that the Secretary of State directs the NDA to include in its plan for that year.
- (7) In this section references, in relation to the preparation of a plan for a financial year, to a site, installation or facility designated for any purpose include references to a site, installation or facility designated by a direction which—
- (a) is not yet in force; but
  - (b) is to come into force during that financial year.
- (8) Schedule 3 (which makes provision about consultation and about the approval and publication of the NDA's annual plan) has effect.

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#### Commencement Information

**I3** S. 13 in force at 24.8.2004 by S.I. 2004/2184, art. 2(1), Sch. 1

## 14 Annual reports

- (1) As soon as reasonably practicable after the end of each financial year, the NDA must prepare and send to the Secretary of State a report on—
  - (a) the discharge of its responsibilities during that year; and
  - (b) the carrying out of its other functions.
- (2) If during the year to which the report relates the NDA has had responsibilities which—
  - (a) fall within subsection (2) of section 6, or
  - (b) are mentioned in subsection (3) of that section,it must also send a copy of that report to the Scottish Ministers.
- (3) The report must contain—
  - (a) a description of what has been done, during the year to which it relates, towards achieving the NDA's objectives, as set out in the approved strategy in force during that year;
  - (b) a general description of the work carried out during that year for the purpose of decommissioning the installations designated as installations to be decommissioned;
  - (c) a general description of the work carried out during that year for the purpose of cleaning up the sites designated as sites to be cleaned up;
  - (d) a report on every change occurring during that year in the identity of persons with control of designated installations, designated sites and designated facilities;
  - (e) a report of every significant change during that year to the contractual arrangements of the NDA that are in force with respect to the carrying out (whether or not during that year) of decommissioning or cleaning-up work;
  - (f) a report on the extent to which the NDA has implemented its plan for that year;
  - (g) a report of the NDA's dealings during that year with [<sup>F1</sup>the Office for Nuclear Regulation,] the Health and Safety Executive, the Environment Agency[<sup>F2</sup>, the Natural Resources Body for Wales] and the Scottish Environment Protection Agency;
  - (h) a report containing an assessment of the performance in relation to safety and environmental matters of the persons (other than the NDA itself) who have control of designated installations, designated sites and designated facilities;
  - (i) a report of the NDA's dealings during that year with such persons with responsibilities in relation to nuclear security as have been nominated for the purposes of this subsection by the Secretary of State; and
  - (j) any other matters which the NDA is directed by the Secretary of State to include in that report.
- (4) Before giving a direction for the purposes of subsection (3)(j) the Secretary of State must consult the Scottish Ministers.
- (5) The report must deal separately with—

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- (a) activities relating to the decommissioning of installations or the cleaning-up of sites; and
  - (b) the NDA's other activities.
- (6) The Secretary of State must lay a copy of every report received by him under this section before Parliament.
- (7) The Secretary of State must also arrange for a copy of the report to be published in the manner which, in his opinion, is most appropriate for bringing it to the attention of persons likely to be affected by it.
- (8) The Scottish Ministers must lay a copy of every report received by them under this section before the Scottish Parliament.
- (9) The Secretary of State may exclude—
- (a) from what he lays before Parliament or arranges to be published under this section, and
  - (b) from what is to be laid before the Scottish Parliament by the Scottish Ministers,
- anything falling within subsection (10).
- (10) The following falls within this subsection—
- (a) anything the publication of which the Secretary of State considers to be against the interests of national security;
  - (b) anything relating to the private affairs of an individual the publication of which the Secretary of State considers would seriously and prejudicially affect the interests of that individual; and
  - (c) anything of a commercial nature relating specifically to the affairs of a particular body of persons the publication of which the Secretary of State considers would seriously and prejudicially affect the interests of that body.

#### Textual Amendments

- F1** Words in s. 14(3)(g) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\), s. 156\(1\), Sch. 12 para. 78](#); S.I. 2014/251, art. 4
- F2** Words in s. 14(3)(g) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 426](#) (with Sch. 7)

#### Commencement Information

- I4** S. 14 in force at 5.10.2004 by [S.I. 2004/2575, art. 2\(1\), Sch. 1](#)

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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\(2\)\(b\)](#)