



# Energy Act 2004

## 2004 CHAPTER 20

### PART 1

#### THE CIVIL NUCLEAR INDUSTRY

### CHAPTER 4

#### AUTHORISATIONS RELATING TO RADIOACTIVE WASTE

## 72 **Transfer of authorisations**

After section 16 of the 1993 Act (grant of authorisations) insert—

### **“16A Transfer of authorisations**

- (1) This section applies where—
  - (a) a person (“the transferor”) holds an authorisation granted under section 13 in respect of the disposal of radioactive waste on or from premises situated on a nuclear site; and
  - (b) an application is made under this section for a transfer (in whole or in part) of that authorisation to another person (“the transferee”).
- (2) An application under this section is one which—
  - (a) is made to the authorising authority jointly by the transferor and the transferee;
  - (b) is accompanied by the appropriate amount; and
  - (c) in the case of an application for a transfer relating to part only of the premises, identifies the part in question.
- (3) The appropriate amount for the purposes of subsection (2) is—
  - (a) if the application is made to the appropriate Agency, the amount of the charge (if any) that is prescribed for the purpose by a charging scheme under section 41 of the Environment Act 1995; and

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*Status: This is the original version (as it was originally enacted).*

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- (b) if it is made to the chief inspector, the prescribed fee.
- (4) The authorising authority must, on receipt of the application (but subject to directions under section 25 and to subsection (6)), send a copy of the application to every local authority in whose area radioactive waste may be disposed of under the authorisation to which the application relates.
- (5) Before granting the application, the authorising authority must (subject to subsection (6)) consult everyone whom it would have been required to consult under section 16(4A) and (5) if—
- (a) the transferee had applied for the grant of the authorisation that he would hold were the application to be granted; and
  - (b) in the case of a partial transfer, the transferor had applied for the grant (in place of his existing authorisation) of the authorisation he would hold in those circumstances.
- (6) The authorising authority may proceed with the application without—
- (a) sending a copy of the application to a local authority mentioned in subsection (4), or
  - (b) consulting an authority or body mentioned in section 16(5) about the proposed transfer,
- if it appears to the authorising authority that arrangements for the disposal of radioactive waste are unlikely to be changed, as a result of the transfer, in a way that would be of interest to that authority or body.
- (7) The authorising authority may grant the application if, and only if, it is satisfied—
- (a) that the transferee has or will have operational control over the disposals to which the transferred authorisation will relate;
  - (b) that he is able and willing to ensure compliance with the limitations and conditions of the authorisation that he will hold if the application is granted; and
  - (c) that no other grounds exist on which it would be reasonable to refuse to grant the application.
- (8) Where the authorising authority grants the application, it must—
- (a) fix the date from which the transfer applied for is to have effect;
  - (b) furnish the transferee with a certificate containing all material particulars of the authorisation he holds as a result of the transfer;
  - (c) in the case of a partial transfer, furnish the transferor with a similar certificate as respects the authorisation he holds as a result of the transfer; and
  - (d) subject to directions under section 25, send a copy of the certificate furnished to the transferee, and of any certificate furnished to the transferor—
    - (i) to every local authority in whose area radioactive waste may be disposed of under the authorisation to which the certificate relates; and
    - (ii) to every person consulted about the transfer under so much of subsection (5) as requires consultation in accordance with section 16(5).

- (9) The time fixed as the time from which the transfer is to have effect must be not less than twenty-eight days after the day (if any) on which the authorising authority, when it fixes that time, expects copies of the certificates mentioned in paragraph (d) of subsection (8) to be sent out in accordance with that paragraph.
- (10) Subsection (9) does not apply if, in the opinion of the authorising authority, it is necessary for the transfer to have immediate effect or otherwise to be expedited.
- (11) In this section “authorising authority”—
  - (a) in relation to an authorisation having effect in Great Britain, means the appropriate Agency; and
  - (b) in relation to an authorisation having effect in Northern Ireland, means the chief inspector.”

### **73 Applications for variation of authorisations**

In section 17 of the 1993 Act (revocation and variation of authorisations), after subsection (2) insert—

“(2ZA) The powers of the appropriate Agency and of the chief inspector under this section are exercisable with or without the making of an application by the person holding the authorisation.

(2ZB) But where an application for the variation of an authorisation is made by that person, it must be accompanied—

- (a) in the case of an application made to the appropriate Agency, by the charge (if any) that is prescribed for the purpose by a charging scheme under section 41 of the Environment Act 1995; and
- (b) in the case of an application to the chief inspector, by the prescribed fee.”

### **74 Periodic reviews of authorisations**

After section 17 of the 1993 Act insert—

#### **“17A Review of authorisations**

- (1) The authorising authority—
  - (a) must carry out periodic reviews of the limitations and conditions attached to each authorisation under section 13 or 14; and
  - (b) may, at any other time, carry out any such additional review of the limitations and conditions attached to an authorisation under either of those sections as it thinks fit.
- (2) In this section—
  - “the authorising authority”—
    - (a) in relation to an authorisation having effect in Great Britain, means the appropriate Agency; and
    - (b) in relation to an authorisation having effect in Northern Ireland, means the chief inspector;

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“periodic reviews”, in relation to an authorisation, means reviews at such regular intervals as the authorising authority thinks fit in the case of that authorisation.”

**75 Consequential amendments of the 1993 Act**

Schedule 15 (which contains further amendments of the 1993 Act in connection with the provision made by sections 72 to 74) has effect.