



# Energy Act 2004

## 2004 CHAPTER 20

### PART 1

#### THE CIVIL NUCLEAR INDUSTRY

### CHAPTER 5

#### MISCELLANEOUS PROVISIONS RELATING TO NUCLEAR INDUSTRY

#### **76 Amendments for giving effect to international obligations**

- (1) The Secretary of State may by order make the modifications of the enactments to which this section applies that he considers appropriate for the purpose—
  - (a) of facilitating the ratification by Her Majesty's Government in the United Kingdom of an international Protocol (whether entered into before or after the passing of this Act) that relates to liability for nuclear damage; or
  - (b) of exercising an option under such a Protocol, or of facilitating the exercise of such an option.
- (2) The enactments to which this section applies are—
  - (a) the 1965 Act; and
  - (b) any other enactment having effect in relation to a matter to which such a Protocol relates.
- (3) The following are the only international Protocols which are to be taken for the purposes of this section to be Protocols relating to liability for nuclear damage—
  - (a) the Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention of 21st September 1988; and
  - (b) any Protocol amending the Paris Convention or the Brussels Supplementary Convention.
- (4) In this section—

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“the Brussels Supplementary Convention” means the Supplementary Convention on Third Party Liability in the Field of Nuclear Energy of 31st January 1963; and

“the Paris Convention” means the Paris Convention on Third Party Liability in the Field of Nuclear Energy of 29th July 1960.

- (5) The reference in subsection (1) to exercising an option under a Protocol is a reference to making provision the making of which, in connection with the matters to which the Protocol relates, is allowed by that Protocol.
- (6) The power under this section to modify enactments includes power to modify enactments conferring power to make subordinate legislation.
- (7) The power to make an order containing provision authorised by this section is subject to the affirmative resolution procedure.

## **77 Regulation of equipment, software and information**

(1) Section 77 of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (regulation of security of civil nuclear industry) is amended as follows.

(2) In subsection (1) (matters about which security regulations may be made), after paragraph (c) insert—

- “(ca) equipment or software in the United Kingdom which—
- (i) is capable of being used in, or in connection with, the enrichment of uranium; and
  - (ii) is in the possession or control of a person involved in uranium enrichment activities;”.

(3) For paragraph (d) of that subsection substitute—

- “(d) sensitive nuclear information which is in the possession or control in the United Kingdom of—
- (i) a person who is involved in activities on or in relation to a nuclear site or nuclear premises or who is proposing or likely to become so involved;
  - (ii) a person involved in uranium enrichment activities; or
  - (iii) a person who is storing, transporting or transmitting the information for or on behalf of a person falling within subparagraph (i) or (ii);”.

(4) After subsection (6) insert—

“(6A) References in this section to a person involved in uranium enrichment activities are references to a person who is or is proposing to become involved in any of the following activities (whether in the United Kingdom or elsewhere)—

- (a) the enrichment of uranium;
- (b) activities carried on with a view to, or in connection with, the enrichment of uranium;
- (c) the production, storage, transport or transmission of equipment or software for or on behalf of persons involved in uranium enrichment activities; or

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- (d) activities that make it reasonable to assume that he will become involved in something mentioned in paragraphs (a) to (c).”
- (5) In subsection (7) (interpretation of section)—
  - (a) after “this section—” insert—
    - ““enrichment of uranium” means a treatment of uranium that increases the proportion of isotope 235 contained in the uranium;
    - “equipment” includes equipment that has not been assembled and its components;”
  - (b) in paragraph (a) of the definition of “sensitive nuclear information”, for the words from “any treatment” to “contained in the” substitute “the enrichment of”.

## **78 Application of the 1965 Act to Northern Ireland**

- (1) Sections 3(1A) and (6A), 4(3A) and 5(1A) of the 1965 Act (which require certain consultations in relation to nuclear site licences) shall extend to Northern Ireland.
- (2) Section 27 of that Act (application of that Act to Northern Ireland) is amended as follows.
- (3) For subsection (1) substitute—
  - “(1) In the application of this Act to Northern Ireland—
    - (a) a reference to the Minister shall be construed as a reference to the Secretary of State;
    - (b) sections 3(1A) and (6A), 4(3A) and 5(1A) shall have effect as if—
      - (i) for “appropriate Agency”, wherever occurring, there were substituted “Department of the Environment in Northern Ireland”;
      - (ii) for “Great Britain”, wherever occurring, there were substituted “Northern Ireland”;
      - (iii) for “Health and Safety Executive”, wherever occurring, there were substituted “Minister”;
    - (c) section 3(3) shall have effect as if for paragraphs (b) and (c) there were substituted—
      - “(ca) the Fisheries Conservancy Board for Northern Ireland; and.””
- (4) Subsections (2) and (3) shall cease to have effect.
- (5) In subsection (5), for paragraphs (a) to (c) substitute—
  - “(a) by the Minister; or
  - (b) by or with the consent of the Director of Public Prosecutions for Northern Ireland.”
- (6) Subsection (6) shall cease to have effect.

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

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## **79 Expenditure on nuclear related matters**

- (1) There may be paid, out of money provided by Parliament, any expenditure incurred by the Secretary of State, with the consent of the Treasury, under or as a result of—
  - (a) any option under which he or his nominee may acquire an undertaking or property from a British Energy company; or
  - (b) any agreement entered into for the purpose of giving effect to the provisions of such an option, or of continuing or modifying their effect.
- (2) In this section “British Energy company” has the same meaning as in section 1 of the Electricity (Miscellaneous Provisions) Act 2003 (c. 9).

## **80 Additional functions of UKAEA**

- (1) The functions of the UKAEA shall include—
  - (a) power to carry on such activities as they consider appropriate in connection with anything that the NDA has a responsibility for securing under this Part;
  - (b) power to enter into such arrangements with the NDA or any other person as they consider appropriate for that purpose; and
  - (c) power for that purpose to develop and commercially to exploit an expertise in relation to things in which the NDA requires an expertise for the purpose of carrying out its functions.
- (2) In the case of responsibilities of the NDA in relation to an installation, site or facility it is immaterial for the purposes of subsection (1) that the UKAEA is not, for the purposes of Chapter 1 of this Part, the person with control of it.
- (3) The functions of the UKAEA shall also include —
  - (a) power to manage and commercially to exploit any land or other property of theirs that is no longer required by them for or in connection with the carrying out of their other functions; and
  - (b) power to carry on a business of providing services for the administration of—
    - (i) nuclear pension schemes; and
    - (ii) such public service pension schemes as may be approved by the Secretary of State for the purposes of this subsection.
- (4) The UKAEA has power, for the purpose of carrying out its functions (whether conferred by this section or otherwise) to do all such things as appear to them to be likely to facilitate the exercise or performance of their powers and duties, or to be incidental to doing so.
- (5) The ways in which the UKAEA may carry out those functions include (by virtue of subsection (4)) carrying them out through subsidiaries and carrying them out in association with, or through arrangements with, other persons.
- (6) Subsection (5) of section 7 (things in which the NDA requires an expertise) has effect for the purposes of this section as it has effect for the purposes of subsection (4) of that section.
- (7) In this section—
 

“nuclear pension scheme” means a scheme that is a nuclear pension scheme for the purposes of Schedule 8; and

“public service pension scheme” means a public service pension scheme within the meaning of the Pension Schemes Act 1993 (c. 48) (see section 1) or the Pension Schemes (Northern Ireland) Act 1993 (c. 49) (see section 1).