
Changes to legislation: Energy Act 2004, SCHEDULE 2 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 2

Section 11

PROCEDURAL REQUIREMENTS APPLICABLE TO NDA'S STRATEGY

Approval required for strategy

- 1 Subject to paragraph 3(6), a strategy prepared or revised by the NDA has effect only if it is approved—
- (a) by the Secretary of State; and
 - (b) to the extent that it relates to responsibilities of the NDA falling within section 6(2), also by the Scottish Ministers.

Commencement Information

11 Sch. 2 para. 1 in force at 31.3.2005 by S.I. 2005/442, art. 2(2), Sch. 2

Initial strategy

- 2 The NDA must—
- (a) prepare its first strategy, and
 - (b) submit a draft of it for approval,
- before the end of the twelve months beginning with the commencement of section 11.

Commencement Information

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

Strategy reviews and revisions

- 3
- (1) The NDA must carry out and complete a review of its strategy before the end of each review period.
 - (2) If, in consequence of such a review, the NDA decides that it is necessary to revise its strategy, it must submit the draft of its proposed revision for approval.
 - (3) If, in consequence of such a review, the NDA decides that it is unnecessary to revise its strategy, it must submit its current strategy for the renewal of the strategy's approval.
 - (4) The obligation, following a review, to submit—
 - (a) the draft revision of the NDA's strategy prepared in consequence of the review, or
 - (b) the strategy the approval of which is for renewal,

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is an obligation to submit it as soon as reasonably practicable after the completion of the review.

- (5) The NDA may revise its strategy otherwise than in consequence of a review.
- (6) A revision otherwise than in consequence of a review takes effect without approval except to the extent that it contains modifications of the NDA's strategy which—
 - (a) are likely to require a significant increase over its previous estimate in the money required for giving effect to the strategy;
 - (b) significantly alter the priorities of the NDA as respects different installations or sites; or
 - (c) relate to the objectives of the NDA for an installation or site.
- (7) Accordingly, the NDA must submit for approval so much of every proposed revision which—
 - (a) is made otherwise than in consequence of a review; but
 - (b) involves modifications falling within sub-paragraph (6)(a) to (c).
- (8) The persons to whom a submission for approval, or for a renewal of approval, must be made are—
 - (a) in a case where what is submitted contains anything relating to responsibilities of the NDA falling within section 6(2), the Secretary of State and the Scottish Ministers; and
 - (b) in any other case, the Secretary of State.
- (9) In this paragraph “review period” means—
 - (a) the period of five years beginning with the end of the twelve month period mentioned in paragraph 2; or
 - (b) a period of five years beginning with the day after the completion of a review under this paragraph.

Commencement Information

I3 Sch. 2 para. 3 in force at 31.3.2005 by S.I. 2005/442, art. 2(2), Sch. 2

Consultation by NDA

- 4 (1) Before—
 - (a) preparing a strategy,
 - (b) revising a strategy in a manner requiring approval, or
 - (c) submitting a strategy to have the approval of the strategy renewed,
 the NDA must consult the persons listed in sub-paragraph (2).
- (2) Those persons are—
 - [^{F1}(za) the Office for Nuclear Regulation;]
 - (a) the Health and Safety Executive;
 - (b) the Environment Agency;
 - [^{F2}(ba) the Natural Resources Body for Wales;]
 - (c) the Scottish Environment Protection Agency;

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- (d) such persons with responsibilities in relation to nuclear security as have been nominated for the purposes of this sub-paragraph by the Secretary of State;
 - (e) every local authority whose area includes a designated installation, designated site or designated facility or a locality affected by activities at such an installation, site or facility;
 - (f) every person with control of such an installation, site or facility;
 - (g) the employees of every such person and the persons appearing to the NDA to represent them; and
 - (h) every body established—
 - (i) by the NDA, or
 - (ii) by a person with control of a designated installation, designated site or designated facility,for the purpose of consulting persons about activities carried on at, or in connection with, such an installation, site or facility.
- (3) In preparing, reviewing or revising its strategy the NDA must have regard to—
- (a) every representation made to it by or on behalf of a person mentioned in sub-paragraph (2); and
 - (b) the representations made to it by members of the public.
- (4) This paragraph does not apply to a revision made for the purpose only of giving effect to directions under paragraph 5(7).
- (5) In this paragraph references to a designated installation, designated site or designated facility include references to an installation, site or facility designated by a direction which is not yet in force.

Textual Amendments

- F1** Sch. 2 para. 4(2)(za) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), **Sch. 12 para. 79(2)**; [S.I. 2014/251](#), art. 4
- F2** Sch. 2 para. 4(2)(ba) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 427(2)** (with Sch. 7)

Commencement Information

- I4** Sch. 2 para. 4 in force at 31.3.2005 by [S.I. 2005/442](#), art. 2(2), **Sch. 2**

Approval of strategy

- 5 (1) This paragraph applies where—
- (a) anything is submitted for approval under this Schedule; or
 - (b) the NDA's current strategy is submitted for the renewal of the strategy's approval.
- (2) The submission must be accompanied by a report by the NDA of the representations about the contents of its strategy, or of any revision of it, that it received in the course of the preparation of the strategy, or in connection with its proposal to revise it or to have the approval of the strategy renewed.
- (3) Before determining whether or not to approve anything relating to responsibilities mentioned in section 6(3), the Secretary of State must consult the Scottish Ministers.

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- (4) The Secretary of State must also consult the Scottish Ministers before approving anything relating to proposals for the non-processing treatment, the storage or the disposal of hazardous materials if it appears to him that the proposals would have an effect (notwithstanding that they relate only to England and Wales)—
- (a) on the management of hazardous materials located in Scotland; or
 - (b) on the use of a site in England and Wales for the non-processing treatment, the storage or the disposal of hazardous materials that could be brought to that site from Scotland.
- (5) If—
- (a) the Secretary of State approves a strategy or revised strategy submitted to him under this Schedule, and
 - (b) the Scottish Ministers approve it so far as it relates to responsibilities of the NDA falling within section 6(2),
- it takes effect as the approved strategy of the NDA from the time of the giving of the approval.
- (6) If it is not so approved, the NDA must—
- (a) modify what was submitted; and
 - (b) re-submit it for approval to the Secretary of State and (if the case so requires) to the Scottish Ministers.
- (7) In preparing a modified strategy or revision for re-submission, the NDA must comply with every direction given to it with respect to any of the following matters—
- (a) the NDA's objectives for a particular installation or site or for installations or sites of a particular description;
 - (b) the NDA's strategy with respect to the operation of any particular installation or facility;
 - (c) the period over which decommissioning or cleaning-up work is to be carried out in the case of a particular installation or site or in the case of installations or sites of a particular description;
 - (d) the amounts to be defrayed by the NDA in a particular period in respect of expenditure on decommissioning or cleaning-up work in the case of a particular installation or site or in the case of installations or sites of a particular description.
- (8) The persons by whom directions may be given under sub-paragraph (7) are—
- (a) in the case of directions given by virtue of paragraph (a) or (b) of that sub-paragraph in relation to responsibilities of the NDA falling within section 6(2), the Secretary of State and the Scottish Ministers, acting jointly; and
 - (b) in any other case, the Secretary of State.
- (9) Before giving a direction under sub-paragraph (7), the Secretary of State and the Scottish Ministers or (as the case may be) the Secretary of State must consult—
- (a) the NDA;
 - [^{F3}(aa) the Office for Nuclear Regulation;]
 - (b) the Health and Safety Executive;
 - (c) the Environment Agency;
 - [^{F4}(ca) the Natural Resources Body for Wales;]

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- (d) the Scottish Environment Protection Agency; and
 - (e) such persons with responsibilities in relation to nuclear security as have been nominated for the purposes of this sub-paragraph by the Secretary of State.
- (10) Nothing in this paragraph with respect to the giving of directions restricts—
- (a) the grounds on which, or
 - (b) the circumstances in which,
- the Secretary of State or the Scottish Ministers may refuse approval without giving a direction.
- (11) In this paragraph “non-processing treatment” has the same meaning as in section 6.

Textual Amendments

- F3** Sch. 2 para. 5(9)(aa) inserted (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), Sch. 12 para. 79(3); S.I. 2014/251, art. 4
- F4** Sch. 2 para. 5(9)(ca) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 2 para. 427(3) (with Sch. 7)

Commencement Information

- I5** Sch. 2 para. 5 in force at 31.3.2005 by S.I. 2005/442, art. 2(2), Sch. 2

Publication of strategy

- 6 (1) The NDA must publish its approved strategy in the manner which, in its opinion, is most appropriate for bringing it to the attention of persons likely to be affected by it.
- (2) Where it revises that strategy, it must so publish the revised strategy.
- (3) The Secretary of State must lay before Parliament a copy of anything that the NDA publishes in accordance with sub-paragraph (1) or (2), and the Scottish Ministers must lay before the Scottish Parliament a copy of anything that is so published.
- (4) Where the NDA publishes a strategy or revised strategy under this paragraph it must, in the same manner, publish a report on the representations it received about what the strategy or revision should contain.
- (5) The NDA must exclude from what it publishes under this paragraph anything that it has been notified by the Secretary of State is a matter the publication of which he considers to be against the interests of national security.
- (6) The NDA may also exclude from what it publishes under this paragraph—
- (a) anything relating to the private affairs of an individual the publication of which the NDA considers would seriously and prejudicially affect the interests of that individual; and
 - (b) anything of a commercial nature relating specifically to the affairs of a particular body of persons the publication of which the NDA considers would seriously and prejudicially affect the interests of that body.
- (7) In determining whether to exclude anything from publication under sub-paragraph (6) the NDA must have regard to whether the harm that would be caused by publication is likely to outweigh the benefits.

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Commencement Information

I6 [Sch. 2 para. 6](#) in force at 31.3.2005 by [S.I. 2005/442](#), art. 2(2), [Sch. 2](#)

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