



Energy Act 2004

2004 CHAPTER 20

PART 1

THE CIVIL NUCLEAR INDUSTRY

CHAPTER 1

NUCLEAR DECOMMISSIONING

Supplementary provisions of Chapter 1 of Part 1

36 Meaning of “nuclear site” etc. and “person with control”

(1) In this Chapter “nuclear site” means a principal nuclear site or a contaminated site.

(2) In this Chapter—

“contaminated site” means the whole or a part of a site which is not a principal nuclear site but—

- (a) has been and remains contaminated (whether radioactively or chemically) as a result of nuclear activities; or
- (b) is the location of hazardous material;

“principal nuclear site” means the whole or a part of a site of any of the following descriptions—

- (a) a site in respect of which a nuclear site licence is or is required to be in force;
- (b) a site in respect of which such a licence would be required to be in force if the licensing requirements of the 1965 Act applied to the Crown;
- (c) a site not falling within paragraph (a) or (b) in or on which there is an NDA facility;
- (d) a site on which there is an installation used for practical research into the production of energy by the fusion of atomic nuclei;

Changes to legislation: *Energy Act 2004, Section 36 is up to date with all changes known to be in force on or before 24 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*

- (e) a site which has been a site falling within paragraphs (a) to (d) but which, without being such a site, remains contaminated (whether radioactively or chemically) as a result of nuclear activities carried on while it was such a site or before it became one.
- (3) References in this Chapter to the person with control of an installation, site or facility are references—
- (a) in the case of—
- (i) a site in relation to which a nuclear site licence is held by a person whose period of responsibility (within the meaning of the 1965 Act) is still current, or
- (ii) a nuclear installation in or on such a site,
- to that person;
- (b) in the case of an installation or site which—
- (i) is an installation in or on a site occupied by or on behalf of the Crown or is itself such a site, and
- (ii) is an installation or site in the case of which there is a person appointed by an order made by the Secretary of State to be the person with control,
- to that person;
- (c) in the case of a facility which—
- (i) is not an installation to which paragraph (a) or (b) applies; but
- (ii) is operated on a single site to which one of those paragraphs does apply,
- to the person with control of the site;
- (d) in the case of an installation or facility which—
- (i) is not an installation or facility to which paragraph (a), (b) or (c) applies; but
- (ii) is operated on a single site by a person who (without being the owner of the site) is in occupation of it,
- to the occupier of the site;
- (e) in the case of a facility which is operated otherwise than on a single site, to the operator of the facility;
- (f) in the case of anything in or under the territorial sea adjacent to the United Kingdom, to the Secretary of State;
- (g) in the case of a site to which none of the preceding paragraphs applies, to the owner of the site;
- (h) in the case of an installation or facility to which none of those paragraphs applies, to the occupier of the site where the installation or facility is located.
- (4) An order for the purposes of subsection (3)(b) is subject to the negative resolution procedure.
- (5) For the purposes of this section something is contaminated as a result of nuclear activities if the contamination (whenever occurring), or any of it, is the direct or indirect result of one or more of the following—
- (a) activities carried on in or on an installation, site or facility which was at the time, or subsequently became, a nuclear installation, a principal nuclear site or an NDA facility;

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- (b) the storage or disposal of any matter or substance in or on an installation, site or facility which was at the time, or subsequently became, a nuclear installation, a principal nuclear site or an NDA facility;
- (c) an incident occurring in or on an installation, site or facility which was at the time, or subsequently became, a nuclear installation, a principal nuclear site or an NDA facility;
- (d) the discharge of anything from an installation, site or facility which was at the time, or subsequently became, a nuclear installation, a principal nuclear site or an NDA facility;
- (e) the transportation of hazardous material to or from a principal nuclear site or an installation or facility in or on such a site;
- (f) an incident affecting hazardous material being transported to or from a principal nuclear site or an installation or facility in or on such a site.

Commencement Information

- I1** S. 36 in force at 24.8.2004 for specified purposes by S.I. 2004/2184, art. 2(1), **Sch. 1**
- I2** S. 36 in force at 5.10.2004 in so far as not already in force 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\(2\)\(b\)](#)