



# Energy Act 2008

## 2008 CHAPTER 32

### PART 3

#### DECOMMISSIONING OF ENERGY INSTALLATIONS

#### CHAPTER 1

##### NUCLEAR SITES: DECOMMISSIONING AND CLEAN-UP

##### *Enforcement*

#### **57 Offence to fail to comply with approved programme**

- (1) It is an offence for a site operator or a body corporate associated with a site operator (a “relevant person”) to fail to comply with an obligation imposed on the relevant person by an approved funded decommissioning programme in respect of the site.
- (2) In proceedings against a person for an offence under this section, it is a defence for the person to prove that due diligence was exercised to avoid committing the offence.
- (3) A person guilty of an offence under this section is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum, or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.

#### **58 Secretary of State’s power of direction**

- (1) This section applies where—
  - (a) a person fails to comply with an obligation imposed on the person by an approved funded decommissioning programme, or

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*Status: This is the original version (as it was originally enacted).*

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- (b) a person on whom obligations are imposed by such a programme has engaged in unlawful conduct which the Secretary of State thinks may affect the programme.
- (2) In this section—
- “the defaulter” means a person to whom subsection (1)(a) or (b) applies, and
  - “unlawful conduct” means conduct which is unlawful under the criminal law of a part of the United Kingdom.
- (3) A person has engaged in unlawful conduct for the purposes of subsection (1) if—
- (a) the person has been found guilty of the unlawful conduct by a court in a part of the United Kingdom,
  - (b) the period for an appeal against the conviction has expired, and
  - (c) if an appeal has been made, it has been withdrawn or finally determined.
- (4) The Secretary of State may direct the defaulter to take steps which the Secretary of State considers necessary or appropriate to comply with the obligation or remedy the effects of the unlawful conduct.
- (5) Before giving a direction under subsection (4), the Secretary of State must consult each interested body (within the meaning of section 46(6)) in so far as the direction relates to a function conferred on the interested body by or under an enactment.
- (6) If at any time it appears to the Secretary of State that the defaulter has failed to comply with a direction under subsection (4), the Secretary of State may make an application to the High Court under this section.
- (7) If, on an application under this section, the High Court decides that the defaulter has failed to comply with the direction, it may order the defaulter to take such steps as it directs for securing that the direction is complied with.

## **59 Offence of further disclosure of information**

- (1) A person who discloses information obtained by virtue of a notice under section 52(4) or 53(2) or (5), or regulations under section 54(2)(e), is guilty of an offence unless the disclosure is permitted by this section.
- (2) The disclosure is permitted if—
- (a) it is made with the consent of the person by or on behalf of whom the information was provided;
  - (b) it is made under section 63 or for the purposes of any other function of the Secretary of State under this Chapter;
  - (c) it is a disclosure of information obtained under section 63 by the Health and Safety Executive and it is made by the Executive for the purposes of its functions under the Nuclear Installations Act 1965 (c. 57);
  - (d) it is a disclosure of information obtained under that section by the Environment Agency or the Department of the Environment for Northern Ireland and it is made by the Agency or Department for the purposes of its functions under the Radioactive Substances Act 1993 (c. 12);
  - (e) it is required by or under an enactment.
- (3) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.

## **60 Offence of supplying false information**

- (1) It is an offence for a person, knowingly or recklessly, to supply information which is false or misleading in a material respect to the Secretary of State in response to a requirement under this Chapter.
- (2) A person guilty of an offence under this section is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum, or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.

## **61 Restriction on prosecutions under this Chapter**

No proceedings for an offence under this Chapter (including an offence created by regulations under section 54) may be instituted except by the Secretary of State or—

- (a) in England and Wales, the Director of Public Prosecutions, or
- (b) in Northern Ireland, the Director of Public Prosecutions for Northern Ireland.