



# Energy Act 2008

## 2008 CHAPTER 32

### PART 3

#### DECOMMISSIONING OF ENERGY INSTALLATIONS

#### CHAPTER 1

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

##### *General*

#### **67**    **Meaning of “associated”**

- (1) For the purposes of this Chapter, one body corporate is associated with another if one of them has a significant interest in the other or a third body corporate has a significant interest in both of them; and subsections (2) to (5) set out the circumstances in which one body corporate (“A”) has a significant interest in another (“B”).
- (2) Where B is a company, A has a significant interest in B if A possesses or is entitled to acquire—
  - (a) 20% or more of the issued share capital of B,
  - (b) such rights as would entitle A to exercise 20% or more of the votes exercisable in general meetings of B,
  - (c) such part of the issued share capital of B as would entitle A to 20% or more of the amount distributed if the whole of the income of B were in fact distributed among the shareholders, or
  - (d) such rights as would, in the event of the winding up of B or in any other circumstances, entitle it to receive 20% or more of the assets of B which would then be available for distribution among the shareholders.
- (3) Where B is a limited liability partnership, A has a significant interest in B if A—
  - (a) holds 20% or more of the voting rights in B,

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- (b) is a member of B and has a right to appoint or remove 20% or more of other members, or
  - (c) is a member of B and controls alone, or pursuant to an agreement with other members, 20% or more of the voting rights in B.
- (4) In subsection (3)(a) and (c) the references to “voting rights” are to the rights conferred on members in respect of their interest in a limited liability partnership to vote on those matters which are to be decided on by a vote of the members of the limited liability partnership.
- (5) In any case, A has a significant interest in B if A has the power, directly or indirectly, to secure that the affairs of B are conducted in accordance with A's wishes.
- (6) In determining whether, by virtue of this section, A has a significant interest in B, A shall be taken to possess—
- (a) any rights and powers possessed by a person as nominee for A, and
  - (b) any rights and powers possessed by a body corporate which A controls (including rights and powers which such a body corporate would be taken to possess by virtue of this paragraph).
- (7) In order to determine whether one body corporate controls another for the purposes of subsection (6)(b), subsections (2) to (5) and (6)(a) are to be applied, but as if—
- (a) for “has a significant interest in” in each place there were substituted “controls”, and
  - (b) for “20%” in each place there were substituted “50%”.

[<sup>F1</sup>(8) This section is subject to section 67A.]

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**Textual Amendments**

**F1** S. 67(8) inserted (31.3.2022) by Nuclear Energy (Financing) Act 2022 (c. 15), ss. 40(1), 44(1)(d)

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**Commencement Information**

**II** S. 67 in force at 6.4.2009 by S.I. 2009/45, art. 4(b)(i)

[<sup>F2</sup>**67A Meaning of “associated”: supplementary**

- (1) In determining whether, by virtue of section 67, A has a significant interest in B, the following are to be disregarded—
- (a) relevant share security rights that A holds in relation to B;
  - (b) subject to subsection (4), shares in B that are acquired by A in consequence of the exercise of relevant share security rights that A holds in relation to B;
  - (c) any power that A has, directly or indirectly, to secure that the affairs of B are conducted in accordance with A's wishes by virtue of—
    - (i) relevant share security rights that A holds in relation to B,
    - (ii) arrangements that are designed to facilitate the exercise of relevant share security rights that A holds in relation to B, or
    - (iii) relevant asset security rights that A holds in relation to B, if A also holds relevant share security rights in relation to B.
- (2) A holds “relevant share security rights” in relation to B if A holds—
- (a) rights to enforce a security interest over shares in B,

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- (b) rights relating to enforcement of a security interest over shares in B, or
  - (c) rights that enable A to preserve the value of a security interest over shares in B.
- (3) A holds “relevant asset security rights” in relation to B if A holds—
- (a) rights to enforce a security interest over any of B’s assets,
  - (b) rights relating to enforcement of a security interest over any of B’s assets, or
  - (c) rights that enable A to preserve the value of a security interest over any of B’s assets.
- (4) [Subsection \(1\)\(b\)](#) does not apply if the shares acquired by A are retained by A for a purpose other than that of preserving the value of the security interest in question or of realising it.
- (5) In this section—
- (a) a reference to “shares” includes a reference to rights attached to shares;
  - (b) a reference to A holding rights in relation to B includes a reference to—
    - (i) A holding those rights on trust for another person, and
    - (ii) A being the beneficiary of a trust of those rights;
  - (c) a reference to A acquiring shares in B includes a reference to—
    - (i) A acquiring shares in B to hold on trust for another person, and
    - (ii) another person acquiring shares in B to hold on trust for A;
  - (d) a reference to rights includes a reference to powers.]

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**Textual Amendments**

**F2** S. 67A inserted (31.3.2022) by [Nuclear Energy \(Financing\) Act 2022 \(c. 15\)](#), **ss. 40(2), 44(1)(d)**

## 68 Interpretation

In this Chapter—

“approved funded decommissioning programme” means a funded decommissioning programme approved under section 46;

“cleaning-up” and “decommissioning”, in relation to a site or installation, include the treatment, storage, transportation and disposal of hazardous material (within the meaning of section 37 of the Energy Act 2004) and of other matter and substances that need to be dealt with or removed in or towards making the site or installation suitable to be used for other purposes;

“the designated technical matters” has the meaning given by section 45;

“document” includes anything in which information is recorded in any form;

“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament or Northern Ireland legislation;

“funded decommissioning programme” is to be construed in accordance with section 45;

“nuclear installation” has the meaning given by section 26 of the Nuclear Installations Act 1965 (c. 57);

“nuclear site licence” has the meaning given by that section;

“relevant nuclear installation”, in relation to a site, means a nuclear installation which is or is intended to be established on the site;

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“site operator” means a person who holds a nuclear site licence in respect of a site;

“the technical matters” has the meaning given by section 45.

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**Commencement Information**

**I2** S. 68 in force at 6.4.2009 by [S.I. 2009/45](#), [art. 4\(b\)\(i\)](#)

**Changes to legislation:**

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