



# Energy Act 2008

## 2008 CHAPTER 32

### PART 3

#### DECOMMISSIONING OF ENERGY INSTALLATIONS

### CHAPTER 1

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

#### *Miscellaneous*

#### **62 Power to apply this Chapter to other nuclear installations**

- (1) The Secretary of State may, by order, modify section 45 so that it also applies where, on or after the day on which the order comes into force, a person applies for a nuclear site licence in respect of a site of a description specified in the order.
- (2) The sites which fall within a description specified under subsection (1) must be—
  - (a) sites on which the person intends to construct a nuclear installation for a purpose connected with the generation of electricity, or
  - (b) sites in respect of which an obligation has previously arisen under section 45 by virtue of paragraph (a) and on which the person intends to operate a nuclear installation which was constructed for such a purpose.

#### **63 Co-operation with other public bodies**

- (1) The Secretary of State may require a body within subsection (2) to provide the Secretary of State with such assistance as that body is reasonably able to give in connection with the performance by the Secretary of State of a function under this Chapter.
- (2) Those bodies are—
  - (a) the Health and Safety Executive;

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- (b) the Environment Agency;
  - (c) the Department of the Environment for Northern Ireland.
- (3) A body within subsection (2) may provide information to the Secretary of State if—
- (a) the information relates to a person within subsection (5), and
  - (b) the Secretary of State or the body thinks that the information is relevant to a function of the Secretary of State under this Chapter.
- (4) The Secretary of State may provide information to a body within subsection (2) if—
- (a) the information relates to a person within subsection (5), and
  - (b) the Secretary of State or the body thinks that the information is relevant to a function of the body in relation to the programme.
- (5) The persons are—
- (a) a site operator, or another person, who has obligations under a funded decommissioning programme (whether or not the programme is approved),
  - (b) a body corporate which is associated with a site operator who has submitted a funded decommissioning programme if—
    - (i) the Secretary of State is considering making a modification under section 46 which, if made, would result in the body corporate having obligations under the programme, or
    - (ii) a proposal under section 48 has been made for a modification which, if made, would result in the body corporate having obligations under the programme, or
  - (c) in the case of subsection (3) only, a body corporate which is so associated and in relation to which the Secretary of State is considering whether to make a proposal of the kind mentioned in paragraph (b)(ii).
- (6) This section applies despite any statutory or other restriction on the disclosure of information.
- (7) Where a nuclear site licence has been applied for, but not yet granted, in respect of a site, references in this section to the site operator include references to the person who has applied for a nuclear site licence in respect of the site.

## **64 Continuity of obligations**

- (1) This section applies where a person (“the former site operator”) ceases to hold a nuclear site licence in respect of a site.
- (2) This Chapter continues to apply to the former site operator as if it were the site operator in relation to the site.
- (3) But the Secretary of State may give notice to the former site operator releasing it from its obligations under—
  - (a) this Chapter, and
  - (b) an approved funded decommissioning programme in respect of the site.
- (4) A notice under subsection (3)—
  - (a) may relate to all the former site operator’s obligations or only to specified obligations;
  - (b) may relate to the whole or part of a site;

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- (c) may relate to all nuclear installations on a site or only to specified nuclear installations;
  - (d) may be unconditional or subject to conditions.
- (5) The power conferred by subsection (3) applies in relation to any other person with obligations under a programme within subsection (3)(b) as it applies in relation to the site operator.
- (6) This section is without prejudice to the operation of this Chapter in relation to another person who applies for or is granted a nuclear site licence in respect of the site.

## **65 Amendment of Nuclear Installations Act 1965**

After section 1(3) of the Nuclear Installations Act 1965 (c. 57) (nuclear site licences) insert—

“(4) Subsection (1) is subject to section 47 of the Energy Act 2008 (prohibition on use of site in absence of approved funded decommissioning programme).”

## **66 Disposal of hazardous material**

- (1) Where the Secretary of State enters an agreement for, or in connection with, the disposal of relevant hazardous material by or on behalf of the Secretary of State, the agreement may provide for a fee to be paid to the Secretary of State.
- (2) The Secretary of State may not enter an agreement which provides for the payment of a fee unless the consent of the Treasury has been obtained in relation to the amount of the proposed fee.
- (3) The fee for which such an agreement provides may include—
- (a) such amount as the Secretary of State considers prudent by reason of any uncertainty which exists about the relevant expenditure which will or may be incurred in connection with the Secretary of State’s obligations under the agreement in relation to the relevant hazardous material;
  - (b) an amount in respect of such proportion as the Secretary of State considers appropriate of the aggregate of—
    - (i) the relevant expenditure which has been, will or may be, incurred in connection with the design and construction of a repository in which material (including any hazardous material to which the agreement relates) is to be disposed of, and
    - (ii) such amount as the Secretary of State considers it prudent to make allowance for by reason of any uncertainty which exists about the relevant expenditure which will or may be incurred as mentioned in sub-paragraph (i).
- (4) In this section—
- “hazardous material” has the meaning given by section 37 of the Energy Act 2004 (c. 20);
  - “relevant expenditure” means expenditure incurred by the Secretary of State, the Nuclear Decommissioning Authority or any other person;
  - “relevant hazardous material” means hazardous material which is, or is required to be, the subject of a funded decommissioning programme.