



# Energy Act 2013

## 2013 CHAPTER 32

### PART 3

#### NUCLEAR REGULATION

### CHAPTER 4

#### FUNCTIONS OF THE ONR

##### *Exercise of functions: general*

#### **92 Directions from Secretary of State**

- (1) The Secretary of State may give the ONR a direction as to the exercise by it of—
  - (a) its functions generally, or
  - (b) any of its functions specifically.
- (2) A direction given by the Secretary of State under subsection (1)—
  - (a) may modify a function of the ONR, but
  - (b) must not confer functions on the ONR (other than a function of which it was deprived by a previous direction given under this section).
- (3) The Secretary of State may give the ONR such directions as appear to the Secretary of State to be necessary or desirable in the interests of national security.
- (4) A direction given by the Secretary of State under subsection (3) may—
  - (a) modify a function of the ONR,
  - (b) confer a function on the ONR.
- (5) A direction under subsection (1) or (3) must not be given in relation to the exercise of a regulatory function in a particular case.

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- (6) If the Secretary of State is satisfied that there are exceptional circumstances relating to national security which justify giving a direction under this subsection, the Secretary of State may give the ONR a direction as to the exercise by the ONR of a regulatory function in a particular case.
- (7) A direction given under subsection (6) must be for the nuclear security purposes.
- (8) The Secretary of State must lay before Parliament a copy of any direction given under this section.
- (9) Subsection (8) does not apply to a direction under subsection (6) if the Secretary of State considers that publishing the direction would be contrary to the interests of national security; but, in that event, the Secretary of State must lay before Parliament a memorandum stating that such a direction has been given and the date on which it was given.

### **93 Compliance with nuclear safeguards obligations**

- (1) The ONR must do such things as it considers best calculated to secure compliance by the United Kingdom or, as the case may be, to enable or facilitate compliance by a Minister of the Crown, with the safeguards obligations.
- (2) For the purposes of this Part “the safeguards obligations” are—
  - (a) Articles 77 to 85 of the Treaty establishing the European Atomic Energy Community, signed at Rome on 25 March 1957,
  - (b) the agreement made on 6 September 1976 between the United Kingdom, the European Atomic Energy Community and the International Atomic Energy Agency for the application of safeguards in the United Kingdom in connection with the Treaty on the Non-Proliferation of Nuclear Weapons,
  - (c) the protocol signed at Vienna on 22 September 1998 additional to the agreement mentioned in paragraph (b), and
  - (d) such other obligations, agreements or arrangements relating to nuclear safeguards as may be specified in a notice given to the ONR by the Secretary of State;

and any reference in paragraphs (a) to (c) to a treaty, agreement or protocol is to it as it has effect for the time being.
- (3) The Secretary of State may vary or revoke a notice given under subsection (2)(d) by giving a further notice to the ONR.
- (4) Before giving a notice under this section, the Secretary of State must consult the ONR.
- (5) The ONR must publish any notice given under this section.
- (6) Subsection (1) is not to be taken to affect the generality of section 78.

### **94 Consent of Secretary of State for certain communications**

- (1) The ONR must not issue any communication to which this section applies except with the consent of the Secretary of State.
- (2) This section applies to—
  - (a) any—
    - (i) security guidance, or

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(ii) statement of the ONR’s nuclear security policy,  
that the ONR considers concerns any matter to which any government policy  
on national security relates;

(b) any other communication of a description that the Secretary of State has  
directed should be submitted to the Secretary of State before being issued.

This is subject to subsection (3).

(3) This section does not apply to—

- (a) a code of practice issued under section 79;
- (b) the ONR’s strategy or annual plan or a report under paragraph 24 of  
Schedule 7;
- (c) advice given in a particular case.

(4) In this section—

“government policy on national security” means any current policy which  
relates to national security and—

- (a) has been published by or on behalf of Her Majesty’s Government, or
- (b) has been notified to the ONR by the Secretary of State;

“security guidance” means any guidance to which the ONR’s nuclear  
security policy is relevant;

“the ONR’s nuclear security policy” means the ONR’s policy with respect  
to the exercise of its functions, or the functions of inspectors, so far as relevant  
to the nuclear security purposes.

(5) The Secretary of State may give a direction under subsection (2)(b) in relation to a  
description of communication only if it appears to the Secretary of State—

- (a) that—
  - (i) a communication of that description might contain security guidance  
or information about the ONR’s nuclear security policy, or
  - (ii) the ONR’s nuclear security policy might otherwise be relevant to such  
a communication, and
- (b) that such a communication might concern any matter to which any  
government policy on national security relates.

(6) The Secretary of State may give the ONR a general consent in relation to the issue  
of a particular description of communication which would otherwise fall within  
subsection (2)(a).

(7) If the Secretary of State has given such a general consent, the ONR need not seek the  
Secretary of State’s particular consent in relation to the issue of a communication of  
that description unless directed by the Secretary of State to do so.

## **95 Power to arrange for exercise of functions by others**

(1) If the condition in subsection (2) is satisfied, the ONR may make arrangements with a  
government department or other person for that department or person to perform any  
of the ONR’s functions, with or without payment.

(2) That condition is that the Secretary of State considers that the function or functions  
in question can appropriately be performed by the government department or other  
person.

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## **96 Co-operation between ONR and Health and Safety Executive**

- (1) The Health and Safety Executive and the ONR must enter into and maintain arrangements with each other for securing co-operation and the exchange of information in connection with the carrying out of any of their functions.
- (2) The Health and Safety Executive and the ONR must—
  - (a) review the arrangements from time to time, and
  - (b) revise them when they consider it appropriate to do so.