



Energy Act 2008

2008 CHAPTER 32

PART 3

DECOMMISSIONING OF ENERGY INSTALLATIONS

CHAPTER 1

NUCLEAR SITES: DECOMMISSIONING AND CLEAN-UP

Regulations and guidance

54 Nuclear decommissioning: regulations and guidance

- (1) The Secretary of State may make regulations about—
 - (a) the preparation, content and implementation of funded decommissioning programmes,
 - (b) the modification of funded decommissioning programmes under sections 48 to 51, and
 - (c) the modification, under those sections, of the conditions subject to which funded decommissioning programmes are approved.
- (2) Regulations under this section may, in particular, make provision—
 - (a) about the technical matters in relation to sites to which section 45(2) applies;
 - (b) about the estimation of the costs likely to be incurred in connection with the designated technical matters in relation to such sites, and about the manner in which such estimates are to be verified (which may include provision requiring verification by an independent third party);
 - (c) about the financing of those designated technical matters, including the security to be provided for the performance of obligations imposed in respect of those matters by virtue of programmes and the establishment and maintenance, for the purposes of such security, of trusts or other arrangements to hold and accumulate funds;

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- (d) about payments to a site operator or another person from funds so held or accumulated;
 - (e) for information prescribed, or of a description prescribed, by the regulations to be supplied to the Secretary of State by persons with obligations under programmes at such intervals, or on such occasions, as may be so prescribed;
 - (f) enabling the Secretary of State to charge a fee to a site operator in order to recover the costs of obtaining advice in relation to information supplied in accordance with regulations under paragraph (e);
 - (g) about how fees payable under this Chapter are to be determined;
 - (h) about when fees payable under this Chapter are to be paid.
- (3) Regulations under this section may include provision making it an offence to contravene specified provisions of the regulations.
- (4) Where regulations under subsection (3) create an offence, they must also make provision as to the mode of trial and punishment of offences; but—
- (a) any provision as to punishment on summary conviction must not authorise a fine exceeding the statutory maximum or imprisonment, and
 - (b) any provision as to punishment on conviction on indictment must not authorise imprisonment for a term exceeding 2 years.
- (5) The Secretary of State may publish guidance about the preparation, content, modification and implementation of funded decommissioning programmes (including any matter mentioned in subsection (2)(a) to (e)).
- (6) The Secretary of State must publish guidance about factors which it may be appropriate to consider in deciding whether or not—
- (a) to approve a programme,
 - (b) to approve a programme with modifications or subject to conditions, or
 - (c) to make a proposed modification to a programme or the conditions subject to which it is approved.
- (7) When making a decision of a kind mentioned in subsection (6), the Secretary of State must have regard to the guidance for the time being in force under this section.
- (8) Before making regulations or publishing guidance under this section, the Secretary of State must consult—
- [^{F1}(a) the Office for Nuclear Regulation,]
 - (b) the Environment Agency, and
 - (c) the Department of the Environment in Northern Ireland,
- in so far as the regulations or guidance relate to functions conferred on them by or under an enactment.
- (9) Subsection (8) may be satisfied by consultation before, as well as by consultation after, the commencement of this section or the passing of this Act.
- (10) The Secretary of State must lay before Parliament a copy of any guidance published under this section.
- (11) Guidance under this section may make different provision for different cases or circumstances.

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2008, Cross Heading: Regulations and guidance. (See end of Document for details)

Textual Amendments

- F1** S. 54(8)(a) substituted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), [Sch. 12 para. 98](#); [S.I. 2014/251](#), art. 4

Commencement Information

- I1** S. 54 in force at 6.4.2009 by [S.I. 2009/45](#), [art. 4\(b\)\(i\)](#)

55 Funded decommissioning programmes: verification of financial matters

- (1) Regulations under section 54 may make provision enabling the Secretary of State to rely, in specified circumstances, on verification of financial matters by an independent third party.
- (2) Regulations may, in particular, provide that for the purposes of the Secretary of State's functions under this Chapter, the Secretary of State may—
 - (a) rely on estimates of costs verified by an independent third party in accordance with the regulations;
 - (b) rely on an independent third party's assessment of the prudence or otherwise of any provision made for the financing of the designated technical matters.

Commencement Information

- I2** S. 55 in force at 6.4.2009 by [S.I. 2009/45](#), [art. 4\(b\)\(i\)](#)

Changes to legislation:

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