

Status: Point in time view as at 01/04/2014.

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SCHEDULES

SCHEDULE 12

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 3

PART 2

NUCLEAR SAFETY

Nuclear Installations Act 1965 (c. 57)

16 The Nuclear Installations Act 1965 is amended as follows.

Commencement Information

II Sch. 12 para. 16 in force at 1.4.2014 by S.I. 2014/251, art. 4

17 For section 1 substitute—

“1 Restriction of certain nuclear installations to licensed sites

- (1) No person may use a site for the purpose of installing or operating—
 - (a) any nuclear reactor (other than a nuclear reactor comprised in a means of transport, whether by land, water or air), or
 - (b) any other installation of a prescribed kind,unless a licence to do so has been granted in respect of the site by the appropriate national authority and is in force.
- (2) Such a licence is referred to in this Act as a “nuclear site licence”.
- (3) The only kinds of installation that may be prescribed under subsection (1)
 - (b) are installations (other than nuclear reactors) designed or adapted for—
 - (a) producing or using atomic energy,
 - (b) any process which—
 - (i) is preparatory or ancillary to producing or using atomic energy, and
 - (ii) involves, or is capable of causing, the emission of ionising radiations, or
 - (c) storing, processing or disposing of—
 - (i) nuclear fuel, or
 - (ii) bulk quantities of other radioactive matter which has been produced or irradiated in the course of the production or use of nuclear fuel.

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- (4) Regulations under subsection (1)(b) may make provision for exempting an installation from subsection (1).
- (5) Regulations made by virtue of subsection (4)—
 - (a) may provide for any exemption to be conditional;
 - (b) may not result in an installation being exempt from subsection (1) unless the Secretary of State is satisfied that it is not a relevant installation (or, in the case of a conditional exemption, would not be a relevant installation if the prescribed conditions were satisfied).
- (6) Before exercising any function under subsection (1)(b), (4) or (5) in or as regards Scotland, the Secretary of State must consult the Scottish Ministers.
- (7) Any person who contravenes subsection (1) is guilty of an offence.
- (8) A person convicted of an offence under subsection (7) in England and Wales or Scotland is liable—
 - (a) on conviction on indictment to imprisonment for a term not exceeding 2 years, or a fine, or both;
 - (b) on summary conviction to imprisonment for a term not exceeding 12 months, or a fine (in England and Wales) or a fine not exceeding £20,000 (in Scotland), or both.
- (9) A person convicted of an offence under subsection (7) in Northern Ireland is liable—
 - (a) on conviction on indictment to imprisonment for a term not exceeding 5 years, or a fine, or both;
 - (b) on summary conviction to imprisonment for a term not exceeding 3 months, or a fine not exceeding the prescribed sum, or both.
- (10) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (general limit on magistrates' court's power to imprison), the reference to 12 months in subsection (8)(b), as it has effect in England and Wales, is to be read as a reference to 6 months.
- (11) Subsection (1) is subject to section 47 of the Energy Act 2008 (prohibition in England and Wales and Northern Ireland on use of site in absence of approved funded decommissioning programme)."

Commencement Information

I2 Sch. 12 para. 17 in force at 1.4.2014 by S.I. 2014/251, art. 4

18 For section 3 substitute—

“3 Grant and variation of nuclear site licences

- (1) A nuclear site licence—
 - (a) may be granted only to a body corporate;
 - (b) is not transferable.
- (2) The appropriate national authority must consult the appropriate environment authority before granting a nuclear site licence.

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- (3) Two or more installations in the vicinity of one another may, if the appropriate national authority consider appropriate, be treated for the purposes of the grant of a nuclear site licence as being on the same site.
- (4) Subject to subsection (8), where an application is made for a nuclear site licence, the appropriate national authority may direct the applicant to serve a notice on any public authority specified in the direction.
- (5) For this purpose “public authority” includes—
 - (a) in relation to a site in England or Wales, a water undertaker;
 - (b) in relation to a site in Scotland, Scottish Water;
 - (c) in relation to a site in Northern Ireland, a water undertaker (within the meaning of the Water and Sewerage Services) (Northern Ireland) Order 2006 (S.I. 2006/3336 (. 21)).
- (6) Such a notice must—
 - (a) state that the application has been made,
 - (b) give such particulars about the proposed use of the site under the licence as may be specified in the direction, and
 - (c) state that the body on whom it is served may make representations about the application to the appropriate national authority within three months of the date of service.
- (7) Where a direction has been given under subsection (4), the appropriate national authority may not grant the licence unless it is satisfied that—
 - (a) three months have passed since the service of the last of the notices required by the direction, and
 - (b) the authority has considered any representations made in accordance with any of those notices.
- (8) Subsection (4) does not apply in relation to an application in respect of a site for a generating station where—
 - (a) a consent under section 36 of the Electricity Act 1989 is required for the operation of the station (or would be required but for an order under the Planning Act 2008 granting development consent for the site), or
 - (b) a consent under Article 39 of the Electricity (Northern Ireland) Order 1992 is required for the operation of the station.
- (9) A nuclear site licence may include provision about when section 19(1) is to start to apply in relation to the licensed site.
- (10) But, if the licence relates to a site in England, Wales or Scotland, such a provision may be included only with the consent of the Secretary of State.
- (11) Where a nuclear site licence includes such a provision, section 19(1) does not apply in relation to the site until—
 - (a) the time determined in accordance with the provision, or
 - (b) if earlier, the time when the site is first used for the operation of a nuclear installation after the grant of the licence.
- (12) The appropriate national authority may from time to time vary a nuclear site licence by excluding from it any part of the licensed site—

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- (a) which the licensee no longer needs for any use requiring such a licence, and
 - (b) with respect to which the appropriate national authority is satisfied that there is no danger from ionising radiations from anything on that part of the site.
- (13) The appropriate national authority must consult the appropriate environment authority before varying a nuclear site licence if the variation relates to or affects the creation, accumulation or disposal of radioactive waste.
- (14) In subsection (13), “radioactive waste”—
- (a) in relation to a site in England or Wales, has the same meaning as in the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675);
 - (b) in relation to a site in Scotland or Northern Ireland, has the same meaning as in the Radioactive Substances Act 1993.”

Commencement Information

I3 Sch. 12 para. 18 in force at 1.4.2014 by S.I. 2014/251, art. 4

19 For section 4 substitute—

“4 Attachment of conditions to licences

- (1) The appropriate national authority—
 - (a) must, when it grants a nuclear site licence, attach to it such conditions as the authority considers necessary or desirable in the interests of safety, and
 - (b) may attach such conditions to it at any other time.
- (2) For the purposes of subsection (1), “safety” in relation to a nuclear site includes—
 - (a) safety in normal circumstances, and
 - (b) safety in the event of any accident or other emergency on the site.
- (3) Conditions that may be attached to a licence by virtue of subsection (1) may in particular include provision—
 - (a) for securing that an efficient system is maintained for detecting and recording the presence and intensity of any ionising radiations from time to time emitted from anything on the site or from anything discharged on or from the site;
 - (b) with respect to the design, siting, construction, installation, operation, modification and maintenance of any plant or other installation on, or to be installed on, the site;
 - (c) with respect to preparations for dealing with, and measures to be taken on the happening of, any accident or other emergency on the site;
 - (d) without prejudice to sections 13 and 16 of the Radioactive Substances Act 1993 or to the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675), with respect to the discharge of any substance on or from the site.

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- (4) The appropriate national authority may at any time attach to a nuclear site licence such conditions as the appropriate national authority may consider appropriate with respect to the handling, treatment and disposal of nuclear matter.
- (5) The appropriate national authority may at any time vary or revoke any condition for the time being attached to a nuclear site licence by virtue of this section.
- (6) The appropriate national authority must consult the appropriate environment authority before—
 - (a) attaching any condition to a nuclear site licence, or
 - (b) varying or revoking any condition attached to a nuclear site licence, if the condition relates to or affects the creation, accumulation or disposal of radioactive waste.
- (7) In subsection (6) “radioactive waste”—
 - (a) in relation to a site in England or Wales, has the same meaning as in the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675);
 - (b) in relation to a site in Scotland or Northern Ireland, has the same meaning as in the Radioactive Substances Act 1993.
- (8) Any power under this section to attach, vary or revoke a condition is exercisable in writing.
- (9) The appropriate national authority must consider any representation which is—
 - (a) made to it by an organisation representing persons who have duties on a site in respect of which a nuclear site licence is in force, and
 - (b) relates to the exercise by the authority of any of its powers under this section in relation to the site.
- (10) Where a condition attached to a nuclear site licence by virtue of this section is contravened, each of the following is guilty of an offence—
 - (a) the licensee, and
 - (b) any person having duties upon the site in question who committed the contravention.
- (11) A person convicted of an offence under subsection (10) in England and Wales or Scotland is liable—
 - (a) on conviction on indictment to imprisonment for a term not exceeding 2 years, or a fine, or both;
 - (b) on summary conviction to imprisonment for a term not exceeding 12 months, or a fine (in England and Wales) or a fine not exceeding £20,000 (in Scotland), or both.
- (12) A person convicted of an offence under subsection (10) in Northern Ireland is liable—
 - (a) on conviction on indictment to imprisonment for a term not exceeding 5 years, or a fine, or both;
 - (b) on summary conviction to imprisonment for a term not exceeding 3 months, or a fine not exceeding the prescribed sum, or both.

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- (13) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (general limit on magistrates' court's power to imprison) the reference to 12 months in subsection (11)(b), as it has effect in England and Wales, is to be read as a reference to 6 months.”

Commencement Information

I4 Sch. 12 para. 19 in force at 1.4.2014 by S.I. 2014/251, art. 4

20 For section 5 substitute—

“5 Revocation and surrender of licences

- (1) A nuclear site licence may at any time be—
 - (a) revoked by the appropriate national authority, or
 - (b) surrendered by the licensee.
- (2) The appropriate national authority must consult the appropriate environment authority before revoking a nuclear site licence.
- (3) Subsections (4) to (6) apply where a nuclear site licence has been revoked or surrendered.
- (4) If the appropriate national authority requires it to do so, the licensee must deliver up or account for the licence to such person as the appropriate national authority may direct.
- (5) During the remainder of the period of the licensee's responsibility the appropriate national authority may give the licensee such directions as the authority may consider appropriate for preventing, or giving warning of, any risk of—
 - (a) injury to any person, or
 - (b) damage to any property,
 by ionising radiations from anything remaining on the site.
- (6) A nuclear safety inspector may direct the licensee to ensure that, during the remainder of the period of responsibility, notices indicating the limits of the site are kept posted on the site in the positions specified in the direction.
- (7) For this purpose, “nuclear safety inspector” means an inspector appointed—
 - (a) by the ONR under Schedule 8 to the Energy Act 2013, in the case of a site in England, Wales or Scotland, or
 - (b) under section 24, in the case of a site in Northern Ireland.
- (8) A licensee who contravenes any direction for the time being in force under subsection (5) or (6) is guilty of an offence.
- (9) A person who without reasonable cause pulls down, injures or defaces any notice posted under subsection (6) is guilty of an offence.
- (10) A person convicted of an offence under subsection (8) in England and Wales or Scotland is liable—

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- (a) on conviction on indictment to imprisonment for a term not exceeding 2 years, or a fine, or both;
 - (b) on summary conviction to imprisonment for a term not exceeding 12 months, or a fine (in England and Wales) or a fine not exceeding £20,000 (in Scotland), or both.
- (11) A person convicted of an offence under subsection (8) in Northern Ireland is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 12 months, or a fine, or both;
 - (b) on summary conviction, to imprisonment for a term not exceeding 3 months, or a fine not exceeding the prescribed sum, or both.
- (12) A person convicted of an offence under subsection (9) is liable on summary conviction—
- (a) in England and Wales or Scotland, to a fine not exceeding level 2 on the standard scale;
 - (b) in Northern Ireland, to a fine not exceeding level 1 on the standard scale.
- (13) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (general limit on magistrates' court's power to imprison), the reference to 12 months in subsection (10)(b), as it has effect in England and Wales, is to be read as a reference to 6 months.
- (14) In this Act, “period of responsibility” in relation to the licensee under a nuclear site licence means, as respects the site in question or any part of it, the period—
- (a) beginning with the grant of the licence, and
 - (b) ending with whichever of the dates in subsection (15) is the earliest, except that it does not include any period during which section 19(1) does not apply in relation to the site.
- (15) Those dates are—
- (a) the date when the appropriate national authority gives notice in writing to the licensee that in the authority's opinion there has ceased to be any danger from ionising radiations from anything on the site or, as the case may be, on the part of it in question;
 - (b) the date when a new nuclear site licence in respect of a site comprising the site in question or, as the case may be, that part of it, is granted (whether to the same licensee or to some other person);
 - (c) the date when the following conditions have both become satisfied—
 - (i) the site in question or, as the case may be, that part of it is used or occupied by or on behalf of the Crown, and
 - (ii) a nuclear site licence has ceased to be required in respect of that site or part.”

Commencement Information

I5 Sch. 12 para. 20 in force at 1.4.2014 by S.I. 2014/251, art. 4

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21 For section 6 substitute—

“6 Maintenance of list of licensed sites

- (1) The appropriate authority must maintain a list showing every site in respect of which a nuclear site licence has been granted.
- (2) The list—
 - (a) need not show any site or part of a site in the case of which—
 - (i) no nuclear site licence is for the time being in force; and
 - (ii) 30 years have passed since the end of the last licensee's period of responsibility;
 - (b) must include a map or maps showing the position and limits of each site shown in the list.
- (3) The authority must arrange for the list, or a copy of it, to be available for inspection by the public.
- (4) In this section “appropriate authority” means—
 - (a) in relation to England and Wales and Northern Ireland, the Secretary of State;
 - (b) in relation to Scotland, the Scottish Ministers.”

Commencement Information

I6 Sch. 12 para. 21 in force at 1.4.2014 by S.I. 2014/251, art. 4

22 In section 19(1) (special cover for licensee's liability), for “section 3(5)” substitute “section 3(11)”.

Commencement Information

I7 Sch. 12 para. 22 in force at 1.4.2014 by S.I. 2014/251, art. 4

23 For section 22 (reporting of and inquiries into dangerous occurrences) substitute—

“22 Reporting of and inquiries into dangerous occurrences

- (1) The provisions of this section apply where any prescribed occurrence happens—
 - (a) on a licensed site, or
 - (b) in the course of the carriage of nuclear matter on behalf of any person where a duty with respect to that carriage is imposed on that person by section 7, 10 or 11 of this Act.
- (2) The licensee or other person mentioned in subsection (1) must ensure that the occurrence is reported without delay in the prescribed manner—
 - (a) to the appropriate national authority, and
 - (b) to such other persons, if any, as may be prescribed in relation to occurrences of that kind.

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- (3) A person who is required by virtue of subsection (2) to report an occurrence and who fails to do so is guilty of an offence.
- (4) A person convicted of an offence under subsection (3) in England and Wales or Scotland is liable—
 - (a) on conviction on indictment to imprisonment for a term not exceeding 2 years, or a fine, or both;
 - (b) on summary conviction to imprisonment for a term not exceeding 12 months, or a fine (in England and Wales) or a fine not exceeding £20,000 (in Scotland), or both.
- (5) A person convicted of an offence under subsection (3) in Northern Ireland is liable on summary conviction to imprisonment for a term not exceeding 3 months, or a fine not exceeding level 3 on the standard scale, or both.
- (6) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (general limit on magistrates' court's power to imprison), the reference to 12 months in subsection (4)(b), as it has effect in England and Wales, is to be read as a reference to 6 months.
- (7) Before exercising any function under subsection (1) or (2) in or as regards Scotland, the Secretary of State must consult the Scottish Ministers.
- (8) Subsections (9) to (11) have effect only in relation to a prescribed occurrence which happens in Northern Ireland.
- (9) The Secretary of State—
 - (a) may direct an inspector to make a special report with respect to the occurrence, and
 - (b) may cause any such report, or so much of it as it is not in the Secretary of State's opinion inconsistent with the interests of national security to disclose, to be made public at such time and in such manner as the Secretary of State considers appropriate.
- (10) The Secretary of State may direct an inquiry to be held into the occurrence and its causes, circumstances and effects.
- (11) Any such inquiry must be held—
 - (a) in accordance with the provisions of Schedule 2 to this Act, and
 - (b) in public, except where or to the extent that it appears to the Secretary of State expedient in the interests of national security to direct otherwise.”

Commencement Information

18 Sch. 12 para. 23 in force at 1.4.2014 by S.I. 2014/251, art. 4

24 In section 24 (inspectors), for “provisions which are mentioned in Schedule 1 to the Health and Safety at Work etc. Act 1974” substitute “ sections 1, 3 to 6, 22 and 24A of this Act ”.

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I9 Sch. 12 para. 24 in force at 1.4.2014 by S.I. 2014/251, art. 4

- 25 (1) Section 24A (recovery of expenses by Health and Safety Executive) is amended as follows.
- (2) In subsection (1)—
- (a) for “Health and Safety Executive (“the Executive”) which the Executive may” substitute “ ONR which the ONR may ”;
 - (b) in paragraph (a) for “such of the provisions of this Act as are mentioned in Schedule 1 to the Health and Safety at Work etc Act 1974” substitute “ sections 1, 3 to 6 and 22, and this section of this Act ”.
- (3) In subsection (2)—
- (a) for “Executive” substitute “ ONR ”;
 - (b) for “the Health and Safety at Work etc. Act 1974” substitute “ Schedule 8 to the Energy Act 2013 ”.
- (4) In subsections (3), (4) and (6) to (8) for “Executive”, in each place where it appears, substitute “ ONR ”.
- (5) In the heading, for “Health and Safety Executive” substitute “ ONR ”.

Commencement Information

I10 Sch. 12 para. 25 in force at 1.4.2014 by S.I. 2014/251, art. 4

- 26 (1) Section 26 (interpretation) is amended as follows.
- (2) For the definition of “the appropriate Agency” substitute—
- ““the appropriate environment authority” means—
- (a) in the case of a site in England, the Environment Agency;
 - (b) in the case of a site in Scotland, the Scottish Environment Protection Agency;
 - (c) in the case of a site in Northern Ireland, the Department of Environment in Northern Ireland;
 - (d) in the case of a site in Wales, the Natural Resources Body for Wales;
- “the appropriate national authority” means—
- (a) in relation to England and Wales and Scotland, the ONR;
 - (b) in relation to Northern Ireland, the Secretary of State;”.
- (3) Omit the definition of “inspector”.
- (4) In the definition of “nuclear site licence” for “section 1(1)” substitute “ section 1(2) ”.
- (5) After the definition of “occurrence” insert—
- ““ONR” means the Office for Nuclear Regulation;”.
- (6) In the definition of “period of responsibility” for “section 5(3)” substitute “ section 5(14) ”.

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I11 Sch. 12 para. 26 in force at 1.4.2014 by S.I. 2014/251, art. 4

27 In section 27 (Northern Ireland) omit paragraphs (b) and (c) of subsection (1).

Commencement Information

I12 Sch. 12 para. 27 in force at 1.4.2014 by S.I. 2014/251, art. 4

28 In Schedule 1 (security provisions applicable by order under section 2), in paragraph 3(2)(cc), for “section 19 of the Health and Safety at Work etc. Act 1974” substitute “Schedule 8 to the Energy Act 2013”.

Commencement Information

I13 Sch. 12 para. 28 in force at 1.4.2014 by S.I. 2014/251, art. 4

- 29 (1) Schedule 2 is amended as follows.
- (2) In paragraph 1 for “section 22(5)” substitute “section 22(10)”.
 - (3) In paragraphs 1, 2, 5 and 6, for “the Minister” in each place where it appears substitute “the Secretary of State”.
 - (4) In paragraph 7—
 - (a) for “or, in Scotland, the Court of Session, and the High Court or Court of Session” substitute “and the High Court”;
 - (b) omit “or, as the case may be, the Court of Session”.
 - (5) Omit paragraph 8.
 - (6) For the title substitute “Inquiries under section 22(10) relating to occurrences in Northern Ireland”.

Commencement Information

I14 Sch. 12 para. 29 in force at 1.4.2014 by S.I. 2014/251, art. 4

Consequential repeals and revocations

30 In consequence of the amendments made by paragraphs 16 to 29, the provisions listed in the following Table are repealed or revoked to the extent specified—

<i>Title</i>	<i>Extent of repeal or revocation</i>
Electricity Act 1989 (c. 29)	In Schedule 16, paragraph 11.
Water Act 1989 (c. 15)	In Schedule 25, paragraph 33.
Radioactive Substances Act 1993 (c. 12)	In Schedule 4, paragraph 2.

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Environment Act 1995 (c. 25)	In Schedule 22, paragraphs 7 to 9.
Energy Act 2004 (c. 20)	Section 78(1).
Energy Act 2008 (c. 32)	Section 65. In section 112(3), the words “(other than section 65)”.
Marine and Coastal Access Act 2009 (c. 23)	In Schedule 14, paragraph 6.
The Nuclear Installations Act 1965 etc. (Repeals and Modifications) Regulations 1974 (S.I. 1974/2056)	Schedule 1, except for the entry relating to section 25 of the Nuclear Installations Act 1965. In Schedule 2, paragraphs 1, 2, 3 and 6.
The Nuclear Installations Act 1965 (Repeal and Modifications) Regulations 1990 (S.I. 1990/1918)	In the Schedule, paragraph 1.
The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750)	In Schedule 1, in the entry for the Nuclear Installations Act 1965, in column 1, in paragraph (b), the words “6 and”. In Schedule 3, in the entry for the Nuclear Installations Act 1965, in column 1, the words— (a) “1(1)(b) and (2)”; (b) “and 22(1) and (2),”.
The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822 (S. 3))	In the Schedule, paragraph 5.
The Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675)	In Part 1 of Schedule 26, paragraph 2.
The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755 (W. 90))	In Part 1 of Schedule 2, paragraph 41.

Commencement Information

I15 Sch. 12 para. 30 in force at 1.4.2014 by S.I. 2014/251, art. 4

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