

## STATUTORY INSTRUMENTS

# 1998 No. 494

## The Health and Safety (Enforcing Authority) Regulations 1998

### Citation and commencement

1. These Regulations may be cited as the Health and Safety (Enforcing Authority) Regulations 1998 and shall come into force on 1st April 1998.

#### Commencement Information

**II** Reg. 1 in force at 1.4.1998, see [reg. 1](#)

### [<sup>F1</sup>Application

1A. Nothing in these Regulations applies to the enforcement of the relevant statutory provisions as they apply in relation a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013).]

#### Textual Amendments

**F1** [Reg. 1A](#) inserted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), [Sch. 3 para. 71](#) (with [Sch. 4](#))

### Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the 1974 Act” means the Health and Safety at Work etc. Act 1974;

“agricultural activities”—

(a) includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding and keeping, including the management of livestock up to the point of slaughter or export from Great Britain, forestry, the use of land as grazing land, market gardens and nursery grounds and the preparation of land for agricultural use;

(b) does not include such activities at a garden centre or other shop,

and for this purpose “livestock breeding and keeping” does not include activities the main purpose of which is entertainment;

[<sup>F2</sup>“authorised defence site” means a site in England and Wales or Scotland—

(a) that is used for any purpose which, if section 1 of the Nuclear Installations Act 1965 applied to the Crown, would require the authority of a nuclear site licence in respect of that site; and

(b) for which there is in force an authorisation granted by or on behalf of the Secretary of State having responsibility for defence authorising it to be used for that purpose;]

[<sup>F3</sup>“bus” means a motor vehicle which is designed or adapted to travel along roads and to carry more than eight passengers but which is not a tramcar; ]

[<sup>F4</sup>“the CLP Regulation” means Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC and amending Regulation (EC) No. 1907/2006, of which Articles 6(5), 11(3), 12, 14, 18(3)(b), 23, 25 to 29, 35(2) second and third sub-paragraphs and Annexes I to VII are to be read as amended from time to time;]

<sup>F5</sup> ...

“common parts” means those parts of premises used in common by, or for providing common services to or common facilities for, the occupiers of the premises;

“construction work” and “contractor” have the meanings assigned to them by regulation 2(1) of the Construction (Design and Management) Regulations [<sup>F6</sup>2015];

“dock premises” has the meaning assigned to it by regulation 2(1) of the Docks Regulations 1988(1);

“electricity system” does not include the consumer’s installation within the meaning of regulation 3(1) of the Electricity Supply Regulations 1988(2);

“the Executive” means the Health and Safety Executive;

“fairground” means such part of premises as is for the time being used wholly or mainly for the operation of any fairground equipment, other than a coin-operated ride, non-powered children’s playground equipment, swimming pool slide, go-kart, or plant designed to be used by members of the public for entertainment purposes for bouncing upon;

“gas” has the meaning assigned to it by section 48 of the Gas Act 1986(3);

“gas fitting” has the meaning assigned to it by section 48 of the Gas Act 1986;

“gas system” does not include a portable or mobile appliance supplied with gas from a cylinder, or the cylinder, pipes and other fittings used for supplying gas to that appliance;

[<sup>F7</sup>“guided bus system” means a system of transport, used wholly or mainly for the carriage of passengers, that employs buses which for some or all of the time when they are in operation—

- (a) travel along roads; and
- (b) are guided (whether while on the road or at other times) by means of—
  - (i) apparatus, a structure or other device which is fixed and not part of the bus; or
  - (ii) a guidance system which is automatic;

“guided transport” means a system of transport, used wholly or mainly for the carriage of passengers, employing vehicles which for some or all of the time when they are in operation are guided by means of—

- (a) rails, beams, slots, guides or other apparatus, structures or devices which are fixed and not part of the vehicle; or
- (b) a guidance system which is automatic;

and for this purpose “vehicle” includes a mobile traction unit;]

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(1) S.I.1988/1655.  
 (2) S.I. 1988/1057.  
 (3) 1986 c. 44.

[<sup>F8</sup>“hazardous substance or mixture” means a substance or mixture which meets the criteria for classification within any health hazard or physical hazard class [<sup>F9</sup>as provided for] in the CLP Regulation;]

“ionising radiation” has the meaning assigned to it by regulation 2(1) of [<sup>F10</sup>the Ionising Radiations Regulations 2017 [SI 2017/1075]];

“livestock” means any creature kept for the production of food, wool, skins or fur or for the purpose of any agricultural activity;

“local authority” means—

- (a) in relation to England, a county council so far as they are the council for an area for which there are no district councils, a district council, a London borough council, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple, the Under-Treasurer of the Middle Temple or the Council of the Isles of Scilly;
- (b) in relation to Scotland, the council for a local government area; and
- (c) in relation to Wales, a county council or a county borough council;

“mine” has the meaning assigned to it by section 180 of the Mines and Quarries Act 1954(4)[<sup>F11</sup>but, notwithstanding [<sup>F12</sup>subsection (7)] of that section, does not include any railway serving the mine unless and to the extent that the railway is located within the curtilage of the mine;]

[<sup>F13</sup>“the ONR” means the Office for Nuclear Regulation;

“new nuclear build site” has the meaning given in regulation 2A;

“nuclear warship site” has the meaning given in regulation 2B;]

“office activities” includes any activity for the purposes of administration, clerical work, handling money, telephone and telegraph operating and the production of computer software by the use of computers; and for this purpose “clerical work” includes writing, book-keeping, sorting papers, filing, typing, duplicating, machine calculating, drawing and the editorial preparation of matter for publication except where that preparation is on the premises where newspapers, magazines, periodicals or books are printed;

“pleasure craft” has the meaning assigned to it by regulation 2(1) of the Docks Regulations 1988;

“preparation dangerous for supply” has the meaning assigned to it by regulation 2(1) of the Chemicals (Hazard Information and Packaging for Supply) Regulations 1994(5);

<sup>F14</sup> ...

[<sup>F15</sup>“quarry” has the meaning assigned to it by regulation 3 of the Quarries Regulations 1999;]

[<sup>F16</sup>“railway” means any system of transport the operation of which is specified in regulation 3(2) of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006;]

[<sup>F17</sup>“road”—

- (a) in England and Wales, means any length of highway or of any other road to which the public has access, and includes bridges over which a road passes; and
- (b) in Scotland, has the same meaning as in the Roads (Scotland) Act 1984;]

“substance dangerous for supply” has the meaning assigned to it by regulation 2(1) of the Chemicals (Hazard Information and Packaging for Supply) Regulations 1994;

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(4) 1954 c. 70.  
(5) S.I. 1994/3247.

[<sup>F18</sup>“trolley vehicle system” means a system of transport by vehicles constructed or adapted for use on roads without rails under electric power transmitted to them by overhead wires (whether or not there is in addition a source of power on board the vehicles);]

“veterinary surgery” has the meaning assigned to it by section 27 of the Veterinary Surgeons Act 1966(6);

“work” in relation to a gas fitting has the meaning assigned to it by regulation 2(1) of the Gas Safety (Installation and Use) Regulations 1994(7);

“zoo” has the meaning assigned to it by section 1(2) of the Zoo Licensing Act 1981(8).

(2) In these Regulations (except regulation 4(7)), unless the context otherwise requires, any reference to the enforcing authority for premises or parts of premises is a reference to the enforcing authority for the relevant statutory provisions in relation to those premises or parts, as the case may be, and to any activity carried on in them.

(3) In these Regulations, unless the context otherwise requires, any reference to—

- (a) a numbered regulation or Schedule is a reference to the regulation of or Schedule to these Regulations so numbered; and
- (b) a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which that reference appears.

#### Textual Amendments

- F2** Words in [reg. 2\(1\)](#) inserted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), [Sch. 3 para. 72\(a\)](#) (with [Sch. 4](#))
- F3** Words in [reg. 2\(1\)](#) inserted (1.4.2006) by [The Health and Safety \(Enforcing Authority for Railways and Other Guided Transport Systems\) Regulations 2006 \(S.I. 2006/557\)](#), reg. 1, [Sch. para. 6\(2\)\(a\)](#)
- F4** Words in [reg. 2\(1\)](#) inserted (1.6.2015) by [The Classification, Labelling and Packaging of Chemicals \(Amendments to Secondary Legislation\) Regulations 2015 \(S.I. 2015/21\)](#), regs. 1(3), [6\(2\)\(a\)](#)
- F5** Words in [reg. 2\(1\)](#) omitted (1.4.2008) by virtue of [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), art. 1, [Sch. 3](#) (with art. 21)
- F6** Word in [reg. 2\(1\)](#) substituted (6.4.2015) by [The Construction \(Design and Management\) Regulations 2015 \(S.I. 2015/51\)](#), reg. 1, [Sch. 5](#) (with reg. 3, [Sch. 4](#))
- F7** Words in [reg. 2\(1\)](#) inserted (1.4.2006) by [The Health and Safety \(Enforcing Authority for Railways and Other Guided Transport Systems\) Regulations 2006 \(S.I. 2006/557\)](#), reg. 1, [Sch. para. 6\(2\)\(b\)](#)
- F8** Words in [reg. 2\(1\)](#) inserted (1.6.2015) by [The Classification, Labelling and Packaging of Chemicals \(Amendments to Secondary Legislation\) Regulations 2015 \(S.I. 2015/21\)](#), regs. 1(3), [6\(2\)\(b\)](#)
- F9** Words in [reg. 2\(1\)](#) substituted (31.12.2020) by [The Chemicals \(Health and Safety\) and Genetically Modified Organisms \(Contained Use\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/720\)](#), reg. 1(2), [Sch. 1 para. 1\(2\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F10** Words in [reg. 2\(1\)](#) substituted (1.1.2018) by [The Ionising Radiations Regulations 2017 \(S.I. 2017/1075\)](#), reg. 1(2), [Sch. 9 para. 4\(2\)](#) (with regs. 2(5), 3, [Sch. 8](#))
- F11** Words in [reg. 2\(1\)](#) inserted (1.4.2006) by [The Health and Safety \(Enforcing Authority for Railways and Other Guided Transport Systems\) Regulations 2006 \(S.I. 2006/557\)](#), reg. 1, [Sch. para. 6\(2\)\(c\)](#)
- F12** Words in [reg. 2\(1\)](#) substituted (6.4.2015) by [The Mines Regulations 2014 \(S.I. 2014/3248\)](#), reg. 1(2), [Sch. 5 para. 8](#) (with [reg. 1\(3\)](#))
- F13** Words in [reg. 2\(1\)](#) inserted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), [Sch. 3 para. 72\(b\)](#) (with [Sch. 4](#))

(6) 1966 c. 36.

(7) S.I. 1994/1886.

(8) 1981 c. 37.

- F14** Words in [reg. 2\(1\)](#) omitted (1.4.2006) by virtue of [The Health and Safety \(Enforcing Authority for Railways and Other Guided Transport Systems\) Regulations 2006 \(S.I. 2006/557\)](#), [reg. 1](#), **Sch. para. 6(2)(d)**
- F15** Words in [reg. 2\(1\)](#) substituted (1.1.2000) by [The Quarries Regulations 1999 \(S.I. 1999/2024\)](#), [reg. 1\(1\)](#), **Sch. 5 Pt. 2**
- F16** Words in [reg. 2\(1\)](#) substituted (1.4.2006) by [The Health and Safety \(Enforcing Authority for Railways and Other Guided Transport Systems\) Regulations 2006 \(S.I. 2006/557\)](#), [reg. 1](#), **Sch. para. 6(2)(e)**
- F17** Words in [reg. 2\(1\)](#) inserted (1.4.2006) by [The Health and Safety \(Enforcing Authority for Railways and Other Guided Transport Systems\) Regulations 2006 \(S.I. 2006/557\)](#), [reg. 1](#), **Sch. para. 6(2)(f)**
- F18** Words in [reg. 2\(1\)](#) inserted (1.4.2006) by [The Health and Safety \(Enforcing Authority for Railways and Other Guided Transport Systems\) Regulations 2006 \(S.I. 2006/557\)](#), [reg. 1](#), **Sch. para. 6(2)(g)**

#### Commencement Information

- I2** [Reg. 2](#) in force at 1.4.1998, see [reg. 1](#)

#### [<sup>F19</sup>New nuclear build sites

**2A.**—(1) Subject to paragraphs (3) and (4), “new nuclear build site” means a site which—

- (a) is immediately adjacent to a GB nuclear site (“the associated site”);
- (b) is, or forms part of, a construction site where construction work is being carried out—
- (i) wholly or mainly for the purpose of the installation of one or more nuclear installations on the associated site; and
- (ii) by or on behalf of the person to whom the nuclear site licence for the associated site has been granted.

(3) A site is not a new nuclear build site if, on the date construction work starts on that site, there is a nuclear installation installed on the associated site.

(4) A site ceases to be a new nuclear build site on the completion of the construction work mentioned in paragraph (1)(b).

(5) In this regulation—

- (a) “construction site” and “construction work” have the meanings given in [regulation 2\(1\) of the Construction and Design Management Regulations \[<sup>F20</sup>2015\]](#);
- (b) “GB nuclear site” has the meaning given in [section 68 of the Energy Act 2013](#);
- (c) “nuclear site licence” and “nuclear installation” have the meanings given in [section 26 of the Nuclear Installations Act 1965](#).

#### Textual Amendments

- F19** [Regs. 2A, 2B](#) inserted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), [art. 1\(2\)](#), **Sch. 3 para. 73** (with [Sch. 4](#))
- F20** Word in [reg. 2A\(5\)\(a\)](#) substituted (6.4.2015) by [The Construction \(Design and Management\) Regulations 2015 \(S.I. 2015/51\)](#), [reg. 1](#), **Sch. 5** (with [reg. 3](#), [Sch. 4](#))

#### Interpretation: nuclear warship site

**2B.**—(1) For the purposes of these Regulations, “nuclear warship site” means a site which falls within paragraph (2).

(2) A site falls within this paragraph if—

- (a) it is, or contains, a berth or an anchorage; and
  - (b) relevant arrangements have—
    - (i) been made for the use of the berth or anchorage (as the case may be) by a nuclear powered warship; and
    - (ii) been notified to the ONR by the Secretary of State.
- (3) A site ceases to fall within paragraph (2) if the Secretary of State notifies the ONR that the relevant arrangements made for the use of the berth or anchorage by a nuclear powered warship are no longer in place.
- (4) In this regulation, “relevant arrangements” means, in relation to a berth or an anchorage (as the case may be), arrangements—
- (a) made between the Secretary of State and the owner or occupier in any case where the Secretary of State is not the owner or occupier of the site which is, or contains, the berth or anchorage,
  - (b) otherwise, made by the Secretary of State.]

#### Textual Amendments

**F19** Regs. 2A, 2B inserted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), [Sch. 3 para. 73](#) (with Sch. 4)

#### Local authorities to be enforcing authorities in certain cases

**3.—**(1) Where the main activity carried on in non-domestic premises is specified in Schedule 1, the local authority for the area in which those premises are situated shall be the enforcing authority for them, and the Executive shall be the enforcing authority in any other case including the common parts of domestic premises.

(2) Where such premises are occupied by more than one occupier each part separately occupied shall be regarded as being separate premises for the purposes of paragraph (1).

(3) While a vehicle is parked in connection with the sale from it of food, drink or other articles the vehicle together with its pitch shall be regarded as separate premises for the purposes of paragraph (1).

(4) Where paragraph (2) applies, the local authority shall be the enforcing authority for the common parts, except that—

- (a) if the Executive is the enforcing authority for—
  - (i) all other parts of the premises, the Executive shall be the enforcing authority for the common parts;
  - (ii) any other part of the premises and the occupier of that part has any obligations under the relevant statutory provisions for any matters appertaining to the common parts, the Executive shall be the enforcing authority for those provisions in respect of such matters;
- (b) in the case of land within the perimeter of an airport the Executive shall be the enforcing authority for the common parts—
  - (i) which are not within a building; or
  - (ii) to which passengers are admitted but other members of the public are not admitted.

(5) Paragraph (2) shall not apply to—

- (a) the tunnel system within the meaning it would have in section 1(7) of the Channel Tunnel Act 1987<sup>(9)</sup> if the words “to be” did not appear;
- (b) an offshore installation within the meaning of regulation 3 of the Offshore Installations and Pipeline Works (Management and Administration) Regulation 1995<sup>(10)</sup>;
- (c) a building or construction site, that is to say, premises where the only activities being undertaken are construction work and activities for the purposes of or in connection with such work;
- (d) the campus of a university, polytechnic, college, school or similar educational establishment;
- (e) a hospital;

and the Executive shall be the enforcing authority for the whole of any such premises.

(6) Notwithstanding paragraph (4), [<sup>F21</sup>the Office of Rail and Road] shall be the enforcing authority for the common parts in a railway station or terminal or in a goods yard which is served by a railway.

(7) This regulation shall have effect subject to [<sup>F22</sup>regulations 4 to 6A].

#### Textual Amendments

- F21** Words in [reg. 3](#) substituted (16.10.2015) by [The Office of Rail Regulation \(Change of Name\) Regulations 2015 \(S.I. 2015/1682\)](#), [reg. 1\(2\)](#), [Sch. para. 10\(c\)](#)
- F22** Words in [reg. 3\(7\)](#) substituted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), [art. 1\(2\)](#), [Sch. 3 para. 74](#) (with [Sch. 4](#))

#### Modifications etc. (not altering text)

- C1** [Reg. 3](#) excluded (1.10.2014) by [The Genetically Modified Organisms \(Contained Use\) Regulations 2014 \(S.I. 2014/1663\)](#), [regs. 1, 30\(5\)](#) (with [reg. 3\(1\)\(2\)](#))

#### Commencement Information

- I3** [Reg. 3](#) in force at 1.4.1998, see [reg. 1](#)

#### Exceptions

- 4.—(1) The Executive shall be the enforcing authority for—
- (a) the enforcement of any of the relevant statutory provisions against a body specified in paragraph (3) or the officers or servants of such a body;
  - (b) any part of premises occupied by such a body.
- (2) Where premises are mainly occupied by a body specified in paragraph (3) and are partly occupied by another person for the purpose of providing services at the premises for that body, the Executive shall be the enforcing authority for the part of the premises occupied by that other person.
- (3) The bodies referred to in paragraphs (1) and (2) are—
- (a) a county council;
  - (b) any other local authority as defined in regulation 2;
  - (c) a parish council in England or a community council in Wales or Scotland;

<sup>(9)</sup> 1987 c. 53.

<sup>(10)</sup> S.I. 1995/738.

- (d) a police authority [<sup>F23</sup>, a local policing body] or the Receiver for the Metropolitan Police District;
  - [<sup>F24</sup>(e) a fire and rescue authority under the Fire and Rescue Services Act 2004;]
  - (f) a headquarters or an organisation designated for the purposes of the International Headquarters and Defence Organisation Act 1964(**11**); or a service authority of a visiting force within the meaning of section 12 of the Visiting Forces Act 1952(**12**);
  - (g) the United Kingdom Atomic Energy Authority;
  - (h) the Crown, but regulation 3 shall apply to any part of premises occupied by the Executive and to any activity carried on there.
- (4) The Executive shall be the enforcing authority for—
- (a) section 6 of the 1974 Act;
  - (b) the other relevant statutory provisions in respect of any activity specified in Schedule 2 (whether or not it is the main activity carried on in premises).
- (5) Regulation 3 and the preceding provisions of this regulation shall have effect subject to any provisions made for enforcement responsibility by other regulations made under the 1974 Act or by any of the existing statutory provisions.
- (6) The preceding provisions of this regulation shall have effect subject to [<sup>F26</sup>regulations 4A to 6A].
- <sup>F27</sup>(7) .....
  - <sup>F27</sup>(8) .....
  - <sup>F27</sup>(9) .....
  - <sup>F27</sup>(9A) .....
  - <sup>F27</sup>(9B) .....
  - <sup>F27</sup>(10) .....
  - <sup>F27</sup>(11) .....
  - <sup>F27</sup>(12) .....

**Textual Amendments**

- F23** Words in reg. 4(3)(d) inserted (16.1.2012) by [The Local Policing Bodies \(Consequential Amendments\) Regulations 2011 \(S.I. 2011/3058\)](#), regs. 1(2), **15(2)**
- F24** Reg. 4(3)(e) substituted (E.W.) (1.10.2006) by [The Regulatory Reform \(Fire Safety\) Order 2005 \(S.I. 2005/1541\)](#), art. 1(3), **Sch. 3 para. 5** (with arts. 49, 51) (as amended by S.I. 2006/484, arts. 1(1), 2)
- F25** Words in reg. 4(3)(e) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), **Sch. 2 para. 76**
- F26** Words in reg. 4(6) substituted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 3 para. 75(2)** (with Sch. 4)
- F27** Reg. 4(7)-(12) revoked (1.10.2014) by [The Explosives Regulations 2014 \(S.I. 2014/1638\)](#), reg. 1(1), Sch. 13 para. 17, **Sch. 14 Pt. 2**

(11) 1964 c. 5.  
 (12) 1952 c. 67.



**Modifications etc. (not altering text)**

- C2** Reg. 4(3)(d) applied (with modifications) (8.5.2017) by [The Greater Manchester Combined Authority \(Transfer of Police and Crime Commissioner Functions to the Mayor\) Order 2017 \(S.I. 2017/470\)](#), art. 1(2), **Sch. 1 para. 42(2)**
- C3** Reg. 4(3)(d) modified (E.) (20.12.2023) by [The York and North Yorkshire Combined Authority Order 2023 \(S.I. 2023/1432\)](#), arts. 1(2), 33(2), **Sch. 5 para. 42(2)**

**Commencement Information**

- I4** Reg. 4 in force at 1.4.1998, see [reg. 1](#)

**[<sup>F28</sup>The Office for Nuclear Regulation**

- 4A.**—(1) The ONR shall be the enforcing authority for premises which are or are on—
- (a) an authorised defence site; or
  - (b) a new nuclear build site.
- (2) The ONR shall also be the enforcing authority for—
- [<sup>F29</sup>(a) the provisions of the Ionising Radiations Regulations 2017 in so far as they apply—
- (i) in relation to the civil transport of radioactive material by road, railway or inland waterway; and
  - (ii) to premises which are or are on a nuclear warship site;
- (aa) the provisions of the [<sup>F30</sup>Radiation (Emergency Preparedness and Public Information) Regulations 2019] in so far as they apply to premises which are or are on a nuclear warship site;]
- (b) subsections (1), (2), (4) and (5) of section 6 of the 1974 Act (general duties of manufacturers etc. as regards articles and substances for use at work) but only in so far as those requirements relate to—
    - (i) articles for use at work which are designed, manufactured, imported or supplied; or
    - (ii) substances which are manufactured, imported or supplied,to be used exclusively or primarily in the installation, operation or decommissioning of a GB nuclear site or an authorised defence site;
  - (c) subsection (3) of section 6 of the 1974 Act in so far as the requirements of that provision relate to the erection or installation of any article for use at work in any premises which are or are on an authorised defence site or a new nuclear build site.
- [<sup>F31</sup>(3) For the purposes of—
- (a) paragraph (2)(a)—
    - (i) “civil transport” means transport otherwise than for the purposes of the department of the Secretary of State with responsibility for defence;
    - (ii) “radioactive material” has the same meaning as given in regulation 2(1) of the Ionising Radiations Regulations 2017 [S.I. 2017/1075];
    - (iii) the transport of material begins with any preparatory process (such as packaging) and continues until the material has been unloaded at its destination;
  - (b) paragraphs (2)(a) and (aa) “premises” includes a nuclear powered warship during any period it is berthed or anchored at a nuclear warship site.]
- (4) The preceding provisions of this regulation have effect subject to—
- (a) regulation 6A; and

- (b) any provisions made for enforcement responsibility by other regulations made under the 1974 Act or any of the existing statutory provisions.]

#### Textual Amendments

- F28** Reg. 4A inserted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 3 para. 76** (with Sch. 4)
- F29** Reg. 4A(2)(a)(aa) substituted for reg. 4A(2)(a) (1.1.2018) by [The Ionising Radiations Regulations 2017 \(S.I. 2017/1075\)](#), reg. 1(2), **Sch. 9 para. 4(3)(a)** (with regs. 2(5), 3, Sch. 8)
- F30** Words in reg. 4A(2)(aa) substituted (22.5.2019) by [The Radiation \(Emergency Preparedness and Public Information\) Regulations 2019 \(S.I. 2019/703\)](#), reg. 1(1), **Sch. 10 para. 3** (with reg. 3)
- F31** Reg. 4A(3) substituted (1.1.2018) by [The Ionising Radiations Regulations 2017 \(S.I. 2017/1075\)](#), reg. 1(2), **Sch. 9 para. 4(3)(b)** (with regs. 2(5), 3, Sch. 8)

#### Arrangements enabling responsibility for enforcement to be transferred

5.—<sup>F32</sup>(A1) This regulation applies in relation to any relevant statutory provision to the extent that either the Executive or the local authority is the enforcing authority for the provision.]

(1) The responsibility for enforcing any of the relevant statutory provisions in respect of any particular premises, part of premises, or any activity carried on there may be transferred from the Executive to the local authority or from the local authority to the Executive.

(2) A transfer may be made only by agreement between the enforcing authority which has the current responsibility and the authority to which it proposed to transfer it, <sup>F33</sup>....

(3) Where a transfer has been made, the authority to which responsibility has been transferred shall cause notice of the transfer to be given to persons affected by it <sup>F33</sup>....

(4) The preceding provisions of this regulation shall not apply to any part of premises occupied by the Crown or to any activity carried on there but responsibility for enforcing any of the relevant statutory provisions in respect of office activities and the premises used for them may be transferred by an agreement between the Executive, the local authority concerned and the Government Department or other public body concerned.

#### Textual Amendments

- F32** Reg. 5(A1) inserted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 3 para. 77** (with Sch. 4)
- F33** Words in reg. 5(2)(3) omitted (1.4.2008) by virtue of [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), art. 1, **Sch. 3** (with art. 21)

#### Commencement Information

- I5** Reg. 5 in force at 1.4.1998, see [reg. 1](#)

#### <sup>F34</sup>Assignment of responsibility for enforcement in cases of uncertainty: the Executive and the local authority]

6.—<sup>F35</sup>(1A) This regulation applies where there is uncertainty as to what are the respective responsibilities of the Executive and the local authority by virtue of regulations made under

section 18(2) of the 1974 Act for the enforcement of any of the relevant statutory provisions in respect of any particular premises, part of premises or any activity carried on there.

(1B) The responsibility for enforcing the relevant statutory provision in question in the respect in question may be assigned by the Executive and the local authority (acting jointly) to the Executive or to the local authority.

(1C) An assignment under paragraph (1B) may only be made where the Executive and the local authority agree—

- (a) that there is uncertainty in the particular case as to what are their respective responsibilities by virtue of regulations made under section 18(2) of the 1974 Act; and
- (b) which of them is the more appropriate to be responsible for enforcement in that case.

(1D) Where an assignment is made under paragraph (1B) the authority to which responsibility is assigned must give notice of the assignment to any person affected by it.]

(2) For the purpose of removing uncertainty in any particular case as to what are their respective responsibilities by virtue of regulations made under section 18(2) of the 1974 Act either the Executive or the local authority may apply to [<sup>F36</sup>the Secretary of State] and where [<sup>F36</sup>the Secretary of State] considers that there is uncertainty it shall, after considering the circumstances and any views which may have been expressed to them by either enforcing authority or by persons affected, assign responsibility to whichever authority it considers appropriate; and where such an assignment is made [<sup>F36</sup>the Secretary of State] shall cause notice of the assignment to be given to both enforcing authorities concerned and to persons affected by it.

#### Textual Amendments

- F34** Reg. 6 heading substituted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 3 para. 78(2)** (with Sch. 4)
- F35** Reg. 6(1A)-(1D) substituted for reg. 6(1) (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 3 para. 78(3)** (with Sch. 4)
- F36** Words in reg. 6(2) substituted (1.4.2008) by [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), art. 1, **Sch. 3** (with art. 21)

#### Commencement Information

- I6** Reg. 6 in force at 1.4.1998, see [reg. 1](#)

#### [<sup>F37</sup>Assignment of responsibility for enforcement in cases of uncertainty: the Executive and the ONR

**6A.**—(1) This regulation applies where there is uncertainty as to what are the respective responsibilities of the Executive and the ONR by virtue of regulations made under section 15 or 18(2) of the 1974 Act for the enforcement of—

- (a) section 6 of the 1974 Act in respect of any particular article for use at work or substance; or
- (b) any other relevant statutory provision in respect of any premises, part of premises or any activity carried on there.

(2) The responsibility for enforcing the relevant statutory provision in question in the respect in question may be assigned by the Executive and the ONR (acting jointly) to the Executive or the ONR.

(3) An assignment under paragraph (2) may be made only where the Executive and the ONR agree—

- (a) that there is uncertainty in the particular case as to what are their respective responsibilities by virtue of regulations made under section 15 or 18(2) of the 1974 Act are; and
  - (b) which of them is more appropriate to be responsible for enforcement in that case.
- (4) Where an assignment is made under paragraph (2), the authority to which responsibility is assigned must give notice of the assignment to any person affected by it.

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**Textual Amendments**

**F37** Regs. 6A, 6B inserted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), [Sch. 3 para. 79](#) (with Sch. 4)

**Assignment of responsibility for enforcement in cases of uncertainty: the ONR and the local authority**

**6B.**—(1) This regulation applies where there is uncertainty as to what are the respective responsibilities of the ONR and a local authority by virtue of regulations made under section 18(2) of the 1974 Act for the enforcement of any of the relevant statutory provisions in respect of any particular premises, part of premises or any activity carried on there.

(2) The responsibility for enforcing the relevant statutory provision in question in the respect in question may be assigned by the ONR and the local authority (acting jointly) to the ONR or the local authority.

(3) An assignment under paragraph (2) may be made only where the ONR and the local authority agree—

- (a) that there is uncertainty in the particular case as to what are their respective responsibilities by virtue of regulations made under 18(2) of the 1974 Act are; and
- (b) which of them is more appropriate to be responsible for enforcement in that case.

(4) Where an assignment is made under paragraph (2), the authority to which responsibility is assigned must give notice of the assignment to any person affected by it.]

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**Textual Amendments**

**F37** Regs. 6A, 6B inserted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), [Sch. 3 para. 79](#) (with Sch. 4)

**Revocation of instruments**

7. The instruments specified in column 1 of Schedule 3 are revoked to the extent specified in column 3 of that Schedule.

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**Commencement Information**

**I7** Reg. 7 in force at 1.4.1998, see [reg. 1](#)

Signed by authority of the Secretary of State

*Angela Eagle*  
Parliamentary Under Secretary of State,  
Department of the Environment, Transport and  
the Regions

**Changes to legislation:**

There are currently no known outstanding effects for the The Health and Safety (Enforcing Authority) Regulations 1998.