

SCHEDULE 1

Article 4

Regulations to be treated as regulations under the 2013 Act

PART 1

Regulations to be treated as nuclear regulations

Nuclear Industries Security Regulations 2003

1.—(1) The 2003 Regulations are to be treated as nuclear regulations and as if identified in accordance with section 74(9) of the 2013 Act as made for the nuclear security purposes⁽¹⁾.

(2) Sub-paragraph (1) does not apply to the following provisions of the 2003 Regulations—

- (a) regulation 2(4);
- (b) regulation 3(1) and (2).

(3) Despite sub-paragraph (1), the 2003 Regulations are not—

- (a) to be treated as relevant provisions for the purposes of section 102 or 104 of the 2013 Act;
- (b) to be treated as relevant statutory provisions for the purposes of section 99 of that Act.

(4) Nothing in this paragraph affects the continued application of regulations 2(4) and 3(1) and (2) of the 2003 Regulations for the purposes of the 2001 Act.

Nuclear Safeguards (Notification) Regulations 2004

2. The Nuclear Safeguards (Notification) Regulations 2004⁽²⁾ are to be treated as nuclear regulations and as if identified in accordance with section 74(9) of the 2013 Act as made for the nuclear safeguards purposes⁽³⁾.

Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009

3.—(1) Insofar as they have effect in relation to the civil carriage of class 7 goods, the 2009 Regulations are to be treated as nuclear regulations.

(2) Sub-paragraph (1) does not apply to—

- (a) regulation 27 and, to the extent it relates to the charging of fees, regulation 29(6) of the 2009 Regulations; and
- (b) paragraphs 1, 3 and 4 of Schedule 3 to those Regulations.

(3) Nothing in this paragraph affects the continued application of the 2009 Regulations to carriage other than the civil carriage of class 7 goods.

(4) For the purposes of this paragraph—

- (a) “civil carriage of class 7 goods” means the carriage of class 7 goods otherwise than for the purposes of the department of the Secretary of State with responsibility for defence;
- (b) “class 7 goods”—
 - (i) in relation to carriage by road, has the same meaning as in ADR;

(1) “Nuclear security purposes” has the meaning given by section 70 of the Energy Act 2013.

(2) S.I. 2004/1255, amended by S.I. 2007/3224.

(3) “Nuclear safeguards purposes” has the meaning given by section 72 of the Energy Act 2013.

- (ii) in relation to carriage by rail, has the same meaning as in RID;
- (iii) in relation to carriage by inland waterway, has the same meaning as in ADN.

PART 2

Application of the 2013 Act to the Nuclear Industries Security Regulations 2003 – modification of provisions relating to offences

Application to transport other than transport in a ship which is not a United Kingdom ship or in a hovercraft which is not a United Kingdom hovercraft

4.—(1) Subject to sub-paragraph (2), this paragraph makes transitional modifications to Schedule 10 to the 2013 Act (provisions relating to offences) as it applies in relation to the provisions of the 2003 Regulations other than the non-UK transport provisions by virtue of paragraph 1 of this Schedule.

- (2) Paragraphs 3 to 5 and 12 of Schedule 10 to the 2013 Act do not apply in relation to—
 - (a) any offence under regulation 25 of the 2003 Regulations committed on or after 1st April 2014; or
 - (b) a nuclear security offence.
- (3) For the purposes of this paragraph—
 - (a) “the non-UK transport provisions” means the provisions of the 2003 Regulations as they apply in relation to transport in a ship which is not a United Kingdom ship or in a hovercraft which is not a United Kingdom hovercraft;
 - (b) “nuclear security offence” means an offence—
 - (i) specified in sub-paragraph (4); and
 - (ii) committed on or after 1st April 2014.
 - (c) “nuclear security inspector” means an ONR inspector so far as acting for the purpose of carrying into effect any provision of the 2003 Regulations.
- (4) The specified offences are—
 - (a) the offence under section 97(5) of the 2013 Act to the extent that it relates to a refusal or a failure by a person to comply with a notice given under that section requiring that person to provide information which the ONR needs for carrying out its functions under or in connection with the 2003 Regulations;
 - (b) the offence under section 105(1) of that Act to the extent that it relates to the making of a statement by a person which that person knows to be false, or a person recklessly making a statement which is false—
 - (i) in purported compliance with any requirement to provide information imposed by or under the 2003 Regulations; or
 - (ii) for the purpose of obtaining the issue of a document under those Regulations;
 - (c) the offence under section 105(3) of that Act to the extent that it relates to a person—
 - (i) intentionally making a false entry in any register, record, notice or other document which is required to be kept or given by or under the 2003 Regulations; or
 - (ii) with intent to deceive, making use of any such entry which the person knows to be false;

- (d) the offence under section 105(5) of that Act to the extent that it relates to a person, with intent to deceive—
 - (i) using a document issued or authorised to be issued under the 2003 Regulations or required for the purpose of those Regulations; or
 - (ii) making or having possession of a document so closely resembling a document mentioned in paragraph (i) as to be calculated to deceive;
- (e) the offence under paragraph 17(1) of Schedule 8 to the 2013 Act to the extent that it relates to the contravention by a person of any requirement imposed by a nuclear security inspector under Part 3 of that Schedule;
- (f) the offence under paragraph 17(2) of that Schedule to the extent that it relates to a person preventing or attempting to prevent any other person from—
 - (i) appearing before a nuclear security inspector; or
 - (ii) answering any question to which a nuclear security inspector may require an answer by virtue of paragraph 15 of that Schedule;
- (g) the offence under paragraph 18(1) of that Schedule to the extent that it relates to a person intentionally obstructing a nuclear security inspector in the exercise or performance of the inspector's functions;
- (h) the offence under paragraph 19(1) of that Schedule to the extent that it relates to a person falsely pretending to be a nuclear security inspector;
- (i) the offence under paragraph 3 of Schedule 9 to the 2013 Act to the extent that it relates to a person disclosing protected information which is information—
 - (i) obtained by the ONR under a notice mentioned in paragraph (a) above;
 - (ii) disclosed to the ONR, or a nuclear security inspector, under section 98 of the 2013 Act for the purpose of facilitating the carrying out of their functions under the 2003 Regulations;
 - (iii) obtained by a nuclear security inspector as a result of the exercise of any relevant power (within the meaning given in paragraph 2(5) of Schedule 8 to the 2013 Act); or
 - (iv) provided to a person pursuant to a requirement imposed by the 2003 Regulations, in contravention of paragraph 2 of Schedule 9 to the 2013 Act;
- (j) the offence under paragraph 4 of Schedule 9 to the 2013 Act to the extent that it relates to a person using protected information of the type mentioned in paragraph (i)(i) to (iv) above in contravention of a restriction under paragraph 10(3), 11(2), 12(2), 13(2), 14(2) or 15(2) of that Schedule;
- (k) the offence under sub-paragraph (6) of paragraph 13 of Schedule 10 to that Act to the extent that it relates to a failure by a person to comply with an order made under that paragraph where the person is convicted of—
 - (i) an offence under the 2003 Regulations; or
 - (ii) an offence mentioned within any of paragraphs (a) to (j) above.

Transport in a ship which is not a United Kingdom ship

5.—(1) This paragraph makes transitional modifications to the 2013 Act as it applies by virtue of paragraph 1 of this Schedule in relation to the provisions of the 2003 Regulations as they apply in relation to transport in a ship which is not a United Kingdom ship.

(2) Any obligation arising under the provisions of the 2013 Act specified in sub-paragraph (3) is to be read, in relation to transport in a ship which is not a United Kingdom ship, as an obligation that must be met in respect of the ship in question as a condition of its entry to the relevant UK port.

Status: This is the original version (as it was originally made).

- (3) The provisions specified for the purposes sub-paragraph (2) are—
- (a) section 97;
 - (b) Schedule 8, so far as it relates to a requirement imposed by an inspector under Part 3 of the Schedule.

(4) The provisions of the 2013 Act specified in sub-paragraph (5) apply as if the following paragraph were inserted at the beginning of each of them—

“Where this provision has effect in relation to the Nuclear Industries Security Regulations 2003 as they apply to transport in a ship by virtue of regulation 27A of those Regulations (transport in a ship which is not a United Kingdom ship) and the ship in question enters or has entered a port in the United Kingdom or an attempt is or has been made for it to do so,”

- (5) The provisions specified for the purposes of sub-paragraph (4) are—
- (a) section 97(5);
 - (b) section 105(1), (3) and (5);
 - (c) paragraphs 17(1) and (2), 18(1) and 19(1) of Schedule 8;
 - (d) paragraphs 3 and 4 of Schedule 9;
 - (e) paragraph 13(6) of Schedule 10.
- (6) Paragraphs 3 to 5 and 12 of Schedule 10 to the 2013 Act do not apply to—
- (a) any offence under regulation 29 of the 2003 Regulations (as inserted by Schedule 3 to this Order) committed on or after 1st April 2014; or
 - (b) any port of entry offence.
- (7) In this paragraph—
- (a) “port of entry offence” means an offence—
 - (i) under the provisions of the 2013 Act as modified by sub-paragraph (4) of this paragraph; and
 - (ii) committed on or after 1st April 2014;
 - (b) “relevant UK port” means, in relation to a ship which is not a United Kingdom ship, the port in the United Kingdom—
 - (i) to which it is proceeding in order to enter it;
 - (ii) which it is entering; or
 - (iii) which it has entered.

Transport in a hovercraft which is not a United Kingdom hovercraft

6.—(1) Subject to sub-paragraph (2), paragraph 5 of this Schedule applies as if any reference to a ship (other than in the expression “United Kingdom ship”) included a reference to a hovercraft.

- (2) Paragraph 5 applies as if—
- (a) any reference in that paragraph to a United Kingdom ship included a reference to a United Kingdom hovercraft;
 - (b) the reference to regulation 27A of the 2003 Regulations included a reference to regulation 28 of those Regulations.

PART 3

Regulations to be treated as regulations under section 85 of the 2013 Act

Health and Safety Inquiries (Procedure) Regulations 1975

7.—(1) The Health and Safety Inquiries (Procedure) Regulations 1975(4) are, for the purposes of holding an ONR inquiry(5), to be treated as regulations under section 85 of the 2013 Act.

(2) This paragraph does not affect the application of the 1975 Regulations to an inquiry held under section 14(2A) of the 1974 Act (power of the Executive to direct investigations and inquiries).

PART 4

Regulations to be treated as regulations under section 101 of the 2013 Act

Regulations to be treated as regulations under section 101 of the 2013 Act

8.—(1) The regulations specified in sub-paragraph (2) are to be treated as regulations under section 101 of the 2013 Act (fees).

(2) The regulations are—

- (a) the Nuclear Industries Security (Fees) Regulations 2005(6);
- (b) insofar as they relate to the functions of the ONR as GB competent authority—
 - (i) regulation 27 and, to the extent it relates to the charging of fees, regulation 29(6) of the 2009 Regulations(7); and
 - (ii) paragraph 1 and, to the extent it relates to the payment of fees, paragraph 4 of Schedule 3 to those Regulations;
- (c) insofar as they relate to a function carried out by a relevant appointee—
 - (i) to the extent it relates to the charging of fees by that appointee, regulation 29(6) of the 2009 Regulations; and
 - (ii) paragraph 3 of Schedule 3 to those Regulations;
- (d) in the Health and Safety (Fees) Regulations 2012(8)—
 - (i) regulation 12 in so far as it relates to the provisions of those Regulations mentioned in paragraph (ii) below;
 - (ii) regulation 16(1) and (2);
 - (iii) regulation 16(3) insofar as it relates to the enforcement of any provision which—
 - (aa) was a relevant statutory provision (within the meaning of Part 1 of the 1974 Act) immediately before 1st April 2014(9); but

(4) S.I. 1975/335, amended by S.I. 1976/1246, S.I. 2008/960 and S.I. 2008/2683.

(5) “ONR inquiry” has the meaning given in section 85(2) of the Energy Act 2013 (section 112(1) of the 2013 Act).

(6) S.I. 2005/1654.

(7) The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 are amended by this Order to appoint the Office for Nuclear Regulation as the GB competent authority in relation to civil carriage of class 7 goods.

(8) S.I. 2012/1652, amended by S.I. 2013/448, S.I. 2013/1506, S.I. 2013/1512 and S.I. 2013/1948.

(9) For the purposes of Part 1 of the Health and Safety at Work etc. Act 1974, “relevant statutory provisions” has the meaning given in section 53(1) of that Act.

Status: This is the original version (as it was originally made).

- (bb) becomes a relevant statutory provision (within the meaning of Part 3 of the 2013 Act), on or after that date, in consequence of any provision made by or under the 2013 Act⁽¹⁰⁾;
- (iv) regulation 17 insofar as it relates to the provisions mentioned in paragraphs (ii) and (iii).

⁽¹⁰⁾ For the purposes of Part 3 of the Energy Act 2013, “relevant statutory provisions” has the meaning given in section 82(2) of that Act (section 112(1) of the 2013 Act).