



Health and Safety at Work etc. Act 1974

1974 CHAPTER 37

PART I

HEALTH, SAFETY AND WELFARE IN CONNECTION WITH WORK, AND CONTROL OF DANGEROUS SUBSTANCES AND CERTAIN EMISSIONS INTO THE ATMOSPHERE

Miscellaneous and supplementary

44 Appeals in connection with licensing provisions in the relevant statutory provisions.

- (1) Any person who is aggrieved by a decision of an authority having power to issue licences (other than ^{FI} . . . nuclear site licences) under any of the relevant statutory provisions—
 - (a) refusing to issue him a licence, to renew a licence held by him, or to transfer to him a licence held by another;
 - (b) issuing him a licence on or subject to any term, condition or restriction whereby he is aggrieved;
 - (c) varying or refusing to vary any term, condition or restriction on or subject to which a licence is held by him; or
 - (d) revoking a licence held by him,may appeal to the Secretary of State.
- (2) The Secretary of State may, in such cases as he considers it appropriate to do so, having regard to the nature of the questions which appear to him to arise, direct that an appeal under this section shall be determined on his behalf by a person appointed by him for that purpose.
- (3) Before the determination of an appeal the Secretary of State shall ask the appellant and the authority against whose decision the appeal is brought whether they wish to appear and be heard on the appeal and—
 - (a) the appeal may be determined without a hearing of the parties if both of them express a wish not to appear and be heard as aforesaid;

Status: Point in time view as at 06/04/2011. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Health and Safety at Work etc. Act 1974, Section 44. (See end of Document for details)

- (b) the Secretary of State shall, if either of the parties expresses a wish to appear and be heard, afford to both of them an opportunity of so doing.
- (4) The Tribunals and Inquiries Act [^{F2}1992] shall apply to a hearing held by a person appointed in pursuance of subsection (2) above to determine an appeal as it applies to a statutory inquiry held by the Secretary of State, but as if in [^{F2}section 10(1)] of that Act (statement of reasons for decisions) the reference to any decision taken by the Secretary of State included a reference to a decision taken on his behalf by that person.
- [^{F3}(4A) A hearing held by a person appointed in pursuance of subsection (2) above shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).]
- (5) A person who determines an appeal under this section on behalf of the Secretary of State and the Secretary of State, if he determines such an appeal, may give such directions as he considers appropriate to give effect to his determination.
- (6) The Secretary of State may pay to any person appointed to hear or determine an appeal under this section on his behalf such remuneration and allowances as the Secretary of State may with the approval of the Minister for the Civil Service determine.
- (7) In this section—
- (a) “licence” means a licence under any of the relevant statutory provisions other than [^{F4}a nuclear site licence];
 - (b) “nuclear site licence” means a licence to use a site for the purpose of installing or operating a nuclear installation within the meaning of the following subsection.
- (8) For the purposes of the preceding subsection “nuclear installation” means—
- (a) a nuclear reactor (other than such a reactor comprised in a means of transport, whether by land, water or air); or
 - (b) any other installation of such class or description as may be prescribed for the purposes of this paragraph or section 1(1)(b) of the ^{M1}Nuclear Installations Act 1965 being an installation designed or adapted for—
 - (i) the production or use of atomic energy; or
 - (ii) the carrying out of any process which is preparatory or ancillary to the production or use of atomic energy and which involves or is capable of causing the emission of ionising radiations; or
 - (iii) the storage, processing or disposal of nuclear fuel or of bulk quantities of other radioactive matter, being matter which has been produced or irradiated in the course of the production or use of nuclear fuel;
- and in this subsection—
- “atomic energy” has the meaning assigned by the ^{M2}Atomic Energy Act 1946;
- “nuclear reactor” means any plant (including any machinery, equipment or appliance, whether affixed to land or not) designed or adapted for the production of atomic energy by a fission process in which a controlled chain reaction can be maintained without an additional source of neutrons.

Textual Amendments

F1 Words repealed by [Employment Protection Act 1975 \(c. 71\), Sch. 18](#)

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- F2** Words in s. 44(4) substituted (1.10.1992) by [Tribunals and Inquiries Act 1992 \(c. 53\)](#), ss. 18(1), 19(2), [Sch. 3 para.9](#)
- F3** S. 44(4A) inserted (1.11.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), ss. 48(1), 148, [Sch. 8 para. 3](#); [S.I. 2007/2709](#), [art. 3\(b\)\(i\)](#)
- F4** Words substituted by [Employment Protection Act 1975 \(\(c. 71\)](#), Sch. 15 para. 13

Modifications etc. (not altering text)

- C1** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), [arts. 2–10](#)
- C2** Ss. 1-59, 80-82 applied (11.7.2001) by [S.I. 2001/2127](#), [arts. 4\(1\)](#), 5(1)(2), 6(1), 7(1), 8(1), 10 (with [art. 11](#)) (as amended by [S.I. 2009/1750](#), [art. 2\(2\)\(4\)](#))
- C3** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) Order 2001 \(S.I. 2001/2127\)](#), arts. 8A, 8B (as inserted by [S.I. 2009/1750](#), [art. 2\(3\)](#))
- C4** Ss. 1-59 applied by [S.I. 2001/2127 art. 8A 8B](#) (as inserted (E.W.S.) (6.4.2011) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) \(Variation\) Order 2011 \(S.I. 2011/745\)](#), arts. 1(1), [3\(2\)](#))
- C5** S. 44(2)-(6) applied (13.5.2000) by [S.I. 1999/3232](#), [reg. 5\(6\)](#)
- C6** S. 44(2)-(6) applied (26.4.2005) by [S.I. 2005/1082](#), [reg. 19](#)

Marginal Citations

- M1** 1965 c. 57.
- M2** 1946 c. 80.

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Changes to legislation:

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