



# Energy Act 2008

## 2008 CHAPTER 32

### PART 3

#### DECOMMISSIONING OF ENERGY INSTALLATIONS

### CHAPTER 1

#### NUCLEAR SITES: DECOMMISSIONING AND CLEAN-UP

#### *Modification of approved programmes*

#### **48 Modification of approved programme**

- (1) Where the Secretary of State has approved a funded decommissioning programme in respect of a site, a person mentioned in subsection (2) may—
  - (a) propose a modification of the programme, or
  - (b) propose a modification of the conditions to which the approval of the programme is subject.
- (2) Those persons are—
  - (a) the Secretary of State,
  - (b) the site operator, and
  - (c) any other person who has obligations under the programme (provided that the site operator consents to the proposed modification).
- (3) A proposal under subsection (1) may, in particular, propose—
  - (a) that obligations, or additional obligations, be imposed on a body corporate associated with the site operator, or
  - (b) the removal of obligations imposed on a body corporate which is or was so associated.

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- (4) In subsection (1)(b) “modification of the conditions” includes the imposition of conditions where the programme was approved unconditionally.

#### **49 Procedure for modifying approved programme**

- (1) This section applies in relation to a proposal for the modification of an approved funded decommissioning programme, or of the conditions, under section 48 (but is subject to regulations under section 50).
- (2) The proposal must be made by notice in writing given—
- (a) if the proposal is made by the Secretary of State, to the site operator, and
  - (b) in any other case, to the Secretary of State.
- (3) Where a proposal is made, the site operator must pay to the Secretary of State such fee as may be determined in accordance with regulations under section 54, in respect of the costs mentioned in subsection (4), at a time determined in accordance with such regulations.
- (4) The costs are those incurred by the Secretary of State in relation to the consideration of the proposal, including, in particular, the costs of obtaining advice in relation to—
- (a) the proposal, or
  - (b) information required in relation to the proposal in accordance with section 52(4).
- (5) Where the Secretary of State makes the proposal, the following persons must be given the opportunity to make written representations about the proposal—
- (a) the site operator;
  - (b) any other person with obligations under the programme;
  - (c) any person who would have such obligations if the proposed modification were made.
- (6) The Secretary of State must—
- (a) decide whether the proposed modification is to be made, and
  - (b) give notice of the decision, and the reasons for it, to every person who has obligations under the approved funded decommissioning programme, and
  - (c) if the decision is to make the modification, give such notice to any other person who will have such obligations by reason of the modification.
- (7) The Secretary of State’s power under subsection (6)(a) must be exercised with the aim of securing that prudent provision is made for the technical matters (including the financing of the designated technical matters).
- (8) Before deciding whether the proposed modification is to be made, the Secretary of State must consult each interested body (within the meaning of section 46(6)) in so far as the modification relates to a function conferred on the interested body by or under an enactment.

#### **50 Power to disapply section 49**

- (1) The Secretary of State may make regulations disapplying section 49 in relation to modifications which—

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- (a) are proposed by a person within section 48(2) (other than the Secretary of State), and
  - (b) are of a description specified by the regulations.
- (2) Before making regulations under subsection (1), the Secretary of State must consult—
- (a) the Health and Safety Executive,
  - (b) the Environment Agency, and
  - (c) the Department of the Environment for Northern Ireland,
- in so far as the regulations relate to a function conferred on the body by or under an enactment.
- (3) The regulations may, in particular—
- (a) describe a modification by reference to its financial consequences;
  - (b) specify that, in determining whether a modification is of a specified description or not, the cumulative financial effect of all modifications, or all modifications of a specified class, within a specified period is to be taken into account.
- (4) In the case of a modification to which the regulations apply, the site operator must give notice of the modification to the Secretary of State in such manner as may be specified in the regulations.

## **51 Time when modification takes effect**

- (1) This section applies where, in the case of an approved funded decommissioning programme, a modification is made of the programme or of the conditions to which its approval is subject.
- (2) The modification does not take effect until the relevant time, and from that time this Chapter has effect—
- (a) in the case of a modification of the programme, as if the programme had been approved by the Secretary of State under section 46 in the modified form;
  - (b) in the case of a modification of the conditions to which the approval of the programme is subject, as if the Secretary of State had approved the programme under that section subject to the modified conditions.
- (3) “The relevant time” means—
- (a) in the case of a modification to which section 49 applies, the time specified in the notice given under section 49(6)(b) of the Secretary of State’s decision that the modification is to be made, and
  - (b) in the case of a modification to which regulations under section 50 apply, the time specified in the notice of the modification given to the Secretary of State in accordance with section 50(4).
- (4) The time specified in a notice, as mentioned in subsection (3)(a) or (b), must not be earlier than the time the notice is given.