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## SCHEDULES

### SCHEDULE 12

#### MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 3

#### PART 1

#### AMENDMENTS OF THE HEALTH AND SAFETY AT WORK ETC. ACT 1974

#### *Health and Safety at Work etc. Act 1974 (c. 37)*

VALID FROM 01/04/2014

1 The Health and Safety at Work etc. Act 1974 is amended as follows.

VALID FROM 01/04/2014

- 2 (1) Section 11 (functions of the Health and Safety Executive) is amended as follows.
- (2) In subsection (4)—
- (a) in paragraph (a), for “the railway safety purposes” substitute “ any of the transferred purposes ”, and
  - (b) in paragraph (b), for the words following “made” substitute “—
    - (i) for any of the transferred purposes, or
    - (ii) under section 43 and concern fees relating to nuclear site regulation.”
- (3) After that subsection insert—
- “(4A) In subsection (4)—
- (a) “the transferred purposes” means—
    - (i) the railway safety purposes;
    - (ii) the nuclear safety purposes;
    - (iii) the nuclear security purposes;
    - (iv) the nuclear safeguards purposes;
    - (v) the radioactive material transport purposes;
  - (b) “fees relating to nuclear site regulation” means fees payable for or in connection with the performance of a function by or on behalf of—
    - (i) the Office for Nuclear Regulation, or
    - (ii) any inspector appointed by the Office for Nuclear Regulation.

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(4B) The Executive may submit to the Secretary of State any proposal submitted to it by the Office for Nuclear Regulation under section 81 of the Energy Act 2013 (proposals about orders and regulations).”

VALID FROM 01/04/2014

3 In section 13 (powers of the Executive), after subsection (6) insert—

“(6A) The reference in subsection (6) to the general purposes of this Part does not include a reference to any of the following—

- (a) the nuclear safety purposes;
- (b) the nuclear security purposes;
- (c) the nuclear safeguards purposes;
- (d) the radioactive material transport purposes.”

VALID FROM 01/04/2014

4 (1) Section 14 (power of the Executive to direct investigations and inquiries) is amended as follows.

(2) In subsection (1)(a), after “railway safety purposes” insert “ or the ONR's purposes ”.

(3) After subsection (4) insert—

“(4A) Provision that may be made by virtue of subsection (4)(a) includes, in particular, provision conferring functions on the Office for Nuclear Regulation in relation to powers of entry and inspection in relation to any premises for which it is an enforcing authority.”

VALID FROM 01/04/2014

5 (1) Section 15 (health and safety regulations) is amended as follows.

(2) After subsection (1) insert—

“(1A) In subsection (1), the reference to the general purposes of this Part does not include a reference to any of the following—

- (a) the nuclear safety purposes;
- (b) the nuclear security purposes;
- (c) the nuclear safeguards purposes;
- (d) the radioactive material transport purposes.

(1B) Subsection (1A) does not preclude health and safety regulations from including provision merely because the provision could be made for any of the purposes mentioned in paragraphs (a) to (d) of that subsection.”

(3) In subsection (2), for “the preceding subsection” substitute “ subsection (1) ”.

(4) In subsection (3)(c), after “may” insert “ , subject to subsection (3A), ”.

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(5) After subsection (3) insert—

“(3A) Nothing in this section is to be taken to permit health and safety regulations to make provision about responsibility for the enforcement of any of the relevant statutory provisions as they apply in relation to any GB nuclear site.

(3B) Subsection (3A) does not prevent health and safety regulations providing for the Office of Rail Regulation to be responsible for the enforcement, in relation to GB nuclear sites, of any of the relevant statutory provisions that are made for the railway safety purposes.

(3C) In subsections (3A) and (3B), “GB nuclear site” has the same meaning as in section 68 of the Energy Act 2013 (nuclear safety purposes).”

VALID FROM 01/04/2014

6 (1) Section 18 (authorities responsible for enforcement of the relevant statutory provisions) is amended as follows.

(2) After subsection (1) insert—

“(1A) The Office for Nuclear Regulation is responsible for the enforcement of the relevant statutory provisions as they apply in relation to GB nuclear sites (within the meaning given in section 68 of the Energy Act 2013 (nuclear safety purposes)).

(1B) Subsection (1A) is subject to any provision of health and safety regulations making the Office of Rail Regulation responsible for the enforcement of any of the relevant statutory provisions to any extent in relation to such sites.”

(3) In subsection (2)—

(a) before paragraph (a) insert—

“(za) make the Office for Nuclear Regulation responsible for the enforcement of the relevant statutory provisions to such extent as may be prescribed (and may in particular provide for any site or matter in relation to which the Office for Nuclear Regulation is made so responsible to be determined by the Secretary of State or the Office for Nuclear Regulation under the regulations);”;

(b) in paragraph (b), before sub-paragraph (i) insert—

“(zi) transferred from the Executive or local authorities to the Office for Nuclear Regulation, or from the Office for Nuclear Regulation to the Executive or local authorities;”;

(c) in paragraph (b)(ii)—

(i) after “Executive” insert “, to the Office for Nuclear Regulation ”;

(ii) after “by virtue of” insert “ subsection (1A) or ”;

(d) in paragraph (b), after sub-paragraph (ii) insert—

“(iii) assigned to the Office of Rail Regulation or the Office for Nuclear Regulation for the purpose of

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removing any uncertainty as to what are by virtue of any of the relevant statutory provisions their respective responsibilities for the enforcement of any of those provisions;”.

(4) After subsection (3) insert—

“(3A) Regulations under subsection (2)(a) may not make local authorities enforcing authorities in relation to any site in relation to which the Office for Nuclear Regulation is an enforcing authority.

(3B) Where the Office for Nuclear Regulation is, by or under subsection (1A) or (2), made responsible for the enforcement of any of the relevant statutory provisions to any extent, it must make adequate arrangements for the enforcement of those provisions to that extent.”

(5) In subsection (5) in the opening words, after “the Executive” insert “, the Office for Nuclear Regulation”.

(6) In subsection (7), in the words following paragraph (b)—

(a) after “section 13” insert “ of this Act or section 95 of the Energy Act 2013 (power for Office for Nuclear Regulation to arrange for exercise of functions by others) ”;

(b) after “the Executive” (in the first and third places) insert “ or the Office for Nuclear Regulation ”;

(c) after “the Executive” (in the second place) insert “ or the Office for Nuclear Regulation (as the case may be) ”;

(d) for “under that subsection” substitute “ or arrangements under the provision in question ”.

VALID FROM 01/04/2014

7

In section 27 (obtaining of information by the Executive, enforcing authorities etc), in subsection (1)(b), after “an enforcing authority” insert “ other than the Office for Nuclear Regulation ”.

VALID FROM 01/04/2014

8

In section 27A (information communicated by Commissioners for Revenue and Customs), in subsection (2), at the end insert “, other than the Office for Nuclear Regulation or an inspector appointed by the Office for Nuclear Regulation”.

VALID FROM 01/04/2014

9

(1) Section 28 (restrictions on disclosure of information) is amended as follows.

(2) In subsection (1)(a), after “to any person” insert “, other than the Office for Nuclear Regulation (or an inspector appointed by it),”.

(3) In subsection (3)(a), after “Executive” insert “, the Office for Nuclear Regulation,”.

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- (4) In subsection (4)—
- (a) in the opening words—
    - (i) after “Executive” (in the first place), insert “ , the Office for Nuclear Regulation, ”;
    - (ii) after “Executive” (in the second place), insert “ or the Office for Nuclear Regulation ”;
  - (b) in paragraph (a), after “Executive” insert “ or Office for Nuclear Regulation ” and after “section 13(3)” insert “ of this Act or, as the case may be, section 95 of the Energy Act 2013 ”;
  - (c) in paragraph (c), at the end insert “ or, in the case of the Office for Nuclear Regulation, a person providing advice to that body. ”.
- (5) In subsection (5)(a), after “Executive” insert “ , of the Office for Nuclear Regulation ”.
- (6) After subsection (9A) insert—
- “(9B) Nothing in subsection (7) or (9) applies to a person appointed as an inspector by the Office for Nuclear Regulation in relation to functions which the person has by virtue of that appointment.”

VALID FROM 01/04/2014

- 10 (1) Section 44 (appeals in connection with licensing provisions in the relevant statutory provisions) is amended as follows.
- (2) In subsection (1), omit “(other than nuclear site licences)”.
  - (3) In subsection (7)—
    - (a) in paragraph (a) omit “other than a nuclear site licence”;
    - (b) omit paragraph (b).
  - (4) Omit subsection (8).

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- 11 (1) Section 50 (regulations under the relevant statutory provisions) is amended as follows.
- (2) In subsection (1AA), for the words following “unless” substitute “the Secretary of State has consulted—
    - (a) the Executive,
    - (b) the Office for Nuclear Regulation, and
    - (c) such other bodies as appear to the Secretary of State to be appropriate.”
  - (3) In subsection (2), for “the Executive” substitute “—
    - (a) the Executive, and
    - (b) the Office for Nuclear Regulation.”
  - (4) In subsection (3), before paragraph (a) insert—

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“(za) the Office for Nuclear Regulation;”.

(5) After subsection (3) insert—

“(4) If the Executive has consulted the Office for Nuclear Regulation under subsection (3) in relation to a proposal under section 11(3) for regulations under any of the relevant statutory provisions, it must, when it submits the proposal (with or without modification) to the Secretary of State, also submit—

- (a) any representations made by the Office for Nuclear Regulation in response to the consultation, and
- (b) any response to those representations given by the Executive to the Office for Nuclear Regulation.

(5) The preceding provisions of this section do not apply to the exercise of the power in section 43 to make ONR fees regulations, but the Secretary of State must consult the Office for Nuclear Regulation before—

- (a) making ONR fees regulations independently of any proposals submitted by the Office for Nuclear Regulation under section 81(1) of the Energy Act 2013, or
- (b) making ONR fees regulations which give effect to such proposals but with modifications.

(6) In subsection (5) “ONR fees regulations” means regulations under section 43 so far as they make provision in relation to fees payable for or in connection with the performance of a function by or on behalf of—

- (a) the Office for Nuclear Regulation, or
- (b) any inspector appointed by the Office for Nuclear Regulation.”

VALID FROM 01/04/2014

12 In section 53(1) (general interpretation of Part 1)—

(a) after the definition of “micro-organism” insert—

““nuclear safeguards purposes” has the same meaning as in Part 3 of the Energy Act 2013 (nuclear regulation etc.) (see section 72 of that Act);

“nuclear safety purposes” has the same meaning as in that Part of that Act (see section 68 of that Act);

“nuclear security purposes” has the same meaning as in that Part of that Act (see section 70 of that Act);”;

(b) after the definition of “offshore installation” insert—

““the ONR's purposes” has the same meaning as in Part 3 of the Energy Act 2013 (see section 67 of that Act);”;

(c) after the definition of “prohibition notice” insert—

““the radioactive material transport purposes” means the transport purposes within the meaning of Part 3 of the Energy Act 2013 (see section 73 of that Act);”.

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- 13 (1) Section 82 (general provisions as to interpretation and regulations) is amended as follows.
- (2) In subsection (3)(b), after “subsection” insert “ (3A) or ”.
- (3) After subsection (3) insert—
- “(3A) In the case of a statutory instrument which also contains regulations under section 74 of the Energy Act 2013 (nuclear regulations), subsection (3) is subject to section 113 of that Act (subordinate legislation).”

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- 14 In Schedule 1 (existing enactments which are relevant statutory provisions), omit the entry relating to the Nuclear Installations Act 1965.

- 15 (1) Schedule 2 (constitution etc. of the Health and Safety Executive) is amended as follows.
- (2) In paragraph 1(b) for “eleven” substitute “ twelve ”.
- (3) In paragraph 2(2), at the beginning insert “ Subject to sub-paragraph (3A), ”.
- (4) After paragraph 2(3) insert—
- “(3A) The Office for Nuclear Regulation may appoint a member from among the non-executive members of the Office for Nuclear Regulation (“an ONR member”).
- (3B) The Office for Nuclear Regulation must notify the Executive and the Secretary of State whenever it appoints an ONR member.”.
- (5) In paragraph 3, after “4” insert “ , 4A ”.
- (6) In paragraph 4, after “Executive” insert “ , other than an ONR member, ”.
- (7) After paragraph 4 insert—
- “4A (1) An ONR member may at any time resign from office by giving notice in writing to the Office for Nuclear Regulation.
- (2) An ONR member ceases to be a member of the Executive upon ceasing to be a non-executive member of the Office for Nuclear Regulation.
- (3) The Office for Nuclear Regulation may remove an ONR member from office by giving notice in writing.
- (4) The Office for Nuclear Regulation must notify the Executive and the Secretary of State whenever an ONR member—
- (a) resigns from office,
- (b) ceases to be a non-executive member of the Office for Nuclear Regulation, or
- (c) is removed from office.”.



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- (8) In paragraph 5, after “member” insert “, other than an ONR member,”.
- (9) Paragraph 6 is amended as follows.
- (10) In sub-paragraph (1), for the words following “pay” substitute “—
- (a) to each member, other than an ONR member, such remuneration, and
  - (b) to each member such travelling and other allowances,
- as may be determined by the Secretary of State.”
- (11) In sub-paragraph (2), after “member” insert “ other than an ONR member ”.
- (12) In sub-paragraph (3), after “member” insert “ other than an ONR member ”.
- (13) After that sub-paragraph insert—
- “(4) Where—
- (a) a member appointed under paragraph 4(4)(a) of Schedule 7 to the Energy Act 2013 to be a member of the Office for Nuclear Regulation (the “HSE member of the ONR”)—
    - (i) ceases to be the HSE member of the ONR otherwise than on the expiry of his or her term of office as HSE member of the ONR, but
    - (ii) does not cease to be a member of the Executive, and
  - (b) it appears to the Executive that there are special circumstances that make it right for that person to receive compensation,
- the Executive may pay the member such amount by way of compensation as the Secretary of State may determine.”

**Commencement Information**

**II** Sch. 12 para. 15(13) in force at 10.3.2014 by S.I. 2014/251, art. 3(f)(i)



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