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## STATUTORY INSTRUMENTS

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# 2014 No. 469

## The Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014

### Citation and commencement

1.—(1) This Order may be cited as the Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014.

(2) This Order comes into force on 1st April 2014.

### Interpretation

2.—(1) In this Order—

“the 1965 Act” means the Nuclear Installations Act 1965 <sup>M1</sup>;

“the 2001 Act” means the Anti-terrorism, Crime and Security Act 2001 <sup>M2</sup>;

“the 2013 Act” means the Energy Act 2013;

“the 2003 Regulations” means the Nuclear Industries Security Regulations 2003 <sup>M3</sup>;

“the 2009 Regulations” means the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 <sup>M4</sup>;

“HSE” means the Health and Safety Executive;

“United Kingdom ship” has the meaning given in section 70(3) of the 2013 Act;

(2) For the purposes of this Order “ADN”, “ADR” and “RID” have the meanings given in section 73(3) of the 2013 Act.

(3) For the purposes of this Order “hovercraft” and “United Kingdom hovercraft” have the meaning given in regulation 28 of the 2003 Regulations.

### Marginal Citations

**M1** 1965 c.57; sections 1, 3, 4, 5, 6 and 22 were substituted by the Energy Act 2013 (c.32), **Schedule 12**, paragraphs 16 to 23. Section 26 was amended by the Energy Act 1983 (c.25), **sections 27** and 32, the Environment Act 1995 (c.25), **Schedule 22**, paragraph 10, S.I. 1974/2056, Schedule 2, and S.I. 1999/2786, **article 3(1)**. Section 27 was amended by the Northern Ireland Constitution Act 1973 (c.36), **Schedule 6**, the Energy Act 2004 (c.24), **section 78** and Schedule 23, and the Energy Act 2013, Schedule 12, paragraph 27. There are other amendments to the 1965 Act not relevant to this Order.

**M2** 2001 c.24; **section 77** was amended by the Energy Act 2004 (c.24), **section 77** and Schedule 14, paragraph 10(1), by the Energy Act 2011 (c.16), **section 105**, and by S.I. 2008/960, **Schedule 3**. There are other amendments to the 2001 Act not relevant to this Order.

**M3** S.I. 2003/403, amended by S.I. 2006/2815, S.I. 2009/229 and S.I. 2013/190.

**M4** S.I. 2009/1348, amended by S.I. 2011/1885, S.S.I. 2013/119 and S.I. 2013/235.

*Status: Point in time view as at 01/04/2014.*

*Changes to legislation: There are currently no known outstanding effects for the The Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014. (See end of Document for details)*

### **Extent and application**

3.—(1) Subject to paragraphs (2) to (5), this Order extends to England and Wales, Scotland and Northern Ireland.

(2) Article 7 extends to England and Wales only.

(3) In Schedule 1—

(a) paragraph 3 extends to England and Wales and Scotland only;

(b) paragraph 8(2)(b) to (d) extends to England and Wales and Scotland only.

(4) The amendments made by Schedule 2 have the same extent as the provisions which they amend, except that the amendments made by paragraphs 11 to 13 of that Schedule extend to Scotland only.

(5) The amendments made by Schedule 3 have the same extent as the provisions which they amend, except that—

(a) the amendments made by paragraphs 164 to 176 of that Schedule, in so far as they make provision for ONR inquiries, extend to England and Wales, Scotland and Northern Ireland;

(b) the amendments made by paragraph 178 of that Schedule, extend to Scotland only;

(c) the amendments made by paragraphs 182(2) and (4) and 187 to 189 of that Schedule apply in relation to England only;

(d) the amendments made by paragraph 182(3) and (5) apply in relation to Wales only.

### **Regulations to be treated as regulations under the 2013 Act**

4. Schedule 1 which—

(a) makes provision for existing regulations to be treated as regulations under the 2013 Act, and

(b) makes transitional modifications to the application of the 2013 Act in consequence of the provisions mentioned in sub-paragraph (a),

has effect.

### **Agreements concerning functions related to the transport of radioactive materials to be treated as agreements entered into by the ONR**

5.—(1) The agreements and authorisation specified in paragraph (3) continue to have effect on and after 1st April 2014 as if they had been duly entered into between—

(a) the Secretary of State or relevant public authority; and

(b) the ONR in exercise of its powers under section 90(1) of the 2013 Act.

(2) In those agreements all references to the Health and Safety Executive, or the Executive, are, so far as necessary for the purposes, or in consequence, of paragraph (1) to be read as references to the ONR.

(3) The specified agreements are—

(a) the agreement under section 13(4) of the 1974 Act <sup>M5</sup> and authorisation under paragraph 15 of Schedule 1 to the Civil Aviation Act 1982 made on 26th October 2011 by the Civil Aviation Authority and the HSE <sup>M6</sup>;

(b) the agreement made under section 13(4) of the 1974 Act on 28th October 2011 by the Secretary of State for Transport and the HSE <sup>M7</sup>;

- (c) the agreement made under section 13(4) of the 1974 Act and section 28(1) of the Northern Ireland Act 1998 on 25th January 2012 by the Department of the Environment (Northern Ireland) and the HSE <sup>M8</sup>.

#### Marginal Citations

- M5** “The 1974 Act” has the meaning given in section 112(1) of the [Energy Act 2013 \(c.32\)](#).
- M6** A copy of the agreement and authorisation is available here:  
<http://www.hse.gov.uk/aboutus/howwework/framework/aa/transport-hse-aa.pdf>
- M7** A copy of the agreement is available here: <http://www.hse.gov.uk/aboutus/howwework/framework/aa/secretary-of-state-hse-mou-2011.pdf>
- M8** A copy of the agreement is available here: <http://www.hse.gov.uk/aboutus/howwework/framework/aa/onr-transport-agency-250112.pdf>.

#### Consequential amendments

6.—(1) Schedule 2, which contains amendments to primary legislation in consequence of Part 3 of the 2013 Act, has effect.

(2) Schedule 3, which contains amendments to instruments in consequence of Part 3 of the 2013 Act and of this Order, has effect.

#### Transitional provisions: fines on conviction by magistrates' court

7.—(1) This article makes transitional modifications to the 1965 Act, the 2001 Act and the 2013 Act as they apply to England and Wales.

(2) In relation to an offence which is committed before the relevant commencement date, each of the references to a fine specified in paragraph (3) is to be treated as a reference to a fine not exceeding £20,000.

(3) The specified references are—

- (a) in the 1965 Act, the first references in each of sections 1(8)(b), 4(11)(b), 5(10)(b) and 22(4)(b) <sup>M9</sup>;
- (b) the first reference in section 77(3)(a)(ii) of the 2001 Act <sup>M10</sup>;
- (c) in the 2013 Act—
- (i) the first reference in section 103(2)(a)(ii);
  - (ii) the reference in section 104(2)(a)(i);
  - (iii) the first reference in section 105(7)(a)(ii);
  - (iv) the first references in each of paragraphs 7(2)(a)(ii) and 17(3)(a)(ii) of Schedule 8;
  - (v) the first reference in paragraph 13(7)(a)(ii) of Schedule 10.

(4) In relation to an offence which is committed before the relevant commencement date, section 75(2)(b)(ii) of the 2013 Act has effect as if for “a fine or” there were substituted “ a fine not exceeding the amount specified (which must not exceed £20,000) or ”.

(5) In relation to an offence which is committed before the relevant commencement date, each of the references in the 2013 Act to a fine specified in paragraph (6) is to be treated as a reference to a fine not exceeding the statutory maximum.

(6) The specified references are—

- (a) the reference in section 97(6)(a)(i);
- (b) the first reference in section 102(3)(a)(ii);

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(c) the first reference in paragraph 6(1)(a)(ii) of Schedule 9.

(7) In relation to an offence which is committed before the relevant commencement date each of the references in the 2013 Act to a fine specified in paragraph (8) is to be treated as a reference to a fine not exceeding level 5 on the standard scale.

(8) The specified references are—

(a) the reference in section 99(3)(b)(i);

(b) the references in paragraphs 18(2)(b)(i) and 19(2)(a) of Schedule 8.

(9) In relation to an offence which is committed before the relevant commencement date, each of the provisions of the 2013 Act specified in paragraph (10) has effect as if for the words following the first reference to “a fine” there were substituted “not exceeding level 5 on the standard scale”.

(10) The specified provisions are—

(a) section 75(4)(b)(i); and

(b) section 85(6)(a).

(11) In this article “the relevant commencement date” means the date on which section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012<sup>M11</sup> (removal of limit on certain fines on conviction by magistrates' court) comes into force.

#### Marginal Citations

**M9** Section 1 was substituted by the [Energy Act 2013 \(c.32\)](#) (“the 2013 Act”), Schedule 12, paragraph 17. Section 4 was substituted by the 2013 Act, Schedule 12, paragraph 19. Section 5 was substituted by the 2013 Act, Schedule 12, paragraph 20. Section 22 was substituted by the 2013 Act, Schedule 12, paragraph 23.

**M10** Section 77(3)(a)(ii) was amended by the Energy Act 2013, Schedule 12, paragraph 32(3).

**M11** 2012 c.10.

#### Transitional provisions and savings: general

8. Schedule 4, which makes transitional provisions and savings, has effect.

Signed by authority of the Secretary of State for Work and Pensions,

Department for Work and Pensions  
3rd March 2014

*Mike Penning*  
Minister of State

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