

**Status:** Point in time view as at 01/04/2014.

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## SCHEDULE 3

### Consequential amendments to instruments

## PART 1

### Nuclear security and nuclear safeguards

#### Nuclear Industries Security Regulations 2003

1. The 2003 Regulations are amended as follows.
- 2.—(1) Subject to paragraph (2)—
  - (a) for “Secretary of State” substitute “ ONR ” in each place occurring;
  - (b) for “she” or “her” substitute “ the ONR ” or “the ONR's” (as the case may be) in each place occurring.
- (2) Paragraph (1) does not apply to—
  - (a) regulation 4(4)(a);
  - (b) the opening words in regulation 11(1);
  - (c) the opening words in regulation 21(1);
  - (d) regulation 22(5)(a)(iii);
  - (e) regulations 23, 24 and 26.
- 3.—(1) Regulation 2 (interpretation: general) is amended as follows.
- (2) In paragraph (1)—
  - (a) omit the definitions of—
    - (i) “the 1974 Act”;
    - (ii) “the 1978 Order”;
    - (iii) “nuclear construction site”;
    - (iv) “nuclear site”;
    - (v) “other nuclear premises”;
    - (vi) “sensitive nuclear information”;
    - (vii) “United Kingdom ship”;
  - (b) after the definition of “the 2001 Act” insert—

““the 2013 Act” means the Energy Act 2013;

“2001 Act direction” means a direction given by the Secretary of State on or after 1st April 2014 under regulations made under section 77(1) of the 2001 Act;”.
  - (c) for the definition of “nuclear material” substitute—

““nuclear material” has the meaning given in section 70 of the 2013 Act (as extended under subsection (3) of that section);”;
  - (d) in the definition of “nuclear premises”—
    - (i) in paragraph (a)—
      - (aa) for “nuclear site” substitute “ civil nuclear site ”;

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- (bb) omit “(within the meaning given in Chapter 1 of Part 1 of the Energy Act 2004)”;
  - (ii) in paragraph (aa) for “nuclear construction site” substitute “civil nuclear construction site”;
  - (iii) in paragraph (b) for “nuclear site”, in the first place it occurs, substitute “civil nuclear site”;
  - (iv) in paragraph (c) for “nuclear premises” substitute “civil nuclear premises”;
  - (e) after the definition of “nuclear site licence” insert—  
““the ONR” means the Office for Nuclear Regulation;”;
  - (f) for the definition of “United Kingdom person” substitute—  
““United Kingdom person” has the meaning given in section 74(6) of the 2013 Act;”.
- (3) In paragraph (2)—
- (a) in sub-paragraph (a) for “nuclear site” substitute “civil nuclear site”;
  - (b) in sub-paragraph (aa) for “nuclear construction site” substitute “civil nuclear construction site”.
- (4) In paragraph (4) omit “In these Regulations and”.
4. In regulation 4 (requirement for approved security plan for nuclear premises)—
- (a) in paragraph (2)(f) for “nuclear construction site” substitute “civil nuclear construction site”;
  - (b) in paragraph (3A)—
    - (i) in sub-paragraph (a) for “nuclear site”, in both places in which it occurs, substitute “civil nuclear site”; and
    - (ii) in sub-paragraph (b) for “nuclear construction site” substitute “civil nuclear construction site” in each place occurring;
  - (c) omit paragraph (4).
5. In regulation 8 (temporary security plans during building works etc.)—
- (a) in paragraph (1) for “nuclear construction site” substitute “civil nuclear construction site”;
  - (b) omit paragraph (9).
- 6.—(1) Regulation 11 (directions to responsible persons) is amended as follows.
- (2) In paragraph (1), in the opening words, for “Secretary of State for the purpose specified in section 77(1) of the 2001 Act” substitute “ONR for the nuclear security purposes (within the meaning of section 70 of the Energy Act 2013)”.
- (3) After paragraph (2) insert—
- “(3) Any direction given by the ONR to a person on or after 1st April 2014 under paragraph (1)—
    - (a) is subject to any 2001 Act direction given to the person whenever given; and
    - (b) must state that it is subject to any such 2001 Act direction.”.
7. Omit regulation 12.
- 8.—(1) Regulation 21 (directions to carriers) is amended as follows.

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(2) In paragraph (1), in the opening words, for “Secretary of State for the purpose specified in section 77(1) of the 2001 Act” substitute “ ONR for the nuclear security purposes (within the meaning of section 70 of the Energy Act 2013 ”.

(3) After paragraph (2) insert—

“(3) Any direction given by the ONR to a carrier on or after 1st April 2014 under paragraph (1)—

- (a) is subject to any 2001 Act direction given to the carrier whenever given; and
- (b) must state that it is subject to any such 2001 Act direction.”.

9. After regulation 22(7) (regulation of sensitive nuclear information etc.) insert—

“(7A) Any direction given by the ONR to a person on or after 1st April 2014 under paragraph (7)(b)—

- (a) is subject to any 2001 Act direction given to the person whenever given; and
- (b) must state that it is subject to any such 2001 Act direction.”.

10. Omit regulations 23 and 24.

11.—(1) Regulation 25 (offences) is amended as follows.

(2) After paragraph (1) insert—

“(1A) For the purposes of paragraph (1), a person is not to be regarded as failing to comply with any provision mentioned in that paragraph by reason of anything done, or omitted to be done, by that person in order to comply with a 2001 Act direction.”.

(3) In paragraph (2) omit the words from “, under section 33” to “by virtue of regulation 24”.

12. After regulation 25 insert—

**“Notification of compliance with a 2001 Act direction**

25A.—(1) Where a person to whom these Regulations apply—

- (a) is required to comply with a 2001 Act direction; and
- (b) is of the opinion that the person cannot comply both with that direction and any provision of these Regulations (a “relevant provision”),

that person must notify the ONR.

(2) A notification under paragraph (1) must—

- (a) be given as soon as reasonably practicable;
- (b) give details of the relevant 2001 Act direction; and
- (c) specify the relevant provision.”.

13. After regulation 26 insert— “ PART 5A Transport by ship or hovercraft ”.

14. For regulation 27 (transport by ship) substitute—

**“Transport by United Kingdom ship**

27. These Regulations apply to transport in a United Kingdom ship whether or not that ship is in the territorial sea of the United Kingdom.

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### **Transport by a ship other than a United Kingdom ship**

**27A.**—(1) Subject to the provisions of this regulation, these Regulations do not apply to transport in a ship that is not a United Kingdom ship.

(2) The relevant provisions apply to transport within the United Kingdom or its territorial sea in a ship that is not a United Kingdom ship if the ship—

- (a) is proceeding to a port in the United Kingdom in order to enter it, or entering, leaving or proceeding from such a port and is carrying nuclear material, or
- (b) is proceeding to such a port for nuclear material to be loaded on to it there.

(3) Paragraph (2) applies to transport in a Government ship only at a time when the ship is being used for commercial purposes.

(4) In their application to transport in a ship that is not a United Kingdom ship the provisions of Part 1 and regulations 18 to 21 of these Regulations apply with the following modifications—

- (a) subject to paragraph (5), any obligation imposed by those provisions is to be read as an obligation that must be met in respect of the ship in question as a condition of its entry to the port in question;
- (b) in regulations 18, 20 and 21 a reference to “an approved carrier”, or “the approved carrier” is to be read as a reference to “a carrier” or “the carrier” (as the case may be);
- (c) regulation 18 applies as if in paragraph (5)(j) of that regulation the words from “the standards” to “or” were omitted;
- (d) in regulation 19—
  - (i) subject to paragraph (ii), any reference to a “Class A carrier” is to be read as a reference of to “a carrier”;
  - (ii) the reference to “any other Class A carrier” in paragraph (5)(a) is to be read as a reference to “any other carrier”;
- (e) regulation 21(1) applies as if sub-paragraphs (c) and (d) were omitted.

(5) Paragraph (4)(a) is without prejudice to the continuation of an obligation in so far as it is capable of remaining operative after a ship leaves the port in question.

(6) For the purposes of this regulation—

- (a) “the relevant provisions” are the following provisions of these Regulations—
  - (i) Part 1;
  - (ii) regulations 18 to 21;
  - (iii) this Part;
- (b) “Government ship” means a ship which—
  - (i) is not a United Kingdom ship; and
  - (ii) is owned by the Government of a country outside the United Kingdom or a department or agency of such a Government.”.

**15.** In regulation 28—

(a) for paragraph (3) substitute—

“(3) Regulation 27 applies as if the reference to a United Kingdom ship included a reference to a United Kingdom hovercraft.”;

(b) after paragraph (3) insert—

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“(3A) Paragraphs (2) to (6) of regulation 27A apply as if the references in those paragraphs to a United Kingdom ship included a reference to a United Kingdom hovercraft.”.

16. After regulation 28 insert—

**“Transport in a ship other than a United Kingdom ship or a hovercraft other than a United Kingdom hovercraft: offences**

**29.—(1) If—**

(a) any person fails to comply with an obligation that by virtue of—

(i) paragraph 5(2) of Schedule 1 to the Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014,

(ii) regulation 27A(2), or

(iii) regulation 27A(2) as applied by regulation 28,

is to be met in respect of a ship as a condition of its entry to a port in the United Kingdom, and

(b) the ship enters or has entered the port or an attempt is or has been made for it to do so,

that person is guilty of an offence.

(2) For the purposes of paragraph (1), a person is not to be regarded as failing to comply with any obligation mentioned in that paragraph by reason of anything done, or omitted to be done, by that person in order to comply with a 2001 Act direction.

(3) A person guilty of an offence under paragraph (1) is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both), and

(b) on summary conviction, to imprisonment for a term not exceeding six months or in England and Wales a fine or, in Scotland and Northern Ireland, a fine not exceeding the statutory maximum (or both).

(4) Proceedings for an offence to which paragraph (3) applies that is committed outside the United Kingdom may be taken, and the offence may for incidental purposes be treated as having been committed, in any place in the United Kingdom.

(5) In paragraph (3)(b) as it has effect in England and Wales, the reference to a fine is to be read until the date on which section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (removal of limit on certain fines on conviction by magistrates' court) comes into force as a reference to a fine not exceeding the statutory maximum.

**Application of these Regulations to a person who is not a United Kingdom person**

**30.** Notwithstanding the provisions of this Part, nothing in these Regulations applies to acts done outside the United Kingdom by a person other than a United Kingdom person.”.

**Nuclear Safeguards (Notification) Regulations 2004**

17. The Nuclear Safeguards (Notification) Regulations 2004<sup>M1</sup> are amended as follows.

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#### Marginal Citations

**M1** S.I. 2004/1255, amended by S.I. 2007/3224.

**18.**—(1) Subject to paragraph (2) for “Secretary of State” substitute “ ONR ” in each place occurring.

(2) Paragraph (1) does not apply to regulation 3.

**19.** In regulation 2 (interpretation) at the appropriate place insert—

““the ONR” means the Office for Nuclear Regulation;”.

**20.** In regulation 5(2) and (3) (persons not required to notify the Secretary of State) omit “3 or” in both places it occurs.

**21.** In regulation 6 (form of notification to the Secretary of State)—

(a) in paragraph (1) omit “3 or”;

(b) in paragraph (3)—

(i) for the words from “the UK Safeguards” to “SE1 9HS” substitute “ the Office for Nuclear Regulation at the address given on its website as its postal address ”;

(ii) for “UKSO@hse.gsi.gov.uk” substitute “ the address given on the Office's website as its address for electronic communications ”.

#### Uranium Enrichment Technology (Prohibition on Disclosure) Regulations 2004

**22.** The Uranium Enrichment Technology (Prohibition on Disclosure) Regulations 2004 <sup>M2</sup> are amended as follows.

#### Marginal Citations

**M2** S.I. 2004/1818, amended by S.I. 2011/1043.

**23.** In regulation 1(2) (citation, commencement and interpretation)—

(a) after the definition of “the Act” insert—

““appropriate authority”—

(a) in relation to persons within England and Wales or Scotland, means the ONR;

(b) in relation to—

(i) persons within Northern Ireland; or

(ii) United Kingdom persons outside the United Kingdom,

means the Secretary of State;”;

(b) after the definition of “information” insert—

““the ONR” means the Office for Nuclear Regulation;”.

**24.**—(1) Regulation 3 (exempt disclosures) is amended as follows.

(2) In paragraph (1)—

(a) for paragraph (ii)(aa) substitute—

“(aa) the ONR; or”;

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- (b) in sub-paragraph (g) for “Secretary of State” substitute “ appropriate authority ”.
- 25.** In regulation 4 (authorisation of disclosures)—
- (a) for “Secretary of State” substitute “ appropriate authority ”. in each place occurring;
  - (b) for “she” substitute “ the authority ”, in each place occurring; and
  - (c) for “her”, in each place in which it occurs other than in paragraphs (4) and (7), substitute “ the authority ”.
- (2) In paragraphs (4) and (7) for “her” substitute “the authority's”.
- 26.** In regulation 5 (withdrawal or variation of authorisations)—
- (a) for “Secretary of State” substitute “ appropriate authority ”, in each place occurring;
  - (b) in paragraph (5) for “her” substitute “the authority's”.
- 27.** In regulation 6(5)(b) (sending and giving of applications, information, representations and notices) after “body corporate” insert “ (including the ONR) ”.

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