

Draft Regulations laid before Parliament under sections 316 and 331(3) of the Energy Act 2023, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2024 No. 0000

PENSIONS

The Nuclear Decommissioning Authority (Pension Scheme Amendment) Regulations 2024

*Made - - - - - ***
Coming into force in accordance with regulation 1(1)*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 311(1) and 315(1) of the Energy Act 2023⁽¹⁾.

In accordance with section 311(9) of that Act, it appears to the Secretary of State that the persons being designated in relation to relevant nuclear pension schemes are persons who have the power to amend those schemes.

In accordance with section 315(1) of that Act, the Secretary of State considers that the modifications and amendments in regulations 4 and 5 are appropriate for the purposes of or in connection with the amendment of a relevant pension scheme in pursuance of regulations under section 311 of that Act.

In accordance with sections 316 and 331(3) of that Act, a draft of these Regulations has been laid before and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Nuclear Decommissioning Authority (Pension Scheme Amendment) Regulations 2024 and come into force on the day after the day on which they are made.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Interpretation

2. In these Regulations—

“the 1990 Regulations” means the Electricity (Protected Persons) (England and Wales) Pension Regulations 1990⁽²⁾;

(1) 2023 c. 52.
(2) S.I. 1990/346.

“the CNPP” means the Combined Nuclear Pension Plan constituted by the deed made on 28 March 2012 by the NDA and the deeds supplemental to that deed;

“the ESPS” means the Electricity Supply Pension Scheme established by a resolution of the Electricity Council passed on 20 January 1983, as amended from time to time;

“the ME Group” means the Magnox Electric Group of the ESPS, being one of the groups into which the ESPS is divided under the provisions of the ESPS;

“the NDA” means the Nuclear Decommissioning Authority.

Designated persons and relevant nuclear pension schemes

3. The following persons are designated for the purposes of section 311(1) of the Energy Act 2023 in respect of the specified relevant nuclear pension schemes, and are required to amend those schemes in accordance with the purposes set out in section 311(1)(a) to (c)—

- (a) the NDA, in respect of the CNPP;
- (b) Magnox Ltd, in respect of the ME Group.

Modification of the Electricity (Protected Persons) (England and Wales) Pension Regulations 1990

4.—(1) Where the 1990 Regulations entitle a protected employee to be provided with future pension rights and the protected employee has reformed protection, nothing in those Regulations—

- (a) permits the protected employee to be provided with future pension rights less favourable than the reformed benefits, as they first applied to the protected employee;
- (b) requires the protected employee to be provided with future pension rights more favourable than those reformed benefits.

(2) Paragraph (1)(a) does not prevent the amendment of a relevant pension scheme where the conditions in the regulation 16(2) of the 1990 Regulations are met.

(3) In paragraph (1), “future pension rights” and “protected employee” have the same meaning as in the 1990 Regulations.

(4) For the purposes of paragraph (1), an individual has reformed protection if—

- (a) they are an employee of—
 - (i) a person designated under regulation 3;
 - (ii) a sub-contractor of such a designated person; or
 - (iii) any person who is connected with such a designated person,
- (b) engaged in activities related to the fulfilment of NDA responsibilities under sections 3 and 4 of the Energy Act 2004(3), and
- (c) either of the following paragraphs apply—
 - (i) the individual—
 - (aa) is a participant in the SLC Section;
 - (bb) is eligible to become a participant in that Section;
 - (cc) would be eligible to become a participant in that Section if the individual had attained an age, or fulfilled a condition, specified in the ESPS; or
 - (dd) has been a participant in that Section,

and the benefits which the person is accruing or would accrue or has accrued under that Section are, or include, reformed benefits, or

(ii) the individual—

- (aa) is a participant in a relevant Section of the CNPP;
- (bb) is eligible to become a participant in a relevant Section of the CNPP;
- (cc) would be eligible to become a participant in a relevant Section of the CNPP if the individual had attained an age, or fulfilled a condition, specified in the Trust Deeds or the CNPP; or
- (dd) has been a participant in a relevant Section of the CNPP,

and the benefits which the person is accruing or would accrue or has accrued under that Section are, or include, reformed benefits.

(5) References in paragraph (4) to an individual being eligible to participate in a Section of a scheme if the individual fulfils a condition—

- (a) do not include references to the individual being eligible if an employer other than those mentioned in paragraph (4)(a) becomes the individual’s employer, but
- (b) do include references, in the case of an individual whose participation is temporarily suspended (whether by reason of a secondment or a loan of the individual’s service or otherwise), to fulfilment of the conditions that would bring the suspension to an end.

(6) In paragraph (4)—

- (a) “connected with” has the same meaning as in section 249 of the Insolvency Act 1986(4);
- (b) “relevant Section of the CNPP” means any of the following Sections into which the CNPP is divided (under clause 7 of the deed made on 28 March 2012 as it stood on 1 May 2022)—
 - (i) Closed;
 - (ii) DSRL;
 - (iii) GPS DRS;
 - (iv) GPS SLC;
 - (v) LLWR;
 - (vi) Magnox;
 - (vii) Nirex;
 - (viii) Sellafield;
- (c) the “SLC Section” means the SLC Section of the ME Group, being one of the Sections into which the ME Group is divided under the provisions of the ESPS.

(7) Where—

- (a) at any time after 1 May 2022, any of the Sections named in paragraph (6)(b)(i) to (viii) is re-named, or has merged with another of those Sections (including by a transfer of the Section and another of those Sections to a new Section), a reference in paragraph (6)(b) to that Section is to be read as, or as including, a reference to the re-named or merged Section;
- (b) at any time after the day on which these Regulations come into force, the SLC Section is re-named, or has merged with another Section (including by transfer of that Section to a new Section), then a reference to that Section is to be read as, or as including, a reference to the re-named or merged Section.

(8) In this regulation, “reformed benefits” means defined benefits under a structure that, as a result of amendments made in pursuance of regulations under section 311 of the Energy Act 2023, is a career average revalued earnings structure.

Amendments to the Energy Act 2004

5.—(1) Schedule 8 to the Energy Act 2004(5) is amended as follows.

(2) After paragraph 9 insert—

“Persons entitled to reformed protection under paragraphs 10 and 11

9A.—(1) For the purposes of this Part of the Schedule, a person is entitled to reformed protection in relation to a nuclear transfer scheme or any transfer arrangements if the person is entitled to pension protection in relation to the scheme or arrangements, and—

(a) either—

- (i) paragraph 9(7) applies to the person by reference to a relevant Section of the CNPP, or
- (ii) that is not the case but the person has been a participant in a relevant Section of the CNPP,

and the benefits which the person is accruing or would accrue or has accrued under that Section are, or include, reformed benefits, or

(b) either—

- (i) paragraph 9(7) applies to the person by reference to the SLC Section of the ME Group of the ESPS, or
- (ii) that is not the case but the person has been a participant in that Section, and the benefits which the person is accruing or would accrue or has accrued under that Section are, or include, reformed benefits.

(2) In this paragraph—

- (a) “the CNPP” means the Combined Nuclear Pension Plan constituted by the deed made on 28 March 2012 by the NDA and the deeds supplemental to that deed;
- (b) “the ESPS” means the Electricity Supply Pension Scheme established by a resolution of the Electricity Council passed on 20 January 1983, as amended from time to time;
- (c) “the ME Group” means the Magnox Electric Group of the ESPS, being one of the groups into which the ESPS is divided under the provisions of the ESPS;
- (d) “reformed benefits” means defined benefits under a structure that, as a result of amendments made in pursuance of regulations under section 311 of the Energy Act 2023(6), is a career average revalued earnings structure;
- (e) “relevant Section of the CNPP” means any of the following Sections into which the CNPP is divided (under clause 7 of the deed made on 28 March 2012 as it stood on 1 May 2022)—
 - (i) Closed;
 - (ii) DSRL;
 - (iii) GPS DRS;

(5) Schedule 8 was amended by [S.I. 2009/1941](#).

(6) [2023 c. 52](#).

- (iv) GPS SLC;
 - (v) LLWR;
 - (vi) Magnox;
 - (vii) Nirex;
 - (viii) Sellafield;
 - (f) “the SLC Section of the ME Group of the ESPS” means the SLC Section of the ME Group, being one of the Sections into which the ME Group is divided under the provisions of the ESPS.
- (3) Where—
- (a) at any time after 1 May 2022, any of the Sections named in sub-paragraph (2)(e) (i) to (viii) is re-named, or has merged with another of those Sections (including by a transfer of the Section and another of those Sections to a new Section), a reference in sub-paragraph (2)(e) to that Section is to be read as, or as including, a reference to the re-named or merged Section;
 - (b) at any time after the day on which the Nuclear Decommissioning Authority (Pension Scheme Amendment) Regulations 2024 come into force, the SLC Section of the ME Group of the ESPS is re-named, or has merged with another Section (including by transfer of that Section to a new Section), then a reference to that Section is to be read as, or as including, a reference to the re-named or merged Section.”.
- (3) In paragraph 10 (protection on transfer in accordance with a nuclear transfer scheme)—
- (a) in sub-paragraph (6)—
 - (i) before paragraph (a) insert—
 - “(za) in the case of a person entitled to reformed protection in relation to the nuclear transfer scheme who falls within paragraph 9A(1)(a), the Section mentioned in paragraph 9A(1)(a);
 - (zb) in the case of a person entitled to reformed protection in relation to the nuclear transfer scheme who falls within paragraph 9A(1)(b), the Section mentioned in paragraph 9A(1)(b);”;
 - (ii) in paragraph (a), after “of a person” insert “who is not entitled to reformed protection in relation to the nuclear transfer scheme and”;
 - (b) in sub-paragraph (7), before paragraph (a) insert—
 - “(za) in a case falling within sub-paragraph (6)(za), the relevant time in relation to the person on the first occasion on which the person was owed a duty under either sub-paragraph (2) or paragraph 11(3) after the making of amendments to the Section mentioned in paragraph 9A(1)(a) in pursuance of regulations under section 311 of the Energy Act 2023;
 - (zb) in a case falling within sub-paragraph (6)(zb), the relevant time in relation to the person on the first occasion on which the person was owed a duty under either sub-paragraph (2) or paragraph 11(3) after the making of amendments to the Section mentioned in paragraph 9A(1)(b) in pursuance of regulations under section 311 of the Energy Act 2023;”.
- (4) In paragraph 11 (protection on a transfer in accordance with transfer arrangements)—
- (a) in sub-paragraph (7)—
 - (i) before paragraph (a) insert—

- “(za) in the case of a person entitled to reformed protection in relation to the transfer arrangements who falls within paragraph 9A(1)(a), the Section mentioned in paragraph 9A(1)(a);
- (zb) in the case of a person entitled to reformed protection in relation to the transfer arrangements who falls within paragraph 9A(1)(b), the Section mentioned in paragraph 9A(1)(b);”;
- (ii) in paragraph (a), after “of a person” insert “who is not entitled to reformed protection in relation to the transfer arrangements and”;
- (b) in sub-paragraph (8), before paragraph (a) insert—
 - “(za) in a case falling within sub-paragraph (7)(za), the relevant time in relation to the person on the first occasion on which the person was owed a duty under either sub-paragraph (3) or paragraph 10(2) after the making of amendments to the Section mentioned in paragraph 9A(1)(a) in pursuance of regulations under section 311 of the Energy Act 2023;
 - (zb) in a case falling within sub-paragraph (7)(zb), the relevant time in relation to the person on the first occasion on which the person was owed a duty under either sub-paragraph (3) or paragraph 10(2) after the making of amendments to the Section mentioned in paragraph 9A(1)(b) in pursuance of regulations under section 311 of the Energy Act 2023;”.

Date

Name
Parliamentary Under Secretary of State
Department for Energy Security and Net Zero

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 3 designates the Nuclear Decommissioning Authority and its subsidiary Magnox Ltd. as persons required to make changes to relevant nuclear pension schemes in order to introduce reform of those schemes in accordance with section 311(1) of the Energy Act 2023 (c. 52). In accordance with section 311(7)(b) of that Act, scheme-specific changes, as defined in the Act, may be made in the case of a particular scheme on one occasion only.

Regulations 4 and 5 modify and amend the statutory protections contained in the Electricity (Protected Persons) (England and Wales) Pension Regulations 1990 (S.I. 1990/346) and in Schedule 8 to the Energy Act 2004 (c. 20) respectively, for persons who are in certain Sections of a relevant nuclear pension scheme and who are in receipt of reformed benefit.

A full impact assessment of the effect that these Regulations will have on the costs of business, the voluntary sector and the public sector has been undertaken. A copy is annexed to the Explanatory Memorandum which is available alongside these Regulations on www.legislation.gov.uk. Copies may also be obtained from the Nuclear Decommissioning Sponsorship Team at the Department for Energy Security and Net Zero, 3-8 Whitehall Place, London, SW1A 2EG.