



# Energy Act 2013

## 2013 CHAPTER 32

### PART 3

#### NUCLEAR REGULATION

### CHAPTER 2

#### NUCLEAR REGULATIONS

#### **74 Nuclear regulations**

- (1) The Secretary of State may make regulations (to be known as “nuclear regulations”) for any of the following purposes—
  - (a) the nuclear safety purposes;
  - (b) the nuclear security purposes;
  - (c) the nuclear safeguards purposes;
  - (d) the transport purposes.
- (2) Schedule 6 (which gives examples of particular kinds of provision that may be made by nuclear regulations) has effect.
- (3) Nuclear regulations may—
  - (a) confer functions on the ONR;
  - (b) create powers which inspectors may be authorised to exercise by their instruments of appointment under paragraph 2 of Schedule 8;
  - (c) create offences (as to which see section 75);
  - (d) modify—
    - (i) any of the provisions of the Nuclear Installations Act 1965 that are relevant statutory provisions;
    - (ii) any provision of the Nuclear Safeguards Act 2000;

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- (e) provide for exemptions (including conditional exemptions) from any prohibition or requirement imposed by or under any of the relevant statutory provisions;
  - (f) provide for defences in relation to offences under any of the relevant statutory provisions;
  - (g) provide for references in the regulations to any specified document to operate as references to that document as revised or re-issued from time to time.
- (4) Provision that may be included by virtue of subsection (3)(a) includes, in particular,—
- (a) provision requiring compliance with directions by the ONR;
  - (b) provision conferring power for the ONR to authorise other persons to exercise functions relating to the grant of exemptions of a kind mentioned in subsection (3)(e).
- (5) Nuclear regulations may make provision—
- (a) applying to acts done outside the United Kingdom by United Kingdom persons;
  - (b) for enabling offences under any of the relevant statutory provisions to be treated as having been committed at any specified place for the purpose of conferring jurisdiction on any court in relation to any such offence.
- (6) In subsection (5) “United Kingdom person” means—
- (a) an individual who is—
    - (i) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
    - (ii) a person who under the British Nationality Act 1981 is a British subject, or
    - (iii) a British protected person within the meaning of that Act,
  - (b) a Scottish partnership, or
  - (c) a body incorporated under the law of any part of the United Kingdom.
- (7) Before making nuclear regulations, the Secretary of State must consult—
- (a) the ONR,
  - (b) if the regulations would modify any provision of health and safety regulations (within the meaning of Part 1 of the 1974 Act), the Health and Safety Executive, and
  - (c) such other persons (if any) as the Secretary of State considers it appropriate to consult.
- (8) Subsection (7)(a) does not apply if the regulations give effect, without modification, to proposals submitted by the ONR under section 81(1)(a)(i).
- (9) Nuclear regulations which include any provisions to which any paragraph of subsection (10) applies must identify those provisions as such.
- (10) This subsection applies to any provisions of nuclear regulations which are made for—
- (a) the nuclear security purposes,
  - (b) the nuclear safeguards purposes, or
  - (c) both of those purposes,
- and for no other purpose.
- (11) In this section (and Schedule 6) “specified” means specified in nuclear regulations.

## **75 Nuclear regulations: offences**

- (1) Nuclear regulations may provide for an offence under the regulations to be triable—
  - (a) only summarily, or
  - (b) either summarily or on indictment.
- (2) Nuclear regulations may provide for an offence under the regulations that is triable either way to be punishable—
  - (a) on conviction on indictment—
    - (i) with imprisonment for a term not exceeding the period specified, which may not exceed 2 years,
    - (ii) with a fine, or
    - (iii) with both,
  - (b) on summary conviction—
    - (i) with imprisonment for a term not exceeding the period specified,
    - (ii) with, in England and Wales, a fine or, in Scotland or Northern Ireland, a fine not exceeding the amount specified (which must not exceed £20,000), or
    - (iii) with both.
- (3) A period specified under subsection (2)(b)(i) may not exceed—
  - (a) in relation to England and Wales—
    - (i) 6 months, in relation to offences committed before the date on which section 154(1) of the Criminal Justice Act 2003 (general limit on magistrates’ court’s power to imprison) comes into force,
    - (ii) 12 months, in relation to offences committed after that date,
  - (b) in relation to Scotland, 12 months,
  - (c) in relation to Northern Ireland, 6 months.
- (4) Nuclear regulations may provide for a summary offence under the regulations to be punishable—
  - (a) with imprisonment for a term not exceeding the period specified,
  - (b) with—
    - (i) in England and Wales, a fine (or a fine not exceeding an amount specified, which must not exceed level 4 on the standard scale), or
    - (ii) in Scotland or Northern Ireland, a fine not exceeding the amount specified, which must not exceed level 5 on the standard scale, or
  - (c) with both.
- (5) A period specified under subsection (4)(a) may not exceed—
  - (a) in relation to England and Wales—
    - (i) 6 months, in relation to offences committed before the date on which section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for summary offences) comes into force, or
    - (ii) 51 weeks, in relation to offences committed after that date,
  - (b) in relation to Scotland, 12 months,
  - (c) in relation to Northern Ireland, 6 months.
- (6) In this section “specified” means specified in nuclear regulations.

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**76 Nuclear regulations: civil liability**

- (1) Nuclear regulations may provide for breach of a relevant nuclear duty to be actionable (whether or not they also provide for it to be an offence).
- (2) Except so far as nuclear regulations provide, any such breach does not give rise to a claim for breach of statutory duty.
- (3) Nuclear regulations may provide for—
  - (a) defences in relation to any action for breach of a relevant nuclear duty;
  - (b) any term of an agreement which purports to exclude or restrict liability for breach of a relevant nuclear duty to be void.
- (4) For this purpose “relevant nuclear duty” means a duty imposed by—
  - (a) nuclear regulations, or
  - (b) any provision of, or made under, the Nuclear Installations Act 1965 that is a relevant statutory provision.
- (5) Nothing in this section affects any right of action or defence which otherwise exists or may be available.