



Energy Act 2023

2023 CHAPTER 52

PART 14

CIVIL NUCLEAR SECTOR

CHAPTER 1

CIVIL NUCLEAR SITES

302 Application to the territorial sea of requirement for nuclear site licence

- (1) The Nuclear Installations Act 1965 is amended in accordance with subsections (2) and (3).
- (2) In section 1 (restriction of certain nuclear installations to licensed sites), after subsection (11) insert—
 - “(12) In this section, “site” includes a site situated wholly or partly in or under the territorial sea adjacent to the United Kingdom.”
- (3) In section 26(1) (interpretation), in the definition of “the appropriate national authority”—
 - (a) in paragraph (a), after “Scotland” insert “(including the territorial sea adjacent to them)”;
 - (b) in paragraph (b), after “Northern Ireland” insert “(including the territorial sea adjacent to it)”.
- (4) In section 68 of the Energy Act 2013 (nuclear safety purposes), after subsection (3) insert—
 - “(4) In the definition of “relevant nuclear installation” in subsection (3), the reference to a site in England, Wales or Scotland includes a site situated wholly or partly in or under the territorial sea adjacent to them.”

Status: This is the original version (as it was originally enacted).

303 Decommissioning of nuclear sites etc

- (1) The Nuclear Installations Act 1965 is amended as follows.
- (2) In section 1 (restriction of certain nuclear installations to licensed sites), after subsection (12) (inserted by [section 302](#) of this Act) insert—
 - “(13) The reference in subsection (1) to operating a nuclear reactor or an installation of a prescribed kind includes a reference to decommissioning a nuclear reactor or such an installation.”
- (3) In section 3 (grant and variation of nuclear site licences)—
 - (a) in subsection (12)(b), for the words from “there” to the end substitute “the applicable condition or conditions set out in [section 3A](#) are met.”;
 - (b) after subsection (12) insert—
 - “(12A) The appropriate national authority must consult the Health and Safety Executive before varying a nuclear site licence under subsection (12).”
- (4) After section 3 insert—

“3A Exclusion of part of site from licence: applicable conditions

- (1) This section sets out the applicable condition or conditions for excluding any part of a licensed site (“the relevant part”) from a nuclear site licence.
- (2) Where a prescribed disposal installation is or has at any time been situated within the relevant part, the applicable condition is that there is no danger from ionising radiations from anything on the relevant part.
- (3) Where any nuclear installation, other than a prescribed disposal installation, is or has at any time been situated within the relevant part, the applicable conditions (subject to [subsection \(5\)](#)) are that—
 - (a) the use of any such installation within the relevant part has permanently ceased,
 - (b) appropriate measures for the containment and control of any remaining radioactivity are in place,
 - (c) the relevant part meets the radioactivity exclusion criteria and the dose exclusion criteria, and
 - (d) it is no longer necessary or desirable in the interests of safety for a nuclear site licence to be in force in respect of the relevant part.
- (4) In any other case, the applicable conditions (subject to [subsection \(5\)](#)) are that—
 - (a) the relevant part meets the dose exclusion criteria, and
 - (b) it is no longer necessary or desirable in the interests of safety for a nuclear site licence to be in force in respect of the relevant part.
- (5) In a case to which, but for this subsection, subsection (3) or (4) would apply, the licensee may elect that the condition set out in [subsection \(2\)](#) is to apply to the relevant part (instead of the conditions in subsection (3) or (4)).
- (6) In this section—

Status: This is the original version (as it was originally enacted).

“2014 Decision” means the Decision and Recommendation of the Steering Committee Concerning the Application of the Paris Convention to Nuclear Installations in the Process of Being Decommissioned, published on 30 October 2014 by the Steering Committee for Nuclear Energy of the Nuclear Energy Agency of the Organisation for Economic Co-operation and Development;

“dose exclusion criteria” means the criteria described in paragraph 3(b) of the Appendix to the 2014 Decision;

“prescribed disposal installation” means an installation—

- (a) designed or adapted for the disposal of nuclear matter, and
- (b) of a kind prescribed under section 1(1)(b) at any time after [section 303](#) of the Energy Act 2023 comes into force;

“radioactivity exclusion criteria” means the criteria described in paragraph 3(a) of the Appendix to the 2014 Decision;

“safety”, in relation to the relevant part of a site, is to be construed in accordance with section 4(2).”

- (5) In section 5 (revocation and surrender of licences)—
- (a) in the heading, omit “and surrender”;
 - (b) in subsection (1)—
 - (i) omit the “or” after paragraph (a);
 - (ii) omit paragraph (b);
 - (c) in subsection (2), after “consult” insert “the Health and Safety Executive and”;
 - (d) in subsection (3), omit “or surrendered”;
 - (e) in subsection (15)(a), for the words from “that in the authority’s opinion” to the end substitute “—
 - (i) as respects the licensee’s period of responsibility for the licensed site, that in the authority’s opinion each part of the site meets the condition or conditions set out in [section 5A](#) that apply in relation to that part of the site, or
 - (ii) as respects the licensee’s period of responsibility for any part of the site, that in the authority’s opinion the part in question meets the condition or conditions set out in [section 5A](#) that apply in relation to that part.”;
 - (f) after subsection (15)(b) insert—
 - “(ba) the date when a person (whether the licensee or some other person) becomes the operator of a relevant disposal site comprising the site in question or, as the case may be, that part of it;
 - (bb) the date when the site or, as the case may be, the part of it in question becomes an excluded disposal site.”.

- (6) After section 5 insert—

“5A End of period of responsibility: applicable conditions

- (1) This section sets out the applicable condition or conditions for determining when a licensee’s period of responsibility for a part of a licensed site (“the relevant part”) ends under section 5(15)(a)(i) or (ii).

Status: This is the original version (as it was originally enacted).

- (2) Where a prescribed disposal installation or a licensed disposal site is or has at any time been situated within the relevant part, the applicable condition is that there is no danger from ionising radiations from anything on the relevant part.
- (3) Where any nuclear installation, other than a prescribed disposal installation, is or has at any time been situated within the relevant part, the applicable conditions (subject to [subsection \(5\)](#)) are that—
- (a) the use of any such installation within the relevant part has permanently ceased,
 - (b) appropriate measures for the containment and control of any remaining radioactivity are in place, and
 - (c) the relevant part meets the radioactivity exclusion criteria and the dose exclusion criteria.
- (4) In any other case, the applicable condition (subject to [subsection \(5\)](#)) is that the relevant part meets the dose exclusion criteria.
- (5) In a case to which, but for this subsection, [subsection \(3\)](#) or [\(4\)](#) would apply, the licensee may elect that the condition set out in [subsection \(2\)](#) is to apply to the relevant part (instead of the conditions in [subsection \(3\)](#) or [\(4\)](#)).
- (6) In this section—
- “2014 Decision” means the Decision and Recommendation of the Steering Committee Concerning the Application of the Paris Convention to Nuclear Installations in the Process of Being Decommissioned, published on 30 October 2014 by the Steering Committee for Nuclear Energy of the Nuclear Energy Agency of the Organisation for Economic Co-operation and Development;
- “dose exclusion criteria” means the criteria described in paragraph 3(b) of the Appendix to the 2014 Decision;
- “licensed disposal site” means a site that would be, or would at any time have been, a relevant disposal site but for [section 7B\(5\)\(a\)](#) (nuclear site licence granted in respect of site);
- “prescribed disposal installation” means an installation—
- (a) designed or adapted for the disposal of nuclear matter, and
 - (b) of a kind prescribed under [section 1\(1\)\(b\)](#) at any time after [section 303](#) of the Energy Act 2023 comes into force;
- “radioactivity exclusion criteria” means the criteria described in paragraph 3(a) of the Appendix to the 2014 Decision.”
- (7) In [section 7B](#) (duties in respect of relevant disposal sites)—
- (a) after [subsection \(2\)](#) insert—

“(2A) The operator of a site that would be a relevant disposal site but for [subsection \(5\)\(a\)](#) is to be treated for the purposes of [subsection \(2\)\(a\)](#) (ii) as becoming the operator of the site on the date when—

 - (a) the nuclear site licence in question is varied under [section 3\(12\)](#) to exclude the site from it, or
 - (b) the nuclear site licence in question is revoked under [section 5\(1\)](#).”;
 - (b) in [subsection \(5\)\(a\)](#), after “granted” insert “(subject to [subsection \(5A\)](#))”;
 - (c) after [subsection \(5\)](#) insert—

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“(5A) Subsection (5)(a) does not apply where a licence has ceased to be in force in respect of the site as a result of section 3(12) (exclusion of part of site from licence) or section 5(1) (revocation of licence).”

- (8) In section 27(1) (application of Act to Northern Ireland), after paragraph (a) insert—
- “(aa) a reference to the Health and Safety Executive is to be construed as a reference to the Health and Safety Executive for Northern Ireland.”

304 Excluded disposal sites

- (1) The Nuclear Installations Act 1965 is amended as follows.

- (2) In section 7B (duties in respect of relevant disposal sites)—

- (a) after subsection (2A) (inserted by [section 303](#) of this Act) insert—

“(2B) The operator of a site that would be a relevant disposal site but for subsection (7A) is to be treated for the purposes of subsection (2)(a) (ii) as becoming the operator of the site on the date when the site ceases to be an excluded disposal site.”;

- (b) after subsection (3)(d) insert—

“(e) the date when the Secretary of State gives notice under [section 7C\(1\)\(b\)](#) that the site is an excluded disposal site.”;

- (c) after subsection (3) insert—

“(3A) Where a site to which [subsection \(2B\)](#) applies was a relevant disposal site before it became an excluded disposal site, subsection (2) has effect in respect of—

- (a) the period beginning by virtue of subsection (2)(a), and
(b) any further period beginning by virtue of [subsection \(2B\)](#).”;

- (d) in subsection (4), for “and (7)” substitute “, (7) and (7A)”;

- (e) after subsection (7) insert—

“(7A) A site is not a relevant disposal site if it is an excluded disposal site.”;

- (f) in subsection (9), in the definition of “appropriate permit”—

- (i) after paragraph (a) insert—

“(aa) in relation to a site in Scotland, a permit under regulations made under section 18 of the Regulatory Reform (Scotland) Act 2014 ([2014 asp 3](#)) authorising a person to use the site for the disposal of radioactive waste.”;

- (ii) in paragraph (b), omit “Scotland or”.

- (3) After section 7B insert—

“7C Excluded disposal sites

- (1) A site that is used or intended to be used for the operation of an installation for the disposal of nuclear matter is an excluded disposal site if—

- (a) the Secretary of State is satisfied, on an application by the operator of the site, that the site meets—

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- (i) the permit condition,
 - (ii) the site history condition, and
 - (iii) such other conditions as may be prescribed, and
 - (b) the Secretary of State gives the operator notice in writing to that effect.
- (2) In this section, “disqualifying matter” means nuclear matter that exceeds the radioactivity concentration limits set out in paragraph 3(a) of the Appendix to the 2016 Decision.
- (3) The permit condition is that—
- (a) an appropriate permit is in force in respect of the site, and
 - (b) that permit includes a condition preventing the site from receiving disqualifying matter.
- (4) The site history condition is that—
- (a) disqualifying matter has not at any time been accepted for disposal at the site, or
 - (b) any disqualifying matter previously accepted for disposal at the site has been removed from the site.
- (5) An application under [subsection \(1\)\(a\)](#) must be accompanied by such documents as may be prescribed.
- (6) Regulations made under [subsection \(5\)](#) may—
- (a) specify requirements relating to the preparation, approval or review of a prescribed document;
 - (b) require an operator to provide a copy of a prescribed document to a person other than the Secretary of State;
 - (c) make different provision for different purposes.
- (7) A site ceases to be an excluded disposal site if the site no longer meets the permit condition or any condition prescribed under [subsection \(1\)\(a\)\(iii\)](#).
- (8) Where the appropriate permit in force in respect of an excluded disposal site is transferred to a new operator, the site ceases to be an excluded disposal site at the end of the period of one month beginning with the date on which the permit is transferred unless, before the end of that period—
- (a) the new operator notifies the Secretary of State of the transfer, and
 - (b) the Secretary of State gives the new operator notice in writing that the Secretary of State consents to the site continuing to be an excluded disposal site.
- (9) The Secretary of State must notify the Scottish Ministers of any notification given under [subsection \(1\)\(b\)](#) in relation to a site in Scotland.
- (10) In this section—
- “2016 Decision” means the Decision and Recommendation Concerning the Application of the Paris Convention on Third Party Liability in the Field of Nuclear Energy to Nuclear Installations for the Disposal of Certain Types of Low-level Radioactive Waste published on 16 January 2017 by the Steering Committee for Nuclear Energy of the Nuclear Energy Agency of the Organisation for Economic Co-operation and Development;

“appropriate permit” has the meaning given in section 7B(9).

7D Excluded disposal sites: acceptance of disqualifying matter

- (1) This section applies where disqualifying matter is accepted at an excluded disposal site; and for the purposes of this section the acceptance of such matter is referred to as “the breach”.
 - (2) The operator of the site must notify the Secretary of State of the breach before the end of the notification period.
 - (3) “The notification period” means the period of 21 days beginning with the day on which the operator becomes aware of the breach.
 - (4) The site ceases to be an excluded disposal site at the end of the notification period unless the operator complies with the duty under [subsection \(2\)](#).
 - (5) An operator who has complied with the duty under [subsection \(2\)](#) must remove the disqualifying waste from the site before the end of the removal period.
 - (6) “The removal period” means—
 - (a) the period of 90 days beginning with the day on which the operator notifies the Secretary of State of the breach, or
 - (b) such longer period as the Secretary of State may specify before the end of the period mentioned in [paragraph \(a\)](#) if satisfied that the operator is taking all reasonable steps to remove the disqualifying matter from the site.
 - (7) The site ceases to be an excluded disposal site at the end of the removal period unless before the end of that period—
 - (a) the Secretary of State is satisfied that the disqualifying waste has been removed from the site, and
 - (b) the Secretary of State gives the operator notice in writing to that effect.
 - (8) In this section, “disqualifying matter” has the meaning given by [section 7C](#).”
- (4) In section 20 (furnishing of information relating to operator’s cover), after subsection (5) insert—
- “(5A) Subsection (4) does not apply where the operator of a relevant disposal site makes an application to the Secretary of State under section 7C(1)(a) (application for site to be excluded disposal site).”
- (5) In section 26(1) (interpretation), at the appropriate place insert—
- ““excluded disposal site” has the meaning given by section 7C;”.

305 Accession to Convention on Supplementary Compensation for Nuclear Damage

[Schedule 22](#) contains amendments to the Nuclear Installations Act 1965 to implement the Convention on Supplementary Compensation for Nuclear Damage.

Status: This is the original version (as it was originally enacted).

306 Power to implement Convention on Supplementary Compensation for Nuclear Damage

- (1) The Secretary of State may by regulations make such provision as the Secretary of State considers appropriate—
 - (a) to implement the CSC, or
 - (b) otherwise for the purposes of dealing with any other matter arising out of, or related to, the CSC.
- (2) The provision that may be made by virtue of subsection (1) includes provision that is authorised by the CSC to be made in relation to a particular matter.
- (3) Regulations under this section may amend—
 - (a) [Schedule 22](#),
 - (b) the Nuclear Installations Act 1965, or
 - (c) any other enactment having effect in relation to a matter to which the CSC relates.
- (4) In this section, “the CSC” means the Convention on Supplementary Compensation for Nuclear Damage (as amended or supplemented from time to time).
- (5) Regulations under this section are subject to the affirmative procedure.

CHAPTER 2

CIVIL NUCLEAR CONSTABULARY

307 Provision of additional police services

- (1) After section 55 of the Energy Act 2004 insert—

“Additional services

55A Provision of additional police services

- (1) The Constabulary may, with the consent of the Secretary of State, provide additional police services to any person.
- (2) In this Chapter, “additional police services” means services relating to the protection of places, persons or materials.
- (3) In subsection (2), “place” includes—
 - (a) premises, facilities or equipment at a place;
 - (b) any vehicle, vessel, aircraft or hovercraft.
- (4) The Secretary of State must not give consent for the purposes of [subsection \(1\)](#) unless satisfied, on an application made by the Police Authority, that—
 - (a) the provision of the additional police services in question is in the interests of national security,
 - (b) the provision by the Constabulary of those services will not prejudice the carrying out of its primary function under section 52(2), and

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- (c) it is reasonable in all the circumstances for the Constabulary to provide those services.
 - (5) Before giving consent for the purposes of [subsection \(1\)](#), the Secretary of State must consult the chief constable.
 - (6) The chief constable must ensure that the provision by the Constabulary of additional police services does not prejudice the carrying out of its primary function under section 52(2).
 - (7) Consent given for the purposes of [subsection \(1\)](#)—
 - (a) must specify the period of time (not exceeding 5 years) for which it has effect;
 - (b) may, subject to subsections [\(8\)](#) and [\(9\)](#), be withdrawn at any time if the Secretary of State is no longer satisfied of the matters mentioned in [subsection \(4\)](#).
 - (8) Where the Secretary of State proposes to withdraw consent given for the purposes of [subsection \(1\)](#), the Secretary of State must consult the Police Authority.
 - (9) If, following consultation under [subsection \(8\)](#), the Secretary of State decides to withdraw consent given for the purposes of [subsection \(1\)](#), the Secretary of State must give such notice to the Police Authority as is reasonably practicable of the date on which the consent will cease to have effect.
 - (10) The Police Authority may enter into an agreement with any person for the provision of additional police services by the Constabulary under this section.
 - (11) The Police Authority must publish, as soon as is reasonably practicable and in such manner as the Authority considers appropriate—
 - (a) the name of any person or persons to whom additional police services are to be provided under this section, and
 - (b) (subject to subsections [\(12\)](#) and [\(13\)](#)) such information about the place or places at which those services are to be provided as the Police Authority considers may be published without prejudicing the interests of national security.
 - (12) The Police Authority must consult the Secretary of State before publishing the information referred to in [subsection \(11\)\(b\)](#).
 - (13) The Secretary of State may direct the Police Authority not to publish information about the place or places at which additional police services are to be provided where the Secretary of State considers that publication of the information would prejudice the interests of national security.
 - (14) The Police Authority must comply with a direction given by the Secretary of State under [subsection \(13\)](#).”
- (2) In section 56 of that Act (jurisdiction of Constabulary), after [subsection \(3\)](#) insert—
- “(3A) A member of the Constabulary has the powers and privileges of a constable at every place where additional police services are being provided under [section 55A](#).”
- (3) In section 71(1) of that Act (interpretation), at the appropriate place insert—

Status: This is the original version (as it was originally enacted).

““additional police services” has the meaning given in [section 55A\(2\)](#)”.

(4) The Counter-Terrorism Act 2008 is amended as follows—

- (a) in section 85(2) (costs of policing at gas facilities: England and Wales), after paragraph (a) omit “or” and insert—
 - “(aa) the services of the Civil Nuclear Constabulary provided under [section 55A](#) of the Energy Act 2004, or”;
- (b) in section 86(2) (costs of policing at gas facilities: Scotland), after paragraph (a) omit “or” and insert—
 - “(aa) the services of the Civil Nuclear Constabulary provided under [section 55A](#) of the Energy Act 2004, or”.

308 Provision of assistance to other forces

(1) The Energy Act 2004 is amended as follows.

(2) After section 55A (inserted by [section 307](#) of this Act) insert—

“55B Provision of assistance to other forces

- (1) The chief constable may, on the application of the chief officer of a relevant force, provide members of the Constabulary or other assistance for the purpose of enabling that force to meet any special demand on its resources.
- (2) The policing body maintaining a relevant force for which assistance is provided under this section must pay to the Police Authority such charges—
 - (a) as may be agreed between the policing body and the Police Authority, or
 - (b) in the absence of any such agreement, as may be determined by the Secretary of State.
- (3) The chief constable must ensure that the provision of assistance under this section does not prejudice the carrying out of the primary function of the Constabulary under section 52(2).
- (4) In this section—
 - “chief officer” means—
 - (a) a chief officer of police of a police force for a police area in England and Wales;
 - (b) the chief constable of the Police Service of Scotland;
 - (c) the chief constable of the British Transport Police Force; or
 - (d) the chief constable of the Ministry of Defence Police;
 - “policing body” means—
 - (a) in relation to a police force for a police area in England and Wales, the relevant local policing body in the meaning of section 101(1) of the Police Act 1996;
 - (b) in relation to the Police Service of Scotland, the Scottish Police Authority;
 - (c) in relation to the British Transport Police Force, the British Transport Police Authority;

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(d) in relation to the Ministry of Defence Police, the Secretary of State;

“relevant force” means—

- (a) a police force for a police area in England and Wales;
- (b) the Police Service of Scotland;
- (c) the British Transport Police Force; or
- (d) the Ministry of Defence Police.”

(3) In section 59 (members of constabulary serving with other forces), after subsection (3) insert—

“(3A) For the purposes of this section, a member of the Constabulary who is provided for the assistance of a relevant force under [section 55B](#) is to be treated as serving with that force under arrangements of the kind mentioned in subsection (1).”

309 Cross-border enforcement powers

(1) Part 10 of the Criminal Justice and Public Order Act 1994 (cross-border enforcement) is amended as follows.

(2) In section 136 (execution of warrants)—

- (a) in subsection (1), after “2003” insert “or under section 55 of the Energy Act 2004”;
- (b) in subsection (2), after “2003” insert “or under section 55 of the Energy Act 2004”.

(3) In section 137(2A) (cross-border powers of arrest), after “2003” insert “or under section 55 of the Energy Act 2004”.

(4) In section 137A(5) (additional cross-border powers of arrest: urgent cases), after “2003” insert “or under section 55 of the Energy Act 2004”.

(5) In section 139 (search powers available on arrest)—

- (a) in subsection (10A), after “British Transport Police” insert “or a constable appointed as a member of the Civil Nuclear Constabulary”;
- (b) in subsection (10C), after “British Transport Police” insert “or a constable appointed as a member of the Civil Nuclear Constabulary”.

(6) In section 140(6A) (reciprocal powers of arrest), after “2003” insert “or under section 55 of the Energy Act 2004”.

310 Publication of three-year strategy plan

(1) Schedule 12 to the Energy Act 2004 (planning and reports about Constabulary) is amended as follows—

- (a) in paragraph 3(1)—
 - (i) for “financial year” substitute “three-year period”;
 - (ii) for “the three year period beginning with that year” substitute “that period”;
- (b) for paragraph 3(5) substitute—

“(5) In sub-paragraph (1), “three-year period” means—

Status: This is the original version (as it was originally enacted).

- (a) the period of three successive financial years beginning with 1 April 2024, and
 - (b) each subsequent period of three successive financial years.”
- (2) In consequence of the amendments made by [subsection \(1\)](#)—
- (a) in section 54(1)(b) of the Energy Act 2004 (functions of senior officers), omit “most recently”;
 - (b) in Schedule 12 to that Act—
 - (i) in paragraph 2(3), omit “most recently”;
 - (ii) in paragraph 7(2)(a), omit “most recently issued”.

CHAPTER 3

RELEVANT NUCLEAR PENSION SCHEMES

311 Civil nuclear industry: amendment of relevant nuclear pension schemes

- (1) The Secretary of State may by regulations make provision requiring a designated person to amend the provisions of a relevant nuclear pension scheme in respect of which the person is designated—
- (a) for the purpose of making scheme-specific changes;
 - (b) for the purpose of making changes that relate to any scheme-specific changes;
 - (c) for the purpose of making contribution rate adjustments.
- (2) “Scheme-specific changes”, in relation to a relevant nuclear pension scheme, are changes that—
- (a) relate to defined benefits for members of the scheme, and
 - (b) are in connection with one or more of the matters mentioned in [subsection \(3\)](#).
- (3) Those matters are—
- (a) securing that the structure under which the defined benefits in question accrue is a career average revalued earnings structure (in particular where it would otherwise be a final salary structure);
 - (b) providing for other changes to the amounts of such of those defined benefits as are payable in respect of members of the scheme;
 - (c) providing for revaluations of pensionable earnings, or of benefits in deferment or pensions in payment, to be by reference to the consumer prices index (and not the retail prices index) but not involving imposing a cap on any revaluation or revaluation rate;
 - (d) setting percentage rates, for contributions to the scheme by members of the scheme, that are higher than they would otherwise be;
 - (e) setting periods for which contributions to the scheme by members of the scheme are required to be made that are longer than they would otherwise be.
- (4) Amendments made by virtue of [subsection \(1\)\(b\)](#) may include amendments relating to benefits provided under the scheme other than defined benefits.
- (5) “Contribution rate adjustments” means such adjustments—

Status: This is the original version (as it was originally enacted).

- (a) to the rates of contributions to the scheme by its members in respect of defined benefits, or
 - (b) to the salary bands to which such contribution rates apply,
- as are considered appropriate by the designated person (acting on actuarial advice) to ensure that the average contribution rate for members of the scheme in respect of defined benefits is as close as reasonably practicable to 8.2%.
- (6) Where a person is required by regulations under this section to amend the provisions of a relevant nuclear pension scheme, the amendments may be made—
 - (a) free from any consent requirements set out in the scheme, and
 - (b) notwithstanding provision made by or under any other Act of Parliament, or any rule of law, that would otherwise prevent or limit, or impose conditions on, the making of the amendments.
 - (7) Amendments made by virtue of subsection (1)(a)—
 - (a) must not relate to service prior to the date on which the amendments are made;
 - (b) may be made in the case of a particular scheme on one occasion only.
 - (8) Nothing in this section limits any power that a designated person has to amend a relevant nuclear pension scheme.
 - (9) A person may not be designated in relation to a relevant nuclear pension scheme unless it appears to the Secretary of State that the person has the power to amend the scheme.
 - (10) In this section, “designated” means designated by regulations under this section.

312 Meaning of “relevant nuclear pension scheme”

- (1) In this Chapter, “relevant nuclear pension scheme” means—
 - (a) a pension scheme maintained by or on behalf of the NDA under or by virtue of section 8(1)(a) or (b) of the Energy Act 2004, or
 - (b) subject to subsections (2) and (3), a scheme that provides for the payment of pensions or other benefits to or in respect of persons who are, or have been, employed to perform duties relating to matters that correspond or are similar to matters in respect of which the NDA has functions.
- (2) A scheme of a kind mentioned in subsection (1)(b) is a relevant nuclear pension scheme only to the extent that the pensions or other benefits are provided in connection with employment by a person with public functions.
- (3) Subsection (1)(b) does not apply to—
 - (a) a UKAEA pension scheme (within the meaning given by paragraph 1(1) of Schedule 8 to the Energy Act 2004);
 - (b) a scheme that provides for the payment of pensions or other benefits to or in respect of persons specified in section 1(2) of the Public Service Pensions Act 2013 (schemes for persons in public service).
- (4) In this section, “the NDA” means the Nuclear Decommissioning Authority.

313 Information

- (1) This section applies where a person (“P”) is required by regulations under [section 311](#) to amend a relevant nuclear pension scheme.

Status: This is the original version (as it was originally enacted).

- (2) P may require a person who holds relevant information to provide it to P.
- (3) “Relevant information” means any information or data that P reasonably requires in connection with deciding whether, or how, to amend the scheme.
- (4) Except as provided by subsection (5), the disclosure of information under this section does not breach—
 - (a) any obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (5) This section does not require a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, a requirement imposed under subsection (2) is to be taken into account).

314 Further definitions

- (1) This section applies for the purposes of this Chapter.
- (2) References to the amendment of a relevant nuclear pension scheme include references to the amendment of any one or more of the following—
 - (a) the trust deed of the scheme, if there is one;
 - (b) rules of the scheme;
 - (c) any other instrument relating to the constitution, management or operation of the scheme.
- (3) References to a relevant nuclear pension scheme include references to any section into which the scheme is divided.
- (4) A “career average revalued earnings structure” is a structure where—
 - (a) the pension payable to or in respect of a person, so far as it is based on the person’s pensionable service, is determined by reference to the person’s pensionable earnings in each year of pensionable service, and
 - (b) those earnings, or a proportion of those earnings accrued as a pension, are under the structure revalued each year until the person leaves pensionable service.
- (5) “Consumer prices index” means—
 - (a) the general index of consumer prices (for all items) published by the Statistics Board, or
 - (b) where that index is not published for a month, any substituted index or figures published by the Board.
- (6) “Defined benefits” are benefits—
 - (a) that are not money purchase benefits (within the meaning of the Pension Schemes Act 1993), and
 - (b) that are not provided under an injury or compensation scheme (within the meaning of the Public Service Pensions Act 2013).
- (7) A “final salary structure” is a structure where entitlement to the pension payable to or in respect of a person which is based on the pensionable service of that person is or may be determined to any extent by reference to the person’s final salary; and “final salary” here means the person’s pensionable earnings, or highest, average or representative

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pensionable earnings, in a specified period ending at, or defined by reference to, the time when the person's pensionable service in relation to the structure terminates.

- (8) “Retail prices index” means—
- (a) the general index of retail prices (for all items) published by the Statistics Board, or
 - (b) where that index is not published for a month, any substituted index or figures published by the Board.

315 Application of relevant pensions legislation

- (1) The Secretary of State may by regulations make—
- (a) such provision about the application of relevant pensions legislation in relation to persons of a specified description, or
 - (b) such amendments of relevant pensions legislation,
- as the Secretary of State considers appropriate for the purposes of or in connection with the amendment of a relevant nuclear pension scheme in pursuance of regulations under [section 311](#).
- (2) In this section—
- “relevant pensions legislation” means—
 - (a) Schedule 8 to the Energy Act 2004 (pensions), or
 - (b) regulations made under Schedule 14 or 15 to the Electricity Act 1989 (the Electricity Supply Pension Scheme etc);
- “specified” means specified in regulations under subsection (1).

316 Procedure for regulations under Chapter 3

- (1) Regulations under this Chapter are subject to the affirmative procedure.
- (2) If, apart from this subsection, a draft of an instrument containing regulations under this Chapter would be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.

CHAPTER 4

GREAT BRITISH NUCLEAR

Great British Nuclear: designation, status and objects

317 Great British Nuclear

- (1) The Secretary of State may by notice designate a company as Great British Nuclear.
- (2) A company may be designated under this section only if—
- (a) it is limited by shares, and
 - (b) it is wholly owned by the Crown.
- (3) A notice under [subsection \(1\)](#)—

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- (a) must specify the time from which the designation has effect, and
 - (b) must be published by the Secretary of State as soon as reasonably practicable after the notice is given.
- (4) The designation of a company terminates—
- (a) if it ceases to be wholly owned by the Crown, or
 - (b) if the Secretary of State revokes its designation by notice.
- (5) A notice under [subsection \(4\)\(b\)](#)—
- (a) must specify the time from which the revocation has effect, and
 - (b) must be published by the Secretary of State as soon as reasonably practicable after the notice is given.
- (6) For the purposes of this section a company is wholly owned by the Crown if each share in the company is held by—
- (a) a Minister of the Crown,
 - (b) the Nuclear Decommissioning Authority established by section 1 of the Energy Act 2004,
 - (c) the United Kingdom Atomic Energy Authority established by section 1 of the Atomic Energy Authority Act 1954,
 - (d) a company which is wholly owned by the Crown, or
 - (e) a nominee of a person falling within any of paragraphs (a) to (d).
- (7) A company designated as Great British Nuclear under this section is exempt from the requirement in section 59 of the Companies Act 2006 (requirement as to use of “limited” in company name).
- (8) In this section—
- “company” means a company registered under the Companies Act 2006;
 - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (see section 8(1) of that Act).

318 Crown status

- (1) Great British Nuclear is not to be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (2) Great British Nuclear’s property is not to be regarded as property of, or property held on behalf of, the Crown.

319 Great British Nuclear’s objects

Great British Nuclear’s objects are to facilitate the design, construction, commissioning and operation of nuclear energy generation projects for the purpose of furthering any policies published by His Majesty’s government.

Financial assistance and directions etc

320 Financial assistance

- (1) The Secretary of State may provide financial assistance—

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- (a) to Great British Nuclear, or
 - (b) to any other person to facilitate the design, construction, commissioning and operation of nuclear energy generation projects.
- (2) Financial assistance under this section may be provided in any form and in particular may be provided—
- (a) by way of grant, loan, guarantee or indemnity,
 - (b) by the acquisition of shares or any other interest in, or securities of, a body corporate,
 - (c) by the acquisition of any undertaking or of any assets,
 - (d) pursuant to a contract, or
 - (e) by incurring expenditure for the benefit of the person assisted.
- (3) Financial assistance under this section may be provided subject to such conditions as the Secretary of State considers appropriate, which may include—
- (a) conditions about repayment with or without interest or other return, or
 - (b) conditions with which Great British Nuclear or any recipient of financial assistance under [subsection \(1\)\(b\)](#) must comply if the financial assistance is used for—
 - (i) acquiring shares or any other interest in, or securities of, a body corporate, or
 - (ii) participating in a partnership or joint venture.
- (4) The power to provide financial assistance under this section is in addition to (and does not limit or replace) any other power of a Minister of the Crown to provide financial assistance.
- (5) In this section—
- “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (see section 8(1) of that Act);
 - “partnership” means—
 - (a) a partnership within the meaning of the Partnership Act 1890, or
 - (b) a limited partnership within the meaning of the Limited Partnerships Act 1907.

321 Secretary of State directions and guidance

- (1) The Secretary of State may from time to time give Great British Nuclear directions or guidance.
- (2) Before giving a direction or issuing guidance the Secretary of State must consult Great British Nuclear and such other persons as the Secretary of State considers appropriate.
- (3) Directions may be general or particular in character.
- (4) Great British Nuclear must—
 - (a) comply with any directions given to it under this section, and
 - (b) have regard to any guidance given to it under this section.
- (5) The Secretary of State must—
 - (a) publish and lay before Parliament any directions given to Great British Nuclear under this section, and

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- (b) publish any guidance given to Great British Nuclear under this section.

Annual report and accounts

322 Annual report

- (1) Great British Nuclear must, after the end of each reporting year, send a report to the Secretary of State about the activities it has undertaken during that year.
- (2) The Secretary of State must lay a copy of the report before Parliament together with any comments that the Secretary of State considers appropriate.
- (3) In this section “reporting year”, in relation to Great British Nuclear, means a period of 12 months ending with 31 March (but does not include any period before its designation as Great British Nuclear).

323 Annual accounts

- (1) Great British Nuclear must send a copy of its accounts and reports for each financial year to the Secretary of State before the end of the period for filing those accounts and reports.
- (2) The Secretary of State must lay a copy of any accounts and reports received under [subsection \(1\)](#) before Parliament.
- (3) In this section—
 - “accounts and reports”, in relation to Great British Nuclear, means the annual accounts and reports that Great British Nuclear’s directors must deliver to the registrar under section 441 of the Companies Act 2006;
 - “financial year”, in relation to Great British Nuclear, means Great British Nuclear’s financial year determined in accordance with section 390 of the Companies Act 2006;
 - “period for filing”, in relation to accounts and reports for a financial year, has the same meaning as in the Companies Acts (see section 442 of the Companies Act 2006);
 - “the registrar” has the meaning given by section 1060(3) of the Companies Act 2006.

Transfers and pension arrangements etc

324 Transfer schemes

- (1) The Secretary of State may make one or more schemes for the transfer of property, rights and liabilities—
 - (a) to a GBN body or a proposed GBN body from—
 - (i) a former GBN body;
 - (ii) a GBN body;
 - (iii) a proposed GBN body;
 - (iv) a Minister of the Crown or Crown body;
 - (v) a designated BNFL body;
 - (vi) an NDA body;

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- (vii) a UKAEA body;
 - (viii) a nominee of a person falling within any of sub-paragraphs (i) to (vii);
 - (b) to a former GBN body, a Minister of the Crown or Crown body, a designated BNFL body or a public body from—
 - (i) a former GBN body;
 - (ii) a GBN body.
- (2) The things that may be transferred under a transfer scheme include—
 - (a) rights and liabilities relating to a contract of employment;
 - (b) property, rights and liabilities that could not otherwise be transferred;
 - (c) property acquired, and rights and liabilities arising, after the making of the scheme;
 - (d) criminal liabilities.
- (3) A transfer scheme may—
 - (a) create rights, or impose liabilities, in relation to property, rights or liabilities transferred;
 - (b) make provision about the continuing effect of things done by a transferor in respect of anything transferred;
 - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to a transferor in respect of anything transferred;
 - (d) make provision for references to a transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee;
 - (e) make provision for shared ownership or use of the property;
 - (f) make provision for apportioning property, rights or liabilities;
 - (g) require a transferor, an associate of a transferor, or a transferee, to enter into any agreement of any kind, or for a purpose, specified in or determined in accordance with the scheme;
 - (h) make provision for transferring property, rights and liabilities irrespective of any requirement for consent that would otherwise apply;
 - (i) make provision for preventing a right of pre-emption, right of reverter, right of forfeiture, right to compensation or other similar right from arising or becoming exercisable as a result of the transfer of property, rights or liabilities;
 - (j) make provision for dispensing with any formality in relation to the transfer of property, rights or liabilities by the scheme;
 - (k) make provision for reimbursing any person in respect of expenditure reasonably incurred by the person in connection with the making of a transfer scheme;
 - (l) make provision that has the same or similar effect to the TUPE regulations;
 - (m) make other consequential, supplementary, incidental or transitional provision.
- (4) A transfer scheme may provide—
 - (a) for modifications by agreement;
 - (b) for modifications to have effect from the date when the original scheme came into effect.

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- (5) A transfer scheme may make provision requiring a transferor to provide such co-operation to a transferee as the transferee may reasonably require in connection with the implementation of the scheme.
- (6) The co-operation that may be required by virtue of [subsection \(5\)](#) includes, in particular, co-operation in relation to—
- (a) the provision of information;
 - (b) consultation with representatives of employees transferred by the scheme.
- (7) Any requirement imposed on a person by a transfer scheme is enforceable by the Secretary of State in civil proceedings—
- (a) for an injunction,
 - (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988, or
 - (c) for any other appropriate remedy or relief.
- (8) Before making a transfer scheme, the Secretary of State must consult—
- (a) the transferor (or, if there is more than one transferor, the transferors), and
 - (b) such other persons as the Secretary of State considers appropriate.
- (9) [Subsection \(8\)](#) may be satisfied by consultation before the passing of this Act (as well as by consultation after that time).
- (10) The making of a transfer scheme is not a trigger event for the purposes of the National Security and Investment Act 2021.
- (11) In this section—
- “associate” has the meaning given by section 1152 of the Companies Act 2006;
 - “company” means a company registered under the Companies Act 2006;
 - “Crown body” means any body corporate in which a Minister of the Crown holds, directly or indirectly, any shares or other interest;
 - “designated BNFL body” means a company designated for the purposes of Schedule 7 to the Energy Act 2004 or any body corporate in which a company designated for those purposes holds, directly or indirectly, any shares or other interest;
 - “former GBN body” means—
 - (a) a company formerly designated as Great British Nuclear, or
 - (b) any body corporate in which a company formerly designated as Great British Nuclear—
 - (i) holds, directly or indirectly, any shares or other interest, and
 - (ii) held, directly or indirectly, any shares or other interest, at a time at which it was designated as Great British Nuclear;
 - “GBN body” means Great British Nuclear or any body corporate in which Great British Nuclear holds, directly or indirectly, any shares or other interest;
 - “information” includes documents;
 - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (see section 8(1) of that Act);
 - “NDA company” means the Nuclear Decommissioning Authority (established by section 1 of the Energy Act 2004) or any body corporate in

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which the Nuclear Decommissioning Authority holds, directly or indirectly, any shares or other interest;

“proposed GBN body” means a company that the Secretary of State proposes to designate as Great British Nuclear or any body corporate in which a company proposed to be designated for those purposes holds, directly or indirectly, any shares or other interest;

“public body” means a body established by an enactment (within the meaning of [Part 1](#) of this Act) or any body corporate in which a body established by an enactment holds, directly or indirectly, any shares or other interest;

“the TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 ([S.I. 2006/246](#));

“UKAEA body” means the United Kingdom Atomic Energy Authority (established by section 1 of the Atomic Energy Authority Act 1954) or any body corporate in which the United Kingdom Atomic Energy Authority holds, directly or indirectly, any shares or other interest.

325 Transfer schemes: compensation

- (1) A scheme under [section 324](#) may provide for a transferor or any person who has suffered loss or damage in consequence of the scheme to be entitled to compensation from the Secretary of State or a transferee under the scheme, in accordance with provision made by or under the scheme.
- (2) Where a person is entitled to compensation, the amount of compensation is to be the amount—
 - (a) agreed by the Secretary of State and the person, or
 - (b) in the absence of such agreement, determined by an independent valuer.
- (3) An independent valuer appointed for the purposes of [subsection \(2\)](#) must be appointed—
 - (a) by the Secretary of State and the person, or
 - (b) in the absence of such agreement, by the Secretary of State on behalf of both the Secretary of State and the person.
- (4) The Secretary of State may by regulations make provision about compensation under this section that corresponds or is similar to any provision about compensation that may be made by the Secretary of State by regulations under [paragraph 8\(4\)](#) of [Schedule 9](#).
- (5) Regulations under this section are subject to the negative procedure.

326 Transfer schemes: taxation

- (1) The Treasury may by regulations make provision varying the way in which a relevant tax has effect in relation to—
 - (a) anything transferred under a scheme under [section 324](#), or
 - (b) anything done for the purposes of, or in relation to, a transfer under such a scheme.
- (2) The provision that may be made under [subsection \(1\)\(a\)](#) includes, in particular, provision for—

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- (a) a tax provision not to apply, or to apply with modifications, in relation to anything transferred;
 - (b) anything transferred to be treated in a specified way for the purposes of a tax provision;
 - (c) the Secretary of State to be required or permitted to determine, or to specify the method for determining, anything that needs to be determined for the purposes of any tax provision so far as relating to anything transferred.
- (3) The provision that may be made under [subsection \(1\)\(b\)](#) includes, in particular, provision for—
- (a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of, or in relation to, the transfer;
 - (b) anything done for the purposes of, or in relation to, the transfer to have or not have a specified consequence or be treated in a specified way;
 - (c) the Secretary of State to be required or permitted to determine, or to specify the method for determining, anything that needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, the transfer.
- (4) In this section—
- (a) “relevant tax” means income tax, corporation tax, capital gains tax, stamp duty, stamp duty reserve tax, stamp duty land tax or value added tax;
 - (b) “tax provision” means any provision—
 - (i) about a relevant tax, and
 - (ii) made by an enactment (within the meaning of [Part 1](#) of this Act);
 - (c) references to the transfer of a property include the grant of the lease.
- (5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

327 Transfer schemes: provision of information or assistance

- (1) The Secretary of State may direct a person within [subsection \(2\)](#) to provide the Secretary of State with such specified information or assistance as the Secretary of State may reasonably require in connection with the making of a scheme under [section 324](#).
- (2) A person is within this subsection if—
- (a) property, rights or liabilities are likely to be transferred from or to the person by such a scheme, or
 - (b) the person is a body corporate that is likely to be transferred under such a scheme.
- (3) Paragraph [12\(4\)](#), [\(6\)](#), [\(7\)](#) and [\(8\)](#) of [Schedule 9](#) apply to a direction under this section as they apply to a direction under [sub-paragraph \(1\)](#) of that paragraph.
- (4) In this section—
- “assistance” includes assistance provided in a country or territory other than the United Kingdom;
 - “information” includes documents;
 - “specified” means specified in the direction.

328 Reimbursement and compensation in connection with designation

The Secretary of State may reimburse a person in respect of expenditure reasonably incurred by the person in preparation for or in connection with the designation of a company under [section 317](#) (other than any expenditure incurred in connection with the making of a scheme under [section 324](#)).

329 Pension arrangements in connection with Great British Nuclear

- (1) The Secretary of State may by regulations make provision about pension arrangements in relation to Great British Nuclear that corresponds or is similar to any provision about pension arrangements in relation to the ISOP that may be made by the Secretary of State by regulations under [paragraph 2](#) or [3](#) of [Schedule 10](#) (see [paragraph 4](#) of that Schedule for restrictions on how the power to make regulations under [paragraph 2](#) or [3](#) of that Schedule may be exercised).
- (2) Before making regulations under [subsection \(1\)](#) that make provision corresponding or similar to the provision that may be made by regulations under [paragraph 2\(1\)](#) of [Schedule 10](#), the Secretary of State must carry out a consultation corresponding to the consultation required by [paragraph 2\(5\)](#) of that Schedule.
- (3) Before making regulations under [subsection \(1\)](#) that make provision corresponding or similar to the provision that may be made by regulations under [paragraph 3\(1\)](#) of [Schedule 10](#), the Secretary of State must carry out a consultation corresponding to the consultation required by [paragraph 3\(4\)](#) of that Schedule.
- (4) Subsections [\(2\)](#) and [\(3\)](#) may be satisfied by consultation before the passing of this Act (as well as by consultation after that time).
- (5) The Secretary of State may direct a person within [subsection \(6\)](#) to provide the Secretary of State with specified pensions information or such specified assistance as the Secretary of State may reasonably require in preparation for or in connection with the exercise of the power conferred on the Secretary of State by [subsection \(1\)](#).
- (6) The following persons are within this subsection—
 - (a) the trustee of a qualifying pension scheme;
 - (b) any person who exercises functions on behalf of a person within paragraph (a);
 - (c) any person who is or has been an employer of a qualifying member of a qualifying pension scheme.
- (7) Sub-paragraphs [\(5\)](#) to [\(7\)](#) of [paragraph 5](#) of [Schedule 10](#) apply to a direction given under [subsection \(5\)](#) as they apply to a direction given under [sub-paragraph \(1\)](#) of that paragraph.
- (8) The exercise of the power conferred on the Secretary of State by [subsection \(1\)](#) is not a trigger event for the purposes of the National Security and Investment Act 2021.
- (9) In this section—

“pensions information” means information that—

 - (a) relates to pensions or other benefits under a qualifying pension scheme,
or
 - (b) relates to the administration of a qualifying pension scheme in respect of pensions or other benefits under the scheme;

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“qualifying member”, in relation to a qualifying pension scheme, means a person who is or has been a member (as defined by section 124(1) of the Pensions Act 1995) of the scheme;

“qualifying pension scheme” means a pension scheme that provides for the payment of pensions or other benefits to or in respect of employees or former employees of—

- (a) a transferor in relation to a transfer scheme under [section 324](#), or
- (b) an associate (as defined by section 1152 of the Companies Act 2006) of such a transferor;

“specified” means specified in the direction.

(10) Regulations under this section are subject to the negative procedure.