Draft Order laid before Parliament under sections 76(7) and 192(3) of the Energy Act 2004, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2016 No. 0000

NUCLEAR ENERGY

The Nuclear Installations (Liability for Damage) Order 2016

Made - - - - 2016

Coming into force in accordance with article 1(2), (4) and (5)

CONTENTS

1.	Citation and commencement	2
2.	Interpretation	2
3.	Duties of licensee of licensed site	3
4.	Duties in respect of relevant disposal sites	6
5.	Duties of United Kingdom Atomic Energy Authority	8
6.	Duties of Crown in respect of certain sites	8
7.	Duties of certain foreign operators	9
8.	Cost of measures of reinstatement	10
9.	Loss of income derived from the environment	13
10.	Cost of preventive measures	14
11.	Right to compensation with respect to injury, damage and significant impairment of the environment	16
12.	Exclusion of rights to compensation in certain cases	18
13.	Extension of rights to compensation in certain cases	19
14.	Reduction of compensation in certain cases	20
15.	Damage to property and measures of reinstatement	20
16.	Liens etc in respect of ships and aircraft excluded	21
17.	Time for bringing claims under sections 7 to 11	22
18.	Nuclear matter that is stolen, lost, jettisoned or abandoned	23
19.	Satisfaction of claims by operator of site	23
20.	Satisfaction of claims by Secretary of State etc	25
21.	Section 16 of the 1965 Act: supplementary	26
22.	Section 16: phasing of increases in liability	28
23.	Jurisdiction of courts in the United Kingdom	29
24.	Jurisdiction of courts in the United Kingdom: jurisdiction excluded	30
25.	Shared liability and foreign judgments	31
26.	Notice to Secretary of State of proceedings	32
27.	Right of Secretary of State or foreign government to intervene	32
28.	Proceedings conducted by foreign governments	33

29. Powers of Secretary of State in relation to foreign claims 34
30. Making United Kingdom funds available to satisfy claims for compensation 34
31. Making United Kingdom funds available: limits and exceptions 36
32. Obligation of licensee or operator to arrange cover for compensation 37
33. Furnishing of information relating to licensee's or operator's cover 39
34. Power to make arrangements with respect to licensee's or operator's cover 40
35. Cover for compensation in respect of damage to means of carriage 41
36. Registration in connection with certain occurrences and events 43
37. Amounts in euros 43
38. Interpretation of the 1965 Act 43
39. Further amendments 46
40. Transitional provision 46

SCHEDULES

SCHEDULE 1 — Measures of reinstatement outside the United Kingdom 48
SCHEDULE 2 — Further amendments 49
PART 1 — Primary legislation 49
PART 2 — Secondary legislation 50

The Secretary of State, in exercise of the powers conferred by sections 76 and 192(4) of the Energy Act 2004**(a)**, makes the following Order.

In accordance with section 192(3) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1.—(1) This Order may be cited as the Nuclear Installations (Liability for Damage) Order 2016.

(2) Subject to paragraphs (4) and (5), this Order comes into force on the main commencement day.

(3) The Secretary of State must publish a notice of the date of the main commencement day as soon as possible after that day.

(4) This article and articles 2, 34 and 40 come into force on the twenty-first day after the day on which this Order is made, if earlier than the main commencement day.

(5) Articles 19 and 35 come into force on the twenty-first day after the day on which this Order is made, if earlier than the main commencement day, for the purpose only of the exercise of any power to make regulations under section 16(1) or 21(3) of the 1965 Act.

Interpretation

2. In this Order—

(**a**) 2004 c.20.

"the 1965 Act" means the Nuclear Installations Act 1965(**a**);

"the main commencement day" means the day on which the Protocols come into force in respect of the United Kingdom(**b**);

"the Protocols" means—

(a) the Protocol of 12th February 2004 to amend the Convention on Third Party Liability in the Field of Nuclear Energy of 29th July 1960, as amended by the Additional Protocol of 28th January 1964 and by the Protocol of 16th November 1982(**c**), and

(b) the Protocol of 12th February 2004 to amend the Convention of 31st January 1963 Supplementary to the Paris Convention of 29th July 1960 on Third Party Liability in the Field of Nuclear Energy, as amended by the Additional Protocol of 28th January 1964 and by the Protocol of 16th November 1982(**d**).

Duties of licensee of licensed site

3.—(1) Section 7 of the 1965 Act (duty of licensee of licensed site) is amended as follows.

(2) For subsection (1)(**e**) substitute—

"(1) Subject to subsection (4), where a nuclear site licence has been granted in respect of a site, the licensee has the duties set out in subsections (1A), (1C) and (1E).

(1A) It is the duty of the licensee to secure that no occurrence involving nuclear matter falling within subsection (1B) causes—

(a) injury to any person,

(b) damage to any property of any person other than the licensee, or

(c) significant impairment of the environment,

being injury, damage or impairment that arises out of or results from the radioactive properties, or a combination of those and any toxic, explosive or other hazardous properties, of that nuclear matter.

(1B) The occurrences referred to in subsection (1A) are—

(a) any occurrence on the licensed site involving nuclear matter during the period of the licensee's responsibility;

(b) any occurrence elsewhere than on the licensed site involving nuclear matter that is not excepted matter and which, at the time of the occurrence, satisfies the requirement mentioned in section 7A(1).

(1C) It is the duty of the licensee to secure that no occurrence involving the emission of ionising radiations falling within subsection (1D) causes—

(a) injury to any person,

(b) damage to any property of any person other than the licensee, or

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(**a**) 1965 c.57. The effect of the 1965 Act has been modified by the Atomic Weapons Establishment Act 1991 c.46, section 3 and the Schedule, paragraph 6. The effect of the 1965 Act has been modified in relation to England and Wales and Northern Ireland by the Congenital Disabilities (Civil Liability) Act 1976 c.28 ("the 1976 Act"), sections 3 and 4. Certain provisions of the 1976 Act are amended by this Order. The 1965 Act will be modified by the Defence Reform Act 2014 c.20, Schedule 1, paragraph 3 when that paragraph comes into force. The 1965 Act has been amended on a number of occasions. Relevant amendments are noted in the following provisions of this Order.

(**b**) It will be possible to find out the date on which the Protocols come into force in respect of the United Kingdom by referring to the relevant page on UK Treaties Online (http://treaties.fco.gov.uk/treaties/treaty.htm).

(**c**) The Protocol of 12th February 2004 has been published in the Miscellaneous Series No. 6 (2015) Cm. 9135; the Convention of 29th July 1960, as amended by the Additional Protocol of 28th January 1964 was published in the Treaty Series No. 69 (1968), Cmnd. 3755; the Protocol of 16th November 1982 was published in the Treaty Series No. 6 (1989), Cm. 659. The Protocols and Conventions are also available via UK Treaties Online (http://treaties.fco.gov.uk/treaties/treaty.htm).

(**d**) The Protocol of 12th February 2004 has been published in the Miscellaneous Series No. 7 (2015) Cm. 9136; the Convention of 31st January 1963 Supplementary to the Paris Convention, as amended by the Additional Protocol of 28th January 1964 was published in the Treaty Series No. 44 (1975), Cmnd. 5948; the Protocol of 16th November 1982 was published in the Treaty Series No. 17 (1992), Cm. 1832. The Protocols and Conventions are also available via UK Treaties Online (http://treaties.fco.gov.uk/treaties/treaty.htm).

(**e**) Section 7(1) was amended by S.I. 1990/1918, the Schedule, paragraph 2(a).

(c) significant impairment of the environment,

being injury, damage or impairment that arises out of or results from the radioactive properties, or a combination of those and any toxic, explosive or other hazardous properties, of the source of the emissions.

(1D) The occurrences referred to in subsection (1C) are—

(a) an emission of ionising radiations during the period of the licensee's responsibility from anything caused or suffered by the licensee to be on the site which is not nuclear matter;

(b) a discharge on or from the site of waste, being waste (of any form) that emits ionising radiations but is not nuclear matter, during the period of the licensee's responsibility.

(1E) It is the duty of the licensee to secure that no event happens that creates a grave and imminent threat of a breach of the duty under subsection (1A) or (1C)."

(3) Omit subsection (2) (description of occurrences mentioned in subsection (1)(a)).

(4) For subsection (3) substitute—

"(3) In determining the liability of the licensee of a licensed site by virtue of subsection (1A) or (1C) in respect of an occurrence, any such property as is mentioned in subsection (3B) which is on that site at the time of the occurrence is to be deemed to be the property of the licensee, notwithstanding that it is the property of some other person.

(3A) In determining the liability of the licensee of a licensed site by virtue of subsection (1E) in respect of an event, any such property as is mentioned in subsection (3B) which is on that site at the time of the event is to be deemed to be the property of the licensee, notwithstanding that it is the property of some other person.

(3B) The property referred to in subsections (3) and (3A) is—

(a) a nuclear installation;

(b) property other than a nuclear installation which is on the licensed site for the purpose of being used in connection with the operation, or the cessation of the operation, by the licensee of a nuclear installation which is or has been on that site;

(c) property other than a nuclear installation which is on the licensed site for the purpose of the construction of a nuclear installation on that site;

(d) an installation for the disposal of nuclear matter."

(5) After section 7 insert—

"7A Occurrences not on a licensed site

(1) The requirement referred to in section 7(1B)(b) is that the nuclear matter satisfies the condition in any of subsections (2) to (8) in relation to the licensee of the licensed site as licensee of that site.

(2) The condition in this subsection is that the nuclear matter—

(a) is in the course of carriage to the licensed site with the agreement of the licensee from a place in a country or territory that is not a relevant territory, and

(b) is not on another relevant site in the United Kingdom.

For these purposes the carriage of the matter is to be treated as starting once the matter has been loaded on to the means of transport intended to be used for its carriage from that country or territory.

(3) The condition in this subsection is that the nuclear matter—

(a) is in the course of carriage from the licensed site to a place in a country or territory that is not a relevant territory, and

(b) is not on another relevant site in the United Kingdom.

For these purposes the carriage of the matter is to be treated as coming to an end once the matter has been unloaded from the means of transport used for its carriage to that country or territory.

(4) The condition in this subsection is that the licensee has taken charge of the nuclear matter from a person authorised to operate a nuclear reactor comprised in a means of transport and the matter—

(a) is in the course of carriage to the licensed site, and

(b) is not on another relevant site in the United Kingdom.

(5) The condition in this subsection is that the nuclear matter—

(a) is in the course of carriage from the licensed site to a person authorised to operate a nuclear reactor comprised in a means of transport and in which the matter is intended to be used, and

(b) is not on another relevant site in the United Kingdom.

For these purposes the carriage of the matter is to be treated as coming to an end once that operator takes charge of the matter.

(6) The condition in this subsection is that—

(a) the nuclear matter was in the course of such carriage as is described in subsection (2), (3), (4) or (5),

(b) that course of carriage was not completed, and

(c) since ceasing to be in the course of such carriage, the nuclear matter has not been in such circumstances as are mentioned in subsection (9), (10) or (11).

(7) The condition in this subsection is that—

(a) the nuclear matter is in the course of carriage on behalf of the licensee as a licensee of the licensed site, otherwise than as described in any of subsections (2)(a), (3)(a), (4)(a) and (5)(a), and the licensee has a direct economic interest in the matter, or

(b) the nuclear matter was in the course of such carriage while being matter in which the licensee had a direct economic interest and, since ceasing to be in the course of such carriage or since ceasing to be matter in which the licensee had a direct economic interest, has not been in such circumstances as are mentioned in subsection (9), (10) or (11).

(8) The condition in this subsection is that the nuclear matter was on the licensed site and, since ceasing to be on that site, has not been in such circumstances as are mentioned in subsection (9), (10) or (11).

(9) The circumstances in this subsection are that the nuclear matter is on a relevant site other than the licensed site.

(10) The circumstances in this subsection are that the nuclear matter—

(a) is in the course of carriage to a relevant site other than the licensed site with the agreement of the operator of that site from a place in a country or territory that is not a relevant territory,

(b) is in the course of carriage from a relevant site other than the licensed site to a place in a country or territory that is not a relevant territory,

(c) is in the course of carriage on behalf of a person authorised to operate a nuclear reactor which is comprised in a means of transport and in which the nuclear matter is intended to be used or was used or was intended to be used, or

(d) is in the course of relevant carriage on behalf of a person other than the licensee of the licensed site, and otherwise than as described in paragraph (a), (b) or (c), and is matter in which that person has a direct economic interest.

(11) The circumstances in this subsection are that the nuclear matter—

(a) is within the territorial limits of a country or territory that is not a relevant territory, and

(b) is not in the course of such carriage as is described in any of subsections (2)(a), (3)(a), (4)(a) and (5)(a) or in the course of relevant carriage from one relevant site to another.

(12) Where the licensee of a licensed site operates the site on behalf of another person—

(a) carriage of nuclear matter that is undertaken or arranged by the licensee as licensee of the licensed site on behalf of that other person is to be treated as carriage on behalf of the licensee (and accordingly is to be treated as relevant carriage on behalf of the licensee for the purposes of this Act), and

(b) a requirement in this section that a person have a direct economic interest in nuclear matter that is in the course of carriage is to be treated as satisfied by the licensee when acting on behalf of another person as regards the carriage of nuclear matter if—

(i) that other person is the person on whose behalf the licensee is operating the licensed site, and

(ii) that other person has a direct economic interest in the nuclear matter.

(13) For the purposes of this section, a person who receives a financial or other benefit for or in connection with undertaking, or arranging for, the carriage of nuclear matter does not, for that reason only, have a direct economic interest in the matter."

Duties in respect of relevant disposal sites

4.—(1) In section 6 of the 1965 Act(**a**) (list of licensed sites)—

(a) in subsection (1), for the words from "showing" to the end substitute—

"showing—

(a) every site in respect of which a nuclear site licence has been granted, and

(b) every site which is or was a relevant disposal site.";

(b) in subsection (2)(a), after "part of a site" insert "falling within subsection (1)(a)";

(c) after subsection (2)(a) insert—

"(aa) need not show any site or part of a site falling within subsection (1)(b) in the case of which—

(i) no appropriate permit is for the time being in force; and

(ii) 30 years have passed since the date on which the appropriate environment authority gave notice to an operator of the site that in the opinion of that authority there has ceased to be any danger from ionising radiations from anything on the site or, as the case may be, part of it;";

(d) in the heading, after "licensed sites" insert "and relevant disposal sites".

(2) After section 7A of the 1965 Act (inserted by article 3) insert—

"**7B Duties in respect of relevant disposal sites**

(1) Sections 7 and 7A apply in relation to the operator of a relevant disposal site as they apply in relation to the licensee of a licensed site, but with the following modifications—

(a) a reference in those sections to a case in which a nuclear site licence has been granted is to be read as a reference to a case in which an appropriate permit has been granted;

(b) a reference in those sections to a site in respect of which a nuclear site licence has been granted is to be read as a reference to a relevant disposal site;

(**a**) Section 6 was amended by the Energy Act 2013 c.32, section 116 and Schedule 12, Part 2, paragraph 21 (this amendment supersedes a previous amendment).

(c) a reference in those sections to the licensee of a licensed site is to be read as a reference to the operator of a relevant disposal site;

(d) a reference in those sections to a nuclear installation is to be read as a reference to an installation for the disposal of nuclear matter;

(e) paragraph (d) of section 7(3B) is to be disregarded;

(f) the reference in section 7(1B)(a) to the period of responsibility of a licensee under a nuclear site licence is to be read, when applied in relation to the operator of a relevant disposal site, as a reference to the period during which the operator is responsible for the relevant disposal site.

(2) For the purposes of subsection (1)(f) an operator of a relevant disposal site is responsible for the relevant disposal site or any part of it during the period that—

(a) begins—

(i) when article 4 of the Nuclear Installations (Liability for Damage) Order 2016 comes fully into force, or

(ii) if later, when the person becomes the operator of the site or, as the case may be, part of it, and

(b) ends with whichever of the dates in subsection (3) is the earliest.

(3) The dates referred to in subsection (2)(b) are—

(a) the date when the appropriate environment authority gives notice in writing to the operator of the site that in the opinion of that authority there has ceased to be any danger from ionising radiations from anything on the site or, as the case may be, part of it;

(b) the date when another person becomes the operator of the site or, as the case may be, part of it;

(c) the date when the following conditions have both become satisfied—

(i) the site or, as the case may be, part of it ceases to be used by the operator, and

(ii) the site or, as the case may be, that part of it is used or occupied by or on behalf of the Crown;

(d) the date when a nuclear site licence is granted in respect of the site or, as the case may be, part of it.

(4) Subject to subsections (5), (6) and (7), a site is a relevant disposal site for the purposes of this section if—

(a) it is used for the operation of an installation for the disposal of nuclear matter, and

(b) that use is a use for which the authority of an appropriate permit is required.

(5) A site is not a relevant disposal site if it is—

(a) a site or part of a site in respect of which a nuclear site licence has been granted,

(b) premises treated because of section 8 as a site for which a nuclear site licence has been granted or part of such premises, or

(c) a site or part of a site used or occupied by or on behalf of the Crown.

(6) A site is not a relevant disposal site if—

(a) any person using the site ceased, before article 4 of the Nuclear Installations (Liability for Damage) Order 2016 came fully into force, to accept on the site any nuclear matter for the purposes of disposal on the site, and

(b) no person using the site has, after article 4 came fully into force, accepted on the site any nuclear matter for the purposes of disposal on the site.

(7) A site is not a relevant disposal site if the nuclear matter disposed of in the installation or installations on the site consists only of nuclear matter that is excepted matter.

(8) If a site ceases to be a relevant disposal site, no liability may arise by virtue of this section after the time it ceases to be a relevant disposal site, except in relation to an occurrence or event that began to happen before that time.

(9) In this section—

"appropriate permit" means—

(a) in relation to a site in England or Wales, a permit under regulations made under section 2 of the Pollution Prevention and Control Act 1999 authorising a person to use the site for the disposal of radioactive waste;

(b) in relation to a site in Scotland or Northern Ireland, an authorisation under section 13 of the Radioactive Substances Act 1993 authorising a person to use the site for the disposal of radioactive waste;

"operator", in relation to a relevant disposal site, means the person who uses the site to operate the installation by virtue of which the site is a relevant disposal site."

Duties of United Kingdom Atomic Energy Authority

5. In section 8 of the 1965 Act(**a**) (duty of the UKAEA)—

(a) for "Section 7" substitute "Sections 7 and 7A";

(b) for "section 7" substitute "sections 7 and 7A".

Duties of Crown in respect of certain sites

6.—(1) Section 9 of the 1965 Act (duty of Crown in respect of certain sites) is amended as follows.

(2) The section is renumbered as subsection (1).

(3) In that subsection (1), for "section 7" substitute "sections 7 and 7A".

(4) After subsection (1) insert—

"(2) If a government department uses a site for a purpose which, if section 7B applied to the Crown, would cause the site to be a relevant disposal site, sections 7 and 7A are to apply in respect of that site as they apply in relation to the licensee of a licensed site, but with the following modifications—

(a) a reference to a case in which a nuclear site licence has been granted is to be read as a reference to a case in which a site is used by a government department for a purpose which, if section 7B applied to the Crown, would cause the site to be a relevant disposal site (a "disposal purpose");

(b) a reference in those sections to a site in respect of which a nuclear site licence has been granted is to be read as a reference to a site used by a government department for a disposal purpose;

(c) a reference in those sections to the licensee of a licensed site is to be read as a reference to the government department that is using a site for a disposal purpose;

(d) paragraph (d) of section 7(3B) is to be disregarded;

(e) the reference in section 7(1B)(a) to the period of responsibility of a licensee under a nuclear site licence is to be read, when applied in relation to a government department using a site for a disposal purpose, as a reference to the period during which the department is responsible for the site.

(3) For the purposes of subsection (2)(e) a government department is responsible for a site used by it for a disposal purpose, or for any part of a site so used by it, during the period that—

(**a**) Section 8 was amended by S.I. 1990/1918, the Schedule, paragraph 3.

(a) begins—

(i) when article 4 of the Nuclear Installations (Liability for Damage) Order 2016 comes fully into force, or

(ii) if later, when the department starts to use the site or, as the case may be, part of it for a disposal purpose, and

(b) ends with whichever of the dates in subsection (4) is the earliest.

(4) The dates referred to in subsection (3)(b) are—

(a) the date when the department ceases to occupy the site or, as the case may be, part of it, and

(b) the date when, if section 1 applied to the Crown, the use of the site or, as the case may be, part of it would require the authority of a nuclear site licence.

(5) In determining for the purposes of subsection (2) whether a use of a site would, if section 7B applied to the Crown, cause the site to be a relevant disposal site—

(a) section 7B(5)(a) is to be read as if it referred to a site or part of a site which is or was used for a purpose which, if section 1 applied to the Crown, would require the authority of a nuclear site licence in respect of that site,

(b) section 7B(5)(c) is to be disregarded,

(c) any limitation on the application to the Crown of a requirement to have an appropriate permit is to be disregarded, and

(d) the Crown is to be taken to have complied with any requirement which would, if complied with, exempt a person from being required to have an appropriate permit in relation to the site."

Duties of certain foreign operators

7.—(1) Section 10 of the 1965 Act (duty of certain foreign operators) is amended as follows.

(2) For subsection (1) substitute—

"(1) It is the duty of a relevant foreign operator to secure that no occurrence involving nuclear matter which is not excepted matter and satisfying the conditions in subsections (2) and (4) causes—

(a) injury to any person,

(b) damage to any property of any person other than that operator, or

(c) significant impairment of the environment,

being injury, damage or impairment that arises out of or results from the radioactive properties, or a combination of those and any toxic, explosive or other hazardous properties, of that nuclear matter.

(1A) It is the duty of a relevant foreign operator to secure that no event happens that creates a grave and imminent threat of a breach of the duty under subsection (1)."

(3) For subsection (2) substitute—

"(2) The condition in this subsection is that the occurrence is—

(a) an occurrence taking place wholly or partly within United Kingdom limits; or

(b) an occurrence taking place outside those limits which also involves nuclear matter in respect of which a duty is imposed on any person by section 7, 7B, 8 or 9.

(3) For the purposes of subsection (2), an occurrence takes place within United Kingdom limits if it takes place—

(a) within the territorial limits of the United Kingdom, or

(b) within the limits of the United Kingdom's relevant maritime zone,

and the limits of that zone are to be treated as applying to sea, sea bed, subsoil and airspace.

(4) The condition in this subsection is that the nuclear matter involved in the occurrence would, if the relevant foreign operator were the licensee of a licensed site and that operator's relevant site were a licensed site, satisfy the requirement in section 7A(1) in relation to the relevant foreign operator at the time of the occurrence."

Cost of measures of reinstatement

8.—(1) After section 11 of the 1965 Act insert—

"*Cost of measures of reinstatement*

11A Cost of measures of reinstatement

(1) Where as a result of a breach of a duty imposed by section 7, 7B, 8, 9 or 10 there is significant impairment of the environment, a qualifying public authority may make a claim under this Act for compensation in respect of the reasonable cost of relevant measures of reinstatement relating to that impairment.

(2) Subsection (1) is subject to subsection (3) and sections 11B and 11D.

(3) Compensation is not payable by virtue of a claim under subsection (1) in respect of the cost of measures of reinstatement that benefit or would benefit property if the property is such that damage to it would not constitute damage in breach of a duty imposed by—

(a) section 7 (see section 7(1A)(b), (1C)(b), (3) and (3A)),

(b) section 7B (see section 7(1A)(b), (1C)(b), (3) and (3A) as applied by section 7B),

(c) section 8 (see section 7(1A)(b), (1C)(b), (3) and (3A) as applied by section 8),

(d) section 9 (see section 7(1A)(b), (1C)(b), (3) and (3A) as applied by section 9), or

(e) section 10 (see section 10(1)(b)),

as the case may be.

(4) A public authority is a qualifying public authority, in relation to a particular significant impairment of the environment, if it may in the exercise of its functions—

(a) take, or arrange for the taking of, measures of reinstatement relating to that impairment of the environment, or

(b) pay (otherwise than under this Act) costs incurred by another public authority in taking, or arranging for the taking of, measures of reinstatement relating to that impairment.

(5) A measure of reinstatement relating to a significant impairment of the environment is a relevant measure of reinstatement relating to that impairment if, or to the extent that, it is a measure reasonably taken for the purpose of—

(a) reinstating or restoring what has been destroyed or damaged in the environment, or

(b) establishing the equivalent of what has been destroyed or damaged in the environment.

(6) A measure of reinstatement is reasonably taken for the purposes of this section if taking that measure is appropriate and proportionate in the circumstances.

(7) A reference in this section to the environment is a reference to the environment within the territorial limits of the United Kingdom, in or above the exclusive economic zone of the United Kingdom or on the continental shelf of the United Kingdom.

(8) In this section and sections 11B, 11D and 11E—

"holder of a public office" means—

(a) a person holding an office under the Crown,

(b) a person holding an office created or continued in existence by a public general Act or by legislation passed by the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly, or

(c) a person holding an office the remuneration in respect of which is paid out of money provided by Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly;

"local authority" means—

(a) in relation to England, a county council, a district council, a parish council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly,

(b) in relation to Scotland, a council constituted under section 2(1) of the Local Government etc. (Scotland) Act 1994,

(c) in relation to Wales, a county council, a county borough council or a community council, or

(d) in relation to Northern Ireland, a district council;

"public authority" means a holder of a public office or a public body in the United Kingdom;

"public body" includes a government department (including the Welsh Assembly Government, any part of the Scottish Administration and a Northern Ireland department) and a local authority.

11B Approval of measures of reinstatement

(1) Compensation under this Act is payable by virtue of a claim under section 11A(1) only if the claim relates to measures of reinstatement approved by—

(a) the Secretary of State under this section, or

(b) if a decision under this section is appealed under section 11D, the court that determines the appeal under section 11D.

(2) A qualifying public authority may apply to the Secretary of State for approval under this section before or after the measures of reinstatement are taken.

(3) The public authority must publish a notice of its application.

(4) The notice must be published in a manner that appears to the authority to be appropriate for bringing it to the attention of—

(a) the person whose breach, or alleged breach, of a duty imposed by section 7, 7B, 8, 9 or 10 caused, or is alleged to have caused, the impairment of the environment;

(b) in relation to any property that is or would be affected by the measures of reinstatement, any person who appears to the authority to have such interest in or right over that property as would entitle that person to claim for damage to property.

(5) A notice of an application for approval must specify the measures of reinstatement for which approval is sought.

(6) The Secretary of State may approve a measure of reinstatement under this section only if satisfied that—

(a) there is significant impairment of the environment;

(b) the measure is, in relation to that impairment, a relevant measure of reinstatement within the meaning of section 11A;

(c) the amount claimed in respect of the cost of the measure is reasonable;

(d) the public authority applying for approval in relation to a measure of reinstatement is a qualifying public authority within the meaning of section 11A as regards that measure.

(7) The Secretary of State may refuse to approve measures of reinstatement on the ground that the applicant, or the public authority whose costs the applicant has paid or proposes to pay, is or was not the appropriate public authority to take the measures or to arrange for them to be taken.

(8) The Secretary of State may approve some but not others of the measures to which the application relates.

(9) A decision by the Secretary of State under this section is not to be taken as determining—

(a) whether or not there was a breach of a duty under section 7, 7B, 8, 9 or 10, or

(b) whether or not the impairment of the environment arises out of or results from a breach of such a duty.

(10) The Secretary of State must publish a notice of a decision made under this section.

(11) For each of the measures of reinstatement to which the application relates, the notice of decision must—

(a) if approval is refused, state whether or not approval is refused on the ground mentioned in subsection (7), and

(b) except in a case where approval is refused on that ground, specify the reasons why the Secretary of State is or is not satisfied as to the matters in subsection (6).

(12) If the Secretary of State makes a claim for compensation under section 11A(1), the Secretary of State must appoint an independent person to carry out the functions of the Secretary of State under this section and sections 11C and 11D as regards approving measures of reinstatement.

(13) Approval by the appointed person is to be treated as approval by the Secretary of State for the purposes of subsection (1).

11C Representations

(1) Persons who satisfy the requirements of subsection (2) may make representations to the Secretary of State as regards the measures of reinstatement for which approval is sought by an application under section 11B.

(2) A person satisfies the requirements of this subsection if the person is—

(a) the person whose breach, or alleged breach, of a duty imposed by section 7, 7B, 8, 9 or 10 caused, or is alleged to have caused, the impairment of the environment;

(b) in relation to any property that is or would be affected by the measures of reinstatement, a person who has such interest in or right over that property as would entitle that person to claim for damage to property.

(3) The Secretary of State may invite other persons to make representations as regards the measures of reinstatement.

(4) The Secretary of State must publish a notice of the arrangements for making representations under this section in respect of an application under section 11B.

11D Appeals against decisions

(1) The following persons may appeal to the appropriate court against a decision of the Secretary of State on an application under section 11B—

(a) where approval of a measure of reinstatement is refused, the public authority that applied for approval of the measure;

(b) where approval of a measure of reinstatement is granted, the person whose breach, or alleged breach, of a duty imposed by section 7, 7B, 8, 9 or 10 caused, or is alleged to have caused, the impairment of the environment.

(2) A decision of the Secretary of State to refuse approval on the ground mentioned in section 11B(7) may not be appealed under this section.

(3) Subject to subsection (2), the court may on an appeal under this section determine whether or not to approve the measures of reinstatement to which the appeal relates.

(4) Section 11B(6) applies in relation to a determination of the court as it applies in relation to a decision of the Secretary of State under section 11B.

(5) The appropriate court is the court that has, or but for section 16(3E) would have had, jurisdiction in accordance with section 16C to determine a claim by virtue of section 7, 7B, 8, 9 or 10 for compensation under this Act in respect of the cost of the measures of reinstatement in question.

(6) A decision of a person appointed under section 11B(12) may be appealed in the same way as a decision of the Secretary of State.

11E Measures of reinstatement in the United Kingdom: claims under relevant foreign law

(1) This section applies if approval on the part of the United Kingdom is required by any relevant foreign law in connection with a claim under that law corresponding to such claim as may be made under paragraph 1 of Schedule 1A.

(2) Sections 11B to 11D are to apply in relation to such a claim under the relevant foreign law as they apply in relation to a claim under section 11A(1).

(3) Where sections 11B to 11D apply by virtue of subsection (2)—

(a) references to a public authority are to be treated as including references to a person who is entitled, in the particular case, to take or arrange for the taking of such measures as give rise to a claim under the relevant foreign law for compensation,

(b) references to a breach of a duty under section 7, 7B, 8, 9 or 10 are to be treated as references to the corresponding occasion of compensation under the relevant foreign law,

(c) section 11B(6) is to be treated as requiring the Secretary of State to approve a measure of reinstatement only if satisfied that—

(i) the measure is such that the costs of taking the measure may be claimed under the relevant foreign law made for purposes corresponding to section 11A, if liability is established under the relevant foreign law, and

(ii) the person applying for approval is entitled to take or arrange for the taking of the measure,

(d) references to the appropriate court are to be treated as references to the High Court of Justice, and

(e) section 11B(7) is not to have effect if the person applying for approval is not a public authority.

11F Measures of reinstatement outside the United Kingdom: claims under this Act

Schedule 1A (approval of measures of reinstatement in places outside the United Kingdom) has effect."

(2) After Schedule 1 to the 1965 Act insert the Schedule 1A set out in Schedule 1 to this Order.

Loss of income derived from the environment

9. After section 11F of the 1965 Act (inserted by article 8) insert—

"*Loss of income derived from the environment*

11G Loss of income derived from the environment

(1) Where as a result of a breach of a duty imposed by section 7, 7B, 8, 9 or 10 there is significant impairment of the environment, a claim may be made under this Act for compensation in respect of a person's loss of profits if the circumstances of that loss satisfy the requirements in subsection (2).

(2) The requirements are that—

(a) the profits are from income that the person generates, or but for the impairment would generate, by means of an activity which entails directly exploiting the resources in a part of the environment,

(b) the activity is an activity that the person may lawfully carry on, or but for the impairment would be able lawfully to carry on, in that part of the environment,

(c) the person had started to carry on, and had not ceased to carry on, the activity in that part of the environment before the occurrence began to happen,

(d) some or all of that part of the environment is significantly impaired as a result of the breach of duty, and

(e) as a direct consequence of that significant impairment, the person is not able to carry on the activity in question in so much of that part of the environment as is significantly impaired or profits less from carrying on the activity there.

(3) Compensation is not payable to a person by virtue of a claim under subsection (1) if the activity in question is an activity carried on by the person as an employee.

(4) Compensation is not payable to a person by virtue of a claim under subsection (1) if the loss of profits is—

(a) a loss for which that person may claim compensation under this Act by way of compensation for damage to property, or

(b) a loss for which that person could make such a claim but for the property being such that damage to it would not constitute damage in breach of a duty imposed by—

(i) section 7 (see section 7(1A)(b), (1C)(b), (3) and (3A)),

(ii) section 7B (see section 7(1A)(b), (1C)(b), (3) and (3A) as applied by section 7B),

(iii) section 8 (see section 7(1A)(b), (1C)(b), (3) and (3A) as applied by section 8),

(iv) section 9 (see section 7(1A)(b), (1C)(b), (3) and (3A) as applied by section 9), or

(v) section 10 (see section 10(1)(b)),

as the case may be.

(5) Compensation under this Act is not payable by virtue of a claim under subsection (1) if the part of the environment in question is the relevant site by reference to which the claim under subsection (1) is established or a part of it."

Cost of preventive measures

10. After section 11G of the 1965 Act (inserted by article 9) insert—

"*Cost of preventive measures*

11H Cost of preventive measures

(1) Where there is a breach of a duty imposed by section 7, 7B, 8, 9 or 10, a claim may be made for compensation under this Act in respect of the reasonable cost of preventive measures reasonably taken after the breach of duty.

(2) Subject to subsections (3) and (4), where there is a breach of a duty imposed by section 7, 7B, 8, 9 or 10, a claim may be made for compensation under this Act in respect of injury to a person or damage to property caused by—

(a) preventive measures reasonably taken after the breach of duty by a person other than the person whose breach of duty it is, or

(b) preventive measures taken after the breach of duty by the person whose breach of duty it is.

(3) The compensation that may be claimed under subsection (2)(a) does not include compensation in respect of so much of any injury or damage as is caused by an act or omission done maliciously or negligently.

(4) The compensation that may be claimed under subsection (2) does not include compensation in respect of damage to property where the property is such that damage to it would not constitute damage in breach of a duty imposed by—

(a) section 7 (see section 7(1A)(b), (1C)(b), (3) and (3A)),

(b) section 7B (see section 7(1A)(b), (1C)(b), (3) and (3A) as applied by section 7B),

(c) section 8 (see section 7(1A)(b), (1C)(b), (3) and (3A) as applied by section 8),

(d) section 9 (see section 7(1A)(b), (1C)(b), (3) and (3A) as applied by section 9), or

(e) section 10 (see section 10(1)(b)),

as the case may be.

(5) The payment of compensation in respect of injury to a person or damage to property otherwise than under this Act by or on behalf of a person who takes preventive measures does not prevent the making of a claim under subsection (2) (subject to the exceptions in subsections (3) and (4)) if and to the extent that that payment does not make full compensation in respect of the injury or damage in question.

(6) A reference in subsection (1) or (2) to a preventive measure reasonably taken after a breach of duty includes a reference to such part of a preventive measure as is so taken.

(7) A preventive measure is a measure taken in order to minimise or prevent—

(a) injury to a person or damage to property constituting a breach of a duty imposed by section 7, 7B, 8, 9 or 10, or

(b) significant impairment of the environment occasioning costs or losses in respect of which a claim under section 11A(1) or 11G(1) or paragraph 1 of Schedule 1A may be made.

(8) A preventive measure is reasonably taken for the purposes of this section if taking that measure is appropriate and proportionate in the circumstances.

(9) Where the breach of a duty under section 7(1E), 7B, 8, 9 or 10(1A) consists of an event that creates a grave and imminent threat of a breach of another duty under section 7, 7B, 8, 9 or 10, no preventive measure may be considered appropriate and proportionate unless it is possible for there to be at least one person, not being a person involved in the event, whose likely exposure if the threatened breach of duty were to happen would be in excess of one of the following—

(a) an effective dose of 5 mSv in the period of one year beginning with the day on which the threatened breach of duty happens or begins to happen;

(b) an equivalent dose for the lens of the eye of 15 mSv in that period;

(c) an equivalent dose for the skin of 50 mSv in that period over 1 cm^2 area of skin, regardless of the area exposed.

(10) In quantifying a person's likely exposure for the purposes of subsection (9), the effect of preventive measures taken to protect the person's health within 24 hours of the time when the event first creates the grave and imminent threat is to be disregarded.

(11) In subsection (9)—

(a) an effective dose is the sum of the effective dose to the whole body from external radiation and the committed effective dose from internal radiation;

(b) an equivalent dose for a particular human tissue or organ includes the committed equivalent dose to that tissue or organ from internal radiation;

(c) "external radiation", in relation to a person, means ionising radiation coming from outside the body of that person;

(d) "internal radiation", in relation to a person, means ionising radiation coming from inside the body of that person.

(12) Subsection (9) does not apply in the case of—

(a) preventive measures taken as regards a person involved in the event;

(b) preventive measures relating to the food supply.

(13) For the purposes of subsections (9) and (12), a person is involved in such an event if—

(a) where the event relates to a threatened breach of duty on a licensed site, the person is on the licensed site at any time when the event is happening,

(b) where the event relates to a threatened breach of duty involving nuclear matter in the course of carriage, the person is concerned with that carriage of nuclear matter at any time when the event is happening,

(c) where the event relates to a threatened breach of duty on a licensed site, the person is, after the event happens, on the licensed site for the purpose of taking preventive measures or taking part in an emergency response to the event, or

(d) where the event relates to a threatened breach of duty involving nuclear matter in the course of carriage, the person is at the place where the event is happening or has happened for the purpose of taking preventive measures or taking part in an emergency response to the event."

Right to compensation with respect to injury, damage and significant impairment of the environment

11.—(1) Section 12 of the 1965 Act (right to compensation) is amended as follows.

(2) For subsection (1) (when compensation is payable in accordance with section 16) substitute—

"(1) Where any injury or damage has been caused in breach of a duty imposed by section 7, 7B, 8, 9 or 10, compensation is payable in accordance with section 16 wherever the injury or damage was incurred.

(1A) Where any significant impairment of the environment has been caused in breach of a duty imposed by section 7, 7B, 8, 9 or 10, such compensation as may be claimed by virtue of section 11A(1) or 11G(1) or paragraph 1 of Schedule 1A is payable in accordance with section 16 wherever the impairment arises.

(1B) Where preventive measures are taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10, such compensation as may be claimed by virtue of section 11H(1) is payable in accordance with section 16 wherever the preventive measures are taken.

(1C) Where any injury to a person or damage to property is caused by preventive measures taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10, such compensation as may be claimed by virtue of section 11H(2) is payable in accordance with section 16 wherever the injury or damage was incurred.

(1D) Subsections (1) to (1C) are subject to—

(a) section 13(1), (1C), (3), (4) and (4A),

(b) section 15, and

(c) section 17(1).

(1E) No liability other than that imposed by subsections (1) to (1C) may be incurred by any person in respect of—

(a) injury, damage or significant impairment of the environment caused or threatened in breach of a duty imposed by section 7, 7B, 8, 9 or 10,

(b) preventive measures taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10, or

(c) injury or damage caused by preventive measures taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10.

(1F) Subsection (1E) is subject to—

(a) subsections (1G), (3) and (4), and

(b) section 21(2).

(1G) Subsection (1E) does not affect such liability as may be incurred in relation to—

(a) a preventive measure or part of a preventive measure in respect of which a claim for compensation under section 11H(1) may not be made, or

(b) such injury or damage as is excluded from a claim for compensation under this Act by section 11H(3).”

(3) For subsection (2) substitute—

“(2) Subject to subsection (3), any injury, damage or significant impairment of the environment which, though not caused in breach of a duty imposed by section 7, 7B, 8, 9 or 10, is not reasonably separable from injury, damage or significant impairment so caused, is to be deemed for the purposes of subsections (1) to (1C) to have been so caused.”

(4) In subsection (3) (injury or damage attributable to breach of duty under the Act and another cause: double compensation not allowed)—

(a) for “any injury or damage” substitute “any injury, damage or significant impairment of the environment”;

(b) for “same injury or damage” substitute “same injury, damage or significant impairment of the environment”.

(5) For subsection (3A)(**a**) (special provision for property on site) substitute—

“(3A) Subject to subsection (4), where damage to any property has been caused which was not caused in breach of a duty imposed by section 7, 7B, 8, 9 or 10 but which would have been caused in breach of such a duty if in section 7(1A)(b) and (1C)(b) the words “other than the licensee” or in section 10(1)(b) the words “other than that operator” had not been enacted, no liability which, apart from this subsection, would have been incurred by any person in respect of that damage is to be so incurred except—

(a) in pursuance of an agreement to incur liability in respect of such damage entered into in writing before the occurrence of the damage, or

(b) where the damage was caused by an act or omission of that person done with intent to cause injury or damage.”

(6) After subsection (3A) insert—

“(3B) Subject to subsection (4), where compensation for damage to any property would have been payable by virtue of a claim under section 11H(2) if section 11H(4) had not been enacted, no liability which, apart from this subsection, would have been incurred by any person in respect of that damage is to be so incurred except—

(a) in pursuance of an agreement to incur liability in respect of such damage entered into in writing before the occurrence of the damage, or

(b) where the damage was caused by an act or omission done maliciously or negligently by the person whose breach of a duty imposed by section 7, 7B, 8, 9 or 10 is the reason for the claim.”

(7) In subsection (4)(**b**) (saving for conventions on international carriage), for the words from “subsection (1)(b)” to “this section” substitute “subsection (1E), (3A) or (3B)”.

(8) In the heading of section 12, omit “by virtue of ss. 7 to 10”.

(**a**) 1965 c.57. Section 12(3A) was inserted by the Nuclear Installations Act 1969 c.18, section 1.

(**b**) Section 12(4) was amended by the Nuclear Installations Act 1969 c.18, section 1 and the Carriage of Goods by Sea Act 1971 c.19, section 6(3).

Exclusion of rights to compensation in certain cases

12.—(1) Section 13 of the 1965 Act (exclusion, extension or reduction of compensation in certain cases) is amended as follows.

(2) For subsection (1) (exclusion of occurrences outside the United Kingdom and injury or damage incurred in a place not in a relevant territory) substitute—

"(1) Compensation is not payable under this Act in the case of a breach of a duty imposed by section 7, 7B, 8, 9 or 10 if—

(a) the breach of duty consisted of an occurrence falling within section 7(1B)(b) or 10(1) which took place wholly within the limits relating to a single relevant territory other than the United Kingdom;

(b) the breach of duty consisted of an event creating a grave and imminent threat of such breach of duty as is mentioned in paragraph (a) and the event took place wholly within the limits relating to a single relevant territory other than the United Kingdom;

(c) the injury, damage or significant impairment of the environment caused by the breach of duty was incurred within the territorial limits of a country or territory that is not a qualifying territory; or

(d) in relation to compensation that would but for this paragraph be claimed under section 11H(1) or (2), the preventive measures in question were or would be taken in a place within the territorial limits of a country or territory that is not a qualifying territory.

(1A) For the purposes of subsection (1), the limits relating to a relevant territory are—

(a) its territorial limits; and

(b) where the relevant territory has a relevant maritime zone, the limits of its relevant maritime zone (which are to be treated as applying to sea, sea bed, subsoil and airspace).

(1B) Subsection (1) is subject to subsections (2) and (5).

(1C) Compensation is not payable under this Act in the case of a breach of a duty imposed by section 10 if—

(a) the injury, damage or significant impairment of the environment caused by the breach of duty was incurred in, under or above the sea outside the territorial limits of any country or territory; or

(b) in relation to compensation that would but for this paragraph be claimed under section 11H(1) or (2), the preventive measures in question were or would be taken in, under or above the sea outside the territorial limits of any country or territory.

(1D) Subsection (1C) does not apply if the injury, damage or significant impairment of the environment in question was incurred or the preventive measures in question were or would be taken—

(a) in or above the sea within the exclusive economic zone of any qualifying territory, or

(b) on the continental shelf of any qualifying territory.

(1E) Subsection (1C) is also subject to subsections (2A) and (5)."

(3) In subsection (2) (limitation in subsection (1)(b) not to apply to United Kingdom-registered ships and aircraft)—

(a) after "section 7" insert ", 7B", and

(b) for "subsection (1)(b)" substitute "subsection (1)(c) and (d)".

(4) After subsection (2) insert—

"(2A) In the case of a breach of duty imposed by section 10, subsection (1C)(b) does not apply to injury or damage incurred by, or by persons or property on, a ship or aircraft registered in a qualifying territory."

(5) In subsection (3) (certain liability arising by virtue of section 10 to depend on agreement in writing)—

(a) for "in respect of injury or damage caused by" substitute "in the case of", and

(b) for the words from "as is" to "that section" substitute "as satisfies the condition in section 10(4) by reference to the condition in section 7A(2)".

(6) For subsection (4) (effect of armed conflict or natural disaster) substitute—

"(4) A duty imposed by section 7(1A) or (1C), 7B, 8, 9, 10(1) or 11 as regards occurrences—

(a) does not impose on the person subject to that duty any liability with respect to injury, damage or impairment of the environment caused by an occurrence which constitutes a breach of that duty if the occurrence, or the fact that the occurrence causes the injury, damage or impairment of the environment, is attributable to hostile action in the course of any armed conflict, including any armed conflict within the United Kingdom; but

(b) does impose such a liability where the occurrence, or the fact that the occurrence causes the injury, damage or significant impairment of the environment, is attributable to a natural disaster, notwithstanding that the disaster is of such an exceptional character that it could not reasonably have been foreseen.

(4A) A duty imposed by section 7(1E), 7B, 8, 9 or 10(1A) as regards events creating a grave and imminent threat of a breach of another duty imposed by section 7, 7B, 8, 9 or 10—

(a) does not impose any liability on the person subject to that duty if the event is attributable to hostile action in the course of any armed conflict, including any armed conflict within the United Kingdom; but

(b) does impose such a liability where the event is attributable to a natural disaster, notwithstanding that the disaster is of such an exceptional character that it could not reasonably have been foreseen."

Extension of rights to compensation in certain cases

13.—(1) Section 13 of the 1965 Act is further amended as follows.

(2) For subsection (5)(**a**) (claim for compensation by a person who makes a payment in respect of injury etc but not because the person is subject to a duty under this Act) substitute—

"(5) Where, in the case of an occurrence or event which constitutes a breach of a duty under section 7, 7B, 8, 9 or 10, a person ("A") other than the person subject to that duty makes a payment to another person ("B") in respect of material harm connected to the breach of duty or the cost of preventive measures taken after the breach of duty and—

(a) the payment is made in pursuance of any of the international conventions referred to in the Acts mentioned in section 12(4), or

(b) the payment is made in accordance with the law of a country or territory that is not a relevant territory,

A may make such claim under this Act (if any) as would have been available to A if the material harm in question had affected A or A's property or A had incurred the cost of taking the preventive measures.

(**a**) Section 13(5) was amended by the Nuclear Installations Act 1969 c.18, section 3 and the Energy Act 1983 c.25, section 27(3).

(5ZA) A reference in subsection (5) to material harm connected to a breach of a duty under section 7, 7B, 8, 9 or 10 is a reference to—

(a) injury, damage to property or significant impairment of the environment caused by the occurrence which constitutes the breach of duty, or

(b) injury or damage to property caused by a preventive measure taken after the occurrence or event which constitutes the breach of duty.

(5ZB) A claim for compensation under this Act made by A by virtue of subsection (5) is not to be treated as a special relevant claim unless it would have been such a claim if made by B."

(3) In subsection (5A)(**a**) (limit on claims made by virtue of subsection (5)), for the words from "paragraph (b)" to the end substitute "subsection (5)(b), is subject to the limit on liability under section 16(1), (1ZA), (1ZB) or (2) that is applicable to the person subject to the duty."

Reduction of compensation in certain cases

14. In section 13 of the 1965 Act, for subsection (6) (reduction of compensation for deliberate or reckless injury etc) substitute—

"(6) The amount of compensation payable to or in respect of any person under this Act by virtue of a breach of a duty imposed by section 7, 7B, 8, 9 or 10 may be reduced in accordance with subsection (7).

(7) The amount may be reduced if, and to the extent that, the injury, damage or significant impairment of the environment in respect of which the compensation is, or would but for this subsection be, payable to or in respect of the person is attributable to—

(a) an act or omission of that person done with the intention of causing harm to any person or property or to any part of the environment, or

(b) an act or omission of that person done with reckless disregard for the consequences of the act or omission."

Damage to property and measures of reinstatement

15. After section 13 of the 1965 Act insert—

"**13A Damage to property and measures of reinstatement**

(1) Subsection (2) applies if—

(a) a person claims compensation under this Act in respect of damage to property,

(b) the property is affected by relevant measures of reinstatement (as defined by section 11A) that have been taken by, or under arrangements made by, a qualifying public authority (as defined in section 11A), and

(c) the damage to property and the significant impairment of the environment were caused by the same occurrence.

(2) The court that is determining the person's claim in respect of damage to property must take into account, as affecting the amount of the person's loss, any benefit or loss that—

(a) arises from or in connection with the measures of reinstatement, and

(b) is gained or suffered by the person.

(3) Subsection (4) applies if—

(a) a person claims compensation under this Act in respect of damage to property,

(b) the property is affected, or likely to be affected by, relevant measures of reinstatement—

(**a**) Section 13(5A) was inserted by the Energy Act 1983 c.25, section 27(3).

(i) that have been started by, or under arrangements made by, a qualifying public authority but have not been completed, or

(ii) that are proposed to be taken by, or under arrangements made by, a qualifying public authority, and

(c) the damage to property and the significant impairment of the environment were caused by the same occurrence.

(4) The court in determining the person's claim in respect of damage to property may, if it considers it just to do so, take into account, as affecting the amount of the person's loss, any benefit or loss that is likely to—

(a) arise from or in connection with the measures of reinstatement as proposed to be carried out and be gained by the person, and

(b) be gained or suffered (as the case may be) by the person.

(5) Where the court determines a person's claim in the manner described in subsection (2) or (4), the person may not claim to be further compensated under this Act in respect of measures of reinstatement affecting the property that are taken because of the same occurrence.

(6) Subsection (7) applies if—

(a) a qualifying public authority claims compensation under this Act by virtue of section 11A(1) in relation to significant impairment of a part of the environment ("the section 11A(1) claim"),

(b) some or all of the significant impairment also constitutes damage to property, and

(c) the amount of compensation payable in respect of the section 11A(1) claim falls to be determined after—

(i) a court has determined, in proceedings for compensation under this Act for damage to a person's property, that compensation is payable in accordance with section 16 for the damage to the property, or

(ii) the persons who are, or would be, parties to such proceedings have agreed for the purposes of such proceedings that compensation is payable in accordance with section 16 for the damage to the property.

(7) The court in determining the section 11A(1) claim may, if it considers it just to do so, reduce the amount of compensation otherwise payable in accordance with section 16 so that compensation claimed by virtue of section 11A(1) is not payable by reference to matters for which compensation for damage to property is already payable.

(8) Subsections (1) to (7) apply in relation to—

(a) relevant measures of reinstatement (as defined by paragraph 1 of Schedule 1A),

(b) persons who satisfy the condition in paragraph 2 of Schedule 1A, and

(c) claims made by virtue of paragraph 1 of Schedule 1A,

as they apply in relation to relevant measures of reinstatement (as defined by section 11A), qualifying public authorities and claims made by virtue of section 11A(1)."

Liens etc in respect of ships and aircraft excluded

16.—(1) Section 14 of the 1965 Act (protection for ships and aircraft) is amended as follows.

(2) In subsection (1)(**a**), for the words from the beginning to "shall not" (in the first place) substitute "A claim under this Act falling within subsection (1A) is not to".

(3) After subsection (1) insert—

"(1A) The claims are—

(**a**) Section 14(1) was amended by the Merchant Shipping Act 1979 c.39, section 50(4) and Schedule 7, Part 1.

(a) a claim in respect of an occurrence falling within section 7(1B)(b), 10(1) or 11 which constitutes a breach of a person's duty under section 7, 7B, 8, 9, 10 or 11;

(b) a claim in respect of an event that constitutes a breach of a duty under section 7(1E), 7B, 8, 9 or 10(1A) where the threatened breach of duty would consist of an occurrence falling within section 7(1B)(b) or 10(1)."

Time for bringing claims under sections 7 to 11

17.—(1) Section 15 of the 1965 Act (time for bringing claims under sections 7 to 11) is amended as follows.

(2) For subsection (1) (claim not to be entertained if made more than 30 years after the relevant date) substitute—

"(1) A claim by virtue of section 7, 7B, 8, 9, 10 or 11 of this Act may be made at any time before, but is not to be entertained if made at any time after, the expiration of 10 years from the relevant date.

(1A) Subsection (1) is subject to subsections (3), (4) and (6)."

(3) At the end of the section insert—

"(3) A claim in respect of injury caused by a breach of a duty under section 7, 7B, 8, 9, 10 or 11 may be made at any time before, but is not to be entertained if made at any time after, the expiration of 30 years from the relevant date.

(4) A claim in respect of injury where—

(a) that injury is caused by ionising radiations, and

(b) exposure to those ionising radiations is the result of preventive measures having been taken after a breach of a duty under section 7, 7B, 8, 9 or 10,

may be made at any time before, but is not to be entertained if made at any time after, the expiration of 30 years from the relevant date.

(5) Subsections (3) and (4) are subject to subsection (6).

(6) A claim made after the expiration of the period that applies to it because of subsection (1), (3) or (4) may be entertained if—

(a) the European Nuclear Energy Tribunal has determined that a court in the United Kingdom has jurisdiction in respect of that claim or description of claim, and

(b) the claim is brought—

(i) within the period specified by the Tribunal, or

(ii) if the Tribunal does not specify a period, within the period of 28 days beginning with the day after the day on which the Tribunal made its determination.

(7) This section has effect notwithstanding provision in any other enactment about the period of time for the bringing of proceedings.

(8) A reference in this section to the relevant date is—

(a) in the case of a claim in respect of an occurrence which constitutes a breach of a person's duty under section 7(1A) or (1C), 7B, 8, 9, 10(1) or 11, a reference to—

(i) the date of the occurrence,

(ii) where the occurrence is a continuing one, the date of the last thing to happen in the course of that occurrence,

(iii) where the occurrence is one of a succession of occurrences, all of which are attributable to a particular happening on a particular relevant site or to the carrying out from time to time on a relevant site of a particular operation, the date of the last thing to happen in the course of that succession of occurrences, or

(iv) where the occurrence is one of a succession of occurrences, all of which are attributable to a particular happening and take place during one course of carriage, the date of the last thing to happen in the course of that succession of occurrences;

(b) in the case of a claim in respect of an event which constitutes a breach of a person's duty under section 7(1E), 7B, 8, 9 or 10(1A) because it created a grave and imminent threat of a breach of another duty imposed by section 7, 7B, 8, 9 or 10, a reference to—

(i) the date of the event,

(ii) where the event is a continuing one, the date of the last thing to happen in the course of that event,

(iii) where the event is one of a succession of events, all of which are attributable to a particular happening on a particular relevant site, the date of the last thing to happen in the course of that succession of events, or

(iv) where the event is one of a succession of occurrences, all of which are attributable to a particular happening and take place during one course of carriage, the date of the last thing to happen in the course of that succession of events."

Nuclear matter that is stolen, lost, jettisoned or abandoned

18.—(1) In section 15 of the 1965 Act, omit subsection (2) (twenty-year limitation period where breach of duty involved nuclear matter that is stolen, lost, jettisoned or abandoned).

Satisfaction of claims by operator of site

19.—(1) Section 16 of the 1965 Act (satisfaction of claims by virtue of sections 7 to 10) is amended as follows.

(2) For subsection (1)(**a**) (liability of a United Kingdom operator) substitute—

"(1) The liability of a person to pay compensation under this Act by virtue of a duty imposed on that person by section 7, 7B, 8 or 9 does not require that person to make in respect of any one occurrence or event constituting a breach of that duty payments by way of compensation exceeding in the aggregate, apart from payments in respect of interest or costs—

(a) the equivalent in sterling of 70 million euros, where the person is the licensee of a licensed site that is prescribed for the purposes of this paragraph and the breach of duty is a breach of duty by that person as licensee of that licensed site that consists of—

(i) an occurrence or event on the licensed site, or

(ii) an occurrence or event elsewhere than on the licensed site involving nuclear matter other than excepted matter, where the nuclear matter in question satisfies the condition in section 7A(8) in relation to the licensee, without also satisfying any of the conditions in section 7A(2) to (7);

(b) the equivalent in sterling of 70 million euros, where the person is the operator of a relevant disposal site that is a site prescribed for the purposes of this paragraph and the breach of duty is a breach of duty by that person as the operator of that relevant disposal site that consists of—

(i) an occurrence or event on the relevant disposal site, or

(**a**) 1965 c.57. Section 16(1) was amended by the Energy Act c.25, section 27(1) and S.I. 1994/909, article 2. The function conferred by section 16(1) is, in so far as it is exercisable in or as regards Scotland, only exercisable after consultation with the Scottish Ministers (S.I. 1999/1750, article 4 and Schedule 3).

(ii) an occurrence or event elsewhere than on the relevant disposal site involving nuclear matter other than excepted matter, where the nuclear matter in question satisfies the condition in section 7A(8) (as applied by section 7B) in relation to the operator, without also satisfying any of the conditions in section 7A(2) to (7) (as applied by section 7B);

(c) the equivalent in sterling of 160 million euros, where the person is the licensee of a licensed site that is prescribed for the purposes of this paragraph and the breach of duty is a breach of duty by the person as licensee of that licensed site that consists of—

(i) an occurrence or event on the licensed site, or

(ii) an occurrence or event elsewhere than on the licensed site involving nuclear matter other than excepted matter, where the nuclear matter in question satisfies the condition in section 7A(8) in relation to the licensee, without also satisfying any of the conditions in section 7A(2) to (7);

(d) the equivalent in sterling of 80 million euros, in the case of an occurrence or event involving nuclear matter which is not excepted matter and which is either in the course of such carriage as is described in section 7A(2)(a), (3)(a), (4)(a), (5)(a) or (7)(a) or in such case as is described in section 7A(6)(c) or (7)(b), where—

(i) the nuclear matter in question meets such conditions as are prescribed for the purposes of this paragraph or such conditions specific to the means of carriage used as are prescribed for the purposes of this paragraph, and

(ii) that occurrence or event constitutes a breach of duty by a licensee as licensee of a licensed site;

(e) the equivalent in sterling of 80 million euros, in the case of an occurrence or event involving nuclear matter which is not excepted matter and which is either in the course of such carriage as is described in section 7A(2)(a), (3)(a), (4)(a), (5)(a) or (7)(a) (as applied by section 7B) or in such case as is described in section 7A(6)(c) or (7)(b) (as applied by section 7B), where—

(i) the nuclear matter in question meets such conditions as are prescribed for the purposes of this paragraph or such conditions specific to the means of carriage used as are prescribed for the purposes of this paragraph, and

(ii) that occurrence or event constitutes a breach of duty by the operator of a relevant disposal site in that capacity;

(f) subject to section 16B, the equivalent in sterling of 1,200 million euros, in any other case.

(1ZA) Notwithstanding subsection (1), if the amount payable by a person in respect of claims for compensation under this Act in respect of any one occurrence or event constituting a breach of a duty imposed on that person by section 7, 7B, 8 or 9 reaches, in the aggregate and apart from interest or costs, the equivalent in sterling of 700 million euros, that person is not required to satisfy further claims for compensation except to the extent that they are special relevant claims.

(1ZB) Notwithstanding subsection (1), if—

(a) the amount payable by a person in respect of claims for compensation under this Act in respect of any one occurrence or event constituting a breach of a duty imposed on that person by section 7, 7B, 8 or 9 reaches, in the aggregate and apart from interest or costs, the amount in sterling that is—

(i) the limit on liability established by the law of a relevant reciprocating territory made for purposes corresponding to those of subsection (1ZA), or

(ii) the equivalent in sterling of an amount denominated in another currency or unit of account that is the limit on liability established by the law of a relevant reciprocating territory made for such purposes, and

(b) that amount in sterling is less than the amount that would apply if the applicable limit were the limit in subsection (1ZA),

that person is not required to satisfy further claims for compensation to the extent that they are referable to that relevant reciprocating territory."

(3) In subsection (1A)(**a**) (power of Secretary of State to alter amounts)—

(a) for "either or both of the amounts specified in subsection (1) of this section" substitute "any amount specified in subsection (1), (1ZA) or (3B)", and

(b) for the words "any occurrence before (or beginning before)" substitute "an occurrence or event happening before (or beginning to happen before)".

(4) In subsection (2) (liability of a relevant foreign operator for breach of a duty imposed by section 10)—

(a) after "occurrence" (in both places) insert "or event";

(b) in paragraph (a), after "section 7," insert "7B,".

(5) At the end of the section insert—

"(6) Before exercising any function under subsection (1) or (1A) in or as regards Scotland, the Secretary of State must consult the Scottish Ministers.

(7) A reference in this section to the equivalent in sterling of an amount denominated in another currency or unit of account is a reference to the amount of sterling that is the equivalent of that amount in that currency or those units on the day (or the first day) of the occurrence or event in question."

Satisfaction of claims by Secretary of State etc

20.—(1) Section 16 of the 1965 Act is further amended as follows.

(2) For subsection (3)(**b**) (the use of United Kingdom and foreign public funds to satisfy claims for compensation) substitute—

"(3) A claim by virtue of a duty imposed on a person by section 7, 7B, 8, 9 or 10—

(a) to the extent to which, by virtue of subsection (1) or (2), though duly established, it is not or would not be payable by that person, or

(b) which is a claim the full satisfaction of which out of funds otherwise required to be, or to be made, available for the purpose is prevented by section 21(1),

may be the subject of proceedings for compensation under this Act brought against the appropriate authority.

(3A) Payments of compensation under this Act made by the appropriate authority in such proceedings may not exceed in the aggregate, apart from payments in respect of interest or costs, the amount of the sums made available for the purpose under section 18.

(3B) If the amount payable in respect of claims for compensation under this Act in respect of any one occurrence or event constituting a breach of a duty imposed on a person by section 7, 7B, 8, 9 or 10 reaches, in the aggregate and apart from interest or costs, the equivalent in sterling of 700 million euros, the appropriate authority is not required to satisfy further claims for compensation except to the extent that they are special relevant claims.

(3C) If the amount payable in respect of claims for compensation under this Act in respect of any one occurrence or event constituting a breach of a duty imposed on a person by section 7, 7B, 8, 9 or 10 reaches, in the aggregate and apart from interest or costs, the amount in sterling that is—

(**a**) Section 16(1A) was inserted by the Energy Act 1983 c.25, section 27(2). The function conferred by section 16(1A) is, in so far as it is exercisable in or as regards Scotland, only exercisable after consultation with the Scottish Ministers (S.I. 1999/1750, article 4 and Schedule 3).

(**b**) Section 16(3) was amended by S.I. 1999/1820, Schedule 2, Part 1, paragraph 38(2).

(a) the limit on liability established by the law of a relevant reciprocating territory made for purposes corresponding to those of subsection (3B), or

(b) the equivalent in sterling of an amount denominated in another currency or unit of account that is the limit on liability established by the law of a relevant reciprocating territory made for such purposes,

the appropriate authority is not required to satisfy further claims for compensation to the extent that they are referable to that relevant reciprocating territory.

(3D) Subsection (3E) has effect in relation to—

(a) a claim falling within subsection (3) to the extent that, leaving aside payments in respect of interest or costs, it is not or would not be satisfied out of sums made available for the purpose under section 18 or by means of a relevant foreign contribution;

(b) a claim that is not satisfied, or so much of a claim as is not satisfied, because of—

(i) subsection (1ZA) or (1ZB),

(ii) a relevant foreign law made for purposes corresponding to those of subsection (1ZA) or (1ZB) which is given effect by subsection (2), or

(iii) subsection (3B) or (3C).

(3E) If the claim is established to the satisfaction of the appropriate authority, it is to be satisfied by the appropriate authority—

(a) to such extent as Parliament may determine, and

(b) out of funds provided by such means as Parliament may determine.

(3F) Provision made by Parliament under subsection (3E) may make different provision for different sorts of claim."

(3) In subsection (4) (resolution of legal questions relating to compensation beyond the requirements of the Paris Convention and the Brussels Supplementary Convention)—

(a) for "subsection (3) of this section" substitute "subsection (3E)";

(b) for the words from "the appropriate court" to "the claim" substitute "the court that would have had jurisdiction in accordance with section 16C to determine the claim but for this section".

(4) Omit subsection (5) (definition of "the relevant period").

(5) After subsection (7) (inserted by article 19) insert—

"(8) In this section "appropriate authority" means—

(a) in the case of a claim by virtue of section 9 where the government department concerned is a part of the Scottish Administration, the Scottish Ministers;

(b) in any other case, the Secretary of State."

Section 16 of the 1965 Act: supplementary

21. After section 16 of the 1965 Act insert—

"**16A Section 16: supplementary**

(1) This section applies for the purposes of section 16.

(2) A claim for compensation under this Act in the case of a breach of a duty imposed by section 7, 7B, 8, 9 or 10 is referable to a relevant reciprocating territory if—

(a) the injury or damage for which compensation is claimed is such injury or damage as is mentioned in subsection (3),

(b) the significant impairment of the environment by reference to which compensation is claimed by virtue of section 11A(1) or 11G(1) or paragraph 1 of Schedule 1A is

such significant impairment of the environment as is mentioned in subsection (3), or

(c) the preventive measures by reference to which compensation is claimed by virtue of section 11H(1) or (2) are preventive measures relating to such injury, damage or significant impairment of the environment as is mentioned in subsection (3).

(3) The injury, damage and significant impairment of the environment referred to in subsection (2) are—

(a) injury, damage or significant impairment of the environment that is incurred within the territorial limits of that relevant reciprocating territory;

(b) injury, damage or significant impairment of the environment that is incurred in or above the exclusive economic zone or on the continental shelf of that relevant reciprocating territory;

(c) injury or damage that is incurred in or above the sea outside the territorial limits of any country or territory by, or by persons or property on, a ship or aircraft registered in that relevant reciprocating territory.

(4) A claim for compensation under this Act in the case of a breach of a duty imposed by section 7, 7B, 8, 9 or 10 is a special relevant claim if—

(a) the injury or damage for which compensation is claimed is such injury or damage as is mentioned in subsection (5),

(b) the significant impairment of the environment by reference to which compensation is claimed by virtue of section 11A(1) or 11G(1) or paragraph 1 of Schedule 1A is such significant impairment of the environment as is mentioned in subsection (5), or

(c) the preventive measures by reference to which compensation is claimed by virtue of section 11H(1) or (2) are preventive measures relating to such injury, damage or significant impairment of the environment as is mentioned in subsection (5).

(5) The injury, damage and significant impairment of the environment referred to in subsection (4) are—

(a) injury, damage or significant impairment of the environment that is incurred within the territorial limits of the United Kingdom or a special relevant territory;

(b) injury, damage or significant impairment of the environment that is incurred in or above the exclusive economic zone or on the continental shelf of the United Kingdom or a special relevant territory in connection with the exploitation or exploration of the natural resources of that exclusive economic zone or continental shelf;

(c) injury or damage that is incurred in or above the sea outside the territorial limits of any country or territory by, or by persons or property on, a ship or aircraft registered in the United Kingdom or a special relevant territory;

(d) injury or damage that is incurred in or above the sea outside the territorial limits of any country or territory by a national of the United Kingdom or a special relevant territory;

(e) injury or damage that is incurred outside the territorial limits of any country or territory by, or by persons or property on, an artificial island, installation or structure that is subject to the jurisdiction of the United Kingdom or a special relevant territory.

(6) A relevant territory other than the United Kingdom is a special relevant territory if—

(a) in the case of a relevant territory that is a country, the law of the country satisfies the conditions in subsection (7), or

(b) in the case of a relevant territory that is an overseas territory of a country—

(i) the law of the country makes (or the laws of the country and overseas territory make) such provision with respect to the overseas territory as is described in subsection (7) with respect to the country, and

(ii) the relevant international agreement in pursuance of which that provision is made applies for the time being to the overseas territory.

(7) The conditions referred to in subsection (6)(a) are—

(a) that the law of the country makes provision, in pursuance of a relevant international agreement, for sums additional to those mentioned in section 18(1)(a) to be made available out of public funds;

(b) that the law of the country makes provision, in pursuance of that relevant international agreement, for the maximum aggregate amount of compensation in respect of an occurrence or event to be equal to or more than that specified in section 18(1A).

(8) A reference in this section to a national of the United Kingdom—

(a) includes a reference to—

(i) a public authority,

(ii) a body incorporated under the law of any part of the United Kingdom,

(iii) an unincorporated body established under the law of any part of the United Kingdom, and

(iv) a trust the validity of which is governed by the law of a part of the United Kingdom;

(b) as regards individuals, is a reference to—

(i) a British citizen, a British overseas territory citizen, a British National (Overseas) or a British Overseas citizen;

(ii) a British subject under the British Nationality Act 1981; or

(iii) a British protected person within the meaning of that Act.

(9) In this section—

"national", in relation to a special relevant territory, includes—

(a) that special relevant territory and any part of it,

(b) a public or private body established in the special relevant territory or part of it, whether a body corporate or not,

(c) a partnership established in the special relevant territory or part of it, and

(d) a trust the validity of which is governed by the law of the special relevant territory;

"public authority" has the same meaning as in section 11A."

Section 16: phasing of increases in liability

22. After section 16A of the 1965 Act (inserted by article 21) insert—

"**16B Section 16: phasing of increases in liability**

(1) The reference in section 16(1)(f) to 1,200 million euros has effect in relation to liability in respect of any occurrence or event constituting a breach of a duty under section 7, 7B, 8 or 9 that happens in (or begins to happen in) a year mentioned below as if there were substituted a reference to the amount specified below for that year—

(a) for the first year, 700 million euros;

(b) for the second year, 800 million euros;

(c) for the third year, 900 million euros;

(d) for the fourth year, 1,000 million euros;

(e) for the fifth year, 1,100 million euros.

(2) For the purposes of this section—

(a) the first year is the period of a year beginning with the appropriate day;

(b) the second, third, fourth and fifth years are the periods of a year beginning with the first, second, third and fourth anniversaries, respectively, of the appropriate day.

(3) "The appropriate day" means the day on which article 19 of the Nuclear Installations (Liability for Damage) Order 2016 comes fully into force."

Jurisdiction of courts in the United Kingdom

23. After section 16B of the 1965 Act (inserted by article 22) insert—

"**16C Jurisdiction of courts in the United Kingdom**

(1) This section has effect, subject to section 17(1), for determining which of the High Court of Justice, the Court of Session and the High Court of Justice in Northern Ireland has jurisdiction in the case of—

(a) a claim by virtue of a duty imposed on a person by section 7, 7B, 8, 9 or 10, or

(b) an application for the determination of a question relating to such a claim.

(2) The High Court of Justice has jurisdiction if the claim relates to an occurrence or event constituting a breach of duty that takes place wholly within the part of the United Kingdom that consists of England and Wales.

(3) The Court of Session has jurisdiction if the claim relates to an occurrence or event constituting a breach of duty that takes place wholly within Scotland.

(4) The High Court of Justice in Northern Ireland has jurisdiction if the claim relates to an occurrence or event constituting a breach of duty that takes place wholly within Northern Ireland.

(5) For the purposes of subsections (2) to (4) as they apply to an occurrence falling within section 7(1B)(b) or 10(1) or to an event creating a threat of a breach of duty consisting of such an occurrence—

(a) an occurrence or event that continues while the matter involved is carried from one part of the United Kingdom to another, is to be treated as taking place in the part where it began;

(b) an occurrence that is one of a succession of occurrences or an event that is one of a succession of events, all of which are attributable to a particular happening and take place during one course of carriage, is to be treated as taking place in whichever part of the United Kingdom is the part where the first occurrence in that succession of occurrences, or the first event in that succession of events, happened;

(c) an occurrence or event that takes place within more than one part of the United Kingdom at the same time, and to which neither paragraph (a) nor paragraph (b) applies, is to be treated as taking place in whichever part of the United Kingdom is the part within which the matter involved was last wholly located before the occurrence or event took place.

(6) If none of subsections (2) to (4) applies in the case of a claim or application, the court that has jurisdiction is—

(a) if the claim relates to a person's breach of duty as the licensee of a licensed site in the part of the United Kingdom consisting of England and Wales, the operator of a relevant disposal site in that part of the United Kingdom, or the occupier of any other relevant site in that part of the United Kingdom, the High Court of Justice;

(b) if the claim relates to a person's breach of duty as the licensee of a licensed site in Scotland, the operator of a relevant disposal site in Scotland, or the occupier of any other relevant site in Scotland, the Court of Session;

(c) if the claim relates to a person's breach of duty as the licensee of a licensed site in Northern Ireland, the operator of a relevant disposal site in Northern Ireland, or the occupier of any other relevant site in Northern Ireland, the High Court of Justice in Northern Ireland.

(7) If, in consequence of a single occurrence or event that constitutes two or more breaches of the duties imposed by sections 7, 7B, 8, 9 and 10, more than one court would have jurisdiction under subsection (6), the court that is to have jurisdiction is the High Court of Justice.

(8) The High Court of Justice has jurisdiction in the case of a claim or application which falls under a relevant international agreement to be determined by a court in the United Kingdom but to which none of subsections (2) to (6) applies.

(9) In this section—

(a) a reference to a part of the United Kingdom is a reference to—

(i) England and Wales,

(ii) Scotland, or

(iii) Northern Ireland;

(b) a reference to England and Wales includes a reference to—

(i) areas within the territorial limits of the United Kingdom, other than Scotland or Northern Ireland or areas adjacent to Scotland or Northern Ireland, and

(ii) the relevant maritime zone of the United Kingdom, other than the relevant maritime zone adjacent to Scotland or Northern Ireland, and the sea bed and subsoil within, and the airspace above, that part of that zone;

(c) a reference to Scotland includes a reference to—

(i) areas within the territorial limits of the United Kingdom that are adjacent to Scotland, and

(ii) the relevant maritime zone of the United Kingdom adjacent to Scotland and the sea bed and subsoil within, and the airspace above, that part of that zone;

(d) a reference to Northern Ireland includes a reference to—

(i) areas within the territorial limits of the United Kingdom that are adjacent to Northern Ireland, and

(ii) the relevant maritime zone of the United Kingdom adjacent to Northern Ireland and the sea bed and subsoil within, and the airspace above, that part of that zone.

(10) For the purposes of this section—

(a) an area is adjacent to Scotland if it lies within the boundaries determined under section 126(2) of the Scotland Act 1998;

(b) an area is adjacent to Northern Ireland if it lies within the boundaries determined under section 98(8) of the Northern Ireland Act 1998."

Jurisdiction of courts in the United Kingdom: jurisdiction excluded

24.—(1) Section 17 of the 1965 Act (jurisdiction etc) is amended as follows.

(2) In subsection (1)(**a**) (jurisdiction of courts in the United Kingdom, or in a part of the United Kingdom, excluded by a certificate of the Secretary of State or the Scottish Ministers)—

(a) omit the words "or any part thereof";

(b) for "the Minister" substitute "the appropriate authority";

(**a**) The function conferred by section 17(1) has been transferred, in so far as it is exercisable in or as regards Scotland, to the Scottish Ministers by S.I. 1999/1750, article 2, Schedule 1.

(c) omit the words "or, as the case may be, of some other part of the United Kingdom";

(d) omit the words "or, as the case may be, that part thereof".

(3) Omit subsection (2) (certificate as evidence of the jurisdiction of a court in a particular part of the United Kingdom).

(4) After subsection (6) insert—

"(7) In this section "appropriate authority" means—

(a) in relation to England and Wales and Northern Ireland, the Secretary of State;

(b) in relation to Scotland, the Scottish Ministers."

Shared liability and foreign judgments

25.—(1) Section 17 of the 1965 Act is further amended as follows.

(2) In subsection (3)(**a**) (two or more persons in breach of a duty imposed under the Act or relevant foreign law: liability of the persons to be joint and several and claims to be satisfied by the persons to a certain extent before recourse to UK public funds is allowed)—

(a) after "section 7," insert "7B,";

(b) for "the same injury or damage" substitute "the same injury, damage or significant impairment of the environment or the same grave and imminent threat of injury, damage or impairment";

(c) for "relating to that injury or damage" substitute "relating to that matter";

(d) in paragraph (a), for "that injury or damage" substitute "that matter";

(e) in paragraph (b), for the words from "occurrence" to "paragraph" substitute "occurrence or event by virtue of which the person in question is liable for that matter have been satisfied to the extent mentioned in subsection (3A), no sums in excess of those required for the purposes of subsection (3A)(a)";

(f) in paragraph (b), in the words following sub-paragraph (ii), for "that injury or damage" substitute "that matter".

(3) After subsection (3) insert—

"(3A) The claims mentioned in subsection (3)(b) are to be satisfied—

(a) in the case of a licensee, the operator of a relevant disposal site, the Authority or the Crown, up to an aggregate amount that is equal to the amount applicable under section 16(1) to the person in question in the circumstances in question;

(b) in the case of a relevant foreign operator, up to such aggregate amount as may be provided for by the relevant foreign law made for purposes corresponding to section 19(1).

(3B) A person is not required under subsection (3A) to satisfy a claim for compensation to the extent that it is excluded by—

(a) section 16(1ZA) or (1ZB), or

(b) the relevant foreign law made for purposes corresponding to section 16(1ZA) or (1ZB) (as the case may be)."

(4) In subsection (4)(**b**) (application of Part 1 of the Foreign Judgments (Reciprocal Enforcement) Act 1933 to court judgments certified as relevant foreign judgments)—

(a) for "of any foreign country" substitute "of a relevant territory other than the United Kingdom";

(b) for "the Minister" substitute "the appropriate authority";

(**a**) 1965 c.57. Section 17(3) was amended by the Energy Act 1983 c.25, sections 28(4) and 36 and Schedule 4, Part 2.

(**b**) The function conferred by section 17(4) has been transferred, in so far as it is exercisable in or as regards Scotland, to the Scottish Ministers by S.I. 1999/1750, article 2, Schedule 1.

(5) In subsection (5)(**a**) (defence to recovery of sums due under foreign judgments)—

(a) after "a country" insert "or territory";

(b) in paragraph (a), for "injury or damage" substitute "injury, damage or impairment of the environment or a grave and imminent threat of injury, damage or impairment of the environment";

(c) in paragraph (b), after "the country" insert "or territory".

Notice to Secretary of State of proceedings

26. After section 17 of the 1965 Act insert—

"**17A Notice to the Secretary of State of proceedings**

(1) If a person brings proceedings in any part of the United Kingdom in relation to which the condition in subsection (3) is satisfied, the person must notify the Secretary of State of the proceedings when they are brought.

(2) If a person makes a claim in proceedings brought in any part of the United Kingdom as a result of which the condition in subsection (3) is satisfied in relation to the proceedings, the person must notify the Secretary of State of the proceedings when that claim is made.

(3) The condition is that—

(a) a breach of a duty imposed on a person by section 7, 7B, 8, 9 or 10 is alleged in the proceedings,

(b) the effect of any of sections 7 to 21 and Schedule 1A is in issue in the proceedings, or

(c) a matter relating to a relevant international agreement is in issue in the proceedings.

(4) When a person notifies the Secretary of State of proceedings under subsection (1), the person must at the same time send the Secretary of State—

(a) a copy of the document that initiates the proceedings, and

(b) if the claim being made by the person is not set out in the document that initiates the proceedings, a copy of the document that sets out the claim for the purposes of the proceedings.

(5) When a person notifies the Secretary of State of proceedings under subsection (2), the person must at the same time send the Secretary of State a copy of the document that sets out the claim in question for the purposes of the proceedings.

(6) A person is to be treated as notifying the Secretary of State of proceedings if the person seeks to make the Secretary of State a party to the proceedings."

Right of Secretary of State or foreign government to intervene

27.—(1) After section 17A of the 1965 Act (inserted by article 26) insert—

"**17B Right of the Secretary of State to intervene**

(1) If it appears to the Secretary of State that the condition in subsection (2) is satisfied as regards proceedings brought in any part of the United Kingdom, the Secretary of State is entitled, on giving notice to the court, to be joined as a party to those proceedings.

(2) The condition is that—

(a) a breach of a duty imposed on a person by section 7, 7B, 8, 9 or 10 is alleged in the proceedings,

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(**a**) Section 17(5) was amended by the Energy Act 1983 c.25, section 31.

(b) the effect of any of sections 7 to 21 and Schedule 1A is in issue in the proceedings, or

(c) a matter relating to a relevant international agreement is in issue in the proceedings.

(3) The Secretary of State may give notice under subsection (1) at any time during the proceedings."

(2) After section 17B of the 1965 Act (inserted by paragraph (1)) insert—

"**17C Right of a foreign government to intervene**

(1) If the conditions in subsection (2) are satisfied as regards proceedings brought in any part of the United Kingdom, the government of a country that is a special relevant territory is entitled, on giving notice to the court, to be joined as a party to those proceedings.

(2) The conditions are that—

(a) a breach of a duty imposed on a relevant foreign operator by section 10 is alleged in the proceedings, and

(b) the site by reference to which the condition in section 10(4) is alleged to be satisfied is a relevant site of the relevant foreign operator within the territorial limits of the special relevant territory or any overseas territory of that territory that is itself a special relevant territory.

(3) Notice under subsection (1) may be given at any time during the proceedings."

Proceedings conducted by foreign governments

28. After section 17C of the 1965 Act (inserted by article 27) insert—

"**17D Proceedings conducted by foreign governments**

(1) This section applies to proceedings on—

(a) a claim by virtue of a duty imposed on a person by section 7, 7B, 8, 9 or 10, or

(b) a claim for compensation under section 16(3).

(2) If the condition in subsection (3) is satisfied in relation to a claim which falls to be determined by a court in the United Kingdom, the government of a foreign country may—

(a) bring and conduct proceedings on the claim as the claimant's representative, or

(b) if the proceedings have been initiated, undertake the subsequent conduct of the proceedings as the claimant's representative.

(3) The condition is that—

(a) in the case of a claim relating to property that is an asset of a trust, the law governing the validity of that trust when proceedings on the claim are initiated is the law of the foreign country, or

(b) in any other case, the person whose alleged injury, loss or reason for expenditure is the basis of the claim (and who may be other than the claimant) is a qualifying person as regards the foreign country when proceedings on the claim are initiated.

(4) A government of a foreign country may not represent the claimant in proceedings by virtue of subsection (2) unless the claimant consents.

(5) For the purposes of this section a person is a qualifying person as regards a foreign country when proceedings are initiated if the person is at that time or, where the person is an individual and dies before proceedings are initiated, was at the time of death—

(a) a national of that country, or

(b) a person who is domiciled or resident in that country.

(6) In this section, "claimant", in relation to proceedings on a claim falling within subsection (1)(a) or (b), means the person making the claim as a party to the proceedings."

Powers of Secretary of State in relation to foreign claims

29. After section 17D of the 1965 Act (inserted by article 28) insert—

"**17E Powers of Secretary of State in relation to foreign claims**

(1) If the condition in subsection (2) is satisfied in relation to a claim falling within subsection (3), the Secretary of State may bring and conduct proceedings on the claim as the claimant's representative.

(2) The condition in this subsection is that—

(a) in the case of a claim relating to property that is an asset of a trust, the law governing the validity of that trust when proceedings on the claim are initiated is the law of a part of the United Kingdom, or

(b) in any other case, if the person whose alleged injury, loss or reason for expenditure is the basis of the claim (and who may be other than the claimant) is a qualifying person as regards the United Kingdom when the proceedings are initiated.

(3) A claim falls within this subsection if—

(a) it is a claim in respect of an occurrence that gives rise to liability under any relevant foreign law made for purposes corresponding to section 7, 7B, 8, 9 or 10, and

(b) it is a claim which, under a relevant international agreement, falls to be determined by a court of a relevant territory other than the United Kingdom or an overseas territory of the United Kingdom.

(4) The Secretary of State may not represent the claimant in proceedings by virtue of subsection (1) unless the claimant consents.

(5) Where the Secretary of State brings or conducts proceedings by virtue of subsection (1), the Secretary of State may take such steps as are necessary or appropriate in connection with bringing or conducting those proceedings.

(6) For the purposes of this section a person is a qualifying person as regards the United Kingdom when proceedings are initiated if the person is at that time or, where the person is an individual and dies before proceedings are initiated, was at the time of death—

(a) a United Kingdom national, or

(b) a person who is domiciled or resident in the United Kingdom.

(7) In this section—

"claimant", in relation to proceedings on a claim falling within subsection (3), means the person making the claim as a party to the proceedings;

"United Kingdom national" means—

(a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;

(b) a British subject under the British Nationality Act 1981;

(c) a British protected person within the meaning of that Act;

(d) a Scottish partnership;

(e) a body incorporated under the law of any part of the United Kingdom."

Making United Kingdom funds available to satisfy claims for compensation

30.—(1) Section 18 of the 1965 Act (general cover for compensation by virtue of sections 7 to 10) is amended as follows.

(2) In subsection (1)(**a**) (obligation of the United Kingdom to make funds available for satisfying claims within the Paris Convention and Brussels Supplementary Convention and calculation of the sums to be made available)—

(a) after "occurrence", in each place, insert "or event";

(b) after "section 7," insert "7B,";

(c) for "subject to subsections (2) to (4B) of this section" substitute "subject to subsections (1C) to (4B)";

(d) in paragraph (a), after "claims" insert "of that category";

(e) for "made within the relevant period" substitute "made within the limitation period applicable to the claim".

(3) After subsection (1) insert—

"(1ZA) For the purposes of subsection (1), the limitation period applicable to a claim is—

(a) subject to paragraphs (b) to (d), the period of 10 years beginning with the relevant date;

(b) subject to paragraphs (c) and (d), in the case of a claim in respect of such injury as is described in section 15(3) or (4), the period of 30 years beginning with the relevant date;

(c) in the case of a claim that may be entertained in accordance with section 15(6), a period beginning with the relevant date and ending in accordance with section 15(6)(b);

(d) in the case of a claim by virtue of such a relevant foreign law as is mentioned in subsection (1) that may be entertained in accordance with provisions of that law made for purposes corresponding to section 15(6), the period applying to that claim by virtue of such provisions of that law.

(1ZB) In subsection (1ZA) references to the relevant date are to be construed in accordance with section 15(8)."

(4) In subsection (1A)(**b**) (the aggregate amount of money to be made available from United Kingdom funds and other sources described in subsection (1))—

(a) for "300 million special drawing rights" substitute "1,500 million euros";

(b) in paragraph (a), after "the occurrence" insert "or event";

(c) in paragraph (b), after "the occurrence" insert "or event".

(5) In subsection (1B)(**c**) (power to increase the aggregate amount)—

(a) for "special drawing rights" substitute "euros";

(b) for "an occurrence before (or beginning before)" substitute "an occurrence or event happening before (or beginning to happen before)".

(6) After subsection (1B) insert—

"(1C) The reference in subsection (1)(a) to the funds required by section 19(1) to be available for the purpose of satisfying claims of a particular category is to be treated, in the case of claims in respect of an occurrence or event to which section 16(1)(f) applies, as a reference to such funds as are required by section 19(1) to be so available at the time when the occurrence or event in question happens or begins to happen."

(7) After subsection (1C) (inserted by paragraph (6)) insert—

(**a**) 1965 c.57. Section 18(1) was amended by the Energy Act 1983 c.25, section 28(1) and the Atomic Energy Act 1989 c.7, section 3.

(**b**) Section 18(1A) was inserted by the Energy Act 1983 c.25, section 28(2).

(**c**) Section 18(1B) was inserted by the Energy Act 1983 c.25, section 28(2). The function conferred by section 18(1B) is, in so far as it is exercisable in or as regards Scotland, only exercisable after consultation with the Scottish Ministers (S.I. 1999/1750, article 4 and Schedule 3).

"(1D) Subsection (1) does not apply to a claim that need not be satisfied, or to so much of a claim as need not be satisfied, because of—

(a) section 16(1ZA) or (1ZB),

(b) a relevant foreign law made for purposes corresponding to those of section 16(1ZA) or (1ZB) which is given effect by section 16(2), or

(c) section 16(3B) or (3C).

(1E) Subsection (1) does not apply to a claim that need not be satisfied, or to so much of a claim as need not be satisfied, because of any relevant foreign law made for purposes corresponding to those of the provisions mentioned in subsection (1D)."

(8) After subsection (5) insert—

"(5A) Before exercising the function under subsection (1B) in or as regards Scotland, the Secretary of State must consult the Scottish Ministers."

(9) Omit subsection (6) (definition of "the relevant period").

Making United Kingdom funds available: limits and exceptions

31.—(1) Section 18 of the 1965 Act is further amended as follows.

(2) In subsection (2) (no contribution from United Kingdom funds for claims that are available under a relevant foreign law but are not claims within the Paris Convention), for the words from "in respect" to the end substitute—

"if—

(a) the injury, damage or significant impairment of the environment is incurred within the territorial limits of a country or territory that is not a qualifying territory,

(b) the injury, damage or significant impairment of the environment is incurred in, under or above the sea but not—

(i) within the territorial limits of any country or territory,

(ii) in or above the sea within the exclusive economic zone of any qualifying territory, or

(iii) on the continental shelf of any qualifying territory,

(c) in relation to compensation that would but for this subsection be claimed under such provision of the relevant foreign law as is made for purposes corresponding to section 11H, the measures in question were or would be taken in a place by reference to which compensation is excluded by paragraph (a) or (b).

(2A) The exceptions that have effect by virtue of—

(a) paragraph (b) of subsection (2), or

(b) paragraph (c) of subsection (2) so far as it relates to paragraph (b),

do not apply to injury or damage incurred by, or by persons or property on, a ship or aircraft registered in a qualifying territory."

(3) In subsection (4)(**a**) (no contribution from United Kingdom funds for claims based on a relevant foreign law but not made within a limitation period imposed by that law), for "the relevant period" substitute "the limitation period mentioned in paragraph (a) or (as the case may be) paragraph (b) of subsection (1ZA)".

(4) After subsection (4) insert—

"(4ZA) But a claim is not to be left out of account for the purposes of subsection (1) if it may be entertained as described in subsection (1ZA)(d) and is made within the limitation period applicable to that claim."

(**a**) Section 18(4) was amended by the Energy Act 1983 c.25, section 28(3).

(5) Omit subsection (4A)(**a**) (provision for countries that are party to the Brussels Supplementary Convention with transitional lower compensation level).

(6) In subsection (4B)(**b**) (limited contribution from United Kingdom funds where claims fall to be adjudicated in a country or territory that is bound only by the Paris Convention)—

(a) for "make the provision mentioned in subsection (4A)(a) of this section" substitute "provide in pursuance of a relevant international agreement for sums additional to those mentioned in subsection (1)(a) to be made available out of public funds";

(b) after "any occurrence" insert "or event";

(c) in paragraphs (a) and (b), after "a licensee," (in both places) insert "an operator of a relevant disposal site,";

(d) in paragraph (b), for the words from "were substituted" to the end substitute "were substituted a reference to the amount specified in section 16(1ZA) or, if more than one such person were liable, to that amount multiplied by the number of those persons."

Obligation of licensee or operator to arrange cover for compensation

32.—(1) Section 19 of the 1965 Act (special cover for licensee's liability) is amended as follows.

(2) In subsection (1)(**c**) (provision by licensee for meeting claims in cover periods)—

(a) for "subsection" substitute "subsections (2E) and";

(b) for "the Minister" substitute "the appropriate authority";

(c) after "the required amount" insert "appropriate to the category or categories into which any such claims would fall";

(d) in paragraph (b), for "ten years" substitute "30 years";

(e) in paragraph (c), for the words from "a claim made" to the end substitute "a claim made within the limitation period applicable to the claim (as defined for the purposes of section 18(1));";

(f) in the words following paragraph (c), for "the relevant period aforesaid" substitute "that limitation period".

(3) For subsection (1A)(**d**) (meaning of "the required amount", in relation to the provision to be made by a licensee for a cover period), substitute—

"(1A) In this section—

(a) "the required amount", in relation to the provision to be made by a licensee in respect of a cover period for claims of a particular category, means an aggregate amount equal to the amount applying under paragraph (a), (c), (d) or (as the case may be) (f) of section 16(1) to the licensee, as licensee of the licensed site in question, in respect of an occurrence or event within that cover period;

(b) the category of a claim depends on which of paragraphs (a), (c), (d) and (f) of section 16(1) applies to the occurrence or event in respect of which the claim is made.

(1B) Where the amount applying under section 16(1)(f) increases because one of the periods in section 16B comes to an end during a cover period, the aggregate amount that is the required amount as regards that cover period and claims in respect of such occurrences or events as fall within section 16(1)(f) increases accordingly."

(**a**) Section 18(4A) was inserted by the Energy Act 1983 c.25, section 28(3).
(**b**) Section 18(4B) was inserted by the Energy Act 1983 c.25, section 28(3).
(**c**) Section 19(1) was amended by the Energy Act 2013 c.32, section 116 and Schedule 12, Part 2, paragraph 22 and the Energy Act 1983 c.25, section 27(4). The function conferred on the Minister by section 19(1) has been transferred, in so far as it is exercisable in or as regards Scotland, to the Scottish Ministers by S.I. 1999/1750, article 2, Schedule 1.
(**d**) Section 19(1A) was inserted by the Energy Act 1983 c.25, section 27(4).

(4) In subsection (2)(**a**) (definition of "cover period" as period of licensee's responsibility), for "section 7(2)(b) or (c) of this Act" substitute "section 7(1B)(b)".

(5) For subsection (2A)(**b**) (effect of change in amounts under section 16 etc) substitute—

"(2A) When the amount applicable to a licensee, as licensee of a licensed site, under paragraph (a), (c), (d) or (f) of section 16(1) changes as a result of—

(a) the coming into force of regulations made under section 16(1)(a), (c) or (d),

(b) an alteration relating to the site which brings it within, or takes it outside, the description prescribed by regulations made under section 16(1)(a) or (c), or

(c) the coming into force of an order made under section 16(1A),

the current cover period relating to that person as licensee of that site is to end and a new cover period is to begin."

(6) After subsection (2B)(**c**) insert—

"(2C) The current cover period continues to run (and no new cover period begins) in a case where—

(a) the licensee of a licensed site, not having been involved earlier in that cover period in such carriage of nuclear matter as would make the amount referred to in section 16(1)(d) applicable to the licensee, becomes involved in such carriage of nuclear matter as makes the amount referred to in section 16(1)(d) applicable to the licensee, or

(b) the licensee of a licensed site, not having been involved earlier in that cover period in such carriage of nuclear matter as would make the amount referred to in section 16(1)(f) applicable to the licensee, becomes involved in such carriage of nuclear matter as makes the amount referred to in section 16(1)(f) applicable to the licensee.

(2D) The current cover period continues to run (and no new cover period begins) if the amount applicable under section 16(1)(f) to the licensee of a licensed site is increased because one of the periods in section 16B comes to an end."

(7) After subsection (2D) (inserted by paragraph (6)) insert—

"(2E) If—

(a) two or more amounts referred to in section 16(1) are applicable to a licensee, as licensee of a licensed site, in any cover period, and

(b) the licensee, as licensee of that site, has made such provision as subsection (1) requires with respect to the greater or greatest of the corresponding required amounts,

the licensee is to be treated as having made such provision as subsection (1) requires with respect to the other, or each of the other, required amounts."

(8) In subsection (3)(**d**) (provision not relying on insurance may be made for sites collectively), for "the Minister" substitute "the appropriate authority".

(9) In subsection (4)(**e**) (discretion to direct that a new cover period begin)—

(a) after "occurrence" insert "or event";

(b) after "occurrences" insert "or events";

(c) for "the Minister" substitute "the appropriate authority";

(d) for "he" substitute "the appropriate authority".

(**a**) Section 19(2) was amended by the Atomic Energy Act 1989 c.7, section 4 and the Energy Act 1983 c.25, section 27(5).
(**b**) Section 19(2A) was inserted by the Energy Act 1983 c.25, section 27(5).
(**c**) Section 19(2B) was inserted by the Atomic Energy Act 1989 c.7, section 4.
(**d**) The function conferred by section 19(3) has been transferred, in so far as it is exercisable in or as regards Scotland, to the Scottish Ministers by S.I. 1999/1750, article 2, Schedule 1.
(**e**) The function conferred by section 19(4) has been transferred, in so far as it is exercisable in or as regards Scotland, to the Scottish Ministers by S.I. 1999/1750, article 2, Schedule 1.

(10) After subsection (5)(**a**) insert—

"(6) Subsections (1) to (5) apply to operators of relevant disposal sites as they apply to licensees of licensed sites, but with the following modifications—

(a) a reference to a licensed site is to be read as a reference to a relevant disposal site, except in subsection (3);

(b) the reference in subsection (1) to claims established against a licensee as licensee of that site by virtue of section 7 is to be read as a reference to claims established against an operator of a relevant disposal site as operator of that site by virtue of section 7B;

(c) a reference to the period of a licensee's responsibility is to be read as a reference to the period indicated by section 7B(1)(f);

(d) the time deemed by virtue of subsection (2) to be included in the period of a licensee's responsibility is to be read as the time, after the expiration of the period indicated by section 7B(1)(f), during which the operator might incur liability—

(i) by virtue of section 7B, so far as relating to section 7(1B)(b), or

(ii) by virtue of any relevant foreign law made for purposes corresponding to those of section 10;

(e) a reference to section 16(1)(a) is to be read as a reference to section 16(1)(b);

(f) a reference to section 16(1)(c) is to be disregarded;

(g) a reference to section 16(1)(d) is to be read as a reference to section 16(1)(e);

(h) subsection (2B) is to be read as if for the words from "on the grant" to the end there were substituted "if an appropriate permit relating to a relevant disposal site is replaced by another appropriate permit relating to the same site (or that site and a further area), and the permit is given to the same person";

(i) a reference in subsection (3) to a licensed site is to be read as including a reference to a relevant disposal site."

(11) After subsection (6) (inserted by paragraph (10)) insert—

"(7) In this section "appropriate authority" means—

(a) in relation to England and Wales and Northern Ireland, the Secretary of State;

(b) in relation to Scotland, the Scottish Ministers."

(12) In the heading of the section—

(a) for "Special cover" substitute "Cover";

(b) after "licensee's" insert "or operator's".

(13) In section 25 (general provision as to offences), in subsection (1) (liability of directors of company etc)—

(a) after "nuclear site licence" insert "or an operator of a relevant disposal site";

(b) after "were the licensee" insert "or the operator".

Furnishing of information relating to licensee's or operator's cover

33.—(1) Section 20 of the 1965 Act (furnishing of information relating to licensee's cover) is amended as follows.

(2) In subsection (1)(**b**) (notice to be given by licensee when the value of claims made reach three-fifths of maximum liability)—

(**a**) Section 19(5)(a) was amended as regards England and Wales by the Magistrates Court Act 1980 c.43, section 32(2) and as regards Scotland by the Criminal Procedure (Scotland) Act 1975 c.21, section 289B(1); section 19(5)(b) was amended as regards England and Wales by the Criminal Law Act 1977 c.45, section 32(1) and as regards Scotland by the Criminal Procedure (Scotland) Act 1975 c.21, section 193A(1).

(**b**) 1965 c.57. Section 20(1) was amended by the Energy Act 1983 c.25, section 27(6).

(a) for "the Minister" (in the first place) substitute "the appropriate authority";

(b) for the words from "upon its appearing" to "and where" substitute—

"upon its appearing to the licensee that claims such as are mentioned in section 19(1) made in respect of any cover period falling within the period of the licensee's responsibility have reached a notice level.

(1A) For the purposes of subsection (1), claims made in respect of a cover period reach a notice level if the aggregate amount of claims of a particular category so made reaches three-fifths of the required amount appropriate to that category of claim.

(1B) In subsection (1A) references to a category of claim and the required amount are to be construed in accordance with section 19.

(1C) Where";

(c) for "the Minister" (in the second and third places) substitute "the appropriate authority".

(3) In subsection (2) (requirement to send the Minister statement of claims in a cover period), for "the Minister" substitute "the appropriate authority".

(4) In subsection (3) (copy of statement to be laid before Parliament)—

(a) for "The Minister" substitute "The appropriate authority";

(b) for "him" (in both places) substitute "the appropriate authority";

(c) for "he" substitute "the appropriate authority".

(5) In subsection (4) (notice to the Minister before ceasing to keep funds available), for "the Minister" substitute "the appropriate authority".

(6) After subsection (4) insert—

"(5) Subsections (1) to (4) apply in relation to the operator of a relevant disposal site with the following modifications—

(a) as if a reference to the licensee of a site with a nuclear site licence were a reference to the operator of a relevant disposal site;

(b) as if a reference to a licensed site were a reference to a relevant disposal site;

(c) as if a reference to the period of a licensee's responsibility were a reference to the period indicated by section 7B(1)(f)."

(7) After subsection (5) (inserted by paragraph (6)) insert—

"(6) In this section "appropriate authority" means—

(a) in relation to England and Wales and Northern Ireland, the Secretary of State;

(b) in relation to Scotland, the Scottish Ministers."

(8) In the heading of the section, after "licensee's" insert "or operator's".

Power to make arrangements with respect to licensee's or operator's cover

34.—(1) After section 20 of the 1965 Act(**a**) insert—

"**20A Power to make arrangements with respect to licensee's or operator's cover**

(1) The Secretary of State may make arrangements with any person for the purpose of enabling—

(a) the licensee of a licensed site, or

(b) the operator of a relevant disposal site,

to make the provision required by section 19(1).

(**a**) The functions conferred by section 20 have been transferred, in so far as they are exercisable in or as regards Scotland, to the Scottish Ministers by S.I. 1999/1750, article 2, Schedule 1.

(2) The arrangements that may be made under subsection (1) include—

(a) the provision of insurance or reinsurance;

(b) the provision of an indemnity or guarantee.

(3) The power under subsection (1) does not include a power to make grants.

(4) Arrangements made by the Secretary of State under subsection (1) are to be on such terms as the Secretary of State considers appropriate.

(5) The Secretary of State is not to make arrangements under subsection (1) except with the consent of the Treasury.

(6) Sums received by the Secretary of State under arrangements made under subsection (1) are to be paid into the Consolidated Fund.

(7) Sums required by the Secretary of State for fulfilling obligations arising under arrangements made under subsection (1) are to be paid out of money provided by Parliament.

(8) If any sum required by the Secretary of State for fulfilling obligations under arrangements made under subsection (1) is not paid out of money provided by Parliament, it is to be charged on and paid out of the Consolidated Fund.

(9) Where money is paid in reliance on subsection (8), the Secretary of State must as soon as is reasonably practicable lay a report before Parliament specifying the amount paid and the arrangements under which the amount fell to be paid."

(2) After section 20A of the 1965 Act (inserted by paragraph (1)) insert—

"**20B Statement on arrangements**

(1) As soon as reasonably practicable after making arrangements under section 20A(1), the Secretary of State is to lay before Parliament a statement about the arrangements.

(2) A statement under subsection (1) is to set out—

(a) the licensee or operator for whose benefit the arrangements are made;

(b) the nature of the arrangements;

(c) the amount that may be required to discharge the Secretary of State's obligations under the arrangements.

(3) While the arrangements continue, the Secretary of State is to make a further statement about the arrangements as soon as reasonably practicable after the end of each report period.

(4) A statement under subsection (3) is to set out—

(a) any changes in the arrangements;

(b) the amount that may be required to discharge the Secretary of State's obligations under the arrangements.

(5) "Report period", in relation to arrangements made under section 20A(1), means—

(a) the period of two years beginning with the day on which the statement under subsection (1) was laid before Parliament, and

(b) each successive period of two years."

(3) If this article comes into force before the main commencement day, the reference in section 20A(1) of the 1965 Act to the provision required by section 19(1) of the 1965 Act is to be treated from the time when this article comes into force as a reference to the provision that would be required by section 19(1) on and after the main commencement day.

Cover for compensation in respect of damage to means of carriage

35.—(1) Section 21 of the 1965 Act (supplementary provisions with respect to cover for compensation in respect of carriage) is amended as follows.

(2) In subsection (1)(**a**) (claims in respect of damage to the means of carriage to be satisfied after other claims)—

(a) after "an occurrence" insert "or event";

(b) in paragraph (a), after "section 7," insert "7B,";

(c) in paragraph (b), after "a licensee," insert "an operator of a relevant disposal site,";

(d) in the words after paragraph (b), after "of that occurrence" insert "or event";

(e) for "5 million special drawing rights" substitute "80 million euros";

(f) for the words from "of all claims" to the end substitute—

"of all claims falling within subsection (1ZA).

(1ZA) The claims are those which have been or may be duly established against the same person in respect of—

(a) injury, damage or significant impairment of the environment caused by the occurrence mentioned in subsection (1), other than damage to the means of transport in question, or

(b) a grave and imminent threat of injury, damage or significant impairment of the environment caused by the event mentioned in subsection (1), other than a grave and imminent threat of damage to the means of transport in question."

(3) In subsection (1A)(**b**) (increase in amount in subsection (1))—

(a) for "special drawing rights" substitute "euros";

(b) for "any occurrence before (or beginning before)" substitute "any occurrence or event happening before (or beginning to happen before)".

(4) In subsection (2) (relevant foreign operator may be sued regardless of section 12)—

(a) after "occurrence" insert "or event";

(b) for "section 12(1)(b) of this Act" substitute "section 12(1E)".

(5) In subsection (3)(**c**) (requirement for a licensee to give to the person transporting the licensee's nuclear matter a document containing certain details issued by or on behalf of the insurer or other person who is providing the cover for claims that might be made by virtue of section 7 etc or relevant foreign law etc)—

(a) for the words from "carried by" to "the operator" substitute "carried in circumstances such that, while the matter is in the course of carriage, a particular licensee, a particular operator of a relevant disposal site, the Authority, a particular government department or a particular relevant foreign operator";

(b) after "section 7," insert "7B,".

(6) In subsection (4)(**d**) (identification of the insurer or other person who is providing cover for claims)—

(a) in paragraph (a), after "a licensee" insert "or an operator of a relevant disposal site";

(b) in paragraph (b), for "the Minister of Technology" substitute "the Secretary of State".

(7) After subsection (4A) insert—

(**a**) Section 21(1) was amended by the Energy Act 1983 c.25, section 29(1).

(**b**) Section 21(1A) was inserted by the Energy Act 1983 c.25, section 29(2). The function conferred by section 21(1A) is, in so far as it is exercisable in or as regards Scotland, only exercisable after consultation with the Scottish Ministers (S.I. 1999/1750, article 4 and Schedule 3).

(**c**) Section 21(3) was amended as regards England and Wales by the Criminal Justice Act 1982 c.48, sections 37, 38 and 46; as regards Scotland by the Criminal Procedure (Scotland) Act 1975 c.21, sections 289F and 289G; and as regards Northern Ireland by S.I. 1984/703 (N.I.3), articles 5(2) and 9. The function conferred by section 21(3) is, in so far as it is exercisable in or as regards Scotland, only exercisable after consultation with the Scottish Ministers (S.I. 1999/1750, article 4 and Schedule 3).

(**d**) Section 21(4) was amended by S.I. 1999/1820, Schedule 2, Part 1, paragraph 38(3).

"(4B) Before exercising the function under subsection (1A) or the function under subsection (3) of prescribing particulars in or as regards Scotland, the Secretary of State must consult the Scottish Ministers."

(8) In subsection (5)(**a**) (disapplication of provisions of the Road Traffic Act 1988), after "section 7," insert "7B,".

Registration in connection with certain occurrences and events

36.—(1) Section 23 of the 1965 Act(**b**) (registration in connection with certain occurrences) is amended as follows.

(2) In subsection (1)(**c**), after "occurrence" (in both places) insert "or event".

(3) In subsection (2)—

(a) after "occurrence" (in both places) insert "or event";

(b) in paragraph (a), for "the Minister of Technology" substitute "the Secretary of State";

(c) for paragraph (c) substitute—

"(c) where that person is not the Authority or the Crown—

(i) the Secretary of State, in relation to England and Wales and Northern Ireland;

(ii) the Scottish Ministers, in relation to Scotland."

(4) In the heading, at the end insert "and events".

Amounts in euros

37. For section 25B of the 1965 Act(**d**) (special drawing rights) substitute—

"**25B Amounts in euros**

The equivalent in sterling on a particular day of a sum expressed in euros is determined by converting the sum in euros into its equivalent in sterling using the London closing exchange rate for the euro and sterling for that day."

Interpretation of the 1965 Act

38.—(1) Section 26 of the 1965 Act (interpretation) is amended as follows.

(2) In subsection (1)—

(a) in the definition of "occurrence"(**e**)—

(i) for "16(1) and (1A)," substitute "11G(2)(c), 16(1), (1ZA), (1ZB), (1A), (3B) and (3C), 16B and 16C";

(ii) after "of this Act" insert "and subsection (2B) of this section";

(iii) omit the "and" following paragraph (a);

(iv) after paragraph (b) insert—

"and

(**a**) Section 21(5) was amended by S.I. 1987/2171, regulation 5. The reference in section 21(5) to Part VI of the Road Traffic Act 1960 c.16 is to be construed as a reference to Part VI of the Road Traffic Act 1988 c.52 by virtue of section 2(4) of the Road Traffic Act (Consequential Provisions) Act 1988 c.54 and before that Schedule 10, paragraph 3 of the Road Traffic Act 1972 c.20.

(**b**) The function conferred on "the Minister" (only) in section 23 has been transferred, in so far as it is exercisable in or as regards Scotland, to the Scottish Ministers by S.I. 1999/1750, article 2, Schedule 1.

(**c**) Section 23(2) was amended by S.I. 1999/1756, article 2 and the Schedule, paragraph 2.

(**d**) Section 25B was inserted by the Energy Act 1983 c.25, section 30.

(**e**) The definition of "occurrence" was amended by the Energy Act 1983 c.25, section 27(7).

(c) in the case of an occurrence which is one of a succession of occurrences, all of which are attributable to a particular happening and take place during one course of carriage, means all those occurrences collectively;";

(b) in the definition of "relevant carriage"—

(i) after paragraph (a) (and the "or" following it) insert—

"(aa) an operator of a relevant disposal site; or";

(ii) in paragraph (e), after "be used" insert "or was used or was intended to be used";

(c) in the definition of "relevant site"—

(i) after paragraph (a) insert—

"(aa) a relevant disposal site at any time during the period that, in the case of any particular operator of the site, is indicated by section 7B(1)(f);";

(ii) in paragraph (c), for "section 9" substitute "section 9(1) or (2)";

(d) in the definition of "relevant territory", for the words from "means" to the end substitute—

"means—

(a) a country that is a party to a relevant international agreement, or

(b) an overseas territory of such a country, if the relevant international agreement in question applies to the overseas territory;";

(e) in the definition of "territorial limits", for "waters" substitute "sea".

(3) In subsection (1), at the appropriate place insert—

""appropriate permit" has the meaning given by section 7B;";

""continental shelf", in relation to a country or territory, means—

(a) in the case of the United Kingdom, areas designated under section 1(7) of the Continental Shelf Act 1964;

(b) in the case of a country or territory outside the United Kingdom, an area outside its territorial sea within which rights are exercisable in relation to the sea bed and subsoil and their natural resources by that country or territory;";

""event", in sections 11H, 16(1), (1ZA), (1ZB), (1A), (3B) and (3C), 16B, 16C, 17(3) and 18 and subsection (2B) of this section, means—

(a) in the case of an event that continues for any time, the whole of that event;

(b) in the case of an event which is one of a succession of events all attributable to a particular happening on a particular relevant site, all those events collectively;

(c) in the case of an event which is one of a succession of events, all of which are attributable to a particular happening and take place during one course of carriage, all those events collectively;";

""exclusive economic zone", in relation to a country or territory, means the exclusive economic zone established in respect of the country or territory in accordance with international law, subject to subsection (1E);";

""operator", in relation to a relevant disposal site, has the meaning given by section 7B; ";

""overseas territory", in relation to a country, means a territory, not part of the metropolitan territories of the country, for whose international relations the country is responsible;";

""preventive measure" has the meaning given by section 11H;";

""relevant disposal site" has the meaning given by section 7B;";

""relevant maritime zone", in relation to a country or territory, means—

(a) the zone that has been established in respect of the country or territory as its exclusive economic zone and that has been identified in accordance with a relevant

international agreement for the purposes of establishing jurisdiction under such an agreement, or

(b) in the case of a country or territory in respect of which no exclusive economic zone is established, a zone that has been established in accordance with international law, being a zone adjacent to the territorial sea of that country or territory and extending no more than 200 nautical miles from the baselines from which that territorial sea is measured, and that has been identified in accordance with a relevant international agreement for the purposes of establishing jurisdiction under such an agreement;";

""significant impairment of the environment" does not include damage to the environment which is not significant enough to be eligible for compensation under this Act as damage to property, whether or not the part affected is property in respect of which such compensation can be sought;";

""special relevant claim" has the meaning given by section 16A;";

""special relevant territory" has the meaning given by section 16A;";

""trust" has the meaning given by Article 2 of the Convention on the Law Applicable to Trusts and on Their Recognition, concluded at The Hague on 1 July 1985."

(4) After subsection (1) insert—

"(1A) A reference in this Act to a relevant reciprocating territory is a reference to—

(a) a country that is not a party to a relevant international agreement but whose law—

(i) with a view to reciprocating benefits conferred as regards it by parties to that relevant international agreement, confers benefits as regards the parties to that relevant international agreement on a basis corresponding to the basis required of a party to that agreement, disregarding for these purposes that agreement's limits on the amount of liability, and

(ii) in that respect is based on principles identical to those of that relevant international agreement, or

(b) an overseas territory of a country falling within paragraph (a), if the law of the country or the territory provides for, or they together provide for, the benefits in question to be reciprocated on a basis that includes that territory.

(1B) A reference in this Act to a qualifying territory is a reference to—

(a) a relevant territory,

(b) a country in the case of which there is no nuclear installation—

(i) within its territorial limits or its exclusive economic zone or on its continental shelf, or

(ii) within the territorial limits or the exclusive economic zone of, or on the continental shelf of, any overseas territory of the country,

(c) an overseas territory of a country falling within paragraph (b),

(d) an overseas territory of a country that is a party to a relevant international agreement where the territory—

(i) is not a territory to which that agreement applies, and

(ii) has no nuclear installation within its territorial limits or its exclusive economic zone or on its continental shelf, or

(e) a relevant reciprocating territory.

(1C) In sections 13(5), 16(1ZB) and (3C), 16A(6)(b) and (9) and 17D(3), subsection (1A) of this section and paragraphs 2 and 3 of Schedule 1A, a reference to the law of a country or territory includes a reference to the law of part of it.

(1D) In the case of an overseas territory of a country (including an overseas territory of the United Kingdom), a reference in this Act to the law of the territory is to be treated as including a reference to law that has effect with respect to the territory."

(5) After subsection (1D) (inserted by paragraph (4)) insert—

"(1E) A reference in this Act to the exclusive economic zone of a country or territory, except in the definitions of "exclusive economic zone" and "relevant maritime zone" in subsection (1), includes a reference to any zone established in accordance with international law which—

(a) is adjacent to the territorial sea of that country or territory, and

(b) extends no more than 200 nautical miles from the baselines from which that territorial sea is measured, and

in which the country or territory exercises some of the rights that are exercisable under Part V of the United Nations Convention on the Law of the Sea (Cmnd 8941)."

(6) After subsection (2) insert—

"(2A) If nuclear matter is in a place at a particular time as a consequence of an occurrence falling within section 7(1B) (including section 7(1B) as applied by section 7B, 8 or 9), 10(1) or 11, neither the presence of the matter in that place at that time nor any effect that the matter produces at that time is to be treated as a separate occurrence falling within any of those provisions."

(7) After subsection (2A) (inserted by paragraph (6)) insert—

"(2B) In relation to an occurrence or event in respect of which one or more persons incur liability—

(a) by virtue of section 7, 7B, 8, 9 or 10, or

(b) by virtue of any relevant foreign law made for purposes corresponding to those of any of those sections,

a country or overseas territory of a country is not to be treated as a relevant territory, special relevant territory, relevant reciprocating territory or qualifying territory, unless it is such a country or territory at the time of the occurrence or event."

(8) In subsection (3)—

(a) in the opening words, after "as to whether" insert "at any given time";

(b) omit the "or" after paragraph (a);

(c) omit the "or" after paragraph (b);

(d) for paragraph (c) substitute—

"(c) any country or territory is a relevant territory;

(d) a relevant territory satisfies the conditions in section 16A(7);

(e) an overseas territory of a country is a territory to which a particular relevant international agreement applies;

(f) a country or territory is a relevant reciprocating territory;

(g) a place is within an exclusive economic zone or relevant maritime zone or on the continental shelf of a country or territory; or

(h) a country or territory has a nuclear installation within its territorial limits or its exclusive economic zone or on its continental shelf,".

Further amendments

39. Schedule 2 contains further amendments.

Transitional provision

40.—(1) The amendments made by this Order do not have effect in relation to—

(a) an occurrence falling within section 7(1A) of the 1965 Act (including section 7(1A) as applied by section 7B, 8 or 9 of the 1965 Act) or section 10(1) or 11 of the 1965 Act that happens before (or begins to happen before) the main commencement day;

(b) an occurrence falling within section 7(1C) of the 1965 Act (including section 7(1C) as applied by section 7B, 8 or 9 of the 1965 Act) that happens before (or begins to happen before) the main commencement day;

(c) an event falling within section 7(1E) of the 1965 Act (including section 7(1E) as applied by section 7B, 8 or 9 of the 1965 Act) or section 10(1A) of the 1965 Act that happens before (or begins to happen before) the main commencement day.

(2) In paragraph (1)—

(a) a reference to a provision of the 1965 Act is a reference to that provision as amended by this Order,

(b) a reference to an occurrence is to be construed in accordance with section 26 of the 1965 Act as amended by this Order, and

(c) "event" has the meaning given by section 26(1) of the 1965 Act as amended by this Order.

(3) If nuclear matter or waste is in a place other than a relevant site for a pre-commencement reason, no effect resulting from the radioactive properties of that matter, whether on their own or in combination with other hazardous properties of that matter, that happens on or after the main commencement day may be the basis of a claim under the 1965 Act as it has effect after this Order comes fully into force.

(4) Nuclear matter or waste is in a particular place for a pre-commencement reason if it is there—

(a) as a consequence of an occurrence falling within section 7(1A) of the 1965 Act (including section 7(1A) as applied by section 8 or 9) or section 10(2) of the 1965 Act (as that Act has effect before the main commencement day) that happened before (or began to happen before) the main commencement day,

(b) as a consequence of a discharge of waste on or from a relevant site (within the meaning of the 1965 Act as it had effect before the main commencement day) in the United Kingdom that happened before (or began to happen before) the main commencement day,

(c) because it was carried to that place before the main commencement day, or

(d) because, having been carried to a place other than a relevant site (within the meaning of the 1965 Act as it had effect before the main commencement day) before the main commencement day, it has afterwards moved to the place in question.

(5) The amendments made by this Order to section 16(1) of the 1965 Act do not affect liability in respect of any occurrence (within the meaning of the 1965 Act as it had effect before the main commencement day) happening before (or beginning to happen before) the main commencement day.

(6) At the beginning of the main commencement day, the current cover period relating to a licensee of a licensed site is to end, and a new cover period is to begin.

(7) The following powers under section 19(1) of the 1965 Act may be exercised before the main commencement day as regards the provision that would be required under section 19(1) on the main commencement day—

(a) the power under section 19(1) to approve the provision made by the licensee of a licensed site or the operator of a relevant disposal site, and

(b) the power under section 19(1) to consent to that approval.

(8) Approval so given (and not withdrawn) is to be treated as having effect from the beginning of the main commencement day.

(9) In this article—

"cover period"—

(a) in relation to times before the main commencement day, has the meaning given by section 19(2) of the 1965 Act (as that subsection then has effect), and

(b) in relation to times on and after the main commencement day, has the meaning given by section 19(2) as amended by article 32;

"licensed site", "licensee" and "nuclear matter" have the same meaning as in the 1965 Act;

"relevant disposal site" has the same meaning as in the 1965 Act, as it has effect after this Order comes fully into force;

"relevant site" has the same meaning as in the 1965 Act, as it has effect after this Order comes fully into force (except in paragraph (4)(b) and (d)).

Name
Parliamentary Under Secretary of State
Date Department of Energy and Climate Change

SCHEDULE 1

Article 8(2)

Measures of reinstatement outside the United Kingdom

The following is the Schedule to be inserted as Schedule 1A to the 1965 Act—

"SCHEDULE 1A

MEASURES OF REINSTATEMENT OUTSIDE THE UNITED KINGDOM

Measures of reinstatement

1.—(1) Where as a result of a breach of a duty imposed by section 7, 7B, 8, 9 or 10 there is significant impairment of the environment within the territorial limits, in or above the exclusive economic zone, or on the continental shelf of a qualifying territory other than the United Kingdom, a person may make a claim under this Act for compensation in respect of the reasonable cost of measures of reinstatement relating to that impairment, to the extent that they are relevant measures of reinstatement.

(2) Sub-paragraph (1) is subject to paragraphs 2 and 3.

(3) A relevant measure of reinstatement, in relation to significant impairment of the environment, is a measure reasonably taken for the purpose of—

(a) reinstating or restoring what has been destroyed or damaged as part of that impairment, or

(b) establishing the equivalent of what has been destroyed or damaged as part of that impairment.

(4) A measure of reinstatement is reasonably taken for the purposes of this paragraph if taking that measure is appropriate and proportionate in the circumstances.

Persons able to take measures

2. No compensation under this Act is payable by virtue of a claim under paragraph 1 unless the person taking the relevant measures of reinstatement is entitled to take the measures in question under the law of the qualifying territory.

Approval of measures of reinstatement

3. Compensation under this Act is payable by virtue of a claim under paragraph 1 only if the claim relates to measures of reinstatement approved by a person who is competent to do so under any law of the qualifying territory made for purposes corresponding to section 11B (a "competent authority")."

SCHEDULE 2

Article 39

Further amendments

PART 1

Primary legislation

Nuclear Installations Act 1969

1. The Nuclear Installations Act 1969(**a**) is repealed.

Congenital Disabilities (Civil Liability) Act 1976

2.—(1) Section 3 of the Congenital Disabilities (Civil Liability) Act 1976(**b**) (disabled birth due to radiation) is amended as follows.

(2) In subsection (1), for the words from "respect of" to the end substitute—

"respect of—

(a) injury, damage or significant impairment of the environment caused by occurrences involving nuclear matter or the emission of ionising radiations, or

(b) injury or damage caused by preventive measures taken after a breach of duty under section 7, 7B, 8, 9 or 10 of that Act.".

(3) In subsection (3)—

(a) after "parents" insert "that is";

(b) after "etc)" insert "or that is an injury falling within subsection (3A)".

(4) After subsection (3) insert—

"(3A) An injury falls within this subsection if—

(a) it is caused by ionising radiations, and

(b) exposure to those ionising radiations is the result of preventive measures having been taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10 of that Act.".

(5) In subsection (4)—

(a) for "13(6)" substitute "13(7)";

(b) for the words from "reference" to "fault of" substitute "references in section 13(7) to a person's act or omission were references to the act or omission of".

(**a**) 1969 c.18.
(**b**) 1976 c.28.

Deregulation and Contracting Out Act 1994

3. In section 37 of the Deregulation and Contracting Out Act 1994(**a**) (power to repeal certain health and safety provisions etc), in subsection (10)—

(a) in paragraph (a), for "6" substitute "5";

(b) after paragraph (a) (and before the "and") insert—

"(aa) section 6 of that Act, so far as it relates to sites in respect of which nuclear site licences (within the meaning of that Act) have been granted,".

Energy Act 2013

4. In section 82(2) of the Energy Act 2013(**b**) (meaning of "relevant statutory provisions"), in paragraph (b), for "sections 3 to 6;" substitute—

"sections 3 to 5;

section 6, so far as it relates to sites in respect of which nuclear site licences have been granted;".

PART 2

Secondary legislation

The Safety Representatives and Safety Committees Regulations 1977

5. In regulation 2 of the Safety Representatives and Safety Committees Regulations 1977(**c**) (interpretation), in paragraph (1), in the definition of "relevant nuclear provisions", in paragraph (a), for "3 to 6" substitute "3 to 5, 6 (so far as it relates to sites in respect of which nuclear site licences have been granted)".

The Nuclear Installations (Increase of Operators' Limits of Liability) Order 1994

6. The Nuclear Installations (Increase of Operators' Limits of Liability) Order 1994(**d**) is revoked.

The Employers' Liability (Compulsory Insurance) Regulations 1998

7.—(1) The Employers' Liability (Compulsory Insurance) Regulations 1998(**e**) are amended as follows.

(2) In regulation 9(2) (employers exempted to an extent from the requirement to insure and maintain insurance), after "13" insert ", 13A".

(3) In Schedule 2 (employers exempted from insurance requirement), after paragraph 13 insert—

"**13A.** Any operator of a relevant disposal site within the meaning of the Nuclear Installations Act 1965, in respect of any liability to pay compensation under that Act to any of the operator's employees in respect of a breach of duty imposed on the operator by virtue of section 7B of that Act."

(**a**) 1994 c.40. Section 37(10) was inserted by the Energy Act 2013 c.32, Schedule 12, paragraph 71(6).
(**b**) 2013 c.32.
(**c**) S.I. 1977/500. The definition of "relevant nuclear provisions" in regulation 2(1) was inserted by S.I. 2014/469, Schedule 3, paragraph 31. There are other amending instruments not relevant to this Order.
(**d**) S.I. 1994/909.
(**e**) S.I. 1998/2573. There are amending instruments not relevant to this Order.

The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999

8.—(1) The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999(**a**) is amended as follows.

(2) In Schedule 1 (enactments conferring functions transferred to the Scottish Ministers), in the entry for the 1965 Act—

(a) in column 1, omit paragraphs (b), (c), (d) and (e);

(b) in column 2, omit the entries relating to paragraphs (c) and (e).

(3) In Schedule 3 (enactments conferring functions to be exercised subject to agreement or consultation), in the entry for the 1965 Act, in column 1, omit the words from "sections" to "21(1A) and (3) and".

The Radioactive Contaminated Land (Modification of Enactments) (England) Regulations 2006

9.—(1) The Radioactive Contaminated Land (Modification of Enactments) (England) Regulations 2006(**b**) are amended as follows.

(2) In regulation 5(2) (modification of section 78A of the Environmental Protection Act 1990), in the inserted section 78A(2A) (definition of "land contaminated by a nuclear occurrence")—

(a) in paragraph (a), after "7," insert "7B,";

(b) in paragraph (b), for "7(1)(a) or (b)" substitute "7(1A)(b) or (1C)(b)";

(c) in paragraph (b), for "10(1)" substitute "10(1)(b)";

(d) after paragraph (b) (and before the "or") insert—

"(ba) damage caused by preventive measures taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10 of the 1965 Act in respect of which a claim for compensation may be made under section 11H(2) of the 1965 Act or could have been made if section 11H(4) of the 1965 Act had not been enacted;";

(e) in paragraph (c)(i), for "16(1) and (2)" substitute "16(1), (1ZA), (1ZB), (2), (3B) or (3C)".

(3) In regulation 17 (modification of section 78YB of the Environmental Protection Act 1990), in paragraph (3) (insertion of section 78YB(4A) to (4C))—

(a) after inserted subsection (4A) insert—

"(4AA) Nothing in this Part applies in respect of land which, except for this subsection, would otherwise fall to be regarded as contaminated land within a relevant disposal site.";

(b) after inserted subsection (4B) insert—

"(4BA) Nothing in this Part applies in respect of land which, except for this subsection, would otherwise fall to be regarded as contaminated land within a site used by the Secretary of State for Defence for a purpose which, if section 7B of the 1965 Act applied to the Crown, would cause the site to be a relevant disposal site.".

(4) In regulation 17(4), in the substituted section 78YB(5) (definitions), at the appropriate place insert—

""relevant disposal site" has the meaning given by section 7B of the 1965 Act."

(**a**) S.I. 1999/1750. The entries for the 1965 Act in Schedules 1 and 3 were amended by the Energy Act 2013 c.32, Schedule 12, paragraph 30. There are other amending instruments not relevant to this Order.

(**b**) S.I. 2006/1379. Regulation 5 was substituted by S.I. 2007/3245, regulation 3(2), and regulation 17 was substituted by S.I. 2008/520, regulation 2(3). There are other amending instruments not relevant to this Order.

The Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006

10.—(1) The Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006(**a**) are amended as follows.

(2) In regulation 5(2) (modification of section 78A of the Environmental Protection Act 1990), in the inserted section 78A(2A) (definition of "land contaminated by a nuclear occurrence")—

(a) in paragraph (a), after "7," insert "7B,";

(b) in paragraph (b), for "7(1)(a) or (b)" substitute "7(1A)(b) or (1C)(b)";

(c) in paragraph (b), for "10(1)" substitute "10(1)(b)";

(d) after paragraph (b) (and before the "or") insert—

"(ba) damage caused by preventive measures taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10 of the 1965 Act in respect of which a claim for compensation may be made under section 11H(2) of the 1965 Act or could have been made if section 11H(4) of the 1965 Act had not been enacted;";

(e) in paragraph (c)(i), for "16(1) and (2)" substitute "16(1), (1ZA), (1ZB), (2), (3B) or (3C)".

(3) In regulation 17 (modification of section 78YB of the Environmental Protection Act 1990), in paragraph (3) (insertion of section 78YB(4A) to (4C))—

(a) after inserted subsection (4A) insert—

"(4AA) Nothing in this Part applies in respect of land which, except for this subsection, would otherwise fall to be regarded as contaminated land within a relevant disposal site.";

(b) after inserted subsection (4B) insert—

"(4BA) Nothing in this Part applies in respect of land which, except for this subsection, would otherwise fall to be regarded as contaminated land within a site used by the Secretary of State for Defence for a purpose which, if section 7B of the 1965 Act applied to the Crown, would cause the site to be a relevant disposal site.".

(4) In regulation 17(4), in the substituted section 78YB(5) (definitions), at the appropriate place insert—

""relevant disposal site" has the meaning given by section 7B of the 1965 Act."

The Radioactive Contaminated Land (Scotland) Regulations 2007

11.—(1) The Radioactive Contaminated Land (Scotland) Regulations 2007(**b**) are amended as follows.

(2) In regulation 1(3) (interpretation), in the definition of "land contaminated by a nuclear occurrence"—

(a) in paragraph (a), after "7," insert "7B,";

(b) in paragraph (b), for "7(1)(a) or (b)" substitute "7(1A)(b) or (1C)(b)";

(c) in paragraph (b), for "10(1)" substitute "10(1)(b)";

(d) after paragraph (b) (and before the "or") insert—

"(ba) damage caused by preventive measures taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10 of the 1965 Act in respect of which a claim for compensation may be made under section 11H(2) of the 1965 Act or could have been made if section 11H(4) of the 1965 Act had not been enacted;";

(**a**) S.I. 2006/2988 (W. 277). Regulation 5 was substituted by S.I. 2007/3250, regulation 3(3), and regulation 17 was substituted by S.I. 2008/521, regulation 2(3). There are other amending instruments not relevant to this Order.

(**b**) S.S.I. 2007/179. Regulations 1(3), 3 and 15 were substituted by S.I. 2007/3240, regulation 3(2), (4) and (8) respectively. There are other amending instruments not relevant to this Order.

(e) in paragraph (c)(i), for "16(1) and (2)" substitute "16(1), (1ZA), (1ZB), (2), (3B) or (3C)".

(3) In regulation 3(a) (insertion of section 78A(2ZA) to (2A) of the Environmental Protection Act 1990), in the inserted section 78A(2A) (definition of "land contaminated by a nuclear occurrence")—

(a) in paragraph (a), after "7," insert "7B,";

(b) in paragraph (b), for "7(1)(a) or (b)" substitute "7(1A)(b) or (1C)(b)";

(c) in paragraph (b), for "10(1)" substitute "10(1)(b)";

(d) after paragraph (b) (and before the "or") insert—

"(ba) damage caused by preventive measures taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10 of the 1965 Act in respect of which a claim for compensation may be made under section 11H(2) of the 1965 Act or could have been made if section 11H(4) of the 1965 Act had not been enacted;";

(e) in paragraph (c)(i), for "16(1) and (2)" substitute "16(1), (1ZA), (1ZB), (2), (3B) or (3C)".

(4) In regulation 15 (modification of section 78YB of the Environmental Protection Act 1990)—

(a) after the inserted section 78YB(5) insert—

"(5A) This Part does not apply in respect of contaminated land within a relevant disposal site.";

(b) after the inserted section 78YB(6) insert—

"(6A) This Part does not apply in respect of contaminated land within a site used by the Secretary of State for Defence for a purpose which, if section 7B of the 1965 Act applied to the Crown, would cause the site to be a relevant disposal site.";

(c) in the inserted section 78YB(8), for the definition of "nuclear site licence" and "period of responsibility" substitute—

""nuclear site licence", "period of responsibility" and "relevant disposal site" have the meanings given by the 1965 Act.".

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Nuclear Installations Act 1965 (c. 57) ("the 1965 Act"). It implements—

(a) the Protocol of 12th February 2004 which amends the Convention on Third Party Liability in the Field of Nuclear Energy of 29th July 1960, as amended by the Additional Protocol of 28th January 1964 and by the Protocol of 16th November 1982 (the "Paris Convention")(**a**); and

(b) the Protocol of 12th February 2004 which amends the Convention of 31st January 1963 Supplementary to the Paris Convention, as amended by the Additional Protocol of 28th January 1964 and by the Protocol of 16th November 1982 (the "Brussels Supplementary Convention")(**b**).

(**a**) The Protocol of 12th February 2004 amending the Paris Convention has been published in the Miscellaneous Series No. 6 (2015) Cm. 9135; the Convention of 29th July 1960, as amended by the Additional Protocol of 28th January 1964 was published in the Treaty Series No. 69 (1968), Cmnd. 3755; the Protocol of 16th November 1982 was published in the Treaty Series No. 6 (1989), Cm. 659. The Protocols and Conventions are also available via UK Treaties Online (http://treaties.fco.gov.uk/treaties/treaty.htm).

(**b**) The Protocol of 12th February 2004 amending the Brussels Supplementary Convention has been published in the Miscellaneous Series No. 7 (2015) Cm. 9136; the Convention of 31st January 1963 Supplementary to the Paris Convention, as amended by the Additional Protocol of 28th January 1964 was published in the Treaty Series No. 44 (1975), Cmnd. 5948; the Protocol of 16th November 1982 was published in the Treaty Series No. 17 (1992), Cm. 1832. The Protocols and Conventions are also available via UK Treaties Online (http://treaties.fco.gov.uk/treaties/treaty.htm).

The 1965 Act implements the Paris Convention and the Brussels Supplementary Convention which together establish an international regime governing liability for the payment of compensation following a nuclear incident. Not all parties to the Paris Convention are parties to the Brussels Supplementary Convention, which requires additional public funds to be made available to meet claims.

The 1965 Act imposes a strict liability regime on operators of nuclear licensed sites for injury or damage caused by a nuclear occurrence, and it requires operators to have in place insurance or other cover.

The substantive provisions in the Order do not come into force until ratification of the Protocols, which is not expected to be before January 2017.

Principal changes made by the Order to the 1965 Act

The type of damage for which compensation can be claimed under the 1965 Act is extended beyond personal injury and property damage so that, in addition, compensation is payable in respect of the cost of measures of reinstatement related to the impaired environment, loss of income derived from the environment, the cost of preventive measures (including measures taken in response to a threatened occurrence, an "event") and personal injury and property damage caused by such measures (articles 3 and 7 to 10 and Schedule 1). Consequential amendments are made to the provisions in the 1965 Act concerning the right to compensation to reflect these additional types of claim (article 11).

The provisions on liability relating to carriage of nuclear matter are amended so that liability is transferred from one operator to another, only where the receiving operator has a direct economic interest in the nuclear matter being carried (article 3).

The liability regime under the 1965 Act is extended to operators of installations for the disposal of nuclear matter (a "relevant disposal site") (article 4), and to the Crown acting as an operator of a relevant disposal site (article 6).

The liability regime is extended so that claims can be made, up to the Paris Convention limit of €700 million, in respect of damage suffered in the territory or maritime zones of non-Paris Convention countries which have no nuclear installations or have an equivalent and reciprocal liability regime (together, "qualifying territories") (article 12).

Consequential amendments are made to the provisions in the 1965 Act that allow a person not subject to a duty, but who has paid compensation, to claim under the Act against the holder of the duty (article 13). Similar amendments are made to the provisions allowing for compensation to be reduced where the loss or damage is attributable to an act done intentionally or with reckless disregard as to the consequences (article 14). To avoid double recovery when a claim is made for compensation for damage to property, the court is to take into account any measures of reinstatement affecting that property (article 15).

The existing protection for ships and aircraft is extended to include events as well as occurrences (article 16).

The time within which claims for radiation-linked personal injury under the 1965 Act must be brought against an operator is increased from 10 to 30 years from the date of the occurrence or event. All other claims under the 1965 Act must be made within 10 years of the date of the occurrence or event (article 17). The 20-year time limit for bringing claims in respect of stolen, lost, jettisoned or abandoned nuclear matter is removed (article 18).

The liability limit of operators in the United Kingdom in respect of claims arising from an occurrence or event is increased to €700 million initially, rising incrementally to €1200 million over 5 years. The power to prescribe cases where a lower liability limit applies is amended to allow for the prescription of low and intermediate level risk sites and low risk carriage (articles 19, 21 and 22).

The amount of public funds that is required to top up the amount available for compensation, where the applicable liability limit is exhausted, is increased to €1500 million (article 30) where the claim is for damage incurred in a country that is a party to the Brussels Supplementary Convention (a "special relevant claim"), or €700 million otherwise. Claims on such public funds are to be made by bringing proceedings against the appropriate authority (articles 20 and 21).

Where, under the Paris Convention, courts in the United Kingdom have jurisdiction in relation to claims, provision is made to allocate jurisdiction between the High Court of Justice, the High Court of Session and the High Court of Justice in Northern Ireland (article 23). Amendments are made to the provisions in the 1965 Act dealing with jurisdiction, shared liability and foreign judgments (articles 24 and 25).

A claimant is required to notify the Secretary of State of claims relating to the 1965 Act, the Paris Convention or Brussels Supplementary Convention (article 26). The Secretary of State is entitled to be joined as a party to proceedings on such claims. The government of a country that is a party to the Brussels Supplementary Convention is entitled to be joined as a party to proceedings on a claim against an operator in that country or an overseas territory of that country to which the Brussels Supplementary Convention applies (article 27).

A government of a foreign country is permitted to represent its nationals or persons domiciled or resident in that country in proceedings in the United Kingdom under the 1965 Act (article 28). A power is conferred on the Secretary of State to represent United Kingdom nationals or persons domiciled or resident in the United Kingdom in claims covered by the Paris Convention in other Paris Convention countries or territories (article 29).

Various amendments are made to the provisions in the 1965 Act dealing with the obligation on Parliament to make public funds available to meet claims. Limitation periods are imposed, exceptions are provided for, and the amount to be made available is limited in the case of certain types of claim (articles 30 and 31).

Operators of nuclear licensed sites must make financial provision (by insurance or otherwise) to cover their potential liability. This requirement is extended to operators of relevant disposal sites, and provision is made for different levels of liability depending on the category into which the particular operator falls according to section 16(1) of the 1965 Act (article 32). The requirement on operators to notify the Minister once claims in a specified period reach a set amount is also extended to operators of relevant disposal sites (article 33).

A power is conferred on the Secretary of State to make arrangements with any person for the purpose of enabling operators to put in place the insurance or other cover required by section 19 of the 1965 Act. Provision is made for the notification of Parliament where any such arrangements are made (article 34).

In the case of claims involving nuclear matter in the course of carriage, provision is made to limit the amount of compensation available for damage to the means of transport so that other claims take priority up to €80 million (article 35). The power to enable registration of persons shown to have been within an area on the happening of a nuclear occurrence is extended to the happening of an event (article 36). Provision is made for the conversion of euros to sterling (article 37).

The interpretation provisions in section 26 of the 1965 Act are amended to include, in particular, various definitions relating to jurisdiction and geographical extent of the liability regime, including: "relevant reciprocating territory", "qualifying territory", "relevant maritime zone" and "exclusive economic zone" (article 38).

Consequential amendments are made (article 39 and Schedule 2) to the Congenital Disabilities (Civil Liability) Act 1976 so that injury caused by preventative measures is treated in the same way as injury caused by nuclear occurrences under the 1965 Act. Provisions in the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 are revoked as this Order amends the 1965 Act so as to provide expressly for certain functions to be exercisable by the Scottish Ministers. Other consequential amendments to secondary legislation provide for relevant

disposal sites to be dealt with under certain statutory regimes (including the radioactive contaminated land regime) in the same way as nuclear licensed sites.

Provision is made to determine which claims fall within the existing liability regime, and which claims fall within the revised regime. The power under section 19(1) of the 1965 Act is extended so that operators' post-commencement insurance arrangements can be approved in advance of commencement of the revised regime (article 40).

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Department of Energy and Climate Change at 3 Whitehall Place, London SW1A 2AW and is published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk.

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