STATUTORY INSTRUMENTS

1985 No. 752

ATOMIC ENERGY AND RADIOACTIVE SUBSTANCES

The Nuclear Installations (Gibraltar) Order 1985

Made - - - - - -	15*th May* 1985
Coming into Operation	22*nd May* 1985

At the Court at Buckingham Palace, the 15th day of May 1985

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 28 of the Nuclear Installations Act 1965**(a)**, section 33 of the Energy Act 1983**(b)** and section 4(6) of the Congenital Disabilities (Civil Liability) Act 1976**(c)**, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Nuclear Installations (Gibraltar) Order 1985 and shall be read and construed as one with the Nuclear Installations (Gibraltar) Order 1970**(d)** (below called the 1970 Order).

(2) This Order shall come into operation on 22nd May 1985.

(3) In this Order any reference to a provision of the Nuclear Installations Act 1965 (below called the 1965 Act) shall be construed as a reference to that provision as it has effect in Gibraltar under the 1970 Order.

2.—(1) In subsection (1) of section 21 of the 1965 Act (compensation in respect of carriage), for the words "equivalent to £2,100,000 sterling" there shall be substituted the words "which is the equivalent in sterling (on the day, or first day, of that occurrence) of 5 million special drawing rights".

(2) After that subsection there shall be inserted—

"(1A) The Governor may with the approval of the Secretary of State by order increase or further increase the sum expressed in special drawing rights in subsection (1) of this section; but an order under this subsection shall not have effect in respect of any occurrence before (or beginning before) the order comes into force.".

(a) 1965 c. 57.
(b) 1983 c. 25.
(c) 1976 c. 28.
(d) S.I. 1970/1116.

(3) After subsection (4) of that section there shall be inserted—

"(4A) Subsection (3) of this section shall not apply where the carriage in question is wholly within the territorial limits of Gibraltar.".

(4) This section shall not have effect in respect of any occurrence before (or beginning before) the commencement of this section.

3. In subsection (5) of section 17 of the 1965 Act (foreign judgments), at the beginning there shall be inserted the words "Subject to subsection (5A) of this section"; and after subsection (5) there shall be inserted—

"(5A) Subsection (5) of this section shall not have effect where the judgment in question is enforceable in Gibraltar in pursuance of an international agreement.".

4. In section 26(1) of the 1965 Act (interpretation), in paragraph (*a*) of the definition of "excepted matter", for the words "or scientific" there shall be substituted the words "scientific or educational".

5. Section 3 of the Congenital Disabilities (Civil Liability) Act 1976, modified and adapted as in the Schedule hereto, shall extend to Gibraltar.

G. I. de Deney,
Clerk of the Privy Council.

SCHEDULE

SECTION 3 OF THE CONGENITAL DISABILITIES (CIVIL LIABILITY) ACT 1976 AS EXTENDED TO GIBRALTAR

3. (2) For the avoidance of doubt anything which—

(*a*) affects a man in his ability to have a normal, healthy child; or

(*b*) affects a woman in that ability, or so affects her when she is pregnant that her child is born with disabilities which would not otherwise have been present,

Disabled birth due to radiation.

is an injury for the purposes of the 1965 Act.

(3) If a child is born disabled as the result of an injury to either of its parents caused in breach of a duty imposed by section 10 or 11 of the 1965 Act (foreign operators and others to secure that nuclear incidents do not cause injury to persons, etc.), the child's disabilities are to be regarded under the subsequent provisions of that Act (compensation and other matters) as injuries caused on the same occasion, and by the same breach of duty, as was the injury to the parent.

(4) As respects compensation to the child, section 13(3) of the 1965 Act (contributory fault of person injured by radiation) is to be applied as if the reference there to fault were to the fault of the parent.

(5) Compensation is not payable in the child's case if the injury to the parent preceded the time of the child's conception and at that time either or both of the parents knew the risk of their child being born disabled (that is to say, the particular risk created by the injury).

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order amends certain provisions of the Nuclear Installations Act 1965, as extended to Gibraltar, so as to bring them into conformity with similar amendments made by Part II of the Energy Act 1983 in relation to the Act of 1965 as it applies in the United Kingdom. It also extends to Gibraltar, with adaptations and modifications, section 3 of the Congenital Disabilities (Civil Liability) Act 1976.

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