



Department for  
Business, Energy  
& Industrial Strategy

Office for Nuclear Regulation: Annual Report  
to Parliament on the exercise of powers under  
Part 3 of the Energy Act 2013 by the  
Secretary of State for Work and Pensions and  
the Secretary of State for Business, Energy  
and Industrial Strategy

1 April 2018 to 31 March 2019

Presented to Parliament pursuant to Section 108 (1) of the Energy Act  
2013.

20 June 2019

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## CORRECTION SLIP

**Title:** Office for Nuclear Regulation: Annual Report to Parliament on the exercise of powers under Part 3 of the Energy Act 2013 by the Secretary of State for Work and Pensions and the Secretary of State for Business, Energy and Industrial Strategy

1 April 2018 to 31 March 2019

**Session:** 2017/ 2019

Presented to Parliament pursuant to Section 108 (1) of the Energy Act 2013.

Correction:

Text currently reads:

*Page 5:*

2017-2018 powers exercised by Secretary of State for the Department for Work and Pensions:

Schedule 7, paragraph 25(3):

Paragraph 25 (3) provides that the Secretary of State lay a copy of relevant documents in Parliament together with a statement. Under this paragraph, the Secretary of State laid before Parliament ONR's Annual Plan 2017-18 (May 18) and Annual Report and Accounts 2017-18 (June 18).

Text should read:

2018-2019 powers exercised by Secretary of State for the Department for Work and Pensions:

Paragraph 25 (3) provides that the Secretary of State lay a copy of relevant documents in Parliament together with a statement. Under this paragraph, the Secretary of State laid before Parliament ONR's Annual Plan 2018-19 (May 18) and Annual Report and Accounts 2017-18 (June 18).

Date of correction: 4<sup>th</sup> July 2019

## Requirements under Section 108(1) of the Energy Act 2013:

Section 108(1) of the Energy Act 2013 (the 2013 Act) requires the Secretary of State as soon as reasonably practicable after the end of the financial year, to make a report to each House of Parliament on the use of the Secretary of State's powers under Part 3 of the 2013 Act during that year, and to lay the report before Parliament.

This report covers the period 1 April 2018 to 31 March 2019. This is the fifth report to be laid before Parliament pursuant to section 108 since the 2013 Act came into effect.

Part 3 of the Act (Nuclear Regulation) has five chapters covering nuclear regulations, the organisation and structure of the Office for Nuclear Regulation ("ONR"), the purposes and functions of the ONR and other supplementary matters.

Responsibility for this part of the 2013 Act cuts across two departments, the Department for Work and Pensions and the Department for Business, Energy and Industrial Strategy. Agreed responsibilities are set out in the tables below.

The Secretary of State for the Department for Work and Pensions has specific responsibility, in relation to ONR, for:

<b>Pay</b>	<ul style="list-style-type: none"><li>• Set pay for the Chair and other non-executives</li><li>• Approval of allowances etc to the Chair and non-executives</li><li>• Sign-off of the ONR's pay remit</li></ul>
<b>Financial control</b>	<ul style="list-style-type: none"><li>• Approval of the ONR's accounts</li><li>• Approval of any borrowing by the ONR. Provision of the ONR with sufficient funds to enable it to carry out its functions.</li></ul>
<b>Non-executives (not including security non-executive)</b>	<ul style="list-style-type: none"><li>• Appointment and dismissal</li><li>• Acceptance of resignation</li><li>• Approval of terms of appointment</li></ul>
<b>Other controls</b>	<ul style="list-style-type: none"><li>• Receipt of proposals for regulations made by the ONR</li><li>• Approval of international work of the ONR (in consultation with BEIS due to its interest in national security issues)</li><li>• Approval of any Approved Code of Practice proposed by the ONR</li></ul>

The Secretary of State for the Department for Business, Energy and Industrial Strategy has specific responsibility for the following areas:

<b>Security specific</b>	<ul style="list-style-type: none"> <li>• Non-Executive Director, Security: appointment and dismissal; acceptance of resignation; approval of terms of appointment</li> <li>• In exceptional circumstances relating to national security, issuing a direction to the ONR as to the exercise of a regulatory function in a particular case</li> </ul>
<b>Policy Directions and Sensitive Information</b>	<ul style="list-style-type: none"> <li>• Direct ONR regarding the exercise of its functions generally, or any of its functions specifically</li> <li>• Provide consent to issue certain communications which concern matters to which government policy on national security relates</li> <li>• Give a notice to the ONR specifying the description of sensitive nuclear information in addition to those provided in the Energy Act 2013.</li> </ul>
<b>Safeguards obligations</b>	<ul style="list-style-type: none"> <li>• Issuing a notice to the ONR specifying that certain obligations, agreements or arrangements are to be considered “safeguard obligations” in addition to those obligations set out in the Energy Act 2013.</li> </ul>

There is joint responsibility, but with the final decision resting with the Secretary of State for the Department for Work and Pensions in the following areas:

<b>Key appointments</b>	<ul style="list-style-type: none"> <li>• Agreement of appointment of the Chair</li> <li>• Approval of the appointment of the Chief Nuclear Inspector (CNI) and Chief Executive Officer (CEO)</li> </ul>
<b>ONR Strategy and Plan</b>	<ul style="list-style-type: none"> <li>• Approval of ONR’s Strategy and Annual Plan and laying them before Parliament</li> </ul>
<b>Annual Report and Accounts</b>	<ul style="list-style-type: none"> <li>• Laying before Parliament ONR’s Annual Report and Accounts</li> </ul>
<b>Other controls</b>	<ul style="list-style-type: none"> <li>• Approval of commercial work</li> </ul>

## **2018-2019 powers exercised by Secretary of State for the Department for Work and Pensions:**

Pursuant to section 108 of the Energy Act 2013, what follows is a report on the powers that have been exercised by the Secretary of State for the Department for Work and Pensions in the last financial year.

### **Schedule 7, paragraph 4:**

Paragraph 4 makes provision in relation to non-executive members of ONR. Under this paragraph, the Secretary of State agreed the appointment of the ONR Chair (approved January 2019 with effect from April 2019).

### **Schedule 7, paragraph 11:**

Paragraph 11 makes provision in relation to the remuneration of non-executive members of ONR. Under this paragraph, the Secretary of State agreed the remuneration of the ONR Chair (approved January 2019 with effect from April 2019).

### **Schedule 7, paragraph 12(5):**

Paragraph 12(5) provides that the Secretary of State approve the appointment of the Chief Executive Officer and the Chief Nuclear Inspector. Under this paragraph, the Secretary of State approved the re-appointment of the Chief Executive Officer (approved February 2018, with effect from January 2019).

### **Schedule 7, paragraph 25(3):**

Paragraph 25 (3) provides that the Secretary of State lay a copy of relevant documents in Parliament together with a statement. Under this paragraph, the Secretary of State laid before Parliament ONR's Annual Plan 2018-19 (May 2018) and Annual Report and Accounts 2017-18 (June 2018).

## **2018-2019 powers exercised by Secretary of State for the Department for Business, Energy and Industrial Strategy:**

Pursuant to section 108 of the Energy Act 2013, what follows is a report on the powers that have been exercised by the Secretary of State for the Department for Business, Energy and Industrial Strategy in the last financial year.

### **Sections 74, 75 and 113, and paragraphs 1, 6 and 16 of Schedule 6**

Sections 74, 75 and 113 of, and Schedule 6 to, the 2013 Act make provision for the Secretary of State to make 'nuclear regulations'.

The Secretary of State exercised powers under the above provisions to make The Carriage of Dangerous Goods (Amendment) Regulations 2019, which implement the emergency preparedness and response elements of the Euratom Basic Safety Standards Directive (2013/59/Euratom) for the transport of radioactive materials in the UK by road, rail and inland waterway, and which will strengthen Great Britain's emergency preparedness and response arrangements for the transport of radioactive materials.<sup>1</sup>

### **Section 76A and S112(1A) and (1B)<sup>2</sup>**

#### **Section 76A**

Section 76A makes provision for the Secretary of State to make 'nuclear safeguards regulations. It also provides for the Secretary of State to specify fissionable material for the purpose of defining "qualifying nuclear material".

The Secretary of State has exercised the powers in section 76A to make the Nuclear Safeguards (EU Exit) Regulations 2019 and the Nuclear Safeguards (Fissionable Material and Relevant International Agreements) (EU Exit) Regulations 2019.

#### **Section 112(1A) and (1B):**

Section 112(1A) and (1B) makes provision for the Secretary of State to specify "relevant international agreements".

The Secretary of State has exercised the powers in section 112(1A) to make the Nuclear Safeguards (Fissionable Material and Relevant International Agreements) (EU Exit) Regulations 2019.

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<sup>1</sup> Powers used in conjunction with section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(a), sections 15(1), (1B), (2) and (4) of, and paragraphs 1(1), (2) and (4), 3, 9, 13 and 14 of Schedule 3 to, the Health and Safety at Work etc. Act 1974(b)

<sup>2</sup> The Nuclear Safeguards Act 2018 amended Part 3 of the Energy Act 2013 by substituting section 72, amending section 112 and inserting Chapter 2A into that Part..

**Section 90**

Section 90 enables ONR to enter into an arrangement with a Minister of the Crown, a government department or a public authority for the ONR to perform a function of that Minister, department or authority where the Secretary of State considers that the function in question can appropriately be performed by ONR.

The Secretary of State exercised the power to consider whether a function can appropriately be performed by ONR under Section 90 to enable ONR to enter into an Agency Agreement with BEIS relating to the grant and revocation of permits and approvals of the manner of the disposal of the fissile material produced under such permits, effective from May 2018.