

ENERGY ACT 2004

NDA Designation of the Dounreay Nuclear Establishment

(Modification Direction No. 1)

ENERGY ACT 2004

NDA Designation of the Dounreay Nuclear Establishment

(Modification Direction No. 1)

Presented to Parliament by the Secretary of State for Energy and
Climate Change pursuant to sections 3, 5 and 6
of the Energy Act 2004.

Laid before the Scottish Parliament in accordance with section 3(8)
of the Energy Act 2004.

INTRODUCTION AND SUMMARY

This introduction and summary is not part of the direction

The Secretary of State and Scottish Ministers, in exercise of the powers conferred by sections 3, 4 and 6 of the Energy Act 2004 (the "2004 Act"), made a Direction on 3 December 2004 designating the Dounreay Nuclear Establishment and giving the NDA responsibilities in relation to that site. The Direction, known as the NDA Designation of Dounreay, came into force on 1 April 2005.

Now, under sections 3, 5 and 6 of the Energy Act 2004, the Secretary of State and the Scottish Ministers modify the NDA Designation of Dounreay. The person with control of the Dounreay Nuclear Establishment is Dounreay Site Restoration Limited, which has consented to this modifying Direction.

Dounreay pioneered the development of fast reactor technology. The site was opened in 1955 and three reactors were built over the next 20 years – the Dounreay Fast Reactor, the Dounreay Prototype Fast Reactor and the Dounreay Materials Test Reactor. All these nuclear plants are now closed and are being decommissioned and the site is being cleaned up.

In summary, this Modifying Direction modifies the NDA Designation of Dounreay by:

- updating the responsibilities designated to the NDA in relation to the Dounreay Nuclear Establishment to take account of progress in the decommissioning of the principal nuclear site;
- noting the relationship between the Dounreay Nuclear Establishment and the adjacent Dounreay Disposal Facility;
- taking into account the updated inventory of legacy materials stored at the Dounreay Nuclear Establishment;
- noting expressly the activities to be carried out in relation to the Dounreay Shaft and Silo.

1. Citation and Interpretation

(1) This Direction may be cited as the NDA Designation of Dounreay (Modification Direction No. 1).

(2) In this Direction—

(a) the “1965 Act” means the Nuclear Installations Act 1965; and

(b) the “2004 Act” means the Energy Act 2004, and references to sections are to sections of that Act.

(3) The Interpretation Act 1978 shall apply to the interpretation of this Direction as it applies to the interpretation of an enactment, and words and expressions used in this Direction that are defined in the 2004 Act shall have the same meaning as in the 2004 Act. Where a word or expression is defined in both the Interpretation Act 1978 and the 2004 Act or in both the Interpretation Act 1978 and this Direction, the meaning attributed to such word or expression in the 2004 Act or this Direction respectively will prevail.

(4) For ease of reference the following definitions from the 2004 Act are set out:-

“cleaning-up” and
“decommissioning”

in relation to a site or installation, includes –

(a) the treatment, storage, transportation and disposal of hazardous material and of other matter and substances that need to be dealt with or removed in or towards making the site or installation suitable to be used for other purposes; and

(b) the construction of buildings and other structures to be used in connection with the cleaning-up or decommissioning of the site or installation;

“facility”

includes a business or other undertaking and installations, vehicles or other property comprised in or used for the purposes of a business or other undertaking;

“hazardous material”

means –

(a) nuclear matter;

(b) radioactive waste; and

(c) any other article or substance that has been and remains contaminated (whether radioactively or chemically) as a result (within the meaning of section 36 of the 2004 Act) of nuclear activities;

“installation”

includes buildings, structures and apparatus (whether or not fixed to land);

| | |
|--------------------------|--|
| “NDA facility” | <p>means a facility which –</p> <p>(a) is being or has been used for or in connection with the storage, disposal or treatment of hazardous material; and</p> <p>(b) is a facility for the operation of which the NDA has or has had a responsibility;</p> |
| “nuclear installation” | <p>means –</p> <p>(a) an installation which is situated in or on a principal nuclear site but is not comprised in an NDA facility;</p> <p>(b) pipes, conduits and other apparatus which are not situated in or on a principal nuclear site but are connected to an installation falling within paragraph (a);</p> |
| “principal nuclear site” | <p>means the whole or a part of a site of any of the following descriptions –</p> <p>(a) a site in respect of which a nuclear site licence is or is required to be in force;</p> <p>(b) a site in respect of which such a licence would be required to be in force of the licensing requirements of the 1965 Act applied to the Crown;</p> <p>(c) a site not falling within paragraph (a) or (b) in or on which there is an NDA facility;</p> <p>(d) a site on which there is an installation used for practical research into the production of energy by the fusion of atomic nuclei;</p> <p>(e) a site which has been a site falling within paragraphs (a) to (d) but which, without being such a site, remains contaminated (whether radioactively or chemically) as a result of nuclear activities carried on while it was such a site or before it became one;</p> |
| “site” | <p>includes –</p> <p>(a) land within the United Kingdom;</p> <p>(b) an area of territorial waters adjacent to the United Kingdom;</p> <p>(c) the seabed and subsoil in any such area;</p> |
| “treat” | <p>in relation to any matter or substance, includes processing and reprocessing (including any use as a material in a process for the manufacture of nuclear fuel), and cognate expressions are to be construed accordingly.</p> |

2. Direction

- (1) This Direction is given by the Secretary of State under sections 3 and 5 of the 2004 Act.
- (2) This Direction is given by the Secretary of State acting jointly with the Scottish Ministers under section 6(1) in so far as it gives, removes or varies any responsibility falling within section 6(2) of the 2004 Act.
- (3) This Direction is also given by the Secretary of State under section 3 of the 2004 Act, having consulted the Scottish Ministers in accordance with section 6(3) of the 2004 Act.

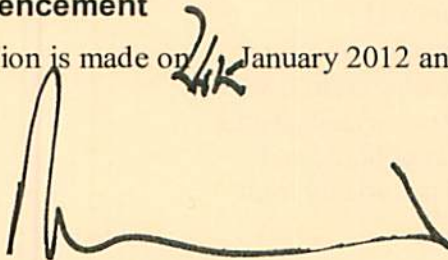
3. Modification of the NDA Designation of Dounreay

- (1) The NDA Designation of Dounreay is modified as set out in sub-paragraphs (2) and (3) below.
- (2) For Schedule 1 to the NDA Designation of Dounreay substitute Schedule 1 to this Direction.
- (3) For Schedule 2 to the NDA Designation of Dounreay substitute Schedule 2 to this Direction.

4. Commencement

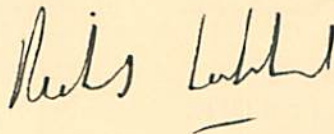
The Direction is made on ²⁴January 2012 and shall come into force on 1 February 2012.

Signed:



On behalf of the Secretary of State for Energy and Climate Change

Signed:



A member of the Scottish Executive

SCHEDULE 1

Designated Responsibilities

| No | Site/Installation/Facility | Description | Designation purpose (paragraphs of section 3(1) of the 2004 Act) |
|----|--|---|--|
| 1 | The Dounreay Nuclear Establishment (the "principal nuclear site") | Land situated at Dounreay in the District of Caithness in the Highland Region, shown outlined in red on drawing referenced OZ216400 Mod K and entitled "Layout Site Licence Boundary Plan Dounreay Site", dated 28.02.08 – Annex "A" ¹ . | (c) the cleaning-up of the principal nuclear site. ² |
| 2 | Facilities and other installations relating to the Dounreay Materials Tests Reactor (DMTR) | Storage and non-processing treatment of spent fuel elements arising from DMTR; management, treatment and encapsulation of solid waste arising from DMTR; management, storage and transport of liquid and solid waste arising from DMTR. | (d) operations for treating, storing, transporting or disposing of hazardous material. |
| 3 | Facilities and other installations relating to the Dounreay Fast Reactor (DFR) | Storage and non-processing treatment of spent fuel elements arising from DFR; management, treatment and encapsulation of solid waste arising from DFR; storage and transport of liquid and solid waste arising from DFR. | (d) operations for treating, storing, transporting or disposing of hazardous material. |
| 4 | Facilities and other installations relating to the Dounreay Prototype | Storage and non-processing treatment of spent fuel elements arising | (d) operations for treating, storing, transporting or disposing |

¹ Nuclear site licences are granted under section 1(1) of the Nuclear Installations Act 1965 (c.57).

² Section 3(6) of the 2004 Act provides that unless the direction provides otherwise, the designation of a principal nuclear site for cleaning-up is to have the effect of including a designation to decommission every installation situated in or on that site.

| | | | |
|---|---|---|--|
| | Fast Reactor (DPFR) | from DPFR; management, treatment and encapsulation of solid waste arising from DPFR; storage and transport of liquid and solid waste arising from DPFR. | of hazardous material. |
| 5 | Facilities and other installations relating to hazardous material | Storage, treatment and repackaging of hazardous material; transport and permitted disposal of hazardous material; management, treatment and disposal of liquid and gaseous wastes arising from hazardous material. | (d) operations for treating, storing, transporting or disposing of hazardous material. |
| 6 | Facilities and other installations relating to legacy third party waste and spent fuel ("Legacy Third Party Materials") | Management, treatment, encapsulation and storage of Legacy Third Party Materials; storage of treated and encapsulated Legacy Third Party Materials; transport of Legacy Third Party Materials; storage, treatment and transport of liquid and solid waste arising from Third Party Materials. | (d) operations for treating, storing, transporting or disposing of hazardous material. |
| 7 | Facilities and other installations relating to Intermediate Level Waste ("ILW") | Storage of ILW arising from site activities; management, treatment and encapsulation of ILW; storage of treated and encapsulated ILW pending transport or disposal. | (d) operations for treating, storing, transporting or disposing of hazardous material. |
| 8 | Facilities and other installations relating to Low Level Waste ("LLW") & Very Low Level Waste ("VLLW") | Receipt and storage of LLW & VLLW arising from site activities and from the adjacent Vulcan facility; management, treatment and encapsulation of LLW & VLLW; storage of treated and encapsulated LLW and VLLW pending transport to the Dounreay Disposal Facility. | (d) operations for treating, storing, transporting or disposing of hazardous material. |

| | | | |
|----|---|--|--|
| 9 | Facilities and other installations relating to the Dounreay Shaft and Silo | Extraction and characterisation of material stored in the Dounreay Shaft and Silo; management, treatment and encapsulation of material arising from the Dounreay Shaft and Silo; storage of treated and encapsulated waste arising from the Dounreay Shaft and Silo; transport of treated and encapsulated waste arising from the Dounreay Shaft and Silo;; storage, treatment and transport of liquid and solid waste arising from the Dounreay Shaft and Silo. | (c) the cleaning-up of designated nuclear sites. |
| 10 | Facilities and other installations relating to the treatment and storage of liquid effluent | Treatment and storage of liquid effluent arising from site activities. | (d) operations for treating, storing, transporting or disposing of hazardous material. |
| 11 | Laboratory facilities and other related installations | Analysing the nuclear and chemical characteristics of spent fuel and waste materials. | (a) the operation pending the commencement of their decommissioning of designated nuclear installations. |
| 12 | Laundry facilities and other related installations | Cleansing and decontaminating personal protective equipment to allow reuse. | (d) operations for treating, storing, transporting or disposing of hazardous material. |
| 13 | Pipes, conduits and other apparatus | Including but not limited to: water mains, communications, power, drainage, sewage and the sea discharge outfall not situated in or on the principal nuclear site but which are connected to buildings, structures and apparatus in or on the principal nuclear site. | (c) the cleaning-up of designated nuclear sites. (d) operations for treating, storing, transporting or disposing of hazardous material. |

SCHEDULE 2

Installations in respect of which decommissioning is postponed until the specified time

1. All installations (whether or not fixed to the land) on the principal nuclear site including but not limited to: sewage, drainage, effluent discharge, electricity, water, gas or which form part of an electronic communications network³ operated by a person, other than the person in control of the principal nuclear site, until such time as those apparatus and services are no longer needed to supply the principal nuclear site or to provide services to users outside the principal nuclear site.
2. All installations utilised for or occupied by persons other than the person in control of the principal nuclear site until such time as the agreements (including any new agreements) under which such installations are occupied are terminated, or otherwise come to an end.
3. All installations necessary to operate the facilities set out in Schedule 1 until such time as such facilities and other installations are no longer needed in order to fulfil the NDA's designated responsibilities relating to operation and clean-up.
4. All installations necessary to support the operation of the adjacent Dounreay Low Level Waste Facility.

³ The term "electronic communications network" has the same meaning as in section 32(1) of the Communications Act 2003 (c. 21).

