



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 2017 to 31 March 2018

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

21 June 2018



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### **Requirements under this part in the 2013 Act:**

Section 108(1) of the Energy Act 2013 (the 2013 Act) requires the Secretary of State as soon as possible after the end of the financial year, to make a report to each House of Parliament; setting out the use of the Secretary of State's powers exercised under Part 3 of the Act, during the year; and requires that the report is laid before Parliament.

The report covers the period 1 April 2017 to 31 March 2018. This is the fourth report to be laid under this power 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 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></ul>
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	<ul style="list-style-type: none"> <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>

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

In accordance with S108 of the Energy Act 2013, the following powers have been exercised by the Secretary of State for the Department for Work and Pensions.

**Schedule 7, paragraph 4:**

Paragraph 4 provides that the Secretary of State ensure that there be no fewer than 5 non-executive members of ONR. Under this paragraph, the Secretary of State agreed the appointment of two non-executive directors (September and November 2017).

**Schedule 7, paragraph 11:**

Paragraph 11 provides that ONR remunerate non-executive members as the Secretary of State may determine. Under this paragraph, the Secretary of State agreed the remuneration of two non-executive directors (September and November 2017).

**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 appointment of the Chief Nuclear Inspector (October 2017).

**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 in Parliament ONR's Annual Report and Accounts 2016-17 and ONR's Annual Plan 2016-17 (July 2017).

## **2017-2018 powers exercised by Secretary of State for the Department for Business, Energy and Industrial Strategy:**

In accordance with S108 of the Energy Act 2013, the following powers have been exercised by the Secretary of State for the Department for Business, Energy and Industrial Strategy.

### **Section 71:**

Section 71 provides for the Secretary of State to specify by notice that certain information is sensitive nuclear information which needs to be protected in the interests of national security. In accordance with this section, notice was given to ONR specifying that information requiring a classification in accordance with either the ONR document "Classification Policy for the Civil Nuclear Industry", to be issued in 2018, or the ONR and Ministry of Defence document "ACO 300", issued in January 2002 (January 2018) is sensitive nuclear information. In accordance with section 71(4) of the Energy Act 2013, the Secretary of State consulted the ONR before giving the notice.

### **Section 92(1):**

Section 92(1) provides that the Secretary of State may give ONR a direction as to the exercise of its functions generally, or any of its functions specifically. A Direction was issued to ONR to provide or make otherwise available i) information on normal operating conditions of civilian nuclear installations to the general public and ii) information promptly, in the event of an incident or accident, to the general public. (July 2017).

### **Section 92(3):**

Section 92(3) provides that the Secretary of State may give ONR such directions as may be needed in the interest of national security. A Direction was issued to ONR regarding the supply of information on changes or proposed changes of ownership or control of certain specified entities operating in the civil nuclear sector (October 2017).

### **Section 94:**

Section 94 provides that ONR must not, without the consent of the Secretary of State, issue any communications relating to security guidance or any statement of the ONR's nuclear security policy which it considers concerns any matter to which any government policy on national security relates. Such consent was provided in relation to the publication of Version 8.01 of the Nuclear Industries Security Regulations 2003 Classification Policy (January 2018).