



Department for
Business, Energy
& Industrial Strategy

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

1 April 2021 to 31 March 2022

November 2022

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

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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. The report must be laid before Parliament.

This report covers the period 1 April 2021 to 31 March 2022. This is the eighth 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 is shared between 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:

Pay	<ul style="list-style-type: none">• Under the DWP/ONR Framework document ONR can set its own pay remit, taking into account the requirements of Managing Public Money, Cabinet Office guidance and other relevant public sector guidance. ONR will alert DWP at the earliest opportunity if it proposes to deviate from these requirements.
Financial control	<ul style="list-style-type: none">• Approval of the ONR's accounts• Approval of any borrowing by the ONR. Provision of the ONR with sufficient funds to enable it to carry out its functions.
Non-executives (not including security non-executive)	<ul style="list-style-type: none">• Appointment and dismissal• Acceptance of resignation• Approval of terms of appointment
Other controls	<ul style="list-style-type: none">• Receipt of proposals for regulations made by the ONR• Approval of international work of the ONR (in consultation with BEIS due to its interest in national security issues)• Approval of any Approved Code of Practice proposed by the ONR

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

Security specific	<ul style="list-style-type: none"> • Non-Executive Director, Security: appointment and dismissal; acceptance of resignation; approval of terms of appointment • 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
Policy Directions and Sensitive Information	<ul style="list-style-type: none"> • Direct ONR regarding the exercise of its functions generally, or any of its functions specifically • Provide consent to issue certain communications which concern matters to which government policy on national security relates • Give a notice to the ONR specifying the description of sensitive nuclear information in addition to those provided in the Energy Act 2013.
Safeguards obligations	<ul style="list-style-type: none"> • 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.

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:

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

2021-2022 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, two existing NED appointments were extended respectively to March 2026, and 30 September 2027, as confirmed by letter from the Secretary of State.

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 Executive / Chief Nuclear Inspector (December 2020).

Note: *The appointment of the CE/CNI took effect on 1 June 2021.*

Under this same paragraph, agreement was also given by the Secretary of State (DWP) and Chief Secretary to the Treasury (HMT) as to the level of remuneration for the role with effect from 1 June 2021.

Schedule 7, paragraph 25(3):

Paragraph 25(3) provides that the Secretary of State lay a copy of relevant documents (as defined in paragraph 25(1)) in Parliament together with a statement. Under this paragraph, the Secretary of State laid in Parliament ONR's Corporate Plan 2021-22 (8 June 21) and Annual Report and Accounts 2020-21 (20 July 21).

2021-2022 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.

Section 94:

Section 94 provides that the ONR must not, without the consent of the Secretary of State, issue any communication 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 nuclear security relates. Over the relevant period, BEIS responded to two requests from ONR:

- 1) Consent was provided by the Secretary of State for publication of a revision to the Nuclear Industries Safety Regulations (NISR) 2003 Classification Policy (6 October 2021).
- 2) Consent was provided by the Secretary of State for publication of Security Assessment Principles for the Civil Nuclear Industry (SyAPs) Rev 1 (25 January 2022).

Section 101(1):

Section 101(1) provides that the Secretary of State may by regulations provide for fees to be payable for, or in connection with, the performance of a set of specific functions. Under this paragraph, the Secretary of State exercised the power for fees to be payable concerning the Nuclear Safeguards (Fees) Regulations 2021.

Section 112:

Section 112 provides the interpretation of Part 3 of the Energy Act. Under this paragraph, the Secretary of State exercised the power to specify "relevant international agreements" in the context of the Nuclear Safeguards (Fissionable Material and Relevant International Agreements) (EU Exit) (Amendment) Regulations 2021. This added the Japan Amending Protocol as a Relevant International Agreement in April 2021.

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