

Sections 7 to 30 of the Nuclear Installations Act 1965

[Unofficial version marked to show proposed amendments in the draft Nuclear Installations (Liability for Damages) Order published on 24 January 2011]

Duty of licensee, etc, in respect of nuclear occurrences

7 Duty of licensee of licensed site

(1) Subject to subsection (4), this section applies where a nuclear site licence has been granted to a person in respect of a site.

(1A) It is the duty of the licensee to secure that no such occurrence involving nuclear matter as is mentioned in subsection (2) causes—

(a) injury to any person,

(b) damage to any property of any person other than the licensee, or

(c) significant impairment of the environment,

being injury, damage or impairment that arises out of or results from the radioactive properties, or a combination of those and any toxic, explosive or other hazardous properties, of that nuclear matter.

(1B) It is the duty of the licensee to secure that no ionising radiations emitted from a source mentioned in subsection (1C) during the period of the licensee's responsibility cause—

(a) injury to any person,

(b) damage to any property of any person other than the licensee, or

(c) significant impairment of the environment,

being injury, damage or impairment that arises out of or results from the radioactive properties, or a combination of those and any toxic, explosive or other hazardous properties, of that source.

(1C) The emissions of ionising radiations referred to in subsection (1B) are emissions from—

(a) anything caused or suffered by the licensee to be on the site which is not nuclear matter;

(b) any waste discharged (in whatever form) on or from the site.

(1D) It is the duty of the licensee to secure that no event happens that creates a grave and imminent threat of a breach of the duty under subsection (1A) or (1B).

~~Subject to subsection (4) below, where a nuclear site licence has been granted in respect of any site, it shall be the duty of the licensee to secure that—~~

~~(a) no such occurrence involving nuclear matter as is mentioned in subsection (2) of this section causes injury to any person or damage to any property of any person other than the licensee, being injury or damage arising out of or resulting from the radioactive properties, or a combination of those and any toxic, explosive or other hazardous properties, of that nuclear matter; and~~

~~(b) no ionising radiations emitted during the period of the licensee's responsibility—~~

- ~~(i) from anything caused or suffered by the licensee to be on the site which is not nuclear matter; or~~
- ~~(ii) from any waste discharged (in whatever form) on or from the site,~~

~~cause injury to any person or damage to any property of any person other than the licensee.~~

(2) The occurrences referred to in subsection (1A) are—

- (a) subject to section 7A(12), any occurrence on the licensed site involving nuclear matter during the period of the licensee's responsibility;
- (b) any occurrence elsewhere than on the licensed site involving nuclear matter that is not excepted matter and which, at the time of the occurrence, satisfies the requirement mentioned in section 7A(1).

~~(2) The occurrences referred to in subsection (1)(a) of this section are—~~

- ~~(a) any occurrence on the licensed site during the period of the licensee's responsibility, being an occurrence involving nuclear matter;~~
- ~~(b) any occurrence elsewhere than on the licensed site involving nuclear matter which is not excepted matter and which at the time of the occurrence—~~
 - ~~(i) is in the course of carriage on behalf of the licensee as licensee of that site; or~~
 - ~~(ii) is in the course of carriage to that site with the agreement of the licensee from a place outside the relevant territories; and~~
 - ~~(iii) in either case, is not on any other relevant site in the United Kingdom;~~
- ~~(c) any occurrence elsewhere than on the licensed site involving nuclear matter which is not excepted matter and which—~~
 - ~~(i) having been on the licensed site at any time during the period of the licensee's responsibility; or~~
 - ~~(ii) having been in the course of carriage on behalf of the licensee as licensee of that site,~~

~~has not subsequently been on any relevant site, or in the course of any relevant carriage, or (except in the course of relevant carriage) within the territorial limits of a country which is not a relevant territory.~~

(3) For the purposes of determining whether the licensee of a licensed site is liable for damage to property by virtue of subsection (1A) because of such occurrence as is mentioned in subsection (2), any such property as is mentioned in subsection (3B) which is on that site at the time of the occurrence is to be deemed to be the property of the licensee.

(3A) For the purposes of determining whether the licensee of a licensed site is liable by virtue of subsection (1D) because of an event creating a grave and imminent threat of a breach of the duty under subsection (1A) as it relates to damage to property, any such property as is mentioned in subsection (3B) which is on that site at the time of the event is to be deemed to be the property of the licensee.

(3B) The property referred to in subsections (3) and (3A) is—

- (a) a nuclear installation;

- (b) property other than a nuclear installation which is on the licensed site for the purpose of being used in connection with the operation, or the cessation of the operation, by the licensee of a nuclear installation which is or has been on that site;
- (c) property other than a nuclear installation which is on the licensed site for the purpose of the construction of a nuclear installation on that site.

~~In determining the liability by virtue of subsection (1) of this section in respect of any occurrence of the licensee of a licensed site, any property which at the time of the occurrence is on that site, being—~~

- ~~(a) a nuclear installation; or~~
- ~~(b) other property which is on that site—~~
 - ~~(i) for the purpose of use in connection with the operation, or the cessation of the operation, by the licensee of a nuclear installation which is or has been on that site; or~~
 - ~~(ii) for the purpose of the construction of a nuclear installation on that site;~~

~~shall, notwithstanding that it is the property of some other person, be deemed to be the property of the licensee.~~

- (4) Section 8 of this Act shall apply in relation to sites occupied by the Authority.

7A Occurrences during carriage

(1) The requirement referred to in section 7(2)(b) is that the nuclear matter satisfies the condition in any of subsections (2) to (8) in relation to the licensee of the licensed site as licensee of that site.

(2) The condition in this subsection is that the nuclear matter is in the course of carriage to the licensed site with the agreement of the licensee from a place in a country or territory outside the relevant territories.

For these purposes the carriage of the matter is to be treated as starting only after the matter has been loaded on to the means of transport intended to be used for its carriage from that country or territory.

(3) The condition in this subsection is that the nuclear matter is in the course of carriage from the licensed site to a place in a country or territory outside the relevant territories.

For these purposes the carriage of the matter is to be treated as coming to an end once the matter has been unloaded from the means of transport used for its carriage to that country or territory.

(4) The condition in this subsection is that—

(a) the licensee has taken charge of the nuclear matter from a person authorised to operate a nuclear reactor comprised in a means of transport, and

(b) the matter is in the course of carriage to the licensed site.

(5) The condition in this subsection is that the nuclear matter is in the course of carriage from the licensed site to a person authorised to operate a nuclear reactor comprised in a means of transport and in which the matter is intended to be used.

For these purposes the carriage of the matter is to be treated as coming to an end once that operator takes charge of the matter.

(6) The condition in this subsection is that—

(a) the nuclear matter is in the course of carriage on behalf of the licensee as a licensee of the licensed site, otherwise than as described in any of subsections (2) to (5), and the licensee has a direct economic interest in the matter, or

(b) the nuclear matter was in the course of such carriage and, since ceasing to be in the course of such carriage, has not been in such circumstances as are mentioned in subsection (9), (10) or (11).

(7) The condition in this subsection is that—

(a) immediately before the nuclear matter ceased to be on the licensed site, the licensee was subject to the duty mentioned in section 7(1A) as regards the matter, and

(b) since ceasing to be on that site, the nuclear matter has not satisfied any of the conditions in subsections (2) to (6) in relation to the licensee and has not been in such circumstances as are mentioned in subsection (9), (10) or (11).

(8) The condition in this subsection is that—

(a) the nuclear matter has ceased to satisfy a condition in subsection (2), (3), (4) or (5) in relation to the licensee before the carriage described in that subsection has come to an end, and

(b) since ceasing to satisfy that condition, it has not been in such circumstances as are mentioned in subsection (9), (10) or (11).

(9) The circumstances in this subsection are that the nuclear matter—

(a) is in the course of carriage on behalf of a person authorised to operate a nuclear reactor comprised in a means of transport and in which the nuclear matter is intended to be used or was used or was intended to be used, or

(b) is in the course of relevant carriage on behalf of a person other than the licensee of the licensed site, and otherwise than as described in paragraph (a), and is matter in which that person has a direct economic interest.

(10) The circumstances in this subsection are that—

(a) the nuclear matter is on a relevant site other than the licensed site, and

(b) the operator of that site is, or would be if the operator were a licensee of a licensed site and the site were that licensed site, subject to the duty in section 7(1A) as regards the matter.

(11) The circumstances in this subsection are that the nuclear matter—

(a) is within the territorial limits of a country or territory that is not a relevant territory, and

(b) is not in the course of such carriage as is described in any of subsections (2) to (5) or in the course of relevant carriage from one relevant site to another.

(12) An occurrence on a licensed site involving nuclear matter is not to be treated as an occurrence falling within section 7(2)(a) if, at the time of the occurrence, the matter satisfies the requirement in subsection (1) of this section in relation to the operator of another relevant site.

(13) In determining whether the requirement in subsection (1) is satisfied for the purposes of subsection (12), in a case where the operator is not a licensee of a licensed site acting as such, subsections (1) to (11) are to have effect as if that operator were the licensee of a licensed site and that operator's site were a licensed site.

(14) For the purposes of this section, a person who receives a financial or other benefit for or in connection with undertaking, or arranging for, the carriage of nuclear matter does not, for that reason only, have a direct economic interest in the matter.

8 Duty of Authority

Sections 7 and 7A of this Act shall apply in relation to the Authority--

- (a) as if any premises which are or have been occupied by the Authority were a site in respect of which a nuclear site licence has been granted to the Authority; and
- (b) as if in relation to any such premises any reference to the period of the licensee's responsibility were a reference to any period during which the Authority is in occupation of those premises;

and sections 7 and 7A shall so apply whether or not a nuclear site licence has been granted in respect of the premises in question.

9 Duty of Crown in respect of certain sites

If a government department uses any site for any purpose which, if section 1 of this Act applied to the Crown, would require the authority of a nuclear site licence in respect of that site, sections 7 and 7A of this Act shall apply in like manner as if--

- (a) the Crown were the licensee under a nuclear site licence in respect of that site; and
- (b) any reference to the period of the licensee's responsibility were a reference to any period during which the department occupies the site.

10 Duty of certain foreign operators

(1) It is the duty of a relevant foreign operator to secure that no occurrence involving nuclear matter which is not excepted matter and satisfying the conditions in subsections (2) and (4) causes--

- (a) injury to any person,
- (b) damage to any property of any person other than that operator, or
- (c) significant impairment of the environment,

being injury, damage or impairment that arises out of or results from the radioactive properties, or a combination of those and any toxic, explosive or other hazardous properties, of that nuclear matter.

(1A) It is the duty of a relevant foreign operator to secure that no event happens that creates a grave and imminent threat of a breach of the duty under subsection (1).

~~In the case of any nuclear matter which is not excepted matter and which--~~

- ~~(a) is--~~
- ~~(i) in the course of carriage on behalf of a relevant foreign operator; or~~
- ~~(ii) in the course of carriage to such an operator's relevant site with the agreement of that operator from a place outside the relevant territories;~~

~~and is not for the time being on any relevant site in the United Kingdom; or~~

~~(b) — having been on such an operator's relevant site or in the course of carriage on behalf of such an operator, has not subsequently been on any relevant site or in the course of any relevant carriage or (except in the course of relevant carriage) within the territorial limits of a country which is not a relevant territory;~~

~~it shall be the duty of that operator to secure that no occurrence such as is mentioned in subsection (2) of this section causes injury to any person or damage to any property of any person other than that operator, being injury or damage arising out of or resulting from the radioactive properties, or a combination of those and any toxic, explosive or other hazardous properties, of that nuclear matter.~~

~~(2) —~~

~~(2) The condition in this subsection is that the occurrence is—~~

~~(a) an occurrence taking place wholly or partly within United Kingdom limits; or~~

~~(b) an occurrence taking place outside those limits which also involves nuclear matter in respect of which a duty is imposed on any person by section 7, 8 or 9.~~

~~(3) The area within United Kingdom limits consists of—~~

~~(a) the area within the territorial limits of the United Kingdom, and~~

~~(b) the area within the limits of the United Kingdom's relevant maritime zone (and those limits are to be treated as applying to sea, sea bed, subsoil and airspace).~~

~~(4) The condition in this subsection is that the nuclear matter at the time of the occurrence would, if the relevant foreign operator were the licensee of a licensed site and that operator's site were a licensed site, satisfy the requirement in section 7A(1) in relation to the relevant foreign operator."~~

~~The occurrences referred to in the foregoing subsection are—~~

~~(a) — an occurrence taking place wholly or partly within the territorial limits of the United Kingdom; or~~

~~(b) — an occurrence outside the said territorial limits which also involves nuclear matter in respect of which a duty is imposed on any person by section 7, 8 or 9 of this Act.~~

11 Duty of other persons causing nuclear matter to be carried

Where any nuclear matter, not being excepted matter, is in the course of carriage within the territorial limits of the United Kingdom on behalf of any person (hereafter in this section referred to as "the responsible party") and--

(a) the carriage is not relevant carriage; and

(b) the nuclear matter is not for the time being on any relevant site,

it shall be the duty of the responsible party to secure that no occurrence involving that nuclear matter causes injury to any person or damage to any property of any person other than the responsible party, being injury or damage incurred within the said territorial limits and arising out of or resulting from the radioactive properties, or a combination of those and any toxic, explosive or other hazardous properties, of that nuclear matter.

Cost of measures of reinstatement

11A Cost of measures of reinstatement

(1) Where as a result of a breach of a duty imposed by section 7, 8, 9 or 10 there is significant impairment of the environment, a qualifying public authority may make a claim under this Act for compensation in respect of the reasonable cost of measures of reinstatement relating to that impairment to the extent that they are relevant measures of reinstatement.

(2) Subsection (1) is subject to subsection (3) and sections 11B and 11D.

(3) Compensation is not payable by virtue of a claim under subsection (1) in respect of the cost of measures of reinstatement that benefit or would benefit property if the property is such that damage to it would not constitute damage in breach of a duty imposed by section 7, 8, 9 or (as the case may be) 10.

(4) A public authority is a qualifying public authority, in relation to a particular significant impairment of the environment, if it may in the exercise of its functions—

(a) take, or arrange for the taking of, measures of reinstatement in relation to that impairment of the environment, or

(b) pay (otherwise than under this Act) costs incurred by another public authority in taking, or arranging for the taking of, measures of reinstatement in relation to that impairment.

(5) A relevant measure of reinstatement, in relation to significant impairment of the environment, is a measure reasonably taken for the purpose of—

(a) reinstating or restoring what has been destroyed or damaged as part of that impairment, or

(b) establishing the equivalent of what has been destroyed or damaged as part of that impairment.

(6) A measure of reinstatement is reasonably taken for the purposes of this section if taking that measure is appropriate and proportionate in the circumstances.

(7) In this section—

“holder of a public office” means—

(a) a person holding an office under the Crown,

(b) a person holding an office created or continued in existence by a public general Act or by legislation passed by the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly, or

(c) a person holding an office the remuneration in respect of which is paid out of money provided by Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly;

“local authority” means—

(a) in relation to England, a county council, a district council, a parish council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;

(b) in relation to Scotland, a council for any local government area constituted under section 2(1) of the Local Government etc. (Scotland) Act 1994;

(c) in relation to Wales, a county council, a county borough council or a community council;

(d) in relation to Northern Ireland, a district council.

“public authority” means a holder of a public office or a public body;

“public body” includes a government department (including the Welsh Assembly Government, any part of the Scottish Administration and a Northern Ireland department) and a local authority.

11B Approval of measures of reinstatement

(1) Compensation under this Act is payable by virtue of a claim under section 11A(1) only if the claim relates to measures of reinstatement approved by—

- (a) the Secretary of State under this section, or
- (b) if a decision under this section is appealed under section 11D, the court that determines the appeal under section 11D.

(2) A public authority may apply to the Secretary of State for approval under this section before or after the measures of reinstatement are taken.

(3) The public authority must publish a notice of its application.

(4) The notice must be published in a manner that appears to the authority to be appropriate for bringing it to the attention of—

- (a) the person whose breach, or alleged breach, of a duty imposed by section 7, 8, 9 or 10 caused, or is alleged to have caused, the impairment of the environment;
- (b) the owner of land that is or would be affected by the measures of reinstatement;
- (c) any person who appears to the authority to be in occupation of all or part of such land.

(5) A notice of an application for approval must specify the measures of reinstatement for which approval is sought.

(6) The Secretary of State may approve a measure of reinstatement under this section only if satisfied that—

- (a) there is significant impairment of the environment;
- (b) the measure is, in relation to that impairment, a relevant measure of reinstatement within the meaning of section 11A;
- (c) the amount claimed in respect of the cost of the measure is reasonable;
- (d) the public authority applying for approval in relation to a measure of reinstatement is a qualifying public authority within the meaning of section 11A as regards that measure.

(7) The Secretary of State may refuse to approve measures of reinstatement on the ground that the applicant, or the public authority whose costs the applicant has paid or proposes to pay, is or was not the appropriate public authority to take the measures or to arrange for them to be taken.

(8) The Secretary of State may approve some but not others of the measures to which the application relates.

(9) A decision by the Secretary of State under this section is not to be taken as determining—

- (a) whether or not there was a breach of a duty under section 7, 8, 9 or 10, or
- (b) whether or not the impairment of the environment arises out of or results from a breach of such a duty.

(10) The Secretary of State must publish a notice of a decision made under this section.

(11) For each of the measures of reinstatement to which the application relates, the notice of decision must—

(a) state whether or not approval is refused on the ground referred to in subsection (7), and

(b) in a case where approval is not refused on that ground, specify the reasons why the Secretary of State is or is not satisfied as to the matters in subsection (6).

(12) If the Secretary of State makes a claim for compensation under section 11A(1), the Secretary of State must appoint a person to carry out the functions of the Secretary of State under this section in respect of an application for approval.

(13) Approval by the appointed person is to be treated as approval by the Secretary of State for the purposes of subsection (1).

(14) In this section—

“creditor” and “heritable security” have the same meaning as in the Conveyancing and Feudal Reform (Scotland) Act 1970;

“owner”, in relation to land in England and Wales or Northern Ireland, means a person (other than a mortgagee in possession) who, whether in the person’s own right or as trustee for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rate, would be so entitled if the land were so let;

“owner”, in relation to land in Scotland, means a person (other than the creditor in a heritable security not in possession of the security subjects) for the time being entitled to receive or who would, if the land were let, be entitled to receive the rents of the land in connection with which the word is used and includes a trustee, factor, guardian or curator and in the case of public or municipal land includes the persons to whom the management of the land is entrusted.

11C Representations

(1) Persons who satisfy the requirements of subsection (2) may make representations to the Secretary of State as regards the measures of reinstatement for which approval is sought by an application under section 11B.

(2) A person satisfies the requirements of this subsection if the person is—

(a) the person whose breach, or alleged breach, of a duty imposed by section 7, 8, 9 or 10 caused, or is alleged to have caused, the impairment of the environment;

(b) the owner of land that is or would be affected by the measures of reinstatement;

(c) a person who is in occupation of all or part of such land.

(3) The Secretary of State may invite other persons to make representations as regards the measures of reinstatement.

(4) The Secretary of State must publish a notice of the arrangements for making representations under this section in respect of an application under section 11B.

(5) “Owner”, in relation to land, has the meaning given by section 11B.

11D Appeals against decisions

- (1) The following persons may appeal to the appropriate court against a decision of the Secretary of State on an application under section 11B—
 - (a) where approval of a measure of reinstatement is refused, the public authority that applied for approval of the measure;
 - (b) where approval of a measure of reinstatement is granted, the person whose breach, or alleged breach, of a duty imposed by section 7, 8, 9 or 10 caused, or is alleged to have caused, the impairment of the environment.
- (2) A decision of the Secretary of State to refuse approval on the ground referred to in section 11B(7) may not be appealed under this section.
- (3) Subject to subsection (2), the court may on an appeal under this section determine whether or not to approve the measures of reinstatement to which the appeal relates.
- (4) Section 11B(6) applies in relation to a determination of the court as it applies in relation to a decision of the Secretary of State under section 11B.
- (5) The appropriate court is the court that has, or but for section 16(3E) would have had, jurisdiction in accordance with section 16B to determine a claim by virtue of section 7, 8, 9 or 10 for compensation under this Act in respect of the cost of the measures of reinstatement in question.
- (6) A decision of a person appointed under section 11B(12) may be appealed in the same way as a decision of the Secretary of State.

11E Measures of reinstatement and relevant foreign law

- (1) Where approval of measures of reinstatement relating to significant impairment of the environment is required by any relevant foreign law made for purposes corresponding to section 11B(1), sections 11B to 11D are to apply to applications for such approval as they apply to applications for the approval required by section 11B(1).
- (2) Where sections 11B to 11D apply by virtue of subsection (1)—
 - (a) references to a breach of duty under section 7, 8, 9 or 10 are to be treated as references to the corresponding occasion of compensation under the relevant foreign law, and
 - (b) references to the appropriate court are to be treated as references to the High Court.

11F Measures of reinstatement outside the United Kingdom

Schedule 1A (approval of measures of reinstatement in places outside the United Kingdom) has effect.

Loss of income derived from the environment

11G Loss of income derived from the environment

- (1) Where as a result of a breach of a duty imposed by section 7, 8, 9 or 10 there is significant impairment of the environment, a claim may be made under this Act for compensation in respect of a person's loss of income that satisfies the requirements of subsection (2).
- (2) The requirements are—
 - (a) that the loss is of income derived from a direct economic interest in any use or enjoyment of the part of the environment that is significantly impaired as a result of the breach, and

- (b) that the loss of income is attributable to the effect of the impairment on the use or enjoyment of that part of the environment.
- (3) Compensation under this Act is not payable by virtue of a claim under subsection (1) if the loss of income in question is a loss in relation to which a claim for compensation under this Act in respect of damage to property—
- (a) may be or has been made, or
- (b) could have been made, but for the property being such that damage to it would not constitute damage in breach of a duty imposed by section 7, 8, 9 or (as the case may be) 10.
- (4) Compensation under this Act is not payable by virtue of a claim under subsection (1) if the loss of income relates to the use or enjoyment of the relevant site of the person in breach of duty or part of it.

Cost of preventive measures

11H Cost of preventive measures

- (1) This section applies where there is a breach of a duty imposed by section 7, 8, 9 or 10.
- (2) A claim may be made for compensation under this Act in respect of the reasonable cost of preventive measures reasonably taken after the breach of duty.
- (3) Subject to subsections (4) to (6), a claim may be made for compensation under this Act in respect of injury to a person or damage to property caused by preventive measures reasonably taken after the breach of duty.
- (4) The compensation that may be claimed under subsection (3) does not include compensation in respect of so much of any injury or damage as is caused by an act or omission done maliciously or negligently.
- (5) The compensation that may be claimed under subsection (3) does not include compensation in respect of damage to property where the property is such that damage to it would not constitute damage in breach of a duty imposed by section 7, 8, 9 or (as the case may be) 10.
- (6) The payment of compensation in respect of injury to a person or damage to property otherwise than under this Act by or on behalf of a person who takes preventive measures does not prevent the making of a claim under subsection (3) if and to the extent that such payment does not make full compensation in respect of the injury or damage in question.
- (7) A reference in subsection (2) or (3) to a preventive measure reasonably taken after a breach of duty includes a reference to such part of a preventive measure as is so taken.
- (8) A preventive measure is a measure taken in order to minimise or prevent—
- (a) injury to a person or damage to property constituting a breach of a duty imposed by section 7, 8, 9 or 10, or
- (b) significant impairment of the environment occasioning costs or losses in respect of which a claim under section 11A(1) or 11G(1) or paragraph 1 of Schedule 1A may be made.
- (9) A preventive measure is reasonably taken for the purposes of this section if taking that measure is appropriate and proportionate in the circumstances.

Right to compensation in respect of breach of duty

12 Right to compensation ~~by virtue of ss 7 to 10~~

(1) Where any injury or damage has been caused in breach of a duty imposed by section 7, 8, 9 or 10, compensation is payable in accordance with section 16 wherever the injury or damage was incurred.

(1A) Where any significant impairment of the environment has been caused in breach of a duty imposed by section 7, 8, 9 or 10, such compensation as may be claimed by virtue of section 11A(1) or 11G(1) or paragraph 1 of Schedule 1A is payable in accordance with section 16 wherever the impairment arises.

(1B) Where preventive measures are taken after a breach of a duty imposed by section 7, 8, 9 or 10, such compensation as may be claimed by virtue of section 11H(2) is payable in accordance with section 16 wherever the preventive measures are taken.

(1C) Where any injury to a person or damage to property is caused by preventive measures taken after a breach of a duty imposed by section 7, 8, 9 or 10, such compensation as may be claimed by virtue of section 11H(3) is payable in accordance with section 16 wherever the injury or damage was incurred.

(1D) Subsections (1) to (1C) are subject to—

(a) section 13(1), (3), (4) and (4A),

(b) section 15, and

(c) section 17(1).

(1E) Where injury, damage or significant impairment of the environment is caused or threatened in breach of a duty imposed by section 7, 8, 9 or 10, no liability other than that imposed by subsections (1) to (1C) is incurred by any person in respect of a matter for which compensation may be claimed by virtue of a duty imposed by section 7, 8, 9 or (as the case may be) 10.

(1F) Subsection (1E) is subject to—

(a) subsections (1G), (3) and (4), and

(b) section 21(2).

(1G) Subsection (1E) does not affect such liability as may be incurred in relation to—

(a) a preventive measure or part of a preventive measure in respect of which a claim for compensation under section 11H(2) may not be made, or

(b) such injury or damage as is excluded from a claim for compensation under this Act by section 11H(4).

~~Where any injury or damage has been caused in breach of a duty imposed by section 7, 8, 9 or 10 of this Act—~~

~~(a) — subject to sections 13(1), (3) and (4), 15 and 17(1) of this Act, compensation in respect of that injury or damage shall be payable in accordance with section 16 of this Act wherever the injury or damage was incurred;~~

~~(b) — subject to subsections (3) and (4) of this section and to section 21(2) of this Act, no other liability shall be incurred by any person in respect of that injury or damage.~~

~~(2) —~~

(2) Subject to subsection (3), any injury, damage or significant impairment of the environment which, though not caused in breach of a duty imposed by section 7, 8, 9 or 10, is not reasonably separable from injury, damage or significant impairment so caused, is to be deemed for the purposes of subsections (1) to (1C) to have been so caused.

~~Subject to subsection (3) of this section, any injury or damage which, though not caused in breach of such a duty as aforesaid, is not reasonably separable from injury or damage so caused shall be deemed for the purposes of subsection (1) of this section to have been so caused.~~

(3) Where any ~~injury, damage or significant impairment of the environment~~ ~~injury or damage~~ is caused partly in breach of such a duty as aforesaid and partly by an emission of ionising radiations which does not constitute such a breach, subsection (2) of this section shall not affect any liability of any person in respect of that emission apart from this Act, but a claimant shall not be entitled to recover compensation in respect of the same ~~injury, damage or significant impairment of the environment~~ ~~injury or damage~~ both under this Act and otherwise than under this Act.

(3A) Subject to subsection (4) of this section, where damage to any property has been caused which was not caused in breach of a duty imposed by section 7, 8, 9 or 10 of this Act but which would have been caused in breach of such a duty ~~if in section 7(1A)(b) and (1B)(b) the words "other than the licensee" or in section 10(1)(b) the words "other than that operator" had not been enacted~~ ~~if in subsection (1)(a) or (b) of the said section 7 the words "other than the licensee" or in subsection (1) of the said section 10 the words "other than that operator" had not been enacted~~, no liability which, apart from this subsection, would have been incurred by any person in respect of that damage shall be so incurred except--

- (a) in pursuance of an agreement to incur liability in respect of such damage entered into in writing before the occurrence of the damage; or
- (b) where the damage was caused by an act or omission of that person done with intent to cause injury or damage.

(3B) Subject to subsection (4), where compensation for damage to any property would have been payable by virtue of a claim under section 11H(3) if section 11H(5) had not been enacted no liability which, apart from this subsection, would have been incurred by any person in respect of that damage is to be so incurred except in pursuance of an agreement to incur liability in respect of such damage entered into in writing before the occurrence of the damage.

(4) Subject to ~~section 13(5ZA)~~ ~~section 13(5) of this Act~~, nothing in ~~subsection (1E), (3A) or (3B)~~ ~~subsection (1)(b) or in subsection (3A) of this section~~ shall affect--

- (a)
- (b) the operation of the Carriage by Air Act 1932, the Carriage by Air Act 1961 or the Carriage by Air (Supplementary Provisions) Act 1962 in relation to any international carriage to which a convention referred to in the Act in question applies; or
- (c) the operation of any Act which may be passed to give effect to the Convention on the Contract for the International Carriage of Goods by Road signed at Geneva on 19th May 1956.

13 Exclusion, extension or reduction of compensation in certain cases

(1) Compensation is not payable under this Act in the case of a breach of a duty imposed by section 7, 8, 9 or 10 if—

- (a) the breach of duty consisted of an occurrence such as is mentioned in section 7(2)(b) or 10(1) which took place wholly within the limits relating to a single relevant territory other than the United Kingdom;

- (b) the breach of duty consisted of an event creating a grave and imminent threat of such breach of duty as is mentioned in paragraph (a) and the event took place wholly within the limits relating to a single relevant territory other than the United Kingdom;
- (c) the injury, damage or significant impairment of the environment caused by the breach of duty was incurred within the territorial limits of a country or territory which is not a qualifying territory;
- (d) the injury, damage or significant impairment of the environment caused by the breach of duty was incurred in, under or above the sea outside the territorial limits of such a country or territory but not—
 - (i) within the territorial limits of a qualifying territory,
 - (ii) in or above the sea within the exclusive economic zone of any qualifying territory, or
 - (iii) on the continental shelf of any qualifying territory; or
- (e) in relation to compensation that would but for this subsection be claimed under section 11H(2) or (3), the preventive measures in question were or would be taken in a place by reference to which compensation is excluded by paragraph (c) or (d).

(1A) For the purposes of subsection (1), the limits relating to a country are—

- (a) its territorial limits;
- (b) the limits of its relevant maritime zone (which are to be treated as applying to sea, sea bed, subsoil and airspace).

(1B) Subsection (1) is subject to subsections (2) and (5ZA).

~~Subject to subsections (2) and (5) of this section, compensation shall not be payable under this Act in respect of injury or damage caused by a breach of duty imposed by section 7, 8, 9 or 10 thereof if the injury or damage—~~

- ~~(a) was caused by such an occurrence as is mentioned in section 7(2)(b) or (c) or 10(2)(b) of this Act which is shown to have taken place wholly within the territorial limits of one, and one only, of the relevant territories other than the United Kingdom; or~~
- ~~(b) was incurred within the territorial limits of a country which is not a relevant territory.~~

(2) In the case of a breach of duty imposed by section 7, 8, 9 or 10—

- (a) subsection (1)(d), and
- (b) subsection (1)(e), so far as it relates to subsection (1)(d),

are not to apply to injury or damage incurred by, or by persons or property on, a ship or aircraft registered in a qualifying territory.

- ~~(2) In the case of a breach of duty imposed by section 7, 8 or 9 of this Act, subsection (1)(b) of this section shall not apply to injury or damage incurred by, or by persons or property on, a ship or aircraft registered in the United Kingdom.~~

(3) Compensation shall not be payable under this Act in the case of in respect of injury or damage caused by a breach of a duty imposed by section 10 of this Act in respect of such carriage as is referred to in subsection (1)(a)(ii) of that section as satisfies the condition in section 10(4) by reference to section 7A(2) unless the agreement so referred to was expressed in writing.

(4) The duty as regards occurrences imposed by section 7(1A) or (1B), 8, 9, 10(1) or 11—

- (a) does not impose on the person subject to that duty any liability with respect to injury, damage or impairment of the environment caused by an occurrence which constitutes a

breach of that duty if the occurrence, or the fact that the occurrence causes the injury, damage or impairment of the environment, is attributable to hostile action in the course of any armed conflict, including any armed conflict within the United Kingdom; but

(b) does impose such a liability where the occurrence, or the fact that the occurrence causes the injury, damage or significant impairment of the environment, is attributable to a natural disaster, notwithstanding that the disaster is of such an exceptional character that it could not reasonably have been foreseen.

(4A) The duty as regards events imposed by section 7(1D), 8, 9 or 10(1A)—

(a) does not impose any liability on the person subject to that duty if the event is attributable to hostile action in the course of any armed conflict, including any armed conflict within the United Kingdom; but

(b) does impose such a liability where the event is attributable to a natural disaster, notwithstanding that the disaster is of such an exceptional character that it could not reasonably have been foreseen.

~~(4) The duty imposed by section 7, 8, 9, 10 or 11 of this Act—~~

~~(a) shall not impose any liability on the person subject to that duty with respect to injury or damage caused by an occurrence which constitutes a breach of that duty if the occurrence, or the causing thereby of the injury or damage, is attributable to hostile action in the course of any armed conflict, including any armed conflict within the United Kingdom; but~~

~~(b) shall impose such a liability where the occurrence, or the causing thereby of the injury or damage, is attributable to a natural disaster, notwithstanding that the disaster is of such an exceptional character that it could not reasonably have been foreseen.~~

(5) Subsection (5ZA) applies where, after a breach of a duty imposed by section 7, 8, 9 or 10, a person (“A”) other than the person subject to that duty makes a payment to another person (“B”) in respect of a matter arising from that breach for which a claim for compensation under this Act could have been made and—

(a) the payment is made in pursuance of any of the international conventions referred to in the Acts mentioned in section 12(4), or

(b) the payment is made in accordance with a law of a country which is not a relevant territory.

(5ZA) Where this subsection applies, A may make such claim for compensation under this Act as would have been available to A if (apart from this subsection) the matter in respect of which the payment was made to B had been a matter for which A could have made a claim for compensation under this Act.

(5ZB) A claim for compensation under this Act made by A by virtue of subsection (5ZA) is not to be treated as a relevant claim (within the meaning of section 16A) unless it would have been such a claim if made by B.

~~(5) Where, in the case of an occurrence which constitutes a breach of a duty imposed by section 7, 8, 9 or 10 of this Act, a person other than the person subject to that duty makes any payment in respect of injury or damage caused by that occurrence and—~~

~~(a) the payment is made in pursuance of any of the international conventions referred to in the Acts mentioned in section 12(4) of this Act; or~~

~~(b) the occurrence took place or the injury or damage was incurred within the territorial limits of a country which is not a relevant territory, and the payment is made by virtue of a law of that country—~~

~~and by a person who has his principal place of business in a relevant territory or is acting on behalf of such a person;~~

~~the person making the payment may make the like claim under this Act for compensation of the like amount, if any, (subject to subsection (5A) of this section) , as would have been available to him if—~~

~~(i) the injury in question had been suffered by him or, as the case may be, the property suffering the damage in question had been his; and~~

~~(ii) subsection (1) of this section had not been passed.~~

(5A) The amount that a person may claim by virtue of ~~subsection (5Z A)~~subsection (5) of this section shall not exceed the amount of the payment made by him and, in the case of a claim made by virtue of subsection (5)(b), is subject to the limit on liability under section 16(1), (1ZA), (1ZB) or (2) that is applicable to the person subject to the duty.~~paragraph (b) of that subsection, shall not exceed the amount applicable under section 16(1) or (2) of this Act to the person subject to the duty in question.~~

~~(6) The amount of compensation payable to or in respect of any person under this Act by virtue of a breach of a duty imposed by section 7, 8, 9 or 10 may be reduced in accordance with subsection (7).~~

~~(7) The amount may be reduced if, but only if, and to the extent that, the injury, damage or significant impairment of the environment in respect of which the compensation is, or would but for this subsection be, payable to or in respect of the person is attributable to—~~

~~(a) an act or omission of that person done with the intention of causing harm to any person or property or to any part of the environment, or~~

~~(b) an act or omission of that person done with reckless disregard for the consequences of the act or omission.~~

~~(6) The amount of compensation payable to or in respect of any person under this Act in respect of any injury or damage caused in breach of a duty imposed by section 7, 8, 9 or 10 of this Act may be reduced by reason of the fault of that person if, but only if, and to the extent that, the causing of that injury or damage is attributable to any act of that person committed with the intention of causing harm to any person or property or with reckless disregard for the consequences of his act.~~

14 Protection for ships and aircraft

(1) ~~A claim under this Act falling within subsection (1A) is not to~~ A claim under this Act in respect of any occurrence such as is mentioned in section 7(2)(b) or (c), 10 or 11 of this Act which constitutes a breach of a person's duty under section 7, 8, 9, 10 or 11 of this Act shall not give rise to any lien or other right in respect of any ship or aircraft; and the following provisions of the Administration of Justice Act 1956 (which relate to the bringing of actions in rem against ships or aircraft in England and Wales, Scotland and Northern Ireland respectively), that is to say--

(a) section 3(3) and (4);

(b) section 47; and

(c) paragraph 3(3) and (4) of Part I of Schedule 1,

shall not apply to that claim.

(1A) The claims are—

(a) a claim in respect of an occurrence mentioned in section 7(2)(b), 10(1) or 11 which constitutes a breach of a person's duty under section 7, 8, 9, 10 or 11;

(b) a claim in respect of a breach of duty under section 7(1D), 8, 9 or 10(1A) that is constituted by an event creating a grave and imminent threat of a breach of duty under section 7, 8, 9 or 10 consisting of such occurrence as is mentioned in section 7(2)(b) or 10(1).

- (2) Subsection (1) of this section shall have effect in relation to any claim notwithstanding that by reason of section 16 of this Act no payment for the time being falls to be made in satisfaction of the claim.

Bringing and satisfaction of claims

15 Time for bringing claims under ss 7 to 11

(1) ~~Except where the claim falls within subsection (3) and subject to section 16(3E), Subject to subsection (2) of this section and to section 16(3) of this Act,~~ but notwithstanding anything in any other enactment, a claim by virtue of any of sections 7 to 11 of this Act may be made at any time before, but shall not be entertained if made at any time after, the expiration of 10 years ~~thirty years~~ from the relevant date, that is to say, the date of the occurrence which gave rise to the claim or, where that occurrence was a continuing one, or was one of a succession of occurrences all attributable to a particular happening on a particular relevant site or to the carrying out from time to time on a particular relevant site of a particular operation, the date of the last event in the course of that occurrence or succession of occurrences to which the claim relates.

~~(2) Notwithstanding anything in subsection (1) of this section, a claim in respect of injury or damage caused by an occurrence involving nuclear matter stolen from, or lost, jettisoned or abandoned by, the person whose breach of a duty imposed by section 7, 8, 9 or 10 of this Act gave rise to the claim shall not be entertained if the occurrence takes place after the expiration of the period of twenty years beginning with the day when the nuclear matter in question was so stolen, lost, jettisoned or abandoned.~~

(3) A claim in respect of injury caused by a breach of duty under section 7, 8, 9, 10 or 11 or by preventive measures taken after a breach of duty under section 7, 8, 9 or 10 may be made at any time before, but is not to be entertained if made at any time after, the expiration of 30 years from the relevant date.

(4) Subsections (1) and (3) are subject to subsection (5).

(5) A claim made after the expiration of the period mentioned in subsection (1) or (as the case may be) subsection (3) may be entertained if the conditions in subsections (6) and (7) are satisfied.

(6) The condition is that the European Nuclear Energy Tribunal has determined that a court in the United Kingdom has jurisdiction in respect of that claim or description of claim.

(7) The condition is that the claim is brought—

(a) within the period specified by the Tribunal, or

(b) if the Tribunal does not specify a period, within the period of 28 days beginning with the day after the day on which the Tribunal made its determination.

16 Satisfaction of claims by virtue of ss 7 to 10

~~(1) — The liability of any person to pay compensation under this Act by virtue of a duty imposed on that person by section 7, 8 or 9 thereof shall not require him to make in respect of any one occurrence constituting a breach of that duty payments by way of such compensation exceeding in the aggregate, apart from payments in respect of interest or costs, £140 million or, in the case of the licencees of such sites as may be prescribed, £10 million.~~

(1) The liability of a person to pay compensation under this Act by virtue of a duty imposed on that person by section 7, 8 or 9 does not require that person to make in respect of any one occurrence or event constituting a breach of that duty payments by way of compensation exceeding in the aggregate, apart from payments in respect of interest or costs—

(a) in the case of an occurrence or event on a prescribed licensed site constituting a breach of duty by the licensee as licensee of that site, the equivalent in sterling of 70 million euros;

(b) in the case of an occurrence or event involving nuclear matter which is not excepted matter and which is in the course of such carriage as may be prescribed where that occurrence or event constitutes a breach of duty by a licensee as licensee of a licensed site, the equivalent in sterling of 80 million euros;

(c) in any other case, the equivalent in sterling of 1,200 million euros.

(1ZA) If the amount payable by a person in respect of claims for compensation under this Act in respect of any one occurrence or event constituting a breach of a duty imposed on that person by section 7, 8 or 9 reaches, in the aggregate and apart from interest or costs, the equivalent in sterling of 700 million euros, that person is not required to satisfy further claims for compensation except to the extent that they are relevant claims.

(1ZB) If—

(a) the amount so payable by a person reaches, in the aggregate and apart from interest or costs, the amount that is the limit on liability established by the law of a relevant reciprocating territory for purposes corresponding to those of subsection (1ZA), and

(b) that amount is less than the amount specified in subsection (1ZA),

that person is not required to satisfy further claims for compensation to the extent that they are referable to that relevant reciprocating territory.”

(1A) The Secretary of State may with the approval of the Treasury by order increase or further increase any amount specified in subsection (1), (1ZA) or (3B) either or both of the amounts specified in subsection (1) of this section; but an order under this subsection shall not affect liability in respect of any occurrence before (or beginning before) or any event happening before the order comes into force.

(2) A relevant foreign operator shall not be required by virtue of section 10 of this Act to make any payment by way of compensation in respect of an occurrence or event --

(a) if he would not have been required to make that payment if the occurrence or event had taken place in his home territory and the claim had been made by virtue of the relevant foreign law made for purposes corresponding to those of section 7, 8 or 9 of this Act; or

(b) to the extent that the amount required for the satisfaction of the claim is not required to be available by the relevant foreign law made for purposes corresponding to those of section 19(1) of this Act and has not been made available under section 18 of this Act or by means of a relevant foreign contribution.

(3) A claim by virtue of a duty imposed on a person by virtue of section 7, 8, 9 or 10—

(a) to the extent to which, by virtue of subsection (1) or (2), though duly established, it is not or would not be payable by that person;

(b) which is a claim the full satisfaction of which out of funds otherwise required to be, or to be made, available for the purpose is prevented by section 21(1),

may be the subject of proceedings for compensation under this Act brought against the appropriate authority.

(3A) Payments of compensation under this Act made by the appropriate authority in such proceedings are not to exceed in the aggregate, apart from payments in respect of interest or costs, the amount of the sums made available for the purpose under section 18.

(3B) If the amount payable in respect of claims for compensation under this Act in respect of any one occurrence or event constituting a breach of a duty imposed on a person by section 7, 8, 9 or 10 reaches, in the aggregate and apart from interest or costs, the equivalent in sterling of 700 million euros, the appropriate authority is not required to satisfy further claims for compensation except to the extent that they are relevant claims.

(3C) If the amount so payable reaches, in the aggregate and apart from interest or costs, the amount that is the limit on liability established by the law of a relevant reciprocating territory for purposes corresponding to those of subsection (3B), the appropriate authority is not required to satisfy further claims for compensation to the extent that they are referable to that relevant reciprocating territory.

(3D) Subsection (3E) has effect in relation to—

(a) a claim falling within subsection (3) to the extent that, leaving aside payments in respect of interest or costs, it is not or would not be satisfied out of sums made available for the purpose under section 18 or by means of a relevant foreign contribution;

(b) a claim that is to any extent not satisfied because of—

(i) subsection (1ZA) or (1ZB),

(ii) a relevant foreign law made for purposes corresponding to those of subsection (1ZA) or (1ZB) which is given effect by subsection (2), or

(iii) subsection (3B) or (3C),

to the extent that it is not satisfied;

(c) a claim which is made after the expiration of the period applicable to that claim under section 15(1) or (3) and is not a claim entertained in accordance with section 15(5).

(3E) If the claim is established to the satisfaction of the appropriate authority, it is to be satisfied by the appropriate authority—

(a) to such extent as Parliament may determine, and

(b) out of funds provided by such means as Parliament may determine.

Provision made by Parliament under this subsection may make different provision for different sorts of claim

~~(3) Any claim by virtue of a duty imposed on any person by section 7, 8, 9 or 10 of this Act—~~

- ~~(a) — to the extent to which, by virtue of subsection (1) or (2) of this section, though duly established, it is not or would not be payable by that person; or~~
- ~~(b) — which is made after the expiration of the relevant period; or~~
- ~~(c) — which, being such a claim as is mentioned in section 15(2) of this Act, is made after the expiration of the period of twenty years so mentioned; or~~
- ~~(d) — which is a claim the full satisfaction of which out of funds otherwise required to be, or to be made, available for the purpose is prevented by section 21(1) of this Act,~~

~~shall be made to the appropriate authority, that is to say—~~

- ~~(i) — in the case of a claim by virtue of the said section 8 the Minister of Technology;~~
- ~~(ii) — in the case of a claim by virtue of the said section 9 (other than a claim in connection with a site used by a department of the Government of Northern Ireland), the Minister in charge of the government department concerned or where the government department concerned is a part of the Scottish Administration the Scottish Ministers;~~
- ~~(iii) — in any other case, the Minister;~~

~~and, if established to the satisfaction of the appropriate authority, and to the extent to which it cannot be satisfied out of sums made available for the purpose under section 18 of this Act or by means of a relevant foreign contribution, shall be satisfied by the appropriate authority to such extent and out of funds provided by such means as Parliament may determine.~~

(4) Where in pursuance of ~~subsection (3E) subsection (3) of this section~~ a claim has been made to the appropriate authority, any question affecting the establishment of the claim or as to the amount of any compensation in satisfaction of the claim may, if the authority thinks fit, be referred for decision to the court that would have had jurisdiction in accordance with section 16B to determine the claim but for subsection (3E) the appropriate court, that is to say, to whichever of the High Court, the Court of Session and the high Court of Justice in Northern Ireland would, but for the provisions of this section, have had jurisdiction in accordance with section 17(1) and (2) of this Act to determine the claim; and the claimant may appeal to that court from any decision of the authority on any such question which is not so referred; and on any such reference or appeal--

- (a) the authority shall be entitled to appear and be heard; and
- (b) notwithstanding anything in any Act, the decision of the court shall be final.

(4A) For the purposes of subsections (3) to (4), the appropriate authority is—

- (a) in the case of a claim by virtue of section 9 where the government department concerned is a part of the Scottish Administration, the Scottish Ministers;
- (b) in any other case, the Secretary of State.

~~(5) — In this section, the expression "the relevant period" means the period of ten years beginning with the relevant date within the meaning of section 15(1) of this Act.~~

16A Section 16: supplementary

(1) This section applies for the purposes of section 16.

(2) A claim for compensation under this Act in the case of a breach of a duty imposed by section 7, 8, 9 or 10 is referable to a particular relevant reciprocating territory if the claim could not be made but for its being a relevant reciprocating territory.

(3) A claim for compensation under this Act is a relevant claim if—

- (a) the injury or damage for which compensation is claimed is such injury or damage as is mentioned in subsection (4),
- (b) the significant impairment of the environment by reference to which compensation is claimed by virtue of section 11A(1) or 11G(1) or paragraph 1 of Schedule 1A is such significant impairment of the environment as is mentioned in subsection (4), or
- (c) the preventive measures by reference to which compensation is claimed by virtue of section 11H(2) or (3) are preventive measures relating to such injury, damage or significant impairment of the environment as is mentioned in subsection (4).

(4) The injury, damage and significant impairment of the environment referred to in subsection (3) are—

- (a) injury, damage or significant impairment of the environment that is incurred within the territorial limits of the United Kingdom or a specified relevant territory;
- (b) injury, damage or significant impairment of the environment that is incurred in or above the exclusive economic zone or on the continental shelf of the United Kingdom or a specified relevant territory in connection with the exploitation or exploration of the natural resources of that exclusive economic zone or continental shelf;
- (c) injury or damage that is incurred in or above the sea outside the territorial limits of any country or territory by, or by persons or property on, a ship or aircraft registered in the United Kingdom or a specified relevant territory;
- (d) injury or damage that is incurred in or above the sea outside the territorial limits of any country or territory by a national of the United Kingdom or a specified relevant territory;
- (e) injury or damage that is incurred outside the territorial limits of any country or territory by, or by persons or property on, an artificial island, installation or structure that is subject to the jurisdiction of the United Kingdom or a specified relevant territory.

(5) A relevant territory is a specified relevant territory if the conditions in subsection (6) are satisfied in relation to it.

(6) The conditions are—

- (a) that the law of the relevant territory provides in pursuance of a relevant international agreement for sums additional to those referred to in section 18(1)(a) to be made available out of public funds;
- (b) that the maximum aggregate amount of compensation for which it provides in respect of an occurrence or event in pursuance of that relevant international agreement is equal to or more than that specified in section 18(1A).

16B Jurisdiction of courts in the United Kingdom

(1) This section has effect for determining which of the High Court of Justice, the Court of Session or the High Court of Justice in Northern Ireland has jurisdiction in the case of—

- (a) a claim by virtue of a duty imposed on a person by section 7, 8, 9 or 10, or
- (b) an application for the determination of a question relating to such a claim.

(2) The High Court of Justice has jurisdiction if the claim relates to an occurrence or event constituting a breach of duty that takes place wholly or, subject to subsection (6), partly within England and Wales.

(3) The Court of Session has jurisdiction if the claim relates to an occurrence or event constituting a breach of duty that takes place wholly or, subject to subsection (6), partly within Scotland.

- (4) The High Court of Justice of Northern Ireland has jurisdiction if the claim relates to an occurrence or event constituting a breach of duty that takes place wholly or, subject to subsection (6), partly within Northern Ireland.
- (5) In subsections (2) to (4), a reference to England and Wales, Scotland or Northern Ireland includes a reference to—
- (a) any part of the territorial sea adjacent to that area of the United Kingdom, and
 - (b) any part of the relevant maritime zone adjacent to that area of the United Kingdom and the sea bed and subsoil within, and the airspace above, such part of that zone.
- (6) If apart from this subsection more than one court would have jurisdiction under subsections (2) to (4) in the case of a claim or application, one of those courts is to have exclusive jurisdiction and which of the High Court of Justice, the Court of Session or the High Court of Justice in Northern Ireland has exclusive jurisdiction is to be determined by reference to which of England and Wales, Scotland and Northern Ireland is most affected by the breach of duty.
- (7) For the purposes of subsection (6), the effect on an area is to be measured by reference to the likely value of claims for compensation under this Act in respect of—
- (a) injury, damage or significant impairment of the environment incurred in the area;
 - (b) the cost of preventive measures taken in the area;
 - (c) injury or damage caused by preventive measures that is incurred in the area.
- (8) In subsection (6), a reference to England and Wales, Scotland or Northern Ireland includes a reference to—
- (a) any part of the territorial sea adjacent to that area of the United Kingdom,
 - (b) any part of the exclusive economic zone adjacent to that area of the United Kingdom and the sea bed and subsoil within, and the airspace above, such part of that zone, and
 - (c) (so far as it extends beyond the exclusive economic zone) any part of the continental shelf adjacent to that area of the United Kingdom.
- (9) If none of subsections (2) to (4) applies in the case of a claim or application, the court that has jurisdiction is—
- (a) if the claim relates to a person's breach of duty as the licensee or occupier of a relevant site in England and Wales, the High Court of Justice;
 - (b) if the claim relates to a person's breach of duty as the licensee or occupier of a relevant site in Scotland, the Court of Session;
 - (c) if the claim relates to a person's breach of duty as the licensee or occupier of a relevant site in Northern Ireland, the High Court of Justice in Northern Ireland.
- (10) But subsection (11) applies if, in consequence of a single occurrence or event that constitutes two or more breaches of duty under section 7, 8, 9 or 10, more than one court would have jurisdiction under subsection (9).
- (11) Where this subsection applies, the court that has jurisdiction is the court that would have had jurisdiction under subsection (9) if the breach of duty likely to have the most effect were the only breach of duty.
- (12) For the purposes of subsection (11), the effect of a breach of duty is to be measured by reference to the likely value of claims for compensation under this Act.
- (13) The High Court of Justice has jurisdiction in the case of a claim or application which falls under a relevant international agreement to be determined by a court in the United Kingdom but to which none of subsections (2) to (4) and (9) applies.

(14) The jurisdiction of a court under this section is subject to sections 16(3E) and 17(1).

(15) In this section “territorial sea” means the territorial sea of the United Kingdom.

17 Jurisdiction, shared liability and foreign judgments

(1) No court in the United Kingdom ~~or any part thereof~~ shall have jurisdiction to determine any claim or question under this Act certified by the Minister to be a claim or question which, under any relevant international agreement, falls to be determined by a court of some other relevant territory ~~or, as the case may be, of some other part of the United Kingdom~~; and any proceedings to enforce such a claim which are commenced in any court in the United Kingdom ~~or, as the case may be, that part thereof~~ shall be set aside.

~~(2) — Where under the foregoing subsection the Minister certifies that any claim or question falls to be determined by a court in a particular part of the United Kingdom, that certificate shall be conclusive evidence of the jurisdiction of that court to determine that claim or question.~~

(3) Where by virtue of any one or more of the following, that is to say, sections 7, 8, 9 and 10 of this Act and any relevant foreign law made for purposes corresponding to those of any of those sections, liability in respect of the same injury, damage or significant impairment of the environment or the same grave and imminent threat of injury, damage or impairment ~~the same injury or damage~~ is incurred by two or more persons, then, for the purposes of any proceedings in the United Kingdom relating to that matter ~~relating to that injury or damage~~, including proceedings for the enforcement of a judgment registered under the Foreign Judgments (Reciprocal Enforcement) Act 1933--

(a) both or all of those persons shall be treated as jointly and severally liable in respect of that matter ~~that injury or damage~~; and

(b) until claims against each of those persons in respect of the occurrence or event by virtue of which the person in question is liable for that matter have been satisfied to the extent mentioned in subsection (3A),

~~(b) — until claims against each of those persons in respect of the occurrence by virtue of which the person in question is liable for that injury or damage have been satisfied —~~

~~(i) — in the case of a licensee, the Authority or the Crown, up to an aggregate amount of equal to that applicable to the person in question under section 16(1) of this Act and; or~~

~~(ii) — in the case of a relevant foreign operator, up to such aggregate amount, . . . , as may be provided for by the relevant foreign law made for purposes corresponding to those of section 19(1) of this Act,~~

no sums in excess of those required for the purposes of subsection (3A)(a) ~~sub-paragraph (i) of this paragraph~~ shall be required to be made available under section 18 of this Act for the purpose of paying compensation in respect of that matter ~~that injury or damage~~.

(3A) The claims referred to in subsection (3)(b) are to be satisfied —

(a) in the case of a licensee, the Authority or the Crown up to an aggregate amount that is equal to the amount applicable under section 16(1)(a), (b) or (c) to the person in question in the circumstances in question;

(b) in the case of a relevant foreign operator, up to such aggregate amount as may be provided for by the relevant foreign law made for purposes corresponding to section 19(1).

(3B) A person is not required under subsection (3A) to satisfy a claim for compensation to the extent that it is excluded by section 16(1ZA) or (1ZB) or (as the case may be) by the relevant foreign law made for purposes corresponding to section 16(1ZA) or (1ZB).

(4) Part I of the said Act of 1933 shall apply to any judgment given in a court of any foreign country which is certified by the Minister to be a relevant foreign judgment for the purposes of this Act, whether or not it would otherwise have so applied, and shall have effect in relation to any judgment so certified as if in section 4 of that Act subsections (1)(a)(ii), (2) and (3) were omitted.

(5) Subject to subsection (5A) of this section it shall be sufficient defence to proceedings in the United Kingdom against any person for the recovery of a sum alleged to be payable under a judgment given in a country outside the United Kingdom for that person to show that--

- (a) the sum in question was awarded in respect of injury, damage or impairment of the environment or a grave and imminent threat of injury, damage or impairment of the environment ~~injury or damage~~ of a description which is the subject of a relevant international agreement; and
- (b) the country in question is not a relevant territory; and
- (c) the sum in question was not awarded in pursuance of any of the international conventions referred to in the Acts mentioned in section 12(4) of this Act.

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

(6) Where, in the case of any claim by virtue of section 10 of this Act, the relevant foreign operator is the government of a relevant territory, then, for the purposes of any proceedings brought in a court in the United Kingdom to enforce that claim, that government shall be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which any such action is to be commenced and carried on; but nothing in this subsection shall authorise the issue of execution, or in Scotland the execution of diligence, against the property of that government.

17A Notice to the Secretary of State of proceedings

[...]

17B Representations by the Secretary of State

[...]

17C Proceedings brought by other countries

[...]

Cover for compensation

18 General cover for compensation by virtue of ss 7 to 10

(1) In the case of any occurrence or event in respect of which one or more persons incur liability by virtue of section 7, 8, 9 or 10 of this Act or by virtue of any relevant foreign law made for purposes

corresponding to those of any of those sections, but subject to subject to subsections (1C) to (4B)~~subsections (2) to (4B)~~ of this section and to sections 17(3)(b) and 21(1) of this Act, there shall be made available out of moneys provided by Parliament such sums as, when aggregated--

- (a) with any funds required by, or by any relevant foreign law made for purposes corresponding to those of, section 19(1) of this Act to be available for the purpose of satisfying claims in respect of that occurrence or event against any licensee or relevant foreign operator; and
- (b) in the case of a claim by virtue of any such foreign law, with any relevant foreign contributions towards the satisfaction of claims in respect of that occurrence or event; and
- (c) in the case of an occurrence or event in respect of which the Authority incurs liability, with any amounts payable under a contract of insurance or other arrangements for satisfying claims in respect of that occurrence against the Authority,

may be necessary to ensure that all claims in respect of that occurrence or event made within the relevant period~~made within the period applicable to the claim~~ and duly established, excluding, but without prejudice to, any claim in respect of interest or costs, are satisfied up to the aggregate amount specified in subsection (1A) of this section.

(1ZA) For the purposes of subsection (1) the period applicable to a claim is—

- (a) in the case of a claim that is not a claim in respect of injury, the period of 10 years beginning with the relevant date;
- (b) in the case of a claim in respect of injury, the period of 30 years beginning with the relevant date;
- (c) in the case of a claim that may be entertained in accordance with section 15(5), a period beginning with the relevant date and ending in accordance with section 15(7)(a) or (b);
- (d) in the case of a claim by virtue of such a relevant foreign law as is mentioned in subsection (1) that may be entertained in accordance with provisions of that law made for purposes corresponding to section 15(5) to (7), the period applying to that claim by virtue of such provisions of that law.

“The relevant date” has the meaning given by section 15(1).

(1A) The aggregate amount referred to in subsection (1) of this section is the equivalent in sterling of 1,500 million euros ~~300 million special drawing rights~~ on--

- (a) the day (or first day) of the occurrence or the day of the event in question, or
- (b) if the Secretary of State certifies that another day has been fixed in relation to the occurrence or event in accordance with an international agreement, that other day.

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

(1C) Subsection (1) does not apply to a claim that need not be satisfied because of—

- (a) section 16(1ZA) or (1ZB).

(b) a relevant foreign law made for purposes corresponding to those of section 16(1ZA) or (1ZB) which is given effect by section 16(2), or

(c) section 16(3B) or (3C),

to the extent that it need not be satisfied.

(1D) Subsection (1) does not apply to a claim that need not be satisfied because of a relevant foreign law that is made for purposes corresponding to those of the provisions referred to in subsection (1C), to the extent that it need not be satisfied.

(2) Subsection (1) of this section shall not apply to any claim by virtue of such a relevant foreign law as is mentioned in that subsection ~~if—~~

(a) the injury, damage or significant impairment of the environment is incurred within the territorial limits of a country or territory which is not a qualifying territory,

(b) the injury, damage or significant impairment of the environment is incurred in, under or above the sea outside the territorial limits of such a country or territory but not—

(i) within the territorial limits of any qualifying territory,

(ii) in or above the sea within the exclusive economic zone of any qualifying territory, or

(iii) on the continental shelf of any qualifying territory,

(c) in relation to compensation that would but for this subsection be claimed under such provision of the relevant foreign law as is made for purposes corresponding to section 11H, the measures in question were or would be taken in a place by reference to which compensation is excluded by paragraph (a) or (b).

(2A) The exceptions that have effect by virtue of paragraph (b), or paragraph (c) so far as it relates to paragraph (b), do not apply to injury or damage incurred by, or by persons or property on, a ship or aircraft registered in a qualifying territory

~~in respect of injury or damage incurred within the territorial limits of a country which is not a relevant territory or to any claim such as is mentioned in section 15(2) of this Act which is not made within the period of twenty years so mentioned.~~

(3) Where any claim such as is mentioned in subsection (1) of this section is satisfied wholly or partly out of moneys provided by Parliament under that subsection, there shall also be made available out of moneys so provided such sums as are necessary to ensure the satisfaction of any claim in respect of interest or costs in connection with the first-mentioned claim.

(4) In relation to liability by virtue of any relevant foreign law, there shall be left out of account for the purposes of subsection (1) of this section any claim which, though made within the period referred to in paragraph (a) or (as the case may be) paragraph (b) of subsection (1ZA)~~made within the relevant period,~~ was made after the expiration of any period of limitation imposed by that law and permitted by a relevant international agreement. A claim is not to be left out of account for the purposes of subsection (1) if it may be entertained as described in subsection (1ZA)(d) and is made within the period applicable to that claim.

~~(4A) —Where—~~

~~(a) —a relevant foreign law provides in pursuance of a relevant international agreement for sums additional to those referred to in subsection (1)(a) of this section to be made available out of public funds, but~~

~~(b) —the maximum aggregate amount of compensation for which it provides in respect of an occurrence in pursuance of that agreement is less than that specified in subsection (1A) of this section,~~

~~then, in relation to liability by virtue of that law in respect of the occurrence, subsection (1) of this section shall have effect as if for the reference to the amount so specified there were substituted a reference to the maximum aggregate amount so provided.~~

(4B) Where a relevant foreign law does not ~~provide in pursuance of a relevant international agreement for sums additional to those referred to in subsection (1)(a) to be made available out of public funds~~~~make the provision mentioned in subsection (4A)(a) of this section~~, then in relation to liability by virtue of that law in respect of any occurrence or event --

(a) subsection (1) of this section shall not have effect unless the person (or one of the persons) liable is a licensee, the Authority or the Crown; and

(b) if a licensee, the Authority or the Crown is liable, subsection (1) shall have effect as if for the reference to the amount specified in subsection (1A) there were substituted a reference to the amount specified in section 16(1ZA) or, if more than one such person were liable, to that amount multiplied by the number of those persons. ~~were substituted a reference to the amount which would be applicable to that person under section 16(1) of this Act in respect of the occurrence (or, if more than one such person is liable, to the aggregate of the amounts which would be so applicable) if it had constituted a breach of duty under section 7, 8 or 9 of this Act.~~

(5) Any sums received by the Minister by way of a relevant foreign contribution towards the satisfaction of any claim by virtue of section 7, 8, 9 or 10 of this Act shall be paid into the Exchequer.

~~(6) — In this section, the expression "the relevant period" has the same meaning as in section 16 of this Act.~~

19 Special cover for licensee's liability

(1) Subject to section 3(5) of this Act and to subsection (3) of this section, where a nuclear site licence has been granted in respect of any site, the licensee shall make such provision (either by insurance or by some other means) as the Minister may with the consent of the Treasury approve for sufficient funds to be available at all times to ensure that any claims which have been or may be duly established against the licensee as licensee of that site by virtue of section 7 of this Act or any relevant foreign law made for purposes corresponding to those of section 10 of this Act (excluding, but without prejudice to, any claim in respect of interest or costs) are satisfied up to the appropriate required amount or amounts~~the required amount~~ in respect of each severally of the following periods, that is to say--

(a) the current cover period, if any;

(b) any cover period which ended less than ten years before the time in question;

(c) any earlier cover period in respect of which a claim remains to be disposed of, being a claim made within the period applicable to the claim (as defined for the purposes of section 18(1))

~~a claim made—~~

~~(i) — within the relevant period within the meaning of section 16 of this Act; and~~

~~(ii) — in the case of a claim such as is mentioned in section 15(2) of this Act, also within the period of twenty years so mentioned;~~

and for the purposes of this section the cover period in respect of which any claim is to be treated as being made shall be that in which the beginning of ~~the that period relevant period aforesaid~~ fell.

(1A) In this section—

“required amount”, in relation to the provision to be made by a licensee in respect of a cover period, means an aggregate amount equal to the amount applicable under paragraph (a), (b) or (as the case may be) (c) of section 16(1) to the licensee, as licensee of the site in question, in respect of an occurrence or event within that period;

“the appropriate required amount”, in relation to a claim which has been or may be duly established against a licensee as licensee of a licensed site, means the required amount appropriate to the claim.

~~(1A) — In this section “the required amount”, in relation to the provision to be made by a licensee in respect of a cover period, means an aggregate amount equal to the amount applicable under section 16(1) of this Act to the licensee, as licensee of the site in question, in respect of an occurrence within that period.~~

(2) In this Act, the expression "cover period" means, subject to the following provisions of this section, the period of the licensee's responsibility; and for the purposes of this definition the period of the licensee's responsibility shall be deemed to include any time after the expiration of that period during which it remains possible for the licensee to incur any liability by virtue of ~~section 7(2)(b)~~~~section 7(2)(b)- or (c) of this Act~~, or by virtue of any relevant foreign law made for purposes corresponding to those of section 10 of this Act.

(2A) When the amount applicable under ~~section 16(1)(a), (b) or (c)~~~~section 16(1) of this Act~~ to a licensee of a site changes as a result of--

(a) the coming into force of an order under section 16(1A) or of regulations made for the purposes of ~~section 16(1)(a) or (b)~~~~section 16(1), or~~

(b) an alteration relating to the site which brings it within, or takes it outside, the description prescribed by ~~regulations under section 16(1)(a)~~~~such regulations, or~~

(c) an alteration relating to the licensee's carriage of nuclear matter which brings it within, or takes it outside, the description prescribed by regulations under section 16(1)(b).

the current cover period relating to him as licensee of that site shall end and a new cover period shall begin.

(2B) The current cover period continues to run (and no new cover period begins) on the grant of a new nuclear site licence to the same licensee in respect of a site consisting of or including the site in respect of which his existing nuclear site licence is in force.

(2C) The current cover period continues to run (and no new cover period begins) if the licensee of a licensed site becomes subject during the current cover period to an amount applicable under section 16(1)(b) or (c) otherwise than as described in subsection (2A).

(3) Where in the case of any licensed site the provision required by subsection (1) of this section is to be made otherwise than by insurance and, apart from this subsection, provision would also fall to be so made by the same person in respect of two or more other sites, the requirements of that subsection shall be deemed to be satisfied in respect of each of those sites if funds are available to meet such claims as are mentioned in that subsection in respect of all the sites collectively, and those funds would for the time

being sufficient to satisfy the requirements of that subsection in respect of those two of the sites in respect of which those requirements are highest:

Provided that the Minister may in any particular case at any time direct either that this subsection shall not apply or that the funds available as aforesaid shall be of such amount higher than that provided for by the foregoing provisions of this subsection, but lower than that necessary to satisfy the requirements of the said subsection (1) in respect of all the sites severally, as may be required by the direction.

(4) Where, by reason of the gravity of any occurrence or event which has resulted or may result in claims such as are mentioned in subsection (1) of this section against a licensee as licensee of a particular licensed site, or having regard to any previous occurrences or events which have resulted or may result in such claims against the licensee, the Minister thinks it proper so to do, he shall by notice in writing to the licensee direct that a new cover period for the purposes of the said subsection (1) shall begin in respect of that site on such date not earlier than two months after the date of the service of the notice as may be specified therein.

(5) If at any time while subsection (1) of this section applies in relation to any licensed site the provisions of that subsection are not complied with in respect of that site, the licensee shall be guilty of an offence and be liable--

- (a) the prescribed sum or to imprisonment for a term not exceeding three months, or to both;
- (b) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding two years, or to both.

20 Furnishing of information relating to licensee's cover

(1) In the case of each licensed site, the licensee shall give notice in writing to the Minister forthwith upon its appearing to the licensee that claims such as are mentioned in section 19(1) made in respect of any cover period falling within the period of the licensee's responsibility have reached a notice level. ~~upon its appearing to the licensee that the aggregate amount of any claims such as are mentioned in section 19(1) of this Act made in respect of any cover period falling within the period of the licensee's responsibility has reached three-fifths of the required amount within the meaning of section 19; and where~~

(1A) For the purposes of subsection (1), claims reach a notice level if the aggregate amount of claims appropriate to a particular required amount reaches three-fifths of that required amount.

In this subsection "required amount" has the same meaning as in section 19.

(1B) Where the licensee has given such a notice, no payment by way of settlement of any claim in respect of the cover period in question by agreement between the licensee and the claimant shall be made except after consultation with the Minister and in accordance with the terms of any direction which the Minister may give to the licensee in writing with respect to any particular claim.

(2) If in the case of any licensed site any cover period falling within the period of the licensee's responsibility has ended, the licensee shall not later than 31st January in each year send to the Minister in writing a statement showing the date when that cover period ended and the following particulars of any claims in respect of that cover period as at the beginning and end respectively of the last preceding calendar year, that is to say--

- (a) the aggregate number of claims received;
- (b) the aggregate number of claims established; and

(c) the aggregate number and aggregate amount of claims satisfied.

(3) The Minister shall as soon as may be lay before each House of Parliament a copy of any notice received by him under subsection (1) of this section and a report (in such form as, having regard to section 16 of this Act, he may consider appropriate) with respect to any statements received by him under sub-section (2) of this section.

(4) Any person by whom any funds such as are mentioned in section 19(1) of this Act for the time being fall to be provided shall give to the Minister not less than two months notice in writing before ceasing to keep those funds available and, notwithstanding any such notice, so far as those funds relate to nuclear matter for the time being in the course of carriage, shall not so cease while that carriage continues.

20A Power to make arrangements with respect to licensee's cover

(1) The Secretary of State may make arrangements with any person for the purpose of enabling the licensee of a licensed site to make the provision required by section 19(1).

(2) The arrangements that may be made under subsection (1) include—

(a) the provision of insurance or reinsurance;

(b) the provision of an indemnity or guarantee.

(3) The power under subsection (1) does not include a power to make grants.

(4) Arrangements made by the Secretary of State under subsection (1) are to be on such terms as the Secretary of State considers appropriate.

(5) The Secretary of State is not to make arrangements under subsection (1) except with the consent of the Treasury.

(6) Sums received by the Secretary of State under arrangements made under subsection (1) are to be paid into the Consolidated Fund.

(7) Sums required by the Secretary of State for fulfilling obligations arising under arrangements made under subsection (1) are to be paid out of money provided by Parliament.

(8) If any sum required by the Secretary of State for fulfilling obligations under arrangements made under subsection (1) is not paid out of money provided by Parliament, it is to be charged on and paid out of the Consolidated Fund.

(9) Where money is paid in reliance on subsection (8), the Secretary of State must as soon as is reasonably practicable lay a report before Parliament specifying the amount paid and the arrangements under which the amount fell to be paid.

20B Statement on arrangements

(1) As soon as reasonably practicable after making arrangements under section 20A(1), the Secretary of State is to lay before Parliament a statement about the arrangements.

(2) A statement under subsection (1) is to set out—

(a) the licensee for whose benefit the arrangements are made;

(b) the nature of the arrangements;

(c) the amount that may be required to discharge the Secretary of State's obligations under the arrangements.

(3) While the arrangements continue, the Secretary of State is to make a further statement about the arrangements as soon as reasonably practicable after the end of each report period.

(4) A statement under subsection (3) is to set out—

(a) any changes in the arrangements;

(b) the amount that may be required to discharge the Secretary of State's obligations under the arrangements.

(5) "Report period", in relation to arrangements made under section 20A(1), means—

(a) the period of two years beginning with the day on which the statement under subsection (1) was laid before Parliament, and

(b) each successive period of two years.

21 Supplementary provisions with respect to cover for compensation in respect of carriage

(1) Where, in the case of an occurrence or event involving nuclear matter in the course of carriage, a claim in respect of damage to the means of transport being used for that carriage is duly established--

(a) against any person by virtue of section 7, 8, 9 or 10 of this Act; or

(b) against a licensee, the Authority or the Crown by virtue of any relevant foreign law made for purposes corresponding to those of the said section 10,

then, without prejudice to any right of the claimant to the satisfaction of that claim, no payment towards its satisfaction shall be made out of funds which are required to be available for the purpose by, or by any relevant foreign law made for purposes corresponding to those of, section 19(1) of this Act, or which have been made available for the purpose under section 18 of this Act or by means of a relevant foreign contribution, such as to prevent the satisfaction out of those funds up to an aggregate amount which is the equivalent in sterling (on the day, or first day, of that occurrence or the day of that event) of 80 million euros~~5 million special drawing rights~~ of all claims which have been or may be duly established against the same person in respect of injury, damage or significant impairment of the environment caused by that occurrence or a grave and imminent threat of injury, damage or significant impairment of the environment caused by that event~~injury or damage caused by that occurrence~~ other than damage to the said means of transport.

(1A) The Secretary of State may with the approval of the Treasury by order increase or further increase the sum expressed in ~~special drawing rights~~euros 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) or any event happening before the order comes into force.

(2) Where, in the case of an occurrence or event involving nuclear matter in the course of carriage, a claim in respect of damage to the means of transport being used for that carriage is duly established against a relevant foreign operator by virtue of section 10 of this Act, but by virtue of section 16(2)(a) thereof that operator is not required to make a payment in satisfaction of the claim, ~~section 12(1E) section 12(1)(b) of this Act~~ shall not apply to any liability of that operator with respect to the damage in question apart from this Act.

(3) Where any nuclear matter is to be carried by, or on behalf or with the agreement of, a licensee, the Authority, a government department or a relevant foreign operator in such circumstances that, while the matter is in the course of that carriage, the licensee, the Authority, the Crown or the operator, as the case may be (in this and the next following subsection referred to as "the responsible party") may incur liability by virtue of section 7, 8, 9 or 10 of this Act or by virtue of any relevant foreign law made for purposes corresponding to those of the said section 10, the responsible party shall, before the carriage is begun, cause to be delivered to the person who is to carry that matter a document issued by or on behalf of the appropriate person mentioned in the next following subsection (in this subsection referred to as "the guarantor") which shall contain such particulars as may be prescribed of the responsible party, of that

nuclear matter and carriage, and of the funds available in pursuance of, or of the relevant foreign law made for purposes corresponding to those of, section 18 or 19(1) of this Act to satisfy any claim by virtue of that liability, and the guarantor shall be debarred from disputing in any court any of the particulars stated in that document; and if in any case there is a wilful failure to comply with this subsection, the responsible party (except where that party is the Crown), and also, if the carrier knew or ought to have known the matter carried to be such matter for carriage in such circumstances as aforesaid, the carrier, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the Standard Scale.

(4) The person by whom or on whose behalf the document referred to in the last foregoing subsection is to be issued shall be--

- (a) where the responsible party is a licensee, the person by whom there fall to be provided the funds required by section 19(1) of this Act to be available to satisfy any claim in respect of the carriage in question;
- (b) where the responsible party is the Authority, the Minister of Technology;
- (c) where the responsible party is the Crown, the Minister in charge of the government department concerned or in relation to any part of the Scottish Administration the Scottish Ministers;
- (d) where the responsible party is a relevant foreign operator, the person by whom there fall to be provided the funds required by the relevant foreign law made for purposes corresponding to those of section 18 or 19(1) of this Act to be made available to satisfy any claim in respect of the carriage in question.

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

(5) The requirements of Part VI of the Road Traffic Act 1960 (which relates to compulsory insurance or security against third-party risks of users of motor vehicles) shall not apply in relation to any injury to any person, or damage to the property of any person for which any person is liable by virtue of section 7, 8, 9 or 10 of this Act.

Miscellaneous and general

22 Reporting of dangerous occurrences and events and ~~inquiries into dangerous occurrences~~

(1) The provisions of this section shall have effect on the happening of any occurrence or event of any such class or description as may be prescribed, being an occurrence or event --

- (a) on a licensed site; or
- (b) in the course of the carriage of nuclear matter on behalf of any person where a duty with respect to that carriage is imposed on that person by section 7, 10 or 11 of this Act.

(2) The licensee or person aforesaid shall cause the occurrence or event to be reported forthwith in the prescribed manner to the Health and Safety Executive and to such other persons, if any, as may be prescribed in relation to occurrences of that class or description, and if the occurrence is not so reported the licensee or person aforesaid shall be guilty of an offence . . .

(3)-(6) . . .

23 Registration in connection with certain occurrences and events

(1) Without prejudice to any right of any person to claim against any person by virtue of any of sections 7 to 11 of this Act, the appropriate authority may, on the happening of any occurrence or event in respect of which liability may be incurred by virtue of any of those sections, by order make provision for enabling such particulars of any person shown to have been within such area during such period (being the period during which the occurrence or event took place) as may be specified in the order to be registered by or on behalf of that person in such manner as may be so specified, and any such registration in respect of any person shall be sufficient evidence of his presence within that area during that period unless the contrary is proved; and any such order shall be made by statutory instrument and be laid before Parliament after being made.

(2) In the foregoing subsection, the expression "the appropriate authority" means, in relation to any occurrence or event, the authority hereinafter specified in relation to the person against whom any claim in respect of that occurrence or event falls to be made, that is to say--

- (a) where that person is the Authority, the Minister of Technology;
- (b) where that person is the Crown, the Minister in charge of the government department concerned or where any part of the Scottish Administration is concerned the Minister;
- (c) in any other case, the Minister.

24 Inspectors

(1) The Secretary of State may appoint as inspectors for the purpose of assisting him in the execution of the provisions of this Act, other than provisions which are mentioned in Schedule 1 to the Health and Safety at Work etc Act 1974, such number of persons appearing to him to be qualified for the purpose as he may from time to time consider necessary or expedient, and may make to or in respect of any person so appointed such payments by way of remuneration, allowances or other payments as the Secretary of State may with the approval of the Minister for the Civil Service determine.

(2) Any such inspector may for that purpose exercise such of the powers set out in section 20(2) of the Health and Safety at Work etc Act 1974 as are specified in his instrument of appointment and the provisions of sections 28 (restrictions on disclosure of information), 33 (offences) and 39 (prosecutions by inspectors) of that Act shall apply in the case of inspectors so appointed as they apply in the case of inspectors appointed under section 19 of that Act.

(3) In such cases and to such extent as it may appear to the Secretary of State, with the agreement of the Treasury, to be appropriate so to do, the Secretary of State shall require a licensee to repay to the Secretary of State such part as may appear to the Secretary of State to be attributable to the nuclear installations in respect of which nuclear site licences have been granted to that licensee of--

- (a) any sums paid by the Secretary of State under subsection (1) of this section; and
- (b) any expenses, . . . being--
 - (i) expenses incurred by the Secretary of State; or
 - (ii) . . .
 - (iii) expenses incurred by any government department; or
 - (iv) such sums as the Treasury may determine in respect of the use of any premises belonging to the Crown, which the Secretary of State may, with the consent of the Treasury, determine to be

incurred in connection with the exercise by the Secretary of State of his powers under the said subsection (1),

and the licensee shall comply with such requirement; and any sums so repaid to the Secretary of State shall be paid into the Consolidated Fund . . . and except that in so far as sums so repaid relate to expenses incurred by the Scottish Administration they shall be paid to the Scottish Ministers.

(4) Any liability of a licensee in respect of sums payable by him under subsection (3) of this section on account of pensions shall, if the Secretary of State so determines, be satisfied by way of contributions calculated, at such rate as may be determined by the Minister for the Civil Service, by reference to remuneration.

24A Recovery of expenses by Health and Safety Executive

(1) This section applies to any expenses incurred by the Health and Safety Executive ("the Executive") which the Executive may determine to be incurred wholly or partly in connection with--

(a) the carrying into effect of such of the provisions of this Act as are mentioned in Schedule 1 to the Health and Safety at Work etc Act 1974; or

(b) the carrying out of research into nuclear safety.

(2) Without prejudice to the generality of subsection (1) of this section, the reference in that subsection to expenses incurred by the Executive includes any sums paid by it by way of remuneration, allowances or other payments to inspectors appointed under the Health and Safety at Work etc Act 1974.

(3) In such cases and to such extent as it may appear to the Executive appropriate to do so, the Executive shall require a person who has applied for a nuclear site licence to repay to it so much of any expenses to which this section applies as may appear to it to be attributable to dealing with the application.

(4) In such cases and to such extent as it may appear to the Executive to be appropriate to do so, the Executive shall require a person to whom a nuclear site licence has been granted to repay to it--

(a) so much of any expenses to which this section applies as may appear to it to be attributable to any nuclear installation in respect of which the licence has been granted; and

(b) so much of any expenses to which this section applies which are not otherwise recoverable under this section as it thinks fit.

(5) A person shall comply with any requirement made of him under this section.

(6) Any liability of a person in respect of sums payable by him under this section on account of pensions shall, if the Executive so determines, be satisfied by way of contributions calculated, at such rate as may be determined by the Treasury, by reference to remuneration.

(7) Where the Executive anticipates that a person who has applied for or has been granted a nuclear site licence will become subject to a liability under this section, it may require him to make to it a payment or payments on account of the liability.

(8) Where a person has made a payment under subsection (7) of this section on account of an anticipated liability, then--

- (a) if he does not become subject to the liability, the Executive shall be liable to repay the payment to him; and
- (b) if the amount of the liability to which he becomes subject is less than the amount paid under that subsection, the Executive shall be liable to repay the difference to him.

25 Offences--general

(1) Where a body corporate is guilty of an offence under section 2(2) or 19(5) of this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly; and where the body corporate was guilty of the offence in the capacity of licensee under a nuclear site licence, he shall be so liable as if he, as well as the body corporate, were the licensee.

In this subsection, the expression "director", in relation to a body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

(2) Where a body corporate is convicted on indictment of an offence under any of the following provisions of this Act, that is to say, sections . . . 2(2) . . . and 19(f), so much of the provision in question as limits the amount of the fine which may be imposed shall not apply, and the body corporate shall be liable to a fine of such amount as the court thinks just.

(3) Proceedings in respect of any offence under section 2(2) or 19(5) of this Act shall not be instituted in England or Wales except by the Minister or by or with the consent of the Director of Public Prosecutions.

25A Orders

The power to make orders under section 16(1A), 18(1B) or 21(1A) of this Act shall be exercisable by statutory instrument; but no such order shall be made unless a draft of it has been laid before and approved by resolution of the House of Commons.

25B Amounts in euros~~Special drawing rights~~

For the purpose of determining the equivalent in sterling on a particular day of a sum expressed in euros, the sum in euros is to be converted into its equivalent in sterling using the London closing exchange rate for the euro and sterling for that day

~~1) — In this Act "special drawing rights" means special drawing rights as defined by the International Monetary Fund; and for the purpose of determining the equivalent in sterling on any day of a sum expressed in special drawing rights, one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right—~~

~~(a) — for that day, or~~

~~(b) — if no sum has been so fixed for that day, for the last day before that day for which a sum has been so fixed.~~

~~(2) — A certificate given by or on behalf of the Treasury stating—~~

~~(a) — that a particular sum in sterling has been so fixed for a particular day, or~~

~~(b) — that no sum has been so fixed for a particular day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the particular day;~~

~~shall be conclusive evidence of those matters for the purposes of subsection (1) of this section; and a document purporting to be such a certificate shall in any proceedings be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.~~

~~(3) — The Treasury may charge a reasonable fee for any certificate given in pursuance of subsection (2) of this section and any fee received by the Treasury by virtue of this subsection shall be paid into the Consolidated Fund.~~

26 Interpretation

(1) In this Act, except where the context otherwise requires, the following expressions have the following meanings respectively, that is to say--

"the Act of 1959" means the Nuclear Installations (Licensing and Insurance) Act 1959;

"the appropriate Agency" means--

(a) in the case of a site in England or Wales, the Environment Agency;

(b) in the case of a site in Scotland, the Scottish Environment Protection Agency;

"atomic energy" has the meaning assigned by the Atomic Energy Act 1946;

"the Authority" means the United Kingdom Atomic Energy Authority;

"continental shelf", in relation to a country or territory, means—

(a) in the case of the United Kingdom, an area designated under section 1(7) of the Continental Shelf Act 1964;

(b) an area outside its territorial sea within which rights are exercisable in relation to the sea bed and subsoil and their natural resources by a country or territory outside the United Kingdom;

"contravention", in relation to any enactment or to any condition imposed or direction given thereunder, includes a failure to comply with the enactment, condition or direction, and cognate expressions shall be construed accordingly;

"cover period" has the meaning assigned by section 19(2) of this Act;

"excepted matter" means nuclear matter consisting only of one or more of the following, that is to say--

(a) isotopes prepared for use for industrial, commercial, agricultural, medical scientific or educational purposes;

(b) natural uranium;

- (c) any uranium of which isotope 235 forms not more than 0.72 per cent;
- (d) nuclear matter of such other description, if any, in such circumstances as may be prescribed (or, for the purposes of the application of this Act to a relevant foreign operator, as may be excluded from the operation of the relevant international agreement by the relevant foreign law);

“exclusive economic zone” means, subject to subsection (1A)—

- (a) in the case of the United Kingdom, any area for the time being designated by an Order in Council under section 41(3) of the Marine and Coastal Access Act 2009, or
- (b) in the case of another country or a territory, the exclusive economic zone established by that country or territory in accordance with international law;”

"home territory", in relation to a relevant foreign operator, means the relevant territory in which, for the purposes of a relevant International agreement, he is the operator of a relevant installation;

"injury" means personal injury and includes loss of life;

"inspector" in sections 4(5) and 5(2) of this Act means an inspector appointed by the Health and Safety Executive under section 19 of the Health and Safety at Work etc Act 1974;

"licensed site" means a site in respect of which a nuclear site licence has been granted, whether or not that licence remains in force;

"licensee" means a person to whom a nuclear site licence has been granted, whether or not that licence remains in force;

"the Minister" means--

- (a) in the application of this Act to England and Wales, the Minister of Power;
- (b) in the application of this Act to Scotland, the Secretary of State.

"nuclear installation" means a nuclear reactor or an installation such as is mentioned in section 1(1)(b) of this Act;

"nuclear matter" means, subject to any exceptions which may be prescribed--

- (a) any fissile material in the form of uranium metal, alloy or chemical compound (including natural uranium), or of plutonium metal, alloy or chemical compound, and any other fissile material which may be prescribed; and
- (b) any radioactive material produced in, or made radioactive by exposure to the radiation incidental to, the process of producing or utilising any such fissile material as aforesaid;

"nuclear reactor" means any plant (including any machinery, equipment or appliance, whether affixed to land or not) designed or adapted for the production of atomic energy by a fission process in which a controlled chain reaction can be maintained without an additional source of neutrons;

"nuclear site licence" has the meaning assigned by section 1(1) of this Act;

"occurrence" in sections 16(1) and (1A), 16B, 17(3) and 18 of this Act and subsection (2B) of this section

- (a) in the case of a continuing occurrence, means the whole of that occurrence; and
- (b) in the case of an occurrence which is one of a succession of occurrences all attributable to a particular happening on a particular relevant site or to the carrying out from time to time on a particular relevant site of a particular operation, means all those occurrences collectively;

"period of responsibility", in relation to a licensee, has the meaning assigned by section 5(3) of this Act;

"prescribed" means prescribed by regulations made by the Secretary of State, which shall be made by statutory instrument and be subject to annulment in pursuance of a resolution of either House of Parliament;

"preventive measure" has the meaning given by section 11H;

"relevant carriage", in relation to nuclear matter, means carriage on behalf of--

- (a) a licensee as the licensee of a particular licensed site; or
- (b) the Authority; or
- (c) a government department for the purposes of such use of a site by that department as is mentioned in section 9 of this Act; or
- (d) a relevant foreign operator; or
- (e) a person authorised to operate a nuclear reactor which is comprised in a means of transport and in which the nuclear matter in question is intended to be used or was used or was intended to be used;

"qualifying territory" means—

- (a) a relevant territory,
- (b) a country or territory that has no nuclear installation within its territorial limits or its exclusive economic zone or on its continental shelf, or
- (c) a relevant reciprocating territory;

"relevant foreign contribution", in relation to any claim, means any sums falling by virtue of any relevant international agreement to be paid by the government of any relevant territory other than the United Kingdom towards the satisfaction of that claim;

"relevant foreign judgment" means a judgment of a court of a relevant territory other than the United Kingdom which, under a relevant international agreement, is to be enforceable anywhere within the relevant territories;

"relevant foreign law" means the law of a relevant territory other than the United Kingdom or any part thereof regulating in accordance with a relevant international agreement matters falling to be so regulated and, in relation to a particular relevant foreign operator, means the law such as aforesaid of his home territory;

"relevant foreign operator" means a person who, for the purposes of a relevant international agreement, is the operator of a relevant installation in a relevant territory other than the United Kingdom;

"relevant installation" means an installation to which a relevant international agreement applies;

"relevant international agreement" means an international agreement with respect to third-party liability in the field of nuclear energy to which the United Kingdom or Her Majesty's Government therein are party, other than an agreement relating to liability in respect of nuclear reactors comprised in means of transport;

"relevant maritime zone", in relation to a country or territory, means—

- (a) its exclusive economic zone, or
- (b) in the case of a country or territory which has not established an exclusive economic zone (including the United Kingdom until the coming into force of the first Order in Council made under section 41(3) of the Marine and Coastal Access Act 2009), a zone which—

- (i) is adjacent to the territorial sea of that country or territory, and
 - (ii) extends no more than 200 nautical miles from the baselines determined by that country in accordance with international law as the baselines from which its territorial sea is measured,
- and which has been identified by that country or territory in accordance with a relevant international agreement for the purposes of establishing jurisdiction under such an agreement;

“relevant reciprocating territory” means a country that is not a relevant territory but whose law—

- (a) with a view to reciprocating benefits conferred as regards it by parties to the Convention on Third Party Liability in the Field of Nuclear Energy of 29 July 1960 as amended by the Additional Protocol of 28 January 1964 and by the Protocols of 16 November 1982 and 2004, confers benefits as regards the parties to the Convention on a basis corresponding to the basis required of a party to the Convention, disregarding for these purposes the Convention’s limits on the amount of liability, and
- (b) is based on principles identical to those of that Convention;

"relevant site" means any of the following, that is to say--

- (a) a licensed site at any time during the period of the licensee's responsibility;
- (b) any premises at any time when they are occupied by the Authority;
- (c) any site at any time when it is occupied by a government department, if that site is being or has been used by that department as mentioned in section 9 of this Act;
- (d) any site in a relevant territory other than the United Kingdom at any time when that site is being used for the operation of a relevant installation by a relevant foreign operator;

"relevant territory" means a country for the time being bound by a relevant international agreement, and includes a territory for the international relations of which such a country is responsible where the benefits of that relevant international agreement have for the time being been extended to the territory;

“significant impairment of the environment” does not include damage to the environment which is not significant enough to be eligible for compensation under this Act as damage to property, whether or not the part affected is property in respect of which such compensation can be sought;

"territorial limits" includes territorial ~~waters~~sea.

(1A) References in this Act to the exclusive economic zone of a country or territory, except in the definitions of “exclusive economic zone” and “relevant maritime zone” in subsection (1), include references to any zone which—

- (a) is adjacent to the territorial sea of that country or territory, and
- (b) extends no more than 200 nautical miles from the baselines determined by that country or territory in accordance with international law as the baselines from which its territorial sea is measured, and

in which the country or territory exercises some of the rights that are exercisable under Part V of the United Nations Convention on the Law of the Sea (Cmnd 8941).

(2) References in this Act to the carriage of nuclear matter shall be construed as including references to any storage incidental to the carriage of that matter before its delivery at its final destination.

(2A) If the presence of nuclear matter in a place is the consequence of an occurrence such as is mentioned in section 7, 10 or 11, that presence is not to be treated as constituting a separate occurrence for the purposes of any of those sections.

(2B) A country or territory is not to be treated, in relation to an occurrence or event in respect of which one or more persons incur liability by virtue of section 7, 8, 9 or 10 or by virtue of any relevant foreign law made for purposes corresponding to those of any of those sections, as—

(a) a country or territory that has no nuclear installation within its territorial limits or its exclusive economic zone or on its continental shelf, or

(b) a relevant reciprocating territory,

unless it fell within that description at the time of the occurrence or event.

(3) Any question arising under this Act as to whether--

(a) any person is a relevant foreign operator; or

(b) any law is the relevant foreign law with respect to any matter; or

(c) any country or territory is for the time being a relevant territory, or

(d) a country or territory has at any time no nuclear installation within its territorial limits or its exclusive economic zone or on its continental shelf; or

(e) a country is at any time a relevant reciprocating territory; or

(f) a place is within an exclusive economic zone or relevant maritime zone or on the continental shelf of a country or territory

shall be referred to and determined by the Minister.

(4) Save where the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any other enactment.

27 Northern Ireland

(1) In the application of this Act to Northern Ireland--

(a) a reference to the Minister shall be construed as a reference to the Secretary of State;

(b) sections 3(1A) and (6A), 4(3A) and 5(1A) shall have effect as if--

(i) for "appropriate Agency", wherever occurring, there were substituted "Department of the Environment in Northern Ireland";

(ii) for "Great Britain", wherever occurring, there were substituted "Northern Ireland";

(iii) for "Health and Safety Executive", wherever occurring, there were substituted "Minister";

(c) section 3(3) shall have effect as if for paragraphs (b) and (c) there were substituted--

"(ca) the Fisheries Conservancy Board for Northern Ireland and any water undertaker (within the meaning of the Water and Sewerage Services) (Northern Ireland) Order 2006; and".

(2) . . .

(3) . . .

(4) In the application to Northern Ireland of section 21(5) of this Act, the reference to Part VI of the Road Traffic Act 1960 shall be construed as a reference to Part II of the Motor Vehicles and Road Traffic Act (Northern Ireland) 1930 as amended or re-enacted (with or without modification) by any subsequent enactment of the Parliament of Northern Ireland for the time being in force.

(5) Proceedings in respect of any offence under this Act shall not be instituted in Northern Ireland except--

(a) by the Minister; or

(b) by or with the consent of the Director of Public Prosecutions for Northern Ireland.

(6) . . .

(7) ...

28 Channel Islands, Isle of Man, etc

(1) Her Majesty may by Order in Council direct that any of the provisions of this Act specified in the Order shall extend, with such exceptions, adaptations and modifications as may be so specified, to any of the Channel Islands, to the Isle of Man or to any other territory outside the United Kingdom for the international relations of which Her Majesty's Government in the United Kingdom are responsible.

(2) Any Order in Council made by virtue of this section may be varied or revoked by any subsequent Order in Council so made.

29 Repeals and savings

(1) . . .

(2) Anything done under or by virtue of any enactment repealed by this Act shall be deemed for the purposes of this Act to have been done under or by virtue of the corresponding provision of this Act, and anything begun under any of the enactments so repealed may be continued under the corresponding provision of this Act.

(3) So much of any enactment or document as refers expressly or by implication to any enactment repealed by this Act shall, if and so far as the context permits, be construed as a reference to this Act or the corresponding enactment therein.

(4) Nothing in this section shall be construed as affecting the general application of section 38 of the Interpretation Act 1889 with respect to the effect of repeals.

30 Short title and commencement

(1) This Act may be cited as the Nuclear Installations Act 1965.

(2) This Act shall come into force on such day as Her Majesty may by Order in Council appoint; and a later day may be appointed for the purposes of section 17(5) than that appointed for the purposes of the other provisions of this Act.

.....

SCHEDULE 1A

MEASURES OF REINSTATEMENT OUTSIDE THE UNITED KINGDOM

Measures of reinstatement

- 1.—(1) Where as a result of a breach of a duty imposed by section 7, 8, 9 or 10 there is significant impairment of the environment within the territorial limits, in or above the exclusive economic zone, or on the continental shelf of a qualifying territory other than the United Kingdom, a person may make a claim under this Act for compensation in respect of the reasonable cost of measures of reinstatement relating to that impairment, to the extent that they are relevant measures of reinstatement.
- (2) Sub-paragraph (1) is subject to paragraphs 2 to 4.
- (3) A relevant measure of reinstatement, in relation to significant impairment of the environment, is a measure reasonably taken for the purpose of—
- (a) reinstating or restoring what has been destroyed or damaged as part of that impairment, or
 - (b) establishing the equivalent of what has been destroyed or damaged as part of that impairment.
- (4) A measure of reinstatement is reasonably taken for the purposes of this paragraph if taking that measure is appropriate and proportionate in the circumstances.

Persons able to take measures

2. No compensation under this Act is payable by virtue of a claim under paragraph 1 unless the person taking the relevant measures of reinstatement is entitled to take the measures in question under the law of the qualifying territory.

Approval of measures of reinstatement

3. Compensation under this Act is payable by virtue of a claim under paragraph 1 only if the claim relates to measures of reinstatement approved by—
- (a) a person who is competent to do so under such law of the qualifying territory as is made for purposes corresponding to section 11B (a “competent authority”), or
 - (b) if the decision of the competent authority is appealed under paragraph 4, the appropriate court.

Appeals against decisions

- 4.—(1) The following persons may appeal to the appropriate court against a decision of a competent authority to approve or not to approve a measure of reinstatement—
- (a) the person who requires the approval of the competent authority for the measure;
 - (b) the person whose breach or alleged breach of a duty imposed by section 7, 8, 9 or 10 caused or is alleged to have caused the impairment of the environment.
- (2) Where an appeal is made under this paragraph, the competent authority concerned is entitled to appear and be heard.

(3) The court may on an appeal under this paragraph determine whether or not to approve the measure in question.

(4) The court may not approve a measure unless it is satisfied that—

(a) there is within the territorial limits, in or above the exclusive economic zone, or on the continental shelf of the qualifying territory a significant impairment of the environment that falls to be compensated under a relevant international agreement,

(b) the measure is, in relation to that impairment of the environment, a relevant measure of reinstatement within the meaning of paragraph 1,

(c) the amount claimed in respect of the cost of the measure is reasonable, and

(d) the payment of compensation under this Act by virtue of a claim under paragraph 1 is not prevented by paragraph 2.

The appropriate court

5. For the purposes of this Schedule, the appropriate court in the case of a particular measure of reinstatement is the court in the United Kingdom that has, or but for section 16(3E) would have had, jurisdiction in accordance with section 16B to determine any claim made under paragraph 1 in respect of that measure.