

MEMORANDUM OF UNDERSTANDING

**BETWEEN THE DEPARTMENT FOR BUSINESS ENERGY AND
INDUSTRIAL STRATEGY (BEIS)**

AND THE OFFICE FOR NUCLEAR REGULATION (ONR)

INTRODUCTION

1. This Memorandum of Understanding (MoU) is made between the Department for Business Energy and Industrial Strategy (BEIS) and the Office for Nuclear Regulation (ONR). Its purpose is to ensure effective coordination over matters concerning changes to ownership or part-ownership of strategic entities within the civil nuclear industry. This will create a reporting regime for relevant changes to ownership, thereby giving effect to the Direction that the Secretary of State issued to the ONR on 17/10/2017.

BACKGROUND AND LEGAL FRAMEWORK

2. On 17/10/2017 the Secretary of State issued a Direction to the ONR under Section 92(3) of the Energy Act 2013 (for the purpose of the MoU, this will be referred to as “the Direction”). The Direction requires the ONR to obtain notice from relevant civil nuclear entities of any relevant change of ownership or part-ownership of which the entity is aware (for the purpose of this MoU, these will be referred to as “change of ownership notifications”). In turn, the ONR would be required to pass on this information to the government. The Direction is provided at **Annex A** of the MoU.
3. The Direction applies to the following types of entities:
 - (a) Holders of nuclear site licenses;
 - (b) Developers of civil nuclear construction sites¹;
 - (c) Tenants operating on nuclear licensed sites;
 - (d) Approved carriers of nuclear material;
 - (e) Requesting parties for the Generic Design Assessment process.
4. The Direction requires an entity of the type listed above to submit a change of ownership notification to the ONR in the event of:
 - (a) a proposal of which the entity is aware to sell or establish a new interest over a stake of at least 5% (purchased or created in a single block) in the

¹ For the purposes of this MoU, ‘developers’ is to be interpreted as the lead developers.

entity in question, or the fact that such a sale or creation of a new interest has taken place; and/or

- (b) any investment or acquisition in the entity in question which gives an investor one or more seats on the Executive Board or equivalent, or a proposal to make such an investment or acquisition of which the entity is aware.

5. The ONR can require this information under Section 97 of the Energy Act 2013.

PURPOSE

- 6. This MoU seeks to establish a series of working arrangements between BEIS and the ONR that will support the ONR's delivery of the Direction. This process aims to ensure that:
 - (a) The ONR is notified of ownership changes within the scope of the Direction;
 - (b) The ONR refers such notifications to BEIS;
 - (c) Both parties give consideration to whether any security concerns arise from the ownership change;
 - (d) In the event of concerns arising from the assessments made by BEIS or the ONR, discussions are held between the two parties to inform decisions on the appropriate response.

WORKING ARRANGEMENTS

- 7. In connection to the Direction, working arrangements between BEIS and the ONR have been established.
- 8. The ONR will appoint the Chief Nuclear Inspector Office as the single point of contact within the organisation to which entities within the scope of the Direction send change of ownership notifications.
- 9. BEIS will appoint the Private Office of the Department's Permanent Secretary as the single point of contact within the department to which the ONR will refer the change of ownership notifications that it receives.
- 10. The ONR will refer change of ownership notifications to the single point of contact in BEIS, copying in working level contacts in the Department's Civil Nuclear Security team, at the earliest reasonable opportunity and not longer than five working days after receipt.

11. For each change of ownership notification that is received, BEIS and the ONR will each appoint working level points of contact and provide the details of these person(s) to the other party.
12. BEIS, with the input of other government departments (OGD) as appropriate, and the ONR will perform such checks as they deem appropriate to assess whether any security concerns arise from the change of ownership notification. The ONR will assess the security implications from a regulatory perspective. BEIS, with OGD input as appropriate, will assess the national security implications.
13. Should BEIS require further information to support the assessment of a notification, BEIS will contact the ONR. If this information needs to be obtained from the entity that has provided the notification, it will be for the ONR to request this information.
14. Within ten working days of the notification being referred to BEIS, the working level points of contact will provide the other party with an informal assessment of whether any security concerns arise from the change of ownership notification. Follow-up meetings will be arranged in the event that the checks being conducted by either party have not concluded.
15. In the event that either party has a security concern regarding a change of ownership notification, the party with the concern will inform the other party. Working level representatives of both sides will discuss possible responses to the concern.
16. Where appropriate, senior representatives from Government (including Ministers) and the ONR, will be informed about a notification received which will include an assessment of the security implications and proposed next steps.

DISCLOSURE OF INFORMATION

17. BEIS and the ONR will follow the requirements of the Energy Act 2013 and other relevant legislation with respect to the disclosure of information shared under this agreement.
18. BEIS and the ONR are subject to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. To encourage a consistent approach to disclosure, if either party is intending to disclose information relevant to the other, it shall make the other aware of its intention prior to disclosure.

RESOLUTION OF DISPUTES

19. BEIS and the ONR will, in the first instance, resolve any disputes relating to the operation of this MoU at a working level, escalating to relevant managers as

appropriate. In the event that agreement at this level cannot be reached, the ONR Chief Nuclear Inspector and the BEIS Deputy Director with responsibility for civil nuclear security will meet to resolve the issues.

REVIEW OF THE MEMORANDUM FOR UNDERSTANDING

20. BEIS and the ONR will review this MoU after the first notification has been received and the process set out in this MoU has been followed. In any case, a review will take place not later than one year after it has been signed.

TERMINATION

21. Either BEIS or the ONR may terminate this MoU on two months' notice in writing to the other party.

SIGNATORIES

22. The signatories below indicate their intention to enter into this agreement.

23. On behalf of the Secretary of State for the Department for Business Energy and Industrial Strategy:

Name: Zilla Bowell

Position: Deputy Director, Civil Nuclear Security and Safety



Signed:

Date: 25 October 2017

24. On behalf of the Office for Nuclear for Regulation:

Name: Mark Foy

Position: Chief Nuclear Inspector



Signed:

Date: 31 October 2017