



ONR GUIDE			
The Processing of Applications for Replacement Licences for Existing Licensed Nuclear Sites			
Document Type:	Instruction		
Unique Document ID and Revision No:	NS-PER-IN-004 Revision 2		
Date Issued:	April 2016	Review Date:	April 2019
Approved by:	C. Reiersen	Head of New Reactor Licensing	
Record Reference:	TRIM Folder 1.1.3.779. 2016/159940		
Revision commentary:	Revision. Energy Act 2013 changes incorporated		

TABLE OF CONTENTS

1. INTRODUCTION	2
2. PURPOSE AND SCOPE	2
3. NEED FOR RELICENSING	2
4. PREREQUISITES FOR RE-LICENSING	3
5. THE LICENCE APPLICATION	4
6. THE ASSESSMENT PROCESS	5
7. PRINCIPAL AREAS OF ASSESSMENT	6
8. ROLE OF THE NUCLEAR DECOMMISSIONING AUTHORITY (NDA)	8
9. CONSULTATION AND NOTIFICATION	8
10. PREPARING THE LICENCE	9
11. DECISION	9
12. ASSOCIATED DOCUMENTS	10
13. APPENDICES	21

1. INTRODUCTION

- 1.1. This guidance informs the assessment of applications for replacement licences for sites licensed under the Nuclear Installations Act 1965 (NIA 1965).

2. PURPOSE AND SCOPE

- 2.1 NIA 1965, sections 1 and 3 to 6, sets out the legal requirement for nuclear sites to be licensed. Section 77 of the Energy Act 2013 created the Office for Nuclear Regulation (ONR) and amended section 1 of NIA 1965 to establish ONR as the “appropriate national authority” for nuclear site licensing. The Nuclear Installations Regulations 1971 (SI 1971/381) define licensable installations in greater detail.
- 2.2 ONR’s licensing policies are summarised in ‘Licensing Nuclear Installations’ (2015) which is available at <http://www.onr.org.uk/nuclear/licensing-nuclear-installations.pdf>.
- 2.3 Before ONR can grant a replacement nuclear site licence it must consider whether the licence applicant meets the requirements laid down in NIA 1965, can satisfy ONR’s policies on nuclear site licensing, and is able to comply with the conditions which will be attached to the licence.
- 2.4 A nuclear site licence must:
- be legally correct;
 - be granted to the primary user of the site;
 - clearly define the site and the licensable installation(s); and
 - have attached to it the appropriate conditions

3. NEED FOR RELICENSING

- 3.1 Re-licensing of a nuclear site will be necessary when there is a material change to the basis on which the current licence was granted. This is described in Section 3 of *Licensing Nuclear Installations* (2015).
- 3.2 A nuclear site licence is granted for an indefinite period and, in principle, one licence could cover the entire lifecycle of the site from installation and commissioning, through operation and decommissioning to site clearance and remediation. In practice, for many sites a replacement licence will be required from time to time. Because a site licence is granted to a particular corporate body to undertake specified prescribed activities in a defined location, a replacement licence will be needed when there is to be a material change to the basis on which the existing nuclear site licence was granted, that is:
- where there is to be a change of operator, since NIA 1965 section 3(1) precludes nuclear site licences being transferred between corporate bodies;
 - if the incumbent licensee wishes to install and operate a type of prescribed installation which is not covered by its current licence;
 - where the site boundary is to be extended. N.B. Section 3(6) of NIA 1965 provides for the variation of a nuclear site licence to exclude parts of a site if

certain criteria are satisfied. There is no parallel power to vary the licence to enlarge a licensed site.

4. PREREQUISITES FOR RE-LICENSING

- 4.1 Assessment of a re-licensing application will address a number of areas. These are set out in the table below. A more detailed description of ONR's expectations in each area is contained in Licensing Nuclear Installations (LNI).

All sites	
The Licensee	NIA 1965 requires that a site licence may only be granted to a corporate body. Applications may be made by bodies incorporated in EU member states. Advice should be sought from DECC as to the acceptability of non-EU applicants LNI paras 75-78
Site identification and suitability	Nuclear site licences are granted on a site-specific basis and define the boundary of the licensed area by reference to a map incorporated into the licence. Any change to the licensed area will require a new site map which should show the new site boundary and any de-licensed areas. Annex 3, LNI
Security of Tenure	The licence applicant must have full rights of access to, and control of, the site so that it can satisfy the demands placed on it by NIA 1965 and the site licence.
Justification	European Basic Safety Standards Directives require member states to ensure that the benefits of using ionising radiation outweigh the possible risks. UK government policy is that this is determined by Ministers. This will apply if any change is proposed to the activities on the original licence. LNI paras 128-129
Prescribed Activities	The type of installation(s) needs to be briefly identified because licences include, at part 2 of Schedule 1, a description of the type of installation for which the site is being licensed. LNI paras 14-15
Organisational Capability	A licensee should be fully in control of activities on its site, understand the nuclear safety and security implications of its activities and how to control them, and be an intelligent customer for any work it commissions externally (see section 7) LNI paras 85-89, 105
Safety Case	The licence applicant will need to demonstrate that the plant can be operated safely. ONR will assess any new safety cases submitted in support of the application in accordance with established procedures. LNI paras 102-104
Decommissioning Arrangements	ONR requires that facilities should be designed so that they can be safely decommissioned. The applicant must show that an adequate decommissioning programme exists before the replacement licence is granted. LNI para 110 and SAPs DC1 to 9
Security Plan	Security implications of any change to either the activities or site area must be considered and, where appropriate, revised arrangements should be assessed by ONR Civil Nuclear Security.

	LNI para 117-118
Mandatory Consultation	NIA 1965 s.3(1A) requires ONR to consult the appropriate Environment Agency prior to granting a nuclear site licence. LNI para 120
Discretionary consultation	NIA 1965 s.3(3) provides HSE with a discretionary power of public body notification. Where this power is invoked the licence cannot be granted until the process has been completed. More information is given in INS 034. LNI paras 121-124
Adequate Licence Condition Compliance Arrangements	The licensee should already possess a fully developed set of licence condition compliance arrangements for the site. The extent of ONR's assessment will depend upon the nature of the change giving rise to the need for re-licensing (see section 7.3). LNI paras 93-94
Nuclear Safety Committee	Licence Condition 13 requires the licensee to form a Nuclear Safety Committee, but prevents its formation until its terms of reference have been approved by ONR. If there is a change of licensee the terms of reference for the new NSC may be assessed, but approval may not be issued, until after the licence has been granted. If there is no change of licensee the existing approval may be carried forward using schedule 3 of the new licence.
Emergency Arrangements	Licence Condition 11 requires a licensee to have adequate arrangements for any accident or emergency on the site. The adequacy of the arrangements should be assessed against any changes proposed in the re-licensing application. The licensee may wish to carry the existing arrangements forward to the new licence. LNI paras 115-116
Nuclear Liability Insurance	NIA 1965 places an absolute liability upon the licensee as regards injury to persons and damage to property arising from nuclear occurrences on the site. A licensee must make provision to meet third party claims. This provision is enforced by DECC. LNI paras 126-127
Role and Duties of the Nuclear Decommissioning Authority (NDA)	The NDA owns 17 nuclear sites and is responsible for an 18 th (Harwell). It has specific, statutory duties under the Energy Act 2004, NIA 1965 and HSW Act (annex 1). De-designation of NDA land may be a feature of a re-licensing exercise (see section 8). Annex 2, LNI

5. THE LICENCE APPLICATION

5.1 The applicant must submit a written application to the Chief Nuclear Inspector, supported by sufficient information to enable ONR to assess the prospective licensee and to assess the potential impact of any proposed changes to the site boundary or activities on the site. Evidence required in support of an application should address the elements set out in the table above in so far as they are affected by the change in the basis of the licence and may include, as necessary:

- a Safety Management Prospectus (SMP)(this could comprise a suite of documents rather than a single volume); where the proposed changes are small a 'route map' or summary, highlighting the areas affected, would be acceptable;

- a brief description of the installation and activities to be licensed, especially any new or changed activities;
- confirmation that the types of activities undertaken at the site are deemed “justified” in the context of the Justification of Practices Involving Ionising Radiations Regulations;
- a revised map of the site;
- details of any changes in ownership of the site and the proposed arrangements for achieving security of tenure for the licensee;
- where there is to be a change of the licensed corporate body, the terms of reference for the new Nuclear Safety Committee;
- an analysis of the impact of the change on the licensee’s licence condition compliance arrangements;
- an explanation of the impact of the proposed changes on safety cases and/or new safety cases for new or changed activities;
- impact on security and safeguards;
- details of licence instruments to be carried forward to the new licence; and
- a post-relicensing implementation plan.

6. THE ASSESSMENT PROCESS

- 6.1 Early engagement with the licensee is an important factor in any licence application. The site inspector and a licensing specialist should discuss the scope and content of the application before it is submitted. Where necessary, depending upon the nature of the proposed changes, the discussions may include ONR Civil Nuclear Security and Nuclear Safeguards.
- 6.2 The relevant programme should nominate a project lead and allocate the resources necessary to assess the application. The project lead will co-ordinate the assessment effort, involving specialist inspectors as necessary, and be responsible for production of the re-licensing Project Assessment Report (PAR). A nominated licensing specialist will assist the project lead and help to co-ordinate the inputs required for production of the re-licensing PAR. The PAR will refer out to, and summarise the findings from, specialist assessment reports dealing with issues underpinning a recommendation to grant a nuclear site licence. The licensing specialist will liaise with the Government Legal Department and other regulators, as required by the particular project and will draft and prepare the nuclear site licence.
- 6.3 The relicensing process requires the assessment of the applicant’s case for a replacement nuclear site licence. In accordance with ONR’s policy on proportionate regulation the main assessment effort will be focused on those areas where changes are taking place or which are problematic for other reasons.
- 6.4 The overall aim of the assessment will be to ascertain the impact of the proposed changes and the adequacy of the licensee’s arrangements to deal with them.

- 6.5 If there is to be a change of licensee, or a material change in the licence applicant's organisational structure, plant or processes, a systematic review of the impact of the proposed changes on the safety arrangements for the site may be required.
- 6.6 The principal areas for assessment are described in section 7.

7. PRINCIPAL AREAS OF ASSESSMENT

- 7.1 Through assessment of the applicant's submission and other relevant information, such as the outcomes from team inspections, ONR should satisfy itself that the applicant will:
- i. be the primary user of the site, with adequate security of tenure and rights of access;
 - ii. be in day-to-day control of nuclear activities on the site; and
 - iii. have sufficient capability to meet operational safety demands and to discharge its obligations under NIA 1965.

Organisational Capability

- 7.2 The organisational capability of existing licensees will have been assessed and reviewed as part of normal business and the results of previous inspections may be used. New applicants should be assessed in accordance with NS-PER-IN-003 'The processing of licence applications for new nuclear sites'.
- 7.3 ONR expects an applicant to have a Safety Management Prospectus (SMP), documenting and demonstrating the adequacy of its arrangements for managing health and safety. The prospectus is that part of a licensee's safety case which deals with safety management issues; it may consist of a single document or a suite of documents. The prospectus should provide a clear statement about the company, its structure, and how it proposes to operate. Further guidance is available in NS-TAST-GD-72 '*Function and Content of a Safety Management Prospectus*'.
- 7.4 The SMP should be complemented by an adequate and up to date organisational Nuclear Baseline. The principal purpose of the Nuclear Baseline is to provide a demonstration that the licensee has suitable and sufficient organisational structures, staffing and competencies in place to effectively and reliably carry out those activities which could impact on nuclear safety. See NS-TAST-GD-065 – '*Function and Content of the Nuclear Baseline*'.

Licence Instruments

- 7.5 Re-licensing affords an opportunity for a review of existing licence instruments. The site inspector and licensee should discuss this in advance of the application and identify which should be carried forward and which should fall on re-licensing. Approvals and Directions should form schedule 3 of the new licence; other licence instruments should be listed in the PAR and be brought forward in the appropriate paragraph of the new licence.

Licence Condition Compliance Arrangements

- 7.6 The extent of ONR's assessment or inspection of the adequacy of a licence applicant's proposed arrangements will depend on the nature of the change giving rise to the need for a replacement licence. In many instances the applicant will want existing

compliance arrangements to be carried forward unchanged to the new licence, and any proposals to make changes subsequently can be handled as normal business. If a team inspection of compliance arrangements is not deemed necessary it will be sufficient to draw on the evidence provided by previous site inspection reports.

- 7.7 Areas requiring particular emphasis in the re-licensing PAR are Decommissioning and Emergency Arrangements. The site inspector should comment on the adequacy of the licensee's arrangements, post re-licensing, in both these areas.
- 7.8 Minor shortcomings in a licensee's arrangements do not necessarily preclude the grant of a licence, providing that the site inspector believes the deficiencies can be resolved through normal regulatory activity after the grant of the licence.

Security of Tenure

- 7.9 It is ONR's policy to ensure that a nuclear licensee has rights of access to, and control of, its site. ONR will therefore require evidence of security of tenure to show that sufficient consideration has been given to this issue. Where the licensee does not own the freehold of the site such evidence normally consists of a lease or some other legally binding contract or documentation setting out the relationship between the licensee and the owner of the site.
- 7.10 ONR should review, with the assistance of the Government Legal Department, the legal documentation to ensure that it provides the applicant with the required levels of control and access. Where a new lease or a land transfer is being negotiated to form part of the licensing basis it will be necessary to ensure that it becomes effective at the same date and time that the new nuclear site licence comes into force.
- 7.11 The nominated ONR site inspector should walk the proposed boundary of the nuclear licensed site to verify that the map provided by the applicant for attachment to the licence accurately represents the physical boundary; the verification should be referenced in the PAR. The Ordnance Survey grid reference of a significant point on the site shown on the map will be checked by the ONR licensing specialist.

Sub-leases, etc.

- 7.12 ONR Consent under Licence Condition 3 is not necessary for a new lease / property licence in favour of a third party tenant where it forms part of the basis on which the site licence is to be granted. However such leases etc should be reviewed in accordance with the guidance in NS-TAST-GD-087, involving the nominated Government Lawyer as necessary.
- 7.13 If pre-existing leases, property licences etc. are to be carried forward to the new licence a list of current leases should be submitted by the licence applicant for checking against ONR's records. This is to ensure that all property transactions are covered by either an LC3 Consent or a 'deemed' consent (i.e. a lease was accepted as part of the basis for the granting of a previous nuclear site licence).

Post Re-Licensing Implementation Plan

- 7.14 The licensee should prepare itself, as appropriate, for the changes which will occur as a direct result of re-licensing. These may include:
- New fencing and signage (LC2).
 - Record keeping and (where appropriate) handover of records to new licensee.

- Staff Training (LCs 10 &12) where change of personnel is involved.
- Revised Emergency Arrangements (LC11).
- Revised Security Arrangements.
- Revised arrangements (where appropriate) for control and oversight of tenant activities on the site (LC 26)

8. ROLE OF THE NUCLEAR DECOMMISSIONING AUTHORITY (NDA)

- 8.1 The NDA is responsible for 18 sites. Its role is explained at annex 1. The NDA owns land which has been 'designated' to it under the Energy Act 2004. Before any NDA land can be sold or transferred it must be 'de-designated': this is achieved by a De-designation Direction granted by the Secretary of State for Energy and Climate Change. If relicensing involves a sale or transfer of NDA freehold property the NDA will need to obtain a de-designation direction before the transaction can proceed and prior to the date of re-licensing. ONR may be asked to provide a letter of support for the application if it is satisfied that any contamination has been satisfactorily dealt with. ONR's 'no danger' criterion does not necessarily need to be met e.g. in circumstances where land is to be transferred to another licensee and is deemed to be fit for its next use

9. CONSULTATION AND NOTIFICATION

Environment Agency / Scottish Environment Protection Agency / Natural Resources Wales

- 9.1 The Environment Act 1995 (EA Act) introduced into NIA 1965 s.3(2) a statutory obligation on ONR to consult the appropriate Agency before granting or revoking a licence. The application of this statutory requirement is through arrangements set out in Memoranda of Understanding with the environment agencies.
- 9.2 ONR's Licensing Specialist will consult the appropriate environment agency, in relation to a licence application, to seek confirmation that it has no objection to the granting of that licence. Information will also be sought on the Agency's intention to issue new authorisations under the Environmental Permitting (England & Wales) Regulations 2010 or the Radioactive Substances Act 1993 (for Scottish sites) for the disposal of radioactive wastes. This will assist in any necessary co-ordination between the regulatory bodies in the timing of the grant of a nuclear site licence and the issue of waste disposal authorisations.

Public body notification

- 9.3 There is a discretionary power under the NIA 1965 for ONR to direct a licence applicant to serve notice on certain public bodies local to the site in question. In deciding whether to direct an applicant to undertake public body notification the key factors considered by ONR are:
- the impact on local public bodies' duties associated with the site; and
 - consistency with previous use of these discretionary powers.
- 9.4 If the discretionary power is invoked, ONR will require the applicant to provide specified bodies with details of the proposed development and will allow them up to 3 months to comment. Such bodies include local authorities, emergency services, river authorities, fisheries committees, statutory water undertakings and other public or local

authorities. Public body notification will be undertaken in parallel with the assessment of a licensee's case for a nuclear site licence. In practice, for relicensing activities that do not involve a change in prescribed activities, ONR is unlikely to invoke this power.

Rights & obligations of other public bodies

- 9.5 The granting of a nuclear site licence has the potential to create obligations on other government departments (OGDs) should the licensee fail financially. For example, the government is the funder of last resort for decommissioning and waste management under the relevant international conventions. ONR therefore consults the Department for Energy and Climate Change (DECC) on the applicant's financial standing and the response should be referenced in the licensing PAR. DECC should also be requested to confirm that the licensee's provision for Nuclear Liability Insurance remains adequate and the response should be referenced in the PAR. ONR should consider whether it would be appropriate to:
- write to other government departments and Non-Departmental Public Bodies (NDPBs) which may have financial liabilities or other legal duties placed upon them by the granting of a nuclear site licence, and
 - invite the consultees to draw to the attention of ONR anything which from the point of view of their own rights and obligations they believe should be considered before a licence is granted.
- 9.6 ONR's guidance NS-INSP-GD-056 'Regulation of GB's Defence Nuclear Programme' references a 'General Agreement Between Ministry of Defence and Office for Nuclear Regulation for Regulation of the Defence Nuclear Programme' and a 'Letter of Understanding Between the Office for Nuclear Regulation and the Defence Nuclear Safety Regulator (DNSR)'. In line with this guidance, ONR will consult with DNSR on re-licensing proposals for defence nuclear licensed sites. For sites which are both licensed by ONR and authorised by DNSR, where re-licensing would bring additional land within the licensed site boundary, it is desirable that re-authorisation occurs at the same time to bring the same land within the authorised site boundary.

10. PREPARING THE LICENCE

- 10.1 The ONR licensing specialist and Administrative licensing support team will prepare the licence, as described in Annex 2.

11. DECISION

- 11.1 The Chief Nuclear Inspector, or a nominated Deputy Chief Inspector (DCI), will consider all the evidence and the recommendation in the site specific licensing Project Assessment Report and any key supporting assessment reports before making a decision on the acceptability of the applicant's case.
- 11.2 Where the Chief Nuclear Inspector identifies issues which cannot be resolved without amendment to the licence application, ONR's site inspector will inform the licence applicant. Any subsequent amendments to an application will be assessed proportionately in accordance with this procedure and guidance.
- 11.3 When satisfied with ONR's assessment, and the recommendation to grant a licence is accepted, the Chief Inspector or nominated DCI will sign the licence and return it to ONR's Licensing specialist for distribution. However if it is decided that the application must be formally rejected the Chief Inspector will write to the applicant to notify the decision and will set out the reasons for rejection.

11.4 There is no statutory right of appeal against nuclear licensing decisions. However, the applicant may seek a review by ONR of the process by which the licensing decision was reached.

12. ASSOCIATED DOCUMENTS

Nuclear Installations Act 1965

Energy Act 2013

The Nuclear Installations Regulations 1971 (SI 1971/381)

'Licensing Nuclear Installations' (ONR, 2015) (<http://www.onr.org.uk/licensing-nuclear-installations.pdf>)

Memorandum of Understanding between (i) the Office for Nuclear Regulation and (ii) the Environment Agency on matters of mutual interest in England (<http://www.onr.org.uk/documents/2015/mou-onr-ea-180815.pdf>)

Memorandum of Understanding between (i) the Office for Nuclear Regulation and (ii) the Scottish Environment Protection Agency on matters of mutual concern at licensed nuclear sites in Scotland (<http://www.onr.org.uk/documents/2015/sepa-nuclear.pdf>)

Memorandum of Understanding between (i) the Office for Nuclear Regulation and (ii) Natural Resources Wales (<http://www.onr.org.uk/documents/2015/nrw-mou.pdf>)

General Agreement Between Ministry of Defence and Office for Nuclear Regulation for Regulation of the Defence Nuclear Programme (<http://www.onr.org.uk/documents/2015/mod-agreement.pdf>)

Letter of Understanding between the Office for Nuclear Regulation and the Defence Nuclear Safety Regulator (<http://www.onr.org.uk/documents/2015/onr-dnsr-letter-of-understanding.pdf>)

Notes on the Nuclear Installations Act 1959, Ministry of Power

Government Legal leaflet '*The Judge Over Your Shoulder*' (http://www.tsol.gov.uk/Publications/Scheme_Publications/judge.pdf)

The Justification of Practices Involving Ionising Radiation Regulations 2004 (SI 2004/1769) <http://www.uk-legislation.hmso.gov.uk/si/si2004/20041769.htm>

ONR Instruction NS-PER-IN-003: The Processing of Licence Applications for New Nuclear Sites <http://www.onr.org.uk/operational/assessment/ns-per-in-003.pdf>

ONR Guidance T/AST/072: Function and Content of a Safety Management Prospectus http://www.onr.org.uk/operational/tech_asst_guides/ns-tast-gd-072.pdf

ONR Guidance T/AST/065: Function and Content of the Nuclear Baseline (http://www.onr.org.uk/operational/tech_asst_guides/ns-tast-gd-065.pdf)

ONR Guidance NS-INSP-GD-056: Regulation of GB's Defence Programme http://www.onr.org.uk/operational/tech_insp_guides/ns-insp-gd-056.pdf

ANNEX 1

THE NDA and Changes in SLC Parent Body

NDA's Remit

A1.1 The NDA was created by the Energy Act 2004. The NDA is a corporate body and an employer. According to the Energy Act:

“(1) The principal function of the NDA shall be to have responsibility for securing:

- (a) the operation, pending the commencement of their decommissioning, of designated nuclear installations;*
- (b) the decommissioning of those and other designated installations;*
- (c) the cleaning-up of designated nuclear sites;*
- (d) the operation of designated facilities for treating, storing, transporting or disposing of hazardous material;*
- (e) the treatment, storage, transportation and disposal, in designated circumstances, of hazardous material; and*
- (f) the decommissioning of designated installations comprised in NDA facilities.”*

A1.3 The NDA owns 17 licensed nuclear sites; and is responsible for an 18th (Harwell) which is ‘occupied’ by NDA under a lease granted to it by the UKAEA NDPB¹. The NDA also owns the assets and liabilities on the sites designated to it, including Harwell, and secures and disburses the funding required to fulfil its responsibilities. The NDA is also responsible for oversight of EDF-NGL’s planning for and decommissioning of its nuclear power stations.

A1.4 Although it has the vires to hold nuclear site licences, the NDA’s strategy is to secure the fulfilment of its responsibilities by contracting out the operation of the sites to the **Site Licensee Companies (SLCs)**. The NDA’s chosen contracting model also involves the appointment, via a **Parent Body Agreement (PBA)**, of a **Parent Body Organisation (PBO)** to provide management and direction to each SLC.

A1.5 In principle, the NDA is the enduring owner of the SLCs. However, ownership of an SLC’s shares is transferred to its PBO for the duration of the latter’s PBA. PBO nominees are seconded to the SLC for the duration of the PBA to provide the required strategic direction and oversight. The corporate body that holds the nuclear site licence does not change in this model. As a result of this, a change in parent body would not ordinarily require relicensing unless other changes as set out in 3.2 (main part of guidance) occur at the same time.

¹ In practice the site is occupied by the nuclear site licence holder under a property licence granted by the NDA.

Drafting the Nuclear Site Licence

The ONR Licensing Specialist will prepare the replacement licence which will comprise of the licence document itself and three or four schedules, as follows:

- (a) An opening paragraph setting out the powers under which ONR is granting the licence, defining the corporate body to which the licence is being granted, and referencing Schedule 1 to the licence, e.g.:
1. *The Office for Nuclear Regulation, in pursuance of sections 1(1), 4(1), 4(2), 4(3) and 4(4) of the Nuclear Installations Act 1965, hereby licenses EDF Energy Nuclear Generation Ltd, a company registered in England and Wales under number 03076445 (hereinafter referred to as "the licensee") whose Registered Office is at Barnett Way, Barnwood, Gloucester, GL4 3RS, to use the site described in Part 1 of Schedule 1 to this licence (hereinafter referred to as "the site") for the purpose of installing and operating the nuclear installations described in Part 2 of that Schedule.*
- (b) a paragraph referencing the licence schedule containing the licence conditions:
2. *This licence is granted subject to the conditions contained in Schedule 2 hereto.*
- (c) Where a replacement licence is being granted to the incumbent licensee, a paragraph revoking the existing licence, e.g.:
3. *The Office for Nuclear Regulation, in pursuance of section 5(1) of the Nuclear Installations Act 1965, hereby revokes the nuclear site licence granted to the licensee in respect of the ----- site on (date). The revocation of Nuclear Site Licence No. -- shall take effect immediately prior to the coming into force of this licence.*

N.B. If the site is being relicensed to a new operator this paragraph will be omitted and a separate revocation will be required in the name of the outgoing licensee. An example is shown in Annex 2, appendix 3.

- (d) Where a site is being relicensed to the incumbent licensee the extant licence instruments can be carried forward to the new licence. For Approvals and Directions this is achieved by including the following paragraph, e.g.:

4. *Insofar as any approval or direction was given or made under previous licences of the site and is specified in Schedule 3 to this licence and could now be given or made under the condition attached to this licence which is specified in the last column of Schedule 3 on the same line as the number of the original approval or direction, that approval or direction shall not be invalidated by the revocation of Nuclear Site Licence No.--- but shall have effect for the purpose of this licence as if it had been given or made under such condition.*

N.B. Only Approvals and Directions specifically listed in Schedule 3 are carried forward. An example of a Schedule 3 is shown in Annex 2, appendix 3. Other licence instruments are carried forward in a fifth paragraph:

5. *Insofar as any consent, agreement, notification or specification granted, given, made or deemed to have effect under any condition contained in Schedule 2 to Nuclear Site Licence No.--- was in force immediately prior to the coming into force of this licence and which could now be granted, given or made under a corresponding condition contained in Schedule 2 to this licence, that consent, agreement, notification or specification shall not be invalidated by the revocation of Nuclear Site Licence No.--- but shall have effect for the purpose of this licence as if it had been granted, given or made under such corresponding condition.*

- (e) A requirement for the holder of the new licence to maintain records, e.g.:
 - 6. *Insofar as any requirement to preserve any document required, record made, authority or consent granted, approval given, or direction or certificate issued in pursuance of the conditions attached to, or having effect as if prescribed in, Nuclear Site Licence No. ---, was in force immediately prior to the coming into force of this licence, the requirement shall not be invalidated by the revocation of Nuclear Site Licence No. --- but shall have effect as if that requirement had been prescribed by this licence.*
- (f) A paragraph stating the time and date when the new licence is to come into force.

N.B. If the time is omitted the licence will come into force on the date specified at the first instant after midnight.

9.2 Three or four schedules will be attached to the licence as follows:

Schedule 1: Part 1 defines the site and Part 2 defines the prescribed installations for which the site is being licensed. The definitions used in the 1971 Nuclear Installations Regulations should be adopted so far as is practicable. An example is shown in Annex 2, appendix 1

Schedule 2: Is the standard suite of nuclear site licence conditions. Note that there are 2 versions of Licence Condition 3 depending on whether the site is being operated privately or on behalf of the MoD.

Schedule 3: For the carry forward of specific Approvals and Directions, an example is shown in Annex 2, appendix 2

Schedule 4: The plan of the site, conforming to the specification in Annex 3 of LNI (N.B. The plan will be numbered as schedule 3 if there are no Approvals or Directions to be carried forward).

Site Licence No: XX

SCHEDULE 1

Part 1: The Site

Land situated near Stogursey in the district of West Somerset in the County of Somerset occupied by the licensee and owned by the licensee or leased to the licensee and shown outlined in red on the licensee's drawing referenced and entitled "Site Plan Showing Site Licence & Property Boundaries" which is annexed to this licence. The site is known as the Hinkley Point B Site.

Part 2: The Nuclear Installations

Two thermal neutron reactors together with any machinery, equipment, appliance, or storage facility required for the operation thereof, being reactors designed to be fuelled with uranium dioxide enriched with the isotope U-235, moderated by graphite and cooled by carbon dioxide gas.

ANNEX 2, APPENDIX 2**SCHEDULE 3**Continuing Valid Approvals and Directions Issued Under Licence Number XXB

Licence Instrument No.	Date	Subject	Condition of Site Licence No. XXA	Corresponding Condition of Site Licence No. XXB
15	18 July 2000	Approval - Technical Specifications	23(4)	23(4)
517	30 April 2007	Approval – Approves an Alteration to the Emergency Plan	11(3)	11(3)
523	7 April 2009	Approval – Approval of Amendment to the Nuclear Safety Committee's Terms of Reference and arrangements for consideration of, or advice on, urgent safety proposals	13(3) and 13(12)	13(3) and 13(12)
526	25 August 2009	Approval – Approves an alteration or amendment to part of the plant maintenance schedule	28(5)	28(5)
529	27 November 2009	Approval – Approval of an Alteration or Amendment to the Operating Rules	23(5)	23(5)
532	25 January 2011	Approval – Approval of an Alteration or Amendment to the HPB Operating Rules	23(5)	23(5)
533	23 September 2011	Approval – Approval of an Alteration or Amendment to the Operating Rules	23(5)	23(5)

ANNEX 2, APPENDIX 3

Site Licence No: XX

NUCLEAR INSTALLATIONS ACT 1965
REVOCATION OF NUCLEAR SITE LICENCE

Licensee
Name of Site

1. The Office for Nuclear Regulation, in pursuance of section 5(1) of the Nuclear Installations Act 1965, hereby revokes, subject to the granting and coming into force of Nuclear Site Licence No. --- referred to in paragraph 2 of this revocation, Nuclear Site Licence No. --- which was granted to (*Licensee*) on (*Date*) in respect of (*Name of Site*).

2. This revocation shall take effect immediately prior to the coming into force of Nuclear Site Licence No. --- granted to (*Licensee*). (*Licensee's*) period of responsibility, within the meaning of section 5(14) of the Nuclear Installations Act 1965, under licence No. --- will cease at that time.

Dated

For and on behalf of the Office for Nuclear Regulation
Signed:

Chief Nuclear Inspector
A person authorised to act in that behalf

ANNEX 3Terms of Reference of the Nuclear Safety Committee

A3.1 Licence condition 13(2) prevents a licensee forming a Nuclear Safety Committee until its terms of reference have been submitted to, and **approved** by, ONR. If during a relicensing application, a licensee elects not to seek carry forward of the approved terms of reference, it will need to submit new terms of reference for Approval by ONR. Whilst draft terms of reference can be submitted and assessed in parallel with the relicensing process we have no power to **approve** them until there is a valid licence in place, which happens when the new licence is signed. The site inspector will prepare a case to the relevant Deputy Chief Inspector, also covering the approval of procedures for the clearance of urgent safety proposals. Reference to the report dealing with this issue will be part of the site specific licensing project report

A3.2 Where a new Approval is required a period of 7 days will ordinarily be programmed between the grant of a licence (its signature) and the date on which the licence comes into force. This will allow for the formal submission by the licensee of its NSC terms of reference, consideration of the case by the Deputy Chief Inspector and signature of the Approval.

Emergency arrangements

A3.3 It is ONR policy that at every licensed site specified parts of the emergency arrangements will be approved prior to a nuclear site licence coming into force. Where an existing site is being relicensed to the incumbent licensee the site inspector may choose to carry the existing approval forward to the new licence.

A3.4 Where an existing site is being licensed to a new operator, specifications under Licence Condition 11(2) may be issued to require the submission of the site emergency arrangements to ONR for Approval². To be legally valid the issue of the specification, submission of the arrangements and issue of the approval must await the formal granting (i.e. signing) of the licence. However preparatory work on the assessment of draft arrangements and on the wording of the specification and approval should be undertaken during the assessment of the licence application so that that only a formal exchange of documents is required in the few days allowed between the granting of the licence and the date it comes into force.

A3.5 The case recommending that the Deputy Chief Inspector should grant the Approval will be prepared by the site inspector. Reference to the report dealing with this issue will be part of the site specific licensing project report.

A3.6 Where a new Approval is required a period of 7 days will be programmed between the grant of a licence (its signature) and the date on which it comes into force. This will allow for:

- the issue by ONR of a Specification under Licence Condition 11(2), if required;
- consideration of the licensee's proposed emergency arrangements by the first meeting of its Nuclear Safety Committee, which cannot be formally convened until the new licence has been granted;

² The power to issue an LC11(2) Specification need not be invoked if the licence applicant voluntarily submits the emergency arrangements, since the LC says "...ONR may specify", rather than "...shall specify."

- the submission by the licensee of its emergency arrangements to ONR;
- consideration by the appropriate Deputy Chief Inspector of the case prepared by the site inspector, and signing of the Approval by the DCI.

Template for Contents of Licensing Project Assessment Report

1. Introduction

- Purpose of the report (basis for decision by Chief Nuclear Inspector on licence application).
- Background to the licence application – summary of proposed site and installation and applicant's submission.
- Timing: target date for licence to become effective.

2. Application Assessment Process

- Outline of approach taken in assessing the application (drawing on this guidance) under 3 key themes: organisation, location, activities.
- Involvement of stakeholders, including in particular:
 - outcome of statutory consultation with the appropriate environment agency;
 - liaison with DECC / Scottish Executive on arrangements for Nuclear Liability Insurance;
 - where appropriate, outcomes of consultation / liaison with others, e.g. other regulators, Planning Inspectorate, Justification etc.

3. The Organisation

- Organisational capability.
- Safety management prospectus.
- Nuclear baseline.
- Adequacy of proposals for developing organisational capability over time (if appropriate).
- Nuclear safety committee.

4. The site

- Site location and boundary, including:
 - where appropriate, conformity with National Nuclear Policy Statement;
 - compliance with Government siting criteria and SAPs;
 - adequacy of Site Security Plan
- security of tenure.

5. Licensable activities

- Status of safety cases.
- Adequacy of proposed licence condition compliance arrangements, including emergency arrangements.
- Adequacy of decommissioning proposals (LC35).
- Safeguards

6. Recommendation

- Summary of grounds for recommending grant of licence.
- Notes on format & content of licence, including clearance of draft by Treasury Solicitor.

13. APPENDICES

Where Required – This section should include any appendices.

APPENDIX 1: EXAMPLE APPENDIX 1

A1.1.

A1.2.

A1.3. etc.

ONR INSTRUCTION			
The Processing of Applications for Replacement Licences for Existing Licensed Nuclear Sites			
Document Type:	Instruction		
Unique Document ID and Revision No:	NS-PER-IN-004 Revision 1		
Date Issued:	May 2013	Review Date:	May 2016
Approved by:	Andy Lindley	Director, Civil Nuclear Reactors Programme	
Record Reference:	Trim Folder 1.1.3.564. (2013/172920)		
Revision commentary:	New document issued		

TABLE OF CONTENTS

1.	INTRODUCTION.....	2
2.	PURPOSE AND SCOPE.....	2
3.	NEED FOR RELICENSING	2
4.	PREREQUISITES FOR RE-LICENSING	3
5.	THE LICENCE APPLICATION.....	5
6.	THE ASSESSMENT PROCESS.....	6
7.	PRINCIPAL AREAS OF ASSESSMENT.....	6
8.	ROLE OF THE NUCLEAR DECOMMISSIONING AUTHORITY (NDA).....	9
9.	CONSULTATION AND NOTIFICATION	9
10.	PREPARING THE LICENCE	10
11.	DECISION.....	10
12.	ASSOCIATED DOCUMENTS.....	11

© Crown copyright. If you wish to reuse this information visit www.hse.gov.uk/copyright.htm for details.

You may reuse this information (excluding logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view the licence visit www.nationalarchives.gov.uk/doc/open-government-licence/, write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email psi@nationalarchives.gsi.gov.uk.

Some images and illustrations may not be owned by the Crown so cannot be reproduced without permission of the copyright owner. Enquiries should be sent to copyright@hse.gsi.gov.uk.

1. INTRODUCTION

- 1.1. This guidance informs the assessment of applications for replacement licences for sites licensed under the Nuclear Installations Act 1965 (as amended)[NIA65].

2. PURPOSE AND SCOPE

- 2.1. NIA65, sections 1 and 3 to 6, sets out the legal requirement for nuclear sites to be licensed and establishes ONR (as part of HSE) as the licensing authority. The Nuclear Installations Regulations 1971 (SI 1971/381) define licensable installations in greater detail.
- 2.2. ONR's licensing policies are summarised in 'Licensing Nuclear Installations' (2012) which is available at <http://www.hse.gov.uk/nuclear/licensing-nuclear-installations.pdf>.
- 2.3. Before ONR can grant a replacement nuclear site licence it must consider whether the licence applicant meets the requirements laid down in NIA65, can satisfy ONR's policies on nuclear site licensing, and is able to comply with the conditions which will be attached to the licence.
- 2.4. A nuclear site licence must:
- be legally correct;
 - be granted to the primary user of the site;
 - clearly define the site and the licensable installation(s); and
 - have attached to it the appropriate conditions

3. NEED FOR RELICENSING

- 3.1. Re-licensing of a nuclear site will be necessary when there is a material change to the basis on which the current licence was granted. This is described in Section 3 of *Licensing Nuclear Installations* (2012), which is available at <http://www.hse.gov.uk/nuclear/licensing-nuclear-installations.pdf>.
- 3.2. A nuclear site licence is granted for an indefinite period and, in principle, one licence could cover the entire lifecycle of the site from installation and commissioning, through operation and decommissioning to site clearance and remediation. In practice, for many sites a replacement licence will be required from time to time. Because a site licence is granted to a particular corporate body to undertake specified prescribed activities in a defined location, a replacement licence will be needed when there is to be a material change to the basis on which the existing nuclear site licence was granted, that is:
- where there is to be a change of operator, since NIA65 section 3(1) precludes nuclear site licences being transferred between corporate bodies;
 - if the incumbent licensee wishes to install and operate a type of prescribed installation which is not covered by its current licence;

- where the site boundary is to be extended. N.B. Section 3(6) of NIA provides for the variation of a nuclear site licence to exclude parts of a site if certain criteria are satisfied. There is no parallel power to vary the licence to enlarge a licensed site.

4. PREREQUISITES FOR RE-LICENSING

4.1. Assessment of a re-licensing application will address a number of areas. These are set out in the table below. A more detailed description of ONR's expectations in each area is contained in Licensing Nuclear Installations (LNI).

All sites	
The Licensee	NIA65 requires that a site licence may only be granted to a corporate body. Applications may be made by bodies incorporated in EU member states. Advice should be sought from DECC as to the acceptability of non-EU applicants LNI paras 66-71
Site identification and suitability	Nuclear site licences are granted on a site-specific basis and define the boundary of the licensed area by reference to a map incorporated into the licence. Any change to the licensed area will require a new site map which should show the new site boundary and any de-licensed areas. Annex 3, LNI
Security of Tenure	The licence applicant must have full rights of access to, and control of, the site so that it can satisfy the demands placed on it by NIA65 and the site licence.
Justification	European Basic Safety Standards Directives require member states to ensure that the benefits of using ionising radiation outweigh the possible risks. UK government policy is that this is determined by Ministers. This will apply if any change is proposed to the activities on the original licence. LNI paras 116-117
Prescribed Activities	The type of installation(s) needs to be briefly identified because licences include, at part 2 of Schedule 1, a description of the type of installation for which the site is being licensed. LNI paras 12-13
Organisational Capability	A licensee should be fully in control of activities on its site, understand the nuclear safety and security implications of its activities and how to control them, and be an intelligent customer for any work it commissions externally (see section 7) LNI paras 76-80, 98

Safety Case	<p>The licence applicant will need to demonstrate that the plant can be operated safely. ONR will assess any new safety cases submitted in support of the application in accordance with established procedures.</p> <p>LNI paras 95-97</p>
Decommissioning Arrangements	<p>ONR requires that facilities should be designed so that they can be safely decommissioned. The applicant must show that an adequate decommissioning programme exists before the replacement licence is granted.</p> <p>LNI para 100 and SAPs DC1 to 8</p>
Security Plan	<p>Security implications of any change to either the activities or site area must be considered and, where appropriate, revised arrangements should be assessed by ONR Civil Nuclear Security.</p> <p>LNI para 106</p>
Mandatory Consultation	<p>NIA65 s.3(1A) requires ONR to consult the appropriate Environment Agency prior to granting a nuclear site licence.</p> <p>LNI para 108</p>
Discretionary consultation	<p>NIA65 s.3(3) provides HSE with a discretionary power of public body notification. Where this power is invoked the licence cannot be granted until the process has been completed. More information is given in INS 034.</p> <p>LNI paras 109-112</p>
Adequate Licence Condition Compliance Arrangements	<p>The licensee should already possess a fully developed set of licence condition compliance arrangements for the site. The extent of ONR's assessment will depend upon the nature of the change giving rise to the need for re-licensing (see section 7.3).</p> <p>LNI paras 84-85</p>
Nuclear Safety Committee	<p>Licence Condition 13 requires the licensee to form a Nuclear Safety Committee, but prevents its formation until its terms of reference have been approved by ONR. If there is a change of licensee the terms of reference for the new NSC may be assessed, but approval may not be issued, until after the licence has been granted. If there is no change of licensee the existing approval may be carried forward using schedule 3 of the new licence.</p>
Emergency Arrangements	<p>Licence Condition 11 requires a licensee to have adequate arrangements for any accident or emergency on the site. The adequacy of the arrangements should be assessed against any changes proposed in the re-licensing application. The licensee may wish to carry the existing arrangements forward to the new licence.</p> <p>LNI paras 86-87</p>

Nuclear Liability Insurance	NIA65 places an absolute liability upon the licensee as regards injury to persons and damage to property arising from nuclear occurrences on the site. A licensee must make provision to meet third party claims. This provision is enforced by DECC. LNI paras 114-115
Role and Duties of the Nuclear Decommissioning Authority (NDA)	The NDA owns 17 nuclear sites and is responsible for an 18 th (Harwell). It has specific, statutory duties under the Energy Act 2004, NIA65 and HSW Act (annex 1). De-designation of NDA land may be a feature of a re-licensing exercise (see section 8). Annex 2, LNI

5. THE LICENCE APPLICATION

5.1. The applicant must submit a written application to the Chief Inspector, supported by sufficient information to enable ONR to assess the prospective licensee and to assess the potential impact of any proposed changes to the site boundary or activities on the site. Evidence required in support of an application should address the elements set out in the table above in so far as they are affected by the change in the basis of the licence and may include, as necessary:

- a Safety Management Prospectus (SMP)(this could comprise a suite of documents rather than a single volume); where the proposed changes are small a 'route map' or summary, highlighting the areas affected, would be acceptable;
- a brief description of the installation and activities to be licensed, especially any new or changed activities;
- confirmation that the types of activities undertaken at the site are deemed "justified" in the context of the Justification of Practices Involving Ionising Radiations Regulations;
- a revised map of the site;
- details of any changes in ownership of the site and the proposed arrangements for achieving security of tenure for the licensee;
- where there is to be a change of the licensed corporate body, the terms of reference for the new Nuclear Safety Committee;
- an analysis of the impact of the change on the licensee's licence condition compliance arrangements;
- an explanation of the impact of the proposed changes on safety cases and/or new safety cases for new or changed activities;

- impact on security and safeguards;
- details of licence instruments to be carried forward to the new licence; and
- a post-relicensing implementation plan.

6. THE ASSESSMENT PROCESS

- 6.1. Early engagement with the licensee is an important factor in any licence application. The site inspector and a licensing specialist should discuss the scope and content of the application before it is submitted. Where necessary, depending upon the nature of the proposed changes, the discussions may include ONR Civil Nuclear Security and Nuclear Safeguards.
- 6.2. The relevant programme should nominate a project lead and allocate the resources necessary to assess the application. The project lead will co-ordinate the assessment effort, involving specialist inspectors as necessary, and be responsible for production of the re-licensing Project Assessment Report (PAR). A nominated licensing specialist will assist the project lead with the technical aspects of re-licensing and help to co-ordinate the inputs required for production of the re-licensing PAR. The PAR will refer out to, and summarise the findings from, specialist assessment reports dealing with issues underpinning a recommendation to grant a nuclear site licence. The licensing specialist will liaise with the Treasury Solicitor's Department and other regulators, as required by the particular project and will draft and prepare the nuclear site licence.
- 6.3. The relicensing process requires the assessment of the applicant's case for a replacement nuclear site licence. In accordance with ONR's policy on proportionate regulation the main assessment effort will be focused on those areas where changes are taking place or which are problematic for other reasons.
- 6.4. The overall aim of the assessment will be to ascertain the impact of the proposed changes and the adequacy of the licensee's arrangements to deal with it.
- 6.5. If there is to be a change of licensee, or a material change in the licence applicant's organisational structure, plant or processes, a systematic review of the impact of the proposed changes on the safety arrangements for the site may be required.
- 6.6. The principal areas for assessment are described in section 7.

7. PRINCIPAL AREAS OF ASSESSMENT

- 7.1. Through assessment of the applicant's submission and other relevant information, such as the outcomes from team inspections, ONR should satisfy itself that the applicant will:
 - i. be the primary user of the site, with adequate security of tenure and rights of access;
 - ii. be in day-to-day control of nuclear activities on the site; and
 - iii. have sufficient capability to meet operational safety demands and to discharge its obligations under NIA65.

Organisational Capability

- 7.2. The organisational capability of existing licensees will have been assessed and reviewed as part of normal business and the results of previous inspections may be used. New applicants should be assessed in accordance with INS/036 'The processing of licence applications for new nuclear sites'.
- 7.3. ONR expects an applicant to have a Safety Management Prospectus (SMP), documenting and demonstrating the adequacy of its arrangements for managing health and safety. The prospectus is that part of a licensee's safety case which deals with safety management issues; it may consist of a single document or a suite of documents. The prospectus should provide a clear statement about the company, its structure, and how it proposes to operate. Further guidance is available in T/AST/72 '*Function and Content of a Safety Management Prospectus*'.
- 7.4. The SMP should be complemented by an adequate and up to date organisational Nuclear Baseline. The principal purpose of the Nuclear Baseline is to provide a demonstration that the licensee has suitable and sufficient organisational structures, staffing and competencies in place to effectively and reliably carry out those activities which could impact on nuclear safety. See T/AST/065 – '*Function and Content of the Nuclear Baseline*'.

Licence Instruments

- 7.5. Re-licensing affords an opportunity for a review of existing licence instruments. The site inspector and licensee should discuss this in advance of the application and identify which should be carried forward and which should fall on re-licensing. Approvals and Directions should form schedule 3 of the new licence; other licence instruments should be listed in the PAR and be brought forward in the appropriate paragraph of the new licence.

Licence Condition Compliance Arrangements

- 7.6. The extent of ONR's assessment or inspection of the adequacy of a licence applicant's proposed arrangements will depend on the nature of the change giving rise to the need for a replacement licence. In many instances the applicant will want existing compliance arrangements to be carried forward unchanged to the new licence, and any proposals to make changes subsequently can be handled as normal business. If a team inspection of compliance arrangements is not deemed necessary it will be sufficient to draw on the evidence provided by previous site inspection reports.
- 7.7. Areas requiring particular emphasis in the re-licensing PAR are Decommissioning and Emergency Arrangements. The site inspector should comment on the adequacy of the licensee's arrangements, post re-licensing, in both these areas.
- 7.8. Minor shortcomings in a licensee's arrangements do not necessarily preclude the grant of a licence, providing that the site inspector believes the deficiencies can be resolved through normal regulatory activity after the grant of the licence.

Security of Tenure

- 7.9. It is ONR's policy to ensure that a nuclear licensee has rights of access to, and control of, its site. ONR will therefore require evidence of security of tenure to show that sufficient

consideration has been given to this issue. Where the licensee does not own the freehold of the site such evidence normally consists of a lease or some other legally binding contract or documentation setting out the relationship between the licensee and the owner of the site.

- 7.10. ONR should review, with the assistance of the Treasury Solicitor, the legal documentation to ensure that it provides the applicant with the required levels of control and access. Where a new lease or a land transfer is being negotiated to form part of the licensing basis it will be necessary to ensure that it becomes effective at the same date and time that the new nuclear site licence comes into force.
- 7.11. The nominated ONR site inspector should walk the proposed boundary of the nuclear licensed site to verify that the map provided by the applicant for attachment to the licence accurately represents the physical boundary; the verification should be referenced in the PAR. The Ordnance Survey grid reference of a significant point on the site shown on the map will be checked by the ONR licensing specialist.

Sub-leases, etc.

- 7.12. ONR Consent under Licence Condition 3 is not necessary for a new lease / property licence in favour of a third party tenant where it forms part of the basis on which the site licence is to be granted. However such leases etc should be reviewed in accordance with the guidance in BMS T/INS/003, involving the nominated Treasury Solicitor as necessary.
- 7.13. If pre-existing leases, property licences etc. are to be carried forward to the new licence a list of current leases should be submitted by the licence applicant for checking against ONR's records. This is to ensure that all property transactions are covered by either an LC3 Consent or a 'deemed' consent (i.e. a lease was accepted as part of the basis for the granting of a previous nuclear site licence).

Post Re-Licensing Implementation Plan

- 7.14. The licensee should prepare itself, as appropriate, for the changes which will occur as a direct result of re-licensing. These may include:
- New fencing and signage (LC2).
 - Record keeping and (where appropriate) handover of records to new licensee.
 - Staff Training (LCs 10 &12) where change of personnel is involved.
 - Revised Emergency Arrangements (LC11).
 - Revised Security Arrangements.
 - Revised arrangements (where appropriate) for control and oversight of tenant activities on the site (LC 26)

8. ROLE OF THE NUCLEAR DECOMMISSIONING AUTHORITY (NDA)

- 8.1. The NDA is responsible for 18 sites. Its role is explained at annex 1. The NDA owns land which has been 'designated' to it under the Energy Act 2004. Before any NDA land can be sold or transferred it must be 'de-designated': this is achieved by a De-designation Direction granted by the Secretary of State for Energy and Climate Change. If relicensing involves a sale or transfer of NDA freehold property the NDA will need to obtain a de-designation direction before the transaction can proceed and prior to the date of relicensing. ONR may be asked to provide a letter of support for the application if it is satisfied that any contamination has been satisfactorily dealt with. ONR's 'no danger' criterion does not necessarily need to be met e.g. in circumstances where land is to be transferred to another licensee and is deemed to be fit for its next use

9. CONSULTATION AND NOTIFICATION

Environment Agency / Scottish Environment Protection Agency / Natural Resources Wales

- 9.1. The Environment Act 1995 (EA Act) introduced into NIA65 s.3(1A) a statutory obligation on ONR to consult the appropriate Agency before granting or revoking a licence. The application of this statutory requirement is through arrangements set out in Memoranda of Understanding with the environment agencies.
- 9.2. ONR's Licensing Specialist will consult the appropriate environment agency, in relation to a licence application, to seek confirmation that it has no objection to the granting of that licence. Information will also be sought on the Agency's intention to issue new authorisations under the Environmental Permitting (England & Wales) Regulations 2010 or the Radioactive Substances Act 1993 (for Scottish sites) for the disposal of radioactive wastes. This will assist in any necessary co-ordination between the regulatory bodies in the timing of the grant of a nuclear site licence and the issue of waste disposal authorisations.

Public body notification

- 9.3. There is a discretionary power under the NIA65 for HSE to direct a licence applicant to serve notice on certain public bodies local to the site in question. In deciding whether to direct an applicant to undertake public body notification the key factors considered by ONR are:
- the extent of the change associated with the application and the safety implications;
 - the related impact on local public bodies' duties associated with the site; and
 - consistency with previous use of these discretionary powers.
- 9.4. If the discretionary power is invoked, ONR will require the applicant to provide specified bodies with details of the proposed development and will allow them up to 3 months to comment. Such bodies include local authorities, emergency services, river authorities, fisheries committees, statutory water undertakings and other public or local authorities. Public body notification will be undertaken in parallel with the assessment of a licensee's

case for a nuclear site licence.

Rights & obligations of other public bodies

9.5. The granting of a nuclear site licence has the potential to create obligations on other government departments (OGDs) should the licensee fail financially. For example the government is the funder of last resort for decommissioning and waste management under the relevant international conventions. ONR therefore consults the Department for Energy and Climate Change (DECC) on the applicant's financial standing and the response should be referenced in the licensing PAR. DECC should also be requested to confirm that the licensee's provision for Nuclear Liability Insurance remains adequate and the response should be referenced in the PAR. ONR should consider whether it would be appropriate to:

- write to other government departments and Non-Departmental Public Bodies (NDPBs) which may have financial liabilities or other legal duties placed upon them by the granting of a nuclear site licence, and
- invite the consultees to draw to the attention of ONR anything which from the point of view of their own rights and obligations they believe should be considered before a licence is granted.

10. PREPARING THE LICENCE

10.1. The ONR licensing specialist and Administrative licensing support team will prepare the licence, as described in Annex 2.

11. DECISION

11.1. HM Chief Inspector, or a nominated Deputy Chief Inspector (DCI), will consider all the evidence and the recommendation in the site specific licensing Project Assessment Report and any key supporting assessment reports before making a decision on the acceptability of the applicant's case.

11.2. Where HM Chief Inspector identifies issues which cannot be resolved without amendment to the licence application, ONR's site inspector will inform the licence applicant. Any subsequent amendments to an application will be assessed proportionately in accordance with this procedure and guidance.

11.3. When satisfied with ONR's assessment, and the recommendation to grant a licence is accepted, the Chief Inspector or nominated DCI will sign the licence and return it to ONR's Licensing specialist for distribution. However if it is decided that the application must be formally rejected the Chief Inspector will write to the applicant to notify the decision and will set out the reasons for rejection.

11.4. The Health and Safety at Work Act excludes (at section 44) a statutory right of appeal against nuclear licensing decisions. However the applicant may seek a review by ONR of the process by which the licensing decision was reached.

12. ASSOCIATED DOCUMENTS

Nuclear Installations Act 1965 (as amended)

The Nuclear Installations Regulations 1971 (SI 1971/381)

'The Licensing of Nuclear Installations' (<http://www.hse.gov.uk/nuclear/licensing-nuclear-installations.pdf>)

Memorandum of Understanding between (i) the Health and Safety Executive and (ii) the Environment Agency on matters of mutual concern at licensed nuclear sites in England and Wales (<http://www.hse.gov.uk/nuclear/nucmou.pdf>)

Memorandum of Understanding between (i) the Health and Safety Executive and (ii) the Scottish Environment Protection Agency on matters of mutual concern at licensed nuclear sites in Scotland (<http://www.hse.gov.uk/aboutus/howwework/framework/mou/sepa-nuclear.pdf>)

Notes on the Nuclear Installations Act 1959, Ministry of Power

Treasury Solicitor's leaflet '*The Judge Over Your Shoulder*' (http://www.tsol.gov.uk/Publications/Scheme_Publications/judge.pdf)

'*The Judge Over HSE's Shoulder*' (<http://intranet/legal/judge.pdf>)

Council Directive 96/29 Euratom:

http://ec.europa.eu/energy/nuclear/radioprotection/doc/legislation/9629_en.pdf

The Justification of Practices Involving Ionising Radiation Regulations 2004 (SI 2004/1769)

<http://www.uk-legislation.hmso.gov.uk/si/si2004/20041769.htm>

Licensing Procedure INS/036: The Processing of Licence Applications for New Nuclear Sites

T/AST/072: Function and Content of a Safety Management Prospectus

http://www.hse.gov.uk/foi/internalops/nsd/tech_asst_guides/tast072.htm

T/AST/065: Function and Content of the Nuclear Baseline

http://www.hse.gov.uk/foi/internalops/nsd/tech_asst_guides/tast065.htm

ANNEX 1

THE NDA and Changes in SLC Parent Body

NDA's Remit

A1.1 The NDA was created by the Energy Act 2004. The NDA is a corporate body and an employer. According to the Energy Act:

“(1) The principal function of the NDA shall be to have responsibility for securing:

- (a) the operation, pending the commencement of their decommissioning, of designated nuclear installations;*
- (b) the decommissioning of those and other designated installations;*
- (c) the cleaning-up of designated nuclear sites;*
- (d) the operation of designated facilities for treating, storing, transporting or disposing of hazardous material;*
- (e) the treatment, storage, transportation and disposal, in designated circumstances, of hazardous material; and*
- (f) the decommissioning of designated installations comprised in NDA facilities.”*

A1.3 The NDA owns 17 licensed nuclear sites; and is responsible for an 18th (Harwell) which is 'occupied' by NDA under a lease granted to it by the UKAEA NDPB ¹. The NDA also owns the assets and liabilities on the sites designated to it, including Harwell, and secures and disburses the funding required to fulfil its responsibilities. The NDA is also responsible for oversight of EDF-NGL's planning for and decommissioning of its nuclear power stations.

A1.4 Although it has the vires to hold nuclear site licences, the NDA's strategy is to secure the fulfilment of its responsibilities by contracting out the operation of the sites to the **Site Licensee Companies (SLCs)**. The NDA's chosen contracting model also involves the appointment, via a **Parent Body Agreement (PBA)**, of a **Parent Body Organisation (PBO)** to provide management and direction to each SLC.

A1.5 In principle the NDA is the enduring owner of the SLCs. However ownership of an SLC's shares is transferred to its PBO for the duration of the latter's PBA. PBO nominees are seconded to the SLC for the duration of the PBA to provide the required strategic direction and oversight. The corporate body that holds the nuclear site licence does not change in this model. As a result of this, a change in parent body would not ordinarily require relicensing unless other changes as set out in 2.2 (main part of report) occur at the same time.

¹ In practice the site is occupied by the nuclear site licence holder under a property licence granted by the NDA.

ANNEX 2

Drafting the Nuclear Site Licence

The ONR Licensing Specialist will prepare the replacement licence which will comprise of the licence document itself and three or four schedules, as follows:

(a) An opening paragraph setting out the powers under which ONR is granting the licence, defining the corporate body to which the licence is being granted, and referencing Schedule 1 to the licence, e.g.:

1. *The Health and Safety Executive, in pursuance of sections 1(1), 4(1) and 4(2) of the Nuclear Installations Act 1965 (as amended), hereby licenses EDF Energy Nuclear Generation Ltd, a company registered in England and Wales under number 03076445 (hereinafter referred to as "the licensee") whose Registered Office is at Barnett Way, Barnwood, Gloucester, GL4 3RS, to use the site described in Part 1 of Schedule 1 to this licence (hereinafter referred to as "the site") for the purpose of installing and operating the nuclear installations described in Part 2 of that Schedule.*

(b) a paragraph referencing the licence schedule containing the licence conditions:

2. *This licence is granted subject to the conditions contained in Schedule 2 hereto.*

(c) Where a replacement licence is being granted to the incumbent licensee, a paragraph revoking the existing licence, e.g.:

3. *The Health and Safety Executive, in pursuance of section 5(1) of the Nuclear Installations Act 1965 (as amended), hereby revokes the nuclear site licence granted to the licensee (then named Nuclear Electric Limited) in respect of the Hinkley Point B site on 24th June 1998. The revocation of Nuclear Site Licence no 62A shall take effect immediately prior to the coming into force of this licence.*

N.B. If the site is being relicensed to a new operator this paragraph will be omitted and a separate revocation will be required in the name of the outgoing licensee. An example is shown in Annex 2, appendix 3.

(d) Where a site is being relicensed to the incumbent licensee the extant licence instruments can be carried forward to the new licence. For Approvals and Directions this is achieved by including the following paragraph, e.g.:

4. *Insofar as any approval or direction was given or made under previous licences of the site and is specified in Schedule 3 to this licence and could now be given or made under the condition attached to this licence which is specified in the last column of Schedule 3 on the same line as the number of the original approval or direction, that approval or direction shall not be invalidated by the revocation of Nuclear Site Licence no. 62A but shall have effect for the purpose of this licence as if it had been given or made under such condition.*

N.B. Only Approvals and Directions specifically listed in Schedule 3 are carried forward. An example of a Schedule 3 is shown in Annex 2, appendix 3. Other licence instruments are carried forward in a fifth paragraph:

5. *Insofar as any consent, agreement, notification or specification granted, given, made or deemed to have effect under any condition contained in Schedule 2 to Nuclear Site Licence no. 62A was in force immediately prior to the coming into force of this licence and which could now be granted, given or made under a corresponding condition contained in Schedule 2 to this licence, that consent, agreement, notification or specification shall not be invalidated by the revocation of Nuclear Site Licence no. 62A but shall have effect for the purpose of this licence as if it had been granted, given or made under such corresponding condition.*

(e) A requirement for the holder of the new licence to maintain records, e.g.:

6. *Insofar as any requirement to preserve any document required, record made, authority or consent granted, approval given, or direction or certificate issued in pursuance of the conditions attached to, or having effect as if prescribed in, Nuclear Site Licence no. 62A, was in force immediately prior to the coming into force of this licence, the requirement shall not be invalidated by the revocation of Nuclear Site Licence no. 62A but shall have effect as if that requirement had been prescribed by this licence.*

(f) A paragraph stating the time and date when the new licence is to come into force.

N.B. If the time is omitted the licence will come into force on the date specified at the first instant after midnight.

9.2 Three or four schedules will be attached to the licence as follows:

Schedule 1: Part 1 defines the site and Part 2 defines the prescribed installations for which the site is being licensed. The definitions used in the 1971 Nuclear Installations Regulations should be adopted so far as is practicable. An example is shown in Annex 2, appendix 1

Schedule 2: Is the standard suite of nuclear site licence conditions. Note that there are 3 versions of Licence Condition 3 depending on whether the site is being operated privately or on behalf of the NDA or the MoD.

Schedule 3: For the carry forward of specific Approvals and Directions, an example is shown in Annex 2, appendix 2

Schedule 4: The plan of the site, conforming to the specification in Annex 3 of LNI (N.B. The plan will be numbered as schedule 3 if there are no Approvals or Directions to be carried forward).

ANNEX 2, APPENDIX 1

Site Licence No: XX

SCHEDULE 1

Part 1: The Site

Land situated near Stogursey in the district of West Somerset in the County of Somerset occupied by the licensee and owned by the licensee or leased to the licensee and shown outlined in red on the licensee's drawing referenced and entitled "Site Plan Showing Site Licence & Property Boundaries" which is annexed to this licence. The site is known as the Hinkley Point B Site.

Part 2: The Nuclear Installations

Two thermal neutron reactors together with any machinery, equipment, appliance, or storage facility required for the operation thereof, being reactors designed to be fuelled with uranium dioxide enriched with the isotope U-235, moderated by graphite and cooled by carbon dioxide gas.

ANNEX 2, APPENDIX 2**SCHEDULE 3**Continuing Valid Approvals and Directions Issued Under Licence Number XXB

Licence Instrument No.	Date	Subject	Condition of Site Licence No. XXA	Corresponding Condition of Site Licence No. XXB
15	18 July 2000	Approval - Technical Specifications	23(4)	23(4)
517	30 April 2007	Approval – Approves an Alteration to the Emergency Plan	11(3)	11(3)
523	7 April 2009	Approval – Approval of Amendment to the Nuclear Safety Committee's Terms of Reference and arrangements for consideration of, or advice on, urgent safety proposals	13(3) and 13(12)	13(3) and 13(12)
526	25 August 2009	Approval – Approves an alteration or amendment to part of the plant maintenance schedule	28(5)	28(5)
529	27 November 2009	Approval – Approval of an Alteration or Amendment to the Operating Rules	23(5)	23(5)
532	25 January 2011	Approval – Approval of an Alteration or Amendment to the HPB Operating Rules	23(5)	23(5)
533	23 September 2011	Approval – Approval of an Alteration or Amendment to the Operating Rules	23(5)	23(5)

ANNEX 2, APPENDIX 3

Site Licence No: XX

NUCLEAR INSTALLATIONS ACT 1965 (AS AMENDED)

REVOCATION OF NUCLEAR SITE LICENCE

Sellafield Limited

Capenhurst Works

1. The Health and Safety Executive, in pursuance of section 5(1) of the Nuclear Installations Act 1965 (as amended), hereby revokes, subject to the granting and coming into force of Nuclear Site Licence 48E referred to in paragraph 2 of this revocation, Nuclear Site Licence no 28J which was granted to Sellafield Limited on 5 July 2010 in respect of Capenhurst Works.

2. This revocation shall take effect immediately prior to the coming into force of Nuclear Site Licence no 48E granted to Urenco UK Limited. Sellafield Limited's period of responsibility, within the meaning of section 5(3) of the Nuclear Installations Act 1965, under licence 28J will cease at that time.

Dated

For and on behalf of the Health and Safety Executive

Signed:

Dr M. Weightman
HM Chief Inspector of Nuclear Installations
A person authorised to act in that behalf

ANNEX 3Terms of Reference of the Nuclear Safety Committee

A3.1 Licence condition 13(2) prevents a licensee forming a Nuclear Safety Committee until its terms of reference have been submitted to, and **approved** by, ONR. If during a relicensing application, a licensee elects not to seek carry forward of the approved terms of reference, it will need to submit new terms of reference for Approval by ONR. Whilst draft terms of reference can be submitted and assessed in parallel with the relicensing process we have no power to **approve** them until there is a valid licence in place, which happens when the new licence is signed. The site inspector will prepare a case to the relevant Deputy Chief Inspector, also covering the approval of procedures for the clearance of urgent safety proposals. Reference to the report dealing with this issue will be part of the site specific licensing project report

A3.2 Where a new Approval is required a period of 7 days will ordinarily be programmed between the grant of a licence (its signature) and the date on which the licence comes into force. This will allow for the formal submission by the licensee of its NSC terms of reference, consideration of the case by the Deputy Chief Inspector and signature of the Approval.

Emergency arrangements

A3.3 It is ONR policy that at every licensed site specified parts of the emergency arrangements will be approved prior to a nuclear site licence coming into force. Where an existing site is being relicensed to the incumbent licensee the site inspector may choose to carry the existing approval forward to the new licence.

A3.4 Where an existing site is being licensed to a new operator, specifications under Licence Condition 11(2) may be issued to require the submission of the site emergency arrangements to ONR for Approval². To be legally valid the issue of the specification, submission of the arrangements and issue of the approval must await the formal granting (i.e. signing) of the licence. However preparatory work on the assessment of draft arrangements and on the wording of the specification and approval should be undertaken during the assessment of the licence application so that that only a formal exchange of documents is required in the few days allowed between the granting of the licence and the date it comes into force.

A3.5 The case recommending HM Deputy Chief Inspector should grant the Approval will be prepared by the site inspector. Reference to the report dealing with this issue will be part of the site specific licensing project report.

A3.6 Where a new Approval is required a period of 7 days will be programmed between the grant of a licence (its signature) and the date on which it comes into force. This will allow for:

- the issue by ONR of a Specification under Licence Condition 11(2), if required;

² The power to issue an LC11(2) Specification need not be invoked if the licence applicant voluntarily submits the emergency arrangements, since the LC says "...the Executive may specify", rather than "...shall specify."

- consideration of the licensee's proposed emergency arrangements by the first meeting of its Nuclear Safety Committee, which cannot be formally convened until the new licence has been granted;
- the submission by the licensee of its emergency arrangements to ONR;
- consideration by the appropriate Deputy Chief Inspector of the case prepared by the site inspector, and signing of the Approval by the DCI.

ANNEX 4**Template for Contents of Licensing Project Assessment Report****1. Introduction**

- Purpose of the report (basis for decision by Chief Inspector on licence application).
- Background to the licence application – summary of proposed site and installation and applicant's submission.
- Timing: target date for licence to become effective.

2. Application Assessment Process

- Outline of approach taken in assessing the application (drawing on this guidance) under 3 key themes: organisation, location, activities.
- Involvement of stakeholders, including in particular:
 - outcome of statutory consultation with the appropriate environment agency;
 - liaison with DECC / Scottish Executive on arrangements for Nuclear Liability Insurance;
 - where appropriate, outcomes of consultation / liaison with others, e.g. other regulators, Planning Inspectorate, Justification etc.

3. The Organisation

- Organisational capability.
- Safety management prospectus.
- Nuclear baseline.
- Adequacy of proposals for developing organisational capability over time (if appropriate).
- Nuclear safety committee.

4. The site

- Site location and boundary, including:
 - where appropriate, conformity with National Nuclear Policy Statement;
 - compliance with Government siting criteria and SAPs;
 - adequacy of Site Security Plan
- security of tenure.

5. Licensable activities

- Status of safety cases.
 - Adequacy of proposed licence condition compliance arrangements, including emergency arrangements.
 - Adequacy of decommissioning proposals (LC35).
 - Safeguards
- 6. Recommendation**
- Summary of grounds for recommending grant of licence.
 - Notes on format & content of licence, including clearance of draft by Treasury Solicitor.