

LC 3: Control of Property Transactions			
Doc. Type	ONR Technical Inspection Guide (TIG)		
Unique Doc. ID:	NS-INSP-GD-003	Issue No.:	1.1
Record Reference:	2020/208165		
Date Issued:	Jul-22	Next Major Review Date:	Jul-27
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Revision Commentary:	Minor, routine update – no changes to content.		

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1. Introduction

1. Many of the licence conditions attached to the standard nuclear site licence require, or imply, that licensees should make arrangements to comply with regulatory obligations under the conditions. ONR inspects compliance with licence conditions, and also with the arrangements made under them, to judge the suitability of the arrangements made and the adequacy of their implementation. Most of the standard licence conditions are goal setting, and do not prescribe in detail what the licensees' arrangements should contain; this is the responsibility of the dutyholder who remains responsible for safety. To support inspectors undertaking compliance inspection, ONR produces a suite of guides to assist inspectors to make regulatory judgements and decisions in relation to the adequacy of compliance, and the safety of activities on the site. This technical inspection guide (TIG) is one of the suite of documents provided by ONR for this purpose.

2. Purpose and Scope

2. The purpose of this guidance is to facilitate a consistent approach to Licence Condition (LC) 3 compliance inspection and to provide assistance to inspectors while carrying out their duties in this area. The guidance provides a framework for these inspection activities and should not be regarded as either exhaustive or mandatory.
3. The guidance does not indicate when, or to what extent, these compliance inspections should be made as these matters are covered in individual inspectors' inspection programmes.
4. The guidance provided is split into three main elements:
 - a) Purpose of the LC.
 - b) Guidance on arrangements for LC 3.
 - c) Guidance on inspection of arrangements for LC 3 and their implementation.

3. Licence Condition 3: Control of Property Transactions

- 1) The licensee shall make and implement adequate arrangements to control all property transactions¹ affecting the site or any part of the site to ensure that the licensee remains in overall control of the site.
- 2) The arrangements shall include provision for the classification of all property transactions according to their safety significance and their impact on the licensee's control of the site.
The arrangements shall include a requirement for the provision of adequate documentation to justify the classification of property transactions and shall where appropriately provide for the submission of this documentation to ONR.
- 3) The licensee shall submit to ONR for **approval** such part or parts of the arrangements as ONR may **specify**.
- 4) The licensee shall ensure that once approved no alteration or amendment is made to the approved arrangements unless ONR has **approved** such alteration or amendment.
- 5) The licensee shall not transfer its freehold or assign its leasehold interest in the site or any part of the site without the **consent** of ONR. In addition, if ONR so **specifies** the licensee shall not carry out any property transaction, or any property transaction of the description or descriptions specified by ONR, without the **consent** of ONR.
- 6) The licensee, if so **directed** by ONR, shall not complete the property transaction specified in that direction without the **consent** of ONR.

¹ LC 1 defines a property transaction as "any property transaction including a transfer, conveyance, assignment, demise, letting, under-letting, parting with possession, sharing occupation or use, or granting or reserving any property licence, easement or wayleave over or in relation to the site or any part of it, but excluding a right of access or any right of occupation, use or possession to or with a party performing statutory, regulatory or international obligations, or a party delivering contracted services solely to or for the benefit of the licensee in relation to that nuclear licensed site."

3.1. Alternative Versions of LC 3 Attached to the Licences of Certain Defence-Related Sites (e.g., AWE plc):

- 1) The licensee shall not convey, assign, transfer, let or part with possession of the site or any part thereof or grant any licence in relation thereto except to the Secretary of State for Defence without the **consent** of ONR.
- 2) The licensee shall notify ONR forthwith if occupancy of the site or any part thereof is taken by the Secretary of State for Defence.

4. Purpose of LC 3

5. The purpose of this LC is to ensure that the licensee remains in control of the whole of the nuclear licensed site, and the activities performed on it, at all times [1]. This includes having rights of access to all parts of the licensed site. Any transaction which transfers property rights outside the licensee organisation has the potential to affect the licensee's control. The licensee should have adequate arrangements in place to control property transactions. These arrangements should contain a provision for the licensee to seek ONR consent, where appropriate, before proceeding with a transaction.
6. The alternative version of LC 3 attached to the licences of certain defence-related sites (AWE plc) recognises that commercial companies may be conducting licensable activities on land owned by the Secretary of State for Defence. In such cases the licensee still requires ONR consent if they wish to convey, assign, transfer, let or part with possession of the site or any part of the site to any party or grant any licence in relation to the site or part of the site other than the Secretary of State for Defence and should have LC 3 management arrangements to obtain ONR consent for these transactions. If the Secretary of State for Defence wishes to take occupancy of the site or any part of the site, the licensee should have LC 3 management arrangements to notify ONR.
7. Applications which involve either enlarging or reducing the area of a licensed site are outside the scope of this licence condition. In these circumstances variation of the licence or relicensing will be necessary, as required by section 3 of the Nuclear Installations Act 1965.

5. Guidance on Arrangements for LC 3

9. The licensee's arrangements shall satisfy the following specific LC requirement(s):
 - 1) A categorisation system for property transactions, according to their impact on licensee control and their nuclear safety significance. 3(2)
 - 2) The requirement to submit for approval to the ONR those parts of the arrangements the ONR may specify. 3(3)
 - 3) The requirement that once approved by the ONR arrangements cannot be altered or amended without the approval of the ONR. 3(4)
 - 4) The requirement that where the ONR so specifies, the licensee shall not carry out any property transaction without the consent of ONR. 3(5)
 - 5) The requirement to halt the property transaction if so directed by the ONR and not to recommence without the consent of the ONR. 3(6)
10. Alternative versions of LC 3 attached to the licences of certain defence-related sites (e.g., AWE plc):
 - 1) The requirement for ONR consent to convey, assign, transfer, let or part with possession of the site or any part of the site or grant any licence in relation to the site or part of the site, except to the Secretary of State for Defence. 3(1).
 - 2) The requirement to notify ONR if the occupancy of the site or any part of the site is taken by the Secretary of State for Defence. 3(2).

6. Guidance on Inspection of Arrangements and their Implementation

11. If licensees have generic model(s) for arrangements, then it is for the site to justify any deviation from the model(s). Site staff should be able to demonstrate how their arrangements meet the regulatory requirements.
12. Arrangements shall address the licence condition requirements.
13. Arrangements should provide for routine and early communication of proposed property transactions to ONR and access to documentation and records such that ONR is able to gain confidence that the licensee retains control and that the management of property transactions is consistent with the licensee's arrangements.
14. Arrangements should require that there is a clear linkage to the arrangements for compliance with associated licence conditions. For example:
 - LC 1: Interpretation.
 - LC 6: Documents, records, authorities and certificates.
 - LC 13: Nuclear safety committee.
 - LC 14: Safety documentation.
 - LC 16: Site plans, designs and specifications.
 - LC 17 Management systems.
 - LC 19 Construction or installation of new plant.
 - LC 36: Organisational capability.
15. Arrangements should contain a categorisation system for transactions which takes account of licensee control and nuclear safety significance. The licensee should conduct an impact assessment for any proposed transaction. The overall assessment should reflect the aspect with the highest significance. For transactions for which either of the two factors above are categorised as 'high', the licensee should obtain ONR's permission before proceeding. Examples of categories of property transactions are given in Annex D of ONR's technical assessment guidance (TAG), "Control of Property Transactions on Licenced Sites" [1].
16. The arrangements should contain provision for independent review of the assessment of property transactions.



17. The arrangements should give ONR the option to require the licensee to submit 'medium' category transactions for assessment.
18. ONR's internal permissioning guidance, "Flexible Permissioning including the use of Derived Powers" [2], will inform a judgement on the acceptability of the derived powers contained within a licensee's arrangements.
19. Inspectors are required to apply their experience and discretion to determine the extent and depth of a particular inspection taking due account of a number of factors such as safety significance, novelty, complexity, importance and technical specialism of the area.
20. The following list of areas for inspection of arrangements for compliance with LC 3 has been compiled from best information available. This list is neither exclusive nor exhaustive and will be subject to review and revision in light of operational experience.
21. Obtain a copy of the property transactions register and check that it is up to date and includes sufficient detail of the transaction and its significance.
22. Confirm that all property transactions are captured.
23. Inspect the licensee's safety classification system for property transactions. Check a sample of transactions; challenge as necessary. This is especially important for 'low' and 'medium' categories.
24. Confirm that the arrangements have an appropriate review and approval route for each category of transaction. For transactions which require ONR Consent confirm that:
 - Independent Review has been undertaken
 - Nuclear Safety Committee advice has been sought and, if not accepted, there is appropriate justification
 - Submission to ONR has taken place in accordance with timescale outlined in the management arrangements
25. Inspect the licensee's arrangements for the retention of documents, records, authorities and certificates relating to the property transactions. The terms of any right granted should be recorded in order to avoid disputes.

7. References

[1] ONR, “NS-TAST-GD-087 - Control of Property Transactions on Licenced Sites”.

[2] ONR, “NS-PER-GD-001 - The Purpose and use of Permissioning”.