STATUTORY INSTRUMENTS

2018 No. 42

NUCLEAR ENERGY

The Nuclear Installations (Prescribed Sites and Transport) Regulations 2018

Made - - - -	*16th January 2018*
Laid before Parliament	*16th January 2018*
Coming into force in accordance with regulation 1(2)	

The Secretary of State, in exercise of the powers conferred by section 16(1)(**1**) of the Nuclear Installations Act 1965(**2**), makes the following Regulations. In accordance with section 16(6)(**3**) of that Act the Secretary of State consulted the Scottish Ministers before making these Regulations.

Citation and commencement

1.—(1) These Regulations may be cited as the Nuclear Installations (Prescribed Sites and Transport) Regulations 2018.

(2) These Regulations come into force on the main commencement day(**4**).

(3) In this regulation—

"the main commencement day" means the day on which the Protocols come into force in respect of the United Kingdom(**5**);

"the Protocols" means—

(a) the Protocol of 12th February 2004 to amend the Convention on Third Party Liability in the Field of Nuclear Energy of 29thJuly 1960, as amended by the Additional Protocol of 28th January 1964 and by the Protocol of 16th November 1982(**6**), and

(**1**) Section 16 is prospectively amended by the Nuclear Installations (Liability for Damage) Order 2016 (S.I. 2016/562). The amendments come into force on the main commencement day but were commenced on 25 May 2016 for the purpose of exercising the power to make regulations under section 16(1) (see article 1(5) of S.I. 2016/562).

(**2**) 1965 c.57.

(**3**) Section 16(6) is prospectively inserted by S.I. 2016/562.

(**4**) The Secretary of State must publish a notice of the date of the main commencement day pursuant to article 1(3) of S.I. 2016/562.

(**5**) It will be possible to find out the date on which the Protocols come into force in respect of the United Kingdom by referring to the relevant page on UK Treaties Online (http://treaties.fco.gov.uk/treaties/treaty.htm).

(**6**) The Protocol of 12th February 2004 has been published in the Miscellaneous Series No. 6 (2015) Cm. 9135; the Convention of 29th July 1960, as amended by the Additional Protocol of 28th January 1964, was published in the Treaty Series No. 69 (1968), Cmnd. 3755; the Protocol of 16th November 1982 was published in the Treaty Series No. 6 (1989), Cm. 659. The Protocols and Conventions are also available via UK Treaties Online (http://treaties.fco.gov.uk/treaties/treaty.htm). A hardcopy may be obtained, on request, from the Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London, SW1H 0ET.

(b) the Protocol of 12th February 2004 to amend the Convention of 31st January 1963 Supplementary to the Paris Convention of 29th July 1960 on Third Party Liability in the Field of Nuclear Energy, as amended by the Additional Protocol of 28th January 1964 and by the Protocol of 16th November 1982(**7**).

Interpretation

2. In these Regulations—

"the Act" means the Nuclear Installations Act 1965;

"low level waste" means waste having a radioactive content not exceeding 4 gigabecquerels per tonne (GBq/te) of alpha activity or 12 GBq/te of beta or gamma activity

Sites prescribed for the purposes of section 16(1)(a) of the Act (low risk nuclear sites)

3.—(1) There is prescribed for the purposes of section 16(1)(a) of the Act any licensed site—

(a) which is used for one or both of the purposes set out in paragraphs (2) and (4), but not for any other purpose which would require a nuclear site licence by virtue of section 1(1) of the Act; and

(b) where the mass of any fissile material present on site at any time, other than material comprised in associated nuclear fuel, does not exceed the limit specified in the appropriate entry in the table in Schedule 1.

(2) The purpose in this paragraph is installing or operating an installation designed or adapted for storage of radioactive material, other than fuel elements or irradiated nuclear fuel, which has been produced or irradiated in the course of the production or use of nuclear fuel, where the radioactive material stored at any time meets the condition in paragraph (3).

(3) The condition in this paragraph is that the quantity of any radionuclide listed or described in Schedule 2 which is present in the radioactive material does not exceed the limit specified for that radionuclide in that Schedule.

(4) The purpose in this paragraph is installing or operating a small nuclear reactor where the radioactive material present outside the reactor at any time, other than associated nuclear fuel, meets the condition in paragraph (5).

(5) The condition in this paragraph is that the quantity of any radionuclide listed or described in Schedule 2 which is present in the radioactive material does not exceed half the limit specified for that radionuclide in that Schedule.

(6) For the purpose of paragraphs (3) and (5), a limit specified in Schedule 2 is exceeded if—

(a) where the radioactive material contains only one radionuclide, the quantity of that radionuclide exceeds the limit specified in the appropriate entry in the table in Part 1 of that Schedule, or in the case of paragraph (5), half that limit; or

(b) where the radioactive material contains more than one radionuclide, the quantity ratio calculated in accordance with Part 2 of that Schedule exceeds one.

(7) In this regulation—

"associated nuclear fuel" means a quantity of nuclear fuel intended and ready for use or in use or which has been used in a nuclear reactor and which is held in, or on the same site as,

(**7**) The Protocol of 12th February 2004 has been published in the Miscellaneous Series No. 7 (2015) Cm. 9136; the Convention of 31st January 1963 Supplementary to the Paris Convention, as amended by the Additional Protocol of 28th January 1964 was published in the Treaty Series No. 44 (1975), Cmnd. 5948; the Protocol of 16th November 1982 was published in the Treaty Series No. 17 (1992), Cm. 1832. The Protocols and Conventions are also available via UK Treaties Online (http://treaties.fco.gov.uk/treaties/treaty.htm). A hardcopy may be obtained, on request, from the Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London, SW1H 0ET.

that nuclear reactor which does not exceed the quantity of nuclear fuel specified in the nuclear site licence relating to that nuclear reactor or any consent or approval granted under that site licence;

"fissile material" means plutonium 239, plutonium 241, uranium 233, uranium 235 (where the mass of the isotope uranium 235 exceeds 1% of the total mass of all the uranium isotopes present), or any material containing any of them;

"small nuclear reactor" means a thermal neutron nuclear reactor designed to operate at a thermal power output not exceeding 600 kilowatts.

Sites prescribed for the purposes of section 16(1)(b) of the Act (low risk disposal sites)

4. There is prescribed for the purposes of section 16(1)(b) of the Act any relevant disposal site which is used for the disposal of low level waste, and which is not used for the disposal of any nuclear matter that is not low level waste.

Sites prescribed for the purposes of section 16(1)(c) of the Act (intermediate risk nuclear sites)

5.—(1) There is prescribed for the purposes of section 16(1)(c) of the Act any licensed site which —

(a) has been, but is no longer being used for the generation of electricity, and from which the nuclear fuel has been removed permanently from the reactor and stored safely in accordance with relevant good practices;

(b) is used for one or more of the purposes set out in paragraphs (2) to (5);

(c) has been, but is no longer being used for one or more of the purposes set out in paragraphs (2) to (5), and which is being decommissioned; or

(d) would be a site prescribed by regulation 3 but for the limit on the mass of fissile material specified in regulation 3(1)(b), or the limit on quantity specified in regulation 3(3) or 3(5), being exceeded.

(2) The purpose in this paragraph is installing or operating an installation designed or adapted for the carrying out of any process involved in the manufacture of fuel elements to be used for the production of atomic energy from—

(a) enriched uranium; or

(b) any alloy, chemical compound, mixture or combination, containing enriched uranium.

(3) The purpose in this paragraph is installing or operating an installation designed or adapted for the treatment of uranium, whether or not enriched, such as to increase the proportion of the isotope 235 the uranium contains.

(4) The purpose in this paragraph is installing or operating an installation designed or adapted for the carrying on of any process involved in the production from nuclear matter, not being excepted matter, of isotopes prepared for use for industrial, chemical, agricultural, medical or scientific purposes.

(5) The purpose in this paragraph is the operation of a national repository for low level waste.

(6) In this regulation "enriched uranium" means uranium enriched so as to contain more than 0.72% by mass of the isotope 235.

Conditions prescribed for the purposes of sections 16(1)(d) and (e) of the Act (low risk transport)

6.—(1) The conditions prescribed for the purposes of sections 16(1)(d) and (e) of the Act are that nuclear matter has been consigned from a relevant site in packages where each of the packages in the consignment has activity levels less than or equal to—

(a) in the case of packages containing nuclear matter in special form, and no other sort of nuclear matter, the lesser of—

(i) 3000 x A_1, and

(ii) 1000 terabecquerels (TBq);

(b) in the case of other packages, the lesser of—

(i) 3000 x A_2, and

(ii) 1000 TBq.

(2) The activity value for packages containing a mixture of radionuclides is determined in accordance with paragraph 405 of the IAEA Regulations.

(3) In this regulation—

"A_1" means the activity value for each radionuclide specified in Table 2 of Section IV of the IAEA Regulations for nuclear matter in special form contained in the package;

"A_2" means the activity value for each radionuclide specified in Table 2 of Section IV of the IAEA Regulations for nuclear matter other than in special form contained in the package;

"IAEA Regulations" means the Regulations for the Safe Transport of Radioactive Materials 2012 Edition published by the International Atomic Energy Agency in 2012(**8**);

"nuclear matter in special form" means nuclear matter which takes the form of either an indispersible solid radioactive material or a sealed capsule containing radioactive material.

Review

7.—(1) The Secretary of State must from time to time—

(a) carry out a review of the regulatory provision contained in regulations 3 to 6; and

(b) publish a report setting out the conclusions of the review.

(2) The first report must be published before the end of the period of five years beginning with the date on which these Regulations come into force for any purpose.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015(**9**) requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the obligations under Articles 7(2)(b) and 7(2)(c) to the Convention on Third Party Liability in the Field of Nuclear Energy of 29thJuly 1960, as amended by the Additional Protocol of 28th January 1964, the Protocol of 16th November 1982 and the Protocol of 12th February 2004, are implemented in other countries which are subject to the obligations.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular-

(a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a)

(**8**) The Regulations have been published in the safety standards series by the International Atomic Energy Agency (SSR-6) and are also available via www.iaea.org. A hardcopy may be obtained, on request, from the Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London, SW1H 0ET.

(**9**) 2015 c.26. Section 30(3) was amended by the Enterprise Act (c.12), section 19.

(b) assess the extent to which those objectives are achieved;

(c) assess whether those objectives remain appropriate; and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation, "regulatory provision" has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Revocation of the Nuclear Installations (Prescribed Sites) Regulations 1983

8. The Nuclear Installations (Prescribed Sites) Regulations 1983(**10**) are revoked.

Richard Harrington
Parliamentary Under Secretary of State
Department for Business, Energy and Industrial Strategy

16th January 2018

(**10**) S.I. 1983/919.