STATUTORY INSTRUMENTS

2015 No. 209

HEALTH AND SAFETY
ENVIRONMENTAL PROTECTION

The Justification Decision (Generation of Electricity by the UK ABWR Nuclear Reactor) Regulations 2015

Made - - - -	*11th February 2015*
Coming into force - -	*12th February 2015*

This instrument is made in accordance with the requirements of regulation 14(1) of the Justification of Practices Involving Ionising Radiation Regulations 2004(**1**).

The Secretary of State has consulted the persons required to be consulted under regulation 18 of those Regulations and such other persons as the Secretary of State considered it appropriate to consult and has taken such steps as the Secretary of State considered appropriate to bring the proposed decision contained in this instrument to the attention of any person likely to be affected by the decision.

A draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

The Secretary of State is designated for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the making of measures relating to basic safety standards for the health protection of the general public and workers against the dangers of ionising radiation(**3**).

Accordingly, the Secretary of State, in the exercise of the powers conferred by that section, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Justification Decision (Generation of Electricity by the UK ABWR Nuclear Reactor) Regulations 2015 and come into force on the day after the day on which they are made.

Interpretation

2. In these Regulations—

(**1**) S.I. 2004/1769.
(**2**) 1972 c. 68.
(**3**) The European Communities (Designation) (No. 3) Order 1991, S.I. 1991/2289. There are amendments to this Order that are not relevant.

"the 1996 Directive" means Council Directive 96/29/Euratom laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation(**4**);

"class or type of practice" bears the same meaning as it bears under Article 6(1) of the 1996 Directive;

"justified" in relation to a class or type of practice means justified by its economic, social or other benefits in relation to the health detriment it may cause;

"spent fuel" means nuclear fuel that has been irradiated in and permanently removed from a reactor core;

"the UK ABWR practice" means the class or type of practice which is the generation of electricity from nuclear energy using oxide fuel of low enrichment in fissile content in a light water-cooled, light water moderated thermal reactor known as UK ABWR designed by Hitachi-GE Nuclear Energy, Ltd(**5**), and where the specification of that reactor matches that set out in Annex 1 to the document "Consultation on the Nuclear Industry Association's Application to Justify the UK Advanced Boiling Water Reactor (UK ABWR) - Volume 2: Application Submitted by the Nuclear Industry Association" published in February 2014 by the Department of Energy and Climate Change, URN 14D/004.

Justification decision

3. For the purposes of Article 6(1) of the 1996 Directive, subject to regulation 4, the following are justified—

(a) the UK ABWR practice(**6**); and

(b) any class or type of practice which is—

(i) a development of the UK ABWR practice; and

(ii) so similar to the UK ABWR practice that the balance of benefits and detriments from that class or type of practice does not materially differ from the balance of benefits and detriments from the UK ABWR practice(**7**).

Mixed oxide fuel and reprocessing

4. The justification decision in regulation 3 does not extend to—

(a) the use of mixed oxide fuel in a class or type of practice justified under that regulation; or

(b) the reprocessing of spent fuel which arises from such a class or type of practice.

(**4**) OJ No L 159, 29.6.1996, p 1. The Directive has been revised by a recast Directive (2013/59/Euratom) which comes into force on 6 February 2018. The recast Directive does not change the requirement for all new classes and types of practice to be justified before being adopted.

(**5**) A registered company in Japan at address 1-1, 3-chome, Saiwai-cho, Hitachi-shi, Ibaraki-ken, 317-0073 Japan.

(**6**) In July 2014 the Secretary of State determined that the UK ABWR practice was a new class or type of practice for the purposes of the Justification of Practices Involving Ionising Radiation Regulations 2004 (S.I. 2004/1769) details of which determination can be found at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335499/abwr_justification_consultation_volume_2_decision_document.pdf.

(**7**) The Secretary of State's analysis of the benefits and detriments associated with the UK ABWR practice can be found at https://www.gov.uk/guidance-for-operators-of-new-nuclear-power-stations.