Draft Regulations laid before Parliament under section 2(2) of the European Communities Act 1972, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No. 0000

HEALTH AND SAFETY

ENVIRONMENTAL PROTECTION

The Justification Decision (Generation of Electricity by the EPR Nuclear Reactor) Regulations 2010

Made - - - -	***
Coming into force - -	***

Whereas:

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

(b) 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;

(c) a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament; and

(d) the Secretary of State is designated for the purposes of section 2(2) of the European Communities Act 1972(**b**) 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(**c**),

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

Title and commencement

1. These Regulations may be cited as the Justification Decision (Generation of Electricity by the EPR Nuclear Reactor) Regulations 2010 and come into force on the day after the day on which they are made.

(**a**) S.I. 2004/1769.
(**b**) 1972 c. 68.
(**c**) S.I. 1991/2289.

Interpretation

2. In these Regulations—

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

"the EPR 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 EPR designed by Areva NP, and where the specification of that reactor matches that set out in Annex 6C to the document "Consultation on the Nuclear Industry Association's Application to Justify New Nuclear Power Stations - Volume 3: Appendix B: Annexes to the Application" published in December 2008 by the Department of Energy and Climate Change, URN 08/1507;

"class or type or 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.

Justification decision

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

(a) the EPR practice; and

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

(i) a development of the EPR practice; and

(ii) so similar to the EPR 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 EPR practice(**c**).

Mixed oxide fuel and reprocessing

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

(a) the use of mixed oxide fuel in; or

(b) the reprocessing of spent fuel which arises from,

a class or type of practice justified under that regulation.

Minister of State,
Department of Energy and Climate Change

Date

(**a**) OJ No L 159, 29.6.1996, p 1.

(**b**) In November 2009 the Secretary of State determined that the EPR practice was a new class or type of practice for the purposes of the 2004 Regulations details of which determination can be found at: http://www.decc.gov.uk/assets/decc/What%20we%20do/UK%20energy%20supply/Energy%20mix/Nuclear/whitepaper08/actions/regjust/1_20091106131726_e_@@_justificationpracticesdetermination.pdf.

(**c**) The Secretary of State's analysis of the benefits and detriments associated with the EPR practice can be found at http://www.decc.gov.uk/en/content/cms/what_we_do/uk_supply/energy_mix/nuclear/new/reg_just/reg_just.aspx

EXPLANATORY NOTE

(This note is not part of the Regulations)

By these Regulations the Secretary of State makes a justification decision in accordance with the Justification of Practices Involving Ionising Radiation Regulations 2004 (S.I. 2004/1769) ("the 2004 Regulations"). The 2004 Regulations implement Article 6(1) and (2) of Council Directive 96/29/Euratom (OJ No L 159, 29.6.1996, p 1) laying down basic safety standards for the protection of health of workers and the general public against the dangers arising from ionising radiation.

The 2004 Regulations prohibit the carrying out of new classes or types of practice involving ionising radiation. A class or type of practice is "new" where no practice within that class or type of practice was carried out in the United Kingdom before 13th May 2000 and no justification decision has been made that that class or type of practice is justified. Where the Secretary of State has determined that a class or type of practice is new and the Justifying Authority (defined in regulation 6 of the 2004 Regulations) is satisfied that the new class or type of practice is justified by the economic, social and other benefits in relation to the health detriments, the Authority must make a decision to that effect (a justification decision) in the form of regulations (regulation 14 of the 2004 Regulations).

Regulation 2 of these Regulations sets out relevant definitions, including the class or type of practice known as the EPR practice. The Secretary of State is the Justifying Authority in relation to that class or type of practice and has previously determined that the EPR practice is a new class or type of practice. Under regulation 3, the Secretary of State makes a justification decision that the EPR practice, or a class or type of practice which is both a development of the EPR practice and so similar to it that the balance of benefits and detriments does not materially differ, is justified for the purposes of Article 6(1) of Council Directive 96/29/Euratom.

Regulation 4 sets out matters to which the justification decision in regulation 3 does not extend.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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