EXPLANATORY MEMORANDUM TO

THE NUCLEAR INSTALLATIONS (LIABILITY FOR DAMAGE) ORDER

2016 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department of Energy and Climate Change and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument amends the Nuclear Installations Act 1965 in order to implement changes to the Paris Convention on nuclear third party liability and the Brussels Supplementary Convention. These Conventions establish an international regime governing liability to pay compensation for damage following a nuclear incident. The changes to the Conventions upgrade the existing liability regime so that, in the unlikely event of a nuclear incident, an increased amount of compensation will be available to a wider category of claimants in respect of a broader range of damage than is currently the case.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 Disregarding minor or consequential changes, the territorial application of this instrument includes Scotland and Northern Ireland.

4. Legislative Context

4.1 The UK is party to the following international Conventions managed under the auspices of the OECD Nuclear Energy Agency:

- the Convention on Third Party Liability in the Field of Nuclear Energy of 29th July 1960, as amended by the Additional Protocol of 28th January 1964 and by the Protocol of 16th November 1982 ("the Paris Convention"); and
- the Convention of 31st January 1963 Supplementary to the Paris Convention of 29th July 1960, as amended by the Additional Protocols of 28th January 1964 and by the Protocol of 16th November 1982 ("the Brussels Convention") (together referred to as "the Conventions").

4.2 In 2004 changes to the Conventions were agreed by the parties. These changes are contained in:

- the Protocol of 12 February 2004 to amend the Paris Convention ("the 2004 Paris Protocol"); and
- the Protocol of 12 February 2004 to amend the Brussels Convention ("the 2004 Brussels Protocol") (together referred to as "the 2004 Protocols").

4.3 An informal consolidation of the Conventions as amended by the Protocols is available on the OECD Nuclear Energy Agency's website: http://www.oecd-nea.org/law/paris-convention.html.

4.4 Parties to the Paris Convention are referred to as "Paris countries" and parties to the Brussels Convention are referred to as "Brussels countries". Most parties to the Paris Convention are parties to the Brussels Convention.

4.5 While the Conventions and the Protocols are international rather than EU instruments, there are two EU Decisions relating to the 2004 Paris Protocol:

- Council Decision 2003/882/EC of 27 November 2003[1] authorising the Member States which are Contracting Parties to the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy to sign, in the interests of the European Community, the Protocol amending that Convention;
- Council Decision 2004/294/EC of 8 March 2004[2] authorising the Member States which are Contracting Parties to the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy to ratify, in the interests of the European Community, the Protocol amending that Convention or to accede to it. This Decision envisages that the Member States concerned will ratify the Paris Protocol simultaneously.

4.6 These EU Decisions[3] were adopted because the 2004 Paris Protocol includes provisions on matters where the EU has exclusive competence (namely, jurisdiction and recognition and enforcement of judgements).

4.7 Government is taking the necessary steps to enable the UK to ratify the 2004 Protocols.

4.8 In accordance with the Parliamentary scrutiny procedure laid down in the Constitutional Reform and Governance Act 2010, the 2004 Protocols were laid before Parliament on 21 September 2015[4].

4.9 Before the UK can ratify the 2004 Protocols there needs to be in place legislation to implement the changes which they make. The Conventions are implemented principally by the Nuclear Installations Act 1965 ("the 1965 Act"). The Nuclear Installations (Liability for Damage) Order 2016 ("the Order") amends the 1965 Act to give effect to the changes made by the 2004 Protocols. Except in paragraph 4.10, references below to sections of the 1965 Act are to sections of that Act as amended by the Order.

4.10 The Conventions are also implemented through a number of instruments made under the 1965 Act, in particular:

- The Nuclear Installations (Prescribed Sites) Regulations 1983 (SI 1983/919) (made under section 16(1) of the 1965 Act);
- The Nuclear Installations (Insurance Certificate) Regulations 1965 (SI 1965/1823) (made under section 21(3) of the 1965 Act); and

[1] OJ L 338, 28.12.2003, p 32
[2] OJ L 97, 1.4.2004, p 53
[3] The Explanatory Memorandum for these Decisions was considered by the Commons European Scrutiny Committee who cleared it on 15.10.2003 (Report No.33. Session 02/03). The Lords Scrutiny Committee cleared it on 29.9.2003 (Sift No. 1152, Session 02.03).
[4] Miscellaneous Series 6/2015, Cm 9135; Miscellaneous Series 7/2015, Cm 9136

- The Nuclear Installations (Excepted Matter) Regulations 1978 (SI 1978/1779) (made under section 26(1) of the 1965 Act).

4.11 Prior to ratification it will be necessary to amend at least the first two of these sets of regulations. Government intends to make the amending instruments after this Order has been made.

4.12 In addition there are various changes that will need to be made in due course to the court rules that apply in each part of the UK, so as to allow for representative actions to be brought. The changes will be dealt with in the usual course of updating the court rules.

4.13 Most of the provisions in the Order will come into force when the changes to the Conventions come into force in respect of the UK i.e. on ratification of the Protocols. The changes to the UK liability regime need to come into force as soon as the Protocols come into force - there is no grace period. It is expected that the Protocols will come into force at the start of 2017.

4.14 Some provisions need to be commenced in advance so that we can take the necessary preparatory steps to give effect to the revised liability regime as soon as the Protocols come into force. The commencement provisions will allow the Secretary of State to:

- make regulations under sections 16(1) and 21(3) of the 1965 Act (see paragraphs 4.10 and 4.11 above) (article 1(5) of the Order);
- approve operators' revised insurance (or other financial cover) arrangements under section 19(1) of the 1965 Act (as regards Scotland this function falls to the Scottish Ministers) (articles 1(4) and 40(7) of the Order);
- make arrangements (such as reinsurance) to enable operators to put in place the insurance or other financial cover required by section 19(1) of the 1965 Act (articles 1(4) and 34 of the Order).

5. Extent and Territorial Application

5.1 This instrument extends to the United Kingdom

5.2 This instrument applies to the United Kingdom.

6. European Convention on Human Rights

6.1 The Minister of State, Andrea Leadsom, has made the following statement regarding Human Rights:

In my view the provisions of the Nuclear Installations (Liability for Damage) Order are compatible with the Convention rights.

7. Policy background

What is being done and why

7.1 The main objectives of this long-standing special international third party liability regime are: first, to ensure adequate compensation for damage caused to persons, property and the environment by a nuclear incident; second, to make sure that nuclear operators, who are in the best position to ensure the safety of their nuclear installations and transport activities, assume full responsibility for any breach of duty giving rise to damage (while not being exposed to an excessive liability burden); and third, to ensure that those associated with the construction, operation or

decommissioning of nuclear installations (such as builders or suppliers) are exempt from liability for any such breach.

7.2 Further it is recognised that a special regime for third party liability should, as far as possible, provide a uniform system for all countries that could be affected by a nuclear incident in a neighbouring country.

7.3 The UK supports these objectives, adopting the wording and definitions used in the Conventions where possible and only diverging where this would help clarify the main objectives.

7.4 The Paris Convention establishes certain key principles which displace ordinary tort (in Scotland, delict) law rules. These principles include:

- strict liability of the operator, i.e. liability without having to prove fault;
- exclusive liability of the operator i.e. no other party (such as a supplier or contractor) is liable;
- the liability of the operator is limited in amount, time and the types of damage that are compensable;
- an obligation on the operator to cover its liability by insurance or other financial security;
- claims may only be made in respect of damage suffered within a specified geographical area; and
- rules on jurisdiction to ensure that the courts of one Paris country deal with all claims relating to a particular incident. Judgements of the court with jurisdiction must be recognised by the courts of the other Paris countries.

7.5 The Brussels Convention builds on the Paris Convention, making provision for additional public funds to be made available if the compensation payable under the Paris Convention is insufficient. The geographical scope of the Brussels Convention is more limited than that of the Paris Convention. In particular, it does not extend to damage in countries that are not parties to it.

Changes to the Conventions made by the 2004 Protocols

7.6 The 2004 Protocols have substantially amended the Conventions, although they leave intact the essential features of the regime. The main changes are:

- the inclusion of new categories of damage, in addition to the existing categories of personal injury and property damage, namely:
  - economic loss arising from personal injury or property damage;
  - costs of measures of reinstatement of the impaired environment;
  - loss of income deriving from a direct economic interest in any use or enjoyment of the impaired environment; and
  - costs of preventive measures and further loss or damage caused by such measures.
- an increase in the amount of funds available for compensation through:
  - an increase in the minimum level of financial liability that must be imposed on the operator; and
  - an increase in the amount of public funds to be made available.
- an extension of the geographical scope;

- an increase in the limitation period in respect of claims for personal injury from 10 to 30 years;
- in relation to provisions on jurisdiction;
- the inclusion of installations for the disposal of nuclear substances within the liability regime;
- a requirement to permit representative actions by a State; and
- the inclusion of a "direct economic interest test" in the rules on liability during transport.

The New Categories of Damage (Article 1(a)(vii) to (x) of the Paris Convention)

7.7 The new categories of damage are implemented in the following way.

Economic loss arising from personal injury or property damage

7.8 This new category of damage is already permitted under the 1965 Act so no changes are needed.

Costs of measures of reinstatement of the impaired environment (new sections 11A to 11F of and Schedule 1A to the 1965 Act) (article 8 of the Order)

7.9 The cost recovery regime is flexible so as to work with the environmental reinstatement regimes in the different parts of the UK as well as abroad where the Paris regime applies.

7.10 This provision does not cover claims for the cost of reinstatement measures that could be made through claims for property damage under the 1965 Act. To avoid double recovery, the court will have the power (and in some circumstances be required) to take into account compensation awarded for one category of damage when determining the compensation payable for the other category.

7.11 Only public authorities in the UK who undertake, arrange or pay for reinstatement measures may claim under this new category of damage. Compensation is payable only in respect of measures that have been approved by the Secretary of State, either before or after the measures are taken. To avoid conflict of interest, provision has been made for approval by an independent person where it is the Secretary of State who makes a claim.

7.12 The Paris Convention definitions of "measures of reinstatement" and "reasonable measures" are included. We have added a requirement that the costs of the measures, and the taking of the measures, must be reasonable.

Loss of income deriving from a direct economic interest in any use or enjoyment of the environment (new section 11G) (article 9 of the Order)

7.13 This new category is for pure economic loss and is not intended to be broad in scope. It permits claims by those who, although they do not have a property interest in the impaired environment, have legal authority to directly exploit the resources of the environment to generate an income, for example fishermen and cockle-pickers. Claims will not be permitted by those whose economic activity is one step removed from the environment, such as those who have contracts with fishermen or those who travel through the environment to carry on economic activity.

Significant impairment of the environment

7.14 A claim for "cost of measures of reinstatement" or "loss of income" depends on there being an impairment of the environment. In the Convention the reinstatement measures category provides that the impairment must not be "insignificant", while the loss of income category requires a "significant" impairment. We have provided that the impairment must be "significant" in both cases (see new sections 7(1A)(c) and (1C)(c) and 10(1)(c) of the 1965 Act, articles 3 and 7 of the Order). For clarity we have introduced a requirement for the impairment to be of at least such a degree that it would be eligible for compensation as property damage (see new definition in section 26(1) of the 1965 Act, article 38 of the Order). The Court of Appeal has held that in order to qualify as property damage under the 1965 Act there needs to be some alteration in the physical characteristics of the property which renders it less useful or valuable[5].

Costs of preventive measures and further loss or damage caused by such measures (new section 11H) (article 10 of the Order)

7.15 In the event of a nuclear incident, or where there is serious threat of one, action may be taken by public authorities, as well as private individuals and organisations, to prevent or mitigate the damage that might result from an incident. The costs of such actions are now compensable.

7.16 This new category of claim also extends to where there is a grave and imminent threat of a nuclear incident causing harm. A new duty is imposed on an operator "to secure that no event happens that creates a grave and imminent threat of…" (see new sections 7(1E) and 10(1A) of the 1965 Act, articles 3 and 7 of the Order). So the 1965 Act imposes liability in relation to "events" as well as "occurrences" (see paragraph 7.30 for definition of "occurrences").

7.17 The Order amends the 1965 Act so as to adopt the Paris Convention definition of "preventive measures" and the requirement that such measures are reasonable. We have included a further test to determine when preventive measures will be treated as reasonable in a "grave and imminent threat" situation: see section 11H(8) to (13) of the 1965 Act. This test is based on the threshold in the Radiation (Emergency Preparedness and Public Information) Regulations 2001 (SI 2001/2975) for implementing emergency plans.

Increase in funds available for compensation (Article 7 of the Paris Convention and Article 3 of the Brussels Convention)

7.18 The amendments to the Conventions increase significantly the amount of funds available for compensation in the event of a nuclear incident. Under the current regime approximately €300 million in total is available for compensation. This will rise to €1500 million (the Conventions give countries discretion to impose a higher limit or unlimited liability). Operators will be required to bear much greater financial responsibility for a nuclear incident as, under the Paris Convention, their liability level increases to at least €700 million per incident (up from approximately £140 million[6]). Countries may also set a lower liability amount for installations and transport of nuclear substances where, in the event of an incident, there is unlikely to be

[5] Blue Circle Industries plc v Ministry of Defence [1998] 3 All ER 385.

[6] The current regime sets the overall liability in Special Drawing Rights (SDRs). SDRs are a unit of account defined by the International Monetary fund (IMF) based upon a basket of key international currencies.

significant damage. Operators must put in place insurance or other financial security to cover their potential liability.

7.19 The Brussels Convention establishes a three tier system for the allocation of the total €1500 million:

- the first tier is to be provided by the operator and corresponds to the level of liability imposed on the operator under the Paris Convention (minimum €700 million);
- the second tier to be provided either by the operator or from public funds made available in the country in which the responsible operator's installation is located and is the difference between the operator's limit under the first tier (minimum €700 million) and €1200 million; and
- the third tier to be provided from public funds contributed to by all the countries that are party to the Brussels Convention and is €300 million in total.

7.20 Government has implemented the Conventions by imposing liability for the first two tiers on operators (in relation to standard sites). Section 16 of the 1965 Act sets the following liability levels for operators (article 19 of the Order):

(i) Power plants and other "standard" sites: an immediate increase from the current £140 million to €700 million, rising by a further €100 million annually up to €1200 million;

(ii) Operators of "intermediate" sites: an immediate change from the current £140 million to €160 million;

(iii) "Low risk nuclear sites": an immediate increase from the current £10 million to €70 million;

(iv) "Low risk" transport: the level will be €80m (in effect it is currently £10 million as this is the low risk site limit).

7.21 Where a lower level of liability is set for an operator, public funds are still required by the Convention to be available to top up the funds to either €700 million (Paris only claims) or €1500 million (Brussels claims)(section 18(1A) and (1D) of the 1965 Act, article 30 of the Order).

7.22 The lower liability levels for low risk and intermediate sites and low risk transport will be brought into effect by additional regulations to be made in advance of the commencement of the Order (paragraph 4.14 above). These additional regulations will prescribe sites for the disposal of low level radioactive waste that will attract a liability of €70 million and "intermediate" sites", that is sites including those for fuel fabrication, uranium enrichment and the manufacture of radioactive isotopes for non-nuclear purposes. The additional regulations will also prescribe low risk transport, drawing on criteria in the International Atomic Energy Agency Regulations for the Safe Transport of Radioactive Materials[7] that are based on the activity levels of the nuclear matter being carried.

7.23 The Order amends the 1965 Act so that, unlike at present, claims on public funds covered by the Conventions are brought through ordinary court proceedings, as are claims against operators (see section 16(3) of the 1965 Act, article 20 of the Order).

[7] The IAEA transport regulations are implemented in EU legislation, which is then implemented in the UK by the Carriage of Dangerous Goods and Transportable Pressure Equipment Regulations 2009 (SI 2009/1348).

Extension of Geographical Scope

7.24 The geographical scope of the Paris Convention has been extended by the Protocols so that compensation is also available for damage suffered in certain countries that are not party to the Paris Convention, namely non-nuclear countries and countries that have equivalent and reciprocal liability arrangements - collectively described as "qualifying territories" (sections 13(1)(c) and (d) and 26(1B) of the 1965 Act, articles 12 and 38 of the Order).

7.25 Damage suffered on the high seas will continue to be compensable, so far as UK operators are concerned. Section 13(2) of the 1965 Act is retained, which allows claims to be brought for injury or damage suffered within the territorial limits of a non-Paris country while on board a ship or aircraft registered within the UK.

7.26 The geographical scope of the revised Brussels Convention is more limited than that of the revised Paris Convention. In particular, it does not extend to damage suffered in countries that are not party to the Brussels Convention.

7.27 Given the differences in geographical scope it is necessary for the 1965 Act to distinguish between claims covered by the Brussels and Paris Conventions on the one hand and claims covered only by the Paris Convention on the other. New section 16A of the 1965 Act covers this, using "special relevant territory" to define claims covered by both the Paris and Brussels Conventions (article 21 of the Order).

7.28 The UK's Crown Dependencies and overseas territories have applied the existing 1965 Act regime with modifications. If a Crown Dependency or overseas territory wishes to incorporate the new regime into its own law this will first require primary legislation to amend section 28 of the 1965 Act then an Order in Council will need to be made under the section. As non-nuclear territories of the UK they will in any event be eligible to claim under the amended 1965 Act.

Limitation Periods (Article 8 of the Paris Convention)

7.29 The current Paris Convention limits the right to claim compensation to 10 years from the date of a nuclear incident. This has now been extended by the 2004 Paris Protocol to 30 years for personal injury claims (section 15 of the 1965 Act, article 17 of the Order). For all other claims the 10 year limitation continues to apply).

"Occurrences"

7.30 The 1965 Act relies heavily on the concept of an "occurrence" which broadly corresponds to a "nuclear incident" (Article 1(a)(i)) of the Paris Convention). Under the 1965 Act operators are under a duty to secure that certain occurrences do not cause damage; and the occurrence serves as a point of reference against which matters such as limitation periods, liability amounts and allocation of jurisdiction can be determined.

7.31 A straightforward example of an "occurrence" would be the uncontrolled release of ionising radiation. In the Magnohard case (*Magnohard Limited and Others v the United Kingdom Atomic Energy Authority and the Scottish Environmental Protection Agency 2004 SC 247, 2003 SLT 1083.9*) the court took an expansive view of the meaning of "occurrence" and held that an occurrence took place every time nuclear matter that had been discharged on a previous occasion was disturbed and moved to a new place. The Order makes specific provision to address this point but does not

adopt as broad an approach (see new section 26(2A) of the 1965 Act, article 38 of the Order).

Cover for Operators' Liabilities (Article 10 of the Paris Convention)

7.32 One of the key features of the Paris regime is the requirement for operators to maintain insurance or other financial security to cover their liabilities under the Convention.

7.33 Up to now operators have been able to meet this requirement mostly by purchasing insurance from the market. However, there is now a question whether the market is willing to provide cover to the full extent of the operators' new liabilities. At present our understanding is that cover will be available for all categories of damage apart from the extension of the 30 year limitation period for personal injury claims.

7.34 The Government will, subject to any EU or UK legal requirements such as state aid, consider arrangements to fill any gap in cover, but on commercial terms. New section 20A of the 1965 Act (article 34 of the Order) confers a power on the Secretary of State to make such arrangements.

Jurisdiction (Article 13 of the Paris Convention)

7.35 The Paris Convention sets out criteria for the allocation of jurisdiction to ensure that all claims for compensation arising from a particular nuclear incident are dealt with in the courts of only one Paris country. Jurisdiction generally lies with the courts of the Paris country in whose territorial limits the nuclear incident occurred but alternative criteria apply where there is uncertainty or the incident occurred elsewhere.

7.36 The provisions on allocation of jurisdiction between Paris countries have been amended to take into account the establishment of exclusive economic zones (EEZs) under international law (see amended section 13(1)(a) and (b) of the 1965 Act, new section 13(1A) (article 12 of the Order) and the new definition of "relevant maritime zone" in section 26(1) of the 1965 Act (article 38 of the Order).

7.37 New section 16C of the 1965 Act (article 23 of the Order) allocates jurisdiction within the UK between the High Court of Justice, the Court of Session and the High Court of Justice in Northern Ireland. The High Court of Justice has jurisdiction where it is not immediately clear where the greatest impact of an incident will be.

7.38 If the occurrence or event took place outside the UK, but the UK has jurisdiction (for example, in the case of an occurrence during transit outside the UK for which a UK operator is responsible), the court that deals with the claim is the court where the responsible operator is located.

Installations for the disposal of nuclear substances (Article 1(a)(ii) of the Paris Convention)

7.39 The changes to the Paris Convention bring nuclear waste disposal facilities into the liability regime.

7.40 The amendments to the Act create a new class of operator – those who operate a disposal site but do not require a nuclear site licence – to whom the 1965 Act liability regime (but not the licensing regime) is applied (see especially new section 7B of the 1965 Act, article 4 of the Order, which provides a definition of "relevant disposal site").

Representative Actions by a Foreign State (Article 13(g)(i) of the Paris Convention)

7.41 Under the revised regime Paris countries must ensure that "any State may bring an action on behalf of persons who are nationals of that State or have their domicile or residence in its territory, and who have consented thereto", which the UK will implement by new section 17D of the 1965 Act (article 28 of the Order). This does not create any new right to compensation; rather it provides an alternative avenue for claiming compensation and allows for coordination of large volumes of claims.

7.42 The UK Government will have the equivalent power to bring representative actions in other Paris countries under new section 17E of the 1965 Act (article 29 of the Order).

Transport – "direct economic interest"

7.43 The revised regime makes changes to the rules that apply to the transport of nuclear substances. The general rule is that liability is imposed on the operator sending the nuclear substances and it may only shed its liability in a limited number of circumstances (see new sections 7(1A), (1B)(b) and 7A of the 1965 Act, article 3 of the Order).

7.44 An 'anti-avoidance' provision has been added so that liability may only be transferred from one Paris country operator to another where the receiving operator has a "direct economic interest" in the nuclear substances being carried (see new section 7A of the 1965 Act)[8].

Need for legislation

7.45 The UK is bound by a commitment to implement the amendments to the Convention as set out in EU Council Decision (2004/294/EC), which requires all EU parties to ratify at the same time. A non-regulatory approach was ruled out because the changes need to be made in UK law to give potential claimants a legal basis on which to make claims. Regulation is also required to provide regulatory certainty to operators and their insurers.

Consolidation

7.46 Government is not considering a formal consolidation of the 1965 Act at this time. An informal consolidated text as amended by this Order is available on the Government website at: https://www.gov.uk/preparing-for-and-responding-to-energy-emergencies.

8. Consultation outcome

8.1 A public consultation was carried out between 24 January and 28 April 2011. DECC received 83 responses - 5 from Government Agencies, Local Authority representatives and a Member of Parliament; 14 from non-Governmental organisations (NGOs); 18 from nuclear industry linked organisations (including nuclear operators, trade associations, waste operators and insurance representatives); and 46 from members of the public. The consultation paper is available on the Government website at: https://www.gov.uk/government/consultations/compensating-victims-of-nuclear-accidents.

8.2 The consultation paper set out the Government's proposals for implementing the amended Conventions and asked questions on nine specific points. Responses were

[8] Article 4(c) of the Paris Convention.

received for all topics in the consultation paper but overall focused on two main areas of the proposals: the proposed operator liability level, and the availability of insurance or other financial security to cover operator liabilities. A significant proportion of the private individuals and NGOs who commented on the proposal said that third party liability for nuclear operators should be higher or unlimited. On the other hand, the view of several nuclear industry stakeholders was that the Government proposal to set operator liability at €1200 million would have significant additional costs that could affect viability, investment and competitiveness.

8.3 Government is implementing the proposals generally as set out in the consultation paper, but with the following changes as a result of consultation responses:

- definitions for the new categories of damage are clarified;
- section 13(2) of the 1965 Act has been retained so claims can still be brought by individuals suffering damage in a non-Paris country while on board a UK ship or aircraft;
- liability during transport will remain with the operator responsible for carriage and will not transfer to an installation at which the transported material is held for a period;
- the liability and financial security limit for most operators of nuclear licensed sites is set at €1200 million which will start at €700 million and increase by €100 million per year over the following five years. Operators of "intermediate" sites will have a liability and financial security limit of €160 million. The liability and financial security limit for low risk sites remains at the proposed level of €70 million and for transport of low risk material at €80 million.

8.4 The Government response to the consultation was published in March 2012 and is available on the Government website at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/42757/4874-parisbrussels-government-response-to-consultation.pdf.

8.5 Government has continued to keep interested parties up to date with progress towards implementation, in particular publishing updated versions of the draft Order in 2012, 2013, 2014 and 2015.

9. Guidance

9.1 Officials in DECC have engaged industry stakeholders regularly to explain the new provisions and consider issues arising, and will continue to do so in advance of the legislation coming into force. Updated guidance on the information to be provided for approval of operator's insurance arrangements will be made available on the Government's website after the Order is made.

9.2 In the event of a nuclear incident guidance on compensation would be publicised by the operator and its insurance provider at that time. Information about the emergency regime is available on the Government's website: https://www.gov.uk/preparing-for-and-responding-to-energy-emergencies.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector will include a very small additional cost associated with reviewing and approving operators' financial security arrangements under section 19 of the 1965 Act. Government has an existing statutory liability for third party claims in excess of an operator's liability in the event of a nuclear incident in the UK. There will be a one-off cost to change civil procedure rules in various ways, such as to allow foreign states to bring representative action claims in the UK. It is expected that this will be absorbed into the routine updating of the civil procedure rules.

10.3 An Impact Assessment is submitted with this memorandum and is published alongside the Explanatory Memorandum on the legislation.gov.uk website.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 A review provision, as required by section 28 of the Small Business, Enterprise and Employment Act 2015, is not appropriate in this Order because the regulatory provisions that are being amended are contained in primary legislation, and are outside the scope of the policy objectives as set out in the statutory guidance, which relate to the inclusion of review provisions in secondary legislation.

12.2 The UK will review the operation of the revised regime in line with the timing set by the Paris countries to consider any revisions to the Paris Convention. The form and timing of the review will be a matter for the Paris countries to agree.

13. Contact

13.1 Kate Parsons at the Department of Energy and Climate Change Telephone: 030 0068 2807 or email: kate.parsons@decc.gsi.gov.uk can answer any queries regarding the instrument.