EXPLANATORY MEMORANDUM TO

THE NUCLEAR SAFEGUARDS (EU EXIT AND FEES) (AMENDMENT) REGULATIONS 2026

2026 No. XXXX

1. Introduction

1.1. This explanatory memorandum has been prepared by the Department for Energy Security and Net Zero and is laid before Parliament by Command of His Majesty.

1.2. This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1. Lord Vallance of Balham, Minister of State for Science, Innovation, Research and Nuclear at the Department for Energy Security and Net Zero, confirms that this Explanatory Memorandum meets the required standard.

2.2. Philip Luxford, Director of Nuclear Protection at the Department for Energy Security and Net Zero, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1. Katie Dingley at the Department for Energy Security and Net Zero (Email: nuclearsafeguards@energysecurity.gov.uk) can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1. The Nuclear Safeguards (EU Exit) Regulations 2019 (NSR19), along with a suite of other key legislation, underpins the UK's nuclear safeguards regime. The Nuclear Safeguards (Fees) Regulations 2021 ('Fees Regulations'), regulates the fees payable by the operator to the Office for Nuclear Regulation (ONR) for functions carried out by ONR in connection with the NSR19.

4.2. The proposed changes have several purposes including the removal of regulations related to the transition from Euratom which are no longer applicable or do not apply to the UK context. They also seek to provide additional clarity on requirements for operators and greater alignment with the International Atomic Energy Agency (IAEA) to ensure the UK can meet our international obligations. This includes the move to the IAEA reporting format, as committed to when the UK left Euratom, which will achieve international harmonisation and facilitate collaboration with other countries.

Where does the legislation extend to, and apply?

4.3. The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.

4.4. The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland and Northern Ireland.

5. Policy Context

What is being done and why?

5.1. Nuclear safeguards are a fundamental component of global nuclear non-proliferation and consist of various reporting and verification processes to assure and demonstrate that civil nuclear material is not unlawfully diverted into military use.

5.2. Nuclear safeguards are vital for the nuclear industry to function, both in terms of operations and trade, which is dependent on the UK acting in line with international obligations on nuclear safeguards and non-proliferation.

5.3. The NSR19 and the Fees Regulations are part of the legal framework that allows the UK to operate a domestic safeguards regime, after leaving the EU and the European Atomic Energy Community ("Euratom"). Those mainly affected by these instruments are a very small group of operators of civil nuclear facilities. There is a larger group of around one hundred and thirty 'qualifying nuclear facilities with limited operation', subject to a reduced reporting regime. This latter group primarily comprises universities, research centres and small businesses. The changes to these instruments will affect this group to a lesser extent than the small group of operators of civil nuclear facilities.

5.4. Given that these Regulations had been in operation for under three years when the statutory Post Implementation Review was due, a proportionate, light touch approach was taken to it, in line with best practice guidance.

5.5. The recommendations in the statutory Post Implementation Review Report included the removal of regulations no longer required, such as transitional provisions supporting duty-holders with the regulatory migration from the Euratom safeguards regime, and of other provisions not relevant to the UK's specific operational and regulatory context. There were also recommendations to clarify aspects of the NSR19, to improve operability, or otherwise be clearer on regulatory expectations and requirements.

5.6. A new offence corrects an oversight when the NSR19 was originally implemented, relating to non-compliance with the requirements of the 'particular safeguards provisions'. An additional offence has been added related to non-compliance with a new provision requiring operators to declare to ONR where there is a change in the type of facility. This ensures that the regulator has a sanctions regime for non-compliance, with a range of proportionate measures available culminating in prosecution.

5.7. Amendments to the Fees Regulations also address criticism from the JCSI in 2022 that the effect of those Regulations was to give ONR discretion in setting the amount of fees, amounting to an unusual use of the power to make the Regulations. The move from using Basic Technical Characteristic questionnaires (BTCs) (as used by Euratom) to Design Information Questionnaires (DIQs) (as used by the IAEA) was agreed with Euratom at the time of the UK leaving the EU. Euratom has amended its forms since 2019, meaning that the version UK operators use no longer aligns to that used by any other country. This move will also facilitate the UK-US nuclear industry partnership through using an internationally recognised format, as well as enabling other future trade partnerships.

5.8. The amendments reduce the number of days that operators have to declare to ONR changes in design information for updated DIQs, from 30 days to 23 days. Operators are also required to give more notice to ONR of imports and exports than previously,

from 4 days to at least 7 for imports and from 7 to at least 13 days for exports. Changing operators' compliance deadlines enhances the Secretary of State and ONR's ability to meet the UK's international obligations. Previous deadlines did not provide any time for ONR to quality assure and scrutinise UK responses.

5.9. Whilst most Post Implementation Review recommendations are being actioned directly through this instrument, some are not being actioned. For instance, Schedule 1 to the NSR19 contains the standard safeguards forms (Basic Technical Characteristics – BTCs) with detail largely taken from the Euratom forms. There was a desire to remove the forms from the Regulations and instead refer to versions published on ONR's website, which could be updated in line with the International Atomic Energy Agency's ("IAEA") templates as they develop. However, this was not possible to do, given ONR's powers. Instead, we are now transitioning from using these BTCs to using the Design Information Questionnaires used by the IAEA, harmonising the UK regime with that used internationally outside the EU. This will facilitate future international trade and cooperation.

5.10. Similarly, it was not possible to remove Schedule 2 on the Components of an Accountancy and Control System, and host guidance material on ONR's website. Instead, this schedule will remain, with some amendments in the Regulations designed to achieve similar effects on regulatory outcomes.

5.11. Additionally, the instrument will not now be removing the requirements on 'Carriers and temporary storage agents' as previously recommended, as closer examination has revealed that to change them would add an unnecessary burden when the records are already being retained by operators.

What was the previous policy, how is this different?

5.12. Nuclear safeguards regulatory policy itself has not changed. The UK will continue to have a domestic nuclear safeguards regime that operates in a similar way to, and offers equivalent effectiveness and coverage to, the previous regime operated by Euratom when the UK was a member. The UK's policy will still be that domestic regulation reflects and allows it to meet its international obligations. The changes now being made by this instrument are improvements to the regime including updating it by removing transitional arrangements which no longer apply, clarifying language and altering some reporting timings following feedback on the practical, operational needs of stakeholders. It also harmonises aspects of the design information reporting with regimes used outside the EU by moving to using the Design Information Questionnaires as used by the International Atomic Energy Agency, which will make international trade and cooperation easier to achieve.

6. Legislative and Legal Context

How has the law changed?

6.1. The Nuclear Safeguards Act 2018 (c. 15) provided for the creation of a domestic nuclear safeguards regime following the UK's withdrawal from Euratom. The NSR19 sets out the detailed framework for the domestic safeguards regime, including the principal obligations incumbent on operators of civil nuclear facilities, with the Office for Nuclear Regulation having regulatory responsibility in accordance with Part 3 (*Nuclear Regulation*) of the Energy Act 2013 (c. 32). The Nuclear Safeguards (Fees) Regulations 2021 (S.I. 2021/1406) provide for the payment by operators to the ONR of fees in respect of the various regulatory functions carried out by the ONR in connection with the NSR19. Changes have been to the Fees Regulations as a

consequence of the amendments to the NSR19. Charges will apply for new regulations added to this Schedule, and removed regulations will no longer incur charges.

6.2. This instrument makes amendments to the NSR19 that have been identified during the statutory Post Implementation Review as either necessary or recommended in order to improve the operability of the UK's domestic nuclear safeguards regime and to provide greater clarity for duty holders. Additional changes are being made as a result of engagement with operators and the regulator, as well as where internal assessment has noted issues, such as the addition of breach of a particular safeguard provision as an offence under regulation 5(3) and 43 of the NSR19, which was omitted through an oversight at the time those Regulations were drafted. The most significant changes are to the forms operators use to report design changes to the ONR from the Euratom Basic Technical Characteristics form (BTC) to the IAEA Design Information Questionnaire (DIQ), and to the number of days operators have to report such changes from 30 days to 23.

6.3. The change of form was agreed with the IAEA when leaving their regime in 2019.

Why was this approach taken to change the law?

6.4. The most effective way to bring these legislative changes into effect is through the amendment of the 2019 Regulations and the Fees Regulations.

6.5. The consequential amendments were a necessary outcome of these amendments.

7. Consultation

Summary of consultation outcome and methodology

7.1. An 8-week public consultation took place between 29 August and 24 October 2025. As well as the general public, those specifically impacted by the Regulations were consulted: the ONR (being responsible for nuclear safeguards regulation) and industry operators (being the principal duty-holders). We received 13 responses, in favour of many of the proposed changes. The areas of contention were the change from using BTCs to DIQs, and the reduction in time to submit such information, as well as the change to how many days advance notice operators need to give ONR of import and exports of nuclear material.

7.2. As a result of the consultation feedback and the Nuclear Regulatory Review 2025, some of the original proposals were amended. The transition period for changing forms from BTCs to DIQs was lengthened from two years to three, with the ONR still accepting BTCs for the first year, and DIQs from year 2. The notification timings for reporting design change, imports and exports were also amended to give operators more time than originally proposed whilst still increasing the time the regulator has to quality assure.

8. Applicable Guidance

8.1. The Office for Nuclear Regulation publishes guidance for operators and inspectors[1].

[1] onr-saf-fw-001.docx https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.onr.org.uk%2Fmedia%2Fwawbf3li%2Fonr-saf-fw-001.docx&wdOrigin=BROWSELINK

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1. A full Impact Assessment has not been prepared for this instrument. Instead, since the impacts on business will be c.£200-300k (Equivalent Annual Net Direct Cost to Business, in 2025 Prices) a self-certified *de minimis* assessment has been completed.

Impact on businesses, charities and voluntary bodies

9.2. The impact on business, charities or voluntary bodies is minimal, since the instrument makes small adjustments to a regime which, as a whole, already has a low level of impact.

9.3. The legislation does impact small or micro businesses, but this impact is very limited, since most of these organisations are not subject to the full regime anyway, so the amendments affecting them are minimal and proportionate.

9.4. There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1. The approach to monitoring this legislation is via the statutory review clause in the NSR19 since there are some limited impacts on business activity. The next post implementation review is due in 2028. For the Fees Regulations, the next post implementation review due in 2026.

10.2. In line with the requirements of the Small Business, Enterprise and Employment Act 2015, Lord Vallance of Balham has made the following statement: "As this instrument amends two sets of regulations, each of which contains a review provision, this instrument does not require its own review provision".

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1. We have amended the language in regulation 4 of the Fees Regulations to address the JCSI's comment on the "unusual or unexpected use of the enabling power" when the Fees Regulations were originally made in 2021. The JCSI pointed out that the original drafting could result in a fee ranging from zero up to the full cost of performing the functions[2]. Instead, the provision is drafted simply by reference to cost recovery.

11.2. We have added a new provision requiring operators to report a change of facility type to the Office for Nuclear Regulation. Resulting new charges for operators are to cover the cost of required ONR activities when design information is declared for the repurposing of a qualifying nuclear facility.

12. European Convention on Human Rights

12.1. Lord Vallance of Balham, Minister of State for Science, Innovation, Research and Nuclear at the Department for Energy Security and Net Zero has made the following statement regarding Human Rights:

12.2. "In my view the provisions of the Nuclear Safeguards (EU Exit and Fees) (Amendment) Regulations 2026 are compatible with the Convention rights".

13. The Relevant European Union Acts

13.1. This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts"). It does however relate to the withdrawal of the United Kingdom from the European Union because it amends the NSR19, which revoked, following the UK's withdrawal from the European Union (and concurrent withdrawal from Euratom), that part of assimilated law being EU Regulation (Euratom) 302/2005, which had set out the Euratom nuclear safeguards regime.

[2] Twenty-Sixth Report of Session 2021–22 - Joint Committee on Statutory Instruments https://publications.parliament.uk/pa/jt5802/jtselect/jtstatin/167/report.html#heading-0