Draft Regulations laid before Parliament under section 113(2)(aa) and (c) of the Energy Act 2013, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2018 No.

EXITING THE EUROPEAN UNION

NUCLEAR SAFEGUARDS

The Nuclear Safeguards (Fissionable Material and Relevant International Agreements) (EU Exit) Regulations 2018

Made - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 76A(7) and 112(1B) of the Energy Act 2013(**a**).

In accordance with section 113(2)(aa) and (c) of that Act, a draft of these Regulations has been laid before Parliament and approved by resolution of each House of Parliament.

Citation and commencement

1.—(1) These Regulations may be cited as the Nuclear Safeguards (Fissionable Material and Relevant International Agreements) (EU Exit) Regulations 2018.

(2) These Regulations come into force on exit day.

Fissionable material

2.—(1) The Secretary of State specifies the material, which is set out in paragraph (2), as "fissionable material" for the purposes of the definition of "qualifying nuclear material" set out in section 76A(6) of the Energy Act 2013(**b**).

(2) "Fissionable material" means—

(a) plutonium-239;

(b) uranium-233;

(c) uranium containing the isotopes 235 or 233 or both, in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature; and

(d) any material containing one or more of the materials described in sub-paragraphs (a) to (c).

(**a**) 2013 c. 32. Part 3 of the Energy Act, which deals with nuclear regulation, was amended by the Nuclear Safeguards Act 2018 (c. 15) which inserted sections 76A, 76B, and 112(1A) to (1E).

(**b**) Section 76A(6) was inserted into the Energy Act by the Nuclear Safeguards Act 2018 (c. 15).

Relevant international agreements

3. The Secretary of State specifies each of the following agreements as a "relevant international agreement" for the purposes of section 112(1A) of the Energy Act 2013(**a**)—

(a) the Agreement, signed on 7th June 2018, between the United Kingdom and the International Atomic Energy Agency for the application of safeguards in the United Kingdom in connection with the Treaty on the Non- Proliferation of Nuclear Weapons;

(b) the Additional Protocol, signed on 7th June 2018, between the United Kingdom and the International Atomic Energy Agency which is additional to the Agreement described in paragraph (a);

(c) the Agreement, signed on 4th May 2018, between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America for Cooperation in Peaceful Uses of Nuclear Energy;

(d) the Agreement, signed on 2nd November 2018, between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Canada for Cooperation in Peaceful Uses of Nuclear Energy;

(e) the Agreement, signed on 21st August 2018, between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Australia for Cooperation in Peaceful Uses of Nuclear Energy; and

(f) the Agreement, signed on 25th February 1998, between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Japan for Cooperation in Peaceful Uses of Nuclear Energy;

and any reference in paragraphs (a) to (f) to an agreement is to it as it has effect for the time being.

Review

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

(a) carry out a review of the regulatory provision contained in these Regulations, and

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

(2) The first report must be published before 1st January 2024.

(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 requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the obligations under the Agreement with the Agency 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);

(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).

(**a**) Section 112(1A) was inserted into the Energy Act by the Nuclear Safeguards Act 2018.

Name
Parliamentary Under Secretary of State
Date Department for Business, Energy and Industrial Strategy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations commence on exit day, which is when the United Kingdom will cease to be a member of both the European Union and of the European Atomic Energy Community. Prior to exit day, nuclear safeguards in the United Kingdom, were regulated by the EURATOM treaty, as amended by the Treaty of Lisbon, which was signed on 13 December 2007, and by Commission Regulation (EURATOM) 302/2005 (OJ L 54, 28.2.2005 p1-71). With effect from exit day, the United Kingdom's domestic provisions on nuclear safeguards will be set out in the Energy Act 2013 (c. 32), as amended by the Nuclear Safeguards Act 2018 (c. 15), and in these Regulations and the Nuclear Safeguards (EU Exit) Regulations 2018 (S.I. 2018/xxxx).

Section 76A(6) of the Energy Act 2013 defines "qualifying nuclear material" to include fissionable material. Subsection 76A(7) provides that the Secretary of State may prescribe the meaning of "fissionable material" by regulations. Regulation 2(2) defines "fissionable material".

Section 112(1A) of the Energy Act defines "relevant international agreement" and paragraph (b) expands the definition to include an agreement to which the United Kingdom is a party and which is specified by the Secretary of State under subsection 112(1B). In regulation 3 the Secretary of State specifies six international agreements that constitute a "relevant international agreement" for this purpose. These are an agreement and an additional protocol with the International Atomic Energy Agency together with agreements between the United Kingdom and the United States, Canada, Australia and Japan. The text of the six relevant international agreements is published on the Foreign and Commonwealth Office website www.treaties.fco.gov.uk/treaties.

Regulation 4 requires a review of the Regulations before 1st January 2024, which is the same date as that set out in the Nuclear Safeguards Regulations 2018.

A full impact assessment of the effect that this instrument, together with the Nuclear Safeguards (EU Exit) Regulations 2018, will have on the costs of business and the voluntary sector is available from the Department for Business, Energy and Industrial Strategy at 1 Victoria Street, London SW1H OET and is published on the BEIS website www.legislation.gov.uk. It is also published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

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£4.90

UK201811281005 12/2018 19585

http://www.legislation.gov.uk/id/ukdsi/2018/9780111175569

ISBN 978-0-11-117556-9

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