EXPLANATORY MEMORANDUM TO

THE JUSTIFICATION DECISION (GENERATION OF POWER BY THE RR SMR) REGULATIONS 2026

2026 No. 839

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Emma Hardy, Parliamentary Under-Secretary of State (Minister for Water and Flooding), at the Department for Environment, Food and Rural Affairs confirms that this Explanatory Memorandum meets the required standard.

2.2 Ruth Stubbles, Interim Deputy Director for Air Quality, Nuclear Justification and Evidence, at the Department for Environment, Food and Rural Affairs confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Charlie Powell at the Department for Environment, Food and Rural Affairs can be contacted by email at the following address with any queries regarding the instrument: nuclearjustification@defra.gov.uk. Alternatively, the department can be contacted by telephone: 03459 33 55 77.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument gives legal effect to the Secretary of State's decision of 13 March 2026 that the Rolls-Royce Small Modular Reactor (RR SMR) is justified under the Justification of Practices Involving Ionising Radiation Regulations 2004. Following assessment of the evidence and public consultation, the Secretary of State has concluded that the benefits of the RR SMR outweigh its potential radiological health risks.

4.2 This instrument satisfies the legal requirement that new nuclear classes or types of practices are justified before being deployed in the UK. The justification decision is a generic (non-site-specific) decision. It does not authorise the construction or operation of any reactor. Any RR SMR project would need to obtain the necessary approvals, such as environmental permits, a Nuclear Site Licence, and planning consent before it could go ahead.

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 The UK requires any new nuclear power practice to be justified before it can be introduced. Under the Justification of Practices Involving Ionising Radiation Regulations 2004, a practice may proceed only if the Secretary of State is satisfied, on the basis of evidence, that its overall benefits outweigh any potential health detriment.

5.2 In July 2024, the Nuclear Industry Association submitted a justification application for power generation using the RR SMR. The Secretary of State assessed the evidence provided, including from the applicant, advice from independent regulators, and responses to a public consultation, and concluded that the RR SMR meets the statutory test for justification.

5.3 In making her decision, the Secretary of State considered the RR SMR's potential as a reliable low-carbon power source, its economic benefits, safety and security features, radiological health risks (assessed as low), compatibility of waste management with existing UK processes, and environmental impacts (assessed as well controlled and acceptable).

What was the previous policy, how is this different?

5.4 The requirement to justify new nuclear practices before they can be introduced has been in place since 2004 (see section 5.1). Before this instrument, no justification decision had been made for power generation using the RR SMR.

6. Legislative and Legal Context

How has the law changed?

6.1 The legal framework for regulatory justification is set out in the Justification of Practices Involving Ionising Radiation Regulations 2004 and is unchanged by this instrument. Those Regulations require any positive justification decision to be given legal effect through a statutory instrument.

6.2 This is the first statutory instrument to be made using the powers in regulation 4(1) of the Justification Decision Power Amendment (EU Exit) Regulations 2019, which adapted and transferred justification decision making powers following the United Kingdom's withdrawal from the European Union.

Why was this approach taken to change the law?

6.3 The Secretary of State is satisfied that the overall benefits of the RR SMR outweigh any potential health detriment. Under the 2004 Regulations, a statutory instrument affirming that the RR SMR is justified must be in place before a RR SMR can be constructed or operated in the UK.

6.4 A statutory instrument was used because each positive justification decision applies to a specific class of nuclear practice and must be given effect individually by statutory instrument.

7. Consultation

Summary of consultation outcome and methodology

7.1 A public consultation was held between 6 October and 1 December 2025[1] on whether the RR SMR constitutes a new class of practice and whether sufficient information was provided to assess the balance of benefits and detriments.

7.2 Statutory consultees, including the Devolved Governments and relevant government bodies and regulators, were informed of the proposed statutory instrument and consulted as part of the justification decision process. Their views were considered alongside those of other respondents.[2]

7.3 The government received 50 responses from individuals and organisations. The majority of respondents agreed that the RR SMR represents a new class of practice and that sufficient information was provided to support an assessment.

7.4 Issues raised included radiological health risks, radioactive waste management, environmental impacts, cost, and energy security. These were considered alongside advice from independent regulators.

7.5 The Secretary of State concluded that the evidence demonstrated that the RR SMR's benefits clearly outweigh its potential detriments and that no further consultation was required. Full details are set out in the published justification decision.[3]

8. Applicable Guidance

8.1 Guidance on the operation of the justification regime is published by the Department for Energy Security and Net Zero. No guidance specific to this instrument is proposed.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because this instrument does not authorise deployment of any nuclear facility.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because this instrument gives legal effect to a justification decision at a generic level. Any impact on these groups would arise from later regulatory, planning or licensing decisions relating to particular projects, rather than from this instrument.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because this instrument does not create new functions or duties for public authorities. Any impact on public bodies would only arise if and when later regulatory, planning, or licensing decisions are made for specific projects.

[1] The NIA Rolls-Royce SMR Application and Supplementary Information document and the consultation paper can be found at:https://consult.defra.gov.uk/nuclear-justification/nuclear-rolls-royce-smr/

[2] https://www.gov.uk/government/publications/nuclear-justification-approved-for-rolls-royce-small-modular-reactor

[3] https://www.gov.uk/government/publications/nuclear-justification-approved-for-rolls-royce-small-modular-reactor

10. Monitoring and Review

What is the approach to monitoring and reviewing this legislation?

10.1 The instrument justifies a specific technology. If new and important evidence emerges that affects the balance of benefits and detriments of the RR SMR the government is able to reassess the class or type of practice and make a new justification decision if appropriate.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of Special Interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Minister for Water and Flooding at the Department for Environment, Food and Rural Affairs has made the following statement regarding Human Rights:
"In my view the provisions of the Justification Decision (Generation of Power by the RR SMR) 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").