EXPLANATORY MEMORANDUM TO

THE NUCLEAR DECOMMISSIONING AND WASTE HANDLING (FINANCE AND FEES) (AMENDMENT) REGULATIONS

2013 No. 1875

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

2. Purpose of the instrument

2.1 The purpose of this instrument is to amend the Nuclear Decommissioning and Waste Handling (Finance and Fees) Regulations 2013 ("the Principal Regulations") to correct an ambiguity identified by the Joint Committee on Statutory Instruments ("JCSI"). The JCSI reported that regulation 11(3) of the Principal Regulations was open to two different interpretations and this could lead to confusion about meeting its requirements. The Principal Regulations set out the requirements on a nuclear site operator for modification, verification and reporting of its Funded Decommissioning Programme ("FDP"). An FDP is a programme whereby the nuclear site operator invests funds throughout the life of its power station to ensure sufficient assets will have accumulated by the end of generation to meet its decommissioning and waste management costs.

2.2 Regulation 11 of the Principal Regulations provides that certain modifications to the FDP can be made without Secretary of State consent; these are described as "exempt proposals". The first type of exempt proposal is set out at regulation 11(2) and concerns "relevant modifications". This provision is not affected by the JCSI report. Regulation 11(3) then aims to provide for two additional types of exempt proposal. The first is for modifications to the cost estimates contained in the FDP (11(3)(a)) and the second is for changes to the descriptions in the FDP of the steps to be taken to decommission the installation and manage its waste, which steps form the basis of those cost estimates (11(3)(b)).

2.3 In addition to the above, this instrument corrects a formula set out in the Principal Regulations for the calculation of inflation.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This instrument has been made to correct a defect in the drafting identified by the JCSI in relation to the Principal Regulations.

4. Legislative Context

4.1 The Principal Regulations were made on 22nd January 2013 and came into force on 4th March 2013.

5. Territorial Extent and Application

5.1 This instrument applies to England, Wales and Northern Ireland.

6. European Convention on Human Rights

6.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 The JCSI identified an ambiguity in regulation 11(3). In response to the JCSI's report, this instrument removes that ambiguity.

7.2 In addition to the above, this instrument corrects an error in the formula set out in the Principal Regulations for the calculation of inflation.

- ***Consolidation***

7.3 No consolidation is required.

8. Consultation outcome

8.1 As this instrument is being made to correct a technical defect identified by the JCSI and to substitute a formula, the Department has not undertaken a public consultation.

9. Guidance

9.1 As this instrument is being made to correct a technical defect identified by the JCSI, and to substitute a formula, no guidance is required.

10. Impact

10.1 An Impact Assessment was prepared for the Principal Regulations and published alongside the Explanatory Memorandum to those regulations on www.legislation.gov.uk. The requirements imposed by the Principal Regulations have not been amended substantively and therefore they impose no additional burden.

11. Regulating small business

11.1 This legislation only applies to actual or prospective operators of new nuclear power stations and therefore will not have any impact on small business.

12. Monitoring & review

12.1 The Principal Regulations included a clause stating that the regulations will be reviewed in ten years' time.

13. Contact

Robert Middleton at the Department of Energy and Climate Change Tel: 0300 068 5873 or email: robert.middleton@decc.gsi.gov.uk can answer any queries regarding the instrument.