STATUTORY INSTRUMENTS

2020 No. 1115

EXITING THE EUROPEAN UNION

ATOMIC ENERGY AND RADIOACTIVE SUBSTANCES

The Transfrontier Shipment of Radioactive Waste and Spent Fuel (Amendment) (EU Exit) Regulations 2020

Made - - - - *13th October 2020*

Laid before Parliament *14th October 2020*

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 41(1) of, and paragraph 12(b) of Schedule 4 to, the European Union (Withdrawal Agreement) Act 2020(**a**) and by section 8C(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(**b**).

Citation and commencement

1. These Regulations may be cited as the Transfrontier Shipment of Radioactive Waste and Spent Fuel (Amendment) (EU Exit) Regulations 2020 and come into force immediately before IP completion day.

Amendments to the Transfrontier Shipment of Radioactive Waste and Spent Fuel (EU Exit) Regulations 2019

2. The Transfrontier Shipment of Radioactive Waste and Spent Fuel (EU Exit) Regulations 2019(**c**) are amended in accordance with regulations 3 to 16.

Amendment to regulation 2 (interpretation)

3. In regulation 2, in the definition of "third country", after "country" insert ", other than the United Kingdom,".

Amendments to regulation 3 (application)

4. In regulation 3—

(a) in paragraph (1), at the beginning, insert "Subject to paragraph (1A),";

(**a**) 2020 c.1.
(**b**) 2018 c.16. Section 8C was inserted by section 21 of the European Union (Withdrawal Agreement) Act 2020 (c.1); paragraph 21 of Schedule 7 was amended by section 41(4) and paragraph 53(2) of Schedule 5, of the 2020 Act; there are other amendments not relevant to these Regulations.
(**c**) S.I. 2019/156.

(b) after paragraph (1) insert—

"(1A) Where regulation 4(6), 4(7) or 4(8) applies in relation to a shipment, the references in this regulation to the Basic Safety Standards Directive 2013(**a**) are to be construed as references to that Directive as amended from time to time.";

(c) in paragraph (2) for "They" substitute "These Regulations".

Amendments to regulation 4 (transfrontier shipment of radioactive waste or spent fuel)

5. In regulation 4—

(a) in paragraphs (2), (3) and (4), for "exit day" substitute "IP completion day";

(b) in paragraph (5) after "extant authorisation granted" insert "before IP completion day";

(c) after paragraph (5) insert—

"(6) An offence will not be committed under this regulation if a shipment is made into Northern Ireland from a member State provided that the shipment is made in accordance with an authorisation granted by the member State of origin and the consent of the Chief Inspector has been obtained.

(7) An offence will not be committed under this regulation if a shipment is made into Northern Ireland from a third country by way of transit to a member State provided that the shipment is made in accordance with an authorisation granted by the member State of destination and the consent of the Chief Inspector has been obtained.

(8) An offence will not be committed under this regulation if a shipment is made into Northern Ireland from a member State by way of transit to a third country provided that the shipment is made in accordance with an authorisation granted by the member State in which the radioactive waste or spent fuel first entered the European Union and the consent of the Chief Inspector has been obtained.".

Amendments to regulation 5 (authorisations)

6. In regulation 5—

(a) after paragraph (1)(a) omit "and"; and

(b) after paragraph (1)(b) insert—

"; and

(c) where regulation 4(6), 4(7) or 4(8) applies in relation to a shipment and the shipment involves transit through one or more third countries, such transit is by the same frontier posts of entry to and exit from Northern Ireland, the European Union and any third country or countries concerned, unless otherwise agreed between the competent authorities of all countries concerned."

Amendments to regulation 7 (notification of arrival in the United Kingdom)

7. In regulation 7(1)—

(a) omit "holding an authorisation granted under these Regulations"; and

(b) after "from outside the United Kingdom" insert "pursuant to these Regulations".

Amendments to regulation 8 (notification of arrival in the country of destination)

8. In regulation 8—

(a) in paragraph (1)—

(**a**) Council Directive 2013/59/Euratom, OJ No. L 13, 17.1.2014, p.1.

(i) omit "holding an authorisation granted under these Regulations"; and

(ii) after "to another country" insert "pursuant to these Regulations";

(b) in paragraph (2) for "holding the authorisation" substitute "making the notification under paragraph (1)".

Amendments to regulation 9 (documentation)

9. In regulation 9—

(a) in paragraph (1)—

(i) omit "an authorisation granted under"; and

(ii) after "authorisation" insert "or consent";

(b) in paragraph (2), at the beginning, insert "Subject to paragraph (3),";

(c) after paragraph (2) insert—

"(3) Where regulation 4(6), 4(7) or 4(8) applies in relation to a shipment, the form referred to in this regulation is the standard document established pursuant to Article 17(2) of Council Directive 2006/117/Euratom on the supervision and control of shipments of radioactive waste and spent fuel, as amended from time to time(**a**)."

Amendments to regulation 10 (procedure)

10. In regulation 10—

(a) in paragraph (1) after "authorisation" insert "to the competent authority";

(b) after paragraph (1) insert—

"(1A) Where regulation 4(6), 4(7) or 4(8) applies in relation to a shipment, the application for authorisation or notification of an application from a member State and all accompanying documents must be in English or accompanied by an authenticated English translation.".

Amendments to regulation 11 (issue of authorisations for shipments of radioactive waste)

11.—(1) In the title, after "authorisations" insert "or consents".

(2) In regulation 11—

(a) in paragraph (1) after "authorise" insert "or consent to"; and

(b) in paragraph (5) after "the competent authorities in the" insert "United Kingdom and in the".

Amendment to regulation 12 (appeals)

12. In regulation 12 in paragraph (1) after "authorisation" insert "or consent".

Amendment to regulation 13 (unlawful shipments)

13. In regulation 13 in paragraph (3) after "Regulations" insert "(or the person having responsibility for a shipment that has not been authorised)".

Amendments to regulation 15 (powers to give directions)

14. In regulation 15 after "authorisation" (in both instances where it occurs) insert "or consent".

(**a**) OJ No L 337, 20.11.2006, p. 21.

Amendment to regulation 17 (revocation)

15. In regulation 17 at the beginning of paragraph (2) insert "Except for the purpose of regulation 9(1) and (3)".

Amendments to Schedule 1 (procedures)

16. In Schedule 1—

(a) before paragraph 1, insert—

"PART 1

Third countries and member States

Scope

A1.—(1) Subject to paragraph (2) this Part applies to shipments to, through or from the United Kingdom.

(2) This Part does not apply to the shipments referred to in regulation 4(6), 4(7) and 4(8). "; and

(b) after paragraph 6(5)(b), insert—

"PART 2

Northern Ireland

Scope and interpretation

7.—(1) This Part applies to shipments referred to in regulation 4(6), 4(7) and 4(8).

(2) In this Part, "the Directive" means Council Directive 2006/117 Euratom on the supervision and control of shipments of radioactive waste and spent fuel as amended from time to time and references to the Directive are to be construed accordingly.

Authorisations granted by a competent authority of a member State

8.—(1) When the Chief Inspector receives a request for consent to an application for a shipment authorisation relating to a shipment referred to in regulation 4(6) the Chief Inspector must act in accordance with Articles 8 and 9 of the Directive.

(2) When the Chief Inspector receives a request for consent to an application for shipment authorisation relating to a shipment referred to in regulation 4(7), the Chief Inspector must act in accordance with Article 13 of the Directive.

(3) When the Chief Inspector receives a request for consent to an application for shipment authorisation relating to a shipment referred to in regulation 4(8), the Chief Inspector must act in accordance with Article 15 of the Directive.

Acknowledgement of receipt

9. When the destination for a shipment is in Northern Ireland and the Chief Inspector receives acknowledgement of receipt of the shipment in accordance with regulation 8, the Chief Inspector must send copies of the acknowledgement to the member State of origin and any member State of transit."

Nadhim Zahawi
Parliamentary Under Secretary of State
Department for Business, Energy and Industrial Strategy

13th October 2020

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Transfrontier Shipment of Radioactive Waste and Spent Fuel (EU Exit) Regulations 2019 ("the 2019 Regulations") which were made in exercise of the powers conferred by section 8(1) of the European (Withdrawal) Act 2018 (c.16) ("the Withdrawal Act") in order to address failures of retained EU law to operate effectively and other deficiencies. The 2019 Regulations revoke the Transfrontier Shipment of Radioactive Waste and Spent Fuel Regulations 2008 ("the 2008 Regulations"). The 2019 Regulations largely replicate the key provisions and penalties of the 2008 Regulations but abolish the distinction between member States and third countries in the process for authorising shipments.

These Regulations are made in exercise of the powers conferred by section 41(1) of, and paragraph 12(b) of Schedule 4 to, the European Union (Withdrawal Agreement) Act 2020 in order to replace references in the 2019 Regulations to "exit day" with references to "IP completion day", and in exercise of the powers conferred by section 8C(1) of, and by paragraph 21 of Schedule 7 to the Withdrawal Act in order to implement the Northern Ireland Protocol ("the Protocol") to the EU withdrawal agreement.

In particular, the Regulations implement Annex 2 to the Protocol in so far as it requires Council Directive 2006/117/Euratom of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel ("the Directive") to continue to apply in Northern Ireland after the end of the implementation period (31 December 2020).

Regulations 3 to 16 make various amendments to the 2019 Regulations to ensure that the intra-Community process for authorisation of and consent to shipments of radioactive waste and spent fuel set out in the Directive applies to any shipments from a member State of the European Union to or through Northern Ireland. The intra-Community process is the process for authorising the import, export and transit of shipments of radioactive waste and spent fuel within the European Union set out in the Directive. It provides that an authorisation granted by a member State is valid throughout the European Union.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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