

EXPLANATORY MEMORANDUM TO
THE NUCLEAR INDUSTRIES SECURITY (AMENDMENT) REGULATIONS 2013

2013 No. 190

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 main purpose of these Regulations is to:

- apply security regulation to civil nuclear construction sites;
- apply security regulation at nuclear sites from the point of licensing of that site (rather than the point at which nuclear material is brought on site); and
- ensure that the security plan for a nuclear construction site or a nuclear site takes account of security risks from activities on those sites to neighbouring civil nuclear sites.

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

- 3.1 The Committee may wish to note that these Regulations amend the Nuclear Industries Security Regulations 2003 (S.I. 2003/403) ('the Principal Regulations'). The Principal Regulations were made under, among others, sections 76 and 77 of the Anti-Terrorism, Crime and Security Act 2001 (c.24) ('the 2001 Act') and include a definition of 'nuclear site' provided by section 76 of that Act. Notwithstanding the repeal of section 76 of the 2001 Act, paragraph 3 of Part 2 of Schedule 23 to the Energy Act 2004 saves section 76 for the purpose of the construction of any subordinate legislation which defines expressions by reference to definitions contained in that section. This savings provision applies in relation to the Principal Regulations which these Regulations amend.

4. **Legislative Context**

- 4.1 These Regulations amend the Principal Regulations and are made under section 77 of the 2001 Act, as amended by section 105 of the Energy Act 2011 (c.16). They apply the security regime to civil nuclear construction sites from the point at which works are carried out pursuant to a relevant planning permission.

5. **Territorial Extent and Application**

- 5.1 This instrument extends to the United Kingdom.

6. European Convention on Human Rights

6.1 As the 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 Currently security at nuclear premises in the civil nuclear industry is regulated from the point at which specified classes of nuclear material is used or stored on the site. Security is regulated by the Office for Nuclear Regulation ('ONR'), within the Health and Safety Executive, in line with the Principal Regulations. Under these Regulations the person responsible for security at that nuclear premises is required to put in place a site security plan, which includes the necessary measures to ensure the security of the premises. This plan must be approved by the ONR.

7.2 With the prospect of new nuclear power stations being constructed, and their proximity to existing nuclear sites, the Government identified security risks which need to be addressed both during the construction phase and once new civil nuclear sites are operating. The 2001 Act was amended by section 105 of the Energy Act 2011 to enable regulations to be made for the purpose of ensuring security of nuclear construction sites.

7.3 These Regulations address the security issues by applying the security regime to civil nuclear construction sites, thereby requiring the person with responsibility for the nuclear construction site to have in place a security plan approved by the ONR.

7.4 In particular the Regulations will—

(i) apply the security regime to a civil nuclear construction site from the point that works are carried out pursuant to a relevant planning consent;

(ii) require a civil nuclear licensed site to have a site security plan in place from the point of licensing (rather than as currently, from the point that nuclear material is brought onto the site); and

(iii) ensure the site security plans to be approved by ONR, take into account the risks of activities on that site to neighbouring nuclear licensed sites.

- Consolidation

7.5 The Energy Bill 2012 currently before Parliament contains clauses to put the ONR on a statutory footing (it is currently an agency of the Health and Safety Executive). The ONR, as a statutory body, will have responsibility, as it does now, for regulating the security of civil nuclear activity in the UK. As a result relevant existing regulations,

including the Nuclear Industry Security Regulations, will be amended as appropriate to reflect the new statutory changes. It is anticipated that this will take place in 2013-14. At this stage the Government will consider consolidating the Nuclear Industries Security Regulations and any other relevant legislation.

8. Consultation outcome

8.1 No formal public consultation was carried out on the proposals as they affect only a very small number of companies. In the course of 2012 DECC officials discussed the proposals with the ONR and consulted with the Nuclear Industry Association and the three groups currently involved in the UK's programme to build new nuclear power stations (the joint venture between EDF and Centrica, Horizon Nuclear Power, now owned by Hitachi, and NuGeneration Ltd, which is owned by GDF SUEZ and Iberdrola). All are content with the proposals. In addition, DECC officials met representatives of NGOs to explain the proposals and wrote to site stakeholder groups for locations where new nuclear power stations are proposed.

9. Guidance

9.1 The ONR, the regulator for the civil nuclear industry with responsibility for approving security plans, has issued detailed technical guidance to industry which includes guidance on the practical implementation of these Regulations. This guidance is classified.

10. Impact

10.1 The impact on business will be costs with a net present value having a central estimate of £3.6m over 5 years for a typical new nuclear power station.

10.2 The impact on the public sector will be negligible.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on www.legislation.gov.uk.

11. Regulating small business

11.1 These Regulations do not apply to small business.

12. Monitoring & review

12.1 The Regulations provide for a review by the Secretary of State after 5 years and the Regulations may be amended accordingly. No provision has been made to sunset these Regulations as this would not be in line with the need to ensure the security at civil nuclear sites, which is expected to be required into the future. The government keeps the civil nuclear security legislative framework under constant review.

13. Contact

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