



# Post Implementation Review of The Nuclear Industries Security (Amendment) Regulations 2013

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## Introduction

1. The document is the report of the review of the Nuclear Industries Security (Amendment) Regulations 2013.
2. This Command Paper and the associated PIR (page 5-6) set out the Government's views on the effectiveness of the Regulations. It considers:
  - The extent to which the Regulations are working;
  - Whether Government intervention is still required;

## Background

3. The UK has in place a comprehensive regulatory regime to ensure that security in the UK's civil nuclear industry is robust and effective. This is one of the Government's highest national security priorities. Under this regime the UK's independent nuclear security regulator, the Office for Nuclear Regulation (ONR), can require the nuclear industry to put in place approved security measures at civil nuclear facilities.
4. The security regime was set up in its current form in 2001-2003 when the construction of new nuclear power stations was not thought likely. As a result, this regime was concerned with locations including existing civil licensed nuclear sites where nuclear material or other radioactive material was already present. It did not take account of any new civil nuclear facilities which might be constructed. Since then new nuclear build has become a realistic prospect, with eight potential sites for new nuclear power stations identified in the nuclear national policy statement that the Government consulted on in October 2010, and construction underway at Hinkley Point C. All of the sites identified as suitable for new nuclear build are adjacent to existing civil nuclear facilities.
5. These Regulations amend the Nuclear Industries Security Regulations 2003 (S.I. 2003/403) (the 'Principal Regulations') to apply those Regulations to a nuclear site from the point a nuclear site licence is issued (under the Nuclear Installations Act 1965 (c. 57)) for the period until nuclear material is removed from the site as part of the decommissioning of



that site. These Regulations also extend (with amendments) the Principal Regulations to a nuclear construction site in prescribed circumstances.

### **Scope of the Post Implementation Review (PIR)**

6. The PIR considers the effectiveness of the Regulations in meeting its policy objective.
7. The Government does not consider the Regulations to be high profile or contentious as there is little impact on businesses. Therefore, in line with government guidance a light touch PIR has been applied to the analysis.

### **Research and Analysis**

8. Guidance for conducting PIRs provides that three questions should be addressed in a PIR:
  - To what extent are the Regulations working?
  - Is Government intervention still required?
  - Are the Regulations and the way they are implemented the most appropriate approach?
9. In order to answer these questions, a questionnaire was sent to the Office for Nuclear Regulation (ONR) to seek their views. The questionnaire sought comments on:
  - The impact of the Regulations;
  - Identification of benefits;
  - Any challenges in meeting the requirements;
  - The impact on business
10. BEIS received an in-depth response from the nuclear regulator. The response provided indications that the Regulations had a positive impact and were meeting the stated objectives.
11. In addition, the Nuclear Industry Association (NIA) was consulted. As the trade association for the nuclear supply chain, the NIA are in close contact with stakeholders from the nuclear industry. Colleagues from the NIA contacted representatives from industry and sought their views on the legislation. Details of their response are given below.

#### *To What Extent is the Regulation Working?*

12. The answers from ONR to the questionnaire, indicated that the Regulations were fit for purpose and broadly continue to meet their objectives. Responses suggested that the objectives of the legislation remain valid and relevant and the Regulations are working well.
13. Engagement with representatives from the NIA suggested that the Regulations had a relatively minor impact on operations and did not identify any suggestions for improvements or amendments.



14. Responses from stakeholders indicated that the Regulations meet the needs of nuclear power stations currently envisaged in the national policy statement.

*Is Government Intervention Still Required?*

15. The questionnaire answers indicated that the Regulations were still required. Concerns were raised that without the existence of these Regulations, there would be insufficient regulation of nuclear new build. This would likely impact on the public's confidence that the independent regulator was able to effectively and efficiently regulate the nuclear industry and hold industry to account. Answers stated that the Regulations would always be required while there is nuclear new build within the UK.
16. The Convention on the Physical Protection of Nuclear Material (CPPNM) is a legally binding international treaty relating to the physical protection of nuclear material. The Convention requires signatories to protect domestic civil nuclear facilities and material. The Regulations form part of the domestic regulatory framework that ensures that the UK is fulfilling its obligations under the CPPNM. As a consequence, this level of government intervention is still required to meet our treaty obligations.
17. No stakeholders suggested that the Regulations should be implemented in another format.

*Other Issues Identified*

18. The current national policy statement for the siting of nuclear power generation (National Policy Statement for Nuclear Power Generation EN-6) lists potentially suitable sites for the deployment of new nuclear power stations in England and Wales before the end of 2025, all of which are within 5km of existing nuclear licenced sites. Consequently, these sites fall within regulated vires meaning that developers are obliged to produce site security plans and ONR are able to regulate against these. The Regulations were designed on this basis.
19. An updated National Policy Statement for the siting of new nuclear power stations above 1GW post-2025 is currently undergoing consultation. Depending on the outcome of the consultation the Regulations may require amendment at the next post implementation review (if, for instance, the NPS designates new sites that are not within 5km of existing nuclear licensed sites).
20. Based on the information provided in this PIR survey the Government's view is that the Regulations should remain as in force, for the following reasons:
- The Regulations are meeting their stated objectives of helping to ensure that the regulatory regime for security in the UK's civil nuclear industry is robust and effective and of helping to meet the UK's treaty obligations on nuclear security.



- If the Regulations were removed there would be a gap in the regulatory regime for security in the UK's civil nuclear industry in relation to nuclear new build, which could damage the public's confidence in the ability of the nuclear regulator to effectively and efficiently regulate the nuclear industry; and could potentially put the UK in breach of its treaty obligations.

21. Therefore, the Government considers that the Regulations should remain in place.



<b>Title:</b> Post Implementation Review The Nuclear Industries Security (Amendment) Regulations 2013 <b>PIR No:</b> TBC <b>Original IA No:</b> DECC0090 <b>Lead department or agency:</b> BEIS <b>Other departments or agencies:</b> N/A  Contact for enquiries: Lucy Jordan	<b>Post Implementation Review</b>
	<b>Date:</b> 8 April 2020
	<b>Type of Regulation:</b> Secondary legislation
	<b>Type of review:</b> Statutory
	<b>Date measure came into force:</b> 28 February 2013
	<b>Recommendation:</b> Keep
<b>RPC Opinion:</b> N/A	

## Questions

### 1. What were the policy objectives of the measure? (Maximum 5 lines)

The objectives of the Nuclear Industries Security (Amendment) Regulations 2013 were to ensure that security in the civil nuclear industry continues to be robust and effective and continues to meet the UK's treaty obligations on nuclear security. The Regulations allow the regulator, the Office for Nuclear Regulation (ONR) to require industry to put in place approved security measures during the construction phase of new civil nuclear facilities.

### 2. What evidence has informed the PIR? (Maximum 5 lines)

The Department for Business Energy and Industrial Strategy (BEIS) has no major concerns with the Regulations. A short questionnaire was given to the nuclear regulator (Office for Nuclear Regulation) and opinions were sought from trade associations and representatives from industry. The questionnaire details are available at **Annex 2**

### 3. To what extent have the policy objectives been achieved? (Maximum 5 lines)

The Regulations meet their policy objectives, as they provide the regulator the necessary powers to regulate the security of sites while nuclear facilities are under construction. The policy objectives have been achieved in that the Regulations fill a gap in the regulatory regime for security in the UK's civil nuclear industry in relation to nuclear new build. Without these regulations, such a gap could damage the public's confidence in the ability of the nuclear regulator to effectively and efficiently regulate the nuclear industry, and potentially putting the UK in breach of its treaty obligations.



Sign-off for Post Implementation Review: Chief economist

***I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.***

**Signed:**

**Date:** 31/01/2020

Jenny Bates, Chief Economist



## Further information

### Questions

**4. What were the original assumptions?** (Maximum 5 lines)

The impact assessment estimated the Regulations would result in additional costs to nuclear operators. It was estimated that the changes would result in an Equivalent Annual Net Cost to Business (EANCB) of -£0.65m per operator over a period of five years i.e the period of time over which the costs of security measures would be incurred by the operator. The cost estimates were based on a combination of information from industry and the security regulator.

**5. Were there any unintended consequences?** (Maximum 5 lines)

We are not aware of any unintended consequences of the Regulations.

**6. Has the evidence identified any opportunities for reducing the burden on business?**  
(Maximum 5 lines)

The evidence has not identified any opportunities for reducing the burden on business. The Regulations are required to provide robust and effective security for the construction of new civil nuclear facilities.

**7. For EU measures, how does the UK's implementation compare with that in other EU member states in terms of costs to business?** (Maximum 5 lines)

Not applicable.



## **The Nuclear Industries Security (Amendment) Regulations 2013 Post Implementation Review Questionnaire**

The Nuclear Industries Security (Amendment) Regulations 2013 are due for a statutory Post Implementation Review (PIR). A PIR is a process to assess the effectiveness of a regulation after it has been implemented and operational for a period of time. It addresses the extent to which a regulation is achieving its intended effects, whether there have been any unintended effects, how well it is working and the reasons why.

The objective of the Regulations (stated in the Impact Assessment in 2013) was to ensure that security in the civil nuclear industry continues to be robust and effective and to meet the UK's Treaty obligations on nuclear security.

In order to meet this objective, the Regulations do the following:

- Apply security regulation to civil nuclear construction sites (for new build sites within 5km of existing nuclear licensed sites security regulation starts when construction work commences under planning permission or a development consent order)
- Apply security regulation at nuclear sites from the point of licensing of that site (for any new build sites not within 5km of existing nuclear licensed sites – none currently envisaged – security regulation starts at site licensing)
- Ensure that security plans for a nuclear construction site or a nuclear site consider security risks from activities on those sites to neighbouring civil nuclear sites

The questions below aim to assess the effectiveness of the regulation and identify relevant issues.

Q1. Please give your views on whether, and to what extent, the Regulations have achieved their objectives.

Q2. Overall how well are the Regulations working?

Q3. Have the Regulations resulted in any unintended consequences?

Q4. What do you consider would happen if the Regulations were removed?

Q5. Do you consider that the objectives of the Regulations could be met by an alternative non-legislative measure?

Q6. Do you consider that the objectives of the regulation are still valid/relevant? Why?

Q7. Are there any aspects of the Regulations which require review? If so Why?

Q8. What refinements or amendments could be made to the Regulations to improve their effectiveness?

Q9. In accordance with the impact assessment, do you think the estimated costs for the Regulations are still valid?

Q10. Do you have any other comments that you believe would help us to evaluate these Regulations?