EXPLANATORY NOTE

(This note is not part of the Regulations)

1. The Health and Safety and Nuclear (Fees) Regulations 2015 ("the Regulations") revoke and replace the Health and Safety (Fees) Regulations 2012 (S.I. 2012/1652) ("the 2012 Regulations"). They consolidate amendments made to the 2012 Regulations by the following amending instruments: S.I. 2013/1237, S.I. 2013/1506, S.I. 2013/1512, S.I. 2013/1948, S.I. 2014/469, S.I. 2014/1637, S.I. 2014/1638, S.I. 2014/1639, S.I. 2014/1663 and S.I. 2014/3248.

2. The Regulations do not introduce any fee increases for fees that were prescribed by the 2012 Regulations. In addition to incorporating the amendments referred to above, the Regulations also:

(a) provide for fees payable to the Office for Nuclear Regulation under regulation 16 and Schedule 12 to be made in these Regulations under the Energy Act 2013. The fee amounts remain unchanged from the 2012 Regulations;

(b) introduce a de minimis provision relating to fees payable under regulation 8(9) and Schedule 6 in respect of dose records sent to the Health and Safety Executive; and

(c) incorporate fees payable in respect of biocidal products (see paragraph 5).

3. Regulation 1(2) provides that these Regulations are to cease to have effect five years after they come into force (6th April 2015). Regulation 2 contains definitions.

4. The Regulations fix or determine the fees payable by an applicant to, in most cases, the Health and Safety Executive, in respect of-

(a) an application for approval of plant of equipment under the Agriculture (Tractor Cabs) Regulations 1974 (*regulation 3 and Schedule 1*);

(b) applications under the Freight Containers (Safety Conventions) Regulations 1984 (*regulation 4 and Schedule 2*);

(c) applications for approval under the Control of Asbestos Regulations 2012 (*regulation 5 and Schedule 3*);

(d) examination or surveillance by an employment medical adviser (*regulation 6 and Schedule 4*);

(e) medical surveillance by an employment medical adviser under the Control of Lead at Work Regulations 2002 (*regulation 7 and Schedule 5*);

(f) applications under the Ionising Radiations Regulations 1999 and the Radiation (Emergency Preparedness and Public Information) Regulations 2001 (*regulation 8 and Schedule 6*);

(g) applications under the Explosives Regulations and the Acetylene Safety (England and Wales and Scotland) Regulations 2014 (*regulation 9 and Schedule 7*);

(h) an application under the Petroleum (Consolidation) Regulations 2014 (*regulation 10 and Schedule 7*);

(i) applications under Part 9 of the Dangerous Substances in Harbour Areas Regulations 1987 (*regulation 11 and Schedule 8*);

(j) applications and notifications under the Genetically Modified Organisms (Contained Use) Regulations 2014 (*regulation 13 and Schedule 9*);

(k) offshore installations (regulation 14 and Schedule 10);

(l) gas safety functions (regulation 15 and Schedule 11);

(m) nuclear installations (regulation 16 and Schedule 12);

(n) offshore first-aid and medical training (*regulation 18 and Schedule 13*); and

(o) notifications under the Borehole Sites and Operations Regulations 1995 (*regulation 20 and Schedule 14*).

5. Under *regulation 21 and Schedule 15*, fees are prescribed that are payable under Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products and the Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013. These fees were previously prescribed in the Biocidal Products (Fees and Charges) Regulations 2013, which are revoked by regulation 26. Regulation 21 does not reproduce the annual charge made under those Regulations.

6. Under *regulations 22 to 24*, fees are payable in respect of functions performed by the Executive if a person is in contravention of the relevant statutory provisions ("fees for intervention".

7. *Regulation 25* requires the Secretary of State to review the operation and effect of these Regulations and to publish a report within three years after the Regulations come into force. Following the review it will fall to the Secretary of State to consider whether the Regulations should be allowed to expire as regulation 1(2) provides, be revoked early, or continue in force with or without amendment. Given the effect of regulation 1(2), a further instrument would be needed to continue the Regulations in force with or without amendment or to revoke them early.

8. *Regulation 26(1)* revokes the Health and Safety (Fees) Regulations 2012 and the Biocidal Products (Fees & Charges) Regulations 2013 subject to regulation 26(2).

9. *Regulation 26(2)* sets out those provisions of the Biocidal Products Regulations 2001 which continue to apply for the purposes of calculating the fee payable in respect of the evaluation of applications for biocidal product authorisations submitted before 1 September 2013.

10. An impact assessment of the effect that the fees introduced by these Regulations will have on the costs of business and the voluntary sector is published with the Explanatory Memorandum which is available alongside the instrument at www.legislation.gov.uk.

11. "Guidance on the application of Fee for Intervention" (1st edition) can be downloaded without charge at www.hse.gov.uk, and a priced copy may be purchased from HSE Books, PO Box 1999, Sudbury, Suffolk CO10 2WA.