

2018 No. 834

ENVIRONMENTAL PROTECTION

NUCLEAR ENERGY

**The Nuclear Reactors (Environmental Impact Assessment for
Decommissioning) (Amendment) Regulations 2018**

<i>Made</i> - - - -	<i>11th July 2018</i>
<i>Laid before Parliament</i>	<i>12th July 2018</i>
<i>Coming into force</i> - -	<i>6th August 2018</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) (“the ECA 1972”) and section 71A(1) and (2) of the Town and Country Planning Act 1990(b).

The Secretary of State has been designated for the purposes of section 2(2) of the ECA 1972 in relation to the environment(c).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Nuclear Reactors (Environmental Impact Assessment for Decommissioning) (Amendment) Regulations 2018.

(2) These Regulations come into force on 6th August 2018.

(3) In these Regulations, “the NREIAR 1999” means the Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999(d).

Amendments to the NREIAR 1999

2. The NREIAR 1999 are amended in accordance with regulations 3 to 19.

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- (a) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7). By virtue of the amendment of section 1(2) of the European Communities Act 1972 by section 1 of the European Economic Area Act 1993 (c. 51), regulations may be made under section 2(2) of the European Communities Act 1972 to implement obligations created or arising under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 together with the Protocol adjusting that Agreement signed at Brussels on 17th March 1993. Annex XX to that Agreement provides that the term “Member State” in Directive 2011/92/EU includes Iceland, Liechtenstein and Norway. Regulations 4 and 11 of these Regulations make provision in relation to “EEA States”.
- (b) 1990 c. 8. Section 71A was inserted by section 15 of the Planning and Compensation Act 1991 (c. 34), and amended by paragraphs 1 and 16 of Schedule 12 to the Housing and Planning Act 2016 (c. 22) and S.I. 2011/1043.
- (c) S.I. 2008/301.
- (d) S.I. 1999/2892, amended by S.I. 2006/657.

Amendments to regulation 2

3.—(1) Regulation 2 (definitions) is amended as follows.

(2) At the appropriate places insert—

““environmental assessment” (except in the phrase “EU environmental assessment”) means an assessment carried out in accordance with an obligation under the law of any part of the United Kingdom of the effect of anything on the environment;”;

““environmental statement” is to be read in accordance with regulation 5;”;

““EU environmental assessment” means an assessment carried out—

(a) under an obligation to which section 2(1) of the European Communities Act 1972 applies (other than the Directive); or

(b) under the law of any part of the United Kingdom implementing an EU obligation other than an obligation arising under the Directive, of the effect of anything on the environment;”;

““the HSWA 1974” means the Health and Safety at Work etc. Act 1974(a);”;

““the Habitats Directive” means Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora(b), as last amended by Council Directive 2013/17/EU(c);”;

““the Wild Birds Directive” means Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds(d), as amended by Council Directive 2013/17/EU;”.

(3) For the definition of “the Directive” substitute—

““the Directive” means Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment(e), as amended by Directive 2014/52/EU of the European Parliament and of the Council(f);”.

(4) In the definition of “the consultation bodies”—

(a) for the words from “and such of the following bodies” to “Environment Agency;” substitute—

“(d) in England—

(i) the Environment Agency; and

(ii) Natural England;”;

(b) after paragraph (g) insert—

“(h) any other body with environmental or public health responsibilities or local or regional competencies with whom the ONR considers it appropriate to consult;”.

(5) For the definition of “environmental impact assessment” substitute—

““environmental impact assessment” means, in relation to a project—

(a) the preparation of an environmental statement by the licensee under regulations 5 and 6;

(b) the carrying out of any consultations under regulations 8 to 10A and 12;

(c) the ONR’s consideration of the information about the likely significant effects of the project on the environment under regulation 10B(2);

(a) 1974 c. 37.

(b) OJ No L 206, 22.7.1992, p. 7.

(c) OJ No L 158, 10.6.2013, p. 193.

(d) OJ No L 20, 26.1.2010, p. 7.

(e) OJ No L 26, 28.1.2012, p. 1.

(f) OJ No L 124, 25.4.2014, p. 1.

- (d) the ONR reaching a conclusion about the likely significant effects of the project on the environment under regulation 10B(3); and
- (e) the ONR's consideration of that conclusion under regulation 10C(1) when determining the application.”.

Amendment to regulation 3

4. For paragraph (3) of regulation 3 (application) substitute—

“(3) These Regulations do not apply to any project or part of a project serving national defence as its sole purpose where the Secretary of State is of the opinion that the application of these Regulations would have an adverse effect on that purpose.

(4) The reference to these Regulations not applying to part of a project serving national defence as its sole purpose is a reference to that part of the project being disregarded in the environmental impact assessment of the project.

(5) These Regulations do not apply to any project having the response to a civil emergency as its sole purpose where the Secretary of State is of the opinion that the application of these Regulations would have an adverse effect on that purpose.

(6) These Regulations do not apply to any project where the Secretary of State is of the opinion that conditions A to C are met.

(7) Condition A is that the project is an exceptional case and that the application of these Regulations would result in adversely affecting the purpose of the project.

(8) Condition B is that the objectives of the Directive will be met despite these Regulations not applying to the project.

(9) Condition C is that the project is unlikely to have significant effects on the environment in another EEA State.

(10) Where the Secretary of State is of the opinion referred to in paragraph (3), (5) or (6), the Secretary of State must as soon as possible after forming the opinion notify in writing the ONR and the licensee.

(11) Where the Secretary of State is of the opinion referred to in paragraph (6), the Secretary of State must consider whether another form of assessment would be appropriate.

(12) Notification under paragraph (10) must—

- (a) state that the Secretary of State is of the opinion referred to in paragraph (3), (5) or (6);
- (b) state that these Regulations do not apply to the project, or in a case where the Secretary of State is of the opinion referred to in paragraph (3) in respect of part of a project, explain the effect of paragraph (4);
- (c) where the Secretary of State considers that another form of assessment is appropriate in accordance with paragraph (11), give the details of that assessment and explain how the results of the assessment may be obtained.

(13) Where the ONR is notified that the Secretary of State is of the opinion referred to in paragraph (6) in accordance with paragraph (12), the ONR must make available to the public concerned—

- (a) the information relating to the opinion referred to in paragraph (6) including the reasons for that opinion; and
- (b) the information obtained under any assessment considered appropriate in accordance with paragraph (11).”.

Amendments to regulation 4

5.—(1) Regulation 4 (consent for dismantling or decommissioning) is amended as follows.

(2) Regulation 4 is renumbered as paragraph (1) of that regulation.

(3) After paragraph (1) (as renumbered) insert—

“(2) The ONR may require the licensee to provide the application in an electronic form.”

New regulation 4A

6. After regulation 4 insert—

“Coordination with other assessments

4A.—(1) This regulation applies where an environmental impact assessment and an assessment under regulation 24 or 63 of the Conservation of Habitats and Species Regulations 2017(a) are required in respect of the same project.

(2) The ONR must, where appropriate, ensure that the environmental impact assessment and the other assessment or assessments are coordinated.”.

Amendments to regulation 5

7.—(1) Regulation 5 (provision of an environmental statement) is amended as follows.

(2) In paragraph (1)—

(a) for “4(a)” substitute “4(1)(a)”;

(b) in the words before point (a) after “being a statement which” insert “includes”;

(c) for sub-paragraphs (a) and (b) substitute—

“(a) a description of the project comprising information on the site, design, size and other relevant features of the project;

(b) a description of the likely significant effects of the project on the environment;

(c) a description of any features of the project or measures envisaged to avoid, prevent or reduce and, if possible, offset, any likely significant adverse effects on the environment;

(d) a description of the reasonable alternatives studied by the licensee, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the likely significant effects of the project on the environment;

(e) a non-technical summary of the information referred to in sub-paragraphs (a) to (d); and

(f) any further information specified in Schedule 1 relevant to the specific characteristics of a particular project or type of project and to the environmental features likely to be affected.”.

(3) For paragraph (2) substitute—

“(2) The environmental statement shall—

(a) be prepared by a competent person and state the relevant expertise and qualifications of that person;

(b) be based on any opinion given under regulation 6 in respect of the project;

(c) include the information reasonably required for reaching a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment;

(d) take into account the results of any relevant environmental assessment which are reasonably available to the licensee.

(a) S.I. 2017/1012.

(3) The ONR may require the licensee to provide the environmental statement in an electronic form.”.

Amendments to regulation 6

8.—(1) Regulation 6 (pre-application opinion as to the content of the environmental statement) is amended as follows.

(2) In paragraph (1) after “opinion as to” insert “the scope and level of detail of”.

(3) After paragraph (3) insert—

“(3A) The ONR shall not give an opinion in response to a request under paragraph (1) unless it has taken into account the information provided by the licensee, in particular on the specific characteristics of the project, including its location and technical capacity, and its likely impact on the environment.”.

Amendment to regulation 7

9. In regulation 7 (provision of information to licensee) for “4(a)” substitute “4(1)(a)”.

Amendments to regulation 8

10.—(1) Regulation 8 (procedure by the ONR) is amended as follows.

(2) In the heading for “Procedure” substitute “Consultation”.

(3) In paragraph (1), in the words before sub-paragraph (a) for “4(a)” substitute “4(1)(a)”.

(4) In paragraph (2)—

(a) in sub-paragraph (b), for “paragraph (1)” substitute “sub-paragraph (a)”;

(b) in sub-paragraph (d), for “9(1)(i) and (j)” substitute “9(2)(j) and (l)”.

(5) Omit paragraphs (3) and (4).

Substitution of regulations 9 and 10

11. For regulations 9 (publicity) and 10 (further information and evidence respecting environmental statements) substitute—

“Publicity: newspapers

9.—(1) Within 7 days of providing the ONR with an environmental statement pursuant to regulation 5, the licensee must provide the ONR with—

(a) a publicity notice (see paragraph (2)); and

(b) a statement setting out the newspaper publication date (see paragraph (3)).

(2) A publicity notice is a notice setting out—

(a) the name and address of the licensee and that the licensee is the applicant in respect of a consent for a project;

(b) the date on which the application was made;

(c) the address or location of the site at which the proposed project is to be carried out;

(d) the publicity period (see paragraph (4));

(e) that a copy of the application together with a copy of the environmental statement may be inspected at all reasonable hours by members of the public during the publicity period;

(f) an address (or addresses) in the locality of the power station or reactor at which those documents may be inspected;

- (g) an address (or addresses) (whether or not the same as that given under subparagraph (f) above) in the locality of the power station or reactor at which copies of the environmental statement may be obtained during the publicity period;
 - (h) that during the publicity period copies may be obtained there so long as stocks last;
 - (i) if a charge is to be made for a copy, the amount of the charge;
 - (j) that any person wishing to make representations about the application should make them in writing to the ONR at a specified address within the publicity period;
 - (k) that a copy of the publicity notice and the information referred to in regulation 9A(1) will be published on the ONR's website in accordance with regulation 9A; and
 - (l) that the project is subject to an environmental impact assessment procedure.
- (3) The newspaper publication date—
- (a) is the date on which the licensee proposes to first publish the publicity notice in a newspaper (see paragraph (6)); and
 - (b) must fall within the period of 7 days beginning with the date on which the publicity notice is provided to the ONR.
- (4) The publicity period is the period of not less than 30 days beginning with the newspaper publication date.
- (5) The ONR may require the licensee to provide the publicity notice in an electronic form.
- (6) On the newspaper publication date, the licensee must publish the publicity notice—
- (a) in one or more newspapers circulating in the locality in which the project is to be carried out; and
 - (b) in any other newspaper named by the ONR.
- (7) The licensee must provide the ONR with a copy of the notice published under paragraph (6) within the period of 14 days beginning with the newspaper publication date.
- (8) The licensee must ensure that at the relevant address (or addresses) at all reasonable hours during the publicity period—
- (a) not less than 5 copies of the application for consent to carry out a project together with 5 copies of the environmental statement are available for inspection by members of the public; and
 - (b) copies of the environmental statement are available on payment of a reasonable charge reflecting printing and distribution costs.

Publicity: ONR's website

- 9A.**—(1) The ONR must publish the following information on its website on the newspaper publication date (see regulation 9(3))—
- (a) the publicity notice provided under regulation 9(1);
 - (b) the application for consent; and
 - (c) the environmental statement.
- (2) The ONR must ensure that the information continues to be so published for a period of—
- (a) 30 days beginning with the newspaper publication date; or
 - (b) such longer period as the ONR considers appropriate.

Further information: provision to ONR and newspaper publicity

10.—(1) If the ONR considers that an environmental statement should contain further information specified in Schedule 1, the ONR must notify the licensee in writing that further information is required.

(2) The notification must describe the further information required.

(3) The licensee must then provide the ONR with—

- (a) the further information;
- (b) a further publicity notice (see paragraph (4)); and
- (c) a statement setting out the further newspaper publication date (see paragraph (5)).

(4) A further publicity notice is a notice setting out—

- (a) the name of the licensee;
- (b) the date on which the application for consent to carry out the project was made;
- (c) the address or location of the site at which the proposed project is to be carried out;
- (d) the further publicity period (see paragraph (6));
- (e) that further information is available in relation to an environmental statement which has already been provided;
- (f) that a copy of the further information may be inspected by members of the public during the further publicity period;
- (g) an address (or addresses) in the locality of the power station or nuclear reactor at which the further information may be inspected;
- (h) an address (or addresses) (whether or not the same as that given under subparagraph (g) above) in the locality of the nuclear reactor or power station at which copies of the further information may be obtained during the further publicity period;
- (i) that copies may be obtained during the further publicity period there as long as stocks last;
- (j) if a charge is to be made for a copy, the amount of the charge;
- (k) that a copy of the further publicity notice and the further information will be published on the ONR's website in accordance with regulation 10A(4) and (5);
- (l) that any person wishing to make representations about the further information should make them in writing to the ONR at a specified address within the further publicity period.

(5) The further newspaper publication date—

- (a) is the date on which the licensee proposes to first publish the further publicity notice in a newspaper (see paragraph (8)); and
- (b) must fall within the period of 14 days beginning with the date on which the publicity notice is provided to the ONR.

(6) The further publicity period is the period of not less than 30 days beginning with the further newspaper publication date.

(7) The ONR may require the licensee to provide the further information and further publicity notice in an electronic form.

(8) On the further newspaper publication date, the licensee must publish the further publicity notice—

- (a) in one or more newspapers circulating in the locality in which the project is to be carried out; and
- (b) in any other newspaper named by the ONR.

(9) The licensee must provide the ONR with a copy of the notice published under paragraph (8) within the period of 14 days beginning with the further newspaper publication date.

(10) The licensee must ensure that at the relevant address (or addresses) at all reasonable hours during the further publicity period—

- (a) not less than 5 copies of the further information are available for inspection by members of the public during the further publicity period; and
- (b) copies of the further information are available on payment of a reasonable charge reflecting printing and distribution costs.

(11) The ONR may by notice in writing require a licensee to produce such evidence as the ONR may reasonably require for the purpose of verifying any information in the licensee's environmental statement.

Further information: ONR obligations and website publicity

10A.—(1) Where the ONR has provided information relating to an environmental statement to a consultation body or other person under regulation 8 and the ONR receives further information relating to the environmental statement under regulation 10(3)(a), the ONR must send a copy of the further information to that body or person.

(2) The ONR may by notice in writing require the licensee to provide such number of copies of the further information as is specified in the notice (being the number required for the purposes of paragraph (1)).

(3) Upon sending the notice the ONR—

- (a) must suspend consideration of the application; and
- (b) must not determine the application before the later of—
 - (i) the expiry of 14 days after the date on which the further information was sent to each body or person in accordance with paragraph (1);
 - (ii) the expiry of 30 days after the further newspaper publication date (see regulation 10(5)).

(4) The ONR must publish the following information on its website on the further newspaper publication date—

- (a) the further publicity notice; and
- (b) the further information.

(5) The ONR must ensure that the further information continues to be so published for a period of—

- (a) 30 days beginning with the date of further newspaper publication date; or
- (b) such longer period as the ONR considers appropriate.

Conclusion about environmental impact

10B.—(1) Before granting consent to carry out a project, the ONR must comply with paragraphs (2) and (3).

(2) The ONR must consider (ensuring that in doing so it has or has access to any expertise it considers necessary)—

- (a) the environmental statement;
- (b) any further information or evidence provided by the licensee in accordance with regulation 10;
- (c) any relevant information received through any consultations under regulations 8 to 10A;
- (d) the outcome of any consultation under regulation 12;

- (e) any features of the project, or measures which the licensee proposes to take, which would have the effect of avoiding, preventing, reducing or offsetting any likely significant adverse effects of the project on the environment.

(3) The ONR must then reach a conclusion about the likely significant effects of the project (including the expected effects deriving from the vulnerability of the project to risks of major accidents or disasters) on—

- (a) population and human health;
- (b) biodiversity, with particular attention to species and habitats protected under the Habitats Directive and the Wild Birds Directive;
- (c) land, soil, water, air and climate;
- (d) material assets, cultural heritage and the landscape; and
- (e) the interaction between the factors referred to in sub-paragraphs (a) to (d).

Procedure relating to consent decision

10C.—(1) Following its conclusion under regulation 10B(3), the ONR must consider—

- (a) the application for consent;
- (b) its conclusion under regulation 10B(3); and
- (c) whether consent under regulation 4(1) should be granted subject to conditions (see paragraph (2)).

(2) The ONR may, on granting a consent to carry out a project, attach to that consent such conditions as may appear to it to be necessary or desirable, taking into account the following factors—

- (a) the interests of limiting the impact on the environment;
- (b) existing monitoring under an obligation under the law of any part of the United Kingdom;
- (c) whether any further monitoring is appropriate;
- (d) whether provision needs to be made for remedial action in respect of any risk posed by the project; and
- (e) any other relevant factors.

(3) The ONR must not attach conditions relating to monitoring to a consent unless satisfied that the type of parameters to be monitored and the duration of monitoring are proportionate to the nature, location and size of the project in question and the significance of its effect on the environment.

(4) The ONR must not grant consent to carry out a project unless satisfied that its conclusion under regulation 10B(3) in respect of the project is up to date.

(5) The ONR must grant or refuse to grant consent to carry out a project within a reasonable period of time (taking into account the nature and complexity of the application for consent), beginning with the date on which the ONR is given all the information in respect of the project which it is required to consider under regulation 10B(2).

(6) The ONR must not grant a consent (whether for the purposes of these Regulations or otherwise) to carry out a project before the later of the following dates—

- (a) the end of the publicity period relating to the project under regulation 9 (see regulation 9(4));
- (b) the end of any further publicity period relating to the project under regulation 10 (see regulation 10(6)); or
- (c) where regulation 12(a) or (b) applies in relation to an EEA State—
 - (i) where the EEA State has not indicated under regulation 12(1)(iii) whether it wishes to be consulted, the end of the reasonable period of time referred to in that sub-paragraph; or

- (ii) where the EEA State has indicated under regulation 12(1)(iii) that it does wish to be consulted, the end of a period of 21 days beginning with the end of the reasonable period of time agreed with the EEA State under paragraph (5)(b) of that regulation.”.

Amendments to regulation 11

- 12.**—(1) Regulation 11 (information as to decisions) is amended as follows.
- (2) Regulation 11 is renumbered as paragraph (1) of that regulation.
 - (3) In paragraph (1) (as renumbered)—
 - (a) in the words before sub-paragraph (a) after “shall” insert “as soon as possible”;
 - (b) in sub-paragraph (a) for “of the decision” substitute “and the consultation bodies of the relevant information”;
 - (c) in sub-paragraph (b) after “notice” insert “containing the relevant information”;
 - (d) for sub-paragraph (c) substitute—
 - “(c) make the relevant information available free of charge for public inspection at all reasonable hours at an office of the ONR nearest to the place where the power station or reactor is situated.”.
 - (4) After paragraph (1) (as renumbered) insert—
 - “(2) The relevant information is—
 - (a) the content of the decision and any conditions attached to it;
 - (b) the main reasons and considerations on which the decision is based, including information about the public participation process;
 - (c) a summary of the results of the consultations and information gathered pursuant to regulations 5, 8 to 10A and 12;
 - (d) a description of how the information referred to in sub-paragraph (c) has been incorporated into the decision or otherwise addressed, in particular the results of any consultation under regulation 12;
 - (e) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the project; and
 - (f) information regarding the right to challenge the validity of the decision and the procedures for doing so.”.

Amendment to regulation 12

13. In paragraph (3)(b) of regulation 12 (projects likely to have significant effects on the environment in another EEA State) for “10(1)” substitute “10(3)(a)”.

Amendments to regulation 13

- 14.**—(1) Regulation 13 (change or extension of project) is amended as follows.
- (2) In paragraph (1)(a) for “4(b)” substitute “4(1)(b)”.
 - (3) For paragraph (2) substitute—
 - “(2) In determining for the purpose of paragraph (1) whether an environmental impact assessment is required, the ONR shall have regard to—
 - (a) the relevant selection criteria set out in Schedule 2;
 - (b) where relevant, the results of any relevant EU environmental assessment which are reasonably available to the ONR.”.
 - (4) In paragraph (3) for the words from “such” to “require” substitute “the information specified in Schedule 3”.

(5) After paragraph (3) insert—

“(3A) When compiling that information, the licensee shall take into account the results of any relevant EU environmental assessment which are reasonably available to the licensee.

(3B) The licensee may provide to the ONR a description of any feature of the project or measure envisaged to avoid or prevent what otherwise might be significant adverse effects on the environment.

(3C) The ONR may in writing require that the licensee provides further information where the ONR considers that the further information is required in order for it to reach its determination under paragraph (1).”.

(6) In paragraph (5)—

(a) in the words before sub-paragraph (a) for the words from the beginning to “project” substitute “Following the ONR’s determination under paragraph (1)”;

(b) in sub-paragraph (b) after “based” insert “, with reference to the relevant selection criteria set out in Schedule 2”.

(7) After paragraph (5) insert—

“(6) Where the ONR determines under paragraph (1) that an environmental impact assessment is not required, the ONR shall state in the notice or other means referred to in paragraph (5)(b) any features of the project or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

(7) The ONR shall make its determination under paragraph (1)—

(a) as soon as possible after the day on which it is provided with the information under paragraph (3) or (3C) (whichever is the later); and

(b) in any event, within a period of 90 days beginning with that day.

(8) The ONR may, if satisfied that there are exceptional circumstances (including circumstances relating to the nature, complexity, location or size of the project), extend the period mentioned in paragraph (7).

(9) If the ONR exercises the power in paragraph (8), it shall inform the licensee in writing of the reasons for the extension and the date by which it expects to make its determination under paragraph (1).”.

Amendments to regulation 15

15.—(1) Regulation 15 (recovery of expenses by the ONR) is amended as followed.

(2) In paragraph (1) for “1974 Act” substitute “HSWA 1974”.

(3) In paragraph (2), in the words before sub-paragraph (a) for “5” substitute “6”.

Amendments to regulation 16

16. In regulation 16 (enforcement), in paragraph (1)—

(a) for “Health and Safety at Work etc. Act 1974” substitute “HSWA 1974”;

(b) for “1974 Act” substitute “HSWA 1974”.

Substitution of Schedule 1

17. For Schedule 1 (information to be included in an environmental statement) substitute the Schedule at Schedule 1.

Substitution of Schedule 2

18. For Schedule 2 (criteria for determining further assessment) substitute the Schedule at Schedule 2.

New Schedule 3

19. After Schedule 2 insert the Schedule at Schedule 3.

Amendment to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017

20. In the Town and Country Planning (Environmental Impact Assessment) Regulations 2017(a), in Schedule 1 (descriptions of development for the purposes of the definition of “Schedule 1 development”), in the paragraph headed “Interpretation”, in the definition of “nuclear power station” and “other nuclear reactor” after “nuclear reactor is” insert “not”.

Amendment to the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017

21. In the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(b), in Schedule 1 (descriptions of development for the purposes of the definition of “Schedule 1 development”), in the paragraph headed “Interpretation”, in the definition of “nuclear power station” and “other nuclear reactor” after “nuclear reactor is” insert “not”.

Transitional provisions

22. These Regulations do not apply in respect of—

- (a) a project, where the licensee provided an environmental statement in respect of the project under regulation 5(1) of the NREIAR 1999 before 6th August 2018;
- (b) a project, where the licensee requested an opinion about the content of the environmental statement in respect of the project under regulation 6(1) of the NREIAR 1999 before 6th August 2018; and
- (c) a determination of whether a project is to be made subject to an environmental impact assessment under regulation 13 of the NREIAR 1999, where the licensee applied for the determination in respect of the project under regulation 13(1) before 6th August 2018.

11th July 2018

Richard Harrington
Parliamentary Under Secretary of State
Department for Business, Energy and Industrial Strategy

SCHEDULE 1

Regulation 17

“SCHEDULE 1 Regulations 5(1)(f) and 10(1)

Information which may need to be included in an environmental statement

1. A description of the project, including in particular—
 - (a) a description of the location of the project;

(a) S.I. 2017/571, to which there are amendments not relevant to these Regulations.
(b) S.I. 2017/572, to which there are amendments not relevant to these Regulations.

- (b) a description of the physical characteristics of the whole project, including, where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases;
- (c) a description of the main characteristics of the operational phase of the project (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used;
- (d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation) and quantities and types of waste produced during the construction and operation phases.

2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the licensee, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

3. A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the project as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.

4. A description of the factors specified in regulation 10B(3) likely to be significantly affected by the project: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.

5. A description of the likely significant effects of the project on the environment resulting from, among other things—

- (a) the construction and existence of the project, including, where relevant, demolition works;
- (b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;
- (c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste;
- (d) the risks to human health, cultural heritage or the environment (for example due to accidents or disasters);
- (e) the cumulation of effects with other existing or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources;
- (f) the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change;
- (g) the technologies and the substances used.

The description of the likely significant effects on the factors specified in regulation 10B(3) should cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the project. This description should take into account the environmental protection objectives established at European Union or Member State level which are relevant to the project.

6. A description of the forecasting methods or evidence, used to identify and assess the significant effects on the environment, including details of difficulties (for example

technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.

7. A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis). That description should explain the extent, to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases.

8. A description of the expected significant adverse effects of the project on the environment deriving from the vulnerability of the project to risks of major accidents or disasters which are relevant to the project concerned. Relevant information available and obtained through risk assessments pursuant to European Union legislation such as the COMAH Directive or the Nuclear Safety Directive or other relevant environmental assessments may be used for this purpose provided that the requirements of this Directive are met. Where appropriate, this description should include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.

In this paragraph—

“the COMAH Directive” means Directive 2012/18/EU of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC(a);

“the Nuclear Safety Directive” means Council Directive 2009/71/Euratom establishing a Community framework for the nuclear safety of nuclear installations(b) as amended by Council Directive 2014/87/Euratom(c).

9. A non-technical summary of the information provided under paragraphs 1 to 8.

10. A reference list detailing the sources used for the descriptions and assessments included in the report.”

SCHEDULE 2

Regulation 18

“SCHEDULE 2 Regulation 13(2)(a) and (5)(b)

Criteria for determining further assessment

Characteristics of projects

1. The characteristics of projects must be considered, with particular regard to—

- (a) the size and design of the whole project;
- (b) cumulation with other existing or approved projects;
- (c) the use of natural resources, in particular land, soil, water and biodiversity;
- (d) the production of waste;
- (e) pollution and nuisances;

(a) OJ No L 197, 24.7.2012, p. 1.
(b) OJ No L 172, 2.7.2009, p. 18.
(c) OJ No L 219, 25.7.2014, p.42.

- (f) the risk of major accidents or disasters which are relevant to the project concerned, including those caused by climate change, in accordance with scientific knowledge;
- (g) the risks to human health (for example due to water contamination or air pollution).

Location of projects

2. The environmental sensitivity of geographical areas likely to be affected by projects must be considered, with particular regard to—

- (a) the existing and approved land use;
- (b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground;
- (c) the absorption capacity of the natural environment, paying particular attention to the following areas—
 - (i) wetlands, riparian areas, river mouths;
 - (ii) coastal zones and the marine environment;
 - (iii) mountain and forest areas;
 - (iv) nature reserves and parks;
 - (v) areas classified or protected under national legislation; Natura 2000 areas designated by Member States pursuant to the Habitats Directive and the Wild Birds Directive;
 - (vi) areas in which there has already been a failure to meet the environmental quality standards, laid down in European Union legislation and relevant to the project, or in which it is considered that there is such a failure;
 - (vii) densely populated areas;
 - (viii) landscapes and sites of historical, cultural or archaeological significance.

Type and characteristics of the potential impact

3. The likely significant effects of projects on the environment must be considered in relation to criteria set out in paragraphs 1 and 2, with regard to the impact of the project on the factors specified in regulation 10B(3), taking into account—

- (a) the magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected);
- (b) the nature of the impact;
- (c) the transboundary nature of the impact;
- (d) the intensity and complexity of the impact;
- (e) the probability of the impact;
- (f) the expected onset, duration, frequency and reversibility of the impact;
- (g) the cumulation of the impact with the impact of other existing or approved projects;
- (h) the possibility of effectively reducing the impact.”

“SCHEDULE 3

Regulation 13(3)

Change to or extension of project: information required

1. A description of the project, including in particular—
 - (a) a description of the physical characteristics of the whole project and, where relevant, of demolition works;
 - (b) a description of the location of the project, with particular regard to the environmental sensitivity of geographical areas likely to be affected.
2. A description of the aspects of the environment likely to be significantly affected by the project.
3. A description of any likely significant effects, to the extent of the information available on such effects, of the project on the environment resulting from—
 - (a) the expected residues and emissions and the production of waste, where relevant;
 - (b) the use of natural resources, in particular soil, land, water and biodiversity.
4. The criteria of Schedule 2 shall be taken into account, where relevant, when compiling the information in accordance with paragraphs 1 to 3.”

EXPLANATORY NOTE*(This note is not part of the Regulations)*

These Regulations implement Directive 2014/52/EU of the European Parliament and of the Council amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment in respect of the dismantling or decommissioning of nuclear power stations and other nuclear reactors.

Regulations 3 to 19 make amendments to the Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999 (“the NREIAR 1999”). In summary:

- (a) the amendments to regulation 3 (in regulation 4) make provision about the application of the regulations to projects relating to civil emergencies and in exceptional cases;
- (b) new regulation 4A (as inserted by regulation 6) makes provision about the coordination of environmental impact assessments under the NREIAR 1999 and assessments under the Conservation of Habitats and Species Regulations 2017;
- (c) the amendments to regulation 5 (in regulation 7) make changes relating to the preparation, content and form of an environmental statement;
- (d) regulations 9, 9A, 10 and 10A (as inserted by regulation 11) set out new provisions relating to publicity in newspapers and further information, and the publication of information on the ONR’s website;
- (e) regulation 10B (as inserted by regulation 11) requires the ONR to reach a conclusion about the likely significant effects of a project on the environment and human health before deciding to grant or refuse to grant consent for dismantling or decommissioning;
- (f) regulation 10C (as inserted by regulation 11) makes changes to the procedure relating to the consent decision;
- (g) the amendments to regulation 13 (in regulation 14) make changes to the procedure where there is a change or extension to a project.

Regulations 20 and 21 make amendments to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 respectively.

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. An Explanatory Memorandum and a transposition note are available with these Regulations on www.legislation.gov.uk. Copies have also been placed in the Libraries of both Houses of Parliament.

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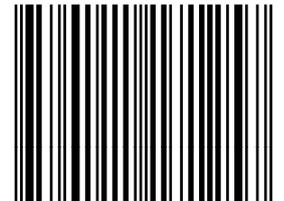
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