



Department for  
Business, Energy  
& Industrial Strategy

# Nuclear Safeguards Fees Regulations: Summary of consultation responses and the Government Response



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## Introduction

1. Nuclear safeguards are a fundamental component of global nuclear non-proliferation and consist of various reporting and verification processes which assure and demonstrate that civil nuclear material is not diverted unlawfully into military programmes. Nuclear safeguards are vital for the nuclear industry to function, both in terms of operations and trade, which are dependent on the United Kingdom acting in line with international obligations on nuclear safeguards and non-proliferation. As a member of the International Atomic Energy Agency (IAEA), the UK is fully committed to meeting our international obligations for nuclear safeguards.
2. The draft Nuclear Safeguards Fees Regulations 2021 will enable the Office for Nuclear Regulation (ONR<sup>1</sup>) to recover the majority of costs for the operation of the UK's new domestic nuclear safeguards regime from the nuclear industry from 1 April 2022. This regime replaces the previous arrangements provided by Euratom, following the UK's withdrawal from the EU.
3. A consultation formally sought the views of stakeholders on the Government's proposed approach to a cost recovery scheme for nuclear safeguards and the circumstances in which fees would be payable to ONR, for its regulatory activities.
4. The twelve-week consultation was launched on 15 December 2020 and closed on 9 March 2021. The consultation document included six questions on the proposed approach and was accompanied by draft nuclear safeguards fees regulations and a consultation stage impact assessment.
5. This document highlights the Government response, emerging themes, and feedback from stakeholders.
6. The Government intends that Fees Regulations will come into effect from 1 April 2022. The regulations will be made under the powers set out in section 101 of the Energy Act 2013<sup>2</sup>.

## Background on Cost Recovery

7. The decision to recover costs for nuclear safeguards regulation complies with HM Treasury rules, as set out in Managing Public Money<sup>3</sup>. These state that it can be appropriate to charge for services provided by public sector organisations, including regulators, through fees, rather than general taxation. As regulator for nuclear safety

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<sup>1</sup> At 11pm on 31 December 2020, the Office for Nuclear Regulation (ONR) became the UK's independent domestic regulator of nuclear safeguards.

<sup>2</sup> <https://www.legislation.gov.uk/ukpga/2013/32/contents/enacted>

<sup>3</sup> <https://www.gov.uk/government/publications/managing-public-money>

and security, ONR already recovers costs for these purposes. During the 2018 consultation on the Nuclear Safeguards (EU) Exit Regulations, the Government sought preliminary views from stakeholders on the potential of cost recovery for the operation of the domestic safeguards regime.

8. After careful consideration, on 15<sup>th</sup> December 2020, Government announced its decision to move to cost recovery from those subject to regulation. A consultation on the details of a proposed cost recovery scheme, to commence on 1 April 2022, was also launched at that time. To ease the transition to the new domestic safeguards regime, Government committed funding until March 2022.
9. The published draft Fees Regulations provide the legislative mechanism for ONR, as the domestic safeguards regulator, to charge fees to nuclear safeguards operators<sup>4</sup> for its safeguards regulatory activities, including its inspection, assessment, nuclear material accountancy and other safeguards activities.
10. The published Consultation Stage Impact Assessment outlined the estimated safeguards regulatory costs and how they could be allocated to operators. The Consultation Stage Impact Assessment examined an option where there is an exemption for smallholders of nuclear material (SHNM<sup>5</sup>).

## Consulting with Stakeholders and Summary of Responses

11. The consultation set out four key questions on cost recovery, together with two questions on diversity impacts of the proposed policy. The questions are listed below:
  1. Do you agree with the proposed approach to recovery of costs for nuclear safeguards regulation? If not, please detail why?
  2. Do you agree that the analysis and assumptions in the impact assessment accurately reflect the impact to your business that might arise from cost recovery? If not, what else do we need to consider?

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<sup>4</sup> 'Nuclear safeguards operators' is a term used by ONR and in wider industry. It includes operators of qualifying nuclear facilities, such as large nuclear power generation companies that handle specified nuclear material; and operators of qualifying nuclear facilities with limited operation who use very small quantities of specified nuclear material. Safeguards operators also include businesses involved in R&D activities and those manufacturing, exporting, and importing equipment for nuclear purposes.

<sup>5</sup> Small Holders of Nuclear Material (SHNMs) are those operators subject to the Nuclear Safeguards regulations 2019, whom ONR has agreed should be subject to the reduced reporting regime provided for in Regulation 31 of those regulations.

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3. Do you agree with the proposal to exempt Small Holders of Nuclear Material from the cost recovery regime? If not, please explain why.
  4. Are there any aspects of the draft regulations on which you would like to comment?
  5. Do you have any views about the implications of the proposals set out in this consultation for people with protected characteristics as defined in section 149 of the Equality Act 2010<sup>6</sup>? What evidence do you have on these matters? Is there anything that could be done to mitigate any impacts identified?
  6. Is there anything else you would like to add regarding the equalities impacts of the proposals set out in this consultation?
12. During the twelve-week consultation period, BEIS held bilateral meetings with those stakeholders most affected by the proposed cost recovery approach for nuclear safeguards regulation. These meetings provided an opportunity for these stakeholders to engage with BEIS officials and informally raise issues prior to submission of a formal response.
13. Formal responses were received from 11 stakeholders. Several respondents asked for details of their responses not to be released, so respondent names are not listed in this document. A summary of respondents by sector is below.

<b>Sector</b>	<b>Responses</b>
Devolved Administration	1
Industry – Large Business	5
Industry – Small Business	1
Industry – Trade Body	1
Non-Departmental Public Body	1
Research and Education Body	1
NHS Hospital Trust	1

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<sup>6</sup> <https://www.legislation.gov.uk/ukpga/2010/15/contents>

## Government Response and Analysis of Responses Received

14. The Government is grateful to all those who took the time to respond to the consultation. The responses received have informed the Government's decisions on the approach to be taken to cost recovery. This section sets out the government response to respondents' contributions, policy changes, updates to the associated products and the emerging themes of responses.

### Government Response, Changes to Draft Fees Regulations and Policy Decision

15. The consultation sought views on the government's plans to introduce a cost recovery scheme for nuclear safeguards regulation. The government's preferred policy option was for cost recovery from operators, with an exemption for Small Holders of Nuclear Material (SHNM) and Government funding for a limited subset of safeguards activities that ONR undertakes on behalf of the government.

16. After careful consideration of the consultation responses, the Government has decided to continue with its preferred policy option. However, the Government will additionally meet the costs associated with the International Atomic Energy Agency (IAEA) Additional Protocol and Nuclear Cooperation Agreements reporting activities. This would amount to an estimated additional £0.6 million per annum. Our new policy proposal increases government funding for the regime to £1.4 million per annum.

17. The draft fees regulations have undergone revisions. Regulation 3(7) has been removed, as this related to work undertaken for the Additional Protocol and Nuclear Cooperation Agreements for which Government will now pay. Schedule 1 and Schedule 2 have been amended with the removal of certain activities. In addition, a review provision has been added requiring the regulations to be reviewed at five-year intervals.

18. As part of the consultation process, we assessed different policy options within the Consultation Stage Impact Assessment. This impact assessment was not a requirement, but was produced to support the consultation process and help operators understand the likely costs of the fees regulation. Consequently, we will not be publishing an update to the Consultation Stage Impact Assessment. The costs presented in this impact assessment still represent BEIS's best assessment of estimated costs to business.

19. However, the costs for the International Atomic Energy Agency (IAEA) Additional Protocol and Nuclear Cooperation Agreements reporting activities will now be met by Government. In response to feedback from operators, the regular review provision

mentioned in paragraph 17 has also been included in the fees regulations. The first review will take place by April 2027.

## Equality Impacts

20. The consultation sought views on the potential equality impacts that may arise from this policy. Some respondents stated they did not foresee any equality impacts whilst others did not address this issue in their response. Based on this feedback we do not believe there will be any equality impacts from the introduction of cost recovery.

## Analysis of Responses by Themes

### Issues outside consultation scope

21. Some respondents provided feedback on topics that were out of the consultation's scope, this included operational aspects of the safeguards regime, proportionality, and transparency.

22. As these issues are outside the scope of the consultation, Government will address them through other mechanisms. However, anonymised feedback has been shared with ONR and relevant teams within BEIS.

### Points of principle

23. There was a consistent message of opposition to cost recovery from those who would have to pay. Respondents believed there were points of principle against recovering costs from operators.

24. Respondents held the view that the safeguards regime discharges obligations under international agreements, which are a state-level responsibility. Respondents therefore argued that industry should not be required to pay for UK government obligations. Some respondents commented that whilst the UK was a member of Euratom, the nuclear industry did not pay for safeguards regulation, as Euratom did not charge industry for this service.

25. Respondents suggested that additional policy options should have been considered within the consultation to address these points of principle for industry.

26. The Government acknowledges that international obligations are a state responsibility, but considers that industry has a role to play. Regulation is a fundamental requirement for a nuclear industry to exist in the UK. Cost recovery for regulation is government policy and in line with HM Treasury rules. ONR already charge industry for safety and security regulation, so cost recovery for the safeguards regulation is in line with government policy. For these reasons, the view that safeguards are solely a state level responsibility is not supported.



27. Government notes respondents' views regarding operators not having been charged for regulation whilst the UK was a member of Euratom. Operators were not charged directly, as the costs for the Euratom regime were paid for by UK taxpayers via the Government's collective funding to the EU. As the UK is no longer a member of Euratom a funding approach for the regime was needed.
28. The Government has considered respondents' calls for further policy options and in response made the decision to provide some additional funding for ONR's reporting activities related to the IAEA Additional Protocol and Nuclear Cooperation Agreements.

## Secondary impacts

29. Concerns over potential secondary impacts on the nuclear sector were expressed strongly by several respondents. They held the view that an analysis of the impact on the competitiveness of nuclear industry and the sector's long-term viability, should be included within the Consultation Stage Impact Assessment.
30. Some respondents raised concerns on the sector's competitiveness, attracting future investment and opportunities for research and development.
31. A few respondents mentioned the cumulative impacts of government policies; including recent increases in nuclear security vetting fees and planned rises in Corporation tax. There was a view from respondents that the Consultation Stage Impact Assessment should not have focused on cost recovery in isolation, but as part of cumulative policy changes impacting the sector.
32. In response, these points have been carefully considered. Although cost recovery already exists in countries such as Finland and Canada, we note the concerns expressed regarding some cumulative cost burdens placed on industry from cost recovery and the planned change in corporation tax. Government believes it is right that as the economy rebounds and businesses return to profit, they share in the burden of restoring the public finances to a sustainable footing. The rise in corporation tax to 25%, which will not come into effect until April 2023, is still the lowest rate in the G7.
33. After further consideration of the points made, Government has made the decision to increase its funding contribution to include the costs related to IAEA Additional Protocol and Nuclear Cooperation Agreements reporting activities.
34. Government is supporting the sector through other policies. Nuclear has been identified as a reliable source of low carbon energy with a key role to play, as we target net zero. The Government has made commitments to the nuclear sector through the Ten Point Plan<sup>7</sup> and Energy White Paper<sup>8</sup>.

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<sup>7</sup> <https://www.gov.uk/government/publications/the-ten-point-plan-for-a-green-industrial-revolution>

<sup>8</sup> <https://www.gov.uk/government/publications/energy-white-paper-powering-our-net-zero-future>

## Small holders of nuclear material

35. There was strong support for the proposed exemption for SHNM from cost recovery. Many respondents believed the approach was proportionate, provided these costs were covered by Government and not shared amongst operators subject to fees recovery.
36. In response the Government can confirm it will implement its proposed exemption with Government meeting these costs.

## Consultation Stage Impact Assessment

37. The cost estimates within the Consultation Stage Impact Assessment published alongside the consultation document were based on information available at the time of analysis. However, beyond the first year of operating, there are uncertainties within the projections.
38. The Consultation Stage Impact Assessment took account of the best available evidence on changes within the nuclear landscape, including planned new facilities, and plant build dates, expected decommissioning and defueling, and the current advanced nuclear technology pipeline.
39. Respondents provided a wide range of comments on the analysis and assumptions within the Consultation Stage Impact Assessment and queried if the cost profiles reflected foreseen changes to the UK nuclear landscape. Some respondents expressed views that the estimated costs of the regime appeared high. Respondents stated they had expected to see lower costs arising from ONR efficiency gains from combined regulation of safety, security, and safeguards.
40. Government acknowledges the concerns expressed by industry about the costs of the regime and views in regard to potential efficiency gains. As the regime is still new, it is too early at this time, to predict efficiency gains that may arise in the future. Like all public bodies, ONR as the UK's independent nuclear regulator for safety, security and safeguards, is committed to delivering value for money and to strive for efficiency. BEIS will continue to maintain engagement with ONR on the efficiency of the safeguards regime and charges to business. A formal review of the safeguards regime is due to take place by 2024. Additionally, in response to feedback received, a regular review provision has now been included in the fees regulations. The first review will take place by April 2027.

## Conclusion and Next Steps

Following consultation, the Government believes it is appropriate that operators pay for the costs of the domestic nuclear safeguards regime and intends to move forward with cost recovery. The Government has decided to increase its funding contribution and cover the costs of the following activities:

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- Limited subset of activities ONR perform on behalf of the government.
- Costs associated with the exemption for Small Holders of Nuclear Material.
- Costs associated with the International Atomic Energy Agency (IAEA) Additional Protocol and Nuclear Cooperation Agreements reporting activities.

Our new policy proposal increases the total of government funding for the safeguards regime, to £1.4 million per annum, an increase of £0.6 million per annum to the originally proposed £0.8 million.

The nuclear safeguards fees regulations are being laid in Parliament in December, before coming into force on 1 April 2022.

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