

Annex A: Report on the use of sub-delegated powers in the Transfrontier Shipment of Radioactive Waste and Spent Fuel (EU Exit) Regulations 2019 and the Shipments of Radioactive Substances (EU Exit) Regulations 2019

Purpose

The purpose of this report is to notify Parliament about the use of the sub-delegated powers within The Transfrontier Shipment of Radioactive Waste and Spent Fuel (EU Exit) Regulations 2019 and The Shipments of Radioactive Substances (EU Exit) Regulations 2019.

The sub-delegated powers allow the Secretary of State for Business, Energy and Industrial Strategy to prescribe documentation to be used by UK industry and UK regulators.

The powers were exercised in March 2019.

Background

[The Transfrontier Shipment of Radioactive Waste and Spent Fuel \(EU Exit\) Regulations 2019](#) (TFS) and [The Shipments of Radioactive Substances \(EU Exit\) Regulations 2019](#) (SRS) were made using powers in section 8(1) of the European Union (Withdrawal) Act 2018 (EUWA). They are both statutory instruments which correct deficiencies in retained EU law.

Both TFS and SRS will only come into force on exit day (as defined in the EUWA) if a deal is not reached between the UK and the EU which has the effect of postponing their coming into force until a later date.

The instruments rely on the power in section 8(5) of the EUWA to provide the Secretary of State with the ability to prescribe the procedural forms that must be used by operators to, for example, apply for authorisations under TFS and to make advance declarations under SRS. Such procedural forms were previously prescribed by the European Union in [Commission Decision 2008/312/Euratom](#) and in [Council Regulation \(Euratom\) 1493/93](#) for both TFS and SRS respectively.

The Minister for Business and Industry has made statements on the appropriateness of the creation of these sub-delegated powers in the explanatory memoranda for both TFS and SRS.

Paragraph 32(2)(a) of Schedule 7 of the EUWA requires that if the sub-delegated powers in regulations made under section 8(1) of the EUWA have been exercised during a relevant year, a report must be laid before each House of Parliament describing how the power has been exercised. This report is being made in order to fulfil that requirement.

Use of Powers

The Transfrontier Shipment of Radioactive Waste and Spent Fuel (EU Exit) Regulations 2019:

In March 2019 the Secretary of State prescribed the forms required by UK industry and UK regulators to apply for, authorise, and notify transfrontier shipments of radioactive waste and spent fuel.

The use of these forms will only be required from exit day if the UK leaves the EU without a deal.

The forms required by industry are available to the public on [GOV.UK](https://www.gov.uk), and the forms required by the regulators have been shared with them.

The Shipments of Radioactive Substances (EU Exit) Regulations 2019:

In March 2019 the Secretary of State prescribed the form required by UK industry to notify UK regulators of the import of sealed radioactive sources from member states of the European Community.

This use of this form will only be required from exit day if the UK leaves the EU without a deal.

The form is hosted on [GOV.UK](https://www.gov.uk).