

20** No.

NUCLEAR SAFEGUARDS

The Nuclear Safeguards (Fees) Regulations **

Made - - - - ***

Laid before Parliament ***

Coming into force - - ***

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 101(1), (2) and (3) and 113(1), (6) and (7) of the Energy Act 2013(a) (the “2013 Act”).

In accordance with section 101(6) of the 2013 Act, the Secretary of State has consulted the Office for Nuclear Regulation and such other persons as the Secretary of State considers it appropriate to consult.

Citation and commencement

- 1.—(1) These Regulations may be cited as the Nuclear Safeguards (Fees) Regulations 20**.
- (2) These Regulations come into force on 1st April 2022.

Interpretation

2. In these Regulations —

“2000 Act” means the Nuclear Safeguards Act 2000(b);

“2013 Act” means the Energy Act 2013;

“Nuclear Safeguards Regulations” means the Nuclear Safeguards (EU Exit) Regulations 2019(c);

“Additional Protocol” has the meaning given in section 1 of the 2000 Act;

“Additional Protocol information” has the meaning given in section 1 of the 2000 Act;

“Agency” means the International Atomic Energy Agency;

“authorised officer” has the meaning set out in the 2000 Act;

“operator” has the meaning given in regulation 2 of the Nuclear Safeguards Regulations;

“regime with limited operation” has the meaning given in regulation 31 of the Nuclear Safeguards Regulations;

“qualifying nuclear facility” has the meaning set out in section 76A(6) of the 2013 Act;

(a) 2013 c.32 as amended by the Nuclear Safeguards Act 2018 c.15.
(b) 2000 c.5.
(c) S.I. 2019/196.

“qualifying nuclear facility with limited operation” has the meaning set out in regulation 2 of the Nuclear Safeguards Regulations;

“qualifying nuclear material” has the meaning set out in section 76A(6) of the 2013 Act and includes the “fissionable material” specified in regulation 2(2) of the Nuclear Safeguards (Fissionable Material and Relevant International Agreements) (EU Exit) Regulations 2019(a);

Fees payable to the ONR in connection with functions carried out under the 2000 Act, the Nuclear Safeguards Regulations and the 2013 Act

3.—(1) A person described in column 3 of Schedule 1 must pay a fee to the ONR where the ONR carries out a function described in column 2, under or in connection with the provision of the 2000 Act set out in column 1.

(2) A person described in column 3 of Schedule 2 must pay a fee to the ONR where the ONR carries out a function described in column 2, under or in connection with the provision of the Nuclear Safeguards Regulations set out in column 1.

(3) Where an inspector carries out functions in exercise of his powers under section 83 of, and Schedule 8 to, the 2013 Act in connection with the 2000 Act, the Nuclear Safeguards Regulations or Part 3 of the 2013 Act, the operator of a qualifying nuclear facility must pay a fee to the ONR to the extent that such function is performed in relation to the operator for the purpose of putting into effect the 2000 Act or the Nuclear Safeguards Regulations.

(4) Where, in connection with putting into effect the 2000 Act, the Nuclear Safeguards Regulations or for other nuclear safeguarding purposes, the ONR provides advice or training to persons who are subject to the Nuclear Safeguards Regulations, by or under section 88(3) of the 2013 Act, the persons to whom such advice or training is given must pay a fee to the ONR, unless the ONR have made arrangements for payments to be made under section 88(4) of that Act.

(5) Where, in connection with the enforcement of the 2000 Act, the Nuclear Safeguards Regulations or Part 3 of the 2013 Act, and in exercise of powers under section 82 of the 2013 Act, the ONR performs functions in connection with nuclear safeguards, the operator of a qualifying nuclear facility must pay a fee to the ONR to the extent that such functions are for the purpose of putting the 2000 Act, the Nuclear Safeguards Regulations or Part 3 of the Energy Act into effect in relation to the operator.

(6) Paragraph (5) applies where a fee is not recoverable under paragraphs (1) to (4).

(7) The operator of a qualifying nuclear facility must pay a fee to the ONR for the receipt and consideration of Additional Protocol information, or other information required under a relevant international agreement, provided by the operator, where a fee is not recoverable under paragraphs (1) to (5).

(8) No fee for the carrying out of functions under paragraphs (1) to (5) and (7) is payable where the functions relate to a qualifying nuclear facility with limited operation.

Supplementary provisions concerning regulation 3

4.—(1) The fees referred to in regulation 3 must be determined by the ONR and must not exceed the costs reasonably incurred by the ONR in performing the functions for which the fees are payable.

(2) The ONR must send an invoice to the person who must pay the fee which states the functions performed and the costs incurred during the period to which the statement relates.

(3) The fees must be paid within 30 days of the date of the invoice.

(4) The ONR may apportion fees between different persons for a function performed by the ONR or an inspector (as the case may be), where such function is reasonably attributable to those different persons.

(5) The fees referred to in regulation 3 must not include any costs connected with —

(a) S.I. 2019/195.

- (a) in England and Wales and Northern Ireland, criminal investigation or prosecution incurred (in either case) from the date any summons is obtained from a Magistrates Court; or
- (b) in Scotland, criminal investigation or prosecution incurred (in either case) after such time as —
- (i) the inspector undertaking the investigation submits a report to the Procurator Fiscal for his decision as to whether a prosecution should be brought; or
 - (ii) the Procurator Fiscal intervenes in the investigation, whichever is sooner.

Date

[]
Parliamentary Under Secretary of State
Department for Business, Energy and Industrial Strategy

SCHEDULE 1

Reg 3(1)

Fees payable to the ONR in respect of functions carried out by the ONR in connection with the Nuclear Safeguards Act 2000

Column 1 Provision of the Nuclear Safeguards Act 2000	Column 2 Function of the ONR	Column 3 Person by whom fee payable
Section 2(2)	Receipt and consideration of material received from the relevant person in order to decide whether to serve a notice requiring the provision of Additional Protocol information specified in the notice to the ONR. Review of the information received under the notice.	The operator of a qualifying nuclear facility.
Section 5(4)	An authorised officer accompanying an Agency inspector while he is exercising a power under section 5 of the 2000 Act.	The operator of a qualifying nuclear facility or [any other person who is in charge of a property mentioned in Article [2] of the Additional Protocol].

SCHEDULE 2

Reg 3(2)

Fees payable to the ONR in respect of functions carried out by the ONR in connection with the Nuclear Safeguards Regulations

Column 1 Provision of the Nuclear Safeguards Regulations	Column 2 Function of the ONR	Column 3 Person by whom fee payable
Regulation 3(1),(2), (3) and (5): Declaration of basic technical characteristics	Receipt and consideration of the basic technical characteristics of a qualifying nuclear facility together with any changes in basic technical characteristics,	The operator of the qualifying nuclear facility.

	or request for, receipt and consideration of any further details, explanations, amplifications or clarifications of information forming part of the basic technical characteristics under paragraph 3(5) of the Nuclear Safeguards Regulations.	
Regulation 4(1) to (4): Programme of activities	Receipt and consideration of an annual outline programme of activities, including for the taking of a physical inventory together with any change which affects or may affect the outline programme of activities or the taking of a physical inventory.	The operator of the qualifying nuclear facility.
Regulation 5(1) and (2): Particular safeguard provisions	Consideration and imposition of particular safeguard provisions on an operator in respect of a qualifying nuclear facility. Provision of written notice of the particular safeguard provisions to the operator under paragraph 5(2) of the Nuclear Safeguards Regulations.	The operator of the qualifying nuclear facility.
Regulation 6(5): Accountancy and control	Consideration of the operating records, referred to in regulation 10 of the Nuclear Safeguards Regulations 2019 and of the accounting records referred to in Regulation 11 of the Nuclear Safeguards Regulations 2019.	The operator of the qualifying nuclear facility.
Regulation 7(2), (3) and (5): Accountancy and control plan	Receipt, consideration and approval of the whole or part of an accountancy and control plan.	The operator of the qualifying nuclear facility.
Regulation 8(1) to (4) Replacement, amendment and revocation of accountancy and control plan	Receipt, consideration and approval of a change to an accountancy and control plan.	The operator of the qualifying nuclear facility.
Regulation 9(2): Operation of an accountancy and control plan	Consideration and notification to an operator of whether a matter is, in the opinion of the ONR, unlikely to be prejudicial to the maintenance of the system of safeguards in respect of qualifying nuclear material at a qualifying nuclear facility.	The operator of the qualifying nuclear facility.
Regulation 10(2): Operating records	Request, receipt and consideration of the operating records which set out – (a) those operating data which are used to determine changes in the quantities and composition of qualifying nuclear material;	The operator of the qualifying nuclear facility.

	<p>(b) a list of inventory items, updated to the best extent possible, and their location;</p> <p>(c) the data, including derived estimates of random and systematic errors, obtained from the calibration of tanks and instruments as well as from sampling and analysis;</p> <p>(d) the data resulting from quality control measures applied to the accountancy system for the qualifying nuclear material, including derived estimates of random and systematic errors;</p> <p>(e) a description of the sequence of the actions taken to prepare for, and take, a physical inventory and to ensure that the inventory is correct and complete;</p> <p>(f) a description of the actions taken in order to ascertain the cause and magnitude of any accidental or unmeasured loss that might have occurred; and</p> <p>(g) the isotopic composition of plutonium, including its decay isotopes, and reference dates, if recorded at the qualifying nuclear facility for operational needs.</p>	
Regulation 11(5): Accounting records	<p>Request, receipt and consideration of the accounting records for a material balance area which show—</p> <p>(a) all inventory changes so that the book inventory can be determined at any time;</p> <p>(b) all measurement and counting results used to determining the physical inventory; and</p> <p>(c) all adjustments and corrections that have been made in respect of inventory changes, book inventories and physical inventories.</p>	The operator of the qualifying nuclear facility.
Regulation 12(3): Accounting reports	<p>Request, receipt and consideration of further details, explanations, amplifications or clarifications of any of the information provided by an operator to the ONR in an accounting report submitted in accordance with regulations 13</p>	The operator of the qualifying nuclear facility.

	to 20 of the Nuclear Safeguards Regulations.	
Regulation 13: Initial book inventory	Receipt and consideration of an initial inventory of the qualifying nuclear material in each material balance area in a qualifying nuclear facility.	The operator of the qualifying nuclear facility.
Regulation 14(1) to (4): Inventory change report	Receipt and consideration of an inventory change report in respect of all qualifying nuclear material for each material balance areas.	The operator of the qualifying nuclear facility.
Regulation 15(1): Material balance report and physical inventory listing	Receipt and consideration of a material balance report and physical inventory listing.	The operator of the qualifying nuclear facility [including any material balance area within that facility].
Regulation 16(1) and (2): Special report	Receipt and consideration of a special report in the case of an unusual occurrence, as described in regulation 17(1) or loss or delay during transport as described in regulation 23. Request of further details or explanations in connection with a special report.	The operator of the qualifying nuclear facility.
Regulation 17(2) and (3): Unusual occurrences	17(2) Receipt and consideration of a special report concerning an increase in or loss of qualifying nuclear material as a result of an unusual incident or circumstances or a change in the containment of qualifying nuclear material. 17(3) Receipt and consideration of a statement of the causes of an unusual occurrence.	The operator of the qualifying nuclear facility.
Regulation 18(2): Reporting of nuclear transformations	Consideration of whether the particular safeguard provisions, imposed under Regulation 5, should specify alternative procedures for recording and reporting nuclear transformations.	The operator of the qualifying nuclear facility.
Regulation 19(1), (2), (3) and (6): Additional reporting obligations arising from relevant international agreements and from obligations resulting from international trade.	Receipt and consideration of the information received from an operator arising from relevant international agreements and obligations resulting from international trade in order to advise on compliance with the obligations. Publication of obligation codes for such reporting for use by the operator.	The operator of the qualifying nuclear facility.
Regulation 21(1) and (3): Exports	21(1) Receipt and consideration of a notification	The operator of the qualifying nuclear facility.

	<p>of the export of any qualifying nuclear material outside the United Kingdom where the consignment exceeds one effective kilogram or where a qualifying nuclear facility transfers a total quantity of materials to the same State that could exceed one effective kilogram in any consecutive period of twelve months, even though no single consignment exceeds one effective kilogram.</p> <p>21(3) If required by reasons of physical protection, consider and agree special arrangements concerning the form and transmission of the notification.</p>	
Regulation 22(1) and (3): Imports	<p>22(1) Receipt and consideration of a notification of the export of any qualifying nuclear material outside the United Kingdom where the consignment exceeds one effective kilogram or where a qualifying nuclear facility transfers a total quantity of materials to the same State that could exceed one effective kilogram in any consecutive period of twelve months, even though no single consignment exceeds one effective kilogram.</p> <p>22(3) If required by reasons of physical protection, consider and agree special arrangements concerning the form and transmission of the notification.</p>	The operator of the qualifying nuclear facility.
Regulation 24: Communication of change of date	<p>Receipt and consideration of a notification of any change of dates for packing before transfer, transport or unpacking of qualifying nuclear material which have been given in a notification of export or import of qualifying nuclear material under regulations 21 or 22 of the Nuclear Safeguards Regulations.</p>	The operator of the qualifying nuclear facility.
Regulation 28(2): Ore shipment and export reports	<p>Receipt and consideration of reports and information on the amount of material dispatched</p>	The operator of the qualifying nuclear facility.

	from each qualifying nuclear facility and exports of ores outside the United Kingdom.	
Regulation 29(2) and (4): Stock list and accounting records for conditioned and retained waste	29(2) Receipt and consideration of the initial stock list of conditioned and retained waste. 29(4) Specification of requirements for reporting the processing of retained waste if specified in the particular safeguard provisions imposed by the ONR under Regulation 5 of the Nuclear Safeguards Regulations.	The operator of the qualifying nuclear facility.
Regulation 30(1): Transfers of conditioned waste	30(1) Receipt and consideration of reports/information on shipments or exports of conditioned waste to a qualifying nuclear facility or outside the United Kingdom or of receipts or imports of conditioned waste from a qualifying nuclear facility or installation without a material balance area code or which is located outside the United Kingdom.	The operator of the qualifying nuclear facility.
Regulation 31(1) – (7): Declaration of basic technical characteristics, stock list and accounting records for qualifying nuclear facility with limited operation	Receipt and consideration of an operator's application for the regime with limited operation to apply to a qualifying nuclear facility. The consideration and grant or refusal of an operator's request for the application of the regime for limited operation. Informing the operator in writing of its decision within the period of 60 days beginning with the day on which the ONR receives the application. Receipt and consideration of a notification of a change in the basic technical characteristics of the qualifying nuclear facility; the results of a physical inventory of the qualifying nuclear material in the qualifying nuclear facility	The operator of the qualifying nuclear facility.

	<p>in each calendar year beginning on 1st January, with the period between two successive physical inventory takings not exceeding 14 months; and of any change to the inventory of qualifying nuclear material.</p> <p>Notifying a format and timescale to the operator in writing.</p> <p>By written notice to the operator impose additional requirements concerning the form and frequency of the reports.</p> <p>Withdraw a permission granted in writing, having reviewed—</p> <p>(a) the compliance of the operator with—</p> <p>(i) the definition of an operator of a qualifying nuclear regime with limited operation, or</p> <p>(ii) the requirements set out in paragraph (5) or imposed by the ONR under paragraph (6); and</p> <p>(b) the activities of the operator and of the relevant qualifying nuclear facility.</p>	
Regulation 33(1): Withdrawal from civil activities	Consideration of a written notice to withdraw qualifying nuclear material from civil activities together with the grant or refusal of consent.	The operator of the qualifying nuclear facility.
Regulation 35(c): Communication with the ONR	Agreement with an operator of the method of communication with the ONR.	The operator of the qualifying nuclear facility.
Regulation 36(1): Safeguards Equipment	Consultation with an operator on what safeguards equipment is appropriate for a qualifying nuclear facility.	The operator of the qualifying nuclear facility.
Regulation 37: Access to safeguards equipment	Accessing the safeguards equipment in a qualifying nuclear facility.	The operator of the qualifying nuclear facility.
Regulation 38: Interference with safeguards equipment	Permitting a person to take action in connection with the operation of any safeguards equipment in a qualifying nuclear facility which results in the safeguards equipment providing information on qualifying nuclear material	The operator of the qualifying nuclear facility.

	<p>that is significantly different from the information which the equipment would have provided had the action not occurred.</p>	
<p>Regulation 39(1), (2), (3) and (4): Inspections by the ONR</p>	<p>39(1) For the purpose of ensuring compliance with the requirements of the Nuclear Safeguards Regulations—</p> <ul style="list-style-type: none"> (a) examine the records kept by an operator in accordance with the requirements of the Nuclear Safeguards Regulations; (b) make independent measurements of any qualifying nuclear material; (c) apply and make use of surveillance and containment measures together with any other objective methods of monitoring which the ONR considers to be reasonable; (d) observe that samples of qualifying nuclear material at key measurement points for accounting purposes are taken in accordance with procedures which produce representative samples; (e) observe the treatment and analysis of the samples and obtain duplicates of such samples; (f) verify the functioning and calibration of an operator's instruments used to measure or control qualifying nuclear material, including observation of calibration activities and assessing whether the measurements of qualifying nuclear material at key measurement points are representative; (g) make such observations or measurements necessary to verify the accuracy of basic technical characteristics and any changes to them declared under regulation 3 or 31. <p>39(2) Writing to an operator to require the operator to—</p>	<p>The operator of the qualifying nuclear facility.</p>

	<p>(a)take additional measurements or samples of the qualifying nuclear material for the ONR’s use;</p> <p>(b)analyse the ONR’s standard analytical samples;</p> <p>(c)use appropriate absolute standards in the operator’s equipment and calibrating instruments;</p> <p>(d)carry out additional calibrations to the relevant equipment or instruments.</p> <p>39(3) applying the ONR seals and other identifying and tamper-indicating devices to containments of qualifying nuclear material.</p> <p>39(4) writing to an operator to require the operator to send, within a reasonable timescale specified by the ONR, any samples of qualifying nuclear material which have been taken for the ONR’s use to a location specified by the ONR.</p>	
<p>Regulation 42(1): Provision of information to the Agency</p>	<p>Providing to the Agency information supplied by an operator of a qualifying nuclear facility or any other relevant person to the ONR under the Regulations, and which the United Kingdom is required to supply to the Agency.</p>	<p>The operator of the qualifying nuclear facility or any other relevant person.</p>

EXPLANATORY NOTE

(This note is not part of the Regulations)

Prior to IP Completion Day, nuclear safeguards in the United Kingdom was regulated by the EURATOM treaty as amended by the Treaty of Lisbon, which was signed on 13th December 2007 and by Commission Regulation (EURATOM) 302/2005 (OJ L 54 28.2.2005 p1 – 71). With effect from IP Completion Day, the United Kingdom’s domestic provisions on nuclear safeguards [will be set] out in the Energy Act (c. 32), as amended by the Nuclear Safeguards Act 2018 (c. 15), the Nuclear Safeguards (EU Exit) Regulations 2019 (S.I. 2019/196) (“the Nuclear Safeguards Regulations”) and the Nuclear Safeguards (Fissionable Material and Relevant International Agreements) (EU Exit) (Regulations 2019 (S.I. 2019/195).

The Nuclear Safeguards Act 2000 (c.5) (“the 2000 Act”), the Energy Act 2013 (c.32) (“the 2013 Act”) and the Nuclear Safeguards Regulations provide for the ONR to carry out various functions in relation to nuclear safeguards.

These Regulations come into force on 1st April 2022 and provide details of when and by whom fees are payable in relation to the functions performed by or on behalf of the ONR under or in

connection with the 2000 Act, the Nuclear Safeguards Regulations and the 2013 Act on or after this date. Prior to this date, no fees have been charged for work carried out by the ONR.

Regulation 3(1) of these Regulations requires an operator of a qualifying nuclear facility to pay a fee to the ONR when it performs a function under the 2000 Act, which is listed in Schedule 1 to these Regulations.

Regulation 3(2) requires an operator to pay a fee to the ONR when it performs a function under the Nuclear Safeguards Regulations which is listed in Schedule 2 to these Regulations.

Regulation 3(3) requires an operator to pay a fee to the ONR where an inspector performs specified functions in connection with the 2000 Act, the Nuclear Safeguards Regulations or Part 3 of the 2013 Act.

In addition, regulations 3(4) to (7) require an operator of a qualifying nuclear facility to pay a fee to the ONR when it performs a listed function.

Regulation 3(8) sets out that no fee is payable where the performance of functions relate to a qualifying nuclear facility with limited operation, which is defined in regulation 2.

Regulation 4 sets out that the fees provided for in regulation 3 must be reasonable and not exceed the costs of performing the function to which they relate. Regulation 4(3) requires that a fee is paid within thirty days of invoicing. The costs of criminal proceedings are excluded from the calculation of fees.

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Department for Business, Energy and Industrial Strategy at 1 Victoria Street, London SW1H 0ET and is published on the BEIS website [insert web address]. This Impact Assessment identifies both monetised and non-monetised impacts from a societal perspective, with the aim of understanding what the net social impact might be from implementing this cost recovery scheme. Fees regulations are not in scope of the better regulation framework. Therefore, this assessment of impacts will not have the level of detail typical of a full regulatory impact assessment. The impact assessment is also published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.