

2019 No. 24

EXITING THE EUROPEAN UNION

ENVIRONMENTAL PROTECTION

HEALTH AND SAFETY

RADIOACTIVE SUBSTANCES

**The Ionising Radiation (Environmental and Public Protection)
(Miscellaneous Amendments) (EU Exit) Regulations 2019**

Sift requirements satisfied 18th December 2018

Made - - - - 9th January 2019

Laid before Parliament 11th January 2019

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018^(a).

The requirements of paragraph 3(2) of Schedule 7 to that Act (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

Citation and commencement

1.—(1) These Regulations may be cited as the Ionising Radiation (Environmental and Public Protection) (Miscellaneous Amendments) (EU Exit) Regulations 2019 and come into force on exit day.

(2) Any amendment made by these Regulations has the same extent and application as the provision to which it relates.

Amendment of the Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999

2.—(1) The Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999^(b) are amended as follows.

(2) In regulation 2(1) for the definition of “EU environmental assessment” substitute—

(a) 2018 c. 16.

(b) S.I. 1999/2892, amended by S.I. 2006/657, 2018/834.

““EU environmental assessment” means an assessment of the effect of anything on the environment carried out under retained EU law other than any law of any part of the United Kingdom that implemented the Directive;”.

(3) In regulation 3(8), after “the Directive” insert “as it applied in the United Kingdom immediately before exit day”.

(4) In regulations 3(9) and 8(2)(c), in the heading of regulation 12 and in each place it occurs in regulation 12, for “another EEA State” substitute “an EEA State”.

(5) In regulation 10B(3)(b), after “under” insert “any law of any part of the United Kingdom that implemented”.

(6) In regulation 12(5)—

- (a) omit “, in accordance with Article 7.4 of the Directive”; and
- (b) in sub-paragraph (b), for “the other” substitute “that”.

(7) In Schedule 1—

- (a) in paragraph 5, for “at European Union or Member State level” substitute “in retained EU law or under the law of any part of the United Kingdom”;
- (b) in paragraph 8—
 - (i) for “European Union legislation such as” substitute “retained EU law such as any law that implemented”; and
 - (ii) after “requirements of” insert “any law that implemented”.

(8) In Schedule 2, in paragraph 2(c)(vi), after “European Union legislation” insert “as it applied in the United Kingdom immediately before exit day, or in retained EU law”.

Amendment of the Justification of Practices Involving Ionising Radiation Regulations 2004

3.—(1) The Justification of Practices Involving Ionising Radiation Regulations 2004(a) are amended as follows.

(2) In regulation 2 (application), for “applies to them” substitute “would, immediately before exit day, have applied to them”.

(3) In regulation 3 (interpretation)—

- (a) in paragraph (2), for “Expressions” substitute “Subject to paragraph (2A), expressions”; and
- (b) after paragraph (2) insert—

“(2A) When reading the 2013 Directive for the purposes of these Regulations, Article 4(43) (definition of inspection) is to be read as if, for the words “any competent authority”, there were substituted “the Justifying Authority”.”.

Amendment of the Radioactive Contaminated Land (Enabling Powers) (England) Regulations 2005

4. After paragraph 1(8) of Schedule 1 to the Radioactive Contaminated Land (Enabling Powers) (England) Regulations 2005(b) insert—

“(9) After subsection (9) insert—

“(9A) When reading Council Directive 2013/59/Euratom for the purposes of subsection (9), Article 4(43) of that Directive (definition of inspection) is to be read as if, for the words “any competent authority”, there were substituted “the enforcing authority”(c).”.”.

(a) S.I. 2004/1769, amended by S.I. 2018/430.

(b) S.I. 2005/3467, amended by S.I. 2010/2147, 2018/429.

(c) See section 78A(9) of the Environmental Protection 1990 (c. 43) for the meaning of “enforcing authority”.

Amendment of the Radioactive Contaminated Land (Modification of Enactments) (England) Regulations 2006

5. In regulation 5 of the Radioactive Contaminated Land (Modification of Enactments) (England) Regulations 2006(a), after paragraph (8) insert—

“(9) After subsection (9) insert—

“(9A) When reading Council Directive 2013/59/Euratom for the purposes of subsection (9), Article 4(43) of that Directive (definition of inspection) is to be read as if, for the words “any competent authority”, there were substituted “the enforcing authority”.”.

Amendment of the Radioactive Contaminated Land Regulations (Northern Ireland) 2006

6. In regulation 2 of the Radioactive Contaminated Land Regulations (Northern Ireland) 2006(b), after paragraph (3) insert—

“(4) When reading the Directive for the purposes of these Regulations, Article 4(43) of the Directive (definition of inspection) is to be read as if, for the words “any competent authority”, there were substituted “the Chief Inspector”.”

9th January 2019

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c.16) (“the Act”). They make amendments to 5 different sets of regulations in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under sections 8(2)(a), 8(2)(g) and 8(3)(a) of the Act) arising from the withdrawal of the United Kingdom from the European Union.

Regulation 2 amends the Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999 (S.I. 1999/2892) which implement, in relation to nuclear decommissioning projects, Council Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment. More specifically this regulation substitutes references to EU legislation that will no longer apply in the UK with references to domestic legislation and changes references to EEA Member States to reflect that the UK will no longer be in the EEA.

Regulation 3 amends the Justification of Practices Involving Ionising Radiation Regulations 2004 (S.I. 2004/1769, “the 2004 Regulations”). It amends the application of the 2004 Regulations so that it relates to the application of Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom (“the 2013 Directive”) immediately before exit day. It also inserts a new provision which modifies how the definition of “inspection” in Article 4(43) of the 2013 Directive is to be read for the purposes of the 2004 Regulations.

(a) S.I. 2006/1379, amended by S.I. 2007/3245, 2008/520, 2010/2147, 2016/1154, 2018/429. S.I. 2016/562 also makes amendments which are not yet in force.

(b) S.R. 2006 No. 345, amended by S.I. 2007/3236, 2010/2145 and S.R. 2018 No. 116.

Regulation 4 amends the Radioactive Contaminated Land (Enabling Powers) (England) Regulations 2005 (S.I. 2005/3467), inserting a new provision which modifies how the definition of “inspection” in Article 4(43) of the 2013 Directive is to be read for the purposes of those Regulations. Regulation 5 makes an analogous amendment in the Radioactive Contaminated Land (Modification of Enactments) (England) Regulations 2006 (S.I. 2006/1379) and regulation 6 makes an analogous amendment in the Radioactive Contaminated Land Regulations (Northern Ireland) 2006 (S.R. 2006 No. 345).

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

An Explanatory Memorandum has been prepared and is available alongside this instrument at www.legislation.gov.uk.

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