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STATUTORY INSTRUMENTS

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**2015 No. 209**

**HEALTH AND SAFETY  
ENVIRONMENTAL PROTECTION**

**The Justification Decision (Generation of Electricity  
by the UK ABWR Nuclear Reactor) Regulations 2015**

*Made* - - - - *11th February 2015*

*Coming into force* - - *12th February 2015*

This instrument is made in accordance with the requirements of regulation 14(1) of the Justification of Practices Involving Ionising Radiation Regulations 2004<sup>(1)</sup>.

The Secretary of State has consulted the persons required to be consulted under regulation 18 of those Regulations and such other persons as the Secretary of State considered it appropriate to consult and has taken such steps as the Secretary of State considered appropriate to bring the proposed decision contained in this instrument to the attention of any person likely to be affected by the decision.

A draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

The Secretary of State is designated for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to the making of measures relating to basic safety standards for the health protection of the general public and workers against the dangers of ionising radiation<sup>(3)</sup>.

Accordingly, the Secretary of State, in the exercise of the powers conferred by that section, makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Justification Decision (Generation of Electricity by the UK ABWR Nuclear Reactor) Regulations 2015 and come into force on the day after the day on which they are made.

**Interpretation**

2. In these Regulations—

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(1) [S.I. 2004/1769](#).

(2) [1972 c. 68](#).

(3) The European Communities (Designation) (No. 3) Order 1991, [S.I. 1991/2289](#). There are amendments to this Order that are not relevant.

“the 1996 Directive” means Council Directive 96/29/Euratom laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation(4);

“class or type of practice” bears the same meaning as it bears under Article 6(1) of the 1996 Directive;

“justified” in relation to a class or type of practice means justified by its economic, social or other benefits in relation to the health detriment it may cause;

“spent fuel” means nuclear fuel that has been irradiated in and permanently removed from a reactor core;

“the UK ABWR practice” means the class or type of practice which is the generation of electricity from nuclear energy using oxide fuel of low enrichment in fissile content in a light water-cooled, light water moderated thermal reactor known as UK ABWR designed by Hitachi-GE Nuclear Energy, Ltd(5), and where the specification of that reactor matches that set out in Annex 1 to the document “Consultation on the Nuclear Industry Association’s Application to Justify the UK Advanced Boiling Water Reactor (UK ABWR) - Volume 2: Application Submitted by the Nuclear Industry Association” published in February 2014 by the Department of Energy and Climate Change, URN 14D/004.

### **Justification decision**

3. For the purposes of Article 6(1) of the 1996 Directive, subject to regulation 4, the following are justified—

- (a) the UK ABWR practice(6); and
- (b) any class or type of practice which is—
  - (i) a development of the UK ABWR practice; and
  - (ii) so similar to the UK ABWR practice that the balance of benefits and detriments from that class or type of practice does not materially differ from the balance of benefits and detriments from the UK ABWR practice(7).

### **Mixed oxide fuel and reprocessing**

4. The justification decision in regulation 3 does not extend to—
- (a) the use of mixed oxide fuel in a class or type of practice justified under that regulation; or
  - (b) the reprocessing of spent fuel which arises from such a class or type of practice.

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(4) OJ No L 159, 29.6.1996, p 1. The Directive has been revised by a recast Directive (2013/59/Euratom) which comes into force on 6 February 2018. The recast Directive does not change the requirement for all new classes and types of practice to be justified before being adopted.

(5) A registered company in Japan at address 1-1, 3-chome, Saiwai-cho, Hitachi-shi, Ibaraki-ken, 317-0073 Japan.

(6) In July 2014 the Secretary of State determined that the UK ABWR practice was a new class or type of practice for the purposes of the Justification of Practices Involving Ionising Radiation Regulations 2004 (S.I. 2004/1769) details of which determination can be found at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/335499/abwr\\_justification\\_consultation\\_volume\\_2\\_decision\\_document.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335499/abwr_justification_consultation_volume_2_decision_document.pdf).

(7) The Secretary of State’s analysis of the benefits and detriments associated with the UK ABWR practice can be found at <https://www.gov.uk/guidance-for-operators-of-new-nuclear-power-stations>.

11th February 2015

*Verma*  
Parliamentary Under Secretary of State  
Department of Energy and Climate Change

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## EXPLANATORY NOTE

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

By these Regulations the Secretary of State makes a justification decision in accordance with the Justification of Practices Involving Ionising Radiation Regulations 2004 ([S.I. 2004/1769](#)) (“the 2004 Regulations”). The 2004 Regulations implement Article 6(1) and (2) of Council Directive 96/29/Euratom (OJ No L 159, 29.6.1996, p 1) laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation.

The 2004 Regulations prohibit the carrying out of new classes or types of practice involving ionising radiation. A class or type of practice is “new” where no practice within that class or type of practice was carried out in the United Kingdom before 13th May 2000 and no justification decision has been made that that class or type of practice is justified. Where the Secretary of State has determined that a class or type of practice is new and the Justifying Authority (defined in regulation 6 of the 2004 Regulations) is satisfied that the new class or type of practice is justified by the economic, social and other benefits in relation to the health detriments, the Authority must make a decision to that effect (a justification decision) in the form of regulations (regulation 14 of the 2004 Regulations).

Regulation 2 of these Regulations sets out relevant definitions, including the class or type of practice known as the UK ABWR practice. The Secretary of State is the Justifying Authority in relation to that class or type of practice and has previously determined that the UK ABWR practice is a new class or type of practice. Under regulation 3, the Secretary of State makes a justification decision that the UK ABWR practice, or a class or type of practice which is both a development of the UK ABWR practice and so similar to it that the balance of benefits and detriments does not materially differ, is justified for the purposes of Article 6(1) of Council Directive 96/29/Euratom.

Regulation 4 sets out matters to which the justification decision in regulation 3 does not extend.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.