



Post Implementation Review of The Nuclear Industries Security (Amendment) and Nuclear Security (Prescribed Material) Regulations 2014

Introduction

1. The document is the report of the review of the Nuclear Industries Security (Amendment) and Nuclear Security (Prescribed Material) Regulations 2014.
2. This Command Paper and the associated PIR (page 4-5) set out the Government's views on the effectiveness of the Regulations. It considers:
 - The extent to which the Regulations are working;
 - Whether Government intervention is still required.

Background

3. The UK has in place a comprehensive regulatory regime to ensure that security in the UK's civil nuclear industry is robust and effective. This is one of the Government's highest national security priorities. Under this regime the UK's independent nuclear security regulator, the Office for Nuclear Regulation (ONR), can require the nuclear industry to put in place approved security measures at civil nuclear facilities.
4. In order to fulfil its nuclear security purposes, the ONR must ensure the security of nuclear material. Section 70 of the Energy Act 2013 (the 2013 Act) defines the principal types of nuclear material and provides that other fissile material may be prescribed as nuclear material by regulations. These Regulations prescribe other fissile materials as nuclear material for which the ONR should ensure security, in order to ensure the definition of "nuclear material" for the purposes of section 70(3) of the 2013 Act is consistent with other legislation.
5. Additionally, the Regulations correct a drafting error in the Nuclear Industries Security (Amendment) Regulations 2013 (S.I. 2013/190) identified in the 23rd report of the Joint Committee on Statutory Instruments ("JCSI") for the Parliamentary Session 2012-2013. This part of the Regulations is not subject to the PIR.



Scope of the Post Implementation Review (PIR)

6. The PIR considers the effectiveness of the Regulations in meeting its policy objective.
7. The Government does not consider the Regulations to be high profile or contentious as there is little impact on businesses. Therefore, in line with government guidance a light touch PIR has been applied to the analysis.

Research and Analysis

8. Guidance for conducting PIRs provides that three questions should be addressed in a PIR:
 - To what extent are the Regulations working?
 - Is Government intervention still required?
 - Are the Regulations and the way they are implemented the most appropriate approach?
9. In order to answer these questions, a questionnaire was sent to the Office for Nuclear Regulation (ONR) to seek their views. The questionnaire sought comments on:
 - The impact of the Regulations;
 - Identification of benefits;
 - Any challenges in meeting the requirements;
 - The impact on business
10. BEIS received a response from ONR. The response provided an answer stating that the regulations were still required and were meeting their objectives.
11. In addition, the Nuclear Industries Association (NIA) was consulted. As the trade association for the nuclear supply chain, the NIA are in close contact with stakeholders from the nuclear industry. Colleagues from the NIA contacted representatives from industry and sought their views on the legislation. Details of their response are given below.

To What Extent is the Regulation Working?

12. ONR responded to the questionnaire stating that the regulations were fit for purpose and continue to meet their objectives. The objectives of the legislation remain valid and relevant and the regulations are working well. The regulator commented that the regulations provide clarity and consistency concerning prescribed nuclear material.
13. Additional engagement with representatives of the nuclear industry suggested that the regulations had a very minor impact on operations for business and did not identify any suggestions for improvements or amendments.



Is Government Intervention Still Required?

14. ONR stated that the Regulations are still required as they provide clarity and consistency as to the definition of “nuclear material” in domestic legislation. If the Regulations ceased to exist, there would be a return to a lack of clarity and consistency.
15. No stakeholders suggested that the Regulations should be implemented in another format.

Other Issues Identified

16. No other issues were identified as a result of the consultation.
17. Based on the information provided in this PIR survey, the Government’s view is that the Regulations should remain as in force, for the following reasons:
 - The Regulations are meeting their stated objectives as they ensure that all appropriate fissile materials are subject to security regulation, ensuring that civil nuclear security in the UK continues to be robust and effective;
 - If the regulations were removed there would be insufficient regulation of fissile material, creating a lack of clarity and consistency as to the definition of “nuclear material” in domestic legislation.
22. Therefore, the Government considers that the Regulations should remain in place.



<p>Title: Post Implementation Review of The Nuclear Industries Security (Amendment) and Nuclear Security (Prescribed Material) Regulations 2014</p> <p>PIR No: TBC</p> <p>Original IA/RPC No: N/A</p> <p>Lead department or agency: BEIS</p> <p>Other departments or agencies: N/A</p> <p>Contact for enquiries: Lucy Jordan</p>	<p>Post Implementation Review</p>
	<p>Date: 8 April 2020</p>
	<p>Type of Regulation: Secondary legislation</p>
	<p>Type of review: Statutory</p>
	<p>Date measure came into force: 31 March 2014</p>
	<p>Recommendation: Keep</p>
<p>RPC Opinion: N/A</p>	

Questions

<p>1. What were the policy objectives of the measure? (Maximum 5 9lines)</p> <p>The objectives of the Nuclear Industries Security (Amendment) and Nuclear Security (Prescribed Material) Regulations 2014 was to ensure that security in the civil nuclear industry continues to be robust and effective by prescribing other fissile materials as “nuclear material” for which the ONR should ensure security, in order to ensure the definition of “nuclear material” for the purposes of section 70(3) of the Energy Act 2013 is consistent with other UK legislation.</p>
<p>2. What evidence has informed the PIR? (Maximum 5 lines)</p> <p>The Department for Business Energy and Industrial Strategy (BEIS) has no major concerns with the Regulation. A light questionnaire was given to the nuclear regulator (Office for Nuclear Regulation) and opinions were sought from trade associations and representatives from industry. The questionnaire details are available at Annex 2</p>
<p>3. To what extent have the policy objectives been achieved? (Maximum 5 lines)</p> <p>The Regulations meets their policy objectives, as they provide the security regulator the necessary legal powers to regulate the security of prescribed material. The policy objectives have been achieved to the extent that if the Regulations are removed it would create a lack of clarity and consistency as to the definition of “nuclear material” in domestic legislation.</p>



Sign-off for Post Implementation Review: Chief economist

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed:

Date: 31/01/2020

Jenny Bates, Chief Economist



Further information

Questions

4. What were the original assumptions? (Maximum 5 lines)

An impact assessment was not created for the Regulations. There were no original assumptions. The Regulations were created to correct drafting errors in the Nuclear Industries Security (Amendment) Regulations 2013 (S.I. 2013/190) and to extend the definition of “nuclear material” for the purposes of section 70(3) of the Energy Act 2013 (Office for Nuclear Regulation’s nuclear security purposes) by prescribing additional kinds of fissile material.

5. Were there any unintended consequences? (Maximum 5 lines)

We are not aware of any unintended consequences of the Regulations.

6. Has the evidence identified any opportunities for reducing the burden on business?
(Maximum 5 lines)

The evidence has not identified any opportunities for reducing the burden on business. The impact burden on business, is extremely minimal.

7. For EU measures, how does the UK’s implementation compare with that in other EU member states in terms of costs to business? (Maximum 5 lines)

Not applicable.



The Nuclear Industries Security (Amendment) and Nuclear Security (Prescribed Material) Regulations 2014 Post Implementation Review Questionnaire

The Nuclear Industries Security (Amendment) and Nuclear Security (Prescribed Material) Regulations 2014 are due for a statutory Post Implementation Review (PIR). A PIR is a process to assess the effectiveness of a regulation after it has been implemented and operational for a period of time. It addresses the extent to which a regulation is achieving its intended effects, whether there have been any unintended effects, how well it is working and the reasons why.

The objectives of The Nuclear Industries Security (Amendment) and Nuclear Security (Prescribed Material) Regulations 2014 were to prescribe additional categories of fissile material and ensure that the definition of nuclear material for the purposes of the 2013 Act is consistent with existing regulation. (There is another objective of the regulations – to rectify a minor drafting point - which is not the subject of the PIR).

The questions below aim to assess the effectiveness of the regulation and identify relevant issues.

- Q1. Please give your views on whether, and to what extent, the regulations have achieved their objectives.
- Q2. Overall how well are the regulations working?
- Q3. Have the regulations resulted in any unintended consequences?
- Q4. What do you consider would happen if the regulations were removed?
- Q5. Do you consider that the objectives of the regulations could be met by an alternative non-legislative measure?
- Q6. Do you consider that the objectives of the regulation are still valid/relevant? Why?
- Q7. Are there any aspects of the regulations which require review? If so Why?
- Q8. What refinements or amendments could be made to the regulations to improve their effectiveness?
- Q9. Do you have any other comments that you believe would help us to evaluate these regulations?