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STATUTORY INSTRUMENTS

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**2016 No. 702**

**NUCLEAR ENERGY**

**The Nuclear Decommissioning and Waste Handling  
(Finance and Fees) (Amendment) Regulations 2016**

<i>Made</i>	- - - -	<i>5th July 2016</i>
<i>Laid before Parliament</i>		<i>6th July 2016</i>
<i>Coming into force</i>	- -	<i>31st July 2016</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 45A, 46(3H), 49(3), 54(1) and (2), 66(3A) and (3B) and 104 of the Energy Act 2008<sup>(1)</sup>.

**Citation and commencement**

1. These Regulations may be cited as the Nuclear Decommissioning and Waste Handling (Finance and Fees) (Amendment) Regulations 2016 and come into force on 31st July 2016.

**Interpretation**

2. In these Regulations, “the 2013 Regulations” means the Nuclear Decommissioning and Waste Handling (Finance and Fees) Regulations 2013<sup>(2)</sup>.

**Amendments to the 2013 Regulations**

3.—(1) Regulation 6 of the 2013 Regulations (fees payable in relation to funded decommissioning programmes) is amended as follows.

(2) After paragraph (1) insert—

“(1A) A person who informs the Secretary of State of a proposal to submit a funded decommissioning programme must pay a fee to the Secretary of State for the amount of costs reasonably incurred by the Secretary of State for relevant advice in relation to the consideration of the proposed programme (or any particular aspect of it).”.

(3) After paragraph (2) insert—

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(1) 2008 c. 32. Section 45A was inserted by section 149(1) and (2) of the Energy Act 2013 (c. 32). Section 46(3A) to (3G) was inserted by section 106(1) and (2) of the Energy Act 2011 (c. 16). Section 46(3H) was inserted by section 149(1) and (3) of the Energy Act 2013. Section 49(3) was amended by section 149(1) and (4) of the Energy Act 2013. Section 66(3A) and (3B) were inserted by section 149(1) and (5) of the Energy Act 2013.

(2) S.I. 2013/126, as amended by S.I. 2013/1875.

“(2A) Where a person requests advice from the Secretary of State about the making of a section 48 proposal, the site operator must pay a fee to the Secretary of State for the amount of costs reasonably incurred by the Secretary of State for relevant advice in relation to that request.”.

4. After regulation 6 of the 2013 Regulations insert—

**“Fees payable in relation to section 46 agreements**

**6A.**—(1) Where the Secretary of State makes or amends a section 46 agreement (or it is proposed that such an agreement be made or amended) the site operator must pay a fee to the Secretary of State for the amount of costs reasonably incurred for relevant advice in relation to—

- (a) the agreement;
- (b) any amendment to the agreement; or
- (c) any proposal for an agreement or amendment.

(2) Paragraphs (5) and (6) of regulation 6 apply in relation to a fee payable under this regulation.

(3) In paragraph (1)—

“relevant advice” has the same meaning as in regulation 6; and

“section 46 agreement” means an agreement of the kind referred to in section 46(3A).

**Fees payable in relation to section 66 agreements**

**6B.**—(1) A person making a proposal to the Secretary of State to enter into a section 66 agreement, or proposing any amendment to such an agreement, must pay a fee to the Secretary of State for the amount of costs reasonably incurred for relevant advice in relation to—

- (a) the agreement;
- (b) any amendment to the agreement; or
- (c) any proposal for an agreement or amendment.

(2) Paragraphs (5) and (6) of regulation 6 apply in relation to a fee payable under this regulation.

(3) In paragraph (1)—

“relevant advice” has the same meaning as in regulation 6; and

“section 66 agreement” means an agreement of the kind referred to in section 66(1).”.

*Andrea Leadsom*  
Minister of State

5th July 2016

Department of Energy and Climate Change

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## EXPLANATORY NOTE

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

Chapter 1 of Part 3 of the Energy Act 2008 (“the Act”) sets out the legislative framework for funded decommissioning programmes and for the entry into agreements concerning the disposal of hazardous nuclear material. These Regulations are made using the powers to charge under sections 45A, 46(3H), 49(3) and 66(3A) of that Chapter and they amend the Nuclear Decommissioning and Waste Handling (Finance and Fees) Regulations 2013 (S.I. 2013/126) (“the 2013 Regulations”).

Regulation 3 extends the charging power set out in regulation 6 of the 2013 Regulations in two ways. It enables the Secretary of State to recover the costs incurred in considering a proposal for a funded decommissioning programme put forward by an operator but before its submission to the Secretary of State under section 45(3)(b) of the Act. It also enables the Secretary of State to recover the costs incurred in considering proposals to modify a funded decommissioning programme but before those proposals are made by notice in writing to the Secretary of State under section 49(2)(b) of the Act.

Regulation 4 introduces two new charging powers into the 2013 Regulations which are set out in new regulation 6A and new regulation 6B.

New regulation 6A will enable the Secretary of State to recover from the operator of a nuclear site the costs of advice incurred in considering an agreement which it wishes to enter into under section 46(3A) of the Act, or any amendment to such an agreement or any proposal in relation to any such agreement or amendment.

New regulation 6B will enable the Secretary of State to recover from a person wishing to enter into an agreement made under section 66 of the Act the costs of advice incurred in considering the agreement, any amendment to such an agreement or any proposal in relation to any such agreement or amendment.

A regulatory triage assessment of the effect that this instrument will have on the costs of business is available from the Department of Energy and Climate Change, 3 Whitehall Place, London, SW1A 2AW and is published with the explanatory memorandum alongside this instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).