
STATUTORY INSTRUMENTS

2016 No. 253

The Health and Safety and Nuclear (Fees) Regulations 2016

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Health and Safety and Nuclear (Fees) Regulations 2016 and come into force on 6th April 2016.

(2) These Regulations cease to have effect at the end of the period of five years beginning on 6th April 2016.

(3) These Regulations extend to Great Britain.

Interpretation

2.—(1) In these Regulations—

“the 1974 Act” means the Health and Safety at Work etc. Act 1974;

“the 2013 Act” means the Energy Act 2013;

“the 1999 Regulations” means the Ionising Radiations Regulations 1999(1);

“the 2012 Asbestos Regulations” means the Control of Asbestos Regulations 2012(2);

“the 2013 Biocidal Products and Chemicals Regulations” means the Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013(3);

“the 2014 GMO Regulations” means the Genetically Modified Organisms (Contained Use) Regulations 2014(4);

“approval” includes the amendment of an approval, and “amendment of an approval” includes the issue of a new approval replacing the original and incorporating one or more amendments;

“employment medical adviser” means an employment medical adviser appointed under section 56(1) of the 1974 Act;

“the ONR” means the Office for Nuclear Regulation(5);

“original approval” and “original type approval” do not include an amendment of an approval; and

“working days” does not include weekends or public holidays.

(2) Any reference in these Regulations to the renewal of an approval, explosives certificate or licence (each referred to in this paragraph as an “authorisation”) means the granting of the authorisation concerned to follow a previous authorisation of the same kind without any amendment or gap in time.

(1) [S.I. 1999/3232](#), amended by [S.I. 2001/2975](#); there are other amending instruments but none is relevant.

(2) [S.I. 2012/632](#).

(3) [S.I. 2013/1506](#).

(4) [S.I. 2014/1663](#).

(5) The Office for Nuclear Regulation was established by section 77 of the Energy Act [2013\(c.32\)](#).

Fees for applications for approval under the Agriculture (Tractor Cabs) Regulations 1974

3.—(1) A fee is payable by the applicant to the Executive on each application for approval of plant and equipment under the Agriculture (Tractor Cabs) Regulations 1974(6).

(2) The fee payable on application for such an approval as is described in column 1 of Schedule 1 is that specified in the corresponding entry in column 2 of that Schedule.

Fees for application for approval under the Freight Containers (Safety Convention) Regulations 1984

4.—(1) A fee is payable by the applicant to the Executive on each application for approval of a scheme or programme for examination of freight containers under the Freight Containers (Safety Convention) Regulations 1984(7).

(2) The fee payable on each application for the approval described in column 1 of Schedule 2 is that specified in column 2 of that Schedule.

Fees for various applications under the Control of Asbestos Regulations 2012

5.—(1) A fee is payable by the applicant to the Executive on each application for a licence under the 2012 Asbestos Regulations.

(2) The fee payable on application for a licence described in column 1 of Table 1 in Schedule 3 is that specified in column 2 of that Table.

(3) Where the Executive refuses to grant an applicant a licence under the 2012 Asbestos Regulations and offers to reassess whether to grant the application if shortcomings leading to the refusal are remedied, a fee is payable by the applicant to the Executive in respect of any such reassessment.

(4) The fee payable for the reassessment referred to in paragraph (3) is that specified in column 1 of Table 2 in Schedule 3.

(5) Where the Executive amends a licence granted under the 2012 Asbestos Regulations and the amendment relates to a condition or the duration of the licence, a fee is payable to the Executive by the licensee.

(6) The fee payable under paragraph (5) is that specified in column 2 of Table 2 in Schedule 3.

(7) Where the Executive replaces a lost licence granted under the 2012 Asbestos Regulations or amends a licence granted under those Regulations for reasons other than those referred to in paragraph (5), a fee is payable to the Executive by the licensee.

(8) The fee payable under paragraph (7) is that specified in column 3 of Table 2 in Schedule 3.

Fees for examination or surveillance by an employment medical adviser

6.—(1) A fee is payable to the Executive by an employer in respect of a medical examination or medical surveillance of each of that employer's employees by an employment medical adviser for the purposes of any provision specified in column 1 of Schedule 4.

(2) The fee payable under paragraph (1) is a basic fee for each examination or on each occasion when surveillance is carried out together with additional fees for X-rays and laboratory tests where these are taken or carried out in connection with the examination; and for each provision specified in column 1 of Schedule 4—

(a) the basic fee is the amount specified in column 3 of that Schedule for that provision;

(6) S.I. 1974/2034; amended by S.I. 1976/1247, 1981/1414 and 1990/1075.

(7) S.I. 1984/1890, amended by S.I. 1986/392.

- (b) the additional fee for X-rays is the amount specified in column 4 of that Schedule for that provision, and covers all X-rays taken in connection with any one examination;
- (c) the additional fee for laboratory tests is the amount specified in column 5 of that Schedule for that provision, and covers all such tests carried out in connection with any one examination.

(3) Where an employment medical adviser carries out a medical examination of a self-employed person for the purposes of the 2012 Asbestos Regulations, that self-employed person must pay fees to the Executive ascertained in accordance with paragraph (2).

Fees for medical surveillance by an employment medical adviser under the Control of Lead at Work Regulations 2002

7.—(1) A fee is payable to the Executive by an employer in respect of medical surveillance of any of that employer's employees by an employment medical adviser for the purposes of the Control of Lead at Work Regulations 2002(8).

(2) The fee payable for each item described in column 1 of Schedule 5 is that specified in the corresponding entry in column 2 of that Schedule.

Fees payable in connection with the Ionising Radiations Regulations 1999 and the Radiation (Emergency Preparedness and Public Information) Regulations 2001

8.—(1) A fee is payable by the applicant to the Executive on each application for—

- (a) an original approval of dosimetry services granted for the purposes of the 1999 Regulations;
- (b) the reassessment of an original approval of dosimetry services previously granted for the purposes of the 1999 Regulations; or
- (c) the amendment, pursuant to section 11(1) of the 1974 Act, of an original approval granted for the purposes of the 1999 Regulations.

(2) A fee is payable by the applicant to the Executive on each application for an original type approval of apparatus pursuant to paragraphs 1(c)(i) or 1(d)(i) of Schedule 1 to the 1999 Regulations or for an amendment, pursuant to section 11(1) of the 1974 Act, of an original type approval.

(3) The fee payable for an application referred to in paragraph (1) or (2) in respect of each matter specified in column 1 of Table 1 in Schedule 6 is that specified in the corresponding entry in column 2 of that Table.

(4) A fee is payable by the applicant to the Executive on each application for—

- (a) an original approval of dosimetry services for the purposes of regulation 14 of the 2001 Regulations;
- (b) the reassessment of an original approval of dosimetry services previously granted for the purposes of regulation 14 of the 2001 Regulations; or
- (c) the amendment of an original approval granted for the purposes of regulation 14 of the 2001 Regulations and amended pursuant to section 11(1) of the 1974 Act.

(5) The fee payable for an application referred to in paragraph (4) for each purpose specified in column 1 of Table 2 in Schedule 6 is that specified in the corresponding entry in column 2 of that Table.

(6) A fee is payable by the applicant to the Executive where the Executive requires any work to be carried out by—

(8) [S.I. 2002/2676](#), amended by [S.I. 2008/960](#) and [2014/469](#); there are other amending instruments but none is relevant.

- (a) its inspectors; or
- (b) a person appointed to advise the Executive,

in connection with any application in respect of which a fee is payable by virtue of paragraph (1), (2) or (4), and the fee for such work in connection with each matter described in column 1 of Tables 1 and 2 in Schedule 6 is that specified in the corresponding entry in column 3 of those Tables for each hour worked adjusted pro rata for a period worked of less than one hour.

(7) Where the Executive requires an inspection to be carried out in connection with any application mentioned in this regulation, a fee is payable by the applicant to the Executive of an amount equal to the reasonable cost of travelling and subsistence of any member of the Executive's staff in connection with the inspection.

(8) Any fee payable under paragraph (6) or (7) is payable prior to notification of the result of the application.

(9) Subject to paragraph (10), a fee is payable by an employer to the Executive for each dose record sent by or on behalf of that employer pursuant to regulation 21(3)(e) of the 1999 Regulations in the amount set out in column 2 of Table 3 in Schedule 6 for the work carried out by or on behalf of the Executive by virtue of the provisions set out in column 1 of that Table and for the purpose specified in column 3 of that Table.

(10) The employer is not required to pay a fee under paragraph (9) unless the total amount payable in respect of all dose records relating to a calendar year sent by, or on behalf of, that employer is at least £25.

(11) For the purposes of this regulation and Schedule 6—

“the 2001 Regulations” means the Radiation (Emergency Preparedness and Public Information) Regulations 2001⁽⁹⁾;

“amendment of an original approval” includes the issue of a new approval replacing the original and incorporating one or more amendments;

“amendment of an original type approval” includes the issue of a new type approval replacing the original and incorporating one or more amendments;

“processing” means obtaining, recording or holding the information or carrying out any operation or set of operations on that information, including—

- (a) organisation, adaptation or alteration of the information;
- (b) retrieval or consultation of the information; and
- (c) disclosure by transmission, dissemination or otherwise making available the information, in whatever format.

Fees payable in relation to the Explosives Regulations 2014 and the Acetylene Safety (England and Wales and Scotland) Regulations 2014

9.—(1) Where an application in relation to a provision specified in column 1 of Part 1 of Schedule 7, for a purpose specified in column 2 of that Part, is made to a licensing authority which is the licensing authority by virtue of—

- (a) paragraph 1(c) or (d) of Schedule 1 to the Explosives Regulations 2014⁽¹⁰⁾, or

⁽⁹⁾ [S.I. 2001/2975](#), to which there are amendments but none is relevant. An approval of dosimetry services for the purposes of regulation 14 of the Radiation (Emergency Preparedness and Public Information) Regulations 2001 is made under regulation 35 of the Ionising Radiation Regulations 1999 ([S.I. 1999/3232](#)).

⁽¹⁰⁾ [S.I. 2014/1638](#).

- (b) paragraph 1(b)(11), 2 or 4 of that Schedule in cases where the assent of the local authority is required under regulation 13(3) of those Regulations or is not required by virtue of regulation 13(4)(b) to (g) of those Regulations,

the fee specified in the corresponding entry in column 3 of that Part is payable by the applicant to that licensing authority.

(2) In the case of an application for a purpose referred to in column 2 of Part 1 of Schedule 7 for a licence to manufacture or store ammonium nitrate blasting intermediate or to vary any such licence, the fee referred to in the corresponding entry in column 3 of that Part as an amount per hour worked—

- (a) is to be adjusted pro rata for a period worked of less than one hour; and
(b) is payable prior to notification of the result of the application.

(3) A fee is payable by the applicant to the Executive where the Executive requires any work to be carried out by its inspectors in connection with any application in respect of which a fee is payable by virtue of paragraph (1) for any purpose specified in column 2 of Part 1 of Schedule 7 for which there is a corresponding entry in column 4 of that Part, and the fee for work in connection with each such purpose is that specified in the corresponding entry in column 4 of that Part for each hour worked adjusted pro rata for a period worked of less than one hour, and such fee is payable prior to notification of the result of the application.

(4) Where an application in relation to a provision specified in column 1 of Part 2 of Schedule 7, for a purpose specified in column 2 of that Part, is made to a licensing authority, which is the licensing authority by virtue of—

- (a) paragraph 1(a) of Schedule 1 to the Explosives Regulations 2014, or
(b) paragraph 1(b), 2 or 4 of Schedule 1 to those Regulations in cases where the requirement for assent of the local authority under regulation 13(3) of those Regulations is disapplied by regulation 13(4)(a) of those Regulations,

the fee specified in the corresponding entry in column 3 of that Part is payable by the applicant to that licensing authority.

(5) Where any application in relation to the provision specified in column 1 in Table 1 in Part 3 of Schedule 7 is made for a purpose specified in column 2 of that Table, the fee specified in the corresponding entry in column 3 of that Table is payable by the applicant to the chief officer of police.

(6) Where, in relation to an application for an explosives certificate under the Explosives Regulations 2014, a check is carried out for the purposes of regulation 19(2)(d) of those Regulations to ascertain whether the applicant is a prohibited person or not, a fee is payable by the applicant to the chief officer of police and the fee, which is payable prior to that check being carried out, is that specified in Table 2 in Part 3 of Schedule 7.

(7) Parts 2 and 3 of Schedule 7 have effect subject to, respectively, the Notes to Parts 2 and 3.

(8) Where an application in relation to the 2014 Acetylene Regulations is made for a purpose specified in column 1 of Part 4 of Schedule 7, the fee specified in the corresponding entry in column 2 of that Part is payable by the applicant to the licensing authority within the meaning given in the 2014 Acetylene Regulations.

(9) An additional fee is payable by the applicant to the licensing authority within the meaning given in the 2014 Acetylene Regulations, where work is required to be carried out by its inspectors in connection with any application in relation to the 2014 Acetylene Regulations that is made for a purpose specified in column 1 of Part 4 of Schedule 7 for which there is a corresponding entry in column 3 of that Part, and the fee for work in connection with each such purpose is that specified in the corresponding entry in column 3 of that Part for each hour worked, adjusted pro rata for a

(11) Paragraph 1(b) was substituted by [S.I 2014/3248](#).

period worked of less than one hour, and such fee is payable prior to the notification of the result of the application.

(10) For the purposes of this regulation and Schedule 7—

“the 1968 Act” means the Firearms Act 1968(12);

“the 2014 Acetylene Regulations” means the Acetylene Safety (England and Wales and Scotland) Regulations 2014(13);

“ammonium nitrate blasting intermediate”, “chief officer of police”, “explosives certificate” “licence”, “licensing authority”, “manufacture”, “on-site mixing”, “prohibited person” “shooters’ powder” and “site” have the same meanings as in the Explosives Regulations 2014(14);

“firearm certificate”, “firearms dealer” and “shot gun certificate” have the same meanings as in the 1968 Act(15);

“firearms dealer certificate” means a certificate granted or caused to be granted under section 33(4) of the 1968 Act to a person who is registered as a firearms dealer under that section;

“relevant application under the 1968 Act” means an application under the 1968 Act—

- (a) for a firearm certificate or a shot gun certificate or to be registered as a firearms dealer; or
- (b) for the renewal of a firearm certificate, a shot gun certificate or a firearms dealer certificate; and

“relevant certificate” means a firearm certificate, a shot gun certificate or a firearms dealer certificate.

Fees payable in relation to the Petroleum (Consolidation) Regulations 2014

10. Where an application in relation to the provision in the Petroleum (Consolidation) Regulations 2014(16) specified in column 1 of Part 5 of Schedule 7 is made for the purpose described in the corresponding entry in column 2 of that Part, the fee specified in the corresponding entry in column 3 of that Part is payable by the applicant to the petroleum enforcement authority.

Fees for application for or changes to an explosives licence under Part 9 of the Dangerous Substances in Harbour Areas Regulations 1987

11.—(1) A fee is payable by the applicant to the appropriate authority on each application for an explosives licence, or for any alteration in the terms of or other change to an existing explosives licence, under Part 9 of the 1987 Regulations.

(2) The fee on an application for each purpose specified in column 1 of Schedule 8 is that specified in the corresponding entry in column 2 of that Schedule and, where the fee is determined as an amount per hour worked, the fee, which is to be adjusted pro rata for a period worked of less than one hour, so calculated is payable prior to notification of the result of the application.

(3) For the purposes of this regulation “appropriate authority”—

(12) 1968 c.27; for applications for a firearm certificate or a shot gun certificate, sections 26A and 26B were substituted for section 26 by the Firearms (Amendment) Act 1997 (c.5), section 37. For applications to be registered as a firearms dealer, section 33 was amended by the Firearms (Amendment) Act 1988 (c.45), section 13(1), and the Firearms (Amendment) Act 1997 (c.5), section 42(2). The definition of “firearms dealer” in section 57(4) was amended by the Violent Crime Reduction Act 2006 (c.38), section 31(3).

(13) S.I. 2014/1639.

(14) All of these expressions are defined in regulation 2 of the Explosives Regulations 2014 except for “on-site mixing” which is defined in regulation 13(10)(b).

(15) All of these expressions are defined in section 57 of the Firearms Act 1968.

(16) S.I. 2014/1637.

(a) where the application is required to be made to the ONR under the 1987 Regulations, means the ONR;

(b) otherwise, means the Executive.

(4) For the purposes of this regulation “the 1987 Regulations” means the Dangerous Substances in Harbour Areas Regulations 1987(17).

Estimate of cost of work

12.—(1) Where any fee is to be assessed on the reasonable cost to the ONR or the licensing authority of carrying out relevant work, the ONR or the licensing authority (as the case may be) must—

(a) on receipt of the application or request, as the case may be, prepare and send to the person making that application or request an estimate of the cost of carrying out the relevant work; and

(b) before carrying out the relevant work, obtain confirmation from the person making the application or request that the person wishes the work to be carried out on the basis of that estimate of cost.

(2) For the purposes of this regulation, “relevant work” means—

(a) in relation to the ONR, any work under regulation 16(1) or (2);

(b) in relation to the licensing authority, any work under regulation 9(3).

Fees for notifications and applications under the Genetically Modified Organisms (Contained Use) Regulations 2014

13.—(1) The fee specified in column 2 of Schedule 9 is payable by a notifier or applicant to the competent authority on each such notification or application under the 2014 GMO Regulations as is referred to in the corresponding entry in column 1 of that Schedule.

(2) No fee is to be returned to a notifier where the notifier withdraws a notification under regulation 17 of the 2014 GMO Regulations or the competent authority returns a notification under regulation 24(6) of the 2014 GMO Regulations.

(3) For the purposes of this regulation and Schedule 9, “notifier” and “competent authority” have the same meaning as in the 2014 GMO Regulations.

Fees payable in respect of offshore installations

14.—(1) A fee is payable to the Executive by the person referred to in column 2 of Schedule 10 for the performance by the Executive of such functions conferred on the Executive as are specified in column 1 of that Schedule.

(2) A fee is payable to the Executive by an operator or owner who has prepared a current safety case pursuant to the 2005 Regulations or the 2015 Regulations for the performance by or on behalf of the Executive, or by an inspector appointed by it, of any function conferred on the Executive or the inspector by the 1974 Act which relates to the enforcement of any of the relevant statutory provisions against one or more than one of the following—

(a) that operator or owner in relation to the installation to which the current safety case relates; or

(b) a contractor in relation to any work carried out by that contractor on or in connection with that installation.

- (3) For the purposes of this regulation, regulation 17 and Schedule 10 —
- “the 2005 Regulations” means the Offshore Installations (Safety Case) Regulations 2005(**18**);
- “the 2015 Regulations” means the Offshore Installations (Offshore Safety Directive)(Safety Case etc) Regulations 2015(**19**);
- “competent authority” has the meaning given in the 2015 Regulations;
- “installation”, “current safety case”, “safety case”, and “owner”, in a case concerning the 2005 Regulations have the same meanings as in those Regulations or, in a case concerning the 2015 Regulations, have the same meanings as in the 2015 Regulations; and
- “operator”—
- (a) in a case concerning the 2005 Regulations has the meaning—
- (i) in the case of the dismantling of a fixed installation under regulation 11 of those Regulations, given in regulation 11(4) of those Regulations;
- (ii) in any other case, given in regulation 2(1) of those Regulations in relation to a production installation;
- (b) in a case concerning the 2015 Regulations, has the meaning given in those Regulations.

Fees payable in respect of gas safety functions

15.—(1) A fee is payable to the Executive by the person referred to in column 2 of Schedule 11 for the performance by the Executive of such functions conferred on the Executive as are specified in column 1 of that Schedule.

(2) A fee is payable to the Executive by a person conveying gas who has prepared a safety case pursuant to the 1996 Regulations or by a network emergency co-ordinator for the performance by or on behalf of the Executive, or by an inspector appointed by it, of any function conferred on the Executive or the inspector by the 1974 Act which relates to the enforcement of any of the relevant statutory provisions against one or both of the following—

- (a) that person in relation to the network, including a pipeline that it is intended will form part of the network, to which the safety case relates; or
- (b) a contractor in relation to work carried out by that contractor on or in connection with that network, including work on a pipeline that it is intended will form part of that network,

insofar as such enforcement is for the purpose of protecting persons from risks arising from the manner in which gas is or is to be conveyed or used.

(3) A fee is payable to the Executive by a person conveying gas who has prepared a safety case pursuant to the 1996 Regulations and a major accident prevention document pursuant to the Pipelines Safety Regulations 1996(**20**) for the performance by or on behalf of the Executive, or by an inspector appointed by it, of any function conferred on the Executive or the inspector by the 1974 Act which relates to the enforcement of any of the relevant statutory provisions against one or both of the following—

- (a) that person in relation to work relating to a major accident hazard pipeline, including the construction of a pipeline that it is intended will form part of the network, to which the major accident prevention document relates; or
- (b) a contractor in relation to work carried out by that contractor relating to a major accident hazard pipeline, including the construction of a pipeline that it is intended will form part of the network, to which the major accident prevention document relates.

(18) S.I. 2005/3117, as amended by S.I. 2015/398; there are other amending instruments but none are relevant.

(19) S.I. 2015/398.

(20) S.I. 1996/825, to which there are amendments not relevant to these Regulations.

- (4) For the purposes of this regulation, regulation 17 and Schedule 11—
- “the 1996 Regulations” means the Gas Safety (Management) Regulations 1996⁽²¹⁾ and “network”, “network emergency co-ordinator” and “safety case” have the same meanings as in those Regulations; and
- “major accident hazard pipeline” has the same meaning as in the Pipelines Safety Regulations 1996.

Fees payable in relation to nuclear installations

16.—(1) Where, by virtue of the provisions specified in entry (a) or (b) of column 1 of Table 1 in Schedule 12, the ONR carries out any work for a purpose specified in column 2 of that Table, a fee is payable to the ONR by the person referred to in column 3 of that Table.

(2) Where, by virtue of the provisions specified in column 1 of Table 2 in Schedule 12, the ONR carries out any work for the purpose specified in column 2 of that Table, a fee is payable to the ONR by the person referred to in column 3 of that Table.

(3) A fee is payable to the ONR by a licensee of a nuclear site for the performance by or on behalf of the ONR, or by an inspector appointed by it, of any function conferred on the ONR or the inspector by the 1974 Act which relates to the enforcement of any of the relevant statutory provisions, or by the 2013 Act which relates to the enforcement of any of the nuclear provisions, against one or both of the following—

- (a) that licensee; or
- (b) a contractor in relation to any work carried out by that contractor on or in connection with that nuclear site.

(4) For the purposes of this regulation and Schedule 12—

“the 1965 Act” means the Nuclear Installations Act 1965⁽²²⁾;

“assessment agreement” means an agreement between the ONR and the person requesting the assessment of a design proposal, which identifies the scope of the assessment to be made by the ONR of that design proposal;

“design proposal” means a proposal for any nuclear installation, including matters relating to the installation’s construction, commissioning, operation and decommissioning, which is to be assessed by the ONR prior to any application for a licence under section 1(1) of the 1965 Act which may be made, based upon that proposal;

“licensee” means a person who has been granted a nuclear site licence pursuant to section 1(1) of the 1965 Act;

“nuclear installation” means a nuclear reactor or an installation within the meaning of section 1(1)(b) of the 1965 Act; and

“nuclear provisions” means the relevant statutory provisions (within the meaning given in section 82 of the 2013 Act) other than—

- (a) a provision of the Nuclear Safeguards Act 2000⁽²³⁾; or
- (b) any provision of nuclear regulations identified in accordance with section 74(9) of the 2013 Act as made for nuclear safeguards purposes.

Provisions supplementary to regulations 14 to 16

17.—(1) Any fee referred to in regulations 14 to 16 above—

(21) S.I. 1996/551, to which there are amendments not relevant to these Regulations.

(22) 1965 c.57; section 1(1) was substituted by paragraph 17 of Schedule 12 to the Energy Act 2013 (c.32).

(23) 2000 c.5.

- (a) is not to exceed the sum of the costs reasonably incurred—
 - (i) in the case of regulation 16(1) or (2), by the ONR in carrying out the work referred to in the respective paragraph;
 - (ii) in any other case, by the Executive or the ONR (as the case may be) in performing the function referred to in the respective regulation; and
 - (b) is payable within 30 days from the date of the invoice that the Executive or the ONR has sent or given to the person who must pay that fee, and such invoices must include a statement of the work done and the costs incurred, including the period to which the statement relates.
- (2) No fee payable under regulations 14 to 16 is to include any costs connected with—
- (a) in England and Wales, any criminal investigation or prosecution, incurred (in either case) from the date on which any information is laid or, as the case may be, any written charge is issued;
 - (b) in Scotland, any criminal investigation or prosecution, incurred (in either case) after such time as the Executive submits a report to the Procurator Fiscal for a decision as to whether a prosecution should be brought; or
 - (c) any appeal pursuant to section 24 of the 1974 Act (appeal against improvement or prohibition notice) and Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013⁽²⁴⁾ or paragraph 6 of Schedule 8 to the 2013 Act and Schedule 1 to those Regulations.
- (3) For the purposes of regulation 14 and paragraph (2)(a) and (b), an installation is treated as being in England and Wales if it is in the English area within the meaning of article 1 of the Civil Jurisdiction (Offshore Activities) Order 1987⁽²⁵⁾ and in Scotland if it is in the Scottish area within the meaning of that article.
- (4) Any reference in regulation 14 to a person who has prepared a current safety case includes a reference to—
- (a) a person who must prepare a safety case, and in that connection as if any reference in that regulation to the installation to which the current safety case relates were a reference to the installation to which the safety case would have related if it had been prepared in accordance with such requirement; and
 - (b) a person who is treated as having prepared a current safety case by virtue of regulation 2(9) of the 2005 Regulations.
- (5) Any reference in regulation 15 to a person who has prepared a safety case includes a reference to a person who must prepare a safety case, and in that connection as if any reference in that regulation to the network to which the safety case relates were a reference to the network to which the safety case would have related if it had been prepared in accordance with such requirement.
- (6) Any reference in regulations 14 to 16 to work carried out by a contractor is a reference to work carried out for the benefit of the person by whom the fees are payable under that regulation by a contractor or a contractor's employees, whether pursuant to an agreement or an arrangement which the contractor has made with that person or with another person.
- (7) Any reference in regulations 14 to 16 to a function conferred on an inspector by the 1974 Act which relates to enforcement against a person of any of the relevant statutory provisions includes a reference to any function conferred on an inspector by that Act which is exercised for the purpose of carrying into effect those provisions in relation to that person.

⁽²⁴⁾ [S.I.2013/1237](#), relevant amending instruments are [S.I. 2014/271](#) and [S.I. 2014/468](#).

⁽²⁵⁾ [S.I. 1987/2197](#), to which there are amendments not relevant to these Regulations.

(8) Any reference in regulation 16 to a function conferred on an inspector by the 2013 Act which relates to enforcement against a person of any of the nuclear provisions includes a reference to any function conferred on an inspector by that Act which is exercised for the purpose of carrying into effect those provisions in relation to that person.

(9) For the purposes of this regulation “nuclear provisions” has the meaning given in regulation 16.

Fees for applications for approvals under the Offshore Installations and Pipeline Works (First-Aid) Regulations 1989

18.—(1) A fee is payable by the applicant to the Executive on each application for an original approval or a renewal of an approval of training under regulation 5(2)(a) of the Offshore Installations and Pipeline Works (First-Aid) Regulations 1989⁽²⁶⁾.

(2) The fee payable under paragraph (1) is—

- (a) where the application for an original approval of training relates to, as the case may be—
 - (i) rendering first-aid to persons who are injured or become ill while at work (referred to in this regulation as “offshore first-aid training”); or
 - (ii) rendering first-aid to, and treating in accordance with the directions of a registered medical practitioner (who may or may not be present) persons who are injured or become ill while at work, and giving simple advice in connection with the health of persons at work (together referred to in this regulation as “offshore medical training”),

that specified in, respectively, columns 1 and 2 of Table 1 in Schedule 13; or

- (b) in respect of an application for a renewal of approval of, as the case may be, offshore first-aid training or offshore medical training, that specified in, respectively, columns 3 and 4 of that Table.

(3) Where, before an original approval of training is given, a shortcoming in the proposed training is identified by the Executive during a site-visit and the Executive requires an additional site-visit to be made for the purpose of reassessing an application for an original approval, a fee is payable by the applicant to the Executive.

(4) The fee payable under paragraph (3) is—

- (a) where the application for approval relates to offshore first-aid training, that specified in column 1 of Table 2 in Schedule 13; or
- (b) where the application for approval relates to offshore medical training, that specified in column 2 of that Table,

and is payable prior to the notification of the result of the application for approval of training.

(5) Where the Executive requires a site-visit, not including one for the purpose referred to in paragraph (8), to be made in connection with an approval mentioned in paragraph (1) in order to ascertain whether the standards in place when the original approval was given are being maintained, a fee is payable to the Executive by the provider of the approved training, except that no such fee is payable in respect of the first such site-visit made after the original approval has been given.

(6) Subject to paragraph (7), the fee payable under paragraph (5) is—

- (a) where the site-visit is in connection with an approval relating to offshore first-aid training, that specified in column 1 of Table 3 in Schedule 13; or
- (b) where the site-visit is in connection with an approval relating to offshore medical training, that specified in column 2 of that Table,

(26) S.I. 1989/1671, modified by S.I. 1993/1823; there are other amending instruments but none is relevant.

provided that, where the site-visit is in respect of both kinds of approval of training as are referred to in sub-paragraphs (a) and (b) above and takes only one day to complete, the sum of the payable fees specified in columns 1 and 2 of that Table is to be reduced by an amount of £150.

(7) The fee payable under paragraph (5) where the site-visit is carried out because a shortcoming in the training has been identified by the Executive during an earlier site-visit—

- (a) where the site-visit is in connection with an approval relating to offshore first-aid training, is that specified in column 3 of Table 3 in Schedule 13; or
- (b) where the site-visit is in connection with an approval relating to offshore medical training, is that specified in column 4 of that Table.

(8) Where the Executive requires a site-visit to be made for the purpose of investigating a complaint in relation to training provided pursuant to an approval mentioned in paragraph (1), a fee is payable to the Executive by the provider of the training where—

- (a) the result of the investigation is that the complaint is found to be justified; and
- (b) the complaint could not be investigated during a site-visit made for an additional purpose to that of investigating the complaint, requiring, as a result, a further site-visit.

(9) The fee payable under paragraph (8) is—

- (a) where the site-visit is made for the purpose of investigating a complaint relating to offshore first-aid training provided pursuant to an approval, that specified in column 1 of Table 4 in Schedule 13; or
- (b) where the site-visit is made for the purpose of investigating a complaint relating to offshore medical training provided pursuant to an approval, that specified in column 2 of Table 4 in Schedule 13.

(10) Where the date for any site-visit referred to in this regulation has been agreed between the training provider and the Executive and—

- (a) the training provider wishes to cancel the site-visit agreed for that date, and informs the Executive of this wish three working days or less before that date; and
- (b) there is as a result no site-visit on that date,

a fee is payable by the training provider to the Executive in respect of that cancelled site-visit.

(11) The fee payable under paragraph (10) is—

- (a) where the site-visit was to have been in connection with an approval of offshore first-aid training, that specified in column 3 of Table 4 in Schedule 13; or
- (b) where the site-visit was to have been in connection with an approval of offshore medical training, that specified in column 4 of that Table (that is to say, the reasonable cost to the Executive due to the cancellation).

(12) The fee referred to in paragraphs (6), (7), (9) and (11) is payable within 30 days from the date of the invoice that the Executive has sent or given to the person providing the approved training.

Provisions Supplementary to regulation 18

19.—(1) Where an application for an original approval of either offshore first-aid training or offshore medical training is made and the applicant thereafter applies for an original approval of the one of those two kinds of training not earlier applied for, or the applications are made together, the Executive must repay to the applicant the amount of £56 in respect of the fees paid for the original approvals of training applied for.

(2) For the purposes of this regulation “offshore first-aid training” and “offshore medical training” have the meanings given in regulation 18.

Fees for notifications under the Borehole Sites and Operations Regulations 1995

20.—(1) Subject to paragraph (3), a fee is payable to the Executive by the person referred to in column 2 of Schedule 14 for the performance by the Executive of such functions conferred on it under the 1995 Regulations as are specified in column 1 of that Schedule.

(2) Any fee referred to in paragraph (1) is—

- (a) not to exceed the sum of the costs reasonably incurred by the Executive for the performance of the function; and
- (b) payable within 30 days from the date of the invoice that the Executive has sent or given to the person who must pay that fee, and such invoices must include a statement of the work done and the costs incurred including the period to which the statement relates.

(3) No fee is payable under paragraph (1) for the performance by the Executive of the functions specified in column 1 of Schedule 14 to the extent that, in respect of any such function, a fee is payable or has been paid pursuant to the Control of Major Accident Hazards Regulations 2015⁽²⁷⁾.

(4) For the purposes of this regulation and Schedule 14 “the 1995 Regulations” means the Borehole Sites and Operations Regulations 1995⁽²⁸⁾ and “borehole site” and “operator” have the same meaning as in those Regulations.

Fees Payable for activities under the Biocides Regulation and the 2013 Biocidal Products and Chemicals Regulations

21.—(1) The functions of the Member State referred to in Article 80(2) of the Biocides Regulation are to be performed by the competent authority.

(2) Each competent authority must charge fees for—

- (a) work it carries out within the scope of the Biocides Regulation which relates to the activities listed in column 1 of Schedule 15; and
- (b) work it carries out in order to evaluate an application under regulation 13 of the 2013 Biocidal Products and Chemicals Regulations.

(3) Any fee payable under paragraph (2) must be calculated in accordance with paragraphs (4) to (10).

(4) Where a fee is payable under paragraph (2), the competent authority must prepare and send to the applicant, the person providing the information or the person making the request, as the case may be, an estimate of the cost of the work.

(5) The person to whom the estimate of costs specified in paragraph (4) is sent by the competent authority must pay to that authority the amount of that estimate within 30 days of its issue.

(6) Upon completion of the work, the competent authority must prepare a detailed statement of the work carried out and of the cost incurred by the competent authority or any person acting on its behalf in carrying out that work.

(7) If the cost referred to in paragraph (6) is greater than the amount estimated in accordance with paragraph (4), the competent authority must notify the amount of difference to the applicant, the person providing the information or the person making the request, as the case may be, who must pay the amount of the difference, which will be the final fee payable, without delay.

(8) If the cost referred to in paragraph (6) is less than the amount estimated in accordance with paragraph (4), the fee must be adjusted accordingly and the amount of difference must be paid without delay by the competent authority to the applicant, the person providing the information or the person making the request, as the case may be.

⁽²⁷⁾ S.I. 2015/483.

⁽²⁸⁾ S.I. 1995/2038, to which there are amendments not relevant to these Regulations.

(9) Subject to paragraph (10), in estimating or stating the cost of carrying out any work, the competent authority must determine that cost by reference to the daily rate per person specified in column 2 of Schedule 15 that corresponds to the activity listed in column 1.

(10) The daily rate per person must be adjusted pro rata for a period worked of less than 7.4 hours on any one day by—

- (a) dividing the daily rate by 14.8 to create a half hourly rate; and
- (b) multiplying that figure by the number of half hours worked, rounded up or down to the nearest half hour.

(11) Any unpaid fees may be recovered by the competent authority as a civil debt.

(12) For the purposes of this regulation and Schedule 15—

“the Biocides Regulation” means Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products⁽²⁹⁾;

“competent authority” means any of the competent authorities appointed by regulation 5 of the 2013 Biocidal Products and Chemicals Regulations.

(13) Expressions used in the Biocides Regulation which are also used in this regulation or Schedule 15 have the same meaning in these Regulations as they have in the Biocides Regulation.

Fees for intervention

22.—(1) Subject to regulation 23, if—

- (a) a person is contravening or has contravened one or more of the relevant statutory provisions for which the Executive is the enforcing authority; and
- (b) an inspector is of the opinion that that person is doing so or has done so, and notifies that person in writing of that opinion,

a fee is payable by that person to the Executive for its performance of the functions described in paragraphs (2) and (3).

(2) The fee referred to in paragraph (1) is payable for the performance by the Executive of any function conferred on it by the relevant statutory provisions, in consequence of any contravention referred to in the opinion notified to that person pursuant to paragraph (1)(b).

(3) Where, during a site-visit, an inspector forms the opinion that a person is contravening or has contravened one or more of the relevant statutory provisions, the fee referred to in paragraph (1) is payable for the performance by the Executive, during that site-visit, of any function conferred on it by the relevant statutory provisions for which no fee is payable by virtue of paragraph (2).

(4) For the purposes of paragraphs (6) and (7) and regulations 23 and 24, “fee for intervention” means the fee described in paragraphs (1) to (3).

(5) An inspector of the opinion that a person is contravening or has contravened one or more of the relevant statutory provisions must have regard, when deciding whether to notify that person in writing of that opinion, to the guidance entitled “HSE 47 – Guidance on the application of Fee for Intervention” (1st edition) approved by the Executive on 11th June 2012⁽³⁰⁾.

(6) A written notification under paragraph (1) must—

- (a) specify the provision or provisions to which that inspector’s opinion relates;
- (b) give particulars of the reasons for that opinion; and

⁽²⁹⁾ OJ No L 167, 27.06.2012, p1.

⁽³⁰⁾ A corrected version was published in September 2012. The guidance was also amended in November 2013 and March 2014.

(c) inform the person to whom it is given that fee for intervention is payable to the Executive in accordance with this regulation and regulation 23.

(7) Fee for intervention is payable by a person in respect of the functions described in paragraph (3) only to the extent that the performance of any such function by the Executive is reasonably attributable to that person.

Provisions supplementary to regulation 22

23.—(1) Fee for intervention is not to exceed the sum of the costs reasonably incurred by the Executive for its performance of the functions referred to in paragraphs (2) and (3) of regulation 22.

(2) Fee for intervention is payable within 30 days from the date of each invoice that the Executive has sent or given to the person who must pay that fee, and such invoices must include a statement of the work done and the costs incurred, including the period to which the statement relates.

(3) No fee for intervention is payable by a person to the extent that an opinion of an inspector that that person is contravening or has contravened one or more of the relevant statutory provisions relates to any contravention which, having regard to the guidance specified in regulation 22(5), should not have been notified in writing to that person.

(4) No fee for intervention is payable in relation to any contravention of the relevant statutory provisions in consequence of which the Executive performed any function prior to the day on which the Health and Safety (Fees) Regulations 2012⁽³¹⁾ came into force.

(5) No fee for intervention is payable for the performance by any inspector not employed by the Executive of any function conferred on it by the relevant statutory provisions.

(6) No fee for intervention payable for or in connection with any contravention of the relevant statutory provisions is to include any costs connected with—

- (a) in England and Wales, any criminal investigation or prosecution, incurred (in either case) from the date on which any information is laid or, as the case may be, any written charge is issued;
- (b) in Scotland, any criminal investigation or prosecution, incurred (in either case) after such time as the Executive submits a report to the Procurator Fiscal for a decision as to whether a prosecution should be brought;
- (c) any appeal pursuant to section 24 of the 1974 Act (appeal against improvement or prohibition notice) and Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013; or
- (d) any functions performed from the date on which the Executive formally notifies a person that, but for section 48(1) of the 1974 Act, it would have commenced a criminal prosecution against that person in relation to any such contravention.

(7) No fee for intervention is payable by a person in respect of any contravention of the relevant statutory provisions by that person in his or her capacity as an employee.

(8) No fee for intervention is payable by a self-employed person in respect of any contravention by that self-employed person of the relevant statutory provisions which does not and did not expose any other person to a health or safety risk.

(9) No fee for intervention is payable for the performance by the Executive of any function conferred on it by the relevant statutory provisions to the extent that, in respect of any such function, another fee is payable or has been paid.

(10) No fee for intervention is payable for the performance by the Executive of any function conferred on it by the relevant statutory provisions in respect of which fee for intervention is payable

⁽³¹⁾ These Regulations came into force on 1st October 2012.

or has been paid in consequence of an opinion previously notified in accordance with paragraphs (1), (5) and (6) of regulation 22.

(11) No fee for intervention is payable in respect of any contravention of the relevant statutory provisions which relates to any contained use.

(12) In paragraph (11), “contained use” has the same meaning as in the 2014 GMO Regulations.

(13) No fee for intervention is payable in respect of any contravention of the relevant statutory provisions which relates to any of the activities specified in paragraph 3(3) of Part 1 of Schedule 3 to the Control of Substances Hazardous to Health Regulations 2002⁽³²⁾.

(14) No fee for intervention is payable by a person who holds a licence to undertake work with asbestos in respect of any contravention of the relevant statutory provisions which relates to licensable work with asbestos.

(15) In paragraph (14), “licensable work with asbestos” has the same meaning as in the 2012 Asbestos Regulations, and “work with asbestos” is to be construed in accordance with regulation 2(2) of those Regulations.

(16) No fee for intervention is payable for the performance by the Executive of any function conferred on the Executive by—

- (a) the Control of Major Accident Hazards Regulations 2015;
- (b) the Chemicals (Hazard Information and Packaging for Supply) Regulations 2009⁽³³⁾;
- (c) the 2013 Biocidal Products and Chemicals Regulations; and
- (d) the 2014 GMO Regulations.

Repayments and disputes

24.—(1) Subject to paragraph (2), if a person is—

- (a) charged with, but not convicted of, a criminal offence; or
- (b) served with an enforcement notice that is subsequently cancelled,

the Executive must repay such part of any fee for intervention paid as is wholly and exclusively attributable to the performance by the Executive of functions relating only to that criminal offence or, as the case may be, that enforcement notice.

(2) If—

- (a) a person is charged with, but not convicted of, more than one criminal offence; or
- (b) two or more enforcement notices served on a person are subsequently cancelled,

the Executive must repay such part of any fee for intervention paid as is wholly and exclusively attributable to the performance by the Executive of functions relating only to the criminal offences of which that person is not convicted or, as the case may be, the enforcement notices that are cancelled.

(3) Where all or part of any fee for intervention paid to the Executive was paid in error, the Executive must repay that fee for intervention or, as the case may be, that part of that fee for intervention.

(4) Where a person has been charged with one or more criminal offences or served with one or more enforcement notices, that person is not obliged to pay fee for intervention to the extent that that fee, when paid, would be repayable in accordance with paragraph (1) or (2) because—

- (a) that person has not been convicted of one or more of those criminal offences; or
- (b) one or more of those enforcement notices has been cancelled.

⁽³²⁾ S.I. 2002/2677, to which there are amendments not relevant to these Regulations.

⁽³³⁾ S.I. 2009/716, amended by S.S.I. 2011/228 and S.I. 2011/1043, 2011/2131, 2013/1478, 2013/1506, 2013/1666 and 2014/1637.

(5) The Executive must provide a procedure by which disputes relating to fee for intervention will be considered.

(6) If a dispute relating to fee for intervention is not upheld, the fee for intervention payable is to include costs reasonably incurred by the Executive in handling the dispute.

(7) For the purposes of this regulation, “enforcement notice” means an improvement notice or a prohibition notice.

Review

25.—(1) Before the end of the review period, the Secretary of State must—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions in a report; and
- (c) publish the report.

(2) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(3) For the purposes of this regulation “review period” means the period of three years beginning with the 6th April 2016.

Revocations

26.—(1) The Health and Safety and Nuclear (Fees) Regulations 2015⁽³⁴⁾ (“the 2015 Fees Regulations”) are revoked.

(2) Despite the revocation of the Biocidal Products (Fees and Charges) Regulations 2013⁽³⁵⁾ (“the Biocidal Products Fees Regulations”) by regulation 26(1) of the 2015 Fees Regulations, regulation 8(2) of the Biocidal Products Fees Regulations continues to have effect for the purpose set out in that provision.

Signed by authority of the Secretary of State for Work and Pensions

2nd March 2016

Justin Tomlinson
Parliamentary Under Secretary of State,
Department for Work and Pensions

⁽³⁴⁾ S.I. 2015/363.

⁽³⁵⁾ S.I. 2013/1507.