



Office for  
Nuclear Regulation

## **Office for Nuclear Regulation**

### **Guidance on the Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations**

## ABBREVIATIONS

|           |   |
|-----------|---|
| ALARP     | As Low As Reasonably Practicable                                |
| BEIS      | Department for Business, Energy and Industrial Strategy         |
| C&M       | Care and Maintenance  |
| cSAC      | Candidate Special Area of Conservation                          |
| EA        | Environment Agency  |
| EEA       | European Economic Area  |
| EIA       | Environmental Impact Assessment                                 |
| EIADR     | Environmental Impact Assessment for Decommissioning Regulations |
| EMP       | Environmental Management Plan                                   |
| ES        | Environmental Statement   |
| FONSE     | Finding of No Significant Effect                                |
| HSWA 1974 | Health and Safety at Work Act 1974                              |
| ILSAE     | Indicator of Likely Significant Adverse Effects                 |
| INSAE     | Indicator of No Significant Adverse Effects                     |
| ISAE      | Indicator of Significant Adverse Effects                        |
| MHCLG     | Ministry of Housing, Communities and Local Government           |
| MOD       | Ministry of Defence   |
| NDA       | Nuclear Decommissioning Authority                               |
| NGO       | Non-Governmental Organisation                                   |
| NIA65     | Nuclear Installations Act 1965                                  |
| ONR       | Office for Nuclear Regulation                                   |
| PAO       | Pre-Application Opinion   |
| SAC       | Special Area of Conservation                                    |
| SEA       | Strategic Environmental Assessment                              |
| SEPA      | Scottish Environment Protection Agency                          |
| SoS       | Secretary of State  |
| SPA       | Special Protection Area   |
| SQEP      | Suitably Qualified and Experienced Person                       |
| SSSI      | Site of Special Scientific Interest                             |
| T&CP      | Town and Country Planning Regulations                           |

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## INTRODUCTION

This document provides guidance on compliance with the Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999 (EIADR99) [1], as amended by the Nuclear Reactors (Environmental Impact Assessment for Decommissioning) (Amendment) Regulations 2018 (EIADR18) [2]. The competent authority for EIADR<sup>1</sup> in Great Britain is the Office for Nuclear Regulation (ONR).

This guidance is intended to be of use to nuclear site licensees<sup>2</sup>, statutory consultation bodies, other organisations and members of the public who have an interest in the environmental impact of the decommissioning of nuclear reactors.

The regulations have been reproduced in the same sequential order that can be found in EIADR, followed by an explanation and advice on compliance and ONR procedures.

Additionally, there are five appendices:

- Appendix 1 is a flow chart showing the EIADR process;
- Appendix 2 provides an explanation of the interfaces with other legislation and Government policy;
- Appendix 3 is a flow chart demonstrating the screening process for changes or extensions which may have a significant adverse effect on the environment;
- Appendix 4 provides a tool for screening changes or extensions to the decommissioning project; and,
- Appendix 5 is a proforma for recording results of negative screening, when the licensee has determined that the change or extension to the decommissioning project will not result in significant adverse effects on the environment.

Further advice may be obtained from the Office for Nuclear Regulation (Redgrave Court, Merton Road, Bootle, Merseyside, L20 7HS; <http://www.onr.org.uk/eiadr.htm>).

## Background to the regulations

European Council Directive 2011/92/EU [3], as amended by Council Directive 2014/52/EU [4], sets out a framework on the assessment of the effects of certain public and private projects on the environment and on public participation in respect of the drawing up of certain plans and projects relating to the environment. It is known as the Environmental Impact Assessment (EIA) Directive. The EIA Directive is implemented in Great Britain for decommissioning nuclear reactor projects by EIADR [1, 2].

## Purpose of EIADR

The purpose of EIADR is to require assessment of the potential environmental impacts of projects to decommission nuclear power stations and nuclear reactors (except research installations whose maximum power does not exceed 1 kilowatt continuous thermal load). In

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<sup>1</sup> EIADR - Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999 as amended by the Nuclear Reactors (Environmental Impact Assessment for Decommissioning) (Amendment) Regulations 2018. This term is used generally in the text of this report.

<sup>2</sup> Nuclear Site Licensee is a corporate body that has been granted a site licence under the Nuclear Installations Act 1965 (as amended).

addition, the intention is to make the decision making process open and transparent. EIADR require that the public and other relevant stakeholders be consulted from an early stage, regarding the environmental impacts of the options being considered for a proposed decommissioning project.

### **Application of the EIADR**

The regulations apply to all decommissioning projects that began after they came into force on 19 November 1999, and to existing decommissioning projects (those that commenced prior to 19 November 1999) that are subject to a change or extension, which may have significant adverse effects on the environment. In cases where a project is subject to such a change, the licensee must apply to ONR for a determination as to whether an environmental impact assessment (EIA) is required and if so, the regulations apply, as for a new project.

EIADR apply to decommissioning and dismantling of nuclear power stations or other nuclear reactors, including the reactors, plant associated with power production and removal of related wastes, and buildings and land contaminated as a result of the operation of the reactor. The regulations also apply to projects or part of a project serving national defence as its sole purpose and projects whose sole purpose is the response to a civil emergency, unless the Secretary of State is of the opinion that the application of these Regulations would have an adverse effect on that purpose. Licensees may also apply to the Secretary of State for an exemption in the case that certain conditions, described in regulation 3 of EIADR18, are met.

EIADR is also considered to apply to structures, systems and any associated infrastructure situated off a licensed nuclear site, that were an integral part of the normal operation of the nuclear reactor or power station, e.g. a discharge pipeline. ONR has produced a position statement on the application of EIADR to offsite structures, available on the ONR's website [5] (<http://www.onr.org.uk/eiadr.htm>)

EIADR applies for the duration of the decommissioning project from the point at which the nuclear reactor is permanently disabled to final site clearance. ONR has the discretion to require Environmental Management Plans (EMPs), submitted usually annually as a condition of consent under EIADR, less frequently; for example during any stage of extended Care and Maintenance (C&M) where work activity on the site is very low.

Some activities, when carried out as part of routine or normal operations, are not subject to EIADR. These activities are listed in regulation 2 and include the removal of waste from, or decontamination work on, a power station or reactor, and the removal of fuel elements, neutron absorber cartridges or control rods, carried out as part of routine operations and not intended to be part of final dismantling or decommissioning.

### **EIADR Process**

The flow chart in Appendix 1 summarises the EIADR process. Under the regulations, any licensee wishing to begin to decommission or dismantle a nuclear power station, or other nuclear reactor, must apply to ONR for consent to carry out a decommissioning project and prepare an environmental statement which fulfils requirements specified in regulation 5, including a description of the project and its likely significant effects on the environment. If ONR considers that additional information is required to enable it to make a decision, such

information will be requested and must be supplied by the licensee. When planning to undertake an EIA, there is an optional stage where the licensee may request from ONR an opinion on what the environmental statement should contain (called a pre-application opinion or PAO). In such a case, the licensee must provide information (usually in the form of a scoping report) to inform the opinion.

ONR must take into account the views of the consultation bodies identified in EIADR, both when formulating its PAO on what the environmental statement should contain and when deciding whether or not to grant consent.

Additionally, ONR will consult with a range of other organisations and individuals that have expertise, knowledge or interest in nuclear, planning and environmental matters, and include: government departments; the devolved administrations; agencies and bodies; non-governmental organisations (NGOs); and local stakeholder and other interest groups.

The regulations include provision for cases when a proposed decommissioning project is likely to have significant effects on the environment of another European Economic Area (EEA) State. In such a case, the State must be informed and consulted on likely environmental impacts of the project and the results of this consultation must be taken into account by ONR when deciding whether or not to grant consent.

EIADR provides ONR with the power to attach conditions to any consent it grants, as may appear to it to be necessary or desirable in the interests of limiting the impact of that project on the environment. Such conditions may require for example, the licensee to prepare and implement an environmental management plan. Such a plan identifies mitigation measures, describes the implementation and effectiveness of mitigation measures, and describes changes to mitigation measures and reasons for changes in light of experience. In such circumstances a copy of the environmental management plan and its subsequent revisions must be sent to ONR and made available to the public. ONR must also be notified in advance of any proposed significant changes to the mitigation measures in the plan. The purpose of this is to aid transparency associated with the project and give stakeholders confidence that the licensee is taking a responsible attitude. EIADR also provide ONR with powers under Health and Safety at Work (etc) Act 1974 [6] to enforce such conditions.

At the end of an application process (Appendix 1), when ONR has made its decision on whether or not to grant a consent for the decommissioning project, ONR informs the licensee and the Secretary of State of the decision; informs the public by publishing a notice in a local newspaper; and makes available a statement (a report) for public inspection. In addition, ONR posts details of the decision on its web site (<http://www.onr.org.uk/eiadr.htm>).

## CITATION AND COMMENCEMENT

### Regulation

- 1.(1) These Regulations may be cited as the Nuclear Reactors (Environmental Impact Assessment for Decommissioning) (Amendment) Regulations 2018.
- 1.(2) These Regulations come into force on 6<sup>th</sup> August 2018.
- 1.(3) In these Regulations, “the NREIAR 1999” means the Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999.

## DEFINITIONS

### Regulation

- 2.(1) In these Regulations unless the context otherwise requires –
  - “the HSWA” means the Health and Safety at Work etc Act 1974;
  - “the Directive” means Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment as amended by Directive 2014/52/EU of the European Parliament and of the Council;
  - “the Habitats Directive” means Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora, as last amended by Council Directive 2013/17/EU;
  - “the Wild Birds Directive” means Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds, as amended by Council Directive 2013/17/EU;
  - “any particular person” includes any non-governmental organisation promoting environmental protection;
  - “the consultation bodies” means –
    - a) the local planning authority;
    - b) the local highway authority;
    - c) any principal council for the area in which the site where the project is to be carried out, if not the local planning authority;
    - d) in England
      - i) the Environment Agency;
      - ii) Natural England
    - e) in Wales, the Natural Resources Body for Wales; and
    - f) in Scotland, Scottish Natural Heritage and the Scottish Environment Protection Agency;
    - g) any other body with environmental or public health responsibilities or local or regional competencies with whom the ONR considers it appropriate to consult;
  - “EEA State” means a State party to the Agreement on the European Economic Area<sup>3</sup>;
  - “environmental impact assessment” means, in relation to a project

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<sup>3</sup> Cm. 2073. The Agreement was signed in May 1992 and adjusted by a protocol signed at Brussels on 17th March 1993. The agreement came into force on 1 January 1994.





- a) the preparation of an environmental statement by the licensee under regulations 5 and 6;
- b) the carrying out of any consultations under regulations 8 to 10A, and 12;
- c) the ONR's consideration of the information about the likely significant effects of the project on the environment under regulation 10B(2);
- d) the ONR reaching a conclusion about the significant effects of the project on the environment under regulation 10B(3); and
- e) the ONR's consideration of that conclusion under regulation 10C(1) when determining the application.

"environmental statement" is to be read in accordance with regulation 5;

"EU environmental assessment" means an assessment carried out-

- a) under an obligation to which section 2(1) of the European Communities Act 1972 applies (other than the Directive), or
- b) under the law of any part of the United Kingdom implementing an EU obligation other than an obligation arising under the Directive of the effect if anything on the environment.

"licensee" means a person to whom a nuclear site licence has been granted under the Nuclear Installations Act 1965<sup>4</sup> whether or not that licence remains in force;

"local planning authority" means, in England and Wales a local planning authority within the meaning of Part I of the Town and Country Planning Act 1990<sup>5</sup> and in Scotland, a planning authority within the meaning of Part I of the Town and Country Planning (Scotland) Act 1997<sup>6</sup>;

"the ONR" means the Office for Nuclear Regulation;

"environmental assessment" (except in the phrase "EU environmental assessment") means an assessment carried out in accordance with an obligation under the law of any part of the United Kingdom of the effect of anything on the environment;

"project" means the carrying out of any dismantling or decommissioning work on any nuclear power station or nuclear reactor to which these Regulations apply by virtue of regulation 3(1), but it does not include –

- a) the removal from a power station or reactor of fuel elements, neutron absorption cartridges or control rods carried out in accordance with normal operating procedures; or
- b) the removal of waste from, or decontamination work on, a power station or reactor when such an activity is carried out as part of routine operations not intended to be part of final dismantling or decontamination of that station or reactor;

and for the purposes of this definition dismantling or decommissioning of a nuclear power station or nuclear reactor shall not be treated as having commenced unless plant or equipment is disabled or removed for the purpose of permanently preventing the continued operation of that station or reactor.

## Guidance

1. At the time of publication, the consultation bodies are:
  - the local planning authority and principal council (if different from the

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<sup>4</sup> 1965 c. 57; as amended by S.I. 1974/2056 and S.I. 1990/1918.

<sup>5</sup> 1990 c. 8.

<sup>6</sup> 1997 c. 8.



- local planning authority);
  - the local highway authority;
  - in England, Natural England and the Environment Agency;
  - in Scotland, the Scottish Environment Protection Agency and Scottish Natural Heritage; and
  - in Wales, the Natural Resources Body for Wales
  - any other body with environmental or public health responsibilities or local or regional competencies with whom ONR considers it appropriate to consult.
2. If any of the consultation bodies are subject to change of name or re-organisation, the organisation taking on the role that is currently carried out by the body listed in Regulation 2, will become the consultation body.
  3. Local planning is usually the responsibility of a locally elected authority. There are different systems of local government across Great Britain, when there is some doubt regarding which tier of local authority provides the planning function, ONR will consult all relevant levels.
  4. An "EEA state" means a country that has signed-up to the Agreement on the European Economic Area. The EEA consists of the European Union member states plus Norway, Iceland and Liechtenstein.
  5. Where the removal of fuel elements, neutron absorber cartridges or control rods utilises a novel approach (because work is being carried out as part of a decommissioning project), with significant new plant and equipment installed, resulting in new operating procedures, then EIADR apply to the work.
  6. When the removal of waste from, or decontamination work on, a power station or reactor is carried out as part of routine operations, not intended to be part of final dismantling or decommissioning, then these activities are not subject to EIADR. For example, if waste originates from routine operations, such as laundry effluent, soiled personal protective equipment, gas or other coolant, then this may proceed before consent to begin the decommissioning project is granted. Similarly, emptying vaults of operational waste is not subject to EIADR, if the work was already in progress before the cessation of operation. Dismantling or decommissioning of a nuclear power station or nuclear reactor shall not be treated as having commenced unless plant or equipment is disabled or removed for the purpose of permanently preventing the continued operation of the station or reactor. For two-reactor stations, the decommissioning project is not considered to have started until both reactors are permanently shut down.

## Regulation

- 2.(2) Unless the context otherwise requires, any reference in these Regulations to –
  - a) a numbered regulation or Schedule is a reference to the regulation or Schedule in these Regulations so numbered; and
  - b) a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which the reference appears.

## APPLICATION

### Regulation

- 3.(1) These Regulations shall apply to nuclear power stations and other nuclear reactors (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous

thermal load).regulation or Schedule in which the reference appears.

## Guidance

7. EIADR apply to decommissioning and dismantling of nuclear power stations, including the reactors, plant associated with power production both on and off the nuclear licensed site (e.g. discharge pipelines), and removal of related wastes, and buildings and land contaminated as a result of the operation of the power reactor. In the case of other reactors (whose maximum power exceeds 1kilowatt), which are not used in the production of power, EIADR apply only to the decommissioning and dismantling of the reactor, including the remediation of buildings and land contaminated as a result of the reactor operation e.g. such as reactor hall and cooling plant.

## Regulation

- 3.(2) Without prejudice to paragraph (1), save for the purpose of regulation 13 these Regulations shall not apply to the carrying out of dismantling or decommissioning work on a nuclear power station or nuclear reactor commenced prior to the coming into force of these Regulations.
- 3.(3) These Regulations shall not apply to any project or part of a project serving national defence as its sole purpose where the Secretary of State is of the opinion that the application of these Regulations would have an adverse effect on that purpose.
- 3.(4) The reference to these Regulations not applying to part of a project serving national defence as its sole purpose is a reference to that part of the project being disregarded in the environmental impact assessment of the project.
- 3.(5) These Regulations do not apply to any project having the response to a civil emergency as its sole purpose where the Secretary of State is of the opinion that the application of these Regulations would have an adverse effect on that purpose.
- 3.(6) These Regulations do not apply to any project where the Secretary of State is of the opinion that conditions A to C are met.
- 3.(7) Condition A is that the project is an exceptional case and that the application of these Regulations would result in adversely affecting the purpose of the project.
- 3.(8) Condition B is that the objectives of the Directive will be met despite these Regulations not applying to the project.
- 3.(9) Condition C is that the project is unlikely to have significant effects on the environment in another EEA State.
- 3.(10) Where the Secretary of State is of the opinion referred to in paragraph (3), (5) or (6), the Secretary of State must as soon as possible after forming the opinion notify in writing the ONR and the licensee.
- 3.(11) Where the Secretary of State is of the opinion referred to in paragraph (6), the Secretary of State must consider whether another form of assessment would be appropriate.
- 3.(12) Notification under paragraph (10) must—
  - a) State that the Secretary of State is of the opinion referred to in paragraph (3), (5) or (6);



- b) state that these Regulations do not apply to the project, or in a case where the Secretary of State is of the opinion referred to in paragraph (3) in respect of part of a project, explain the effect of paragraph (4);
  - c) where the Secretary of State considers that another form of assessment is appropriate in accordance with paragraph (11), give the details of that assessment and explain how the results of the assessment may be obtained.
- 3.(13) Where the ONR is notified that the Secretary of State is of the opinion referred to in paragraph (6) in accordance with paragraph (12), the ONR must make available to the public concerned—
- a) the information relating to the opinion referred to in paragraph (6) including the reasons for that opinion; and
  - b) the information obtained under any assessment considered appropriate in accordance with paragraph (11).

## Guidance

8. For the purpose of these regulations, plant and sites that are currently owned by, or operated on behalf of, the Ministry of Defence (MOD), are considered to be projects serving national defence purposes. EIADR apply to projects serving national defence as their sole purpose unless the Secretary of State is of the opinion that application of these Regulations would have an adverse effect on the defence purposes of the project and then he or she may grant an exemption for the individual project. This is also the case for projects having the response to a civil emergency as its sole purpose or projects meeting conditions A-C in regulations 3(7) – 3(9).
9. Condition A concerns projects that are 'exceptional cases'; ONR does not anticipate that there will be any exceptions to EIADR, or that any exceptions would be appropriate, given that EIADR is tightly scoped on nuclear power stations and reactors above a defined output.
10. The Secretary of State for the Department for Business, Energy and Industrial Strategy (BEIS) is responsible for exercising the exemption and must notify ONR of this. The onus is on the licensee to apply to the Secretary of State for an exemption.

## CONSENT FOR DISMANTLING OR DECOMMISSIONING

### Regulation

- 4.(1) A licensee shall not commence a project unless –
- a) he has applied to the ONR for a consent to carry out the project; and
  - b) a consent to carry out the project has been granted for the purposes of this paragraph by the ONR.
- 4.(2) The ONR may require the licensee to provide the application in an electronic form.

### Guidance

11. Compliance with the Health and Safety at Work Act 1974 [6] and the Nuclear Installations Act 1965 [7] requires the licensee to control nuclear and other hazards in a way that ensures that the risk is reduced so far as reasonably practicable (or is as low as reasonably practicable, ALARP) at all times. There may be some limited instances where delaying non-routine waste removal or decontamination, until consent is granted, would result in additional risks to health, safety or the environment. In such cases, the



licensee shall consult with ONR before commencing such work, to decide whether the work can proceed before consent under EIADR is granted. If undertaken, work must be carried out in compliance with relevant health and safety, nuclear safety and environmental protection legislation, or other relevant legislation and will be limited to that necessary to remediate the specific hazard.

## COORDINATION WITH OTHER ASSESSMENTS

### Regulation

- 4A.(1) This regulation applies where an environmental impact assessment and an assessment under regulation 24 or 63 of the Conservation of Habitats and Species Regulations 2017 are required in respect of the same project.
- 4A.(2) The ONR must, where appropriate ensure that the environmental impact assessment and the other assessment or assessments are coordinated.

### Guidance

12. The Conservation of Habitats and Species Regulations 2017 [8] transpose European Council Habitats Directive<sup>7</sup> in England and Wales. They also transpose elements of the EU Wild Birds Directive in England and Wales. In Scotland, the Habitats Directive is transposed through a combination of the Habitats Regulations 2010 [9] and the Conservation (Natural Habitats &c.) Regulations 1994 (as amended) [10]; this is summarised in an explanatory memorandum to the 2017 Habitats Regulations [11].
13. Regulation 63 of the Habitats Regulations 2017 [8] (in England and Wales), and regulation 48 of the Habitats Regulation 1994 (as amended) [10] (in Scotland) requires that the competent authorities for the regulations make an appropriate assessment of the implications of the project on a European Site.
14. ONR recognises that some issues relevant to the environmental statement will be adequately covered elsewhere, under the requirements of other legislation (e.g. the Habitats Regulations). Rather than repeating this work, an environmental statement can provide links with these issues, and sufficient information to put them into context with a decommissioning project. ONR will make the licensee aware of the possibility to coordinate with other assessments through early engagement on EIADR.

## PROVISION OF AN ENVIRONMENTAL STATEMENT

### Regulation

- 5.(1) A licensee who applies for a consent under regulation 4(1)(a) shall provide to the ONR an environmental statement, being a statement which includes—
- a description of the project comprising information on the site, design, size and other relevant features of the project;
  - a description of the likely significant effects of the project on the environment;
  - a description of any features of the project or measures envisaged to avoid, prevent or reduce and, if possible, offset, any likely significant adverse effects on the environment;

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<sup>7</sup> Council Directive 92/43/EEC on the conservation of natural habitats of wild fauna and flora – the ‘Habitats Directive’

- d) a description of the reasonable alternatives studied by the licensee, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the likely significant effects of the project on the environment;
  - e) a non-technical summary of the information referred to in sub-paragraphs (a) to (d); and
  - f) any further information specified in Schedule 1 relevant to the specific characteristics of a particular project or type of project and to the environmental features likely to be affected.
- 5.(2) The environmental statement shall –
- a) be prepared by a competent person and state the relevant expertise and qualifications of that person;
  - b) be based on any opinion given under regulation 6 in respect of the project;
  - c) include the information reasonably required for reaching a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment;
  - d) take into account the results of any relevant environmental assessment which are reasonably available to the licensee.
- 5.(3) The ONR may require the licensee to provide the environmental statement in an electronic form.

## Guidance

15. The environmental statement forms the written report of the environmental impact assessment (EIA) carried out by the licensee. The EIA assesses the potential significant effects of the proposed decommissioning project on the environment, and identifies the mitigation measures required to avoid, prevent, reduce and if possible offset any significant adverse effects. The environmental statement must also detail any consideration of different options undertaken by the licensee in relation to the project as detailed in paragraph 2 of Schedule 1. The environmental statement must provide information as detailed in Schedule 1 as is reasonably required to assess the environmental effects of the proposed project. Further, more detailed guidance on carrying out environmental impact assessments and preparing environmental statements is provided elsewhere [12, 13, 14, 15, 16].
16. The licensee is responsible for providing the environmental statement, which must be submitted in relation to the application for consent to commence the decommissioning project. The environmental statement must be prepared by a competent person and state the relevant expertise and qualifications of that person. ONR expects the licensees to have in place sufficient suitably qualified and experienced person (SQEP) resource for compliance with EIADR. However, the licensee may choose to engage consultants for some or all of the work to ensure that a suitable and sufficient assessment is undertaken. It should be noted that the requirement for a SQEP person to prepare the Environmental Statement still applies; ONR will expect the licensee to confirm that any external contractor engaged has the relevant expertise and qualifications to enable them to prepare the Environmental Statement.

## General content of the environmental statement

17. The statement must provide a clear picture of the project as required by EIADR and include at least the information specified in Schedule 1. This includes a description of the physical characteristics of the project together with an outline of the main

alternatives (or options) considered by the licensee, describing the environmental effects of each option. Regulation 14 provides a limit on disclosure, so that the licensee is not required to disclose information which is capable of being treated as confidential or must be so under regulations 12 and 13 of the Environmental Information Regulations 2004 [17] or regulation 10 and 11 of the Environmental Information (Scotland) Regulations 2004 [18]. Further guidance on regulation 14 is given in paragraph 84.

18. The whole project includes dismantling and site clearance. While it may not be possible, at the time when consent is requested, to be definitive about the later stages of decommissioning, the statement should cover the strategic intention for eventual completion of decommissioning. Details should be given of the range of options being considered, describing the environmental effects of each option. Where there is uncertainty in later stages, this must be indicated. ONR acknowledges that the length of the decommissioning project (possibly many decades) means that the amount of detail which can reasonably be provided by the licensee regarding site clearance and dismantling may be limited. Schedule 1 of the regulations takes this into account. Should circumstances change during the period of decommissioning and result in the need for a change or extension to the project, which may have significant adverse environmental effects, then the licensee must apply (as per the requirements of regulation 13) to ONR for a determination as to whether the project should be made subject to an EIA. If so, the licensee would be required to apply for consent to carry out that change to the decommissioning project, and prepare an environmental statement for public consultation under EIADR. Further guidance on changes and extensions to projects is given in paragraphs 69 to 83.
19. The environmental statement should cover all the likely effects on the environment: direct, indirect, secondary, cumulative, short, medium and long term, permanent and temporary, and positive and negative effects. Any technical deficiencies or lack of know-how encountered in compiling the information should be made clear within the statement. The consideration of the cumulative nature of effects should include assessment of the added impact of the decommissioning project to existing developments of works, even when unrelated to the project. In addition, the cumulative effects on the environment from different aspects of the project must be assessed and clearly described within the statement. For example, if a large construction project (unrelated to the decommissioning project) is planned on or close to the licensed site during the period of decommissioning, the EIA should take this into account when considering the environmental effects of the decommissioning project. Consideration of any likely significant effects of the project should be taken into account in the assessment [12].
20. The environmental statement should include the information that the licensee would reasonably require in order to reach a conclusion on the significant effects of the project on the environment and should take into account the current knowledge and methods of assessment. The licensee should also consider the results of any relevant environmental assessments that are reasonably available.
21. The statement must address, amongst other things, accidental or abnormal occurrences and the nature and potential for adverse environmental effects arising from these, and reasonably foreseeable events during the whole decommissioning

period. Once again, ONR recognises the possible limitations of such considerations for the later stages of projects and the guidance of paragraph 19 should be taken into account.

22. The environmental statement must describe measures envisaged to avoid, reduce and, if possible, remediate significant adverse effects on the environment. (Note; ONR may attach conditions to the consent (if granted), which may require the licensee to implement an environmental management plan. Further guidance on environmental management plans is given in paragraph 53).
23. The environmental statement must include a non-technical summary of the information provided. The non-technical summary provided by the licensee must be in a form that is easily understood by non-experts, although supporting material should also be made available. This will enable the reader (expert or non-expert) to understand the conclusions in the environment statement and form their own judgements on the significance of the environmental issues raised by the project.
24. If the licensee seeks a pre-application opinion from the regulator, indicating the scope and level of detail of the information they are required to supply, the environmental statement must be based on this information.

## Baseline Description

25. The environmental statement should include a baseline description; that is the state of the environment as it exists before the decommissioning project begins, for example details of any non-radioactive and radioactive land contamination that exist. If the baseline is not static this should be reflected. The environmental statement must include sufficient detail to provide a basis for the assessment of impacts arising from the decommissioning project [13]. Existing data should be used where these are available and known to be accurate and the competent authorities and organisations in the affected area should be consulted to obtain such data. When data obtained a number of years ago are used, the environmental statement should provide sufficient justification that it is still relevant.
26. Where data from surveys are used as part of a baseline description, care must be taken to ensure that the surveys were carried out at optimal times of day, week or year, for the aspect of the environment being assessed. Further detailed guidance on baseline description is given in chapter 5 of the European Commission guidance [13].

## Interface with policies and other legislation

27. As noted above, the environmental statement needs to be comprehensive. However, ONR recognises that some issues relevant to the environmental statement will be adequately covered elsewhere, in particular: town and country planning matters; compliance with security, health, safety and environment legislation; decommissioning timetables relating to Government policy; and international legislation where appropriate.
28. Rather than repeating this work, an environmental statement can provide links with these issues, and sufficient information to put them into context with the decommissioning project. An environmental statement should describe related town and country planning legislation and provide adequate (but not necessarily detailed) information on developments covered by that legislation. A statement should describe



main related security, health, safety and environment legislation and provide adequate (but not necessarily detailed) information on topics covered by that legislation. In addition, a statement should describe the options for the timing of decommissioning, and it is helpful to put these within the context of Government policy. Further detail on such interfaces is provided in Appendix 2.

29. All relevant health, safety and environmental protection law will apply during decommissioning work for example:

- Health and Safety at Work (etc) Act 1974 [6];
- Management of Health and Safety at Work Regulations 1999 [19];
- Construction (Design and Management) Regulations 2015 [20];
- Ionising Radiation Regulations 2017 [21] ;
- Nuclear Installations Act 1965 (as amended) [7];
- Environmental Authorisations (Scotland) Regulations 2018 [22]
- Environmental Protection Act 1990 [23]

Appropriate plans, risk assessments and control measures, as required by such laws, must be implemented. Consent to begin decommissioning under EIADR does not remove any such duties from licensees and / or employers, nor does this in anyway restrict or otherwise limit the ability of other regulators to fulfil their statutory duties.

## Requirements for sites offered protection under European Law

30. Regulation 48 of the Habitats Regulations 1994 (as amended) [10] (in Scotland) and regulation 63 of the Habitats Regulations 2017 [8] (in England and Wales) requires that an appropriate assessment is carried out by the Competent Authority (ONR) on plans or projects which are likely to have a significant effect on a European site, being either a Special Protection Area (SPA)<sup>8</sup>, Special Area of Conservation (SAC) or candidate Special Area of Conservation (cSAC)<sup>9</sup> before consent is given to any such plan or project. In practice ONR would make an appropriate assessment when considering the EIA carried out for applications for consent made under EIADR, when there are likely to be significant effects on a European site. Information contained in the Environmental Statement will be used to inform the appropriate assessment required under the Habitats Regulations. To enable an assessment to be carried out further information may be requested from the licensee. ONR will take into consideration the views of the appropriate nature conservation bodies and environmental agencies when determining whether the information provided is sufficient for the purposes of the appropriate assessment.

31. If the appropriate assessment undertaken cannot ascertain that the integrity of the European site will not be adversely affected and mitigation measures cannot avoid the

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<sup>8</sup> Areas which support certain endangered, rare or vulnerable species (found in Annex 1 of the Directive) or regularly occurring migratory birds of European importance can be designated as SPAs under the European Communities Council Directive on the Conservation of Wild Birds (2009/147/EC), commonly referred to as the Birds Directive.

<sup>9</sup> Areas containing rare or vulnerable habitats or species, which are of European Union interest, can be designated as Special Areas of Conservation (SACs) under the Habitats Directive (92/43/EEC as amended by 97/62/EC). Prior to being ratified by the European Commission, these areas are referred to as candidate SACs (cSACs).

adverse effects that are foreseen, then before giving the consent two tests in Regulation 49 of the Habitats Regulations (as amended) 1994 [10] (in Scotland), or Regulation 64 of the Habitats Regulations 2017 [8] (in England and Wales) would be required to be satisfied; the alternatives test and the overriding public interest test. If there are no alternative solutions and there are imperative reasons of overriding public interest for the decommissioning project to be carried out, then consent under EIADR may be granted notwithstanding a negative assessment of the implications for the European site. If consent is granted, necessary compensatory measures would be required to ensure that the overall coherence of the Natura 2000<sup>10</sup> is protected. Such compensatory measures would usually relate to the provision of alternative habitat and would need the approval of appropriate ministers.

32. In accordance with regulation 3(4) of the Habitats Regulations (as amended) 1994 [10] (in Scotland) and regulation 9(3) of the Habitats Regulations 2017 [8] (in England and Wales), ONR must have regard to the Habitats Directive when exercising its functions, for example, when considering applications for consent made under EIADR. The assessment process set out in the Habitats Regulations derives from obligations in the Habitats Directive and ONR will follow that process in order to meet the requirements of the Directive.
33. In England and Wales, Section 28I of the Wildlife and Countryside Act [24] as inserted by the Countryside and Rights of Way Act [25] requires Natural England to be given 28 days' notice for operations which are likely to damage the special features of a Site of Special Scientific Interest (SSSI). In Scotland, the Nature Conservation (Scotland) Act 2004 [26] requires Scottish Natural Heritage to be given 28 days' notice for operations which are likely to damage the special features of a SSSI. In accordance with the requirements of these Acts, ONR will give the appropriate nature conservation body at least 28 days' notice before granting consent under EIADR when there are activities in a project which are likely to damage the special features of an SSSI. Activities carried out in accordance with a consent granted in this way under EIADR may be carried out by the licensee without further notice from the licensee to the conservation body. If proposing to consent against the advice of Natural England, section 28I of the Wildlife and Countryside Act requires a second notice to be given stating how that advice has been taken into account and ONR must not allow the operation to commence within 21 days of the expiry of that second notice [24].
34. In accordance with the Natural Environment and Rural Communities Act 2006, section 40 [27] ONR will have regard to the purpose of conserving biodiversity, so far as is consistent with the proper exercise of their functions.
35. The Nature Conservation (Scotland) Act 2004, section 1, also requires that public bodies, in exercising any functions, further the conservation of biodiversity so far as is consistent with the proper exercise of those functions. In complying with this duty ONR will have regard to the Scottish biodiversity strategy.
36. In addition, there may be requirements in relation to the EU Water Framework Directive [28] regarding surface water and ground water that might be affected by pollution from the decommissioning project. The licensee should contact the

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<sup>10</sup> Natura 2000 is a European network of protected sites which include two types of areas, Special Protection Areas (SPAs) and Special Areas of Conservations (SACs).



Environment Agency (England and Wales) or the Scottish Environment Protection Agency (Scotland) for further advice.

## Involving the public and other stakeholders in preparing the environmental statement

37. The intention of the EIA Directive and EIADR is to involve the public, through consultation, in considering the potential environmental impacts of reactor decommissioning projects and to make the decision making process open and transparent. It is very useful for the licensee to engage with the public (as well as other stakeholders) from the earliest stages of the EIADR process. The advantage of early engagement of the public is that any adjustments resulting from justified public concerns can be made to plans before the environmental statement is submitted, thus facilitating consideration of the application and public participation.
38. The EIA process and preparation of the statement should be a collaborative exercise involving discussions with ONR, and other relevant organisations, such as statutory consultees, local site stakeholder and interest groups who have specialist local knowledge, and other statutory organisations as well as members of the public. Where relevant appropriate EEA States should be contacted. The licensee should consider involving the local population in the development of the decommissioning programme, in particular, discussing concerns and expectations. Local government should be involved in discussions on changes in land use and asset disposal arrangements where relevant, with a view to benefiting the community.

## Good practice guide to the style of environmental statements

39. The aim of the EIA is to ensure that the public are given early and effective opportunities to participate in decision making procedures, therefore, the main findings of the environmental statement must be set out in accessible, plain English, in a non-technical summary, to ensure that the findings can more readily be disseminated to the general public, and that the conclusions can be easily understood by non-experts as well as decision-makers (regulation 5(1) [12].
40. The environmental statement should help to inform the public on the substantive issues which ONR will have to consider in reaching a decision. One of the aims of a good environmental statement should be to enable readers to understand for themselves how its conclusions have been reached and to form their own judgements on the significance of the environmental issues raised by the project [12, 13]. In order for public participation to be effective, it is important that (subject to security considerations), the public should have access to all relevant information needed to form an objective opinion and contribute to the process.
41. When preparing the environmental statement, the licensee may wish to take into account the points listed below, although these are not explicitly required in the statement. Following this advice should result in an environmental statement that is clear and thus aid consultees (and ONR) in forming views regarding the environmental impact of the proposed decommissioning project. Consideration could usefully be given to:
  - a) Describing the environmental effects of each option under consideration, showing that the chosen option will (at least) not result in significantly greater adverse impacts on the environment than other options;

- b) Including strategies for monitoring the actual impacts of measures to be taken to avoid, reduce and, if possible, remediate significant adverse effects on the environment. This could cover gathering base-line data, and monitoring through the decommissioning project to demonstrate the effectiveness of the measures taken or to identify the need for measures to be reviewed and amended;
- c) Providing a summary matrix of the different activities associated with the proposed work and the range of environmental parameters potentially affected, with some form of indication of the potential significance of any impact;
- d) Providing a clear indication as to whether the project is likely to have significant effects on the environment of another European Economic Area State;
- e) Ensuring that the strategy framework described includes up to date information regarding any relevant central government policy;
- f) Using photographs, figures and diagrams where appropriate to clarify text; and
- g) Ensuring that potential benefits to the environment arising from the decommissioning project are adequately addressed (such as the long term effect on visual impact due to removal of substantial buildings).

## **PRE-APPLICATION OPINION AS TO THE CONTENT OF THE ENVIRONMENTAL STATEMENT**

### **Regulation**

- 6.(1) Without prejudice to regulation 5, a licensee who is minded to apply for a consent to carry out a project may request the ONR to state in writing its opinion as to the scope and level of detail of the information to be provided in connection with that application.
- 6.(2) The ONR shall, if it considers that it has not been provided with sufficient information to give an opinion on a request made under paragraph (1), notify the licensee of the matters in respect of which it requires further information and shall not be required to give an opinion under paragraph (1) until such further information has been provided.

### **Guidance**

42. The pre-application opinion provides guidance to the licensee on what ONR (taking into account the views of consultees) considers should be included in the EIA and environmental statement. In order to inform ONR's pre-application opinion, the licensee should submit a scoping report. Whilst not being a formal requirement of EIADR, the pre-application opinion (or scoping) stage provides an opportunity for the licensee to define the intended scope of the EIA. At this stage, stakeholders should have an opportunity to express their opinions and concerns over the proposed decommissioning project and have them taken into account. In addition, the decision-making procedures and criteria should be described and feasible alternatives selected. Further guidance on the scoping process is given in the European Commission's guidance [13, 15] and covers:

- identification of stakeholders (those parties who may have a justifiable interest in the decommissioning project);
- outlining the feasible alternatives;
- defining decision making procedures and criteria;



- screening the proposed feasible alternatives against the defined criteria (involving consultation with stakeholders). Alternatives which do not meet agreed decision making criteria (such as unacceptable environmental risks or excessive cost) are rejected at this stage;
- informing the public of the agreed decision making criteria and remaining alternatives;
- scoping for impacts of the remaining alternatives, in order to select the final alternatives for the remainder of the EIA process; and
- discussion and agreement of the final scoping report.

ONR is of the opinion that the scoping exercise will be more effective if it characterises the existing environment (baseline) and identifies which aspects of the impact of the project on the environment need to be considered in detail within the EIA, and which require no further consideration (because the project will have negligible effect on these aspects). This will result in the EIA being focussed on the key issues. Thus the environmental statement need not be made over-complicated by the inclusion of unnecessary information. ONR considers that early involvement of stakeholders in the scoping stage is vital.

## Regulation

- 6.(3) The ONR shall not give an opinion in response to a request under paragraph (1) until it has consulted the licensee, the consultation bodies and such other bodies as appear to the ONR to be appropriate having regard to the circumstances of the case, but the ONR shall, subject to paragraph (2), respond to such request within 21 days of the end of the period allowed by the ONR for responding to such consultation.
- 6.(3A) The ONR shall not give an opinion in response to a request under paragraph (1) unless it has taken into account the information provided by the licensee, in particular on the specific characteristics of the project, including its location and technical capacity, and its likely impact on the environment.

## Guidance

43. The normal consultation period on the submitted scoping report will be one month. The bodies consulted will normally be the same as those who will be consulted on the environmental statement (paragraph 48 of this guidance). ONR will publicise consultations on the pre-application opinion and deal with comments in the manner described in paragraph 49. ONR will inform the licensee of the bodies to be consulted.
44. ONR will give a pre-application opinion based on the information provided by the licensee. ONR will post the pre-application opinion on its web site and send copies of the pre-application opinion to the consultees.

## Regulation

- 6.(4) An opinion given for the purposes of paragraph (1) shall not prevent the ONR subsequently requiring the licensee to submit further information.

## Guidance

45. If, after issuing a pre-application opinion, ONR receives knowledge of potential effects on the environment that were not considered in the scoping report, it may ask for further information or evidence.

## **PROVISION OF INFORMATION TO LICENSEE**

### **Regulation**

7. The ONR and any other consultation body notified that a licensee has made or is proposing to make an application for consent under regulation 4(1)(a) shall, if requested by the licensee or may without such a request, enter into consultation with the licensee to determine whether the body has in its possession any information which the licensee or that body consider relevant to the preparation of an environmental statement and, if it has, the body shall make any such information available to the licensee.

### **Guidance**

46. The consultation bodies are those listed in Regulation 2. ONR will consider all requests for information on an individual basis.

## **CONSULTATION BY THE ONR**

### **Regulation**

- 8.(1) Where the ONR receives in relation to a proposed project an application for a consent pursuant to regulation 4(1)(a) it shall –
  - a) within 21 days of the date of receipt of such application notify the consultation bodies in writing of the name and address of the licensee and of the duty imposed on them by regulation 7 to make information available to the licensee; and
  - b) inform the licensee of the names and addresses of the bodies notified under sub-paragraph (a) above.
- 8.(2) Where the ONR is provided with an environmental statement pursuant to regulation 5 it shall –
  - a) consult the consultation bodies as to the information contained in that statement and for that purpose shall within 21 days of the date of receipt of such statement provide to them the information contained in that statement;
  - b) require any body consulted under sub-paragraph (a) to respond to the ONR within such reasonable time as the ONR may specify;
  - c) send a copy of the environmental statement to the Secretary of State stating whether or not in the opinion of the ONR the project to which the environmental statement relates is likely to have significant effects on the environment in another EEA State; and
  - d) shall inform any particular person who they are aware is or is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of a local advertisement, by sending them a notice that contains those details set out in regulation 9(2) (j) and (l).

### **Guidance**

47. The normal consultation period on the application for consent from the licensee to carry out a decommissioning project (and accompanying environmental statement) will be three months.
48. In addition to the consultation bodies listed in Regulation 2, ONR may consult other bodies it considers appropriate, other bodies nominated by consultees, and other persons who ask to be involved in the consultation process. Examples of bodies that ONR may consult include:



- government departments;
- the devolved administrations;
- agencies and bodies (such as the Department for Business, Energy and Industrial Strategy, Food Standards Agency and Public Health England);
- national organisations (such as the Nuclear Free Local Authorities);
- local groups

ONR will send a copy of the environmental statement and non-technical summary to each of the statutory consultation bodies and other consultees. The licensee should take this into account when deciding how many copies to send to ONR.

49. ONR will post details of the consultation on its web site. Consultees who comment on the environmental statement will be asked whether they are content for their comments to be made available to the public, the licensee and any other relevant bodies. When consultees are content for this to happen, their responses will be made publicly available via the ONR's website (at the end of the consultation). The licensee is provided with copies of responses upon receipt (when consultees have consented).
50. Early in the consultation process, ONR will review the environmental statement and make an initial assessment regarding the likelihood of the decommissioning project having a significant effect on the environment of another EEA state.
51. ONR will inform the Secretary of State of this initial decision. If the results of the consultation on the environmental statement cause ONR to change its opinion, ONR will inform the Secretary of State accordingly. If during the consultation on the environmental statement, the government of another EEA state informs ONR that it believes the decommissioning project is likely to have a significant effect on its environment, then ONR will inform the Secretary of State of this representation.
52. If another EEA state has been consulted in accordance with regulation 12, ONR will take account of any responses received, and may seek the views of the appropriate statutory consultees in the UK, before reaching its final decision on whether to grant consent for the decommissioning project.
53. If a decision is taken to grant consent for a decommissioning project, ONR may attach conditions to that consent. Such conditions may require, for example, the licensee to prepare and implement an environmental management plan that identifies mitigation measures, describes the implementation and effectiveness of mitigation measures, and describes changes to mitigation measures and reasons for changes in light of experience. The licensee must send a copy of the environmental management plan and its subsequent revisions to ONR and also make it available to the public. ONR must also be notified in advance of any significant changes to mitigation measures to prevent, reduce and where possible offset any major adverse effects on the environment. Regulation 16 of EIADR provides ONR with sufficient powers under the Health and Safety at Work (etc) Act 1974 [6] to effectively enforce these conditions.
54. A copy of the environmental management plan would be made publically available via the ONR's website and the plan would be replaced by subsequent revisions as these are provided. A condition requiring an environmental management plan should give the public confidence that the licensee will continue to look after the environment after the consent is granted and is in line with the general approach of the regulations for openness and transparency.



55. Conditions additional to the example described above may be attached to the consent if ONR is of the opinion that this is necessary or desirable in the interests of limiting the impact of the project on the environment.

## **PUBLICITY**

### **Regulation**

- 9.(1) Within 7 days of providing the ONR with an environmental statement pursuant to regulation 5, the licensee must provide the ONR with—
- a publicity notice (see paragraph (2)); and
  - a statement setting out the newspaper publication date (see paragraph (3)).
- 9.(2) A publicity notice is a notice setting out –
- the name and address of the licensee and that the licensee is the applicant in respect of a consent for a project;
  - the date on which the application was made;
  - the address or location of the site at which the proposed project is to be carried out;
  - the publicity period (see paragraph (4));
  - that a copy of the application together with a copy of the environmental statement may be inspected at all reasonable hours by members of the public during the publicity period;
  - an address (or addresses) in the locality of the power station or reactor at which those documents may be inspected;
  - an address (or addresses) (whether or not the same as that given under subparagraph (f) above) in the locality of the power station or reactor at which copies of the environmental statement may be obtained during the publicity period;
  - that during the publicity period copies may be obtained there so long as stocks last;
  - if a charge is to be made for a copy, the amount of the charge;
  - that any person wishing to make representations about the application should make them in writing to the ONR at a specified address within the publicity period;
  - that a copy of the publicity notice and the information referred to in regulation 9A(1) will be published on the ONR's website in accordance with regulation 9A; and
  - that the project is subject to an environmental impact assessment procedure.
- 9.(3) The newspaper publication date –
- is the date on which the licensee proposes to first publish the publicity notice in a newspaper (see paragraph (6)); and
  - must fall within the period of 7 days beginning with the date on which the publicity notice is provided to the ONR.
- 9.(4) The publicity period is the period of not less than 30 days beginning with the newspaper publication date.
- 9.(5) The ONR may require the licensee to provide the publicity notice in an electronic form.





- 9.(6) On the newspaper publication date, the licensee must publish the publicity notice
- in one or more newspapers circulating in the locality in which the project is being carried out; and
  - in any other newspaper named by the ONR.
- 9.(7) The licensee must provide the ONR with a copy of the notice published under paragraph (6) within the period of 14 days beginning with the newspaper publication date.
- 9.(8) The licensee must ensure that at the relevant address (or addresses) at all reasonable hours during the publicity period-
- not less than 5 copies of the application for consent to carry out a project together with 5 copies of the environmental statement are available for inspection by members of the public; and
  - copies of the environmental statement are available on payment of a reasonable charge reflecting printing and distribution costs.

## Guidance

56. It may be beneficial to the consultation process for the licensee to seek permission for copies of the environmental statement and scoping report to be placed in public buildings, e.g. local post office, library and community buildings. The licensee should place 5 copies at each location.
57. ONR will publicise its decisions (and reasons for those decisions) in the manner described in paragraph 66.

## PUBLICITY: ONR'S WEBSITE

### Regulation

- 9A.(1) The ONR must publish the following information on its website on the newspaper publication date (see regulation 9(3))—
- the publicity notice provided under regulation 9(1);
  - the application for consent; and
  - the environmental statement.
- 9A.(2) The ONR must ensure that the information continues to be so published for a period of—
- 30 days beginning with the newspaper publication date; or
  - such longer period as the ONR considers appropriate.

### Guidance

58. ONR will seek to liaise with the licensee to gain advance notice of the newspaper publication date; this will be within a week of the submission of the publicity notice to ONR. This will enable ONR to publish the publicity notice, application for consent and the environmental statement on their website on the same day.

## **FURTHER INFORMATION: PROVISION TO ONR AND NEWSPAPER PUBLICITY**

### **Regulation**

- 10.(1) If the ONR considers that an environmental statement should contain further information specified in Schedule 1, the ONR must notify the licensee in writing that further information is required.
- 10.(2) The notification must describe the further information required.

### **Guidance**

59. The further information should include sufficient background information to place it into context with the submitted application for consent. The further information provided should sufficiently address those issues raised by ONR in the request for further information.

### **Regulation**

- 10.(3) The licensee must then provide ONR with-
- a) the further information;
  - b) a further publicity notice (see paragraph (4)); and
  - c) a statement setting out the further newspaper publication date (see paragraph (5)).
- 10.(4) A further publicity notice is a notice setting out—
- a) the name of the licensee;
  - b) the date on which the application for consent to carry out the project was made;
  - c) the address or location of the site at which the proposed project is to be carried out;
  - d) the further publicity period (see paragraph (6));
  - e) that further information is available in relation to an environmental statement which has already been provided;
  - f) that a copy of the further information may be inspected by members of the public during the further publicity period;
  - g) an address (or addresses) in the locality of the power station or nuclear reactor at which the further information may be inspected;
  - h) an address (or addresses) (whether or not the same as that given under subparagraph (g) above) in the locality of the nuclear reactor or power station at which copies of the further information may be obtained during the further publicity period;
  - i) that copies may be obtained during the further publicity period there as long as stocks last;
  - j) if a charge is to be made for a copy, the amount of the charge;
  - k) that a copy of the further publicity notice and the further information will be published on the ONR's website in accordance with regulation 10A(4) and (5);
  - l) that any person wishing to make representations about the further information should make them in writing to the ONR at a specified address within the further publicity period.
- 10.(5) The further newspaper publication date—
- a) is the date on which the licensee proposes to first publish the further publicity notice in a newspaper (see paragraph (8)); and



- b) must fall within the period of 14 days beginning with the date on which the publicity notice is provided to the ONR.
- 10.(6) The further publicity period is the period of not less than 30 days beginning with the further newspaper publication date.
- 10.(7) The ONR may require the licensee to provide the further information and further publicity notice in an electronic form.
- 10.(8) On the further newspaper publication date, the licensee must publish the further publicity notice—
- a) in one or more newspapers circulating in the locality in which the project is to be carried out; and
  - b) in any other newspaper named by the ONR.
- 10.(9) The licensee must provide the ONR with a copy of the notice published under paragraph (8) within the period of 14 days beginning with the further newspaper publication date.
- 10.(10) The licensee must ensure that at the relevant address (or addresses) at all reasonable hours during the further publicity period—
- a) not less than 5 copies of the further information are available for inspection by members of the public during the further publicity period; and
  - b) copies of the further information are available on payment of a reasonable charge reflecting printing and distribution costs.

## Guidance

60. The normal consultation period for the further information provided by the licensee, will be one month. The same bodies will be included as were consulted on the environmental statement (paragraph 48). ONR will publicise the consultation and the further information in the manner described in paragraph 49.

## Regulation

- 10.(11) The ONR may by notice in writing require a licensee to produce such evidence as the ONR may reasonably require for the purpose of verifying any information in the licensee's environmental statement.

## Guidance

61. ONR may request the licensee to produce evidence to verify information in the environmental statement. The evidence provided should sufficiently address those issues raised by ONR in the request for evidence. Evidence is not subject to public consultation.

## FURTHER INFORMATION: ONR OBLIGATIONS AND WEBSITE PUBLICITY

### Regulation

- 10A.(1) Where the ONR has provided information relating to an environmental statement to a consultation body or other person under regulation 8 and the ONR receives further information relating to the environmental statement under regulation 10(3)(a), the ONR must send a copy of the further information to that body or

person.

- 10A.(2) The ONR may by notice in writing require the licensee to provide such number of copies of the further information as is specified in the notice (being the number required for the purposes of paragraph (1)).
- 10A.(3) Upon sending the notice the ONR—
- a) must suspend consideration of the application; and
  - b) must not determine the application before the later of—
    - i. the expiry of 14 days after the date on which the further information was sent to each body or person in accordance with paragraph (1);
    - ii. the expiry of 30 days after the further newspaper publication date (see regulation 10(5)).
- 10A.(4) The ONR must publish the following information on its website on the further newspaper publication date—
- a) the further publicity notice; and
  - b) the further information.
- 10A.(5) The ONR must ensure that the further information continues to be so published for a period of—
- a) 30 days beginning with the date of further newspaper publication date; or
  - b) such longer period as the ONR considers appropriate.

### **Guidance**

62. The ONR will provide the further information relating to the environmental statement to any consultation body or other person under regulation 8 to whom they previously provided information within a reasonable period of time from receiving such information from the licensee.
63. The ONR will publish the further information and the further publicity notice on its website.

## **CONCLUSION ABOUT ENVIRONMENTAL IMPACT**

### **Regulation**

- 10B.(1) Before granting consent to carry out a project, the ONR must comply with paragraphs (2) and (3).
- 10B.(2) The ONR must consider (ensuring that in doing so it has or has access to any expertise it considers necessary)—
- a) the environmental statement;
  - b) any further information or evidence provided by the licensee in accordance with regulation 10;
  - c) any relevant information received through any consultations under regulations 8 to 10A;
  - d) the outcome of any consultation under regulation 12;
  - e) any features of the project, or measures which the licensee proposes to take, which would have the effect of avoiding, preventing, reducing or offsetting any likely significant adverse effects of the project on the environment.

- 10B.(3) The ONR must then reach a conclusion about the likely significant effects of the project (including the expected effects deriving from the vulnerability of the project to risks of major accidents or disasters) on—
- a) population and human health;
  - b) biodiversity, with particular attention to species and habitats protected under the Habitats Directive and the Wild Birds Directive;
  - c) land, soil, water, air and climate;
  - d) material assets, cultural heritage and the landscape; and
  - e) the interaction between the factors referred to in sub-paragraphs (a) to (d).

## **PROCEDURE RELATING TO CONSENT DECISION**

### **Regulation**

- 10C.(1) Following its conclusion under regulation 10B(3), the ONR must consider—
- a) the application for consent;
  - b) its conclusion under regulation 10B(3); and
  - c) whether consent under regulation 4(1) should be granted subject to conditions (see paragraph (2)).
- 10C.(2) The ONR may, on granting a consent to carry out a project, attach to that consent such conditions as may appear to it to be necessary or desirable, taking into account the following factors—
- a) the interests of limiting the impact on the environment;
  - b) existing monitoring under an obligation under the law of any part of the United Kingdom;
  - c) whether any further monitoring is appropriate;
  - d) whether provision needs to be made for remedial action in respect of any risk posed by the project; and
  - e) any other relevant factors.
- 10C.(3) The ONR must not attach conditions relating to monitoring to a consent unless satisfied that the type of parameters to be monitored and the duration of monitoring are proportionate to the nature, location and size of the project in question and the significance of its effect on the environment.
- 10C.(4) The ONR must not grant consent to carry out a project unless satisfied that its conclusion under regulation 10B(3) in respect of the project is up to date.
- 10C.(5) The ONR must grant or refuse to grant consent to carry out a project within a reasonable period of time (taking into account the nature and complexity of the application for consent), beginning with the date on which the ONR is given all the information in respect of the project which it is required to consider under regulation 10B(2).
- 10C.(6) The ONR must not grant a consent (whether for the purposes of these Regulations or otherwise) to carry out a project before the later of the following dates—
- a) the end of the publicity period relating to the project under regulation 9 (see regulation 9(4));
  - b) the end of any further publicity period relating to the project under regulation 10

- (see regulation 10(6)); or
- c) where regulation 12(a) or (b) applies in relation to an EEA State—
    - i. where the EEA State has not indicated under regulation 12(1)(iii) whether it wishes to be consulted, the end of the reasonable period of time referred to in that sub-paragraph; or
    - ii. where the EEA State has indicated under regulation 12(1)(iii) that it does wish to be consulted, the end of a period of 21 days beginning with the end of the reasonable period of time agreed with the EEA State under paragraph (5)(b) of that regulation.

### Guidance

64. ONR will grant or refuse to grant consent to carry out a decommissioning project within a reasonable period of time beginning with the date on which ONR is given all information, including any further information requested, in relation to the project.
65. The ONR may attach conditions to the consent, for example the standard condition requiring the periodic submission of an environmental management plan to the ONR.

## INFORMATION AS TO DECISIONS

### Regulation

- 11.(1) Where an application for consent to carry out a project is determined by the ONR, the ONR shall as soon as possible –
  - a) in writing, inform the licensee and the Secretary of State and the consultation bodies of the relevant information;
  - b) inform the public of the decision by publishing a notice containing the relevant information in a newspaper circulating in the locality of the site concerned, or by such other means as are reasonable in the circumstances; and
  - c) make the relevant information available free of charge for public inspection at all reasonable hours at an office of the ONR nearest to the place where the power station or reactor is situated.
  
- 11.(2) The relevant information is—
  - a) the content of the decision and any conditions attached to it;
  - b) the main reasons and considerations on which the decision is based, including information about the public participation process;
  - c) a summary of the results of the consultations and information gathered pursuant to regulations 5, 8 to 10A and 12;
  - d) a description of how the information referred to in sub-paragraph (c) has been incorporated into the decision or otherwise addressed, in particular the results of any consultation under regulation 12;
  - e) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the project; and
  - f) information regarding the right to challenge the validity of the decision and the procedures for doing so.

### Guidance

66. ONR will publish a report that contains:
  - the content of ONR's decision and, if consent is granted, the content of any conditions attached to that consent;
  - the main reasons and considerations on which the decision is based;
  - information about the public participation process;



- a description, where necessary, of the main measures that the licensee will take to avoid, reduce and, if possible, offset any major adverse effects of the decommissioning project on the environment; and,
- information regarding the right to challenge the validity of the decision and the procedures for doing so.

In addition to informing the licensee and Secretary of State of the decision, the report will be posted on the ONR web site; the ONR will also send a copy to each statutory consultee and any other consultee that submitted comments. ONR will publish a notice of its decision in one or more newspaper(s) local to the site (the same newspapers used by the licensee to publicise the application for consent, as required by regulation 9(1)).

## **PROJECTS LIKELY TO HAVE SIGNIFICANT EFFECTS ON THE ENVIRONMENT IN ANOTHER EEA STATE**

### **Regulation**

12.(1) Where –

- a) it comes to the attention of the Secretary of State that a project proposed to be carried out in Great Britain is the subject of an application under regulation 4 and is likely to have significant effects on the environment in another EEA State; or
- b) another EEA State likely to be significantly affected by such project so requests,

the Secretary of State shall –

- i. send to the EEA State as soon as possible and no later than their date of publication in the London Gazette, or the Edinburgh Gazette as the case may be, referred to in sub-paragraph (ii) below, the particulars mentioned in paragraph (2) and, if he thinks fit, the information referred to in paragraph (3); and
- ii. publish the particulars in sub-paragraph (i) above in a notice placed in the London Gazette or, where the project is in Scotland, the Edinburgh Gazette, with an indication of where further information is available; and
- iii. give the EEA State a reasonable time in which to indicate whether it wishes to be further consulted in accordance with the provisions of this regulation.

12.(2) The particulars referred to in paragraph (1)(i) are—

- a) a description of the project, together with any available information on its possible significant effect on the environment in another EEA State; and
- b) information on the nature of the decision which may be taken.

12.(3) Where an EEA State indicates, in accordance with paragraph (1)(iii), that it wishes to participate in the procedure for which these Regulations provide, the Secretary of State shall as soon as possible send to that EEA State the following information –

- a) a copy of the application for consent to carry out the project concerned;
- b) a copy of the environmental statement in respect of the project to which that application relates including any further information relating to the project



- provided pursuant to regulation 10(3)(a); and
- c) relevant information regarding the procedure under these Regulations, but only to the extent that such information has not been provided to the EEA State earlier in accordance with paragraph (1)(i).
- 12.(4) The Secretary of State in so far as he is concerned shall also –
- a) arrange for the particulars and information referred to in paragraphs (2) and (3) to be made available, within a reasonable time, to the authorities referred to in Article 6(1) of the Directive and the public concerned in the territory of the EEA State likely to be significantly affected; and
  - b) ensure that those authorities and the public concerned are given an opportunity, before consent to the application is granted, to forward to the Secretary of State, within a reasonable time, their opinion on the information supplied.
- 12.(5) The Secretary of State shall, in accordance with Article 7.4 of the Directive –
- a) enter into consultation with the EEA State concerned regarding, inter alia, the potential significant effects of the project on the environment of that EEA State and the measures envisaged to reduce or eliminate such effects; and
  - b) determine in agreement with the other EEA State a reasonable period of time for the duration of the consultation period.
- 12.(6) Where an EEA State has been consulted in accordance with paragraph (5), on the determination of the application concerned the Secretary of State shall –
- a) send to the ONR within 21 days of receipt any responses made by another EEA State pursuant to consultation under this regulation;
  - b) inform the EEA State of the decision; and
  - c) forward to it a statement of –
    - i. the content of the decision and any conditions attached thereto;
    - ii. the main reasons and considerations on which the decision is based; and
- a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the project.

## Guidance

67. This regulation describes the procedures to be undertaken when it comes to the attention of the Secretary of State that a decommissioning project is likely to have significant effects on the environment in another EEA state (either as a result of information from ONR or representations from the EEA state itself).
68. ONR will take account of any responses received during consultation with the EEA state, and may seek the views of the appropriate statutory consultees in the UK, before reaching its final decision on whether to grant consent for the decommissioning project to commence.

## CHANGE OR EXTENSION OF PROJECT

### Regulation

- 13.(1) Where there is a change or extension of –
- a) any project in respect of which a consent has been granted pursuant to





- regulation 4(1)(b); or
- b) any project which commenced prior to the coming into force of these Regulations, which change or extension may have significant adverse effects on the environment, the licensee shall apply to the ONR for a determination as to whether the project shall be made subject to an environmental impact assessment and shall not commence or continue with the change or extension to the project and any other part of the project that the ONR may direct until such determination has been made.
- 13.(2) In determining for the purpose of paragraph (1) whether an environmental impact assessment is required, the ONR shall have regard to—
- a) the relevant selection criteria set out in Schedule 2;
- b) where relevant, the results of any relevant EU environmental assessment which are reasonably available to the ONR.

## Guidance

69. Regulation 13 applies to projects that began before EIADR came into force, and to projects that have already been granted consent under EIADR, when such projects are subject to change or extension that may have significant adverse effects on the environment. Regulation 13 requires only those parts of the project that may be subject to the change or extension and any other part of the project ONR may direct to be halted until a decision is made and (if necessary) an EIA submitted.
70. Changes may be quantitative in nature and related directly to the project itself (for example, a change in the amount of radioactive waste generated, or a change in the number of heavy goods vehicles travelling to and from site). Alternatively, changes may be rather more qualitative in nature and might arise from changes in factors outside the control of licensees (for example, changes in government policy, or changes in the technology and expertise available).
71. It is the duty of the licensee to decide whether an application should be made to ONR for a determination as to whether an EIA is required and ONR advises that the licensee develop arrangements for managing this process. To assist licensees in the decision making process, criteria for screening changes or extensions to projects are included in Appendix 3 and Appendix 4 of this guidance. The decision on whether to seek a determination should be made with no consideration of the effects that might be provided by mitigation measures, even if these are required by other legislation.

### Change or extension to the project

72. The term change or extension [to the project] may include any change or extension to an existing decommissioning project that results in any one or more of the following:
- changes to the commencement of works – delays or advancements in start date - alterations to the rate of decommissioning - speeding up or slowing down the process or programme of work or elements within the process or programme of work;
  - changes in the sequence of decommissioning in terms of individual operations;
  - changes to on-site arrangements in terms of alterations to the location of specific buildings or structures (e.g. waste storage areas);
  - changes or extensions to the size or scale of buildings and structures;

- changes to any waste transportation arrangements;
  - changes in the use of resources (e.g. energy, water, materials etc);
  - changes to sentencing and waste disposal arrangements;
  - changes to waste treatment arrangements on site;
  - changes to any previously agreed emission rates from the site;
  - changes to the type of material being emitted from the site;
  - changes to the environmental media to which emissions are being released; and
  - any other modifications to processes or procedures that will lead to changes or extensions that are likely to have physical effects.
73. In addition to the above, changes or extensions to other non-site factors may give rise to any of the above changes. Such factors may include:
- regulatory change over the period of decommissioning;
  - climatic change considerations;
  - developments in decommissioning technology over time;
  - changes in working practices, including the availability or otherwise of relevant skills;
  - contractual changes or relationships, including alterations to funding regimes; and
  - research and development.
74. These lists are not exhaustive. Changes or extensions to decommissioning projects which have been issued consent under EIADR will be considered in relation to the baseline of the environmental statement. Changes or extensions to decommissioning projects which started before the regulations came into effect and therefore have not been issued with consent will be considered in relation to the original decommissioning project plan.

### When may a change have a significant environmental impact?

75. A change or extension to a project is considered significant in the context of these regulations when it is likely to result in significant adverse environmental effects. If any significant adverse environmental effects were likely ONR would need to make a determination on whether an EIA was required. For the purpose of this regulation, adverse environmental effect is any environmental effect where the outcome of an action, following a reasonable and objective assessment, is demonstrably neither a neutral nor a positive environmental improvement.
76. For the purposes of EIADR, the characteristics described in Schedule 2 of the regulations should be considered when determining whether the project is likely to have a significant effect on the environment; projects should be considered on a case by case basis to determine whether that particular development and its specific impacts are likely, in that particular location, to result in significant adverse effects on the environment.
77. When assessing the likely effect of a proposed change or extension, in addition to the criteria of Schedule 2, further information is required, as described in Schedule 3. This includes a description on any likely significant effects of the project on the environment, as a result of:

- the expected residues and emissions and the production of waste, where relevant;
- the use of natural resources, in particular soil, land, water and biodiversity.

## Screening for changes which may have significant environmental impacts

78. It is the licensee's responsibility to screen for changes, which may be significant.

Licensees may have developed their own criteria to screen for such changes which they are free to use; criteria is also included in Appendix 4 of this guidance document to assist the licensees in carrying out the screening process, to determine whether an application to ONR is required. The ONR may request justification for any differences between the licensees and ONR's guidance criteria. The general approach is similar to that used under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 [29]. The approach is explained in more detail in the Ministry of Housing, Communities and Local Government (MHCLG) guidance on Environmental Impact Assessment [11]. The system is based upon so-called indicators and general screening criteria, which should be applied to the change or extension. The indicators are given below:

- Indicator of No Significant Adverse Effects, INSAE (Green)
- Indicator of Likely Significant Adverse Effects, ILSAE (Red)

79. Indicator tables are given in Appendix 4 for INSAE, and ILSAE for different changes or extensions (arranged around different stages of decommissioning), together with a separate table for transport issues.

80. When an Indicator of No Significant Adverse Effect (Green) has been exceeded but an Indicator of Likely Significant Adverse Effect (Red) has not been triggered, a set of general screening criteria should be applied in conjunction with Schedule 2 of EIADR. The general screening principles are given below:

- The baseline environmental conditions off-site have changed since the decommissioning works commenced and the change or extension to the decommissioning process has the potential to give rise to significant adverse environmental effects;
- The change or extension would delay progress towards an overall reduction of hazard on or off site;
- The change or extension is required due to unforeseen circumstances arising during decommissioning and the change or extension was not considered as part of any former assessment or authorisation process or was assessed and rejected at that time on environmental, health or public safety grounds.

If any of the general screening criteria apply to a particular change or extension, the licensee will need to consult with the ONR on the need for an EIA. If none of the criteria apply a record of 'finding of no significant effect' (FONSE) can be completed for internal use and future reference. An example of a form that may be used to record a FONSE is given in Appendix 5.

81. The screening indicators (INSAE, ILSAE) and general screening criteria should be used to identify the level of assessment and need for consultation with ONR. This staged process is summarised in the diagram in Appendix 3.

## Regulation

- 13.(3) The licensee shall provide to the ONR the information specified in Schedule 3.
- 13.(3A) When compiling that information, the licensee shall take into account the results of any relevant EU environmental assessment which are reasonably available to the licensee.
- 13.(3B) The licensee may provide to the ONR a description of any feature of the project or measure envisaged to avoid or prevent what otherwise might be significant adverse effects on the environment.
- 13.(3C) The ONR may in writing require that the licensee provides further information where the ONR considers that the further information is required in order for it to reach its determination under paragraph (1).

## Guidance

82. The details and results of screening assessments, together with recorded FONSE or any desktop EIA that has been conducted, should be provided. A desktop EIA is an initial theoretical consideration of the environmental effects of the change or extension, which should indicate whether a full EIA is required. Information on any mitigation measures to offset significant adverse effects of the project on the environment should also be provided. The amount of detail should reflect the complexity of the change or extension and the likely impact.

## Regulation

- 13.(4) Where the ONR determines for the purposes of paragraphs (1) and (2) that an environmental impact assessment is required in respect of the project, regulations 4 to 10 and 12 shall apply as if any reference in those regulations to the project were a reference to the project as so changed or extended.
- 13.(5) Following the ONR's determination under paragraph (1), the ONR shall –
- in writing, inform the licensee and the Secretary of State of the decision; and
  - inform the public of the decision by publishing a notice in a newspaper circulating in the locality of the site concerned, or by such other means as are reasonable in the circumstances, stating the main reasons on which the decision is based, with reference to the relevant selection criteria set out in Schedule 2.
- 13.(6) Where the ONR determines under paragraph (1) that an environmental impact assessment is not required, the ONR shall state in the notice or other means referred to in paragraph (5)(b) any features of the project or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.
- 13.(7) The ONR shall make its determination under paragraph (1)—
- as soon as possible after the day on which it is provided with the information under paragraph (3) or (3C) (whichever is the later); and
  - in any event, within a period of 90 days beginning with that day.
- 13.(8) The ONR may, if satisfied that there are exceptional circumstances (including circumstances relating to the nature, complexity, location or size of the project),

extend the period mentioned in paragraph (7).

- 13.(9) If the ONR exercises the power in paragraph (8), it shall inform the licensee in writing of the reasons for the extension and the date by which it expects to make its determination under paragraph (1).

#### **Guidance**

83. In addition to informing the licensee and Secretary of State of its determination within 90 days of being provided with the information specified in Schedule 3, ONR's decision will also be posted on the ONR web site, in a newspaper notice circulated in the locality of the site, and in other appropriate location(s) if circumstances require, such as public libraries in the vicinity of the site.

## **LIMITATION ON DISCLOSURE**

### **Regulation**

14. Nothing in these Regulations shall require the disclosure by a body of information that it is entitled not to disclose under regulations 12 and 13 of the Environmental Information Regulations 2004(a) or regulations 10 and 11 of the Environmental Information (Scotland) Regulations 2004(b).

#### **Guidance**

84. ONR's policy is to be as open as the law allows. Information that comes under regulation 12 and 13 of the Environmental Information Regulations 2004 [17] or regulations 10 and 11 of the Environmental Information (Scotland) Regulations 2004 [18] does not have to be disclosed. This would include information relating to locations of particularly rare species of plants or animals, the relevance of which might harm their conservation interest. However, due recognition of their presence and sensitivity are expected in the environmental statement.

## **RECOVERY OF EXPENSES BY THE ONR**

### **Regulation**

- 15.(1) This regulation applies to any expenses incurred by the ONR which the ONR may determine to be incurred wholly or partly in connection with the carrying into effect of these Regulations and includes any sums paid by the ONR by way of remuneration, allowances or other payments to inspectors appointed under the HSWA 1974.
- 15.(2) Where a licensee has applied for a consent to carry out a project or has requested an opinion pursuant to regulation 4 or 6 respectively, the ONR, in such cases and to such extent as it may appear to it appropriate to do so –
- shall require the licensee to repay to it so much of any expenses to which this regulation applies as may appear to it to be attributable to dealing with the application or request; and
  - may require the licensee to make to it a payment or payments on account of such liability.
- 15.(3) A licensee shall comply with any requirement made of him under this regulation.



- 15.(4) Any liability of a licensee in respect of sums payable by him under this regulation on account of pensions shall, if the ONR so determines, be satisfied by way of contributions calculated at such rate as may be determined by the Treasury, by reference to remuneration.
- 15.(5) Where a licensee has made a payment under sub-paragraph (2)(b) above on account of an anticipated liability, then if the amount of the liability to which he becomes subject is less than the amount paid under that sub-paragraph, the ONR shall be liable to repay the difference to him.

## **Guidance**

85. All expenses incurred by ONR in connection with the EIADR (including advertising costs) will be charged to the licensee concerned, in the same way as work charged for activities under the Nuclear Installations Act 1965 [7].

## **ENFORCEMENT**

### **Regulation**

- 16.(1) Sections 18 to 26 and 33 to 42 of the HSWA 1974 shall apply to any requirement or prohibition imposed upon any licensee by these Regulations or any requirement imposed upon any person by regulation 7 as if the requirement or prohibition concerned had been imposed by regulations made under section 15 of that Act and any function of the Health and Safety Commission under any other provision of the HSWA 1974 which is exercisable in relation to any function of the ONR under or in respect of health and safety regulations (including their enforcement) shall be exercisable as if these Regulations were health and safety regulations for the purposes of that Act.
- 16.(2) The Health and Safety (Enforcing Authority) Regulations 1998 shall not apply in relation to the enforcement of any requirement or prohibition referred to in paragraph (1) above.

## **Guidance**

86. The EIADR are enforced by the ONR as if they were health and safety regulations made under the Health and Safety at Work etc Act 1974 [6]. This gives inspectors the power to serve Improvement Notices, Prohibition Notices and prosecute in order to enforce the Regulations.

## SCHEDULE 1

### SCHEDULE 1

### Regulation 17

Regulations 5(1)(f) and 10(1)

#### **Information which may need to be included in an environmental statement**

1. A description of the project, including in particular—
  - a) a description of the location of the project;
  - b) a description of the physical characteristics of the whole project, including, where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases;
  - c) a description of the main characteristics of the operational phase of the project (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used;
  - d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation) and quantities and types of waste produced during the construction and operation phases.
2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the licensee, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.
3. A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the project as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.
4. A description of the factors specified in regulation 10B(3) likely to be significantly affected by the project: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.
5. A description of the likely significant effects of the project on the environment resulting from, among other things—

- a) the construction and existence of the project, including, where relevant, demolition works;
- b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;
- c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste;
- d) the risks to human health, cultural heritage or the environment (for example due to accidents or disasters);
- e) the cumulation of effects with other existing or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources;
- f) the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change;
- g) the technologies and the substances used.

The description of the likely significant effects on the factors specified in regulation 10B(3) should cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the project. This description should take into account the environmental protection objectives established at European Union or Member State level which are relevant to the project.

- 6. A description of the forecasting methods or evidence, used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.
- 7. A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis). That description should explain the extent, to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases.
- 8. A description of the expected significant adverse effects of the project on the environment deriving from the vulnerability of the project to risks of major accidents or disasters which are relevant to the project concerned. Relevant information available and obtained through risk assessments pursuant to European Union legislation such as the COMAH Directive or the Nuclear Safety Directive or other relevant environmental assessments may be used for this purpose provided that the requirements of this Directive are met. Where appropriate, this description should include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.

In this paragraph-

“the COMAH Directive” means Directive 2012/18/EU of the European Parliament and





of the Council on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC<sup>11</sup>;

“the Nuclear Safety Directive” means Council Directive 2009/71/Euratom establishing a Community framework for the nuclear safety of nuclear installations<sup>12</sup> as amended by Council Directive 2014/87/Euratom<sup>13</sup>.

9. A non-technical summary of the information provided under paragraphs 1 to 8.
10. A reference list detailing the sources used for the descriptions and assessments included in the report.”

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<sup>11</sup> OJ No L 197, 24.7.2012, p. 1.

<sup>12</sup> OJ No L 172, 2.7.2009, p. 18.

<sup>13</sup> OJ No L 219, 25.7.2014, p.42.

## SCHEDULE 2

### SCHEDULE 2

### Regulation 18

Regulation 13(2)(a) and (5)(b)

#### Criteria for determining further assessment

##### Characteristics of projects

1. The characteristics of projects must be considered, with particular regard to—
  - a) the size and design of the whole project;
  - b) cumulation with other existing or approved projects;
  - c) the use of natural resources, in particular land, soil, water and biodiversity;
  - d) the production of waste;
  - e) pollution and nuisances;
  - f) the risk of major accidents or disasters which are relevant to the project concerned, including those caused by climate change, in accordance with scientific knowledge;
  - g) the risks to human health (for example due to water contamination or air pollution).

##### Location of projects

2. The environmental sensitivity of geographical areas likely to be affected by projects must be considered, with particular regard to—
  - a) the existing and approved land use;
  - b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground;
  - c) the absorption capacity of the natural environment, paying particular attention to the following areas—
    - i. wetlands, riparian areas, river mouths;
    - ii. coastal zones and the marine environment;
    - iii. mountain and forest areas;
    - iv. nature reserves and parks;
    - v. areas classified or protected under national legislation; Natura 2000 areas designated by Member States pursuant to the Habitats Directive and the Wild Birds Directive;
    - vi. areas in which there has already been a failure to meet the environmental quality standards, laid down in European Union legislation and relevant to the project, or in which it is considered that there is such a failure;
    - vii. densely populated areas;
    - viii. landscapes and sites of historical, cultural or archaeological significance.

##### Type and characteristics of the potential impact



3. The likely significant effects of projects on the environment must be considered in relation to criteria set out in paragraphs 1 and 2, with regard to the impact of the project on the factors specified in regulation 10B(3), taking into account—
  - a) the magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected);
  - b) the nature of the impact;
  - c) the transboundary nature of the impact;
  - d) the intensity and complexity of the impact;
  - e) the probability of the impact;
  - f) the expected onset, duration, frequency and reversibility of the impact;
  - g) the cumulation of the impact with the impact of other existing or approved projects;
  - h) the possibility of effectively reducing the impact.”

## SCHEDULE 3

### SCHEDULE 3

### Regulation 19

Regulation 13(3)

#### **Change to or extension of project: information required**

1. A description of the project, including in particular—
  - a) a description of the physical characteristics of the whole project and, where relevant, of demolition works;
  - b) a description of the location of the project, with particular regard to the environmental sensitivity of geographical areas likely to be affected.
2. A description of the aspects of the environment likely to be significantly affected by the project.
3. A description of any likely significant effects, to the extent of the information available on such effects, of the project on the environment resulting from—
  - a) the expected residues and emissions and the production of waste, where relevant;
  - b) the use of natural resources, in particular soil, land, water and biodiversity.
4. The criteria of Schedule 2 shall be taken into account, where relevant, when compiling the information in accordance with paragraphs 1 to 3.”

## **Amendment to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017**

20. In the Town and Country Planning (Environmental Impact Assessment) Regulations 2017<sup>14</sup>, in Schedule 1 (descriptions of development for the purposes of the definition of “Schedule 1 development”), in the paragraph headed “Interpretation”, in the definition of “nuclear power station” and “other nuclear reactor” after “nuclear reactor is” insert “not”.

## **Amendment to the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017**

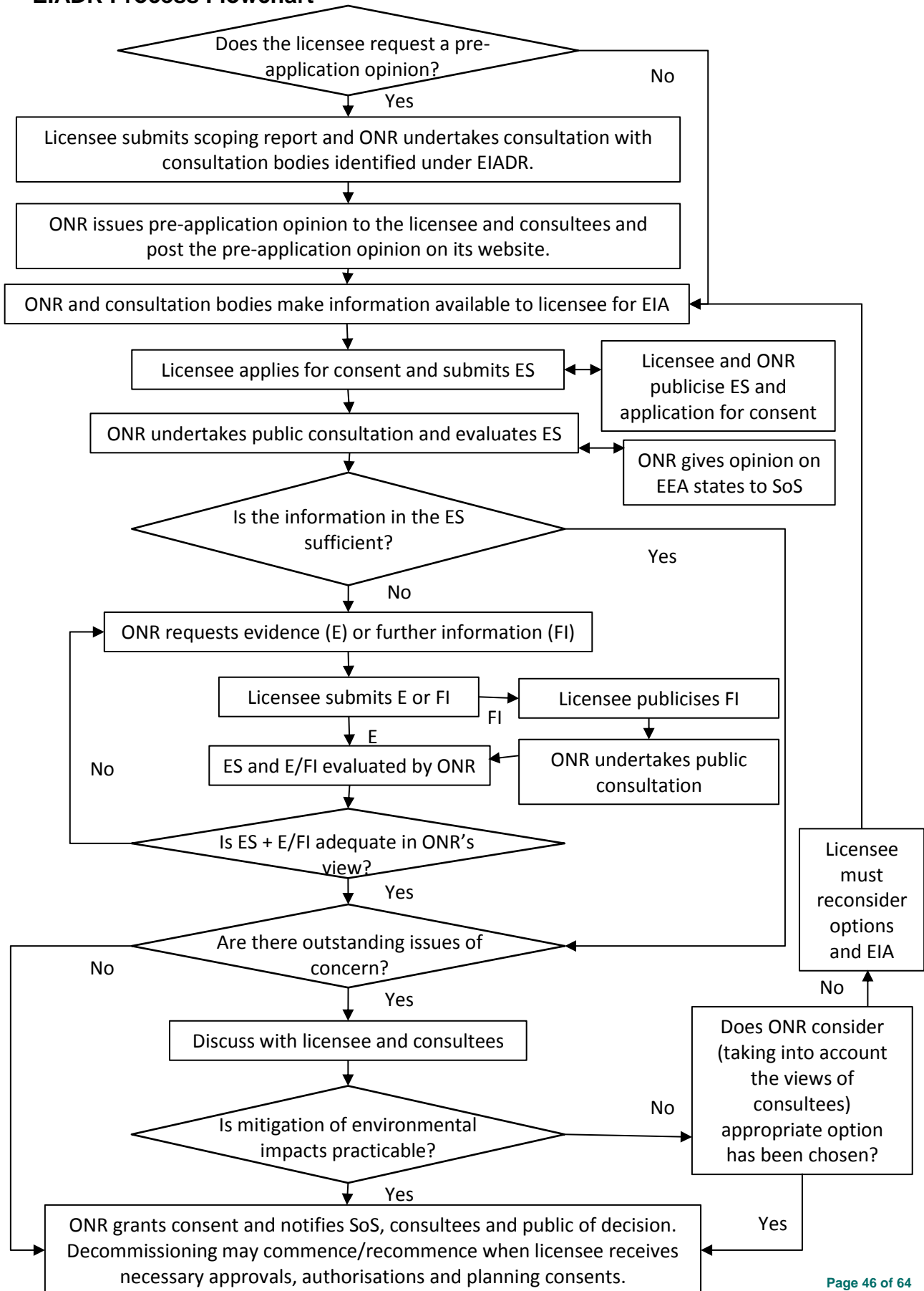
21. In the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017<sup>15</sup>, in Schedule 1 (descriptions of development for the purposes of the definition of “Schedule 1 development”), in the paragraph headed “Interpretation”, in the definition of “nuclear power station” and “other nuclear reactor” after “nuclear reactor is” insert “not”.

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<sup>14</sup> S.I. 2017/571, to which there are amendments not relevant to these Regulations.

<sup>15</sup> S.I. 2017/572, to which there are amendments not relevant to these Regulations.

**Appendix 1**  
**EIADR Process Flowchart**



## **Appendix 2**

### **Interfaces**

#### Interfaces with town and country planning

An environmental statement is likely to describe the need for temporary buildings on a site, such as facilities for the treatment and interim storage of radioactive waste. Such temporary buildings will be regulated under town and country planning legislation [29, 30 and 31] and enforced by the relevant local planning authorities. ONR will be made aware of applications and consulted on for planning permissions through routine activities and liaisons associated with enforcement of the licensing regime. Where these involve environmental impact assessment (EIA), the public will also be consulted before any decision is made.

Another area where permissions may be necessary is for any in-fill materials (to fill below-ground voids) that are used and have to be brought onto the site. This will be regulated under town and country planning and environmental legislation and enforced by the relevant local planning authorities and environmental regulators.

It follows, therefore, that once consent has been granted under EIADR, the licensee can begin work on all parts of a decommissioning project so long as the work undertaken does not require additional permissions under town and country planning legislation. Consent under EIADR does not remove necessary permissions under other regulations.

#### Interfaces with security, health, safety and environment legislation

An environmental statement needs to describe links with related security, health, safety and environment legislation. This includes legislation covering: security and terrorism; occupational health and safety; nuclear safety; radioactive contamination and discharges; treatment of non-radioactive contamination and wastes (involving materials such as asbestos). Some examples of topics covered by other legislation are given below:

- a) continuity of site management;
- b) site security and integrity, including human and animal intrusion;
- c) fire safety, including safety of additional contractors housed in temporary accommodation, procedures for dealing with incidents involving hazardous materials, and liaison with the local fire service;
- d) emergency arrangements;
- e) safety of plant, including reactor dismantlement;
- f) transport safety, including identifying standard road routes (with implications for congestion of narrow lanes), and dealing with incidents involving vehicle fires and leakage of hazardous material;
- g) health and safety aspects of dust control from, for example, masonry crushing on the site;
- h) integrity of flood defences; and
- i) release of radioactive material and non-radioactive wastes

This list is not exhaustive.

ONR is satisfied that control of such health, safety and environment matters can be achieved through regulation and enforcement, where compliance with relevant legislation would ensure that adverse environmental effects would be minimal. ONR will work closely with enforcers of related legislation, but must not encroach into their areas of enforcement or use EIADR to supplant other legal requirements and controls. The majority of the relevant legislation is enforced by ONR, and the Environment Agency (EA), or the Scottish Environment Protection Agency (SEPA). There are administrative arrangements in place between ONR, and EA or SEPA on working together on matters of mutual interest.

It follows, therefore, that once consent has been granted under EIADR, the licensee can begin work on all parts of the decommissioning project so long as the work undertaken does not require additional permissions under related security, health and safety and environment legislation. Work must be carried out in compliance with relevant health, safety and environmental protection legislation.

#### Treatment of wastes

One particular consideration in this regard is the treatment of wastes, which is specifically referred to in Schedule 1. The environmental statement should consider potential radioactive emissions (including indicative figures for emissions) and long-term storage of radioactive waste on the site, but note that permitted/authorised discharges will continue to be made under the Environmental Permitting (England and Wales) Regulations 2016 [31] and the Environmental Authorisations (Scotland) Regulations 2018 [22], and regulated by EA and SEPA, respectively. Other wastes should also be addressed, including asbestos, and other hazardous and non-hazardous wastes, but here too, reference should be made to the regulation of such by EA or SEPA and local authorities.

#### Interfaces with government policy on radioactive waste management and the decommissioning of nuclear facilities

##### Government policy on radioactive waste management

There is no single UK Government policy on radioactive waste management, different policies are in place in Scotland than in England and Wales, the following documents are the main references:

- Policy for the Long Term Management of Solid Low Level Radioactive Waste in the United Kingdom, March 2007 [32]
- UK Strategy for the Management of Solid Low-Level Radioactive Waste from the Nuclear Industry (2016) [33]
- UK Strategy for the management of Naturally Occurring Radioactive Material (NORM) waste in the United Kingdom (2014) [34]
- Implementing Geological Disposal, July 2014 [35]
- Welsh Government Policy on the Management and Disposal of Higher Activity Radioactive Waste, 2015 [36]
- Scotland's Higher Activity Radioactive Waste Policy, January 2011 [37]

The policies of UK Government and the Welsh Government are that higher activity waste (HAW) in England and Wales should be managed in the long-term through geological disposal, coupled with safe and secure interim storage until a geological disposal facility



(GDF) is available. The Scottish Government policy is for HAW to be managed in near-surface facilities, close to the site where the waste was produced.

#### Government policy on decommissioning the UK's nuclear facilities

Government policy on decommissioning the UK's nuclear facilities is available in the following documents:

- Managing the Nuclear Legacy – A Strategy for Action (Cm 5552), July 2002 [38]
- The Decommissioning of the UK Nuclear Industry's Facilities, September 2004 [39]
- Meeting the Energy Challenge – A White Paper on Nuclear Power, 2008 [40]

The Government White Paper, "Managing the Nuclear Legacy – A Strategy for Action" (Cm 5552) [38] was published in July 2002. Cm 5552 gave details on the Government's plans to set up a Nuclear Decommissioning Authority (NDA) to take responsibility for the liabilities arising from past and future government civil nuclear programmes. The NDA came into operation 01 April 2005.

The "Decommissioning of the UK Nuclear Industry's Facilities" decommissioning policy covers all (existing and new) UK nuclear industry facilities [39]. This includes power stations, other reactors, research facilities, fuel fabrication and reprocessing plants and laboratories on sites licensed under the Nuclear Installations Act 1965 (NIA65). It also includes the site at Culham used for research into fusion and facilities owned by the Ministry of Defence and, where relevant, nuclear submarines and their liabilities. Each nuclear operator is expected to produce and maintain a decommissioning strategy and plans for the site, including its future use.

In 2008, the Government published the paper 'Meeting the Energy Challenge – A White Paper on Nuclear Power', which set out the plans to ensure that owners and operators of new nuclear power stations set aside funds over the operating life of their power station to cover the full costs of decommissioning [40]. The Energy Act 2008 created the legal requirement for operators of new nuclear power stations to have secure financing arrangements in place to meet this requirement.

#### European Commission Activities

Decommissioning is one of the activities for which the European Commission requires a submission by governments of Member States under Article 37 of the Euratom Treaty. The submission identifies the potential impacts on Member State countries of the decommissioning strategy of a particular nuclear installation.

EIADR contain arrangements for consultation with other States party to the Agreement on the European Economic Area (EEA) if a decommissioning project is likely to have significant environmental effects on those States. EIADR do not require a submission to the European Commission.

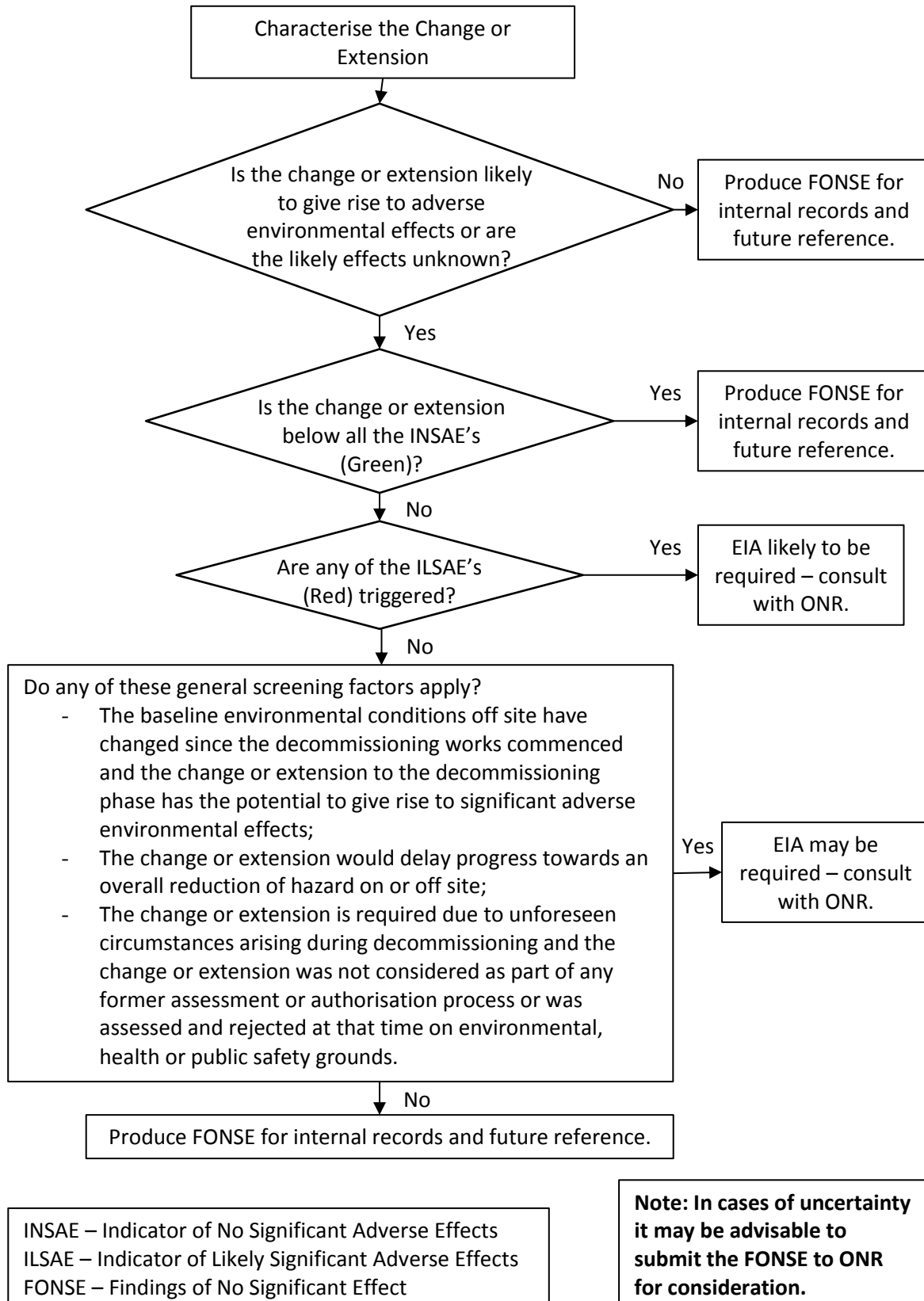
Regulations implementing Council Directive 2001/42/EC [41] on the assessment of the effects of certain plans and programmes on the environment (known as the Strategic Environmental Assessment (SEA) Directive) came into force 21 July 2004. The purposes of the SEA and EIA Directives are related in that both deal with environmental assessment, but



the SEA Directive deals with strategic plans and programmes whereas the EIA Directive deals with specific projects (such as decommissioning under EIADR).

### Appendix 3

## Screening for Changes or Extensions to the Decommissioning of Nuclear Reactors: Procedures Flowchart



## Appendix 4

### Procedures for Screening Changes or Extensions to the Decommissioning of Nuclear Reactors

The procedure below can be used as a basis for screening changes or extensions to a decommissioning project; however, it is provided as a guide only and licensees may choose alternative suitable methods. ONR may request the licensee to justify any differences between their own screening criteria and that of the ONR.

#### Indicator Tables

The decommissioning phases in the tables in this appendix refer to one particular decommissioning strategy; however, the phases as written should reflect the main stages of decommissioning work, no matter how they are arranged in practice:

- Table A: Changes to transportation arrangements during any phase of the decommissioning process
- Table B: Stage 1 – Care and Maintenance Preparation Phase
- Table C: Stage 2 – Care and Maintenance Phase
- Table D: Stage 3 – Site Clearance Phase

Changes to transportation arrangements can occur in any of the three phases and therefore a separate table for transport-related issues is included in Table A.

The tables are arranged to reflect the ‘traffic lights’ principle for screening and are set out in the following way:

| Column One               | Column Two (Green)   | Column Three (Red)   |
|--------------------------|--|--|
| <i>Potential Changes</i> | <i>Indicator of No Significant Adverse Effect<br/>(Does not require EIA)</i> | <i>Indicator of Likely Significant Adverse Effects<br/>(EIA likely to be required, consult with ONR)</i> |

When an Indicator of No Significant Adverse Effect (Green) has been exceeded but an Indicator of Likely Significant Adverse Effect (Red) has not been triggered, a set of general screening criteria should be applied in conjunction with Schedule 2 of EIADR. The general screening criteria are:

- The baseline environmental conditions off-site have changed since the decommissioning works commenced and the change or extension to the decommissioning process has the potential to give rise to significant adverse environmental effects;
- The change or extension would delay progress towards an overall reduction of hazard on or off site;
- The change or extension is required due to unforeseen circumstances arising during decommissioning and the change or extension was not considered as part of any former assessment or authorisation process or was assessed and rejected at that time on environmental, health or public safety grounds.

**Table A: Changes to transportation arrangements during any phase of the decommissioning process**

| <b>Column One</b>  | <b>Column Two (Green)</b>   | <b>Column Three (Red)</b>   |
|--|---|---|
| <i>Potential Changes</i>   | <i>Indicator of No Significant Adverse Effect<br/>(Green – does not require EIA)</i>  | <i>Indicator of Likely Significant Adverse Effects<br/>(Red – EIA likely to be required, consult with ONR)</i>  |
| 1. Change in transport mode availability.<br>2. Change in the level of traffic generated.<br>3. Change in transport routes.<br>4. Change in transport modal split. | 1) Alternative transportation arrangements would make use of existing routes and modes (including modal split) that have been previously subject to environmental assessment and predicted traffic generation would not represent more than a 5% increase in the originally predicted flows; and<br><br>2) The change or extension would not result in other changes or extensions that would exceed any of the indicators set out in Column Two of these tables. | 1) The change or extension requires prior permission from a competent authority under relevant regulations; or<br>2) The change or extension would require alterations to the transportation modal split, with potential for causing significant adverse environmental effects; or predicted traffic generation would represent more than a 5% increase in the originally predicted flows; or<br>3) Changes to transportation arrangements would involve the use of new or alternative routes or modes of transportation that have not previously been subject to environmental assessment; or<br>4) The changed transportation arrangements would require highway improvement works likely to have significant adverse environmental effects; or<br>5) The change or extension was considered and rejected at an earlier assessment on environmental or health or public safety grounds or a combination of these factors; or<br>6) The change or extension would result in other changes or extensions that would exceed any of the indicators set out in Column Three of these tables. |



**Table B: Stage 1 – Care and Maintenance Preparations Phase**

| <b>Column One</b>  | <b>Column Two (Green)</b>  | <b>Column Three (Red)</b>   |
|--|--|---|
| <i>Potential Changes</i>   | <i>Indicator of No Significant Adverse Effect (Green – does not require EIA)</i>   | <i>Indicator of Likely Significant Adverse Effects (Red – EIA likely to be required, consult with ONR)</i>  |
| 1. Volume of contaminated material, wastes or soil greater than expected – resulting in a need to increase size of ILW store or other buildings etc. | <ol style="list-style-type: none"> <li>1) The change or extension would not result in new development as defined by s55 (1) Town and Country Planning Act 1990; and</li> <li>2) The increase in the size of the store does not exceed a 25% increase in cubic capacity or 1000 square metres of floor space; and</li> <li>3) The construction or operation of any new or extended building would not increase background noise levels at the site boundary by more than 5 decibels; and</li> <li>4) The change or extension would not increase emissions to land, air or water; and</li> <li>5) The change or extension would not result in new development that would affect views into or out of a National Park, Area of Outstanding Natural Beauty or Conservation Area; and</li> <li>6) The change or extension would not result in other changes or extensions that would exceed any of the indicators set out in Column Two of these tables.</li> </ol> | <ol style="list-style-type: none"> <li>1) The change or extension requires prior permission from a competent authority under relevant regulations; or</li> <li>2) The extension to the store represents a 50% or greater increase in the cubic capacity of the building(s); or</li> <li>3) The extension of the store or any new buildings would be within 75 metres of any boundary of the site; or</li> <li>4) The change or extension results in the release of emissions to an environmental media not previously used or assessed for disposal; or</li> <li>5) The construction or operation of any new or extended building would increase background noise levels at the site boundary by more than 10 decibels; or</li> <li>6) The change or extension was considered and rejected at an earlier assessment on environmental or health or public safety grounds or a combination of these factors; or</li> <li>7) The change or extension would result in other changes or extensions that would exceed any of the indicators set out in Column Three of these tables.</li> </ol> |

**Table B: Stage 1 – Care and Maintenance Preparations Phase (continued)**

| <b>Column One</b>   | <b>Column Two (Green)</b>   | <b>Column Three (Red)</b>  |
|---|---|--|
| <i>Potential Changes</i>  | <i>Indicator of No Significant Adverse Effect<br/>(Green – does not require EIA)</i>  | <i>Indicator of Likely Significant Adverse Effects<br/>(Red – EIA likely to be required, consult with ONR)</i>   |
| <p>2. Change of timescale for works phase, speeding up or slowing down of operations</p> <p>3. Deferral or advancement of the start date for the works phase – resulting in unforeseen additional effects</p> <p>4. Changes to working practices including shift working.</p> | <p>1) The change or extension does not represent an extension or reduction in timescale for works phase operations of more than 10%; and</p> <p>2) The change or extension would not increase background noise levels at the site boundary by more than 5 decibels; and</p> <p>3) The change or extension would not increase emissions to land, air or water, and</p> <p>4) The change or extension would not increase traffic flows to and from the site during the hours 7 p.m. To 7 a.m.; and</p> <p>5) The change or extension would not result in other changes or extensions that would exceed any of the indicators set out in Column Two of these tables.</p> | <p>1) The change or extension requires prior permission from a competent authority under relevant regulations; or</p> <p>2) The change or extension would increase background noise levels at the site boundary by more than 10 decibels; or</p> <p>3) The change results in significant changes to numbers of workers on site, number of vehicles, or waste generation;</p> <p>4) The change or extension was considered and rejected at an earlier assessment on environmental or health or public safety grounds or a combination of these factors; or</p> <p>5) The change or extension would result in other changes or extensions that would exceed any of the indicators set out in Column Three of these tables.</p> |



**Table B: Stage 1 – Care and Maintenance Preparation Phase (continued)**

| <b>Column One</b>   | <b>Column Two (Green)</b>  | <b>Column Three (Red)</b>  |
|---|--|--|
| <i>Potential Changes</i>  | <i>Indicator of No Significant Adverse Effect (Green – does not require EIA)</i>   | <i>Indicator of Likely Significant Adverse Effects (Red – EIA likely to be required, consult with ONR)</i>   |
| <p>5. Reduction of height of reactor or other building(s) to reduce visual effect – with the potential for an increase in material to be removed from or stored on site</p> <p>6. Increase in the use of resources including energy, water and the use of building and other materials.</p> | <p>1) The change or extension would not result in new development as defined by s55 (1) Town and Country Planning Act 1990; and</p> <p>2) The change or extension would not result in other changes or extensions that would exceed any of the indicators set out in Column Two of these tables.</p> | <p>1) The change or extension requires prior permission from a competent authority under relevant regulations; or</p> <p>2) The change or extension would increase background noise levels at the site boundary by more than 10 decibels; or</p> <p>3) The change or extension was considered and rejected at an earlier assessment on environmental or health or public safety grounds or a combination of these factors; or</p> <p>4) The change or extension would result in other changes or extensions that would exceed any of the indicators set out in Column Three of these tables.</p> |





**Table C: Stage 2 – Care and Maintenance Phase**

| <b>Column One</b>  | <b>Column Two (Green)</b>  | <b>Column Three (Red)</b>  |
|--|--|--|
| <i>Potential Changes</i>   | <i>Indicator of No Significant Adverse Effect<br/>(Green – does not require EIA)</i>   | <i>Indicator of Likely Significant Adverse Effects<br/>(Red – EIA likely to be required, consult with ONR)</i>   |
| <p>1. Volume of contaminated waste greater than expected, requiring changes or extensions to aspects of the decommissioning process – e.g. Increase in size of ILW store (in compliance with T&amp;CP (EIA) 2017)</p> <p>2. A national waste repository is approved and ILW can be removed from the site resulting in traffic effects and noise etc. from the demolition and removal of storage facilities</p> | <p>1) The increase in the size of the store does not exceed a 25% increase in cubic capacity or 1000 square metres of floor space; and</p> <p>2) The change or extension would not increase background noise levels at the site boundary by more than 5 decibels; and</p> <p>3) The change or extension would not increase emissions to land, air or water, and</p> <p>4) The change or extension would not result in other changes or extensions that would exceed any of indicators the set out in Column Two of these tables.</p> | <p>1) The change or extension requires prior permission from a competent authority under relevant regulations; or</p> <p>2) The extension to the store represents a 50% or greater increase in the cubic capacity of the building(s); or</p> <p>3) The extension of the store or any new buildings would be within 75 metres of any boundary of the site; or</p> <p>4) Any contamination has not been contained within the existing site boundaries or it is not known whether contamination has spread beyond the site boundaries; or;</p> <p>5) The change or extension would increase background noise levels at the site boundary by more than 10 decibels; or</p> <p>6) The change or extension was considered and rejected at an earlier assessment on environmental or health or public safety grounds or a combination of these factors; or</p> <p>7) The change or extension would result in other changes or extensions that would exceed any of the indicators set out in Column Three of these tables.</p> |



**Table C: Stage 2 – Care and Maintenance Phase**

| Column One   | Column Two (Green)  | Column Three (Red)  |
|--|---|---|
| <i>Potential Changes</i>   | <i>Indicator of No Significant Adverse Effect (Green – does not require EIA)</i>  | <i>Indicator of Likely Significant Adverse Effects (Red – EIA likely to be required, consult with ONR)</i>  |
| <p>3. Change of timescale for care and maintenance phase, resulting in speeding up or slowing down of operations, with potential effects from radioactive discharges or dose rates, noise, traffic etc.</p> <p>Note: this includes change of process to immediate decommissioning without the care and maintenance phase</p> | <p>1) The change or extension does not represent an increase or reduction in timescale for operations of more than 10%; and</p> <p>2) The change or extension would not increase background noise levels at the site boundary by more than 5 decibels; and</p> <p>3) The change or extension would not result in other changes or extensions that would exceed any of the indicators set out in Column Two of these tables.</p> | <p>1) The change or extension requires prior permission from a competent authority under relevant regulations; or</p> <p>2) The change or extension would increase background noise levels at the site boundary by more than 10 decibels; or</p> <p>3) The change or extension was considered and rejected at an earlier assessment on environmental or health or public safety grounds or a combination of these factors; or</p> <p>4) The change or extension would result in other changes or extensions that would exceed any of the set out in Column Three of these tables.</p> |



Table D: Stage 3 – The Site Clearance Phase

| Column One  | Column Two (Green)   | Column Three (Red)   |
|---|--|--|
| <i>Potential Changes</i>  | <i>Indicator of No Significant Adverse Effect (Green – does not require EIA)</i>   | <i>Indicator of Likely Significant Adverse Effects (Red – EIA likely to be required, consult with ONR)</i>   |
| 1. Non-availability of a final radioactive waste storage or disposal facility – resulting in the construction of a new store, extensions to an existing store, or alterations or extensive maintenance of existing buildings on the site. | 1) The change or extension would not result in other changes or extensions that would exceed any of the indicators set out in Column Two of these tables.  | 1) The change or extension requires prior permission from a competent authority under relevant regulations; or<br>2) The extension to the store represents a 50% or greater increase in the cubic capacity of the building(s); or<br>3) The extension of the store or any new buildings would be within 75 metres of any boundary of the site; or<br>4) The change or extension would increase background noise levels at the site boundary by more than 10 decibels; or<br>5) The change or extension was considered and rejected at an earlier assessment on environmental or health or public safety grounds or a combination of these factors; or<br>6) The change or extension would result in other changes or extensions that would exceed any of the indicators set out in Column Three of these tables. |
| 2. Decision to change planned end use of site (e.g. unrestricted or green field), decision to permanently store or dispose of waste on site.  | 1) The new use or development falls below any relevant regulatory exclusion thresholds for EIA in place at the time of the change or extension; and<br>2) The change or extension would not result in other changes or extensions that would exceed any of the indicators set out in Column Two of these tables. | 1) The new use or development exceeds any relevant Indicative Screening Criteria for EIA in place at the time of the change or extension; or<br>2) The new use or development exceeds any relevant regulatory inclusion thresholds for EIA in place at the time of the change or extension   |

## Appendix 5

### Proforma for Finding of No Significant Effects (FONSE) Report

Licensees have the responsibility to screen for changes to the decommissioning project which may be significant; the screening process will indicate whether a determination from ONR is required. If none of the criteria apply a record of FONSE can be completed for internal use and future reference; below is an example form that may be used to record a FONSE, however the licensee is free to make their own arrangements for recording FONSE.

|  |  |                                      |   |
|--|--|--------------------------------------|---|
| <b>Name of Nuclear Reactor Installation, initial programme of works and this amendment</b>   | <i>XX reactor, Programme of works for the Decommissioning of XX reactor, amendment 1</i>   |                                      |   |
| <b>Name and location of site and any adjoining sites of environmental or nature conservation interest</b>  | <i>It would be helpful for a map or plan to be provided, showing the footprint.</i>  |                                      |   |
| <b>Person to contact about the FONSE</b>   |  |                                      |   |
| <b>Description of the initial programme of works for decommissioning</b>   | <i>Provide details of size, scale, the physical requirements of decommissioning, including scale and duration of temporary treatment buildings, storage or destination and transport of wastes, number of works on site etc.</i>   |                                      |   |
| <b>Description to changes or extensions</b>  | <i>Provide details of proposed changes (including scheduling, transport and storage arrangements, size of temporary buildings, dimensions of reactor after decommissioning, etc.) This should include a statement of how the change differs from the original decommissioning strategy</i>               |                                      |   |
| <b>Are there other developments that together with the changes or extensions being assessed could affect the site (provide details)?</b>   | <i>Define boundaries for the assessment, details of responsibilities regarding other developments and their name and location. This might include change to transport infrastructure, designation of sites, location of housing, etc. (Maps will again be a useful tool to illustrate relationships)</i> |                                      |   |
| <b>The Assessment of Significance of Effects</b>   |  |                                      |   |
| <b>Describe how the amended programme of works (alone or in combination with other changes expected to occur) is likely to affect environment of the reactor site or other affected sites/impact receptors</b> | <i>Include direct and indirect effects and explain how the assessment was carried out</i>  |                                      |   |
| <b>Outline basis of evaluation of significance</b>   | <i>Thresholds, targets, indicators, designations, load</i>   |                                      |   |
| <b>Explain why the effects are not considered significant</b>  | <i>This may be done with reference to key indicators of significance including degree of change to the site, duration of the project or programme of works, comparison with the environmental effects originally envisaged etc.</i>  |                                      |   |
| <b>List of Agencies Consulted</b>  | <i>Provide contact name and telephone or email address</i>   |                                      |   |
| <b>Response to consultation</b>  | <i>State whether the agencies consider the effects are significant or not. If the response indicates effects are significant, reasons to continue with the FONSE.</i>  |                                      |   |
| <b>Data collected to carry out the Assessment</b>  |  |                                      |   |
| <b>Who carried out the assessment</b>  | <b>Sources of Data</b>   | <b>Level of assessment completed</b> | <b>Where can the full results of the assessment be accessed and viewed?</b> |



|  |  |  |   |
|--|--|--|---|
| <i>This could be the licensee, government agency or other relevant agencies</i>                    | <i>This will include field studies, existing records, consultation with relevant agencies etc.</i> | <i>This could include desktop study, full ecological assessment etc. Indicate the degree of confidence attributable to the assessment results.</i> | <i>Provide times and dates when the information can be viewed, addresses and telephone numbers of a contact person.</i> |
| <b>Overall Conclusions</b>   |  |  |   |
| <i>Explain how the overall conclusion, i.e. Finding of No Significant Effects, was arrived at.</i> |  |  |   |

## References

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