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STATUTORY INSTRUMENTS

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**2019 No. 215**

**EXITING THE EUROPEAN UNION  
HEALTH AND SAFETY  
ENVIRONMENTAL PROTECTION**

**The Justification Decision Power  
(Amendment) (EU Exit) Regulations 2019**

*Made - - - - 7th February 2019*

*Coming into force in accordance with regulation 1*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018<sup>(1)</sup>.

In accordance with paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018 a draft of this instrument has been laid before and approved by a resolution of each House of Parliament.

**Citation and commencement**

1. These Regulations may be cited as the Justification Decision Power (Amendment) (EU Exit) Regulations 2019 and come into force on exit day.

**Interpretation**

2. In these Regulations—

“2013 Directive” means Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom<sup>(2)</sup>;

“class or type of practice” has the same meaning as in Article 19(1) of the 2013 Directive;

“health detriment” has the meaning given by Article 4(39) of the 2013 Directive;

“Justification Regulations” means the Justification of Practices Involving Ionising Radiation Regulations 2004<sup>(3)</sup>;

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<sup>(1)</sup> 2018 c. 16.

<sup>(2)</sup> OJ L 13, 17.1.2014, p.1.

<sup>(3)</sup> S.I. 2004/1769, amended by S.I. 2018/430 and S.I. 2019/24.

“justified” in relation to a class or type of practice means that the individual or societal benefit resulting from the class or type of practice outweighs the health detriment that it may cause; “Justifying Authority” has the meaning given by regulation 6 of the Justification Regulations; “minor justification decision” means a decision that for the purposes of the Justification Regulations—

- (a) determines that a class or type of practice is no longer justified; or
- (b) introduces or changes a condition relating to the justification of a class or type of practice; and

“positive justification decision” means a decision that for the purposes of the Justification Regulations determines that a class or type of practice is justified, where it was not previously justified.

### **Amendment of the Justification Regulations**

**3.** In regulation 14 (form of applications and decisions) of the Justification Regulations, for the words “section 2(2) of the European Communities Act 1972<sup>(4)</sup>” substitute “regulation 4 of the Justification Decision Power (Amendment) (EU Exit) Regulations 2019”.

### **Power to make a justification decision**

- 4.**—(1) Subject to paragraph (2), the Justifying Authority may by regulations make—
- (a) a positive justification decision; or
  - (b) a minor justification decision.
- (2) Regulations may not be made under this regulation—
- (a) by the Welsh Ministers, unless justifying the class or type of practice involved falls within devolved competence, within the meaning of section 58A of the Government of Wales Act 2006<sup>(5)</sup>;
  - (b) by a Northern Ireland department, unless in relation to Northern Ireland and justifying the class or type of practice involved is a transferred matter, within the meaning of section 4 of the Northern Ireland Act 1998<sup>(6)</sup>;
  - (c) by the Scottish Ministers, unless justifying the class or type of practice involved falls within devolved competence, within the meaning of section 54 of the Scotland Act 1998<sup>(7)</sup>.
- (3) Regulations under this regulation may—
- (a) make different provision for different purposes;
  - (b) make transitional provision.

### **Exercise and scrutiny of power to make a justification decision**

**5.**—(1) Regulations made under regulation 4 by the Secretary of State or the Welsh Ministers are to be made by statutory instrument<sup>(8)</sup>.

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(4) 1972 c. 68.

(5) 2006 c. 32. Section 58A is inserted by section 19(1) of the Wales Act 2017 (c. 4).

(6) 1998 c. 47, to which there are amendments not relevant to these Regulations.

(7) 1998 c. 46, to which there are amendments not relevant to these Regulations.

(8) For regulations made under regulation 4 by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

(2) The power of a Northern Ireland department to make regulations under regulation 4 is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979<sup>(9)</sup>.

(3) A statutory instrument containing regulations under regulation 4 which contain (whether alone or with other provision) a positive justification decision may not be made by the Secretary of State unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(4) Any other statutory instrument containing regulations under regulation 4 made by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.

(5) A statutory instrument containing regulations under regulation 4 which contain (whether alone or with other provision) a positive justification decision may not be made by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

(6) Any other statutory instrument containing regulations under regulation 4 made by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(7) Regulations under regulation 4 which contain (whether alone or with other provision) a positive justification decision may not be made by a Northern Ireland department unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(8) Any other regulations under regulation 4 made by a Northern Ireland department are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954<sup>(10)</sup> as if they were a statutory instrument within the meaning of that Act.

(9) Regulations under regulation 4 made by the Scottish Ministers which contain a positive justification decision (whether alone or with other provision) are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).

(10) Any other regulations under regulation 4 made by the Scottish Ministers are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

*Richard Harrington*  
Parliamentary Under Secretary of State  
Department for Business, Energy and Industrial  
Strategy

7th February 2019

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<sup>(9)</sup> S.I. 1979/1573 (N.I. 12).

<sup>(10)</sup> 1954 c. 33 (N.I.). Section 41(6) was amended by sub-paragraph 18 of paragraph 9 of Schedule 1 to S.I. 1999/663.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations are made in exercise of the powers in section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) (“the Act”) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(g) of the Act) arising from the withdrawal of the United Kingdom from the European Union. The Regulations extend to the whole of the United Kingdom.

These Regulations amend the Justification of Practices Involving Ionising Radiation Regulations 2004 (“the Justification Regulations”) and make separate provision that relates to the Justification Regulations.

Regulation 3 amends regulation 14 of the Justification Regulations to substitute a reference to regulation 4 of these Regulations for a reference to section 2(2) of the European Communities Act 1972 (c. 68).

Regulation 4 provides a power to make positive justification decisions and minor justification decisions (as defined in regulation 2) in the form of regulations.

Regulation 5 specifies how the power to make regulations under regulation 4 is to be exercised and the scrutiny procedures that will apply.

An impact assessment has not been produced for the instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.