

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Fifth Delegated Legislation Committee

DRAFT TRANSFRONTIER SHIPMENT OF  
RADIOACTIVE WASTE AND SPENT FUEL  
(EU EXIT) REGULATIONS 2018

*Tuesday 22 January 2019*

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**Saturday 26 January 2019**

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**The Committee consisted of the following Members:**

*Chair:* SIR DAVID AMESS

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| † Afriyie, Adam ( <i>Windsor</i> ) (Con)   | † Harris, Rebecca ( <i>Lord Commissioner of Her Majesty's Treasury</i> ) |
| † Bacon, Mr Richard ( <i>South Norfolk</i> ) (Con)   | † Jones, Mr David ( <i>Clwyd West</i> ) (Con)                            |
| † Bruce, Fiona ( <i>Congleton</i> ) (Con)  | † Kyle, Peter ( <i>Hove</i> ) (Lab)                                      |
| † Burden, Richard ( <i>Birmingham, Northfield</i> ) (Lab)  | Phillipson, Bridget ( <i>Houghton and Sunderland South</i> ) (Lab)       |
| † Burghart, Alex ( <i>Brentwood and Ongar</i> ) (Con)  | † Smith, Nick ( <i>Blaenau Gwent</i> ) (Lab)                             |
| † Cadbury, Ruth ( <i>Brentford and Isleworth</i> ) (Lab)   | † Whitehead, Dr Alan ( <i>Southampton, Test</i> ) (Lab)                  |
| † Chapman, Douglas ( <i>Dunfermline and West Fife</i> ) (SNP)  | † Whittingdale, Mr John ( <i>Maldon</i> ) (Con)                          |
| Coffey, Ann ( <i>Stockport</i> ) (Lab)   |  |
| † Hands, Greg ( <i>Chelsea and Fulham</i> ) (Con)  | Harriet Deane, Adam Evans <i>Committee Clerks</i>                        |
| † Harrington, Richard ( <i>Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy</i> ) | † <b>attended the Committee</b>  |

## Fifth Delegated Legislation Committee

Tuesday 22 January 2019

[SIR DAVID AMESS *in the Chair*]

### Draft Transfrontier Shipment of Radioactive Waste and Spent Fuel (EU Exit) Regulations 2018

2.30 pm

**The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Richard Harrington):** I beg to move,

That the Committee has considered the draft Transfrontier Shipment of Radioactive Waste and Spent Fuel (EU Exit) Regulations 2018.

I do not have to tell you this, Sir David, because you know it is true, but it is a pleasure to serve under your chairmanship. I have pointed that out on other occasions, but I reiterate my previous comments on the subject.

**Mr Richard Bacon** (South Norfolk) (Con): May I point out that not only is it an enormous pleasure for us all to be here under your chairmanship, Sir David, but that it is an unbridled pleasure for us all to be here once again with the Minister?

**Richard Harrington:** I am, unusually, speechless; I say only that if all parliamentary business were like the Statutory Instrument Committees we have sat on in the past couple of weeks, we would all be able to have a much longer break in February.

It is my duty and pleasure to introduce the draft regulations, which were laid before the House on 28 November. They are made under powers set out in section 8 of the European Union (Withdrawal) Act 2018 and address specific inoperabilities arising from the UK's withdrawal from Euratom. They will come into force on exit day, only in the event of there being no deal between the UK and the EU. I shall not comment further on that.

As I have said in the House, we are seeking a wide-ranging nuclear co-operation agreement with Euratom while putting in place the necessary measures to ensure that the UK industry can operate in all scenarios. The draft regulations are one such measure. They revoke and replace the Transfrontier Shipment of Radioactive Waste and Spent Fuel Regulations 2008, which will become inoperable once the UK is no longer a member of the EU. The draft regulations introduce broadly equivalent procedures for the import, export and transit of radioactive waste and spent fuel into and out of the UK, but they reflect the UK's independence of the Euratom community in such circumstances and apply to the whole UK.

The draft regulations set out a regime to ensure that radioactive waste and spent fuel are not shipped into or out of the UK without prior authorisation from the relevant competent authorities. They are vital to protect the public and the environment from the dangers of ionising radiation when radioactive waste and spent fuel is shipped into or out of the UK. They allow for the continuation of crucial nuclear activities such as the

decommissioning of legacy sites and the return of radioactive waste to the relevant country of origin following the reprocessing of other nations' spent fuel.

I will say just a few words about the background to the draft regulations. To put them in perspective, I should say that every year we make about 400 shipments of radioactive waste to Euratom member states. The majority of those shipments are of contaminated metals for treatment in Germany and Sweden. Hon. Members may be aware that we have ceased reprocessing other nations' spent fuel, but we will need to return high-level waste arising from the last of the reprocessing contracts to its countries of origin—Australia, Japan, Germany and Italy. The draft regulations will allow for the return of that high-level waste, and they are of strategic importance to the UK's fulfilling its reprocessing contracts and supporting the decommissioning and clean-up mission at Sellafield.

The 2008 regulations introduced a set of regulatory procedures for transfrontier shipments within Euratom and a separate set of procedures for shipments entering or exiting the community. When we leave the EU and Euratom, those regulations will become inoperable because they treat the EU as a single bloc that includes us. To ensure there is an operable regime after exit day, the draft regulations treat Euratom member states and all other countries in the same way.

There will be three operational changes for our operators shipping to and from Euratom member states. First, they will need to request authorisation from the relevant authority when importing a shipment from Euratom. The competent authorities are the Environment Agency, Natural Resource Wales, the Scottish Environment Protection Agency and the Northern Ireland Environment Agency.

Secondly, UK operators will need to notify the relevant competent authorities when the shipment is completed. Thirdly, when importing from a Euratom state, UK operators will need to provide evidence that they have made an arrangement with the exporter that has been accepted by the exporter's competent authority. That arrangement would oblige them to take back the radioactive waste or spent fuel if the shipment cannot be completed in accordance with the regulations.

To put the changes into context, I should say that they do not affect the entire nuclear industry, and at present only six UK operators have authorisations in place to ship radioactive waste. Were these not formal proceedings, I would ask you, Sir David, and others to estimate the total costs to all affected industry from these additional steps—they are far less than I thought. My Department's officials have estimated that they are between £1,700 and £6,000 every three years, as well as a minor familiarisation cost for operators of £100 to £900 each.

The guidance for the regulations will be published online prior to coming into force, and our officials have been engaging regularly with the operators that will be affected to ensure that there is minimum disruption. As I say, it is *de minimis*, but it still needs to be done properly.

For the record, the instrument was drafted collaboratively between the officials in our Department, the devolved Administrations, the UK's environment agencies, the Office for Nuclear Regulation and the Nuclear Decommissioning Authority. Although the legislative competence is reserved,

we have been very collaborative about it. I thank the devolved authorities and all other partners for the help that they have given. Further engagements have taken place through stakeholder workshops, the Euratom industry forum and other industry events.

The regulations are vital to the success of our decommissioning programme and to the completion of our last few reprocessing contracts. The regulations will allow the UK to maintain the highest nuclear safety standards, while ensuring that the relevant UK operators can continue to operate, even in the unlikely event of a no-deal scenario.

2.37 pm

**Dr Alan Whitehead** (Southampton, Test) (Lab): It is a pleasure to serve under your chairmanship, Sir David. I will leave it at that, because I am concerned about the spread of so-called “pleasure creep”, where one has to put a number of nouns, adjectives and adverbs in front of the word “pleasure” to indicate that it really is a pleasure. I will be straightforward and stick to what I have just said.

The statutory instrument is essentially a very sensible piece of work to ensure that after exiting the EU we have in place the authorisation, certification and all other necessary arrangements to allow radioactive waste to transit properly—the Minister mentioned some 300 shipments a year. Previously, that was all done essentially under the aegis of Euratom; the question of having those arrangements, certainly as far as transfer to Euratom countries was concerned, did not come before us.

The Euratom arrangements also applied to trans-shipments that were not to Euratom countries but were under the aegis of Euratom as far as such trans-shipment arrangements were concerned. Trans-shipments to Japan, Australia and various other places were effectively covered by the fact that Euratom had an arrangement with those countries; we did not need a separate one. Now, we will have to have separate arrangements under all those circumstances, which is what this SI effectively does. It does so by revoking the 2008 regulations, and then—as is stated in the explanatory memorandum—largely replicates them

“by laying down broadly equivalent procedures”.

My comment to the Minister, which I have made on a number of other occasions when we have had these discussions about similar SIs, is that the broadly equivalent procedures seem to replicate quite well what would have happened under Euratom, given how the regulations are written. I would like the Minister to confirm that he is satisfied that that is the case. Obviously, I have not been able to compare regulation with regulation, but I assume that that is the basis of the “largely replicates” quote.

**Richard Harrington:** I confirm, as the shadow Minister has asked me to, that he is absolutely right: the new regulations broadly replicate the 2008 regulations, and there is no material difference at all.

**Dr Whitehead:** I thank the Minister for that. That is exactly what I had anticipated he would say, and I am grateful that he was able to say it.

The second issue relates to the quantity and concentration of consignments that trigger the need to define a shipment

as a transfrontier shipment under the terms of the SI. I am sure that the Minister will have been party to the translation of regulations determining that: those regulations have been changed from a 2008 Euratom Council directive to a more recent directive in order to get those definitions right. In so doing, at least some reference to Euratom Council directives appears to have been preserved, but I assume that reference is only for purposes of definition, not of jurisdiction. I guess that the Minister will be able to put my mind at rest on that point as well.

**Richard Harrington:** I confirm that the hon. Gentleman’s mind should be at rest on that point.

**Dr Whitehead:** I thank the Minister for that. My final brief point follows from the one the Minister made about the total cost of these arrangements, which is indeed very modest: as he has said, it is between £1,700 and £6,000 every three years. Those extra costs arise from the fact that, on occasions, transfrontier shipments will have to accede to both the existing Euratom regime and the new regime being created in this country. If a cost went from Euratom to the new transfrontier shipment arrangements, then there would be no net cost; that additional cost arises only when the cost is being doubled up. That is my understanding of the situation.

**Richard Harrington:** That is my understanding of the situation as well. As usual, the shadow Minister has nailed this. That is exactly the case.

**Dr Whitehead:** That is good. My observation—I think I am still under five minutes—is that the cost could be mitigated were we to make some kind of associate arrangement with Euratom in the future, perhaps in the long term. Obviously, the SI is predicated on the fact that we will have no arrangement with Euratom post 31 March, but if there is a longer associate arrangement—as was discussed a little while ago during the passage of the Nuclear Safeguards Act 2018—those costs would presumably not arise and that very modest additional cost would therefore be dissolved. That is just an observation about the future. I hope the Minister will be able to encourage the idea that we might have a future closer arrangement with Euratom, even though we will no longer be members of Euratom. I have just discussed one of the minor things that would be facilitated by such an arrangement.

I think hon. Members will have gathered from those remarks that we do not oppose the draft regulations. Indeed, we wish them success and hope they can be applied in the most expeditious way possible.

2.45 am

**Mr John Whittingdale** (Maldon) (Con): I reassure colleagues that I do not intend to detain the Committee for long. I just want to put on the record that for my first 12 years in this place I represented an operational nuclear power station at Bradwell-on-Sea. In the past 10 years, that power station has been being decommissioned, and that work has just successfully been completed. I pay tribute to all those who worked so hard to achieve that.

I do not think that power station required a great deal of transfrontier shipment, but there may be cause for that in the future. I remain strongly supportive of

[Mr John Whittingdale]

the Bradwell B project for a new nuclear power station. We have had a bit of a setback in the past few days with the news about the Japanese investment at Wylfa, but as far as I am aware—I went to the China General Nuclear reception a couple of days ago—Bradwell B remains very much on track, so there may be a need for transfrontier shipments there in the future.

I very much welcome the draft regulations. I just wanted to use this opportunity to say that I remain very supportive of a future generation nuclear programme in the UK.

2.46 pm

**Douglas Chapman** (Dunfermline and West Fife) (SNP): I thank the Minister for outlining the draft regulations so well, but we are concerned that we are breaking our link with Euratom. Some things in the EU seem to work very well, and that competence and collaboration will be sadly missed—but so be it.

Let me pose a few questions about the position in Scotland. Will the radioactive waste management policy currently under the auspices of the Scottish Government remain intact? Will the Scottish Government and the Scottish Parliament retain their current devolved competences? Will the draft regulations have effect from day one? I think that will be 1 April—probably timely for some people, given that it is April Fool's day. Again, we need to deal with that.

Is the Minister in a position to outline future plans, beyond Euratom, to ensure the safe transfer of radioactive materials and technologies? That will affect all parts of the UK, including services such as the NHS. Will those plans be subject to meaningful negotiations and consultation with the Scottish Government and other devolved Administrations?

2.47 pm

**Adam Afriyie** (Windsor) (Con): I rise very briefly to observe that Lakeside Energy from Waste in my constituency disposes of quite a lot of radioactive material. It seems to me important that, as a commercial business, it is able to accept goods from overseas rather than just from the NHS. I wonder whether the transportation of radioactive materials that result from hospital and laboratory activities is covered by the draft regulations, or whether that is outwith their scope.

2.48 pm

**Richard Harrington:** I thank right hon. and hon. Members for their contributions. On the general point about Euratom, I hope the charges will disappear if we have the closest possible associate membership of Euratom, which, as the shadow Minister knows very well, is what we hope to have. That of course is all for negotiation. It is my sincere hope that we will have such close associate membership that there will not be a question of costs, but I cannot say that. If only we could say that the cost generally of our leaving the EU without a deal were as little as £6,000. The cost in this case is pretty small—it is symbolic, really—and we hope to have the closest possible future relationship.

I endorse what my right hon. Friend the Member for Maldon said about Bradwell. I sincerely hope not only that the nuclear tradition there continues but that the site has a great future in providing employment and energy security for the country. I completely support what he said.

I reassure the Scottish National party spokesman, the hon. Member for Dunfermline and West Fife, that we introduce the draft regulations in a spirit of complete co-operation with the Scottish Government and other devolved authorities, and that will continue. There is no change in jurisdiction, but some things extend beyond jurisdiction to our having a good working relationship in this field, and we have that. He made a specific point about the management of radioactive waste, which remains devolved. Nothing will change in that regard, although I must say, just so there is no confusion, that that is a separate issue from the frontier shipment of waste, which is what the draft regulations deal with. However, he made his point very reasonably, and luckily I was able to answer it.

My hon. Friend the Member for Windsor asked about the medical side of things—radioactive waste from hospitals and so on. The draft regulations cover only radioactive waste and spent fuel; they do not concern medical radioactive material, so I can satisfy him on that point.

I think I have answered all the questions that were raised. I thank the shadow Minister for his support for this brief but important piece of delegated legislation.

*Question put and agreed to.*

2.51 pm

*Committee rose.*



