

**I.****Explanatory memorandum****Draft Decree amending Decree No 374/2016 on the accountancy and control of nuclear materials and reporting of information on them****I. General part****1. Description of the content of the draft legislation, stating the reasons for its submission and a summary of the basic principles and the most important changes it introduces compared to the current legislation.**

The draft Decree amending Decree No 374/2016 on the accountancy and control of nuclear materials and reporting of information on them (hereinafter the 'draft Decree') is submitted in connection with the amendment to Act No 263/2016, the Atomic Act (hereinafter the 'Act'), namely, Act No 83/2025 amending Act No 263/2016, the Atomic Act, as amended. This amendment came into effect on 1 July 2025.

The draft Decree responds to the changes introduced by this amendment in respect of the accountancy and control of nuclear materials, in particular the changes in § 166 of the Act.

The State Office for Nuclear Safety (SONS) is authorised to issue this Decree under the provisions of § 236 of the Act.

The proposed amendment reflects changes in the field of nuclear non-proliferation, in particular the clarification of the obligations of persons operating or intending to operate *safeguards facilities*. These changes are based on an evaluation of previous practice in the implementation of inspections of safeguards facilities and on the requirement for more effective international inspections by the International Atomic Energy Agency.

At the same time, the draft Decree adapts the newly adopted legislation at the European Union (Euratom) level.

The proposed amendment to the Decree contains only the necessary partial changes to the original text, which clarify and simplify selected processes in the field of the accountancy and control of nuclear materials, based on issues identified in practical application. The essence of regulation in this field remains unchanged.

The aim of the proposed amendment is to improve the already proven system of accountancy and control of nuclear materials in accordance with the obligations laid down by law, while also reflecting the obligations or recommendations arising from the relevant international documents.

## **2. Assessment of the existing legal situation**

The existing Decree No 374/2016 on the accountancy and control of nuclear materials and reporting of information on them came into effect on 1 January 2017 and has not been amended to date.

The main objective of the draft is to respond to the amendment to the Act, which introduced certain changes regarding the accountancy and control of nuclear materials. At the level of the Act, the obligations of persons operating or intending to operate *safeguards facilities* have also been clarified.

These adaptations to the legal framework were made on the basis of an evaluation of previous practice in the inspection of safeguards facilities and in order to enable more effective international inspections by the International Atomic Energy Agency.

The changes concerned the requirements for safeguards facility projects, specifically compliance with technical requirements for ensuring independent power supply and lighting, and for construction and structural alterations (see § 166(6) of the Act). These statutory requirements are to be specified in this draft Decree at the implementation level.

The new legislation also reflects the planned construction of new nuclear installations and the development or expansion of small modular reactors (SMRs).

In view of the number and nature of the changes described above, the existing Decree has not undergone a full revision; instead, only the present draft amendment to the Decree is proposed, containing all the above-mentioned modifications arising from the amendment to the Act, recommendations of international evaluations, and practical experience.

## **3. Assessment of the compliance of the draft legislation with the constitutional order and other components of the legal order of the Czech Republic.**

The draft legislation complies with the constitutional order and other components of the legal order of the Czech Republic.

## **4. Assessment of the compliance of the draft legislation with the obligations arising for the Czech Republic from its membership of the European Union.**

The draft legislation is fully consistent with the existing international treaties governing the accountancy and control of nuclear materials.

The new legislation has been aligned with a new European regulation – Commission Regulation (Euratom) 2025/974 on the application of Euratom safeguards.

The draft legislation is fully compatible with European Union and NATO legislation, does not conflict with the case-law of the courts of the European Union and complies with the general legal principles of European Union law (e.g. the principles of legal certainty, proportionality and non-discrimination).

## **5. Assessment of the compliance of the proposed legislation with international treaties binding on the Czech Republic.**

The draft legislation is compatible with international treaties binding on the Czech Republic.

**6. Expected economic and financial impact of the draft legislation on the State budget and other public budgets.**

Given its nature, the draft legislation concerning the accountancy and control of nuclear materials does not have a negative economic or financial impact on the State budget or other public budgets. Nor will the legislation have a negative economic and financial impact on economic operators, including small and medium-sized enterprises.

**7. Justification for a possible proposal for the Chamber of Deputies to give its consent to the draft legislation at first reading.**

not applicable

**8. Explanation of any proposal that the proposed legislation should come into effect on a date other than 1 January or 1 July of the calendar year.**

The effective date of the amendment to the Decree is set for 1 March 2026.

In accordance with the rule introduced in § 9(2) of Act No 222/2016 on the Collection of Laws and International Treaties, which makes it possible to set an effective date for a legal regulation other than the so-called uniform effective date, the option of setting a special effective date is being applied.

The reason is the obligation to notify the legislation to be promulgated in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, which lays down minimum periods between notification of a technical regulation at European level and its adoption or effective date at national level.

The draft Decree is aligned with the newly adopted Commission Regulation (Euratom) in this field, the discussion and publication of which have been delayed. The draft Decree could not be submitted earlier and, in order to comply with the deadline for notification of the technical regulation, it was not possible to set the effective date at 1 January 2026.

In this case, the effective date of the legislation is set later than the uniform effective date rule would dictate, thus adequately satisfying the purpose of the concept of the *vacatio legis* period.

**9. Justification of the individual provisions of the draft legislation; the justification shall include an explanation of their purpose and necessity, a description of the legal rules contained therein, and of the rights and obligations arising therefrom.**

See the special part of the explanatory memorandum.

**10. Assessment of whether the draft legislation contains a provision which by its nature would constitute a technical regulation under the legislation governing technical requirements for products and information on compliance with the notification obligation under that legislation.**

The draft legislation is a technical regulation pursuant to the legislation governing technical requirements for products and contains such provisions.

## **11. Information on the consultation of the draft legislation with the European Central Bank and the outcome of the consultation if the draft legislation is subject to such consultation.**

The draft legislation is not subject to such consultation.

## **12. Expected impact of the draft legislation, in particular.**

### **12.1 Impact on the rights and obligations of natural and legal persons.**

The proposed legislation merely refines, supplements and clarifies already existing obligations.

### **12.2 Impact on the business environment in the Czech Republic.**

The draft legislation has no such impacts.

### **12.3 Assessment of whether the draft legislation constitutes State aid.**

The draft legislation does not constitute State aid.

### **12.4 Social impact, including impact on specific groups of the population, in particular the socially vulnerable, persons with disabilities and national minorities.**

The draft legislation has no such impacts.

### **12.5 Expected impact of the draft legislation on equality between men and women, if the draft legislation regulates or affects the status of natural persons.**

The draft legislation does not contain any provisions that would have an impact on the issue of discrimination, nor does it envisage any impact on gender equality.

### **12.6 Environmental impact.**

The draft legislation has no such impacts.

### **12.7 Impact on the protection of children's rights.**

The draft legislation has no such impacts.

### **12.8 Impact on national security or defence.**

The proposed legislation does not anticipate the creation or increase of risks in the field of security or national defence. On the contrary, the present draft Decree will contribute to strengthening State security, as its aim is to refine the entire framework for the accountancy and control of nuclear materials.

### **12.9 Impact relating to the protection of privacy and personal data.**

When drafting the Decree, an assessment of its impact on the protection of personal data was carried out. The draft Decree does not introduce any changes that would have an impact relating to the protection of privacy or personal data.

The draft legislation will not have any negative impacts on the protection of privacy and personal data. It respects the legal framework for the protection and processing of personal data and its individual parameters.

The proposed legislation does not have a negative impact on the protection of privacy and personal data, respects the legal framework for their protection and processing, and meets the requirements arising from the relevant legislation. It complies with Act No 110/2019 on the processing of personal data and with Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (GDPR).

As part of the amendment, the annexes to the Decree containing the forms, which already included some personal data in the original version, have been amended.

In Annex 1, Form 5 – ‘Identification data of the holder of a permit for the handling of nuclear materials’ has been introduced, the purpose of which is to enable the permit holder to fulfil the obligation to transmit to the European Commission data required by law or Euratom or European Union legislation, including identification data of natural persons. This information will be provided to the Office by means of the form.

The collection of such data arises from the provisions of § 26 and § 27 of the Act, which impose the obligation to keep lists and registers of nuclear materials, including the precise definition of the required personal data, the extent of their disclosure and the retention period.

The data obtained from the form are necessary for the performance of control activities by inspectors of the Office, the International Atomic Energy Agency and Euratom. Up-to-date contact details are essential, in particular for ensuring the immediate access of international inspectors to the inspected site, so as to avoid undue delays in the performance of their verification activities.

At the same time, these data are used for the management of the state system of nuclear material accountancy and control, where operational communication between the permit holder and the Office is necessary for the transmission of accounting reports and other documents required by nuclear legislation and international regulations. For this reason, it is necessary for the Office to have up-to-date contact details of specific persons in the inspected locations, including phone numbers, email addresses and postal addresses.

From the perspective of personal data protection and GDPR requirements, this processing is necessary for the purposes of the exercise of public authority and the performance of public administration tasks. Personal data required by the Decree are processed within the framework of administrative files kept in accordance with the Act on Archiving and Filing Services, and their retention is further governed by the Office’s internal filing and disposal rules.

### **13. Assessment of corruption risks associated with the draft legislation.**

The draft legislation contains no provisions that would pose a corruption risk.

### **14. Justification for any proposed derogation from the procedure for discussing the draft legislation.**

not applicable

### **15. Information under the Lobbying Regulation Act**

The proposed legislation does not contain any provisions that would be subject to the information obligation under the Lobbying Regulation Act.

## II. Special part

### Re Article I (Amendment to Decree No 374/2016)

#### Re the introductory sentence

The references to authorising provisions in the Atomic Act are amended to reflect the new wording of the Act.

#### Re § 1

The long-standing terminological inconsistency originating from the original title of the European act has been corrected, with the new version finally aligning the terminology with international regulations and other relevant documents. The newly introduced term ‘safeguards’ corresponds to the traditional nomenclature in this field.

#### Re § 6(k)

A new obligation relating to the safeguards plan has been added to the list of obligations of the nuclear material accounting manager. The accounting manager is responsible for preparing and subsequently updating the safeguards plan as necessary. Another related obligation is the need to continuously monitor compliance with this plan.

This obligation arises from the wording of the new directly applicable regulation (Article 3(1) in conjunction with Article 4(2) of Commission Regulation (Euratom) 2025/974 on the application of Euratom safeguards) governing the submission of preliminary declarations in the case of new safeguards facilities.

#### Re § 9(2)

The new wording of the provisions more appropriately reflects the practical process of submitting the Inventory Change Report. At the same time, the wording of the normative provisions has been significantly shortened and simplified, which should make it simpler, clearer and more comprehensible for those to whom the legal standard is addressed, without altering its original meaning in any way.

The new wording takes into account the current concept and legal framework for the digitisation of government services aimed at simplifying communication with authorities, with the number of submissions and repeated sending of various documents to the Office or other addressees of the standard being significantly reduced compared to the original wording. It is no longer necessary to deliver paper documents. This reduces the overall administrative burden.

The original term ‘transfer’ has been replaced in this provision by a more appropriate term ‘převod’ [transfer] corresponding to the term traditionally used for such situations in the relevant international instruments (see, for example, Articles 12 and 91 of Agreement No 78/164/Euratom or Article 2(17)(e) and Annex 3 of Commission Regulation (Euratom) 2025/974 on the application of Euratom safeguards).

The inventory change report (referred to in paragraph (3) of this provision) is to be submitted only by the permit holder for location outside facilities (holders of small amounts of nuclear material) in accordance with the criteria newly established under Article 2(29) of Commission Regulation (Euratom) 2025/974 on the application of Euratom safeguards.

**Re § 15**

The shortened version of the provision significantly simplifies the wording of the original provision without altering its original meaning. The new wording reduces the administrative burden on addressees by removing some of the obligations originally imposed.

**Re § 16(1)(o)**

The newly added provision to the list of requirements for the content of documentation takes into account the need to introduce an obligation to include information on research and development activities for nuclear materials or within the nuclear fuel cycle in the text of the permit holder's internal regulation on the accountancy and control of nuclear materials as part of the documentation for the licensed activity.

The entity's nuclear material accounting manager should have access to information on the research and development activities carried out involving or relating to nuclear materials or the nuclear fuel cycle. This implements the requirements arising from Articles 2.a.i, 2.a.x and 2.b.i of the Additional Protocol to the Agreement related to the application of safeguards (199/188/Euratom).

**Re § 16(3)(b)**

This is an amendment of the reference to the statutory provision governing the obligation to transmit to the European Commission the data required by the Act or by Euratom or European Union legislation, including identification data of natural persons, and to provide such data to the Office. Identification data will now be submitted using the newly introduced Form No 5 – 'Identification data of the holder of a permit for the handling of nuclear materials'.

The need for explicit stipulation of the obligation to transmit identification data arises from the exercise of the Office's competence in supervisory activities, where it is necessary, in particular in the exercise of international control activities (by the International Atomic Energy Agency or Euratom), to maintain up-to-date contact details for specific persons at individual controlled entities.

**Re § 20a**

The basic framework of requirements for safeguards measures implementing the amendment to the relevant statutory provision (§ 166 of the Act) is set out in this new provision, which governs the process for fulfilling the obligation to provide data on compliance with technical requirements relating to the implementation of safeguards measures.

New documentation for licensed activities has been added in an annex to the amendment to the Act (the 'Safeguards Plan'), required as part of the application for a permit for the siting, construction, commissioning and operation of a nuclear installation, and for the individual stages of decommissioning, through which the permit applicant is to demonstrate their ability to implement safeguards measures in an appropriate manner.

The Decree newly defines the basic framework of the obligation to submit the safeguards plan document and, in its annex, sets out a specific list of individual activities that must be described in the safeguards plan.

The newly inserted provision is aligned with the requirements arising from the updated wording of the relevant directly applicable European regulation. At the same time, it takes into account the requirements arising from relevant international treaties and other safeguards-related documents (e.g. recommendations of the International Atomic Energy Agency).

In practical terms, these are technical requirements for ensuring independent power supply and lighting, and for construction. The primary purpose is to enable effective continuous monitoring of the movement of nuclear materials in safeguards facilities, thereby allowing early detection of any possible misuse of nuclear materials for undeclared or non-peaceful purposes. At the same time, the timely implementation of these safeguards measures significantly increases the ability to prevent and effectively deter potential misuse of nuclear materials for undeclared or non-peaceful purposes.

This reflects the requirement of ‘Safeguards by Design’ in safeguards facility projects, ensuring that the implementation of safeguards measures is considered from the outset and does not result in additional costs or problems when introduced at a later stage of the project. The person designing the safeguards facility must begin taking the implementation of safeguards measures into account so that this does not jeopardise, unnecessarily delay or increase the cost of their implementation.

The safeguards plan is conceived according to the *graded approach*, whereby the information required in the safeguards plan document is submitted to the supervisory authority repeatedly at each stage of the process (as part of the application for a permit for the siting, construction, commissioning, operation and decommissioning) and is gradually supplemented and specified in line with the current status of the project’s development.

### **Re § 21**

The newly adjusted period relating to the obligation to retain the listed types of documents for a certain time explicitly takes into account the new European-level regulation and at the same time aligns with national standards. In practice, the total retention period for documents is thus extended.

### **Re Annex 1**

Minimal changes have been made to Form No 2, which now more appropriately reflects practical processes and adds one new inventory change code beyond the standard international requirements.

The original Form No 5 has been deleted, both on the basis of practical experience and in order to simplify the process and reduce the administrative burden. A new form has been introduced – ‘Identification data of the holder of a permit for the handling of nuclear materials’. The holder of a permit for the handling of nuclear materials will use this form to fulfil their obligation to transmit to the European Commission the data required by the Act or by Euratom or European Union legislation, including the identification data of natural persons, and will also provide the required data to the Office using this form.

### **Re Annex 3**

A new Annex 3 has been inserted, which implements in detail the newly inserted provision introducing the concept of a *safeguards plan* (see the requirements under § 20a). The annex specifies and lists the individual activities that must be described in the safeguards plan, thereby determining its form and content. The listed chapters and their individual points make up the structure of the document, which must be prepared at the individual stages of the licensing process. More detailed descriptions of the required information will be specified in a follow-up methodological document.