
Note: This is a translation of the Statutes of the Reactor Safety Commission (RSK). In case of discrepancies between the English translation and the German original, the original shall prevail.

Statutes of the Reactor Safety Commission (RSK)

of 22 December 1998

supplemented by a preface of 19 March 2018

Preface

Ad Article 2

With the establishment of the Nuclear Waste Management Commission (“Entsorgungskommission” – ESK) at the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety on 12.06.2008 and its first meeting on 30.06.2008, radioactive waste management has become a topic of consultations of the ESK (www.entsorgungskommission.de); the RSK Committee on FUEL SUPPLY AND WASTE MANAGEMENT (VE) ceased to exist.

Ad Article 8

With the entry into force of the Act on the Reorganisation of the Organisational Structure in the Field of Disposal (“Gesetz zur Neuordnung der Organisationsstruktur im Bereich der Endlagerung“) on 30.06.2016, federal tasks relating i.a. to the repository surveillance by the Federal Office for Radiation Protection (BfS) were transferred to the Federal Office for the Safety of Nuclear Waste Management (BfE). Correspondingly, the RSK Secretariat was assigned to the BfE.

Article 1

Establishment of the Reactor Safety Commission (RSK)

The Reactor Safety Commission (RSK) shall be established within the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (short name: BMU).

Article 2

Subject matter

The Reactor Safety Commission advises the BMU in matters of safety of nuclear installations, and in related matters pertaining to the safety and security of nuclear installations and to the disposal of radioactive waste.

Article 3

Composition

The Reactor Safety Commission normally has 12 members. The Commission should include representatives of those specialised areas that are directly relevant to the task of expert advising of the BMU in the matters set forth in Art. 2. The Commission's members must ensure that the BMU receives expert, objective advising. In the interest of balanced advising, the Reactor Safety Commission should be so structured that the entire range of tenable views in light of the state of the art in science and technology is represented.

Article 4

Members

- (1) Membership in the Commission is a personally held voluntary office that admits no substitutions. The Commission's members are independent and are not bound to any directives. They must respect the professional opinions of other members and observe the rules for scientific discourse.
- (2) As a rule, the BMU appoints the Commission's members for terms of three calendar years. In general, reappointments in direct succession should result in total tenures of office of no more than six years, except in individual cases in which longer tenures of office are required for reasons of continuity.
- (3) The BMU may terminate any member's membership early, for special reasons. Such reasons must be announced to the member in question and to the Commission. A member may not be removed early for reasons having to do with his/her professional views.
- (4) Before taking up their duties, Commission members are obligated, by the BMU, to carry out their duties conscientiously and objectively, to observe the confidentiality of meetings (Art. 14 (4)) and to maintain secrecy with regard to matters that are the subject of a licensing or supervisory procedure under nuclear law or radiation-protection law and that they learn about as Commission members.

Article 5

Chairperson and deputy

After hearing the Commission, the BMU appoints the chairperson and his/her deputy, for a term normally lasting one calendar year. As a rule, when the chairperson serves two terms in immediate succession, his/her total time in office should not exceed a period of two years.

Article 6

Committees and working groups

(1) In agreement with the BMU, or at the BMU's request, the Commission establishes committees for matters that require ongoing work, establishes working groups for individual, specialised, interdisciplinary or project-related matters and determines the work orders for such committees and working groups. Acting on the Commission's nominations, the BMU appoints the members of committees and working groups and appoints their chairpersons. Committee chairpersons must be Commission members.

(2) The provisions of Art. 4 (1), (2) Sentence 1, (3) and (4), Art. 5 Sentence 1, Art. 10, Art. 11 (5), Art. 12 (3) and (4) and Arts. 13 through 16 apply *mutatis mutandis* for committees and working groups, except where their activities are governed by special rules of procedure of the BMU in keeping with the principles of these statutes.

Article 7

Authorised experts

In agreement with the BMU, the Commission, its committees and its working groups may draw on the assistance of authorised experts in their deliberations. In each case, the relevant chairperson must obligate authorised experts to maintain confidentiality (Art. 14 (4)) regarding the proceedings of meetings.

Article 8

Office

Within the Federal Office for Radiation Protection (BfS), the BMU shall establish an office for the Commission, which office shall not be subject to the BfS's instructions in technical/specialised matters. The office supports the Commission, and its committees and working groups, in carrying out its tasks, especially in accordance with Art. 12 (3) and (4) and Art. 15.

Article 9

Orders for advising

- (1) The BMU issues advising orders to the Commission. The Commission is also free to take up advising relevant matters of its own accord.
- (2) In agreement with the Commission chairperson, the BMU may issue advising orders to a committee or a working group, if the matter in question falls solely within the specialised areas of the relevant committee or working group and it is not so significant that it must be deliberated by the Commission.

Article 10

Exclusion from deliberations, due to bias

Notification obligations

- (1) Those Commission members shall be excluded from deliberations who
 1. are themselves participants in a licensing or supervisory procedure that is the subject of the deliberation in question; in this regard, persons shall be considered equal to participants if they stand to incur a direct advantage or disadvantage via their activities or via the authority's decisions in the matter being deliberated;
 2. if they are employed, against payment, by a natural or legal entity or association belonging to the group of persons specified in number 1, or are active for such an entity or association as a member of the board of management, supervisory board or other equivalent organ; this shall not apply for an entity whose employees are a participant;
 3. outside of their activity in the Commission, and in the matter that is being deliberated, or is to be deliberated, by the Commission, have provided an expert opinion for the relevant applicant or entity subject to a supervisory measure, have advised the relevant applicant or entity or have been otherwise active for the relevant applicant or entity.
- (2) If a Commission member considers himself/herself to be biased, or if there are any doubts as to whether the prerequisites of Para. 1 are fulfilled, then such opinion or doubts must be communicated to the chairperson. The chairperson shall notify the BMU of such communication. The Commission shall then decide on any exclusion. The member in question may not participate in such decision.
- (3) An excluded member may not be present at the relevant deliberation and resolution; he/she may be heard during the relevant meeting, however.
- (4) Commission members are obligated to notify the BMU of any correspondence or discussion they exchange or engage in, in their function as Commission members, with applicants or with persons subject to supervisory measures, regarding matters that are the subject of Commission deliberations.

Article 11

Advising procedures

- (1) As a result of its deliberations, the Commission reaches resolutions on scientific and technical recommendations or statements for the BMU. It does not make any legal assessments. It must provide clear and understandable reasons for its recommendations and statements. In the reasons for a recommendation or statement, the matters being studied must be precisely described, the resources and facts used must be identified and the resulting conclusions must be documented.
- (2) If the Commission finds itself unable to issue a recommendation or statement, it asserts this in a resolution and describes its pertinent reasons.
- (3) The Commission's recommendations and statements are provided, along with the pertinent reasons, to Länder authorities, for their information, and they are made available to the general public on request. The BMU may publish them in the Federal Gazette (Bundesanzeiger).
- (4) The Commission's committees and working groups prepare proposals for recommendations or statements, as preparation for the Commission's deliberations. Statements of a committee or working group relative to advising orders of the BMU pursuant to Art. 9 (2) are forwarded to the BMU and to the Commission.
- (5) The Commission may not issue any statements to third parties, or provide any information to third parties, without the consent of the BMU.

Article 12

Preparation of meetings

- (1) Subject to the agreement of the BMU, the Commission chooses the times and places for its meetings, doing so, as a rule, for a calendar year in advance.
- (2) The BMU, the chairperson or at least one third of the Commission's members may call for an extraordinary meeting to take place.
- (3) The chairperson convokes the Commission's meetings. Invitations to meetings, and provisional agendas, are prepared and sent out by the Commission's office, under commission to the chairperson and in agreement with the BMU; such invitations and provisional agendas should reach meeting participants at least two weeks before the relevant meeting is to take place. Applications of the BMU are to be included.
- (4) The chairperson may have the office prepare written documents relative to deliberation problems, bases for deliberation, proposals for resolutions and possible alternative resolutions. The deliberation materials should reach the Commission members, the BMU and, to the extent they are affected, persons invited pursuant to Art. 13 (2) and (4), at least one week prior to the relevant meeting.

Article 13

Participation in meetings

- (1) The Commission's meetings are not public.
- (2) At the request of the BMU, representatives of other federal and Länder authorities may be invited to meetings. They are to be invited if the subject being deliberated touches on a licensing or supervisory procedure under nuclear law that falls within their area of responsibility; their representatives must be heard on request; they have the right to take part in deliberation of the matters affecting them.
- (3) Authorised experts consulted in licensing or supervisory procedures, expert representatives of applicants and entities filing objections and entities participating in supervisory procedures may be invited, by the Commission chairperson and in agreement with the BMU, to meetings, if they agree to maintain the confidentiality of the relevant deliberations. Such experts, representatives and entities must be heard at the request of the BMU or the competent authority. They have the right to take part in deliberation of the matters affecting them.
- (4) Authorised experts consulted by the Commission (Art. 7) take part in those agenda items of meetings about which they are to be heard.
- (5) Representatives of the BMU and of the office participate in all parts of meetings.
- (6) In reaching of resolutions regarding the issuing of a recommendation or opinion, as a rule only representatives of the BMU and of the office may be present, in addition to the Commission's members.

Article 14

Holding of Commission meetings

- (1) The chairperson chairs the meetings.
- (2) At the beginning of each meeting, the Commission specifies the final agenda, in agreement with the BMU.
- (3) The record of the results of the previous meeting is to be approved by the Commission.
- (4) The Commission's meetings are confidential. Meeting participants may not provide third parties with any information about the remarks of individual members, about voting and about the contents of the record of results.

Article 15

Record of results

Recording of meetings

(1) The office, working in agreement with the relevant chairperson, prepares a record of results for each meeting. The record of results contains:

1. designation of the subjects deliberated during the meeting,
2. the wording of resolutions (recommendations and opinions) and, if applicable, the pertinent reasons, along with any minority votes pursuant to Art. 16 (3),
3. a list of the written documents upon which the deliberations and the resolution are based,
4. the most important orally provided information, where such information was of significance for the resolution,
5. a list of the meeting participants,
6. a determination of the results of voting, in an attachment.

(2) In order to facilitate preparation of records of results, the office records meetings on audio recording media; it permits Commission members and the BMU's representatives to hear such recordings. Such recordings are to be deleted within no more than one year.

(3) The record of results must be signed by the chairperson of the Commission and by an official representative of the office.

(4) The office sends the record of results, and the pertinent attachments showing the determined voting results, to the Commission members and to the BMU. At the BMU's request, other authorities are sent the sections of the record of results covering the agenda items for which they were invited to meetings. Such authorities may forward such excerpts, after the record of results has been approved by the Commission (Art. 14 (3)), to authorised experts they are consulting, to applicants and entities lodging objections, and to participants in a supervisory procedure if they are affected by the results of relevant deliberation.

Article 16

Resolutions

(1) The Commission reaches its resolutions by a majority of votes of appointed members. In exceptional cases, a resolution can be brought about by way of circulation; if a member expressly objects to use of that procedure, it shall be considered to have failed. The Commission must then reach a resolution at its next meeting.

(2) For recommendations relative to the site or design for a nuclear installation, as well as to commissioning of such an installation, a majority of at least two-thirds of the votes of appointed members is required.

(3) All members have the same voting rights, and all bear joint responsibility for the Commission's resolutions. Members who are outvoted have the right to have their dissenting opinions recorded in the record of results or in publication of recommendations and opinions.

Article 17

Annual report

As of 31 March of each year, the chairperson prepares a written report of the Commission's activities during the past calendar year. In this task, he/she is supported by the office. The annual report of activities is to be approved by the Commission. Once approved, a report on activities is made available to the public.

Article 18

Remuneration for activity in the Commission

(1) In agreement with the Commission, the BMU determines the remuneration for activities of members of the Commission, of committees and of working groups and of consulted authorised experts.

(2) Such remuneration comprises a professional fee, a compensation for travel costs and a compensation for meetings. Expenditures made in special cases may be reimbursed.

Article 19

Entry into force

These statutes shall enter into force on 22 December 1998. They supplant the statutes of the Reactor Safety Commission (RSK) and of the Commission on Radiological Protection (SSK) in the version of 29 January 1990 (Federal Gazette (BAnz.) p. 891).