



Department for
Business, Energy
& Industrial Strategy

Radioactive Substances: Provisional Common Framework

December 2021



Radioactive Substances: Provisional Common Framework

Presented to Parliament
by the Secretary of State for Business, Energy and Industrial Strategy
by Command of Her Majesty

December 2021



This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third-party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available from: www.gov.uk/beis

Any enquiries regarding this publication should be sent to us at: enquiries@beis.gov.uk

ISBN 978-1-5286-3103-7

E02698086 12/21

Printed on paper containing 75% recycled fibre content minimum.

Printed in the UK by HH Associates Ltd. on behalf of the Controller of Her Majesty's Stationery Office.

Contents

Contents	5
SECTION 1: WHAT WE ARE TALKING ABOUT	7
1. Policy area	8
Radioactive Substances	8
2. Scope	8
3. Purpose of the Common Framework Agreement for Radioactive Substances Policy	10
4. Policy principles and aims	11
SECTION 2: PROPOSED BREAKDOWN OF POLICY AREA AND FRAMEWORK	12
5. Summary of proposed approach	12
6. Detailed overview of proposed framework: legislation (primary or secondary)	13
7. Detailed overview of proposed Framework: non-legislative arrangements	13
8. Areas where no further action is thought to be needed	14
OPERATIONAL DETAIL	14
SECTION 3: PROPOSED OPERATIONAL ELEMENTS OF FRAMEWORK	14
9. Decision making	14
10. Roles and responsibilities of each party to the framework	16
11. Roles and responsibilities of existing or new bodies	16
12. Monitoring and enforcement	17
13. Review and amendment	17
14. Dispute resolution	17
SECTION 4: PRACTICAL NEXT STEPS AND RELATED ISSUES	18
15. Implementation	18
Annex A – Terms of Reference	20
Radioactive Substances Policy Group Terms of Reference	20
Purpose	20
Scope & Objectives	20
Membership	21
Core membership	21
Supporting membership	21
Rules of procedure	22
Interaction with Common Framework	22
Radioactive Substances Delivery Board Terms of Reference	23

Purpose	23
Scope & Objectives	23
Membership	24
Rules of procedure	24
Radioactive Substances Programme Board Terms of Reference	25
Purpose	25
Scope & Objectives	25
Membership	25
Rules of procedure	25
CONCORDAT	27
Introduction	28
Scope	30
Principles for Working Together	31
Decision-Making and Dispute Avoidance & Resolution Mechanism	32
Review and Amendment Mechanism	37
International Obligations	38

SECTION 1: WHAT WE ARE TALKING ABOUT

This document sets out the outline of a Common Framework Agreement for Radioactive Substances between (*hereafter “the Parties”*):

- UK Government, Department for Business, Energy and Industrial Strategy (BEIS)
- Scottish Government
- Welsh Government
- Department of Agriculture, Environment and Rural Affairs (DAERA)

This Framework Outline Agreement should be read alongside the Concordat. Together, the Concordat and Framework Outline Agreement establish a Common Framework for radioactive substances (from now referred to as the “Framework”).

The Agreement on the Withdrawal of the United Kingdom from the EU sets out the current arrangements where, although remaining within the UK’s custom territory, Northern Ireland will remain aligned with the EU. For this Framework, Annex 2, Section 25 of the Protocol on Ireland/Northern Ireland in respect of Council Directive 2006/117/Euratom of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel will apply to Northern Ireland.

This Framework reflects the specific circumstances in NI that arise as a result of the Protocol and remains UK wide in its scope. As such decision making and information sharing will always respect the competence of all parties to the Framework and in particular the provisions in Article 18 of the Protocol on democratic consent in Northern Ireland.

Where one or more of UK Government, the Scottish Government or the Welsh Government proposes to change rules in a way that has policy or regulatory implications for the rest of the UK, or where rules in Northern Ireland change in alignment with the EU, the Framework is intended to provide governance structures and consensus-based processes for considering and managing the impact of these changes.

As rules evolve to meet the emerging regulatory needs of the UK, Scottish and Welsh Governments, this Framework will ensure the full participation of Northern Ireland in discussions such that the views of the relevant Northern Ireland Executive Minister(s) are taken into account in reaching any policy or regulatory decisions by the UK, Scottish or Welsh Governments.

Where rules in Northern Ireland change in alignment with the EU, the Framework will form the basis of a mechanism to ensure consideration by the four governments of any changes and will enable them to determine any impacts and subsequent actions arising from these changes.

Where issues or concerns raised by the relevant Northern Ireland Executive Minister(s) in respect of GB-only proposals have not been satisfactorily addressed, they will have the right to trigger a review of the issue as set out in the dispute resolution process at section 14 of this document.

1. Policy area

Radioactive Substances

Radioactive substances policy will continue to ensure the UK's people and environment are protected from the harmful effects of ionizing radiation, while maintaining wider credibility and acceptability by enabling compliance with international standards.

The Framework addresses Euratom Directives that have been transposed into UK law relating to the basic safety standards for protection against the dangers arising from exposure to ionising radiation (Directive 2013/59/Euratom), including prevention of exposure of workers and the public to ionising radiation arising from inadequate control of high-activity sealed radioactive sources and orphan sources, as well as the responsible and safe management of spent fuel and radioactive waste (Directive 2011/70/Euratom) and transfrontier shipment of radioactive waste and spent fuel (Directive 2006/117/Euratom). The Framework also addresses Council Regulation (Euratom) No 1493/93 of 8 June 1993 on shipments of radioactive substances between Member States, which has been retained in UK law. Under the Protocol on Ireland/ Northern Ireland (the Protocol), Council Directive 2006/117/Euratom continues to apply to Northern Ireland beyond the end of the transition period, with references to "Member States" read as including Northern Ireland.

2. Scope

The scope of the Framework is limited to radioactive substances policy in civil applications. The term "radioactive substances" is inclusive of radioactive sources, materials and radioactive waste. Radioactive substances and environmental protection policy are devolved matters.

The Framework establishes an agreed approach between the Parties on devolved areas within scope of this Framework. It also includes reserved matters where they intersect with devolved radioactive substances policy, such as policies on the security, and import and export, of radioactive substances.

The scope is UK-wide and inclusive of all sectors (nuclear and non-nuclear) which utilise and/or produce radioactive substances. It covers policies, strategies, legislation, regulatory standards and good practice in the following areas:

- Radioactive sources (permitting/licensing the use of radioactive sources, security, import & export);
- Radioactive waste management and the environment (clearance & exemptions, disposal, import & export);
- The Radioactive Waste Inventory;
- Radioactive contaminated land;
- The Justification of Practices Involving Ionising Radiation Regulations (JoPIIR);
- Interaction of all radioactive waste policies (nuclear and non-nuclear) across the Parties, including:
 - All categories of radioactive waste,
 - Naturally Occurring Radioactive Materials (NORM),
 - Spent Fuel and Nuclear Materials declared as waste; and

- Specifically, supporting the development of the UK's radioactive waste management infrastructure and promoting coordination and engagement, to ensure that Parties have a suitable capacity and suite of disposal routes available that are based on the hazards and risks posed.

Standards of protection for the public, workers and the environment from radioactive substances are set out in European Council Directives and Euratom law which have been transposed into UK law, as well as conventions to which the UK is a Party, such as Oslo/Paris Convention (for the Protection of the Marine Environment of the North-East Atlantic) (OSPAR) and Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, 1991) - the 'Espoo (EIA) Convention'. The UK's domestic legislation is in line with the standards set out by the International Atomic Energy Agency (IAEA), of which the UK remains a member.

Following Euratom exit, the UK has ceased to be legally obliged, without prejudice to the requirements of the Protocol on Ireland/Northern Ireland, to give effect to future legislation and instruments made under the Euratom Treaty. The UK and Euratom continue to cooperate on nuclear safeguards (non-proliferation), nuclear safety and security under the UK-Euratom Nuclear Cooperation Agreement (NCA).¹ The UK-Euratom NCA (Article 8) includes a commitment from both sides to the key nuclear safety Conventions and to seek continuous improvement of global standards. Additionally, both parties to the UK-Euratom NCA have committed to not weakening respective domestic standards unless that would conflict with developments in legally binding international nuclear safety standards. The UK will continue to demonstrate compliance with the latest recommendations and safety standards issued by the International Commission on Radiological Protection (ICRP) and the IAEA. Furthermore, the UK will continue to comply with international obligations arising from its membership of the IAEA or as a consequence of any other relevant international treaties or conventions to which the UK is a party.

In addition, the Parties will seek to address domestic policy considerations relating to radioactive substances policy. International safety standards and recommendations which the UK takes into account when setting its own legislative and regulatory standards, as well as international treaties and conventions to which the UK is a party, include:

- IAEA safety standards and guidance series
 - Fundamental Safety Principles SF-1
 - Radiation Protection and Safety of Radiation Sources: International Basic Safety Standards GSR Part 3
 - IAEA General Safety Requirements (Part 3), Radiation Protection and Safety of Radiation Sources: International Basic Safety Standards, 2014
- Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management ('the Joint Convention')
- IAEA Code of Conduct on the Safety and Security of Radioactive Sources
- ICRP Recommendations
- OSPAR Convention

Without prejudice to the requirements of the Protocol on Ireland/Northern Ireland, there will be no arrangements to reproduce notification and reporting requirements to the European Commission to test compliance and adequacy with respect to the Directives named above.

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/948106/EU_UK_Civil_Nuclear_Agreement_24.12.2020.pdf

Future assurance of the effectiveness of the UK's radioactive substances regulatory system is part of the wider discussions of future environmental governance following exit from the EU and Euratom Community, which are being considered within the Parties. Following EU Exit, the UK continues to regularly participate in international assurance campaigns, for example the IAEA International Regulatory Review Service (IRRS) mission.

Furthermore, prior to EU exit, Euratom representatives periodically inspected and verified the effectiveness of systems which monitor emissions from nuclear sites. The UK Government, in consultation with the Scottish Government, Welsh Government and DAERA, is considering options and arrangements for the external verification of these systems.

It should be noted that although this Framework addresses the Euratom Directive relating to the basic safety standards for protection against the dangers arising from exposure to ionising radiation (Directive 2013/59/Euratom), there are elements of this Directive beyond the scope of this individual Framework. Specifically, this Framework does not cover radioactive substances in foodstuffs or animal feeding stuffs, or cosmetics; these are addressed in the Common Framework for Food and Feed Safety and Hygiene.

The Common Frameworks Principles agreed at JMC (EN) state that frameworks will be established where necessary to ensure the UK can negotiate, enter into and implement new trade agreements and international treaties, and ensure compliance with international obligations. These principles were established in the context of an ambition for close working between the UK Government and the Devolved Governments on reserved matters that significantly impact devolved responsibilities in Common Frameworks.

Common Frameworks will allow the parties, in a timely manner, to ascertain the impact of international trade on managing UK policy divergence. All parties to the framework will consider any impact in a way that meets the requirements of the JMC (EN) principles. Common Frameworks will afford an opportunity to consider any implications stemming from international trade which have a direct bearing on the operation of a Common Framework. The scope of this consideration will not extend beyond Common Frameworks.

International policy formulation will be developed in line with the current Devolution MoU and its accompanying International Relations Concordat. International obligations will be implemented in line with these agreements. In this respect, the parties will automatically use any updated IR Concordat, and the wider outcomes of the Joint IGR Review, as the basis for such international considerations.

3. Purpose of the Common Framework Agreement for Radioactive Substances Policy

The Common Framework Agreement for Radioactive Substances Policy aims to bring together the Parties to:

- Maintain or improve on the current standards (of radiological protection);
- Facilitate discussion on multilateral policy development;
- Enable and encourage a consistent application of international standards (e.g. IAEA safety standards) across and within the Parties;
- Develop a common policy, where desirable/appropriate; and
- Manage any divergence in a way that respects the Devolution Settlements.

4. Policy principles and aims

The principles underpinning the Framework for Radioactive Substances Policy include both the general principles agreed at the Joint Ministerial Committee on EU Negotiations (JMC(EN)) (shown at the end of this section) as well as additional core principles identified as a result of a 'deep dive' to identify areas where the Parties require or would like commonality.

Additional core principles:

- the standards of radiological protection in force upon the UK's exit from Euratom should at least maintain, or exceed EU standards;
- an effective regulatory framework that protects the environment and people will continue to be maintained;
- the continuation of effective regulatory enforcement regimes;
- mutual recognition of training and certification requirements for those carrying out radioactive substance activities² will be observed;
- international commitments of the UK will continue to be met; and
- the terms of this agreement are acknowledged to be without prejudice to the Protocol.

A Common Framework is necessary for radioactive substances policy with respect to the following Common Frameworks principles agreed at JMC(EN);

1. Common Frameworks will be established where they are necessary in order to:

- enable the functioning of the UK internal market, while acknowledging policy divergence;
- ensure compliance with international obligations;
- ensure the UK can negotiate, enter into and implement new trade agreements and international treaties;
- enable the management of common resources;
- administer and provide access to justice in cases with a cross-border element;
- safeguard the security of the UK.

Specifically, on safeguarding the security of the UK, this Framework acknowledges security as a component of radioactive substances regulations. Although national security is a reserved matter, devolved competence for the management of radioactive substances intersects with this area. This Framework includes within its scope policies, strategies, legislation, regulatory standards and good practice in the security of radioactive sources. This is derived in line with the UK's obligations under the IAEA Code of Conduct on the Safety and Security of Radioactive Sources.

2. Frameworks will respect the devolution settlements and the democratic accountability of the devolved legislatures, and will therefore:

- be based on established conventions and practices, including that the competence of the devolved institutions will not normally be adjusted without their consent;

² The term "radioactive substance activity" refers to the keeping or using of radioactive materials, and/or the receiving, accumulating and disposing of radioactive waste.

- maintain, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each nation as is afforded by current EU rules;
- lead to a significant increase in decision-making powers for the devolved administrations.

3. Frameworks will ensure recognition of the economic and social linkages between Northern Ireland and Ireland and that Northern Ireland will be the only part of the UK that shares a land frontier with the EU. They will also adhere to the Belfast Agreement.

The policy area covered by this Common Framework intersects with the EU-UK Trade and Cooperation Agreement and therefore topics relevant to the framework may be considered from time to time by relevant TCA Specialised Committees or the Partnership Council. Where a UK-EU meeting agenda includes an item concerning implementation in an area of devolved competence, UKG should facilitate devolved government attendance of a similar level to that of the UKG representatives with final discretion as to the UK delegation a matter for the UK co-chair. UKG should engage the other parties as fully as possible in preparation for these meetings regardless of attendance, and on all relevant implementation matters.

The outcomes of the intergovernmental relations review are in the process of being implemented. Once confirmation has been provided from each government, the outcomes of the review and appropriate intergovernmental structures will be reflected in this Common Framework.

SECTION 2: PROPOSED BREAKDOWN OF POLICY AREA AND FRAMEWORK

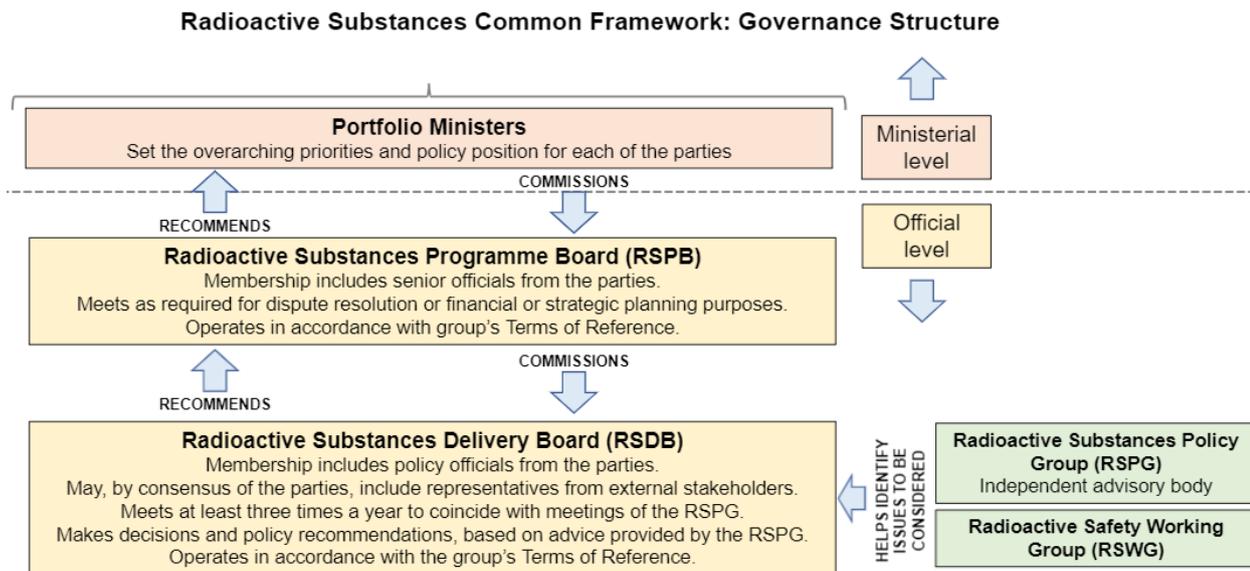
5. Summary of proposed approach

The proposed approach is a non-legislative framework which includes:

- A Radioactive Substances Delivery Board (RSDB) formed of policy officials (typically non-senior level) from each of the Parties; and
- An oversight Radioactive Substances Programme Board (RSPB), formed of senior officials from each of the Parties
(see Figure 1 for an overview of the governance and decision-making structure).

RSPB will only meet if dispute resolution is needed or for financial and/or strategic planning decisions as identified by the RSDB. The RSPB will be straightforward to convene via the normal channels of communication between policy officials covering radioactive substances across the Parties.

Figure 1:



6. Detailed overview of proposed framework: legislation (primary or secondary)

No legislation is considered to be necessary.

7. Detailed overview of proposed Framework: non-legislative arrangements

The non-legislative agreement will take the form of a Radioactive Substances Concordat which respects reserved and devolved competences and sets out the principles of engagement between the Parties. This approach is proportionate as it facilitates collaboration and information sharing between the Parties within this policy area.

The Parties will work together to develop a common approach to radioactive substances policy and the UK's international requirements (as defined in the scope) where desirable/appropriate. However, where a common approach is unlikely to be adopted, the following process and principles have been developed to manage divergence:

- Divergence is already part of the landscape of Radioactive Substances policy across the UK and, therefore, should not necessarily be considered as novel or contentious. An example of this divergence would be the disposal of solid radioactive waste:
 - The policy of the UK Government, the Welsh Government and DAERA is to manage high-activity waste through geological disposal.
 - The policy of the Scottish Government is for long-term management of high-activity waste through near surface storage, treatment and/or disposal.
- The multilateral development of radioactive substances policy will continue in line with existing consensus-based policymaking, with discussions facilitated by this Framework.
- Existing working groups such as the Radioactive Substances Policy Group (RSPG) or Radioactive Substances Working Group (RSWG) may, as part of normal working arrangements, identify policies, strategies, legislation, and/or regulatory standards in

development with effect across and/or within the Parties to be considered within this Framework.

- The RSDB will meet where relevant to discuss policy issues identified for consideration by RSPG or RSWG, or other relevant issues as determined by its members.
- The RSDB will aim to progress discussions and provide advice to Ministers in each Party where appropriate.
- Where a common approach cannot be agreed, or divergence is considered to be damaging by one or more Party (after discussions at the RSDB) and normal policy routes for reaching agreement have been exhausted, then the dispute resolution mechanism can be engaged (see Section 3.14 '*Dispute Resolution*').
- The dispute resolution process may be utilised where:
 - agreement cannot be reached;
 - there would be a genuine impact on the interest of another Party;
 - one or more party considers the terms of reference/parameters agreed for the governance Framework to have been breached; or
 - one Party considers that a Common Framework principle has not been respected, or undue weight has been placed on one Common Framework principle (or part of a principle) at the expense of another.
- Actions under dispute should be paused pending resolution through the dispute resolution mechanism.

8. Areas where no further action is thought to be needed

Not applicable

OPERATIONAL DETAIL

SECTION 3: PROPOSED OPERATIONAL ELEMENTS OF FRAMEWORK

9. Decision making

The guiding principle for decision making is that the groups described in this section will be the fora through which the Parties collectively develop policy and exchange information. Decisions should be made by the relevant Ministers in each Party in accordance with existing consensus-based policy making.

All Parties will aim to reach consensus in relation to matters considered by the RSDB (in line with the principles outlined in section 4). In some cases this may be agreement to proceed with common policy across the UK, without prejudice to any existing policy divergence, and in other cases it may be agreement for the Parties to take divergent policy action in relation to various parts of the UK.

The RSDB may, by consensus of the Parties, decide on policy recommendations to make to Ministers, operating in accordance with the Groups’ Terms of Reference (ToR) (Annex A) and with advice provided by RSPG.

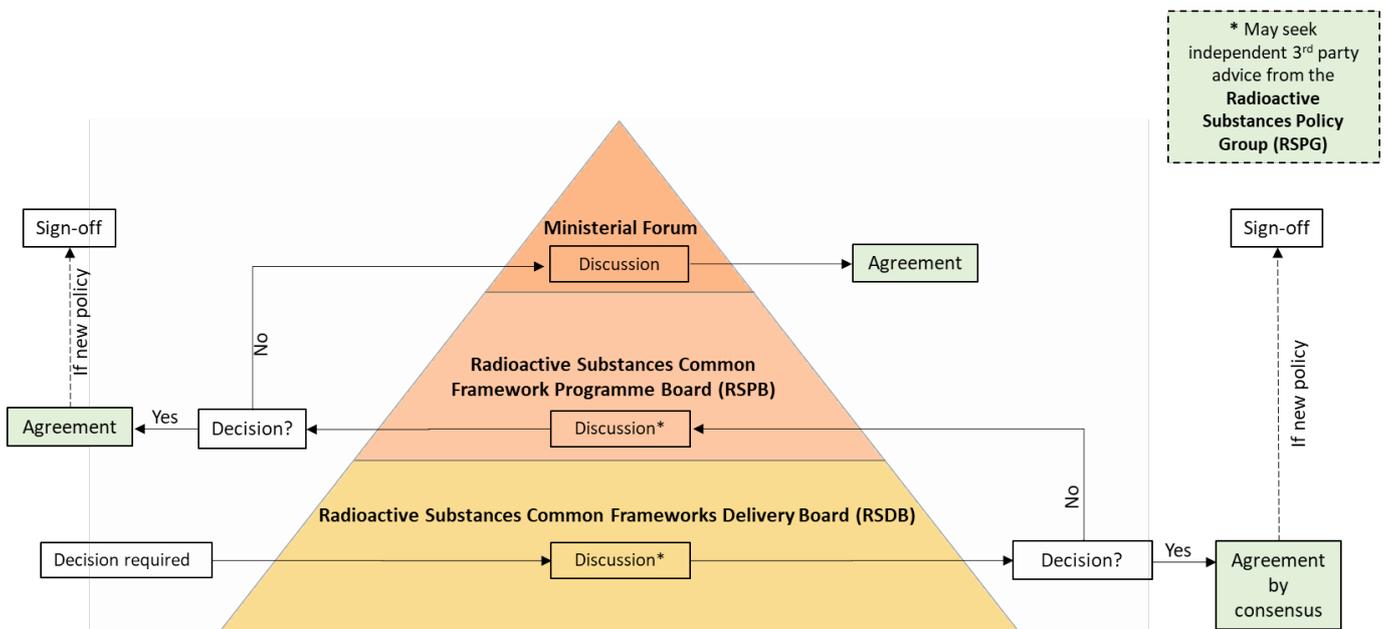
The RSDB will be formed of policy officials (typically non-senior) from each of the Parties. The RSDB may, by consensus of the Parties, decide to include representatives of bodies (stakeholders, for example from those represented within the RSPG) that are not parties to this arrangement. Where a decision of the RSDB has been made by consensus, it will be implemented by the Parties in accordance with the terms of those decisions. Decisions and recommendations of the RSDB will be specific, evidence-led and transparent. The RSDB may decide, by consensus of the Parties, to refer matters to the RSPB.

The RSPB may, by consensus of the Parties, make decisions in respect of recommendations made by the RSDB, operating in accordance with the Groups’ ToR. The RSPB will be formed of senior civil servants from each of the Parties (typically at Deputy Director level). RSPB will only meet if dispute resolution is needed or for financial and/or strategic planning decisions as identified by the RSDB. The RSPB may decide, by consensus of the Parties, to refer matters to their respective Ministers.

See Figure 2 for an overview of the Radioactive Substances Common Framework decision making mechanism.

Figure 2³:

Radioactive Substances Common Framework: Decision Making Mechanism



³ For the avoidance of doubt, 'agreement' includes an agreement to disagree.

10. Roles and responsibilities of each party to the framework

The UK will have an operational governance arrangement in place for implementing legislation on radioactive substances. This will involve all Parties and other public bodies as appropriate.

The Parties are required to set the strategic direction for the UK regulatory regime, enabling and encouraging collaboration between the relevant bodies to ensure that existing standards are maintained or exceeded where possible.

Further information as detailed in section 11.

11. Roles and responsibilities of existing or new bodies

The Delivery Board rules of procedure, as set out in ToR, will be as follows:

- BEIS will chair and provide secretariat support for the group. However, this will be kept under constant review by the Members.
- The meeting location will be agreed by all Parties.
- Regular meetings will be scheduled to take place, with ad-hoc meetings when required.
- RSPG members may attend by invitation of the RSDB.
- The group will review its ToR against its objectives on a 12-month basis or more regularly if required to ensure it continues to be fit for purpose.

The Programme Board rules of procedure, as set out in ToR, will be as follows:

- BEIS will chair and provide secretariat support for the group. However, this will be kept under constant review by the Members.
- The meeting location will be agreed by all Parties.
- The Group will meet where dispute resolution is needed, or for financial and/or strategic planning decisions.
- The Group will review its ToR against its objectives on a 12-month basis or more regularly if required to ensure it continues to be fit for purpose.

The rules of procedure for the RSPG, as set out in ToR in Annex A, are as follows:

- BEIS will chair and provide secretariat support for the group.
- The meeting location will be agreed with Members.
- The Group will meet three times a year, with Supporting Members attending by invitation according to the work programme.
- Meeting papers and agenda will be distributed to Members at least two weeks before the meeting takes place.
- BEIS or the other Parties will correspond with Members on an 'as needed' basis between meetings, including seeking advice and guidance on specific matters.
- The Group will develop and agree its own 12-month work programme, to be reviewed annually or more frequently if necessary.
- The Group will review its ToR against its objectives on a 12-month basis, or more regularly if required, to ensure it continues to be fit for purpose.

12. Monitoring and enforcement

The monitoring and enforcement of the JMC(EN) Common Framework principles, the principles of the Radioactive Substances Common Framework Agreement, and the ToR of the boards are jointly shared by all Parties. The monitoring and enforcement of these principles and ToR will be constant and if the Parties have any concerns, these will be raised at RSDB. At a minimum, this will include a review every 12 months in line with the 'Review and Amendment Mechanism'. Furthermore, the Common Framework Agreement in itself does not result in any new duties for Ministers or external bodies. However, new duties may arise depending on the outcome of wider discussions on future policy development following exit from the EU and Euratom Community, which is being considered within the Parties.

13. Review and amendment

The Review and Amendment Mechanism (RAM) ensures the framework can adapt to changing policy and governance environments in the future.

The Parties will review the Concordat and Framework Outline Agreement every 12 months. Parties will discuss whether the governance and operational aspects of the Framework are working effectively, and whether decisions made over the prior 12 months need to be reflected in an updated non-legislative agreement. In addition, the Concordat and Framework Outline Agreement may be reviewed at the request of any one party.

The Parties will review the Terms of Reference for each of the boards periodically in accordance with the requirements of the Terms of Reference. If an amendment is deemed necessary in either type of review, the 'amendment stage' is triggered. Following agreement that all parties wish to enter the amendment stage, parties will enter into discussion around the exact nature of the amendment. This can either be led by one party to the Framework or all. At the outset of the review stage, parties to the Framework must agree timelines for the process, including the possible amendment stage. The existing Concordat and Framework Outline Agreement will remain in place until a final amendment has been agreed by all parties. All amendments to the Framework must be agreed by all parties and a new non-legislative agreement signed by all parties.

14. Dispute resolution

The RSDB should facilitate the Parties to voice any issues and concerns with respect to radioactive substances policy and to resolve disputes, if they arise, at an early stage, following the principle to resolve disputes at the lowest possible level of governance. Whilst we believe disputes are unlikely, it is appropriate to have a procedure in place in the event that it is needed. The intention is for this process to remain flexible and adaptable to individual situations.

If policy officials become aware of potential issues or areas of disagreement, including if a situation arises where it is deemed that any of the JMC(EN) principles on Common Frameworks have not been followed, the first step will be to raise the issue first and foremost at the next RSDB meeting to seek to resolve this without escalation. It is expected that most disagreements would be resolved at this point by working through possible solutions to the satisfaction of all parties.

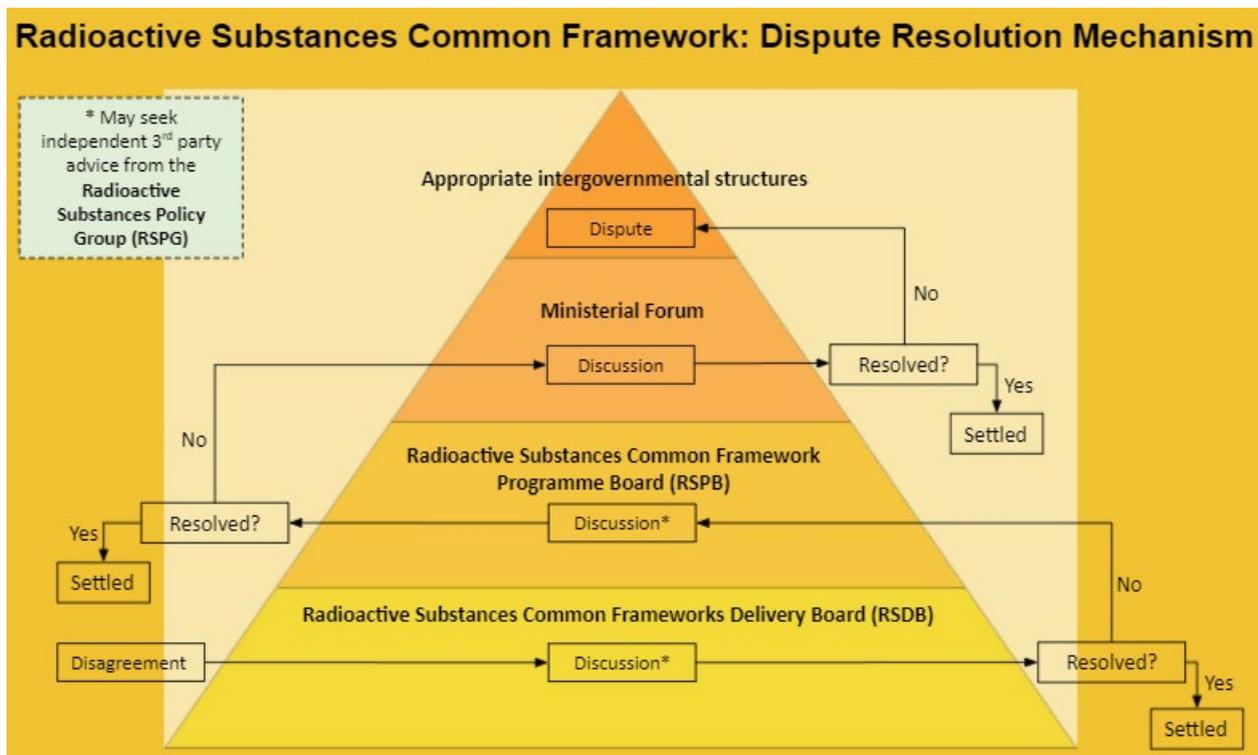
If a dispute cannot be resolved within RSDB, Parties will use the following escalation process:

- a) disputes within the RSDB will initially be considered by the RSPB;
- b) disputes of the RSPB will be considered by SCS / Directors;
- c) disputes of SCS / Directors will be considered at the portfolio ministerial Level; and
- d) significant government to government disputes at the portfolio ministerial Level may be considered through the appropriate intergovernmental structures.

If a dispute has been escalated to the Ministerial level, the Ministers responsible for this policy area will be asked to convene to discuss the dispute. This will be used as a last resort for only the most serious issues and where all alternatives have been exhausted. If no resolution can be agreed upon between the relevant Ministers, the dispute will be referred to the appropriate intergovernmental structures.

It is noted that it does not always follow that where disputes emerge these will need to be escalated or a 'solution' needs to be established. This Framework will not prejudice the right of Parties to opt to 'agree to disagree' in certain circumstances.

Figure 3:



SECTION 4: PRACTICAL NEXT STEPS AND RELATED ISSUES

15. Implementation

The RSPB and RSDB will be established on or by the time this agreement comes into force.

No further steps are required post Ministerial agreement since the relevant policy officials are already in working contact independent of and as part of the RSPG.

The Framework will be reviewed on an annual basis, or more frequently if necessary. The Parties will discuss whether the governance and operational aspects of the Framework are working effectively, and whether decisions made over the prior 12 months need to be reflected in an updated non-legislative agreement. In addition, the Framework may be reviewed at the request of any one party.

The Parties will review the Terms of Reference for each of the boards periodically in accordance with the requirements of the Terms of Reference.

Annex A – Terms of Reference

Radioactive Substances Policy Group Terms of Reference

Purpose

The purpose of the Radioactive Substances Policy Group (RSPG), established in September 2018, is to provide a forum for the review and development of proposals for change with respect to policies, strategies, legislation, regulatory standards and good practise on radioactive substances, across the four Parties.

Radioactive substances policy is a devolved matter. However, many policy areas which intersect with radioactive substances, such as nuclear safety, security and safeguards are reserved⁴/excepted⁵. International legislation and standards on radioactive substances can also affect the devolved governments. RSPG will be a collegiate group which facilitates collaboration across the Parties within this policy area. It will take into account technical and scientific advances, international good practice and advice from independent expert bodies such as the Committee on Radioactive Waste Management (CoRWM), International Atomic Energy Agency (IAEA), and Nuclear Energy Agency (NEA). RSPG will also act as a Common Framework for this policy area following the UK's exit from the European Union.

RSPG is a forum which provides national oversight and facilitates the exchange of information and exchange of views on this policy area. It is not a decision-making body.

Scope & Objectives

The RSPG's scope is inclusive of all sectors (nuclear and non-nuclear) which utilise or produce radioactive substances. Specifically, RSPG will review, provide advice, develop proposals and take forward strategic projects in relation to policies, strategies, legislation, regulatory standards and good practise in the following areas:

- Radioactive sources (permitting/licensing the use of radioactive sources, security, import & export);
- Radioactive waste management and the environment (clearance & exemptions, disposal, import & export);
- Interaction of all radioactive waste policies (nuclear and non-nuclear) across the Parties, including:
 - All categories of radioactive waste;
 - Naturally Occurring Radioactive Materials (NORM);

⁴ Scotland Act 1998: "Nuclear energy and nuclear installations, including— (a) nuclear safety, security and safeguards, and (b) liability for nuclear occurrences" (Schedule 5, D.4);

Government of Wales Act 2006: "nuclear energy and nuclear installations, including (a) nuclear safety, security and safeguards, and (b) liability for nuclear occurrences" (para. 99 Sched. 7A). "Protection of the public from radiation" is also reserved (para. 157 Sched. 7A);

⁵ Northern Ireland Act 1998: "Nuclear energy and nuclear installations, including nuclear safety, security and safeguards, and liability for nuclear occurrences, but not the subject-matter of— (a) section 3(5) to (7) of the Environmental Protection Act 1990 (emission limits); or (b) the Radioactive Substances Act 1993.

- Spent Fuel and Nuclear Materials declared as waste. Specifically, supporting the development of the UK's radioactive waste management infrastructure and working towards integration, to ensure that we have a suitable capacity and suite of disposal routes available that are based on the hazards and risks posed;
- The Radioactive Waste Inventory;
- Radioactive contaminated land;
- The Justification of Practices Involving Ionising Radiation Regulations (JoPIIR).

RSPG will interact with and be mindful of the work of other working groups with cross-cutting objectives in the nuclear and non-nuclear sectors. RSPG will interact closely with the Nuclear Decommissioning Strategy Policy Group and its corresponding Integrated Waste Management Theme Overview Group for the nuclear sector.

RSPG will interact with relevant policy teams in the UK Government to promote a two-way dialogue for feeding through any relevant updates, information or issues.

RSPG will scan to identify emerging issues within this policy area and consequential actions.

Membership

Core membership:

- Department for Business, Energy and Industrial Strategy (BEIS)
- Scottish Government (SG)
- Welsh Government (WG)
- Department of Agriculture, Environment and Rural Affairs (DAERA)
- Environment Agency (EA)
- Scottish Environment Protection Agency (SEPA)
- Natural Resources Wales (NRW)
- Northern Ireland Environment Agency (NIEA)
- Office of Nuclear Regulation (ONR)
- Nuclear Decommissioning Authority (NDA)

Supporting membership:

Representatives from the following organisations will be invited to attend according to the work programme. This is a non-exhaustive list.

- UK Health Security Agency (UKHSA)
- Office for Health Improvement and Disparities (OHID)
- Health Protection Scotland (HPS)
- Public Health Wales (PHW)
- Public Health Agency (PHA)
- Department for Environment Food and Rural Affairs (Defra)
- Health and Safety Executive (HSE)
- Health and Safety Executive Northern Ireland (HSENI)
- Ministry of Defence (MoD)
- Home Office (HO)
- Department of Health and Social Care (DHSC)

- Oil and Gas Authority (OGA)
- Food Standards Agency (FSA)
- Ministry of Housing Communities and Local Governments (MHCLG)
- HM Revenue & Customs (HMRC)
- Planning Inspectorate (PI)
- Department for Infrastructure Northern Ireland (DINI)
- Radioactive Waste Management (RWM)
- Low Level Waste Repository (LLWR)
- Nuclear Legacy Advisory Forum (NuLeAF)
- Relevant stakeholder working group leads, with whom interaction may be required according to the agenda / work programme.

Rules of procedure

- BEIS will chair the Group and provide secretariat support for the Group.
- The meeting location will be agreed with Members.
- The Group will meet three times a year, with Supporting Members attending by invitation according to the work programme.
- Meeting papers and agenda will be distributed to Members at least two weeks before the meeting takes place.
- BEIS will correspond with Members on an 'as needed' basis between meetings, including seeking advice and guidance on specific matters.
- The Group will develop and agree its own 12-month work programme, to be reviewed annually or more frequently if necessary.
- The Group will review its ToR against its objectives on a 12-month basis or more regularly if required to ensure it continues to add value.
- Task Groups will establish objectives, report outputs to and keep RSPG informed of progress.

Interaction with Common Framework

The Radioactive Substances Policy Group (RSPG) will act as an advisory group to the RSDB and RSPB. As such, RSPG members may be asked to participate on the RSDB on particular topics and in general will be the advisory group to this delivery board.

Radioactive Substances Delivery Board Terms of Reference

Purpose

The purpose of the Radioactive Substances Delivery Board (RSDB) is to bring together the Parties to:

- Maintain or improve on the current standards (of radiological protection);
- Facilitate multilateral policy development;
- Enable and encourage a consistent application of the International Atomic Energy Agency (IAEA) safety standards across and within the Parties;
- Seek, where desirable/appropriate to develop a common policy;
- Manage any divergence in a way that respects the Devolution Settlements.

Radioactive substances policy is a devolved matter. However, many policy areas which intersect with radioactive substances, such as nuclear safety, security and safeguards are reserved⁶/excepted⁷. International legislation and standards on radioactive substances can also affect the devolved governments. RSDB will be a collegiate group which facilitates collaboration across the Parties within this policy area. It will, via the RSPG, take into account technical and scientific advances, international good practice and advice from independent expert bodies such as the Committee on Radioactive Waste Management (CoRWM), International Atomic Energy Agency (IAEA), and Nuclear Energy Agency (NEA).

Scope & Objectives

The RSDB scope is inclusive of all sectors (nuclear and non-nuclear) which utilise or produce radioactive substances. Specifically, RSDB will make decisions relating to taking forward strategic projects in relation to policies, strategies, legislation, regulatory standards and good practice in the following areas:

- Radioactive sources (permitting, security, import & export);
- Radioactive waste management and the environment (clearance & exemptions, disposal, import & export);
- Interaction of all radioactive waste policies (nuclear and non-nuclear) across the Parties, including:
 - All categories of radioactive waste;
 - Naturally Occurring Radioactive Materials (NORM);
 - Spent Fuel and Nuclear Materials declared as waste.

Specifically, supporting the development of the UK's radioactive waste management infrastructure and working towards integration, to ensure that we have a suitable capacity and suite of disposal routes available that are based on the hazards and risks posed;

- The Radioactive Waste Inventory;
- Radioactive contaminated land;
- The Justification of Practices Involving Ionising Radiation (JoPIIR).

⁶ See footnote 4

⁷ See footnote 5

RSDB will interact with RSPG and through it interact with and be mindful of the work of other policy groups with cross-cutting objectives in the nuclear and non-nuclear sectors.

Membership

Core membership:

- Department for Business, Energy and Industrial Strategy (BEIS)
- Scottish Government (SG)
- Welsh Government (WG)
- Department of Agriculture, Environment and Rural Affairs (DAERA)

Representatives from RSPG will be invited to attend according to the area of focus.

Rules of procedure

- BEIS will chair and provide secretariat support for the group. However, this will be kept under constant review by the Members.
- Regular meetings will be scheduled to take place, with ad-hoc meetings when required.
- The meeting date, time and location will be agreed with all Parties.
- RSPG members may attend by invitation of the RSDB.
- The Group will meet on the same day as the RSPG, with members of the latter group attending by invitation as agreed.
- The Group will review its ToR against its objectives on a 12-month basis or more regularly if required to ensure it continues to add value.

Radioactive Substances Programme Board Terms of Reference

Purpose

The purpose of the Radioactive Substances Programme Board (RSPB) is to bring together the Parties to:

- Facilitate multilateral policy development by resolving disputes relating to the Radioactive Substances Delivery Board (RSDB)
- Make decisions, by consensus of the Parties, on recommendations made by the RSDB
- Provide financial and/or strategic planning decisions as identified by the RSDB
- Provide a mechanism of dispute resolution as needed once identified by the RSDB
- Decide, by consensus of the Parties, to refer disputes in the RSDB to Ministers
- Manage any divergence in a way that respects the Devolution Settlements.

Radioactive substances policy is a devolved matter. However, many policy areas which intersect with radioactive substances, such as nuclear safety, security and safeguards are reserved⁸/excepted⁹. International legislation and standards on radioactive substances can also affect the devolved governments. RSPB will be a collegiate group which has oversight over the RSDB within this policy area. It will, where identified by the RSDB, act as a key mechanism of the dispute resolution procedure within the Common Framework Agreement.

Scope & Objectives

The RSPB maintains oversight over relevant decisions of the RSDB, and the scope of the RSPB is inclusive of relevant matters as identified by the RSDB. Specifically, RSPB will meet where dispute resolution is needed or for financial and/or strategic planning decisions.

The primary objectives of the RSPB are to resolve disputes arising from the RSDB and decisions needed for financial and/or strategic planning. The RSPB may decide, by consensus of the Parties, to refer matters to Ministers in each Party.

Membership

Core membership:

- Department for Business, Energy and Industrial Strategy (BEIS)
- Scottish Government (SG)
- Welsh Government (WG)
- Department of Agriculture, Environment and Rural Affairs (DAERA)

Rules of procedure

- The position of chair will rotate among members at each meeting.

⁸ See footnote 4

⁹ See footnote 5

- BEIS will provide secretariat support for the group. However, this will be kept under constant review by the Members.
- The group will meet where dispute resolution is needed or for financial and/or strategic planning decisions.
- The meeting date, time and location will be agreed with all Parties.
- The group will review its ToR against its objectives on a 12-month basis or more regularly if required to ensure it continues to add value.

CONCORDAT

1. Introduction

1.1 Context

- 1.1.1. This Concordat is an agreement between the UK Government (UKG), Department for Business Energy and Industrial Strategy (BEIS), Scottish Government (SG), Welsh Government (WG), and the Department of Agriculture, Environment and Rural Affairs (DAERA) (“the Parties”).
- 1.1.2. This Concordat establishes an agreed approach for cooperation and engagement between the Parties which respects reserved and devolved competences. This Concordat should be read alongside the Framework Outline Agreement (FOA). Together, the Concordat and FOA establish a Common Framework for radioactive substances (from now referred to as “The Framework”).
- 1.1.3. For the avoidance of doubt: this Concordat is not intended to be legally binding or enforceable.
- 1.1.4. This Concordat operates in accordance with the principles outlined in the overarching intergovernmental Memorandum of Understanding on Devolution¹⁰ and is consistent with, and complemented by, other guidance on common working arrangements, notably the principles described in the Joint Ministerial Committee (EU Negotiation) communique of 16 October 2017 (“The Common Frameworks principles”).¹¹
- 1.1.5. The Framework addresses Euratom Directives that have been transposed into UK law relating to the basic safety standards for protection against the dangers arising from exposure to ionising radiation (Directive 2013/59/Euratom), including prevention of exposure of workers and the public to ionising radiation arising from inadequate control of high-activity sealed radioactive sources and orphan sources, as well as the responsible and safe management of spent fuel and radioactive waste (Directive 2011/70/Euratom) and transfrontier shipment of radioactive waste and spent fuel (Directive 2006/117/Euratom). The Framework also addresses Council Regulation (Euratom) No 1493/93 of 8 June 1993 on shipments of radioactive substances between Member States, which has been retained in UK law.
- 1.1.6. Following Euratom exit the UK ceased to be legally obliged, without prejudice to the requirements of the Northern Ireland Protocol, to give effect to future legislation and instruments made under the Euratom Treaty. The UK and Euratom continue to

¹⁰ *Memorandum of Understanding and Supplementary Agreements Between the United Kingdom Government, the Scottish Ministers, the Welsh Ministers and the Northern Ireland Executive Committee*, October 2013:

<https://www.gov.uk/government/publications/devolution-memorandum-of-understanding-and-supplementary-agreement>

¹¹ Joint Ministerial Committee (EU Negotiations) Communique, October 2017:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/652285/Joint_Ministerial_Committee_communique.pdf

cooperate on nuclear safeguards (non-proliferation), nuclear safety and security under the UK-Euratom Nuclear Cooperation Agreement (NCA).¹²

- 1.1.7. Radioactive substances policy will continue to ensure the protection of the UK's people and environment from the harmful effects of ionizing radiation and maintain the UK's credibility and acceptability in the wider global nuclear community and with non-nuclear stakeholders by enabling compliance with international standards.

1.2 Northern Ireland Protocol

- 1.2.1 The Agreement on the Withdrawal of the United Kingdom from the EU sets out the current arrangements where, although remaining within the UK's custom territory, Northern Ireland will remain aligned with the EU. For this Framework, Annex 2, Section 25 of the Protocol in respect of Council Directive 2006/117/Euratom of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel will apply to Northern Ireland.
- 1.2.2 This Framework reflects the specific circumstances in NI that arise as a result of the Protocol and remains UK wide in its scope. As such decision making and information sharing will always respect the competence of all parties to the Framework and in particular the provisions in Article 18 of the Protocol on democratic consent in Northern Ireland.
- 1.2.3 Where one or more of UK Government, the Scottish Government or the Welsh Government proposes to change rules in a way that has policy or regulatory implications for the rest of the UK, or where rules in Northern Ireland change in alignment with the EU, the Framework is intended to provide governance structures and consensus-based processes for considering and managing the impact of these changes.
- 1.2.4 As rules evolve to meet the emerging regulatory needs of the UK, Scottish and Welsh Governments, this Framework will ensure the full participation of Northern Ireland in discussions such that the views of the relevant Northern Ireland Executive Minister(s) are taken into account in reaching any policy or regulatory decisions by the UK, Scottish or Welsh Governments.
- 1.2.5 Where rules in Northern Ireland change in alignment with the EU, the Framework will form the basis of a mechanism to ensure consideration by the four governments of any changes, and will enable them to determine any impacts and subsequent actions arising from these changes.
- 1.2.6 Where issues or concerns raised by the relevant Northern Ireland Executive Minister(s) in respect of GB-only proposals have not been satisfactorily addressed,

12

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/948106/EU_UK_Civil_Nuclear_Agreement_24.12.2020.pdf

they will have the right to trigger a review of the issue as set out in the dispute resolution process at section 4.3 of this document.

1.3 Purpose

1.3.1 This Concordat:

- Provides a non-legislative mechanism to give effect to the Radioactive Substances Common Framework;
- Sets out the scope of the framework and the principles of engagement which all parties will respect and work to; and
- Presents the dispute resolution and review & amendment mechanisms in detail.

1.3.2 This Concordat therefore aims to bring together the Parties to:

- Maintain or improve on current standards (of radiological protection);
- Facilitate discussion on multilateral policy development;
- Enable and encourage a consistent application of international standards (e.g. IAEA safety standards) across and within the four administrations;
- Develop a common policy, where desirable/appropriate; and
- Manage potential divergence in a way that respects the Devolution Settlements.

2. Scope

2.1 The scope of the Framework is limited to radioactive substances policy in civil applications. The term “radioactive substances” is inclusive of radioactive sources, materials and waste.

2.2 The Concordat establishes an agreed approach between the Parties on devolved areas within scope of this Framework. It also includes reserved matters where they intersect with devolved radioactive substances policy, such as policies on the security, and import and export, of radioactive substances.

2.3 The scope of this Concordat is UK-wide and inclusive of all sectors (nuclear and non-nuclear) which utilise and/or produce radioactive substances. It covers the policies, strategies, legislation, regulatory standards and good practice in the following areas:

- 2.3.1 Radioactive sources (permitting/licensing the use of radioactive sources, security, import & export);
- 2.3.2 Radioactive waste management and the environment (clearance & exemptions, disposal, import & export);
- 2.3.3 Interaction of all radioactive waste policies (nuclear and non-nuclear) across the four administrations, including:
 - All categories of radioactive waste;
 - Naturally Occurring Radioactive Materials (NORM);

- Spent Fuel and Nuclear Materials declared as waste. Specifically, supporting the development of the UK's radioactive waste management infrastructure and promoting coordination and engagement, to ensure that the Parties have a suitable capacity and suite of disposal routes available that are based on the hazards and risks posed;
 - The Radioactive Waste Inventory;
 - Radioactive contaminated land; and
 - Justification of Practices Involving Ionising Radiation (JoPIIR).
- 2.4 International safety standards and recommendations which the UK takes into account when setting its own legislative and regulatory standards, as well as international treaties and conventions to which the UK is a party, include:
- 2.4.1 IAEA safety standards and guidance series:
 - Fundamental Safety Principles SF-1
 - Radiation Protection and Safety of Radiation Sources: International Basic Safety Standards GSR Part 3
 - IAEA General Safety Requirements (Part 3), Radiation Protection and Safety of Radiation Sources: International Basic Safety Standards, 2014
 - 2.4.2 Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management ('the Joint Convention')
 - 2.4.3 IAEA Code of Conduct on the Safety & Security of Radioactive Sources
 - 2.4.4 ICRP Recommendations
 - 2.4.5 Oslo/Paris Convention (for the Protection of the Marine Environment of the North-East Atlantic) (OSPAR)
- 2.5 Without prejudice to the requirements of the Protocol, since the end of the Transition Period, there have been no arrangements to reproduce notification and reporting requirements to the European Commission to test compliance and adequacy with respect to the Directives named in para 1.1.5. Future assurance of the effectiveness of the UK's radioactive substances regulatory system is part of the wider discussions of ongoing environmental governance following exit from the EU and Euratom Community, which is being considered across the four administrations. The UK continues to participate regularly in international assurance campaigns, for example the IAEA International Regulatory Review Service (IRRS) mission.
- 2.6 It should be noted that although this Framework addresses the Euratom Directive relating to the basic safety standards for protection against the dangers arising from exposure to ionising radiation (Directive 2013/59/Euratom), there are elements of this Directive beyond the scope of this individual Framework. Specifically, this Framework does not cover radioactive substances in foodstuffs or animal feeding stuffs, or cosmetics; these are addressed in the Common Framework for Food and Feed Safety and Hygiene.

3. Principles for Working Together

- 3.1 The principles underpinning the Framework for Radioactive Substances Policy include both the Common Frameworks principles as well as additional core principles identified where the four administrations require or would like commonality.
- 3.2 These additional core principles include:

- 3.2.1 That standard of radiological protection in force following the UK's exit from Euratom will at least maintain, or exceed EU standards;
- 3.2.2 That an effective regulatory framework that protects the environment and people will continue to be maintained;
- 3.2.3 The continuation of effective regulatory enforcement regimes;
- 3.2.4 Mutual recognition of training and certification requirements for those carrying out radioactive substance activities¹³ will be observed;
- 3.2.5 That international commitments to the UK will continue to be met; and
- 3.2.6 That the terms of this agreement are acknowledged to be without prejudice to the Protocol.

4. Decision-Making and Dispute Avoidance & Resolution Mechanism

4.1 Roles and Responsibilities

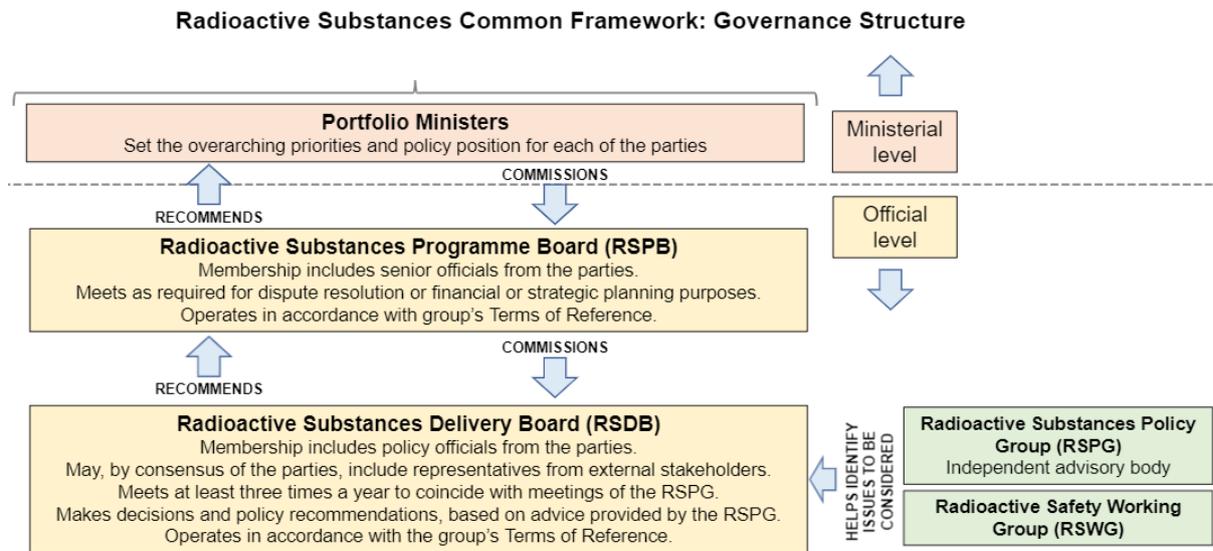
- 4.1.1 This Concordat is a non-legislative agreement for the framework. It sets out that the Framework's governance bodies will include:
 - A Radioactive Substances Delivery Board (RSDB) formed of policy officials (typically non-senior) from each of the Parties;
 - An oversight Radioactive Substances Programme Board (RSPB), formed of senior officials (typically Deputy Director level) from each of the Parties; and
 - The extant advisory Radioactive Substances Policy Group (RSPG) of key internal stakeholders and policy experts.

All decisions to be made in accordance with principles outlined in the:

- Overarching Memorandum of Understanding on Devolution;
 - Agreement for Joint Working;
 - The Common frameworks principles; as well as
 - Cross-cutting architecture, such as the revised structures that are in the process of being implemented following the IGR review, and internal market policy.
- (see Figure 1 for an overview of the governance and decision-making structure)

¹³ The term "radioactive substances activity" refers to the keeping or using of radioactive materials, and/or the receiving, accumulating and disposing of radioactive waste.

Figure 1: Radioactive Substances Common Framework: Governance Structure



4.2 Decision-Making Arrangements

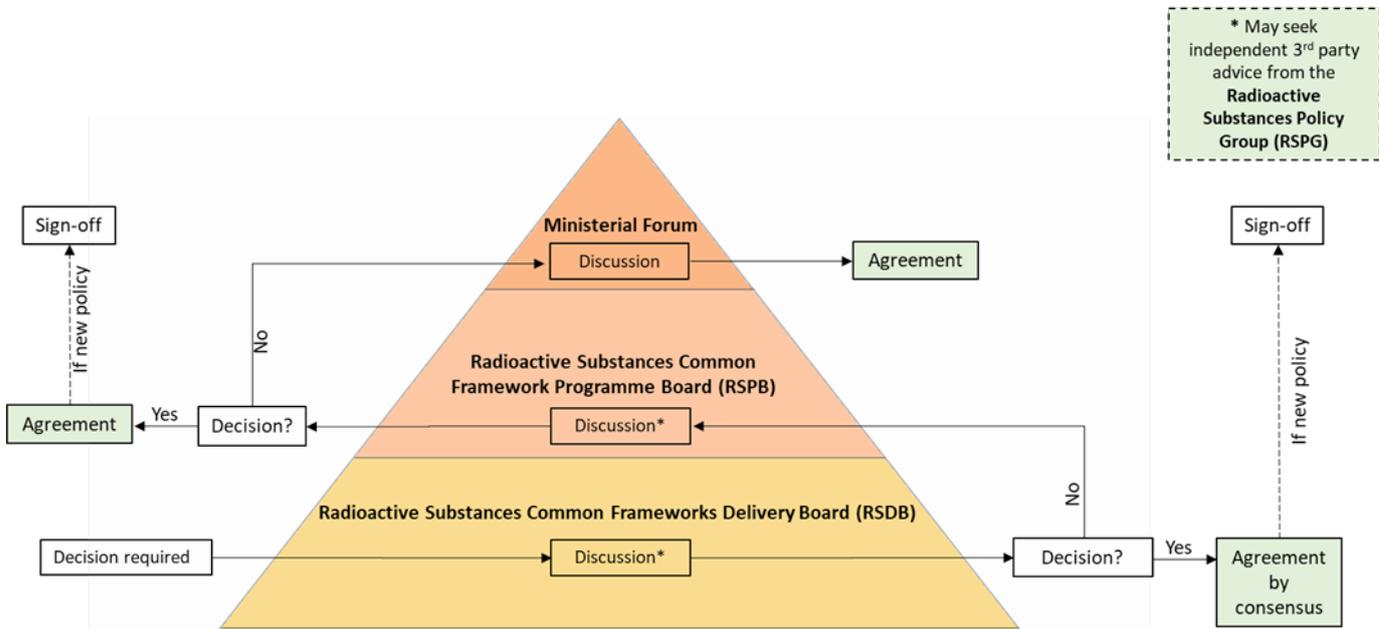
- 4.2.1 The RSPB and RSDB will be established on or by the time this agreement comes into force.
- 4.2.2 No further steps are required post Ministerial agreement since the relevant policy officials are already in working contact independent of and as part of the RSPG.
- 4.2.3 Divergence is already part of Radioactive Substances policy across the UK and, therefore, should not necessarily be considered as novel or contentious. An example of divergence would be the disposal of solid radioactive waste. The policy of the UK Government, Welsh Government and the Northern Ireland Executive is to manage high-activity waste through geological disposal, whereas the policy of the Scottish Government is for long-term management of high-activity waste through near surface storage, treatment and/or disposal.
- 4.2.4 The four administrations will work together to develop a common approach to meeting international requirements within the scope of the RSDB, where desirable/appropriate.
- 4.2.5 However, where a common approach is unlikely to be adopted, the following principles have been developed to manage divergence:
 - The multilateral development of radioactive substances policy will continue in line with existing consensus-based policymaking, with discussions facilitated by this framework.
 - Extant working groups such as the RSPG or RSWG may, as part of normal working arrangements, identify policies, strategies, legislation, and/or regulatory standards in development with effect across and/or within the four administrations to be considered within this framework.

- The RSDB will meet where relevant to discuss policy issues identified for consideration by RPSG or RSWG, or other relevant issues as determined by its members.
 - The RSDB will aim to progress discussions and provide advice to Ministers in each administration where appropriate.
 - Where a common approach cannot be agreed, or divergence is considered to be damaging by one or more administration in the UK (after discussions at the RSDB) and normal policy routes for reaching agreement have been exhausted, then the dispute resolution mechanism can be engaged (see *Section 4.3 'Dispute Resolution'*).
- 4.2.6 The RSDB may, by consensus of the Parties, decide on policy recommendations to make to Ministers, operating in accordance with the Groups' Terms of Reference (ToR) and advice provided by RSPG.
- 4.2.7 The RSDB may, by consensus of the Parties, decide to include representatives of bodies (stakeholders, for example from those represented within the RSPG) that are not Parties to this arrangement.
- 4.2.8 Where a decision of the RSDB has been made by consensus, it will be implemented by the Parties in accordance with the terms of those decisions. Decisions and recommendations of the RSDB will be specific, evidence-led and transparent. The RSDB may decide, by consensus of the Parties, to refer matters to the RSPB.
- 4.2.9 The RSPB may, by consensus of the Parties, make decisions in respect of recommendations made by the RSDB, operating in accordance with the groups' ToR.
- 4.2.10 RSPB will only meet if dispute resolution is needed or for financial and/or strategic planning decisions as identified by the RSDB.
- 4.2.11 The RSPB may decide, by consensus of the Parties, to refer matters to their respective Ministers.

See Figure 2 for an overview of the Radioactive Substances Common Framework decision making mechanism.

Figure 2¹⁴: Radioactive Substances Common Framework: Decision Making Mechanism

Radioactive Substances Common Framework: Decision Making Mechanism



4.3 Dispute Resolution

4.3.1 The dispute resolution process should be utilised if:

- agreement cannot be made;
- there would be a genuine impact on the interest of another Party;
- one or more party considers the terms of reference/parameters agreed for the governance framework to have been breached; or
- one party considers that the Common Frameworks principles have not been respected, or undue weight has been placed on one of the Common Frameworks principles (or part of a principle) at the expense of another.

4.3.2 Actions under dispute should be paused pending resolution through the dispute resolution mechanism.

4.3.3 The guiding principle for decision making is that the groups described in this section will be the fora through which the Parties collectively develop policy and exchange information.

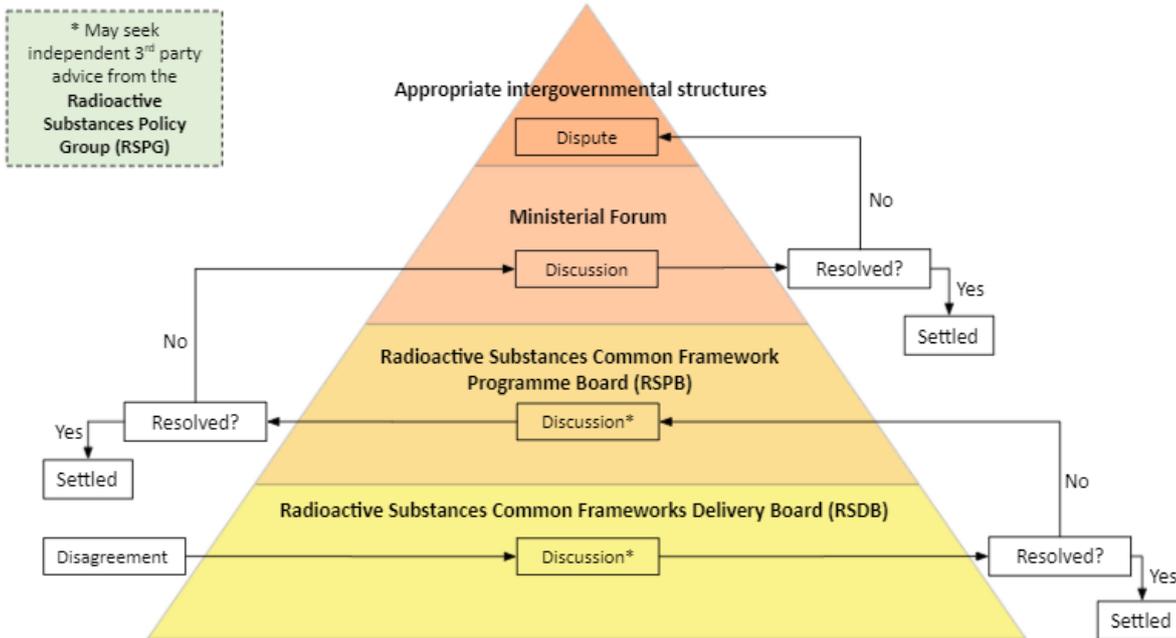
4.3.4 Decisions should be made by the relevant Ministers in each administration in accordance with existing consensus-based policy making.

¹⁴ As per para 4.3.16. 'agreement' includes an agreement to disagree.

- 4.3.5 All Parties will aim to reach consensus in relation to matters considered by the RSDB (in line with the principles outlined under subheading 3 above (“Principles for working together”).
- 4.3.6 In some cases this may be agreement to proceed with common policy across the UK, without prejudice to any existing policy divergence, and in other cases it may be agreement for the Parties to take divergent policy action in relation to various parts of the UK.
- 4.3.7 Whilst we believe disputes are unlikely, it is appropriate to have a procedure in place in the event that it is needed. The intention is for this process to remain flexible and adaptable to individual situations.
- 4.3.8 The RSDB should facilitate the Parties to voice any issues and concerns with respect to radioactive substances policy and to resolve disputes, if they arise, at an early stage, following the principle to resolve disputes at the lowest possible level of governance.
- 4.3.9 If policy officials become aware of potential issues or areas of disagreement, including if a situation arises where it is deemed that any of the JMC(EN) Common Frameworks principles have not been followed, the first step will be to raise the issue at the next RSDB meeting to seek to resolve it without escalation.
- 4.3.10 It is expected that most disagreements would be resolved at this point by working through possible solutions to the satisfaction of all parties.
- 4.3.11 If a dispute cannot be resolved within RSDB, Parties will use the following escalation process:
- a) Disputes within the RSDB will initially be considered by the RSPB;
 - b) Disputes of the RSPB will be considered by SCS / Directors;
 - c) Disputes of SCS / Directors will be considered at portfolio Ministerial Level;
 - d) Significant government to government disputes at the portfolio Ministerial Level may be considered through the appropriate intergovernmental structures.
- 4.3.12 If a dispute has been escalated to the Ministerial level, the Ministers responsible for this policy area will be asked to convene to discuss the dispute.
- 4.3.13 This will be used as a last resort for only the most serious issues and where all alternatives have been exhausted.
- 4.3.14 If no resolution can be agreed upon between the relevant Ministers, the dispute will be referred to IGR ministers, as per the MoU on Devolution.
- 4.3.15 It is noted that it does not always follow that where disputes emerge these will need to be escalated or a ‘solution’ needs to be established.
- 4.3.16 This framework will not prejudice the right of administrations to opt to ‘agree to disagree’ in certain circumstances.

Figure 3: Radioactive Substances Common Framework: Dispute Resolution Mechanism

Radioactive Substances Common Framework: Dispute Resolution Mechanism



5. Review and Amendment Mechanism

- 5.1 The Review and Amendment Mechanism (RAM) ensures the Framework can adapt to changing policy and governance environments in the future.
- 5.2 The Parties will review the Concordat and FOA every 12 months. Parties to the Framework will discuss whether the governance and operational aspects of the Framework are working effectively, and whether decisions made over the prior 12 months need to be reflected in an updated non-legislative agreement.
- 5.3 In addition, the Concordat and FOA may be reviewed at the request of any one party.
- 5.4 The Parties will review the Terms of Reference for each of the boards periodically in accordance with the requirements of the Terms of Reference.
- 5.5 If an amendment is deemed necessary in either type of review, the ‘amendment stage’ is triggered. Following agreement that all parties wish to enter the amendment stage, parties will enter into discussion around the exact nature of the amendment. This can either be led by one party to the Framework or all.
- 5.6 At the outset of the review stage, parties to the Framework must agree timelines for the process, including the possible amendment stage.

- 5.7 The existing Concordat will remain in place until a final amendment has been agreed by all parties. All amendments to the Framework must be agreed by all parties and a new non-legislative agreement signed by all parties.

6. International Obligations

- 6.1 The Common Frameworks Principles agreed at JMC (EN) state that frameworks will be established where necessary to ensure the UK can negotiate, enter into and implement new trade agreements and international treaties, and ensure compliance with international obligations. These principles were established in the context of an ambition for close working between the UK Government and the Devolved Governments on reserved matters that significantly impact devolved responsibilities in Common Frameworks.
- 6.2 Common Frameworks will allow the parties, in a timely manner, to ascertain the impact of international trade on managing UK policy divergence. All parties to the framework will consider any impact in a way that meets the requirements of the JMC (EN) principles. Common Frameworks will afford an opportunity to consider any implications stemming from international trade which have a direct bearing on the operation of a Common Framework. The scope of this consideration will not extend beyond Common Frameworks.
- 6.3 International policy formulation will be developed in line with the current Devolution MoU and its accompanying International Relations Concordat. International obligations will be implemented in line with these agreements. In this respect, the parties will automatically use any updated IR Concordat, and the wider outcomes of the Joint IGR Review, as the basis for such international considerations.
- 6.4 Standards of protection for the public, workers and the environment from radioactive substances are set out in European Council Directives and Euratom law which have been transposed into UK law, as well as conventions to which the UK is a party, such as OSPAR and Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, 1991) - the 'Espoo (EIA) Convention'. The UK's domestic legislation is in line with the standards set out by the International Atomic Energy Agency (IAEA), of which the UK remains a member.
- 6.5 The UK will continue to demonstrate compliance with the latest recommendations and safety standards issued by the International Commission on Radiological Protection (ICRP) and the IAEA following EU Exit. Furthermore, the UK will continue to comply with international obligations arising from its membership of the IAEA or as a consequence of any other relevant international treaties or conventions to which the UK is a party. The UK-Euratom NCA (Article 8) includes a commitment from both sides to the key nuclear safety Conventions and to seek continuous improvement of global standards. Additionally, both Parties have committed to not weakening respective domestic standards so long as doing so is compliant with international standards.

If you need a version of this document in a more accessible format, please email enquiries@beis.gov.uk. Please tell us what format you need. It will help us if you say what assistive technology you use.

ISBN 978-1-5286-3103-7

E02698086 12/21