

Implementation of changes to the Paris and Brussels Conventions on nuclear third party liability - a public consultation

Response form

You may respond to this consultation by email or by post.

Respondent details	
Name	
Organisation	Waste Recycling Limited
Address	Joseph Noble Road Lillyhall
Town/City	Workington, Cumbria
Post code	CA14 4JH
Telephone	
Email	
Fax	

Tick this box if you are requesting non-disclosure of your response. ☐

Please return by 28 April 2011 to:

Consultation on Paris and Brussels Conventions on nuclear 3rd
party liability
Department of Energy and Climate Change
Area 3C
3 Whitehall Place
London
SW1A 2AW

You can also submit this form by email:
parisbrussels@decc.gsi.gov.uk

Please select the category below which best describes who you are responding on behalf of.

<input type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central Government
<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
x	Large business (over 250 staff)
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local Government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input type="checkbox"/>	Micro business (up to 9 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input type="checkbox"/>	Trade union or staff association
<input type="checkbox"/>	Other (please describe):

Thank you for taking the time to let us have your views.

The Government does not intend to acknowledge receipt of individual responses unless you tick the box. ☐

Consultation questions

<p>1 Chapter 4 Categories of damage</p>	<p>We would welcome views on our proposed implementation of the new categories of damage as described in this chapter and as set out in the draft Order.</p> <p>Particular questions you may wish to consider include:</p> <ul style="list-style-type: none"> a) should particular types of claim be prioritised, and if so, how (see paragraph 4.14) b) should we make provision to deal with the case where a claim is made by a public authority for the cost of reinstating property in respect of which compensation has already be paid to the owner (see paragraph 4.29) c) should "compensatory remediation" be expressly included or excluded from the measures of reinstatement that can be claimed for (see paragraph 4.39) d) should we define what constitutes a "grave and imminent threat" and, if so, how (see paragraph 4.66)?
<p>Response</p>	
<p>2 Chapter 5 Geographical Scope</p>	<p>We would welcome views on our proposed implementation of the revised geographical scope of the Paris Convention and the Brussels Supplementary Convention as described in this chapter and as set out in the draft Order.</p> <p>Particular questions you may wish to consider include:</p> <ul style="list-style-type: none"> a) should we align our legislation with the Paris Convention by deleting current section 13 (2) of the 1965 Act. Would any important protections be lost (see paragraph 5.13)? b) how should we define who should be treated as a UK "national" for the purposes of section 16A (see paragraph 5.21)?

Response	
3 Chapter 6 Limitation periods	<p>We would welcome views on our proposed implementation of the revised provisions on limitation periods in the Paris Convention as described in this chapter and as set out in the draft Order.</p> <p>A particular question that you may wish to consider is whether we should apply the 30 year limitation period to claims in respect of injury caused by preventative measures (see paragraph 6.6).</p>
Response	
4 Chapter 7 Liability during transport	<p>We would welcome views on our proposed implementation of the change to the Paris Convention regarding liability for transport of nuclear substances and the other related matters as discussed in this chapter and set out in the draft Order.</p> <p>In particular, we would welcome views on the options set out in paragraphs 7.11 and 7.12. Is it common for nuclear substances to transit a licensed site while <i>en route</i> from one nuclear installation to another?</p>

Response	
5 Chapter 8 Financial liability levels	<p>We would welcome views on our proposed implementation of the revised financial liability levels as described in this chapter and set out in the draft Order.</p> <p>In particular, we would welcome views on:</p> <p>a) the likely impact of increasing the standard liability level to €1200 million as compared to €700 million;</p> <p>the proposal to set a reduced level specifically for low-risk transport and to use the criteria in the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009. Is this a practical solution? Would it add significant administrative burdens? Are there alternative criteria that could be used to identify low-risk transport?</p>
Response	
6 Chapter 9 – Availability of insurance/financial security	<p>We would welcome views on the availability of insurance or other financial security.</p> <p>In particular, we would welcome views on:</p> <p>a) what forms of alternative financial security should be acceptable and over what classes of liability might alternative forms of financial security be appropriate?</p> <p>b) how Government should assess operators' proposals for alternative financial security arrangements?</p> <p>In addition, we would welcome views on the Government stepping in as a last resort to fill any insurance gap. How should Government calculate the charge for this?</p>

Response	
7 Chapter 10 - Jurisdiction	<p>We would welcome views on our proposed implementation of the Paris Convention changes regarding allocation of jurisdiction, both between Paris countries and within a Paris country, as described in this chapter and set out in the draft Order.</p> <p>In particular, we would appreciate views on:</p> <ul style="list-style-type: none"> a) whether basing our tie-breaker provisions on the impact of an occurrence, event or breach of duty would be a workable solution – how practicable would it be to measure impact (see paragraph 10.16)? b) whether we need a fall back provision giving jurisdiction to the High Court of Justice (see paragraph 10.17). <p>In addition we would welcome views on our proposed clarification of “occurrence” in new section 26(2A) of the 1965 Act.</p>
Response	
8 Chapter 11 – nuclear waste disposal facilities	<p>We would welcome views on our proposals for implementing the Paris Convention requirements in respect of nuclear waste disposal facilities.</p> <p>In particular, we would welcome views on the number of commercial waste disposal facilities who may be affected by the proposed changes and how they may be affected.</p>
Response	<p>It would appear that, at paragraph 11.14 of the Consultation, Government recognises that the liability regime should not apply to LLW disposal facilities and at paragraph 11.15 that LLW and VLLW does not present a level of hazard that the Convention was intended to address.</p> <p>We do not agree with the approach suggested at paragraph 11.16 of the Consultation that unless and until a formal exclusion is confirmed by the Nuclear Energy Agency LLW facilities would be subject to the 1965 Act liability regime and be required to have the</p>

	<p>necessary financial security to cover compensation claims. (It is not clear from the Consultation whether this would also extend to VLLW facilities.)</p> <p>Such an approach would introduce an unnecessary and disproportionate burden on business, particularly given that the majority of these facilities will only be used for disposal of LLW and VLLW, where the risks are more appropriately mitigated by normal health and safety legislation and disposal permits held under the Environmental Permitting Regulations. If the Government has formed the view outlined in paragraph 11.15, it should bear any risk or liability of the Nuclear Energy Agency not agreeing with that approach, rather than seeking temporarily to pass down to the waste management operators obligations to be subject to the 1965 Act liability regime with the resultant obligation of having to obtain the necessary financial security to cover compensation claims. Making such requirement as to financial security would result in most if not all disposal facilities failing to bid to take LLW and VLLW. This would result in increased pressure on the existing LLW facility, and a lack of viable disposal routes for LLW and VLLW.</p> <p>In summary, given that operators of waste facilities have accepted LLW and VLLW to date under the existing Environmental Permitting regime without issues or problems, we do not see any merit in requiring a change in regime, (even on a temporary basis), and the imposition of additional and disproportionate burdens which would discourage most operators from continuing to offer such a service.”</p>
9 Chapter 12 Representative actions	We would welcome views on our proposals for implementing the new Paris Convention requirements in respect of representative actions.
Response	

Impact assessment questions

IA1	Can you provide information on current actual costs of financial security and the impact of the proposed changes?
------------	---

Response	
IA2	If you cannot provide actual costs, are you able to provide information on the <u>scale</u> of change for the costs of financial security through higher insurance premiums or alternatives?
Response	
IA3	Is this for a standard installation or a low risk installation or for transport activities?
Response	
IA4	Can you provide information on ongoing legal and administrative costs as a result of the changes and the likely scale and nature of transition costs?
Response	