

*These notes refer to the Energy Act 2008 (c.32)
which received Royal Assent on 26 November 2008*

ENERGY ACT 2008

EXPLANATORY NOTES

Part 3: Decommissioning of Energy Installations

Chapter 1: Nuclear Sites: Decommissioning and Clean-Up

Commentary on Sections

Miscellaneous

Section 66: Disposal of hazardous material

302. This section provides that where the Secretary of State enters into an agreement for the disposals of relevant hazardous material that is associated with a funded decommissioning programme, the agreement may include provision for a fee to be paid to the Secretary of State.
303. *Subsection (2)* requires that the Secretary of State have the consent of Treasury in relation to the fee prior to entering into such an agreement.
304. *Subsection (3)(a)* allows for the fee to include an amount set by the Secretary of State to take account of any uncertainty with the costs associated with the obligations related to the disposal of waste that might fall on the Secretary of State when entering into such an agreement. These obligations might include the costs associated with maintaining interim waste disposal stores should the repository not be available on time, for example. It can also include the costs associated with maintaining the repository once waste from new build has been placed in it.
305. *Subsection (3)(b)(i)* provides that a proportion of the fee may cover the costs of the design and construction of the repository whilst *subsection (3)(b)(ii)* allows a proportion of the fee to be set in relation to the uncertainty associated with the construction of a repository in which hazardous material is to be disposed of. In this context expenditure incurred in connection with “design and construction” might also include expenditure on related research and development, but it is not restricted only to those activities.