

## SCHEDULE 23

### Radioactive substances activities

## PART 2

### Interpretation

#### Interpretation

**1.** In this Schedule—

“article” includes a part of an article;

“the Basic Safety Standards Directive” means Council Directive 96/29/EURATOM(1) laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation;

“contamination” occurs where a substance or article is so affected by—

- (a) absorption, admixture or adhesion of radioactive material or radioactive waste; or
- (b) the emission of neutrons or ionising radiations,

as to become radioactive or to possess increased radioactivity;

“disposal” in relation to waste includes its removal, deposit, destruction, discharge (whether into water or into the air or into a sewer or drain or otherwise) or burial (whether underground or otherwise) and “dispose of” is to be construed accordingly;

“mobile radioactive apparatus” means any apparatus, equipment, appliance or other thing which is radioactive material and—

- (a) is constructed or adapted for being transported from place to place; or
- (b) is portable and designed or intended to be used for releasing radioactive material into the environment or introducing it into organisms;

“nuclear site” means—

- (a) any site in respect of which a nuclear site licence is for the time being in force; or
- (b) any site in respect of which, after the revocation or surrender of a nuclear site licence, the period of responsibility of the licensee has not yet come to an end,

and “licensee”, when used in relation to a nuclear site, and “period of responsibility” have the same meaning as in the Nuclear Installations Act 1965(2);

“premises” includes any land, whether covered by buildings or not, including any place underground and any land covered by water;

“substance” means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour;

“undertaking” includes any trade, business or profession and—

- (a) in relation to a public or local authority, includes any of the powers or duties of that authority, and
- (b) in relation to any other body of persons (whether corporate or unincorporate), includes any of the activities of that body; and

“waste” has the meaning given in paragraph 3.

(1) OJ L 159, 29.6.1996, p 1.

(2) 1965 c. 57. Section 5(3) was amended by S.I. 1974/2056, regulation 2 and Schedule 2, paragraph 1.

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### Interpretation: radioactive material

2.—(1) In this Schedule, “radioactive material” means anything which, not being waste, is either a substance to which this sub-paragraph applies or an article made wholly or partly from, or incorporating, such a substance.

(2) Sub-paragraph (1) applies to any substance which—

- (a) contains an element specified in the first column of the table in sub-paragraph (4), in such a proportion that the number of becquerels of that element contained in the substance, divided by the number of grams which the substance weighs, is a number greater than that specified in relation to that element in the appropriate column of that table; or
- (b) possesses radioactivity which is wholly or partly attributable to a process of nuclear fission or other process of subjecting a substance to bombardment by neutrons or to ionising radiations, not being a process occurring in the course of nature, or in consequence of the disposal of radioactive waste, or by way of contamination in the course of the application of a process to some other substance.

(3) In sub-paragraph (2)(a), “the appropriate column” means—

- (a) in relation to a solid substance, the second column;
- (b) in relation to a liquid substance, the third column;
- (c) in relation to a substance which is a gas or vapour, the fourth column.

(4) The table referred to in sub-paragraph (2)(a)—

#### Specified elements

<i>Element</i>	<i>Becquerels per gram (Bq g (to the power of -1))</i>		
	Solid	Liquid	Gas or Vapour
1. Actinium	0.37	7.40 x (10 to the power of -2)	2.59 x (10 to the power of -6)
2. Lead	0.74	3.70 x (10 to the power of -3)	1.11 x (10 to the power of -4)
3. Polonium	0.37	2.59 x (10 to the power of -2)	2.22 x (10 to the power of -4)
4. Protoactinium	0.37	3.33 x (10 to the power of -2)	1.11 x (10 to the power of -6)
5. Radium	0.37	3.70 x (10 to the power of -4)	3.70 x (10 to the power of -5)
6. Radon			3.70 x (10 to the power of -2)
7. Thorium	2.59	3.70 x (10 to the power of -2)	2.22 x (10 to the power of -5)
8. Uranium	11.1	0.74	7.40 x (10 to the power of -5)

### Interpretation: waste

3. In this Schedule—

- (a) “waste” includes—

- (i) any substance which constitutes scrap material or an effluent or other unwanted surplus substance arising from the application of any process, and
  - (ii) any substance or article which requires to be disposed of as being broken, worn out, contaminated or otherwise spoiled; and
- (b) any substance or article which, in the course of carrying on any undertaking, is discharged, discarded or otherwise dealt with as if it were waste is presumed to be waste unless the contrary is proved.

**Interpretation: radioactive waste**

4. In this Schedule, “radioactive waste” means waste which consists wholly or partly of—
- (a) a substance or article which, if it were not waste, would be radioactive material;
  - (b) a substance or article which has been contaminated in the course of the production, keeping or use of radioactive material, or by contact with or proximity to other waste falling within sub-paragraph (a) or this sub-paragraph.

**Interpretation: radioactive substances activity**

5.—(1) Subject to paragraphs 6 and 7, “radioactive substances activity” means an activity described in sub-paragraph (2), (4), (5) or (6).

(2) A radioactive substances activity is carried on where a person uses premises for the purposes of an undertaking and that person—

- (a) except where sub-paragraph (5) applies, keeps or uses radioactive material on those premises;
- (b) disposes of radioactive waste on or from those premises; or
- (c) accumulates radioactive waste on those premises,

knowing or having reasonable grounds for believing the material or waste to be radioactive material or radioactive waste.

(3) For the purposes of sub-paragraph (2)(c), where—

- (a) radioactive material is produced, kept or used on any premises;
- (b) any substance arising from the production, keeping or use of that material is accumulated in a part of the premises appropriated for the purpose; and
- (c) that substance is retained there for a period of not less than 3 months,

that substance, unless the contrary is proved, is presumed to be radioactive waste.

(4) A radioactive substances activity is carried on where, in the course of a person carrying on an undertaking, that person—

- (a) receives radioactive waste for the purposes of disposing of that waste; and
- (b) knows or has reasonable grounds for believing the waste to be radioactive waste.

(5) A radioactive substances activity is carried on where a person keeps or uses mobile radioactive apparatus for—

- (a) testing, measuring or otherwise investigating any of the characteristics of substances or articles; or
- (b) releasing quantities of radioactive material into the environment or introducing such material into organisms.

(6) A radioactive substances activity is carried on where a person carries out intrusive investigation work or other excavation, construction or building work—

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- (a) to determine the suitability of any premises; or
- (b) to enable the use of any premises,

as a place that may be used wholly or substantially for underground disposal.

(7) In sub-paragraph (6)—

“intrusive investigation work” means the drilling of boreholes into, or excavation of, sub-soil or rock to determine geological or hydrogeological conditions; and

“underground disposal” means—

- (a) the disposal of solid radioactive waste in an engineered facility, or in part of an engineered facility, which is beneath the surface of the ground, and
- (b) where the natural environment which surrounds the facility acts, in combination with any engineered measures, to inhibit the transit of radionuclides from the facility to the surface,

and does not include the disposal of radioactive waste in a facility which is beneath the surface of the ground only by virtue of the placing of rocks or soil above it.

### **Nuclear sites**

6.—(1) Paragraph 5(2)(a) does not apply to the activity carried on by a licensee of a nuclear site on any premises situated on that site at any time—

- (a) while a nuclear site licence is in force in respect of that site; and
- (b) after the revocation or surrender of such a licence but before the period of responsibility of the licensee has come to an end.

(2) In respect of any premises which—

- (a) are situated on a nuclear site; but
- (b) have ceased to be used for the purposes of an undertaking carried on by the licensee,

paragraph 5(2)(b) applies to those premises as if the premises were used for the purposes of an undertaking carried on by the licensee.

(3) Paragraph 5(2)(c) does not apply to the accumulation of radioactive waste on any premises situated on a nuclear site.

### **Vehicles, vessels and aircraft**

7. In determining whether any radioactive material is kept or used on any premises, no account must be taken of any radioactive material kept or used in or on any railway vehicle, road vehicle, vessel or aircraft if—

- (a) the vehicle, vessel or aircraft is on the premises in the course of a journey; or
- (b) in the case of a vessel which is on those premises otherwise than in the normal course of a journey, the material is used in propelling the vessel or is kept in or on the vessel for use in propelling it.