

# Disposal of VLLW following amendments to the Nuclear Installations Act 1965 from January 2022

The long-anticipated changes to the Nuclear Installations Act 1965 will finally take effect in January 2022. This will have implications for disposal of nuclear matter as very low level waste.

## Current law

Under the Nuclear Installations Act 1965 as currently in force (before ratification of the 2004 Protocols to the Paris and Brussels Conventions), nuclear liabilities for an occurrence involving nuclear matter that is not “excepted matter” attach to the last nuclear site licensee that had that nuclear matter on its licensed site or in the course of its “relevant carriage”.

Currently, if very low level waste is placed on a disposal site that is not a nuclear licensed site, liability risk stays with the consigning nuclear site licensee.

If nuclear matter placed on non-nuclear licensed disposal site is “excepted matter” then no statutory nuclear liabilities will arise from an occurrence involving that nuclear matter. The definition of “excepted matter” is however narrow. There is no general lower activity threshold. Provisions in the Excepted Matter Regulations prescribing excepted matter by reference to packaging, labelling and activity levels do not apply to waste consigned from a nuclear site. The result is that VLLW consigned from a nuclear site will not be excepted matter unless it happens to fall within one of the defined narrow categories mentioned in the act and regulations, which is highly unlikely.

## New law (from 1 January 2022)

In addition to changes to maximum liability amounts, heads of loss and limitation periods, the amended Nuclear Installations Act includes changes to the status of VLLW disposal sites that accept nuclear matter on or after 1 January 2022.

A site used for disposal of VLLW under the authority of any permit will be a “relevant disposal site”. This will capture all existing VLLW disposal sites, subject to two exceptions:

- acceptance of nuclear matter for disposal on that site ceased before 1 January 2022; or
- the nuclear matter disposed of on the site consists only of excepted matter (highly unlikely).

If a disposal site continues to accept VLLW on or after 1 January 2022 it will be a “relevant disposal site”. Statutory nuclear liability risks for an occurrence involving nuclear matter on that site will then attach to the disposal site operator and the operator must carry nuclear liabilities insurance throughout its “period of responsibility”, which may be indefinite.

## Possible exemption of disposal sites / expansion of “excepted matter”

There is a 2017 NEA Steering Committee decision that would permit the UK to cease to apply the Paris Convention to sites for disposal of low level waste that meet the criteria specified in that decision. Exemption now would however require a further change in the law.

To achieve a workable position we would need further changes to Nuclear Installations Act and the Excepted Matter Regulations so that both VLLW disposal sites and the waste placed on those sites are removed from the statutory regime.



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