

**HORIZON**

NUCLEAR POWER

A UK company of E.ON and RWE

---

**RESPONSE TO DECC NUCLEAR LIABILITY  
CONSULTATION 10D/974**

---

## **1 Introduction**

- 1.1 Horizon Nuclear Power (Horizon) welcomes the opportunity to respond to the Government's consultation on the implementation of changes to the Paris and Brussels Conventions (the Conventions) on nuclear third party liability.
- 1.2 Horizon is a joint venture between E.ON UK and RWE npower. We aim to develop, construct and operate around 6GW of new nuclear power station capacity in the UK and, to this end, we have acquired interests in land at Oldbury in Gloucestershire and Wylfa on Anglesey in Wales. We have also concluded grid connection agreements for both sites.
- 1.3 We have attached our response to the consultation as a schedule to this document using the template provided in your consultation.

SCHEDULE

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	Horizon Nuclear Power
Address	5210 Valiant Court Gloucester Business Park
Town/City	Gloucester
Post code	GL3 4FE
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 3<sup>rd</sup>  
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](mailto: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
<input checked="" type="checkbox"/>	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.

**1.3.1 Consultation questions**

<p><b>1</b></p> <p><b>Chapter 4</b></p> <p><b>Categories of damage</b></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"> <li>a) should particular types of claim be prioritised, and if so, how (see paragraph 4.14)</li> <li>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)</li> <li>c) should "compensatory remediation" be expressly included or excluded from the measures of reinstatement that can be claimed for (see paragraph 4.39)</li> <li>d) should we define what constitutes a "grave and imminent threat" and, if so, how (see paragraph 4.66)?</li> </ul>
<p><b>Response</b></p>	<p>Horizon Nuclear Power (Horizon) supports the full implementation of the amendments to the Paris and Brussels Conventions, including the extension of heads of damage. Horizon favours a consistent, structured approach to paying damages for any incident so that all parties are treated fairly. Horizon asks that the Government takes all steps necessary to ensure that operators, their insurers or financial security providers are not required to make any payment beyond the liability cap established in the legislation. Horizon further proposes that the Government does not allow double recovery of damages as this would be inequitable and may use funds that could be better used to assist others.</p> <p>Horizon values Government's efforts to engage with the insurance market to ensure that they will be able to provide cover and ensure that liability for the new types of damage can be met effectively. For the same reason, Horizon would also appreciate a flexible approach when it comes to providing financial security for its own nuclear liabilities, as the same pattern will not fit all operators.</p>

<p><b>2</b></p> <p><b>Chapter 5</b></p> <p><b>Geographical Scope</b></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"> <li>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)?</li> <li>b) how should we define who should be treated as a UK “national” for the purposes of section 16A (see paragraph 5.21)?</li> </ul>
<p><b>Response</b></p>	<p>Horizon has no comments on this topic.</p>
<p><b>3</b></p> <p><b>Chapter 6</b></p> <p><b>Limitation periods</b></p>	<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>
<p><b>Response</b></p>	<p>Horizon believes that the Government should ensure that where possible, its approach is consistent with the approaches adopted by other Paris Convention signatories. Horizon also wishes to ensure that the insurance market is able to respond to the increased limitation period for personal injury. If the insurance market fails to respond adequately, Horizon believes it will be important to work with the Government to devise arrangements for financial security that are appropriate to the circumstances.</p>
<p><b>4</b></p> <p><b>Chapter 7</b></p> <p><b>Liability during transport</b></p>	<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>
<b>Response</b>	<p>Horizon has no comments on this topic.</p>
<p><b>5</b> <b>Chapter 8</b> <b>Financial liability levels</b></p>	<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>
<b>Response</b>	<p>Increasing the liability level for operators will clearly increase their costs as they will need to provide additional cover in the form of insurance or other financial security. As the Government is aware, the amendments to the Conventions have increased the obligation to provide liability cover from £140 million to €700 million. The UK Government is proposing to impose a further €500 million of liability on the UK nuclear operators, adding up to a combined total liability of up to €1200 million.</p> <p>While Horizon is prepared to accept the increase in liability level in the UK, it should be noted that this will lead to an increase in liability beyond that required in many countries in the rest of Europe. This higher liability reinforces the need for a flexible approach to insurance and financial security, to allow all operators to meet their liabilities at a minimum cost to the consumer.</p>
<p><b>6</b> <b>Chapter 9 –</b></p>	<p>We would welcome views on the availability of insurance or other financial security.</p>

<p><b>Availability of insurance/financial security</b></p>	<p>In particular, we would welcome views on:</p> <ul style="list-style-type: none"> <li>a) what forms of alternative financial security should be acceptable and over what classes of liability might alternative forms of financial security be appropriate?</li> <li>b) how Government should assess operators' proposals for alternative financial security arrangements?</li> </ul> <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>
<p><b>Response</b></p>	<p>The nuclear power stations currently operating in the UK need to provide insurance or financial security for nuclear liability. Similarly, the new generation of nuclear operators looking to build in the UK will need to provide insurance cover or financial security when they have built their stations and begin to generate. The insurance or other financial security that will be appropriate for a company operating today may not be the same as that required by a new build operator. Current operators have nuclear power plants in the mid or late stages of their lifecycles, whereas new build operators will need to consider requirements for many years ahead. It is likely that the insurance market today will not look the same as it will when future nuclear reactors are built. Horizon therefore encourages the Government to adopt as much flexibility as possible in prescribing what insurance or other financial security is required. This is especially the case for financial security, which could be provided in a number of ways, with different schemes being developed and proposed in the future.</p> <p>Horizon would take comfort from the Government leaving the definition of “other financial security” as wide as it currently is in the Conventions and from the existence of a power for the Government to agree with the operators what financial security they should reasonably be asked to provide at any given time.</p> <p>It is sensible to recognise that Government might be required to fill an insurance gap in certain circumstances. Where insurance market capacity was an issue, new nuclear entrants would seek an even playing field with current operators. If there is insufficient capacity in the insurance market and later entrants cannot access insurance on the same terms as the earlier</p>

	<p>players, Horizon believes that Government should charge a rate on the same actuarial basis as the capacity available in the market rather than at an excessive premium. Similarly, where the insurance market cannot cover all required risks, any Government underwriting should be charged on an actuarial basis.</p>
<p><b>7</b> <b>Chapter 10 -</b> <b>Jurisdiction</b></p>	<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"> <li>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)?</li> <li>b) whether we need a fall back provision giving jurisdiction to the High Court of Justice (see paragraph 10.17).</li> </ul> <p>In addition we would welcome views on our proposed clarification of “occurrence” in new section 26(2A) of the 1965 Act.</p>
<p><b>Response</b></p>	<p>Horizon is of the opinion that the “greatest impact” test is equitable but may lead to uncertainty as to the relevant forum for adjudicating a claim. To remedy this, Horizon suggests that where there is potentially more than one forum, jurisdiction should be allocated on the basis of the greatest impact and where there is a <i>bona fide</i> dispute as to where the greatest impact occurred, the High Court should have jurisdiction.</p>
<p><b>8</b> <b>Chapter 11 –</b> <b>nuclear waste</b> <b>disposal facilities</b></p>	<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>

<b>Response</b>	Horizon has no comments on this topic.
<b>9</b> <b>Chapter 12</b> <b>Representative</b> <b>actions</b>	We would welcome views on our proposals for implementing the new Paris Convention requirements in respect of representative actions.
<b>Response</b>	Horizon has no comments on this topic.

### 1.3.2 Impact assessment questions

<b>IA1</b>	Can you provide information on current actual costs of financial security and the impact of the proposed changes?
<b>Response</b>	At this stage, Horizon is not in a position to ascertain the cost of the financial security but it is clear that this will be increased and Government should make provisions to ensure that all potential operators can meet the requirements efficiently in order to minimize the impact on consumers.
<b>IA2</b>	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?
<b>Response</b>	Horizon has no comments on this topic.
<b>IA3</b>	Is this for a standard installation or a low risk installation or for transport activities?
<b>Response</b>	Horizon has no comments on this topic.
<b>IA4</b>	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?

<b>Response</b>	Horizon notes that the clearer Government can be about its requirements, the lower the legal and administrative costs will be for operators.
-----------------	--