



Ministry  
of Defence



**AGREEMENT BETWEEN**  
**THE MINISTRY OF DEFENCE**  
**AND**  
**THE SCOTTISH ENVIRONMENT PROTECTION**  
**AGENCY**  
**ON MATTERS RELATING TO RADIOACTIVE**  
**SUBSTANCES**

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## DEFINITIONS / GLOSSARY

Definitions of terms given in Radioactive Substances Act 1993 will apply, unless superseded by the provisions of this agreement.

The “**1958 Agreement**” is the “Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America for co-operation on uses of atomic energy for mutual defence purposes”.

**Approval** means an approval issued by SEPA in accordance with para 3.2 of this agreement.

**Authorisation** for the purposes of this agreement, means a regulatory mechanism through which the Defence Nuclear Safety Regulator sets the Conditions permitting an Authorisee to establish the adequacy of his own safety arrangements.

**Authorised Sites or Activities** are those which are regulated under an Authorisation issued by the Defence Nuclear Safety Regulator.

**Defence Premises** are premises which fall within the description in RSA93 S42 (2) a and (2) b and are under the control of a member of the Armed Forces, a MoD Crown civil Servant or other person appointed for the purpose by the Secretary of State for Defence and who reports to the MoD. Defence premises can be either authorised or non-authorised sites and include submarines.

**DNP** means the Defence Nuclear Programme, comprising the Naval Nuclear Propulsion Programme (NNPP) and the Nuclear Weapon Programme (NWP) of the Ministry of Defence.

**DNSR** means the Defence Nuclear Safety Regulator, part of the Ministry of Defence, as described in para 1.5 of this Agreement.

**DSA** means Defence Safety Authority, responsible for the regulation of Defence Health, Safety and Environmental Protection.

**Dstl** means Defence Science and Technology Laboratory, a Trading Fund Agency of the Ministry of Defence.

**Food Standards Scotland (FSS)** is a public sector body set up to protect the public health and consumer interests in relation to food in Scotland.

**HAS** means High Activity Sources as defined by the High Activity Sealed Radioactive Sources and Orphan Sources Regulations 2005.

**Licensed Site** is a site regulated under a Nuclear Site Licence granted by the ONR, in accordance with the Nuclear Installations Act 1965.

The **Ministry of Defence (MoD)** is the Department of State charged with the management and control of HM forces and civilian personnel engaged in the defence of the United Kingdom and its citizens, property and interests at home and overseas.

**Non-authorised Sites** refers to all Defence Premises that are not subject to Authorisation by DNSR.

**Notification** means a notification issued by SEPA in accordance with para 3.1 of this agreement.

**NNPP** means the Naval Nuclear Propulsion Programme.

**Nuclear device** means a device in which the design intent is to be able to produce an uncontrolled nuclear reaction.

**NWP** means the Nuclear Weapon Programme.

**Office for Nuclear Regulation (ONR)** is a Public Corporation which has the responsibility to regulate nuclear safety and security at nuclear licensed sites, transport of radioactive substances and to ensure that safeguard obligations for the UK are met.

The “**Polaris Sales Agreement**” (as amended for Trident) is the “Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America dated 6 April 1963” and re-signed in 1982.

**RSA93** means the Radioactive Substances Act 1993.

The **Scottish Environment Protection Agency (SEPA)** was created by Section 20(1) of the Environment Act 1995 for the purpose of carrying out the functions transferred or assigned to it by or under that Act or any other enactment for the purpose of protecting and improving the environment including managing natural resources in a sustainable way.

**Urgent Defence Operations** are MoD activities that have to be achieved in less time than would usually be afforded due to operational reasons.

**Vital Defence Operations** are MoD activities that have a very high priority to provide or maintain a capability or support another activity without which there would be a significant detriment to national security.

# **AGREEMENT BETWEEN THE MINISTRY OF DEFENCE AND THE SCOTTISH ENVIRONMENT PROTECTION AGENCY ON MATTERS RELATING TO RADIOACTIVE SUBSTANCES**

## **1. Introduction**

### **1.1 Purpose of Agreement**

The purpose of this agreement is to assist in securing effective co-operation and understanding between the Ministry of Defence ('MoD') and the Scottish Environment Protection Agency ('SEPA') relating to management and regulation of radioactive substances at Defence Premises.

SEPA will seek to use the same environmental protection principles as would be applied to civil sites.

### **1.2 Scope**

This Agreement is between the MoD and SEPA. The agreement applies to activities carried out at Defence Premises by or on behalf of the MoD in Scotland. It does not apply to visiting forces.

At HM Naval Base Clyde, the Authorised Site covers only part of the Naval Base. The remainder of the Naval Base will be treated by SEPA as though it were part of an Authorised Site, and regulated as such by them as set out in this Agreement. Where there are specific activities within this remainder area, for example the keeping and use of radioactive substances, these activities will be regulated by DNSR via customised arrangements which mirror RSA93 regulation.

In the event of inconsistencies between this agreement and legislative requirements, the latter take precedence.

### **1.3 MoD Policy Framework**

The Secretary of State for Defence is answerable to Parliament for the management of safety and environmental protection in the MoD. The Secretary of State's policy<sup>1</sup>, amplified by DSA01.1<sup>2</sup>, requires that 'where Defence has exemptions, derogations or dis-applications from HS&EP<sup>3</sup> legislation we maintain Departmental arrangements that produce outcomes that are, so far as is reasonably practicable, at least as good as those required by UK legislation'. This agreement is intended to assist in fulfilling this policy requirement, and to provide guidance on the application of specific legislation to defence activities involving radioactive substances.

The Secretary of State's policy also requires that MoD 'will carry out sustainability appraisals and environmental assessments, as appropriate, for new or revised policies, programmes (including acquisition programmes) office relocations, new projects and training activities'.

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<sup>1</sup> Safety, Health and Environment Protection in Defence: A Policy Statement by the Secretary of State for Defence.

<sup>2</sup> DSA01.1, Defence Policy for Health, Safety and Environmental Protection.

<sup>3</sup> HS&EP means health safety and environmental protection.



## 1.4 Environmental Duties and Responsibilities of SEPA

SEPA is a non-departmental public body, accountable through Scottish Ministers to the Scottish Parliament, responsible for the regulation of environmental protection in Scotland. Its purpose is to carry out its statutory functions so as to protect and improve the environment, including managing resources in a sustainable way. Except where inconsistent with that primary purpose, SEPA must also carry out its functions so as to contribute to improving the health and wellbeing of the people of Scotland and to the achievement of sustainable economic growth.

SEPA is responsible for regulation of various environmental legislation, which are relevant to the MoD's activities, and can be generally summarised into the following categories:

- (i) protection of the water environment.
- (ii) disposal and management of wastes.
- (iii) releases to the environment including to air from major industrial processes.
- (iv) keeping, use, accumulation and disposal of radioactive substances.
- (v) contaminated land remediation.
- (vi) protection of specific habitats; and
- (vii) flood warning.

## 1.5 Defence Nuclear Safety Regulator (DNSR)

DNSR is the MoD regulator of nuclear and radiological safety and environmental protection management for the Defence Nuclear Programme (DNP), comprising the Naval Nuclear Propulsion Programme (NNPP) and Nuclear Weapon Programme (NWP), with a primary focus on regulating those aspects of the defence nuclear programmes that are exempt from legislation (including the design and operational deployment of propulsion plant and weapons). In carrying out this role, DNSR works very closely with the relevant statutory regulators, and provides assurance to the Secretary of State for Defence, through the DG DSA that standards of nuclear and radiological safety throughout the DNP produce outcomes that are, so far as reasonably practicable, at least as good as those which have been required by legislation had there been no exemptions or derogations for the MoD.

## **2. Application of Legislation**

This section details the relevant treaties and legislation specific to radioactive substances regulation and how they apply to MoD.

### **2.1 EURATOM Treaty**

The EURATOM Treaty does not apply to defence activities. In the event of formal approaches by the European Commission, SEPA will refer this to Scottish Ministers and inform MoD.

### **2.2 Radioactive Substances Act 1993 (RSA 93) & Exemption Orders**

RSA93 contains certain disapplications to Defence Premises. However, in accordance with the MoD policy framework (para 1.3), MoD agrees to implement parallel administrative arrangements which would have been required by RSA93 had there been no exemptions or derogations for the MoD, as set out in this Agreement.

#### **2.2.1 High-Activity Sealed Radioactive Sources & Orphan Source Regulations 2005**

The HAS Regulations act by amendment of RSA93, and therefore do not apply to Defence Premises (para 2.2). However, MoD agrees to implement parallel administrative arrangements to those required by RSA93 on civil sites, as set out in this Agreement.

#### **2.2.2 Exemption Orders made under RSA93**

Sections 8, 11 and 15 of RSA93 make provision for orders to exempt certain activities from registration and authorisation. These orders may contain specified limits and conditions. These exemptions with the associated conditions and limitations will be applied administratively to MoD activities.

### **2.3 The Nuclear Reactors (Environmental Impact Assessment of Decommissioning) Regulations 1999 NR(EIAD)R**

These Regulations (as amended) include provision for the Secretary of State to exempt a MoD project, to be determined on a case-by-case basis. In the unlikely event of such an exemption being implemented, the project will be regulated by DNSR. DNSR undertake formally to consult SEPA and other authorities in conducting their assessments.

### **2.4 Radioactive Contaminated Land (Scotland) Regulations 2007**

These Regulations (as amended) amend the Environmental Protection Act 1990 (EPA90) to extend the Part IIA provisions thereof concerning contaminated land to radioactive contamination. EPA90 is binding on the Crown, and these Regulations therefore are directly applicable in the case of Non-authorised Sites. The Regulations are enforced in respect of Non-authorised Sites by SEPA. The Regulations are dis-applied in the case of certain MOD nuclear sites. This disapplication is taken to refer to Authorised Sites. Regulation in respect of radioactively contaminated land on Authorised Sites is by DNSR. Any case of radioactively contaminated land on an Authorised Site which may give rise to radioactive contaminated land out with that site will be subject to consultation between DNSR and SEPA.



## 2.5 Transfrontier Shipments of Radioactive Waste & Spent Fuel Regulations 2008

These Regulations prohibit the shipment of radioactive waste or spent fuel to, from or through the UK except under the authority of an authorisation granted by a competent authority. The competent authority in Scotland is SEPA, however these Regulations do not bind the Crown, and as such MoD activities are out with the scope of the requirements of the Regulations.

## 2.6 Transfrontier Shipments of Radioactive Material (Council Regulation (EURATOM) No 1493/93)

These regulations allow the competent authority to control shipments of sealed sources and other sources between Member States, providing the levels do not exceed defined limits. The competent authority in Scotland is SEPA, however these regulations are made under the EURATOM treaty and as such do not apply to defence activities.

### **3. Arrangements for RSA93 Regulations on Defence Premises**

This section should be read in conjunction with Figure 1: Illustration of the Roles of DNSR and SEPA

In line with Section 41(4) of RSA93, any approval, notification or notice issued under such approval or application, issued by SEPA shall be served on the Secretary of State for Defence and copied to the Head of Establishment / Commanding Officer of the relevant site(s), copied to Dstl, Institute of Naval Medicine, Crescent Road, Alverstoke, Gosport, Hants PO12 2DL and, for Authorised sites, copied to DNSR-Hd, Poplar -1, #2003, MoD Abbeywood, Bristol, BS34 8JH.

#### **3.1 Keeping and Use of Radioactive Material**

##### **3.1.1 Notification in Parallel with Section 7 Registrations**

A notification from SEPA is required for radioactive sources, both sealed and unsealed, which are held on Non-Authorised Sites. This notification will be equivalent to a Registration which would typically be granted under Section 7 of RSA93 had the Section 42 exemption not been in place. The MoD will be expected to apply for a notification to cover the keeping and use of radioactive material on Non-Authorised Sites. The application shall be submitted to SEPA in writing in a form previously approved by SEPA. SEPA will determine the application by a process which mirrors the determination process applied to all applications for registration and will then decide whether to grant the notification or not. Like registrations granted under Section 7, notifications will have limitations and conditions the particulars of which will be furnished to MoD in a certificate of notification. These conditions and limitations are likely to follow those that are standard in equivalent registrations however SEPA will consider the individual site requirements. SEPA will provide a draft copy of the certificate to the site and Dstl for comment prior to issue.

SEPA's determination process for sealed sources on Non-Authorised Sites will include an assessment of the source against HAS thresholds and security groupings in line with SEPA's standard procedure for determining applications for registration. Where the resultant classification would in the civilian sector require some involvement with the CTSA (Counter Terrorism Security Advisors), SEPA will seek to deal with the MoD equivalent security advisors. For HAS sources which are subject to a notification, MoD will be required to provide SEPA with an annual report on the sources as detailed in the certificate of notification.

The keeping and use of radioactive substances on Authorised Sites does not require a notification as this is regulated by DNSR. This approach mirrors that taken for civil nuclear licensed sites where the ONR are the regulator by virtue of the exemption outlined in Section 8 of RSA93.

Where SEPA does not consider that it is able to grant a notification or an agreement cannot be reached on the limitations or conditions applied at a local level, then the matter will be referred to the disputes resolution process outlined in section 5.1 of this agreement.

### 3.1.2 Mobile Radioactive Apparatus

Mobile Radioactive Apparatus kept and used on Non-Authorised Sites will require a notification from SEPA similar to Section 10 of RSA93. This notification and the processes of application, determination and issuing will be similar to those described in para 3.1.1 with the exception that conditions will mirror those found in a standard registration under Section 10 of RSA93, which relates to the registration of mobile radioactive apparatus. The notification will permit the removal of the mobile radioactive apparatus from the specified Non-Authorised Sites for keeping, use, lend or let on hire at other Defence Premises. Should the mobile radioactive apparatus be removed from the specified Non-Authorised Sites for keeping or use at a site which is not Defence Premises, a RSA93 Registration under Section 10 will not be required provided the apparatus, its operators and its managers are normally located on Defence Premises and the apparatus is covered by a Section 10 style notification.

The keeping, use, lend or let on hire of mobile radioactive apparatus on Authorised Sites and the movement of the apparatus between such sites will be regulated by DNSR.

Where SEPA does not consider that it is able to grant a notification or an agreement cannot be reached on the limitations or conditions applied at a local level then the matter will be referred to the disputes resolution process outlined in para 5.1.

### 3.2 Accumulation and Disposal of Radioactive Wastes

The accumulation and disposal of radioactive waste on or from Non-Authorised Sites requires an approval issued by SEPA. This approval is equivalent to an authorisation which would typically be granted under Section 13 or 14 of RSA93 had the Section 42 exemption not been in place. The MoD will be expected to apply for an approval to cover the accumulation and disposal of radioactive wastes on Non-Authorised Sites. The application shall be submitted to SEPA in writing and in a form previously approved by SEPA. SEPA will determine the application by a process which mirrors the determination process applied to applications for RSA93 authorisation and will then decide whether to grant the approval or not. Like authorisations granted under Section 13 or 14 of RSA93, approvals will have limitations and conditions the particulars of which will be furnished to MoD in a certificate of approval. The conditions and limitations are likely to follow those that are standard in equivalent RSA93 authorisations, however SEPA will consider the individual site requirements. SEPA will provide the MoD applicant (Commanding Officer and Head of Establishment) and Dstl with a draft copy of the approval for comment prior to issue.

For Authorised Sites, MoD is required to apply for an approval from SEPA for the disposal of radioactive wastes from these sites. MoD is not required to apply for approval for accumulation of radioactive waste at Authorised Sites; DNSR is the regulator for any accumulated wastes. This approach mirrors that taken for Licensed Sites where the ONR is the regulator for accumulation of radioactive waste. The determination period for Authorised Site approvals will, in following that used in nuclear site authorisations, include consultation. Consultees may include Scottish Ministers, ONR, DNSR, FSS, any other relevant bodies or organisations that SEPA considers appropriate and the general public. Consultation with the general public will be via advertisement in the local press and through inclusion on SEPA's website.

Where SEPA does not consider that it is able to grant an approval or agreement cannot be reached on the limitations or conditions applied at a local level, then the matter will be referred to the disputes resolution process outlined in para 5.1.

### 3.3 Arrangements for Radioactive Substances on Submarines

The keeping and use of all radioactive substances on submarines is regulated by DNSR.

Gaseous discharges from a submarine are regulated by DNSR. All other radioactive waste is taken ashore. Where this is to an Authorised Site for treatment and subsequent disposal, the transfer of waste will be regulated by DNSR in a manner that ensures that it is not discharged directly into the environment and its disposal from the Authorised Site will be regulated by SEPA through an approval for disposal of radioactive waste granted by SEPA. Where the shore based facility receiving the waste from a submarine is not a Defence Premises, MoD will require an approval from SEPA to cover the disposal of the waste from MoD to the civilian operator.

### 3.4 Provision and Handling of Information

Applications for notifications and approvals relating to Non-Authorised Sites will be co-ordinated through Dstl. As outlined in para 3.1.1, 3.1.2 and 3.2, any application will be made in a form and to a level of detail previously agreed by SEPA.

All information pertaining to the keeping and use of sealed sources and the related notifications will be treated by SEPA as OFFICIAL-SENSITIVE and will not be put into the public register. This is in line with the Radioactive Substances (National Security) (Scotland) Direction 2009, which applies to civilian operators. SEPA will be directed by MoD with regards to the security classification of information relating to the keeping and use of unsealed sources. This classification should be supplied to SEPA by MoD at the application stage.

Applications for approvals relating to Authorised Sites will be managed locally. The MoD applicants will ensure that the information needed by SEPA to determine an application and to monitor compliance is provided subject to Para 4.2, which includes consideration of FOI enquiries.

### 3.5 Charging

The MoD will pay SEPA on the same basis as is applied to the civil sector, Authorised Sites will be charged on the same basis as sites holding a nuclear site licence. Non-Authorised Sites will be charged on the same basis as the non-nuclear industry.

It is agreed that, subject to prior agreement with the MoD (of the applicable activities and charging rates), SEPA may charge for activities not directly related to current approvals or notifications, such as giving advice on developing projects not yet implemented on a specific site.



### 3.6 Compliance with Notifications, Approvals and this Agreement

SEPA will routinely inspect against the limitations and conditions of the relevant approvals and notifications. The frequency of this shall be determined by SEPA. SEPA will inform the relevant Commanding Officer or Head of Establishment of the outcome of these inspections.

In the event of any non-gaseous discharge from a submarine directly to the Scottish environment, both DNSR and SEPA will have investigatory roles and will consult as necessary in carrying these out.

Where SEPA considers there to be a compliance issue, SEPA will deal with the matter using a similar approach to that outlined in SEPA's Enforcement Policy. SEPA will formally write to the Secretary of State for Defence and copied to the Commanding Officer and Head of Establishment, DSA and DNSR, providing details of any compliance issue and an indication of the level of enforcement action that would have been taken with a civilian sector operator. Where appropriate this letter will include remedial actions to correct any noncompliance.

In cases where MoD does not accept SEPA's compliance findings, the matter will be referred to the dispute resolution process outlined in para 5.1 of this agreement.

### 3.7 Review

Section 17A of RSA93 requires SEPA to carry out periodic reviews of the limitations and conditions attached to each authorisation under Section 13 and 14 of RSA93. SEPA will mirror this requirement of RSA93 by conducting reviews of the conditions and limitations in any approval granted to the MoD. MoD will ensure that the information required by SEPA to conduct such a review is provided subject to para 4.2 of this agreement.

### 3.8 SEPA Access to Defence Premises

MoD and SEPA agree the Arrangements for Access and Inspection for Radioactive Substances Regulation by SEPA officers on Defence Premises, as more particularly set out in Annex A to this Agreement.



**Figure 1:** Illustration of the Roles of DNSR and SEPA

	MOBILE SOURCES	NON-MOBILE SOURCES	ACCUMULATION OF RADWASTE	DISPOSAL OF RADWASTE
<b>Authorised Sites</b>	DNSR AUTHORISATION <sup>1,2</sup>	DNSR AUTHORISATION	DNSR AUTHORISATION	SEPA APPROVAL
	SEPA NOTIFICATION IF USED ON NON-AUTHORISED SITE			
	SEPA REGISTRATION IF USED OUTSIDE DEFENCE PREMISES <sup>3</sup>			
<b>Non-Authorised Sites</b>	SEPA NOTIFICATION	SEPA NOTIFICATION	SEPA APPROVAL	SEPA APPROVAL
	SEPA REGISTRATION IF USED OUTSIDE DEFENCE PREMISES <sup>3</sup>			
<b>UK Submarines</b>	DNSR AUTHORISATION	DNSR AUTHORISATION	DNSR AUTHORISATION	DNSR AUTHORISATION

1. This is applicable where the mobile source is to be used only on Authorised Site.
2. If the mobile source stays on a particular Authorised Site, then the source will be treated as a non-mobile source.
3. Registration under Section 10 will not be required provided the apparatus, its operators and its managers are normally located on Defence Premises and the apparatus is covered by a Section 10 style notification.

## **4. Information and Disclosure**

### **4.1 Access to Information**

#### **4.1.1 Clarification of US sourced information.**

SEPA may seek to obtain clarification of the information provided to them by MoD, however the MoD may be constrained in providing US-sourced information under the terms of the 1958 Agreement and Polaris Sales Agreement (as amended for Trident). Where this relates to information on reactor design or operation or other matters out with the control of the site operator, then DNSR will provide the necessary assurances and clarification to SEPA within the bounds of the agreements.

#### **4.1.2 MoD Constraints**

MoD is constrained by certain international obligations such as those which flow from the 1958 Agreement and Polaris Sales Agreement, which need to be taken into account in the design of Nuclear Steam Raising Plant (NSRP), nuclear devices or Strategic Weapon Systems. While respecting those agreements and obligations, the MoD will ensure that, where practical and operational constraints permit, the UK's environmental protection principles, strategies and regulatory standards to minimise the creation of radioactive wastes, are rigorously applied to submarine reactor design<sup>4</sup>. MoD agrees to consult with SEPA on such matters to the maximum extent it can within the constraints mentioned above. However, SEPA recognises that the design of submarine propulsion plant, nuclear devices or Strategic Weapon System, and their operational deployment falls out of scope of this Agreement.

#### **4.1.3 Urgent &/or Vital Defence operations**

Where urgent and/or vital defence operations are concerned, the requirement of this Agreement will be followed as far as is reasonable given the circumstances prevailing. This is not intended to curtail or restrain SEPA regulators from carrying out investigation, reporting on their findings, etc in accordance with this Agreement.

### **4.2 Disclosure of Information and the Freedom of Information Act**

SEPA will consult the MoD on any request under the Freedom of Information (Scotland) Act 2002 (FOIA), or the Environmental Information (Scotland) Regulations 2004 (EIR), for the release of any information (including paper and electronic documents) originating from the MoD. Unless information has been provided by the MoD on the specific understanding from the MoD that it will be published, SEPA will first consult the MoD to ensure that all factors relevant to the assessment of the balance of public interests are understood and taken fully into account. SEPA and MoD will provide single points of contact for FOI enquiries<sup>5</sup> to ensure prompt and coordinated communication between SEPA and MoD.

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<sup>4</sup> This does not imply a requirement for defined periodic review or formal communication with SEPA that such measures have been applied. This is intended to be a declaration by the MoD that such measures will be applied to any design changes or new designs.

<sup>5</sup> MoD POC is via email to DSA-DNSR-Enquiries@mod.uk; SEPA POC is via email to foi@sepa.org.uk.

#### 4.3 Management of Classified or Sensitive Information

Classified or sensitive information shall be managed in accordance with Her Majesty's Government Security Policy Framework and the MoD's Defence Manual of Security (Joint Service Publication 440).

SEPA will be provided, where practical, with access to security classified information on a MoD site rather than retain the information at SEPA premises.

#### 4.4 Reporting of Incidents

SEPA will be informed by MoD of radioactive substances related incidents for activities covered by the scope of the Agreement. SEPA may provide information concerning such incidents to Scottish Ministers and/or third parties to obtain scientific or technical advice.

SEPA will inform the Head of Establishment / Commanding Officer and the DSA via DNSR when information concerning such incidents is to pass outside of SEPA. Where the information is classified at OFFICIAL-SENSITIVE or above, SEPA will only disclose information to a third party with MoD's agreement. Such agreement will not be unreasonably withheld or delayed and will be given to SEPA in writing. Where MoD does not agree to the release of information, this shall be confirmed in writing detailing the reasons for non-agreement. The Secretary of State<sup>6</sup> will discharge his responsibilities by reporting incidents to Parliament as necessary.

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<sup>6</sup> MoD's ministerial reporting process is detailed in MoD Joint Service Publication 471 – Defence Nuclear Emergency Response.

## **5. Liaison and Resolution of Disputes**

### **5.1 Resolution of Disputes**

Disputes or difficulties that cannot be resolved at local level should be referred to line management. The DSA, via DNSR, will liaise with SEPA at an appropriate level to facilitate their resolution.

In the first instance, this would be the Radioactive Substances Unit Manager, then as appropriate through the management chain.

### **5.2 Routine Liaison**

SEPA recognises the need to consult MoD as an operator of nuclear sites, user of radioactive substances and as a Department of State on changes to the way in which SEPA regulate the use of radioactive substances.

Meetings will be held every two years (where practicable) between the DSA (represented by DNSR and DSA HQ Assurance if required), and SEPA Radioactive Substances Unit Manager to review the working of this Agreement in the light of changes in policy and legislation and in the light of experience gained from the application of the agreement at a working level.

### **5.3 Regulatory Liaison**

Meetings will be held at least annually between DNSR and SEPA (and other authorities as appropriate). These meetings will consider regulatory liaison, and where appropriate the detailed working of this Agreement and any other associated documents. The meeting will consider issues that cannot be resolved at working level through extant regulatory liaison.

### **5.4 Termination of Agreement**

Either party to this Agreement may terminate this Agreement on giving at least 6 months prior written notice of their intention to do so to the other party: IN WITNESS WHEREOF these presents, consisting of this and the preceding pages together with Annex A annexed as relative hereto are subscribed as follows:-

## 6. Signatories

6.1 Parties agree that from the date of last execution, this Agreement constitutes the entire agreement between the parties on matters relating to radioactive substances, and supersedes the previous agreement between the Parties concerning matters relating to radioactive substances dated 6<sup>th</sup> September 2012 (SEPA) and 24<sup>th</sup> September 2012(DSEA)".

6.2 No variation of this Agreement shall be effective unless it is agreed by both Parties and in writing.

Signed



Dated

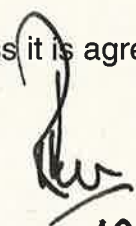
2/5/18

Place of Signing

Strathallen House, Strirling

Terry A'Hearn  
Chief Executive  
Scottish Environment Protection Agency

Signed



Dated

10 October 2017

Place of Signing

Whitehall London

Lieutenant General Richard Felton  
DG DSA  
Ministry of Defence

In the presence of this witness

Signature Margaret McLean

Name MARGARET McLEAN

Address Strathallen House,  
Castlebucchan Park  
Strirling FK9 4TZ

In the presence of this witness

Signature Richard Perfect

Name Richard Perfect

Address Main Building  
Whitehall  
London



## **ANNEX A**

### **Arrangements for Access and Inspection for Radioactive Substances Regulation by SEPA Officers on Defence Premises**

1. This Annex details the procedures to be followed by SEPA and MoD in arranging, carrying out, and reporting on, inspections of Defence Premises.
2. There are 3 categories of inspection as carried out by SEPA Officers:
  - i. planned
  - ii. routine unplanned/unannounced
  - iii. reactive
3. The majority of inspections will be planned and notified in advance. SEPA recognises that relevant MoD personnel need to be aware of the planned visit and be available in order to ensure an effective inspection. However, SEPA may carry out unannounced inspections. Reactive inspections are carried out as part of SEPA's response to incidents and investigation of incidents, and are intended for the purposes of locating and, if possible, preventing harm to the environment, which has occurred, or is likely to occur. The Commanding Officer or Head of Establishment will put in place arrangements to manage unannounced inspections.
4. In the event of a planned inspection the appropriate officer will contact the relevant MoD Establishment prior to the inspection by telephone, email, or letter, in order to agree an appointment. The point of contact on the site will be the Commanding Officer or Head of Establishment unless another individual, responsible for compliance with the legislation as delegated by the Commanding Officer or Head of Establishment, has been identified to SEPA.
5. SEPA Officer's carry SEPA authorisation cards (the equivalent of a warrant card), and will use these to identify themselves. SEPA will also comply with any site security arrangements. For Authorised Sites, this will include holding a site pass as appropriate.
6. Commanding Officers and Heads of Establishment are responsible for controlling access to the Defence Premises. If access is required to an operational submarine, the Head of the Establishment shall arrange any necessary agreement from the Commanding Officer of the submarine. During all inspection visits, the SEPA officer will be escorted. He or she will be permitted access to any part of the site, and to see any facilities on the site, which are relevant to the inspection, unless national security or operational readiness may be compromised by such access. In such cases, the Commanding Officer or Head of Establishment will provide written reasons for denial of access to SEPA's Chief Executive.
7. The MoD undertakes to ensure that SEPA Officers are provided with personal safety information, particularly with respect to radiation doses incurred by SEPA Officers while in controlled areas, in a form and at a time that does not impede their access to, or egress from, the site.

8. The use of radioactive substances by contractors / MoD Partners working on Defence Premises will be controlled by the MoD and inspected according to the same arrangements as listed in this Annex. When such an inspection is to be carried out the Commanding Officer, or Head of Establishment responsible for contractor management at the site in question, will be informed of the visit.
9. These arrangements also apply to aircraft at bases in Scotland, and to shipping in UK territorial waters. However, SEPA will not inspect any facilities whilst in transit.
10. The SEPA Officer will discuss the findings of his or her inspection with the Commanding Officer, Head of Establishment, or nominated deputy prior to leaving the site when practicable. Any remedial action necessary to correct deficiencies will be agreed orally. Such action will also be confirmed by letter from SEPA within 25 working days.