

- (b) Effect upon Social, Domestic and Leisure Pursuits  
Mr A with his family enjoyed normal pursuits within the home and garden providing them with all the amenities and new technology ie: computers and games. With Mrs A they were looking forward to the event of grandchildren and providing for them.
- (c) Effect upon Ability to perform Home and Vehicle Maintenance
- (d) Other Loss of Amenity
- (e) Continuing Disability and Continuing Symptoms
- (f) Psychological Effects and Effects on Mental Health
- (g) Prognosis  
The prognosis is poor - At present the Applicants Mr A and Mr E their life expectancy has been significantly reduced as detailed in the medical report (1) below.

Medical and psychiatric reports about the personal injuries described are attached

DETAILS OF MEDICAL REPORTS

DETAILS OF CONSEQUENTIAL LOSS

DETAILS OF THE BASIS OF THE CLAIM FOR INTEREST

-32.

- 31. Denial of fair hearing, a characteristic of the whole gamut of fascist and communist inquisitorial practices, has scarcely been recognised in Western Europe. In reality, inaccessibility to a fair hearing is on the increase within member states as well as within ECtHR. This is because guarantees against outside pressures do not exist, and there are no safeguards from political interference to ensure the independence and impartiality of the judiciary.

**A Subject and scope of the Addendum**

16

Mr.R.J.Fox. Grnd. Floor Flat,  
15 Field Road, Reading, RG1 6AP

Signature .....

- 30. This Application highlights ongoing violations of Rights/Articles afforded under the UN Declaration of Human Rights, ECHR and finally Charter of Fundamental Rights by UK who is a signatory.
- 29. The subject of this Application confirms that evidence thereto is an ongoing violation of the EU Treaties and Directives and as such the matter cannot be dismissed.
- 28.

The Applicant refers to the News Release dated the 15/12/2004:

"UK faces legal action for failure to implement Euratom health and safety provisions against 'ionising radiation'.

The European Commission has decided to send a reasoned opinion to the United Kingdom for failing to apply a requirement under specific provisions of the Euratom treaty concerning intervention and remedial action for the after effects of past radioactive contamination.

A citizen's complaint drew the attention of the commission to the compliance of UK legislation with Article 53 of the Euratom Basic Safety Standards Directive 96/29/Euratom which provides for action by the Member States in situations of lasting exposure to ionising radiation. According to the Directive, such situations require "intervention" by the competent national authorities to prevent or decrease the exposure of individuals to radiation.

Current UK legislation implementing the provision of the Directive regarding intervention only allow for remedial action to be taken in case of redevelopment or disposal of radioactive waste. There is no regime to remedy other circumstances of past radioactive waste. The adoption of national registration to fill this gap has been delayed. The Commission has therefore decided to open infringement proceedings against the U.K. A letter giving the Commission's reasoned opinion on the case will be sent and the U.K. will have an opportunity to correct the situation before a formal reference to the European Court of Justice". See Addendum Appendix. 3 – Pages

**B Signatory of the UK to respective Treaties and organisations in regards to the use of Nuclear Energy and its liabilities to its citizens and surrounding European Member States.**

- 2. The Applicant was not afforded the opportunity by representation or otherwise to institute proceedings or obtain information regarding a *prime-facie* Environmental issues that harmed his children, himself and damaged his home.
  - (01) the Paris Convention on Third Party Liability in the Field of Nuclear Energy – referred as the "Paris Convention" which was adopted on the 29 July 1960 under the auspices of the European Nuclear Energy Agency (which later became the Nuclear Energy Agency – NEA) of the organisation for European Economic Co-operation (now the Organisation for Economic Co-operation for Development – OECD).



- (02) the Vienna Convention on Civil Liability for Nuclear Damage – referred to as the “Vienna Convention” was adopted on the 21 May 1963 under the auspices of the International Atomic Energy Agency (IAEA).
- (03) the UK is acutely aware/conscious by meetings, we are led to believe of the governing bodies in monitoring developments in relation to both Conventions to the harm that has resulted to its subjects and the environment from many nuclear incidents/accidents listed.
- (04) the Brussels Convention refers to the 1963 Brussels Convention as amended by the Additional Protocol of 28 January 1964 and by the Protocol of 16 November 1982. The Brussels Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgements in Civil and Commercial Matters.

***Special Damages***

- (1) General basis of claim  
Interest is claimed upon each and every item of consequential loss incurred to date from the date such loss occurred to be assessed at the full special account rate prescribed under the provisions of the Court Funds Rules 1987 as amended, (or under such other provisions as may after the date of this statement be made replacing or amending the rules in respect of interest upon damages) on the basis that the Claimants have lost earnings and has incurred expenses which the Applicants will not recover from the Defendants or otherwise until judgment in this matter is satisfied. In the circumstances the Applicants have been denied the use of the sums since the date such loss occurred, whereas the Defendants have enjoyed the use of the same throughout the period.
- (2) Details required by the Civil Procedure Rules 16.4(2):
  - (a) Interest is claimed under an enactment only, namely Section 35A of the Supreme Court Act 1981.
  - (b)

8.  
9.

1.

**The Defendant**

- 10. At all material times, the Defendant Royal Dutch/Shell UK Oil Group of Companies (RDS-UK), was the joint owner with British Petroleum UK Oil (BP) by and occupied as an operator with the UK Government (Minister of Works) by Title Deed an industrial site known as the Shell Depot Earley Rise, Wokingham Road, Earley, Reading, Berkshire (and was an agent under a nuclear licence by Formica Ltd No.RW/RAM/1178 under the Radioactive Substances Act 1960 in which the



Defendant Stored and used for the purposes of its operation quantities of nuclear substances in the production of nuclear products used for in association with petrochemical products.

11. The same constitutes a non natural user of land for something that is not naturally there it is some special use bringing with it increased danger, and was not the ordinary use of the land or such a use as is proper for the general benefit to the Property or the community but was the escape of Illegal Chemical Nuclear Waste (ICNV) causing personal injury to the Claimants.
12. The said nuclear substances is a dangerous thing and so alternatively, together with the fact of storage in such quantities, likely to cause personal injury and damage by 'ionising radiation' if it escaped. The RDS-UK Depot was underground and bore no visible signs as a depot adjacent to the Property, where it had carried on such business which the Claimant was informed after seeking information was suddenly closed and verily believed decommissioned under the Nuclear Installations Act 1965 in 1988 by agents who were 'not fit and proper persons' in the required task of decommissioning a nuclear facility.

1. The Defendant was a State Owned Industry and owned the Earley depot site joint and severally with the Minister of Public Building and Works, as affirmed within the Title Deeds (see attached **Appendix.1.**) which states – "*whilst as a partner with the Crown indemnified any breach of any said covenant with successors in title to the property by such a liability*" by Contract of RDS-UK including surrounding land and properties such as the Property of Mr & Mrs A, and to "Derivation of Title" ANNEX A – **Transfer of Functions** (Transport, Local Government and the Regions) Order 2002 as listed. (see attached **Appendix.2.**)

- (a) Commissioners of Work Acts 1852 and 1894. and
- (b) Order in Council made under the Minister of Works and Planning Act 1942 transferred powers of the Commissioners to the Minister of Works from August 1945. and
- (c) Statutory Instruments Act 1946 (S/) introduced regulations to acts of Parliament. and
- (d) By S/.1962 No. 1549 made under s.2 of the Ministers of the Crown (Transfer of Functions) Act, 1946, came into operation 24 July 1962, style and title of Minister of Works was changed to Minister of Public Building and Works. This S/ is entitled – "Minister of the Crown - The Minister of Works (change of Style and Title) Order 1962". and
- (e) By S/.1962 No. 1681, made under the Ministers of the Crown (Transfer of Functions) Act, 1946 and which came into operation on 12 November 1970, the functions etc of the Minister of Public Building and Works were transferred to the Secretary of State for the Environment. This S/ is entitled "Ministers of the Crown – The Secretary of State for the Environment Order 1970". and
- (f) By S/. 1997 No. 2971, made under s. 1 and 2 of the Ministers of the Crown Act 1975, (MCA 1975) and which came into operation on the 26 January 1998, the functions etc of the Secretary of State for the Environment were transferred to the Secretary of State for the Environment, Transport and Regions. This S/ – The Sec. of State for the Environment, Transport and the Regions Order 1997.



- (g) By *SI*. 2001 No. 2568, made under s. 1 and 2, MCA 1975, 13 August 2001, transfer of functions was to – the Sec., of State for Transport, Local Gov., and the Regions and for the Environment, Food and Rural Affairs Order 2001.
- (h) By *SI*. 2002 No. 2626, made under s. 1 and 2, MCA 1975, 25 November 2002, transfer of functions was to the First Secretary of State. This *SI* is entitled MCA transfer of functions (Transport, Local Government and the Regions) Order 2002. NB some functions were transferred from Sec. State for Transport, Local Government and the Regions to the Sec. of State for in association with Sec. of State for Transport.

2. (See attached **Appendix 3**) is a map (Map 1) of the location of the Claimants and the Defendants properties.

3. On or about April 1992 after a flooding in the Wokingham, Reading area Mr A discovered in attempting to release the excess water from the Property a surface water man - hole/interceptor to the rear of his garden, adjacent to the RDS-UK Depot. Upon investigation Mr A found a hidden unlawfully connected pipe discharging a black sediment later found upon reports by respective investigatory specialists 1997 to be INCW discharging onto his property and upon further extensive investigation via a pipeline discharging into the River Lodden.

4. Further and alternatively of the above the Defendant contaminated the said Property and the River Lodden being a 'health hazard' causing personal injury to Mr A and his family, the general public and damage to the environment of the surrounding area. The surface water drain also discharged into the local sewage works by a further man made interceptor in a nearby facility discharging the man made nuclear substances that would/could contaminate the drinking water supply to the whole community and beyond.

#### Wrongful acts /omissions of the Defendant

5. Before and after 1988 the Defendant during 1976, 1983,1995 and 1999 had wrongfully caused to arise from its business and premises the discharging of a man made substance of ICNW and sediment all of which to the Property, throughout the surface water drains, thereby causing a nuisance at law destroying causing contamination of the Property and the community to the River Lodden. The Claimants rely on investigations carried out by;

- a) **First Report** - a report by the 'Assistant Divisional Manager of a Government Agency', reported a 'health hazard' of serious pollution of the River Lodden dated 25<sup>th</sup> March 1976 to investigate reported leakages as we know by knowledge to have been ICNW releasing 'ionising radiation'. The pollution was reported to an agency A.D.M. Scientific Services quoting "for discharge as grossly polluting, unfit for discharge to a watercourse". (see attached **Appendix.4**).
- b) **Second Report** – a letter sent by the 'Pollution Controller West' dated 17<sup>th</sup> May 1983 for discharges to River Lodden quoted being "grossly polluted". (See attached **Appendix. 5**).
- c) **Third Report** – a letter sent to Mr and Mrs A dated 19<sup>th</sup> October 1995 from 'Thames Water Utilities the Managing Director Mr W. J. Alexander' regarding contamination within the drain by RDS-UK of silt in the pipe. (see attached **Appendix.6**).



- d) **Fourth Report** – owing to respective damage to the foul sewage system being inadequate the Property and other local properties were experiencing flooding via their manholes; whereby, Wokingham District Council had to upgrade the foul sewage system to the front of Wokingham Road to all the properties. After completion of works Mr and Mrs A were concerned about subsidence that may occur and made a claim to the Mortgagees insurers 'Eagle Star Insurance underwritten' by 'Zurich Insurance' (being in conflict as insurers to Wokingham District Council) sold its interest to Royal Insurance. Royal Insurance commissioned environmentalist Dr D.VanSteenis who in turn commissioned toxicologist Dr Karta Badsha who confirmed by extensive investigations of the property issued a report of his findings dated ///////////////that there was a 'continuous leakage' of ICNW escaping from the decommissioned RDS-UK nuclear facility to the surface water drain and the Property. (See attached **Appendix. 7**)
- e) **Fifth incident** - a separate in depth investigatory report dated **September 2003** was commissioned by BBC Radio 4 'documents programme' obtaining the services of **Dr C. Busby Ph.D, (Scientific Secretary of the European Committee on Radiation Risks and CERRIE – Committee Examining Radiation Risks)** made further affirmations that such leakage of nuclear chemical waste had escaped onto the Property by such personal in depth investigation using appropriate protective clothing and breathing apparatus climbed into the surface water drain. (See attached **Appendix. 8**)
- f) **Seventh Report** – a letter issued to all Borough Councils (See attached **Appendix. 9**)
- g) **Eighth Report** – 'Ground Force' an independent reporting assessor of environmental instances issuing reports needed to assess a requirement for persons purchasing properties in respective areas confirmed surface contamination to an area around the Property and Earley. (See attached **Appendix. 10**)
- h) Upon the findings of the above the decommissioning agents under the Nuclear Installations Act 1965 of the RDS-UK Oil Depot Site on or about 1886 to 1988 were not **"fit and proper persons"** to carry out intensive in depth decommissioning of a nuclear site thereby causing the adverse effects complained of by the Claimants are set out in detail below. (See attached **Appendix. 11**)

6. The adverse defects letters and reports described at para. 16. arise further because the Defendants had operated its business at the Shell Depot negligently and the respective agencies knowing that the Defendants as agents held a Nuclear License under the Radioactive Substances 1960 and decommissioned the site under the Nuclear Installations Act 1965. The Claimants will rely on the Reports (from paragraph 16) and further, and on the issue of and breaches of Health and Safety at Work Act 1974 by the Defendant whereby respective abatement and/or enforcement notices should have been served by Health and Safety Officers and/or respective prosecutions and convictions for breaches of the latter. Further and/or the Defendants undertakings were transferred by the Atomic Energy Act 1971 and the Nuclear Materials (Offences) Act 1983 - Translates into UK law commitments in the convention on physical protection of nuclear material to create offences for acts causing death, injury, damage etc involving nuclear material. (See attached **Appendix.12**)

The adverse effects of the Defendant's acts/omissions on the Claimants

7. The effect of the Defendant's operations on the Property have been compounded by the approval of the Deputy Prime Ministers office as Secretary of State for Local Government



and Wokingham District Council contrary to its own reservations and findings para.16 (a to f) and planning applications (see attached **Appendix. 11**) to permit the building of 37 homes with family's on top of the RDS-UK Depot knowing that the site was a nuclear site discharging ICNW at that time.

8. In 1997 an overflow of foul sewage onto the Property caused further contamination by way ICNW discovered by Mr A seeping from the site to the Property via the surface water drains by an interceptor on the Property and further into the River Lodden.

9. The Defendant was the owner and operator of an industrial site known as the Shell Depot, Wokingham Road, being adjacent to the Claimant's home which was found to be a nuclear facility storing and using uranium material that could/would cause harm to employees contrary to and surrounding residents. The same constitutes a non-natural user of land. The said nuclear material is a dangerous thing and so, alternatively together with the fact of storage in such quantities, likely to cause damage if it escaped.

10. Attached at Appendix. 12, is a map of the location of the Claimant's and the Defendant's properties. The boundary of the Defendant's property lies not less than 200m from the boundary of the Claimant's property.

11. The Claimants on purchase of the Property in 1988 were not made aware by both parties solicitors that the said depot was an active nuclear facility; there was no exterior visible indication no planning details or registered details with the land registry.

12. In 1988 the Depot was closed after a serious underground fire on 06 August 1986 and later planning approval given in 1999 for a housing development of 37 homes against the concerns of Council members on the Planning committee to be built on top of the nuclear facility by the Persimmon Homes after suspect decontaminating of the site causing a health hazard to the surrounding residents and the community see para. 16.

13. The personal contact of nuclear contamination on/in the family garden by Mr A and his son Mr E and daughter Ms D their pet animals with the waste caused them to suffer agonising pains and bleeding from their bodies. The animals died after a short time of suffering causing distress to the family .

14. Doctors in the UK were not willing to diagnose the symptoms or offer any treatment as to liability. It was discovered by extensive intensive detoxification by doctors in Germany that temporary relief was obtained. Tissue samples revealed the presence of petrochemical and other toxins including Uranium and Plutonium. Upon further treatment required for ongoing treatments Mr A and his son Mr E upon seeking further treatment in the UK have refused to carry out any treatment.

15. The discovery of "bona fide" evidence presented para. 16 affirms direct liability of the Defendant and the Crown.

16. Further and alternatively it is averred that the agents of the Crown were negligent in their Statutory Duty contrary to "**directly effective**" "European Legislation" under the "Euratom" Treaty, the "Convention of Nuclear Safety" and the European Directives (*Directive 84/467/Euratom (3 September 1984) amended Directive 80/836/Euratom as regards to the*



*basic safety standards for the health protection of the general public and workers against the dangers of ionizing radiation and was repealed by Directive 96/29).*

### **PARTICULARS OF NEGLIGENCE**

1. For any examination of a particular area of negligence remains the dictum of Lord Atkin in *Donoghue v Stevenson*. [1932] AC 562 at 580

*"You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour. Who then is my neighbour? The answer seems to be – persons who are so closely and directly affected by my act that I ought reasonably to have them in contemplation as being so affected when I am directing my mind to the acts or omissions which are called into question."*

Further

- (a) Breached the regulations (statutory obligation) to inspect and monitor radiation levels.
- (b) Breached the regulations (statutory obligation) to enforce and regulate safety levels causing a fire to continue uncontrollable for 4 weeks.
- (c) Breached the Articles of the "Convention of Nuclear Safety".
- (d) Breached the Planning and Local bye-laws by permitting the release of illegal nuclear chemical waste causing the release of 'ionising radiation' into the Property of the Claimants and into the water system endangering the community.

### **PARTICULARS OF PERSONAL INJURY**

**Mr and Mrs A was affected by the decisions regarding the site adjacent to 337 Wokingham Road, was to what the evidence affirms was a "Nuclear Reactor" built underground by the Crown prior to 1960 and was a joint operating partner with Shell UK Ltd in 1976. A serious fire in 1986 caused the closure in 1986 with consequences to the immediate community causing – "injury and damage arising out of or resulting from ionising radiation, or a combination of those and any toxic explosion or other hazardous properties, of that nuclear matter". Mr and Mrs A Claimant purchased the property in 1988 and by a flooding of the Earley area in 1992 discovered when trying to discharge the flood water from his property that works carried out by the Ministry of Works and Shell UK Ltd breached local planning safety regulations by unlawful additions to the surface water drains allowing the discharge of Illegal Chemical Nuclear Waste.**

**Liability under;**

**the Nuclear Installations (Licensing and Insurance) Act 1959 by  
A BILL INTITULED A.D. 1965, (Duty of operator of nuclear installations).**

**And the White paper on Nuclear legacy BNFL, writes off historical liabilities Department  
of Trade and Industry 4<sup>th</sup> July 2002.**

**Mr A and his immediate family were severely affected by the failure of the  
Defendant and the Crown to protect the Public from harmful hazardous  
substances under the Euratom Treaty 1972 - legislation in force-and the  
Radioactive Substances Act 1993: Implementing Revised Basic Safety**



**Standards Directive Euratom 96/29 substantiated within the following grounds:**

(responsibilities – Public Building and Works Ministry of – was dissolved and its functions transferred to Secretary of State for Environment by S.I. 1970 No.1681).

- 4.3 Jointly and severally the Health and Safety Executive and Wokingham District Council breached the required safety regulations by consenting to planning amendments and fraudulently failed to disclose evidence of the amendments that affected the Claimants and the community of Wokingham Earley. Legislation cited together as the **Prevention of Corruption Acts 1889 to 1916 defines**. “public body” is any body having public or statutory duties to perform for the benefit of the public<sup>1</sup> And includes under the Prevention of Corruption Act 1916, s. 2. “local and public authorities of all descriptions”.

**Under the Environmental and Safety Standards Act 1956 it is held that this rendered the Crown liable in their contracts; and some ministers or departments were by statute made able to ‘sue and be sued’, which was held to render them liable in contract.**

17. On or about 1986 there was an explosion **at the rear of the** Defendant’s property (not recorded) as a result

18. In the year 2001 a claim was made by the mortgagees Scotlife Home Loans (NO.2) Limited (SHL) a subsidiary of Bradford And Bingley Bank PLC (Bank) against Mr and Mrs A for failing to pay the mortgage on the property as the Property was condemned by the Insurers and the environmental reports but the issues have been raised for determination to the Court of Appeal.

19. The discovery of bona-fide

1. Doctors in the UK were unable to diagnose the symptoms or offer any treatment. It was discovered by extensive intensive detoxification by doctors in Germany that temporary relief was obtained. Tissue samples revealed the presence of petrochemical and other toxins including Uranium and Plutonium. Upon further treatment required for ongoing treatments RJF’s doctors in the UK have bluntly refused to carry out any treatment.
2. The discovery of “bona fide” evidence compromises the decision of District Judge Harvey to Action No. RG 003344 and the further actions in this Reading County Court and Registry. Further decisions of His Honour Judge Elly and District Judge that the Part 20/ Defendants were negligent in the causing of personal injury to RJF, his son **Christopher , his Daughter Anne in causing the death of his grandson, the death of his pet dog, and the splitting up of his marriage with his wife Susan of 30 years .**
3. The First, Second Third and Fourth Part 20/Defendants were directly responsible for the ere in partnership with the respective Public Authorities at the Shell Depot, and equally responsible for the personal injury and damage to RJF and his family as a whole.

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<sup>1</sup> *DPP v. Holly* [1977] 1 All ER 316, [1977] 1 WLR 178, HL



4. Further and alternatively it is averred that the First, Second, Third and Fourth Part 20/Defendants were negligent in their Statutory Duty contrary to *"directly effective"* "European Legislation" under the "Euratom" Treaty, the "Convention of Nuclear Safety" and the European Directives (*Directive 84/467/Euratom (3 September 1984) amended Directive 80/836/Euratom as regards to the basic safety standards for the health protection of the general public and workers against the dangers of ionizing radiation and was repealed by Directive 96/29*).

#### **PARTICULARS OF NEGLIGENCE**

- (e) Breached the regulations (statutory obligation) to inspect and monitor radiation levels.
- (f) Breached the regulations (statutory obligation) to enforce and regulate safety levels causing a fire to continue uncontrollable for 4 weeks.
- (g) Breached the Articles of the "Convention of Nuclear Safety".
- (h) Breached the Planning and Local bye-laws by permitting the release of toxic and nuclear waste into the water system endangering the community.

#### **PARTICULARS OF PERSONAL INJURY**

I must refer the Court to the matters presented to this Court regarding these proceedings. The First Defendant/Part 20 Claimant requires the High Court or Court of Appeal HRA s.4(5)(e) to issue a 'Declaration of Incompatibility' joining a "Ministers" the Secretary of State for the Environment and Foods and Rural Affairs (DEFRA) and the Secretary of State for Trade and Industry (DTI) in this case under CPR 19 (Parties and Group Litigation) and I make this statement in support of the Application pursuant to CPR Part 23, PD 2.1 and to CPR 23.10 and CPR Part 13 herein to 'set-aside' or vary the Order of this Court of the 23 December 2003 by the Honourable District Judge Burgess as the Court I believe, acted in coercion with the Claimant unlawfully to prejudice these proceedings. I further require the Part 20 /Second Defendants to be added to these possession proceedings as Part 20 Defendants for acting unlawfully in breach of Environmental and Health and Safety Legislation. The matters set out below are within my knowledge, except where I indicate to the contrary. There is now shown to me exhibit marked 'RJF' pages , a copy of the Affidavit and Application dated July 2004.

The decision of the 23 December 2003 was by an Application of the Claimant transferred without notice or service contrary to CPR Part.6. The Claimant and the Crown being fully aware of the "radiation contamination" of the property in these possession proceedings known as 337 Wokingham Road, Earley, Reading, by correspondence with the 'joint and severally' Part 20/Second Defendants – DEFRA the DTI and Wokingham District Council.

The First Defendant /Part 20 Claimant was affected by the decisions regarding the site adjacent to 337 Wokingham Road, was to what I am best informed was a "Nuclear Reactor" built underground by the Crown prior to 1960 and became a joint operating partner with Shell UK Ltd in 1976. A serious fire in 1986 caused the



**closure in 1986 with consequences to the immediate community causing – “injury and damage arising out of or resulting from the radioactive properties, or a combination of those and any toxic explosion or other hazardous properties, of that nuclear matter”. The First Defendant/Part 20 Claimant purchased the property in 1988 and by a flooding of the Earley area in 1992 discovered when trying to discharge the flood water from his property that works carried out by the Crown and Shell UK Ltd breached local planning safety regulations by the discharge of contaminated toxic substances to the surface water drain.**

**Liability under;**

**the Nuclear Installations (Licensing and Insurance) Act 1959 by**

**A BILL INTITULED A.D. 1965, (Duty of operator of nuclear installations).**

**And the White paper on Nuclear legacy BNFL, writes off historical liabilities Department of Trade and Industry 4<sup>th</sup> July 2002.**

**The First Defendant/Part 20 Claimant and his immediate family were severely affected by the failure of the Part 20/Second Defendants to protect the Public as European Citizens from harmful contamination under the Euratom Treaty 1972-legislation in force-and the Radioactive Substances Act 1993: Implementing Revised Basic Safety Standards Directive Euratom 96/29 as declared in the ‘Statement of Case’ and the ‘Particulars of Claim’ substantiated by independent professional witnesses herein on the following grounds:**

- 4.1 DEFRA have seen fit by the Official Solicitors Office and/or a Treasury Solicitor to “intimidate” professional witnesses of the First Defendant/Part 20 Claimant by threats of action of ‘Defamation’ in violation of the Convention of the Witnesses and Mr. Raymond James Fox and his family who have ‘bona fide’ claims.**
- 4.2 A ‘Statement of Case’ of the First Defendant/Part 20 Claimant his son, his daughter, his wife and their animals (even animals have rights) herein: to be submitted with the required exhibits to the Court would determine that the Part 20/ Second Defendants (responsibilities – Public Building and Works Ministry of - was dissolved and its functions transferred to Secretary of State for Environment by S.I. 1970 No.1681).**
- 4.3 Jointly and severally the DEFRA the DTI & Wokingham District Council breached the required safety regulations by consenting to planning amendments and fraudulently failed to disclose evidence of the amendments that affected the First Defendant Part 20/Claimant, his family and the community of Earley. Legislation cited together as the **Prevention of Corruption Acts 1889 to 1916** defines. “public body” is any body having public or statutory duties to perform for the benefit of the public<sup>1</sup> And includes under the Prevention of Corruption Act 1916, s. 2. “local and public authorities of all descriptions”.  
**Under the Environmental and Safety Standards Act 1956 it is held that this rendered DEFRA and the DTI liable in their contracts; and some ministers or departments were by statute made able to ‘sue and be sued’, which was held to render them liable in contract.****

**The First Defendant/Part 20 Claimant requires the Court to follow the required procedures of the CPR Rules and Protocols and for the jurisdiction to determine**

<sup>1</sup> *DPP v. Holly* [1977] 1 All ER 316, [1977] 1 WLR 178, HL



**a Claim under the HRA 1998 section 4 – Declaration of incompatibility – it may make a declaration of that incompatibility:  
s. 4(5) In this section “court” means –  
(e) in England the High Court or the Court of Appeal.**

**Pleadings:**

- 5.1 Pleading in Relation to Claim under Section 7(1) of the Human Rights Act 1998 which has acted or is to act contrary to section 6(1)**
- 5.2. This is a claim pursuant to section 7(1)(a) & (b) of the Human Rights Act 1998 (HRA). for (i) respect for human dignity;  
(ii) a commitment to legality; and  
(iii) a special regard for civil liberties  
and pursuant to section 7(7) of the HRA the First Defendant/Part 20 Claimant is a “Victim” within Article 34 of the Convention if such proceedings were brought in the ECHR in respect of that act.
6. The First Defendant/Part 20 Claimant refers the Court to Section 2 - of the HRA 1998 for Interpretation of Convention rights, and to ‘take into account’ any judgment, decision, declaration or advisory opinion of the ECHR<sup>2</sup> and to Section 3 - of the HRA 1998 to interpretation of legislation by the reading down of express language in a statute but also the implication of provisions.<sup>3</sup>
7. The Court and the Part 20/Second Defendants are a “public authority” within section 6 of the HRA in that by section 6(3)(b) of the HRA, “public authority” includes a court or tribunal and, as with public authorities properly so called, the Act applies to anything done by a court or tribunal.  
The duty to act compatibly with Convention rights will apply not only to judicial acts, but also to listing and other administrative functions of the courts, such as dealings with court funds, issuing of proceedings and applications, correspondence, and the employment of court staff. The duty will apply in any proceedings, including those between private parties (Hansard, HL Vol. 583, Nov. 24, 1997, col.783 (Lord Chancellor)). The obligations arising from the judicial acts of courts and tribunals can be classified as those which are addressed directly to the courts and those which arise indirectly.
8. The First Defendant/Part 20 Claimant is a ‘person aggrieved’ by an injustice done to him by an act or omission on the part of a public authority which is incompatible with his Convention rights under Rights Brought Home: the Human Rights Bill – October 1997- CM 3782 where “[t]he courts will be required to interpret legislation so as to uphold the Convention rights unless the legislation itself is so clearly incompatible with the Convention that it is impossible to do so”.  
(a) the First Defendant/Part 20 Claimant is entitled to enjoy the Convention right as follows:

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<sup>2</sup> *Aston Cantlow and Wilmcote with Billesley Parochial Church Council v Wallbank*, [2001] 3 WLR 1323.

<sup>3</sup> *R v A (No.2)* [2001] 2 WLR 1546.



- (i) an "enforceable Right as guaranteed by the Human Rights Act 1998 and" "a Community right" Section 2(1) of the European Communities Act 1972, and to the full application of the  
**Council of Europe, European Treaties ETS No. 5 - Convention for the Protection of Human Rights and Fundamental Freedoms (4.II.1950) which includes:**

**Article 1** Obligation to respect human rights, and

**Article 13** Right to an effective remedy

- (ii) **Article 3** Prohibition of Torture

- (iii) **Article 6** Right to a Fair Trial

Art. 6(1) In the determination of his civil rights and obligations, . . . or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice. And read in conjunction with the anti-discrimination provisions of **Article 14**, guarantees equality of access to the appellate stages<sup>4</sup>.

- (b) The Claimant and Second/Part 20 Defendants have failed to respect the First Defendant/Part 20 Claimants right to respect for his family and private life in that

- (i) **Article 8** Right to respect for private and Family Life and to

- (ii) **Article 1 of the First Protocol** (qualified right to property) which provides; Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of private international law. The preceding provision shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest and to secure the payment of taxes or other contributions or penalties.

- (c) A failure of the Court herein to refer would be to violate –

**Article 17** – Prohibition of abuse of rights – covers essentially those rights, which if invoked, will facilitate the attempt to derive there from a right to engage personally in activities aimed at the destruction of any form of the rights and freedoms set forth in the Convention.<sup>5</sup>

9. **ENVIROMENTAL POLLUTION** - Article 8 - In some cases, the state may be obliged to protect people from polluting activities whether caused by public authorities or by private bodies.<sup>6</sup> In others, Article 8 creates a positive obligation to make available essential information that would enable individuals to assess the risks they and their families might run as a result of particular activities in their locality.<sup>7</sup> The right to respect

<sup>4</sup> *Robins v. United Kingdom*, Sept. 23, 1997, RJD-1997-V, No.49; 26 E.H.R.R. 527.

<sup>5</sup> App. Nos 8348 & 8406/78 *Glimmerveen & Hagenbeek v. Netherlands* (1979) 4 E.H.R.R. 260 at 267, para 16 of the admissibility decision.

<sup>6</sup> *Lopez-Ostra v. Spain* (1995) 20 E.H.R.R. 277; *Khatun & others v. United Kingdom* (1998) 26 E.H.R.R. CD 212 (serious dust contamination caused by construction of Limehouse Link Road-legitimate aim of urban regeneration; fair balance achieved).

<sup>7</sup> *Guerra & others v. Italy* (1998) 26 E.H.R.R. 357 (information for residents living in the vicinity of a high risk factory ); see also *McGinley & Egan v. United Kingdom* (1999) 27 E.H.R.R. 1 (information for individuals exposed to atmospheric tests of nuclear weapons).



for private and family life may also afford procedural guarantees in this area, so that those potentially affected by polluting activities have an opportunity to object to their authorisation.<sup>8</sup>

1. E.C.law provides an important method whereby the terms of the ECHR and the rights it confers may be invoked before a national court where the issue falls within the scope of E.C.law. This is because, within its scope, Community law takes precedence over inconsistent national law,<sup>9</sup> and it is well established that respect for fundamental rights including the Convention rights "forms an integral part of the general principles of Community law protected by the Court of Justice".<sup>10</sup> This principle is now given legislative force by Article 6(2) of the Treaty of the European Union, which provides that "the Union shall respect fundamental rights as guaranteed by the European Convention for the Protection of Fundamental Rights and Freedoms. . . and as they result from the constitutional traditions common to the Member States as general principles of Community law".<sup>11</sup>
12. The Claim is founded upon the First Defendants/Part 20 Claimants upon a finding of unlawfulness by the Second Part 20/Defendants and the Court herein. I verily believe, there is a requirement upon the decision of the High Court and the Court of Appeal of the Royal Courts and as such requires a decision for a 'Declaration of incompatibility' under Section 4(5)(e) of the HRA 1998 for a 'failure to abide by legislation in force and the spirit of the law'.
13. The First Defendant Part 20/Claimant claims exemplary and pecuniary damages within a Claim Form herein and by a Particulars of Claim and an Application Notice to be served on all parties to these proceedings for; **There is now shown to me exhibit marked 'RJF' pages**
  - (i) a damage to the whole family by
  - (ii) the injury and damage to my son
  - (iii) the injury and damage to my daughters
  - (iv) the loss and suffering of my first grandson
  - (v) the injury and damage to myself
  - (vi) the loss of the family pet animals
  - (vii) the damage to our home

<sup>8</sup> *LM & R. v. Switzerland* 22 E.H.R.R. CD 130 (holding in transit of nuclear waste at a railway station near the applicant's homes); see also *Zander v. Sweden* (1994) 18 E.H.R.R. 175 (right of landowner to challenge authorisation to dump waste on adjacent tip, with risk to drinking water- Article 6); *Greenpeace Schweiz & others v. Switzerland* (1997) 23 E.H.R.R. CD 116 (complaint of lack of access to court for neighbours to challenge award of licences to run a nuclear power station affected neighbours' health and related to their use of property either as proprietor or tenant and therefore a civil right under Article 6).

<sup>9</sup> The European Communities Act 1972, s. 2. Provides legal effect to this within the U.K. For judicial acceptance of this, see *R v. Secretary of State for Transport, ex parte Factortame Ltd* [1990] 2 A.C. 85; *R v. Secretary of State for Employment, ex parte EOC* [1995] 1 A.C. 1; *R v. Secretary of State for the Environment, ex parte Seymour-Smith* [1995] I.R.L.R. 464.

<sup>10</sup> Case 11/70 *International Handelsgesellschaft v. Einfuhr-und Vorratsstelle Getreide* [1970] E.C.R. 1125, 1134.. See Joint Declaration of Community Institutions of April 5, 1977 O.J. 1977, C-103/1.

<sup>11</sup> The Treaty of Amsterdam made this provision justiciable by amending TEU Article 46 to bring Article 6(2) within the ECJ's jurisdiction.