



# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART V

#### AMENDMENT OF THE RADIOACTIVE SUBSTANCES ACT 1960

#### **100 Appointment of inspectors and chief inspector**

- (1) After section 11 of the Radioactive Substances Act 1960 (referred to in this Part as “the 1960 Act”) there shall be inserted the following section—

#### **“11A Appointment of inspectors and chief inspector**

- (1) The Secretary of State may appoint as inspectors, to assist him in the execution of this Act, such number of persons appearing to him to be qualified for the purpose as he may from time to time consider necessary or expedient.
  - (2) For the purposes of this Act the Secretary of State shall appoint one of those inspectors to be chief inspector.
  - (3) A person may be appointed both as an inspector or as chief inspector under the preceding subsections of this section and as an inspector or as chief inspector under section 16 of the Environmental Protection Act 1990.
  - (4) The chief inspector may, to any extent, delegate his functions under this Act to any other inspector appointed under this section.
  - (5) The Secretary of State may make to or in respect of any person appointed under this section such payments, whether by way of remuneration, allowances or otherwise as he may, with the approval of the Treasury, determine.”
- (2) In section 1, 2(3) and (4), 3, 5, 8(1) to (3) and 9 of the 1960 Act (which concern functions to be exercisable by the chief inspector) for the word “Minister” wherever it appears (otherwise than when referring to the Minister of Agriculture, Fisheries and Food) there shall be substituted the words “chief inspector”.

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*Status: This is the original version (as it was originally enacted).*

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- (3) In section 2(6), 4(2), 6(5), 10, 12(2) and (5), 13(3), 15 and 18(6) of the 1960 Act (which concern functions which will continue to be exercisable by the Secretary of State) for the word “Minister” wherever it appears there shall be substituted the words “Secretary of State”.

## **101 Fees and charges under 1960 Act**

After section 15 of the 1960 Act there shall be inserted the following section—

### **“15A Fees and charges**

- (1) The Secretary of State may, with the approval of the Treasury, make and from time to time revise, a scheme prescribing—
- (a) fees payable in respect of applications for registration under section one or section three of this Act or an authorisation under section six or section seven of this Act;
  - (b) fees payable in respect of the variation of the registration under section five of this Act or, as the case may be, in respect of the variation of the authorisation under section eight of this Act;
  - (c) charges payable by a person to whom such a registration relates or to whom such an authorisation has been granted in respect of the subsistence of that registration or authorisation;
- and it shall be a condition of any such registration or authorisation that any applicable prescribed charge is paid in accordance with that scheme.
- (2) The power to make and revise a scheme under this section, so far as it relates to, or to applications for, authorisations under section six of this Act which may only be granted by the chief inspector and the Minister of Agriculture, Fisheries and Food shall not be exercisable without the consent of the Minister of Agriculture, Fisheries and Food.
- (3) A scheme under this section may, in particular—
- (a) provide for different fees or charges to be payable in different cases or circumstances; and
  - (b) provide for the times at which and the manner in which payments are to be made;
- and a scheme may make such incidental, supplementary and transitional provision as appears to the Secretary of State to be appropriate and different schemes may be made and revised for different areas.
- (4) The Secretary of State shall so frame a scheme under this section as to secure, so far as practicable, that the amounts payable under it are sufficient, taking one financial year with another, to cover the expenditure of the chief inspector and the Minister of Agriculture, Fisheries and Food in exercising or performing their functions under this Act in relation to registrations and authorisations.
- (5) The Secretary of State shall, on making or revising a scheme under this section, lay a copy of the scheme or of the revisions before each House of Parliament.”

## **102 Enforcement powers of chief inspector**

After the section 11A of the 1960 Act inserted by section 100 above there shall be inserted the following sections—

### **“11B Enforcement notices**

- (1) Subject to the provisions of this section, if the chief inspector is of the opinion that a person to whom a registration under section one or section three of this Act relates or to whom an authorisation was granted under section six or section seven of this Act—
  - (a) is failing to comply with any limitation or condition subject to which the registration or authorisation has effect, or
  - (b) is likely to fail to comply with any such limitation or condition,he may serve a notice under this section on that person.
- (2) A notice under this section shall—
  - (a) state that the chief inspector is of the said opinion;
  - (b) specify the matters constituting the failure to comply with the limitations or conditions in question or the matters making it likely that such a failure will occur, as the case may be; and
  - (c) specify the steps that must be taken to remedy those matters and the period within which those steps must be taken.
- (3) Where a notice is served under this section the chief inspector shall—
  - (a) in the case of a registration, if a certificate relating to the registration was sent to a local authority under subsection (6) of section one or subsection (5) of section three of this Act, or
  - (b) in the case of an authorisation, if a copy of the authorisation was sent to a public or local authority under subsection (5)(b) of section eight of this Act,send a copy of the notice to that authority.
- (4) In the case of an authorisation granted by the chief inspector and the Minister of Agriculture, Fisheries and Food in accordance with subsection (1) of section eight of this Act, the power to issue notices under this section shall be exercisable by the chief inspector or by the Minister of Agriculture, Fisheries and Food as if references to the chief inspector were references to the chief inspector or that Minister.

### **11C Prohibition notices**

- (1) Subject to the provisions of this section, if the chief inspector is of the opinion, as respects the keeping or use of radioactive material or of mobile radioactive apparatus, or the disposal or accumulation of radioactive waste, by a person in pursuance of a registration or authorisation under this Act, that the continuing to carry on that activity (or the continuing to do so in a particular manner) involves an imminent risk of pollution of the environment or of harm to human health he may serve a notice under this section on that person.

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*Status: This is the original version (as it was originally enacted).*

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- (2) A notice under this section may be served whether or not the manner of carrying on the activity in question complies with any limitations or conditions to which the registration or authorisation in question is subject.
- (3) A notice under this section shall—
  - (a) state the chief inspector’s opinion;
  - (b) specify the matters giving rise to the risk involved in the activity, the steps that must be taken to remove the risk and the period within which those steps must be taken; and
  - (c) direct that the registration or authorisation shall, until the notice is withdrawn, wholly or to the extent specified in the notice cease to have effect.
- (4) Where the registration or authorisation is not wholly suspended by the direction given under the preceding subsection, the direction may specify limitations or conditions to which the registration or authorisation is to be subject until the notice is withdrawn.
- (5) Where a notice is served under this section the chief inspector shall—
  - (a) in the case of a registration, if a certificate relating to the registration was sent to a local authority under subsection (6) of section one or subsection (5) of section three of this Act, or
  - (b) in the case of an authorisation, if a copy of the authorisation was sent to a public or local authority under subsection (5)(b) of section eight of this Act,
 send a copy of the notice to that authority.
- (6) The chief inspector shall, by notice to the recipient, withdraw a notice under this section when he is satisfied that the risk specified in it has been removed; and on so doing the chief inspector shall send a copy of the withdrawal notice to any public or local authority to whom a copy of the notice under this section was sent.
- (7) In the case of an authorisation granted by the chief inspector and the Minister of Agriculture, Fisheries and Food in accordance with subsection (1) of section eight of this Act, the power to issue and withdraw notices under this section shall be exercisable by the chief inspector or by the Minister of Agriculture, Fisheries and Food as if references to the chief inspector were references to the chief inspector or that Minister.”

### **103 Withdrawal of UKAEA exemptions from requirements of 1960 Act**

Sections 2(1), 4(1) and 7(3)(a) of the 1960 Act (which exempt the United Kingdom Atomic Energy Authority from certain requirements of that Act relating to registrations and authorisations) shall cease to have effect.

### **104 Application to Crown of 1960 Act**

For section 14 of the 1960 Act there shall be substituted the following section—

#### **“14 Application of Act to Crown**

- (1) Subject to the provisions of this section, the provisions of this Act shall bind the Crown.
- (2) The last preceding subsection does not apply in relation to premises—
  - (a) occupied on behalf of the Crown for naval, military or air force purposes or for the purposes of the department of the Secretary of State having responsibility for defence; or
  - (b) occupied by or for the purposes of a visiting force.
- (3) No contravention by the Crown of any provision of this Act shall make the Crown criminally liable; but the High Court or, in Scotland, the Court of Session may, on the application of any authority charged with enforcing that provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (4) Notwithstanding anything in subsection (3) of this section, the provisions of this Act shall apply to persons in the public service of the Crown as they apply to other persons.
- (5) If the Secretary of State certifies that it appears to him requisite or expedient in the interests of national security that the powers of entry conferred by section twelve of this Act should not be exercisable in relation to any Crown premises specified in the certificate those powers shall not be exercisable in relation to those premises, and in this subsection “Crown premises” means premises held or used by or on behalf of the Crown.
- (6) Where, in the case of any such premises as are mentioned in subsection (2) of this section—
  - (a) arrangements are made whereby radioactive waste is not to be disposed of from those premises except with the approval of the chief inspector, and
  - (b) in pursuance of those arrangements the chief inspector proposes to approve, or approves, the removal of radioactive waste from those premises to a place provided by a local authority as a place for the deposit of refuse,the provisions of subsections (3) to (5) of section nine of this Act shall apply as if the proposal to approve the removal of the waste were an application for an authorisation under section six of this Act to remove it, or (as the case may be) the approval were such an authorisation.
- (7) Nothing in this section shall be taken as in any way affecting Her Majesty in her private capacity; and this subsection shall be construed as if section 38(3) of the Crown Proceedings Act 1947 (interpretation of references in that Act to Her Majesty in her private capacity) were contained in this Act.
- (8) In subsection (2) of this section “visiting force” means any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of any of the provisions of the Visiting Forces Act 1952.”

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## **105 Consequential and further amendments of 1960 Act**

The 1960 Act shall be amended in accordance with the provisions of Schedule 5 to this Act (which contains amendments consequential on sections 100 to 103 above and further miscellaneous amendments, including amendments relating to the application of the 1960 Act in Scotland and in Northern Ireland).