

Status: Point in time view as at 01/02/1991.

Changes to legislation: Environmental Protection Act 1990, Cross Heading: Appeals against certain other decisions of the chief inspector is up to date with all changes known to be in force on or before 29 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 5

FURTHER AMENDMENTS OF THE RADIOACTIVE SUBSTANCES ACT 1960

Modifications etc. (not altering text)

C1 Sch. 5 amended (transfer of functions) by S.I. 1990/2598, art. 2

PART I

MISCELLANEOUS AND CONSEQUENTIAL AMENDMENTS

Appeals against certain other decisions of the chief inspector

10 After the section 11C of the 1960 Act inserted by section 102 of this Act there shall be inserted the following sections—

“11D Registrations, authorisations and notices: appeals from decisions of chief inspector.

- (1) Where the chief inspector—
 - (a) refuses an application for registration under section one or section three of this Act, or refuses an application for an authorisation under section six or section seven of this Act;
 - (b) attaches any limitations or conditions to such a registration or to such an authorisation, or
 - (c) varies such a registration or such an authorisation, otherwise than by revoking a limitation or condition subject to which it has effect, or
 - (d) cancels such a registration or revokes such an authorisation,the person directly concerned may, subject to subsection (3) below, appeal to the Secretary of State.
- (2) A person on whom a notice under section 11B or section 11C of this Act is served may, subject to subsections (3) and (4) below, appeal against the notice to the Secretary of State.
- (3) No appeal shall lie—
 - (a) under subsection (1) above in relation to authorisations which are subject to subsection (1) of section eight of this Act;
 - (b) under subsection (1) or (2) above in respect of any decision taken by the chief inspector in pursuance of a direction of the Secretary of State under section 12A or 12B of this Act.

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- (4) No appeal shall lie under subsection (2) above in respect of any notice served in exercise of the power under section 11B or 11C of this Act by the Minister of Agriculture, Fisheries and Food.
- (5) The Secretary of State may refer any matter involved in an appeal to a person appointed by him for the purpose.
- (6) An appeal under this section shall, if and to the extent required by regulations under subsection (11) of this section, be advertised in such manner as may be prescribed.
- (7) If either party to the appeal so requests, an appeal shall be in the form of a hearing (which may, if the person hearing the appeal so decides, be held, or held to any extent, in private).
- (8) On determining an appeal from a decision of the chief inspector under subsection (1) of this section the Secretary of State—
 - (a) may affirm the decision, or
 - (b) where that decision was the refusal of an application, may direct the chief inspector to grant the application,
 - (c) where that decision involved limitations or conditions attached to a registration or authorisation, may quash those limitations or conditions wholly or in part,
 - (d) where that decision was a cancellation or revocation of a registration or authorisation, may quash the decision,
 and where the Secretary of State does any of the things mentioned in paragraph (b), (c) or (d) of this subsection he may give directions to the chief inspector as to the limitations and conditions to be attached to the registration or authorisation in question.
- (9) On the determination of an appeal in respect of a notice under subsection (2) of this section, the Secretary of State may either cancel or affirm the notice and, if he affirms it, may do so either in its original form or with such modifications as he may think fit.
- (10) The bringing of an appeal against a cancellation or revocation of a registration or authorisation shall, unless the Secretary of State otherwise directs, have the effect of suspending the operation of the cancellation or revocation pending the determination of the appeal; but otherwise the bringing of an appeal shall not, unless the Secretary of State so directs, affect the validity of the decision or notice in question during that period.
- (11) The Secretary of State may by regulations make provision with respect to appeals under this section (including in particular provision as to the period within which appeals are to be brought).
- (12) In this section “the person directly concerned” means—
 - (a) in relation to a registration under section one or section three of this Act, the person applying for the registration or to whom the registration relates;
 - (b) in relation to an authorisation under section six or section seven of this Act, the person applying for the authorisation or to whom it was granted;

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and any reference to attaching limitations or conditions to a registration or authorisation is a reference to attaching limitations or conditions thereto either in effecting or granting the registration or authorisation or in exercising any power to vary it.

11E Enforcement and prohibition notices by the Minister of Agriculture, Fisheries and Food: representations.

The Minister of Agriculture, Fisheries and Food shall afford to any person—

- (a) on whom he has served a notice under section 11B or section 11C of this Act; and
 - (b) who requests a hearing within the prescribed period,
- an opportunity to appear before and be heard by a person appointed by him for the purpose.”

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