



Radioactive Substances Act 1993

1993 CHAPTER 12

General

41 Service of documents

- (1) Any notice required or authorised by or under this Act to be served on or given to any person may be served or given by delivering it to him, or by leaving it at his proper address, or by sending it by post to him at that address.
- (2) Any such notice may—
 - (a) in the case of a body corporate, be served on or given to the secretary or clerk of that body;
 - (b) in the case of a partnership, be served on or given to a partner or a person having the control or management of the partnership business.
- (3) For the purposes of this section and of section 7 of the Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of any person on or to whom any such notice is to be served or given shall be his last known address, except that—
 - (a) in the case of a body corporate or their secretary or clerk, it shall be the address of the registered or principal office of that body;
 - (b) in the case of a partnership or person having the control or the management of the partnership business, it shall be the principal office of the partnership;and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be their principal office within the United Kingdom.
- (4) If the person to be served with or given any such notice has specified an address in the United Kingdom other than his proper address within the meaning of subsection (3) as the one at which he or someone on his behalf will accept notices of the same description as that notice, that address shall also be treated for the purposes of this section and section 7 of the Interpretation Act 1978 as his proper address.
- (5) The preceding provisions of this section shall apply to the sending or giving of a document as they apply to the giving of a notice.

42 Application of Act to Crown

- (1) Subject to the following provisions of this section, the provisions of this Act shall bind the Crown.
- (2) Subsection (1) 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), 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 31 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)—
 - (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 section 18 shall apply as if the proposal to approve the removal of the waste were an application for an authorisation under section 13 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 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.
- (9) In the application of this section to Northern Ireland—
 - (a) references to the Crown shall include references to the Crown in right of Her Majesty’s Government in Northern Ireland, and
 - (b) the reference in subsection (5) to the Secretary of State shall have effect as a reference to the Department of the Environment for Northern Ireland.

43 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 7 or 10 or an authorisation under section 13 or 14;
- (b) fees payable in respect of the variation of the registration under section 12 or, as the case may be, in respect of the variation of the authorisation under section 17;
- (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 13 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—

- (a) the expenditure of the chief inspector and the Minister of Agriculture, Fisheries and Food in exercising their functions under this Act in relation to registrations and authorisations,
- (b) the expenditure of the Secretary of State in exercising in relation to Wales such of his functions under this Act in relation to registrations and authorisations as are exercised by the Minister of Agriculture, Fisheries and Food in relation to England.

- (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.

- (6) In the application of this section to Northern Ireland—

- (a) references to the Secretary of State shall have effect as references to the Department of the Environment for Northern Ireland,
- (b) references to the Minister of Agriculture, Fisheries and Food shall have effect as references to the Department of Agriculture for Northern Ireland,
- (c) the reference to the Treasury shall have effect as a reference to the Department of Finance and Personnel in Northern Ireland,
- (d) the reference to each House of Parliament shall have effect as a reference to the Northern Ireland Assembly, and
- (e) subsection (4)(b) shall be omitted.

44 Regulations and orders: Great Britain

- (1) The Secretary of State may make regulations under this Act for any purpose for which regulations are authorised or required to be made under this Act.
- (2) For the purpose of facilitating the exercise of any power under this Act to effect registrations, or grant authorisations, subject to limitations or conditions, the Secretary of State may make regulations setting out general limitations or conditions applicable to such classes of cases as may be specified in the regulations; and any limitations or conditions so specified shall, for the purposes of this Act, be deemed to be attached to any registration or authorisation falling within the class of cases to which those limitations or conditions are expressed to be applicable, subject to such exceptions or modifications (if any) as may be specified in any such registration or authorisation.
- (3) Any power conferred by this Act to make regulations or orders shall be exercisable by statutory instrument.
- (4) Any statutory instrument containing regulations or an order made under this Act, other than an order under Schedule 5, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) This section does not extend to Northern Ireland.

45 Regulations and orders: Northern Ireland

- (1) The Department of the Environment for Northern Ireland may make regulations under this Act for any purpose for which regulations are authorised or required to be made under this Act.
- (2) For the purpose of facilitating the exercise of any power under this Act to effect registrations, or grant authorisations, subject to limitations or conditions, the Department of the Environment for Northern Ireland may make regulations setting out general limitations or conditions applicable to such classes of cases as may be specified in the regulations; and any limitations or conditions so specified shall, for the purposes of this Act, be deemed to be attached to any registration or authorisation falling within the class of cases to which those limitations or conditions are expressed to be applicable, subject to such exceptions or modifications (if any) as may be specified in any such registration or authorisation.
- (3) Any power conferred by this Act to make regulations or orders shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.
- (4) Any regulations or orders made under this Act shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.
- (5) This section extends to Northern Ireland only.

46 Effect of Act on other rights and duties

Subject to the provisions of section 40 of this Act, and of section 18 of the Interpretation Act 1978 (which relates to offences under two or more laws), nothing in this Act shall be construed as—

- (a) conferring a right of action in any civil proceedings (other than proceedings for the recovery of a fine) in respect of any contravention of this Act, or

- (b) affecting any restriction imposed by or under any other enactment, whether contained in a public general Act or in a local or private Act, or
- (c) derogating from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Act.

47 General interpretation provisions

(1) In this Act, except in so far as the context otherwise requires—

“the appropriate Minister” means—

- (a) in relation to England, the Minister of Agriculture, Fisheries and Food,
- (b) in relation to Wales, the Secretary of State, and
- (c) in relation to Northern Ireland, the Department of Agriculture for Northern Ireland,

“article” includes a part of an article,

“the chief inspector” means—

- (a) in relation to England and Wales, the chief inspector for England and Wales appointed under section 4(2)(a),
- (b) in relation to Scotland, the chief inspector for Scotland appointed under section 4(2)(b), and
- (c) in relation to Northern Ireland, the chief inspector for Northern Ireland appointed under section 4(7),

“disposal”, in relation to waste, includes its removal, deposit, destruction, discharge (whether into water or into the air or into a sewer or drain or otherwise) or burial (whether underground or otherwise) and “dispose of” shall be construed accordingly,

“local authority” (except where the reference is to a public or local authority) means—

- (a) in England and Wales, the council of a county, district or London borough or the Common Council of the City of London or an authority established by the Waste Regulation and Disposal (Authorities) Order 1985,
- (b) in Scotland, a regional, islands or district council, and
- (c) in Northern Ireland, a district council,

“nuclear site” means—

- (a) any site in respect of which a nuclear site licence is for the time being in force, or
- (b) any site in respect of which, after the revocation or surrender of a nuclear site licence, the period of responsibility of the licensee has not yet come to an end,

“nuclear site licence”, “licensee” and “period of responsibility” have the same meaning as in the Nuclear Installations Act 1965,

“premises” includes any land, whether covered by buildings or not, including any place underground and any land covered by water,

“prescribed” means prescribed by regulations under this Act or, in relation to fees or charges payable in accordance with a scheme under section 43, prescribed under that scheme,

“the prescribed period for determinations”, in relation to any application under this Act, means, subject to subsection (2), the period of four months beginning with the day on which the application was received,

“public or local authority”, in relation to England and Wales, includes a water undertaker or a sewerage undertaker,

“relevant water body” means—

- (a) in England and Wales, the National Rivers Authority, a water undertaker, a sewerage undertaker or a local fisheries committee,
- (b) in Scotland, a river purification authority within the meaning of the Rivers (Prevention of Pollution) (Scotland) Act 1951, a district salmon fishery board established under section 14 of the Salmon Act 1986 or a water authority within the meaning of the Water (Scotland) Act 1980, and
- (c) in Northern Ireland, the Fisheries Conservation Board for Northern Ireland,

“substance” means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour,

“undertaking” includes any trade, business or profession and—

- (a) in relation to a public or local authority, includes any of the powers or duties of that authority, and
- (b) in relation to any other body of persons, whether corporate or unincorporate, includes any of the activities of that body, and

“waste” includes any substance which constitutes scrap material or an effluent or other unwanted surplus substance arising from the application of any process, and also includes any substance or article which requires to be disposed of as being broken, worn out, contaminated or otherwise spoilt.

- (2) The Secretary of State may by order substitute for the period for the time being specified in subsection (1) as the prescribed period for determinations such other period as he considers appropriate.
- (3) In determining, for the purposes of this Act, whether any radioactive material is kept or used on any premises, no account shall be taken of any radioactive material kept or used in or on any railway vehicle, road vehicle, vessel or aircraft if either—
 - (a) the vehicle, vessel or aircraft is on those premises in the course of a journey, or
 - (b) in the case of a vessel which is on those premises otherwise than in the course of a journey, the material is used in propelling the vessel or is kept in or on the vessel for use in propelling it.
- (4) Any substance or article which, in the course of the carrying on of any undertaking, is discharged, discarded or otherwise dealt with as if it were waste shall, for the purposes of this Act, be presumed to be waste unless the contrary is proved.
- (5) Any reference in this Act to the contamination of a substance or article is a reference to its being so affected by either or both of the following, that is to say,—
 - (a) absorption, admixture or adhesion of radioactive material or radioactive waste, and
 - (b) the emission of neutrons or ionising radiations,
 as to become radioactive or to possess increased radioactivity.
- (6) In the application of this section to Northern Ireland, the reference in subsection (2) to the Secretary of State shall have effect as a reference to the Department of the Environment for Northern Ireland.

48 Index of defined expressions

The following Table shows provisions defining or otherwise explaining expressions for the purposes of this Act—

the appropriate Minister	section 47(1)
article	section 47(1)
the chief inspector	section 47(1)
contamination	section 47(5)
disposal	section 47(1)
licensee (in relation to a nuclear site licence)	section 47(1)
local authority	section 47(1)
mobile radioactive apparatus	section 3
nuclear site	section 47(1)
nuclear site licence	section 47(1)
period of responsibility (in relation to a nuclear site licence)	section 47(1)
premises	section 47(1)
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the prescribed period for determinations	section 47(1) and (2)
public or local authority	section 47(1)
radioactive material	section 1
radioactive waste	section 2
relevant water body	section 47(1)
substance	section 47(1)
undertaking	section 47(1)
waste	section 47(1) and (4).

49 Consequential amendments and transitional and transitory provisions

- (1) The enactments specified in Schedule 4 shall have effect subject to the amendments set out in that Schedule, being amendments consequential on the preceding provisions of this Act.
- (2) The transitional and transitory provisions contained in Schedule 5 shall have effect.

50 Repeals

The enactments and instruments specified in Schedule 6 (which include spent enactments) are repealed or, as the case may be, revoked to the extent specified in the third column of that Schedule, but subject to any provision at the end of any Part of that Schedule.

51 Short title, commencement and extent

- (1) This Act may be cited as the Radioactive Substances Act 1993.
- (2) This Act shall come into force at the end of the period of three months beginning with the day on which it is passed.
- (3) This Act extends to Northern Ireland.