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STATUTORY INSTRUMENTS

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**2004 No. 1769**

**The Justification of Practices Involving  
Ionising Radiation Regulations 2004**

**PART 2**

*General Principles*

**Justification of new classes or types of practice**

4.—(1) A class or type of practice is “new” for the purposes of these Regulations if no practice in that class or type was carried out in the United Kingdom before 13th May 2000, and neither has the class or type of practice been found to be justified.

(2) In these Regulations, “justified” in relation a class or type of practice means justified by its economic, social or other benefits in relation to the health detriment it may cause.

(3) A “justification decision” for the purposes of these Regulations is a decision which—

- (a) is made by the Justifying Authority in the form specified in regulation 14, and which determines whether a class or type of practice is justified; and
- (b) in regulation 5(3) or 7, or for the purpose of determining whether a class or type of practice has been justified for the purpose of regulation 4(5), applies to the part of the United Kingdom in which it is proposed that the practice in question be carried out.

(4) A class or type of practice is “found to be justified” for the purposes of these Regulations if a justification decision has been made determining that it is justified.

(5) No person shall carry out a practice, resulting in exposure to ionising radiation, belonging to a new class or type of practice unless regulation 7 (transitional arrangements) applies.

**Existing and prohibited practices**

5.—(1) In these Regulations, a class or type of practice involving exposure to ionising radiation is an “existing class or type of practice” if either—

- (a) a practice in that class or type was carried out in the United Kingdom before 13th May 2000; or
- (b) it has been found to be justified; or both.

(2) Subject to paragraph (3), a person may carry out a practice, resulting in exposure to ionising radiation, belonging to an existing class or type of practice.

(3) No person shall carry out a practice, resulting in exposure to ionising radiation if—

- (a) it has been determined in the most recent justification decision applicable to that class or type of practice that the class or type of practice to which it belongs is not justified; and
- (b) the date, specified under regulation 11(2)(a) for ceasing to carry out the practice has passed.

**Justifying Authority**

6.—(1) In these Regulations, “the Justifying Authority” means such of the following persons as may exercise a function under these Regulations—

- (a) the Secretary of State;
- (b) the Scottish Ministers;
- (c) a Northern Ireland department;
- (d) the National Assembly for Wales.

(2) The exercise of functions under these Regulations by the Justifying Authority, except those of receiving applications under regulation 13(1) or being consulted under regulation 18(2), shall be limited as provided in regulation 14(2) and as set out below—

- (a) any function may be exercised by the Secretary of State;
- (b) functions may be exercised by the Scottish Ministers only insofar as justifying the class or type of practice involved falls within devolved competence;
- (c) functions may be exercised by a Northern Ireland department only in relation to Northern Ireland and insofar as justifying the class or type of practice involved is a transferred matter;
- (d) functions may be exercised by the National Assembly for Wales only insofar as functions under these Regulations are functions exercisable by the Assembly by virtue of an order made under section 22 of the Government of Wales Act 1998(1).

(3) Where in these Regulations the Justifying Authority is obliged to perform a function, that obligation shall fall as follows—

- (a) on the Scottish Ministers, a Northern Ireland department, or the National Assembly for Wales, insofar as they may perform that function, having regard to paragraph (2) and to regulation 14(2); and otherwise
- (b) on the Secretary of State.

(4) In these Regulations—

- (a) “devolved competence” has the meaning prescribed by section 54 of the Scotland Act 1998(2);
- (b) “the Scottish Ministers” has the meaning prescribed by section 44 of the Scotland Act 1998;
- (c) “transferred matter” has the meaning prescribed by section 4 of the Northern Ireland Act 1998(3);
- (d) “Scotland” has the meaning prescribed by section 126 of the Scotland Act 1998;
- (e) “Northern Ireland” has the meaning prescribed by section 98(1) of the Northern Ireland Act 1998;
- (f) “Northern Ireland department” has the meaning prescribed by section 21 of the Northern Ireland Act 1998;
- (g) “Wales” has the meaning prescribed by section 155 of the Government of Wales Act 1998.

**Transitional Arrangements- new classes or types of practice**

7. Subject to regulation 5(3)—

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- (1) 1998 c. 38, to which there are amendments not relevant to these Regulations.
  - (2) 1998 c. 46, to which there are amendments not relevant to these Regulations.
  - (3) 1998 c. 47, to which there are amendments not relevant to these Regulations.

- (a) a person may carry out a practice of a new class or type, for a period of six months beginning on the date of the coming into force of these Regulations, if he first carried out the practice in the United Kingdom before the coming into force of these Regulations;
- (b) that person may continue to carry out that practice after the expiry of that period—
  - (i) if he has, within that period, applied for a justification decision; and
  - (ii) until a justification decision has been made.

#### **Transitional Arrangements- earlier justification decisions**

- 8.—**(1) This regulation applies when there has been a determination which—
- (a) expressly determines whether or not a practice, or a class or type of practice is justified;
  - (b) was made prior to the coming into force of these Regulations; and
  - (c) was made by one of the persons listed in regulation 6(1) or by a person acting with the authority of one of those persons.
- (2) A determination to which this regulation applies shall—
- (a) be treated as a justification decision for the purposes of these Regulations;
  - (b) be treated as limited to the same extent that the power of the person making it, or under whose authority it was made, is limited by sub-paragraphs (a) to (d) of regulation 6(2); and
  - (c) if it was limited to a particular practice, be treated as a justification decision whose scope is limited to the same extent as was the determination in question.
- (3) Any determination to which this regulation applies which determined that a practice or a class or type of practice was not justified shall be treated as having specified, for the purpose of regulation 11(2)(a), the date these Regulations come into force unless a later date was specified in the determination.