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## STATUTORY INSTRUMENTS

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# 2004 No. 1769

## The Justification of Practices Involving Ionising Radiation Regulations 2004

### PART 5

#### *Information, Consultation and Publicity*

##### **Information**

**16.**—(1) For the purpose of the discharge of any function under these Regulations, the Justifying Authority may, by notice served on any person, require that person to furnish such information as is specified in the notice, within such period as is so specified.

(2) A notice served pursuant to paragraph (1) may only specify such information as is in the person's possession or which the person may reasonably be expected to furnish.

(3) A notice served pursuant to paragraph (1) may be withdrawn or varied by the Justifying Authority.

(4) The period specified in the notice pursuant to paragraph (1) shall be not less than 28 days unless in the opinion of the Justifying Authority it is necessary for the provision of the information to be expedited.

(5) A notice served pursuant to paragraph (1) shall invite the person upon whom the notice is served to notify the Justifying Authority within 14 days of any grounds upon which the notice ought to be varied or withdrawn under paragraph (3).

##### **Inquiries and Hearings**

**17.**—(1) Without prejudice to any other power to hold an inquiry or other hearing, the Justifying Authority may cause an inquiry or other hearing to be held if it appears to him expedient to do so in connection with the exercise of any of his functions under these Regulations.

(2) In respect of any inquiry or other hearing held pursuant to paragraph (1)—

(a) if the inquiry or hearing is held in England or Wales, subsections (2) to (5) of section 250 of the Local Government Act 1972(<sup>1</sup>) (which contain supplementary provisions with respect to local inquiries held in pursuance of that section) shall apply as they apply to inquiries under that section, but as if—

(i) references to the person appointed to hold the inquiry included references to the Justifying Authority;

(ii) references to the Minister causing an inquiry to be held were references to the Justifying Authority;

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(1) [1972 c. 70](#); section 250, subsection (2) was amended by the Statute Law (Repeals) Act 1989 ([c. 43](#)) section 1 and Schedule 1; subsection (3) was amended by the Criminal Justice Act 1982 ([c. 48](#)), sections 37, 38 and 46; subsection (4) was amended by the Housing and Planning Act 1986 ([c. 63](#)), section 49(2), Schedule 12, part III.

- (iii) the words “not being the property of a local authority” were deleted from paragraph (b) of subsection (2); and
- (iv) the words “local authority or” in subsection (4) were deleted;
- (b) if the inquiry or hearing is held in Scotland, subsections (2) and (4) to (8) of section 210 of the Local Government (Scotland) Act 1973(2) (which relate to the holding of local inquiries) shall apply as they apply to inquiries under that section, but as if—
  - (i) references to the person appointed to hold the inquiry included references to the Justifying Authority;
  - (ii) references to the Minister were references to the Justifying Authority; and
  - (iii) the words “local authority or”, “any authority or” and “that authority or” in subsection (7) were deleted;
- (c) if the inquiry or hearing is held in Northern Ireland, paragraphs 1 and 3 to 8 of Schedule 8 to the Health and Personal Social Services (Northern Ireland) Order 1972(3) (which relate to the giving of evidence at, and the expenses incurred in relation to inquiries) shall apply as they apply in relation to an inquiry under that Schedule, but as if—
  - (i) references to the person appointed to hold the inquiry included references to the Justifying Authority; and
  - (ii) references to the Ministry were references to the Justifying Authority;
- (d) the Justifying Authority shall take such steps as he considers appropriate to publish or otherwise give notice of the time and place of the inquiry or hearing to any person likely to be affected by it.

## Consultation

**18.—(1)** Before making a justification decision, a determination under regulation 12 or serving a contravention notice under regulation 22, the Justifying Authority or Secretary of State (as the case may be)—

- (a) shall consult—
  - (i) the Health and Safety Executive(4);
  - (ii) the Food Standards Agency(5);
  - (iii) the National Radiological Protection Board(6); and
  - (iv) where the class or type of practice involves a radioactive substance, the Environment Agency(7), the Scottish Environment Protection Agency(8) and the Department of the Environment for Northern Ireland;
- (b) may consult any other person whom he considers it appropriate to consult;
- (c) shall take such steps as he considers appropriate to bring the proposed decision, determination or contravention notice to the attention of any person likely to be affected by it.

(2) [1973 c. 65](#); section 210 was amended by the Criminal Procedure (Scotland) Act [1975 \(c. 21\)](#), sections 289F and 289G (which were inserted into that Act by the Criminal Justice Act [1982 \(c. 48\)](#), section 54) and the Housing and Planning Act 1986, Schedule 11, paragraph 39.

(3) [S.I. 1972/1265 \(N.I. 14\)](#), amended by [S.R. 1976/281](#) and [S.I. 1984/703 \(N.I. 3\)](#).

(4) See section 10 of the Health and Safety at Work etc Act [1974 c. 37](#).

(5) See section 1 of the Food Standards Act [1999 c. 28](#).

(6) See section 1 of the Radiological Protection Act [1970 c. 46](#).

(7) See section 1 of the Environment Act [1995 c. 25](#).

(8) See section 20 of the Environment Act 1995.

(2) Before exercising any function under Part 3 or under regulation 16, 17, 22, 26 or 27, the person proposing to exercise the function shall consult the other persons listed in regulation 6(1).

## **Register**

**19.—(1)** The Secretary of State shall maintain a register containing such particulars as he considers appropriate of—

- (a) any application made under regulation 9,10,or 12;
- (b) justification decisions and other determinations made under Part 3 or to which regulation 8 applies;
- (c) such other information as he considers appropriate.

(2) The Scottish Ministers, or a Northern Ireland department, or the National Assembly for Wales, having made a justification decision under regulation 9, 10 or 11 shall as soon as reasonably practicable provide to the Secretary of State full particulars of that decision and such other information as he reasonably requires to perform his function under paragraph (1); and this paragraph shall apply to determinations to which regulation 8 applies as if they were justification decisions made by the relevant Justifying Authority on the entry into force of these Regulations.

(3) The Secretary of State shall—

- (a) ensure that the register is open to inspection by members of the public free of charge at all reasonable hours; and
- (b) afford to members of the public facilities for obtaining copies of entries, free of charge.