
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 147

The Radioactive Substances Exemption (Scotland) Order 2011

PART 8

Transitional Provisions

Previously excluded activity in relation to disposal of radioactive waste

23.—(1) This article applies to a person (“A”) carrying on an activity immediately before 1st October 2011 in relation to radioactive waste (the “continuing activity”) where—

- (a) the activity is described in section 13 (disposal of radioactive waste); and
- (b) immediately before 1st October 2011 A was excluded from the duty to hold an authorisation granted under that section in relation to that activity under one of the Orders listed in Schedule 3 to this Order.

(2) In relation to the continuing activity the exclusion described in paragraph (1)(b) continues to have effect in relation to A, subject to any conditions specified in the Order in which that exclusion is contained, until the date calculated in accordance with paragraph (3).

(3) The date referred to in paragraph (2) is—

- (a) where, in relation to the continuing activity, A does not become exempted under article 11, 14, 15, 17 or 19 of this Order from the duty to hold an authorisation before 1st April 2012—
 - (i) where A applies for an authorisation under section 13 in relation to that activity before 1st April 2012—
 - (aa) if the application is granted, the date of grant;
 - (bb) if the application is refused and A appeals against the refusal under section 26, the date on which the appeal is determined or withdrawn;
 - (cc) if the application is refused, and A is entitled to appeal against the refusal in accordance with section 26, but does not do so, the date which is the day after the last day on which an appeal could have been brought, determined in accordance with the appeals regulations; or
 - (dd) if the application is refused, and A is not entitled to appeal against the refusal in accordance with section 26, the date of the refusal; or
 - (ii) where A does not so apply, the earlier of—
 - (aa) 1st April 2012; or
 - (bb) the day on which A ceases to carry out the activity;
- (b) where A does become so exempted under any of those articles before 1st April 2012, the day on which A first becomes so exempted.

(4) Where A—

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- (a) on 1st October 2011, holds an authorisation under section 13 in respect of an activity described in paragraph (1) to which paragraph (1)(b) does not apply; and
- (b) in relation to that continuing activity, applies for a variation of that authorisation instead of applying for a new authorisation,

then paragraph (3) applies to A in relation to the calculation of the duration of the exclusion, but with references in that paragraph to an application for a variation of an authorisation under section 17 (revocation and variation of authorisations) substituted for references to an application for an authorisation under section 13.