
STATUTORY INSTRUMENTS

1993 No. 3031

**The Transfrontier Shipment of
Radioactive Waste Regulations 1993**

PART V

DOCUMENTATION, DIRECTIONS, APPEALS AND OFFENCES

Documents and Receipts

15.—(1) Without prejudice to any accompanying documents required under other relevant provisions, no person shall carry out a shipment to which these Regulations apply within the United Kingdom unless it is accompanied by the application made under the Directive for authorisation, the necessary approvals for the shipment and the authorisation or, where a shipment is made by rail, those documents are available to the chief inspector.

(2) Where, in relation to a shipment to which these Regulations apply, the United Kingdom is the country of destination, the consignee shall within 15 days of receipt of the radioactive waste send the chief inspector an acknowledgment of receipt using the appropriate standard document.

(3) Where the chief inspector receives an acknowledgment of receipt sent to him under paragraph (2), he shall send copies of that acknowledgment to the competent authorities of the other countries involved in the operation.

Directions

16.—(1) Subject to paragraph (2), the Secretary of State may, if he thinks fit in relation to any application for either an authorisation under Part II or an approval under regulation 11, give to the chief inspector directions as to—

- (a) whether the application is to be granted or refused; or
- (b) the conditions and requirements to which the authorisation or approval, if granted, is to be subject, and it shall be the duty of the chief inspector to give effect to the directions.

(2) A direction given by the Secretary of State under paragraph (1) shall be of no effect insofar as it requires the chief inspector to determine an application in a manner which is either contrary to, or not within the powers conferred upon him by, any of the provisions of these Regulations apart from this regulation.

Appeals

17.—(1) Where, except in pursuance of a direction given by the Secretary of State under regulation 16, the chief inspector under these Regulations—

- (a) refuses to grant an authorisation for which an application has been made under regulation 7(1); or
- (b) grants such an authorisation subject to conditions or requirements; or

- (c) notifies, under paragraph (1) of regulation 11, the competent authorities of a country who have sent him such an application for approval as is mentioned in that paragraph either that he refuses to grant approval for the shipment in question, or that he requires conditions to be attached to approval; or
 - (d) is deemed by virtue of regulation 11(5) to have refused to grant approval for a shipment, the person applying for the authorisation for that shipment may, subject to paragraphs (2) and (3), appeal to the Secretary of State.
- (2) A person wishing to appeal under this regulation shall give written notice of appeal to the Secretary of State within the period specified in paragraph (3) (or such longer period as the Secretary of State may at any time allow).
- (3) In the case of an appeal made by virtue of paragraph (1)(d) the period specified for the purposes of paragraph (2) is six months and, in any other case, is two months from the date on which the person entitled to make the appeal is notified that the authorisation or, as the case may be, the approval for the shipment is refused or, as the case may be, granted subject to conditions.
- (4) Where by virtue of regulation 11(5) the chief inspector is deemed to have notified the competent authorities of a country that he refuses to grant approval for a shipment, he shall, for the purposes of paragraph (3), be deemed to have notified the person entitled to make the appeal of that refusal on the seventh day after the expiry of the period set for reply by regulation 11.
- (5) If the appellant wishes to withdraw an appeal he shall do so by notifying the Secretary of State in writing.
- (6) The appellant shall send to the Secretary of State with the notice of appeal an additional copy of the notice and two copies of—
- (a) a full statement of his case;
 - (b) any relevant application;
 - (c) any authorisation or decision which is the subject matter of the appeal; and
 - (d) any correspondence or other documents relevant to the appeal, and the Secretary of State shall send one copy of the papers received by him to the chief inspector.
- (7) Where an appeal is made to the Secretary of State he may—
- (a) refer any matter involved in the appeal to a person appointed by him for that purpose;
 - (b) afford the appellant the opportunity of appearing before and being heard by a person appointed by him for that purpose and, in the event of the appellant choosing to take advantage of any such opportunity, the Secretary of State shall afford the same opportunity to the chief inspector.
- (8) Any hearing afforded under paragraph (7)(b) may, if the person hearing the appeal so decides, be held, or held to any extent, in private.
- (9) Subject to paragraph (10), on determining an appeal under this regulation the Secretary of State—
- (a) may affirm the decision or deemed decision of the chief inspector;
 - (b) where the appeal is against the refusal or deemed refusal of the chief inspector to grant an authorisation or approval, may direct the chief inspector to grant the authorisation or approval;
 - (c) where the appeal is against the conditions or requirements subject to which the chief inspector granted an authorisation, or against the conditions which the chief inspector attached to a grant of an approval, may quash all or any of the conditions or requirements; and where he exercises any of the powers in sub-paragraphs (b) or (c), he may give directions to the chief inspector as to the conditions or requirements to be attached to the

authorisation or approval, and the chief inspector shall give effect to any directions given to him by the Secretary of State under this paragraph.

(10) No direction given by the Secretary of State under paragraph (9) may require the chief inspector to take any action which would be either contrary to, or not within the powers conferred upon him by, any of the provisions of these Regulations apart from this regulation.

Offences

18.—(1) Any person who fails to comply with any provision of regulation 6, 8(2), 9(2), 10, 15(1) or (2) commits an offence.

(2) It is an offence for a person to make a statement which he knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, where the statement is made—

- (a) in purported compliance with a requirement to furnish any information imposed by or under any provision of these Regulations; or
- (b) for the purpose of obtaining the grant under these Regulations of any authorisation or approval to, or for the benefit of, himself or any other person.

(3) Where the commission by any person of an offence under these Regulations is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of an offence by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

(4) Where an offence under these Regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to, any neglect on the part of a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(5) Where the affairs of a body corporate are managed by its members, paragraph (4) shall apply in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(6) Where, in Scotland, an offence under these Regulations which has been committed by a partnership or an incorporated association (other than a partnership) is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, a partner in the partnership or, as the case may be, a person concerned in the management or control of the association, he, as well as the partnership or association, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(7) A person who commits an offence under this regulation shall be liable on summary conviction to a fine not exceeding the statutory maximum, or on conviction on indictment to imprisonment for a term not exceeding two years, or a fine, or both.

(8) In England and Wales, an inspector appointed under section 4 of the 1993 Act, if authorised to do so by the chief inspector, may, although not of counsel or a solicitor, prosecute before a magistrates' court proceedings for an offence under these Regulations.