
STATUTORY INSTRUMENTS

2004 No. 1769

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

PART 8

Enforcement and Offences

Contravention Notices

22.—(1) For the purposes of this regulation and of regulation 23, a “relevant breach” means a contravention of regulation 4(5), 5(3) or 20; failure to comply with any condition imposed pursuant to regulation 11(1); or failure to comply with any requirement imposed pursuant to regulation 11(2) (b) or 16(1).

(2) If the Justifying Authority is of the opinion that a person has committed a relevant breach he shall serve a notice (in these Regulations referred to as a “contravention notice”) on that person.

(3) The Justifying Authority shall give notice of any contravention notice served pursuant to paragraph (2) to—

- (a) such of the persons listed in regulation 6(1) as are not the person serving the notice;
- (b) the Health and Safety Executive;
- (c) the Food Standards Agency;
- (d) the National Radiological Protection Board;
- (e) where the class or type of practice involves a radioactive substance, the Environment Agency and the Scottish Environment Protection Agency; and
- (f) any other person he considers appropriate.

(4) The contravention notice shall—

- (a) state that the Justifying Authority is of the opinion that the person has committed a relevant breach;
- (b) specify the matters constituting the contravention or failure to comply;
- (c) specify the steps that must be taken to remedy the contravention or failure to comply;
- (d) specify the period within which those steps must be taken;
- (e) specify the date on which the notice is to take effect;
- (f) 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is served to notify the Justifying Authority within 14 days of any grounds upon which the notice ought to be varied or withdrawn under paragraph (5); and
- (g) not take effect before 28 days after the date of service of the notice, unless in the opinion of the Justifying Authority it is necessary for the notice to have immediate effect or otherwise to be expedited.

(5) The Justifying Authority may vary or withdraw any contravention notice by serving a further notice; and paragraph (3) and, in the case of a variation, paragraph (4) shall apply to that notice.

Enforcement Powers

23. The Justifying Authority shall, for the purpose of determining whether a person has committed a relevant breach be entitled to exercise any of the powers specified in Schedule 1.

Offences and Penalties

24.—(1) It is an offence for a person—

- (a) to fail without reasonable excuse to comply with any requirement imposed by a contravention notice served on him pursuant to regulation 22;
- (b) in providing any information under these Regulations, to—
 - (i) make a statement which he knows to be false or misleading in a material particular;
 - (ii) recklessly make a statement which is false or misleading in a material particular; or
 - (iii) produce or provide, or cause to be produced or provided, any document which he knows is false or misleading in a material particular.

(2) It is an offence for a person—

- (a) intentionally to obstruct the Justifying Authority, or a person to whom the Justifying Authority has (under regulation 27) delegated the enforcement powers under regulation 23, in the exercise or performance of his powers under regulation 23;
 - (b) without reasonable excuse—
 - (i) to fail to comply with any requirement imposed pursuant to regulation 23;
 - (ii) to fail or refuse to provide facilities or assistance or any information or to permit any inspection reasonably required by the Justifying Authority, or a person to whom the Justifying Authority has (under regulation 27) delegated the enforcement powers under regulation 23, in the exercise or performance of his powers under regulation 23;
 - (iii) to prevent any other person from appearing before or answering any question required to be answered by the Justifying Authority, or a person to whom the Justifying Authority has (under regulation 27) delegated the enforcement powers under regulation 23, in the exercise or performance of his powers under regulation 23;
 - (c) falsely to pretend to be a person to whom the Justifying Authority has (under regulation 27) delegated the enforcement powers under regulation 23.
- (3) A person guilty of an offence under paragraph (1) or (2) shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or to both;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

Offences by bodies corporate etc.

25.—(1) Schedule 2 applies to offences committed in England and Wales.

(2) Schedule 3 applies to offences committed in Scotland.

(3) Schedule 4 applies to offences committed in Northern Ireland.

Restriction on prosecutions

26.—(1) Except as provided in regulation 27 and subject to paragraph (2), proceedings in respect of any offence under these Regulations shall not be instituted except by or with the consent of the Justifying Authority.

(2) This regulation shall not apply in Scotland.

Delegation of Enforcement Powers

27.—(1) The Justifying Authority may delegate any or all of the following powers—

- (a) the powers under regulation 22 or 23;
- (b) the power to serve a notice under regulation 16, for the purpose of discharging any function delegated under sub-paragraph (a) of this regulation;
- (c) except in Scotland, the power to institute prosecutions under regulation 26;

and may make such delegation subject to conditions.

(2) The Justifying Authority may delegate the obligations arising under regulation 14(5) and 18, insofar as they arise out of the discharge or intended discharge of any function delegated under paragraph (1).

(3) A delegation made under paragraph (1) is a determination to which regulation 14(6) applies.