

2006 No. 345

RADIOACTIVE SUBSTANCES

ENVIRONMENTAL PROTECTION

**The Radioactive Contaminated Land Regulations (Northern
Ireland) 2006**

Made - - - - 22nd August 2006

Coming into operation - 22nd September 2006

The Department of the Environment being a department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) makes the following Regulations in exercise of the powers conferred on it by that section in relation to the safety measures regarding radioactive substances and the emission of ionising radiation.

Citation and commencement

1. These Regulations may be cited as the Radioactive Contaminated Land Regulations (Northern Ireland) 2006 and shall come into operation on 22nd September 2006.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(c) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(2) In these Regulations—

“the 1965 Act” means the Nuclear Installations Act 1965(d);

“the 1993 Act” means the Radioactive Substances Act 1993;

“the Chief Inspector” means the Chief Inspector appointed by the Department under section 4 of the Radioactive Substances Act 1993(e);

“the Department” means the Department of the Environment;

“the Directive” means Council Directive 96/29/Euratom(f) laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation;

“exposure” means the process of humans being exposed to ionising radiation;

(a) S.I. 1991/2289

(b) 1972 c. 68

(c) 1954 c. 33 (N.I.)

(d) 1965 c. 57

(e) 1993 c. 12

(f) O.J. No. L159, 29.6.1996, p1

“harm” means lasting exposure to any human being resulting from the after-effects of a radiological emergency, past practice or past work activity.

“intervention” means a human activity that prevents or decreases the exposure of individuals to radiation from sources which are not part of a practice or which are out of control, by acting on sources, transmission pathways and individuals themselves;

“intervention notice” means a notice in writing served by the Chief Inspector on a responsible person requiring intervention;

“ionising radiation” means the transfer of energy in the form of particles or electromagnetic waves of a wavelength of 100 nanometres or less or a frequency of 3×10^{15} Hertz or more capable of producing ions directly or indirectly;

“lasting exposure” means an exposure likely to give rise to harm to human health arising from one or more of the following dose criteria:

- (i) an effective dose of 3 millisieverts per annum; or
- (ii) an equivalent dose to the lens of the eye of 15 millisieverts per annum; or
- (iii) an equivalent dose to the skin of 50 millisieverts per annum.

“nuclear installations” shall have the same meaning as under the 1965 Act;

“polluter” means any person, or any of the persons, who caused or knowingly permitted the radioactive substances to be in, on or under the land;

“practice” means a human activity that can increase the exposure of individuals to radiation from an artificial source, or from a natural radiation source where natural radionuclides are processed for their radioactive, fissile or fertile properties, except in the case of an emergency exposure;

“radiological emergency” means a situation that requires urgent action in order to provide radiological protection to workers, members of the public or the population either partially or as a whole;

“relevant foreign law” and “relevant foreign operator” shall have the same meaning as under the 1965 Act;

“responsible person” means first the polluter and if the polluter is not found the owner or occupier of the land;

“substance” means, whether in solid or liquid form or in the form of a gas or vapour, any substance which contains radionuclides which have resulted from the after-effects of a radiological emergency or which are or have been processed as part of a past practice or past work activity, but shall not include radon gas or the following radionuclides: Po-218, Pb-214, At-218, Bi-214, Rn-218, Po-214 and Tl-210.

Application of Regulations in the implementation of Articles 48 and 53 of the Directive

3.—(1) The Chief Inspector on behalf of the Department has a duty to investigate the condition of land where there are reasonable grounds to believe that such land is causing lasting exposure.

(2) Where the Chief Inspector has identified land likely to cause lasting exposure to human beings resulting from the effects of the aftermath of a radiological emergency, or a past practice, or past works, the Chief Inspector shall, in accordance with regulation 4, require the responsible person to ensure that, as necessary and relevant to the extent of the exposure risk involved:

- (a) the land giving rise to lasting exposure and any other affected adjoining or adjacent land is demarcated;
- (b) arrangements are made to monitor the exposure;
- (c) any appropriate intervention is implemented, taking into account the real characteristics of the land giving rise to lasting exposure; and
- (d) access or use of land or buildings situated in the demarcated area is regulated.

(3) Any intervention by the Chief Inspector or required by the Chief Inspector pursuant to paragraph (2) shall be —

- (a) proportionate to the extent of the risk involved;
- (b) undertaken only if the reduction in detriment due to radiation is sufficient to justify the harm and costs, including social costs, of the intervention; and
- (c) optimised in its form, scale and duration so that the benefit of the reduction in health detriment less the detriment associated with the intervention will be maximised.

Intervention Notices

4.—(1) The Chief Inspector may by serving an intervention notice upon the responsible person require that the responsible person carry out the necessary actions set out in regulation 3(2).

(2) If no responsible person is identified then for the purposes of serving an intervention notice the Department shall undertake responsibility for necessary requirements under regulation 3(2).

Appeals

5.—(1) The responsible person shall have a right to appeal against the intervention notice in the following circumstances where:

- (a) the Chief Inspector has not taken into account the requirements set out in regulation 3(3); or
- (b) the person named on the intervention notice has been unreasonably identified as a responsible person or where other persons ought also to be so identified; or
- (c) the land that is subject to the notice has been wrongly identified or demarcated; or
- (d) there is a material defect in the notice such that it would be unreasonable to apply the provisions of the notice to the responsible person.

(2) The responsible person served with an intervention notice may appeal within 21 days beginning with the date on which he was served the notice to a court of summary jurisdiction in accordance with Part VII of the Magistrates' Courts (Northern Ireland) Order 1981(a).

(3) Appealing an intervention notice as in paragraph (1) shall suspend the effect of the intervention notice until such appeal is determined or abandoned.

Offences

6.—(1) A breach or non compliance with any requirement or prohibition contained within an intervention notice within the period of twenty-one days from service of this notice without reasonable excuse shall be an offence punishable on summary conviction by a fine not exceeding level 5 on the standard scale together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after the conviction.

(2) Where an intervention notice has not been complied with the Chief Inspector may, once any appeal is determined or the time allowed for such appeal has elapsed, whether or not proceedings are commenced for an offence under paragraph (1):

- (a) enter upon the land and carry out the works set out in the intervention notice at the Department's cost, such costs to be fully recovered from the responsible person; or
- (b) take injunction proceedings in the High Court for the purpose of securing compliance with the notice.

Scope

7. Nothing in these Regulations shall apply to land which is causing or likely to cause lasting exposure by reason of the presence in, on or under that land of any substances, in so far as by reason of that presence damage to any property occurs being —

(a) S.I. 1981/1675 (N.I. 26)

- (a) damage caused in breach of any duty imposed by section 7, 8, 9 or 10 of the 1965 Act, or deemed to be so caused by section 12 (2) of that Act;
- (b) damage which would have been so caused if, in section 7(1)(a) or (b) of the 1965 Act, the words “other than the licensee” or in section 10(1) of that Act, the words “other than that operator” had not been enacted; or
- (c) damage in respect of which any relevant foreign operator or other person is liable under any relevant foreign law, or for which he would be so liable —
 - (i) but for any exclusion or limitation of liability applying by reason of provision of that law made for purposes corresponding to those of section 13(3) or (4)(a), 15, 16(1) and (2) or 18 of the 1965 Act; or
 - (ii) if any such relevant foreign law which does not contain provision made for purposes corresponding to those of section 13(4)(b) of the 1965 Act did contain such provision.

8. Nothing in regulation 3 of the Ionising Radiation Regulations (Northern Ireland) 2000^(a) shall prejudice the application of these Regulations in circumstances not falling within the scope of regulation 3 of the Ionising Radiation Regulations (Northern Ireland) 2000.

Sealed with the Official Seal of the Department of the Environment on 22nd August 2006.



Richard Rogers
A senior officer of the Department of the Environment

^(a) S.R.2000 No. 375

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Articles 48 and 53 of Council Directive 96/29/Euratom (O.J. No. L159, 29.6.96, p.1) laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation.