
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2011 No.

**The Radioactive Substances Act 1993
Amendment (Scotland) Regulations 2011**

Insertion of sections 1A to 1J of the Act

3. For sections 1 and 2 of the Act substitute—

“1A Meaning of “radioactive material” and “radioactive waste”

In this Act, except as provided by sections 1E, 1F, 1G and 1H—

“radioactive material” means a substance or article which is not waste, and which satisfies the requirements of any of sections 1B, 1C and 1D as they apply to such a substance or article;

“radioactive waste” means a substance or article which is waste, and which satisfies the requirements of any of sections 1B, 1C and 1D; and

“Table 1”, “Table 2”, “Table 3” and “Table 4” mean the tables with those numbers in Schedule 1.

1B NORM industrial activities

(1) Subsection (2) applies to a substance or article which—

- (a) arises from or is used in a NORM industrial activity listed in Part 1 of Table 1;
- (b) is waste which arises from a NORM industrial activity listed in Part 2 of Table 1; or
- (c) is contaminated by a substance or article described in paragraph (a) or (b), including where such contamination occurs indirectly through another contaminated substance or article.

(2) A substance or article to which this subsection applies is radioactive material or radioactive waste where it has a concentration of radioactivity which exceeds the following values in Table 2—

- (a) for a solid substance or article or a relevant liquid substance, the value specified in column 2;
- (b) for any other liquid substance, the value specified in column 3; or
- (c) for a gaseous substance, the value specified in column 4.

1C Processed radionuclides of natural terrestrial or cosmic origin

1C A substance or article is radioactive material or radioactive waste where—

- (a) it contains one or more of the radionuclides of natural terrestrial or cosmic origin which are listed in column 1 of Table 3;
- (b) the substance or article—

- (i) is processed or is intended to be processed for the radioactive, fissile or fertile properties of those radionuclides; or
 - (ii) is contaminated by a substance or article to which sub-paragraph (i) applies, including where such contamination occurs indirectly through another contaminated substance or article; and
- (c) the substance or article is—
- (i) a solid or a relevant liquid and it has a concentration of radioactivity which exceeds the value specified in column 2 of Table 3; or
 - (ii) any other liquid or a gas.

1D Radionuclides not of natural terrestrial or cosmic origin

1D A substance or article which contains one or more radionuclides that are not of natural terrestrial or cosmic origin is radioactive material or radioactive waste where—

- (a) it is a solid or a relevant liquid and it has a concentration of radioactivity which exceeds the value specified in column 2 of Table 3; or
- (b) it is any other liquid or a gas.

1E Radionuclides with a short half-life

1E A substance or article is not radioactive material or radioactive waste where none of the radionuclides which it contains or which it consists of has a half-life exceeding 100 seconds.

1F Radionuclides not of natural terrestrial or cosmic origin in background radioactivity

- (1) A substance or article is not radioactive material or radioactive waste where—
- (a) it is contaminated as a result of a climatic process, or a combination of such processes, by radionuclides which—
 - (i) are not of natural terrestrial or cosmic origin; and
 - (ii) are not present in the substance or article at a concentration that exceeds that found normally in such a substance or article in the United Kingdom; and
 - (b) in the absence of such contamination, the substance or article would not otherwise be radioactive material or radioactive waste under this Act.
- (2) In this section, a “climatic process” includes wind, precipitation and the general circulation of the atmosphere and oceans.

1G Contaminated substances or articles

- (1) Subject to subsection (2), a substance or article is not radioactive material where—
- (a) it is contaminated, but has not been so contaminated with the intention of utilising its radioactive, fissile or fertile properties; and
 - (b) in the absence of such contamination, the substance or article would not otherwise be radioactive material under this Act.
- (2) Subsection (1) only applies while the substance or article is kept on the premises on which the contamination occurred.

1H Substances or articles after disposal

(1) Subject to subsections (2) and (3), a substance or article is not radioactive material or radioactive waste during the excluded period where—

- (a) the substance or article has been disposed of lawfully, and at the time of the disposal no further act of disposal is intended in respect of it; or
- (b) the substance or article—
 - (i) is contaminated by a substance or article to which paragraph (a) applies, including where such contamination occurs indirectly through another contaminated substance or article;
 - (ii) in the absence of such contamination, would not otherwise be radioactive material or radioactive waste under this Act; and
 - (iii) is not contaminated with the intention of using its radioactive, fissile or fertile properties.

(2) In subsection (1), “the excluded period” means the period—

- (a) beginning at the relevant start time; and
- (b) ending in the circumstances specified in subsection (4).

(3) The relevant start time is—

- (a) where the substance or article has been disposed of and—
 - (i) is solid at the time of the disposal;
 - (ii) is disposed of by burial (whether underground or otherwise) on premises in relation to which an authorisation under section 13 of this Act is held at the time of disposal; and
 - (iii) is disposed of in accordance with that authorisation, the time of the revocation of that authorisation;
- (b) where the substance or article is contaminated by a substance or article to which paragraph (a) applies, including where such contamination occurs indirectly through another contaminated substance or article, the time of the revocation of the authorisation referred to in paragraph (a)(ii); or
- (c) in relation to any other substance or article—
 - (i) the time of the disposal of it; or
 - (ii) where the substance or article is one to which subsection (1)(b) applies, the time of the disposal of the substance or article that caused it, directly or indirectly, to be contaminated.

(4) The excluded period ends where, after the beginning of the excluded period, the substance or article is subject to a process which leads to an increase in the radiation exposure of the public or any plant or animal, at the time of that increase.

1J Variation of tables in Schedule 1

1J The Scottish Ministers may by order vary the provisions of Table 2 and Table 3, either by adding further entries to any column of those tables or by altering or deleting any entry for the time being contained in any column.”