
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2011 No.

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

Transitional provisions

9.—(1) Where a substance or article which immediately before 1st October 2011 was not categorised as radioactive material becomes radioactive material on that date by virtue of these Regulations—

- (a) a person carrying on any activity described in section 6 of the Act (prohibition of use of radioactive material without registration) in relation to that substance or article immediately before 1st October 2011 is exempt from the requirement to hold a registration under section 7 of the Act (registration of users of radioactive material) in relation to that activity until—
 - (i) where a registration under that section is applied for 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 the applicant appeals against the refusal under section 26 of the Act (registrations, authorisations and notices: appeals from decisions of appropriate agency), the date on which the appeal is determined or withdrawn;
 - (cc) if the application is refused, and the applicant is entitled to appeal against the refusal in accordance with section 26 of the Act, 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 the applicant is not entitled to appeal against the refusal in accordance with section 26 of the Act, the date on which the application is refused; or
 - (ii) where no such application is made, the earliest of—
 - (aa) 1st April 2012;
 - (bb) where, in relation to the activity in sub-paragraph (a), that person becomes exempted from the duty to hold a registration under an Order made under section 8(6) of the Act which comes into force on or after 1st October 2011, the day after that person first becomes so exempted; or
 - (cc) the day on which the activity ceases;
- (b) a person carrying on any activity to which section 9(1) of the Act (prohibition of use of mobile radioactive apparatus without registration) applies in relation to that substance or article immediately before 1st October 2011 is exempt from the requirement to hold a registration under section 10 of the Act (registration of mobile radioactive apparatus) in relation to that activity until—
 - (i) where a registration under that section is applied for 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 the applicant appeals against the refusal under section 26 of the Act, the date on which the appeal is determined or withdrawn;
- (cc) if the application is refused, and the applicant is entitled to appeal against the refusal in accordance with section 26 of the Act, 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 the applicant is not entitled to appeal against the refusal in accordance with section 26 of the Act, the date on which the application is refused; or
- (ii) where no such application is made, the earliest of—
 - (aa) 1st April 2012;
 - (bb) where, in relation to the activity in sub-paragraph (b), that person becomes exempted from the duty to hold a registration under an Order made under section 11(1) of the Act which comes into force on or after 1st October 2011, the day after that person first becomes so exempted; or
 - (cc) the day on which the activity ceases.
- (2) Where a substance or article which immediately before 1st October 2011 was not categorised as radioactive waste becomes radioactive waste on that date by virtue of these Regulations—
 - (a) a person carrying on any activity described in section 13 of the Act (disposal of radioactive waste) in relation to that substance or article immediately before 1st October 2011 is exempt from the requirement to hold an authorisation under that section in relation to that activity until—
 - (i) where an authorisation under that section is applied for 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 the applicant appeals against the refusal under section 26 of the Act, the date on which the appeal is determined or withdrawn;
 - (cc) if the application is refused, and the applicant is entitled to appeal against the refusal in accordance with section 26 of the Act, 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 the applicant is not entitled to appeal against the refusal in accordance with section 26 of the Act, the date on which the application is refused; or
 - (ii) where no such application is made, the earlier of—
 - (aa) 1st April 2012;
 - (bb) where, in relation to the activity in sub-paragraph (a), that person becomes exempted from the duty to hold an authorisation under an Order made under section 15(2) of the Act which comes into force on or after 1st October 2011, the day after that person first becomes so exempted; or
 - (cc) the day on which the activity ceases;
 - (b) a person carrying on any activity described in section 14 of the Act (accumulation of radioactive waste) in relation to that substance or article immediately before 1st October

2011 is exempt from the requirement to hold an authorisation under that section in relation to that activity until—

- (i) where an authorisation under that section is applied for 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 the applicant appeals against the refusal under section 26 of the Act, the date on which the appeal is determined or withdrawn;
 - (cc) if the application is refused, and the applicant is entitled to appeal against the refusal in accordance with section 26 of the Act, 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 the applicant is not entitled to appeal against the refusal in accordance with section 26 of the Act, the date on which the application is refused; or
- (ii) where no such application is made, the earliest of—
 - (aa) 1st April 2012;
 - (bb) where, in relation to the activity in sub-paragraph (a), that person becomes exempted from the duty to hold an authorisation under an Order made under section 15(2) of the Act which comes into force on or after 1st October 2011, the day after that person first becomes so exempted; or
 - (cc) the day on which the activity ceases.

(3) Where a person described in paragraph (1)(a)—

- (a) holds a registration under section 7 of the Act (registration of users of radioactive material) covering radioactive material which is not described in paragraph (1); and
- (b) in relation to the activity and material described in paragraph (1)(a), applies for a variation of that registration instead of applying for a new registration,

the exemption in paragraph (1)(a) applies to that person but with references in that paragraph to an application being read as references to an application for a variation of a registration under section 12 of the Act (cancellation and variation of registrations).

(4) Where a person described in paragraph (1)(b)—

- (a) holds a registration under section 10 of the Act (registration of mobile radioactive apparatus) covering radioactive material which is not described in paragraph (1); and
- (b) in relation to the activity and material described in paragraph (1)(b), applies for a variation of that registration instead of applying for a new registration,

the exemption in paragraph (1)(b) applies to that person but with references in that paragraph to an application being read as references to an application for a variation of a registration under section 12 of the Act (cancellation and variation of registrations).

(5) Where a person described in paragraph (2)(a)—

- (a) holds an authorisation under section 13 of the Act (disposal of radioactive waste) covering radioactive waste which is not described in paragraph (2); and
- (b) in relation to the activity and waste described in paragraph (2)(a), applies for a variation of that authorisation instead of applying for a new authorisation,

the exemption in paragraph (2)(a) applies to that person but with references in that paragraph to an application being read as references to an application for a variation of an authorisation under section 17 of the Act (revocation and variation of authorisations).

- (6) Where a person described in paragraph (2)(b)—
- (a) holds an authorisation under section 14 of the Act (accumulation of radioactive waste) covering radioactive waste which is not described in paragraph (2); and
 - (b) in relation to the activity and waste described paragraph (2)(b), applies for a variation of that authorisation instead of applying for a new authorisation,

the exemption in paragraph (2)(b) applies to that person but with references in that paragraph to an application being read as references to an application for a variation of an authorisation under section 17 of the Act (revocation and variation of authorisations).

(7) In this regulation, “the appeals regulations” means the Radioactive Substances (Appeals) Regulations 1990⁽¹⁾.

⁽¹⁾ S.I. 1990/2504.