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Radioactive Material (Road Transport) Act 1991

CHAPTER 27

ARRANGEMENT OF SECTIONS

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Radioactive Material (Road Transport) Act 1991

1991 CHAPTER 27

An Act to make new provision with respect to the transport of radioactive material by road; to repeal section 5(2) of the Radioactive Substances Act 1948; and for connected purposes.

[27th June 1991]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) In this Act “radioactive material” means any material having a specific activity in excess of—

- (a) 70 kilobecquerels per kilogram; or
- (b) such lesser specific activity as may be specified in an order made by the Secretary of State;

and the power to make an order under this subsection shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) In this Act—

“examiner” means any examiner appointed under section 68(1) of the Road Traffic Act 1988;

“inspector” means any inspector appointed under subsection (3) below;

“packaging”, in relation to radioactive material which has been consigned for transport, means an assembly of packaging components which encloses the material completely;

“packaging components” means components intended for use as part of the packaging of such material, and includes—

- (a) receptacles, absorbent materials, spacing structures and radiation shielding; and

Preliminary.

1988 c. 52.

(b) devices for cooling, for absorbing mechanical shocks and for thermal insulation;

“radioactive package” means a package comprising radioactive material which has been consigned for transport and its packaging;

“transport” means transport by road.

(3) The Secretary of State may—

- (a) appoint as inspectors, to assist him in the execution of this Act and regulations made under it, such number of persons appearing to him to be qualified for the purpose as he may consider necessary; and
- (b) make to or in respect of any person so appointed such payments by way of remuneration, allowances or otherwise as he may with the approval of the Treasury determine.

Regulations.

2.—(1) The Secretary of State may make such regulations as appear to him to be necessary or expedient—

- (a) to prevent any injury to health, or any damage to property or to the environment, being caused by, or by any incident arising out of, the transport of radioactive material; and
- (b) to give effect to such international regulations for the safe transport of radioactive material as may from time to time be published by the International Atomic Energy Agency.

(2) Without prejudice to the generality of subsection (1) above, regulations under this section may make provision with respect to—

- (a) the design of packaging for radioactive material and the manufacture and maintenance of packaging components;
- (b) the preparation, labelling, consignment, handling, transport, storage in transit and delivery of radioactive packages;
- (c) the placarding of vehicles used to transport such packages; and
- (d) the keeping of records and the furnishing of information

(3) Regulations under this section may also—

- (a) impose requirements by reference to the approval of the Secretary of State or of any person or body specified in the regulations;
- (b) make different provision for different cases or different circumstances; and
- (c) provide for such exceptions, limitations and conditions, and make such supplementary, incidental, consequential or transitional provisions, as the Secretary of State considers necessary or expedient.

(4) Any person who contravenes or fails to comply with any regulations under this section shall be guilty of an offence.

(5) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) Subsection (2) of section 5 of the Radioactive Substances Act 1948 shall cease to have effect; and any regulations under that subsection which are in force at the commencement of this Act shall have effect as if made under this section. 1948 c. 37.

3.—(1) If it appears to an inspector or examiner, as respects any vehicle used to transport radioactive packages— Prohibitions and directions.

- (a) that the vehicle, or any radioactive package which is being transported by it, fails to comply with any regulations under section 2 above;
- (b) that the vehicle, or any radioactive package which is or was being transported by it, has been involved in an accident;
- (c) that any radioactive package which was being transported by the vehicle, or any radioactive material which was contained in such a package, has been lost or stolen.

he may prohibit the driving of the vehicle.

(2) If it appears to an inspector that any radioactive package or packaging component fails to comply with any regulations under section 2 above, he may prohibit the transport of that package or, as the case may require, the use of that component as part of the packaging of radioactive materials.

(3) A prohibition imposed under this section may apply either absolutely or for a specified purpose and either without any limitation of time or for a specified period.

(4) Where an inspector or examiner imposes a prohibition under subsection (1) above, he may also by a direction in writing require the person in charge of the vehicle to remove it (and, if it is motor vehicle drawing a trailer, also to remove the trailer) to such place and subject to such conditions as are specified in the direction; and the prohibition shall not apply to the removal of the vehicle or trailer in accordance with the direction.

(5) Where an inspector or examiner imposes a prohibition under this section, he shall forthwith give notice of the prohibition to the person in charge of the vehicle, package or packaging component, specifying the failure to comply or, as the case may be, the accident or other incident in consequence of which the prohibition is imposed and—

- (a) stating whether the prohibition applies absolutely or for a specified purpose (and if the latter specifying the purpose); and
- (b) stating whether the prohibition applies without limitation of time or for a specified period;

and any direction under subsection (4) above may be given either in such a notice or in a separate notice given to the person in charge of the vehicle.

(6) A prohibition under this section shall come into force as soon as notice of it has been given in accordance with subsection (5) above and shall continue in force—

- (a) until it is removed under subsection (7) below; or
- (b) in the case of a prohibition imposed only for a specified period, until either it is removed or that period expires, whichever first occurs.

(7) A prohibition under subsection (1) above may be removed by any inspector or examiner, and a prohibition under subsection (2) above may be removed by any inspector, if he is satisfied—

- (a) in the case of a prohibition imposed in consequence of a failure to comply with any regulations under section 2 above, that appropriate action has been taken to remedy that failure;
- (b) in the case of a prohibition imposed in consequence of an accident or other incident, either that no failure so to comply was occasioned by that accident or incident or that appropriate action has been taken to remedy any such failure which was so occasioned;

and on doing so, the inspector or examiner shall forthwith give notice of the removal of the prohibition to the person in charge of the vehicle, package or packaging component.

(8) Any person who contravenes a prohibition under this section or fails to comply with a direction under subsection (4) above, shall be guilty of an offence.

Enforcement notices.

4.—(1) If an inspector is of the opinion that any person is failing or is likely to fail to comply with any regulations under section 2 above which make provision for regulating the manufacture, or requiring the maintenance, of packaging components, he may serve a notice under this section on that person.

(2) A notice under this section shall—

- (a) state that the inspector is of the said opinion;
- (b) specify the matters constituting the failure to comply with the regulations in question or the matters making it likely that such a failure will occur, as the case may be;
- (c) specify the steps that must be taken in order to remedy those matters and the period within which those steps must be taken.

(3) Any person who fails to comply with a notice under this section shall be guilty of an offence.

Powers of entry.

5.—(1) An inspector or examiner shall, on producing, if so required, some duly authenticated document showing his authority, have a right at all reasonable hours—

- (a) to enter any vehicle used to transport radioactive packages for the purpose of ascertaining—
 - (i) whether the vehicle, or any radioactive package which is being transported by it, fails to comply with any regulations under section 2 above;
 - (ii) whether the vehicle, or any radioactive package which is or was being transported by it, has been involved in an accident; and
 - (iii) whether any radioactive package which was being transported by the vehicle, or any radioactive material which was contained in such a package, has been lost or stolen; and

- (b) in the case of an inspector, to enter any premises for the purpose of ascertaining whether there is on the premises any vehicle used for transporting radioactive packages, or any radioactive package or packaging component which fails to comply with regulations under section 2 above.

(2) If a justice of the peace, on sworn information in writing or, in Scotland, on evidence on oath, is satisfied that there are reasonable grounds for entering any vehicle or premises for any such purpose as is mentioned in subsection (1) above and either—

- (a) that admission to the vehicle or premises has been refused, or a refusal is apprehended, and (in the case of premises) that notice of the intention to apply for the warrant has been given to the occupier; or
- (b) that an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or (in the case of premises) that they are unoccupied or the occupier temporarily absent,

he may by warrant signed by him authorise the inspector or examiner to enter and search the vehicle or premises, using reasonable force if need be.

(3) A warrant granted under this section shall continue in force until executed.

(4) An inspector or examiner who enters any vehicle or premises by virtue of this section, or of a warrant issued under it, may seize anything which he has reasonable grounds for believing is evidence in relation to an offence under section 2(4) above.

(5) Any person who intentionally obstructs any person exercising any power conferred by this section, or by a warrant issued under it, shall be guilty of an offence.

(6) If any person who enters any vehicle or premises by virtue of this section, or of a warrant issued under it, discloses any information thereby obtained with respect to any manufacturing process or trade secret, he shall, unless the disclosure was made in the performance of his duty, be guilty of an offence.

(7) In the application of this section to Scotland, any reference to a justice of the peace includes a reference to the sheriff and to a magistrate.

6.—(1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

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- (a) any director, manager, secretary or other similar officer of the body corporate; or
- (b) any person who was purporting to act in any such capacity,

he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Any person guilty of an offence under section 5(5) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Any person guilty of any other offence under this Act shall be liable—

- (a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both;
- (b) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding two months or to both.

(4) The court by or before which any person is convicted of an offence under section 2(4) or 3(8) above in respect of any radioactive material may order the material to be destroyed or disposed of and any expenses reasonably incurred in connection with the destruction or disposal to be defrayed by that person.

Expenses.

7. Any expenses incurred by the Secretary of State in consequence of the provisions of this Act shall be payable out of money provided by Parliament.

Corresponding provision for Northern Ireland. 1974 c. 28.

8. An Order in Council under paragraph 1(1)(b) of Schedule 1 to the Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which contains a statement that it is made only for purposes corresponding to the purposes of this Act—

- (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Short title, repeals, commencement and extent.

9.—(1) This Act may be cited as the Radioactive Material (Road Transport) Act 1991.

(2) The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) Except for section 8 above, this Act shall not come into force until the end of the period of two months beginning with the day on which it is passed.

(4) Except for section 8 above, this Act does not extend to Northern Ireland.

SCHEDULE

Section 9(2).

REPEALS

Chapter	Short title	Extent of repeal
1948 c. 37.	The Radioactive Substances Act 1948.	In section 5, subsection (2) and in subsection (6) the words from "and for the purposes of subsection (2)" to the end. In section 7, in subsection (1), the words "or any vehicle, vessel or aircraft", and the words "vehicle, vessel or aircraft", and in subsection (2) the words "vehicle, vessel or aircraft" in both places where they occur.

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