



Number 3 of 2002

RADIOLOGICAL PROTECTION (AMENDMENT) ACT, 2002

ARRANGEMENT OF SECTIONS

Section

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*Radiological Protection
(Amendment) Act, 2002.*

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ACTS REFERRED TO

Food Safety Authority of Ireland Act, 1998	1998, No. 29
Public Offices Fees Act, 1879	1879, c. 58
Radiological Protection Act, 1991	1991, No. 9
Radiological Protection Acts, 1991 and 1995	
Taxes Consolidation Act, 1997	1997, No. 39



Number 3 of 2002

RADIOLOGICAL PROTECTION (AMENDMENT) ACT, 2002

AN ACT TO AMEND THE RADIOLOGICAL PROTECTION ACTS, 1991 AND 1995, AND TO PROVIDE FOR THE MAKING OF GRANTS OUT OF FUNDS PROVIDED BY THE OIREACHTAS FOR REMEDIATION WORKS FOR HOUSES HAVING CERTAIN LEVELS OF RADON GAS AND FOR THE ADMINISTRATION BY THE RADIOLOGICAL PROTECTION INSTITUTE OF IRELAND OF SUCH GRANTS AND TO PROVIDE FOR RELATED MATTERS. [20th March, 2002]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act, unless the context otherwise requires— Interpretation.

“applicant” means a person who applies for a grant and cognate words shall be construed accordingly;

“contractor” means a person who carries out remediation works to a house whether pursuant to an agreement made by or on behalf of an applicant or otherwise;

“grant” means a payment of moneys for remediation works that are carried out in accordance with this Act;

“grant scheme” shall be construed in accordance with *section 5(1)*;

“house” means any building or part of a building that is used as a place of residence;

“inspection”, in relation to remediation works, means an inspection for the purposes of ascertaining that the remediation works that are the subject of an application are required to be, and as the case may be, have been, carried out;

“remediation works” means works that may cause the level of radon gas in a house to be reduced;

“remediation works inspector” means a person appointed under *section 5(6)*;

“prescribed” means prescribed by regulations made by the Minister;

“Principal Act” means the Radiological Protection Act, 1991.

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(2) In this Act a reference to any other enactment shall be construed as a reference to that enactment as amended, extended or adapted by or under any subsequent enactment including this Act.

Amendment of
section 30 of
Principal Act.

2.—Section 30 of the Principal Act is hereby amended—

(a) in subsection (4) by the insertion of “pursuant to an order made” after “licence granted”,

(b) by the insertion of the following subsection after subsection (4):

“(4A) Where the Institute has, in accordance with subsection (4) (as amended by the *Radiological Protection (Amendment) Act, 2002*) of this section, attached a condition to a licence, the person to whom such licence has been granted shall comply with that condition.”,

(c) in subsection (5) by the insertion of “pursuant to an order made” after “licence granted”,

(d) by the substitution of the following subsection for subsection (7):

“(7) The Minister may, with the consent of the Minister for Finance, make regulations in relation to—

(a) the procedure for granting a licence including renewal or amendment of a licence and, without prejudice to the generality of the foregoing, may include provisions concerning—

(i) the application procedure including application for a renewal or amendment of a licence,

(ii) the requirement that an application for a licence, or a renewal or amendment of a licence, be made in writing,

(iii) the period within which an application for a licence or renewal or amendment of a licence is to be made including the requirement, where appropriate, that an application for a licence be made prior to the date of the expiration of the licence currently in force,

(iv) the period of time in respect of which a licence is to remain in force,

(v) the period of time within which fees, or a proportion of such fees, for an application for, renewal or an amendment of, a licence are to be paid to the Institute (including the payment of such fees prior to such grant, renewal or amendment), and

(vi) the circumstances in which the Institute may retain fees, or a proportion of such fees, paid to it pursuant to such regulations,

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and

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- (b) the fixing of fees payable to the Institute and, without prejudice to the generality of the foregoing, may include the fixing of fees payable in respect of—
- (i) an application for a licence or a renewal or an amendment of a licence,
 - (ii) any fee or proportion of a fee payable following the grant of a licence,
 - (iii) the number of nuclear devices and irradiating apparatus in respect of which the licence is granted,
 - (iv) the purpose of the licence granted under this section,
 - (v) the quantity of the radioactive substance in respect of which the licence is granted, and
 - (vi) any other matter arising out of an order made under this section,

and such fixing may include fees for different circumstances and different classes of persons,

and such regulations may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of such regulations.”,

and

- (e) by the insertion of the following subsections after subsection (7) (as inserted by this Act):

“(7A) The Institute shall not perform a function, provide a service or carry on an activity where a fee, that has been prescribed to be paid in regulations made by the Minister under subsection (7) (as amended by the *Radiological Protection (Amendment) Act, 2002*) of this section in respect of such function, service or activity, has not been paid in the manner prescribed.

(7B) The Institute may recover, as a simple contract debt in any court of competent jurisdiction, any sum of money due and owing to it from the person by whom such sum is payable.

(7C) The Public Offices Fees Act, 1879, shall not apply to fees payable under this Act.”,

and the said section, as so amended, is set out in the Table to this section (which Table does not purport to indicate the effect of any adaptation of references to any Minister of the Government specified therein made by or under any enactment).

TABLE

30.—(1) The Minister may, after consultation with the Ministers for Finance, Industry and Commerce, Agriculture and Food, Labour, Health, Education, Foreign Affairs, the Environment, Tourism and Transport, the Marine, Communications and Defence and the Institute, by order regulate, restrict or prohibit (save under licence issued by the Institute) the custody, production, processing, handling, holding, storage, use, manufacture, importation, distribution, transportation, exportation or other disposal of such radioactive substances, nuclear devices, or irradiating apparatus, as may be specified in the order, and any such order may have regard to varying levels of activity or ionising radiation and to the extent to which such substances, devices or apparatus are or may be, in his opinion, a danger to the life or health of any person.

(2) For the purpose of giving effect to existing and future acts adopted by the Institutions of the European Communities relating to the health protection of the general public and workers against the dangers of ionising radiation the Minister after consultation with the Ministers referred to in subsection (1) of this section and the Institute, may make an order under this section.

(3) An order made under subsection (2) of this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of the order.

(4) A licence granted pursuant to an order made under this section shall be subject to such conditions as the Institute may attach to it, including a condition that the licence may be revoked if the Institute is of the opinion that any such condition has not been observed.

(4A) Where the Institute has, in accordance with subsection (4) (as amended by the *Radiological Protection (Amendment) Act, 2002*) of this section, attached a condition to a licence, the person to whom such licence has been granted shall comply with that condition.

(5) A licence granted pursuant to an order made under this section by the Institute may be amended or revoked by the Institute.

(6) A person whose licence has been amended or revoked may apply to the High Court for a declaration and the High Court, having heard the evidence adduced, may at its discretion declare that the exigencies of the common good do not require the amendment or revocation of the licence and upon the making of such a declaration the Institute shall re-issue the licence.

(7) The Minister may, with the consent of the Minister for Finance, make regulations in relation to—

- (a) the procedure for granting a licence including renewal or amendment of a licence and, without prejudice to the generality of the foregoing, may include provisions concerning—
 - (i) the application procedure including application for a renewal or amendment of a licence,
 - (ii) the requirement that an application for a licence, or a renewal or amendment of a licence, be made in writing,
 - (iii) the period within which an application for a licence or renewal or amendment of a licence is to be made including the requirement, where appropriate, that an application for a licence be made prior to the date of the expiration of the licence currently in force,
 - (iv) the period of time in respect of which a licence is to remain in force,
 - (v) the period within which fees, or a proportion of such fees, for an application for, renewal or an amendment of, a licence are to be paid to the Institute (including the payment of such fees prior to such grant, renewal or amendment), and
 - (vi) the circumstances in which the Institute may retain fees, or a proportion of such fees, paid to it pursuant to such regulations,

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(b) the fixing of fees payable to the Institute and, without prejudice to the generality of the foregoing, may include the fixing of fees payable in respect of— S.2

(i) an application for a licence or a renewal or an amendment of a licence,

(ii) any fee or proportion of a fee payable following the grant of a licence,

(iii) the number of nuclear devices and irradiating apparatus in respect of which the licence is granted,

(iv) the purpose of the licence granted under this section,

(v) the quantity of the radioactive substance in respect of which the licence is granted, and

(vi) any other matter arising out of an order made under this section,

and such fixing may include fees for different circumstances and different classes of person,

and such regulations may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of such regulations.

(7A) The Institute shall not perform a function, provide a service or carry on an activity where a fee, that has been prescribed to be paid in regulations made by the Minister under subsection (7) (as amended by the *Radiological Protection (Amendment) Act, 2002*) of this section in respect of such function, service or activity, has not been paid in the manner prescribed.

(7B) The Institute may recover, as a simple contract debt in any court of competent jurisdiction, any sum of money due and owing to it from the person by whom such sum is payable.

(7C) The Public Offices Fees Act, 1879, shall not apply to fees payable under this Act.

(8) The Minister may, after consultation with the Ministers referred to in subsection (1) of this section and the Institute, by order amend or revoke an order under this section.

3.—Section 40 of the Principal Act is hereby amended by the insertion of the following subsections after subsection (1):

Amendment of section 40 of Principal Act.

“(1A) A person who—

(a) makes a statement which that person knows to be false or misleading in a material particular, or

(b) recklessly makes a statement which is false or misleading in a material particular,

when making an application for a licence in accordance with an order or regulations made under section 30 (as amended by the *Radiological Protection (Amendment) Act, 2002*) of this Act, including an application for a renewal or an amendment of a licence, shall be guilty of an offence.

(1B) A person who fails to comply with a condition, or any provision of such condition, that is attached to a licence granted pursuant to an order or regulations made under section 30 (as amended by the *Radiological Protection (Amendment) Act, 2002*) shall be guilty of an offence.”.

[No. 3.] *Radiological Protection* [2002.]
(Amendment) Act, 2002.

Amendment of
section 41 of
Principal Act.

4.—Section 41 of the Principal Act is hereby amended—

- (a) in subsection (1) by the insertion of “section 40(1) of this Act for contravention of” after “offence under”,
- (b) in subsection (2) by the insertion of “section 40(1) of this Act for contravention of” after “offence under”,
- (c) in subsection (3) by the insertion of “section 40(1) of this Act for contravention of” after “offence under”,
- (d) in subsection (4) by the insertion of “section 40(1) of this Act for contravention of” after “offence under”,
- (e) in subsection (5) by the insertion of “section 40(1) of this Act for contravention of” after “offence under”,
- (f) in subsection (7) (inserted by the Food Safety Authority of Ireland Act, 1998) by the insertion of “section 40(1) of this Act for contravention of” after “offence under”, and
- (g) by the insertion of the following subsection after subsection (7) (inserted by the Food Safety Authority of Ireland Act, 1998):

“(8) A summary offence under section 40(1A) or 40(1B) (inserted by the *Radiological Protection (Amendment) Act, 2002*) of this Act may be prosecuted by the Minister or the Institute.”,

and the said section, as so amended, is set out in the Table to this section (which Table does not purport to indicate the effect of any adaptation of references to any Minister of the Government specified therein made by or under any enactment).

TABLE

41.—(1) A summary offence under section 40(1) of this Act for contravention of an order made under section 30 of this Act may be prosecuted by the Minister or the Institute.

(2) A summary offence under section 40(1) of this Act for contravention of a regulation made under section 32(1)(a) or (b) of this Act may be prosecuted by the Minister for Agriculture and Food.

(3) A summary offence under section 40(1) of this Act for contravention of a regulation made under section 32(1)(c) or (d) of this Act may be prosecuted by the Minister for the Marine.

(4) A summary offence under section 40(1) of this Act for contravention of a regulation made under section 32(1)(e) of this Act may be prosecuted by the Minister for Finance.

(5) A summary offence under section 40(1) of this Act for contravention of a regulation made under section 32(1)(f) of this Act may be prosecuted by the Minister for Health.

(6) A summary offence under section 29 of this Act in relation to an offence concerning an inspector may be brought by the Minister who appointed that inspector or by the Institute if the Institute appointed that inspector or by the Food Safety Authority of Ireland, in respect of an offence committed after its establishment, if the Food Safety Authority of Ireland appointed that inspector.

(7) A summary offence under section 40(1) of this Act for contravention of a regulation made under section 32(1) of this Act, committed after the establishment of the Food Safety Authority of Ireland, may be prosecuted by the Food Safety Authority of Ireland. S.4

(8) A summary offence under section 40(1A) or 40(1B) (inserted by the *Radio-logical Protection (Amendment) Act, 2002*) of this Act, may be prosecuted by the Minister or the Institute.

5.—(1) The Minister shall, subject to regulations made under *section 8*, make a payment, out of moneys provided by the Oireachtas, to the Institute for the purpose of administering and paying out moneys for carrying out remediation works to any house with a radon gas measurement that is greater than 200 becquerels per cubic metre to an applicant and such payment shall include provision for administration costs incurred by the Institute in the administration of the grant scheme. Remediation works grant.

(2) The Institute shall administer the grant scheme in accordance with this Act and regulations made under *section 8*.

(3) The Institute may, for the purposes of the administration of such grant scheme, provide administrative structures for the performance of its functions.

(4) The Minister may cause to be published such information in relation to the grant scheme as in the opinion of the Minister is necessary from time to time.

(5) The Institute shall establish a system for the inspection of any house and remediation works that are the subject of an application under this Act.

(6) The Institute shall appoint a person to be a remediation works inspector to carry out such inspections under this Act and any regulation made under *section 8* and may revoke any such appointment and sections 28(6) and 29(3) to (8) of the Principal Act shall apply, with any necessary modifications, to a remediation works inspector appointed under this section.

(7) The Institute shall furnish the Minister with such information regarding the performance by the Institute of its functions under this Act as the Minister may from time to time request.

(8) The Institute shall keep the records referred to in *subsection (9)* for a period prescribed by the Minister and thereafter shall furnish such records to the Minister.

(9) The records referred to in *subsection (8)* include a record of each application for a grant made under the Act, the level of radon gas submitted in respect of such application and the grant paid to the applicant.

6.—(1) An inspection of any house or remediation works under this Act shall not concern any building or other works carried out by the contractor, the applicant or any other person to a house where such works were required for the installation of the remediation works concerned in that house and an inspection or a report of a remediation works inspector under this Act shall not be construed as an inspection or approval of such building or other works. Inspections.

[No. 3.] *Radiological Protection* [2002.]
(Amendment) Act, 2002.

- S.6 (2) No action or other proceedings shall lie or be maintainable against the Minister, the Institute or a remediation works inspector for the recovery of damages in respect of any injury to persons, damage to property or other loss alleged to have been caused or contributed to by the carrying out of such building or other works or the failure to exercise or carry out any function conferred or imposed on the Minister, Institute or a remediation works inspector by or under this Act.
- Payment of grant. 7.—(1) Where an applicant has complied with this Act and any regulations made under *section 8* and the remediation works concerned have been carried out in accordance with this Act and regulations made under *section 8* and have been completed, the Institute shall pay the grant concerned to the applicant.
- (2) The amount of a grant to be paid to an applicant by the Institute shall be one half of the costs incurred by the applicant for the remediation works but subject to a maximum amount of €1,000, whichever sum is the lesser amount.
- Regulations. 8.—(1) The Minister may, with the consent of the Minister for Finance, make regulations for the administration of the grant scheme by the Institute.
- (2) The Minister may make regulations concerning the grant scheme and without prejudice to the generality of the foregoing, such regulations under this section may provide for all or any of the following—
- (a) the date of commencement of the grant scheme and the date of cessation of the grant scheme,
 - (b) the procedure for making an application for a grant,
 - (c) the class or classes and use of house in respect of which a grant may be paid,
 - (d) the types of remediation works,
 - (e) the carrying out of inspections of any house and of remediation works,
 - (f) any matter in respect of which compliance by a contractor is required when carrying out remediation works including compliance with the Taxes Consolidation Act, 1997,
 - (g) information to be provided by an applicant in respect of the house that is the subject of the application for a grant,
 - (h) documentation to be furnished by an applicant concerning the measurement of radon gas inside the house that is the subject of the application and the period for which such measurement is valid,
 - (i) documentation to be furnished by an applicant concerning the statement of the costs of the remediation works concerned,
 - (j) documentation to be furnished by the contractor on the remediation works concerned in respect of and compliance by that contractor with prescribed standards and

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any other matter in respect of which compliance is prescribed, S.8

(k) the resolution of disputes, and

(l) the provision of information, by advertisement, concerning the grant scheme,

and such regulations may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of the regulations.

(3) Section 3 of the Principal Act shall apply to regulations made under this Act.

9.—(1) The Institute shall keep accounts of all moneys concerning the grant scheme received by it under this Act and shall keep separate accounts of moneys received and expended by it under the grant scheme.

Accounts and audits for grant scheme.

(2) The Institute shall, for the purposes of this section, keep in such form as may be approved of by the Minister, with the consent of the Minister for Finance, all proper and usual accounts of moneys received or expended by it, including an income and expenditure account and, in particular, shall keep all such special accounts as the Minister may from time to time direct.

(3) Accounts kept by the Institute in pursuance of this section shall be presented with the accounts referred to in section 16(2) of the Principal Act to the Comptroller and Auditor General for audit and, immediately after the audit, a copy of the income and expenditure account and of such other (if any) accounts kept pursuant to this section as the Minister, after consultation with the Minister for Finance, may direct and a copy of the Comptroller and Auditor General's report on the accounts shall be presented to the Minister who shall cause copies thereof to be laid before each House of the Oireachtas.

10.—(1) No action or other proceedings in relation to the grant scheme shall lie or be maintainable against the Minister or the Institute for the recovery of damages in respect of any injury to persons, damage to property or other loss alleged to have been caused or contributed to by a failure to exercise any power or carry out any function conferred or imposed on the Minister or the Institute by or under this Act.

Immunity for grant scheme.

(2) No action or other proceedings shall lie or be maintainable against the Minister or the Institute for the recovery of damages in respect of any injury to persons, damage to property or other loss alleged to have been caused or contributed to by the carrying out of remediation works by a contractor in accordance with this Act in respect of which a grant has been made under this Act or the effectiveness or otherwise of such remediation works.

11.—(1) It shall be an offence to obstruct an inspector in the course of an inspection of a house or remediation works.

Offences and penalties.

(2) It shall be an offence to furnish information or make a statement that is false or misleading in an application for a grant or a claim for payment under this Act.

[No. 3.] *Radiological Protection* [2002.]
(Amendment) Act, 2002.

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(3) A person who is guilty of an offence under *subsection (1)* or *(2)* shall be liable, on summary conviction, to a fine not exceeding €1,904 or to imprisonment for a term not exceeding 6 months, or to both.

(4) The Minister may prosecute an offence under *subsection (1)* or *(2)*.

Short title,
collective citation,
construction and
commencement.

12.—(1) This Act may be cited as the Radiological Protection (Amendment) Act, 2002.

(2) The Radiological Protection Acts, 1991 and 1995, and this Act may be cited together as the Radiological Protection Acts, 1991 to 2002, and shall be construed together as one Act.

(3) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes and different provisions.