



STATUTORY INSTRUMENTS.

S.I. No. 390 of 2011



RADIOLOGICAL PROTECTION ACT 1991 (NUCLEAR SAFETY)
ORDER 2011

(Prn. A11/1311)

RADIOLOGICAL PROTECTION ACT 1991 (NUCLEAR SAFETY)
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I, PHIL HOGAN, Minister for the Environment, Community and Local Government, in exercise of the powers conferred on me by section 30 of the Radiological Protection Act 1991 (No. 9 of 1991), after consultation with the Ministers referred to in subsection (1) of that section and the Radiological Protection Institute of Ireland, for the purpose of giving effect to Council Directive 2009/71/Euratom of 25 June 2009 establishing a Community framework for the nuclear safety of nuclear installations, hereby order as follows:

Citation

1. This Order may be cited as the Radiological Protection Act, 1991 (Nuclear Safety) Order 2011.

Entry into Force

2. This Order comes into operation on 22 July 2011.

Definitions

3. (1) In this Order—

“Directive” means Council Directive 2009/71/EURATOM of 25 June 2009 establishing a Community framework for the nuclear safety of nuclear installations;

“Institute” means the Radiological Protection Institute of Ireland;

“Ionising Radiation Order” means the Radiological Protection Act, 1991 (Ionising Radiation) Order 2000 (S.I. No. 125 of 2000);

“Licence” means a licence referred to in section 30 of the Principal Act and required pursuant to Article 4 of the Ionising Radiation Order;

“Minister” means the Minister for the Environment, Community and Local Government;

“Nuclear installation” means:

- (a) an enrichment plant, nuclear fuel fabrication plant, nuclear power plant, reprocessing plant, research reactor facility, spent fuel storage facility and
- (b) storage facilities for radioactive waste that are on the same site and are directly related to nuclear installations listed under point (a);

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 26th July, 2011.

“Nuclear safety” means the achievement of proper operating conditions, prevention of accidents and mitigation of accident consequences, resulting in protection of workers and the general public from dangers arising from ionising radiations from nuclear installations;

“Principal Act” means the Radiological Protection Act 1991 (No. 9 of 1991);

(2) A word or expression which is used in these Regulations and which is also used in the Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

Scope

4. (1) This Order applies to any civilian nuclear installation operating under a licence and at all stages covered by the licence.

(2) The application of this order is without prejudice to the provisions of the Electricity Regulation Act 1999 (No. 23 of 1999) and in particular Section 18(6).

Competent Authority

5. (1) The Institute is the competent authority in the State to carry out tasks in accordance with this Order and the Directive, in accordance with Article 5 of the Directive.

(2) The Institute shall have assigned to it the general functions to promote the continuous improvement of nuclear safety and its regulation for the purpose of this Order and the Directive.

Legislative, regulatory and organisational framework

6. (1) The Institute shall, where appropriate, establish and maintain a national, regulatory and organisational framework for nuclear safety of nuclear installations, which shall include the following:

- (a) The adoption of national nuclear safety requirements;
- (b) The provision of a system of licensing and prohibition of operation of nuclear installations without a licence;
- (c) The provision of a system of nuclear safety supervision; and
- (d) Enforcement actions, including suspension of operation and modification or revocation of a licence.

(2) The Institute shall ensure that the national framework is maintained and improved when appropriate.

Powers of Inspectors

7. The power of an Inspector under Section 29 of the Principal Act shall apply *mutatis mutandi* to nuclear installations.

Enforcement Notices

8. (1) If an inspector is of the opinion that a licensee has contravened or is contravening a provision of this Order, the inspector may serve on the licensee a notice in writing (in this Order referred to as “an enforcement notice”) requiring it to do or not to do such things as are specified in the notice for the purpose of ensuring compliance with the provision concerned.

(2) Without prejudice to paragraph (1), an enforcement notice shall-

(a) state that the inspector is of the said opinion, and

(b) specify the provision or provisions which have been, or are being, contravened, and

(c) require the licensee concerned to

(i) cease the carrying on of the practice or work activity concerned, and/or

(ii) mitigate or remedy any effects of the contravention concerned.

(3) A licensee served with an enforcement notice shall comply with an enforcement notice.

(4) Without prejudice to paragraphs (7) and (8), an enforcement notice shall take effect—

(a) if the notice so provides, immediately upon its being received by the licensee concerned,

(b) in any other case on the expiration of the period referred to in paragraph (5) or any day specified in the notice as being the day on which it is to take effect, whichever is the later.

(5) A licensee on whom an enforcement notice is served, may within the period of 14 days beginning on the day on which the notice is served on it, appeal to the appropriate judge of the District Court against the notice.

(6) On the hearing of an appeal under paragraph (5) the court may, as it thinks proper,

(a) confirm the notice unconditionally,

(b) make such modifications to the notice as it considers appropriate and confirm this notice, as so modified, or

(c) cancel the notice.

(7) Notwithstanding that it has been confirmed under paragraph (6), the appropriate judge of the District Court may, on the hearing of the appeal under paragraph (5) in relation to it, if the licensee concerned makes an application to him or her in that behalf, suspend the operation of an enforcement notice for

such period as in the circumstances of the case he or she considers appropriate, and such suspension may be with or without conditions.

(8) The making of an appeal under paragraph (5) shall not have the effect of suspending the operation of the enforcement notice concerned but the licensee concerned may apply to the appropriate judge of the District Court for an order suspending the operation of the notice until the conclusion of the appeal and the court may, on the hearing of such an application, grant or refuse to grant such an order and any such suspension may be with or without conditions.

(9) An inspector may cancel an enforcement notice served under this Article (other than such a notice that has been confirmed under paragraph (6)).

(10) An inspector may apply to the appropriate judge of the District Court for an order cancelling an enforcement notice that has been confirmed under paragraph (6) and the court shall, on the hearing of the application, unless it sees good reason to the contrary, grant such an order.

(11) In this Article “appropriate judge of the District Court” means the judge of the District Court for the District Court district in which the enforcement order concerned was served.

(12) Where an enforcement notice has been served and is in effect and the licensee concerned has not complied with the notice, the High Court may, on the application of the inspector, by order direct the licensee concerned to comply with the notice.

(13) An application to the High Court under paragraph (12) shall be by motion of the Court and the Court when considering the matter may make such interim or interlocutory order (if any) as it considers appropriate and the order by which an application under paragraph (12) is determined may contain such terms and conditions (if any) as to the payment of costs as the Court considers appropriate.

Reporting

9. The Institute shall report to the Minister and the European Commission on the implementation of the Directive as required.



GIVEN under the Official Seal of the Minister for the Environment,
Community and Local Government,
22 July 2011.

PHIL HOGAN,
Minister for the Environment, Community and Local
Government.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

This Order transposes Ireland's obligations in relation to Directive 2009/71/Euratom. The objectives of this Directive are to establish a Community framework in order to maintain and promote the continuous improvement of nuclear safety and its regulation through the provision of appropriate national arrangements for a high level of nuclear safety to protect workers and the general public against the dangers arising from ionising radiation from nuclear installations.

Article 4 of this Order applies to civilian nuclear installations and is without prejudice to the provisions of the Electricity Regulation Act, 1999 (No. 23 of 1999). Section 18(6) of the Electricity Regulation Act places a prohibition on the use of nuclear fission within the State for the generation of electricity.

Article 5 of this Order establishes the Radiological Protection Institute of Ireland as the competent authority in the State for the purpose of this Order and the Directive.

Article 6 of this Order requires the Radiological Protection Institute of Ireland, where appropriate, to establish and maintain a national, regulatory and organisational framework for nuclear safety of nuclear installations.

Article 7 of this Order states that the powers of inspectors appointed by the Radiological Protection Institute of Ireland shall apply with any necessary changes to account for the fact that they are now being applied to nuclear installations.

Article 8 of this Order sets out the procedures for the serving of an enforcement notice by an inspector appointed by the Radiological Protection Institute of Ireland.

Article 9 of this Order sets out the reporting obligations of the Radiological Protection Institute of Ireland.

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CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
nó trí aon díoltóir leabhar.

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