

Queensland



RADIOACTIVE SUBSTANCES ACT 1958

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(includes amendments up to Act No. 41 of 1998)**

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Information about this reprint

This Act is reprinted as at 21 December 1998. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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RADIOACTIVE SUBSTANCES ACT 1958

[as amended by all amendments that commenced on or before 21 December 1998]

An Act to control and regulate the possession, sale, transport and use of radioactive substances and the possession and use of certain apparatus capable of producing radiation

Short title

1. This Act may be cited as the *Radioactive Substances Act 1958*.

Crown bound

3. This Act shall be binding on the Crown.

Definitions

4. In this Act—

“**analyst**” means an analyst within the meaning of the *Health Act 1937*, section 5, and also includes any person appointed as a physicist or scientist under and for the purposes of this Act.

“**approved form**” see section 32A¹.

“**chief health officer**” means the chief health officer under the *Health Act 1937*.

“**council**” means the Radiological Advisory Council of Queensland constituted under this Act.

“**dentist**” means a person registered as a dentist under the *Dental Act 1971*, and whose name remains upon the register of dentists registered under that Act.

¹ Section 32A (Approval of forms)

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“inspector” means any inspector appointed under this Act, and includes any police officer or other person appointed to act as an inspector, and also any person acting under the direction or in aid of an inspector.

“irradiating apparatus” means apparatus capable of producing ionising radiation of any prescribed type or types or capable of accelerating atomic particles under any prescribed conditions, and includes any apparatus not presently so capable, either by accident or design, by reason of any defect in, or the absence of, any part thereof.

“licence” means a licence, including any renewal of a licence, granted under this Act and in force at the material time, and with reference to any particular provision of this Act a licence of the description appropriate according to that provision.

“place” includes any house, office, room, tent, ship, vessel, vehicle, aircraft, building, erection, structure, or premises (whether upon land or water), and any road, street, thoroughfare, alley, right of way (whether public or private), and any land, whether public or private and whether enclosed or otherwise, and also includes any part of any place.

“radioactive substance” means any substance which consists of or contains more than the prescribed concentration of any radioactive chemical element or isotope, whether natural or artificial.

“sell” includes sell, by wholesale or by retail, or by auction, and barter, exchange, deal in, or supply for profit, assign or part with possession, whether for valuable consideration or otherwise, agree to sell, offer or expose for sale, keep, or have in possession for sale or send, forward, consign or deliver for or on sale, and to authorise, cause, permit, allow, suffer, or attempt any of such things, and **“sale”** shall have a correspondingly inclusive meaning.

“substance” means any natural or artificial substance whether in solid or liquid form, or in the form of a gas or vapour, and any manufactured article or any article which has been subject to any artificial treatment or process.

The Radiological Advisory Council

6.(1) For the purposes of this Act there shall be constituted a body which shall be called ‘The Radiological Advisory Council of Queensland’ (the

“council”).

(1A) The council shall be deemed to be established on and from the date of the first appointment of the members thereof.

Membership

(2) The council shall consist of a chairperson and not less than 4 and not more than 9 other members.

(2A) The chief health officer shall ex officio be a member of the council and chairperson thereof.

(2B) A person nominated in that behalf by the chief health officer may act in the office of chairperson during such time as the chief health officer is prevented by absence, illness or otherwise from performing the duties of the office of chairperson and the person so nominated, whilst so acting, shall have and may exercise all of the powers, authorities and functions, and shall perform all of the duties of the chairperson.

(2C) Such a nomination shall be in writing and may be made generally or subject to such limitations as to time or otherwise as are specified therein.

(2D) The chief health officer may in writing revoke any such nomination.

(2E) The other members of the council shall, upon the recommendation of the Minister after consultation with such public authorities and such scientific, professional and technical organisations and persons as the Minister thinks appropriate, be appointed from time to time by the Governor in Council.

Tenure of office

(3) Subject to this Act every member of the council other than the ex officio member thereof—

- (a) shall be eligible for reappointment; and
- (b) shall hold office for the respective term for which the member is appointed or reappointed but no such appointment or reappointment shall be for a term exceeding 3 years.

(3A) The office of a member of the council, other than the ex officio member thereof, shall—

- (a) commence on the date of the member’s appointment thereto; and

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- (b) become vacant if such member—
- (i) dies or becomes mentally sick; or
 - (ii) becomes bankrupt or compounds with the member's creditors, or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or
 - (iii) is absent without leave granted by the council from 3 consecutive ordinary meetings of the council of which due notice has been given to the member; or
 - (iv) resigns office by signed notice delivered to the Minister (such resignation shall be complete and shall take effect from the time when it is received by the Minister); or
 - (v) is convicted of an indictable offence or of an offence against this Act; or
 - (vi) is removed from office by the Governor in Council on the grounds of mental or physical incapacity to perform the member's duties or because of any conduct which, in the opinion of the Governor in Council, shows the member to be unfit to be a member of the council.

(3B) However, the attendance of any such member at the time and place appointed for an ordinary meeting shall be deemed to constitute presence at an ordinary meeting notwithstanding that by reason that no quorum is present no meeting is actually held on that day, and the secretary to the council shall enter in the minute book the names of all members who so attend.

Extraordinary vacancies

(4) When a vacancy arises in the office of a member of the council other than the ex officio member by death, resignation, or otherwise howsoever, the Governor in Council must appoint a member to hold office for the remainder of the term of the member's predecessor.

(4A) Subsection (4) applies so as not to affect the power of the Governor in Council to appoint a person to act temporarily in any such office during a vacancy therein.

Appointment of deputies

(5) If any member of the council other than the ex officio member

thereof is at any time prevented by absence, illness, or otherwise from performing the duties of office, the Governor in Council may appoint another person to act in that office during such time as the other member is so prevented from performing such duties, and the person so appointed, whilst so acting, shall have and may exercise all of the powers, authorities and functions, and shall perform all of the duties of the member in whose place the member acts.

Validity of acts, persons acting as deputies

(6) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising the person nominated in that behalf by the chief health officer to act in the place of the chief health officer, or a person thereunto appointed to act in the place of a member other than the ex officio member, or as to the necessity or propriety of any such nomination or appointment; and all acts or things done or omitted by the person so nominated or a person when so acting as aforesaid shall be as valid and effectual and shall have the same consequences as if the same had been done or omitted by the chief health officer or the member in whose place such nominated person or other person, as the case may be, is acting.

Allowances etc.

(7) Each member shall receive such allowances, or fees, or allowances and fees (if any) as the Governor in Council may from time to time determine.

Proceedings of the council meetings

(9) The council shall meet at such times and places and conduct its business in such manner as may be prescribed or, in so far as not prescribed, as it may from time to time determine.

Quorum

(9A) A majority of the number of members of the council for the time being shall form a quorum at any meeting of the council, and any duly convened meeting at which a quorum is present shall be competent to transact any business of the council and shall have and may exercise all the powers, authorities and functions, and may perform all of the duties of the council.

(9B) The decision of a majority of the members present at any meeting at which there is a quorum shall be a decision of the council.

Chairperson

(9C) The chairperson, or in the chairperson's absence the person (if any) nominated in that behalf by the chairperson, shall preside at all meetings of the council at which the chairperson is present.

(9D) If both the chairperson and the person (if any) nominated in that behalf by the chairperson, are absent from any duly convened meeting the members present shall appoint one of their number to preside at the meeting.

(9E) The person presiding at any meeting of the council shall have a vote and when there is an equal division of votes upon any question shall have a second or casting vote.

Committees

(10) The council may appoint such advisory committees or technical committees as it thinks fit to advise it on such matters within the scope of its functions as are referred to those committees by the council.

(11) A person may be appointed to be a member of a committee under subsection (10) notwithstanding that the person is not a member of the council.

Functions of council

7.(1) The council may initiate and refer to the Minister—

- (a) recommendations for making, altering or repealing regulations or any of them;
- (b) recommendations relating to the administration of this Act;
- (c) recommendations for preventing or minimising the dangers arising from radioactive substances and irradiating apparatus.

(2) It shall be the duty of the council to consider and advise the Minister upon such matters and questions as the Minister may from time to time refer to it relating to—

- (a) any proposal for making, altering or repealing any regulations;
- (b) the administration of this Act;

- (c) the prevention or minimising of dangers arising from radioactive substances and irradiating apparatus.

Officers

8.(1) The secretary to the council and inspectors necessary for this Act are to be employed under the *Public Service Act 1996*.

(2) The Minister may from time to time appoint such and so many police officers and other competent persons as the Minister deems necessary to act as inspectors under and for the purposes of this Act, and may in like manner cancel such appointments.

(3) The Minister may from time to time, by signed writing, appoint such and so many competent persons trained in the estimation of ionizing radioactive emanations of any kind produced either from any radioactive substance or irradiating apparatus as the Minister deems necessary as physicists or scientists under and for the purposes of this Act and may cancel any such appointments.

(6) Every inspector shall as far as practicable be furnished with a certificate of appointment signed by either the Minister or the chief executive and upon entering any place shall, if required, produce that certificate to the owner or occupier of the place.

(7) Except for the purposes of this Act and in the exercise of his or her functions under this Act, or except with the prior permission of the Minister, or except where so ordered by a court for the purpose of the hearing or determination or trial of any proceeding or action before that court, an inspector or other officer shall not disclose to any person any information which in the exercise of his or her functions he or she acquires with respect to any manufacturing process or trade secret.

Delegation by Minister

9. The Minister may delegate the Minister's powers under this Act to an officer of the public service.

Issue of licences

10.(1) Subject to this Act, the Minister may on the recommendation of

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the council grant and renew, or refuse to grant or renew, licences for any of the purposes of this Act.

(1A) Every licence, and every renewal of a licence, granted under this Act must be in the approved form.

(1B) Each and every licence granted under this Act shall specify—

- (a) the name of the licence holder; and
- (b) the authority given to the licence holder by that licence; and
- (c) all other prescribed particulars (if any);

and shall be deemed to be granted subject to all the terms and conditions (if any) therein specified and to all other terms and conditions as may for the time being be prescribed to be implied in the description of licence to which that licence belongs.

(2) In granting any licence or a renewal thereof the Minister shall not be bound by the application but, subject to this Act, the Minister may upon the recommendation of the council as aforesaid—

- (a) grant the licence or renewal without terms and conditions; or
- (b) grant the licence or renewal subject to such terms and conditions as may be fixed by the Minister.

(2A) However, a licence or a renewal thereof granted by a delegate, by direction of the Minister, shall be so granted subject to such terms and conditions (if any) as the Minister specifies in the direction.

(2B) In addition, where a licence is granted subject to terms and conditions every renewal thereof shall, unless the Minister directs otherwise, be deemed to be granted under and subject to those terms and conditions.

(2C) Without limiting in any way the power of the Minister to grant or renew any licence subject to such terms and conditions as may be fixed by the Minister, a licence may be granted or renewed subject to a condition that the licensee shall not use or permit or allow to be used any radioactive substance or irradiating apparatus, as the case may be, for purposes expressly stated in the licence or in any endorsement thereon, or for purposes other than purposes expressly stated in the licence or in any endorsement thereon.

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(2D) Any person to whom the powers of the Minister conferred by this section have been delegated shall refuse to grant or to renew any licence if thereunto directed by the Minister.

(2E) If any person to whom the powers of the Minister conferred by this section have been delegated refuses to grant or to renew any licence, the applicant therefor may require the person to refer the matter to the Minister for direction.

(3) The Minister, as the Minister deems fit, may, upon the recommendation of the council, by written notice, amend or revoke any of the terms and conditions referred to in subsection (2) to which a licence is subjected for the time being, or impose any of those terms and conditions to which the licence is not then subjected.

(3A) Every notice under subsection (3) shall be deemed to be included in and to form part of the licence to which it relates.

(4) Unless sooner cancelled, surrendered or renewed, every licence granted under this Act shall be in force—

- (a) for the period less than 12 months expressly stated in the licence or in any endorsement thereon; or
- (b) where a period less than 12 months is not expressly stated in or in an endorsement on the licence, for the period of 12 months, from and including the date of issue or renewal, as the case may be.

(4A) For the purposes of subsection (4) the renewal for any period of such a licence shall be deemed to be made on the first day of that period.

(5) Every holder of a licence under this section who desires to renew that licence shall apply accordingly to the chief executive and pay the prescribed fee not later than 30 days before the date whereon that licence will expire unless renewed or, as the case requires, further renewed.

(6) Terms and conditions imposable by the Minister under this section may be imposed by the Minister at his or her absolute discretion, and differently in respect of different licences.

Cancellation, suspension, and surrender of licences

11.(1) The Minister may, upon the recommendation of the council, cancel or suspend any licence granted by the Minister—

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- (a) if there has been a substantial change in circumstances since the grant of that licence; or
- (b) if the holder of that licence is convicted of an offence against this Act or, in relation to any radioactive substance or irradiating apparatus, the Criminal Code; or
- (c) if the holder of that licence fails in any respect to comply with the terms and conditions subject to which that licence is granted; or
- (d) if the licence has been granted upon false or erroneous information; or
- (e) if it is deemed necessary for the safety of the public or of any person or persons.

(2) Suspension of a licence shall whilst it is in force have the same effect as a cancellation of the licence and the Minister may, when suspending a licence, fix the period of its suspension or the Minister may suspend it without fixing the period of its suspension.

(2A) Suspension of any licence shall not extend, upon the termination of that suspension, any period during which that licence would ordinarily have remained in force if it had not been suspended.

(3) Where the Minister has upon any date suspended a licence without fixing the period of its suspension, the onus of proof that such licence is in force at any later date shall be on the defendant, but without prejudice to the right of the prosecutor to adduce evidence proving or tending to prove that such licence is not in force at that later date.

(4) The licensee shall not be entitled to claim or receive any compensation in respect of the cancellation or suspension of the licensee's licence or any expense he or she may have incurred in acting or with a view to taking action under the licence.

(5) On cancellation, the licence affected thereby and all rights, interests, and privileges thereunder shall absolutely cease and determine.

(6) Without limiting the mode of cancelling or suspending a licence, any licence may be cancelled or suspended by gazette notice.

(7) The Minister may cancel or suspend any licence for failure by the holder thereof to comply with any term or condition, express or implied, of the licence notwithstanding that the licensee has not been proceeded against

for any offence constituted by such failure.

(8) Any licence granted under this Act may, upon notice in writing thereof to the Minister, be surrendered.

Applications for licences

12.(1) Every application for a licence or for the renewal of a licence shall be made to the chief executive and shall—

- (a) be in the approved form; and
- (b) contain or be accompanied by, according as may be prescribed, the prescribed information and particulars with respect to the applicant; and
- (c) be accompanied by the prescribed payment in respect of the fee therefor; and
- (d) be made by the applicant in the applicant's true name and signed by the applicant; and
- (e) be verified as prescribed.

(1A) If the licence or renewal applied for is refused, the payment made by the applicant under subsection (1) shall be refunded to the applicant.

(2) The chief executive shall refer every such application to the council.

Control of possession, use, sale or transport of radioactive substances

13.(1) Subject to such exemptions as may be prescribed and to the provisions of this section, no person shall—

- (a) have in his or her possession; or
- (b) use; or
- (c) sell; or
- (d) transport;

any radioactive substance otherwise than in accordance with the terms of a licence issued to the person under this Act.

(2) No person shall, for the purpose of treating a human being, have in his or her possession or use or administer or attempt to use or administer

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any radioactive substance unless such person is a medical practitioner, does so in the person's practice as a medical practitioner and holds a licence issued to the person under this Act authorising him or her so to do or is a person who, in the case of possession only of such substance, has such possession only for the purpose of acting or, in any other case, is acting under the supervision and instruction or upon the request made directly to the person of a medical practitioner so licensed, such supervision and instruction being given or such request being made by such medical practitioner in his or her practice as such.

(3) No person shall sign a prescription prescribing any radioactive substance for the purpose of the treatment of any human being, unless such person is a medical practitioner, signs such prescription in the person's practice as a medical practitioner and holds a licence issued to the person under this Act authorising the person so to do.

(4) Any person who contravenes any of the provisions of this section shall be guilty of an offence against this Act.

Maximum penalty—8 penalty units, and (if the offence is a continuing one) a further penalty of \$20 for each and every day during which the offence continues, or imprisonment for 6 months.

Possession and use of irradiating apparatus

14.(1) Subject to such exemptions as may be prescribed a person shall not have in possession irradiating apparatus unless the person is the holder of a licence that authorises the person to use or have in possession irradiating apparatus and the person's possession of irradiating apparatus complies with the conditions of that licence.

Maximum penalty—8 penalty units or 6 months imprisonment.

Daily penalty—\$20.

(2) Subject to such exemptions as may be prescribed a person shall not sell irradiating apparatus, unless the person is the holder of a licence that authorises the person to sell irradiating apparatus and the person's sale of irradiating apparatus complies with the conditions of that licence.

Maximum penalty—8 penalty units or 6 months imprisonment.

Daily penalty—\$20.

(3) Subject to such exemptions as may be prescribed a person shall not use irradiating apparatus unless the person is the holder of a licence that authorises the person to use irradiating apparatus and the person's use of irradiating apparatus complies with the conditions of that licence.

Maximum penalty—8 penalty units or 6 months imprisonment.

Daily penalty—\$20.

Registers of licences

15.(1) The Minister shall cause to be kept such registers of licences granted under this Act as may be prescribed by regulation.

(2) Evidence of the contents of every such register may be given in any proceedings by a certificate under the hand of the Minister or by a prescribed officer by whom the same is kept and every such certificate shall be prima facie evidence of the matters stated therein.

(3) A certificate under the hand of the Minister or such a prescribed officer that on a date specified in the certificate the name of any person did not appear in any such register as the holder of a licence under this Act or that certain particulars did or did not appear in any such register, shall, until the contrary is proved, be sufficient evidence that that person was not the holder of any licence to which the register relates on that date.

(4) For the purposes of this section the signatures of the said Minister and of all such prescribed officers shall be judicially noticed.

Licensees to comply with terms and conditions of licences

16. A holder of a licence under this Act shall comply in every respect with the terms and conditions of that licence, whether expressed therein or prescribed to be implied therein.

Maximum penalty—8 penalty units, and (if the offence is a continuing one) a further penalty of \$20 for each and every day during which the offence continues, or imprisonment for 6 months.

Forgery of licence etc.

17. A person shall not—

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- (a) forge or counterfeit any licence; or
- (b) utter, or make use of any forged or counterfeited licence; or
- (c) personate any person named in any licence; or
- (d) falsely pretend to be an inspector; or
- (e) connive at any such forging, counterfeiting, uttering, making use, personating, or pretending as aforesaid.

Maximum penalty—6 penalty units or imprisonment for 6 months.

Refusal to furnish information etc.

18. A person shall not when required by or under this Act to furnish any information or to subscribe a declaration as to the truth of any information—

- (a) fail to furnish that information, or to subscribe that declaration; or
- (b) furnish any information or subscribe any declaration that is false or misleading in any respect.

Maximum penalty—4 penalty units.

Appeal

19.(1) Any applicant or, as the case may be, licensee who is aggrieved by—

- (a) the refusal of the Minister to grant or renew a licence; or
- (b) the cancellation or suspension of a licence by the Minister;

may appeal to a judge of the Supreme Court sitting in court.

(1A) An appeal as aforesaid shall not lie unless it is instituted within 30 days after the giving to that applicant or licensee of notice of such refusal, cancellation or suspension, and such a notice sent by post shall, unless the contrary be proved, be deemed to have been so given when it would have been delivered in the ordinary course of post.

(2) An appeal under this section shall be instituted by filing in the Supreme Court registry a notice of appeal.

(3) An appeal under this section shall be by way of rehearing, and the

judge hearing the same may, subject to subsection (4), confirm the decision of the Minister or uphold the appeal and make such order or orders with respect to the grant, renewal or reissue of any licence, the suspension in lieu of cancellation of any licence, the shortening or lengthening of the period of suspension of any licence, and otherwise as the judge deems necessary or expedient to give effect to the judge's decision upon the appeal.

(3A) The decision of a judge of the Supreme Court upon an appeal under this section shall be final between the parties to the appeal.

(4) The judge hearing an appeal under this section shall confirm the decision of the Minister and shall not uphold the appeal—

- (a) in the case of an appeal against the refusal of the Minister to grant or renew a licence—unless the judge finds that the Minister could not reasonably have formed any opinion justifying such refusal having regard to the qualifications and reputation of the applicant for or holder of the licence, the purpose for which the licence was applied for or held, the safety of the public or of any person or persons and any other circumstances held by the judge to be relevant; or
- (b) in the case of an appeal against the cancellation or suspension of a licence by the Minister—unless the judge finds that the Minister could not reasonably have formed any opinion justifying (pursuant to any of the provisions of section 11) the cancellation or suspension.

(5) The judge may make such order as to costs to be paid by either party to the appeal as the judge thinks just.

(6) Any such order made as to costs may be enforced in the same manner as a judgment of the Supreme Court.

General powers of inspectors

20.(1) Any inspector, in addition to such other powers and duties as from time to time devolve upon the inspector under this Act, may—

- (a) call to his or her aid—
 - (i) any police officer where the inspector has reasonable cause to apprehend any obstruction in the exercise of the

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- inspector's powers or in the execution of the inspector's duties;
- (ii) any person the inspector may think competent to assist the inspector in making any inspection or examination; and
 - (b) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act have been or are being complied with by any person or in respect of any radioactive substance or any irradiating apparatus; and
 - (c) question, with respect to matters under this Act, the owner or occupier of any place, every person whom the inspector finds in any place, and every person who has been within the preceding 6 months employed in or on any place to ascertain whether this Act has been or is being complied with, and require any such person to answer the questions put and to sign a declaration of the truth of the person's answers; and
 - (d) require the production of any licence, and of any book, notice, record, list, or writing which by this Act is required to be had or kept or which is in the inspector's opinion material to any inquiry under paragraph (b), and inspect, examine, and take copies of or extracts from the same; and
 - (e) at any time, search and examine all bags, containers, vehicles, or other receptacles for holding or transporting any radioactive substance or suspected so to be, and for that purpose the inspector may require the owner or person in charge thereof to open any such bag, container, vehicle, or other receptacle, as the case may be, and expose its contents to view; and
 - (f) between sunrise and sunset, enter any place and search for any radioactive substance which may have been used, had in possession, or sold, or any irradiating apparatus or other apparatus which is reasonably suspected of having been used, prepared for use, or had in possession, contrary in any respect to this Act, and seize, take away, detain, and secure the same pending proceedings; and
 - (g) seize, take away, detain, and secure, pending proceedings, any radioactive substance or any irradiating apparatus which any person has used, is using or has sold, or is suspected of using or

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having sold, contrary in any respect to this Act; and

- (h) at all times and in all places without let or hindrance examine and test any radioactive substance or any substance which the inspector believes to be radioactive substance and examine or calibrate any irradiating apparatus or apparatus which the inspector believes to be irradiating apparatus; and
- (i) take, without payment, for examination, test or analysis, any radioactive substance, or substance which the inspector believes to be radioactive substance, or portions or samples of any such substances; and
- (j) exercise such other powers and authorities as may be prescribed; and
- (k) arrest any person found offending against this Act whose name and address are unknown to the inspector.

(2) Any inspector who has reasonable grounds to suspect that there is kept or stored or had in possession by any person, in or upon any place any radioactive substance or any irradiating apparatus for any purpose contrary to this Act, or in respect of which there has been a contravention of this Act, may at any time—

- (a) enter upon and search such place and any box or receptacle there; and
- (b) seize any such thing found there; and
- (c) arrest any person found there or who is apparently in occupation of or in charge of the place or in possession of such thing.

(3) Any inspector may at any time—

- (a) stop any person whom the inspector suspects of transporting any radioactive substance contrary in any respect to this Act; and
- (b) search such person and interrogate the person as to the contents of any package or as to anything then in the person's possession; and
- (c) examine any such package or thing; and
- (d) if any radioactive substance is found in the person's possession—seize the same and, arrest the person.

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(4) If such person arrested by an inspector pursuant to subsection (2) or (3) does not give an account to the satisfaction of the adjudicating court of the radioactive substance or irradiating apparatus in relation to which the person was arrested being in the place where it was so seized or of the person's possession of it, the person shall be liable to a penalty not exceeding 8 penalty units.

(5) Any inspector may, in lieu of taking away, detaining and securing pending any proceedings any radioactive substance or irradiating apparatus which the inspector has seized pursuant to any of the provisions of this section, place in a conspicuous position upon any such substance or apparatus or upon the bag, container, or receptacle or any heap or other collection or place, door, or opening containing or affording access to the same a notice in the prescribed form or a form to the like effect signed and sealed by the inspector and specifying so as to sufficiently identify it, the substance or apparatus seized and the place wherein or whereon it is situated at the time of seizure and the date and time of such seizure, and thereupon any such substance or apparatus shall be deemed to be in the custody and possession of that inspector pending proceedings or until the inspector by notice placed in like manner as aforesaid notifies that the inspector has gone out of possession of the substance or apparatus concerned.

(5A) Every person who without authority alters, uses, interferes with, removes or disposes of in any way any such substance or apparatus or attempts to do any such act whilst it is, pursuant to this section, deemed to be in the custody and possession of an inspector shall be guilty of an offence against this Act.

Maximum penalty—16 penalty units or imprisonment for 1 year.

(6) Where under this Act an inspector is empowered to seize any thing, such power shall extend to and include any bag, box, container, package or receptacle, and any heap or other collection containing such thing.

Inspector may require name and address

(7) Any inspector who—

- (a) finds any person committing or who reasonably suspects any person of having committed an offence against this Act; or
- (b) is making inquiries or investigations with a view to establishing whether or not an offence against this Act has been committed by

any person; or

- (c) is of the opinion that the name and address of any person is required for the purpose of giving effect to any provision of this Act, or for the purpose of enabling the inspector to carry out the inspector's powers and duties under this Act;

may require such person to state his or her name and address, or name or address, and, if the inspector has reasonable ground to suppose that the name and address, or name or address, given is false, may require evidence of the correctness thereof.

Owners and occupiers to allow entry inspection

21. The owner or occupier of any place and a person in charge or apparently in charge of any place shall furnish to any inspector all reasonable assistance and all such information which the owner or occupier is capable of furnishing or as required by that inspector with respect to the exercise of the inspector's powers and the discharge of the inspector's duties under this Act.

Obstructing an inspector etc.

22.(1) A person shall not—

- (a) assault, resist, or obstruct an inspector in the exercise of the inspector's powers or in the discharge of the inspector's duties under this Act, or attempt so to do; or
- (b) fail to facilitate by all reasonable means—
- (i) the entry and inspection of any place by an inspector; or
 - (ii) the examination and testing by an inspector of any radioactive substance or any substance which that inspector believes to be radioactive substance; or
 - (iii) the examination and calibration by an inspector of any irradiating apparatus or apparatus which that inspector believes to be irradiating apparatus; or
- (c) fail to answer any question put to the person in pursuance of this Act by an inspector or give to any such question an answer which

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- is in any respect false or misleading; or
- (d) fail to comply with the lawful requisition or any part of the lawful requisition of an inspector; or
 - (e) when required by or under this Act to furnish any assistance or to furnish any information to an inspector, fail to furnish that assistance or information, as the case may be, or, in the latter case, furnish information which is in any respect false or misleading; or
 - (f) fail, without reasonable excuse, the proof whereof shall lie upon the person, to produce any licence, book, notice, record, list, document, or writing which the person is required under this Act by an inspector to produce, or fail to allow an inspector to take a copy of or extract from any such licence, book, notice, record, list, document, or writing; or
 - (g) directly or indirectly prevent any person from appearing before or being questioned by an inspector, or attempt so to do; or
 - (h) use any threat or any abusive or insulting language to any inspector or to any other person with respect to any inspection or examination or questioning.

Maximum penalty—8 penalty units.

(2) No person shall be required under this Act to answer any question, or give any information or evidence, or to sign any declaration tending to criminate himself or herself.

(3) In this section—

“**inspector**” includes any person acting under lawful authority under or pursuant to this Act.

Manner in which substances taken by an inspector shall be dealt with

23.(1) An inspector taking, seizing, or obtaining under this Act any radioactive substance, or substance which the inspector believes to be radioactive substance, or any portion or sample of any such substances, shall, having first marked and sealed or fastened up such substance, portion, or sample in such manner as its nature permits, deliver the same to an analyst.

(2) Such delivery to an analyst may be effected either personally or by sending the thing by registered post addressed to the analyst at the analyst's usual address or in a sealed package addressed to the analyst at his or her usual address by rail, aeroplane, motor vehicle, steamer, or other means of transit, or in such other manner as may be prescribed.

Duty of analyst etc.

24.(1) Where any method of analysis, or test, chemical or physical, has been prescribed for the analysis or test of any radioactive substance, any analyst, either for the prosecution or defence, shall in the analyst's certificate of analysis or test declare that the analyst has followed the prescribed method in his or her analysis or test.

(1A) But evidence shall be admissible on the part of the defence of analysis or test made by other than the prescribed method, and to show that the prescribed method is not correct.

(2) A copy of the result of any analysis or test of any radioactive substance, procured by an inspector, may be obtained from the analyst by the person from whom the substance so analysed or tested was taken, seized, or obtained.

Offences

25.(1) Any person who contravenes or fails to comply with any provision of this Act, or who being entitled to an exemption prescribed, or granted, under this Act contravenes or fails to comply with any term or condition prescribed in relation to that exemption or subject to which that exemption is granted, shall be guilty of an offence against this Act.

(2) Every person who aids, causes, or procures, or is in any way knowingly concerned in the commission of an offence against this Act shall be deemed to have committed that offence and may be proceeded against and shall be punishable accordingly.

Summary proceedings

(3) All offences against this Act may be prosecuted in a summary way under the *Justices Act 1886* upon the complaint of any person thereunto authorised by the Minister.

Proceedings for offences

(4) The summons in any such proceeding in which an analyst's certificate is used shall not be made returnable in less than 7 days from the day on which it is served.

(4A) There shall be served with the summons a copy of the analyst's certificate (if any) obtained on behalf of the prosecution.

(4B) The endorsement of the analyst's certificate with an oath of service shall be prima facie evidence of the service of such copy.

Time for commencement of prosecution

(5) A prosecution for an offence against this Act may be instituted at any time within 12 months after the commission of the offence or within 6 months after the commission of the offence comes to the knowledge of the complainant, whichever is the later period.

General penalty etc.

(6) Any person guilty of an offence against this Act shall, if no specific penalty is provided for that offence, be liable to a penalty not exceeding 8 penalty units and (if the offence is a continuing one) a further penalty of \$20 for each and every day during which the offence continues.

(7) Any penalty or punishment to which the person convicted may be liable under this Act upon the person's conviction shall be in addition to any forfeiture under this Act.

Analyst's certificate prima facie evidence

26.(1) The production by the prosecutor of a certificate of analysis or test purporting to be under the hand of an analyst shall be sufficient evidence of the facts stated therein, unless the defendant requires that the analyst shall be called as a witness, in which case the defendant shall give notice thereof to the prosecutor not less than 3 clear days before the return day of the summons.

(2) In like manner the production by the defendant of a certificate of analysis or test purporting to be under the hand of an analyst shall be sufficient evidence of the facts stated therein, unless the prosecutor requires that the analyst be called as a witness.

(3) A copy of such lastmentioned certificate shall be sent to the prosecutor at least 3 clear days before the return day of the summons, and if it is not so sent the court may adjourn the hearing on such terms as it thinks proper.

Expenses of analysis to be paid by offenders on conviction

27.(1) Where any person is convicted of an offence against this Act, the court shall order that all fees and other expenses incident to the analysis or test of any radioactive substance or the examination or calibration of any irradiating apparatus, in respect of which the conviction is obtained, shall be paid by the person convicted.

(2) All such fees and expenses shall be deemed to be part of the costs attending the conviction, and shall be recoverable in the same manner as such costs are recoverable.

Liability for offences by corporation

28.(1) Where a body corporate offends against this Act each and every one of the following persons shall be deemed to have committed the offence, and shall be liable to be proceeded against and punished accordingly, namely—

- (a) the managing director, manager or other governing officer, by whatever name called, and every member of the governing body, by whatever name called thereof;
- (b) every person who in Queensland manages or acts or takes part in the management, administration, or government of the business in Queensland of the corporation.

(1A) However, any such person proceeded against pursuant to this section shall not be convicted if the person satisfies the court that the offence was committed without the person's consent or connivance and that the person exercised all such diligence to prevent the commission of the offence as the person ought to have exercised having regard to the nature of the person's functions in that capacity and to all the circumstances.

(2) This section applies so as not to limit or affect howsoever the liability

of a corporation to be proceeded against and punished for an offence against this Act committed by it.

Forfeiture on conviction

29.(1) Where a person is convicted of any offence against this Act the court convicting that person may, in addition to imposing any penalty to which the offender may be liable, order to be forfeited to the Crown any radioactive substance or irradiating apparatus (whether seized under this Act or not) related to, or connected with, the commission of the offence of which that person is convicted, or may make such other order with respect to any such things as it thinks fit.

(2) Any radioactive substance or irradiating apparatus forfeited under this Act shall be disposed of in accordance with any general or special direction of the Minister and if sold the proceeds shall be paid into the Treasury.

(3) The power to forfeit or to make any other order under this section with respect to any radioactive substance or irradiating apparatus shall extend to and include any bag, box, container, package or receptacle, and any heap or other collection containing the same.

Return of licences etc. suspended or revoked

30.(1) When under this Act a licence is suspended or revoked, then the person to whom that licence was granted shall, if requested by any inspector, deliver forthwith to that inspector that licence.

Maximum penalty—2 penalty units.

(2) If default in delivering any such licence is continued by any person who has been convicted of the offence of failing to deliver that licence, then that person shall be deemed to commit a continuing offence and shall be liable to a penalty of \$10 for each and every day during which that offence is continued.

(3) However, the continuing offence in respect of such non-delivery shall not be deemed to commence until the expiration of 14 days from the date of conviction as aforementioned.

Facilitation of proof

31. In a proceeding under or for a purpose of this Act—

- (a) it shall not be necessary to prove the appointment of any inspector;
- (b) a signature purporting to be that of any inspector shall be taken to be the signature it purports to be until the contrary is proved;
- (c) it shall not be necessary to prove the authority of a person authorised by the Minister to take any proceedings or of any inspector to do any act, but this shall not prejudice the right of any defendant to prove the extent of such authority;
- (d) a document purporting to be a duplicate or copy of a licence or notice granted or given under this Act shall, upon its production in evidence, be evidence of that licence or notice and in the absence of evidence in rebuttal, shall be conclusive evidence thereof;
- (e) the averment in any complaint of the date on which the commission of any offence under this Act came to the knowledge of the complainant shall be evidence of that matter, and in the absence of evidence in rebuttal shall be conclusive evidence of such matter.

Service of documents

32.(2) In any prosecution for an offence against this Act a certificate under the hand of the Minister, or of any person to whom the Minister has made a delegation under this Act, that a writing annexed to the certificate is a true copy of a notice or document forwarded by post by prepaid letter by the Minister or by that person, as the case may be, to the defendant on the date stated in the certificate shall be evidence of the matters certified to and that the signature on the certificate is the signature of the person by whom it purports to have been signed.

(3) In any proceeding under or for a purpose of this Act the production in evidence of a copy of the gazette purporting to contain a notice made or given by the Minister, or by any person to whom the Minister has made a delegation under this Act, shall be evidence of the making or giving by the Minister or by that person of that notice and of the contents thereof.

Approval of forms

32A. The chief executive may approve forms for use under this Act.

Regulations

33.(1) The Governor in Council may make regulations under this Act.

(1A) A regulation may be made for or about the following—

- (a) prescribing, regulating and controlling the classes of licences which may be issued under this Act; applications for and the granting of, or any class of, licences under this Act and the subscribing of declarations as to the truth of any statements in such applications; the provisions, conditions, and restrictions subject to which in pursuance of this Act such licences or any class thereof may be granted, and all or any matters and things relating to the renewal, cancellation, suspension, and endorsement of such licences, the notification of change in any of the particulars required to be inserted in applications or in licences, and the issue of duplicates for any of them which may be lost or destroyed, or whereon the particulars have become illegible;
- (b) prescribing and defining or otherwise indicating the type or types of ionising radiation and the conditions referred to in the definition “irradiating apparatus” in section 4;
- (c) prescribing and defining or otherwise indicating the concentration of any radioactive chemical element or isotope, whether natural or artificial, referred to in the definition “radioactive substance” in section 4;
- (d) prescribing, regulating and controlling the manufacture, possession, use, storage, transport, sale and disposal of radioactive substances;
- (e) preventing injury by ionising radiations to any person;
- (f) securing the safe disposal of any radioactive waste products resulting from the manufacture, production, treatment, storage or use of radioactive substances;
- (g) imposing requirements with respect to the construction, conversion or structural alteration of buildings used or intended to

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be used for the manufacture, production, treatment, storage or use of radioactive substances or in which irradiating apparatus is used or intended to be used;

- (h) requiring persons who are exposed or are likely to be exposed to the risk of disease or genetic damage due to radiation from any radioactive substance or irradiating apparatus to submit to medical examinations, including blood, urine and expired air examinations, or requiring the wearing of radiation detecting devices of a defined character during periods of exposure or possible exposure and subsequent transmission of such devices to a specified agency for examination;
- (i) regulating and controlling the possession and use of any prescribed radioactive substance or any prescribed class or description of irradiating apparatus either generally, or for prescribed purposes or otherwise than for prescribed purposes;
- (j) regulating and controlling the form, making, and dispensing, of prescriptions prescribing any radioactive substance for the purpose of the treatment of any human being;
- (k) prescribing the furnishing of prescribed information as to the protective arrangements incorporated in any irradiating apparatus or any device incorporating any radioactive substance by the manufacturer or supplier (whether wholesale or retail) thereof or by such persons as may be prescribed, the persons to whom such information is to be furnished, and the mode of making and furnishing the same;
- (l) prescribing fees payable under this Act on such basis or bases as the Governor in Council considers appropriate and the matters in respect of which such fees shall be paid, and prescribing the persons by whom and the places and times when and where such fees shall be paid so that fees of different amounts and different bases for the calculation of fees may be prescribed both in relation to different matters and, by reference to different persons, localities, or circumstances, the same matters;
- (n) prescribing information, statistics and data to be given to the chief executive, by such persons or all persons comprised in such classes of persons as may be prescribed, and the time and mode

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- of making and furnishing the same;
- (o) prescribing, providing for, regulating and controlling the powers and duties of inspectors and other officers;
 - (p) prescribing, providing for, regulating and controlling the form of registers of licences under this Act (which registers or any of them may be prescribed to be according to a loose-leaf or card index system); prescribing the officer by whom such registers are to be kept; and the information and particulars to be recorded in such registers and the manner of its recording therein;
 - (q) prescribing, regulating and controlling the sale or disposal of any radioactive substance, irradiating apparatus, and other thing whatsoever seized under this Act, unclaimed, or of which the owner is unknown, or cannot, within 3 months after such seizure, be ascertained, and the disposal of the proceeds of any such sale;
 - (r) prescribing the method of analysis or test (chemical or physical) of any radioactive substance;
 - (s) prescribing the amount of any penalty for any offence against any regulation, provided that any such penalty shall not exceed \$200 and (if the offence is a continuing one) a further sum not exceeding \$20 for each and every day during which the offence continues.

ENDNOTES**1 Index to endnotes**

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 21 December 1998. Future amendments of the Radioactive Substances Act 1958 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	prev	=	previous
amd	=	amended	(prev)	=	previously
amdt	=	amendment	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 52 of 1978	2 June 1995
1A	to Act No. 58 of 1995	10 July 1996
1B	to Act No. 37 of 1996	19 May 1997

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

Radioactive Substances Act 1958 7 Eliz 2 No. 20

date of assent 7 May 1958

commenced 1 July 1958 (proc pubd gaz 28 June 1958 p 1733)

Note— The provisions of pt 3 of the Metric Conversion Act 1972 No. 31 apply to this Act and to the Radioactive Substances Regulation 1961 as from 4 September 1982 (see o in c pubd gaz 4 September 1982 p 66)

as amended by—

Radioactive Substances Act Amendment Act 1967 No. 18

date of assent 7 April 1967

commenced on date of assent

Radioactive Substances Act Amendment Act 1970 No. 13

date of assent 16 April 1970

commenced 5 September 1970 (proc pubd gaz 5 September 1970 p 41)

Radioactive Substances Act Amendment Act 1978 No. 52

date of assent 22 August 1978

commenced 8 November 1980 (proc pubd gaz 8 November 1980 p 1120)

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

Health and Other Legislation Amendment Act 1998 No. 41 ss 1, 2(2), 14(1) sch 1

date of assent 27 November 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 21 December 1998 (1998 SL No. 346)

7 List of annotations

Short title

s 1 amd R1 (see RA s 37)

Construction of Act

s 2 om 1995 No. 58 s 4 sch 1

Definitions

prov hdg sub 1995 No. 58 s 4 sch 1

def “**approved form**” ins 1995 No. 58 s 4 sch 1

- def “**chief health officer**” ins R1 (see RA s 23)
sub 1995 No. 58 s 4 sch 1
- def “**Director-General**” om R1 (see s RA s 39)
- def “**medical practitioner**” om 1995 No. 58 s 4 sch 1
- def “**Minister**” om R1 (see RA s 39)

Administration

- s 5 om 1995 No. 58 s 4 sch 1

The Radiological Advisory Council

- s 6 amd 1995 No. 58 s 4 sch 1

Officers

- s 8 amd 1995 No. 58 s 4 sch 1; 1996 No. 37 s 147 sch 2; 1998 No. 41 s 14(1) sch 1

Delegation by Minister

- s 9 sub 1995 No. 58 s 4 sch 1

Issue of licences

- s 10 amd 1995 No. 58 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

Cancellation, suspension, and surrender of licences

- prov hdg amd 1967 No. 18 s 2
- s 11 amd 1967 No. 18 s 2; 1995 No. 58 s 4 sch 1

Applications for licences

- s 12 amd 1995 No. 58 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

Control of possession, use, sale or transport of radioactive substances

- s 13 amd 1967 No. 18 ss 2–3, 5 sch; 1970 No. 13 s 3; 1995 No. 58 s 4 sch 1

Possession and use of irradiating apparatus

- s 14 amd 1967 No. 18 s 4, 5 sch; 1970 No. 13 s 4
sub 1978 No. 52 s 3
amd 1995 No. 58 s 4 sch 1

Licensees to comply with terms and conditions of licences

- s 16 amd 1967 No. 18 s 5 sch; 1995 No. 58 s 4 sch 1

Forgery of licence etc.

- s 17 amd 1967 No. 18 s 5 sch; 1995 No. 58 s 4 sch 1

Refusal to furnish information etc.

- s 18 amd 1967 No. 18 s 5 sch; 1995 No. 58 s 4 sch 1

Appeal

- s 19 amd 1995 No. 57 s 4 sch 1

General powers of inspectors

- s 20 amd 1967 No. 18 s 5 sch; 1995 No. 58 s 4 sch 1

Obstructing an inspector etc.

- s 22 amd 1967 No. 18 s 5 sch; 1995 No. 58 s 4 sch 1

Offences

- s 25 amd 1967 No. 18 s 5 sch; 1995 No. 58 s 4 sch 1

Return of licences etc. suspended or revoked

s 30 amd 1967 No. 18 s 5 sch; 1995 No. 58 s 4 sch 1

Service of documents

s 32 amd 1967 No. 18 s 2; 1995 No. 58 s 4 sch 1

Approval of forms

s 32A ins 1995 No. 58 s 4 sch 1
amd 1998 No. 41 s 14(1) sch 1

Regulations

s 33 amd 1967 No. 18 s 5 sch; 1995 No. 58 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

Transitional provision about forms

s 34 sub 1995 No. 58 s 4 sch 1
exp 28 May 1996 (see s 34(3))

Inaccurate descriptions etc.

s 35 om 1995 No. 58 s 4 sch 1

8 List of forms

Form 1 Version 1—Application for a Radioactive Substances Licence

pubd gaz 21 October 1994 p 730

Form 2 Version 1—Application for an Irradiating Apparatus Licence

pubd gaz 21 October 1994 p 730

Form 3 Version 1—Application for Registration of Irradiating Apparatus

pubd gaz 21 October 1994 p 730

Form 4 Version 2—Licence for Radioactive Substances

pubd gaz 20 December 1996 p 1566

Form 5 Version 2—Licence for Irradiating Apparatus

pubd gaz 20 December 1996 p 1566

Form 6 Version 2—Certificate of Registration

pubd gaz 20 December 1996 p 1566

Form 7 Version 1—Certificate of Inspection of Irradiating Apparatus

pubd gaz 21 October 1994 p 730

Forms 8 and 9 Version 2—Application for Approval to Transfer Registration of an Irradiating Apparatus

pubd gaz 20 December 1996 p 1566

Form 10 Version 1—Application for Approval of Appointment of a Radiation Safety Officer

pubd gaz 21 October 1994 p 730

Form 11 Version 1—Notification of Approval of Appointment of a Radiation Safety Officer

pubd gaz 21 October 1994 p 730

Form 12 Version 1—Notification of Rescission of Approval of Appointment of a Radiation Safety Officer

pubd gaz 21 October 1994 p 730

Form 13 Version 1—Radiation Exposure/Medical Examination

pubd gaz 21 October 1994 p 730

Form 14 Version 1—Notice of Seizure of Radioactive Substances/Irradiating Apparatus

pubd gaz 21 October 1994 p 730

Form Ren App Version 1—Application for Renewal, Without Alteration, of Licence(s) and Certificate of Registration

pubd gaz 20 December 1996 p 1566