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STATUTORY INSTRUMENTS

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**2018 No. 430**

**The Justification of Practices Involving Ionising  
Radiation (Amendment) Regulations 2018**

**New Part 7A (practices involving non-medical imaging exposure)**

17. After regulation 21 insert—

**“PART 7A**

**Practices involving non-medical imaging exposure**

**Application of this Part**

**21A.**—(1) This Part applies to imaging practices.

(2) In these Regulations, an “imaging practice” is a practice involving non-medical imaging exposure other than one that uses medical radiological equipment.

**Identification of practices**

**21B.** The Secretary of State must take reasonable steps to ensure the identification of imaging practices.

**Determinations and new and existing practices**

**21C.**—(1) The Justifying Authority may, and on the application of any other person must, determine whether a particular imaging practice belongs to a new or existing class or type of practice.

(2) A person must not carry out a particular imaging practice that is new unless paragraph (5) applies.

(3) A particular imaging practice is “new” for the purpose of this regulation if—

- (a) it was not carried out in the United Kingdom before 6th February 2018; or
- (b) it was carried out in the United Kingdom before 6th February 2018 but in breach of a requirement not to carry out a practice in the relevant class or type until that class or type had been found to be justified,

and in either case the Justifying Authority has not made a positive determination in respect of that particular imaging practice.

(4) A determination made by the Justifying Authority under paragraph (1) is “positive” in relation to a particular imaging practice unless—

- (a) the Justifying Authority determines that the particular imaging practice belongs to a new class or type of practice;

- (b) the Justifying Authority determines that the particular imaging practice belongs to an existing class or type of practice and it has been determined in the most recent justification decision applicable to that class or type of practice that it is not justified;
  - (c) the determination is not the most recent determination made under paragraph (1) that is applicable to that particular imaging practice;
  - (d) the determination does not apply to the part of the United Kingdom in which it is proposed that that particular imaging practice be carried out.
- (5) Subject to regulation 5(3)—
- (a) a person may carry out a particular imaging practice that is new for a period of six months beginning on 18th April 2018, if that person first carried out the particular imaging practice before 18th April 2018;
  - (b) that person may continue to carry out that imaging practice after the expiry of that period—
    - (i) if that person has, within that period, applied for a determination under paragraph (1); and
    - (ii) until that determination has been made.

#### **Individual justification and regular review**

**21D.**—(1) A person carrying out an imaging practice must—

- (a) ensure that each individual exposure is justified; or
- (b) carry out regular reviews of the implementation of that imaging practice and after each review promptly provide to the Justifying Authority a written report summarising the results of that review.

(2) For the purposes of this regulation an individual exposure is justified where the individual or societal benefit resulting from the exposure outweighs the health detriment that it may cause.

(3) Reviews under paragraph (1)(b) must be carried out at a frequency which is appropriate having regard to the specific circumstances of the imaging practice including, but not limited to, how often the exposures take place.

#### **Approvals and requirements for practices**

**21E.**—(1) A person must not carry out a particular imaging practice unless the Justifying Authority has granted an approval to that person in respect of that particular imaging practice (an “Approval”) and the Justifying Authority has not withdrawn the Approval.

(2) A person may apply to the Justifying Authority for an Approval in respect of a particular imaging practice.

(3) The Justifying Authority must in any Approval it grants set out requirements, including criteria for implementation, with which the person must comply in carrying out the particular imaging practice.

(4) In establishing the requirements to be contained in an Approval, the Justifying Authority must consult—

- (a) the other persons listed in regulation 6(1); and
- (b) any of the persons listed in regulation 18(1)(a) whom the Justifying Authority considers it appropriate to consult.

(5) The Justifying Authority may serve a notice on a person if the Justifying Authority is of the opinion that the person is not complying with the requirements contained in that person's Approval in carrying out the particular imaging practice to which the Approval relates (a "warning notice").

(6) The warning notice must specify—

- (a) the matters constituting the failure to comply with the requirements in the Approval;
- (b) the steps that must be taken to remedy the failure to comply; and
- (c) the period within which those steps must be taken, which must be no less than 28 days unless in the opinion of the Justifying Authority it is necessary for those steps to be taken more quickly.

(7) The Justifying Authority may by notice withdraw an Approval from a person if—

- (a) the Justifying Authority has served a warning notice on that person;
- (b) the period specified in the warning notice for taking the steps to remedy the failure has passed; and
- (c) the Justifying Authority is of the opinion that the person has not taken the steps specified in the warning notice to remedy the failure to comply.

(8) Where the Justifying Authority has withdrawn an Approval from a person under paragraph (7), the Justifying Authority may subsequently grant a new Approval to that person in respect of the same or any other particular imaging practice.

(9) The Justifying Authority may alter the requirements in an Approval if—

- (a) the Justifying Authority has consulted the person who holds the Approval;
- (b) the Justifying Authority has served a notice on the person who holds the Approval (an "alteration notice"); and
- (c) the alteration notice contains—
  - (i) the new requirements for the particular imaging practice; and
  - (ii) the date, which must be later than the date of the alteration notice, from which those new requirements are to apply.

### **Dose constraints**

**21F.** The dose constraints for imaging practices must be significantly below the dose limits set out in paragraphs 5 and 7 of Schedule 3 to the Ionising Radiations Regulations 2017.

### **Consent**

**21G.—**(1) A person proposing to subject an individual to an exposure as part of an imaging practice must first provide a reasonable level of information about the proposed exposure to, and obtain prior consent for the exposure from, the individual to be exposed.

(2) The requirement in paragraph (1) to obtain prior consent does not apply to law enforcement authorities.

(3) In this regulation, "law enforcement authority" means any authority responsible for preventing, detecting, investigating, combating and punishing criminal offences, including, but not limited to, the police, any prosecutor, any judicial authority and any prison authority.

(4) In paragraph (3), "prison authority" includes—

- (a) a governor of a prison;

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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- (b) an officer of a prison;
  - (c) a person working at a prison who is authorised by the governor of the prison to exercise powers of search;
  - (d) a director of a contracted out prison;
  - (e) a prisoner custody officer of a contracted out prison;
  - (f) a worker at a contracted out prison who is authorised by the director of the contracted out prison to carry out restricted activities.
- (5) Expressions used in paragraph (4)(d) to (f) have the meanings given in Part IV of the Criminal Justice Act 1991<sup>(1)</sup>.”

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(1) 1991 c. 53. Section 84 was substituted by section 96 of the Criminal Justice and Public Order Act 1994 (c. 33). Section 85 was amended by section 18 of the Offender Management Act 2007 (c. 21); section 85 also contains other amendments which are not relevant to these Regulations. Section 86B was inserted by section 18(2) of the Offender Management Act 2007. Section 89 was amended by section 101(4) of the Criminal Justice and Public Order Act 1994.