
STATUTORY INSTRUMENTS

1981 No. 158

Clean Air (Northern Ireland) Order 1981

Special cases

Relation to, and amendment of, Alkali Act **N.I.**

25^{F1}.—(1) This Article applies to—

- (a) so much of any work registered under section 9 of the Alkali, &c. Works Regulation Act 1906 (in this Article referred to as “the Alkali Act”) as is directly concerned in the processes which necessitate its registration under that section;
- (b) so much of any work in the course of erection or alteration as respects which the Department is satisfied that, on the completion of the erection or alteration, it would be directly concerned in processes which would necessitate its registration under that section 9.

(2) The Department may determine how much of any work of the kind referred to in paragraph (1) is or, as the case may be, would be directly concerned in the processes referred to in that section 9, and the determination of the Department shall, until revoked or varied by the Department, be conclusive.

(3) Subject to this Article, Articles 3 to 24 shall not apply to any works to which this Article applies.

(4) The Alkali Act shall have effect in relation to smoke, grit and dust from any works to which this Article applies as it has effect in relation to noxious or offensive gases, and references in that Act to noxious or offensive gases shall be construed accordingly.

(5) Paragraph (3) shall not affect the operation of Article 3, [^{F2}or 7] in relation to works to which this Article applies, but a district council shall not, without the consent of the Department, institute in relation to such works proceedings under—

- (a) Article 3, [^{F2}or 7], or

[^{F3}(b) Part 7 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011.]

(6) Where it is proposed—

- (a) to alter any work of the kind referred to in paragraph (1)(a) so as to affect the processes which necessitate its registration; or
- (b) to carry out any erection or alteration of the kind referred to in paragraph (1)(b);

no such alteration or, as the case may be, erection or alteration shall take place unless notice of the proposal has been given to the Department.

(7) Any person who alters any work or carries out any erection or alteration in contravention of paragraph (6) or on whose instructions any work is so altered or any erection or alteration is so carried out shall be guilty of an offence.

(8) If, on the application of the district council, the Department is satisfied that in all the circumstances it is expedient so to do, the Department may by order apply the provisions of this paragraph to the whole or any specified part of any works to which this Article applies, and, in that event, in relation to any period for which the order is in force—

- (a) paragraphs (3) to (7) shall not apply to the works or, as the case may be, to the specified part of the works; but
- (b) it shall be a defence to any proceedings under Article 3 in respect of dark smoke from the works or, as the case may be, from the specified part of the works, to prove that the best practicable means had been employed to prevent or minimise the emission of dark smoke from the works; ^{F4} ...

^{F4}(c)

(9) The Department may by order made subject to affirmative resolution—

- (a) vary or add to the list of noxious or offensive gases mentioned in section 27 of the Alkali Act;
- (b) vary or add to the list of works mentioned in Schedule 1 to the Alkali Act.

(10) Before making any order under paragraph (9) the Department may cause local or other inquiries to be held or investigations to be made.

(11) Any order made under paragraph (9) may prescribe the qualifications subject to which section 7(1) of the Alkali Act (prevention of discharge of noxious or offensive gas in scheduled works) shall apply in relation to—

- (a) any noxious or offensive gas; or
- (b) any works;

included in such order.

(12) Where, by virtue of an order under paragraph (9), works of any description which would not otherwise be included in Schedule 1 to the Alkali Act become included in that Schedule, the references in the proviso to section 9(5) of the Alkali Act (registration of works) to the commencement of that Act shall, in relation to works of that description, be construed as references to the coming into operation of the order.

(13) Where the Department is of opinion that any work is of such character as is likely to cause the evolution of any noxious or offensive gas, the Department may, notwithstanding that the provisions of the Alkali Act may not apply to that work, authorise an inspector appointed under that Act to enter and inspect such work.

(14) The provisions of the Alkali Act relating to the powers of inspectors shall, subject to paragraph (15), apply in respect of a work of the kind mentioned in paragraph (13) to any inspector authorised under that paragraph (13).

(15) Notwithstanding the provisions of this Article, the power of an inspector authorised under paragraph (14) shall not extend to authorise such an inspector to enter and inspect any work of the kind referred to in paragraph (13) in connection with the emission of smoke, grit and dust.

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| F1 | prosp. rep. by 1997 NI 18 |
| F2 | Words in art. 25(5) substituted (1.4.2012) by Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23) , s. 78, Sch. 3 para. 10(1)(a) ; S.R. 2012/13, art. 2(2), Sch. 2 |
| F3 | Art. 25(5)(b) substituted (1.4.2012) by Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23) , s. 78, Sch. 3 para. 10(1)(b) ; S.R. 2012/13, art. 2(2), Sch. 2 |
| F4 | Art. 25(8)(c) and preceding word repealed (1.4.2012) by Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23) , s. 78, Sch. 4 Pt. 5 ; S.R. 2012/13, art. 2(2), Sch. 2 |

Changes to legislation:

There are currently no known outstanding effects for the Clean Air (Northern Ireland) Order 1981, Section 25 .