
STATUTORY INSTRUMENTS

1997 No. 2777

The Industrial Pollution Control (Northern Ireland) Order 1997

Enforcement

Powers of inspectors and others

17.—(1) An inspector may, on production (if so required) of his authority, exercise any of the powers in paragraph (3) for the purpose of—

- (a) determining whether any provisions of the pollution control statutory provisions in the case of an enforcing authority are being, or have been, complied with;
 - (b) discharging one or more of the functions conferred or imposed on an enforcing authority by or under the pollution control statutory provisions; or
 - (c) determining whether and, if so, how such a function should be discharged.
- (2) Those powers, so far as exercisable in relation to premises, are exercisable in relation—
- (a) to premises on which a prescribed process is, or is believed (on reasonable grounds) to be, carried on; and
 - (b) to premises on which a prescribed process has been carried on (whether or not the process was a prescribed process when it was carried on) the condition of which is believed (on reasonable grounds) to be such as to give rise to a risk of serious pollution of the environment.
- (3) The powers of an inspector are—
- (a) to enter at any reasonable time (or, in an emergency, at any time and, if need be, by force) any premises which he has reason to believe it is necessary for him to enter;
 - (b) on entering any premises by virtue of sub-paragraph (a) to take with him—
 - (i) any person duly authorised by the chief inspector or, as the case may be, the district council and, if the inspector has reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable; and
 - (ii) any equipment or materials required for any purpose for which the power of entry is being exercised;
 - (c) to make such examination and investigation as may in any circumstances be necessary;
 - (d) as regards any premises which he has power to enter, to direct that those premises or any part of them, or anything in them, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under sub-paragraph (c);
 - (e) to take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under sub-paragraph (c);
 - (f) to take samples of any articles or substances found in or on any premises which he has power to enter, and of the air, water or land in, on, or in the vicinity of, the premises;

- (g) in the case of any article or substance found in or on any premises which he has power to enter, being an article or substance which appears to him to have caused or to be likely to cause pollution of the environment or harm to human health, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless this is necessary);
 - (h) in the case of any such article or substance as is mentioned in sub-paragraph (g), to take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely—
 - (i) to examine it and do to it anything which he has power to do under that sub-paragraph;
 - (ii) to ensure that it is not tampered with before his examination of it is completed;
 - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under Article 23 or any other proceedings relating to a variation notice, an enforcement notice or a prohibition notice;
 - (i) to require any person whom he has reasonable cause to believe to be able to give any information relevant to any examination or investigation under sub-paragraph (c) to answer (in the absence of persons other than a person nominated by that person to be present and any persons whom the inspector may allow to be present) such questions as the inspector thinks fit to ask and to sign a declaration of the truth of his answers;
 - (j) to require the production of, or where the information is recorded in computerised form, the furnishing of extracts from, any records which are required to be kept under this Order or it is necessary for him to see for the purposes of an examination or investigation under sub-paragraph (c) and to inspect and take copies of, or of any entry in, the records;
 - (k) to require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the inspector to exercise any of the powers conferred on him by this Article;
 - (l) any other power for the purpose mentioned in paragraph (1) which is conferred by regulations made by the Department.
- (4) The powers which under paragraphs (1) to (3) are conferred in relation to any premises for the purpose of enabling an enforcing authority to determine whether any provision of the pollution control statutory provisions in the case of that authority is being, or has been, complied with shall include power, in order to obtain the information on which that determination may be made—
- (a) to carry out experimental borings or other works on those premises; and
 - (b) to install, keep or maintain monitoring and other apparatus there.
- (5) Except in an emergency, in any case where it is proposed to take heavy equipment on to any premises which are to be entered, any entry by virtue of this Article shall only be effected—
- (a) after the expiration of at least 7 days' notice of the proposed entry given to a person who appears to the inspector to be in occupation of the premises in question, and
 - (b) either—
 - (i) with the consent of a person who is in occupation of those premises; or
 - (ii) under the authority of a warrant by virtue of Schedule 3.
- (6) Except in an emergency, where an inspector proposes to enter any premises and—
- (a) entry has been refused and he apprehends on reasonable grounds that the use of force may be necessary to effect entry; or

- (b) he apprehends on reasonable grounds that entry is likely to be refused and that the use of force may be necessary to effect entry,

any entry on to those premises by virtue of this Article shall only be effected under the authority of a warrant by virtue of Schedule 3.

(7) The Department may by regulations make provision as to the procedure to be followed in connection with the taking of, and the dealing with, samples under paragraph (3)(f).

(8) Where an inspector proposes to exercise the power conferred by paragraph (3)(g) in the case of an article or substance found on any premises, he shall, if so requested by a person who at the time is present on and has responsibilities in relation to those premises, cause anything which is to be done by virtue of that power to be done in the presence of that person.

(9) Before exercising the power conferred by paragraph (3)(g) in the case of any article or substance, an inspector shall consult—

- (a) such persons having duties on the premises where the article or substance is to be dismantled or subjected to the process or test; and
(b) such other persons;

as appear to him appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he proposes to do under the power.

(10) No answer given by a person in pursuance of a requirement imposed under paragraph (3)(i) shall be admissible in evidence against that person in any proceedings.

(11) Nothing in this Article shall be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the High Court.

(12) In this Article and Schedule 3—

“emergency” means a case in which it appears to the inspector in question—

- (a) that there is an immediate risk of serious pollution of the environment or serious harm to human health, or
(b) that circumstances exist which are likely to endanger life or health,
and that immediate entry to any premises is necessary to verify the existence of that risk or those circumstances or to ascertain the cause of that risk or those circumstances or to effect a remedy;

“pollution control statutory provisions”

(a) in relation to the chief inspector, means—

- (i) this Order;
(ii) ^{F1}the Alkali, & co Works Regulation Act 1906; and
(iii) regulations made under section 2(2) of the European Communities Act 1972 to the extent that the regulations relate to pollution;

(b) in relation to a district council, means—

- (i) this Order; and
(ii) regulations made under section 2(2) of the European Communities Act 1972 to the extent that the regulations relate to pollution.

(13) Schedule 3 shall have effect with respect to the powers of entry and related powers which are conferred by this Article.

(14) This Article and Schedule 3 apply (with appropriate modifications) in relation to mobile plant as they apply to premises.

Changes to legislation: There are currently no known outstanding effects for the The Industrial Pollution Control (Northern Ireland) Order 1997, Section 17. (See end of Document for details)

(15) Nothing in section 98 of the Local Government Act (Northern Ireland) 1972 shall apply to functions conferred on a district council under this Order.

F1 prosp. rep. by [1997 NI 18](#)

F1 prosp. rep. by [2002 NI 7](#)

**Non-textual amendments applied to the whole Legislation
can be found in the
Introduction**

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