

ENVIRONMENT (NORTHERN IRELAND) ORDER 2002

S.I. 2002 No. 3153 (N.I. 7)

EXPLANATORY MEMORANDUM

COMMENTARY ON ARTICLES

Part III contains 19 Articles.

Article 9 provides that Part III contains provisions for implementing the Council Directive 96/62 EC on ambient air quality assessment and management in Northern Ireland.

Article 10 imposes on the Department the obligation to prepare and publish a statement or strategy document setting out the air quality strategy for Northern Ireland. The strategy should contain policies for the assessment and management of air quality, which have been formulated to prevent or mitigate the effects of pollution. The strategy should also set out the European framework within which the strategy must work and include standards and objectives for specific pollutants and a timetable for their achievements. It should also set out the steps/measures, which the Government is proposing to take. The Strategy may be a joint strategy with other Administrations or a Northern Ireland regional one.

Article 11 places a responsibility on each District Council to carry out a review of the air quality, and the likely future quality of air, within its area. Where a review has been carried out, an assessment should be made, within a specified period, of whether the air quality standards and objectives are being achieved. The District Council will then be required to identify particular parts, within its area, where the standards are not likely to be achieved.

Article 12 provides that where a District Council carries out a review of its air quality, and finds that in a certain part of its area air quality standards and objectives are not being met, or are unlikely to be met within the time period, it must make an order designating that part of its area as an air quality management area. The District Council is required to publish the order. An order may also be varied or revoked by a further order.

Article 13 sets out the steps a District Council must take after it has made a designation order. Within a specified period of making the designation order, it must supplement the information it has on the designated area by carrying out an assessment. The assessment of the air quality should cover the present and likely future air quality standards or objectives and whether they are being or are not likely to be achieved. The District Council will then prepare a report of the findings of the assessment.

Article 14 confers on the Department the power to exercise any of the air quality functions, which should be undertaken by a District Council. It also gives the power to the Department to recoup the costs of any such exercise undertaken on a District Council's behalf. The Department has also a power to give direction to a District Council requiring it to carry out a specific action in relation to air quality. This Article also provides a power for the Department to give direction to a District Council in order to implement aspects of Community Treaties, or any international agreement relating to the quality of air. There is also a requirement placed on the Department to publish any directions given and to make copies available to the public. A District Council must comply with any such direction given to it.

Article 15 provides the Department with the power to make regulations to implement the air quality strategy, and to implement UK obligations under the Community Treaties or other international obligations, or to make more detailed provision for the assessment or management of air quality.

Article 16 provides the power to a relevant authority to make recommendations to a District Council in relation to any of its air quality functions. There is also a power given to the

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Department to issue guidance to a District Council or a relevant authority concerning a District Council's or a relevant authority's functions under Part III.

Article 17 applies the provisions of *Schedule 2*.

Article 18 provides a power for the Department to make grants or loans to any body or person carrying out work in relation to reviews, assessments, the drawing up of action plans, and the management of air quality. The Department will determine the amounts paid, and the terms and conditions for any payments, or repayments.

Article 19 and *Schedule 3* provide persons authorised by enforcing authorities with powers of entry and inspection for the purpose of carrying out functions under Part III.

Article 20 deals with offences by a person who obstructs an authorised person in the exercise of his duties. It also states that it is an offence for a person without reasonable excuse to fail to comply with any requirement imposed under *Article 19*.

Article 21 sets out the arrangements for disclosing information obtained under the provisions of Part III. It allows for information to be exchanged between the Department and a relevant authority for the purposes of carrying out any of their functions.

It also provides that information shall not be given out if the information relates to a trade secret or is commercially confidential or if the Secretary of State decides that it is against the interests of national security.

Article 22 enables regulations to be made to modify the provisions of Part III to enable the United Kingdom to give effect to any Community obligations or any international agreements.

Article 23 applies, with the omission of certain words, the provisions of section 20(2) of the Interpretation Act (Northern Ireland) 1954 (c.33) relating to offences by a body corporate.

Article 24 states that were a person commits an offence and it is due to the action of another person, that other person may be charged and convicted of an offence regardless of whether proceedings are taken against the first person.

Article 25 sets out the rights and obligations of the Crown including Crown premises, in relation to the provision of Part III.

Article 26 specifies those regulations, made under Part III which are to be subject to affirmative resolution and those which are to be subject to negative resolution by the Assembly. It also outlines the requirements of a direction given by the Department.

Article 27 defines some of the key words and phrases used in Part III.

Part IV: Areas of Special Scientific Interest

Background and Policy Objectives

33. The purpose of Part IV of the Order is to introduce measures to allow for the better protection and management of Areas of Special Scientific Interest (ASSIs). These sites represent the finest examples of semi-natural habitat and species sites to be found in Northern Ireland due to their fauna, flora or geological/physiographical features. The provisions of this Part will also satisfy the Northern Ireland Executive's Programme for Government (PfG) commitment to have in place, by July 2003, a policy and legislative framework for the protection and management of these sites.
34. The provisions of Part IV will replace the existing provisions pertaining to ASSIs in Part VI of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985. The provisions are also comparable to the legislative provisions introduced to protect ASSI equivalent sites in England and Wales (namely Sites of Special Scientific Interest) as part of the Countryside and Rights of Way Act 2000. They will also help address the requirements of European designated sites by satisfying the requirements of Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna (the Habitats Directive) as transposed by the Conservation (Natural Habitats etc.) Regulations (Northern Ireland) 1995.