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STATUTORY INSTRUMENTS

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**1974 No. 2170**

**HEALTH AND SAFETY  
CLEAN AIR**

**Clean Air Enactments (Repeals and  
Modifications) Regulations 1974**

<i>Made</i>	- - - -	<i>20th December 1974</i>
<i>Laid before Parliament</i>		<i>20th December 1974</i>
<i>Coming into Operation</i>		
<i>Regulation 3(a)</i>		<i>2nd March 1975</i>
<i>Remainder</i>		<i>1st January 1975</i>

The Secretary of State for the Environment, in relation to England, the Secretary of State for Wales, in relation to Wales, and the Secretary of State for Scotland, in relation to Scotland, in exercise of the powers conferred on them by sections 15(1) and (3)(a), 80(1) and 82(3)(a) of the Health and Safety at Work etc. Act 1974 and of all other powers enabling them in that behalf, and after consultation with the Health and Safety Commission being the only body which it appeared to them to be appropriate to consult, hereby make the following regulations:—

**Title and commencement**

1.—(1) These regulations may be cited as the Clean Air Enactments (Repeals and Modifications) Regulations 1974.

(2) Regulation 3(a) shall come into operation on 2nd March 1975 and the remaining regulations shall come into operation on 1st January 1975.

**Interpretation**

2.—(1) In these regulations—

“the Act of 1906” means the Alkali, &c. Works Regulation Act 1906;

“the Act of 1974” means the Health and Safety at Work etc. Act 1974; and

“enactment” includes any instrument made under an enactment.

(2) The Interpretation Act 1889 shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

(3) In these regulations unless the context otherwise requires, references to any enactment are references to that enactment as amended by or under any other enactment.

### **The Act of 1906**

3. In the Act of 1906 in its application to Great Britain—
- (a) section 13 (which provides for an annual report by the chief alkali inspector) is hereby repealed;
  - (b) the provisions mentioned in column 1 of Schedule 1 to these regulations (which relate to the matters mentioned in column 2 of that Schedule) are hereby repealed; and
  - (c) the provisions mentioned in Schedule 2 to these regulations shall have effect subject to the modifications specified in that Schedule.

### **The Public Health (Smoke Abatement) Act 1926**

4. The Public Health (Smoke Abatement) Act 1926 is hereby repealed.

### **The Alkali, &c. Works Regulation Order (Scotland) 1933**

5. In the Alkali, &c. Works Regulation Order (Scotland) 1933(1)—
- (a) in Article 2 the definition of “the Department” is hereby repealed;
  - (b) in Article 3 the words “at the offices of the Department” are hereby repealed;
  - (c) in Article 6 the words from “in the form” , where first occurring, to the end of the Article are hereby repealed;
  - (d) in Article 8 the words from “in the form” to the end of the Article are hereby repealed;
  - (e) the second Schedule is hereby repealed; and
  - (f) in Articles 3, 5, 6, 7 and 8 references to the Department shall be construed as references to the Health and Safety Executive.

### **The Alkali, &c., Works Regulation (Scotland) Act 1951**

6. The Alkali, &c., Works Regulation (Scotland) Act 1951 is hereby repealed.

### **The Clean Air Act 1956**

7. Section 17(3) of the Clean Air Act 1956 (which empowers the amendment of orders extending the Act of 1906) is hereby repealed.

### **The Alkali, &c. Works (Registration) Order 1957**

8. Articles 3, 5, 6 and 7 of the Alkali, &c. Works (Registration) Order 1957(2) as originally enacted (which contains provisions about the registration of works subject to the Act of 1906) shall have effect as if the references therein to the Minister of Housing and Local Government were references to the Health and Safety Executive.

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(1) Rev.II, p. 57 (1933 p. 350).

(2) (1957 I, p. 416).

### **The Clean Air Act 1968**

9. Section 11(5) of the Clean Air Act 1968 (which limits the operation of the Public Health (Smoke Abatement) Act 1926 and the Alkali, &c., Works Regulation (Scotland) Act 1951) is hereby repealed.

### **The Control of Pollution Act 1974**

10. For subsection (2) of section 78 of the Control of Pollution Act 1974 (which relates to cable burning) there shall be substituted the following—

“(2) A person who contravenes the provisions of the preceding subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400;

(3) Proceedings for an offence under subsection (1) above shall not, in England and Wales, be instituted except by an inspector appointed under section 19 of the Health and Safety at Work etc. Act 1974 or by or with the consent of the Director of Public Prosecutions.”.

### **References to inspectors**

11. References in any provision of an enactment or document to—

- (a) an inspector appointed under the Act of 1906 or
- (b) the chief inspector,

shall, except where the context otherwise requires or where the reference is otherwise expressly amended, be construed as references respectively to—

- (i) an inspector appointed by the Health and Safety Executive under section 19 of the Act of 1974; and
- (ii) an inspector so appointed who is authorised to act for the purpose of the provision in question.

### **Supplemental**

12.—(1) These regulations shall not affect the validity of anything done under any provision of an enactment repealed or modified by these regulations before the coming into operation of these regulations; and anything which at the coming into operation of these regulations is in process of being done for the purposes of that provision (including in particular any legal proceedings) by or in relation to—

- (a) an inspector appointed under the Act of 1906;
- (b) the chief inspector; or
- (c) the Secretary of State;

may, so far as may be necessary for the purposes of or in consequence of the provisions of these regulations, be continued, respectively, by or in relation to—

- (i) an inspector appointed by the Health and Safety Executive under section 19 of the Act of 1974;
- (ii) an inspector so appointed who is authorised to act for the purposes of the provision in question;
- (iii) the Health and Safety Executive.

(2) Without prejudice to paragraph (1) of this regulation, any exemption, approval, certificate or notice granted or given or other thing whatsoever done for the purposes of any provision modified by these Regulations shall, if in force at the coming into operation of these regulations, continue in force and have effect as if granted, given or done in accordance with that provision as so modified.

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(3) Any legislative instrument made under any provision repealed by these regulations and in force immediately before the coming into operation of these regulations shall continue in force notwithstanding the repeal of that provision.

(4) Where any of the provisions repealed or modified by these regulations prescribes a penalty for an offence of any kind, that penalty shall, notwithstanding these regulations, continue to apply to offences of that kind committed before 1st January 1975.

19th December 1974

*Anthony Crosland*  
Secretary of State for the Environment

19th December 1974

*John Morris*  
Secretary of State for Wales

20th December 1974

*William Ross*  
Secretary of State for Scotland

SCHEDULE 1

Regulation 3(b)

REPEALS

<i>Column 1</i>	<i>Column 2</i>
Section 10	Appointment of inspectors
Section 11	Disqualification of certain persons for inspectors
Section 12	Inspection of works
Section 16A	Penalties
Section 18	Further provisions as to recovery of fines in county courts
Section 20	Discharge of owner on conviction of actual offender
Section 21	Service of notices

SCHEDULE 2

Regulation 3(c)

MODIFICATIONS OF ACT OF 1906

1. At the end of section 27(1) (interpretation of terms) there shall be added the following:

“The expression “inspector” means an inspector appointed by the Health and Safety Executive under section 19 of the Health and Safety at Work etc. Act 1974.

The expression “chief inspector” in any provision of this Act means an inspector so appointed for the purposes of that provision”.

2. Section 9(5) and (7) as originally enacted shall have effect as if the references therein to the Local Government Board, or for Scotland, the Secretary for Scotland, were references to the Health and Safety Executive.

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**EXPLANATORY NOTE**

These Regulations contain repeals and modifications of provisions of the following Acts and instruments.

- (a) the Alkali, &c. Works Regulation Act 1906;
- (b) the Public Health (Smoke Abatement) Act 1926;
- (c) the Alkali, &c. Works Regulation Order (Scotland) 1933;
- (d) the Alkali, &c., Works Regulation (Scotland) Act 1951;
- (e) the Clean Air Acts 1956 and 1968;
- (f) the Alkali, &c. Works (Registration) Order, 1957; and
- (g) the Control of Pollution Act 1974.

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They are made in consequence of the establishment of the Health and Safety Executive and the coming into operation on the 1st January 1975 of provisions of the Health and Safety at Work etc. Act 1974 which supersede or affect the said provisions.

The Regulations therefore—

(a) transfer certain powers under the Act of 1906 connected with the enforcement of that Act from the Secretary of State to the Health and Safety Executive;

(b) transfer the functions of inspectors appointed under the Act of 1906 to inspectors appointed by the Health and Safety Executive under the Act of 1974;

(c) apply the penalties prescribed in the Act of 1974 to offences under the Act of 1906 committed on or after 1st January 1975;

(d) repeal powers and provisions which are superseded by powers and provisions contained in the Act of 1974.