
STATUTORY INSTRUMENTS

2002 No. 1355

The Offshore Chemicals Regulations 2002

Appointment of inspectors

16.—(1) The Secretary of State may, if she thinks fit, appoint one or more inspectors—

- (a) to investigate whether the requirements, restrictions or prohibitions imposed by or under these Regulations have been, or are being complied with; or
- (b) to monitor the use or discharge of any offshore chemical.

(2) The inspectors shall report their conclusions to the Secretary of State in such manner as the Secretary of State may direct.

(3) An inspector appointed under paragraph (1) may for any of the purposes mentioned in that paragraph and on producing evidence of his appointment—

- (a) at any reasonable time (or, in a situation which in his opinion may give rise to a risk of significant pollution to the environment as a result of the use or discharge from an offshore installation of an offshore chemical, at any time) board any offshore installation;
- (b) on boarding an offshore installation take with him any other person authorised for those purposes by the Secretary of State and any equipment or materials that he thinks he may require;
- (c) make such examination or investigation as he considers necessary (including any examination or investigation of an offshore installation, for which purpose he may install or maintain monitoring or other apparatus on the offshore installation);
- (d) give a direction requiring that any part of the offshore installation be left undisturbed (whether generally or in particular respects) for so long as reasonably necessary for the purposes of any examination or investigation under sub-paragraph (c);
- (e) 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) take samples of any articles or substances found on the offshore installation or in the atmosphere or any land, seabed (including the subsoil thereof) or water in the vicinity of the offshore installation;
- (g) in the case of any article or substance which he finds on the offshore installation, cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless that in the circumstances of the case is necessary);
- (h) in the case of any such article or substance as is mentioned in sub-paragraph (g), 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 paragraph;
 - (ii) to ensure that it is not tampered with before his examination of it is completed; and
 - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under these Regulations;

- (i) require any person who he has reasonable cause to believe is able to give any information relevant to any examination or investigation under sub-paragraph (c)—
 - (i) to attend at a place and time specified by the inspector;
 - (ii) to answer (in the absence of any person other than persons whom the inspector may allow to be present and a person nominated to be present by the person on whom the requirement is imposed) such questions as the inspector thinks fit to ask; and
 - (iii) to sign a declaration of truth of his answers;
 - (j) require the production of, and inspect and take copies of or of any entry in—
 - (i) any records which by virtue of any provision of any permit granted under these Regulations are required to be kept;
 - (ii) any records which he considers it necessary for him to see for the purposes of any examination or investigation under sub-paragraph (c); and
 - (k) 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 the inspector considers are necessary to enable him to exercise any of the powers conferred on him by this regulation.
- (4) Where an inspector considers that any activity in relation to the use or discharge of an offshore chemical involves a serious and imminent risk of pollution, he may give such directions in relation to that activity (including a direction requiring the cessation of that activity) as he considers necessary to avoid or minimise the risk of pollution in question.
- (5) An answer given by a person in compliance with a requirement imposed under paragraph (3) (i) shall be admissible in evidence in England and Wales or Northern Ireland against that person in any proceedings or, in Scotland, against that person in criminal proceedings.
- (6) In criminal proceedings in which such person as is mentioned in paragraph (5) is charged with an offence to which this paragraph applies no evidence relating to that person's answer may be adduced and no question relating to it may be asked by or on behalf of the prosecution unless evidence relating to it is adduced by or on behalf of that person.
- (7) Paragraph (6) applies to any offence other than one—
- (a) under regulation 18(1)(e)(ii);
 - (b) under section 5 of the Perjury Act 1911⁽¹⁾ (false statements made otherwise than on oath);
 - (c) under section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995⁽²⁾ (false statements made otherwise than on oath); or
 - (d) under article 10 of the Perjury (Northern Ireland) Order 1979⁽³⁾.
- (8) Nothing in this regulation shall be taken to compel the production by any person of a document of which he would on ground of legal professional privilege be entitled to withhold production on an order for disclosure or discovery in an action in the High Court or the High Court in Northern Ireland or, in relation to Scotland, on an order for the production of documents in an action in the Court of Session.

(1) 1911 c. 6.

(2) 1995 c. 39.

(3) S.I.1979/1714 (N.I. 19).