
STATUTORY INSTRUMENTS

1978 No. 1049

**Pollution Control and Local Government
(Northern Ireland) Order 1978**

PART IV

POLLUTION OF THE ATMOSPHERE

Prevention of atmospheric pollution

Regulations about sulphur content of oil fuel for furnaces or engines

55.—(1) For the purpose of limiting or reducing air pollution, the Department may by regulations impose limits on the sulphur content of oil fuel which is used in furnaces or engines.

(2) The Department, before making any regulations under this Article, shall consult such persons appearing to the Department—

- (a) to represent producers and users of oil fuel;
 - (b) to represent manufacturers and users of plant and equipment for which oil fuel is used; and
 - (c) to be conversant with problems of air pollution;
- as the Department considers appropriate.

(3) Regulations may—

- (a) prescribe the kinds of oil fuel, and the kinds of furnaces and engines, to which the regulations are to apply;
- (b) apply standards, specifications, descriptions or tests laid down in documents not forming part of the regulations;
- (c) authorise the Department to confer exemptions from any provision of the regulations.

(4) It shall be the duty—

- (a) of every district council to enforce the provisions of regulations under this Article within its district, except in relation to a furnace which is part of^{F1} an installation or plant subject to regulations under Article 4 of the Environment (Northern Ireland) Order 2002 or] a^{F2} process subject to the Industrial Pollution Control Order or] work subject to the Alkali Act; and
- ^{F1}(b) of the inspectors appointed under^{F3} the Industrial Pollution Control Order or the regulations mentioned in sub-paragraph (a) to enforce those provisions in relation to such furnaces]

(5) A person who contravenes any provision of regulations under this Article shall be guilty of an offence and liable—

- (a) on conviction on indictment to a fine; and
- (b) on summary conviction to a fine not exceeding^{F4} level 5 on the standard scale];

so, however, that the regulations may in any case exclude liability to conviction on indictment, and may in any case reduce the maximum fine on summary conviction.

(6) Regulations under this Article shall, subject to any provision to the contrary in the regulations, apply to fuel used for, and to persons in, the public service of the Crown as they apply to fuel used for other purposes and to other persons; but a district council shall not be entitled under this paragraph to exercise, in relation to fuel used for any persons in that service, any power conferred on the council under section 98 of the Local Government Act (Northern Ireland) 1972 or Article 72.

(7) In this Article “oil fuel” means any liquid petroleum product produced in a refinery.

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| F1 | 2002 NI 7 |
| F2 | 1997 NI 18 |
| F3 | prosp. rep. by 2002 NI 7 |
| F4 | 1984 NI 3 |

Cable burning

56.—(1) A person who burns insulation from a cable with a view to recovering metal from the cable shall be guilty of an offence unless the^{F5} burning is part of an activity subject to regulations under Article 4 of the Environment (Northern Ireland) Order 2002 or the^{F6} burning is part of a process subject to the Industrial Pollution Control Order^{F6} . . .]

^{F5}(2) A person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.]

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| F5 | 2002 NI 7 |
| F6 | 1997 NI 18 |

Information about atmospheric pollution

Research and publicity

57.—(1) A district council may—

- (a) undertake, or contribute towards the cost of, investigation and research relevant to the problem of air pollution; and
- (b) arrange for the publication of information on that problem.

(2) Without prejudice to the generality of paragraph (1), district councils may obtain information about the emission of pollutants and other substances into the air—

- (a) by issuing notices under Article 58; and
- (b) by measuring and recording the emissions, and for that purpose entering on any premises, whether by agreement or in exercise of the power conferred by section 98 of the Local Government Act (Northern Ireland) 1972 ; and
- (c) by entering into arrangements with occupiers of premises under which they measure and record emissions on behalf of the district council;

so, however, that references to premises in sub-paragraphs (b) and (c) do not include private dwellings.

(3) A district council shall not exercise the power mentioned in paragraph (2)(b) for the purpose of measuring and recording such emissions on any premises unless—

- (a) the council has given to the occupier of the premises a notice—

- (i) specifying the kind of emissions in question and the steps it proposes to take on the premises for the purpose of measuring and recording emissions of that kind, and
 - (ii) stating that it proposes to exercise that power for that purpose unless the occupier makes a request to the council under this paragraph; and
- (b) the period of twenty-one days beginning with the date on which the notice was given has expired,

and shall not exercise that power in consequence of the notice if during that period the occupier gives a notice to the council requesting it to serve on him a notice under Article 58 with respect to the emissions.

(4) Nothing in this Article shall authorise a district council to investigate emissions from any^{F7} activity subject to regulations under Article 4 of the Environment (Northern Ireland) Order 2002 or any^{F8} process subject to the Industrial Pollution Control Order or] work subject to the Alkali Act otherwise than by issuing notices under Article 58, or by exercising the powers conferred on the council by paragraph (1)(a) of this Article without entering the work.

(5) In acting under paragraph (1)(b), a district council shall ensure that the material published is presented in such a way that no information relating to a trade secret is disclosed, except with the consent in writing of a person authorised to disclose it^{F8}

(6) Breach of a duty imposed by paragraph (5) shall be actionable; but in any proceedings, whether civil or criminal, brought against a district council, or any member or officer of a district council, on the grounds that any information has been published, it shall be a defence to show that it was published in compliance with this Article.

(7) Paragraph (6) applies in particular to any proceedings brought under ^{F9} Article 36 of the Clean Air (Northern Ireland) Order 1981] (which makes it an offence to disclose information relating to any trade secret).

(8) So long as a district council exercises any of its powers under paragraph (2), it shall consult such persons carrying on any trade or business in the council's district, or such organisations appearing to the council to be representative of those persons, and such persons appearing to the council to be conversant with problems of air pollution or to have an interest in local amenity as appear to the council to be appropriate—

- (a) about the way in which the district council exercises its powers under this Article and Article 58; and
 - (b) about the extent to which, and the manner in which, any information collected under those powers should be made available to the public.
- (9) The consultations shall take place not less than twice in each financial year.

F7	2002 NI 7
F8	1997 NI 18
F9	1981 NI 4

Notices requiring information about air pollution

58.—(1) A district council may by notice require the occupier of any premises in its district to furnish, whether by periodical returns or by other means, such estimates or other information as may be specified or described in the notice concerning the emission of pollutants and other substances into the air from the premises.

(2) This Article shall not apply to premises in so far as they consist of a private dwelling.

[^{F10}(2AA) If the notice relates to an installation or plant subject to regulations under Article 4 of the Environment (Northern Ireland) Order 2002, the person on whom the notice is served shall not be obliged to supply any information which, as certified by an inspector appointed under those regulations, is not of a kind which is being supplied to the inspector for the purposes of those regulations.]

[^{F11}^{F12}(2A) If the notice relates to a process subject to the Industrial Pollution Control Order, the person on whom the notice is served shall not be obliged to supply any information which, as certified by an inspector appointed under that Order, is not of a kind which is being supplied to the inspector for the purposes of that Order.]

^{F13}(3) If the notice relates to a work subject to the Alkali Act, the person on whom the notice is served shall not be obliged to supply any information which, as certified by an inspector appointed under that Act, is not of a kind which is being supplied to the inspector for the purposes of that Act.

(4) The person on whom a notice is served under this section shall comply with the notice within six weeks of the date of service, or within such longer period as the district council may by notice allow.

(5) A notice under this Article shall not require returns at intervals of less than three months, and no one notice (whether or not requiring periodical returns) shall call for information covering a period of more than twelve months.

(6) Except so far as regulations provide otherwise, this Article shall apply to premises used for, and to persons in, the public service of the Crown as it applies to other premises and persons; but a district council shall not be entitled under this paragraph to exercise, in relation to premises used for and persons in that service, any power conferred on the council under section 98 of the Local Government Act (Northern Ireland) 1972 or Article 72.

(7) A person who—

- (a) fails without reasonable excuse to comply with the requirements of a notice served on him under this Article; or
- (b) in furnishing any estimate or other information in compliance with a notice under this Article, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular.

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding^{F14} level 5 on the standard scale].

(8) Where a person is convicted of an offence under paragraph (7) in respect of any premises and information of any kind, nothing in Article 57(3) shall prevent a district council from exercising the power of entry there mentioned for the purpose of obtaining information of that kind in respect of the premises.

F10	2002 NI 7
F11	1997 NI 18
F12	prosp. rep. by 2002 NI 7
F13	prosp. rep. by 1997 NI 18
F14	1984 NI 3

Appeals against notices

59.—(1) A person served with a notice under Article 58, or any other person having an interest in the premises to which the notices relates, may appeal to the Department—

- (a) on the ground that the giving to the council or the disclosure to the public of all or part of the information required by the notice would—

- (i) prejudice to an unreasonable degree some private interest by disclosing information about a trade secret, or
 - (ii) be contrary to the public interest, or
- (b) on the ground that the information required by the notice is not immediately available and cannot readily be collected or obtained by the recipient of the notice without incurring undue expenditure for the purpose.

(2) If the Department allows the appeal it may direct the district council to withdraw or modify the notice, or to take such steps as may be specified by the Department to ensure that prejudicial information is not disclosed to the public; and the district council shall comply with the direction.

(3) Regulations may make provision as to appeals under this Article, including provision about the time for bringing an appeal and the circumstances in which all or any part of the appellant's case is to be withheld from the respondent; but the Department before making any regulations under this paragraph shall consult such persons appearing to the Department—

- (a) to represent district councils;
 - (b) to represent industrial interests; and
 - (c) to be conversant with problems of air pollution;
- as the Department considers appropriate.

Regulations about research and publicity

60.—(1) Regulations shall prescribe the manner in which, and the methods by which, district councils are to perform their functions under Articles 57 and 58.

(2) The Department, before making regulations under this Article, shall consult such persons appearing to the Department—

- (a) to represent district councils;
 - (b) to represent industrial interests; and
 - (c) to be conversant with problems of air pollution;
- as the Department considers appropriate.

(3) Regulations under this Article may in particular—

- (a) prescribe the kinds of emissions to which notices under Article 58 may relate;
- (b) prescribe the kinds of information which may be required by those notices;
- (c) prescribe the manner in which any such notice is to be given, and the evidence which is to be sufficient evidence of its having been given, and of its contents and authenticity;
- (d) require each district council to maintain in a prescribed form a register containing—
 - (i) information obtained by the council under Article 57(2) other than information as to which a direction under Article 59(2) provides that the information is not to be disclosed to the public; and
 - (ii) such information (if any) as the Department may determine, or as may be determined by or under regulations, with respect to any appeal under Article 59 which was against a notice served by the council and which the Department did not dismiss;
- (e) specify the circumstances in which district councils may enter into arrangements with owners or occupiers of premises under which they will record and measure emissions on behalf of the district councils;
- (f) specify the kinds of apparatus which district councils are to have power to provide and use for measuring and recording emissions, and for other purposes.

(4) Regulations under paragraph (3)(b) may in particular require returns of—

- (a) the total volume of gases, whether pollutant or not, discharged from the premises in question over any period;
- (b) the concentration of pollutant in the gases discharged;
- (c) the total of the pollutant discharged over any period;
- (d) the height or heights at which discharges take place;
- (e) the hours during which discharges take place;
- (f) the concentration of pollutants at ground level.

(5) A register maintained by a district council under regulations made under paragraph (3)(d) shall be open to public inspection at the principal office of the council free of charge at all reasonable hours, and the council shall afford members of the public reasonable facilities for obtaining from the authority, on payment of reasonable charges, copies of entries in the register.

Provision by district councils of information for the Department

61.—(1) The Department may, for the purpose of obtaining information about air pollutants, direct a district council to make such arrangements as may be specified in the direction—

- (a) for the provision, installation, operation and maintenance by the district council of apparatus for measuring and recording air pollution; and
- (b) for transmitting the information so obtained to the Department.

(2) Where apparatus is provided under a direction under paragraph (1) the Department shall defray the whole of the capital expenditure incurred by a district council in providing and installing the apparatus.

(3) Before giving a direction under paragraph (1) the Department shall consult the district council, and the district council shall comply with any direction given under that paragraph.

Miscellaneous

Art. 62 rep. by 1981 NI 4

Interpretation of Part IV

63.—^{F15}(1) In this Part—
 “a work subject to the Alkali Act” means a work registered under section 9 of the Alkali Act, excluding the whole or part of such a work while the work or part is the subject of an order made or treated as made under [^{F16} paragraph (8) of Article 25 of the Clean Air (Northern Ireland) Order 1981] (under which certain statutory provisions relating to clean air which apart from that [^{F16} paragraph] do not apply to works so registered may be applied to such works).

(2) References in this Part to the emission of substances into the atmosphere shall be construed as applying to substances in a gaseous or liquid or solid state, or any combination of those states.

(3) Any reference in this Part to measurement includes a reference to the taking of samples.

F15 prosp. rep. by 1997 NI 18

F16 1981 NI 4

Changes to legislation:

There are currently no known outstanding effects for the Pollution Control and Local Government (Northern Ireland) Order 1978, PART IV.