
STATUTORY INSTRUMENTS

1981 No. 158

Clean Air (Northern Ireland) Order 1981

Special cases

[^{F1}Relation to Environment (Northern Ireland) Order 2002

24B.—(1) Where an activity is subject to regulations under Article 4 of the Environment (Northern Ireland) Order 2002 (regulation of polluting activities), Articles 3 to 24A shall not apply in respect of that activity, as from the determination date for the activity in question.

(2) The determination date, for an activity, is—

- (a) in the case of an activity for which a permit is granted, the date on which it is granted, whether in pursuance of an application or following an appeal;
- (b) in the case of an activity for which a permit is refused, the date of refusal, whether in pursuance of an application or following an appeal.

(3) In paragraph (2) “permit” means a permit under regulations under Article 4 of the Environment (Northern Ireland) Order 2002 and the reference to an appeal is a reference to an appeal under those regulations.]

F1 SR 2003/46

Relation to, and amendment of, Alkali Act

25 ^{F2}.—(1) This Article applies to—

- (a) so much of any work registered under section 9 of the Alkali, &c. Works Regulation Act 1906 (in this Article referred to as “the Alkali Act”) as is directly concerned in the processes which necessitate its registration under that section;
- (b) so much of any work in the course of erection or alteration as respects which the Department is satisfied that, on the completion of the erection or alteration, it would be directly concerned in processes which would necessitate its registration under that section 9.

(2) The Department may determine how much of any work of the kind referred to in paragraph (1) is or, as the case may be, would be directly concerned in the processes referred to in that section 9, and the determination of the Department shall, until revoked or varied by the Department, be conclusive.

(3) Subject to this Article, Articles 3 to 24 shall not apply to any works to which this Article applies.

(4) The Alkali Act shall have effect in relation to smoke, grit and dust from any works to which this Article applies as it has effect in relation to noxious or offensive gases, and references in that Act to noxious or offensive gases shall be construed accordingly.

(5) Paragraph (3) shall not affect the operation of Article 3, [^{F3}or 7] in relation to works to which this Article applies, but a district council shall not, without the consent of the Department, institute in relation to such works proceedings under—

(a) Article 3, [^{F3}or 7], or

[^{F4}(b) Part 7 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011.]

(6) Where it is proposed—

(a) to alter any work of the kind referred to in paragraph (1)(a) so as to affect the processes which necessitate its registration; or

(b) to carry out any erection or alteration of the kind referred to in paragraph (1)(b);

no such alteration or, as the case may be, erection or alteration shall take place unless notice of the proposal has been given to the Department.

(7) Any person who alters any work or carries out any erection or alteration in contravention of paragraph (6) or on whose instructions any work is so altered or any erection or alteration is so carried out shall be guilty of an offence.

(8) If, on the application of the district council, the Department is satisfied that in all the circumstances it is expedient so to do, the Department may by order apply the provisions of this paragraph to the whole or any specified part of any works to which this Article applies, and, in that event, in relation to any period for which the order is in force—

(a) paragraphs (3) to (7) shall not apply to the works or, as the case may be, to the specified part of the works; but

(b) it shall be a defence to any proceedings under Article 3 in respect of dark smoke from the works or, as the case may be, from the specified part of the works, to prove that the best practicable means had been employed to prevent or minimise the emission of dark smoke from the works; ^{F5}...

^{F5}(c)

(9) The Department may by order made subject to affirmative resolution—

(a) vary or add to the list of noxious or offensive gases mentioned in section 27 of the Alkali Act;

(b) vary or add to the list of works mentioned in Schedule 1 to the Alkali Act.

(10) Before making any order under paragraph (9) the Department may cause local or other inquiries to be held or investigations to be made.

(11) Any order made under paragraph (9) may prescribe the qualifications subject to which section 7(1) of the Alkali Act (prevention of discharge of noxious or offensive gas in scheduled works) shall apply in relation to—

(a) any noxious or offensive gas; or

(b) any works;

included in such order.

(12) Where, by virtue of an order under paragraph (9), works of any description which would not otherwise be included in Schedule 1 to the Alkali Act become included in that Schedule, the references in the proviso to section 9(5) of the Alkali Act (registration of works) to the commencement of that Act shall, in relation to works of that description, be construed as references to the coming into operation of the order.

(13) Where the Department is of opinion that any work is of such character as is likely to cause the evolution of any noxious or offensive gas, the Department may, notwithstanding that the provisions of the Alkali Act may not apply to that work, authorise an inspector appointed under that Act to enter and inspect such work.

(14) The provisions of the Alkali Act relating to the powers of inspectors shall, subject to paragraph (15), apply in respect of a work of the kind mentioned in paragraph (13) to any inspector authorised under that paragraph (13).

(15) Notwithstanding the provisions of this Article, the power of an inspector authorised under paragraph (14) shall not extend to authorise such an inspector to enter and inspect any work of the kind referred to in paragraph (13) in connection with the emission of smoke, grit and dust.

- | | |
|-----------|--|
| F2 | prosp. rep. by 1997 NI 18 |
| F3 | Words in art. 25(5) substituted (1.4.2012) by Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23) , s. 78, Sch. 3 para. 10(1)(a) ; S.R. 2012/13, art. 2(2), Sch. 2 |
| F4 | Art. 25(5)(b) substituted (1.4.2012) by Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23) , s. 78, Sch. 3 para. 10(1)(b) ; S.R. 2012/13, art. 2(2), Sch. 2 |
| F5 | Art. 25(8)(c) and preceding word repealed (1.4.2012) by Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23) , s. 78, Sch. 4 Pt. 5 ; S.R. 2012/13, art. 2(2), Sch. 2 |

Railway engines

26.—(1) Article 3 shall apply in relation to railway locomotive engines as it applies in relation to buildings but as if for the references to the occupier of the building there were substituted references to the owner of the engine.

(2) The owner of any railway locomotive engine shall use any practicable means there may be for minimising the emission of smoke from the chimney on the engine and if he fails so to do, he shall, if smoke is emitted from the chimney, be guilty of an offence.

(3) Except as provided in this Article, nothing in this Order applies to smoke or grit and dust from any railway locomotive engine.

Vessels

27.—(1) Article 3 shall apply in relation to vessels in waters to which this Article applies as it applies in relation to buildings, but as if—

- (a) for the references to the occupier of the building there were substituted references to the owner of, and to the master or other officer or person in charge of, the vessel; and
- (b) references to a furnace included references to an engine of the vessel.

(2) For the purposes of this Order a vessel in any waters to which this Article applies which are not within the district of any council shall be deemed to be within the district of the council whose district includes that point on land which is nearest to the spot where the vessel is.

(3) The waters to which this Article applies are—

- (a) all waters not navigable by sea-going ships; and
- (b) all waters navigable by sea-going ships which are—
 - (i) within the seaward limits of the territorial waters adjacent to Northern Ireland; and
 - (ii) are contained within any port, harbour, river, estuary, dock, canal or other place, or at any pier or jetty.

(4) Except as provided in this Article, nothing in this Order applies to smoke or grit and dust from any vessel.

Exemption for purposes of investigations and research

28.—(1) If, on application being made to it, the district council is satisfied that it is expedient so to do for the purpose of enabling investigations or research relevant to the problem of the pollution

of the air to be carried out without rendering the applicant liable to proceedings brought under any of the provisions of this Order, the district council may exempt—

- (a) any chimney from the operation of Articles 3,^{F6} 7, 17,^{F7}... and 26;
- (b) any furnace, boiler or industrial plant from the operation of Article 5(1);
- (c) any premises from the operation of Article 4;
- (d) any furnace from the operation of Articles 8, 9 and 11.

(2) The provisions of Schedule 1 shall apply in relation to an application to the district council for an examination under this Article.

F6 prosp. rep. by 1997 NI 18

F7 Word in art. 28(1)(a) repealed (1.4.2012) by Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23), s. 78, Sch. 4 Pt. 5; S.R. 2012/13, art. 2(2), Sch. 2

Crown premises, etc.

29.—(1) The district council shall, where it seems to it proper so to do, report to the responsible Government department any—

- (a) emissions of dark smoke, or of grit and dust, from any premises which are under the control of any Government department and are occupied for the public service of the Crown or for any of the purposes of any Government department; or
- (b) emissions of smoke, whether dark smoke or not, from any such premises which are within a smoke control area; or
- (c) emissions of smoke, whether dark smoke or not, from any such premises which appear to the council to constitute a nuisance to any of the inhabitants of the neighbourhood; or
- (d) emissions of dark smoke from—
 - (i) any vessel of Her Majesty's navy; or
 - (ii) any Government ship in the service of the Admiralty while employed for the purposes of Her Majesty's navy;

which appear to the council to constitute a nuisance to any of the inhabitants of the neighbourhood.

(2) On receiving any report under paragraph (1) the responsible Government department shall inquire into the circumstances and, if the inquiry reveals that there is cause for complaint, shall employ all practicable means for preventing or minimising the emission of the smoke or grit and dust, or, as the case may be, abating the nuisance and preventing a recurrence of it.

(3) The fact that there subsists in any premises an interest—

- (a) belonging to Her Majesty in right of the Crown; or
- (b) belonging to a Government department; or
- (c) held in trust for Her Majesty for the purposes of a Government department;

shall not affect the application of this Order to those premises so long as that interest is not the interest of the occupier of the premises, and this Order shall have effect accordingly in relation to the premises and that and all other interests in the premises.

(4) Article 27 shall, with the omission of the reference in paragraph (1) of that Article to the owner, apply to vessels owned by the Crown other than—

- (a) vessels of Her Majesty's navy;

- (b) Government ships in the service of the Admiralty while employed for the purposes of Her Majesty's navy.
- (5) This Order shall have effect in relation to premises occupied for the service of a visiting force as if the premises were—
 - (a) premises occupied for the public service of the Crown; and
 - (b) under the control of the Government department by arrangement with whom the premises are occupied.
- (6) In this Article—
 - “Crown” includes the Crown in right of Her Majesty's Government in the United Kingdom;
 - “Government department” includes a department of the Government of the United Kingdom;
 - “Government ship” has the same meaning as in^{F8} the Merchant Shipping Act 1995];
 - “visiting force” means any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of any of the provisions of the Visiting Forces Act 1952 .

F8 1995 c. 21

Changes to legislation:

There are currently no known outstanding effects for the Clean Air (Northern Ireland) Order 1981, Special cases.