
STATUTORY INSTRUMENTS

1997 No. 2777

The Industrial Pollution Control (Northern Ireland) Order 1997

Introductory

Title and commencement

1.—(1) This Order may be cited as the Industrial Pollution Control (Northern Ireland) Order 1997.

(2) This Order shall come into operation on such day or days as the Department may by order appoint^{F1}.

(3) An order under paragraph (2) may make such transitional provision as appears to the Department to be necessary or expedient in connection with the provisions brought into operation by the order.

F1 partly exercised by SR 1998/53, SR 2005/77
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Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the Department” means the Department of the Environment;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

(3) For the purposes of this Order the “environment” consists of all, or any, of the following media, namely, the air, water and land; and the medium of air includes the air within buildings and the air within other natural or man-made structures above or below ground.

(4) For the purposes of this Order “pollution of the environment” means pollution of the environment due to the release (into any environmental medium) from any process of substances which are capable of causing harm to man or any other living organisms supported by the environment.

(5) For the purposes of this Order “harm” means harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, includes offence caused to any of his senses or harm to his property; and “harmless” has a corresponding meaning.

(6) For the purposes of this Order “process” means any activities carried on in Northern Ireland, whether on premises or by means of mobile plant, which are capable of causing pollution of the environment and “prescribed process” means a process prescribed under Article 3(1).

(7) In paragraph (6)—

“activities” means industrial or commercial activities or activities of any other nature whatsoever (including, with or without other activities, the keeping of a substance);

“mobile plant” means plant which is designed to move or to be moved whether on roads or otherwise;

“Northern Ireland” does not include the waters beyond 3 international nautical miles seaward from the baseline from which the breadth of the territorial sea adjacent to Northern Ireland is measured.

(8) For the purposes of this Order the “enforcing authority” is the chief inspector or the district council by which, under Article 5, the functions conferred or imposed by this Order otherwise than on the Department or the Secretary of State are for the time being exercisable.

(9) For the purposes of this Order “authorisation” means an authorisation for a process (whether on premises or by means of mobile plant) granted under Article 6; and a reference to the conditions of an authorisation is a reference to the conditions subject to which at any time the authorisation has effect.

(10) A substance is “released” into any environmental medium for the purposes of this Order whenever it is released directly into that medium and “release” includes—

- (a) in relation to air, any emission of the substance into the air;
- (b) in relation to water, any entry (including any discharge) of the substance into water;
- (c) in relation to land, any deposit, keeping or disposal of the substance in or on land;

and for this purpose “water” and “land” shall be construed in accordance with paragraphs (11) and (12).

(11) In order to determine for the purposes of this Order into what medium a substance is released—

- (a) any release into—
 - (i) the sea or the surface of the seabed,
 - (ii) any river, watercourse, lake, lough or pond (whether natural or artificial or above or below ground) or reservoir or the surface of the riverbed or of other land supporting such waters, or
 - (iii) ground waters,is a release into water;
- (b) any release into—
 - (i) land covered by water falling outside sub-paragraph (a) or the water covering such land; or
 - (ii) the land beneath the surface of the seabed or of other land supporting waters falling within sub-paragraph (a)(ii),is a release into land; and
- (c) any release into a sewer (within the meaning of the Water and Sewerage Services (Northern Ireland) Order [F22006]) shall be treated as a release into water;

but a sewer and its contents shall be disregarded in determining whether there is pollution of the environment at any time.

(12) In paragraph (11) “ground waters” means any waters contained in underground strata, or in—

- (a) a well, borehole or similar work sunk into underground strata, including any adit or passage constructed in connection with the well, borehole or work for facilitating the collection of water in the well, borehole or work; or

(b) any excavation into underground strata where the level of water in the excavation depends wholly or mainly on water entering it from the strata.

(13) For the purposes of this Order “substance” shall be treated as including electricity or heat and “prescribed substance” has the meaning given by Article 3(7).

F2 Word in art. 2(11)(c) substituted (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), arts. 1(2), 308(1), **Sch. 12 para. 38** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (with art. 3, Sch. 2)

Prescribed processes and prescribed substances

3.—(1) The Department may, by regulations, prescribe any description of process as a process for the carrying on of which after a prescribed date an authorisation is required under Article 6.

(2) Regulations under paragraph (1) may frame the description of a process by reference to any characteristics of the process or the area or other circumstances in which the process is carried on or the description of person carrying it on.

(3) Regulations under paragraph (1) may prescribe or provide for the determination under the regulations of different dates for different descriptions of processes and may include such transitional provisions as the Department considers necessary or expedient as respects the making of applications for authorisations and suspending the application of Article 6(1) until the determination of applications made within the period allowed by the regulations.

(4) Regulations under paragraph (1) shall, as respects each description of process, designate it as one for—

- (a) integrated central control;
- (b) restricted central control; or
- (c) local control.

(5) The Department may, by regulations, prescribe any description of substance as a substance the release of which into the environment is subject to control under Articles 6 and 7.

(6) Regulations under paragraph (5) may—

- (a) prescribe separately, for each environmental medium, the substances the release of which into that medium is to be subject to control; and
- (b) provide that a description of substance is only prescribed, for any environmental medium, so far as it is released into that medium in such amounts over such periods, in such concentrations or in such other circumstances as may be specified in the regulations;

and in relation to a substance of a description which is prescribed for releases into the air, the regulations may designate the substance as one for restricted central control or one for local control.

(7) In this Order “prescribed substance” means any substance of a description prescribed in regulations under paragraph (5) or, in the case of a substance of a description prescribed only for releases in circumstances specified under paragraph (6)(b), means any substance of that description which is released in those circumstances.

Emission etc. limits and quality objectives

4.—(1) The Department may make regulations under paragraph (2) or (3) establishing standards, objectives or requirements in relation to particular prescribed processes or particular substances.

(2) Regulations under this paragraph may—

- (a) in relation to releases of any substance from prescribed processes into any environmental medium, prescribe standard limits for—
 - (i) the concentration, the amount or the amount in any period of that substance which may be so released; and
 - (ii) any other characteristic of that substance in any circumstances in which it may be so released;
- (b) prescribe standard requirements for the measurement or analysis of, or of releases of, substances for which limits have been set under sub-paragraph (a); and
- (c) in relation to any prescribed process, prescribe standards or requirements as to any aspect of the process.

(3) Regulations under this paragraph may establish for any environmental medium (in all areas or in specified areas) quality objectives or quality standards in relation to any substances which may be released into that or any other medium from any process.

(4) Regulations under this Article may be made for any purposes of this Order or for other purposes.

Discharge and scope of functions

5.—(1) This Article determines the authority by which the functions conferred or imposed by this Order otherwise than on the Department or the Secretary of State are exercisable and the purposes for which they are exercisable.

(2) Those functions, in their application to prescribed processes designated for integrated central control, shall be functions of the chief inspector appointed by the Department under Article 16 and shall be exercisable for the purpose of preventing or minimising pollution of the environment due to the release of substances into any environmental medium.

(3) Those functions, in their application to prescribed processes designated for restricted central control, shall be functions of the chief inspector appointed by the Department under Article 16 and shall be exercisable for the purpose of preventing or minimising pollution of the environment due to the release of substances into the air (but not into any other environmental medium).

(4) Subject to paragraph (5), those functions, in their application to prescribed processes designated for local control, shall be functions of—

- (a) in the case of a prescribed process carried on (or to be carried on) by means of mobile plant, the district council in whose district the person carrying on the process has his principal place of business; and
- (b) in any other cases, the district council in whose district the prescribed processes are (or are to be) carried on;

and the functions applicable to such processes shall be exercisable for the purpose of preventing or minimising pollution of the environment due to the release of substances into the air (but not into any other environmental medium).

(5) The Department may, as respects the functions under this Order being exercised by a district council specified in the direction, direct that those functions shall be exercised instead by the chief inspector while the direction remains in force or during a period specified in the direction.

(6) Functions transferred under paragraph (5) to the chief inspector shall be exercisable for the purpose of preventing or minimising pollution of the environment due to the release of substances into the air (but not into any other environmental medium).

(7) A direction under paragraph (5) may transfer functions as exercisable in relation to all or any description of prescribed processes carried on by all or any description of persons (a “general

direction”) or in relation to a prescribed process carried on by a specified person (a “specific direction”).

(8) A direction under paragraph (5) may include such saving and transitional provisions as the Department considers necessary or expedient.

(9) The Department, on giving or withdrawing a direction under paragraph (5), shall—

(a) in the case of a general direction—

(i) forthwith serve notice of it on the chief inspector and on the district councils affected by the direction; and

(ii) cause notice of it to be published as soon as practicable in the Belfast Gazette and in at least one newspaper circulating in the district of each district council affected by the direction;

(b) in the case of a specific direction—

(i) forthwith serve notice of it on the chief inspector, the district council affected by the direction and the person carrying on or appearing to the Department to be carrying on the process affected, and

(ii) cause notice of it to be published as soon as practicable in the Belfast Gazette and in at least one newspaper circulating in the council's district;

and any such notice shall specify the date at which the direction is to take (or took) effect and (where appropriate) its duration.

(10) The requirements of head (ii) of sub-paragraph (a) or, as the case may be, of sub-paragraph (b) of paragraph (9) shall not apply in any case where, in the opinion of the Secretary of State, the publication of notice in accordance with that head would be contrary to the interests of national security.

(11) It shall be the duty of the chief inspector to follow developments in technology and techniques for preventing or reducing pollution of the environment due to releases of substances from prescribed processes; and district councils shall follow such of those developments as concern releases into the air of substances from prescribed processes designated for local control.

(12) It shall be the duty of the chief inspector and district councils to give effect to any directions given to them under any provision of this Order.

Changes to legislation:

There are currently no known outstanding effects for the The Industrial Pollution Control (Northern Ireland) Order 1997, Cross Heading: Introductory.