
STATUTORY INSTRUMENTS

1997 No. 2777

The Industrial Pollution Control (Northern Ireland) Order 1997

Authorisations

Variation of authorisations by enforcing authority

10.—(1) The enforcing authority may at any time, subject to the requirements of Article 7, and, in cases to which they apply, the requirements of Part II of Schedule 1, vary an authorisation and shall do so if it appears to the authority at that time that that Article requires conditions to be included which are different from the subsisting conditions.

(2) Where the enforcing authority has decided to vary an authorisation under paragraph (1) the authority shall notify the holder of the authorisation and serve a variation notice on him.

(3) In this Order a “variation notice” is a notice served by the enforcing authority on the holder of an authorisation—

- (a) specifying variations of the authorisation which the enforcing authority has decided to make; and
- (b) specifying the date or dates on which the variations are to take effect;

and, unless the notice is withdrawn or is varied under paragraph (4), the variations specified in a variation notice shall take effect on the date or dates so specified.

(4) Where an enforcing authority has served a variation notice, the enforcing authority may vary that notice by serving on the holder of the authorisation in question a further notice—

- (a) specifying the variations which the enforcing authority has decided to make to the variation notice; and
- (b) specifying the date or dates on which the variations specified in the variation notice, as varied by the further notice, are to take effect;

and any reference in this Order to a variation notice, or to a variation notice served under paragraph (2), includes a reference to such a notice as varied by a further notice served under this paragraph.

(5) A variation notice served under paragraph (2) shall also—

- (a) require the holder of the authorisation, within such period as may be specified in the notice, to notify the authority what action (if any) he proposes to take to ensure that the process is carried on in accordance with the authorisation as varied by the notice; and
- (b) require the holder to pay the fee (if any) prescribed by a scheme under Article 8 within such period as may be specified in the notice.

(6) Where in the opinion of the enforcing authority any action to be taken by the holder of an authorisation in consequence of a variation notice served under paragraph (2) will involve a substantial change in the manner in which the process is being carried on, the enforcing authority shall notify the holder of its opinion.

(7) The Department may, if it thinks fit in relation to authorisations of any description or particular authorisations, direct the enforcing authorities—

- (a) to exercise their powers under this Article, or to do so in such circumstances as may be specified in the directions, in such manner as may be so specified; or
- (b) not to exercise those powers, or not to do so in such circumstances or such manner as may be so specified;

and the Department shall have the corresponding power of direction in respect of the powers of the enforcing authorities to vary authorisations under Article 11.

(8) In this Article and Article 11 a “substantial change”, in relation to a prescribed process being carried on under an authorisation, means a substantial change in the substances released from the process or in the amount or any other characteristic of any substance so released; and the Department may give directions to the enforcing authorities as to what does or does not constitute a substantial change in relation to processes generally, any description of process or any particular process.

(9) In this Article and Article 11—

“prescribed” means prescribed in regulations made by the Department;

“vary”

- (a) in relation to the subsisting conditions or other provisions of an authorisation, means adding to them or varying or rescinding any of them; and
- (b) in relation to a variation notice, means adding to, or varying or rescinding the notice or any of its contents;

and “variation” shall be construed accordingly.

Changes to legislation:

There are currently no known outstanding effects for the The Industrial Pollution Control (Northern Ireland) Order 1997, Section 10.