
STATUTORY INSTRUMENTS

1997 No. 2777

The Industrial Pollution Control (Northern Ireland) Order 1997

Authorisations

Authorisations: general provisions

6.—(1) [^{F1}Subject to paragraph (6A) below] No person shall carry on a prescribed process after the date prescribed or determined for that description of process by or under regulations under Article 3(1) (but subject to any transitional provision made by the regulations) except under an authorisation granted by the enforcing authority and in accordance with the conditions to which it is subject.

(2) An application for an authorisation shall be made to the enforcing authority in accordance with Part I of Schedule 1 and shall be accompanied by the fee prescribed under Article 8(2)(a).

(3) Where an application is duly made to the enforcing authority, the authority shall either grant the authorisation subject to the conditions required or authorised to be imposed by Article 7 or refuse the application.

(4) An application shall not be granted unless the enforcing authority considers that the applicant will be able to carry on the process so as to comply with the conditions which would be included in the authorisation.

(5) The Department may, if it thinks fit in relation to any application for an authorisation, give to the enforcing authority directions as to whether or not the authority should grant the authorisation.

(6) The enforcing authority shall, as respects each authorisation in respect of which it has functions under this Order, from time to time but not less frequently than once in every period of 4 years, carry out a review of the conditions of the authorisation.

[^{F1}(6A) Paragraph (6) above shall not require a review of the conditions of an authorisation to be carried out if—

- (a) the prescribed process covered by the authorisation is carried on in a new Part A installation or by means of a new Part A mobile plant;
- (b) the prescribed process covered by the authorisation is carried on in an existing Part A installation or by means of an existing Part A mobile plant and the review would be carried out within the period of two years ending at the beginning of the relevant period for that installation or mobile plant; or
- (c) the prescribed process covered by the authorisation is carried on in an existing Part B or Part C installation or by means of an existing Part B or Part C mobile plant and the review would be carried out within the period of two years ending on the relevant date for that installation or mobile plant.

(6B) In paragraph (6A) above, "new Part A installation", "existing Part A installation", "new Part A mobile plant", "existing Part A mobile plant", "relevant period", "existing Part B or Part C installation", "existing Part B or Part C mobile plant" and "relevant date" have the meaning given in Schedule 3 to the Pollution Prevention and Control Regulations (Northern Ireland) 2003.]

[^{F2}(6C) An authorisation shall cease to have effect if and to the extent that the prescribed process covered by the authorisation is authorised by a permit granted under the Pollution Prevention and Control Regulations (Northern Ireland) 2003.]

(7) The Department may, by order, substitute for the period for the time being specified in paragraph (6) such other period as it thinks fit.

(8) Schedule 1 (supplementary provisions) shall have effect in relation to authorisations.

F1 SR 2003/46

F2 SR 2005/285

Conditions of authorisations

7.—(1) There shall be included in an authorisation—

- (a) subject to sub-paragraph (b), such specific conditions as the enforcing authority considers appropriate, when taken with the general condition implied by paragraph (4), for achieving the objectives specified in paragraph (2);
- (b) such conditions as are specified in directions given by the Department under paragraph (3); and
- (c) such other conditions (if any) as appear to the enforcing authority to be appropriate;

but no conditions shall be imposed for the purpose only of securing the health of persons at work (within the meaning of Part II of the Health and Safety at Work (Northern Ireland) Order 1978).

(2) Those objectives are—

- (a) ensuring that, in carrying on a prescribed process, the best available techniques not entailing excessive cost will be used—
 - (i) for preventing the release of substances prescribed for any environmental medium into that medium or, where that is not practicable by such means, for reducing the release of such substances to a minimum and for rendering harmless any such substances which are so released; and
 - (ii) for rendering harmless any other substances which might cause harm if released into any environmental medium;
- (b) compliance with any directions by the Department given for the implementation of any obligations of the United Kingdom under [^{F3}[^{F4}assimilated] obligations] or international law relating to environmental protection;
- (c) compliance with any limits or requirements and achievement of any quality standards or quality objectives prescribed by any Northern Ireland department under any of the relevant statutory provisions;
- (d) compliance with any requirements applicable to the grant of authorisations specified by or under a plan made by the Secretary of State under section 3(5) of the Environmental Protection Act 1990.

(3) Except as respects the general condition implied by paragraph (4), the Department may give directions to the enforcing authorities as to the conditions which are, or are not, to be included in all authorisations, in authorisations of any specified description or in any particular authorisation.

(4) Subject to paragraphs (5) and (6), there is implied in every authorisation a general condition that, in carrying on the process to which the authorisation applies, the person carrying it on must use the best available technique not entailing excessive cost—

- (a) for preventing the release of substances prescribed for any environmental medium into that medium or, where that is not practicable by such means, for reducing the release of

such substances to a minimum and for rendering harmless any such substances which are so released; and

(b) for rendering harmless any other substances which might cause harm if released into any environmental medium.

(5) In the application of paragraphs (1) to (4) to authorisations granted—

(a) by the chief inspector in relation to a process designated for restricted central control, or

(b) by a district council,

references to the release of substances into any environmental medium are to be read as references to the release of substances into the air.

(6) The obligation implied by virtue of paragraph (4) shall not apply in relation to any aspect of the process in question which is regulated by a condition imposed under paragraph (1).

(7) The objectives referred to in paragraph (2) shall, where the process—

(a) is one designated for integrated central control; and

(b) is likely to involve the release of substances into more than one environmental medium;

include the objective of ensuring that the best available techniques not entailing excessive cost will be used for minimising the pollution which may be caused to the environment taken as a whole by the releases having regard to the best practicable environmental option available as respects the substances which may be released.

(8) An authorisation for carrying on a prescribed process may, without prejudice to the generality of paragraph (1), include conditions—

(a) imposing limits on the amount or composition of any substance produced by or utilised in the process in any period; and

(b) requiring advance notification of any proposed change in the manner of carrying on the process.

(9) This Article has effect subject to Article 28.

(10) References to the best available techniques not entailing excessive cost, in relation to a process, include (in addition to references to any technical means and technology) references to the number, qualifications, training and supervision of persons employed in the process and the design, construction, lay-out and maintenance of the buildings in which it is carried on.

(11) It shall be the duty of enforcing authorities to have regard to any guidance issued to them by the Department for the purposes of the application of paragraphs (2) and (7) as to the techniques and environmental options that are appropriate for any description of prescribed process.

(12) In paragraph (2) “the relevant statutory provisions” are any statutory provisions contained in or made under—

(a) Part II of^{F5} the Water (Northern Ireland) Order 1999];

(b) section 2 of the European Communities Act 1972;

(c) Parts III and IV of the Pollution Control and Local Government (Northern Ireland) Order 1978;

^{F6}(d) Article 7 of the Clean Air (Northern Ireland) Order 1981; and

(e) Article 4 of this Order.^{F7} and]

^{F7}(f) Article 15 of the Environment (Northern Ireland) Order 2002.]

F3 Words in art. 7(2)(b) substituted (31.12.2020) by [The Environment \(Miscellaneous Amendments\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/584\)](#), regs. 1, 6; 2020 c. 1, Sch. 5 para. 1(1)

- F4** Word in art. 7(2)(b) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), **Sch. para. 39(2)**
- F5** 1999 NI 6
- F6** prosp. rep. by 1997 NI 18
- F7** 2002 NI 7

Fees and charges for authorisations

8.—(1) There shall be charged by and paid to the enforcing authority such fees and charges as may be prescribed by a scheme under paragraph (2) (whether by being specified in or made calculable under the scheme).

(2) The Department may make, and from time to time revise, a scheme prescribing—

- (a) fees payable in respect of applications for authorisations;
- (b) fees payable by persons holding authorisations in respect of, or of applications for, the variation of authorisations; and
- (c) charges payable by such persons in respect of the subsistence of their authorisations.

(3) The Department shall, on making or revising a scheme under paragraph (2), lay a copy of the scheme or of the alterations made in the scheme or, if the Department considers it more appropriate, the scheme as revised, before the Assembly.

(4) The Department may make separate schemes for fees and charges payable to the chief inspector and fees and charges payable to district councils under this Order.

(5) A scheme under paragraph (2) may, in particular—

- (a) allow for reduced fees or charges to be payable in respect of authorisations for a number of prescribed processes carried on by the same person;
- (b) provide for the times at which and the manner in which the payments required by the scheme are to be made; and
- (c) make such incidental, supplementary and transitional provision as appears to the Department to be appropriate.

(6) The Department, in framing a scheme under paragraph (2), shall, so far as practicable, secure that the fees and charges payable under the scheme are sufficient, taking one financial year with another, to cover the expenditure incurred by—

- (a) the enforcing authorities in exercising their functions under this Order in relation to authorisations; and
- (b) the Department, in exercising its functions in relation to authorisations for processes which may involve the release of any substance into water.

(7) If it appears to the enforcing authority that the holder of an authorisation has failed to pay a charge due in consideration of the subsistence of the authorisation, it may, by notice in writing served on the holder, revoke the authorisation.

(8) Any fees and charges received by the chief inspector under this Article shall be paid into the Consolidated Fund.

Modifications etc. (not altering text)

- C1** [Art. 8](#) applied (31.5.2007) by [Sulphur Content of Liquid Fuels Regulations \(Northern Ireland\) 2007 \(S.R. 2007/272\)](#), reg. 4(5), **Sch. 1 para. 10**

Transfer of authorisations

9.—(1) An authorisation for the carrying on of any prescribed process may be transferred by the holder to a person who proposes to carry on the process in the holder's place.

(2) Where an authorisation is transferred under this Article, the person to whom it is transferred shall notify the enforcing authority in writing of that fact not later than the end of the period of 21 days beginning with the date of the transfer.

(3) An authorisation which is transferred under this Article shall have effect on and after the date of the transfer as if it had been granted to that person under Article 6, subject to the same conditions as were attached to it immediately before that date.

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.

Variation of conditions etc: applications by holders of authorisations

11.—(1) A person carrying on a prescribed process under an authorisation who wishes to make a relevant change in the process may at any time—

- (a) notify the enforcing authority in the prescribed form of that fact; and
- (b) request the enforcing authority to make a determination, in relation to the proposed change, of the matters mentioned in paragraph (2);

and a person making a request under sub-paragraph (b) shall furnish the enforcing authority with such information as may be prescribed or as the authority may by notice require.

(2) On receiving a request under paragraph (1) the enforcing authority shall determine—

- (a) whether the proposed change would involve a breach of any condition of the authorisation;
- (b) if it would not involve such a breach, whether the authority would be likely to vary the conditions of the authorisation as a result of the change;
- (c) if it would involve such a breach, whether the authority would consider varying the conditions of the authorisation so that the change may be made; and
- (d) whether the change would involve a substantial change in the manner in which the process is being carried on;

and the enforcing authority shall notify the holder of the authorisation of its determination of those matters.

(3) Where the enforcing authority has determined that the proposed change would not involve a substantial change, but has also determined under sub-paragraph (b) or (c) of paragraph (2) that the change would lead to or require the variation of the conditions of the authorisation, then—

- (a) the enforcing authority shall (either on notifying its determination under that paragraph or on a subsequent occasion) notify the holder of the authorisation of the variations which the authority is likely to consider making; and

- (b) the holder may apply in the prescribed form to the enforcing authority for the variation of the conditions of the authorisation so that he may make the proposed change.
- (4) Where the enforcing authority has determined that a proposed change would involve a substantial change that would lead to or require the variation of the conditions of the authorisation, then—
- (a) the authority shall (either on notifying its determination under paragraph (2) or on a subsequent occasion) notify the holder of the authorisation of the variations which the authority is likely to consider making; and
- (b) the holder of the authorisation shall, if he wishes to proceed with the change, apply in the prescribed form to the enforcing authority for the variation of the conditions of the authorisation.
- (5) The holder of an authorisation may at any time, unless he is carrying on a prescribed process under the authorisation and wishes to make a relevant change in the process, apply to the enforcing authority in the prescribed form for the variation of the conditions of the authorisation.
- (6) A person carrying on a process under an authorisation who wishes to make a relevant change in the process may, where it appears to him that the change will require the variation of the conditions of the authorisation, apply to the enforcing authority in the prescribed form for the variation of the conditions of the authorisation specified in the application.
- (7) A person who makes an application for the variation of the conditions of an authorisation shall furnish the authority with such information as may be prescribed or as the authority may by notice require.
- (8) On an application for variation of the conditions of an authorisation under any provision of this Article—
- (a) the enforcing authority may, having fulfilled the requirements of Part II of Schedule 1 in cases to which they apply, as it thinks fit either refuse the application or, subject to the requirements of Article 7, vary the conditions or, in the case of an application under paragraph (6), treat the application as a request for a determination under paragraph (2); and
- (b) if the enforcing authority decides to vary the conditions, it shall serve a variation notice on the holder of the authorisation.
- (9) Any application to the enforcing authority under this Article shall be accompanied by the applicable fee (if any) prescribed by a scheme made under Article 8.
- (10) This Article applies to any provision other than a condition which is contained in an authorisation as it applies to a condition with the modification that any reference to the breach of a condition shall be read as a reference to acting outside the scope of the authorisation.
- (11) For the purposes of this Article a relevant change in a prescribed process is a change in the manner of carrying on the process which is capable of altering the substances released from the process or of affecting the amount or any other characteristic of any substance so released.

Revocation of authorisation

12.—(1) The enforcing authority may at any time revoke an authorisation by notice in writing to the person holding the authorisation.

(2) Without prejudice to the generality of paragraph (1), the enforcing authority may revoke an authorisation where it has reason to believe that a prescribed process for which the authorisation is in force has not been carried on at all or has not been carried on for a period of 12 months.

(3) The revocation of an authorisation under this Article shall have effect from the date specified in the notice; and the period between the date on which the notice is served and the date so specified shall not be less than 28 days.

(4) The enforcing authority may, before the date on which the revocation of an authorisation takes effect, withdraw the notice or vary the date specified in it.

(5) The Department may, if it thinks fit in relation to an authorisation, give to the enforcing authority directions as to whether the authority should revoke the authorisation under this Article.

Changes to legislation:

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