

1991 No. 449

EUROPEAN COMMUNITIES

CLEAN AIR

**The Large Combustion Plants (Control of Emissions)
Regulations (Northern Ireland) 1991**

Made 8th October 1991

Coming into operation 1st November 1991

The Department of the Environment, being a department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the control of air pollution, in exercise of the powers conferred by that section, and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Large Combustion Plants (Control of Emissions) Regulations (Northern Ireland) 1991, and shall come into operation on 1st November 1991.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(c) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

(2) In these regulations—

“the chief inspector” means the person constituted as such pursuant to section 10(1) of the Alkali &c Works Regulation Act 1906(d) and includes a deputy appointed under section 10(5) of that Act;

“the Department” means the Department of the Environment for Northern Ireland;

“emission” means the discharge of substances into the air;

“operator” means a person who operates the combustion plant, or who has been delegated decisive economic power over it;

“permitted levels” in relation to a plant means the maximum permitted emission levels specified for that plant in the register in relation to the years specified in the register;

(a) S.I. 1988/785
(b) 1972 c. 68
(c) 1954 c. 33 (N.I.)
(d) 1906 c. 14

“plant” has the same meaning as “existing plant” in Council Directive 88/609/EEC on the limitation of emission of pollutants from large combustion plants^(a) and does not include any plant to which that Directive does not apply;

“the register” means the register of permitted levels for plants in Northern Ireland issued by the Department in accordance with the United Kingdom Plan, as it applies to Northern Ireland and as revised from time to time, for the reduction of emissions into the air, made by the Secretary of State on 20th December 1990 pursuant to section 3(5) of the Environmental Protection Act 1990^(b); and any reference in these regulations to the register means that register as revised from time to time in accordance with the said Plan, or revised in pursuance of regulation 5.

Maximum emission levels for existing plants

3. It shall be the duty of the operator of a plant to ensure that the emissions of sulphur dioxide and oxides of nitrogen from that plant do not exceed the permitted levels.

Duty of operator to monitor and provide information to chief inspector

4. The operator shall monitor the emissions of sulphur dioxide and oxides of nitrogen from the plant by methods approved by the chief inspector and shall inform the chief inspector in writing—

- (a) within 14 days from the end of each month, of the quantity of each of those substances emitted from that plant during that month;
- (b) forthwith, when the emissions of either of those substances from that plant amount to 85 per cent. of the permitted level; and
- (c) as soon as practicable, of—
 - (i) any change in circumstances relating to energy demand, the availability of fuel, or
 - (ii) any other difficulty likely to affect the operation of that plant, which is liable to cause a permitted level to be exceeded.

Variation of plant emission levels

5.—(1) Subject to paragraph (2), the operator may at any time during the years specified in the register request the chief inspector in writing to vary the permitted levels for the plant at such time and in such manner as may be requested, and the chief inspector shall, as soon as practicable—

- (a) advise the operator in writing whether he agrees to all or any part of that request; and
- (b) arrange for the register to be revised by the Department in accordance with any such agreement.

(a) O.J. No. L336, 7.12.88, p. 1

(b) 1990 c. 43

(2) The chief inspector shall not agree to the operator's request unless he is satisfied in relation to the substance concerned that the total permitted levels for Northern Ireland for the years concerned, as set out in the register, are unlikely to be exceeded.

Directions by the chief inspector

6. If the chief inspector considers that a permitted level is likely to be exceeded, he may by notice in writing direct the operator to submit to him, within such reasonable period as may be specified in the direction, written particulars of the measures which the operator proposes to take to achieve compliance with that level, and the operator shall submit such particulars to the chief inspector within that period.

Offences and penalties

7.—(1) An operator who—

(a) fails to discharge a duty to which he is subject by virtue of regulation 3, or

(b) fails to comply with regulation 4 or a direction under regulation 6, shall be guilty of an offence and be liable on summary conviction to a fine not exceeding £2,000 or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine not exceeding £2,000 or both.

(2) In proceedings for an offence under these regulations it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.

(3) Where the commission by any person of an offence under these regulations is due to the act or default of some other person that other person shall be guilty of the offence and may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are brought against the first-mentioned person.

(4) If in any case the defence provided by paragraph (2) involves the allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, not less than 7 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information as was then in his possession to identify or assist in identifying that person.

Sealed with the Official Seal of the Department of the Environment on 8th October 1991.

(L.S.)

R. W. Rogers

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations implement the requirements of Council Directive 88/609/EEC on the limitation of pollutants into the atmosphere from existing large combustion plants, as defined in the Directive.

Regulation 3 requires operators of such plants to ensure that the permitted emission levels of sulphur dioxide and oxides of nitrogen specified in a register issued by the Department of the Environment for Northern Ireland are not exceeded. That register is in conformity with the United Kingdom Plan which was made by the Secretary of State for the Environment on 20th December 1990, for reducing emissions of these substances from such plants.

Operators are required by Regulation 4 to monitor such emissions from their plants, and to inform the Chief Alkali Inspector ("the chief inspector") at regular intervals of the quantities emitted, and when the emissions of either substance amount to 85 per cent. of the permitted level. They are also required to advise the chief inspector of any change in circumstances or other difficulty which is liable to cause a permitted emission level to be exceeded.

Regulation 5 provides that the chief inspector may agree to vary the maximum permitted emission levels for any plant, at the request of the operator.

Under Regulation 6, if the chief inspector considers that the emissions from any plant are likely to exceed the permitted levels, he may direct the operator to submit written particulars of the measures he proposes to take to achieve compliance with these Regulations.

Regulation 7 provides for offences and penalties, including a fine of up to £2,000 on summary conviction, or imprisonment for up to two years, or such a fine, or both, on conviction on indictment, for failure to discharge a duty to which an operator is subject by virtue of regulation 3, or failure to comply with regulation 4 or a direction under regulation 6.

Copies of the relevant Directive and of the extract from the Official Journal of the European Communities may be obtained from Her Majesty's Stationery Office, 80 Chichester Street, Belfast BT1 4JY. Copies of the United Kingdom Plan referred to above, and of the register, are available from the Chief Alkali Inspector, Department of the Environment for Northern Ireland, Calvert House, 23 Castle Place, Belfast BT1 1FY.