

1987 No. 180

HEALTH AND SAFETY

The Control of Industrial Air Pollution (Transfer of Powers of Enforcement) Regulations 1987

Made - - - - *9th February 1987*
Laid before Parliament *20th February 1987*
Coming into force *1st April 1987*

The Secretary of State, in exercise of the powers conferred on him by sections 15(1), (3)(a) and (3)(c) and 82(3)(a) of the Health and Safety at Work etc. Act 1974(a) and of all other powers enabling him in that behalf, and after consulting, in accordance with section 50(1) of the 1974 Act(b), the Health and Safety Commission being the only body which it appeared to him to be appropriate to consult, hereby makes the following Regulations:

Citation and operation

1. These Regulations may be cited as the Control of Industrial Air Pollution (Transfer of Powers of Enforcement) Regulations 1987 and shall come into force on 1st April 1987.

Transfer of powers of enforcement

2. The Secretary of State shall be the authority responsible for the enforcement of the following relevant statutory provisions:

- (a) section 5 of the Health and Safety at Work etc. Act 1974(c), and
- (b) the Alkali, &c. Works Regulation Act 1906(d) ("the 1906 Act").

Consequential provisions

3.—(1) In section 27(1) of the 1906 Act (interpretation of terms), the definition of the expression "inspector" shall be omitted and the following substituted therefor:

"The expression "inspector" means an inspector appointed by the Secretary of State under section 19 of the Health and Safety at Work etc. Act 1974:".

(2) Paragraph 1 of Schedule 2 to the Clean Air Enactments (Repeals and Modifications) Regulations 1974(e) ("the 1974 Regulations"), to the extent that it relates to the definition of the expression "inspector", is hereby revoked.

(a) 1974 c.37; section 15(1) was substituted by the Employment Protection Act 1975 (c.71), Schedule 15, paragraph 6. (b) Section 50(1) of the 1974 Act was substituted by the Employment Protection Act 1975 (c.71), Schedule 15, paragraph 16(1). (c) Section 5 imposes a duty on persons having control of premises of a class prescribed for the purposes of section 1(1)(d) of the 1974 Act; classes of premises are prescribed for those purposes by S.I. 1983/943. (d) 1906 c.14; the Control of Pollution Act 1974 (c.40) repealed sections 3, 4, 5, 8, 12(1)(d), 14, 15, 17, 18(4) and 19, repealed in part sections 9(1), 18(1) and 22(1), and amended section 27(1); S.I. 1974/2170 repealed sections 11, 12, 13, 18, 20 and 21 and amended section 27(1); S.I. 1983/943 repealed sections 6 and 7 and Schedule 1 and amended sections 1, 2, 9(1) and (5), 16 and 27(1); the Local Government Act 1972(c.70) amended section 27(1). (e) S.I. 1974/2170.

4.—(1) Section 9(5) and (7) of the 1906 Act shall have effect as if the references therein to the Local Government Board, or for Scotland the Secretary for Scotland, were references to the Secretary of State.

(2) Paragraph 2 of Schedule 2 to the 1974 Regulations (which requires the references mentioned in paragraph 1 of this Regulation to have effect as if they were references to the Health and Safety Executive) is hereby revoked.

5.—(1) In Articles 3, 5, 6, 7 and 8, of the Alkali, &c. Works Regulation Order (Scotland) 1933(a), references to the Department shall have effect as if they were references to the Secretary of State.

(2) Paragraph (f) of Regulation 5 of the 1974 Regulations (which requires the references mentioned in paragraph 1 of this Regulation to be construed as references to the Health and Safety Executive) is hereby revoked.

6.—(1) In Articles 3, 5, 6 and 7 of the Alkali, &c. Works (Registration) Order 1957(b), references to the Minister of Housing and Local Government shall have effect as if they were references to the Secretary of State.

(2) Regulation 8 of the 1974 Regulations (which requires the references mentioned in paragraph 1 of this Regulation to have effect as if they were references to the Health and Safety Executive) is hereby revoked.

7. In Regulation 11 of the 1974 Regulations (references to inspectors), for the words "Health and Safety Executive" there shall be substituted the words "Secretary of State".

Transitional provision

8. These Regulations shall not affect the validity of anything done before they come into force under any provision of an enactment or subordinate legislation which is amended or the effect of which is modified by these Regulations; and anything which at the coming into force of these Regulations is in process of being done for the purposes of that provision by or in relation to the Health and Safety Executive may be continued by or in relation to the Secretary of State.

Signed by order of the Secretary of State

9th February 1987

K. Clarke
Paymaster General
Department of Employment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations transfer from the Health and Safety Executive to the Secretary of State the responsibility for enforcing enactments restricting the emission from certain industrial premises of substances which pollute the atmosphere and, consequentially, modify certain legislation related to those enactments so that it refers or is treated as referring to the Secretary of State. The Regulations contain a transitional provision designed to ensure that anything in the process of being done by or in relation to the Health and Safety Executive before the transfer can be continued by or in relation to the Secretary of State after it.