

1989 No. 318

HEALTH AND SAFETY

The Control of Industrial Air Pollution (Registration of Works) Regulations 1989

<i>Made - - - -</i>	<i>2nd March 1989</i>
<i>Laid before Parliament</i>	<i>9th March 1989</i>
<i>Coming into force</i>	<i>31st March 1989</i>

The Secretary of State for the Environment, as respects England, the Secretary of State for Wales, as respects Wales, and the Secretary of State for Scotland, as respects Scotland, in exercise of their powers under sections 9(2) and (5) and 27(1)(a) of the Alkali, etc. Works Regulation Act 1906(b) and now vested in them(c), under sections 1(1)(b) and (d), 15(1), (3)(a), (4)(a), 5(a), 53(1)(a) and 82(3) of the Health and Safety at Work etc. Act 1974(d), and of all other powers enabling them in that behalf, and after consulting, in accordance with section 50(1) of the 1974 Act(e), the Health and Safety Commission and such other bodies as it appeared to them to be appropriate to consult, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Control of Industrial Air Pollution (Registration of Works) Regulations 1989 and shall come into force on 31st March 1989.

Interpretation

2. In these Regulations—

“certificate of registration” means a certificate of registration in respect of a work issued in accordance with section 9 of the 1906 Act;

“Companies Acts” has the same meaning as in section 744 of the Companies Act 1985(f);

“exempt alteration” means an alteration to a work which, in the opinion of the chief inspector, is not a substantial alteration;

“notify” means notify in writing;

“register” means the register referred to in section 9 of the 1906 Act;

“relevant local authority” means the district council (or, in Scotland, the district or islands council) in whose area the premises on which the work is carried on are situated;

“the 1906 Act” means the Alkali, etc. Works Regulation Act 1906;

“the 1974 Act” means the Health and Safety at Work etc. Act 1974;

(a) See the definition of “prescribed”.

(b) 1906 c.14, as amended by S.I. 1987/180.

(c) S.I. 1970/1681.

(d) 1974 c.37; section 15(1) was substituted by the Employment Protection Act 1975 (c.71), Schedule 15, paragraph 6.

(e) Section 50(1) was substituted by the Employment Protection Act 1975, Schedule 15, paragraph 16(1).

(f) 1985 c.6.

“the 1933 Order” means the Alkali, etc. Works Regulation (Order (Scotland), 1933(a);

“the 1957 Order” means the Alkali, etc. Works (Registration) Order 1957(b).

Applications for registration

3. Subject to regulation 12, an application for a certificate of registration shall be made to the Secretary of State by the owner of the work in accordance with these Regulations, and shall contain the following particulars—

- (a) the name and address of the owner of the work or, if the owner is a limited company registered under the Companies Acts, the name, registered number and registered office of the company;
- (b) the name, if any, and the address of the premises where the work is or will be carried on;
- (c) the identification, by means of a map or plan or otherwise, of those parts of the premises where the work is or will be carried on;
- (d) the name of the relevant local authority;
- (e) the date on which the application is made;
- (f) a full description of the nature of the work carried on or proposed to be carried on;
- (g) a description of the source, nature and amount of any noxious or offensive substance that may be emitted into the atmosphere as a result of carrying on the work;
- (h) a description of the means proposed to enable the work to be carried on in accordance with such requirements of the 1906 Act and Part I of the 1974 Act as apply to the work;
- (i) a description of the provision it is proposed to make for determining the nature and amount of any noxious or offensive substance emitted into the atmosphere.

Notice of application

4. Not less than 14 days after the date on which the application has been received by the Secretary of State, the applicant shall publish, in at least one newspaper circulating in the locality of the work in each of two successive weeks a notice containing the following particulars—

- (a) the name of the owner of the work;
- (b) the name, if any, and the address of the premises where the work is or will be carried on;
- (c) a brief description of the nature of the work for which registration is sought;
- (d) the addresses of the places where, and a statement of the times when, the application may be inspected;
- (e) a statement to the effect that written representations concerning the application may be made to the Secretary of State, and that those received by him within 21 days of the first publication of the notice will be taken into consideration in deciding the application;
- (f) the address to which such representations should be made;
- (g) the date on which the notice was first published.

Timing and withdrawal of applications

5.—(1) The applicant shall ensure that the Secretary of State receives a copy of the notice referred to in regulation 4, together with a certificate stating the dates on which and the publications in which it was published, not later than 21 days after the date of first publication of the notice.

(2) If the applicant fails to comply with paragraph (1), he shall be deemed to have withdrawn his application with effect from the expiry of the period of 21 days referred to in that paragraph.

(a) S.R. & O. 1933/878.

(b) S.I. 1957/2208, as amended by S.I. 1987/180.

(3) If the applicant fails to publish the notice referred to in regulation 4 within 6 months of the date on which the application was received by the Secretary of State he shall be deemed to have withdrawn his application.

Public access to applications

6.—(1) The Secretary of State shall, subject to paragraph (2), make a copy of each application he receives available for inspection by members of the public free of charge during normal working hours. Members of the public shall be entitled, on payment of a reasonable charge, to take copies of such applications.

(2) The Secretary of State shall exempt from the requirements to disclose information imposed by this regulation any particulars in any application the disclosure of which would (i) prejudice, to an unreasonable degree, some private interest by disclosing information about a trade secret; or (ii) prejudice the interests of national defence.

(3) The relevant local authority shall, subject to paragraph (2), make a copy of the application made in respect of that work available for inspection by members of the public free of charge during normal working hours at an office in its area until such time as a certificate is issued or refused, or the application is withdrawn. Members of the public shall be entitled, on payment of a reasonable charge, to take copies of such applications.

(4) Subject to paragraph (2) the Secretary of State shall supply to relevant local authorities such information, and copies of such applications, as are necessary for the discharge of their duty under paragraph (3).

Contents of the register

7.—(1) Subject to paragraph (2), the register shall contain the following particulars—

- (a) the name and address of the owner of the work or, if the owner is a limited company registered under the Companies Acts, the name, registered number and registered office of the company;
- (b) the name, if any, and the address of the premises where the work is or will be carried on;
- (c) the identification, by means of a map or plan or otherwise, of those parts of the premises where the work is or will be carried on;
- (d) the name of the relevant local authority;
- (e) a description of the nature of the work carried on or proposed to be carried on;
- (f) the category of work described in the Health and Safety (Emissions into the Atmosphere) Regulations 1983(a) into which the work falls;
- (g) a description of the means which appeared to the chief inspector, or, on appeal, to the Secretary of State, to be necessary to enable the work to be carried on in accordance with such requirements of the 1906 Act and Part I of the 1974 Act as apply to the work;
- (h) Where the Chief Inspector has indicated the maximum amount of the emission into the atmosphere of any noxious or offensive substance which appears to him to be consistent with the work being carried on in accordance with the requirements of part I of the 1974 Act, a statement of such maximum;
- (i) where the chief inspector has indicated that provisions be made for determining the nature and amount of any noxious or offensive substance likely to be emitted into the atmosphere, a description of those provisions;
- (j) the date on which the application was received by the Secretary of State, and the date on which a certificate of registration was issued;
- (k) if the work is closed for a period of 12 months or more, the date when the work closed.

(2) The Secretary of State shall exempt from the requirements of disclosure imposed by paragraph (1) any particulars in any application the disclosure of which would

(a) S.I. 1983/943, as amended by S.I. 1989/319.

prejudice to an unreasonable degree some private interest by disclosing information about a trade secret, or would prejudice the interests of national defence.

(3) The register shall be adequately indexed.

(4) The register may be kept by means of a computer.

Public access to the register

8.—(1) The Secretary of State shall ensure that the register is available for inspection by members of the public free of charge during normal working hours. Members of the public shall be entitled, on payment of a reasonable charge, to take copies of entries in the register.

(2) The Secretary of State shall supply to relevant local authorities copies of such entries in the register, together with any subsequent amendments to them, as are necessary for the discharge of their duty under paragraph (3).

(3) A duplicate of the part of the register that relates to works within the area of a relevant local authority shall, subject to paragraph (4), be kept by that local authority at an office within its area, and shall be made available for inspection by the members of the public free of charge during normal working hours. Members of the public shall be entitled, on payment of a reasonable charge, to take copies of such entries.

(4) A relevant local authority may, if it thinks fit, remove from the duplicate part of the register referred to in paragraph (3) any entries relating to works that have not been in operation at any time during the previous three years, or any entries which have been wholly superseded by subsequent entries.

Certificate of registration

9.—(1) A certificate of registration of a work shall contain the particulars entered in the register in respect of that work.

(2) A certificate of registration shall remain in force until such time if any as the work in respect of which it is issued undergoes an alteration other than an exempt alteration, or the work is closed for a period of 12 months or more, or a new certificate is issued in respect of the work.

Notification of changes to works

10.—(1) The owner of the work shall notify the Secretary of State of any change in particulars contained in the certificate of registration by virtue of regulation 7(1)(a) or, subject to paragraph (2), regulation 7(1)(b), within one month of that change taking place.

(2) The owner of a work that is capable of being moved as an entity from one site of operation to another shall notify the Secretary of State of any proposed change to its location at least 14 days before the change is made.

(3) The owner of the work shall notify the Secretary of State of any alteration proposed to be made to the work which might give rise to a change in the particulars contained in the certificate of registration by virtue of regulations 7(1)(c), (e), (g), (h) or (i) at least one month before such change is made.

Effect of changes to works

11.—(1) Upon receipt of a notification given in accordance with regulation 10(1) or (2), the Secretary of State shall amend the register and certificate of registration accordingly.

(2) If a proposed alteration notified in accordance with regulation 10(3) is an exempt alteration, the Secretary of State shall, upon receipt of that notification, amend the register and issue an amended certificate of registration accordingly. If it is not an exempt alteration, an application for a new certificate of registration shall be made in accordance with regulations 3, 4 and 5.

(3) In deciding whether or not an alteration to the work is an exempt alteration, the chief inspector shall compare the state of the work after the alteration with the particulars

specified on the last certificate of registration issued following an application made in accordance with regulations 3, 4 and 5, leaving out of account any amendments subsequently made to that certificate in accordance with this regulation.

Application to existing works

12.—(1) This regulation applies to a work that is required by section 9 of the 1906 Act to be registered, where the work is in existence on, or is to be constructed in accordance with a contract entered into before, the date on which these Regulations come into force, but does not apply to a work which, on that date, has been closed for 12 months or more.

(2) If on the date on which these Regulations come into force there is a certificate of registration in force in respect of a work to which this regulation applies, that certificate shall continue in force until such time, if any, as the work in respect of which it is issued undergoes an alteration other than an exempt alteration, or the work is closed for a period of 12 months or more, or a new certificate is issued in respect of that work.

(3) If, on the date on which these Regulations come into force, there is no certificate of registration in force in respect of a work to which this regulation applies—

- (a) that work shall be deemed to be registered for a period of three months from that date;
- (b) if an application for a certificate of registration in respect of the work is made within that period of three months—
 - (i) such application may be made in accordance with the 1957 Order, or in Scotland the 1933 Order, in which case the work shall be registered and the certificate of registration issued in accordance with the 1906 Act and the 1957 Order or, as the case may be, the 1933 Order;
 - (ii) the work shall continue to be deemed to be registered until such time as a certificate of registration is issued or refused or the application is withdrawn.

(4) A certificate issued in accordance with paragraph (3) shall continue in force until such time, if any, as the work in respect of which it is issued undergoes an alteration other than an exempt alteration, or the work is closed for a period of 12 months or more, or a new certificate is issued in respect of that work.

(5) Regulations 3, 4, 5, 6 and 7 shall not apply to a work to which this regulation applies.

Repeals and Revocations

13.—(1) Sections 9(3) and 9(4) and, except for the purposes of regulation 12(3), section 9(7) of the 1906 Act are hereby repealed.

(2) Except for the purposes of regulation 12(3), the 1933 Order and the 1957 Order are hereby revoked.

1st March 1989

Nicholas Ridley
Secretary of State for
the Environment

2nd March 1989

Peter Walker
Secretary of State for Wales

2nd March 1989

Malcolm Rifkind
Secretary of State for Scotland

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations modify the system of registration of works prescribed by the Alkali, etc. Works Regulation Act 1906 ("the 1906 Act"), the Alkali etc. Works (Registration) Order 1957 ("the 1957 Order") and the Alkali, etc. Works Regulation Order (Scotland) 1933 ("the 1933 Order"), and implement article 9 (public access to information) of Council Directive 84/360/EEC on the combating of air pollution from industrial plants (OJ No. L 188, 16.7.1984, p.20).

Regulation 3 prescribes the content of applications for certificates of registration, regulation 4 requires applications to be advertised, and regulation 5 provides for the timing of applications and for them to be deemed to be withdrawn in certain cases. Regulation 6 provides for the public to have access to applications, subject to the omission of matters relating to trade secrets and national defence.

Regulation 7 prescribes the contents of the register of works required under section 9 of the 1906 Act and provides for matters relating to trade secrets and national defence to be omitted from the register, and regulation 8 provides for the public to have access to the register and for copies of parts of the register to be kept by the relevant local authorities. Regulation 9 prescribes the contents of certificates of registration.

Regulation 10 provides for notification of changes to works, regulation 11 provides for amendment of the register and certificates of registration and regulation 12 for the application of the Regulations to existing works.

Regulation 13 repeals section 9 of the 1906 Act in part, and revokes the 1933 Order and the 1957 Order.

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