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STATUTORY INSTRUMENTS

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**1993 No. 1446**

**The Trade Effluent (Asbestos) (Scotland) Regulations 1993**

**Citation, commencement, extent and interpretation**

1.—(1) These Regulations may be cited as the Trade Effluent (Asbestos) (Scotland) Regulations 1993, shall come into force on 30th June 1993 and shall extend to Scotland only.

(2) In these Regulations—

“the 1968 Act” means the Sewerage (Scotland) Act 1968<sup>(1)</sup>;

“asbestos” means any of the following fibrous silicates, namely, crocidolite, actinolite, anthophyllite, chrysotile, amosite and tremolite;

“local authority” has the same meaning as in the 1968 Act;

and other expressions used in the 1968 Act or in Council Directive 87/217/EEC<sup>(2)</sup> shall have the same meaning respectively as in that Act or Directive.

(3) Any reference in these Regulations—

(a) to a numbered regulation is a reference to the regulation so numbered in these Regulations;

(b) to a numbered paragraph is a reference to the paragraph so numbered in the regulation in which the reference is made.

**Discharges of asbestos effluent to public sewers**

2.—(1) It shall be the duty of every local authority and of the Secretary of State, in exercising their respective functions under Part II of the 1968 Act (trade effluents), to secure that the requirements of the following paragraphs are met.

(2) As far as reasonably practicable and using the best available techniques not entailing excessive cost, including where appropriate recycling or treatment, asbestos discharges into the aquatic environment shall be reduced at source and prevented.

(3) Subject to paragraph (4), all aqueous effluent arising in the manufacture of asbestos cement shall be recycled.

(4) Where such recycling as is mentioned in the preceding paragraph is not economically feasible, the disposal of liquid waste containing asbestos shall not result in pollution of the aquatic environment.

(5) Any consent given under Part II of the 1968 Act for the disposal of liquid waste containing asbestos shall impose conditions—

(a) setting a limit value of 30 grams of total suspended matter per cubic metre of aqueous effluent discharged;

(b) specifying the volume of discharges into water of the total quantity of suspended matter discharged per tonne of product taking account of the specific situation of the premises concerned; and

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(1) 1968 c. 47.

(2) O.J. No.L85, 19 3 87, p.40.

(c) requiring measurements to be taken at regular intervals of the discharges of aqueous effluent from the premises in accordance with the sampling and analysis procedures and methods described in the Schedule to these Regulations or in accordance with any other procedure or method which gives equivalent results.

(6) Subject to paragraph (7), all aqueous effluent arising in the manufacture of asbestos paper or board shall be recycled.

(7) Nothing in the preceding paragraph shall prohibit the discharge of such effluent during routine cleaning or maintenance of the premises concerned provided that the effluent contains not more than 30 grams of suspended matter per cubic metre of water, and accordingly such discharge may be authorised under Part II of the 1968 Act.

(8) Any consent given under Part II of the 1968 Act for the purposes of paragraph (7) shall include the condition specified in paragraph (5)(c).

**3.—**(1) Section 36(4) of the 1968 Act shall be disapplied in any case where a local authority has made a direction under subsection (1) of that section imposing such conditions on continuation of an existing discharge as are necessary to comply with regulation 2.

(2) Notwithstanding the terms of section 37(6) of the 1968 Act—

(a) nothing in any agreement entered into between a local authority and the owner or occupier of premises used or intended to be used for carrying on any trade or industry shall obviate the requirement for the consent of the local authority to any discharge of trade effluent from those premises unless the terms of the agreement are such as will secure that the requirements of regulation 2 are met in respect of any discharge to which the agreement relates;

(b) and for the purposes of complying with regulation 2, a local authority may review by direction the making of the discharge to which any such agreement relates and accordingly sections 26 to 32 and 36 of that Act shall apply to such a discharge,

and any such agreement shall not be enforceable if and to the extent that it permits any discharge of industrial waste water in respect of which the requirements of regulation 2 are not met.

(3) Nothing in Part II of the 1968 Act shall restrict the power of a local authority to review at any time consents in pursuance of the duty imposed by regulation 2(1).

(4) In this and the preceding regulation, references to consents and conditions imposed by consents include references to directions under section 32, 36 and 37(7) of the 1968 Act and conditions contained in such directions.

### **Information required in connection with implementation of Council Directive 87/217/EEC**

**4.** Every local authority shall give to the Secretary of State such information as he may by notice require to enable him to comply with the obligation imposed on him by Article 6.3 of Council Directive 87/217/EEC (notification to Commission about sampling and analysis procedures and methods).

### **Enforcement of duties imposed on local authorities**

**5.—**(1) If the Secretary of State is satisfied that a local authority has failed to do anything it is required to do by or under these Regulations he may, subject to paragraph (2), make an order declaring the authority to be in default and directing it for the purpose of remedying the default to take such steps and within such time or times as may be specified in the order.

(2) The Secretary of State shall be obliged to make an order under paragraph (1) unless he is satisfied—

- (a) that the failure was of a trivial nature; or
  - (b) that the authority has given, and is complying with, an undertaking to take all such steps as it appears to the Secretary of State to be appropriate, for the time being, for it to take for the purpose of securing or facilitating compliance with the duty in question.
- (3) If the authority declared to be in default by such an order fails to comply with any requirements thereof within the time specified therein for compliance, the Court of Session may, on the application of the Lord Advocate on behalf of the Secretary of State, order specific performance of the duty in respect of which there has been default, and do otherwise as to the Court appears to be just.

St Andrew's House,  
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