
STATUTORY INSTRUMENTS

2002 No. 3153

The Environment (Northern Ireland) Order 2002

PART III

AIR QUALITY

General

Financial assistance

18.—(1) The Department may make grants or loans to any body or person for the purposes of or in connection with—

- (a) carrying out an air quality review;
- (b) carrying out an assessment under Article 11 ^{F1}...;
- (c) preparing and implementing an action plan; and
- (d) the assessment or management of the quality of air.

(2) Grants or loans made by the Department under this Article—

- (a) shall be of such amounts; and
- (b) shall be made on such terms and conditions (including in the case of grants, conditions as to repayment),

as may be determined by the Department.

F1 Words in art. 18(1)(b) repealed (12.4.2016) by [Environmental Better Regulation Act \(Northern Ireland\) 2016 \(c. 13\)](#), ss. 18(3), 27(1), [Sch. 2](#)

Powers of enforcing authorities and persons authorised by them

19.—(1) An authorised person may, on production (if so required) of his authority, exercise any of the powers specified in paragraph (2) for the purpose of—

- (a) determining whether any provision of the pollution control statutory provisions is being, or has been, complied with;
- (b) discharging one or more of the functions conferred or imposed on an enforcing authority by or under the pollution control statutory provisions; or
- (c) determining whether and, if so, how such a function should be discharged.

(2) The powers of an authorised person are—

- (a) to enter at any reasonable time any premises which he has reason to believe it is necessary for him to enter;
- (b) on entering any premises by virtue of sub-paragraph (a), to take with him—

- (i) any other person duly authorised by the enforcing authority and, if the authorised person has reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable; and
- (ii) any equipment or materials required for any purpose for which the power of entry is being exercised;
- (c) to make such examination and investigation as may in any circumstances be necessary;
- (d) as regards any premises which he has power to enter, to direct that those premises or any part of them, or anything in them, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under sub-paragraph (c)
- (e) to take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under sub-paragraph (c);
- (f) to take samples, or cause samples to be taken, of any articles or substances found in or on any premises which he has power to enter, and of the air, in, on, or in the vicinity of, the premises;
- (g) to require any person whom he has reasonable cause to believe to be able to give any information relevant to any examination or investigation under sub-paragraph (c) to answer (in the absence of persons other than a person nominated by that person to be present and any persons whom the authorised person may allow to be present) such questions as the authorised person thinks fit to ask and to sign a declaration of the truth of his answers;
- (h) to require the production of, or where the information is recorded in computerised form, the furnishing of extracts from, any records—
 - (i) which are required to be kept under the pollution control statutory provisions, or
 - (ii) which it is necessary for him to see for the purposes of an examination or investigation under sub-paragraph (c),and to inspect and take copies of, or of any entry in, the records;
- (j) to require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred on him by this Article;
- (k) any other power for a purpose mentioned in paragraph (1) which is conferred by regulations.

(3) The powers which under paragraphs (1) and (2) are conferred in relation to any premises for the purpose of enabling an enforcing authority to determine whether any provision of the pollution control statutory provisions is being, or has been, complied with shall include power, in order to obtain the information on which that determination may be made, to install, keep or maintain monitoring and other apparatus there.

(4) In any case where it is proposed to enter any premises used for residential purposes, or to take heavy equipment on to any premises which are to be entered, any entry by virtue of this Article shall only be effected—

- (a) after the expiration of at least seven days' notice of the proposed entry given to a person who appears to the authorised person in question to be in occupation of the premises in question, and
- (b) either—
 - (i) with the consent of a person who is in occupation of those premises; or

- (ii) under the authority of a warrant by virtue of Schedule 3
- (5) Where an authorised person proposes to enter any premises and—
- (a) entry has been refused and he apprehends on reasonable grounds that the use of force may be necessary to effect entry, or
 - (b) he apprehends on reasonable grounds that entry is likely to be refused and that the use of force may be necessary to effect entry,
- any entry on to those premises by virtue of this Article shall only be effected under the authority of a warrant by virtue of Schedule 3.
- (6) Regulations may make provision as to the procedure to be followed in connection with the taking of, and the dealing with, samples under paragraph (2)(f).
- (7) No answer given by a person in pursuance of a requirement imposed under paragraph (2)(g) shall be admissible in evidence against that person in any proceedings.
- (8) Nothing in this Article shall be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the High Court.
- (9) Schedule 3 shall have effect with respect to the powers of entry and related powers which are conferred by this Article.
- (10) In this Article and Schedule 3—
- “authorised person” means a person who is authorised in writing by an enforcing authority for the purposes of this Article;
 - “enforcing authority” means—
 - (a) the Department; or
 - (b) a district council;
 - “mobile plant” means plant which is designed to move or to be moved whether on roads or otherwise;
 - “premises” includes any land, vehicle, vessel or mobile plant.
- (11) Nothing in section 98 of the Local Government Act (Northern Ireland) 1972 (c. 9) shall apply to functions conferred on a district council under this Part.

Offences

- 20.**—(1) It is an offence for a person intentionally to obstruct an authorised person in the exercise of his powers or duties.
- (2) It is an offence for a person, without reasonable excuse,—
- (a) to fail to comply with any requirement imposed under Article 19;
 - (b) to fail or refuse to provide facilities or assistance or any information or to permit any inspection reasonably required by an authorised person in the discharge of his functions under that Article; or
 - (c) to prevent any other person from appearing before an authorised person, or answering any question to which an authorised person may require an answer under that Article.
- (3) It is an offence for a person falsely to pretend to be an authorised person
- (4) A person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) In this Article—
- “authorised person” has the same meaning as in Article 19;

“powers or duties” includes powers or duties exercisable by virtue of a warrant under Schedule 3.

Disclosure of information

21.—(1) Notwithstanding any prohibition or restriction imposed by or under any statutory provision or rule of law, information of any description may be disclosed—

(a) by the Department to any relevant authority; or

(b) by any relevant authority to the Department or to any other relevant authority,

for the purpose of facilitating the carrying out by the Department or by any relevant authority of any of its functions under this Part; and no person shall be subject to any civil or criminal liability in consequence of any disclosure made by virtue of this paragraph.

(2) Nothing in this Article shall authorise the disclosure of information, disclosure of which would, in the opinion of the Secretary of State, be contrary to the interests of national security.

(3) No information disclosed to any person under this Article shall be disclosed by that person to any other person otherwise than in accordance with the provisions of this Article, or any other statutory provision which authorises or requires the disclosure, if that information is information—

(a) which relates to a trade secret of any person or which otherwise is or might be commercially confidential in relation to any person; or

(b) whose disclosure otherwise than under this Article would, in the opinion of the Secretary of State, be contrary to the interests of national security.

(4) Any authorisation by or under this Article of the disclosure of information by or to any person shall be taken to authorise the disclosure of that information by or, as the case may be, to any officer of his who is authorised by him to make the disclosure or, as the case may be, to receive the information.

(5) Information is for the purposes of this Article commercially confidential in relation to any person if its disclosure would prejudice to an unreasonable degree the commercial interest of that person.

Power to give effect to ^{F2}[^{F3}assimilated] obligations] and other international obligations, etc.

22.—(1) Regulations may provide that the provisions of this Part shall have effect with such modifications as may be prescribed for the purpose of enabling Her Majesty's Government in the United Kingdom—

(a) to give effect to [^{F4}[^{F5}assimilated] obligations] or exercise any related right; or

(b) to give effect to any obligation or exercise any related right under any international agreement to which the United Kingdom is for the time being a party

(2) In this Article “related right”, in relation to an obligation, includes any derogation or other right to make more onerous provisions available in respect of that obligation.

F2 Words in art. 22 heading substituted (31.12.2020) by [The Environment \(Miscellaneous Amendments\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/584\)](#), regs. 1, **23(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F3 Word in art. 22 heading 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. 49(2)(d)**

F4 Words in art. 22(1)(a) substituted (31.12.2020) by [The Environment \(Miscellaneous Amendments\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/584\)](#), regs. 1, **23(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F5 Word in art. 22(1)(a) 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. 49\(2\)\(d\)](#)

Offences by bodies corporate

23. For the purposes of this Part section 20(2) of the Interpretation Act (Northern Ireland) 1954 (c. 33) applies with the omission of the words “the liability of whose members is limited” and where the affairs of a body corporate are managed by its members, applies in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Offences under this Part due to fault of others

24. Where the commission by any person of an offence under this Part is due to the act or default of some other person, that other person may be charged with and convicted of the offence by virtue of this Article whether or not proceedings for the offence are taken against the first-mentioned person.

Application to Crown

25.—(1) Subject to the provisions of this Article, the provisions of this Part and of regulations and orders made under it shall bind the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland.

(2) No contravention by the Crown of any provision of this Part or of any regulations or order made under it shall make the Crown criminally liable; but the High Court may, on the application of a relevant authority, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Notwithstanding anything in paragraph (2), the provisions of this Part and of regulations and orders made under it shall apply to persons in the public service of the Crown as they apply to other persons.

(4) If the Secretary of State certifies that it appears to him, as respects any premises held or used by or on behalf of the Crown and any power of entry exercisable in relation to them, that it is requisite or expedient that, in the interests of national security, the powers should not be exercisable in relation to those premises, those powers shall not be exercisable in relation to those premises.

(5) Any reference to the Crown in this Article includes the Crown in right of Her Majesty's Government in the United Kingdom.

Regulations and directions

26.—(1) No regulations to which this paragraph applies shall be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

(2) Paragraph (1) applies to—

- (a) regulations under this Part containing any provision which creates an offence or increases a penalty for an existing offence
- (b) regulations under this Part containing any provision which amends or repeals any Northern Ireland legislation.

(3) Other regulations under this Part shall be subject to negative resolution.

(4) Any direction given under this Part shall be in writing and may be varied or revoked by subsequent directions.

(5) Paragraphs (6) and (7) apply to any direction given to any body or person under any provision of this Part being a direction to any extent so given for the purpose of implementing any [^{F6}[^{F7}assimilated] obligations].

(6) A direction to which this paragraph applies shall not be varied or revoked unless, notwithstanding the variation or revocation, the obligations mentioned in paragraph (5), as they have effect for the time being, continue to be implemented, whether by directions or any other instrument or by any statutory provision.

(7) Any variation or revocation of a direction to which this paragraph applies shall be published in such manner as the Department considers appropriate for the purpose of bringing the matters to which it relates to the attention of persons likely to be affected by them; and—

- (a) copies of the variation or revocation shall be made available to the public; and
- (b) notice of the variation or revocation, and of where a copy of the variation or revocation may be obtained, shall be given in the Belfast Gazette.

<p>F6 Words in art. 26(5) substituted (31.12.2020) by The Environment (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/584), regs. 1, 24; 2020 c. 1, Sch. 5 para. 1(1)</p> <p>F7 Word in art. 26(5) 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. 49(2)(e)</p>

Interpretation of this Part

27.—(1) In this Part—

- “action plan” shall be construed in accordance with [^{F8}Article 13(2)] ;
- “air” means ambient air;
- “air quality objectives” means objectives prescribed by virtue of Article 15(2)(b);
- “air quality review” means a review under Article 11 or 14;
- “air quality standards” means standards prescribed by virtue of Article 15(2)(a);
- “ambient air” means outdoor air in the troposphere, excluding work places;
- “competent authority” means a Northern Ireland department, a district council or any other public body;
- “designated area” has the meaning given by Article 12(1);
- “notice” means notice in writing;
- “pollution control statutory provisions” means—
 - (a) this Part and any regulations made under it; and
 - (b) regulations made under section 2(2) of the European Communities Act 1972 (c. 68) to the extent that the regulations relate to air pollution;
- “prescribed” means prescribed by regulations;
- “public body” means a body established or constituted by or under a statutory provision
- “regulations” means regulations made by the Department;
- “relevant authority” in the case of any provision of this Part, means such competent authority as may be prescribed for the purposes of that provision;
- “the relevant period” in the case of any provision of this Part, means such period as may be prescribed for the purposes of that provision;
- “the strategy” has the meaning given by Article 10(1).

(2) Any reference in this Part to it appearing that any air quality standards or objectives are not likely within the relevant period to be achieved includes a reference to it appearing that those standards or objectives are likely within that period not to be achieved.

F8 Words in art. 27(1) substituted (12.4.2016) by [Environmental Better Regulation Act \(Northern Ireland\) 2016 \(c. 13\)](#), **ss. 18(4)**, 27(1)

Changes to legislation:

There are currently no known outstanding effects for the The Environment (Northern Ireland) Order 2002, Cross Heading: General.