

STATUTORY INSTRUMENTS

2002 No. 3153

The Environment (Northern Ireland) Order 2002

PART III

AIR QUALITY

Air quality

Implementation of Directive

F19.

F1 Art. 9 omitted (31.12.2020) by virtue of [The Environment \(Miscellaneous Amendments\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/584\)](#), regs. 1, **19**; 2020 c. 1, Sch. 5 para. 1(1)

Air quality strategy

10.—(1) The Department shall prepare and publish a statement (in this Part referred to as “the strategy”) containing policies with respect to the assessment or management of the quality of air.

(2) Without prejudice to anything contained in this Article, the Department may, in the exercise of its functions under this Article, co-operate with the Secretary of State in the exercise of his functions under section 80 of the Environment Act 1995 (c. 25).

(3) The strategy may also contain policies for implementing—

- (a) obligations of the United Kingdom under [^{F2}[^{F3}assimilated] obligations], or
- (b) international agreements to which the United Kingdom is for the time being a party,

so far as relating to the quality of air.

(4) The strategy shall consist of—

- (a) a statement which relates to the whole of Northern Ireland; or
- (b) part of a joint statement, made with the Secretary of State, which—
 - (i) relates to the whole or part of the United Kingdom; and
 - (ii) includes any strategy made by the Secretary of State under section 80 of the Environment Act 1995 (c. 25).

(5) The Department—

- (a) shall keep under review its policies with respect to the quality of air; and
- (b) may from time to time modify the strategy.

(6) Without prejudice to the generality of what may be included in the strategy, the strategy shall include statements with respect to—

- (a) standards relating to the quality of air;

- (b) objectives for the restriction of the levels at which particular substances are present in the air; and
 - (c) measures which are to be taken by relevant authorities and other persons for the purpose of achieving those objectives
- (7) In preparing the strategy or any modification of it, the Department shall consult—
- (a) relevant authorities;
 - (b) such bodies or persons appearing to it to be representative of the interests of industry as it may consider appropriate; and
 - (c) such other bodies or persons as it may consider appropriate.
- (8) Before publishing the strategy or any modification of it, the Department shall—
- (a) publish a draft of the proposed strategy or modification, together with notice of a date before which, and an address at which, representations may be made to it concerning the draft so published; and
 - (b) take into account any such representations which are duly made and not withdrawn.

- F2** Words in art. 10(3)(a) substituted (31.12.2020) by [The Environment \(Miscellaneous Amendments\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/584\)](#), regs. 1, **20**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Word in art. 10(3)(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)(a)**

District council reviews

11.—(1) Each district council shall from time to time cause a review to be conducted of the quality for the time being, and the likely future quality within the relevant period, of air within the council's district.

(2) Where a district council causes a review under paragraph (1) to be conducted, it shall also cause an assessment to be made of whether air quality standards and objectives are being achieved, or are likely to be achieved within the relevant period, within the council's district.

(3) If, on an assessment under paragraph (2), it appears that any air quality standards or objectives are not being achieved, or are not likely within the relevant period to be achieved, within the district council's district, the council shall identify any parts of its district in which it appears that those standards or objectives are not likely to be achieved within the relevant period.

Designation of air quality management areas

12.—(1) Where, as a result of an air quality review, it appears that any air quality standards or objectives are not being achieved, or are not likely within the relevant period to be achieved, within the district of a district council, the council shall by order designate as an air quality management area (in this Part referred to as a “designated area”) all or any part of its district in which it appears that those standards or objectives are not being achieved, or are not likely to be achieved within the relevant period.

(2) An order under this Article shall identify the designated area and shall be in such form as may be prescribed.

(3) A district council shall after making an order under this Article cause to be published in the Belfast Gazette and once at least in each of two successive weeks in more than one newspaper circulating in the district to which the order relates a notice—

- (a) stating that the order has been made, and its general effect; and

- (b) specifying a place in the district of the council where a copy of the order and of any map or plan referred to therein may be inspected by any person free of charge at all reasonable times
 - (4) An order under this Article may, as a result of a subsequent air quality review,—
 - (a) be varied by a subsequent order; or
 - (b) be revoked by such an order, if it appears on that subsequent air quality review that the air quality standards and objectives are being achieved, and are likely throughout the relevant period to be achieved, within the designated area,
- and paragraphs (2) and (3) also apply to an order made under sub-paragraph (a) or (b).

Further provisions in relation to designated areas

13.—^{F4}(1)

^{F5}(2) Where an order under Article 12 comes into operation, the district council which made the order shall] prepare, in accordance with the following provisions, a written plan (in this Part referred to as an “action plan”) for the exercise by the council, in pursuit of the achievement of air quality standards and objectives in the designated area, of any powers exercisable by the council.

(3) A district council shall, before finally determining the content of the action plan, send to the Department and each relevant authority—

- (a) a copy of any order (together with any map or plan referred to therein) made by it under Article 12; ^{F6} and]

^{F7}(b)

^{F7}(c)

- (d) a copy of the proposed action plan.

(4) Where a relevant authority has received the proposed action plan under paragraph (3), it shall, within the relevant period, submit to the district council—

- (a) proposals for the exercise (so far as relating to the designated area) by the authority, in order to comply with or in pursuit of the achievement of air quality standards and objectives, of any powers exercisable by the authority; and
- (b) a statement of the time by which it proposes to implement each of the proposals

(5) Subject to paragraph (8), an action plan shall, in addition to the measures proposed by the district council under ^{F8}paragraph (2)] , also include a statement of—

- (a) the proposals submitted pursuant to paragraph (4)(a);
- (b) the times set out in the statement submitted pursuant to paragraph (4)(b);
- (c) the time by which the district council in question proposes to implement each of the measures proposed by it comprised in the plan.

(6) Subject to paragraph (7), a district council may from time to time revise an action plan.

(7) Before a district council revises an action plan under paragraph (6), it shall provide the Department and each relevant authority with a copy of the proposed revision, and paragraphs (4) and (5) shall apply to a revision of the action plan as they apply to the making of the action plan.

(8) Where a relevant authority disagrees with a district council about the contents of a proposed action plan or revision of an action plan—

- (a) either of them may refer the matter to the Department;
- (b) on any such reference the Department may confirm the council's proposed action plan or revision of the action plan, with or without modifications (whether or not proposed by

the authority) or reject it and, if it rejects it, it may also exercise any of its powers under Article 14; and

- (c) the council shall not finally determine the content of the action plan, or the revision of the action plan, except in accordance with the Department's decision on the reference or in pursuance of directions under Article 14.

(9) When the content of the action plan or the revision of the action plan is finally determined, the district council shall send a copy of the action plan or revision of the action plan to the Department and each relevant authority.

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| F4 | Art. 13(1) repealed (12.4.2016) by Environmental Better Regulation Act (NorthernIreland) 2016 (c. 13) , ss. 17(2), 27(1), Sch. 2 |
| F5 | Words in art. 13(2) substituted (12.4.2016) by Environmental Better Regulation Act (NorthernIreland) 2016 (c. 13) , ss. 17(3), 27(1) |
| F6 | Word in art. 13(3)(a) inserted (12.4.2016) by Environmental Better Regulation Act (NorthernIreland) 2016 (c. 13) , ss. 17(4), 27(1) |
| F7 | Art. 13(3)(b)(c) repealed (12.4.2016) by Environmental Better Regulation Act (NorthernIreland) 2016 (c. 13) , ss. 17(5), 27(1), Sch. 2 |
| F8 | Words in art. 13(5) substituted (12.4.2016) by Environmental Better Regulation Act (NorthernIreland) 2016 (c. 13) , ss. 17(6), 27(1) |

Reserve powers

14.—(1) The Department may conduct or make, or cause to be conducted or made—

- (a) a review of the quality for the time being, and the likely future quality within the relevant period, of air within the district of any district council;
- (b) an assessment of whether air quality standards and objectives are being achieved, or are likely to be achieved within the relevant period, within the district of a district council;
- (c) an identification of any parts of the district of a district council in which it appears that those standards or objectives are not likely to be achieved within the relevant period; or
- (d) an assessment of the respects (if any) in which it appears that air quality standards or objectives are not being achieved, or are not likely within the relevant period to be achieved, within the district of a district council or within a designated area.

(2) Where the Department exercises any of its powers under paragraph (1) in respect of the district of any district council, it may recover the reasonable expenses incurred by it in the exercise of such powers from that council

(3) If it appears to the Department—

- (a) that air quality standards or objectives are not being achieved, or are not likely within the relevant period to be achieved, within the district of a district council;
- (b) that a district council has failed to discharge any duty imposed on it under this Part;
- (c) that the actions, or proposed actions, of a district council in purported compliance with the provisions of this Part are inappropriate in all the circumstances of the case; or
- (d) that developments in science or technology, or material changes in circumstances, have rendered inappropriate the actions or proposed actions of a district council in pursuance of this Part,

the Department may give directions to the district council requiring it to take such steps as may be specified in the directions.

(4) Without prejudice to the generality of paragraph (3), directions under that paragraph may, in particular, require a district council—

- (a) to cause an air quality review to be conducted under Article 11 in accordance with the directions;
 - (b) to cause an air quality review under Article 11 to be conducted afresh, whether in whole or in part, or to be so conducted with such differences as may be specified or described in the directions;
 - (c) to make an order under Article 12 designating as an air quality management area an area specified in, or determined in accordance with, the directions;
 - (d) to revoke, or modify in accordance with the directions, any order under that Article;
 - (e) to prepare in accordance with the directions an action plan for a designated area;
 - (f) to modify, in accordance with the directions, any action plan prepared by the council; or
 - (g) to implement, in accordance with the directions, any measures in an action plan.
- (5) The Department shall also have power to give directions to district councils requiring them to take such steps specified in the directions as the Department considers appropriate for the implementation of—
- (a) [^{F9}[^{F10}assimilated] obligations], or
 - (b) any international agreement to which the United Kingdom is for the time being a party, so far as relating to the quality of air.
- (6) The Department shall after giving any direction under this Article cause to be published in the Belfast Gazette and once at least in each of two successive weeks in more than one newspaper circulating in the district to which the direction relates a notice—
- (a) stating that the direction has been given and its general effect; an
 - (b) specifying a place in the district of the council where a copy of the direction may be inspected by any person free of charge at all reasonable times.
- (7) A district council shall comply with any direction given to it under this Part.

F9	Words in art. 14(5)(a) substituted (31.12.2020) by The Environment (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/584) , regs. 1, 21; 2020 c. 1, Sch. 5 para. 1(1)
F10	Word in art. 14(5)(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)(b)

Regulations

- 15.—(1) Regulations may make provision—
- (a) for, or in connection with, implementing the strategy; or
 - (b) for, or in connection with implementing—
 - (i) [^{F11}[^{F12}assimilated] obligations;] or
 - (ii) any international agreement to which the United Kingdom is for the time being a party, so far as relating to the quality of air; or
 - (c) otherwise with respect to the assessment or management of the quality of air.
- (2) Without prejudice to the generality of paragraph (1), regulations under that paragraph may make provision—
- (a) prescribing standards relating to the quality of air;

- (b) prescribing objectives for the restriction of the levels at which particular substances are present in the air;
 - (c) conferring or imposing functions on prescribed competent authorities;
 - (d) for or in connection with—
 - (i) authorising prescribed competent authorities (whether by agreements or otherwise) to exercise any functions of the Department on its behalf;
 - (ii) directing that functions of the Department shall be exercisable concurrently with prescribed competent authorities; or
 - (iii) transferring functions of the Department to prescribed competent authorities;
 - (e) prohibiting or restricting, or for or in connection with prohibiting or restricting,—
 - (i) the carrying on of prescribed activities, or
 - (ii) the access of prescribed vehicles or mobile equipment to prescribed areas, whether generally or in prescribed circumstances;
 - (f) for or in connection with the designation of air quality management areas by orders made by district councils in such cases or circumstances not falling within Article 12 as may be prescribed;
 - (g) for the application, with or without modifications, of any provisions of this Part in relation to areas designated by virtue of sub-paragraph (f) or in relation to orders made by virtue of that sub-paragraph;
 - (h) with respect to—
 - (i) air quality reviews;
 - (ii) assessments under this Part;
 - (iii) orders designating air quality management areas; or
 - (iv) action plans;
 - (j) prescribing measures which are to be adopted by prescribed competent authorities (whether in action plans or otherwise) or other persons in order to comply with, or in pursuance of the achievement of, air quality standards or objectives;
 - (k) for or in connection with the communication to the public of information relating to quality for the time being, or likely future quality, of the air;
 - (l) for or in connection with the obtaining by prescribed competent authorities from any person of information which is reasonably necessary for the discharge of functions conferred or imposed on them under this Part;
 - (m) for or in connection with the recovery by a district council from prescribed persons in prescribed circumstances, and in such manner as may be prescribed, of costs incurred by the council in discharging functions conferred or imposed on the council under this Part;
 - (n) for a person who contravenes any prescribed provision of the regulations to be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or such lower level on that scale as may be prescribed in relation to the offence;
 - (o) for or in connection with arrangements under which a person may discharge any liability to conviction for a prescribed offence by payment of a penalty of a prescribed amount;
 - (p) for or in connection with appeals against determinations or decisions made, notices given or served, or other things done under the regulations.
- (3) Without prejudice to the generality of sub-paragraph (h) of paragraph (2), the provision that may be made by virtue of that sub-paragraph includes provision for or in connection with any of the following, that is to say—

- (a) the scope or form of a review or assessment;
 - (b) the scope, content or form of an action plan;
 - (c) the time at which, period within which, or manner in which a review or assessment is to be carried out, or a report of the results of an assessment or an action plan is to be prepared;
 - (d) the methods to be employed—
 - (i) in carrying out reviews or assessments; or
 - (ii) in monitoring the effectiveness of action plans;
 - (e) the factors to be taken into account in preparing action plans;
 - (f) the actions which must be taken by prescribed competent authorities or other persons in consequence of reviews, assessments or action plans;
 - (g) requirements for consultation;
 - (h) the treatment of representations or objections duly made;
 - (j) the publication of, or the making available to the public of, or of copies of,—
 - (i) the results, or reports of the results, of reviews or assessments; or
 - (ii) orders or action plans;
 - (k) requirements for—
 - (i) copies of any such reports, orders or action plans, or
 - (ii) prescribed information, in such form as may be prescribed, relating to reviews or assessments,
- (4) In determining—
- (a) any appeal against, or reference or review of, a decision of a district council under regulations, or
 - (b) any application transmitted from a district council under any such regulations,
- the body or person making the determination shall be bound by any direction given by the Department to the district council to the same extent as the council.
- (5) The provisions of any regulations may include—
- (a) provision for anything that may be prescribed by the regulations to be determined under the regulations and for anything falling to be so determined to be determined by such persons, in accordance with such procedure and by reference to such matters, and to the opinion of such persons, as may be prescribed; and
 - (b) such supplemental, consequential, incidental, transitional or saving provisions (including provisions amending, repealing or revoking statutory provisions) as the Department considers appropriate.
- (6) Before making any regulations, the Department shall consult—
- (a) such competent authorities as the Department considers appropriate;
 - (b) such bodies or persons appearing to it to be representative of the interests of industry as it may consider appropriate; and
 - (c) such other bodies or persons as it may consider appropriate.

F11 Words in art. 15(1)(b)(i) substituted (31.12.2020) by [The Environment \(Miscellaneous Amendments\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/584\)](#), regs. 1, 22 (with reg. 46(3)); 2020 c. 1, Sch. 5 para. 1(1)

F12 Word in art. 15(1)(b)(i) 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)(c)**

Recommendations and guidance

16.—(1) A relevant authority may make recommendations to a district council with respect to the carrying out of—

- (a) any particular air quality review,
- (b) any particular assessment under Article 11 ^{F13} ..., or
- (c) the preparation of any particular action plan or revision of an action plan,

and the district council shall take into account any such recommendations.

(2) The Department may issue guidance to a district council or relevant authority with respect to, or in connection with, the exercise of the council's or the authority's functions under this Part.

(3) A district council or relevant authority, in carrying out any of its functions under this Part, shall have regard to any guidance issued by the Department under this Part

F13 Words in art. 16(1)(b) repealed (12.4.2016) by [Environmental Better Regulation Act \(NorthernIreland\) 2016 \(c. 13\)](#), ss. 18(2), 27(1), **Sch. 2**

Supplemental provisions

17. Schedule 2 shall have effect.

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 ^{F14} ...;
- (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.

F14 Words in art. 18(1)(b) repealed (12.4.2016) by [Environmental Better Regulation Act \(NorthernIreland\) 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 [^{F15}[^{F16}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 [^{F17}[^{F18}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.

- F15** 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)
- F16** 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)**
- F17** 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)
- F18** 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 [F19[F20assimilated] 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.

- F19** 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)
- F20** 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)**

Interpretation of this Part

27.—(1) In this Part—

“action plan” shall be construed in accordance with [F21Article 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.

F21 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, PART III.