Environmental Protection Act 1990

1990 CHAPTER 43

PART I

INTEGRATED POLLUTION CONTROL AND AIR POLLUTION CONTROL BY LOCAL AUTHORITIES

Authorisations

10 Variation of authorisations by enforcing authority.

[F1](1) The enforcing authority may at any time, subject to the requirements of section 7 above, and, in cases to which they apply, the requirements of Part II of Schedule 1 to this Act, vary an authorisation and shall do so if it appears to the authority at that time that that section requires conditions to be included which are different from the subsisting conditions.

(2) Where the enforcing authority has decided to vary an authorisation under subsection (1) above the authority shall notify the holder of the authorisation and serve a variation notice on him.

(3) In this Part a "variation notice" is a notice served by the enforcing authority on the holder of an authorisation—

(a) specifying variations of the authorisation which the enforcing authority has decided to make; and

(b) specifying the date or dates on which the variations are to take effect;

and, unless the notice is withdrawn [F2or is varied under subsection (3A) below], the variations specified in a variation notice shall take effect on the date or dates so specified.

F3[(3A) An enforcing authority which has served a variation notice may vary that notice by serving on the holder of the authorisation in question a further notice—

(a) specifying the variations which the enforcing authority has decided to make to the variation notice; and

(b) specifying the date or dates on which the variations specified in the variation notice, as varied by the further notice, are to take effect;

Changes to legislation: *Environmental Protection Act 1990, Section 10 is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

and any reference in this Part to a variation notice, or to a variation notice served under subsection (2) above, includes a reference to such a notice as varied by a further notice served under this subsection.**]**

(4) A variation notice served under subsection (2) above shall also—

(a) require the holder of the authorisation, within such period as may be specified in the notice, to notify the authority what action (if any) he proposes to take to ensure that the process is carried on in accordance with the authorisation as varied by the notice; and

[F4]**[**(b) require the holder to pay, within such period as may be specified in the notice, —

(i) in a case where the enforcing authority is the Environment Agency or SEPA, the charge (if any) prescribed for the purpose by a charging scheme under section 41 of the Environment Act 1995; or

(ii) in any other case, the fee (if any) prescribed by a scheme under section 8 above.**]**

(5) Where in the opinion of the enforcing authority any action to be taken by the holder of an authorisation in consequence of a variation notice served under subsection (2) above will involve a substantial change in the manner in which the process is being carried on, the enforcing authority shall notify the holder of its opinion.

(6) The Secretary of State may, if he thinks fit in relation to authorisations of any description or particular authorisations, direct the enforcing authorities—

(a) to exercise their powers under this section, or to do so in such circumstances as may be specified in the directions, in such manner as may be so specified; or

(b) not to exercise those powers, or not to do so in such circumstances or such manner as may be so specified;

and the Secretary of State shall have the corresponding power of direction in respect of the powers of the enforcing authorities to vary authorisations under section 11 below.

(7) In this section and section 11 below a "substantial change", in relation to a prescribed process being carried on under an authorisation, means a substantial change in the substances released from the process or in the amount or any other characteristic of any substance so released; and the Secretary of State may give directions to the enforcing authorities as to what does or does not constitute a substantial change in relation to processes generally, any description of process or any particular process.

(8) In this section and section 11 below—

"prescribed" means prescribed in regulations made by the Secretary of State;

"vary"

(a) [F5], in relation to the subsisting conditions or other provisions of an authorisation, means adding to them or varying or rescinding any of them;**[**[F6] and

(b) in relation to a variation notice, means adding to, or varying or rescinding the notice or any of its contents;**]**

and "variation" shall be construed accordingly.**]**

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Textual Amendments

F1 Ss. 1-28 repealed (1.4.2015 for S. for the repeal of ss. 1-19, 22-28) by Pollution Prevention and Control Act 1999 (c. 24), s. 7(3), **Sch. 3** (with s. 7(7)); S.S.I. 2015/74, art. 2(2)(b)

F2 Words in s. 10(3) inserted (12.10.1995) by 1995 c. 25, s. 120(1), **Sch. 22 para. 51(2)** (with ss. 7(6), 115); S.I. 1995/2649, **art. 2**

F3 S. 10(3A) inserted (12.10.1995) by 1995 c. 25, s. 120(1), **Sch. 22 para. 51(3)**(with ss. 7(6), 115); S.I. 1995/2649, **art. 2**

F4 S. 10(4)(b) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 51(4)** (with ss. 7(6), 115); S.I. 1996/186, **art.3**

F5 In s. 10(8) in definition of "vary" "(a)" inserted (12.10.1995) by 1995 c. 25, s. 102(1), **Sch. 22 para. 51(5)** (with ss. 7(6), 115); S.I. 1995/2649, **art. 2**

F6 In s. 10(8) in definition of "vary" paragraph (b) and preceding word inserted (12.10.1995) by 1995 c. 25, s. 120(1), **Sch. 22 para. 51(5)** (with ss. 7(6), 115); S.I. 1995/2649, **art. 2**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 30(4A) inserted by 2021 c. 30 s. 57(2)
- s. 33ZB(10A) inserted by 2021 c. 30 s. 69(3)(b)
- s. 34ZB(8A) inserted by 2021 c. 30 s. 69(5)(b)
- s. 45A-45AZG substituted for s. 45A by 2021 c. 30 s. 57(4)
- s. 46(2)(a)(b) substituted for words by 2021 c. 30 s. 57(5)
- s. 106A inserted by 2023 c. 6 s. 41(2)
- s. 161(2AA)(2AB) inserted by 2016 anaw 3 s. 69(4)