
STATUTORY INSTRUMENTS

2015 No. 483

The Control of Major Accident Hazards Regulations 2015

PART 8

ENFORCEMENT AND PENALTIES

Enforcement and penalties

27.—(1) Subject to paragraph (2), to the extent they would not otherwise do so, the following provisions of the 1974 Act apply to these Regulations as if they were health and safety regulations for the purposes of that Act and any function of the Executive under any other provision of the 1974 Act under or in respect of health and safety regulations (including their enforcement) is exercisable as if these Regulations were, to the extent they would not otherwise be so, health and safety regulations for the purposes of that Act—

- (a) sections 16 to 21 (approval of codes of practice and enforcement);
 - (b) section 23 (provisions supplementary to sections 21 and 22) and section 24 (appeal against improvement or prohibition notice), so far as they relate to an improvement notice;
 - (c) section 26 (power to indemnify inspectors); and
 - (d) subject to paragraph (6), sections 33 to 42 (provisions as to offences).
- (2) In relation to the enforcement of these Regulations—
- (a) on or in relation to an establishment which is or is wholly or partly within a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013), section 18(3B) of the 1974 Act applies as if the reference to the ONR included a reference to the appropriate agency; and
 - (b) otherwise, section 18(1) of that Act applies as if the reference to the Executive included a reference to the appropriate agency,

but nothing in this paragraph has the effect of making the appropriate agency an enforcing authority for the purposes of the 1974 Act.

- (3) Without prejudice to the—
- (a) provisions of the 1974 Act referred to in paragraph (1), section 108(1) of the Environment Act 1995 has effect in relation to a person authorised by the appropriate agency as if the reference in that section to a pollution control enactment included a reference to these Regulations and as if the reference to a pollution control function included a reference to any function conferred or imposed on the appropriate agency by or under these Regulations; and
 - (b) functions of an inspector appointed under section 19 of the 1974 Act, a person referred to in sub-paragraph (a) may, despite the person not being an inspector so appointed, serve an improvement notice under section 21 of that Act in respect of a contravention of these Regulations, and the reference to an inspector in section 23(4) of that Act is to have effect accordingly.

(4) A failure to discharge a function placed on the competent authority by these Regulations is not an offence, and section 33(1)(c) of the 1974 Act has effect accordingly.

(5) Subject to section 18(1A) of the 1974 Act⁽¹⁾ but despite the Health and Safety (Enforcing Authority) Regulations 1998⁽²⁾, the enforcing authority for the relevant statutory provisions—

- (a) at an establishment which is a nuclear establishment, is the ONR;
- (b) at any other establishment, is the Executive.

(6) The maximum penalty for an offence consisting of a contravention of a requirement or prohibition imposed by or under these Regulations is—

- (a) on summary conviction—
 - (i) in England and Wales, imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum, or both;
 - (ii) in Scotland, imprisonment for a term not exceeding twelve months or a fine not exceeding the statutory maximum, or both; and
- (b) on conviction on indictment, imprisonment for a term not exceeding two years, or a fine or both.

(1) Section 18(1A) of the Health and Safety at Work etc. Act 1974 was inserted by the Energy Act 2013 (c.32), Schedule 12, paragraph 6(2).

(2) S.I. 1998/494, amended by S.I. 2014/469; there are other amending instruments but none is relevant.