

2012 No. 11

HEALTH AND SAFETY

The Petroleum (Consolidation) Act (Amendment of Licensing Provisions) Regulations (Northern Ireland) 2012

Made - - - - - *17th January 2012*

Coming into operation - - - - - *19th March 2012*

The Department of Enterprise, Trade and Investment(a), being the Department concerned(b), makes the following Regulations in exercise of the powers conferred by Articles 17(1), (2) and (3), 40, 54(1) and 55(2) of, and paragraphs 1(1), 2(2) and 3 of Schedule 3 to the Health and Safety at Work (Northern Ireland) Order 1978(c) (“the 1978 Order”).

The Regulations give effect without modifications to proposals submitted to it by the Health and Safety Executive for Northern Ireland under Article 13(1A)(d) of the 1978 Order.

Citation and commencement

1. These Regulations may be cited as the Petroleum (Consolidation) Act (Amendment of Licensing Provisions) Regulations (Northern Ireland) 2012 and shall come into operation on 19th March 2012.

Amendment of the Petroleum (Consolidation) Act (Northern Ireland) 1929

2.—(1) The Petroleum (Consolidation) Act (Northern Ireland) 1929(e) shall be amended in accordance with the following paragraphs.

(2) After section 1 (Petroleum-spirit not to be kept without a licence) insert—

“1A Powers of local authority in relation to petroleum-spirit licences

A petroleum-spirit licence may be granted by a local authority and the authority may—

- (a) vary the conditions attached to the licence; or
- (b) revoke the licence,

by notice in writing given to the holder.”

(3) For section 3 (Appeals from refusals by local authority to grant licences) substitute—

(a) Formerly the Department of Economic Development; *see* S.I. 1999/283 (N.I. 1), Article 3(5)
(b) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(c) S.I. 1978/1039 (N.I. 9): the general purposes of Part II referred to in Article 17(1) were extended by S.I. 1992/1728 (N.I. 17), Articles 3(1) and 4(1). Article 55(2) was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 1, paragraph 19
(d) Article 13(1A) was substituted by S.I. 1998/2795 (N.I. 18), Article 4
(e) 1929 c. 13

“3 Licensing Procedures and Appeals

(1) This subsection applies to the following actions in relation to a petroleum-spirit licence, that is to say—

- (a) the refusal to grant the licence;
- (b) the attachment of any condition to the licence;
- (c) the variation or refusal to vary the conditions of the licence; or
- (d) the revocation of the licence.

(2) A local authority shall not take any action to which subsection (1) applies unless they have followed the procedure set out in Chapter II of the model rules.

(3) Any person aggrieved by any action of the local authority to which subsection (1) applies may appeal against that action to a Tribunal and Chapter I of the model rules shall apply for the purpose of such an appeal.

(4) For the purposes of subsections (2) and (3), the model rules are those set out in the Schedule to the Deregulation (Model Appeal Provisions) Order (Northern Ireland) 1997(a) and for the purposes of subsection (3), the Tribunal is a Tribunal appointed in accordance with Chapter I of those model rules.”.

(4) For section 4 (Fees payable for licences) substitute—

“4 Fees payable for licences

In respect of every petroleum-spirit licence granted by a local authority, fees shall be payable to the authority by the person to whom the licence is granted at the rates fixed by or determined under regulations made in accordance with Article 40(2) of the Health and Safety at Work (Northern Ireland) Order 1978.”.

(5) In section 23(1) (Interpretation)—

- (a) the definition of “Executive” is repealed; and
- (b) in the definition of “Petroleum-spirit licence” the words “or by the Executive” are repealed.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 17th January 2012.



Jackie Kerr

A senior officer of the Department of Enterprise, Trade and Investment Department

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Petroleum (Consolidation) Act (Northern Ireland) 1929 (“the 1929 Act”).

The principal changes made by these Regulations are as follows.

A new section 1A is inserted into the 1929 Act to clarify the scope of a local authority’s powers in relation to a licence.

Section 3 of the 1929 Act presently sets out the procedures for appeals from refusals by a local authority to grant licences. Those appeals are made to the Health and Safety Executive for Northern Ireland. A new section 3 is substituted to introduce greater procedural protections both in relation to licensing decisions and appeals against those decisions. It does so by—

- (a) introducing a new procedure that must be followed before the licensing decision is taken; and
- (b) providing for an appeal to an independent Tribunal from such licensing decision.

This new section 3 applies the relevant provisions of the Deregulation (Model Appeal Provisions) Order (Northern Ireland) 1997, with modifications for the purposes of these procedures and appeals.

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