STATUTORY INSTRUMENTS

1982 No. 604 (S.84)

PUBLIC HEALTH, SCOTLAND

The Control of Atmospheric Pollution (Appeals) (Scotland) Regulations 1982

Made - - - -	21*st April* 1982
Laid before Parliament	12*th May* 1982
Coming into Operation	1*st August* 1982

In exercise of the powers conferred on me by sections 81(3) and 104(1) of the Control of Pollution Act 1974 (a) and of all other powers enabling me in that behalf, and after consulting such persons appearing to me to represent local authorities, such persons appearing to me to represent industrial interests, and such persons appearing to me to be conversant with the problems of air pollution, as I consider appropriate, I hereby make the following regulations:—

Citation, commencement and extent

1. These regulations may be cited as the Control of Atmospheric Pollution (Appeals) (Scotland) Regulations 1982; shall come into operation on 1st August 1982, and shall apply to Scotland only.

Interpretation

2.—(1) In these regulations, "the Act" means the Control of Pollution Act 1974.

(2) Any reference in these regulations to a section by number only is a reference to the section so numbered in the Act.

Appeals under section 81(1)

3.—(1) An appeal under section 81(1) shall be made by notice in writing given to the Secretary of State at any time within the period allowed for compliance with the notice under section 80 to which the appeal relates.

(2) A notice of appeal under paragraph (1) above.

(a) shall be submitted in duplicate and shall state the grounds of the appeal by specifying the paragraph or paragraphs of section 81(1) under which the appeal is made, that is to say by specifying paragraph (a)(i), (a)(ii) or (b), and

(b) shall be accompanied—

(i) in respect of each paragraph so specified, by a statement of the facts and reasons on which the appeal, or that part of the appeal, is based;

(ii) by a copy of the notice under section 80 to which the appeal relates; and

(iii) by a copy of any other relevant documents.

(a) 1974 c.40.

(3) Where the Secretary of State determines that the disclosure of any information given by the appellant would—

(a) prejudice to an unreasonable degree any private interest relating to a trade secret, or

(b) be contrary to the public interest

he shall withhold from the local authority—

(i) any statement furnished under paragraph (2)(b)(i) above in respect of any appeal based on a ground contained in paragraph (a)(i) or (a)(ii) of section 81(1), and

(ii) any other document furnished by the appellant which contains any such information.

(4) The Secretary of State shall send to the local authority a copy of the notice of appeal and, subject to paragraph (3) above, of every other document submitted by the appellant under this regulation.

(5) The Secretary of State may, if he thinks fit, require the appellant or the local authority to submit within a specified period a further statement in writing in respect of any of the matters to which the appeal relates and if, after considering the grounds of the appeal and any such further statement, the Secretary of State is satisfied that he is sufficiently informed for the purpose of reaching a decision as to the matters to which the appeal relates, he may decide the appeal without further investigation; but if he does not so decide it, the Secretary of State shall (except in a case where he causes a local inquiry to be held under section 96), if either party so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for that purpose.

George Younger,
One of Her Majesty's Principal Secretaries of State.

New St Andrew's House,
Edinburgh.
21st April 1982.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

Section 80 of the Control of Pollution Act 1974 empowers a local authority by notice to require the occupier of any premises (except in so far as they consist of a private dwelling) to furnish information concerning the emission of pollutants and other substances into the air from the premises. Any person who has an interest in the premises may appeal against such a notice to the Secretary of State under section 81 of the Act.

These Regulations which apply to Scotland only prescribe the manner in which an appeal under section 81 is to be made, and the time within which it may be brought (regulation 3(1) and (2)). They specify the circumstances in which the Secretary of State may be required to withhold certain parts of the appellant's case from the respondent local authority, and the documents which (subject to any such withholding) he is to send to the authority (regulation 3(3) and (4)). Regulation 3(5) prescribes the procedure to be followed before the Secretary of State determines an appeal.

SI 1982/604
ISBN 0-11-026604-8

