

1964/65



THE SMOKE RESTRICTION REGULATIONS 1964

BERNARD FERGUSSON, Governor-General

By his Deputy,

H. E. BARROWCLOUGH

ORDER IN COUNCIL

At the Government House at Wellington this 6th day of May 1964

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Health Act 1956, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title—These regulations may be cited as the Smoke Restriction Regulations 1964.

2. Application of regulations—These regulations shall apply on such dates within such districts or subdivisions of districts of local authorities or within such parts of New Zealand as may be specified by the Minister from time to time by notice in the *Gazette*.

3. Interpretation—(1) In these regulations, unless the context otherwise requires,—

“The Act” means the Health Act 1956:

“Chemical inspector” means an inspector appointed pursuant to section 114 of the Act for the purposes of Part V of the Act:

“Chimney” includes the funnel of a ship, but does not include the chimney of a private dwellinghouse:

“Date of commencement” in relation to any chimney means the date on which these regulations were applied to the place in which the chimney is situated:

“Dense smoke” means smoke which—

(a) When compared in the appropriate manner with New Zealand Standard Specification 1568. C. 1960 Ringelmann Chart appears to be as dark as, or darker than, shade No. 2 thereon; or

(b) Is of such opacity as to obscure the observer’s view to a degree equal to smoke as dark as, or darker than, the said shade No. 2:

“Occupier”, in relation to a ship, means the master of that ship or, where a ship does not have a master, means the owner of that ship:

“Smoke inspector” means a person appointed to be a smoke inspector under the provisions of these regulations.

(2) In any proceedings brought by virtue of regulation 5 of these regulations, the Court may be satisfied that smoke was dense smoke even though there has been no actual comparison of the smoke with New Zealand Standard Specification 1568. C. 1960 Ringelmann Chart.

4. Smoke inspectors—A local authority may appoint any person, who has completed such course of training and instruction as the Director-General may require to be completed for the purpose, or who, in the opinion of the Director-General, already possesses qualifications which render such course of training and instruction unnecessary, to be a smoke inspector.

5. Prohibition of emission of dense smoke—(1) Subject to the provisions of these regulations, dense smoke shall not be emitted from any chimney in any district or part of a district to which these regulations have been applied.

(2) Dense smoke shall not be held to have been emitted from a chimney contrary to subclause (1) of this regulation unless—

- (a) Dense smoke was emitted from the chimney for longer than an aggregate of four minutes in any one hour; and
- (b) The observations and comparisons relied on were made by a smoke inspector; and
- (c) The smoke inspector notified the occupier of the premises on which the chimney was situated of the result of his observations as soon as practicable after the making thereof, and in any case before the expiration of 72 hours therefrom, and, if his notification was not in writing, confirmed his notification in writing within the said period of 72 hours.

6. Restriction on emission of smoke generally—(1) Subject to the provisions of these regulations, no smoke shall be emitted from any chimney in any district or part of a district to which these regulations have been applied unless all reasonably practicable means have been taken to minimise the quantity and effects of dust, grit, ash, sulphur oxides, and any product of incomplete combustion.

(2) Without limiting the generality of the expression “all reasonably practicable means” in subclause (1) of this regulation, that expression shall be deemed to include—

- (a) The size and design of the chimney and any furnace connected therewith;
- (b) The provision, if necessary, and appropriate use of dust arrester equipment and control instrumentation;
- (c) The use of suitable fuel;
- (d) The proper conduct of a proper method of operation;
- (e) The carrying out of regular and efficient maintenance.

7. Settlement of disputes—(1) Subject to the provisions of subclause (2) of this regulation, if at any time any question arises as to what means are reasonably practicable for the purposes of regulation 6 of

these regulations, it shall be determined by a chemical inspector, who shall thereupon notify his determination to the occupier of the premises and to the local authority concerned.

(2) If the occupier of any premises or a local authority is dissatisfied with any determination of a chemical inspector under sub-clause (1) of this regulation he or it may, within one month after being notified of the determination, give notice of appeal in writing to the Minister, who shall take all steps necessary to constitute a Board of Appeal under section 124 of the Act, and the provisions of that section shall apply accordingly. One of the assessors under that section shall be appointed on the recommendation of the Director-General and the other on the recommendation of the appellant.

8. General exemptions—Nothing in these regulations shall apply to the emission of smoke—

- (a) From any chimney at any chemical works; or
- (b) From any chimney within one year after the date of commencement.

9. Conditional exemptions—Subject to all reasonable care being taken to minimise the effects and duration of the material operation, nothing in regulations 5 or 6 of these regulations shall apply to the emission of smoke—

- (a) For such reasonable period as may be necessary to rectify a mechanical fault or a failure in fuel supply which could not reasonably have been foreseen, if notice is given to the local authority, as soon as practicable after the occurrence of the fault or failure, of the nature of the fault or failure and of the time that is likely to elapse before it is rectified; or
- (b) As a result of soot-blowing between such specified times, not exceeding an aggregate of 20 minutes in any one day, as may be approved by the local authority, or by a smoke inspector appointed by the local authority, or consequent on the lighting up of a cold furnace, or as a result of a test or experiment to reduce air pollution or to determine the most suitable fuel or operating conditions if prior notice has been given to the local authority or smoke inspector of the intention to carry out the material operation and the probable duration thereof.

10. Temporary exemptions—(1) Without limiting the provisions of regulations 8 and 9 of these regulations, nothing in regulations 5 and 6 of these regulations shall apply to the emission of smoke from any chimney in existence at the date of commencement if—

- (a) Such emission occurs not more than seven years after the date of commencement; and
- (b) The furnaces connected with such chimney are at the time of such emission engaged in substantially the same operation at substantially the same rate of firing as at that date; and
- (c) It is not reasonably practicable, without substantial modification of the chimney or the furnaces connected therewith, to prevent smoke from being emitted in contravention of regulations 5 and 6 of these regulations; and

(d) All reasonable steps have been taken by the occupier of the premises in which such chimney is situated to avoid as nearly as may be the emission of smoke from that chimney in contravention of the provisions of regulations 5 and 6 of these regulations.

(2) If, at any time before the expiration of the said period of seven years, the local authority is satisfied, on the application of the occupier of any premises in which a chimney was situated at the date of commencement, that it is not reasonably practicable to prevent smoke from being emitted from that chimney in contravention of regulations 5 and 6 of these regulations without substantial modification of that chimney or the furnaces connected therewith, the local authority may, if it thinks fit, issue from time to time a certificate to that effect, and, while such a certificate is in force, it shall be conclusive evidence of the facts therein stated for the purposes of paragraph (c) of subclause (1) of this regulation.

(3) A certificate under subclause (2) of this regulation shall be in force for one year from the date of the issue thereof or for such shorter period as may be specified therein:

Provided that a certificate issued after the expiration of six, but before the expiration of seven, years from the date of commencement shall not remain in force after the expiration of the said period of seven years.

(4) A certificate under subclause (2) of this regulation may, if the local authority thinks fit, apply to all the chimneys on particular premises.

T. J. SHERRARD,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations are designed to enable stricter control of industrial smoke emissions. This result is to be achieved by making the emission of certain types and quantities of smoke in certain areas a nuisance under section 29 (m) of the Health Act 1956. The areas in question are to be specified by the Minister of Health from time to time by notice in the *Gazette*. When the regulations come into force in any area there will be two periods of exemption from the provisions of the regulations. The first an absolute exemption for a period of one year. The second a temporary exemption for existing furnaces from the more onerous provisions of the regulations for a period of seven years from the date of their commencement in that area, subject to compliance with certain conditions.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 7 May 1964.

These regulations are administered in the Department of Health.