



# Clean Air Act 1993

## 1993 CHAPTER 11

### PART III

#### SMOKE CONTROL AREAS

##### Modifications etc. (not altering text)

- C1** Pt. III functions etc. assigned to the port health authority and modified (E.) (31.3.2017) by [The Weymouth Port Health Authority Order 2017 \(S.I. 2017/558\)](#), arts. 1(1), 9, [Sch. 2](#) (with art. 9(3))

#### *Creation of smoke control areas*

### **18 Declaration of smoke control area by local authority.**

- (1) A local authority may by order declare the whole or any part of the district of the authority to be a smoke control area; and any order made under this section is referred to in this Act as a “smoke control order”.
- (2) A smoke control order—
- (a) may make different provision for different parts of the smoke control area;
  - (b) may limit the operation of section 20 (prohibition of emissions of smoke [<sup>F1</sup>in Wales]) [<sup>F2</sup>or Schedule 1A (penalty for emission of smoke in England)] to specified classes of building in the area; and
  - (c) may exempt specified buildings or classes of building or specified fireplaces or classes of fireplace in the area from the operation of that section [<sup>F3</sup>or Schedule], upon such conditions as may be specified in the order;

and the reference in paragraph (c) to specified buildings or classes of building include a reference to any specified, or to any specified classes of, fixed boiler or industrial plant.

- [<sup>F4</sup>(2A) For the purposes of this Part a smoke control order in England “applies” to a building, fireplace, fixed boiler or industrial plant if the operation of Schedule 1A is not excluded in relation to it by virtue of subsection (2)(b) or (c).]

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- (3) A smoke control order may be revoked or varied by a subsequent order.
- (4) The provisions of Schedule 1 apply to the coming into operation of smoke control orders.

#### Textual Amendments

- F1** Words in s. 18(2)(b) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 13(2)(a)(i)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F2** Words in s. 18(2)(b) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 13(2)(a)(ii)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F3** Words in s. 18(2)(c) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 13(2)(b)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F4** S. 18(2A) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 13(3)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

## 19 Power of Secretary of State to require creation of smoke control areas. **E+W**

- (1) If, after consultation with a local authority, the Secretary of State is satisfied—
  - (a) that it is expedient to abate the pollution of the air by smoke in the district or part of the district of the authority; and
  - (b) that the authority have not exercised, or have not sufficiently exercised, their powers under section 18 (power to declare smoke control area) to abate the pollution,

he may direct the authority to prepare and submit to him for his approval, within such period not being less than six months from the direction as may be specified in the direction, proposals for making and bringing into operation one or more smoke control orders within such period or periods as the authority think fit.
- (2) Any proposals submitted by a local authority in pursuance of a direction under subsection (1) may be varied by further proposals submitted by the authority within the period specified for the making of the original proposals or such longer period as the Secretary of State may allow.
- (3) The Secretary of State may reject any proposals submitted to him under this section or may approve them in whole or in part, with or without modifications.
- (4) Where a local authority to whom a direction under subsection (1) has been given—
  - (a) fail to submit proposals to the Secretary of State within the period specified in the direction; or
  - (b) submit proposals which are rejected in whole or in part,

the Secretary of State may make an order declaring them to be in default and directing them for the purposes of removing the default to exercise their powers under section 18 in such manner and within such period as may be specified in the order.
- (5) An order made under subsection (4) may be varied or revoked by a subsequent order so made.
- (6) While proposals submitted by a local authority and approved by the Secretary of State under this section are in force, it shall be the duty of the authority to make such order or orders under section 18 as are necessary to carry out the proposals.

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#### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

### 19 Power of Secretary of State to require creation of smoke control areas. **S**

- (1) If, after consultation with a local authority, the [<sup>F58</sup>Scottish Environment Protection Agency (in this section referred to as “the Agency”)] is satisfied—
- that it is expedient to abate the pollution of the air by smoke in the district or part of the district of the authority; and
  - that the authority have not exercised, or have not sufficiently exercised, their powers under section 18 (power to declare smoke control area) to abate the pollution,
- [<sup>F59</sup>the Agency] may direct the authority to prepare and submit to [<sup>F59</sup>it] for [<sup>F59</sup>its] approval, within such period not being less than six months from the direction as may be specified in the direction, proposals for making and bringing into operation one or more smoke control orders within such period or periods as the authority think fit.
- (2) Any proposals submitted by a local authority in pursuance of a direction under subsection (1) may be varied by further proposals submitted by the authority within the period specified for the making of the original proposals or such longer period as the [<sup>F60</sup>Agency] may allow.
- (3) The [<sup>F60</sup>Agency] may reject any proposals submitted to [<sup>F61</sup>it] under this section or may approve them in whole or in part, with or without modifications.
- (4) Where a local authority to whom a direction under subsection (1) has been given—
- fail to submit proposals to the [<sup>F60</sup>Agency] within the period specified in the direction; or
  - submit proposals which are rejected in whole or in part,
- [<sup>F62</sup>the Agency, with the consent of] the Secretary of State may make an order declaring them to be in default and directing them for the purposes of removing the default to exercise their powers under section 18 in such manner and within such period as may be specified in the order.
- (5) An order made under subsection (4) may be varied or revoked by a subsequent order so made.
- (6) While proposals submitted by a local authority and approved by the [<sup>F60</sup>Agency] under this section are in force, it shall be the duty of the authority to make such order or orders under section 18 as are necessary to carry out the proposals.

#### Extent Information

- E3** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

#### Textual Amendments

- F58** Words in s. 19(1) substituted (S.) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 196(2)(a)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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- F59** Words in s. 19(1) substituted (S.) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 196(2)(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F60** Words in s. 19(2)(3)(4)(a)(6) substituted (S.) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 196(3)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F61** Word in s. 19(3) substituted (S.) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 196(4)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F62** Words in s. 19(4) inserted (S.) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 196(5)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

**Modifications etc. (not altering text)**

- C7** S. 19: Certain functions of the Secretary of State transferred to SEPA (12.10.1995) by 1995 c. 25, **s. 21(1)(i)(2)(c)** (with ss. 7(6), 115, 117); S.I.1995/2649, **art. 2(b)**
- C8** S. 19 modified (1.4.1996) by 1995 c. 25, **s. 33(5)(f)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

*[<sup>F5</sup>Regulation of smoke and fuel in smoke control areas in England*

**Textual Amendments**

- F5** S. 19A and cross-heading inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 2** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

**19A Penalty for emission of smoke in smoke control area in England**

Schedule 1A makes provision for financial penalties in relation to the emission of smoke in smoke control areas in England.]

**[<sup>F6</sup>19B Acquisition and sale of controlled solid fuel in England**

- (1) A person who acquires in England any controlled solid fuel for use in—
  - (a) a building to which a smoke control order in England applies,
  - (b) a fireplace to which such an order applies, or
  - (c) a fixed boiler or industrial plant to which such an order applies,
 is guilty of an offence.
- (2) Where a smoke control order in England applies to a moored vessel (see section 44), subsection (1)(a) does not apply in relation to the acquisition of controlled solid fuel for use in the propulsion of the vessel or to provide electric power to the vessel.
- (3) Subsection (1)(b) does not apply where the fireplace was an approved fireplace at the time of the acquisition.
- (4) A person who—
  - (a) offers controlled solid fuel for sale by retail in England where the fuel is to be taken away by a purchaser, and
  - (b) fails to take reasonable steps to notify potential purchasers that it is an offence to acquire that fuel for any of the uses mentioned in subsection (1),
 is guilty of an offence.
- (5) A person who sells any controlled solid fuel by retail in England for delivery by that person, or on that person's behalf, to—

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- (a) a building to which a smoke control order in England applies, or
  - (b) premises in which there is any fixed boiler or industrial plant to which such an order applies,
- is guilty of an offence.
- (6) In proceedings for an offence under subsection (5) it is a defence for the person accused to prove that the person believed and had reasonable grounds for believing that—
- (a) the building referred to in subsection (5)(a) was not one to which the smoke control order in question applied, or
  - (b) the fuel was acquired for use in—
    - (i) a fireplace that was, at the time of the delivery, an approved fireplace, or
    - (ii) a boiler or plant to which the smoke control order did not apply.
- (7) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) A person guilty of an offence under subsection (4) or (5) is liable on summary conviction to a fine.

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**Textual Amendments**

- F6** Ss. 19B-19D inserted (E.W.) (1.5.2022) by [Environment Act 2021 \(c. 30\)](#), s. 147(3), [Sch. 12 para. 4](#) (with s. 144, [Sch. 12 para. 26](#)); [S.I. 2022/48](#), reg. 4(d)

**19C Exemptions relating to particular areas in England**

- (1) The Secretary of State may, if it appears to the Secretary of State to be necessary or expedient to do so, by order suspend or relax the operation of—
- (a) Schedule 1A (penalty for emission of smoke), or
  - (b) section 19B(1), (4) or (5) (offences relating to acquisition and sale of fuel),
- in relation to the whole or part of a smoke control area in England.
- (2) Before making an order under subsection (1) the Secretary of State must consult the local authority that declared the smoke control area in question unless satisfied that, on account of urgency, such consultation is impracticable.
- (3) As soon as practicable after the making of such an order the local authority must take such steps as appear to them suitable for bringing the effect of the order to the notice of persons affected.

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**Textual Amendments**

- F6** Ss. 19B-19D inserted (E.W.) (1.5.2022) by [Environment Act 2021 \(c. 30\)](#), s. 147(3), [Sch. 12 para. 4](#) (with s. 144, [Sch. 12 para. 26](#)); [S.I. 2022/48](#), reg. 4(d)

**19D Interpretation: “approved fireplace” and “controlled solid fuel”**

- (1) In section 19B, “approved fireplace” means a fireplace of a type specified in a list published by the Secretary of State.

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- (2) The Secretary of State may only specify a type of fireplace in the list if satisfied that such a fireplace can, if used in compliance with any conditions specified in the list, be used for burning controlled solid fuel without producing any smoke or a substantial quantity of smoke.
- (3) In section 19B and this section, “controlled solid fuel” means any solid fuel other than an approved fuel.
- (4) In subsection (3), “approved fuel” means a solid fuel specified in a list which has been published by the Secretary of State for the purposes of this section.]

**Textual Amendments**  
**F6** Ss. 19B-19D inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), Sch. 12 para. 4 (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

*Prohibition on emission of smoke in smoke control area*

**20 Prohibition on emission of smoke in smoke control area [<sup>F7</sup>in Wales].**

- (1) If, on any day, smoke is emitted from a chimney of any building within a smoke control area [<sup>F8</sup>in Wales], the occupier of the building shall be guilty of an offence.
- (2) If, on any day, smoke is emitted from a chimney (not being a chimney of a building) which serves the furnace of any fixed boiler or industrial plant within a smoke control area [<sup>F9</sup>in Wales], the person having possession of the boiler or plant shall be guilty of an offence.
- (3) Subsections (1) and (2) have effect—
  - (a) subject to any exemptions for the time being in force under section 18, 21 or 22;
  - (b) subject to section 51 (duty to notify offences to occupier or other person liable).
- (4) In proceedings for an offence under this section it shall be a defence to prove that the alleged emission was not caused by the use of any fuel other than an authorised fuel.
- (5) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

<sup>F10</sup>(5ZA) .....

<sup>F10</sup>(5ZB) .....

<sup>F10</sup>(5ZC) .....

[<sup>F11</sup>(5A) In this Part, “authorised fuel” means a fuel included in a list of authorised fuels kept by the Scottish Ministers for the purposes of this Part.

- (5B) The Scottish Ministers must—
  - (a) publish the list of authorised fuels; and
  - (b) publish a revised copy of the list as soon as is reasonably practicable after any change is made to it.

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(5C) The list must be published in such manner as the Scottish Ministers consider appropriate.]

(6) <sup>F12</sup>... [<sup>F13</sup>Except as provided in subsection (5A), in] this Part “authorised fuel” means a fuel declared by regulations of the [<sup>F14</sup>Secretary of State][<sup>F14</sup>Welsh Ministers] to be an authorised fuel for the purposes of this Part.

#### Textual Amendments

- F7** Words in s. 20 heading inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 14(2)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F8** Words in s. 20(1) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 14(3)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F9** Words in s. 20(2) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 14(3)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F10** S. 20(5ZA)-(5ZC) omitted (E.W.) (1.5.2022) by virtue of Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 14(4)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F11** S. 20(5A)-(5C) inserted (S.) (30.6.2014) by Regulatory Reform (Scotland) Act 2014 (asp 3), **ss. 50(2)(a)**, 61(2); S.S.I. 2014/160, art. 2(1)(2), sch.
- F12** Words in s. 20(6) omitted (cond.) (E.W.) (1.5.2022) by virtue of Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 14(5)(a)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F13** Words in s. 20(6) substituted (S.) (30.6.2014) by Regulatory Reform (Scotland) Act 2014 (asp 3), **ss. 50(2)(b)**, 61(2); S.S.I. 2014/160, art. 2(1)(2), sch.
- F14** Words in s. 20(6) substituted (cond.) (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 14(5)(b)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

#### Modifications etc. (not altering text)

- C2** Power to exclude conferred (27.8.1993) by 1993 c. 11, **s. 45(1)(a)**
- C3** S. 20 excluded (9.1.1998) by S.I. 1997/3009, art. 2, **Sch. 1**  
S. 20 excluded (S.) (8.10.1999) by S.S.I. 1999/58, **art. 2**  
S. 20 excluded (28.6.1999) by S.I. 1999/1515, **art. 2**  
S. 20 excluded (S.) (16.2.2001) by S.S.I. 2001/16, **art. 2**
- C4** S. 20 restricted (W.) (3.4.2013) by The Smoke Control Areas (Exempted Fireplaces) (Wales) Order 2013 (S.I. 2013/561), arts. 1(1), 2
- C5** S. 20 excluded (7.4.2017) by The Smoke Control Areas (Exempted Classes of Fireplace) (Wales) Order 2017 (S.I. 2017/423), arts. 1(1), 2, **Sch.**
- C6** S. 20 excluded (6.2.2019) by The Smoke Control Areas (Exempted Classes of Fireplace) (Wales) Order 2019 (S.I. 2019/51), arts. 1(1), 2, **Sch.**

**21** <sup>F15</sup> **Power ... to exempt certain fireplaces [<sup>F16</sup>in Wales].**

<sup>F17</sup>(A1) .....

<sup>F17</sup>(A2) .....

<sup>F17</sup>(A3) .....

<sup>F17</sup>(A4) .....

[<sup>F18</sup>(1) For the purposes of this Part, the Scottish Ministers may exempt any class or description of fireplace from the provisions of section 20 (prohibition of smoke emissions in smoke control areas) if they are satisfied that such fireplaces can be



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- used for burning fuel other than authorised fuels without producing any smoke or a substantial quantity of smoke.
- (2) An exemption under subsection (1) may be made subject to such conditions as the Scottish Ministers consider appropriate.
- (3) The Scottish Ministers must—
- (a) publish a list of those classes or descriptions of fireplace that are exempt under subsection (1), including details of any conditions to which an exemption is subject; and
  - (b) publish a revised copy of the list as soon as is reasonably practicable after any change is made to the classes or descriptions of fireplace that are so exempt or to the conditions to which an exemption is subject.
- (4) The list must be published in such manner as the Scottish Ministers consider appropriate.]
- [<sup>F19</sup>(5)] [<sup>F20</sup>Except where subsection (1) applies, the]<sup>F21</sup>... [<sup>F22</sup>Secretary of State][<sup>F22</sup>Welsh Ministers] may by order exempt any class of fireplace, upon such conditions as may be specified in the order, from the provisions of section 20 (prohibition of smoke emissions in smoke control area), if [<sup>F23</sup>he is][<sup>F23</sup>they are] satisfied that such fireplaces can be used for burning fuel other than authorised fuels without producing any smoke or a substantial quantity of smoke.

#### Textual Amendments

- F15** Words in s. 21 title repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), ss. 50(4), 61(2); [S.S.I. 2014/160](#), art. 2(1)(2), sch.  
Words in s. 21 title omitted (E.W.) (1.10.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), **ss. 15(6)**, 115(7); [S.I. 2015/1732](#), art. 2(b)
- F16** Words in s. 21 heading inserted (E.W.) (1.5.2022) by [Environment Act 2021 \(c. 30\)](#), s. 147(3), **Sch. 12 para. 15(2)** (with s. 144, Sch. 12 para. 26); [S.I. 2022/48](#), reg. 4(d)
- F17** [Ss. 21\(A1\)-\(A4\)](#) omitted (E.W.) (1.5.2022) by virtue of [Environment Act 2021 \(c. 30\)](#), s. 147(3), **Sch. 12 para. 15(3)** (with s. 144, Sch. 12 para. 26); [S.I. 2022/48](#), reg. 4(d)
- F18** S. 21(1)-(4) inserted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), **ss. 50(3)(b)**, 61(2); [S.S.I. 2014/160](#), art. 2(1)(2), sch.
- F19** S. 21(5): s. 21 renumbered as s. 21(5) (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), ss. 50(3)(a), 61(2); [S.S.I. 2014/160](#), art. 2(1)(2), sch.  
S. 21(5): s. 21 renumbered as s. 21(5) (E.W.) (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 15(5)**, 115(7); [S.I. 2015/1732](#), art. 2(b)
- F20** Words in s. 21(5) substituted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), ss. 50(3)(a), 61(2); [S.S.I. 2014/160](#), art. 2(1)(2), sch.
- F21** Words in s. 21(5) omitted (cond.) (E.W.) (1.5.2022) by virtue of [Environment Act 2021 \(c. 30\)](#), s. 147(3), **Sch. 12 para. 15(4)(a)** (with s. 144, Sch. 12 para. 26); [S.I. 2022/48](#), reg. 4(d)
- F22** Words in s. 21(5) substituted (cond.) (E.W.) (1.5.2022) by [Environment Act 2021 \(c. 30\)](#), s. 147(3), **Sch. 12 para. 15(4)(b)** (with s. 144, Sch. 12 para. 26); [S.I. 2022/48](#), reg. 4(d)
- F23** Words in s. 21(5) substituted (cond.) (E.W.) (1.5.2022) by [Environment Act 2021 \(c. 30\)](#), s. 147(3), **Sch. 12 para. 15(4)(c)** (with s. 144, Sch. 12 para. 26); [S.I. 2022/48](#), reg. 4(d)

## 22 Exemptions relating to particular areas [<sup>F24</sup>in Wales]. **E+W**

- (1) The [<sup>F25</sup>Welsh Ministers] may, if it appears to [<sup>F26</sup>them] to be necessary or expedient so to do, by order suspend or relax the operation of section 20 (prohibition of smoke



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emissions in smoke control area [<sup>F27</sup>in Wales]) in relation to the whole or any part of a smoke control area [<sup>F27</sup>in Wales].

- (2) Before making an order under subsection (1) the [<sup>F28</sup>Welsh Ministers] shall consult with the local authority unless [<sup>F29</sup>they are] satisfied that, on account of urgency, such consultation is impracticable.
- (3) As soon as practicable after the making of such an order the local authority shall take such steps as appear to them suitable for bringing the effect of the order to the notice of persons affected.

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#### Extent Information

- E2** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

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#### Textual Amendments

- F24** Words in s. 22 heading inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), Sch. 12 para. 16(2) (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F25** Words in s. 22(1) substituted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), Sch. 12 para. 16(3)(a) (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F26** Word in s. 22(1) substituted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), Sch. 12 para. 16(3)(b) (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F27** Words in s. 22(1) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), Sch. 12 para. 16(3)(c) (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F28** Words in s. 22(2) substituted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), Sch. 12 para. 16(4)(a) (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F29** Words in s. 22(2) substituted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), Sch. 12 para. 16(4)(b) (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

## 22 Exemptions relating to particular areas. **S**

- (1) The Secretary of State may, if it appears to him to be necessary or expedient so to do, by order suspend or relax the operation of section 20 (prohibition of smoke emissions in smoke control area) in relation to the whole or any part of a smoke control area.
- (2) Before making an order under subsection (1) the Secretary of State shall consult with the local authority unless he is satisfied that, on account of urgency, such consultation is impracticable.
- (3) As soon as practicable after the making of such an order the local authority shall take such steps as appear to them suitable for bringing the effect of the order to the notice of persons affected.

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#### Extent Information

- E4** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

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*Dealings with unauthorised fuel*

**23 Acquisition and sale of unauthorised fuel in a smoke control area <sup>F30</sup> in Wales]. **E+W****

(1) Any person who—

- (a) acquires any solid fuel for use in a building in a smoke control area <sup>F31</sup> in Wales] otherwise than in a building or fireplace exempted from the operation of section 20 (prohibition of smoke emissions in smoke control area <sup>F31</sup> in Wales]);
- (b) acquires any solid fuel for use in any fixed boiler or industrial plant in a smoke control area <sup>F32</sup> in Wales], not being a boiler or plant so exempted; or
- (c) sells by retail any solid fuel <sup>F33</sup> in Wales] for delivery by him or on his behalf to—
  - (i) a building in a smoke control area <sup>F34</sup> in Wales]; or
  - (ii) premises in such an area in which there is any fixed boiler or industrial plant,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (2) In subsection (1), “solid fuel” means any solid fuel other than an authorised fuel.
- (3) Subsection (1) shall, in its application to a smoke control area <sup>F35</sup> in Wales] in which the operation of section 20 is limited by a smoke control order to specified classes of buildings, boilers or plant, have effect as if references to a building, boiler or plant were references to a building, boiler or plant of a class specified in the order.
- (4) The power of the <sup>F36</sup> Welsh Ministers] under section 22 (exemptions relating to particular areas) to suspend or relax the operation of section 20 in relation to the whole or any part of a smoke control area <sup>F37</sup> in Wales] includes power to suspend or relax the operation of subsection (1) in relation to the whole or any part of such an area.
- (5) In proceedings for an offence under this section consisting of the sale of fuel <sup>F38</sup> in Wales] for delivery to a building or premises <sup>F39</sup> in Wales], it shall be a defence for the person accused to prove that he believed and had reasonable grounds for believing—
  - (a) that the building was exempted from the operation of section 20 or, in a case where the operation of that section is limited to specified classes of building, was not of a specified class; or
  - (b) that the fuel was acquired for use in a fireplace, boiler or plant so exempted or, in a case where the operation of that section is limited to specified classes of boilers or plant, in a boiler or plant not of a specified class.

**Textual Amendments**

- F30** Words in s. 23 heading inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 17(2)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F31** Words in s. 23(1)(a) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 17(3)(a)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F32** Words in s. 23(1)(b) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 17(3)(b)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F33** Words in s. 23(1)(c) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 17(3)(c)(i)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

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- F34** Words in s. 23(1)(c)(i) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 17(3)(c)(ii)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F35** Words in s. 23(3) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 17(4)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F36** Words in s. 23(4) substituted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 17(5)(a)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F37** Words in s. 23(4) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 17(5)(b)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F38** Words in s. 23(5) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 17(6)(a)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F39** Words in s. 23(5) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 17(6)(b)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

## 23 Acquisition and sale of unauthorised fuel in a smoke control area. **S**

- (1) Any person who—
- acquires any solid fuel for use in a building in a smoke control area otherwise than in a building or fireplace exempted from the operation of section 20 (prohibition of smoke emissions in smoke control area);
  - acquires any solid fuel for use in any fixed boiler or industrial plant in a smoke control area, not being a boiler or plant so exempted; or
  - sells by retail any solid fuel for delivery by him or on his behalf to—
    - a building in a smoke control area; or
    - premises in such an area in which there is any fixed boiler or industrial plant,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) In subsection (1), “solid fuel” means any solid fuel other than an authorised fuel.
- (3) Subsection (1) shall, in its application to a smoke control area in which the operation of section 20 is limited by a smoke control order to specified classes of buildings, boilers or plant, have effect as if references to a building, boiler or plant were references to a building, boiler or plant of a class specified in the order.
- (4) The power of the Secretary of State under section 22 (exemptions relating to particular areas) to suspend or relax the operation of section 20 in relation to the whole or any part of a smoke control area includes power to suspend or relax the operation of subsection (1) in relation to the whole or any part of such an area.
- (5) In proceedings for an offence under this section consisting of the sale of fuel for delivery to a building or premises, it shall be a defence for the person accused to prove that he believed and had reasonable grounds for believing—
- that the building was exempted from the operation of section 20 or, in a case where the operation of that section is limited to specified classes of building, was not of a specified class; or
  - that the fuel was acquired for use in a fireplace, boiler or plant so exempted or, in a case where the operation of that section is limited to specified classes of boilers or plant, in a boiler or plant not of a specified class.

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### *Adaptation of fireplaces*

#### **24 Power of local authority to require adaptation of fireplaces in private dwellings.**

- (1) The local authority may, by notice in writing served on the occupier or owner of a private dwelling which is, or when a smoke control order comes into operation will be, within a smoke control area, require the carrying out of adaptations in or in connection with the dwelling to avoid contraventions of section 20 (prohibition of smoke emissions in smoke control area [<sup>F40</sup>in Wales]) [<sup>F41</sup>or the imposition of a financial penalty under Schedule 1A (penalty for emission of smoke in England)].
- (2) The provisions of Part XII of the <sup>M1</sup>Public Health Act 1936 with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice under subsection (1).
- (3) Any reference in those provisions to the expenses reasonably incurred in executing the works shall, in relation to a notice under subsection (1), be read as a reference to three-tenths of those expenses or such smaller fraction of those expenses as the local authority may in any particular case determine.
- (4) In the application of this section to Scotland—
  - (a) subsections (2) and (3) shall be omitted;
  - (b) section 111 of the <sup>M2</sup>Housing (Scotland) Act 1987 (which provides for an appeal to the sheriff against certain notices, demands and orders under that Act) shall apply in relation to a notice under subsection (1) of this section as it applies in relation to a repair notice under that Act; and
  - (c) subject to any such right of appeal as is mentioned in paragraph (b), if any person on whom a notice under subsection (1) is served fails to execute the works required by the notice within the time limited by the notice, the local authority may themselves execute the works and may recover from that person three-tenths, or such smaller fraction as the local authority may in any particular case determine, of the expenses reasonably incurred by them in so doing.

#### **Textual Amendments**

- F40** Words in s. 24(1) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 18(a)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F41** Words in s. 24(1) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 18(b)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

#### **Marginal Citations**

- M1** 1936 c. 49.
- M2** 1987 c. 26.

#### **25 Expenditure incurred in relation to adaptations in private dwellings.**

- (1) Schedule 2 to this Act shall have effect with respect to certain expenditure incurred in adapting old private dwellings in smoke control areas.
- (2) In this Part “old private dwelling” means any private dwelling other than one which either—

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- (a) was erected after 15th August 1964 (which was the date immediately preceding the time when the enactment replaced by this subsection came into force), or
- (b) was produced by the conversion, after that date, of other premises, with or without the addition of premises erected after that date;

and for the purposes of this subsection a dwelling or premises shall not be treated as erected or converted after that date unless the erection or conversion was begun after it.

## 26 Power of local authority to make grants towards adaptations to fireplaces in churches, chapels, buildings used by charities etc.

- (1) If, after the making of a smoke control order, the owner or occupier of any premises or part of any premises to which this section applies and which will be within a smoke control area as the result of the order incurs expenditure on adaptations in or in connection with the premises or part to avoid contraventions of section 20 (prohibition of smoke emissions in smoke control area [<sup>F42</sup>in Wales]) [<sup>F43</sup>or the imposition of a financial penalty under Schedule 1A (penalty for emission of smoke in England)], the local authority may, if they think fit, repay to him the whole or any part of that expenditure.
- (2) This section applies to any premises or part of any premises which fall within one or more of the following paragraphs, that is to say—
  - (a) any place of public religious worship, being, in the case of a place in England or Wales, a place which belongs to the Church of England or to the Church in Wales (within the meaning of the <sup>M3</sup>Welsh Church Act 1914) or which is for the time being certified as required by law as a place of religious worship;
  - (b) any church hall, chapel hall or similar premises used in connection with any such place of public religious worship, and so used for the purposes of the organisation responsible for the conduct of public religious worship in that place;
  - (c) any premises or part of any premises occupied for the purposes of an organisation (whether corporate or unincorporated) which is not established or conducted for profit and whose main objects are charitable or are otherwise concerned with the advancement of religion, education or social welfare.

[<sup>F44</sup>(3) Where a smoke control order in England applies to a vessel which is moored (see section 44), subsection (2)(c) applies to the vessel as it applies in relation to premises.]

### Textual Amendments

- F42** Words in s. 26(1) inserted (E.W.) (1.5.2022) by [Environment Act 2021 \(c. 30\)](#), s. 147(3), [Sch. 12 para. 19\(a\)\(i\)](#) (with s. 144, [Sch. 12 para. 26](#)); S.I. 2022/48, reg. 4(d)
- F43** Words in s. 26(1) inserted (E.W.) (1.5.2022) by [Environment Act 2021 \(c. 30\)](#), s. 147(3), [Sch. 12 para. 19\(a\)\(ii\)](#) (with s. 144, [Sch. 12 para. 26](#)); S.I. 2022/48, reg. 4(d)
- F44** S. 26(3) inserted (E.W.) (1.5.2022) by [Environment Act 2021 \(c. 30\)](#), s. 147(3), [Sch. 12 para. 19\(b\)](#) (with s. 144, [Sch. 12 para. 26](#)); S.I. 2022/48, reg. 4(d)

### Marginal Citations

- M3** 1914 c. 91.

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## [<sup>F45</sup>26A Duty of local authority to reimburse for adaptations of vessels in England

- (1) This section applies where—
- (a) a local authority in England makes a smoke control order,
  - (b) as a result of the order a vessel will, when the order comes into operation, be within a smoke control area and subject to the operation of Schedule 1A,
  - (c) the owner or occupier of the vessel has a right to moor the vessel at a single mooring place within that area for the period which—
    - (i) begins on the day on which the smoke control order is made, and
    - (ii) ends six months after it comes into operation, and
  - (d) the owner or occupier does not have access to a mains electricity or gas supply at the mooring place.
- (2) If—
- (a) before the coming into operation of the order, the owner or occupier incurs expenditure on adaptations to or in connection with the vessel to avoid the imposition of a penalty under Schedule 1A,
  - (b) the expenditure is incurred with the approval of the local authority given for the purpose of this section, and
  - (c) the adaptations are completed to the satisfaction of the local authority,
- the authority must pay to the owner or occupier of the vessel 70% of the expenditure.
- (3) That amount must be paid in equal instalments every month for a period of six months.
- (4) But the duty to pay instalments under this section ceases if, at any time after the coming into operation of the smoke control order—
- (a) the owner or occupier of the vessel ceases to have the right to moor the vessel at the single mooring place mentioned in subsection (1)(c), or
  - (b) the vessel is absent from the smoke control area for a period of, or periods together totalling, three months.]

### Textual Amendments

**F45** S. 26A inserted (E.W.) (1.5.2022) by [Environment Act 2021 \(c. 30\)](#), s. 147(3), [Sch. 12 para. 5](#) (with s. 144, [Sch. 12 para. 26](#)); S.I. 2022/48, reg. 4(d)

### *Supplementary provisions*

## 27 **References to adaptations for avoiding contraventions of section 20 [<sup>F46</sup>or Schedule 1A].**

- (1) References in this Part to adaptations in or in connection with a dwelling to avoid contraventions of section 20 (prohibition of smoke emissions from smoke control area [<sup>F47</sup>in Wales]) [<sup>F48</sup>or the imposition of a financial penalty under Schedule 1A (penalty for emission of smoke in England)] shall be read as references to the execution of any of the following works (whether in or outside the dwelling), that is to say—
- (a) adapting or converting any fireplace;
  - (b) replacing any fireplace by another fireplace or by some other means of heating or cooking;
  - (c) altering any chimney which serves any fireplace;



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- (d) providing gas ignition, electric ignition or any other special means of ignition; or
- (e) carrying out any operation incidental to any of the operations mentioned in paragraphs (a) to (d);

being works which are reasonably necessary in order to make what is in all the circumstances suitable provision for heating and cooking without contraventions of section 20 [<sup>F49</sup>or incurring liability under Schedule 1A].

- (2) For the purposes of this section the provision of any igniting apparatus or appliance (whether fixed or not) operating by means of gas, electricity or other special means shall be treated as the execution of works.
- (3) Except for the purposes of section 24 (power of local authority to require certain adaptations), works which make such suitable provision as is mentioned in subsection (1) shall not be treated as not being adaptations to avoid contraventions of section 20 of this Act [<sup>F50</sup>or liability under Schedule 1A to this Act] by reason that they go beyond what is reasonably necessary for that purpose, but any expenditure incurred in executing them in excess of the expenditure which would have been reasonably incurred in doing what was reasonably necessary shall be left out of account.
- (4) References in this section to a dwelling include references to any premises or part of any premises to which section 26 (grants towards certain adaptations in churches and other buildings) applies [<sup>F51</sup>, and to any vessel to which section 26 or 26A (adaptations of vessels in England) applies].

#### Textual Amendments

- F46** Words in s. 27 heading inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), Sch. 12 para. 20(a) (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F47** Words in s. 27(1) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), Sch. 12 para. 20(b)(i) (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F48** Words in s. 27(1) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), Sch. 12 para. 20(b)(ii) (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F49** Words in s. 27(1) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), Sch. 12 para. 20(b)(iii) (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F50** Words in s. 27(3) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), Sch. 12 para. 20(c) (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F51** Words in s. 27(4) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), Sch. 12 para. 20(d) (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

## 28 Cases where expenditure is taken to be incurred on execution of works.

- (1) References in this Part to expenses incurred in the execution of works include references to the cost of any fixed cooking or heating appliance installed by means of the execution of the works, notwithstanding that the appliance can be readily removed from the dwelling without injury to itself or the fabric of the dwelling.
- (2) For the purposes of this Part a person who enters into either—
  - (a) a conditional sale agreement for the sale to him, or
  - (b) a hire-purchase agreement for the bailment or (in Scotland) hiring to him,



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of a cooking or heating appliance shall be treated as having incurred on the date of the agreement expenditure of an amount equal to the price which would have been payable for the appliance if he had purchased it for cash on that date.

- (3) References in this section to a dwelling include references to any premises or part of any premises to which section 26 (grants towards certain adaptations in churches and other buildings) applies [<sup>F52</sup>], and to any vessel to which section 26 or section 26A (adaptations of vessels in England) applies].

#### Textual Amendments

**F52** Words in s. 28(3) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 21** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

### [<sup>F53</sup>28A Guidance for local authorities in England

A local authority in England must have regard to any guidance published by the Secretary of State about the exercise of the authority’s functions under this Part.]

#### Textual Amendments

**F53** S. 28A inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 6** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

## 29 Interpretation of Part III.

In this Part, except so far as the context otherwise requires—

“authorised fuel” has the meaning given in section [<sup>F54</sup>20];

“conditional sale agreement” means an agreement for the sale of goods under which—

- (a) the purchase price or part of it is payable by instalments; and
- (a) the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled;

“heating”, in relation to a dwelling, includes the heating of water;

“hire-purchase agreement” means an agreement, other than a conditional sale agreement, under which—

- (a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired; and
- (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—
  - (i) the exercise of an option to purchase by that person;
  - (ii) the doing of any other specified act by any party to the agreement; and
  - (iii) the happening of any other specified event;

“old private dwelling” has the meaning given in section 25; [<sup>F55</sup>and]

“smoke control order” means an order made by a local authority under section 18; [<sup>F56</sup>and]

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[<sup>F57</sup>“smoke control order in England” means a smoke control order made by a local authority in England.]

#### Textual Amendments

- F54** Word in s. 29 substituted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), **ss. 50(5)**, 61(2); [S.S.I. 2014/160](#), **art. 2(1)(2)**, sch.
- Word in s. 29 substituted (E.W.) (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 15(7)**, 115(7); [S.I. 2015/1732](#), **art. 2(b)**
- F55** Word in s. 29 omitted (E.W.) (1.5.2022) by virtue of [Environment Act 2021 \(c. 30\)](#), s. 147(3), **Sch. 12 para. 22(a)** (with s. 144, [Sch. 12 para. 26](#)); [S.I. 2022/48](#), **reg. 4(d)**
- F56** Word in s. 29 inserted (E.W.) (1.5.2022) by [Environment Act 2021 \(c. 30\)](#), s. 147(3), **Sch. 12 para. 22(b)** (with s. 144, [Sch. 12 para. 26](#)); [S.I. 2022/48](#), **reg. 4(d)**
- F57** Words in s. 29 inserted (E.W.) (1.5.2022) by [Environment Act 2021 \(c. 30\)](#), s. 147(3), **Sch. 12 para. 22(c)** (with s. 144, [Sch. 12 para. 26](#)); [S.I. 2022/48](#), **reg. 4(d)**

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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. 16(4A)(4B) inserted by [S.I. 2023/908 reg. 16](#)
- s. 20(5D)-(5F) inserted by [2021 c. 30 Sch. 12 para. 10\(2\)](#)
- s. 21(4A)-(4D) inserted by [2021 c. 30 Sch. 12 para. 11\(2\)](#)