



# Clean Air Act 1993

## 1993 CHAPTER 11

### PART VII

#### MISCELLANEOUS AND GENERAL

##### *General*

#### **63 Regulations and orders.**

- (1) Any power of the Secretary of State under this Act to make an order or regulations—
  - (a) includes power to make different provision in the order or regulations for different circumstances;
  - (b) includes power to make such incidental, supplemental and transitional provision as the Secretary of State considers appropriate; and
  - (c) is exercisable by statutory instrument except in the case of the powers conferred by sections 19(4) and 60 and paragraph 3 of Schedule 3.
- (2) Any statutory instrument containing regulations made under this Act, except an instrument containing regulations a draft of which is required by section 6(3), 10(5) or 47(2) [<sup>F1</sup>or paragraph 3(4) or 4(6) of Schedule 1A] to be approved by a resolution of each House of Parliament, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any statutory instrument containing an order under section [<sup>F2</sup>19C.] 21 or 22 shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **Extent Information**

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

**Changes to legislation:** Clean Air Act 1993, Cross Heading: General is up to date with all changes known to be in force on or before 22 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

### Textual Amendments

- F1** Words in s. 63(2) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 23(a)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)
- F2** Word in s. 63(3) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 23(b)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

## 64 General provisions as to interpretation.

(1) In this Act, except so far as the context otherwise requires,—

“authorised officer” means any officer of a local authority authorised by them in writing, either generally or specially, to act in matters of any specified kind or in any specified matter;

“building regulations” means, as respects Scotland, any statutory enactments, byelaws, rules and regulations or other provisions under whatever authority made, relating to the construction, alteration or extension of buildings;

“caravan” means a caravan within the meaning of Part I of the <sup>M1</sup>Caravan Sites and Control of Development Act 1960, disregarding the amendment made by section 13(2) of the <sup>M2</sup>Caravan Sites Act 1968, which usually and for the time being is situated on a caravan site within the meaning of that Act;

“chimney” includes structures and openings of any kind from or through which smoke, grit, dust or fumes may be emitted, and, in particular, includes flues, and references to a chimney of a building include references to a chimney which serves the whole or a part of a building but is structurally separate from the building;

“dark smoke” has the meaning given by section 3(1);

“day” means a period of twenty-four hours beginning at midnight;

“domestic furnace” means any furnace which is—

- (a) designed solely or mainly for domestic purposes, and
- (b) used for heating a boiler with a maximum heating capacity of less than 16.12 kilowatts;

“fireplace” includes any furnace, grate or stove, whether open or closed;

“fixed boiler or industrial plant” means any boiler or industrial plant which is attached to a building or is for the time being fixed to or installed on any land;

“fumes” means any airborne solid matter smaller than dust;

“industrial plant” includes any still, melting pot or other plant used for any industrial or trade purposes, and also any incinerator used for or in connection with any such purposes;

“local authority” means—

- (a) in England <sup>F3</sup>. . ., the council of a district or a London borough, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple;
- (aa) [<sup>F4</sup>in Wales, the council of a county or county borough;]
- (b) in Scotland, [<sup>F5</sup>a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];

“owner”, in relation to premises—

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- (a) as respects England and Wales, means the person for the time being receiving the rackrent of the premises, whether on his own account or as agent or trustee for another person, or who would so receive the rackrent if the premises were let at a rackrent; and
  - (b) as respects Scotland, means the person for the time being entitled to receive or who would, if the premises were let, be entitled to receive, the rents of the premises and includes a trustee, factor, [<sup>F6</sup>or person entitled to act as the legal representative of a person under disability by reason of nonage or mental or other incapacity] and, in the case of public or municipal property, includes the persons to whom the management of the property is entrusted;
    - [<sup>F7</sup>“port health authority” means, as respects Scotland, a port local authority constituted under Part X of the <sup>M3</sup>Public Health (Scotland) Act 1897 and includes a reference to a joint port health authority constituted under that Part;]
    - “practicable” means reasonably practicable having regard, amongst other things, to local conditions and circumstances, to the financial implications and to the current state of technical knowledge, and “practicable means” includes the provision and maintenance of plant and its proper use;
    - “premises” includes land;
    - “smoke”, includes soot, ash, grit and gritty particles emitted in smoke; and
    - “vessel” has the same meaning as [<sup>F8</sup>ship in the Merchant Shipping Act 1995].
- (2) Any reference in this Act to the occupier of a building shall, in relation to any building different parts of which are occupied by different persons, be read as a reference to the occupier or other person in control of the part of the building in which the relevant fireplace is situated.
- (3) In this Act any reference to the rate of emission of any substance or any reference which is to be understood as such a reference shall, in relation to any regulations or conditions, be construed as a reference to the quantities of that substance which may be emitted during a period specified in the regulations or conditions.
- (4) In this Act, except so far as the context otherwise requires, “private dwelling” means any building or part of a building used or intended to be used as such, and a building or part of a building is not to be taken for the purposes of this Act to be used or intended to be used otherwise than as a private dwelling by reason that a person who resides or is to reside in it is or is to be required or permitted to reside in it in consequence of his employment or of holding an office.
- (5) In considering for the purposes of this Act whether any and, if so, what works are reasonably necessary in order to make suitable provision for heating and cooking in the case of a dwelling or are reasonably necessary in order to enable a building to be used for a purpose without contravention of any of the provisions of this Act, regard shall be had to any difficulty there may be in obtaining, or in obtaining otherwise than at a high price, any fuels which would have to be used but for the execution of the works.
- (6) Any furnaces which are in the occupation of the same person and are served by a single chimney shall, for the purposes of sections 5 to 12, 14 and 15, be taken to be one furnace.

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#### Textual Amendments

- F3** S. 64(1): words in definition of “local authority” para. (a) repealed (1.4.1996) by 1994 c. 19, ss. 22(3), 66(8), Sch. 9 para. 18, **Sch. 18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, arts. 3, 4, Sch. 1, **Sch. 2**
- F4** S. 64(1): definition of “local authority” para. (aa) inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**
- F5** S. 64(1): words in definition of “local authority” para. (b) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 180** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**
- F6** S. 64(1): words in definition of “owner” substituted (S.) (2.4.2001) by 2000 asp 4, s. 88(2), **Sch. 5 para. 25**; S.S.I. 2001/16, art. 2, **Sch. 1**
- F7** Words in s. 64(1) repealed (S.) (1.10.2009) by Public Health etc. (Scotland) Act 2008 (asp 5), s. 128(2), **Sch. 3 Pt. 1** (with s. 127); S.S.I. 2009/319, art. 2(a), Sch. 1
- F8** S. 64(1): words in definition of “vessel” substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 94(b)** (with s. 213, Sch. 14 para. 1)

#### Marginal Citations

- M1** 1960 c. 62.  
**M2** 1968 c. 52.  
**M3** 1897 c. 38.

## 65 Application to Isles of Scilly.

Parts IV and V, and this Part so far as relating to those Parts, shall have effect in their application to the Isles of Scilly with such modifications as the Secretary of State may by order specify.

## [<sup>F9</sup>66 Transitory provisions relating to Alkali, &c. Works Regulation Act 1906.

- (1) Until the coming into force of the repeal by the <sup>M4</sup>Environmental Protection Act 1990 of the <sup>M5</sup>Alkali, &c. Works Regulation Act 1906—
- Part I of Schedule 3 shall have effect;
  - this Act shall have effect subject to the modifications in Part II of that Schedule; and
  - the Alkali, &c. Works Regulation Act 1906 shall continue to have effect as amended by Schedule 2 to the <sup>M6</sup>Clean Air Act 1956 notwithstanding the repeal by this Act of the last-mentioned Act.
- (2) On the coming into force of the repeal by the <sup>M7</sup>Environmental Protection Act 1990 of the <sup>M8</sup>Alkali, &c. Works Regulation Act 1906, this section and Schedule 3 shall cease to have effect.]

#### Textual Amendments

- F9** S. 66 ceased to have effect (in relation to activities falling within a prescribed process which has on 1.12.1994 ceased to be a prescribed process, on that date; in relation to activities falling within a prescribed process which has ceased to be a prescribed process later than 1.12.1994, on the date on which that process ceased to be a prescribed process; for all remaining purposes on 16.12.1996) by virtue of 1993 c. 11, s. 66(2); S.I. 1994/2854, **art. 2(1)**; S.I. 1996/3056, **art. 2**

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#### Marginal Citations

- M4** 1990 c. 43.
- M5** 1906 c. 14.
- M6** 1956 c. 52.
- M7** 1990 c. 43.
- M8** 1906 c. 14.

### 67 Consequential amendments, transitional provisions and repeals.

- (1) The enactments specified in Schedule 4 shall have effect subject to the amendments set out in that Schedule, being amendments consequential on the preceding provisions of this Act.
- (2) The transitional provisions and savings contained in Schedule 5 (which include provisions preserving the effect of transitional or saving provisions in enactments repealed by this Act) shall have effect.
- (3) The enactments specified in Schedule 6 (which include spent enactments) are repealed to the extent specified in the third column of that Schedule.

#### Extent Information

- E2** S. 67(3), so far as it relates to the repeal of sections 75 and 77 of the Control of Pollution Act 1974 extends to Northern Ireland

### 68 Short title, commencement and extent.

- (1) This Act may be cited as the Clean Air Act 1993.
- <sup>F10</sup>(2) .....
- (3) The following provisions of this Act (apart from this section) extend to Northern Ireland—
  - (a) section 30;
  - (b) section 32 so far as it relates to regulations under section 30; and
  - (c) section 67(3) and Schedule 6, so far as they relate to the repeal of sections 75 and 77 of the <sup>M9</sup>Control of Pollution Act 1974;but otherwise this Act does not extend to Northern Ireland.

#### Textual Amendments

- F10** S. 68(2) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 13

#### Marginal Citations

- M9** 1974 c. 40.

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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\(2\)](#)