
STATUTORY INSTRUMENTS

1981 No. 158

Clean Air (Northern Ireland) Order 1981

Smoke control areas

Smoke control areas

17.—(1) A district council may, by order confirmed by the Department, declare the whole or any part of the district of the council to be a smoke control area.

(2 ^{F1} Subject to any exemptions and limitations for the time being in force under this Article, and to the provisions of paragraph (3), if, on any day, smoke is emitted from a chimney of any building within a smoke control area, the occupier of that building shall be guilty of an offence.

(3) In proceedings for an offence under paragraph (2) it shall be a defence to prove that the emission of smoke was not caused by the use of any fuel other than an authorised fuel.

[^{F2}(3A) The Department must keep a list of authorised fuels for the purposes of this Article.

(3B) The Department, having regard (among other things) to the sulphur content of a fuel, may include the fuel on the list of authorised fuels.

(3C) The Department must publish in such manner as it considers appropriate—

- (a) the list of authorised fuels; and
- (b) a revised copy of the list as soon as is reasonably practicable after any change is made to it.]

(4) An order made by a district council under this Article—

- (a) may make different provision for different parts of the smoke control area;
- (b) may limit the operation of this Article to specified classes of building in the area;
- (c) may exempt—

- (i) specified buildings or classes of building; or
- (ii) specified fireplaces or classes of fireplace;

in the area from the operation of this Article, upon such conditions and for such periods as may be specified in the order.

(5) Schedule 2 shall apply to the confirmation and coming into operation of orders made by district councils under this Article.

(6) An order made by a district council and confirmed under this Article may be varied or revoked by a subsequent order so made and confirmed.

[^{F3}(7) ^{F1} The Department may exempt any class of fireplace from the provisions of this Article if it is satisfied that such class of fireplace can be used for burning fuel, other than authorised fuels, without producing any smoke or a substantial quantity of smoke.

(7A) An exemption under paragraph (7) may be made subject to such conditions as the Department considers appropriate.

(7B) The Department must publish in such manner as it considers appropriate—

- (a) a list of those classes of fireplace that are exempt under paragraph (7), including details of any conditions to which an exemption is subject; and

- (b) a revised copy of the list as soon as is reasonably practicable after any change is made to the classes of fireplace that are so exempt or to the conditions to which an exemption is subject.]

(8) After consulting with the district council (unless, on account of urgency, such consultation is impracticable) the Department may, if at any time it appears necessary or expedient so to do, by order suspend or relax the operation of this Article in relation to the whole or any part of a smoke control area.

(9) As soon as practicable after the making of an order under paragraph (8), or an order revoking or varying such an order, the district council shall take such steps as appear to them to be suitable for bringing the effect of the order to the notice of persons affected by the order.

(10) Subject to paragraph (11), this Article shall apply in relation to a chimney serving the furnace of any boiler or industrial plant (being a boiler or plant attached to a building or for the time being fixed to or installed on any land) as it applies in relation to a chimney of a building.

(11) In relation to any chimney of the kind referred to in paragraph (10) which is not a chimney of a building, for the references in this Article—

- (a) to buildings there shall be substituted references to boilers or plant;
- (b) to the occupier of the building there shall be substituted references to the person having possession of the boiler or plant.

(12) Notwithstanding anything in paragraph 7 of Schedule 2 an order made by a district council under this Article varying a previous order so as to exempt specified buildings or classes of building or specified fireplaces or classes of fireplace from the operation of this Article may come into operation on, or at any time after, the date of its confirmation.

(13) A district council shall not without the consent of the Department exercise its power under paragraph 8 of Schedule 2 of postponing the coming into operation of an order under this Article for a period of more than twelve months or for periods amounting in all to more than twelve months.

(14) An order made under this Article before the date of the coming into operation of Article 62 of the Pollution Control and Local Government (Northern Ireland) Order 1978 which would in pursuance of a resolution under the said paragraph 8 come into operation after the expiration of the year beginning with that date shall, unless the Department otherwise directs, come into operation on the expiration of that year, and, where the Department so directs, shall come into operation on a day specified in the direction (being not later than that specified in the resolution).

F1 mod. by SR 1999/289

F2 Art. 17(3A)-(3C) inserted (10.10.2016) by [Environmental Better Regulation Act \(Northern Ireland\) 2016 \(c. 13\)](#), **ss. 15(2)**, 27(2); S.R. 2016/332, art. 2

F3 Art. 17(7)-(7B) substituted for art. 17(7) (10.10.2016) by [Environmental Better Regulation Act \(Northern Ireland\) 2016 \(c. 13\)](#), **ss. 16**, 27(2); S.R. 2016/332, art. 2

Changes to legislation:

There are currently no known outstanding effects for the Clean Air (Northern Ireland) Order 1981, Section 17.