



Control of Pollution Act 1974

1974 CHAPTER 40

PART IV

POLLUTION OF THE ATMOSPHERE

Prevention of atmospheric pollution

75 Regulations about motor fuel.

- (1) For the purpose of limiting or reducing air pollution, the Secretary of State may by regulations—
 - (a) impose requirements as to the composition and contents of any fuel of a kind used in motor vehicles; and
 - (b) where such requirements are in force, prevent or restrict the production, treatment, distribution, import, sale or use of any fuel which in any respect fails to comply with the requirements, and which is for use in the United Kingdom.
- (2) It shall be the duty of the Secretary of State, before he makes any regulations in pursuance of this section, to consult such persons appearing to him to represent manufacturers and users of motor vehicles, such persons appearing to him to represent the producers and users of fuel for motor vehicles and such persons appearing to him to be conversant with problems of air pollution as he considers appropriate.
- (3) Regulations under this section—
 - (a) in imposing requirements as to the composition and contents of any fuel, may apply standards, specifications, descriptions or tests laid down in documents not forming part of the regulations;
 - (b) may authorise the Secretary of State to confer exemptions from any provision of the regulations.
- (4) Where fuel is subject to requirements as to composition or contents imposed by regulations under this section, the regulations may, in order that persons to whom the fuel is supplied are afforded information as to its composition or contents, impose

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Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part IV. (See end of Document for details)

requirements for securing that the information is displayed at such places and in such manner as may be prescribed by the regulations.

- (5) It shall be the duty of every local weights and measures authority to enforce the provisions of regulations under this section within its area; and subsections (2) and (3) of section 26 of the ^{M1}Trade Descriptions Act 1968 (reports and inquiries) shall apply as respects those authorities' functions under this subsection as they apply to their functions under that Act.
- (6) The following provisions of the ^{M2}Trade Descriptions Act 1968 shall apply in relation to the enforcement of regulations under this section as they apply to the enforcement of that Act, that is to say—
- section 27 (power to make test purchases);
 - section 28 (power to enter premises and inspect and seize goods and documents);
 - section 29 (obstruction of authorised officers);
 - section 30 (notice of test),
- and section 33 of that Act shall apply to the exercise of powers under section 28 as applied by this subsection.

References to an offence under that Act in those provisions as applied by this subsection, except the reference in section 30(2) to an offence under section 28(5) or 29 of that Act, shall be construed as references to an offence under section 77 of this Act relating to regulations under this section.

- (7) In relation to Scotland—
- (a) nothing in subsection (5) of this section authorises a local weights and measures authority to institute proceedings for an offence;
 - (b) regulations under this section may provide that certificates issued by such persons as may be specified by the regulations in relation to such matters as may be so specified shall, subject to the provisions of the regulations, be received in evidence, and be sufficient evidence, of those matters in any proceedings for an offence under regulations made under this section; and the regulations may apply any of the provisions of subsections (2) to (4) of section 31 of the ^{M3}Trade Descriptions Act 1968 (evidence by certificate).
- (8) In Northern Ireland it shall be the duty of [^{F1}the Department of Economic Development] to enforce the provisions of regulations under this section; and accordingly this section shall have effect in relation to Northern Ireland with the omission of subsection (5), and it is hereby declared that in relation to Northern Ireland the references in subsection (6) to provisions of the said Act of 1968 are references to those provisions as modified by section 40(1)(b) and (c) of that Act.
- (9) The Secretary of State shall for each financial year pay into the Consolidated Fund of Northern Ireland such sum as the Secretary of State and [^{F1}the Department of Economic Development for Northern Ireland] may agree to be appropriate as representing the expenses incurred by that Department in enforcing the provisions of any regulations made under this section.

Textual Amendments

F1 Words substituted by virtue of S.I. 1982/846 (N.I.11), arts. 4, 5(1)

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Marginal Citations

- M1** 1968 c. 29.
M2 1968 c. 29.
M3 1968 c. 29.

76 Regulations about sulphur content of oil fuel for furnaces or engines.

- (1) For the purpose of limiting or reducing air pollution, the Secretary of State may by regulations impose limits on the sulphur content of oil fuel which is used in furnaces or engines.
- (2) It shall be the duty of the Secretary of State, before he makes any regulations in pursuance of this section, to consult such persons appearing to him to represent producers and users of oil fuel, such persons appearing to him to represent manufacturers and users of plant and equipment for which oil fuel is used and such persons appearing to him to be conversant with problems of air pollution as he considers appropriate.
- (3) Regulations under this section—
 - (a) may prescribe the kinds of oil fuel, and the kinds of furnaces and engines, to which the regulations are to apply;
 - (b) may apply standards, specifications, descriptions or tests laid down in documents not forming part of the regulations;
 - (c) may authorise the Secretary of State to confer exemptions from any provision of the regulations;
 - (d) may, without prejudice to the generality of section 104(1)(a) of this Act, make different provision for different areas.
- (4) It shall be the duty—
 - (a) of every local authority to enforce the provisions of regulations under this section within its area, except in relation to a furnace which is part of a [^{F2}process subject to Part I of the Environmental Protection Act 1990 [^{F3}or]] [^{F4}work subject to the Alkali Act]; and
 - (b) of the inspectors appointed under that Act to enforce those provisions in relation to such furnaces;but nothing in this section shall be taken to authorise a local authority in Scotland to institute proceedings for any offence.
- (5) In this section “oil fuel” means any liquid petroleum product produced in a refinery.

Textual Amendments

- F2** Words inserted (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(1), 164(3), **Sch. 15 para. 15(6)**; S.I. 1991/1042, art. 2
- F3** Word repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. I**
- F4** Words repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. I**

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77 Provisions supplementary to ss. 75 and 76.

- (1) A person who contravenes or fails to comply with any provision of regulations under either of the two preceding sections shall be guilty of an offence and liable—
- (a) on conviction on indictment to a fine; and
 - (b) on summary conviction to a fine not exceeding £400:

Provided that the regulations may in any case exclude liability to conviction on indictment, and may in any case reduce the maximum fine on summary conviction.

- (2) Regulations under each of the two preceding sections shall, subject to any provision to the contrary in the regulations, apply to fuel used for, and to persons in, the public service of the Crown as they apply to fuel used for other purposes and to other persons; but a local authority shall not be entitled by virtue of this subsection to exercise, in relation to fuel used for and persons in that service, any power conferred on the authority by virtue of sections 91 to 93 of this Act.

Modifications etc. (not altering text)

- C1** S. 77 (insofar as it is supplementary to s. 76): certain functions transferred (7.8.1991) by S.I. 1991/1773, art. 8(1)(3), **Sch. 2**
S. 77 (insofar as it is supplementary to s. 76) modified (7.8.1991) by S.I. 1991/1773, art. 8(2)(3), **Sch. 2**
- C2** S. 77 (insofar as it is supplementary to s. 76): certain functions transferred (10.1.1992) by S.I. 1991/2913, art. 8(1)(3), **Sch. 2**
S. 77 (insofar as it is supplementary to s. 76) modified (10.1.1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**

78 Cable burning.

- (1) A person who burns insulation from a cable with a view to recovering metal from the cable shall be guilty of an offence under this subsection unless the [^{F5}burning is part of a process subject to Part I of the Environmental Protection Act 1990 or the] place at which he does so is a work registered in pursuance of section 9 of the Alkali Act.

- [^{F6}(2) A person who contravenes the provisions of the preceding subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F7}£1,000][^{F8}level 5 on the standard scale];

- (3) [^{F9}]

Textual Amendments

- F5** Words inserted (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(1), 164(3), **Sch. 15 para. 15(7)**
- F6** S. 78(2)(3) substituted for s. 78(2) by S.I. 1974/2170, **reg. 10**
- F7** Words substituted by virtue of (E.W.) Criminal Law Act 1977 (c. 45), s. 31(1), **Sch. 6** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21), s. 289C(1), **Sch. 7C**
- F8** Words “level 5 on the standard scale” substituted (11.4.1983) for words “£1,000” by virtue of (E.W.) Criminal Justice Act 1982 (c. 48), 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21), 289G (as inserted by Criminal Justice Act 1982 (c. 48), s. 54)
- F9** S. 78(3) repealed by S.I. 1983/943, **reg. 7(1)**

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Modifications etc. (not altering text)

- C3** Words repealed (*prosp.*) as provided by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 162(2), 164(3), [Sch. 16 Pt. I](#)

Information about atmospheric pollution

79 Research and publicity.

- (1) A local authority may—
- (a) undertake, or contribute towards the cost of, investigation and research relevant to the problem of air pollution; and
 - (b) Arrange for the publication of information on that problem.
- (2) Without prejudice to the generality of the preceding subsection, local authorities may obtain information about the emission of pollutants and other substances into the air—
- (a) by issuing notices under the following section; and
 - (b) by measuring and recording the emissions, and for that purpose entering on any premises, whether by agreement or in exercise of the power conferred by section 91 of this Act; and
 - (c) by entering into arrangements with occupiers of premises under which they measure and record emissions on behalf of the local authority;
- but references to premises in paragraphs (b) and (c) of this subsection do not include private dwellings.
- (3) A local authority shall not be entitled to exercise the power mentioned in paragraph (b) of the preceding subsection for the purpose of measuring and recording such emissions on any premises unless—
- (a) the authority has given to the occupier of the premises a notice—
 - (i) specifying the kind of emissions in question and the steps it proposes to take on the premises for the purpose of measuring and recording emissions of that kind, and
 - (ii) stating that it proposes to exercise that power for that purpose unless the occupier makes a request to the authority in pursuance of the following provisions of this subsection; and
 - (b) the period of twenty-one days beginning with the day on which the notice was given has expired,
- and shall not be entitled to exercise that power in consequence of the notice if during that period the occupier gives a notice to the authority requesting it to serve on him a notice under the following section with respect to the emissions.
- (4) Nothing in this section shall authorise a local authority to investigate emissions from any [^{F10}process subject to Part I of the Environmental Protection Act 1990 [^{F11}or][^{F12}work subject to the Alkali Act] otherwise than by issuing notices under the following section, or by exercising the powers conferred on the authority by subsection (1)(a) of this section without entering the work.
- (5) In acting under subsection (1)(b) of this section, a local authority shall ensure that the material published is presented in such a way that no information relating to a trade secret is disclosed, except with the consent in writing of a person authorised to disclose it . . . ^{F13}

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- (6) Breach of a duty imposed by the preceding subsection shall be actionable; but in any proceedings, whether civil or criminal, brought against a local authority, or any member or officer of a local authority, on the grounds that any information has been published, it shall be a defence to show that it was published in compliance with the preceding provisions of this section.
- (7) The preceding subsection applies in particular to any proceedings brought under section 26 of the ^{M4}Clean Air Act 1956 (which, as amended by subsection (10) of this section, makes it an offence to disclose information relating to any trade secret).
- (8) So long as a local authority exercises any of its powers under subsection (2) of this section, it shall from time to time consult such persons carrying on any trade or business in the authority's area, or such organisations appearing to the authority to be representative of those persons, and such persons appearing to the authority to be conversant with problems of air pollution or to have an interest in local amenity as appear to the authority to be appropriate—
- (a) About the way in which the local authority exercises its powers under this and the following section; and
 - (b) About the extent to which, and the manner in which, any information collected under those powers should be made available to the public.
- (9) The consultations shall take place from time to time as the authority think necessary, but not less than twice in each financial year.
- (10) Paragraphs (a) and (b) of section 25 of the Clean Air Act 1956 (which are superseded by the provisions of this section) shall cease to have effect, and in paragraph (c) of that section for the words “that problem” there shall be substituted the words “the problem of the pollution of the air”; and in section 26 of that Act (which relates to the unjustified disclosure of information relating to any manufacturing process or trade secret) the words “manufacturing process or” shall cease to have effect.

Textual Amendments

- F10** Words inserted (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 162(1), 164(3), [Sch. 15 para. 15\(8\)](#)
- F11** Word repealed (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 162(2), 164(3), [Sch. 16 Pt. I](#)
- F12** Words repealed (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 162(2), 164(3), [Sch. 16 Pt. I](#)
- F13** Words repealed by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 34 Pt. II](#)

Modifications etc. (not altering text)

- C4** The text of s. 79(10) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

- M4** [1956 c. 52.](#)

80 Notices requiring information about air pollution.

- (1) A local authority may by notice require the occupier of any premises in its area to furnish, whether by periodical returns or by other means, such estimates or other

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information as may be specified or described in the notice concerning the emission of pollutants and other substances into the air from the premises.

- (2) This section shall not apply to premises in so far as they consist of a private dwelling.
- (3) If the notice relates to a ^{F14}process subject to Part I of the Environmental Protection Act 1990 ^{F15}or a ^{F15}work subject to the Alkali Act], the person on whom the notice is served shall not be obliged to supply any information which, as certified by an inspector appointed under that Act, is not of a kind which is being supplied to the inspector for the purposes of that Act.
- (4) The person on whom a notice is served under this section shall comply with the notice within six weeks of the date of service, or within such longer period as the local authority may by notice allow.
- (5) A notice under this section shall not require returns at intervals of less than three months, and no one notice (whether or not requiring periodical returns) shall call for information covering a period of more than twelve months.
- (6) Except so far as regulations provide otherwise, this section shall apply to premises used for, and to persons in, the public service of the Crown as it applies to other premises and persons; but a local authority shall not be entitled by virtue of this subsection to exercise, in relation to premises used for and persons in that service, any power conferred on the authority by virtue of sections 91 to 93 of this Act.
- (7) A person who—
 - (a) fails without reasonable excuse to comply with the requirements of a notice served on him in pursuance of this section; or
 - (b) in furnishing any estimate or other information in compliance with a notice under this section, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular,shall be guilty of an offence and liable on summary conviction to a fine not exceeding ^{F16}£400^{F16}[^{F16}level 5 on the standard scale].
- (8) Where a person is convicted of an offence under the preceding subsection in respect of any premises and information of any kind, nothing in subsection (3) of the preceding section shall prevent a local authority from exercising the power of entry there mentioned for the purpose of obtaining information of that kind in respect of the premises.

Textual Amendments

- F14** Words inserted (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(1), 164(3), **Sch. 15 para. 15(9)**
- F15** Words repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. 1**
- F16** Words “level 5 on the standard scale” substituted (11.4.1983) for words “£400” by virtue of (E.W.) Criminal Justice Act 1982 (c. 48), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21), ss. 289F, 289G (as inserted by Criminal Justice Act 1982 (c. 48), s. 54)

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81 Appeals against notices.

- (1) A person served with a notice under the preceding section, or any other person having an interest in the premises to which the notice relates, may appeal to the Secretary of State—
 - (a) on the ground that the giving to the authority or the disclosure to the public of all or part of the information required by the notice would—
 - (i) prejudice to an unreasonable degree some private interest by disclosing information about a trade secret, or
 - (ii) be contrary to the public interest, or
 - (b) on the ground that the information required by the notice is not immediately available and cannot readily be collected or obtained by the recipient of the notice without incurring undue expenditure for the purpose.
- (2) If the Secretary of State allows the appeal he may direct the local authority to withdraw or modify the notice, or to take such steps as may be specified by the Secretary of State to ensure that prejudicial information is not disclosed to the public; and it shall be the duty of the authority to comply with the direction.
- (3) The Secretary of State may make regulations as to appeals under this section, including regulations about the time for bringing an appeal and the circumstances in which all or any part of the appellant's case is to be withheld from the respondent; but it shall be the duty of the Secretary of State, before he makes any regulations under this subsection, to consult such persons appearing to him to represent local authorities, such persons appearing to him to represent industrial interests and such persons appearing to him to be conversant with problems of air pollution as he considers appropriate.

Modifications etc. (not altering text)

- C5** Ss. 79-83: certain functions transferred (7.8.1991) by S.I. 1991/1773, art. 8(1)(3), **Sch. 2**
Ss. 79-83 modified (7.8.1991) by S.I. 1991/1773, art. 8(2)(3), **Sch. 2**
- C6** Ss. 79-83: certain functions transferred (10.1.1992) by S.I. 1991/2913, art. 8(1)(3), **Sch. 2**
Ss. 79-83 modified (10.1.1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**

82 Regulations about research and publicity.

- (1) The Secretary of State shall by regulations prescribe the manner in which, and the methods by which, local authorities are to perform their functions under sections 79 and 80 of this Act.
- (2) It shall be the duty of the Secretary of State, before he makes regulations under this section, to consult such persons appearing to him to represent local authorities, such persons appearing to him to represent industrial interests and such persons appearing to him to be conversant with problems of air pollution as he considers appropriate.
- (3) Regulations under this section may in particular—
 - (a) prescribe the kinds of emissions to which notices under section 80 of this Act may relate;
 - (b) prescribe the kinds of information which may be required by those notices;
 - (c) prescribe the manner in which any such notice is to be given, and the evidence which is to be sufficient evidence of its having been given, and of its contents and authenticity;

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- (d) require each local authority to maintain in a prescribed form a register containing—
 - (i) information obtained by the authority by virtue of section 79(2) of this Act, other than information as to which a direction in pursuance of subsection (2) of the preceding section provides that the information is not to be disclosed to the public; and
 - (ii) such information (if any) as the Secretary of State may determine, or as may be determined by or under regulations, with respect to any appeal in pursuance of the preceding section which was against a notice served by the authority and which the Secretary of State did not dismiss;
 - (e) specify the circumstances in which local authorities may enter into arrangements with owners or occupiers of premises under which they will record and measure emissions on behalf of the local authorities;
 - (f) specify the kinds of apparatus which local authorities are to have power to provide and use for measuring and recording emissions, and for other purposes.
- (4) Regulations under subsection (3)(b) of this section may in particular require returns of—
- (a) the total volume of gases, whether pollutant or not, discharged from the premises in question over any period;
 - (b) the concentration of pollutant in the gases discharged;
 - (c) the total of the pollutant discharged over any period;
 - (d) the height or heights at which discharges take place;
 - (e) the hours during which discharges take place;
 - (f) the concentration of pollutants at ground level.
- (5) A register maintained by a local authority in pursuance of regulations made by virtue of subsection (3)(d) of this section shall be open to public inspection at the principal office of the authority free of charge at all reasonable hours, and the authority shall afford members of the public reasonable facilities for obtaining from the authority, on payment of reasonable charges, copies of entries in the register.

Modifications etc. (not altering text)

- C7** Ss. 79-83: certain functions transferred (7.8.1991) by S.I. 1991/1773, art. 8(1)(3), **Sch. 2**
Ss. 79-83 modified (7.8.1991) by S.I. 1991/1773, art. 8(2)(3), **Sch. 2**
- C8** Ss. 79-83: certain functions transferred (10.1.1992) by S.I. 1991/2913, art. 8(1)(3), **Sch. 2**
Ss. 79-83 modified (10.1.1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**

83 Provision by local authorities of information for Secretary of State.

- (1) The Secretary of State may, for the purpose of obtaining information about air pollution, direct a local authority to make such arrangements as may be specified in the direction—
- (a) for the provision, installation, operation and maintenance by the local authority of apparatus for measuring and recording air pollution; and
 - (b) for transmitting the information so obtained to the Secretary of State.

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- (2) Where apparatus is provided in pursuance of a direction under the preceding subsection, the Secretary of State shall defray the whole of the capital expenditure incurred by a local authority in providing and installing the apparatus.
- (3) Before giving a direction under subsection (1) of this section the Secretary of State shall consult the local authority, and it shall be the duty of the local authority to comply with any direction given under that subsection.

Modifications etc. (not altering text)

- C9** Ss. 79-83: certain functions transferred (7.8.1991) by S.I. 1991/1773, art. 8(1)(3), **Sch. 2**
Ss. 79-83 modified (7.8.1991) by S.I. 1991/1773, art. 8(2)(3), **Sch. 2**
- C10** Ss. 79-83: certain functions transferred (10.1.1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**
Ss. 79-83 modified (10.1.1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**

Interpretation

84 Interpretation of Part IV.

- (1) In this Part of this Act—
“local authority” means—
- (a) in England and Wales, 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, and
- (b) in Scotland, an islands or district council;
- “private dwelling” has the same meaning as in Part I of this Act; and
[^{F17}“a work subject to the Alkali Act” means a work registered under section 9 of the Alkali Act, excluding the whole or part of such a work while the work or part is the subject of an order made or treated as made under subsection (3) of section 11 of the ^{M5}Clean Air Act 1968 (under which certain enactments relating to clean air which apart from that subsection do not apply to works so registered may be applied to such works).]
- (2) References in this Part of this Act to the emission of substances into the atmosphere shall be construed as applying to substances in a gaseous or liquid or solid state, or any combination of those states.
- (3) Any reference in this Part of this Act to measurement includes a reference to the taking of samples.

Textual Amendments

- F17** Definition repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. I**

Modifications etc. (not altering text)

- C11** S. 84: certain functions transferred (7.8.1991) by S.I. 1991/1773, art. 8(1)(3), **Sch. 2**
S. 84 modified (7.8.1991) by S.I. 1991/1773, art. 8(2)(3), **Sch. 2**
- C12** S. 84: certain functions transferred (10.1.1992) by S.I. 1991/2913, art. 8(1)(3), **Sch. 2**
S. 84 modified (10.1.1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**

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Marginal Citations

M5 1968 c. 62.

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