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SCHEDULES

SCHEDULE 5

Section 67(2).

TRANSITIONAL PROVISIONS

PART I

GENERAL TRANSITIONAL PROVISIONS AND SAVINGS

Continuity of the law

- 1 The substitution of this Act for the enactments repealed by this Act does not affect the continuity of the law.
- 2 Any reference, whether express or implied, in this Act or any other enactment, instrument or document to a provision of this Act shall, so far as the context permits, be construed as including, in relation to the times, circumstances and purposes in relation to which the corresponding provision of the enactments repealed by this Act has effect, a reference to that corresponding provision.
- 3 Any document made, served or issued after the commencement of this Act which contains a reference to any of the enactments repealed by this Act shall be construed, except so far as a contrary intention appears, as referring or, as the case may require, including a reference to the corresponding provision of this Act.
- 4 Paragraphs 2 and 3 have effect without prejudice to the operation of sections 16 and 17 of the ^{M1}Interpretation Act 1978 (which relate to the effect of repeals).

Annotations:

Marginal Citations

M1 1978 c. 30.

General saving for old transitional provisions and savings

- 5 (1) The repeal by this Act of a transitional provision or saving relating to the coming into force of a provision reproduced in this Act does not affect the operation of the transitional provision or saving, in so far as it is not specifically reproduced in this Act but remains capable of having effect in relation to the corresponding provision of this Act.
- (2) The repeal by this Act of an enactment previously repealed subject to savings does not affect the continued operation of those savings.
- (3) The repeal by this Act of a saving on the previous repeal of an enactment does not affect the operation of the saving in so far as it is not specifically reproduced in this Act but remains capable of having effect.

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PART II

EXCLUSION AND MODIFICATION OF CERTAIN PROVISIONS OF THIS ACT

Requirements to fit arrestment plant: sections 6 & 8

- 6 (1) Section 6(1) (arrestment plant for new non-domestic furnaces) does not apply to a furnace which was installed, the installation of which began or an agreement for the purchase or installation of which was entered into before 1st October 1969 (which was the day appointed for the coming into force of the enactments replaced by section 6).
- (2) Subject to sub-paragraph (3), section 8(1) (arrestment plant for furnaces burning solid fuel in other cases) applies in relation to a furnace to which, by virtue of sub-paragraph (1), section 6 does not apply as it applies to a domestic furnace.
- (3) Section 8(1) does not apply to a furnace which was installed, the installation of which began or an agreement for the purchase or installation of which was entered into—
- (a) in relation to a furnace in England and Wales, before 1st June 1958 (which was the day appointed as respects England and Wales for the coming into force of the enactments replaced by section 8); and
 - (b) in relation to a furnace in Scotland, before 15th November 1958 (which was the day so appointed as respects Scotland).

Height of chimneys for furnaces: section 14

- 7 (1) Subject to sub-paragraph (2) below, section 14 (height of chimneys for furnaces) does not apply to any furnace served by a chimney the construction of which was begun or the plans for which were passed before 1st April 1969 (which was the day appointed for the coming into force of the enactments replaced by section 14).
- (2) Notwithstanding sub-paragraph (1), section 14 does apply to—
- (a) any furnace the combustion space of which has been increased on or after 1st April 1969; or
 - (b) any furnace the installation of which was begun on or after that day and which replaces a furnace which had a smaller combustion space.

Smoke control orders

- 8 (1) In relation to any smoke control order made by a local authority under section 18 of this Act which revokes or varies an order made under section 11 of the ^{M2}Clean Air Act 1956 before 13th November 1980 (which was the date of the passing of the ^{M3}Local Government, Planning and Land Act 1980, which amended section 11 of that Act to omit the requirement that an order made by a local authority should be confirmed by the Secretary of State) the provisions of this Act mentioned in the following provisions of this paragraph shall have effect subject to the modifications there mentioned.
- (2) In section 18—
- (a) in subsection (1) after the word “order” where it first appears there shall be inserted the words “ confirmed by the Secretary of State ”;

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- (b) in subsection (3), after the word “order” where it first appears there shall be inserted the words “ confirmed by the Secretary of State ” and at the end there shall be inserted the words “ so confirmed ”; and
 - (c) in subsection (4), after the words “to the” there shall be inserted the words “ confirmation and ”.
- (3) In section 26(1) and paragraph 1(1) of Schedule 2, for the word “making” there shall be substituted the word “ confirmation ”.

Annotations:

Marginal Citations

- M2** 1956 c. 52.
M3 1980 c. 65.

- 9 The provisions of Part III of this Schedule (which are derived from Schedule 1 to the Clean Air Act 1956 as that Schedule had effect immediately before the date mentioned in paragraph 8(1) of this Schedule) shall apply in substitution for Schedule 1 to this Act in relation to any such order; and references in this Act, as it applies in relation to any such order, to Schedule 1 to this Act or to any specified provision of that Schedule shall be read as referring to Part III of this Schedule or the corresponding provision of that Part (as the case may be).

Colliery spoilbanks: section 42

- 10 Subsections (2) to (4) of section 42 (colliery spoilbanks) shall not apply to any deposit of refuse deposited from a mine or quarry before 5th July 1956 (the date of the passing of the Clean Air Act 1956) if at that date the deposit was not longer in use as such and was not under the control of the owner of the mine or quarry.

PART III

CONFIRMATION AND COMING INTO OPERATION OF CERTAIN SMOKE CONTROL ORDERS

- 11 In this Part of this Schedule “order” means a smoke control order.
- 12 After making an order, the local authority shall publish in the London Gazette and also once at least in each of two successive weeks in some newspaper circulating in the area to which the order relates a notice—
- (a) stating that the order has been made and its general effect;
 - (b) specifying a place in the district of the local authority where a copy of the order and of any map or plan referred to in the order may be inspected by any person free of charge at all reasonable times during a period of not less than six weeks from the date of the last publication of the notice; and
 - (c) stating that within that period any person who will be affected by the order may by notice in writing to the Secretary of State object to the confirmation of the order.
- 13 Besides publishing a notice as required by paragraph 12, the local authority who have made an order shall post, and keep posted throughout the period mentioned in that paragraph, copies of the notice in such number of conspicuous places within

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the area to which the order relates as appear to them necessary for the purpose of bringing the making of the order to the notice of persons affected.

- 14 If no objection is duly made to the Secretary of State within the period mentioned in paragraph 12(b), or if every objection so made is withdrawn, the Secretary of State may, if he thinks fit, confirm the order either with or without modifications.
- 15 In any case other than one within paragraph 14 the Secretary of State shall, before confirming the order, either—
- (a) cause a local inquiry to be held; or
 - (b) afford to any person by whom an objection has been duly made in accordance with paragraph 12(c) and not withdrawn an opportunity of appearing before and being heard by a person appointed by him for the purpose;
- and, after considering the objection and the report of the person who held the inquiry or the person so appointed, may confirm the order with or without modifications.
- 16 Section 250(2) to (5) of the ^{M4}Local Government Act 1972 (summoning of witnesses and production of documents before, and costs incurred at, local government inquiries held under that section) shall apply to an inquiry held under this Part of this Schedule by the Secretary of State as they apply to inquiries held under that section.

Annotations:

Marginal Citations

M4 1972 c. 70.

- 17 Subject to paragraphs 18 and 19, an order when confirmed shall come into operation on such date as may be specified in the order, not being earlier than six months from the date of the confirmation.
- 18 An order 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 section 18 may come into operation on, or at any time after, the date of its confirmation.
- 19 (1) If, before the date on which an order is to come into operation, the local authority—
- (a) pass a resolution postponing its operation; and
 - (b) publish a notice stating the effect of the resolution in the London Gazette and also once at least in each of two successive weeks in some newspaper circulating in the area to which the order relates;
- the order shall, unless its coming into operation is again postponed under this paragraph, come into operation on the date specified in the resolution.
- (2) A local authority shall not without the consent of the Secretary of State exercise their power under sub-paragraph (1) of postponing the coming into operation of an order for a period of more than twelve months or for periods amounting in all to more than twelve months.
- 20 In the application of this Part of this Schedule to Scotland, for any reference to the London Gazette there shall be substituted a reference to the Edinburgh Gazette.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act Functions transferred and modified by [S.I. 2016/644 art. 9 Sch. 2](#)
- Act applied (with modifications) by [S.I. 2011/939 art. 9 Sch. 2](#)
- Act modified by [S.I. 2010/1214 art. 4 Sch.](#)
- Act modified by [S.I. 2010/1216 art. 4 Sch.](#)
- Act modified by [S.I. 2010/1217 art. 4 Sch.](#)
- Act modified by [S.I. 2010/1218 art. 4 Sch.](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 20(5A)-(5C) inserted by [2014 asp 3 s. 50\(2\)\(a\)](#)
- s. 20(5ZA)-(5ZC) inserted by [2015 c. 20 s. 15\(2\)](#)
- s. 21(A1)-(A4) inserted by [2015 c. 20 s. 15\(4\)](#)
- s. 21(1)-(4) inserted by [2014 asp 3 s. 50\(3\)\(b\)](#)
- s. 21(5) s. 21 renumbered as s. 21(5) by [2014 asp 3 s. 50\(3\)\(a\)](#)
- s. 21(5) words renumbered as s. 21(5) by [2015 c. 20 s. 15\(5\)](#)
- s. 21(5) words substituted by [2014 asp 3 s. 50\(3\)\(a\)](#)
- s. 21(5) words substituted by [2015 c. 20 s. 15\(5\)](#)
- s. 30(5A) inserted by [2015 c. 15 Sch. 6 para. 52\(3\)](#)
- s. 30(8A) inserted by [2015 c. 15 Sch. 6 para. 52\(5\)](#)
- s. 31(4)(a)(iii) inserted by [2014 asp 3 sch. 3 para. 4\(2\)\(a\)\(ii\)](#)
- s. 31(4A) inserted by [2015 c. 15 Sch. 6 para. 53](#)
- s. 31(6) inserted by [S.I. 2013/755 Sch. 2 para. 343\(3\)](#)
- s. 40(za) inserted by [S.I. 2013/755 Sch. 2 para. 345](#)
- s. 41A(2)(c) words substituted by [S.I. 2010/675 Sch. 26 Pt. 1 para. 10\(2\)](#)
- s. 41A(2)(c) words substituted by [S.I. 2016/1154 Sch. 29 Pt. 1 para. 11\(a\)](#)
- s. 41A(3)(a) words in s. 41A(3) renumbered as s. 41A(3)(a) by [2014 asp 3 sch. 3 para. 4\(6\)\(c\)\(i\)](#)
- s. 41A(3)(b) inserted by [2014 asp 3 sch. 3 para. 4\(6\)\(c\)\(ii\)](#)
- s. 41A(4) words substituted by [S.I. 2010/675 Sch. 26 Pt. 1 para. 10\(4\)\(a\)](#)
- s. 41A(4) words substituted by [S.I. 2010/675 Sch. 26 Pt. 1 para. 10\(4\)\(b\)](#)
- s. 41A(4) words substituted by [S.I. 2016/1154 Sch. 29 Pt. 1 para. 11\(b\)](#)
- s. 56(7) inserted by [2015 c. 15 Sch. 6 para. 56](#)