

## SCHEDULES

### SCHEDULE 1

Section 18(4).

#### COMING INTO OPERATION OF SMOKE CONTROL ORDERS

- 1 Before making a smoke control order the local authority shall publish in the London Gazette and once at least in each of two successive weeks in some newspaper circulating in the area to which the order will relate a notice—
  - (a) stating that the local authority propose to make the order, 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 it 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 local authority object to the making of the order.
- 2 Besides publishing such a notice, the local authority shall post, and keep posted throughout the period mentioned in paragraph 1(b), copies of the notice in such number of conspicuous places within the area to which the order will relate as appear to them necessary for the purpose of bringing the proposal to make the order to the notice of persons who will be affected.
- 3 If an objection is duly made to the local authority within the period mentioned in paragraph 1(b), and is not withdrawn, the local authority shall not make the order without first considering the objection.
- 4 Subject to paragraphs 5 and 6, an order shall come into operation on such date not less than six months after it is made as may be specified in it.
- 5 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 20 (prohibition of smoke emissions in smoke control area) may come into operation on, or at any time after, the date on which it is made.
- 6 If, before the date on which the order is to come into operation, the local authority—
  - (a) pass a resolution postponing its coming into operation; and
  - (b) publish a notice stating the effect of the resolution in the London Gazette and once at least in each of two successive weeks in some newspaper circulating in the area to which the order will relate,the order shall, unless its coming into operation is again postponed under this paragraph, come into operation on the date specified in the resolution.
- 7 In the application of this Schedule to Scotland, for any reference to the London Gazette there shall be substituted a reference to the Edinburgh Gazette.

## SCHEDULE 2

Section 25(1).

### SMOKE CONTROL ORDERS: EXPENDITURE ON OLD PRIVATE DWELLINGS

#### *Grants for expenditure incurred in adaptation of fireplaces*

- 1 (1) This paragraph applies if, after the making of a smoke control order by a local authority, the owner or occupier of, or any person interested in, an old private dwelling which is or will be within a smoke control area as a result of the order incurs relevant expenditure.
- (2) For the purposes of this paragraph “relevant expenditure” is expenditure on adaptations in or in connection with an old private dwelling to avoid contraventions of section 20 (prohibition of smoke emissions in smoke control area) which—
- (a) is incurred before the coming into operation of the order and with the approval of the local authority given for the purposes of this paragraph; or
  - (b) is reasonably incurred in carrying out adaptations required by a notice given under section 24(1) (power of local authority to require certain adaptations).
- (3) If the adaptations in question are carried out to the satisfaction of the local authority, the local authority—
- (a) shall repay to him seven-tenths of the relevant expenditure; and
  - (b) may, if they think fit, also repay to him the whole or any part of the remainder of that expenditure.
- (4) Where relevant expenditure is incurred by the occupier of a private dwelling who is not an owner of the dwelling and the adaptations in question consist of or include the provision of any cooking or heating appliance which can be readily removed from the dwelling without injury to itself or the fabric of the dwelling, the following provisions shall have effect as respects so much of the expenditure as represents the cost of the appliance, that is to say—
- (a) not more than seven-twentieths of that part of that expenditure shall be repaid until two years from the coming into operation of the order; and
  - (b) any further repayment of that part of that expenditure shall be made only if the appliance has not by then been removed from the dwelling and, if made, shall be made to the person who is the occupier of the dwelling at the end of the two years.
- (5) The approval of a local authority to the incurring of expenditure may be given for the purposes of this paragraph, if the authority think fit in the circumstances of any particular case, after the expenditure has been incurred.
- (6) This paragraph has effect subject to paragraph 4.

#### *Exclusion of grants in case of unsuitable appliances*

- 2 For the purposes of this Schedule, an appliance is unsuitable for installation in any area or (as the case may be) in any district or part of Great Britain if it tends, by reason of its consumption of fuel (of whatever kind) or its consumption of fuel at times when it is generally used, to impose undue strain on the fuel resources available for that area, district or part.
- 3 (1) Sub-paragraph (2) applies if—

- (a) after a local authority have resolved to make a smoke control order declaring a smoke control area (not being an order varying a previous order so made); and
- (b) before notice of the making of the order is first published in accordance with Schedule 1,

the authority pass a resolution designating any class of heating appliance as being, in their opinion, unsuitable for installation in that area.

- (2) No payment shall be made by the authority under paragraph 1 in respect of expenditure incurred in providing, or in executing works for the purpose of the installation of, any heating appliance of the class designated by the resolution in or in connection with a dwelling within the area to which the order relates.
- (3) No payment shall be made under paragraph 1 by a local authority in respect of expenditure incurred in providing, or in executing works for the purpose of the installation of, any heating appliance which, when the expenditure was incurred, fell within any class of appliance for the time being designated for the purposes of this paragraph by the Secretary of State as being in his opinion—
- (a) unsuitable for installation in the district of that authority; or
  - (b) generally unsuitable for installation in the part of Great Britain with which the Secretary of State is concerned,

unless the approval of the local authority in respect of that expenditure was given for the purposes of paragraph 1 at a time when the appliance in question did not fall within any class of appliance so designated.

- (4) Retrospective approval of expenditure may only be given by a local authority by virtue of paragraph 1(5) in the case of expenditure incurred in providing, or in executing works for the purpose of the installation of, a heating appliance, if the appliance—
- (a) did not at the time when the expenditure was incurred; and
  - (b) does not when the approval is given,

fall within a class of appliance for the time being designated by the Secretary of State for the purposes of this paragraph as regards the district of that authority or generally.

- (5) In accordance with the preceding provisions of this Schedule, expenditure within sub-paragraph (3) or (4) shall be left out of account for the purposes of paragraph 1.

*Exchequer contributions to certain expenditure*

- 4 (1) The Secretary of State may, out of money provided by Parliament, make a contribution towards the following expenses, of any local authority (if approved by him), that is to say—
- (a) any expenses of the local authority in making payments under paragraph 1;
  - (b) any expenses incurred by them in making, in or in connection with old private dwellings owned by them or under their control, adaptations to avoid contraventions of section 20; and
  - (c) any expenses incurred by them in carrying out adaptations required by notices under section 24 in or in connection with old private dwellings.
- (2) A contribution under this paragraph in respect of any expenses shall be a single payment equal—

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- (a) in the case of expenses mentioned in sub-paragraph (1)(a), to four-sevenths of the amount of the expenses;
  - (b) in the case of expenses mentioned in sub-paragraph (1)(b), to two-fifths of the amount of the expenses; and
  - (c) in the case of expenses mentioned in sub-paragraph (1)(c), to four-sevenths of the amount arrived at by deducting the recoverable amount from the amount of those expenses.
- (3) In sub-paragraph (2)(c), “the recoverable amount” means, in relation to any expenses, the fraction of those expenses (whether three-tenths or some smaller fraction determined by the local authority, in the case of those expenses, under section 24(2) or (3)) which the local authority have power to recover from the occupier or owner by virtue of section 24(2) or (3).

### SCHEDULE 3

Section 66(1).

#### PROVISIONS HAVING EFFECT UNTIL REPEAL OF ALKALI, &C WORKS REGULATION ACT 1906

#### PART I

##### RELATION OF THIS ACT TO ALKALI, &C. WORKS REGULATION ACT 1906

- 1 (1) In this Part of this Schedule—
- “the Alkali Act” means the Alkali, &c. Works Regulation Act 1906; and
- “work subject or potentially subject to the Alkali Act” means—
- (a) so much of any work registered under section 9 of that Act as is directly concerned in the processes which necessitate its registration under that section; and
  - (b) so much of any work in the course of erection or alteration as will on completion of the erection or alteration be directly concerned in such processes.
- (2) The Secretary of State may from time to time determine how much of any work mentioned in sub-paragraph (1) is or will be directly concerned as there mentioned and his determination shall, until revoked or varied by him, be conclusive.
- 2 Subject to paragraphs 3 and 4, Parts I to III of this Act shall not apply to any work subject or potentially subject to the Alkali Act.
- 3 If, on the application of the local authority, the Secretary of State is satisfied that in all the circumstances it is expedient to do so, he may by order exclude the application of paragraph 2 to the whole or any specified part of any work subject or potentially subject to the Alkali Act.
- 4 While, by virtue of an order under paragraph 3 above, paragraph 2 is excluded from applying to any work or to any specified part of any work—
- (a) in any proceedings brought under section 1, 2 or 20 in respect of the emission of smoke from the work or (as the case may be) from the specified part of the work it shall be a defence to prove that the best practicable means had been employed to prevent or minimise the alleged emission;

(b) in any proceedings brought by virtue of section 17 (smoke nuisances in Scotland) in respect of smoke emitted from the work or (as the case may be) from the specified part of the work, the defence provided for by subsection (2) of that section shall be available whether the smoke was emitted from a chimney or not.

5 Any order made under paragraph 3 may be varied or revoked by a subsequent order of the Secretary of State.

6 Nothing in section 55 shall be taken as extending to the enforcement of any of the provisions of the Alkali Act.

## PART II

### MODIFICATIONS OF THIS ACT

7 In section 31(4)—

(a) in paragraph (a), after “1990” there is inserted “or a work subject to the Alkali Act”; and

(b) for paragraph (b) there is substituted—

“(b) of the inspectors appointed under Part I of the Environmental Protection Act 1990 or, as the case may be, under the Alkali Act, to enforce those provisions in relation to such furnaces;”.

8 In section 33(1), after “1990” there is inserted “or the place at which he does so is a work registered in pursuance of section 9 of the Alkali, &c. Works Regulation Act 1906”.

9 In section 35(3), after “1990” there is inserted “or any work subject to the Alkali Act”.

10 In section 36, after subsection (3) there is inserted—

“(3A) If the notice relates to a 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.”

11 At the end of section 40 there is inserted—

“and “the Alkali Act” means the Alkali, &c. Works Regulation Act 1906 and “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 paragraph 3 of Schedule 3 to this Act.”

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## SCHEDULE 4

Section 67(1).

## CONSEQUENTIAL AMENDMENTS

*The Health and Safety at Work etc. Act 1974 (c. 37)*

- 1 Section 80(1) of the Health and Safety at Work etc. Act 1974 shall apply to provisions in this Act which re-enact provisions previously contained in an Act passed before or in the same Session as that Act as it applies to provisions so contained.

*The Control of Pollution Act 1974 (c. 40)*

- 2 In section 96(1) of the Control of Pollution Act 1974 after “pollution” there is inserted “other than air pollution”.

*The Public Health (Control of Disease) Act 1984 (c. 22)*

- 3 In section 7(4) of the Public Health (Control of Disease) Act 1984 for paragraph (e) there is substituted—  
“ (e) the Clean Air Act 1993;”.

*The Environmental Protection Act 1990 (c. 43)*

- 4 In section 79(7) of the Environmental Protection Act 1990—  
(a) for “the Clean Air Act 1956 or the Clean Air Act 1968” there is substituted “the Clean Air Act 1993”; and  
(b) for “section 34(2) of the Clean Air Act 1956” there is substituted “section 3 of the Clean Air Act 1993”.

*The Atomic Weapons Establishment Act 1991 (c. 46)*

- 5 In the Schedule to the Atomic Weapons Establishment Act 1991 after paragraph 10A there is inserted—

*“Clean Air Act 1993*

- 10B (1) Subsection (1) of section 46 of the Clean Air Act 1992 (Crown premises) shall have effect, in relation to emissions from designated premises, as if—  
(a) references to premises under the control of a government department which are occupied for the public service of the Crown included a reference to designated premises; and  
(b) references to the responsible Minister were references to the Secretary of State.
- (2) For the purposes of section 36 of that Act (notices requiring information about air pollution), designated premises, and persons at such premises, shall be treated as premises used for, or persons in, the public service of the Crown.
- (3) For all other purposes of that Act any such premises shall be treated as Crown premises occupied by a government department.”

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*The Radioactive Substances Act 1993 (c. 12)*

- 6 In Schedule 3 to the Radioactive Substances Act 1993—
- (a) for paragraph 2 there is substituted—  
“2 Section 16 of the Clean Air Act 1993.”; and
  - (b) for paragraph 12 there is substituted—  
“12 Sections 16 and 17 of the Clean Air Act 1993.”

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 Interpretation Act 1978 (which relate to the effect of repeals).

*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 Clean Air Act 1956 before 13th November 1980 (which was the date of the passing of the 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”.
- 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 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—

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- (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 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.
- 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.

## SCHEDULE 6

Section 67(3).

## REPEALS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
4 & 5 Eliz.2. c. 52.	The Clean Air Act 1956.	The whole Act.
1963 c. 33.	The London Government Act 1963.	Section 40(4)(e).  In Schedule 11, paragraphs 30 and 31.
1964 c. 56.	The Housing Act 1964.	Section 95.

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1968 c. 62.	The Clean Air Act 1968.	The whole Act.
1970 c. 38.	The Building (Scotland) Act 1970.	In Schedule 1, paragraph 5.
1972 c. 70.	The Local Government Act 1972.	Section 180(3)(f).
1973 c. 65.	The Local Government (Scotland) Act 1973.	In Schedule 15, paragraph 28.  In Schedule 27, paragraph 128.
1974 c. 39.	The Consumer Credit Act 1974.	In Schedule 4, paragraphs 15 and 16.
1974 c. 40.	The Control of Pollution Act 1974.	Sections 75 to 84.  Section 103.  In section 109(3), the words “75, 77”.  In Schedule 2, paragraphs 19, 26 and 27.  In Schedule 3, paragraph 16.
1980 c. 65.	The Local Government, Planning and Land Act 1980.	Section 189.  In Schedule 2, paragraphs 1 to 6 and 16.
1984 c. 55.	The Building Act 1984.	In Schedule 5, paragraph 2.  In Schedule 6, paragraph 5.
1987 c. 26.	The Housing (Scotland) Act 1987.	In Schedule 23, paragraphs 6 and 14.
1989 c. 17.	The Control of Smoke Pollution Act 1989.	The whole Act.
1990 c. 43.	The Environmental Protection Act 1990.	Section 85.  In Schedule 15, paragraphs 6, 7, 12 and 15(6) to (9).
1991 c. 46.	The Atomic Weapons Establishment Act 1991.	In the Schedule, paragraphs 4 and 8(1).

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