

Changes to legislation: Clean Air Act 1993, SCHEDULE 1A is up to date with all changes known to be in force on or before 24 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

SCHEDULES

[^{F1}SCHEDULE 1A

PENALTY FOR EMISSION OF SMOKE IN SMOKE CONTROL AREA IN ENGLAND

Textual Amendments

- F1** Sch. 1A inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), Sch. 12 para. 3 (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

Key definitions

- 1 In this Schedule—
- “relevant chimney” means—
- (a) a chimney of a building to which a smoke control order in England applies, or
 - (b) a chimney which serves the furnace of any fixed boiler or industrial plant to which a smoke control order in England applies;
- “person liable”, in relation to a relevant chimney, means—
- (a) if the chimney is the chimney of a building, the occupier of the building, or
 - (b) if the chimney serves the furnace of any fixed boiler or industrial plant, the person having possession of the boiler or plant.

Notice of intent

- 2 (1) This paragraph applies where a local authority is satisfied, on the balance of probabilities, that on a particular occasion smoke has been emitted from a relevant chimney within a smoke control area declared by that authority.
- (2) The local authority may give to the person liable a notice under this paragraph (a “notice of intent”).
- (3) A notice of intent must—
- (a) inform the person that the local authority is satisfied as specified in sub-paragraph (1),
 - (b) specify the occasion referred to in sub-paragraph (1),
 - (c) inform the person that the local authority proposes to impose a financial penalty under this Schedule (including the proposed amount of the penalty), and
 - (d) give details regarding the person’s right to object to the imposition of a financial penalty.

Changes to legislation: Clean Air Act 1993, SCHEDULE 1A is up to date with all changes known to be in force on or before 24 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

Amount of penalty

- 3 (1) The minimum amount of a financial penalty that may be imposed under this Schedule is £175.
- (2) The maximum amount of a financial penalty that may be imposed under this Schedule is £300.
- (3) The Secretary of State may by regulations amend sub-paragraph (1) or (2) so as to substitute a different amount for the amount specified there.
- (4) Regulations under sub-paragraph (3) may not be made unless a draft of the regulations has been laid before, and approved by resolution of, each House of Parliament.

Right to object to proposed financial penalty

- 4 (1) A person to whom a notice of intent is given may, within the period of 28 days beginning with the day after that on which the notice was given—
- (a) object in writing to the local authority on a ground specified in sub-paragraph (2), and
 - (b) provide evidence that supports the objection.
- (2) The grounds of objection referred to in sub-paragraph (1) are—
- (a) that there was no emission of smoke from the chimney on the occasion specified in the notice of intent;
 - (b) that the chimney was not a chimney to which a smoke control order applied on the occasion specified in the notice of intent;
 - (c) that the person to whom the notice of intent was given was not a person liable in relation to the chimney on the occasion specified in the notice of intent;
 - (d) that there are other compelling reasons why the financial penalty should not be imposed.
- (3) Where a person objects on the ground specified in sub-paragraph (2)(c), the objection must include the name and address of the person who was the person liable on the occasion specified in the notice of intent (if known).
- (4) The Secretary of State may by regulations amend this paragraph so as to amend the grounds of objection listed in sub-paragraph (2).
- (5) Before making regulations under sub-paragraph (4) the Secretary of State must consult anyone that the Secretary of State considers may have an interest in the proposed regulations.
- (6) Regulations under sub-paragraph (4) may not be made unless a draft of the regulations has been laid before, and approved by resolution of, each House of Parliament.

Decision regarding a final notice

- 5 (1) Where a local authority in England has given a notice of intent to a person, the authority may impose a financial penalty on the person if the local authority so decides within—
- (a) the period of 56 days beginning with the day on which an objection is made under paragraph 4, or

Changes to legislation: Clean Air Act 1993, SCHEDULE 1A is up to date with all changes known to be in force on or before 24 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

- (b) if no such objection is made, the period of 56 days beginning with the day after the day on which the period mentioned in paragraph 4(1) ended.
- (2) If the local authority decides not to impose a financial penalty on a person, or does not decide to impose a financial penalty on the person within the period specified in sub-paragraph (1), the authority must give a notice to that person that informs the person that a financial penalty will not be imposed.

Final notice

- 6
- (1) This paragraph applies where a local authority in England decides to impose a financial penalty on a person who was given a notice of intent.
 - (2) The local authority may impose a financial penalty by a notice given to that person (a “final notice”).
 - (3) A final notice must specify—
 - (a) the amount of the financial penalty,
 - (b) the reasons for imposing the penalty,
 - (c) information about how to pay the penalty,
 - (d) the period for payment of the penalty, and
 - (e) information about rights of appeal.
 - (4) The final notice must require the financial penalty to be paid within the period of 28 days beginning with the day after that on which the notice was given.

Withdrawal or amendment of notices

- 7
- (1) A local authority may at any time—
 - (a) withdraw a notice of intent or a final notice, or
 - (b) reduce the amount of the financial penalty specified in a final notice.
 - (2) The power in sub-paragraph (1) is to be exercised by giving notice to the person to whom the notice of intent or final notice was given.

Appeals

- 8
- (1) A person on whom a financial penalty is imposed by a final notice may, within the period of 28 days beginning with the day after that on which the notice was given, appeal against the notice to the First-tier Tribunal.
 - (2) The grounds for an appeal under this paragraph are that the decision to impose the financial penalty was—
 - (a) based on an error of fact,
 - (b) wrong in law, or
 - (c) unreasonable.
 - (3) If a person appeals under this paragraph, the final notice is suspended until the appeal is finally determined or withdrawn.
 - (4) On an appeal under this paragraph the First-tier Tribunal may—
 - (a) quash the final notice,
 - (b) confirm the final notice,

Changes to legislation: Clean Air Act 1993, SCHEDULE 1A is up to date with all changes known to be in force on or before 24 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

- (c) vary the final notice by reducing the amount of the financial penalty, or
- (d) remit to the local authority the decision whether to—
 - (i) withdraw or confirm the final notice, or
 - (ii) vary the final notice by reducing the amount of the financial penalty.

Recovery of penalties

- 9 A financial penalty is recoverable as a civil debt due to the local authority that imposed the penalty.

Delegation

- 10 (1) A local authority may delegate to a person the exercise of any of the authority's functions under this Schedule.
- (2) A delegation under this paragraph must be made by giving notice to the person.

Notices

- 11 (1) A notice under this Schedule must be in writing.
- (2) A notice under this Schedule may be given to a person by—
- (a) handing it to the person,
 - (b) leaving it at the person's address,
 - (c) sending it by post to the person at their address, or
 - (d) with the person's consent, sending it to them electronically.

Notices: vessels which are moored

- 12 (1) This paragraph applies in relation to a vessel which is moored in a smoke control area in England and is subject to the operation of this Schedule (see section 44).
- (2) If the local authority is unable to give a notice of intent to the occupier of the vessel who is not the registered owner of the vessel, the local authority may give the notice to the registered owner of the vessel instead.
- (3) In such a case, the ground for objecting to the proposed financial penalty mentioned in paragraph 4(2)(c) does not apply.
- (4) Where a notice of intent is given to a person in respect of a vessel, that person may object under paragraph 4 on the further ground that, on the occasion specified in the notice, the emission of smoke was solely due to the use of the vessel's engine to propel the vessel or to provide electric power to the vessel.]

Changes to legislation:

Clean Air Act 1993, SCHEDULE 1A is up to date with all changes known to be in force on or before 24 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.

[View outstanding changes](#)

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\(2\)](#)