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STATUTORY INSTRUMENTS

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**1981 No. 158**

**Clean Air (Northern Ireland) Order 1981**

Smoke control areas

**Interpretation of Articles 18 and 19**

**20.**—(1) In Article 18 and 19, references to adaptations in or in connection with a dwelling to avoid contraventions of Article 17 shall, subject to paragraph (3), be construed as references to the execution of any of the following works (whether in or outside the dwelling), that is to say—

- (a) adapting or converting any fireplace; or
- (b) replacing any fireplace by—
  - (i) another fireplace; or
  - (ii) some other means of heating or cooking; or
- (c) altering any chimney which serves any fireplace; or
- (d) providing gas ignition, electric ignition or any other special means of ignition; or
- (e) carrying out any operation incidental to any of the operations mentioned in sub-paragraphs (a) to (d);

being works which are reasonably necessary in order to make what is in all the circumstances suitable provision for heating and cooking without contraventions of Article 17.

(2) For the purposes of paragraph (1) the provision of any igniting appliance (whether fixed or not) operating by means of gas, electricity or any other special means shall be deemed to be the execution of works.

(3) Except for the purposes of Article 18(3) to (11), works which make suitable provision of the kind referred to in paragraph (1) shall not be deemed to be other than adaptations to avoid contraventions of Article 17 by reason that they go beyond what is reasonably necessary for that purpose, but any expenditure incurred in executing them in excess of the expenditure which would have been reasonably incurred in doing what was reasonably necessary shall be left out of account.

(4) In Articles 18 and 19, references to expenditure or expenses incurred in the execution of works include references to the cost of any fixed cooking or heating appliance installed by means of the execution of the works, notwithstanding that the appliance can be readily removed from the dwelling without injury to itself or to the fabric of the dwelling.

(5) For the purposes of Articles 18 and 19, a person who enters into either—

- (a) a conditional sale agreement for the sale to him, or
- (b) a hire-purchase agreement for the bailment to him,

of a cooking or heating appliance shall be treated as having incurred on the date of the agreement expenditure of an amount equal to the price which would have been payable for that appliance if he had purchased it for cash on that date.

(6) In considering for the purposes of Articles 18 and 19 whether any and, if so, what works are reasonably necessary in order to make suitable provision of the kind referred to in paragraph (1),

regard shall be had to any difficulty there may be in obtaining, or in obtaining otherwise than at a high price, any fuels which would have to be used but for the execution of the works.

(7) The district council shall give to a person carrying out works to make suitable provision of the kind referred to in paragraph (1) a reasonable freedom of choice as between appliances burning different kinds of fuel but the provision or installation of, or the execution of works for the provision or installation of, any appliance which—

- (a) falls within any class of appliance which, in the opinion of the district council, is unsuitable for installation in its district as tending, by reason of its consumption of fuel (of whatever kind) or its consumption of that fuel at the times when it is generally used, to impose undue strain on the fuel resources available for that district; or
- (b) falls within any class of appliance for the time being designated by the Department as being in the opinion of the Department unsuitable for installation in the district of the council as tending, by reason as mentioned in sub-paragraph ( a ), to impose undue strain on the fuel resources available, either for that district or generally;

shall not be regarded as work which makes suitable provision of the kind referred to in paragraph (1).

(8) For the purposes of Article 18(1), where before a payment by a district council under that paragraph becomes payable, the person who would be entitled to that payment assigns to another person his right to that payment, and gives notice of the assignment to the district council, the council shall, when that payment becomes payable, make that payment to that other person.

**Changes to legislation:**

There are currently no known outstanding effects for the Clean Air (Northern Ireland) Order 1981, Section 20.