

STATUTORY INSTRUMENTS

1981 No. 158

Clean Air (Northern Ireland) Order 1981

Smoke nuisances

New building over-reaching adjacent chimneys

24.—(1) Where after the date of the coming into operation of Article 62 of the Pollution Control and Local Government (Northern Ireland) Order 1978

- (a) any person erects or raises a building (in this Article referred to as the “taller building”) to a greater height than an adjoining building, and
- (b) any chimneys or flues of an adjoining building are in a party wall between the two buildings or are^{F1} 1.83 metres] or less from the nearest part of the taller building,

the district council may by notice in writing—

- (i) require that person, within such time as may be specified in the notice, to build up those chimneys and flues, if it is reasonably practicable so to do, so that the top of them will be of the same height as the top of the chimneys of the taller building or the top of the taller building, whichever is the higher, and
- (ii) require the owner or occupier of the adjoining building to allow the first-mentioned person to enter on that building and carry out such work as may be necessary to comply with the notice served on him;

so, however, that, if the owner or occupier, within fourteen days from the date of service of the notice on him, serves on the first-mentioned person and on the district council a notice (in this Article referred to as a “counter-notice”) that he elects to carry out the work himself, the owner or occupier shall comply with the notice served under sub-paragraph (i) instead of the first-mentioned person and may recover the expenses reasonably incurred in so doing from that person.

(2) Any person on whom a notice is served under paragraph (1)(i) or (ii) may appeal to a court of summary jurisdiction.

(3) If—

- (a) any person on whom a notice is served under paragraph (1)(i) fails to comply with the notice, except in a case where the owner or occupier of an adjoining building has refused to allow entry on that building, or has refused to allow the carrying out of any such work as may be necessary to comply with the notice, or has served a counter-notice, or
- (b) any person on whom a notice is served under paragraph (1)(ii) fails to comply with the notice or, having served a counter-notice, fails to comply with the notice served under paragraph (1)(i),

he shall be guilty of an offence; and the district council may itself carry out such work as may be necessary to comply with the notice served under paragraph (1)(i), and recover the expenses reasonably incurred in so doing from the person on whom that notice was served.

Changes to legislation:

There are currently no known outstanding effects for the Clean Air (Northern Ireland) Order 1981, Section 24.