
STATUTORY INSTRUMENTS

1981 No. 158

Clean Air (Northern Ireland) Order 1981

Introductory

Title and commencement

- 1.—(1) This Order may be cited as the Clean Air (Northern Ireland) Order 1981.
(2) *Commencement*

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

[^{F1}“authorised fuel” means a fuel that is included on a list of authorised fuels kept by the Department under Article 17(3A);]

“chimney” includes structures and openings of any kind from or through which smoke, grit, dust or fumes may be emitted, and in particular, includes flues, and references to a chimney of a building include references to a chimney which serves the whole or part of a building but is structurally separate from it;

“conditional sale agreement” means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled;

“the Department” means the Department of the Environment;

“day” means a period of twenty-four hours beginning at midnight;

“fireplace” includes any furnace, grate or stove, whether open or closed;

“fumes” means any airborne solid matter smaller than dust;

“gaseous emissions” includes gases and fumes containing sulphur or any compound of sulphur;

“grit and dust” includes solid particles of any kind;

“heating” in relation to a dwelling includes the heating of water;

“hire-purchase agreement” means an agreement, other than a conditional sale agreement, under which—

- (a) goods are bailed in return for periodical payments by the person to whom they are bailed, and
- (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—
 - (i) the exercise of an option to purchase by that person,
 - (ii) the doing of any other specified act by any party to the agreement,

(iii) the happening of any other specified event;

“industrial plant” includes any still, melting pot or other plant used for any industrial or trade purposes, and also any incinerator used for or in connection with any such purposes;

“owner” has the same meaning as in the Public Health (Ireland) Act 1878 ;

“practicable” means reasonably practicable having regard, amongst other things, to local conditions and circumstances, to the financial implications and to the current state of technical knowledge, and “practicable means” includes the provision and maintenance of plant and the proper use of it;

“prejudicial to health” means injurious, or likely to cause injury, to health;

“prescribed” means prescribed by regulations;

“regulations” means regulations made by the Department;

“smoke” includes soot, ash, grit and gritty particles emitted in smoke.

(3) In this Order “dark smoke” means smoke which, if compared in the appropriate manner with a chart of the type known on the 9th June 1964 as the Ringelmann Chart, would appear to be as dark as or darker than shade 2 on that chart; but—

- (a) in proceedings brought under Article 3, 4 or 23, the court may be satisfied that smoke is or is not dark smoke as so defined notwithstanding that there has been no actual comparison of the smoke with a chart of that type; and
- (b) in particular, and without prejudice to the generality of the preceding provisions of this paragraph, if any method is prescribed for ascertaining whether smoke is dark smoke as so defined, proof in any such proceedings that that method was properly applied, and that the smoke was ascertained by that method to be or not to be dark smoke as so defined, shall be accepted as sufficient.

(4) Any reference in this Order to the occupier of a building shall, in relation to any building different parts of which are occupied by different persons, be construed as a reference to the occupier or other person in control of the part of the building in which the relevant fireplace is situated.

(5) In this Order, “private dwelling” means any building or part of a building used or intended to be used as such, and a building or part of a building shall not be deemed for the purposes of this Order to be used or intended to be used otherwise than as a private dwelling by reason that a person who resides or is to reside in it is or is to be required or permitted to reside in it in consequence of his employment or of holding an office; and “dwelling” shall be construed accordingly.

(6) In this Order “new dwelling” means a dwelling which either—

- (a) was erected after the 9th June 1964; or
- (b) was produced by conversion, after the 9th June 1964, of other premises, with or without the addition of premises erected after that date;

and for the purposes of this paragraph, a dwelling or premises shall not be treated as erected or converted after the 9th June 1964 unless the erection or conversion was begun after that date.

(7) Any furnaces which are in the occupation of the same person and served by a single chimney shall, for the purposes of Articles^{F2} 7 to 12 and 15 be taken to be one furnace.

(8) For the purposes of section 42(2) of the Northern Ireland Constitution Act 1973 (validity of Acts of the Parliament of Northern Ireland), provisions of this Order which re-enact provisions of an Act of the Parliament of Northern Ireland shall be deemed to be provisions of such an Act.

F1 Words in art. 2(2) substituted (10.10.2016) by [Environmental Better Regulation Act \(Northern Ireland\) 2016 \(c. 13\)](#), ss. **15(1)**, 27(2); S.R. 2016/332, art. 2

F2 prosp. rep. by 1997 NI 18

Changes to legislation:

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