
STATUTORY INSTRUMENTS

1981 No. 158

Clean Air (Northern Ireland) Order 1981

Administration and enforcement

Unjustified disclosures of information

36. If any person discloses any information relating to any trade secret used in carrying on any particular undertaking which has been furnished to or obtained by him under this Order or in connection with the execution of this Order, he shall, unless the disclosure is made—

- (a) with the consent of the person carrying on that undertaking; or
- (b) in connection with the execution of this Order; or
- (c) for the purposes of any legal proceedings arising out of this Order or of any report of such proceedings;

be guilty of an offence.

Duty to notify occupiers of offences

37.—(1) If, in the opinion of a district council,—

- (a) an offence is being or has been committed under Article 3, 4 or 17; ^{F1}...

^{F1}(b)

the council shall, as soon as may be, notify—

- (i) the occupier of the premises;
- (ii) the person having possession of the boiler or plant;
- (iii) the owner of the railway locomotive engine; or
- (iv) the owner or master or other officer or person in charge of the vessel;

as the case may be, and, if the notification is not in writing, shall, before the end of the four days next following the day on which the council became aware of the offence, confirm the notification in writing.

(2) In any proceedings for an offence under Article 3, 4 or 17 it shall be a defence to prove that the provisions of paragraph (1) have not been complied with in relation to the offence, and if no such notification as is required by paragraph (1) has been given before the end of the two days or, in the case of an offence committed after the date of the coming into operation of Article 62 of the Pollution Control and Local Government (Northern Ireland) Order 1978 four days next following the day of the offence, paragraph (1) shall be deemed not to have been complied with unless the contrary is proved.

(3) A district council may arrange for the discharge of any of its functions under this Article by any of its officers.

F1 [Art. 37\(1\)\(b\)](#) and preceding word repealed (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\)](#), s. 78, [Sch. 4 Pt. 5](#); S.R. 2012/13, art. 2(2), Sch. 2

Penalties

38.—(1) A person guilty of an offence under Article 3 shall be liable on summary conviction—

- (a) where dark smoke is emitted from a chimney of a private dwelling, to a fine not exceeding^[F2] level 3 on the standard scale]; and
- (b) where dark smoke is emitted from any other chimney, to a fine not exceeding^[F2] level 5 on the standard scale] or, in the case of an offence under that Article as applied by Article 27 to vessels, £1,000.

(2) A person guilty of an offence under Article 5(9), in so far as such offence is or relates to a contravention of Article 5(4), or of an offence under Article 17, or Article 25(7), shall be liable on summary conviction to a fine not exceeding^[F2] level 3 on the standard scale].

(3) A person guilty of an offence under Article 24(3) shall be liable on summary conviction to a fine not exceeding^[F2] level 2 on the standard scale].

(4) A person guilty of an offence under Article 36 shall be liable on summary conviction to a fine not exceeding^[F2] level 5 on the standard scale] or to imprisonment for a term not exceeding three months or to both.

(5) A person guilty of an offence under any of the other provisions of this Order shall, subject to paragraph (6), be liable on summary conviction to a fine not exceeding^[F2] level 5 on the standard scale].

(6) Where a person is convicted of an offence under this Order (not being any of the offences mentioned in paragraph (1), (2) or (4) or an offence under Article 12) and it is shown to the satisfaction of the court that the offence was substantially a repetition or continuation of an earlier offence by him after he had been convicted of the earlier offence, he shall be liable, on summary conviction, to a fine not exceeding—

- (a) ^[F2]level 5 on the standard scale]; or
- (b) £50 for every day on which the earlier offence has been so repeated or continued by him within the three months next following his conviction for it;

whichever is the greater.

(7) Where—

^{F3}(a)

(b) under paragraph (6) a person would, if convicted, be liable to a daily penalty in respect of a continuing or repeated offence;

the court by which he is convicted of the earlier offence may fix a reasonable period from the date of conviction for compliance by the defendant with any directions given by the court and, where a court has fixed such a period, the daily penalty shall not be recoverable in respect of any day before the expiration of that period.

F2	1984 NI 3
F3	Art. 38(7)(a) repealed (1.4.2012) by Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23), s. 78, Sch. 4 Pt. 5 ; S.R. 2012/13, art. 2(2), Sch. 2

Enforcement

39.—(1) The district council shall enforce the provisions of this Order, but nothing in this Article shall be construed as extending to the enforcement of—

- ^{F4}(a) any of the provisions of the Alkali, &c. Works Regulation Act 1906 ; or

(b) any building byelaws.

(2) A district council may institute proceedings for an offence under Article 3 where any smoke affects any part of its district notwithstanding that the smoke is emitted from a chimney outside its district.

F4 prosp. rep. by [1997 NI 18](#)

Application of Public Health Acts (Northern Ireland) 1878 to 1962

40.—(1) For the purposes of any functions conferred on district councils by this Order, the provisions of the Public Health Acts (Northern Ireland) 1878 to 1962, other than—

- (a) section 288 of the Public Health (Ireland) Act 1878 (saving for mines, etc.); and
- (b) section 32 of the Public Health (Ireland) Act 1896 (saving in respect of buildings, etc., vested in the Crown);

shall so far as applicable have effect in relation to a district council as if the provisions of this Order (other than the provisions amending the Alkali, &c. Works Regulation Act 1906) were provisions of that Act of 1878.

(2) [^{F5}Paragraphs 2 to 4 of Schedule 2 to the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (power to enter premises) shall apply for the purposes of any functions conferred by this Order on district councils] subject to the following modifications and to any other necessary modifications consequential on those modifications, that is to say, that the purposes for which the power of entry may be exercised shall include the purposes of—

- (a) enforcing the provisions of this Order enforceable by a district council;
- (b) exercising any of the powers of the council under this Order;
- (c) ascertaining whether there is or has been on, or in connection with, the premises any contravention of any of the provisions so enforceable; or
- (d) ascertaining whether any of the powers of the council under this Order ought to be exercised;

but—

- (i) that section shall not, except for the purposes of Article 18(3) or (10), apply in relation to any premises being a private dwelling; and
- (ii) admission to any premises (except a factory within the meaning of the Factories Act (Northern Ireland) 1965 or any other premises in which persons are employed otherwise than in domestic service) shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier.

^{F6}(3)

F5 Words in art. 40(2) substituted (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\), s. 78, Sch. 3 para. 10\(2\)](#); S.R. 2012/13, art. 2(2), Sch. 2

F6 Art. 40(3) repealed (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\), s. 78, Sch. 4 Pt. 5](#); S.R. 2012/13, art. 2(2), Sch. 2

Powers of district councils to act jointly

41.—(1) Two or more district councils may combine for the purpose of declaring an area to be a smoke control area and in that event—

- (a) the smoke control area may be the whole of, or any part of, the districts of those councils;

- (b) the references in Article 17 and Schedule 2, and the first reference in Article 18(1), to the district council shall be construed as references to the district councils acting jointly;
- (c) the reference in Schedule 2, paragraph 2, to a place in the district of the council shall be construed as a reference to a place in each of the districts of the councils; but
- (d) except as mentioned in sub-paragraphs (a) to (c) the references in this Order to the district council shall, in relation to a building or dwelling, or to a boiler or industrial plant, in the smoke control area, be construed as references to that one of the district councils within whose district the building, dwelling, boiler or plant is situated.

(2) Any district council may, subject to the approval of the Department, concur with any other district council or councils in appointing a joint committee of those councils for any of the purposes of this Order which in the opinion of those councils could be carried out by a joint committee more effectually than by separate councils.

(3) The provisions of this Order with respect to the functions of district councils shall, with such modifications as the Department may approve apply to a joint committee appointed under paragraph (2).

(4) The power exercisable by a district council under paragraph (2) to concur with other councils in appointing a joint committee shall include power to appoint a joint committee which includes persons who are not members of the appointing councils, but any committee which includes such persons by virtue of this paragraph shall be advisory only and functions under this Order shall not be exercised by it.

Premises in two or more districts

42. Any premises which extend into the districts of two or more district councils shall be treated for the purposes of this Order as being wholly within such one of those districts as may be agreed upon by those councils^{F7}

F7 1985 NI 15

Changes to legislation:

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