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STATUTORY INSTRUMENTS

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**1981 No. 158**

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

Miscellaneous

**Heating and cooking arrangements in buildings**

**30.**—(1) Requirements may be prescribed as to the provision in buildings of such arrangements for heating or cooking as are calculated to prevent so far as practicable the emission of smoke.

(2) Any regulations made under paragraph (1) shall be deemed to be regulations made in accordance with the provisions of the Building Regulations (Northern Ireland) Order 1979 and shall take effect accordingly.

**Powers of district councils as to research and publicity**

**31.** A district council may—

- (a) arrange for the delivery of lectures and addresses, and the holding of discussions, on the problem of the pollution of the air;
- (b) arrange for the display of pictures, cinematograph films or models, or the holding of exhibitions, relating to that problem; and
- (c) prepare, or join in or contribute to the cost of the preparation of, pictures, films, models or exhibitions to be displayed or held as mentioned in sub-paragraph ( b).

**Power of county court to authorise works and order payments**

**32.**—(1) If works are reasonably necessary in or in connection with a building in order to enable the building to be used without contravention of any of the provisions of this Order, the occupier of the building—

- (a) may, if by reason of a restriction affecting his interest in the building he is unable to carry out the works without the consent of the owner of the building or some other person having an estate or interest in the building and is unable to obtain that consent, apply to the county court for an order to enable the works to be carried out by him; and
- (b) may, if he considers that the whole or any part of the cost of carrying out the works should be borne by the owner of the building or some other person having an estate or interest in the building, apply to the county court for an order directing the owner or other person to indemnify him, either wholly or in part, in respect of the cost of carrying out the works;

and on an application under either sub-paragraph ( a) or sub-paragraph ( b) the court may make such order as may appear to the court to be just.

(2) In considering for the purposes of this Article whether any and, if so, what works are reasonably necessary, 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.

### Recovery of expenses

33.—(1) Any expenses recoverable by a district council under Article 14 or 18, together with interest on those expenses from the date on which a demand for the expenses is served on the person from whom they are recoverable, may be recovered by the district council summarily as a civil debt from that person.

(2) Where a district council claim to recover any expenses under Article 18 from a person as being the owner of the private dwelling in respect of which the expenses were incurred and that person proves that he—

- (a) is receiving the rent of the dwelling merely as agent or trustee for some other person; and
- (b) has not, and since the date of the service on him of a demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the district council;

his liability shall be limited to the total amount of the money which he so has or has had in his hands but a district council who is, or would be, debarred by this paragraph from recovering the whole of any such expenses from an agent or trustee may recover summarily as a civil debt the whole or any unpaid balance of the expenses from the person on whose behalf the agent or trustee receives the rent.

(3) In all summary proceedings by a district council under this Article for the recovery of expenses recoverable under this Order, the time within which the proceedings may be taken shall be reckoned from the date of the service of the demand.

(4) Any interest payable on expenses recoverable under this Order shall be at the same rate as is for the time being determined by the Department of Finance under section 5 of the Public Health and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1962 .

(5) In proceedings for the recovery of expenses recoverable under this Order it shall not be open to the defendant to raise any question which he could have raised on an appeal under Article 18 against a notice requiring the carrying out of adaptations.

(6) Any expenses recoverable—

- (a) under Article 14, from a person who caused a chimney to be erected, and who is the owner of the land on which the chimney is or was erected;
- (b) under Article 18, from the owner of a private dwelling;

together with interest accrued due on the expenses, shall, until recovered, be a charge on the estate or interest of the owner in the land or dwelling, so however that if the owner is merely an agent or trustee for some other person, those expenses shall be a charge on the estate in the land or dwelling of that other person, and not on that of such owner.

(7) The charge under paragraph (6) may be recovered by the same means and in the like manner in all respects as if it were a mortgage by deed created by the owner of the land or dwelling in favour of the district council, and for the recovery of it the district council may exercise the powers conferred by sections 19, 21 and 22 of the Conveyancing Act 1881 on mortgagees by deed.

### Suspected offences in relation to motor vehicles

34. Where a district council reasonably suspects that a motor vehicle is so used as not to comply with any regulations made under<sup>[F1</sup> Article 55(2)( b) of the Road Traffic (Northern Ireland) Order 1995] (smoke, fumes, vapour, sparks, ashes and grit from motor vehicles) the district council shall, in cases where it seems proper to it to do so, report the description of the vehicle, and any other circumstances which appear to the council to be relevant, to the Department and the Department shall cause the matter to be investigated.

**Annotations:**

F1 [1995 NI 18](#)

**Extension of Order to certain emissions**

**35.—(1)** Where the Department is satisfied that practicable means exist for reducing or controlling gaseous emissions from a chimney, the Department, after consultation with such organisations as appear to it to be representative of interests substantially affected, may by regulations made subject to affirmative resolution make provision for the reduction or control of such emissions.

(2) Regulations made under paragraph (1) may contain such consequential and incidental provisions, and may make such adaptations of this Order, as appear to the Department to be necessary or expedient for the purpose of giving effect to this Article.

**Changes to legislation:**

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