Clean Air Act 1993

1993 CHAPTER 11

PART II E+W+S

SMOKE, GRIT, DUST AND FUMES

Height of chimneys

14 Height of chimneys for furnaces. E+W+S

(1) This section applies to any furnace served by a chimney.

(2) An occupier of a building shall not knowingly cause or permit a furnace to be used in the building—

(a) to burn pulverised fuel;

(b) to burn, at a rate of 45.4 kilograms or more an hour, any other solid matter; or

(c) to burn, at a rate equivalent to 366.4 kilowatts or more, any liquid or gaseous matter,

unless the height of the chimney serving the furnace has been approved for the purposes of this section and any conditions subject to which the approval was granted are complied with.

(3) If on any day the occupier of a building contravenes subsection (2), he shall be guilty of an offence.

(4) A person having possession of any fixed boiler or industrial plant, other than an exempted boiler or plant, shall not knowingly cause or permit a furnace of that boiler or plant to be used as mentioned in subsection (2), unless the height of the chimney serving the furnace has been approved for the purposes of this section and any conditions subject to which the approval was granted are complied with.

(5) If on any day a person having possession of any boiler or plant contravenes subsection (4), he shall be guilty of an offence.

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(6) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(7) In this section "exempted boiler or plant" means a boiler or plant which is used or to be used wholly for any purpose prescribed in regulations made by the Secretary of State; and the height of a chimney is approved for the purposes of this section if approval is granted by the local authority or the Secretary of State under section 15.

15 Applications for approval of height of chimneys of furnaces. E+W+S

(1) This section applies to the granting of approval of the height of a chimney for the purposes of section 14.

(2) Approval shall not be granted by a local authority unless they are satisfied that the height of the chimney will be sufficient to prevent, so far as practicable, the smoke, grit, dust, gases or fumes emitted from the chimney from becoming prejudicial to health or a nuisance having regard to—
   (a) the purpose of the chimney;
   (b) the position and descriptions of buildings near it;
   (c) the levels of the neighbouring ground; and
   (d) any other matters requiring consideration in the circumstances.

(3) Approval may be granted without qualification or subject to conditions as to the rate or quality, or the rate and quality, of emissions from the chimney.

(4) If a local authority to whom an application is duly made for approval fail to determine the application and to give a written notification of their decision to the applicant within four weeks of receiving the application or such longer period as may be agreed in writing between the applicant and the authority, the approval applied for shall be treated as having been granted without qualification.

(5) If a local authority decide not to approve the height of a chimney, or to attach conditions to their approval, they shall give the applicant a written notification of their decision which—
   (a) states their reasons for that decision; and
   (b) in the case of a decision not to approve the height of the chimney, specifies—
      (i) the lowest height (if any) which they are prepared to approve without qualification; or
      (ii) the lowest height which they are prepared to approve if approval is granted subject to any specified conditions,

   or (if they think fit) both.

(6) The applicant may within twenty-eight days of receiving a notification under subsection (5) appeal against the local authority's decision to the Secretary of State.

(7) On an appeal under this section the Secretary of State may confirm the decision appealed against or he may—
   (a) approve the height of the chimney without qualification or subject to conditions as to the rate or quality, or the rate and quality, of emissions from the chimney; or

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(b) cancel any conditions imposed by the local authority or substitute for any conditions so imposed any other conditions which the authority had power to impose.

(8) The Secretary of State shall give the appellant a written notification of his decision on an appeal under this section which—

(a) states his reasons for the decision; and

(b) in the case of a decision not to approve the height of the chimney, specifies—

(i) the lowest height (if any) which he is prepared to approve without qualification; or

(ii) the lowest height which he is prepared to approve if approval is granted subject to any specified conditions,

or (if he thinks fit) both.

(9) References in this section to "the applicant" shall, in a case where the original applicant notifies the local authority that his interest in the application has been transferred to another person, be read as references to that other person.

16 Height of other chimneys. E+W+S

(1) This section applies where plans for the erection or extension of a building outside Greater London or in an outer London borough, other than a building used or to be used wholly for one or more of the following purposes, that is to say—

(a) as a residence or residences;

(b) as a shop or shops; or

(c) as an office or offices,

are in accordance with building regulations deposited with the local authority and the plans show that it is proposed to construct a chimney, other than one serving a furnace, for carrying smoke, grit, dust or gases from the building.

(2) The local authority shall reject the plans unless they are satisfied that the height of the chimney as shown on the plans will be sufficient to prevent, so far as practicable, the smoke, grit, dust or gases from becoming prejudicial to health or a nuisance having regard to—

(a) the purpose of the chimney;

(b) the position and descriptions of buildings near it;

(c) the levels of the neighbouring ground; and

(d) any other matters requiring consideration in the circumstances.

(3) If a local authority reject plans under the authority of this section—

(a) the notice given under section 16(6) of the [M1]Building Act 1984 shall specify that the plans have been so rejected; and

(b) any person interested in the building may appeal to the Secretary of State.

(4) On an appeal under subsection (3) the Secretary of State may confirm or cancel the rejection and, where he cancels the rejection, may, if he thinks it necessary, direct that the time for rejecting the plans otherwise than under the authority of this section shall be extended so as to run from the date on which his decision is notified to the local authority.

(5) In the application of this section to Scotland—

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(a) any reference to plans deposited in accordance with building regulations shall be read as a reference to the plans, specifications and other information submitted with an application for a **[**[F1]building warrant under section 9 of the Building (Scotland) Act 2003 (asp 8)**]**;

(b) any reference to a local authority shall be read as a reference to a **[**[F2]verifier**]** within the meaning of that Act;

(c) any reference to the rejection of plans shall be read as a reference to the refusal of a **[**[F3]building warrant under section 9**]** of that Act;

and subsections (3) and (4) shall be omitted.

Textual Amendments

F1 Words in s. 16(5)(a) substituted (S.) (1.5.2005) by Building (Scotland) Act 2003 (asp 8), s. 59(1), **Sch. 6 para. 20(a)** (with s. 53); S.S.I. 2004/404, art. 2(1)

F2 Word in s. 16(5)(b) substituted (S.) (1.5.2005) by Building (Scotland) Act 2003 (asp 8), s. 59(1), **Sch. 6 para. 20(b)** (with s. 53); S.S.I. 2004/404, art. 2(1)

F3 Words in s. 16(5)(c) substituted (S.) (1.5.2005) by Building (Scotland) Act 2003 (asp 8), s. 59(1), **Sch. 6 para. 20(c)** (with s. 53); S.S.I. 2004/404, art. 2(1)

Modifications etc. (not altering text)

C1 S. 16 modified by S.I. 2010/675, Sch. 23 Pt. 8 para. 3, Table 9 (as substituted (E.W.) (1.10.2011) by The Environmental Permitting (England and Wales) (Amendment) Regulations 2011 (S.I. 2011/2043), reg. 1(b), **Sch. 1**)

C2 S. 16 modified (E.W.) (1.1.2017) by The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154), reg. 1(1), Sch. 23 paras. 1(3), **2** (with regs. 1(3), 77-79, Sch. 4)

C3 S. 16 restricted (1.9.2018) by The Environmental Authorisations (Scotland) Regulations 2018 (S.S.I. 2018/219), reg. 1, **sch. 8 para. 39(2)(a)(i)** (with reg. 78, sch. 5 para. 2)

Marginal Citations

M1 1984 c. 55.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 16(4A)(4B) inserted by S.I. 2023/908 reg. 16
- s. 19E-19H and cross-heading inserted by 2024 asc 2 s. 19(2)
- s. 20(5D)-(5F) inserted by 2021 c. 30 Sch. 12 para. 10(2)
- s. 21(4A)-(4D) inserted by 2021 c. 30 Sch. 12 para. 11(2)
- s. 28B inserted by 2024 asc 2 s. 20
- s. 63(2A) inserted by 2024 asc 2 Sch. 1 para. 20(b)
- Sch. 1 para. 1A1B inserted by 2024 asc 2 Sch. 1 para. 21(a)
- Sch. 1 para. 6B inserted by 2024 asc 2 Sch. 1 para. 21(c)
- Sch. 1A para. 3(5) inserted by 2024 asc 2 Sch. 1 para. 4(c)
- Sch. 1A para. 4(7) inserted by 2024 asc 2 Sch. 1 para. 5(d)
- Sch. 5 para. 12A12B inserted by 2024 asc 2 Sch. 1 para. 22(a)