Clean Air Act 1993

1993 CHAPTER 11

PART III

SMOKE CONTROL AREAS

Dealings with unauthorised fuel

23 Acquisition and sale of unauthorised fuel in a smoke control area [F1in Wales]. E+W

(1) Any person who—

(a) acquires any solid fuel for use in a building in a smoke control area [F2in Wales] otherwise than in a building or fireplace exempted from the operation of section 20 (prohibition of smoke emissions in smoke control area [F2in Wales]);

(b) acquires any solid fuel for use in any fixed boiler or industrial plant in a smoke control area [F3in Wales], not being a boiler or plant so exempted; or

(c) sells by retail any solid fuel [F4in Wales] for delivery by him or on his behalf to—

(i) a building in a smoke control area [F5in Wales]; or

(ii) premises in such an area in which there is any fixed boiler or industrial plant,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) In subsection (1), "solid fuel" means any solid fuel other than an authorised fuel.

(3) Subsection (1) shall, in its application to a smoke control area [F6in Wales] in which the operation of section 20 is limited by a smoke control order to specified classes of buildings, boilers or plant, have effect as if references to a building, boiler or plant were references to a building, boiler or plant of a class specified in the order.

Status: *There are multiple versions of this provision on screen. These apply to different geographical extents.****Skip to:*** *E+W - England and Wales extentS - Scotland extent*
Changes to legislation: *Clean Air Act 1993, Section 23 is up to date with all changes known to be in force on or before 11 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(4) The power of the **[**[F7]Welsh Ministers**]** under section 22 (exemptions relating to particular areas) to suspend or relax the operation of section 20 in relation to the whole or any part of a smoke control area **[**[F8]in Wales**]** includes power to suspend or relax the operation of subsection (1) in relation to the whole or any part of such an area.

(5) In proceedings for an offence under this section consisting of the sale of fuel **[**[F9]in Wales**]** for delivery to a building or premises **[**[F10]in Wales**]**, it shall be a defence for the person accused to prove that he believed and had reasonable grounds for believing—

(a) that the building was exempted from the operation of section 20 or, in a case where the operation of that section is limited to specified classes of building, was not of a specified class; or

(b) that the fuel was acquired for use in a fireplace, boiler or plant so exempted or, in a case where the operation of that section is limited to specified classes of boilers or plant, in a boiler or plant not of a specified class.

Textual Amendments

F1 Words in s. 23 heading inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 17(2)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

F2 Words in s. 23(1)(a) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 17(3)(a)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

F3 Words in s. 23(1)(b) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 17(3)(b)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

F4 Words in s. 23(1)(c) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 17(3)(c)(i)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

F5 Words in s. 23(1)(c)(i) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 17(3)(c)(ii)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

F6 Words in s. 23(3) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 17(4)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

F7 Words in s. 23(4) substituted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 17(5)(a)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

F8 Words in s. 23(4) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 17(5)(b)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

F9 Words in s. 23(5) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 17(6)(a)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

F10 Words in s. 23(5) inserted (E.W.) (1.5.2022) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 12 para. 17(6)(b)** (with s. 144, Sch. 12 para. 26); S.I. 2022/48, reg. 4(d)

23 Acquisition and sale of unauthorised fuel in a smoke control area. S

(1) Any person who—

(a) acquires any solid fuel for use in a building in a smoke control area otherwise than in a building or fireplace exempted from the operation of section 20 (prohibition of smoke emissions in smoke control area);

(b) acquires any solid fuel for use in any fixed boiler or industrial plant in a smoke control area, not being a boiler or plant so exempted; or

(c) sells by retail any solid fuel for delivery by him or on his behalf to—

(i) a building in a smoke control area; or

(ii) premises in such an area in which there is any fixed boiler or industrial plant,

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shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) In subsection (1), "solid fuel" means any solid fuel other than an authorised fuel.

(3) Subsection (1) shall, in its application to a smoke control area in which the operation of section 20 is limited by a smoke control order to specified classes of buildings, boilers or plant, have effect as if references to a building, boiler or plant were references to a building, boiler or plant of a class specified in the order.

(4) The power of the Secretary of State under section 22 (exemptions relating to particular areas) to suspend or relax the operation of section 20 in relation to the whole or any part of a smoke control area includes power to suspend or relax the operation of subsection (1) in relation to the whole or any part of such an area.

(5) In proceedings for an offence under this section consisting of the sale of fuel for delivery to a building or premises, it shall be a defence for the person accused to prove that he believed and had reasonable grounds for believing—

(a) that the building was exempted from the operation of section 20 or, in a case where the operation of that section is limited to specified classes of building, was not of a specified class; or

(b) that the fuel was acquired for use in a fireplace, boiler or plant so exempted or, in a case where the operation of that section is limited to specified classes of boilers or plant, in a boiler or plant not of a specified class.

Status:
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Changes to legislation:
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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)