

## SCHEDULES

### SCHEDULE 11

Section 72

#### LOCAL AIR QUALITY MANAGEMENT FRAMEWORK

- 1 The Environment Act 1995 is amended as follows.
- 2 (1) Section 80 (national air quality strategy) is amended as follows.
- (2) Omit subsection (3).
- (3) After subsection (4) insert—
- “(4A) The strategy must be reviewed, and if appropriate modified—
- (a) within the period of 12 months beginning with the day on which this subsection comes into force, and
- (b) within each period of 5 years beginning with the day on which the person carrying out the review completed their most recent review under this subsection.”
- 3 After that section insert—
- “80A Duty to report on air quality in England**
- As soon as reasonably practicable after the end of each financial year, beginning with the financial year in which this section comes into force, the Secretary of State must lay a statement before Parliament that sets out—
- (a) the Secretary of State’s assessment of the progress made in meeting air quality objectives, and air quality standards, in relation to England, and
- (b) the steps the Secretary of State has taken in that year in support of the meeting of those objectives and standards.”
- 4 After section 81 insert—
- “81A Functions of relevant public authorities etc**
- (1) The following persons must have regard to the strategy when exercising any function of a public nature that could affect the quality of air—
- (a) relevant public authorities;
- (b) local authorities in England;
- (c) county councils for areas in England for which there are district councils.
- (2) In this Part, “relevant public authority” means a person designated in accordance with subsection (3) as a relevant public authority in relation to an area in England.

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*Status: This is the original version (as it was originally enacted).*

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- (3) The Secretary of State may by regulations designate a person as a relevant public authority in relation to an area in England if the person’s functions include functions of a public nature in relation to that area.
  - (4) Before making regulations under subsection (3) the Secretary of State must consult—
    - (a) the person that is proposed to be designated, and
    - (b) such other persons as the Secretary of State considers appropriate.
  - (5) The requirement in subsection (4) may be met by consultation carried out before this section comes into force.
  - (6) For the purposes of subsections (2) and (3), reference to England includes the territorial sea adjacent to England, which for this purpose does not include—
    - (a) any part of the territorial sea which is adjacent to Wales for the purposes of the Government of Wales Act 2006 (see section 158 of that Act), or
    - (b) any part of the territorial sea which is adjacent to Scotland for the purposes of the Scotland Act 1998 (see section 126 of that Act).”
- 5 (1) Section 82 (local authority reviews) is amended as follows.
- (2) In subsection (3)—
    - (a) for “If” substitute “This subsection applies to a local authority where”;
    - (b) omit the words from “, the local authority shall” to the end.
  - (3) After subsection (3) insert—
    - “(4) Where subsection (3) applies to a local authority, it must identify any parts of its area in which it appears that air quality standards or objectives are not likely to be achieved within the relevant period.
    - (5) Where subsection (3) applies to a local authority in England, it must also—
      - (a) identify relevant sources of emissions that it considers are, or will be, responsible (in whole or in part) for any failure to achieve air quality standards or objectives in its area,
      - (b) in the case of a relevant source within the area of a neighbouring authority, identify that authority, and
      - (c) in the case of a relevant source within an area in relation to which a relevant public authority or the Agency has functions of a public nature, identify that person in relation to that source.
    - (6) For the purposes of subsection (5), a source is “relevant” if—
      - (a) it is within the area of the local authority,
      - (b) it is within the area of a neighbouring authority in England, or
      - (c) it is within an area in relation to which a relevant public authority or the Agency has functions of a public nature and the local authority considers that the exercise of those functions is relevant to the source of the emissions.”
- 6 After section 83 insert—

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*Status: This is the original version (as it was originally enacted).*

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### “83A Duties of English local authorities in relation to designated areas

- (1) This section applies in relation to a local authority in England.
- (2) A local authority must, for the purpose of securing that air quality standards and objectives are achieved in an air quality management area designated by that authority, prepare an action plan in relation to that area.
- (3) An action plan is a written plan that sets out how the local authority will exercise its functions in order to secure that air quality standards and objectives are achieved in the area to which the plan relates.
- (4) An action plan must also set out how the local authority will exercise its functions to secure that air quality standards and objectives are maintained after they have been achieved in the area to which the plan relates.
- (5) An action plan must set out particular measures the local authority will take to secure the achievement, and maintenance, of air quality standards and objectives in the area to which the plan relates, and must in relation to each measure specify a date by which it will be carried out.
- (6) A local authority may revise an action plan at any time, and must revise an action plan if it considers that there is a need for further or different measures to be taken to secure that air quality standards and objectives are achieved or maintained in the area to which the plan relates.
- (7) Subsections (8) to (10) apply where a district council in an area for which there is a county council is preparing an action plan, or a revision of an action plan.
- (8) Where the county council disagrees with the contents of the proposed plan, or the proposed revision of a plan, a referral of the matter may be made to the Secretary of State by—
  - (a) the county council;
  - (b) the district council preparing the plan or revision.
- (9) The Secretary of State may, on a reference made under subsection (8), confirm (with or without modifications) or reject the proposed action plan, or revision of an action plan.
- (10) Where a reference has been made under subsection (8), the district council may not finally determine the proposed action plan or revision of an action plan, except in accordance with the decision of the Secretary of State on the reference or in pursuance of a direction made by the Secretary of State under section 85.”

- 7 (1) Section 84 (duties of local authorities in relation to designated areas) is amended as follows.
  - (2) In the heading, after “of” insert “Scottish and Welsh”.
  - (3) Before subsection (2) insert—

“(1A) This section applies in relation to a local authority in Scotland or Wales.”
  - (4) Omit subsection (5).

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*Status: This is the original version (as it was originally enacted).*

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8 After section 85 insert—

**“85A Duty of air quality partners to co-operate**

- (1) For the purposes of this Part, an “air quality partner” of a local authority means a person identified by that authority in accordance with section 82(5)(b) or (c).
- (2) An air quality partner of a local authority must provide the authority with such assistance in connection with the carrying out of any of the authority’s functions under this Part as the authority requests.
- (3) An air quality partner may refuse a request under subsection (2) to the extent it considers the request unreasonable.

**85B Role of air quality partners in relation to action plans**

- (1) Where a local authority in England intends to prepare an action plan it must notify each of its air quality partners that it intends to do so.
- (2) Where an air quality partner of a local authority has been given a notification under subsection (1) it must, before the end of the relevant period, provide the authority with proposals for particular measures the partner will take to contribute to the achievement, and maintenance, of air quality standards and objectives in the area to which the plan relates.
- (3) An air quality partner that provides proposals under subsection (2) must—
  - (a) in those proposals, specify a date for each particular measure by which it will be carried out, and
  - (b) as far as is reasonably practicable, carry out those measures by those dates.
- (4) An action plan prepared by a local authority in England must set out any proposals provided to it by its air quality partners under subsection (2) (including the dates specified by those partners by virtue of subsection (3)(a)).
- (5) The Secretary of State may direct an air quality partner to make further proposals under subsection (2) by a date specified in the direction where the Secretary of State considers the proposals made by the partner under that subsection are insufficient or otherwise inappropriate.
- (6) A direction under subsection (5) may make provision about the extent to which the further proposals are to supplement or replace any other proposals made under subsection (2) by the air quality partner.
- (7) An air quality partner must comply with any direction given to it under this section.”

- 9 (1) Section 86 (functions of county councils for areas for which there are district councils) is amended as follows.
- (2) Omit subsection (1).

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*Status: This is the original version (as it was originally enacted).*

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- (3) In subsection (2), for the words before paragraph (a) substitute “A county council for an area in England for which there are district councils may make recommendations to any of those district councils with respect to the carrying out of—”.
- (4) After subsection (2) insert—
- “(2A) Where a district council of a district in England for which there is a county council intends to prepare an action plan it must notify the county council that it intends to do so.”
- (5) For subsections (3) to (5) substitute—
- “(3) Where a county council has been given a notification by a district council under subsection (2A) it must, before the end of the relevant period, provide the district council with proposals for particular measures the county council will take to contribute to the achievement, and maintenance, of air quality standards and objectives in the area to which the plan relates.
- (4) A county council that provides proposals under subsection (3) must—
- (a) in those proposals, specify a date for each particular measure by which it will be carried out, and
- (b) as far as is reasonably practicable, carry out those measures by those dates.
- (5) An action plan prepared by a district council of a district in England for which there is a county council must set out any proposals provided to it by the county council under subsection (3) (including the dates specified by the county council by virtue of subsection (4)(a)).”
- (6) In subsection (6), in paragraph (a), after “district council” insert “of a district in England for which there is a county council”.
- (7) In subsection (7)—
- (a) in paragraph (a), omit the words from “above or” to the end;
- (b) in paragraph (b)—
- (i) omit “or statement”;
- (ii) omit “or (4) above”;
- (c) in paragraph (c)—
- (i) omit “or statement”;
- (ii) omit “or (4) above”.
- 10 For section 86A substitute—

**“86A Role of the Mayor of London in relation to action plans**

- (1) Where a local authority in London intends to prepare an action plan it must notify the Mayor of London (referred to in this section as “the Mayor”).
- (2) Where the Mayor has been given a notification under subsection (1) by a local authority in London the Mayor must, before the end of the relevant period, provide the authority with proposals for particular measures the Mayor will take to contribute to the achievement, and maintenance, of air quality standards and objectives in the area to which the plan relates.

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- (3) Where the Mayor provides proposals under subsection (2), the Mayor must—
  - (a) in those proposals, specify a date for each particular measure by which it will be carried out, and
  - (b) as far as is reasonably practicable, carry out those measures by those dates.
- (4) An action plan prepared by a local authority in London must set out any proposals provided to it by the Mayor under subsection (2) (including the dates specified by the Mayor by virtue of subsection (3)(a)).

### **86B Role of combined authorities in relation to action plans**

- (1) Where a local authority in the area of a combined authority intends to prepare an action plan it must notify the combined authority.
- (2) Where a combined authority has been given a notification under subsection (1) by a local authority, the combined authority must, before the end of the relevant period, provide the local authority with proposals for particular measures the combined authority will take to contribute to the achievement, and maintenance, of air quality standards and objectives in the area to which the plan relates.
- (3) Where a combined authority provides proposals under subsection (2), the combined authority must—
  - (a) in those proposals, specify a date for each particular measure by which it will be carried out, and
  - (b) as far as is reasonably practicable, carry out those measures by those dates.
- (4) An action plan prepared by a local authority in the area of a combined authority must set out any proposals provided to it under subsection (2) (including the dates specified by virtue of subsection (3)(a)).
- (5) In this section “combined authority” has the meaning it has in Part 6 of the Local Democracy, Economic Development and Construction Act 2009 (see section 120 of that Act).”

11 (1) Section 87 (regulations) is amended as follows.

(2) In subsection (2)—

- (a) in paragraph (c), after “authorities” insert “, relevant county councils, relevant public authorities or the Agency”;
- (b) in paragraph (j), after “otherwise)” insert “, relevant county councils, relevant public authorities, the Agency”;
- (c) in paragraph (l), after “authorities” insert “, relevant county councils, relevant public authorities or the Agency”;
- (d) in paragraph (m)—
  - (i) after “local authority” insert “, a relevant county council, a relevant public authority or the Agency”;
  - (ii) after “the authority”, in both places it occurs, insert “, council or Agency”.

- (3) After that subsection insert—
- “(2A) In subsection (2) “relevant county council” means a county council for an area in England for which there are district councils.”
- 12 In section 88, in subsection (3), after “district councils” insert “, relevant public authorities and the Agency”.
- 13 In section 91 (interpretation), in subsection (1)—
- (a) for the definition of “action plan” substitute—
- ““action plan” is to be construed—
- (a) in relation to England, in accordance with section 83A;
- (b) otherwise, in accordance with section 84(2);”;
- (b) at the appropriate places insert—
- ““air quality partner” has the meaning given by section 85A(1);”;
- ““neighbouring authority”, in relation to a local authority (“the principal authority”), means another local authority whose area is contiguous with the area of the principal authority;”;
- ““relevant public authority” has the meaning given by section 81A(2);”.
- 14 In Schedule 11 (air quality: supplemental provisions), in paragraph 1(2), for paragraph (d) substitute—
- “(d) every neighbouring authority;”.