

---

STATUTORY INSTRUMENTS

---

**1981 No. 158**

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

Dark smoke

**Prohibition of dark smoke from chimneys**

3.—(1) Subject to the provisions of this Order, dark smoke shall not be emitted from a chimney of any building, and if, on any day, dark smoke is so emitted, the occupier of the building shall be guilty of an offence.

(2) Emissions of smoke from any chimney lasting for not longer than such periods as may be prescribed shall, in such classes of case and subject to such limitations as may be prescribed, be left out of account for the purposes of this Article.

(3) In any proceedings for an offence under this Article, it shall be a defence to prove—

- (a) that the contravention complained of was solely due to the lighting up of a furnace which was cold and that all practicable steps had been taken to prevent or minimise the emission of dark smoke; or
- (b) that the contravention complained of was solely due to some failure of a furnace or of apparatus used in connection with a furnace and that—
  - (i) that failure could not reasonably have been foreseen, or, if foreseen, could not reasonably have been provided against; and
  - (ii) the contravention could not reasonably have been prevented by action taken after the failure occurred; or
- (c) that the contravention complained of was solely due to the use of unsuitable fuel and that—
  - (i) suitable fuel was unobtainable; and
  - (ii) the least unsuitable fuel which was available was used; and
  - (iii) all practicable steps had been taken to prevent or minimise the emission of dark smoke as a result of the use of that fuel; or
- (d) that the contravention complained of was due to a combination of two or more of the causes specified in sub-paragraphs (a) to (c) and that the other conditions specified in those sub-paragraphs are satisfied in relation to those causes respectively.

(4) Subject to paragraph (5), this Article shall apply in relation to a chimney serving the furnace of any boiler or industrial plant (being a boiler or plant attached to a building or for the time being fixed to or installed on any land) as it applies in relation to a chimney of a building.

(5) In relation to any chimney of the kind referred to in paragraph (4) which is not a chimney of a building, the reference in this Article to the occupier of the building shall be construed as a reference to the person having possession of the boiler or plant.

---

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Clean Air (Northern Ireland) Order 1981, Dark smoke. (See end of Document for details)*

---

#### **Prohibition of dark smoke from industrial or trade premises**

4.—(1) Subject to the following provisions of this Article, dark smoke shall not be emitted from any industrial or trade premises and if, on any day, dark smoke is so emitted the occupier of the premises shall be guilty of an offence.

(2) Paragraph (1) shall not apply to the emission of dark smoke from a chimney of a building or from any other chimney to which Article 3 applies.

(3) The Department may by regulations exempt from paragraph (1), subject to compliance with such conditions, if any, as may be prescribed, the emission of dark smoke caused by the burning of any prescribed matter.

(4) In proceedings for an offence under this Article it shall be a defence to prove that the contravention complained of was inadvertent and that all practicable steps had been taken to prevent or minimise the emission of dark smoke.

(5) In this Article “industrial or trade premises” means premises used for any industrial or trade purposes or premises not so used on which matter is burnt in connection with any industrial or trade process.

**Status:**

Point in time view as at 01/01/2006.

**Changes to legislation:**

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