



# Environment Act 1995

## 1995 CHAPTER 25

### PART IV **E+W+S**

#### AIR QUALITY

##### Modifications etc. (not altering text)

- C1** Pt. IV (ss. 80-91) amended (3.7.2000) by 1999 c. 29, s. 364 (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. 3**
- C2** Pt. 4 applied (E.W.) (1.2.2005) by Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), arts. 1, **8(2)(a)**

#### **80 National air quality strategy.** **E+W+S**

- (1) The Secretary of State shall as soon as possible prepare and publish a statement (in this Part referred to as “the strategy”) containing policies with respect to the assessment or management of the quality of air.
- (2) The strategy may also contain policies for <sup>F1</sup>...—
  - [<sup>F2</sup>(a) securing that any retained EU obligation is met, or]
  - (b) [<sup>F3</sup>the implementation of] international agreements to which the United Kingdom is for the time being a party,so far as relating to the quality of air.
- (3) The strategy shall consist of or include—
  - (a) a statement which relates to the whole of Great Britain; or
  - (b) two or more statements which between them relate to every part of Great Britain.
- (4) The Secretary of State—
  - (a) shall keep under review his policies with respect to the quality of air; and
  - (b) may from time to time modify the strategy.

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- (5) Without prejudice to the generality of what may be included in the strategy, the strategy must include statements with respect to—
- (a) standards relating to the quality of air;
  - (b) objectives for the restriction of the levels at which particular substances are present in the air; and
  - (c) measures which are to be taken by local authorities and other persons for the purpose of achieving those objectives.
- (6) In preparing the strategy or any modification of it, the Secretary of State shall consult—
- (a) the [<sup>F4</sup>appropriate agency];
  - (b) such bodies or persons appearing to him to be representative of the interests of local government as he may consider appropriate;
  - (c) such bodies or persons appearing to him to be representative of the interests of industry as he may consider appropriate; and
  - (d) such other bodies or persons as he may consider appropriate.
- (7) Before publishing the strategy or any modification of it, the Secretary of State—
- (a) shall publish a draft of the proposed strategy or modification, together with notice of a date before which, and an address at which, representations may be made to him concerning the draft so published; and
  - (b) shall take into account any such representations which are duly made and not withdrawn.

#### Textual Amendments

- F1** Word in s. 80(2) omitted (31.12.2020) by virtue of [The Environment \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/458\)](#), regs. 1(1), **3(6)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** S. 80(2)(a) substituted (31.12.2020) by [The Environment \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/458\)](#), regs. 1(1), **3(6)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in s. 80(2)(b) inserted (31.12.2020) by [The Environment \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/458\)](#), regs. 1(1), **3(6)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in s. 80(6)(a) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 377** (with Sch. 7)

## 81 Functions of the new Agencies. **E+W+S**

- (1) In discharging its pollution control functions, each new Agency [<sup>F5</sup>and the Natural Resources Body for Wales] shall have regard to the strategy.
- (2) In this section “pollution control functions” <sup>F6</sup>... [<sup>F7</sup>means]—
- (a) [<sup>F8</sup>means] in the case of the Agency [<sup>F9</sup>or the Natural Resources Body for Wales], the functions conferred on it by or under the enactments specified in section 5(5) above [<sup>F10</sup>(subject, in the case of the Body, to section 5(6) above)] ; or
  - (b) in the case of SEPA, [<sup>F11</sup>the functions conferred on it by or under the enactments specified in section 33(5) above][<sup>F11</sup>has the same meaning as in section 108(15) below in relation to SEPA].

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#### Textual Amendments

- F5** Words in s. 81(1) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 378(2)** (with Sch. 7)
- F6** Words in s. 81(2) omitted (1.4.2013) by virtue of [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 378(3)(a)** (with Sch. 7)
- F7** Words in s. 81(2) repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), **sch. 3 para. 14(11)(a)**; S.S.I. 2014/160, art. 2(1)(2)
- F8** Word in s. 81(2)(a) inserted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), **sch. 3 para. 14(11)(b)**; S.S.I. 2014/160, art. 2(1)(2)
- F9** Words in s. 81(2)(a) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 378(3)(b)(i)** (with Sch. 7)
- F10** Words in s. 81(2)(a) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 378(3)(b)(ii)** (with Sch. 7)
- F11** Words in s. 81(2)(b) substituted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), **sch. 3 para. 14(11)(c)**; S.S.I. 2014/160, art. 2(1)(2)

## 82 Local authority reviews. **E+W+S**

- (1) Every local authority shall from time to time cause a review to be conducted of the quality for the time being, and the likely future quality within the relevant period, of air within the authority's area.
- (2) Where a local authority causes a review under subsection (1) above to be conducted, it shall also cause an assessment to be made of whether air quality standards and objectives are being achieved, or are likely to be achieved within the relevant period, within the authority's area.
- (3) If, on an assessment under subsection (2) above, it appears that any air quality standards or objectives are not being achieved, or are not likely within the relevant period to be achieved, within the local authority's area, the local authority shall identify any parts of its area in which it appears that those standards or objectives are not likely to be achieved within the relevant period.

#### Modifications etc. (not altering text)

- C3** S. 82 functions made exercisable concurrently (E.W.) (1.4.2011) by [The Greater Manchester Combined Authority Order 2011 \(S.I. 2011/908\)](#), arts. 1, 10, **Sch. 3 para. 3**
- C4** S. 82 functions made exercisable concurrently (E.W.) (8.5.2017) by [The West Midlands Combined Authority \(Functions and Amendment\) Order 2017 \(S.I. 2017/510\)](#), arts. 1(2), **17**

## 83 Designation of air quality management areas. **E+W+S**

- (1) Where, as a result of an air quality review, it appears that any air quality standards or objectives are not being achieved, or are not likely within the relevant period to be achieved, within the area of a local authority, the local authority shall by order designate as an air quality management area (in this Part referred to as a "designated area") any part of its area in which it appears that those standards or objectives are not being achieved, or are not likely to be achieved within the relevant period.
- (2) An order under this section may, as a result of a subsequent air quality review,—

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- (a) be varied by a subsequent order; or
- (b) be revoked by such an order, if it appears on that subsequent air quality review that the air quality standards and objectives are being achieved, and are likely throughout the relevant period to be achieved, within the designated area.

**Modifications etc. (not altering text)**

- C5** S. 83 functions made exercisable concurrently (E.W.) (1.4.2011) by [The Greater Manchester Combined Authority Order 2011 \(S.I. 2011/908\)](#), arts. 1, 10, **Sch. 3 para. 4**
- C6** S. 83 functions made exercisable concurrently (E.W.) (8.5.2017) by [The West Midlands Combined Authority \(Functions and Amendment\) Order 2017 \(S.I. 2017/510\)](#), arts. 1(2), **17**

**84 Duties of local authorities in relation to designated areas. E+W+S**

<sup>F12</sup>(1) .....

- (2) [<sup>F13</sup>Where an order under section 83 above comes into operation, the local authority which made the order shall] prepare, in accordance with the following provisions of this Part, a written plan (in this Part referred to as an “action plan”) for the exercise by the authority, in pursuit of the achievement of air quality standards and objectives in the designated area, of any powers exercisable by the authority.
- (3) An action plan shall include a statement of the time or times by or within which the local authority in question proposes to implement each of the proposed measures comprised in the plan.
- (4) A local authority may from time to time revise an action plan.
- (5) This subsection applies in any case where the local authority preparing an action plan or a revision of an action plan is the council of a district in England which is comprised in an area for which there is a county council; and if, in a case where this subsection applies, the county council disagrees with the authority about the contents of the proposed action plan or revision of the action plan—
  - (a) either of them may refer the matter to the Secretary of State;
  - (b) on any such reference the Secretary of State may confirm the authority’s proposed action plan or revision of the action plan, with or without modifications (whether or not proposed by the county council) or reject it and, if he rejects it, he may also exercise any powers of his under section 85 below; and
  - (c) the authority shall not finally determine the content of the action plan, or the revision of the action plan, except in accordance with his decision on the reference or in pursuance of directions under section 85 below.

**Textual Amendments**

- F12** S. 84(1) repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), **ss. 49(a)**, 61(2); [S.S.I. 2014/160](#), art. 2(1)(2) and s. 84(1) omitted (E.W.) (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(q), **Sch. 13 para. 7(a)**
- F13** Words in s. 84(2) substituted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), **ss. 49(b)**, 61(2); [S.S.I. 2014/160](#), art. 2(1)(2) and substituted (E.W.) (26.5.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(q), **Sch. 13 para. 7(b)**

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**Modifications etc. (not altering text)**

- C7** S. 84 functions made exercisable concurrently (E.W.) (1.4.2011) by [The Greater Manchester Combined Authority Order 2011 \(S.I. 2011/908\)](#), arts. 1, 10, **Sch. 3 para. 5**
- C8** S. 84 functions made exercisable concurrently (E.W.) (8.5.2017) by [The West Midlands Combined Authority \(Functions and Amendment\) Order 2017 \(S.I. 2017/510\)](#), arts. 1(2), 17

**85 Reserve powers of the Secretary of State or SEPA. E+W+S**

- (1) In this section, “the appropriate authority” means—
- (a) in relation to [<sup>F14</sup>local authorities in England and Wales other than local authorities in Greater London, the Secretary of State;]
  - [<sup>F15</sup>(aa) in relation to local authorities in Greater London, the Mayor of London; and]
  - (b) in relation to Scotland, SEPA acting with the approval of the Secretary of State.
- (2) The appropriate authority may conduct or make, or cause to be conducted or made,—
- (a) a review of the quality for the time being, and the likely future quality within the relevant period, of air within the area of any local authority;
  - (b) an assessment of whether air quality standards and objectives are being achieved, or are likely to be achieved within the relevant period, within the area of a local authority;
  - (c) an identification of any parts of the area of a local authority in which it appears that those standards or objectives are not likely to be achieved within the relevant period; or
  - (d) an assessment of the respects (if any) in which it appears that air quality standards or objectives are not being achieved, or are not likely within the relevant period to be achieved, within the area of a local authority or within a designated area.
- (3) If it appears to the appropriate authority—
- (a) that air quality standards or objectives are not being achieved, or are not likely within the relevant period to be achieved, within the area of a local authority,
  - (b) that a local authority has failed to discharge any duty imposed on it under or by virtue of this Part,
  - (c) that the actions, or proposed actions, of a local authority in purported compliance with the provisions of this Part are inappropriate in all the circumstances of the case, or
  - (d) that developments in science or technology, or material changes in circumstances, have rendered inappropriate the actions or proposed actions of a local authority in pursuance of this Part,
- the appropriate authority may give directions to the local authority requiring it to take such steps as may be specified in the directions.
- (4) Without prejudice to the generality of subsection (3) above, directions under that subsection may, in particular, require a local authority—
- (a) to cause an air quality review to be conducted under section 82 above in accordance with the directions;
  - (b) to cause an air quality review under section 82 above to be conducted afresh, whether in whole or in part, or to be so conducted with such differences as may be specified or described in the directions;

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- (c) to make an order under section 83 above designating as an air quality management area an area specified in, or determined in accordance with, the directions;
  - (d) to revoke, or modify in accordance with the directions, any order under that section;
  - (e) to prepare in accordance with the directions an action plan for a designated area;
  - (f) to modify, in accordance with the directions, any action plan prepared by the authority; or
  - (g) to implement, in accordance with the directions, any measures in an action plan.
- <sup>F16</sup>(4A) The powers of the Mayor of London to give directions under this section to a local authority in Greater London may only be exercised after consultation with the local authority concerned.
- <sup>F16</sup>(4B) In exercising any function under subsection (2), (3) or (4) above [<sup>F17</sup>or (5A) below] the Mayor of London shall have regard to any guidance issued by the Secretary of State to local authorities under section 88(1) below.]
- (5) The Secretary of State shall also have power to give directions to local authorities [<sup>F18</sup>, other than local authorities in Greater London,] requiring them to take such steps specified in the directions as he considers appropriate <sup>F19</sup>...—
- <sup>F20</sup>(a) for securing that any retained EU obligation is met, or]
  - (b) [<sup>F21</sup>for the implementation of] any international agreement to which the United Kingdom is for the time being a party,  
so far as relating to the quality of air.
- <sup>F22</sup>[(5A) The Mayor of London shall also have the same power to give directions to local authorities in Greater London as the Secretary of State has under subsection (5) above in relation to other local authorities.]
- (6) Any direction given under this section shall be published in such manner as the body or person giving it considers appropriate for the purpose of bringing the matters to which it relates to the attention of persons likely to be affected by them; and—
- (a) copies of the direction shall be made available to the public; and
  - (b) notice shall be given—
    - (i) in the case of a direction given to a local authority in England and Wales, in the London Gazette, or
    - (ii) in the case of a direction given to a local authority in Scotland, in the Edinburgh Gazette,
 of the giving of the direction and of where a copy of the direction may be obtained.
- <sup>F23</sup>[(6A) The Mayor of London shall send a copy of any direction he gives under this section to the Secretary of State.]
- (7) It is the duty of a local authority to comply with any direction given to it under or by virtue of this Part.

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### Textual Amendments

- F14** Words in s. 85(1)(a) substituted (3.7.2000) by 1999 c. 29, s. 367(1)(2)(a) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. 3**
- F15** S. 85(1)(aa) inserted (3.7.2000) by 1999 c. 29, s. 367(1)(2)(b) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. 3**
- F16** S. 85(4A)(4B) inserted (3.7.2000) by 1999 c. 29, s. 367(1)(3) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. 3**
- F17** Words in s. 85(4B) inserted (20.11.2001) by S.I. 2001/3719, art. 2, **Sch. para. 6(1)(2)**
- F18** Words in s. 85(5) inserted (3.7.2000) by 1999 c. 29, s. 367(1)(4) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. 3**
- F19** Words in s. 85(5) omitted (31.12.2020) by The Environment (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/458), regs. 1(1), **3(7)(a)** (with reg. 8(1)(2)) (as amended by S.I. 2020/1540, regs. 1(3), **12(5)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F20** S. 85(5)(a) substituted (31.12.2020) by The Environment (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/458), regs. 1(1), **3(7)(b)** (with reg. 8(1)(2)) (as amended by S.I. 2020/1540, regs. 1(3), **12(5)**); 2020 c. 1, Sch. 5 para. 1(1)
- F21** Words in s. 85(5)(b) inserted (31.12.2020) by The Environment (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/458), regs. 1(1), **3(7)(c)** (with reg. 8(1)(2)) (as amended by S.I. 2020/1540, regs. 1(3), **12(5)**); 2020 c. 1, Sch. 5 para. 1(1)
- F22** S. 85(5A) inserted (20.11.2001) by S.I. 2001/3719, art. 2, **Sch. para. 6(1)(3)**
- F23** S. 85(6A) inserted (3.7.2000) by 1999 c. 29, s. 367(1)(5) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. 3**

### Modifications etc. (not altering text)

- C9** S. 85 applied (with modifications) (E.W.) (1.2.2005) by Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), arts. 1, **8(3)**, (4)
- C10** S. 85(5) applied (9.9.2003) by The Air Quality Limit Values Regulations 2003 (S.I. 2003/2121), regs. 1(1), **14(1)**
- C11** S. 85(6) applied (9.9.2003) by The Air Quality Limit Values Regulations 2003 (S.I. 2003/2121), regs. 1(1), **14(2)**
- C12** S. 85(6)(7) applied (with modifications) (E.) (11.6.2010) by The Air Quality Standards Regulations 2010 (S.I. 2010/1001), regs. 1(1), **31(2)**
- C13** S. 85(6A) applied (9.9.2003) by The Air Quality Limit Values Regulations 2003 (S.I. 2003/2121), regs. 1(1), **14(2)**
- C14** S. 85(6)(6A)(7) applied (19.7.2001) by S.I. 2001/2315, **reg. 11(2)**
- C15** S. 85(7) applied (with modifications) by S.I. 2001/2315, **reg. 11(2)**
- C16** S. 85(7) applied (9.9.2003) by The Air Quality Limit Values Regulations 2003 (S.I. 2003/2121), regs. 1(1), **14(2)**

## 86 **Functions of county councils for areas for which there are district councils.** **E**

**+W+S**

- (1) This section applies in any case where a district in England for which there is a district council is comprised in an area for which there is a county council; and in this paragraph—
- any reference to the county council is a reference to the council of that area; and
  - any reference to a district council is a reference to the council of a district comprised in that area.

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- (2) The county council may make recommendations to a district council with respect to the carrying out of—
- (a) any particular air quality review,
  - (b) any particular assessment under section 82 [<sup>F24</sup>or 84] above, or
  - (c) the preparation of any particular action plan or revision of an action plan,
- and the district council shall take into account any such recommendations.
- (3) Where a district council is preparing an action plan, the county council shall, within the relevant period, submit to the district council proposals for the exercise (so far as relating to the designated area) by the county council, in pursuit of the achievement of air quality standards and objectives, of any powers exercisable by the county council.
- (4) Where the county council submits proposals to a district council in pursuance of subsection (3) above, it shall also submit a statement of the time or times by or within which it proposes to implement each of the proposals.
- (5) An action plan shall include a statement of—
- (a) any proposals submitted pursuant to subsection (3) above; and
  - (b) any time or times set out in the statement submitted pursuant to subsection (4) above.
- (6) If it appears to the Secretary of State—
- (a) that air quality standards or objectives are not being achieved, or are not likely within the relevant period to be achieved, within the area of a district council,
  - (b) that the county council has failed to discharge any duty imposed on it under or by virtue of this Part,
  - (c) that the actions, or proposed actions, of the county council in purported compliance with the provisions of this Part are inappropriate in all the circumstances of the case, or
  - (d) that developments in science or technology, or material changes in circumstances, have rendered inappropriate the actions or proposed actions of the county council in pursuance of this Part,
- the Secretary of State may give directions to the county council requiring it to take such steps as may be specified in the directions.
- (7) Without prejudice to the generality of subsection (6) above, directions under that subsection may, in particular, require the county council—
- (a) to submit, in accordance with the directions, proposals pursuant to subsection (3) above or a statement pursuant to subsection (4) above;
  - (b) to modify, in accordance with the directions, any proposals or statement submitted by the county council pursuant to subsection (3) or (4) above;
  - (c) to submit any proposals or statement so modified to the district council in question pursuant to subsection (3) or (4) above; or
  - (d) to implement, in accordance with the directions, any measures included in an action plan.
- (8) The Secretary of State shall also have power to give directions to county councils for areas for which there are district councils requiring them to take such steps specified in the directions as he considers appropriate <sup>F25</sup>...—
- [<sup>F26</sup>(a) for securing that any retained EU obligation is met, or]



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- (b) [<sup>F27</sup>for the implementation of] any international agreement to which the United Kingdom is for the time being a party, so far as relating to the quality of air.
- (9) Any direction given under this section shall be published in such manner as the Secretary of State considers appropriate for the purpose of bringing the matters to which it relates to the attention of persons likely to be affected by them; and—
- (a) copies of the direction shall be made available to the public; and
- (b) notice of the giving of the direction, and of where a copy of the direction may be obtained, shall be given in the London Gazette.
- (10) It is the duty of a county council for an area for which there are district councils to comply with any direction given to it under or by virtue of this Part.

#### Textual Amendments

- F24** Words in s. 86(2)(b) omitted (E.W.) (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(q), [Sch. 13 para. 8\(2\)\(a\)](#)
- F25** Words in s. 86(8) omitted (31.12.2020) by virtue of [The Environment \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/458\)](#), regs. 1(1), [3\(8\)\(a\)](#) (with reg. 8(1)(2)) (as amended by S.I. 2020/1540, regs. 1(3), 12(5)); 2020 c. 1, Sch. 5 para. 1(1)
- F26** S. 86(8)(a) substituted (31.12.2020) by [The Environment \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/458\)](#), regs. 1(1), [3\(8\)\(b\)](#) (with reg. 8(1)(2)) (as amended by S.I. 2020/1540, regs. 1(3), 12(5)); 2020 c. 1, Sch. 5 para. 1(1)
- F27** Words in s. 86(8)(b) inserted (31.12.2020) by [The Environment \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/458\)](#), regs. 1(1), [3\(8\)\(c\)](#) (with reg. 8(1)(2)) (as amended by S.I. 2020/1540, regs. 1(3), 12(5)); 2020 c. 1, Sch. 5 para. 1(1)

#### [<sup>F28</sup>**86A Functions exercisable by the Mayor of London.** **E+W+S**]

- (1) Where a local authority in Greater London is preparing an action plan, the Mayor of London (referred to in this section as “the Mayor”) shall, within the relevant period, submit to the authority proposals for the exercise (so far as relating to the designated area) by the Mayor, in pursuit of the achievement of air quality standards and objectives, of any powers exercisable by the Mayor.
- (2) Where the Mayor submits proposals to a local authority in pursuance of subsection (1) above, he shall also submit a statement of the time or times by or within which he proposes to implement each of the proposals.
- (3) An action plan shall include a statement of—
- (a) any proposals submitted pursuant to subsection (1) above; and
- (b) any time or times set out in the statement submitted pursuant to subsection (2) above.]

#### Textual Amendments

- F28** S. 86A inserted (3.7.2000) by [1999 c. 29, s. 368](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 2000/801](#), art. 2(2)(c), [Sch. Pt. 3](#)

*Status: Point in time view as at 28/04/2022.*

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## 87 Regulations for the purposes of Part IV. **E+W+S**

- (1) Regulations may make provision—
- (a) for, or in connection with, implementing the strategy;
  - (b) for, or in connection with <sup>F29</sup>...—
    - <sup>F30</sup>(i) securing that any retained EU obligation is met, or]
    - (ii) [<sup>F31</sup>the implementation of any] international agreements to which the United Kingdom is for the time being a party, so far as relating to the quality of air; or
  - (c) otherwise with respect to the assessment or management of the quality of air.
- (2) Without prejudice to the generality of subsection (1) above, regulations under that subsection may make provision—
- (a) prescribing standards relating to the quality of air;
  - (b) prescribing objectives for the restriction of the levels at which particular substances are present in the air;
  - (c) conferring powers or imposing duties on local authorities;
  - (d) for or in connection with—
    - (i) authorising local authorities (whether by agreements or otherwise) to exercise any functions of a Minister of the Crown on his behalf;
    - (ii) directing that functions of a Minister of the Crown shall be exercisable concurrently with local authorities; or
    - (iii) transferring functions of a Minister of the Crown to local authorities;
  - (e) prohibiting or restricting, or for or in connection with prohibiting or restricting,—
    - (i) the carrying on of prescribed activities, or
    - (ii) the access of prescribed vehicles or mobile equipment to prescribed areas, whether generally or in prescribed circumstances;
  - (f) for or in connection with the designation of air quality management areas by orders made by local authorities in such cases or circumstances not falling within section 83 above as may be prescribed;
  - (g) for the application, with or without modifications, of any provisions of this Part in relation to areas designated by virtue of paragraph (f) above or in relation to orders made by virtue of that paragraph;
  - (h) with respect to—
    - (i) air quality reviews;
    - (ii) assessments under this Part;
    - (iii) orders designating air quality management areas; or
    - (iv) action plans;
  - (j) prescribing measures which are to be adopted by local authorities (whether in action plans or otherwise) or other persons in pursuance of the achievement of air quality standards or objectives;
  - (k) for or in connection with the communication to the public of information relating to quality for the time being, or likely future quality, of the air;
  - (l) for or in connection with the obtaining by local authorities from any person of information which is reasonably necessary for the discharge of functions conferred or imposed on them under or by virtue of this Part;

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- (m) for or in connection with the recovery by a local authority from prescribed persons in prescribed circumstances, and in such manner as may be prescribed, of costs incurred by the authority in discharging functions conferred or imposed on the authority under or by virtue of this Part;
  - (n) for a person who contravenes, or fails to comply with, any prescribed provision of the regulations to be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or such lower level on that scale as may be prescribed in relation to the offence;
  - (o) for or in connection with arrangements under which a person may discharge any liability to conviction for a prescribed offence by payment of a penalty of a prescribed amount;
  - (p) for or in connection with appeals against determinations or decisions made, notices given or served, or other things done under or by virtue of the regulations.
- (3) Without prejudice to the generality of paragraph (h) of subsection (2) above, the provision that may be made by virtue of that paragraph includes provision for or in connection with any of the following, that is to say—
- (a) the scope or form of a review or assessment;
  - (b) the scope, content or form of an action plan;
  - (c) the time at which, period within which, or manner in which a review or assessment is to be carried out or an action plan is to be prepared;
  - (d) the methods to be employed—
    - (i) in carrying out reviews or assessments; or
    - (ii) in monitoring the effectiveness of action plans;
  - (e) the factors to be taken into account in preparing action plans;
  - (f) the actions which must be taken by local authorities or other persons in consequence of reviews, assessments or action plans;
  - (g) requirements for consultation;
  - (h) the treatment of representations or objections duly made;
  - (j) the publication of, or the making available to the public of, or of copies of,—
    - (i) the results, or reports of the results, of reviews or assessments; or
    - (ii) orders or action plans;
  - (k) requirements for—
    - (i) copies of any such reports, orders or action plans, or
    - (ii) prescribed information, in such form as may be prescribed, relating to reviews or assessments,to be sent to the Secretary of State or to the [F32appropriate agency].
- (4) In determining—
- (a) any appeal against, or reference or review of, a decision of a local authority under or by virtue of regulations under this Part, or
  - (b) any application transmitted from a local authority under or by virtue of any such regulations,
- the body or person making the determination shall be bound by any direction given by a Minister of the Crown or SEPA to the local authority to the same extent as the local authority.
- (5) The provisions of any regulations under this Part may include—

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- (a) provision for anything that may be prescribed by the regulations to be determined under the regulations and for anything falling to be so determined to be determined by such persons, in accordance with such procedure and by reference to such matters, and to the opinion of such persons, as may be prescribed;
  - (b) different provision for different cases, including different provision in relation to different persons, circumstances, areas or localities; and
  - (c) such supplemental, consequential, incidental or transitional provision (including provision amending any enactment or any instrument made under any enactment) as the Secretary of State considers appropriate.
- (6) Nothing in regulations under this Part shall authorise any person other than a constable in uniform to stop a vehicle on any road.
- (7) Before making any regulations under this Part, the Secretary of State shall consult—
- (a) the [<sup>F33</sup>appropriate agency];
  - (b) such bodies or persons appearing to him to be representative of the interests of local government as he may consider appropriate;
  - (c) such bodies or persons appearing to him to be representative of the interests of industry as he may consider appropriate; and
  - (d) such other bodies or persons as he may consider appropriate.
- (8) Any power conferred by this Part to make regulations shall be exercisable by statutory instrument; and no statutory instrument containing regulations under this Part shall be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (9) If, apart from this subsection, the draft of an instrument containing regulations under this Part would be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it shall proceed in that House as if it were not such an instrument.
- [<sup>F34</sup>(10) In subsection (5)(c) above, “enactment” includes an enactment comprised in an Act of the Scottish Parliament.]

#### Textual Amendments

- F29** Word in s. 87(1)(b) omitted (31.12.2020) by virtue of [The Environment \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/458), regs. 1(1), **3(9)(a)** (with reg. 8(3)) (as amended by S.I. 2020/1540, regs. 1(3), 12(5)); 2020 c. 1, Sch. 5 para. 1(1)
- F30** S. 87(1)(b)(i) substituted (31.12.2020) by [The Environment \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/458), regs. 1(1), **3(9)(b)** (with reg. 8(3)) (as amended by S.I. 2020/1540, regs. 1(3), 12(5)); 2020 c. 1, Sch. 5 para. 1(1)
- F31** Words in s. 87(1)(b)(ii) inserted (31.12.2020) by [The Environment \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/458), regs. 1(1), **3(9)(c)** (with reg. 8(3)) (as amended by S.I. 2020/1540, regs. 1(3), 12(5)); 2020 c. 1, Sch. 5 para. 1(1)
- F32** Words in s. 87(3) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013](#) (S.I. 2013/755), art. 1(2), **Sch. 2 para. 379** (with Sch. 7)
- F33** Words in s. 87(7)(a) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013](#) (S.I. 2013/755), art. 1(2), **Sch. 2 para. 379** (with Sch. 7)
- F34** S. 87(10) added (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014](#) (asp 3), s. 61(2), **sch. 3 para. 43(9)**; S.S.I. 2014/160, art. 2(1)(2)

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**88** **E+W+S**

- (1) The Secretary of State may issue guidance to local authorities with respect to, or in connection with, the exercise of any of the powers conferred, or the discharge of any of the duties imposed, on those authorities by or under this Part.
- (2) A local authority, in carrying out any of its functions under or by virtue of this Part, shall have regard to any guidance issued by the Secretary of State under this Part.
- (3) This section shall apply in relation to county councils for areas for which there are district councils as it applies in relation to local authorities.

**89** **E+W+S**

- (1) Subject to the provisions of any order under this section, this Part, other than section 80, shall not apply in relation to the Isles of Scilly.
- (2) The Secretary of State may, after consultation with the Council of the Isles of Scilly, by order provide for the application of any provisions of this Part (other than section 80) to the Isles of Scilly; and any such order may provide for the application of those provisions to those Isles with such modifications as may be specified in the order.
- (3) An order under this section may—
  - (a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and
  - (b) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate, including provision saving provision repealed by or under any enactment.
- (4) The power of the Secretary of State to make an order under this section shall be exercisable by statutory instrument; and a statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**90** **Supplemental provisions.** **E+W+S**

Schedule 11 to this Act shall have effect.

**Commencement Information**

- II** S. 90 wholly in force at 23.12.1997; s. 90 not in force at Royal Assent see s. 125(3); s. 90 in force for specified purposes at 1.2.1996 by [S.I. 1996/186](#), [art 2](#); s. 90 in force at 23.12.1997 in so far as it is not already in force by [S.I. 1997/3044](#), [art. 2](#)

**91** **Interpretation of Part IV.** **E+W+S**

- (1) In this Part—
  - “action plan” shall be construed in accordance with section <sup>F35</sup>84(2) above;
  - “air quality objectives” means objectives prescribed by virtue of section 87(2)(b) above;
  - “air quality review” means a review under section 82 or 85 above;

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“air quality standards” means standards prescribed by virtue of section 87(2)(a) above;

[<sup>F36</sup>“the appropriate agency” means—

- (a) in relation to England, the Agency;
- (b) in relation to Wales, the Natural Resources Body for Wales;
- (c) in relation to Scotland, SEPA;]

“designated area” has the meaning given by section 83(1) above;

“local authority”, in relation to England and Wales, means—

- (a) any unitary authority,
- (b) any district council, so far as it is not a unitary authority,
- (c) the Common Council of the City of London and, as respects the Temples, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple respectively,

and, in relation to Scotland, means a council for an area constituted under section 2 of the <sup>M1</sup>Local Government etc. (Scotland) Act 1994;

“new Agency” means the Agency or SEPA;

“prescribed” means prescribed, or of a description prescribed, by or under regulations;

“regulations” means regulations made by the Secretary of State;

“the relevant period”, in the case of any provision of this Part, means such period as may be prescribed for the purposes of that provision;

“the strategy” has the meaning given by section 80(1) above;

“unitary authority” means—

- (a) the council of a county, so far as it is the council of an area for which there are no district councils;
- (b) the council of any district comprised in an area for which there is no county council;
- (c) the council of a London borough;
- (d) the council of a county borough in Wales.

- (2) Any reference in this Part to it appearing that any air quality standards or objectives are not likely within the relevant period to be achieved includes a reference to it appearing that those standards or objectives are likely within that period not to be achieved.

#### Textual Amendments

**F35** Word in s. 91(1) substituted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), **sch. 3 para. 29(5)**; S.S.I. 2014/160, art. 2(1)(2) and substituted (E.W.) (26.5.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(q), **Sch. 13 para. 8(2)(b)**

**F36** Words in s. 91(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 380** (with Sch. 7)

#### Marginal Citations

**M1** 1994 c. 39.

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