

Status: Point in time view as at 01/01/2014.

Changes to legislation: Environment Act 1995, SCHEDULE 11 is up to date with all changes known to be in force on or before 30 June 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)

SCHEDULES

SCHEDULE 11

Section 90.

AIR QUALITY: SUPPLEMENTAL PROVISIONS

Consultation requirements

- 1 (1) A local authority in carrying out its functions in relation to—
- (a) any air quality review,
 - (b) any assessment under section 82 or 84 of this Act, or
 - (c) the preparation of an action plan or any revision of an action plan,
- shall consult such other persons as fall within sub-paragraph (2) below.
- (2) Those persons are—
- (a) the Secretary of State;
 - (b) the appropriate new Agency;
 - (c) in England and Wales, the highway authority for any highway in the area to which the review or, as the case may be, the action plan or revision relates;
 - (d) every local authority whose area is contiguous to the authority's area;
 - (e) any county council in England whose area consists of or includes the whole or any part of the authority's area;
 - (f) any National Park authority for a National Park whose area consists of or includes the whole or any part of the authority's area;
 - (g) such public authorities exercising functions in, or in the vicinity of, the authority's area as the authority may consider appropriate;
 - (h) such bodies appearing to the authority to be representative of persons with business interests in the area to which the review or action plan in question relates as the authority may consider appropriate;
 - (j) such other bodies or persons as the authority considers appropriate.
- [^{F1}(2A) A local authority specified in sub-paragraph (2B) below shall in carrying out the functions falling within sub-paragraph (1)(a) to (c) above also consult the Mayor of London.
- ^{F1}(2B) The local authorities mentioned in sub-paragraph (2A) above are—
- (a) any local authority in Greater London,
 - (b) any local authority whose area is contiguous to the area of Greater London.]
- (3) [^{F2}Except in its application to Scotland,] in this paragraph “National Park authority”,
^{F3} . . . , means a National Park authority established under section 63 of this Act which has become the local planning authority for the National Park in question.
- ^{F4}(4)

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- [^{F5}(5) In the application of this paragraph to Scotland “National Park authority” means a National Park authority established by virtue of section 7(1)(b) of the National Parks (Scotland) Act 2000 (asp 10).]

Textual Amendments

- F1** Sch. 11 para. 1(2A)(2B) inserted (3.7.2000) by 1999 c. 29, s. 369, (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. 3**
- F2** Words in Sch. 11 para. 1(3) inserted (S.) (8.9.2000) by 2000 asp 10, s. 36, **Sch. 5 para. 17(a)** (with s. 32); S.S.I. 2000/312, **art. 2**
- F3** Words in Sch. 11 para. 1(3) repealed (E.W.) (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, **art. 2, Sch.**
- F4** Sch. 11 para. 1(4) repealed (E.W.) (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, **art. 2, Sch.**
- F5** Sch. 11 para. 1(5) inserted (S.) (8.9.2000) by 2000 asp 10, s. 36, **Sch. 5 para. 17(b)** (with s. 32); S.S.I. 2000/312, **art. 2**

Exchange of information with county councils in England

- 2 (1) This paragraph 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—
- (a) any reference to the county council is a reference to the council of that area; and
 - (b) any reference to a district council is a reference to the council of a district comprised in that area.
- (2) It shall be the duty of the county council to provide a district council with all such information as is reasonably requested by the district council for purposes connected with the carrying out of its functions under or by virtue of this Part.
- (3) It shall be the duty of a district council to provide the county council with all such information as is reasonably requested by the county council for purposes connected with the carrying out of any of its functions relating to the assessment or management of the quality of air.
- (4) Information provided to a district council or county council under sub-paragraph (2) or (3) above shall be provided in such form and in such manner and at such times as the district council or, as the case may be, the county council may reasonably require.
- (5) A council which provides information under sub-paragraph (2) or (3) above shall be entitled to recover the reasonable cost of doing so from the council which requested the information.
- (6) The information which a council may be required to provide under this paragraph shall include information which, although it is not in the possession of the council or would not otherwise come into the possession of the council, is information which it is reasonable to require the council to obtain.

Joint exercise of local authority functions

- 3 (1) The appropriate authority may give directions to any two or more local authorities requiring them to exercise the powers conferred by—

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- (a) section 101(5) of the ^{M1}Local Government Act 1972 (power of two or more local authorities to discharge functions jointly), or
 - (b) section 56(5) of the ^{M2}Local Government (Scotland) Act 1973 (which makes similar provision for Scotland),
- in relation to functions under or by virtue of this Part in accordance with the directions.
- (2) The appropriate authority may give directions to a local authority requiring it—
- (a) not to exercise those powers, or
 - (b) not to exercise those powers in a manner specified in the directions,
- in relation to functions under or by virtue of this Part.
- (3) Where two or more local authorities have exercised those powers in relation to functions under or by virtue of this Part, the appropriate authority may give them directions requiring them to revoke, or modify in accordance with the directions, the arrangements which they have made.
- (4) In this paragraph, “the appropriate authority” means—
- (a) in relation to England and Wales, the Secretary of State; and
 - (b) in relation to Scotland, SEPA acting with the approval of the Secretary of State.

Marginal Citations

- M1** 1972 c. 70.
- M2** 1973 c. 65.

Public access to information about air quality

- 4 (1) It shall be the duty of every local authority—
- (a) to secure that there is available at all reasonable times for inspection by the public free of charge a copy of each of the documents specified in sub-paragraph (2) below; and
 - (b) to afford to members of the public facilities for obtaining copies of those documents on payment of a reasonable charge.
- (2) The documents mentioned in sub-paragraph (1)(a) above are—
- (a) a report of the results of any air quality review which the authority has caused to be conducted;
 - (b) a report of the results of any assessment which the authority has caused to be made under section 82 or 84 of this Act;
 - (c) any order made by the authority under section 83 of this Act;
 - (d) any action plan prepared by the authority;
 - (e) any proposals or statements submitted to the authority pursuant to subsection (3) or (4) of section 86 of this Act;
 - (f) any directions given to the authority under this Part;
 - (g) in a case where section 86 of this Act applies, any directions given to the county council under this Part.

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Fixed penalty offences

- 5 (1) Without prejudice to the generality of paragraph (o) of subsection (2) of section 87 of this Act, regulations may, in particular, make provision—
- (a) for the qualifications, appointment or authorisation of persons who are to issue fixed penalty notices;
 - (b) for the offences in connection with which, the cases or circumstances in which, the time or period at or within which, or the manner in which fixed penalty notices may be issued;
 - (c) prohibiting the institution, before the expiration of the period for paying the fixed penalty, of proceedings against a person for an offence in connection with which a fixed penalty notice has been issued;
 - (d) prohibiting the conviction of a person for an offence in connection with which a fixed penalty notice has been issued if the fixed penalty is paid before the expiration of the period for paying it;
 - (e) entitling, in prescribed cases, a person to whom a fixed penalty notice is issued to give, within a prescribed period, notice requesting a hearing in respect of the offence to which the fixed penalty notice relates;
 - (f) for the amount of the fixed penalty to be increased by a prescribed amount in any case where the person liable to pay the fixed penalty fails to pay it before the expiration of the period for paying it, without having given notice requesting a hearing in respect of the offence to which the fixed penalty notice relates;
 - (g) for or in connection with the recovery of an unpaid fixed penalty as a fine or as a civil debt or as if it were a sum payable under a county court order;
 - (h) for or in connection with execution or other enforcement in respect of an unpaid fixed penalty by prescribed persons;
 - (j) for a fixed penalty notice, and any prescribed proceedings or other prescribed steps taken by reference to the notice, to be rendered void in prescribed cases where a person makes a prescribed statutory declaration, and for the consequences of any notice, proceedings or other steps being so rendered void (including extension of any time limit for instituting criminal proceedings);
 - (k) for or in connection with the extension, in prescribed cases or circumstances, by a prescribed person of the period for paying a fixed penalty;
 - (l) for or in connection with the withdrawal, in prescribed circumstances, of a fixed penalty notice, including—
 - (i) repayment of any amount paid by way of fixed penalty in pursuance of a fixed penalty notice which is withdrawn; and
 - (ii) prohibition of the institution or continuation of proceedings for the offence in connection with which the withdrawn notice was issued;
 - (m) for or in connection with the disposition of sums received by way of fixed penalty;
 - (n) for a certificate purporting to be signed by or on behalf of a prescribed person and stating either—
 - (i) that payment of a fixed penalty was, or (as the case may be) was not, received on or before a date specified in the certificate, or
 - (ii) that an envelope containing an amount sent by post in payment of a fixed penalty was marked as posted on a date specified in the certificate,

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- to be received as evidence of the matters so stated and to be treated, without further proof, as being so signed unless the contrary is shown;
- (o) requiring a fixed penalty notice to give such reasonable particulars of the circumstances alleged to constitute the fixed penalty offence to which the notice relates as are necessary for giving reasonable information of the offence and to state—
- (i) the monetary amount of the fixed penalty which may be paid;
 - (ii) the person to whom, and the address at which, the fixed penalty may be paid and any correspondence relating to the fixed penalty notice may be sent;
 - (iii) the method or methods by which payment of the fixed penalty may be made;
 - (iv) the period for paying the fixed penalty;
 - (v) the consequences of the fixed penalty not being paid before the expiration of that period;
- (p) similar to any provision made by section 79 of the ^{M3}Road Traffic Offenders Act 1988 (statements by constables in fixed penalty cases);
- (q) for presuming, in any proceedings, that any document of a prescribed description purporting to have been signed by a person to whom a fixed penalty notice has been issued has been signed by that person;
- (r) requiring or authorising a fixed penalty notice to contain prescribed information relating to, or for the purpose of facilitating, the administration of the fixed penalty system;
- (s) with respect to the giving of fixed penalty notices, including, in particular, provision with respect to—
- (i) the methods by which,
 - (ii) the officers, servants or agents by, to or on whom, and
 - (iii) the places at which,
- fixed penalty notices may be given by, or served on behalf of, a prescribed person;
- (t) prescribing the method or methods by which fixed penalties may be paid;
- (u) for or with respect to the issue of prescribed documents to persons to whom fixed penalty notices are or have been given;
- (w) for a fixed penalty notice to be treated for prescribed purposes as if it were an information or summons or any other document of a prescribed description.
- (2) The provision that may be made by regulations prescribing fixed penalty offences includes provision for an offence to be a fixed penalty offence—
- (a) only if it is committed in such circumstances or manner as may be prescribed; or
 - (b) except if it is committed in such circumstances or manner as may be prescribed.
- (3) Regulations may provide for any offence which is a fixed penalty offence to cease to be such an offence.
- (4) An offence which, in consequence of regulations made by virtue of sub-paragraph (3) above, has ceased to be a fixed penalty offence shall be eligible to be prescribed as such an offence again.

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(5) Regulations may make provision for such exceptions, limitations and conditions as the Secretary of State considers necessary or expedient.

(6) In this paragraph—

“fixed penalty” means a penalty of such amount as may be prescribed (whether by being specified in, or made calculable under, regulations);

“fixed penalty notice” means a notice offering a person an opportunity to discharge any liability to conviction for a fixed penalty offence by payment of a penalty of a prescribed amount;

“fixed penalty offence” means, subject to sub-paragraph (2) above, any offence (whether under or by virtue of this Part or any other enactment) which is for the time being prescribed as a fixed penalty offence;

“the fixed penalty system” means the system implementing regulations made under or by virtue of paragraph (o) of subsection (2) of section 87 of this Act;

“the period for paying”, in relation to any fixed penalty, means such period as may be prescribed for the purpose;

“regulations” means regulations under or by virtue of paragraph (o) of subsection (2) of section 87 of this Act.

Marginal Citations

M3 1988 c. 53.

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