



# Clean Air Act 1993

## 1993 CHAPTER 11

### PART I

#### DARK SMOKE

#### **1 Prohibition of dark smoke from chimneys.**

- (1) 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) Dark smoke shall not be emitted from a chimney (not being a chimney of a building) which serves the furnace of any fixed boiler or industrial plant, and if, on any day, dark smoke is so emitted, the person having possession of the boiler or plant shall be guilty of an offence.
- (3) This section does not apply to emissions of smoke from any chimney, in such classes of case and subject to such limitations as may be prescribed in regulations made by the Secretary of State, lasting for not longer than such periods as may be so prescribed.
- (4) In any proceedings for an offence under this section, it shall be a defence to prove—
  - (a) that the alleged emission 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;
  - (b) that the alleged emission was solely due to some failure of a furnace, or of apparatus used in connection with a furnace, and that—
    - (i) the failure could not reasonably have been foreseen, or, if foreseen, could not reasonably have been provided against; and
    - (ii) the alleged emission could not reasonably have been prevented by action taken after the failure occurred; or
  - (c) that the alleged emission was solely due to the use of unsuitable fuel and that—
    - (i) suitable fuel was unobtainable and the least unsuitable fuel which was available was used; and
    - (ii) all practicable steps had been taken to prevent or minimise the emission of dark smoke as the result of the use of that fuel;

*Status: Point in time view as at 01/12/1994.*

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or that the alleged emission was due to the combination of two or more of the causes specified in paragraphs (a) to (c) and that the other conditions specified in those paragraphs are satisfied in relation to those causes respectively.

- (5) A person guilty of an offence under this section shall be liable on summary conviction—
- (a) in the case of a contravention of subsection (1) as respects a chimney of a private dwelling, to a fine not exceeding level 3 on the standard scale; and
  - (b) in any other case, to a fine not exceeding level 5 on the standard scale.
- (6) This section has effect subject to section 51 (duty to notify offences to occupier or other person liable).

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

**C1** S. 1 power to exclude conferred (27.8.1993) by 1993 c. 11, s. 45(1)(a)

**2 Prohibition of dark smoke from industrial or trade premises.**

- (1) 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 and any person who causes or permits the emission shall be guilty of an offence.
- (2) This section does not apply—
- (a) to the emission of dark smoke from any chimney to which section 1 above applies; or
  - (b) to the emission of dark smoke caused by the burning of any matter prescribed in regulations made by the Secretary of State, subject to compliance with such conditions (if any) as may be so prescribed.
- (3) In proceedings for an offence under this section, there shall be taken to have been an emission of dark smoke from industrial or trade premises in any case where—
- (a) material is burned on those premises; and
  - (b) the circumstances are such that the burning would be likely to give rise to the emission of dark smoke,
- unless the occupier or any person who caused or permitted the burning shows that no dark smoke was emitted.
- (4) In proceedings for an offence under this section, it shall be a defence to prove—
- (a) that the alleged emission was inadvertent; and
  - (b) that all practicable steps had been taken to prevent or minimise the emission of dark smoke.
- (5) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) In this section “industrial or trade premises” means—
- (a) premises used for any industrial or trade purposes; or
  - (b) premises not so used on which matter is burnt in connection with any industrial or trade process.

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- (7) This section has effect subject to section 51 (duty to notify offences to occupier or other person liable).

### 3 Meaning of “dark smoke”.

- (1) In this Act “dark smoke” means smoke which, if compared in the appropriate manner with a chart of the <sup>M1</sup>type known on 5th July 1956 (the date of the passing of the Clean Air Act 1956) as the Ringelmann Chart, would appear to be as dark as or darker than shade 2 on the chart.
- (2) For the avoidance of doubt it is hereby declared that in proceedings—
- (a) for an offence under section 1 or 2 (prohibition of emissions of dark smoke); or
  - (b) brought by virtue of section 17 (smoke nuisances in Scotland),
- the court may be satisfied that smoke is or is not dark smoke as defined in subsection (1) notwithstanding that there has been no actual comparison of the smoke with a chart of the type mentioned in that subsection.
- (3) Without prejudice to the generality of subsections (1) and (2), if the Secretary of State by regulations prescribes any method of ascertaining whether smoke is dark smoke as defined in subsection (1), proof in any such proceedings as are mentioned in subsection (2)—
- (a) that that method was properly applied, and
  - (b) that the smoke was thereby ascertained to be or not to be dark smoke as so defined,
- shall be accepted as sufficient.

#### Marginal Citations

M1 1956 c. 52.

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