



# Environment Act 1995

## 1995 CHAPTER 25

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

#### AIR QUALITY

#### **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>F1</sup>local authorities in England and Wales other than local authorities in Greater London, the Secretary of State;]
  - [<sup>F2</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,

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- (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;
  - (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>F3</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>F3</sup>(4B) In exercising any function under subsection (2), (3) or (4) above [<sup>F4</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>F5</sup>, other than local authorities in Greater London,] requiring them to take such steps specified in the directions as he considers appropriate <sup>F6</sup>...—

- <sup>F7</sup>(a) for securing that any retained EU obligation is met, or]
  - (b) [<sup>F8</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>F9</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

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- (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>F10</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.

#### Textual Amendments

- F1** 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**
- F2** 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**
- F3** 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**
- F4** Words in s. 85(4B) inserted (20.11.2001) by S.I. 2001/3719, art. 2, **Sch. para. 6(1)(2)**
- F5** 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**
- F6** 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)**
- F7** 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)**
- F8** 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)**
- F9** S. 85(5A) inserted (20.11.2001) by S.I. 2001/3719, art. 2, **Sch. para. 6(1)(3)**
- F10** 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)

- C1** 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)**
- C2** 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)
- C3** S. 85(5) applied (9.9.2003) by The Air Quality Limit Values Regulations 2003 (S.I. 2003/2121), regs. 1(1), **14(1)**
- C4** S. 85(6) applied (9.9.2003) by The Air Quality Limit Values Regulations 2003 (S.I. 2003/2121), regs. 1(1), **14(2)**
- C5** 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)**
- C6** S. 85(6A) applied (9.9.2003) by The Air Quality Limit Values Regulations 2003 (S.I. 2003/2121), regs. 1(1), **14(2)**
- C7** S. 85(6)(6A)(7) applied (19.7.2001) by S.I. 2001/2315, **reg. 11(2)**

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| <p><b>C8</b> S. 85(7) applied (with modifications) by <a href="#">S.I. 2001/2315, reg. 11(2)</a></p> <p><b>C9</b> S. 85(7) applied (9.9.2003) by <a href="#">The Air Quality Limit Values Regulations 2003 (S.I. 2003/2121)</a>, regs. 1(1), <b>14(2)</b></p> |
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