

## The Environment Bill & Air Quality



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## Overview

- Two thematic halves:
  - Legal framework for environmental governance (Part 1)
  - Specific measures for improvement (Part 4):
    - air quality; and
    - environmental recall of motor vehicles.

## Background

- S. 16 European Union (Withdrawal) Act 2018
- 25 Year Environment Plan – statutory footing as an Environmental Improvement Plan
  - “Green Brexit”?
  - “25-year goals” – “Clean air.”
  - Chp. 4 – “Reducing pollution”:
    - publication of a clean air strategy; and
    - curbing emissions from combustion plants and generators

## Part 1 – clauses 1 – 6 – environmental targets

- cl. 1 – environmental targets:
  - “long term targets” - “no less than 15 years”;
  - air quality as a priority area;
  - objective standard (“specified standard”); and
  - date for completion (“specified date”).
- cl. 2 – particulate matter target:
  - “annual mean level of PM<sub>2.5</sub> in ambient air”; and
  - additional to duty in cl. 1(2) to set long term target for air quality.

## Part 1 – clauses 1 – 6 – environmental targets

- cl. 3 – process:
  - experts;
  - satisfaction that target can be met;
  - revocation or lowering of target; and
  - Draft statutory instrument(s) by 31 October 2022.
- cl. 4 – effect: duty to ensure that targets are met.
- cl. 5 – reporting duties.
- cl. 6 – review.

## Part 4 – clause 69 – 74 – air quality

- Two sub-themes.
  - (1) Air quality:
    - cl. 69 – local air quality management framework; and
    - cl. 70 – smoke control areas.
  - (2) Environmental recall of motor vehicles (cls. 71 – 74).

## Part 4 – clause 69 & Schedule 11

- Amendments to Part 4 of the Environment Act 1995 :
  - Amend s. 80 (national air quality strategy) – review within 12 months and within each subsequent 5 year period.
  - New s. 80A – duty to report on air quality in England.
    - Annual assessment of progress.
    - Annual report of steps taken.
  - New s. 81A – functions of relevant public authorities.
    - Relevant public authorities – LAs, County Councils & by designation.
    - “must have regard to the strategy when exercising any function of a public nature that could affect the quality of air”

## Part 4 – clause 69 & Schedule 11

- Amendments to Part 4 of the Environment Act 1995:
  - Amend s. 82 (local authority reviews) –
    - replicates former duty on LAs to identify where air quality standards or objectives are not likely to be achieved within the relevant period;
    - LAs must identify:
      - responsible sources of emission;
      - responsible neighbouring authorities; and
      - other responsible public authorities or the EA.
  - New s. 83A – preparation and revision of action plan.
  - Minor amendment to s. 84

## Part 4 – clause 69 & Schedule 11

- Amendments to Part 4 of the Environment Act 1995:
  - New s. 85A – duty of air quality partners to co-operate.
    - Identified in accordance with s. 82.
    - “must provide the authority with such assistance in connection with the carrying out of any of the authority’s functions under this Part as the authority requests” – BUT may refuse if unreasonable
  - New s. 85B – role of air quality partners in relation to action plans.
    - Notification to AQP; submission of proposal by AQP; publication of proposal in action plan.
    - SoS power to direct AQP to make further proposals.

## Part 4 – clause 69 & Schedule 11

- Amendments to Part 4 of the Environment Act 1994:
  - Amend s. 86 (functions of county council's for areas for which they are district councils) – notification by district council – broadly comparable to s. 85B.
  - New s. 86A – role of Mayor of London in relation to action plans – LAs in London – broadly comparable to s. 85B.
  - New s. 86B – role of combined authorities in relation to action plans – broadly comparable to s. 85B.
  - Minor amendments to ss. 87, 88, 91 and Schedule 11.

## Part 4 – clause 70 & Schedule 12

- Amendments to the Clean Air Act 1993:
  - New s. 19A & Schedule 1A – penalty for emission of smoke in smoke control area in England (also applies to moored vessels):
    - notice of intent from LA;
    - right to object;
    - final notice;
    - appeals; and
    - financial penalty (£175 - £300).

## Part 4 – clause 70 & Schedule 12

- Amendments to the Clean Air Act 1993:
  - New ss. 19B, 19C & 19D – acquisition and sale of controlled solid fuel in England –
    - new offence: acquisition of controlled solid fuel for use in a building, fireplace, fixed boiler or industrial plant to which a smoke control order in England applies;
    - not in respect of moored vessel if fuel for propulsion or to provide electric power;
    - additional offences:
      - failure to take reasonable steps to notify potential purchasers of above offence; and
      - sale by delivery to building or premises with fixed boiler or industrial plant;
    - statutory defence; and
    - penalty is a fine (summary only).

## Part 4 – clause 70 & Schedule 12

- Amendments to the Clean Air Act 1993:
  - New s. 26A – duty of LA to reimburse for adaptations of vessels in England.
  - New s. 28A – LA in England must have regard to any guidance published by the SoS about the exercise of the authority's functions under this Part.
  - Other minor and consequential amendments. Some transitional provisions.

## Part 4 – clauses 71 - 74

- Cl. 71 – power to make regulations for “recall of relevant products that do not meet relevant environmental standards”.
  - “relevant product” – product specified or described in regulations – but only:
    - (part of) a mechanically propelled vehicle;
    - (part of) an engine which is, or forms part of, machinery that is transportable (including by way of self-propulsion); or
    - part of such an engine or machinery that is connected with the operation of the engine.
  - “relevant environmental standard” –
    - standard which relevant product must meet by virtue of any enactment;
    - is relevant to environmental impact of product; and
    - is specified in regulations.
  - “environmental impact” includes any impact on the environment caused by noise, heat or vibrations or any other kind of release of energy or emissions resulting from use of the product.

## Part 4 – clauses 71 - 74

- Cl. 72 – regs. under cl. 71 may make provision for power of SoS to give a compulsory recall notice to manufacturer or distributor of a relevant product.
  - Notice that requires recipient of the notice to organize the return of a relevant product to the recipient from persons who have been supplied (whether or not directly) with the product.
  - Only if SoS has reasonable grounds for believing the product does not meet a relevant environmental standard.
  - Including if relevant product forms part of another product.
  - May include supplementary requirements.

## Part 4 – clauses 71 - 74

- Cl. 73 – regs. under cl. 71 may impose duty on a manufacturer or distributor of a relevant product to notify the SoS if the person has reason to consider that the product does not meet the relevant environmental standard.
  - Require provision of information and samples.
  - Conferral of powers of enforcement.
- Cl. 74 – interpretation.
  - “manufacturer” – meaning given by regs under cl. 73 – (1) involvement with manufacture; or (2) connection to such a person.

Thank you for listening

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