

AIR POLLUTION



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AIR POLLUTION LAWS

This leaflet explains the laws that control air pollution in the UK, where you can find out about air quality and who you should contact if you have an air pollution problem.

What is Air Pollution?

Air is the mixture of gases that we breathe. Good air quality is essential for our health, quality of life and the environment. Air becomes polluted when it contains substances which can have a harmful effect on the health of people, animals and vegetation. Many of our everyday activities – for example driving, cooking, using the computer – consume energy and can cause pollution.

Air Pollution Levels

National Air Quality Strategy

The National Air Quality Strategy for England, Scotland, Wales and Northern Ireland sets out UK air quality standards and objectives for reducing levels of health-threatening pollutants. These include benzene, 1,3-butadiene, carbon monoxide, lead, nitrogen dioxide, particles, sulphur dioxide, ground level ozone, and PAH. The levels of reduction have been set on the basis of scientific and medical evidence on the health effects of each pollutant, and according to practicability of meeting standards. All of these standards, except those for ozone and polyaromatic hydrocarbons (PAH), are subject to regulations made under the Environment Act 1995, and many are the result of UK incorporation of European law.

Local Air Quality Management

The Environment Act 1995, which covers England, Scotland and Wales, and the Environment (Northern Ireland) Order 2002, require all local authorities in the UK to review and assess air quality in their area. If any standards are being exceeded or are unlikely to be met by the required date, then that area should be designated an Air Quality Management Area (AQMA) and the local authority must draw up and implement an action plan aimed at reducing levels of the pollutant. Local authorities are required to make copies of their reviews and assessments of local air quality available to the public, as well as any orders designating an AQMA, and to consult locally on the action plan. In many areas, traffic is likely to be the main contributor to excessive levels of pollution.

Bye Laws

Some local authorities have adopted specific bye laws to control sources of air pollution and nuisance. However, these can be hard to enforce as surveillance is often difficult and the culprit hard to track down. Often the nuisance has ceased by the time an official can get to the scene.

Where to Find Out About Air Quality

Your local authority environmental health department should be able to advise you on air quality in your area. The Department for Environment, Food and Rural Affairs also monitors air quality nationally, on a daily basis, the results of which can be found on their UK AIR website:

<http://uk-air.defra.gov.uk/>

Tel: 0800 556677.

Similar websites are available specifically covering:

Northern Ireland - www.airqualityni.co.uk

Scotland - www.scottishairquality.co.uk

Wales - www.welshairquality.co.uk

Road Transport

Exhaust Emissions

The Road Vehicles (Construction and Use) Regulations govern the standards to which new motor vehicles must be manufactured, including standards for exhaust emissions. Vehicle exhaust testing has been included in the annual MOT since 1991. The Vehicle & Operator Services Agency (VOSA) carries out roadside tests on heavy goods vehicles and can ban further use of a smoking vehicle until it has been adjusted or repaired. However, only the police have the powers to stop a vehicle on the road if it is producing so much smoke as to be a hazard to other drivers.

You can report smoky buses, coaches and lorries to the Vehicle and Operator Services Agency (VOSA) (0870 606 0440). Following a complaint the operator is notified and requested to clean up their vehicle. There is no mechanism for reporting privately owned vehicles.

Fixed Penalty Notices

Where an AQMA has been declared, local authorities in England and Wales can apply for powers to carry out roadside emissions testing under the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 and the Road Traffic (Vehicle Emissions) (Fixed Penalty) (Wales) Regulations 2003. In Scotland all local authorities have these powers available to them, under the Road Traffic (Vehicle Emissions) (Fixed Penalty) (Scotland) Regulations 2003.

Authorised and adequately trained persons can then carry out an emissions test on a vehicle being driven through, or about to pass through, an AQMA and if an offence has been committed a fixed penalty of £60 can be issued. A driver can also be required to submit their vehicle to a test and to produce a test certificate. If the fixed penalty is not paid within the given timeframe it can rise to £90.

Stationary Idling

Fixed penalty notices of £20 can also be issued by an authorised local authority officer in England, Wales and Scotland to motorists who leave their engines running unnecessarily (e.g. waiting outside school/station), having asked them to switch them off. This rises to £40 if it is not paid within the given timeframe.

Leaded Fuel

All new petrol vehicles now run on unleaded fuel and the sale of leaded petrol was banned in January 2000. For the small amount of older vehicles that will not run on unleaded fuel, special lead replacement petrol is available from some filling stations. Petrol producers and importers wishing to make leaded petrol available for use in classic and historic vehicles must apply for a permit from the Department for Transport.

Domestic Fires

Under the Clean Air Act 1993 (or Clean Air (Northern Ireland) Order 1981) local authorities can declare the whole or part of their district to be a Smoke Control Zone. This means that it is an offence to cause smoke from a chimney, and for any person or company to obtain or deliver unauthorised fuel to a building, unless the appliance in use is exempt. Ordinary bituminous coal and wood are not authorised fuels. Around 50% of households live in Smoke Control Areas, and those using solid fuel must therefore ensure that they use an authorised smokeless fuel and/or an exempt appliance.

Breach of a smoke control order can lead to prosecution by the local authority. Your local environmental health department will be able to tell you if your area is smoke controlled and advise you on authorised fuels and appliances. Smoke control orders do not apply to domestic bonfires – these are covered by nuisance legislation.

Nuisances

Under the Environmental Protection Act 1990 (England, Scotland and Wales) a statutory nuisance can be any dust or effluvia from any trade or business premises or smoke, fumes or gases emitted from premises so as to be prejudicial to health or a nuisance. For

a nuisance action to succeed the offence also has to be a cause of material harm or to be persistent or likely to recur. Nuisances may include smoke from bonfires, unpleasant odours, grit and dust. (In Northern Ireland statutory nuisances are currently regulated under the Public Health (Ireland) Act 1878, as amended, which includes powers for local authorities to serve abatement notices. The Clean Neighbourhoods and Environment Bill introduced into the NI Assembly in June 2010 makes provision for similar controls to those applying in the rest of the UK.)

In many cases a friendly approach to a neighbour or business can resolve the problem. If this fails, complaints should be made to your local environmental health department. If they are satisfied that a nuisance exists steps will be taken to abate the nuisance. This may involve serving a legal notice, which, if ignored, can result in proceedings in the Magistrates Court (Scotland – Sheriff Court). The Courts may impose an order to prevent the nuisance and a fine. Continued non-compliance can lead to further fines. The local authority also has power to abate the nuisance itself and recover costs.

If for any reason your local authority is unwilling to act on your behalf you may apply directly to the Magistrates Court (Scotland – Sheriff Court) for a nuisance order. In such cases it is essential to compile a proper record of occurrence of the nuisance and its effect on you. The support of independent witnesses will also help. In any event it is possible that the complainants may be called upon to give evidence in nuisance proceedings.

Industrial Air Pollution

Industrial processes are now regulated for Integrated Pollution Prevention and Control (IPPC), introduced by the Pollution Prevention and Control Act 1999. These regulations were phased in sector-by-sector up to October 2007, taking over from mechanisms established in the Environmental Protection Act 1990. In Northern Ireland a similar regime is in operation with regulations made under the Environment (Northern Ireland) Order 2002. More details below.

Smoke

It is an offence for factories and trade premises to emit dark smoke from their chimneys under the Clean Air Act 1993 (or Clean Air (Northern Ireland) Order 1981), except when it is unavoidable (e.g. on lighting up). Current technology should allow efficient combustion, free of dark smoke at all times. Dark smoke emissions from open burning (bonfires) on industrial or trade premises (including demolition sites) or agricultural land is also prohibited, except in very limited circumstances. 'Dark' smoke is a shade of grey defined by law.

Grit and Dust

The amount of grit and dust emitted from the chimney of non-domestic boilers and some furnaces is also controlled by the Clean Air Act 1993 (NI – 1981 Order). This legislation ensures that newly installed industrial plants have adequate arrestment equipment and that where emissions from a plant appear excessive a local authority can require measurements to be made of emissions to the atmosphere.

Integrated Pollution Prevention Control

The system of Integrated Pollution Prevention and Control (IPPC) has now replaced the previous Local Authority Pollution Control and Integrated Pollution Control systems. IPPC was implemented through separate Pollution Prevention and Control Regulations 2000 in England and Wales and in Scotland, and in Northern Ireland through separate 2003 Regulations. The transferral process to the new system was completed in October 2007. In England and Wales the PPC Regulations have been replaced by Environmental Permitting Regulations (2010).

IPPC covers a wide range of industries, including fuel production and power generation, metal production and processing, mineral industries, chemical industries, waste disposal and recycling, food and drink processing and intensive livestock installations. All industries covered by IPPC must obtain a permit to operate from the appropriate regulator. This covers all aspects of an installation's activities, including noise and vibration, heat, energy efficiency and accident prevention policy. For new installations an environmental impact assessment must also be available.

Permit conditions are based on the use of Best Available Techniques (BAT), which balances the cost to the operators against benefits to the environment. Where a breach of legally binding EU air quality limit values is caused by a particular industrial installation or sector more stringent permit limits than BAT can be imposed.

In England and Wales certain installations are regulated for emissions to air, water and land by the Environment Agency, with a lesser number of smaller, or less complex, installations regulated by local authorities. All such installations in Scotland and Northern Ireland are regulated by either the Scottish Environment Protection Agency or the Northern Ireland Environment Agency (as appropriate).

A number of smaller installations are regulated for their emissions to air only. These installations include many solvent using processes, timber activities and crematoria, and are regulated by local authorities in England, Wales and Northern Ireland, and by SEPA in Scotland.

Copies of applications and other documentation for all permits, subject to certain exemptions, are put in the Public Register maintained by the regulator. Most permit applications must be advertised in a local newspaper, stating where a copy of the application can be seen and the date by which any comments must be received. Various other statutory bodies will also be consulted (representing, for example, health interests, sites of special scientific or other local interests etc). A copy of all comments is put in the Register, although members of the public may request that their comments are not recorded on the register.

Complaints about any process or installation should in the first instance be made to the operator. If no satisfactory solution can be reached the regulator should be contacted. You can contact your environmental health (or pollution control) department at your local authority offices.

The Environment Agency has eight regional offices. Their head office is at:

Environment Agency

Rio House

Waterside Drive

Aztec West

Almondsbury

Bristol BS32 4UD

Tel: 01454 624400

Emergency hotline: 0800 807060

Email: enquiries@environment-agency.gov.uk

www.environment-agency.gov.uk

www.environment-agency.wales.gov.uk

The Scottish Environment Protection Agency (SEPA) has regional offices across Scotland (details can be found on its website). The head office is at:

Scottish Environment Protection Agency

Erskine House

The Castle Business Park

Stirling FK9 4TR

Tel: 01786 457700

Email: info@sepa.org.uk

www.sepa.org.uk

The Northern Ireland Environment Agency is an executive agency of the Department of Environment (NI), with main offices in Belfast and Lisburn.

Klondyke Building
Cromac Avenue
Gasworks Business Park
Lower Ormeau Road
Belfast BT7 2JA
Pollution hotline 0800 80 70 60
Email: ipri@doeni.gov.uk
www.ni-environment.gov.uk

Planning and Pollution Control

Most new industrial developments require planning permission; certain types of developments will also need to carry out an environmental impact assessment as part of the planning procedure. The public have a right to comment on planning applications, which are advertised in the local press and copies placed on the local planning register.

When drawing up their development plans (now known as Local Development Frameworks) and making decisions on individual applications local authorities must have regard to Government guidance on pollution control. In England the relevant document is Planning Policy Statement 23 (PPS 23); in Scotland Planning Advice Note 51, Planning, Environmental Protection and Regulation provides supplementary advice in support of Scottish Planning Policy which sets out the national framework. Planning Policy Wales sets out land use policies of the Welsh Assembly Government and in Northern Ireland PPS 1 sets out general principles for land use.

Further Contacts

If your air pollution problem is caused by a neighbour and legal action is not appropriate, mediation may help. Your local authority or the Citizens Advice Bureau will be able to tell you if there is a mediation service in your area.

Citizens Advice Bureau
www.citizensadvice.org.uk

If you have a specific pollution problem and the appropriate regulatory authority does not appear to be taking sufficient action, the Environmental Law Foundation can offer consultation with legal and technical experts.

The Environmental Law Foundation
Tel: 020 7404 1030
Email: info@elflaw.org
www.elflaw.org



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working for a cleaner, quieter, healthier world

You may also be interested in our leaflets on:

- Car Pollution
- Domestic Smoke
- Garden Bonfires
- Light Pollution

Environmental Protection UK

44 Grand Parade

Brighton

BN2 9QA

Email: admin@environmental-protection.org.uk

Tel: 01273 878770

www.environmental-protection.org.uk

Registered Charity 221026

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