

Clean Air Bill

***Content and omissions are the responsibility of Clean Air in London (CAL) alone.
CAL records its sincere thanks to Kate Harrison of Harrison Grant Solicitors***

A Bill to require the Secretary of State to achieve and maintain clean air in England and Wales as part of their duty to protect life and public health; to establish the right to breathe clean air; to protect the environment and contribute to sustainable development, in particular to safeguard future generations; to enhance the powers, duties and functions of the Environment Agency, the Committee on Climate Change, local authorities (including port authorities), the Civil Aviation Authority, Highways England, Historic England and Natural England; to involve Public Health England in setting and reviewing pollutants and their limits; to establish the Citizens' Commission for Clean Air with independent powers to take legal action to hold central and local Government and its agencies to account, and itself to prosecute; to confirm the environmental principles of prevention, precaution, "polluter pays" and sustainable development; and to provide for related matters.

1 Overview

- (1) Everyone has the right to breathe clean air and the Human Rights Act 1998 is to be interpreted accordingly.
- (2) The Secretary of State must achieve and maintain clean air throughout England and Wales within 12 months of the coming into force of this Act and must provide the necessary funding to the relevant national authorities and to the Citizens' Commission for Clean Air to fulfil their duties under this Act.
- (3) For the purposes of this Act –
 - "clean air" means air that does not contain banned pollutants or pollutants–
 - (i) at concentrations above the guideline levels set by the World Health Organisation (WHO), or the level set by the Environment Agency under this Act, (whichever is the lower), and
 - (ii) above limits set by the Committee on Climate Change;
 - "pollutants" means those particles, gases or other substances in the air, including smoke, grit, dust, fumes, aerosols, volatile organic compounds, carbon dioxide and other greenhouse gases, which are set out, together with their limit values (which may be zero) or emission limits in –
 - (i) Schedule 1 (pollutants relating to local and atmospheric pollution),
 - (ii) Schedule 2 (indoor air pollutants),
 - (iii) Schedule 3 (pollutants causing primarily environmental harm), and
 - (iv) Schedule 4 (pollutants causing climate change)

to this Act;
the relevant national authorities are –

- (i) Environment Agency (EA),
- (ii) the Committee on Climate Change (CCC),
- (iii) local authorities in England and Wales,
- (iv) port authorities in England and Wales,
- (v) the Civil Aviation Authority (CAA),
- (vi) Highways England,
- (vii) Historic England, and
- (viii) Natural England.

2 Reviewing and revising the pollutants and limits in Schedules 1 to 4

- (1) The Environment Agency (EA) must on an annual basis review the pollutants and the limits set out in Schedules 1 to 3.
- (2) The review under subsection (1) must –
 - (a) take into account the latest scientific information from the WHO and other relevant organisations;
 - (b) consult and seek advice from Public Health England and epidemiologists about the effect of air pollution on public health;
 - (c) apply the precautionary principle; and
 - (d) include a public consultation in accordance with the Aarhus Convention.
- (3) Following the review under subsection (1), the EA must advise the Secretary of State as to whether new pollutants should be added to the pollutant limits set out in Schedules 1-3 or whether those pollutant limits should be lowered in order to protect life, health or the environment.
- (4) In advising the Secretary of State under subsection (3), the EA must include particular consideration of –
 - (a) vulnerable individuals including children and the elderly; and
 - (b) their exposure to pollutant concentrations, including when travelling by public transport in ambient air or underground.
- (5) The Secretary of State must, in accordance with the advice received under subsection (3), and in accordance with the precautionary principle, amend Schedules 1 to 3 through regulations made by statutory instrument to include additional pollutants (and their limit values which may be zero) or lower any limits.
- (6) The Secretary of State must also amend the pollutants and the limits set out in Schedules 1 to 3 to reflect revised guidance from the WHO.
- (7) In case of conflict between the advice of the EA under subsection (3) and WHO guidance under subsection (6) the lower limit values must be adopted.

- (8) The Committee on Climate Change must on an annual basis review the pollutants and the limits set out in Schedule 4.
- (9) The review under subsection (8) must –
- (a) take into account the latest scientific information and advice from the Intergovernmental Panel on Climate Change;
 - (b) consult and seek advice from scientists about the effects of air pollution on the climate;
 - (c) apply the precautionary principle; and
 - (d) include a public consultation in accordance with the Aarhus Convention.
- (10) Following the review under subsection (8), the Committee on Climate Change must advise the Secretary of State as to whether new pollutants should be added to the pollutant limits set out in Schedule 4 or whether those pollutant limits should be lowered in order to protect the environment and safeguard future generations, including lowering the emission limits on international aviation landing in or taking off from the UK.
- (11) The Secretary of State must, in accordance with advice received under subsection (10) and the precautionary principle, amend Schedule 4 through regulations made by statutory instrument to include additional pollutants (and their limits which may be zero) or lower any limits.
- (12) In advising the Secretary of State under subsections (3) and (10), the EA and the Committee on Climate Change may advise setting the limits for pollutants under Schedules 1-4 for a short, medium or long-term time frame (see section 17).
- (13) Where Schedules 1 to 4 are amended and a new pollutant is added or the permitted limit of a pollutant or emission is reduced in accordance with, but after the commencement of this Act, then the duty to achieve the new limit will apply after the period of 12 months, beginning with the date on which the relevant amendment comes into force.
- (14) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

3 Secretary of State's duty: assessing air pollutants

- (1) In exercising powers under section 11 of the Health and Social Care Act 2012 (Secretary of State's duty to protect public health),¹ the Secretary of State must ensure –
- (a) the accurate and regular assessment of air pollution in England and Wales; and
 - (b) the provision of detailed information about air pollution to the public.
- (2) In assessing air pollution in England and Wales, the Secretary of State must ensure –
- (a) the consistent use of established zones and agglomerations;
 - (b) the sampling, measurement and modelling of ambient air quality;
 - (c) the sampling, measurement and reporting of indoor air pollutants;
 - (d) the sampling, measurement and modelling of pollutants causing primarily environmental harm; and
 - (e) the sampling, measurement, modelling and reporting of other air pollutants causing climate change.
- (3) In order to comply with subsection (1), the Secretary of State must –
- (a) assess the ambient air pollution in accordance with the criteria applying in the Air Quality Standards Regulations 2010 (as amended);
 - (b) require building owners to assess and report concentrations of indoor air in accordance with BS EN 16798-3: 2017 in workplaces where provisions concerning health and safety at work apply including those to which members of the public have regular access;
 - (c) require developers to assess and report concentrations of indoor air in accordance with BS EN 16798-3: 2017 in newly refurbished or constructed residential developments during the first 12 months of occupation;
 - (d) assess the deposition of air pollutants in accordance with the criteria applying in the Gothenburg Protocol;
 - (e) require UK based organisations of all sizes to report their greenhouse gas pollutants;
 - (f) assess greenhouse gas emissions in accordance with the requirements of the Climate Change Act 2008; and
 - (g) amend its assessment methods in accordance with subsection (9) below.

¹ which gives power to the Secretary of State to take such steps as he considers appropriate to improve the health of the people of England (*section 12, HSCA 2012; section 2B(2), NHSA 2006*) and under section 11 of the HSCA 2012 (*section 2A, NHSA 2006*) the Secretary of State is required to undertake protective and preventative work on public health matters which require a national overview, that is, "such steps as he considers appropriate for the purpose of protecting the public in England from disease or other dangers to health".

- (4) The Secretary of State must ensure that daily information regarding ambient concentrations of the pollutants included in Schedules 1 is communicated actively to the public.
- (5) The information under subsection (4) must include –
- (a) information on observed exceedances of the pollutants set out in Schedule 1 which is presented for the relevant averaging periods;
 - (b) forecasts of pollutants for that day and each of the next four days;
 - (c) prominent alerts about expected and actual exceedances of the alert levels of pollutants in Schedule 1;
 - (d) information about the location and types of populations affected by exceedances under paragraph (c) including possible health effects and recommended behaviours; and
 - (e) information on possible sources of pollutants and recommendations for mitigation measures that could be undertaken by those responsible for those sources to reduce pollution or exposure to it.
- (6) The Secretary of State must publish a report within six months of the end of each calendar year summarising the effects of the pollutant or emission levels exceeding each of the limits, according to the appropriate averaging period, in Schedules 1-4.
- (7) The Citizens' Commission for Clean Air must review annually the Secretary of State's compliance with subsections (1)-(6) during the previous calendar year.
- (8) Following the review under subsection (7), the CCCA must advise the Secretary of State by 30 September as to whether any methods of assessment, publication or reporting should be discontinued, amended or improved or new ones added with effect from the start of a subsequent calendar year.
- (9) The Secretary of State must, in accordance with advice received under subsection (8) and the precautionary principle, amend his assessment, publication or reporting methods through regulations made by statutory instrument while also ensuring continuity and the comparability of reporting.
- (10) The Citizens' Commission for Clean Air must review annually the Secretary of State's compliance with the limits in Schedules 1-4 during the previous calendar year.

4 Secretary of State's duty: additional provisions

- (1) In exercising their duty under section 1 of this Act, the Secretary of State must comply with the United Nations Convention on Long-Range Transboundary Air Pollution and its protocols as set out in Schedule 5.

- (2) In carrying out their duty under section 1, the Secretary of State must work with the relevant national authorities and exercise their powers under the clean air enactments listed in Schedule 6 and other acts in accordance with this duty.
- (3) Notwithstanding any other provision of this Act, the Secretary of State may, upon receipt of evidence that a pollution source or combination of sources (including moving sources) presents an imminent and substantial threat to health or welfare of current or future generations, or the environment, take action to immediately restrain any person or persons responsible for causing or contributing to the alleged pollution to stop the emission of air pollutants or to take such other action as may be necessary.

5 Environment Agency (EA)

- (1) The Environment Act 1995 is amended as follows.
- (2) In section 4(1) –
- (i) after “other enactment” insert “such as the clean air enactments set out in schedule 6 of the Clean Air Act 2018 or any other enactment governing the EA’s functions in relation to the regulation of the ambient air quality or controlling pollution and emissions at source”; and
 - (ii) after “whole”, insert “including to achieve and maintain clean air throughout England and Wales”.

6 Committee on Climate Change

- (1) The Climate Change Act 2008 is amended as follows.
- (2) After section 32 (functions of the Committee) insert –
- “32A Duty to advise on emission limits**
It is the duty of the Committee to advise the Secretary of State on emission limits under section 2 (revising pollutants and limits in Schedules 1-4) and Schedule 4 of the Clean Air Act 2018”.
- (3) In section 38 (duty to provide advice or other assistance on request) after (1) (d), insert –
- (e) “the authority’s duty under the Clean Air Act 2018”.

7 Local authorities

- (1) Local authorities in England and Wales have a duty to achieve and maintain clean air in their area, and limit emissions from their area, and must exercise their powers and functions, including under section 2 of the Local Government Act 2000

(promotion of wellbeing) and the clean air enactments, to improve the environmental wellbeing of their local area in accordance with this duty.

- (2) Local authorities must be given money from central funds to carry out their duties under this Act.
- (3) In this section, the “clean air enactments” are those enactments listed in Schedule 6 and any other enactment governing a local authority’s functions in relation to –
 - (a) regulating the ambient air quality or controlling pollution and emissions at source,
 - (b) land use planning,
 - (c) traffic planning including actions as a Highways Authority,
 - (d) building regulation, and
 - (e) statutory nuisance.
- (4) In this section “local authority” means, in relation to England and Wales, –
 - (i) county council;
 - (ii) a district council;
 - (iii) a London borough council;
 - (iv) the Mayor of London;
 - (v) the Common Council of the City of London in its capacity as a local authority;
 - (vi) the Council of the Isles of Scilly;
 - (vii) combined authority; and
 - (viii) port authorities.
- (5) In this section “port authority” means, in relation to England and Wales, a statutory harbour body established for the purpose of administering, preserving and improving a port, including an airport, that may include docks, landing places or other works or land.

8 Civil Aviation Authority

- (1) The CAA must in exercising its functions –
 - (a) contribute to the maintenance of clean air in England and Wales; and
 - (b) apply the provisions of the UN Convention on Transboundary Pollution and its protocols as set out in Schedule 5 of this Act.
- (2) The Civil Aviation Act 1982 is amended as follows.
- (3) In section 2, after subsection (2)(f) insert “in order to comply with the right to clean air under section 1 of the Clean Air Act 2018.”

9 Highways England

- (1) The Infrastructure Act 2015 is amended as follows.
- (2) In section 5 (general duties), after subsection (2)(a) insert –
 - “(aa) to contribute to the maintenance of clean air under the Clean Air Act 2018;
 - (ab) to follow instructions given to it by the Secretary of State to contribute to the achievement of clean air”.

10 Historic England

- (1) The National Heritage Act 1983 is amended as follows.
- (2) In section 33 (The Commission’s general functions), after subsection 2(f) insert –
 - “(g) shall contribute towards achieving and maintaining clean air, as prescribed by the Clean Air Act 2018 and the clean air enactments as set out in Schedule 6 of that Act.”

11 Natural England

- (1) The Natural Environment and Rural Communities Act 2006 is amended as follows.
- (2) In section 2 (general purpose), after subsection (2)(e) insert –
 - “(f) contribute towards achieving and maintaining clean air, as prescribed by the Clean Air Act 2018 and the clean air enactments as set out in Schedule 6 of that Act.”

12 The establishment of the Citizens’ Commission for Clean Air

- (1) There will be a body corporate known as the Citizens’ Commission for Clean Air (CCCA or “Clean Air Commission”).
- (2) The CCCA must, by exercising the powers conferred by this Act, monitor and enforce the right to breathe clean air and the duties to achieve and maintain clean air in England and Wales.
- (3) The constitution of the CCCA is set out in Schedule 7.

13 Judicial review and other legal proceedings

- (1) The CCCA may institute or intervene in legal proceedings, whether for judicial review or otherwise, if it appears to the CCCA that the proceedings are relevant to the duty to achieve and maintain clean air and compliance with the relevant duties, powers and functions under the clean air enactments.
- (2) The CCCA may assist an individual who is or may become party to legal proceedings if –
 - (a) the proceedings relate or may relate to the right to breathe clean air or the duty to achieve and maintain clean air;
 - (b) the individual is a member of the public who has the right of access to justice under the Aarhus Convention; or

(c) the individual is a victim of a breach of the right to breathe clean air.

(3) For the avoidance of doubt, assistance under this section may extend to actions for private nuisance.

14 Duty to maintain clear air: assessment

(1) The CCCA may assess the extent to which the Secretary of State, the relevant national authorities and others have complied with their duties under this Act and the clean air enactments.

(2) Where the CCCA has reason to believe that any persons or national authorities listed under section 1 have failed to comply with their duty, the CCCA may issue a notice requiring them –

(a) to comply with their duty; and

(b) to provide to the CCCA, written information of the steps taken, or proposed to be taken, for the purpose of complying with their duty.

(3) A notice issued by the CCCA under subsection (2) must specify –

(a) the period of time which the information must cover; and

(b) the manner in which the information is to be provided.

(4) A person or public authority which receives a notice under this section must comply with it within the period of 28 days beginning with the day on which they received the notice.

(5) If the CCCA has reason to believe that a person or public authority which has received a notice under this section has failed to comply with a requirement of the notice, the CCCA may apply to the Court for an order requiring the person to comply.

15 Duty to maintain clean air: reporting

(1) The CCCA must report annually to –

(a) the Secretary of State;

(b) send a copy of the annual report to Parliament; and

(c) send a copy of the annual report to the European Environment Agency.

(2) The report must be made public.

16 Environmental Principles

(1) In exercising their functions and carrying out their duties under this Act, the Secretary of State and the national authorities must, in addition to safeguarding public health and the right to breathe clean air, apply the following environmental principles –

(a) prevention, which means that environmental regulation must anticipate, prevent and attack the causes of environmental harm;

(b) precaution, which means that where there are threats of serious or irreversible damage to the environment, including human health, lack of full scientific certainty must not be used as a reason for postponing cost-effective measures to prevent harm;

- (c) polluter pays, which means that the costs of pollution should be borne by the person responsible for causing the pollution; and
- (d) sustainability which means, in particular to take into account the health of present generations and the needs of future generations.

17 Interpretation

(1) In this Act –

“Aarhus Convention” means the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, adopted on 25 June 1998;

“clean air enactments” means those enactments listed in Schedule 6;

“indoor air” refers to the quality of air in buildings as given in Schedule 2;

“pollutants causing primarily environmental harm” includes those causing acidification, eutrophication, haze or smog as given in Schedule 3;

“person or persons” includes bodies’ corporate or public authorities;

“national authorities” has the same meaning as given in section 1;

“long-term time frame” means a calendar year;

“medium-term time frame” means a period of time of more than 24 hours and less than a calendar year;

“short-term time frame” means a period of time less than or equal to 24 hours.

18 Extent, commencement and short title

(1) This Act extends to England and Wales only.

(2) This section and sections (x,y,z) come into force on the day this Act is passed.

(3) All other sections come into force on such day as the Secretary of State may by regulations appoint.

(4) This Act may be cited as the Clean Air Act (No.2) 2018.

Schedule 1: Relevant mainly to local and atmospheric pollution

Pollutant		
	Concentration	Averaging period
Black carbon	6 µg/m ³ 3 µg/m ³	24 hours (35 permitted exceedances each year) 1 year
Carbon monoxide (CO)	10 mg/m ³	Daily 8 hours mean
Ground-level ozone (O ₃)	180 µg/m ³ (alert level) 120 µg/m ³ (target) 100 µg/m ³	1 hour Running 8 hours (25 permitted exceedances each year) Running 8 hours (10 permitted exceedances each year)
Lead	0.25 µg/m ³	1 year
Nitrogen dioxide (NO ₂)	200 µg/m ³ 40 µg/m ³	1 hour (18 permitted exceedances each year) 1 year
Particulate matter (PM ₁ , PM _{2.5} and PM ₁₀)	PM ₁ : 15 µg/m ³ PM ₁ : 7.5 µg/m ³ PM _{2.5} : 100 µg/m ³ (alert level) PM _{2.5} : 20 µg/m ³ PM _{2.5} : 10 µg/m ³ PM ₁₀ : 40 µg/m ³ PM ₁₀ : 20 µg/m ³	24 hours (35 permitted exceedances each year) 1 year Running 24-hours 24 hours (35 permitted exceedances each year) 1 year 24 hours (35 permitted exceedances each year) 1 year
Polycyclic Aromatic Hydrocarbons expressed as concentration of benzo(a) pyrene)	0.25 ng/m ³	1 year
Sulphur dioxide (SO ₂)	350 µg/m ³ 125 µg/m ³	1 hour (24 permitted exceedances each year) 24 hours (3 permitted exceedances each year)

Schedule 2: Indoor air pollutants

Biological indoor air pollutants (dampness and mould)		
	Concentration	Averaging period
Dampness	No safe exposure level	n/a
Mould	No safe exposure level	n/a
Pollutant-specific guidelines (chemical pollution)		
	Concentration	Averaging period
Benzene (C ₆ H ₆)	No safe exposure level	n/a
Carbon monoxide (CO)	7 mg/m ³	24 hours
Formaldehyde	0.1 mg/m ³	30 minutes
Hydrogen sulphide (H ₂ S)	7 µg/m ³	30 minutes
	0.15 µg/m ³	24 hours
Nitrogen dioxide (NO ₂)	200 µg/m ³	1 hour (no exceedances)
	40 µg/m ³	1 year
Naphthalene	0.01 mg/m ³	1 year
Polycyclic aromatic hydrocarbons (PAHs) expressed as concentration of benzo(a)pyrene	No safe exposure level	n/a
Radon	No safe exposure level	n/a
Tetrachloroethylene	0.25 mg/m ³	1 year
Trichloroethylene	No safe exposure level	n/a
Pollutants from indoor combustion of fuels		
	Concentration	Averaging period
Particulate matter (PM ₁ , PM _{2.5} and PM ₁₀)	PM ₁ : 15 µg/m ³	24 hours (35 permitted exceedances each year) 1 year
	PM ₁ : 7.5 µg/m ³	
	PM _{2.5} : 20 µg/m ³	24 hours (35 permitted exceedances each year) 1 year
	PM _{2.5} : 10 µg/m ³	
	PM ₁₀ : 40 µg/m ³	24 hours (35 permitted exceedances each year) 1 year
	PM ₁₀ : 20 µg/m ³	
Infiltration of outdoor air into indoor environments		
	Concentration	Averaging period

Particulate matter (PM ₁ , PM _{2.5} and PM ₁₀)	PM ₁ : 7.5 µg/m ³	24 hours (35 permitted exceedances each year) 1 year
	PM ₁ : 3.75 µg/m ³	
	PM _{2.5} : 10 µg/m ³	24 hours (35 permitted exceedances each year) 1 year
	PM _{2.5} : 5 µg/m ³	
	PM ₁₀ : 20 µg/m ³	24 hours (35 permitted exceedances each year) 1 year
PM ₁₀ : 10 µg/m ³		

Schedule 3: Pollutants causing primarily environmental harm

Pollutant		
	Unit	Calendar year
Ammonia (NH ₃)	283 kilotonnes 271 kilotonnes 258 kilotonnes	2020 2025 2030
Ground-level ozone (O ₃)	180 µg/m ³ (alert level) 120 µg/m ³ (target) 100 µg/m ³	1 hour Running 8 hours (25 permitted exceedances each year) Running 8 hours (10 permitted exceedances each year)
Nitrogen oxides (NO _x)	30 µg/m ³	Calendar year
Sulphur dioxide (SO ₂)	20 µg/m ³	Calendar year and winter (1 October to 31 March)

Schedule 4: Pollutants causing climate change

Non-fluorinated gases		
	MtCO₂e	Period or calendar year
Carbon dioxide (CO ₂)	2,544 1,950 1,725 156	2018 to 2022 (3 rd budget) 2023 to 2027 (4 th budget) 2028 to 2032 (5 th budget) 2050
Methane (CH ₄)	Reduce emissions by around 19% below 2015 levels	2030
Nitrous oxide (N ₂ O)	Reduce emissions by around 19% below 2015 levels	2030
Fluorinated gases		
	MtCO₂e	Calendar year
Hydrofluorocarbons	Reduce emissions by at least 79% below 2015 levels Reduce emissions by at least 86% below 2015 levels	2030 2036
Nitrogen trifluoride	Reduce emissions by at least 68% below 2016 levels	2030
Perfluorocarbons	Reduce emissions by at least 68% below 2016 levels	2030

Sulphur hexafluoride	Reduce emissions by at least 68% below 2016 levels	2030

(1) The Limits for pollutants in Schedules 1-4 inclusive may be set for a short, medium or long-term time frame.

(2) The units referred to in Schedules 1-4 are –

Unit	Definition
$\mu\text{g}/\text{m}^3$	Micrograms per cubic metre
mg/m^3	Milligrams per cubic metre
ng/m^3	Nanograms per cubic metre

Schedule 5: The Protocols to the UN Convention on Long-Range Transboundary Air Pollution

- i. The 1984 Geneva Protocol on Long-Term Financing of the Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP)
- ii. The 1985 Helsinki Protocol on the Reduction of Sulphur Emissions or their Transboundary Fluxes by at least 30 per cent
- iii. The 1988 Protocol concerning the Control of Nitrogen Oxides or their Transboundary Fluxes
- iv. The 1991 Geneva Protocol concerning the Control of Emissions of Volatile Organic Compounds or their Transboundary Fluxes
- v. The 1994 Oslo Protocol on Further Reduction of Sulphur Emissions
- vi. The 1998 Aarhus Protocol on Heavy Metals, as amended on 13 December 2012
- vii. The 1998 Aarhus Protocol on Persistent Organic Pollutants (POPs) as amended on 18 December 2009
- viii. The 1999 Gothenburg Protocol to Abate Acidification, Eutrophication and Ground-level Ozone as amended on 4 May 2012.

Schedule 6: The Clean Air Enactments

(1) Health

The clean air enactments related to health are

- the Public Health Act 1925
- the Public Health Act 1936
- the Public Health Act 1961
- the Noise and Statutory Nuisance Act 1993
- the Health and Social Care Act 2012
- the Well-being of Future Generations (Wales) Act 2015

(2) Pollution and Air quality

The clean air enactments related to clean air and pollution are

- Clean Air Act 1956
- Clean Air Act 1968
- Clean Air Act (Emission of Grit and Dust from Furnaces) Regulations 1971 (under the *Clean Air Act 1968*)
- Control of Pollution Act 1974
- Clean Air Act 1993
- Motor Fuel (Composition and Content) Regulations 1999 (under the *Clean Air Act 1993*; *European Communities Act 1972*)
- Pollution Prevention and Control Act 1999
- Air Quality (England) Regulations 2000/ Air Quality (Wales) Regulations 2000 (under the *Environment Act 1995*)
- Pollution Prevention and Control (England and Wales) Regulations 2000 (under *Pollution Prevention and Control Act 1999*)
- National Emission Ceilings Regulations 2002 (under the *National Emission Ceilings Directive 2016 (2016/2284/EC)*)
- Sulphur Content of Liquid Fuels (England and Wales) Regulations 2007**

The 2010 Regulations - (under the *Air Quality Directive 2008 (2001/81/EC)*; *Fourth Daughter Directive 2004 (2004/107/EC)*)

- Air Quality Standards Regulations 2010
- Air Quality Standards (Wales) Regulations 2010
- Air Quality Standards (Amendment) Regulations 2016

Motor Fuel (Composition and Content) and Merchant Shipping (Prevention of Air Pollution from Ships) (Amendment) Regulations 2010 (under the *Sulphur in Fuels Directive 1999 (1999/32/EC)* as amended by *Fuel Quality Directive 2009 (2009/30/EC)* and as amended by *Sulphur in Fuels Directive 2012 (2012/33/EU)*)

Ecodesign for Energy-Related Products Regulations 2010

Clean Air (Miscellaneous Provisions) (England) Regulations 2014 (under the *Clean Air Act 1993*)

Sulphur Content of Liquid Fuels (England and Wales) (Amendment) Regulations 2014

Pollution Prevention and Control (Designation of Directive IPPC Directive 1996 (1996/61/EC); Large Combustion Plants Directive 1988 (609/EEC) as amended 2001 (2001/80/EC); Both IPPC and LCP Directives amended 2010 by Industrial Emissions Directive (2010/75/EU). (England and Wales) Order 2017 (under the *Medium Combustion Plants Directive 2015 (2015/2193/EU)*)

(3) Aviation

The clean air enactment related to aviation is

Civil Aviation Act 1982

(4) Environment

The clean air enactments related to the environment are

Environmental Protection Act 1990

Environmental Protection (Prescribed Processes and Substances) Regulations 1991 (under the *Environmental Protection Act 1990*)

Environment Act 1995

Local Government Act 2000

Environmental Assessment of Plans and Programmes Regulations 2004 (under the *European Communities Act 1972*)

Clean Neighbourhoods and Environment Act 2005

Environmental Permitting (England and Wales) (Amendment) Regulations 2013

Environmental Permitting (England and Wales) Regulations 2016 (*under the PVR I Directive 1994; PVR II Directive 2009; PVR II Amending Directive 2014*)

Draft Environmental Permitting (England and Wales) (Amendment) Regulations 2018 (*under the Medium Combustion Plants Directive 2015*)

(5) Vehicles

The clean air enactments related to vehicles are

Road Vehicles (Construction and Use) Regulations 1986 (*under the Road Traffic Act 1972*)

Road Traffic Offenders Act 1988

Road Traffic Reduction Act 1997

Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 (*Environment Act 1995*)

Road Vehicles (Construction and Use) (Amendment) Regulations 2004 (*under the Road Traffic Act 1988*)

Non-Road Mobile Machinery (Emission Of Gaseous And Particulate Pollutants) (Amendment) Regulations 2014

(6) Planning

The clean air enactments related to planning are

Town and Country Planning Act 1990

Planning Act 2008

Localism Act 2011

Neighbourhood Planning Act 2017

(7) Climate change

The clean air enactments related to climate change are

Greater London Authority Act 1999

Motor Fuel (Composition and Content) Regulations 1999

Climate Change and Sustainable Energy Act 2006

Persistent Organic Pollutants Regulations 2007 (*under the EU POPs Regulations 2004*)

Sulphur Content of Liquid Fuels Regulations 2007 (under the *European Communities Act 1972*)

Climate Change Act 2008

Promotion of the Use of Energy from Renewable Sources Regulations 2011 (under the *Renewable Energy Directive 2009*)

Renewable Transport Fuel Obligations (Amendment) Order 2011 (under the *Renewable Energy Directive 2009*)

Greenhouse Gas Emissions Trading Scheme Regulations 2012 (under the *European Communities Act 1972; Pollution Prevention and Control Act 1999*)

Motor Fuel (Road Vehicle and Mobile Machinery) Greenhouse Gas Emissions Reporting Regulations 2012 (under the *Fuel Quality Directive 1998 as amended by Fuel Quality Directive 2009*)

Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013 (under the *Pollution Prevention and Control Act 1999*)

Renewable Transport Fuel Obligations (Amendment) Order 2013 (under the *Fuel Quality Directive 1998 as amended by Fuel Quality Directive 2009*)

Fluorinated Greenhouse Gases Regulations 2015 (under the *EU Fluorinated Greenhouse Gases Regulation 2014; Mobile Air Conditioning Directive 2006*)

Ozone-Depleting Substances Regulations 2015 (under the *European Communities Act 1972*)

Alternative Fuels Infrastructure Regulations 2017 (under the *European Communities Act 1972*)

(8) Shipping

The clean air enactments related to shipping are

Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008

Merchant Shipping (Prevention of Air Pollution from Ships) (Amendment) Regulations 2010

Merchant Shipping (Prevention of Air Pollution from Ships) and Motor Fuel (Composition and Content) (Amendment) Regulations 2014 (under the *European Communities Act 1972; Merchant Shipping (Prevention of Air Pollution from Ships) Order 2006; Merchant Shipping (Prevention of Pollution) (Law of the Sea Convention) Order 1996; Merchant Shipping Act 1995*)

Merchant Shipping (Monitoring, Reporting and Verification of Carbon Dioxide Emissions) and the Port State Control (Amendment) Regulations 2017 (under the *European Communities Act 1972*)

(9) Habitats

The clean air enactments related to habitats are

European Union's 7th Environment Action Programme (under the *Decision No. 1386/2013/EU*)

Conservation of Habitats and Species Regulations 2017 (under the *European Communities Act 1972; Criminal Justice Act 2003*)

Conservation of Offshore Marine Habitats and Species Regulations 2017 (under the *European Communities Act 1972*)

Schedule 7: Citizens' Commission for Clean Air

Constitution of the Citizens' Commission for Clean Air

Mission

The Citizen's Commission for Clean Air must exercise the powers conferred by this Act, monitor and enforce the right to breathe clean air and the duties to achieve and maintain clean air in England and Wales. Its guiding principles should include:

- (a) demonstrating full independence to uphold domestic laws and protect and improve the environment;
- (b) ensuring that standards are set to properly protect public health and the environment;
- (c) assessing and improving compliance with environmental law by government and public bodies including the achievement of limits in Schedules 1-4 inclusive;
- (d) undertaking inquiries and formal investigations to identify systemic risks;
- (e) making recommendations and issuing binding action plans and compliance notices;
- (f) involving and representing the public; and
- (g) properly requesting resources and powers to fulfil its duties.

It should work collaboratively with all other similar bodies and national authorities across all parts of the UK.

Membership

1. The Secretary of State must appoint between 10 and 15 individuals as members of the CCCA (to be known as Commissioners).
2. The chief executive of the CCCA (appointed under paragraph 20 below) must be a Commissioner *ex officio*.
3. In appointing Commissioners, the Secretary of State must –
 - (a) appoint an individual only if the Secretary of State thinks that the individual–
 - (i) has experience or knowledge relating to a relevant matter; or
 - (ii) is suitable for appointment for some other reason;
 - and
 - (b) have regard to the desirability of the Commissioners collectively having sufficient experience and knowledge relating to the relevant matters.
4. For the purposes of paragraph 3 the relevant matters are those matters in respect of which the CCCA has functions including, in particular –
 - (a) health;
 - (b) human rights;
 - (c) environmental protection;
 - (d) climate change;
 - (e) enforcement powers;

- (f) law;
 - (g) planning;
 - (h) philosophy;
 - (i) science; and
 - (j) public involvement in decision making.
5. A Commissioner must hold and vacate office in accordance with the terms of their appointment (subject to this Schedule).
 6. The appointment of a Commissioner must be expressed to be for a specified period of not less than two years and not more than five years.
 7. A Commissioner whose period of membership has expired may be reappointed.
 8. A Commissioner may resign by giving notice in writing to the Secretary of State.
 9. The Secretary of State may dismiss a Commissioner who is, in the opinion of the Secretary of State, unable, unfit or unwilling to perform their functions.
 10. This paragraph does not apply to the chief executive.

Chairperson

11. The Secretary of State must appoint—
 - (a) a Commissioner as Chairperson; and
 - (b) one or more Commissioners as a deputy Chair or Chairs.
12. The Chairperson must—
 - (a) preside over meetings of the CCCA;
 - (b) perform such functions as may be specified in the terms of their appointment; and
 - (c) perform such other functions as may be assigned to them by the CCCA.
13. A deputy Chairperson—
 - (a) may act for the Chairperson when they are unavailable, and
 - (b) must perform—
 - (i) such functions as may be specified in the terms of their appointment; and
 - (ii) such other functions as the Chairperson may delegate or assign to them.
14. The Chairperson or a deputy Chairperson—
 - (a) must vacate office if they cease to be a Commissioner;
 - (b) may resign by giving notice in writing to the Secretary of State; and
 - (c) otherwise, must hold and vacate office in accordance with the terms of their appointment (and may be reappointed at a later date).
15. If the Chairperson resigns they must cease to be a Commissioner (but they may be reappointed as a Commissioner at a later date).
16. The chief executive may not be appointed Chairperson or deputy Chairperson.
17. The CCCA may regulate its own proceedings (subject to this Schedule).
18. The CCCA must determine a quorum for its meetings.
19. At least five Commissioners must participate in the process by which a determination under paragraph 18 is made.

Staff

20. The CCCA—

- (a) must appoint a chief executive; and
- (b) may appoint other staff.

Committees

- 21. The CCCA may establish one or more committees, to be known as advisory committees, to advise the CCCA.
- 22. An advisory committee may include any of the following –
 - (a) Commissioners;
 - (b) staff;
 - (c) other non-Commissioners.
- 23. The CCCA may establish one or more committees to whom the CCCA may delegate functions, to be known as decision-making committees.
- 24. A decision-making committee may include any of the following –
 - (a) Commissioners;
 - (b) staff;
 - (c) other non-Commissioners.
- 25. The CCCA must ensure that the Chairperson of each decision-making committee is a Commissioner.
- 26. In allocating its resources the CCCA must ensure that each decision-making committee receives sufficient funds to enable them to exercise their functions.
- 27. A member of a committee must hold and vacate office in accordance with the terms of their appointment by the CCCA, which may include provision for dismissal.
- 28. The CCCA—
 - (a) may, to any extent, regulate the proceedings of a committee and may, in particular, determine a quorum for meetings;
 - (b) may, to any extent, permit a committee to regulate its own proceedings and may, in particular, enable a committee to determine a quorum for meetings; and
 - (c) may dissolve a committee.
- 29. The CCCA may delegate a function to a decision-making committee.

Annual report

- 30. The CCCA must for each financial year prepare a report on the performance of its functions in that year, to be known as its annual report.
- 31. An annual report must, in particular, evaluate the CCCA's performance of its functions.
- 32. The CCCA must send each annual report to the Secretary of State within such period, beginning with the end of the financial year to which the report relates, as it may specify.
- 33. A copy of each annual report received under paragraph 32 must be laid before both Houses of Parliament.

Money

- 34. The Secretary of State may pay to the Chairperson, a deputy Chairperson or another Commissioner—

- (a) such remuneration as the Secretary of State may determine; and
 - (b) such travelling and other allowances as the Secretary of State may determine.
35. The CCCA may pay to or in respect of the Chairperson, a deputy Chairperson or another Commissioner such sums as the Secretary of State may determine by way of, or in respect of, pensions, allowances or gratuities.
36. The Secretary of State must pay to the CCCA such sums as are sufficient for the purpose of enabling the CCCA to perform its functions.

Status

37. The CCCA must not—
- (a) be regarded as the servant or agent of the Crown; or
 - b) enjoy any status, immunity or privilege of the Crown.
38. Service as Commissioner or employee of the CCCA is not employment in the civil service of the State.
39. The Secretary of State must have regard to the desirability of ensuring that the CCCA is under as few constraints as reasonably possible in determining—
- (a) its activities;
 - (b) its timetables; and
 - (c) its priorities.

Freedom of information

40. In Part VI of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (public bodies) at the appropriate place insert – “The Citizen’s Commission for Clean Air”.