

**Clean Air Bill**

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CAL records its sincere thanks to Kate Harrison of Harrison Grant Solicitors***

A Bill to establish the right to breathe clean air; to require the Secretary of State to achieve and maintain clean air in England and Wales; to involve Public Health England in setting and reviewing pollutants and their limits; 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 establish the Citizens' Commission for Clean Air with powers to prosecute; to confirm the environmental principles of prevention, precaution, "polluter pays", using best available scientific knowledge, rectification, integration, conserving ecosystems, minimising the causes and effects of climate change, and sustainable development; and for connected purposes.

**1 Overview**

- (1) Everyone has the right to breathe clean air and the Human Rights Act 1998 is to be read as though this were a Convention right.
- (2) The Secretary of State must achieve clean air throughout England and Wales within 12 months of the coming into force of this Act and maintain clean air throughout England and Wales thereafter.
- (3) The Secretary of State 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.
- (4) For the purposes of this Act –
  - "clean air" means air that does not contain banned pollutants or pollutants above limits or levels of concentrations, emissions or exposures (which may be zero) which are set out 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;
  - "pollutants" means those particles, gases or other substances that are emitted directly into the air or formed from secondary chemical reactions in the air,

including smoke, grit, dust, fumes, aerosols, volatile organic compounds, carbon dioxide and other greenhouse gases;

the relevant national authorities are –

- (i) the Environment Agency (EA),
- (ii) the Committee on Climate Change (CCC),
- (iii) local authorities in England and Wales,
- (iv) the Civil Aviation Authority (CAA),
- (v) Highways England,
- (vi) Historic England, and
- (vii) 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 EA, in carrying out a review under subsection (1) must –
  - (a) take into account the best available scientific knowledge and guidance on ambient air pollutants from the WHO;
  - (b) take advice from Public Health England and epidemiologists about the effects of pollution on public health;
  - (c) take into account the best available scientific knowledge and guidance on indoor air pollutants from the WHO and the International Organization for Standardization (ISO);
  - (d) take into account the best available scientific knowledge and guidance on atmospheric pollutants from the United Nations Economic Commission for Europe (UNECE);
  - (e) consult and seek advice from scientists on the effects of air pollution on the environment;
  - (f) apply the precautionary principle; and
  - (g) include a public consultation in accordance with the Aarhus Convention.
- (3) Following a review under subsection (1), the EA must advise the Secretary of State as to whether additional pollutants should be added to Schedules 1, 2 and 3 or whether the pollutant limits in those Schedules 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) pollutant emissions, concentrations and exposures and health impacts and outcomes;
  - (b) the need to address pollution everywhere not only in hot-spots;
  - (c) the needs of sensitive population groups including children, the elderly and other individuals who are particularly susceptible to air pollution; and

- (d) exposure to pollutant concentrations 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 by regulations made by statutory instrument to include additional pollutants (and their limit values which may be zero) and to 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, ISO and UNECE.
- (7) In case of conflict between the advice of the EA under subsection (3) and guidance under subsection (6) additional pollutants must be listed and 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 Committee on Climate Change, in carrying out a review under subsection (8) must –
- (a) take into account the best available scientific knowledge and advice from the Intergovernmental Panel on Climate Change (IPCC);
  - (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 a review under subsection (8), the Committee on Climate Change must advise the Secretary of State as to whether new pollutants should be added to Schedule 4 or whether the limits in Schedule 4 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 the limits in Schedule 4 by regulations made by statutory instrument.
- (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 limit is added or a limit is reduced in accordance with, but after the commencement of this Act, the new or amended limit will take effect after a period of 12 months, beginning with the date on which the relevant amending regulations come 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) 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 air pollution zones and agglomerations;
- (b) the sampling, measurement and modelling of ambient air pollutants, including the deposition of pollutants, set out in Schedule 1;
- (c) the sampling, measurement and reporting of indoor air pollutants set out in Schedule 2;
- (d) the sampling, measurement and modelling of ambient pollutants causing primarily environmental harm set out in Schedule 3; and
- (e) the sampling, measurement, modelling and reporting of other air pollutants causing climate change set out in Schedule 4.

- (3) In order to comply with subsection (1), the Secretary of State must –

- (a) assess ambient air pollution in England and Wales in accordance with the highest quality standards applying in the Air Quality Standards Regulations 2010 (as amended) (SI 2010/1001);
- (b) require owners of buildings which-
  - (1) are used as places of work and to which health and safety provisions apply; or
  - (2) are regularly accessed by members of the public, including children, to assess and report concentrations of indoor air pollutants measured in accordance with the latest ISO standards;
- (c) require developers to assess and report concentrations of indoor air pollutants in accordance with the latest ISO standards 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 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.
- (4) The Secretary of State must ensure that daily information regarding ambient concentrations of the pollutants included in Schedules 1 is provided to members of the public through a range of formats.
- (5) The information under subsection (4) must include –
- (a) information on observed exceedances of the limits set out in Schedule 1 presented as averages according to the relevant averaging period set out in Schedule 1;
  - (b) forecasts of ambient concentrations of the pollutants listed in Schedule 1 for that day and each of the following four days;
  - (c) where any information threshold specified under Schedule 1 or any of the alert thresholds laid down therein is forecast to be exceeded or actually exceeded, necessary steps must be taken to inform the public by means of radio, television, newspapers and the internet;
  - (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 preventative actions that could be taken by those in charge of the sources to reduce pollution or exposure to it.
- (6) The Secretary of State must publish a report within six months of the passing of this Act and within the period of six months beginning with the end of each subsequent calendar year summarising the effects of each of the pollutants exceeding the limits, according to the appropriate averaging period, set out in Schedules 1, 2, 3 and 4.
- (7) The Citizens' Commission for Clean Air (the "CCCA") must review annually the Secretary of State's compliance with subsections (1) to (6) during the previous calendar year.
- (8) Following the review under subsection (7), the CCCA must advise the Secretary of State as to whether any methods of assessment, publication or reporting should be discontinued, amended or improved or whether methods of assessment, publication or reporting should be 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 CCCA must review annually the Secretary of State's compliance with the limits in Schedules 1 to 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 listed 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 current or future public health 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 to 4) of Schedule 4 to 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 clean air throughout their area within 12 months of the coming into force of this Act and maintain clean air throughout their area thereafter.
- (2) Local authorities in England and Wales 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 and reduce public exposure to pollutants set out in Schedule 1 in accordance with the duty set out in subsection (1).
- (3) The Secretary of State must provide money to local authorities from central funds sufficient for them to carry out their duties under this Act.
- (4) 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.
- (5) In this section “local authority” means, in relation to England and Wales, –
  - (i) a 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) a combined authority; and
  - (viii) port authorities.
- (6) 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 respect the right to breathe 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 to 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) they have reason to believe that an individual was 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 in section 1 have failed to comply with their duty, the CCCA may issue a notice requiring them –
  - (a) to comply with their duty;
  - (b) to take specific steps in order to achieve compliance; and
  - (c) 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 –
  - (a) report annually to the Secretary of State;
  - (b) lay the annual report before both Houses of Parliament; and
  - (c) send a copy of the annual report to the European Environment Agency.

(2) The report must be published.

## **16 Environmental Principles**

- (1) In exercising their functions and carrying out their duties under this Act and the clean air enactments, 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 or of clean-up should be borne by the person responsible for causing the pollution;
  - (d) make use of the best available scientific knowledge;
  - (e) rectification at source, which means that environmental damage should, as a priority, be remedied at its source;
  - (f) integration, which means that environmental protection requirements should be integrated into the definition and implementation of all policy areas and activities, in particular with a view to promoting sustainable development;
  - (g) conserve ecosystem structure and functioning, in order to maintain ecosystem services;
  - (h) anticipate, prevent or minimise the causes of climate change and mitigate its adverse effects; and
  - (i) sustainability, which means 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 as amended from time to time;
  - “indoor air” refers to the quality of air in buildings as given in Schedule 2;
  - “limits” means the concentrations, emissions or exposures as set out in Schedules 1, 2, 3 and 4 of the Act;
  - “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 meaning as given in section 1;
  - “long-term” means a period of time of a calendar year or more;

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

“short-term” 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 1, 2, 4, 5, 6, 7, 8, 9, 10, 15 and 16 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: Pollutants relating to local and atmospheric pollution**

<b>Pollutant concentrations</b>		
<b>Pollutant</b>	<b>Unit</b>	<b>Averaging period</b>
Black carbon	6 µg/m <sup>3</sup> 3 µg/m <sup>3</sup>	24 hours (35 permitted exceedances each year) 1 year
Benzene (C <sub>6</sub> H <sub>6</sub> )	3.5 µg/m <sup>3</sup>	1 year
1, 3 Butadiene	2.25 µg/m <sup>3</sup>	1 year
Carbon monoxide (CO)	10 mg/m <sup>3</sup>	Daily 8 hours
Formaldehyde (HCHO)	8.6 µg/m <sup>3</sup>	1 year
Ground-level ozone (O <sub>3</sub> )	240 µg/m <sup>3</sup> (alert threshold) 180 µg/m <sup>3</sup> (information threshold) 120 µg/m <sup>3</sup> (target)  100 µg/m <sup>3</sup>	1 hour 1 hour  Running 8 hours (25 permitted exceedances each year) Running 8 hours (10 permitted exceedances each year)
Lead	0.25 µg/m <sup>3</sup>	1 year
Nitrogen dioxide (NO <sub>2</sub> )	200 µg/m <sup>3</sup>  40 µg/m <sup>3</sup>	1 hour (18 permitted exceedances each year) 1 year
Particulate matter (PM <sub>1</sub> , PM <sub>2.5</sub> and PM <sub>10</sub> )	PM <sub>1</sub> : 15 µg/m <sup>3</sup>  PM <sub>1</sub> : 7.5 µg/m <sup>3</sup>  PM <sub>2.5</sub> : 100 µg/m <sup>3</sup> (alert level) PM <sub>2.5</sub> : 20 µg/m <sup>3</sup>  PM <sub>2.5</sub> : 10 µg/m <sup>3</sup>  PM <sub>10</sub> : 40 µg/m <sup>3</sup>  PM <sub>10</sub> : 20 µg/m <sup>3</sup>	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 <sup>3</sup>	1 year
Sulphur dioxide (SO <sub>2</sub> )	350 µg/m <sup>3</sup>  125 µg/m <sup>3</sup>	1 hour (24 permitted exceedances each year) 24 hours (3 permitted exceedances each year)

<b>Pollutant exposures</b>		
<b>Pollutant</b>	<b>Unit</b>	<b>Averaging period</b>
Particulate matter (PM <sub>2.5</sub> )	PM <sub>2.5</sub> : 6.5 µg/m <sup>3</sup> (population weighted exposure within each zone and agglomeration)	5% per calendar year until the limit is reached

(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 –

<b>Unit</b>	<b>Definition</b>
µg/m <sup>3</sup>	Micrograms per cubic metre
mg/m <sup>3</sup>	Milligrams per cubic metre
ng/m <sup>3</sup>	Nanograms per cubic metre

### **Schedule 2: Indoor air pollutants**

<b>Biological indoor air pollutants (dampness and mould)</b>		
<b>Pollutant</b>	<b>Concentration</b>	<b>Averaging period</b>
Dampness	Zero	n/a
Mould	Zero	n/a
<b>Pollutant-specific guidelines (chemical pollution)</b>		
<b>Pollutant</b>	<b>Concentration</b>	<b>Averaging period</b>
Benzene (C <sub>6</sub> H <sub>6</sub> )	3.5 µg/m <sup>3</sup>	1 year
1, 3 Butadiene	2.25 µg/m <sup>3</sup>	1 year
Carbon monoxide (CO)	7 mg/m <sup>3</sup>	24 hours
Formaldehyde (HCHO)	8.6 µg/m <sup>3</sup>	1 year
Hydrogen sulphide (H <sub>2</sub> S)	7 µg/m <sup>3</sup> 0.15 µg/m <sup>3</sup>	30 minutes 24 hours
Nitrogen dioxide (NO <sub>2</sub> )	200 µg/m <sup>3</sup> 40 µg/m <sup>3</sup>	1 hour (no exceedances) 1 year
Naphthalene	0.01 mg/m <sup>3</sup>	1 year
Polycyclic aromatic hydrocarbons (PAHs) expressed as concentration of benzo(a)pyrene	Zero	n/a
Radon	100 becquerels/m <sup>3</sup>	3 months
Tetrachloroethylene	0.25 mg/m <sup>3</sup>	1 year
Trichloroethylene	Zero	n/a

<b>Pollutants from indoor combustion of fuels</b>		
<b>Pollutant</b>	<b>Concentration</b>	<b>Averaging period</b>
Particulate matter (PM <sub>1</sub> , PM <sub>2.5</sub> and PM <sub>10</sub> )	PM <sub>1</sub> : 15 µg/m <sup>3</sup>	24 hours (35 permitted exceedances each year) 1 year
	PM <sub>1</sub> : 7.5 µg/m <sup>3</sup>	
	PM <sub>2.5</sub> : 20 µg/m <sup>3</sup>	24 hours (35 permitted exceedances each year) 1 year
	PM <sub>2.5</sub> : 10 µg/m <sup>3</sup>	
	PM <sub>10</sub> : 40 µg/m <sup>3</sup>	24 hours (35 permitted exceedances each year) 1 year
	PM <sub>10</sub> : 20 µg/m <sup>3</sup>	
<b>Infiltration of outdoor air into indoor environments</b>		
<b>Pollutant</b>	<b>Concentration</b>	<b>Averaging period</b>
Particulate matter (PM <sub>2.5</sub> and PM <sub>10</sub> )	PM <sub>2.5</sub> : 10 µg/m <sup>3</sup>	24 hours (35 permitted exceedances each year) 1 year
	PM <sub>2.5</sub> : 5 µg/m <sup>3</sup>	
	PM <sub>10</sub> : 20 µg/m <sup>3</sup>	24 hours (35 permitted exceedances each year) 1 year
	PM <sub>10</sub> : 10 µg/m <sup>3</sup>	

### **Schedule 3: Pollutants causing primarily environmental harm**

<b>Pollutant concentrations</b>		
<b>Pollutant</b>	<b>Unit</b>	<b>Calendar year</b>
Ground-level ozone (O <sub>3</sub> )	240 µg/m <sup>3</sup> (alert threshold) 180 µg/m <sup>3</sup> (information threshold) 120 µg/m <sup>3</sup> (target)  100 µg/m <sup>3</sup>	1 hour 1 hour  Running 8 hours (25 permitted exceedances each year) Running 8 hours (10 permitted exceedances each year)
Nitrogen oxides (NO <sub>x</sub> )	30 µg/m <sup>3</sup>	Calendar year
Sulphur dioxide (SO <sub>2</sub> )	20 µg/m <sup>3</sup>	Calendar year and winter (1 October to 31 March)
<b>Pollutant emissions</b>		
<b>Pollutant</b>	<b>Unit</b>	<b>Calendar year</b>
Ammonia (NH <sub>3</sub> )	283 kilotonnes 271 kilotonnes 258 kilotonnes	2020 2025 2030
Non-methane volatile organic compounds (NMVOCs)	689 kilotonnes 671 kilotonnes 654 kilotonnes	2020 2025 2030
Oxides of nitrogen (NO <sub>x</sub> )	724 kilotonnes 579 kilotonnes 434 kilotonnes	2020 2025 2030
Particulate matter (PM <sub>2.5</sub> )	79 kilotonnes 70 kilotonnes 61 kilotonnes	2020 2025 2030
Sulphur dioxide (SO <sub>2</sub> )	292 kilotonnes 188 kilotonnes 85 kilotonnes	2020 2025 2030

#### **Schedule 4: Pollutants causing climate change**

<b>Non-fluorinated gases</b>		
<b>Pollutant or measure</b>	<b>MtCO<sub>2</sub>e</b>	<b>Period or calendar year</b>
"Net UK carbon account" as defined in the Climate Change Act 2008	2,544 1,950 1,725 156	2018 to 2022 (3 <sup>rd</sup> budget) 2023 to 2027 (4 <sup>th</sup> budget) 2028 to 2032 (5 <sup>th</sup> budget) 2050
Methane (CH <sub>4</sub> )	Reduce emissions by around 19% below 2015 levels	2030
Nitrous oxide (N <sub>2</sub> O)	Reduce emissions by around 19% below 2015 levels	2030
<b>Fluorinated gases</b>		
<b>Pollutant</b>	<b>MtCO<sub>2</sub>e</b>	<b>Calendar year</b>
Hydrofluorocarbons	Reduce emissions by at least 79% below 2015 levels	2030
	Reduce emissions by at least 86% below 2015 levels	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

## **Schedule 5: The Protocols to the United Nations Economic Commission for Europe's 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
- Control of Pollution Act 1974
- Clean Air Act 1993
- Motor Fuel (Composition and Content) Regulations 1999
- Pollution Prevention and Control Act 1999
- Air Quality (England) Regulations 2000/ Air Quality (Wales) Regulations 2000
- Pollution Prevention and Control (England and Wales) Regulations 2000
- National Emission Ceilings Regulations 2002
- Sulphur Content of Liquid Fuels (England and Wales) Regulations 2007 under the Sulphur in Fuels Directive 1999/32/EC as amended by the Fuel Quality Directive 2009 (2009/30/EC) and as amended by Sulphur in Fuels Directive 2012 (2012/33/EU)
- The 2010 Regulations -
  - 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

Ecodesign for Energy-Related Products Regulations 2010 (under the Ecodesign Directive 2009/125/EC)

Clean Air (Miscellaneous Provisions) (England) Regulations 2014

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

### **(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

Environment Act 1995

Local Government Act 2000

Environmental Assessment of Plans and Programmes Regulations 2004

Clean Neighbourhoods and Environment Act 2005

Environmental Permitting (England and Wales) (Amendment) Regulations 2013 (under the Industrial Emissions Directive 2010/75/EC)

Environmental Permitting (England and Wales) Regulations 2016

### **(5) Vehicles**

The clean air enactments related to vehicles are

Road Vehicles (Construction and Use) Regulations 1986

Road Traffic Offenders Act 1988

Road Traffic Reduction Act 1997

Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002

Road Vehicles (Construction and Use) (Amendment) Regulations 2004

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 (under the Clean Air Act 1993; European Communities Act 1972)

Climate Change and Sustainable Energy Act 2006

Persistent Organic Pollutants Regulations 2007

Sulphur Content of Liquid Fuels Regulations 2007

Climate Change Act 2008

Promotion of the Use of Energy from Renewable Sources Regulations 2011

Renewable Transport Fuel Obligations (Amendment) Order 2011

Greenhouse Gas Emissions Trading Scheme Regulations 2012

Motor Fuel (Road Vehicle and Mobile Machinery) Greenhouse Gas Emissions Reporting Regulations 2012

Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013

Renewable Transport Fuel Obligations (Amendment) Order 2013

Fluorinated Greenhouse Gases Regulations 2015

Ozone-Depleting Substances Regulations 2015

Alternative Fuels Infrastructure Regulations 2017

**(8) Shipping**

The clean air enactments related to shipping are

Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008 (under the International Convention for the Prevention of Pollution from Ships 1973 as modified by the protocol of 1978)

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

Merchant Shipping (Monitoring, Reporting and Verification of Carbon Dioxide Emissions) and the Port State Control (Amendment) Regulations 2017

**(9) Habitats**

The clean air enactments related to habitats are

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

Conservation of Habitats and Species Regulations 2017

Conservation of Offshore Marine Habitats and Species Regulations 2017

## **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, and in order to monitor and enforce the right to breathe clean air and the duties to achieve and maintain clean air in England and Wales and its guiding principles must include:

- (a) the environmental principles set out in section 16 of this Act;
- (b) demonstrating in its actions to uphold domestic laws and protect and improve the environment that it is fully independent from the Government;
- (c) ensuring that standards are set to protect public health and the environment;
- (d) assessing and improving compliance with relevant environmental law by government and public bodies including the achievement of limits in Schedules 1-4 inclusive;
- (e) undertaking inquiries and formal investigations to identify systemic risks;
- (f) making recommendations and issuing compliance notices;
- (g) involving and representing the public; and
- (h) 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 considers 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;
  - (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 of the CCCA.

### **Chairperson**

11. The Secretary of State must appoint—
  - (a) a Commissioner as Chairperson; and
  - (b) one or more Commissioners as a deputy Chairperson or Chairpersons.
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 consider the duty of each decision-making committee 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 by the Secretary of State.

## **Money**

34. The Secretary of State may pay to the Chairperson, any deputy Chairperson and each 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, any deputy Chairperson and each other 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 may make grants to the CCCA of such amount and subject to such conditions as the Secretary of State thinks fit.

### **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.

### **Freedom of information**

39. In Part VI of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (public bodies) after “The Children’s Commissioner for Wales” insert – “The Citizen’s Commission for Clean Air”.