CHAPTER 52

An Act to make provision for abating the pollution of the air. [5th July, 1956]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Dark Smoke

Prohibition of dark smoke from chimneys.

1.—(1) Subject to the provisions of this Act, dark smoke shall not be emitted from a chimney of any building, and if, on any day, dark smoke is so emitted, the occupier of the building shall be guilty of an offence.

(2) Emissions of smoke from any chimney lasting for not longer than such periods as may be specified by the Minister by regulations shall, in such classes of case and subject to such limitations as may be so specified, be left out of account for the purposes of this section.

(3) In any proceedings for an offence under this section, it shall be a defence to prove either—

(*a*) that the contravention complained of was solely due to the lighting up of a furnace which was cold and that all practicable steps had been taken to prevent or minimise the emission of dark smoke; or

(*b*) that the contravention complained of was solely due to some failure of a furnace or of apparatus used in connection with a furnace, that that failure could not reasonably have been foreseen, or, if foreseen, could not reasonably have been provided against, and that the contravention could not reasonably have been prevented by action taken after the failure occurred; or

(*c*) that the contravention complained of was solely due to the use of unsuitable fuel, that suitable fuel was

unobtainable, that the least unsuitable fuel which was available was used and that all practicable steps had been taken to prevent or minimise the emission of dark smoke as the result of the use thereof; or

(*d*) that the contravention complained of was due to the combination of two or more of the causes specified in paragraphs (*a*) to (*c*) of this subsection and that the other conditions specified in those paragraphs are satisfied in relation to those causes respectively.

(4) This section shall apply in relation to a chimney serving the furnace of any boiler or industrial plant (being a boiler or plant attached to a building or for the time being fixed to or installed on any land) as it applies in relation to a chimney of a building:

Provided that in relation to any such chimney as aforesaid which is not a chimney of a building, the reference in this section to the occupier of the building shall be construed as a reference to the person having possession of the boiler or plant.

Temporary exemptions from section one.

2.—(1) In any proceedings for an offence under section one of this Act for any contravention of that section occurring not more than seven years from the passing of this Act, being a contravention occurring in relation to the chimney of a building, it shall be a defence to prove—

(*a*) that the contravention was due to the nature of the building or its equipment and was not due to any failure properly to maintain the building or properly to maintain and use the equipment of the building; and

(*b*) that it had not been practicable to alter or equip the building so as to enable it to be used or fully used for the purpose for which it was intended without the likelihood of contraventions of the said section one.

(2) If, at any time before the expiration of the said seven years, the local authority are satisfied, on the application of any person interested in any building, that it has not been practicable to alter or equip the building so as to enable it to be used or fully used as aforesaid, the local authority may, if they think fit, issue from time to time a certificate to that effect, and while such a certificate is in force, it shall be conclusive evidence of the facts therein stated for the purposes of paragraph (*b*) of subsection (1) of this section.

(3) A certificate under subsection (2) of this section shall be in force for one year from the date of the issue thereof or for such shorter period as may be specified therein, so, however that a certificate issued after the expiration of six, but before the expiration of seven, years from the passing of this Act shall not remain in force after the expiration of the said seven years.

(4) A certificate under subsection (2) of this section may, if the local authority think fit, be limited to particular chimneys of the building and in that event the operation of the said subsection (2) shall be limited to contraventions in respect of those chimneys.

(5) This section shall apply in relation to a chimney serving the furnace of any boiler or industrial plant as it applies in relation to a chimney of a building:

Provided that, in relation to any such chimney as aforesaid which is not a chimney of a building, for the references in this section to the building and to maintaining it there shall be substituted references respectively to the furnace and any apparatus used in connection therewith and to maintaining or using the furnace and any such apparatus and the references in this section to the equipment of the building or equipping the building shall be omitted.

Smoke from furnaces

Requirement that new furnaces shall be so far as practicable smokeless.

3.—(1) Subject to the provisions of this section, no furnace shall be installed in a building or in any boiler or industrial plant attached to a building or for the time being fixed to or installed on any land unless it is so far as practicable capable of being operated continuously without emitting smoke when burning fuel of a type for which the furnace was designed, and any person who installs a furnace in contravention of this subsection or on whose instructions a furnace is so installed shall be guilty of an offence:

Provided that this subsection shall not apply to a furnace the installation of which has been begun, or an agreement for the purchase or installation of which has been entered into, before the appointed day.

(2) Any furnace installed in accordance with plans and specifications submitted to, and approved for the purposes of this section by, the local authority shall be deemed to comply with the provisions of subsection (1) of this section.

(3) A furnace to which subsection (1) of this section applies shall not be installed in a building or in any such boiler or plant as is mentioned in the said subsection (1) unless notice of the proposal to install it has been given to the local authority, and any person who installs a furnace in contravention of this subsection or on whose instructions a furnace is so installed shall be guilty of an offence.

(4) This section shall not apply to furnaces designed solely or mainly for use for domestic purposes, not being furnaces of boilers with a maximum heating capacity of fifty-five thousand or more British thermal units per hour.

(5) This section shall apply in relation to the attachment to a building of a boiler or industrial plant which already contains a furnace or the fixing to or installation on any land of any such boiler or plant as it applies in relation to the installation of a furnace in any boiler or industrial plant attached to a building or for the time being fixed to or installed on any land.

Density meters, &c.

4.—(1) Regulations made by the Minister may in such cases as may be prescribed by the regulations impose requirements as to—

(*a*) providing and installing apparatus for the purpose of indicating or recording (or indicating and recording) the density or darkness of smoke emitted from any furnace in any building or any furnace of any boiler or industrial plant not being a furnace in a building, or of facilitating the observation of smoke so emitted with a view to ascertaining its density or darkness;

(*b*) making adaptations for any such purpose to any chimney serving such a furnace;

(*c*) using and maintaining apparatus provided in pursuance of the regulations; and

(*d*) making available to the local authority any results recorded by such apparatus.

(2) If regulations under this section are contravened in relation to a furnace, the occupier of the building or, as the case may be, the person in possession of the boiler or plant shall be guilty of an offence.

Grit and Dust from furnaces

Requirement that grit and dust from furnaces shall be minimised.

5.—(1) The occupier of any building in which a furnace is used to burn solid fuel or solid waste, or of any building or land in or on which an oven is used to subject solid fuel to any process involving the application of heat, shall use any practicable means there may be for minimising the emission of grit and dust from any chimney which serves the furnace or oven and if he fails so to do, he shall be guilty of an offence.

(2) This section shall not apply to furnaces designed solely or mainly for domestic purposes, not being furnaces of boilers with a maximum heating capacity of fifty-five thousand or more British thermal units per hour.

Requirement that new furnaces shall be fitted with plant to arrest grit and dust.

6.—(1) Subject to the provisions of this section, no furnace in any building shall be used—

(*a*) to burn pulverised fuel; or

(*b*) to burn, at a rate of one ton an hour or more, solid fuel in any other form or solid waste;

and no oven in any building or on any land shall be used to subject solid fuel to any process involving the application of

heat, unless the furnace or oven is provided with plant for arresting grit and dust which has been approved by the local authority or which has been installed in accordance with plans and specifications submitted to and approved by the local authority, and that plant is properly maintained and used, and if a furnace or oven is used in contravention of this subsection the occupier of the building or land shall be guilty of an offence.

(2) Subsection (1) of this section shall not apply to a furnace or oven which has been installed, the installation of which has been begun, or an agreement for the purchase or installation of which has been entered into, before the appointed day.

(3) The Minister may give directions to any local authority, or to local authorities generally, requiring that any application for approval under this section, or all such applications of any class specified in the directions, shall be referred to the Minister and shall be dealt with by him instead of by the local authority, and any such application shall be so referred accordingly.

(4) Any person who has applied to the local authority for an approval under this section or is interested in a building or land with respect to which such an application is made may, if he is dissatisfied with the decision of the authority on the application, appeal to the Minister and the Minister may give any approval which the local authority might have given.

(5) Any approval given by the Minister under subsection (3) or subsection (4) of this section shall have the like effect as an approval of the local authority.

Measurement of grit and dust emitted from furnaces.

7.—(1) If a furnace in a building is used—

(*a*) to burn pulverised fuel; or

(*b*) to burn, at a rate of one ton an hour or more, solid fuel in any other form or solid waste;

or if an oven in any building or on any land is used to subject solid fuel to any process involving the application of heat, the local authority may, by notice in writing served on the occupier of the building or land, direct that the provisions of subsection (2) of this section shall apply to the furnace or oven and those provisions shall apply accordingly:

Provided that the local authority may, by a subsequent notice in writing served on the occupier of the building or land, revoke any direction given under this subsection, without prejudice, however, to their power to give another direction thereunder.

(2) In the case of a furnace or oven to which this subsection is applied, the occupier of the building or land shall comply with such requirements as may be prescribed by regulations made by the Minister as to—

(*a*) making and recording measurements from time to time of the grit and dust emitted from the furnace or oven;

(*b*) making adaptations for that purpose to the chimney serving the furnace or oven;

(*c*) providing and maintaining apparatus for making and recording the measurements; and

(*d*) informing the local authority of the results obtained from the measurements or otherwise making those results available to them,

and if he fails so to do, he shall be guilty of an offence.

(3) Regulations under subsection (2) of this section may make different provision in relation to different classes of furnace or oven.

Information about furnaces and fuel consumed.

8.—(1) For the purpose of enabling the local authority properly to perform their functions under and in connection with the two last preceding sections, the local authority may, by notice in writing served on the occupier of any building or land, require the occupier of the building or land to furnish to them, within fourteen days or such longer time as may be limited by the notice, such information as to the furnaces or ovens in the building or on the land and the fuel or waste burned in those furnaces or subjected to any process in those ovens as they may reasonably require for that purpose.

(2) Any person who, having been duly served with a notice under subsection (1) of this section, fails to comply with the requirements thereof within the time limited or furnishes any information in reply thereto which he knows to be false in a material particular shall be guilty of an offence.

Grit and dust from outdoor furnaces, &c.

9. The four last preceding sections shall apply in relation to the furnace of any boiler or industrial plant (being a boiler or plant attached to a building or for the time being fixed to or installed on any land) as they apply in relation to a furnace in a building:

Provided that—

(*a*) in relation to a furnace which is not in a building, the references in those sections to the occupier of the building shall be construed as references to the person having possession of the boiler or plant; and

(*b*) in relation to a furnace which is already contained in any such boiler or industrial plant, the references in subsection (2) of section six of this Act to the installation and to the purchase of a furnace shall be construed as references to attaching the boiler or plant to the building or fixing it to or installing it on any land and to purchasing it respectively.

Height of chimneys.

10.—(1) Where plans for the erection or extension of a building outside the administrative county of London, other than a building used or to be used wholly for one or more of the following purposes, that is to say as a residence or residences, a shop or

shops or an office or offices, are in accordance with building bye-laws deposited with the local authority and the plans show that it is proposed to construct a chimney for carrying smoke, grit, dust or gases from the building, the local authority shall reject the plans unless they are satisfied that the height of the chimney as shown on the plans will be sufficient to prevent, so far as practicable, the smoke, grit, dust or gases from becoming prejudicial to health or a nuisance having regard to—

(*a*) the purpose of the chimney;

(*b*) the position and description of buildings near thereto;

(*c*) the levels of the neighbouring ground; and

(*d*) any other matters requiring consideration in the circumstances.

(2) If a local authority reject plans under the authority of this section, the notice given under subsection (2) of section sixty-four of the Public Health Act, 1936, shall specify that the plans have been so rejected.

(3) Where plans are rejected under the authority of this section, any person interested in the building may appeal to the Minister and the Minister may confirm or cancel the rejection and, where he cancels the rejection, may, if he thinks it necessary, direct that the time for rejecting the plans otherwise than under the authority of this section shall be extended so as to run from the date on which his decision is notified to the local authority.

(4) This section shall not apply to the erection or extension of a generating station as defined in the Electricity (Supply) Act, 1919, other than a private generating station as so defined.

(5) In the application of this section to Scotland, any reference to the local authority shall, in the case of a local authority being the town council of a burgh, be construed as a reference to the dean of guild court or the body exercising the functions of a dean of guild court, any reference to the deposit of plans in accordance with building byelaws shall include a reference to the deposit of plans in accordance with any requirement of the common law and subsections (2) and (3) shall be omitted.

Smoke control areas

Smoke control areas.

11.—(1) Any local authority may, by order confirmed by the Minister, declare the whole of the district of the local authority or any part thereof to be a smoke control area.

(2) Subject to any exemptions and limitations for the time being in force under this section, if, on any day, smoke is emitted from a chimney of any building within a smoke control area, the occupier of that building shall be guilty of an offence:

Provided that in proceedings for an offence under this subsection, it shall be a defence to prove that the emission of smoke was not caused by the use of any fuel other than an authorised fuel.

(3) An order made by the local authority under this section—

(*a*) may make different provision for different parts of the smoke control area;

(*b*) may limit the operation of this section to specified classes of building in the area;

(*c*) may exempt specified buildings or classes of building or specified fireplaces or classes of fireplace in the area from the operation of this section, upon such conditions as may be specified in the order.

(4) The Minister may from time to time by order exempt any class of fireplace, upon such conditions as he may specify in the order, from the provisions of this section, if he is satisfied that such fireplaces can be used for burning fuel other than authorised fuels without producing any smoke or a substantial quantity of smoke.

(5) An order made and confirmed under this section may be revoked or varied by a subsequent order so made and confirmed.

(6) The provisions of the First Schedule to this Act shall apply to the confirmation and coming into operation of orders made by local authorities under this section.

(7) If at any time it appears to the Minister necessary or expedient so to do, he may by order suspend or relax the operation of this section in relation to the whole or any part of a smoke control area:

Provided that before making an order under this subsection the Minister shall consult with the local authority unless he is satisfied that, on account of urgency, such consultation is impracticable.

(8) Any order of the Minister under this section may be revoked or varied by a subsequent order of the Minister and the proviso to subsection (7) of this section shall apply to the revocation or variation of an order made thereunder.

(9) As soon as practicable after the making of an order under subsection (7) of this section or an order revoking or varying such an order, the local authority shall take such steps as appear to them suitable for bringing the effect of the order to the notice of persons affected.

(10) This section shall apply in relation to a chimney serving the furnace of any boiler or industrial plant (being a boiler or plant attached to a building or for the time being fixed to or installed on any land) as it applies in relation to a chimney of a building:

Provided that in relation to any such chimney as aforesaid which is not a chimney of a building, for the references in this section to buildings or to the occupier of the building there shall be substituted references respectively to boilers or plant or to the person having possession of the boiler or plant.

Adaptation of fireplaces in private dwellings.

12.—(1) If, after the confirmation of an order made by a local authority under the last preceding section, the owner or occupier of, or any person interested in, any private dwelling which is or will be within a smoke control area as a result of the order, not being a new dwelling, incurs expenditure on adaptations in or in connection with the dwelling to avoid contraventions of the last preceding section, the local authority shall repay to him seven-tenths of that expenditure and may, if they think fit, also repay to him the whole or any part of the remainder of that expenditure:

Provided that this subsection shall not apply to any expenditure unless—

(*a*) it either is incurred before the coming into operation of the order and with the approval of the local authority given for the purposes of this subsection or is reasonably incurred in carrying out adaptations required by a notice given under subsection (2) of this section; and

(*b*) the adaptations in question are carried out to the satisfaction of the local authority,

and where the expenditure is incurred by the occupier of a private dwelling who is not an owner thereof, and the adaptations consist of or include the provision of any cooking or heating appliance which can be readily removed from the dwelling without injury to itself or the fabric of the dwelling, the following provisions shall have effect as respects so much of the expenditure as represents the cost of the appliance, that is to say—

(i) not more than seven-twentieths of that part of that expenditure shall be repaid until two years from the coming into operation of the order; and

(ii) any further repayment of that part of that expenditure shall be made only if the appliance has not by then been removed from the dwelling and, if made, shall be made to the person who is the occupier of the dwelling at the end of the two years.

(2) The local authority may, by notice in writing served on the occupier or owner of a private dwelling which is, or when an order made and confirmed as aforesaid comes into operation will be, within a smoke control area, require the carrying out of adaptations in or in connection with the dwelling to avoid contraventions of the last preceding section, and the provisions of Part XII of the Public Health Act, 1936, with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice under this subsection, subject, however, to the modification that any reference in the said provisions to the expenses reasonably incurred in executing the works shall be construed as a reference to three-tenths of those expenses or such smaller fraction thereof as the local authority may in any particular case determine.

(3) In the application of this section to Scotland—

(*a*) subsection (2) of this section shall have effect as if the words from " and the provisions of Part XII " to the end of the subsection were omitted ; and

(*b*) section sixteen of the Housing (Scotland) Act, 1950 (which provides for an appeal to the sheriff against certain notices requiring the execution of works under that Act) shall apply in relation to a notice under the said subsection (2) as it applies in relation to any such notice as is mentioned in paragraph (*a*) of subsection (1) of that section ; and

(*c*) subject to any such right of appeal as aforesaid, if any person on whom a notice under the said subsection (2) is served fails to execute the works required by the notice within the time thereby limited, the local authority may themselves execute the works and may recover from that person three-tenths, or such smaller fraction as the local authority may in any particular case determine, of the expenses reasonably incurred by them in so doing.

Exchequer contributions.

13.—(1) The Minister may, out of moneys provided by Parliament, make a contribution towards the following expenses of any local authority, that is to say—

(*a*) any expenses of the local authority in making the payments under subsection (1) of the last preceding section which they are bound thereby to make ;

(*b*) any expenses incurred by them in making, in or in connection with private dwellings owned by them or under their control, not being new dwellings, adaptations to avoid contraventions of section eleven of this Act ; and

(*c*) any expenses incurred by them in carrying out adaptations required by notices under subsection (2) of the last preceding section in or in connection with dwellings which are not new dwellings :

Provided that no expenses shall be taken into account under this subsection unless they are approved by the Minister.

(2) A contribution under subsection (1) of this section in respect of any expenses shall be a single payment equal, in the case of expenses mentioned in paragraph (*a*) of that subsection, to four-sevenths, and, in the case of other expenses, to two-fifths, of the amount of the expenses.

Interpretation of two last preceding sections.

14.—(1) In the two last preceding sections, references to adaptations in or in connection with a dwelling to avoid contraventions of section eleven of this Act shall be construed as

references to the execution of any of the following works (whether in or outside the dwelling), that is to say—

(*a*) adapting or converting any fireplace; or

(*b*) replacing any fireplace by another fireplace or by some other means of heating or cooking; or

(*c*) altering any flue or chimney which serves any fireplace; or

(*d*) carrying out any operation incidental to any of the operations aforesaid,

being works which are reasonably necessary in order to make what is in all the circumstances suitable provision for heating and cooking without contraventions of the said section eleven:

Provided that, except for the purposes of subsection (2) of section twelve of this Act, works which make such suitable provision as aforesaid shall not be deemed to be other than adaptations to avoid contraventions of the said section eleven by reason that they go beyond what is reasonably necessary for that purpose, but any expenditure incurred in executing them in excess of the expenditure which would have been reasonably incurred in doing what was reasonably necessary shall be left out of account.

(2) In the two last preceding sections, references to expenses incurred in the execution of works include references to the cost of any fixed cooking or heating appliance installed by means of the execution of the works, notwithstanding that the appliance can be readily removed from the dwelling without injury to itself or the fabric of the dwelling; and for the purposes of the two last preceding sections, a person who enters into a hire-purchase agreement for the letting to him of a cooking or heating appliance shall be treated as having incurred on the date of the agreement expenditure of an amount equal to the price which would have been payable therefor if he had purchased it for cash on that date.

Power of local authority to make grants towards adaptations to fireplaces in churches, chapels, buildings used by charities, &c.

15.—(1) If, after the confirmation of an order made by a local authority under section eleven of this Act, the owner or occupier of any premises or part of any premises to which this section applies and which will be within a smoke control area as the result of the order incurs expenditure on adaptations in or in connection with the premises or part to avoid contraventions of the said section eleven, the local authority may, if they think fit, repay to him the whole or any part of that expenditure.

(2) This section applies to any premises or part of any premises which fall within one or more of the following paragraphs, that is to say—

(*a*) any place of public religious worship, being, in the case of a place in England or Wales, a place which belongs to the Church of England or to the Church in Wales

(within the meaning of the Welsh Church Act, 1914) or which is for the time being certified as required by law as a place of religious worship;

(*b*) any church hall, chapel hall or similar premises used in connection with any such place of public religious worship, and so used for the purposes of the organisation responsible for the conduct of public religious worship in that place;

(*c*) any premises or part of any premises occupied for the purposes of an organisation (whether corporate or unincorporate) which is not established or conducted for profit and whose main objects are charitable or are otherwise concerned with the advancement of religion, education or social welfare.

(3) Section fourteen of this Act shall apply for the interpretation of this section as it applies for the interpretation of sections twelve and thirteen of this Act, but as if references therein to a dwelling were references to any premises or part of any premises to which this section applies.

Smoke nuisances

Abatement of smoke nuisances.

16.—(1) Smoke other than—

(*a*) smoke emitted from a chimney of a private dwelling; or

(*b*) dark smoke emitted from a chimney of a building or from a chimney serving the furnace of a boiler or industrial plant attached to a building or for the time being fixed to or installed on any land,

shall, if it is a nuisance to the inhabitants of the neighbourhood, be deemed for the purposes of Part III of the Public Health Act, 1936, to be a statutory nuisance, and section one hundred and nine of that Act (which contains a saving from the operation of the said Part III for mines and industrial processes) shall not apply in relation to it:

Provided that, in any proceedings brought by virtue of this section—

(i) the maximum fines which may be imposed shall, in the case of a conviction for a failure to comply with, or for a contravention of, a nuisance order, be ten pounds and a further five pounds for each day on which the offence continues after conviction therefor;

(ii) in the case of smoke emitted from a chimney, it shall be a defence for the defendant to prove that the best practicable means had been employed to prevent the nuisance.

(2) If the local authority are satisfied that such a nuisance as is mentioned in subsection (1) of this section has occurred and,

although it has ceased, is likely to recur, they may, without serving an abatement notice, cause a complaint to be made to a justice of the peace, and a magistrates' court shall have power on that complaint to make an order on any person by reason of whose act, default or sufferance the nuisance arose prohibiting a recurrence of the nuisance and requiring him, within a time specified in the order, to execute any works necessary to prevent a recurrence; and the provisions of Part III of the Public Health Act, 1936, shall, with the necessary adaptations and modifications, apply in relation to proceedings under this subsection and orders made thereunder as they apply in relation to proceedings under the said Part III and nuisance orders made thereunder.

(3) In the application of this section to Scotland—

(*a*) in subsection (1), the words from "and section one hundred and nine of that Act" to "shall not apply in relation to it" and subsection (2) shall be omitted.

(*b*) for references to Part III of the Public Health Act, 1936, and to a statutory nuisance there shall be substituted respectively references to the Public Health (Scotland) Act, 1897, and to a nuisance liable to be dealt with summarily in manner provided by that Act;

(*c*) for any reference to a nuisance order there shall be substituted a reference to a decree for the removal or remedy or discontinuance or interdict of a nuisance granted under section twenty-two or twenty-three of the said Act of 1897; and

(*d*) for any reference to a defendant there shall be substituted a reference to a person against whom proceedings are taken for contravention of any such decree or interdict as aforesaid.

Special cases

Relation to, and amendment of, Alkali Act.

17.—(1) Subject to the provisions of subsection (2) of this section, the preceding provisions of this Act shall not apply to premises controlled under the Alkali, &c. Works Regulation Act, 1906 (hereinafter referred to as "the Alkali Act"), but the Alkali Act shall have effect in relation to smoke, grit and dust from any such premises as it has effect in relation to noxious or offensive gases, and references therein to noxious or offensive gases shall be construed accordingly:

Provided that the preceding provisions of this subsection shall not affect the operation of sections one, five and sixteen of this Act in relation to premises controlled under the Alkali Act, but, in England and Wales, no proceedings shall be brought by virtue of the said section one, the said section five or the said section sixteen in the case of any such premises except with the consent of the Minister.

(2) The Minister may, if, on the application of the local authority, he is satisfied that in all the circumstances it is expedient so to do, by order apply the provisions of this subsection to the whole or any specified part of any premises controlled under the Alkali Act, and, in that event, in relation to any period for which the order is in force—

(*a*) subsection (1) of this section shall not apply to the premises or, as the case may be, to the specified part thereof; but

(*b*) it shall be a defence to any proceedings under section one of this Act in respect of dark smoke from the premises or, as the case may be, from the specified part thereof, to prove that the best practicable means had been employed to prevent or minimise the emission of dark smoke therefrom; and

(*c*) in any proceedings brought by virtue of section sixteen of this Act in respect of smoke from the premises or, as the case may be, from the specified part thereof, the defence provided for by proviso (ii) to subsection (1) of that section shall be available whether the smoke was emitted from a chimney or not.

Any order under this subsection may be revoked or varied by a subsequent order of the Minister.

(3) The power conferred on the Minister by subsection (1) of section four of the Public Health (Smoke Abatement) Act, 1926, to make orders extending the list of noxious or offensive gases contained in section twenty-seven of, and the list of works mentioned in the First Schedule to, the Alkali Act shall include a power, exercisable in the like manner, to vary or revoke any such order; and where by virtue of an order under the said subsection (1), or under section one of the Alkali, &c., Works Regulation (Scotland) Act, 1951, works of any description which would not otherwise be included in the First Schedule to the Alkali Act become included therein, the references in the proviso to subsection (5) of section nine of the Alkali Act to the commencement of that Act shall, in relation to works of that description, be construed as references to the coming into operation of the order.

(4) The amendments specified in the Second Schedule to this Act, being amendments designed to assimilate the penalties for certain offences under the Alkali Act to the penalties for comparable offences under this Act, shall be made in the provisions of the Alkali Act.

(5) In this section the references to premises controlled under the Alkali Act are references to so much of any work registered under section nine of that Act as is directly concerned in the processes which necessitate its registration thereunder.

The Minister may from time to time determine how much of any such work is directly concerned as aforesaid and his determination shall, until revoked or varied by him, be conclusive.

(6) Nothing in subsection (1) of this section shall extend the operation of subsection (3) of section four of the Public Health (Smoke Abatement) Act, 1926, or section two of the Alkali, &c., Works Regulation (Scotland) Act, 1951 (which authorise inspectors to enter and inspect, in certain cases, works not registered under section nine of the Alkali Act).

Colliery spoilbanks.

18.—(1) Subject to the provisions of subsection (3) of this section, the owner of a mine or quarry from which coal or shale has been, is being or is to be got shall employ all practicable means for preventing combustion of refuse deposited from the mine or quarry and for preventing or minimising the emission of smoke and fumes from the refuse and if he fails so to do, he shall be guilty of an offence.

(2) Subject to the provisions of subsection (3) of this section, neither section ninety-two of the Public Health Act, 1936, nor any provision of this Act other than subsection (1) of this section shall apply in relation to smoke, grit or dust from the combustion of refuse deposited from any such mine or quarry as is mentioned in the said subsection (1).

(3) Subsections (1) and (2) of this section shall not apply to any deposit of refuse deposited from a mine or quarry before the passing of this Act if, at the time of the passing of this Act, the deposit is no longer in use as such and is not under the control of the owner of the mine or quarry.

(4) In this section, "mine", "quarry" and "owner" have the same meanings as in the Mines and Quarries Act, 1954.

(5) In the application of this section to Scotland, subsection (2) shall have effect as if for the reference to section ninety-two of the Public Health Act, 1936, there were substituted a reference to section sixteen of the Public Health (Scotland) Act, 1897.

Railway engines.

19.—(1) Section one of this Act shall apply in relation to railway locomotive engines as it applies in relation to buildings, but as if for the references to the occupier of the building there were substituted references to the owner of the engine.

(2) The owner of any railway locomotive engine shall use any practicable means there may be for minimising the emission of smoke from the chimney on the engine and if he fails so to do, he shall, if smoke is emitted therefrom, be guilty of an offence.

(3) Save as provided in this section, nothing in this Act applies to smoke, grit or dust from any railway locomotive engine.

Vessels.

20.—(1) Sections one and two of this Act shall apply in relation to vessels in waters to which this section applies as they apply in relation to buildings, but as if for the references to the occupier of the building there were substituted references to the owner of, and to the master or other officer or person in charge of, the vessel and as if references to a furnace included references to an engine of the vessel.

(2) For the purposes of this Act a vessel in any waters to which this section applies which are not within the district of any local authority shall be deemed to be within the district of the local authority whose district includes that point on land which is nearest to the spot where the vessel is.

(3) The waters to which this section applies are—

(*a*) all waters not navigable by sea-going ships; and

(*b*) all waters navigable by sea-going ships which are within the seaward limits of the territorial waters of the United Kingdom and are contained within any port, harbour, river, estuary, haven, dock, canal or other place so long as a person or body of persons is empowered by or under any Act to make charges in respect of vessels entering it or using facilities therein.

In this subsection "charges" means any charges with the exception of light dues, local light dues and any other charges payable in respect of lighthouses, buoys or beacons and of charges in respect of pilotage.

(4) Save as provided in this section, nothing in this Act applies to smoke, grit or dust from any vessel.

Exemption for purposes of investigations and research.

21.—(1) If the local authority are satisfied, on the application of any person interested, that it is expedient so to do for the purpose of enabling investigations or research relevant to the problem of the pollution of the air to be carried out without rendering the applicant liable to proceedings brought under or by virtue of any of the provisions of this Act, the local authority may by notice in writing given to the applicant exempt, wholly or to a limited extent,—

(*a*) any chimney from the operation of sections one, five, eleven, sixteen and nineteen of this Act;

(*b*) any furnace, boiler or industrial plant from the operation of subsection (1) of section three of this Act;

(*c*) any furnace or oven from the operation of sections six and seven of this Act,

in each case subject to such conditions, if any, and for such period as may be specified in the notice.

(2) Any person who has applied to the local authority for an exemption under this section may, if he is dissatisfied with the

decision of the authority on the application, appeal to the Minister and the Minister may, if he thinks fit, by notice in writing given to the applicant and the local authority, give any exemption which the authority might have given or vary the terms of any exemption which they have given.

Crown premises, &c.

22.—(1) It shall be part of the functions of the local authority, in cases where it seems to them proper so to do, to report to the responsible Minister any cases of—

(*a*) emissions of dark smoke, or of grit or dust, from any premises which are under the control of any Government department and are occupied for the public service of the Crown or for any of the purposes of any Government department; or

(*b*) emissions of smoke, whether dark smoke or not, from any such premises which are within a smoke control area; or

(*c*) emissions of smoke, whether dark smoke or not, from any such premises which appear to them to constitute a nuisance to the inhabitants of the neighbourhood; or

(*d*) emissions of dark smoke from any vessel of Her Majesty's navy, or any Government ship in the service of the Admiralty while employed for the purposes of Her Majesty's navy, which appear to them to constitute such a nuisance as aforesaid,

and on receiving any such report the said Minister shall inquire into the circumstances and, if his inquiry reveals that there is cause for complaint, shall employ all practicable means for preventing or minimising the emission of the smoke, grit or dust or for abating the nuisance and preventing a recurrence thereof, as the case may be.

This subsection shall apply to premises occupied for the purposes of the Duchy of Lancaster or the Duchy of Cornwall as it applies to premises occupied for the public service of the Crown which are under the control of a Government department, with the substitution, in the case of the Duchy of Cornwall, for references to the responsible Minister of references to such person as the Duke of Cornwall or the possessor for the time being of the Duchy of Cornwall appoints.

(2) The fact that there subsists in any premises an interest belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of Cornwall, or belonging to a Government department or held in trust for Her Majesty for the purposes of a Government department, shall not affect the application of this Act to those premises so long as that interest is not the interest of the occupier of the premises, and this Act shall have effect accordingly in relation to the premises and that and all other interests therein.

(3) Section twenty of this Act shall, with the omission of the reference in subsection (1) thereof to the owner, apply to vessels owned by the Crown, except that it shall not apply to vessels of Her Majesty's navy or to Government ships in the service of the Admiralty while employed for the purposes of Her Majesty's navy.

(4) This Act shall have effect in relation to premises occupied for the service of a visiting force as if the premises were premises occupied for the public service of the Crown and were under the control of the Government department by arrangement with whom the premises are occupied.

In this subsection " visiting force " means any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of any of the provisions of the Visiting Forces Act, 1952.

(5) In this section " Government ship " has the same meaning as in section eighty of the Merchant Shipping Act, 1906.

Clean Air Council

Clean Air Council.

23.—(1) For the purposes of—

(*a*) keeping under review the progress made (whether under this Act or otherwise) in abating the pollution of the air in England and Wales ; and

(*b*) obtaining the advice of persons having special knowledge, experience or responsibility in regard to prevention of pollution of the air,

the Minister of Housing and Local Government shall appoint a consultative council, to be called the Clean Air Council, of which he shall be the chairman.

(2) The Minister of Housing and Local Government may by order make provision with respect to the constitution and procedure of the said council, and any such order may be varied by a subsequent order.

(3) For the like purposes in relation to Scotland as those mentioned in subsection (1) of this section the Secretary of State shall appoint a consultative council, to be called the Clean Air Council for Scotland, and subsection (2) of this section shall apply in relation to the said council, but as if the reference therein to the Minister of Housing and Local Government were a reference to the Secretary of State.

Miscellaneous provisions

Building byelaws.

24. Building byelaws may require the provision in new buildings of such arrangements for heating or cooking as are calculated to prevent so far as practicable the emission of smoke.

Powers of local authorities as to research and publicity.

25. A local authority may—

(*a*) undertake, or contribute towards the cost of, investigations and research relevant to the problem of the pollution of the air;

(*b*) arrange for the publication within their area of information on that problem;

(*c*) arrange for the delivery of lectures and addresses, and the holding of discussions, on that problem;

(*d*) arrange for the display of pictures, cinematograph films or models, or the holding of exhibitions, relating to that problem; and

(*e*) prepare, or join in or contribute to the cost of the preparation of, pictures, films, models or exhibitions to be displayed or held as aforesaid.

Unjustified disclosures of information.

26. If any person discloses any information relating to any manufacturing process or trade secret used in carrying on any particular undertaking which has been furnished to or obtained by him under this Act or in connection with the execution thereof, he shall, unless the disclosure is made—

(*a*) with the consent of the person carrying on that undertaking; or

(*b*) in connection with the execution of this Act; or

(*c*) for the purposes of any legal proceedings arising out of this Act or of any report of such proceedings,

be guilty of an offence.

Penalties.

27.—(1) A person guilty of an offence under section one of this Act shall be liable on summary conviction, in the case of dark smoke from a chimney of a private dwelling, to a fine not exceeding ten pounds, and, in the case of dark smoke from any other chimney, to a fine not exceeding one hundred pounds.

(2) A person guilty of an offence under subsection (3) of section three or section eleven of this Act shall be liable on summary conviction to a fine not exceeding ten pounds.

(3) A person guilty of an offence under section twenty-six of this Act shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both.

(4) A person guilty of an offence under any of the other provisions of this Act shall be liable on summary conviction to a fine not exceeding one hundred pounds:

Provided that where a person is convicted of such an offence (not being an offence under section eight of this Act) and it is shown to the satisfaction of the court that the offence was substantially a repetition or continuation of an earlier offence by

him after he had been convicted of the earlier offence, he shall be liable, on summary conviction, to a fine not exceeding one hundred pounds or not exceeding twenty pounds for every day on which the earlier offence has been so repeated or continued by him within the three months next following his conviction therefor, whichever is the greater.

(5) Any offence under any provision of this Act for which the maximum penalty which may be imposed does not exceed ten pounds may in Scotland be prosecuted in any court of summary jurisdiction within the meaning of the Summary Jurisdiction (Scotland) Act, 1954, having jurisdiction in the place where the offence was committed.

Power of county court to authorise works and order payments.

28.—(1) If works are reasonably necessary in or in connection with a building in order to enable the building to be used for some purpose without contravention of any of the provisions of this Act, the occupier of the building—

(*a*) may, if by reason of a restriction affecting his interest in the building he is unable to carry out the works without the consent of the owner of the building or some other person interested therein and is unable to obtain that consent, apply to the county court for an order to enable the works to be carried out by him; and

(*b*) may, if he considers that the whole or any proportion of the cost of carrying out the works should be borne by the owner of the building or some other person interested therein, apply to the county court for an order directing the owner or other person to indemnify him, either wholly or in part, in respect of the cost thereof,

and on an application under either of the preceding paragraphs the court may make such order as may appear to the court to be just.

(2) In the application of this section to Scotland for any reference to the county court there shall be substituted a reference to the sheriff.

Enforcement.

29.—(1) It shall be the duty of the local authority to enforce the provisions of this Act:

Provided that nothing in this section shall be construed as extending to the enforcement of—

(*a*) any of the provisions of the Alkali, &c. Works Regulation Act, 1906; or

(*b*) any building byelaws.

(2) A local authority in England and Wales may institute proceedings for an offence under section one of this Act in the

case of any smoke which affects any part of their district notwithstanding that the smoke is emitted from a chimney outside their district.

(3) Nothing in this section shall be construed as authorising a local authority in Scotland to institute proceedings for an offence against this Act.

Duty to notify occupiers of offences.

30.—(1) If, in the opinion of an authorised officer of the local authority, an offence is being or has been committed under section one or section eleven of this Act or a nuisance to which section sixteen of this Act applies exists or has existed, he shall, unless he has reason to believe that notice thereof has already been given by or on behalf of the local authority, as soon as may be notify the occupier of the premises, the person having possession of the boiler or plant, the owner of the railway locomotive engine or the owner or master or other officer or person in charge of the vessel, as the case may be, and, if his notification is not in writing, shall, within forty-eight hours after he became aware of the offence, confirm the notification in writing.

(2) In any proceedings for an offence under section one or section eleven of this Act it shall be a defence to prove that the provisions of subsection (1) of this section have not been complied with in the case of the offence, and if no such notification as is required by that subsection has been given before the end of the two days next following the day of the offence, the said subsection (1) shall be deemed not to have been complied with unless the contrary is proved.

Application of Public Health Act, 1936, &c.

31.—(1) Parts I and XII of the Public Health Act, 1936 (which contain provisions relating to local administration and general and supplemental provisions) shall, so far as applicable and subject to the modifications and supplementary provisions contained in Part I of the Third Schedule to this Act, have effect in relation to this Act as if the provisions of this Act (other than the provisions amending the Alkali, &c. Works Regulation Act, 1906) were provisions of the first mentioned Act.

(2) Any order made or having effect as if made under the Public Health Act, 1936, which confers or imposes functions, rights or liabilities on a port health authority, being an order in force immediately before the appointed day, shall, as from the appointed day, have effect as if any references therein to, or which are to be construed as references to, functions, rights or liabilities of a local authority under all or any of the provisions of sections one hundred and one to one hundred and six of that Act included references to the functions, rights or liabilities of a local authority under this Act.

(3) Without prejudice to the provisions of subsections (1) and (2) of this section, any two or more local authorities may combine

for the purpose of declaring an area to be a smoke control area and in that event—

(*a*) the smoke control area may be the whole of the districts of those authorities or any part thereof;

(*b*) the references in section eleven of this Act and the first Schedule to this Act, and the first reference in subsection (1) of section twelve of this Act, to the local authority shall be construed as references to the local authorities acting jointly;

(*c*) the reference in paragraph 2 of the said First Schedule to a place in the district of the local authority shall be construed as a reference to a place in each of the districts of the local authorities; but

(*d*) save as aforesaid the references in this Act to the local authority shall, in relation to a building or dwelling, or to a boiler or industrial plant, in the smoke control area, be construed as references to that one of the local authorities within whose district the building, dwelling, boiler or plant is situated.

(4) For the avoidance of doubt it is hereby declared that where a port health authority or joint board has functions, rights or liabilities under this Act—

(*a*) any reference in this Act to a local authority or its district includes, in relation to those functions, rights or liabilities, a reference to the port health authority or board or its district;

(*b*) for the purposes of this Act, no part of the district of any such port health authority or board is to be treated, in relation to any matter falling within the competence of the authority or board, as forming part of the district of any other authority.

(5) Any power which, by virtue of section ninety-one of the Local Government Act, 1933 (either as originally enacted or as applied by or under any Act), is exercisable by any authority with functions under this Act to concur with other authorities in appointing a joint committee shall include power to appoint, for any of the purposes of this Act, a joint committee which includes persons who are not members of the appointing authorities, but any committee which includes such persons by virtue of this subsection shall be advisory only and no functions shall be delegated to it.

(6) Any premises which extend into the districts of two or more authorities shall be treated for the purposes of this Act as being wholly within such one of those districts as may from time to time be agreed by those authorities, or, in default of agreement, determined by the Minister.

(7) In the application of this section to Scotland—

(*a*) for the reference to Parts I and XII of the Public Health Act, 1936, there shall be substituted a reference to the following provisions, that is to say, sections eighteen, one hundred and sixty-one, one hundred and sixty-four and one hundred and seventy-two of the Public Health (Scotland) Act, 1897, sections two, twenty to twenty-two, one hundred and sixty-one, one hundred and sixty-eight to one hundred and seventy-one, and subsections (1) and (2) of section one hundred and seventy-two of the Housing (Scotland) Act, 1950, and section fourteen of the Housing (Repairs and Rents) (Scotland) Act, 1954; and for the words "Part I of the Third Schedule" there shall be substituted the words "Part III of the Third Schedule";

(*b*) for references to the Public Health Act, 1936, and to sections one hundred and one to one hundred and six of that Act there shall be substituted respectively references to the Public Health (Scotland) Act, 1897, and to sections sixteen to twenty-seven of that Act in so far as they relate to the nuisances specified in paragraphs (9) and (10) of the said section sixteen; and

(*c*) for the reference to section ninety-one of the Local Government Act, 1933, there shall be substituted a reference to section one hundred and nineteen of the Local Government (Scotland) Act, 1947.

Application of Act to London.

32.—(1) This Act, in relation to the administrative county of London and the port health district of the Port of London, shall have effect subject to the modifications specified in this section.

(2) In the last preceding section, for the references to the Public Health Act, 1936, to Parts I and XII thereof and to sections one hundred and one to one hundred and six thereof there shall be respectively substituted references to the Public Health (London) Act, 1936, to Parts I and XIV thereof and to Part V thereof, and for the reference to Part I of the Third Schedule to this Act there shall be substituted a reference to Part II of that Schedule.

(3) In section twelve of this Act, for the reference to the provisions of Part XII of the Public Health Act, 1936, with respect to appeals against, and the enforcement of, notices requiring the execution of works there shall be substituted a reference to section two hundred and eighty-six of the Public Health (London) Act, 1936.

(4) In subsection (1) of section sixteen of this Act—

(*a*) for the references to Part III of the Public Health Act, 1936, and to a statutory nuisance there shall be

respectively substituted references to section two hundred and eighty-two of, and the Fifth Schedule to, the Public Health (London) Act, 1936, and to a nuisance which may be dealt with summarily under that Act, and the words from " and section one hundred and nine of that Act " to " shall not apply in relation to it " shall be omitted;

(*b*) proviso (i) shall not apply but, in proceedings brought by virtue of the said subsection (1), the maximum penalties shall, in a case falling within either of the provisions of paragraph 12 of the said Fifth Schedule, be five pounds for every day on which the offence continues and, in a case falling within the proviso to paragraph 14 of that Schedule, be five pounds for every day during which the appellant has contravened or failed to comply with the order.

(5) For subsection (2) of the said section sixteen there shall be substituted the following subsection—

" (2) If the local authority are satisfied that such a nuisance as is mentioned in subsection (1) of this section has occurred and, although it has ceased, is likely to recur, they may, without serving a nuisance notice, cause a complaint to be made to a justice of the peace and a magistrates' court shall have power on that complaint to make an order on any person by reason of whose act, default or sufferance the nuisance arose prohibiting a recurrence of the nuisance; and section two hundred and eighty-two of, and the Fifth Schedule to, the Public Health (London) Act, 1936, shall, with the necessary adaptations and modifications, apply in relation to proceedings under this subsection and orders made thereunder as they apply in relation to proceedings under that Schedule and prohibition orders made thereunder."

(6) For any reference in this Act to building byelaws, there shall be substituted a reference to byelaws made by the London County Council under the London Building Act (Amendment) Act, 1935.

Regulations, orders and administrative expenses.

33.—(1) Any power conferred on the Minister by this Act to make regulations or orders (other than orders under subsection (2) of section seventeen of this Act) shall be exercisable by statutory instrument, and any such statutory instrument shall, except in the case of an order under subsection (7) of section eleven of this Act, an order revoking or varying such an order or an order under subsection (4) of section thirty-five of this Act, be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) There shall be defrayed out of moneys provided by Parliament—

(*a*) any administrative expenses incurred by the Minister under this Act; and

(*b*) any increase attributable to this Act in the moneys to be so provided under Part I of the Local Government Act, 1948, or the Local Government (Financial Provisions) (Scotland) Act, 1954.

Interpretation.

34.—(1) In this Act, except so far as the context otherwise requires,—

"appointed day" means such day as the Minister may by order appoint and different days may be appointed for different purposes, different areas and different provisions of this Act;

"authorised fuel" means a fuel declared by regulations of the Minister to be an authorised fuel for the purposes of this Act;

"authorised officer" means, as respects Scotland, any officer of a local authority authorised by them in writing, either generally or specially, to act in matters of any specified kind or in any specified matter;

"building byelaws" means, as respects Scotland, any statutory enactments, byelaws, rules and regulations or other provisions under whatever authority made, relating to the construction, alteration or extension of buildings;

"chimney" includes structures and openings of any kind from or through which smoke or (where the reference is to the chimney serving an oven) grit or dust may be emitted, and references to a chimney of a building include references to a chimney which serves the whole or a part of a building but is structurally separate therefrom;

"day" (except in the expression "the appointed day") means a period of twenty-four hours beginning at midnight;

"fireplace" includes any furnace, grate or stove, whether open or closed;

"heating" in relation to a dwelling includes the heating of water;

"hire-purchase agreement", as respects England and Wales, has the meaning assigned to it by section twenty-one of the Hire-Purchase Act, 1938, and, as respects Scotland, means a contract to which the Hire Purchase and Small Debt (Scotland) Act, 1932, applies;

" industrial plant " includes any still, melting pot or other plant used for any industrial or trade purposes, and also any incinerator used for or in connection with any such purposes;

" local authority ", as respects Scotland, means a county or town council;

" the Minister " means, as respects England and Wales, the Minister of Housing and Local Government and, as respects Scotland, the Secretary of State;

" oven " includes any form of retort or container used to subject solid fuel to any process involving the application of heat;

" owner ", as respects Scotland, has the like meaning as in the Public Health (Scotland) Act, 1897;

" port health authority " means, as respects Scotland, a port local authority constituted under Part X of the Public Health (Scotland) Act, 1897;

" practicable " means reasonably practicable having regard, amongst other things, to local conditions and circumstances, to the financial implications and to the current state of technical knowledge, and " practicable means " includes the provision and maintenance of plant and the proper use thereof;

" smoke " includes soot, ash, grit and gritty particles emitted in smoke.

(2) In this Act " dark smoke " means smoke which, if compared in the appropriate manner with a chart of the type known at the date of the passing of this Act as the Ringelmann Chart, would appear to be as dark as or darker than shade 2 on the chart.

For the avoidance of doubt it is hereby declared that, in proceedings brought under or by virtue of section one or section sixteen of this Act, the court may be satisfied that smoke is or is not dark smoke as hereinbefore defined notwithstanding that there has been no actual comparison thereof with a chart of the said type; and, in particular, and without prejudice to the generality of the preceding provisions of this subsection, if the Minister by regulations prescribes any method of ascertaining whether smoke is dark smoke as so defined, proof in any such proceedings that that method was properly applied, and that the smoke was thereby ascertained to be or not to be dark smoke as so defined, shall be accepted as sufficient.

(3) Any reference in this Act to the occupier of a building shall, in relation to any building different parts of which are occupied by different persons, be construed as a reference to the occupier or other person in control of the part of the building in which the relevant fireplace is situated.

(4) In this Act, except so far as the context otherwise requires, " private dwelling " means any building or part of a building used or intended to be used as such, and a building or part of a building shall not be deemed for the purposes of this Act to be used or intended to be used otherwise than as a private dwelling by reason that a person who resides or is to reside therein is or is to be required or permitted to reside therein in consequence of his employment or of holding an office; and " dwelling " shall be construed accordingly.

(5) In this Act " new dwelling " means a dwelling which either—

(*a*) was erected after the passing of this Act; or

(*b*) was produced by conversion, after the passing of this Act, of other premises, with or without the addition of premises erected after the passing of this Act,

and for the purposes of this subsection, a dwelling or premises shall not be treated as erected or converted after the passing of this Act unless the erection or conversion was begun thereafter.

(6) In considering for the purposes of this Act whether any and, if so, what works are reasonably necessary in order to make suitable provision for heating and cooking in the case of a dwelling or are reasonably necessary in order to enable a building to be used for a purpose without contravention of any of the provisions of this Act, regard shall be had to any difficulty there may be in obtaining, or in obtaining otherwise than at a high price, any fuels which would have to be used but for the execution of the works.

(7) Any furnaces which are in the occupation of the same person and are served by a single chimney shall, for the purposes of sections six to eight of this Act, be taken to be one furnace.

(8) Any reference in this Act to any enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended by or under any subsequent enactment (including this Act).

Repeals and transitional provisions.

35.—(1) The provisions of this Act shall be in lieu of the provisions of section one hundred and fourteen of the Railways Clauses Consolidation Act, 1845, section one hundred and seven of the Railways Clauses Consolidation (Scotland) Act, 1845, section one hundred and eight of the Towns Improvement Clauses Act, 1847, the Smoke Nuisance (Scotland) Act, 1857, the Smoke Nuisance (Scotland) Act, 1865, section nineteen of the Regulation of Railways Act, 1868, paragraph (34) of section three hundred and eighty-one, so far as relating to smoke, and section three hundred and eighty-four of the Burgh Police (Scotland) Act, 1892, paragraphs (9) and (10) of section sixteen of the Public Health (Scotland) Act, 1897, sections one hundred

and one to one hundred and six of the Public Health Act, 1936, Part V of the Public Health (London) Act, 1936, the Public Health (Coal Mine Refuse) (Scotland) Act, 1939, and the Public Health (Coal Mine Refuse) Act, 1939, and accordingly the enactments mentioned in the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(2) The references in subsection (1) of this section and in the Fourth Schedule to this Act to section one hundred and fourteen of the Railways Clauses Consolidation Act, 1845, section one hundred and seven of the Railways Clauses Consolidation (Scotland) Act, 1845, and section one hundred and eight of the Towns Improvement Clauses Act, 1847, shall be construed as including references to those sections as incorporated or applied by any Act.

(3) Any building or other byelaws which have effect by virtue of subsection (2) of section one hundred and four of the Public Health Act, 1936, or subsection (4) of section one hundred and fifty-one of the Public Health (London) Act, 1936, and are in force immediately before the appointed day shall, notwithstanding the repeal of those sections, continue in force and have effect as if they had been made by virtue of section twenty-four of this Act.

(4) The Minister may, after consultation with any local authority or county council appearing to him to be concerned, by order repeal any provision of any local Act which appears to him to be unnecessary having regard to the provisions of this Act and may by that order make such amendments of that or any other local Act as appear to him to be necessary in consequence of the repeal and such transitional provision as appears to him to be necessary or expedient in connection with the matter:

Provided that in the case of a provision of a local Act which appears to the Minister to be unnecessary having regard to the provisions of sections eleven and twelve of this Act, the power conferred by this subsection shall not be exercised without the consent of the local authority.

Provisions as to Northern Ireland.

36. The provisions of this Act other than this section, shall not extend to Northern Ireland, but, notwithstanding anything in the Government of Ireland Act, 1920, the Parliament of Northern Ireland shall have power to make laws for any purposes similar to any of the purposes of this Act.

Short title and commencement.

37.—(1) This Act may be cited as the Clean Air Act, 1956.

(2) This Act shall come into operation on the appointed day.

SCHEDULES

FIRST SCHEDULE

Sections 11, 31.

CONFIRMATION AND COMING INTO OPERATION OF ORDERS OF LOCAL AUTHORITIES UNDER SECTION ELEVEN

1. In this Schedule "order" means an order made by a local authority under section eleven of this Act.

2. After making an order, the local authority shall publish in the London Gazette and once at least in each of two successive weeks in some newspaper circulating in the area to which the order relates a notice—

(*a*) stating that the order has been made and its general effect;

(*b*) specifying a place in the district of the local authority where a copy of the order and of any map or plan referred to therein may be inspected by any person free of charge at all reasonable times during a period of not less than six weeks from the date of the last publication of the notice; and

(*c*) stating that within the said period any person who will be affected by the order may by notice in writing to the Minister object to the confirmation of the order.

3. Besides publishing such a notice as aforesaid, the local authority who have made an order shall post, and keep posted throughout the said period, copies of the notice in such number of conspicuous places within the area to which the order relates as appear to them necessary for the purpose of bringing the making of the order to the notice of persons affected.

4. If no objection is duly made to the Minister within the said period, or if every objection so made is withdrawn, the Minister may, if he thinks fit, confirm the order either with or without modifications, and in any other case he shall before confirming the order cause a local inquiry to be held and consider any objection not withdrawn and the report of the person holding the inquiry and may then confirm the order either with or without modifications.

5. Subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933 (which relate to the summoning of witnesses and the production of documents before, and the costs incurred at, local inquiries held under that section), shall apply to an inquiry held under this Schedule by the Minister of Housing and Local Government as they apply to inquiries held under that section.

6. An order when confirmed shall come into operation on such date as may be specified therein, not being a date earlier than six months from the date of the confirmation:

Provided that if, before the date on which the order is to come into operation, the local authority—

(*a*) pass a resolution postponing the coming into operation thereof; and

1ST SCH. —*cont.*

(*b*) publish a notice stating the effect of the resolution in the London Gazette and once at least in each of two successive weeks in some newspaper circulating in the area to which the order relates,

the order shall, unless the coming into operation thereof is again postponed under this proviso, come into operation on the date specified in the resolution.

7. In the application of this Schedule to Scotland, for any reference to the London Gazette there shall be substituted a reference to the Edinburgh Gazette.

Section 17.

SECOND SCHEDULE

AMENDMENTS OF ALKALI, &C. WORKS REGULATION ACT, 1906

For subsection (2) of section one, there shall be substituted the following subsection—

"(2) The owner of any alkali work which is carried on in contravention of this section shall be guilty of an offence."

For subsection (2) of section two, there shall be substituted the following subsection—

"(2) If the owner of any alkali work fails, in the opinion of the court having cognizance of the matter, to use such means, he shall be guilty of an offence."

For subsection (2) of section three, there shall be substituted the following subsection—

"(2) The owner of any work which is carried on in contravention of this section shall be guilty of an offence."

For subsection (3) of section six there shall be substituted the following subsection—

"(3) The owner of any sulphuric acid work or of any muriatic acid work which is carried on in contravention of this section shall be guilty of an offence."

For subsection (2) of section seven there shall be substituted the following subsection—

"(2) If the owner of any such work fails, in the opinion of the court having cognizance of the matter, to use such means, he shall be guilty of an offence."

For subsection (5) of section eight there shall be substituted the following subsection—

"(5) Any person who contravenes or fails to comply with any of the provisions of an order made under this section shall be guilty of an offence."

For subsection (8) of section nine there shall be substituted the following subsection—

"(8) The owner of a work which has been carried on in contravention of this section shall be guilty of an offence."

2ND SCH. —*cont.*

After section sixteen there shall be inserted the following section—

"Penalties for certain offences.

16A.—(1) A person guilty of an offence under this Act for which no express penalty is provided shall be liable on summary conviction to a fine not exceeding one hundred pounds:

Provided that where a person is convicted of such an offence and it is shown to the satisfaction of the court that the offence was substantially a repetition or continuation of an earlier offence by him after he had been convicted of the earlier offence, he shall be liable on summary conviction to a fine not exceeding one hundred pounds or not exceeding twenty pounds for every day on which the earlier offence has been so repeated or continued by him within the three months next following his conviction therefor, whichever is the greater.

(2) No proceedings shall be brought for any offence to which subsection (1) of this section applies except by an inspector and with the sanction of the central authority.

(3) In the application of this section to Scotland, subsection (2) shall be omitted."

In paragraph (2) of section seventeen the words "except as respects a fine for the contravention of the provisions of this Act as to the registration of works" shall cease to have effect.

In subsection (4) of section eighteen, for the words "under this Act" there shall be substituted the words "under section four of this Act."

THIRD SCHEDULE

Sections 31, 32.

MODIFICATIONS OF, AND PROVISIONS SUPPLEMENTARY TO, PUBLIC HEALTH ACTS, &C.

PART I

Public Health Act, 1936

1. Section two hundred and eighty-seven (which confers a power of entry on premises)—

(*a*) shall not, except in relation to work under subsection (2) of section twelve of this Act, apply in relation to any premises being a private dwelling; but

(*b*) shall apply in relation to any vessel as it applies in relation to premises.

2. Section two hundred and ninety-seven shall have effect as if the reference to a daily penalty in respect of a continuing offence included a reference to a daily penalty in respect of a repetition of an offence.

3. Sections three hundred and seventeen, three hundred and nineteen, three hundred and forty-one and three hundred and forty-two (which relate respectively to repeals and alterations of local Acts, to regulations made by the Minister, to the application of the Act to Crown property and to the application of portions of the Act to London) shall not apply.

3RD SCH. —*cont.*

PART II

Public Health (London) Act, 1936

1. The local authorities for the purposes of the provisions of this Act shall, subject to the provisions of the Public Health (London) Act, 1936, relating to the port health authority, be the sanitary authorities and not the county council;

Provided that—

(*a*) both the county council and the sanitary authorities shall be local authorities for the purposes of section twenty-five of this Act;

(*b*) if, in any special case, a sanitary authority so requests, the county council may enforce any of the provisions of this Act in lieu of the sanitary authority;

(*c*) the duty of enforcing the provisions of this Act in relation to any such premises, not being premises within the Port of London, as are occupied by a sanitary authority, shall be performed by the county council;

and, for the purposes of performing their duties under this proviso, the county council may act as if they were the local authority and the county were their district.

2. Section three (which confers jurisdiction on sanitary authorities over ships within their districts) and the definition of "building" in subsection (1) of section three hundred and four shall not apply.

3. The sanitary authority, the county council and the port health authority may, for the purpose of enforcing the provisions of this Act enforceable by them respectively, of exercising any of their powers under this Act and of ascertaining whether there is or has been on, or in connection with, any premises any contravention of those provisions or whether any of their powers under this Act ought to be exercised, enter upon any premises by day or at any time during the night when business is being carried on thereon:

Provided that—

(*a*) in the case of a private dwelling, this paragraph shall have effect only in relation to work under subsection (2) of section twelve of this Act; and

(*b*) except in the case of a factory within the meaning of the Factories Act, 1937, or of any other premises in which persons are employed otherwise than in domestic service, admission to any premises shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier.

4. Paragraph 3 of this Part of this Schedule shall apply in relation to vessels as it applies in relation to premises.

PART III

Scottish Enactments

Public Health (Scotland) Act, 1897

Section eighteen (which confers a power of entry on premises) shall have effect subject to the following modification and to any other necessary modifications consequential thereon, that is to say, that the purposes for which the power of entry may be exercised shall include the purposes of enforcing the provisions of this Act enforceable by the local authority, of exercising any of the powers of the authority under this Act and of ascertaining whether there is or has been on, or in connection with, the premises any contravention of those provisions or whether any of the powers of the authority under this Act ought to be exercised:

Provided that—

(*a*) the said section eighteen shall not, except in relation to work under subsection (2) of section twelve of this Act, apply in relation to any premises being a private dwelling; and

(*b*) except in the case of a factory within the meaning of the Factories Act, 1937, or of any other premises in which persons are employed otherwise than in domestic service, admission to any premises shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier.

This paragraph shall apply in relation to vessels as it applies in relation to premises.

Housing (Scotland) Act, 1950

Section twenty-two shall have effect as if the reference to section five or section eight of that Act included a reference to section twelve of this Act.

Section one hundred and sixty-one (which imposes a penalty for obstructing the execution of works) shall have effect as if, in subsection (1), the words "Part II of" and paragraph (*b*) were omitted.

Section 35.

FOURTH SCHEDULE

ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent of Repeal
8 & 9 Vict. c. 20.	The Railways Clauses Consolidation Act, 1845.	Section one hundred and fourteen.
8 & 9 Vict. c. 33.	The Railways Clauses Consolidation (Scotland) Act, 1845.	Section one hundred and seven
10 & 11 Vict. c. 34.	The Towns Improvement Clauses Act, 1847.	Section one hundred and eight.
20 & 21 Vict. c. 73.	The Smoke Nuisance (Scotland) Act, 1857.	The whole Act.
28 & 29 Vict. c. 102.	The Smoke Nuisance (Scotland) Act, 1865.	The whole Act.
31 & 32 Vict. c. 119.	The Regulation of Railways Act, 1868.	Section nineteen.
55 & 56 Vict. c. 55.	The Burgh Police (Scotland) Act, 1892.	In section three hundred and eighty-one, in paragraph (34), the words " smoke or ". Section three hundred and eighty-four.
60 & 61 Vict. c. 38.	The Public Health (Scotland) Act, 1897.	In section sixteen, paragraphs (9) and (10). In section twenty-two, the words " and the cases under subsections (9) and (10) in said section ". In section twenty-four, the word " (10) ", the words " and (9) ", and the words from " Provided always " to the end of the section.
26 Geo. 5. & 1 Edw. 8. c. 49.	The Public Health Act, 1936.	Sections one hundred and one to one hundred and six. In section one hundred and nine, in subsection (2), paragraph (*b*) and the words " or exclusion ". In section two hundred and sixty-seven, the proviso to subsection (4).

4TH SCH. —*cont.*

Session and Chapter	Short Title	Extent of Repeal
26 Geo. 5. & 1 Edw. 8. c. 50.	The Public Health (London) Act, 1936.	Sections one hundred and forty-seven to one hundred and fifty-four. In the Fifth Schedule, in paragraph 1, the words from "and the expression 'smoke nuisance'" to the end of the paragraph and, in paragraphs 6, 12 and 14, the words from "in a case" to "any other case", wherever they occur.
2 & 3 Geo. 6. c. 23.	The Public Health (Coal Mine Refuse) (Scotland) Act, 1939.	The whole Act.
2 & 3 Geo. 6. c. 58.	The Public Health (Coal Mine Refuse) Act, 1939.	The whole Act.

Table of Statutes referred to in this Act.

Short Title	Session and Chapter
Railways Clauses Consolidation Act, 1845 ...	8 & 9 Vict. c. 20.
Railways Clauses Consolidation (Scotland) Act, 1845.	8 & 9 Vict. c. 33.
Towns Improvement Clauses Act, 1847 ...	10 & 11 Vict. c. 34.
Smoke Nuisance (Scotland) Act, 1857 ...	20 & 21 Vict. c. 73.
Smoke Nuisance (Scotland) Act, 1865 ...	28 & 29 Vict. c. 102.
Regulation of Railways Act, 1868	31 & 32 Vict. c. 119.
Burgh Police (Scotland) Act, 1892	55 & 56 Vict. c. 55.
Public Health (Scotland) Act, 1897	60 & 61 Vict. c. 38.
Alkali, &c., Works Regulation Act, 1906 ...	6 Edw. 7. c. 14.
Merchant Shipping Act, 1906	6 Edw. 7. c. 48.
Welsh Church Act, 1914	4 & 5 Geo. 5. c. 91.
Electricity (Supply) Act, 1919	9 & 10 Geo. 5. c. 100.
Government of Ireland Act, 1920	10 & 11 Geo. 5. c. 67.
Public Health (Smoke Abatement) Act, 1926 ...	16 & 17 Geo. 5. c. 43.
Hire Purchase and Small Debt (Scotland) Act, 1932.	22 & 23 Geo. 5. c. 38.
Local Government Act, 1933	23 & 24 Geo. 5. c. 51.
London Building Act (Amendment) Act, 1935	25 & 26 Geo. 5. c. xcii.
Public Health Act, 1936	26 Geo. 5 & 1 Edw. 8. c. 49.
Public Health (London) Act, 1936	26 Geo. 5 & 1 Edw. 8. c. 50.
Factories Act 1937	1 Edw. 8 & 1 Geo. 6. c. 67.

Short Title	Session and Chapter
Hire-Purchase Act, 1938	1 & 2 Geo. 6. c. 53.
Public Health (Coal Mine Refuse) (Scotland) Act, 1939.	2 & 3 Geo. 6. c. 23.
Public Health (Coal Mine Refuse) Act, 1939 ...	2 & 3 Geo. 6. c. 58.
Local Government (Scotland) Act, 1947 ...	10 & 11 Geo. 6. c. 43.
Local Government Act, 1948	11 & 12 Geo. 6. c. 26.
Housing (Scotland) Act, 1950	14 Geo. 6. c. 34.
Alkali, &c., Works Regulation (Scotland) Act, 1951.	14 & 15 Geo. 6. c. 21.
Visiting Forces Act, 1952	15 & 16 Geo. 6 & 1 Eliz. 2. c. 67.
Local Government (Financial Provisions) (Scotland) Act, 1954.	2 & 3 Eliz. 2. c. 13.
Summary Jurisdiction (Scotland) Act, 1954 ...	2 & 3 Eliz. 2. c. 48.
Housing (Repairs and Rents) (Scotland) Act, 1954.	2 & 3 Eliz. 2. c. 50.
Mines and Quarries Act, 1954	2 & 3 Eliz. 2. c. 70.

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