

THE FUTURE OF THE CLEAN AIR ACT

1. This paper looks at the scope for amending the Clean Air Act (CAA), much of which dates back 55 years to the first Act of 1956.

History

2. The first Clean Air Act of 1956 followed the Report of the Beaver Committee into Air Pollution. It was initially introduced as a Private Member's Bill by Sir Gerald Nabarro.
3. The Beaver Committee was established after the December 1952 smog which is said to have claimed 4,000 lives. A further smog episode in January 1956 is reported to have caused a further 1,000 deaths. The Report also calculated that air pollution impact on materials cost [£250m a year](#). Hansard also reports a survey which showed that in Battersea Park grit and soot was being deposited at the rate of 1,180 grams per hundred square metres per month.
4. As a flavour of the times, on 6 June, 1952, the Warrington Examiner printed the following letter:

Just how much sun, I wonder, does the town's smoke pall withhold from the unfortunate resident? Brush against a privet hedge in any local suburban garden and one's clothes are marked as badly as if one had stumbled against the grate. The spring flowers have a hangdog air here with smut-spotted and bedraggled narcissi carrying little charm. Even the advent of summer cannot lift the veil of atmosphere pollution. Though many householders then do without coal fires, the dust and grime become even more obvious in the sun's rays. Can the Parliamentary Secretary still defend a go-slow policy? Since 1952, Warrington Council has introduced some byelaws to improve matters a little, but these are the conditions in our industrial towns in 1955.

5. The Lords Minister at the time stated that the Bill did not extend to 'sulphur oxide' emissions because, although well known to be injurious to health and a cause of extensive material damage, the Government considered the problem to be intractable and one which could not be dealt with by legislation.
6. This was followed by a second Clean Air Act in 1968. The [second reading](#) of the Bill was moved by Robert Maxwell, during which he referred to a Professor Cole of Cornell University who had challenged in the New Scientist that the world's supply of oxygen was permanent and inexhaustible. The CAA68 introduced

provisions on grit, dust and fumes from industrial premises and on chimney heights (ss 4-16 in CAA93).

7. The Law Commission then consolidated the legislation into the [Clean Air Act 1993](#), incorporating also parts of the Control of Pollution Act 1974.

What the CAA93 does

8. CAA93 has 68 sections and 5 schedules. Parts I-III comprise the main provisions:

Part I **prohibits dark smoke emissions** from domestic and industrial chimneys. It also prohibits dark smoke from non-chimney sources on industrial or trade premises, eg open bonfires;

Part II sets up a notification and approval system for new non-domestic furnaces to control **smoke, grit, and dust emissions** and **chimney heights**. There is provision to make Regulations extending some of Part II to control fumes and gases;

Part III contains the **smoke control area** provisions.

9. The remaining provisions deal with:

- making Regulations about composition of motor vehicle fuel and sulphur content of fuel oil
- prohibiting cable burning
- applicability to vessels and steam engines
- LAs obtaining information about air pollution
- emissions from mine waste
- LA research into air pollution
- a power to give effect to international agreements
- the usual sort of ancillary provisions

10. There are 17 Regulations made under the CAAs known still to be extant:

- 6 sets of regulations specifying exemptions/permitted emission periods in relation to the Part I dark smoke provisions and
- 3 sets of regulations amplifying the Part II smoke, grit, dust and chimney height provisions
- 6 sets of regulations listing authorised fuels and exempt fireplaces for the purposes of Part III (smoke control areas) – these are being consolidated

to 2 sets from 6 April 2012 as an initial contribution to the Red Tape Challenge

- 2 sets of regulation amplifying the provisions enabling local authorities to obtain information about air pollution.

11. In addition, two sets of regulations are being checked to see whether they are extant: the [Clean Air Enactments \(Repeals and Modifications\) Regulations 1974](#) and the [Motor Fuel \(Composition and Content\) Regulations 1999](#). The latter were made using powers under CAA93 and the European Communities Act.

Research into need for CAA93 provisions and scope for amendment

12. Defra has undertaken initial informal consultation with two groups of local authority environmental health professionals about the value and continued use of the CAA93 provisions, and what improvements might be made. This involved a meeting with four experience LA officers: two from London and two from Nottinghamshire, providing a spread of views. This was followed up with a feedback exercise undertaken at a seminar with 120 LA officers from the East Midlands. The latter involved providing each of the tables of 8-10 officers with a summary of the CAA93 provisions, with a request to identify which parts of the legislation were necessary to deliver UK air quality objectives and emission ceilings; which were essential; which were aimed largely at nuisance emissions; which are not used or could be dispensed with for other reasons; and which could be improved or expanded. Each table was asked to focus on one part of the Act, although could look at other parts if they had time.

13. The overview from the meeting with four officers was that the Act was completely outdated and needed a full overhaul. All the terminology needed clarifying or modernising; there are problems with enforceability and proportionality; there are too many opt-outs from the dark smoke provisions; it would be better to provide for a warning system rather than a strict offence in relation to dark smoke; it might be possible to achieve some outcomes via the Building Regulations; and certain additional powers were sought. There was a strong view that the CAA might have a new lease of life with the expected growth of biomass burning, so now was the time to streamline and focus the legislation, not to scrap most of it.

14. The East Midlands exercise was more superficial and perhaps understandably respondents erred more on the side of retaining provisions. Suggestions included tackling the enforcement difficulties caused by the permitted periods regulations; use of waste permitting and the duty of care for dark smoke at waste sites; and a new power to confiscate vehicles in relation to cable burning.

15. Summary sheets from the overview meeting and the East Midlands exercise are appended, and contain a breakdown of the Act section-by-section.

Defra

March 2012

**CLEAN AIR ACT
MEETING WITH LONDON AND NOTTS EHOs 25 MAY 2011**

General comments:

- completely outdated, a complete overhaul is required
- problems re enforceability and proportionality
- dark smoke has too many opt-outs: better to issue a warning and then use nuisance
- all terminology needs clarifying.
- Ringelman is a nuisance and propose a neutral density filter
- ? use of Building Regulations Code level 5
- ? power to adapt further standards and requirement to consult local business (as with idling vehicle engines)

Section	Provision	comment
Dark smoke		
1, 2, 43 + 51	<p>Dark smoke prohibited from chimney of any building and from chimney of boiler or industrial plant. Disapplication where emissions during permitted periods. Defences. Level 3 fine for domestic, level 5 for other. Applies also to railway engines and to vessels in inland and territorial waters (+ level 5 fine).</p> <p>Dark smoke prohibited industrial or trade premises (not buildings). Exemptions in Regulations. Defences. £20k fine – para 195 of Sch 22 of Env Act 1995.</p> <p>Section 51 requires an LA to notify it considers an offence has been committed.</p>	<p>? need to cover railway engines and vessels</p> <p>dark smoke is not always a nuisance</p> <p>waste regulation should prevail where dark smoke emitted from EPR site</p> <p>support a system whereby a notice is served, rather than having a strict offence</p> <p>this isn't so relevant in places like inner London</p>
3	Dark smoke definition. Regs may be made.	
Smoke, grit, dust and fumes		
4	Notify LA of any new non-domestic furnace to be installed in a building or in fixed boiler or industrial plant. Boiler must be able to be operated smokelessly when burning fuel for which designed. If installed in accordance with notified and LA-approved spec, it complies. Level 3 fine for non-notification; level 5 for operating with smoke.	<p>experience is that people don't notify the LA</p> <p>this has presentational value, but limited value if notified. There is a theoretical come-back to</p>

		chase those who have installed inappropriate appliances
5	Offence of emitting more grit and dust from non-domestic furnace (whether or not in a building*) than allowed for in any Regulations. BPM defence. Level 5 fine. *s13	
6,7 + 9	Non-domestic furnaces must have grit and dust arrestment if burning pulverised fuel, or solid fuel over 45.4kg/hr, or liquid/gaseous fuel over 366.4kw, subject to Regs exemptions. Level 5 fine. The thresholds can be amended by Regulations, but not retrospectively. Also LAs can waive requirement if operator applies and LA considers emissions of grit and dust wont be prejudicial to health or a nuisance. Waiver automatic if no LA decision within 8 weeks or agreed longer period. Appeal for refusal.	
8+9	Domestic furnaces mustn't burn pulverised fuel, nor burn solid fuel or solid waste over 1.03tph without grit and dust arrestment approved by the LA. Level 5 fine. Written decision and right of appeal.	never used
10+11	LAs can direct operators to monitor, record and submit grit, dust and fume emissions from plant burning the fuels listed in s6 (above the given thresholds – or those threshold as amended in Regs), and to alter the furnace chimney, to the extent that there are Regs which provide for monitoring, alteration etc. Level 5 fine for contravention. LA must be allowed on site to view monitoring. Section 11 provides for LAs to undertake the monitoring for plant over certain sizes.	might be useful if it applied to something useful
12	LA can ask for information. Level 5 fine.	as 10 and 11
14-15	Furnaces burning pulverised fuel or above 45.4kg/hr or 366.4kw mustn't operate without LA approval of the chimney height (or, on appeal, SoS approval). Conditions can be attached to approvals. Deemed unconditional approval if no LA decision within 4 weeks. Refusal must be accompanied with reasons and lowest height would approve. Level 5 fine for operator contravention. Regs can exempt fixed boilers or industrial plant.	<p>needed to secure dispersal for stat nuisance and air quality purposes</p> <p>option of a requirement on anyone putting up a stack to achieve adequate dispersion</p> <p>H&S duty not to harm employees via emissions from stack (HSWA s6 or 7)</p> <p>would be useful to be able</p>

		to specify efflux velocity
16	This applies to plans to erect or extend buildings involving construction of a chimney which doesn't serve a furnace. It doesn't apply to buildings to be used as a residence, shop or office. It doesn't apply to inner London. In these cases, the plans must be rejected if chimney height not enough to prevent so far as practicable emissions of smoke, grit, dust or gases . Right of appeal.	don't see the point
Smoke control areas		
18+19	LA may declare SCA. Smoke Control Orders can limit the s20 smoke emission prohibition to only certain types of building, and can apply to discrete bits of the SCA. SCO can exempt particular buildings/types of building and likewise fireplaces from the prohibition. Declaration procedures in Schedule 1. SoS can direct LAs to submit proposals for an SCA	option of dropping SCAs and using AQMAs. The group saw this as an opportunity to drive the air quality agenda and set tighter PM and NOx standards
20, 22, 23 +51	Emitting smoke from the chimney of a building, or from the chimney of a furnace or fixed boiler or industrial plant, which is in an SCA, is an offence – level 3 fine. Defence that only authorised fuel was used – SoS can make Regs specifying authorised fuels. Section 51 requires an LA to notify it considers an offence has been committed. SoS can order suspension or relaxation of the operation of the s20 prohibition in relation to part or all of any SCA, which includes suspending the offences in s23.	support for including NOx and PM standards in SCAs suggested adoptive powers, ie down to LA to decide whether to adopt them
21	SoS can exempt classes of fireplace by Order if he/she considers they will emit no smoke or not a substantial quantity of smoke	
23	Offences - to acquire any solid fuel (other than an authorised fuel) for use in an SCA: whether in a building or fireplace which is not exempt, or in a fixed boiler or industrial plant which is not exempt (except where there is a s18(2) exclusion). Also an offence to sell by retail any solid fuel for delivery to an SCA building or to SCA premises where there is a fixed boiler or industrial plant. Defence = reasonable grounds for believing building was exempt or the fuel was acquired for use in an exempt fireplace, boiler or plant.	para a) is enforceable and is enforced. The others are not
24-28	LA power to order owner/occupier of private dwelling to make improvements to comply with s20. Section	want to see removal of requirement on LAs to give

	25 and Sch 2 apply to expenditure incurred on improvements. Section 26 provides for LA grants. Section 27 lists the types of improvements. Improvement works include in relation to fixed cooking or heating appliances.	grants for fireplace upgrades, albeit that it only applies to pre-1964 houses
29	definitions re sections 18-28.	
Control of certain forms of air pollution		
30+32	SoS can make Regulations re composition and content of any motor vehicle fuel , and to prevent/restrict production, treatment, distribution import, sale or use of any non-compliant fuel.	not needed
31+32	SoS can make Regulations limiting sulphur content of oil fuel used in furnaces or engines	not needed
33	As amended, level 5 fine for cable burning if not regulated through Environmental Permitting.	not needed
Information about air pollution		
34 + 38	LAs can undertake or pay for research into air pollution, publish information, display “cinematograph films” etc. SoS can make Regs specifying how LAs do this.	not needed – covered by local government legislation
35-39	LAs can obtain information of emissions to air by issuing s36 notices, measuring and recording emissions themselves (with associated rights of entry – as amended), and arranging with occupiers for them to measure and record. A notice can require information by periodical returns. For EP Regs premises, a notice can’t require information not required by the EA under the EP permit. Section 36 applies to Crown premises. Level 5 fine for non-compliance with a notice or providing false etc information. Right of appeal. SoS can make Regs specifying how LAs do this. SoS can direct LAs to make arrangements re provision etc of air monitoring and submitting data to the SoS.	has some value in relation to LAQM because no equivalent under EA95
40	re information about air pollution, “emission of substances into the atmosphere” includes substances in gaseous or liquid or solid state, or any combination of these.	
Special cases		
41 + 41A	Sections 1-29 don’t apply to regulated facilities covered by the Environmental Permitting Regs	
42	The owner of a coal or shale mine or quarry (as defined in Mines and Quarries Act 1954) must use all practicable means to prevent combustion of refused deposited from the mine or quarry and prevent/minimise smoke and fume emissions from such refuse. Level 5 fine. EPA90 P)art III and sections 1-29 of CAA are disapplied	has relevance re burning spoil heaps which are a problem, but doubtful whether this provision is enforceable. Not the right way of dealing with the issue
45	exemptions from various of the provisions in ss 1-29 if LA deems it expedient so investigation or research can be undertaken into the problems of air pollution.	
46	Crown immunity: LA to report problems to the appropriate Minister.	

Miscellaneous and general		
47	power to make Regulations to apply ss 4, 5, 6, 7, 11, 42(4), 43(5), 44(6) and 46(1) to fumes or prescribed gases or both. "Gas" defined as including "vapour and moisture precipitated from vapour".	
48	power to give effect to international agreements.	
49	disclosure of trade secrets	
50-68	<p>various:</p> <p>50 – cumulative penalties</p> <p>52 – offences by bodies corporate</p> <p>53 – offences due to act or default of another</p> <p>54 – power of county court to authorise works and order payments</p> <p>55 – duty of LAs to enforce various CAA provisions</p> <p>56 + 57 – rights of entry</p> <p>58 – power of LAs to obtain information</p> <p>59 – SoS power to hold a local inquiry</p> <p>60 – default powers of SoS</p> <p>61 – power for 2 or more LAs to combine to declare an SCA</p> <p>62 – application of certain provisions of the Public Health Act 1936</p> <p>63 – power to make orders and regulations</p> <p>64 – interpretation (general) including "chimney", "domestic furnace", "fireplace", "fixed boiler or industrial plant", "fumes", "industrial plant", "practicable", and "smoke".</p> <p>65-68 – application to Scilly Isles, consequential amendments, short title</p>	

Overview

Domestic controls

CAA

- no **dark smoke** from **chimney of buildings**
- no **smoke** from **chimney of buildings** in SCAs (with qualifications)
- **grit and dust** arrestment required for **domestic furnaces** pulverised fuel, solid fuel or solid waste over certain size (**1.03 tph**)

EPA90 Pt III

- stat nuisance = **smoke** emitted from **premises** so as to be prejudicial to health or a nuisance
- no stat nuisance where CAA applies
- **fumes or gases** from private dwellings can be a stat nuisance

Non-domestic controls

CAA

- no **dark smoke chimney of buildings** or **chimney of boiler or industrial plant**
- no **dark smoke** from **industrial or trade premises**
- **smokeless** operation of **furnace in building/fixed boiler/industrial plant**
- limitation on **grit and dust** from **furnace whether or not in building**
- **grit and dust** arrestment for **furnaces** over certain size (**45.4kg/hr solid, or 366.4kw liquid**) or burning pulverised fuel
- **chimney height** approval for **furnaces** burning over certain size (**45.4kg/hr solid or 366.4kw liquid**) or burning pulverised fuel to prevent so far as practicable **smoke, grit, dust, gases or fumes** becoming prejudicial to health or a nuisance
- **chimney height** approval for **furnace (not shops or offices)** to prevent so far as practicable **smoke, grit, dust, gases or fumes** becoming prejudicial to health or a nuisance
- no **smoke** from chimney of **building/furnace /fixed boiler/industrial plant**, furnace, fixed boiler in SCAs (with qualifications)

EPA90 Pt III

- dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance can be a statutory nuisance, subject to s79(10) [below]

EPR10

- CAA disapplied re permitted activities; stat nuisance disapplied re permitted activities subject to EPA90 s79(10) consent from SoS

Vessels and railway engines

- no **dark smoke**

CLEAN AIR ACT

EAST MIDLANDS SEMINAR, MELTON MOWBRAY, 9 JUNE 2011

- A = what bits of CAA are necessary to deliver air quality objectives and the UK's emission ceilings obligations
- B = what bits are essential
- C = what bits are largely aimed at nuisance emissions
- D = what bits are not used or can be dispensed with for other reasons
- E = what bits can be improved/expanded (and how)

Section	Provision	comment
Dark smoke		
1, 2, 43 + 51	<p>Dark smoke prohibited from chimney of any building and from chimney of boiler or industrial plant. Disapplication where emissions during permitted periods. Defences. Level 3 fine for domestic, level 5 for other. Applies also to railway engines and to vessels in inland and territorial waters (+ level 5 fine).</p> <p>Dark smoke prohibited industrial or trade premises (not buildings). Exemptions in Regulations. Defences. £20k fine – para 195 of Sch 22 of Env Act 1995.</p> <p>Section 51 requires an LA to notify it considers an offence has been committed.</p>	<p>mainly As and Bs.. Some Es in relation to allowing use of civil sanctions, and extending provisions to domestic premises</p> <p>Other points:</p> <ul style="list-style-type: none"> -permitted periods make enforcement difficult -waste licensing/duty of care can be used to tackle dark smoke from industrial/trade premises -s51 not necessary -proposed use of ASB powers, ie community protection orders
3	Dark smoke definition. Regs may be made.	all B/E and overall a wish to have s3 improved and expanded. The definition could be clearer. The definition needs to include emissions from modern-day appliances and not just dark smoke. The Ringelmann chart is onerous
Smoke, grit, dust and fumes		
4	Notify LA of any new non-domestic furnace to be installed in a building or in fixed boiler or industrial plant. Boiler must be able to be operated smokelessly when burning fuel for which designed. If installed in accordance with notified and LA-approved spec, it complies. Level 3 fine for non-notification; level 5 for operating with smoke.	mixed reaction. Notification should be got rid of. Provisions should be extended to cover biomass burning. Should be either ELVs or type approval for biomass burning.

5	Offence of emitting more grit and dust from non-domestic furnace (whether or not in a building*) than allowed for in any Regulations. BPM defence. Level 5 fine. *s13	mixed reaction. Reference again to biomass burning. Reference to 'grit' should be changed to 'particulates' and could also specify size fraction.
6,7 + 9	Non-domestic furnaces must have grit and dust arrestment if burning pulverised fuel, or solid fuel over 45.4kg/hr, or liquid/gaseous fuel over 366.4kw, subject to Regs exemptions. Level 5 fine. The thresholds can be amended by Regulations, but not retrospectively. Also LAs can waive requirement if operator applies and LA considers emissions of grit and dust wont be prejudicial to health or a nuisance. Waiver automatic if no LA decision within 8 weeks or agreed longer period. Appeal for refusal.	1 xC, 1 x B, 1 x BE. One comment that this is largely redundant, time-consuming, and would like to see type approval. Grit should be changed to particulates. One comment noting inconsistency of 366.4kW and 1.03tph.
8+9	Domestic furnaces mustn't burn pulverised fuel, nor burn solid fuel or solid waste over 1.03tph without grit and dust arrestment approved by the LA. Level 5 fine. Written decision and right of appeal.	largely the same as 6, 7, 9
10+11	LAs can direct operators to monitor, record and submit grit, dust and fume emissions from plant burning the fuels listed in s6 (above the given thresholds – or those threshold as amended in Regs), and to alter the furnace chimney, to the extent that there are Regs which provide for monitoring, alteration etc. Level 5 fine for contravention. LA must be allowed on site to view monitoring. Section 11 provides for LAs to undertake the monitoring for plant over certain sizes.	all Bs and A/Bs. One comment that B only for <3MW plant
12	LA can ask for information. Level 5 fine.	all Bs and A/Bs
14-15	Furnaces burning pulverised fuel or above 45.4kg/hr or 366.4kw mustn't operate without LA approval of the chimney height (or, on appeal, SoS approval). Conditions can be attached to approvals. Deemed unconditional approval if no LA decision within 4 weeks. Refusal must be accompanied with reasons and lowest height would approve. Level 5 fine for operator contravention. Regs can exempt fixed boilers or industrial plant.	all Bs and A/Bs apart from an E in relation to the level of fine. One request for 12 weeks for decision instead of 4
16	This applies to plans to erect or extend buildings involving construction of a chimney which doesn't serve a furnace. It doesn't apply to buildings to be used as a residence, shop or office. It doesn't apply to inner London. In these cases, the plans must be rejected if chimney height not enough to prevent so far as practicable emissions of smoke, grit, dust or gases . Right of appeal.	two Bs and a question-mark
Smoke control areas		
18+19	LA may declare SCA. Smoke Control Orders can	Bs. One comment that SCAs

	limit the s20 smoke emission prohibition to only certain types of building, and can apply to discrete bits of the SCA. SCO can exempt particular buildings/types of building and likewise fireplaces from the prohibition. Declaration procedures in Schedule 1. SoS can direct LAs to submit proposals for an SCA	support LAQM and nuisance.
20, 22, 23 +51	Emitting smoke from the chimney of a building, or from the chimney of a furnace or fixed boiler or industrial plant, which is in an SCA, is an offence – level 3 fine. Defence that only authorised fuel was used – SoS can make Regs specifying authorised fuels. Section 51 requires an LA to notify it considers an offence has been committed. SoS can order suspension or relaxation of the operation of the s20 prohibition in relation to part or all of any SCA, which includes suspending the offences in s23.	one B and one E. The s20 offences are hard to prove – would like a notice to require fuel and appliance that must be used. The E is a request for the retail sale of coal etc in a SCA to be an offence
21	SoS can exempt classes of fireplace by Order if he/she considers they will emit no smoke or not a substantial quantity of smoke	B – encourage R+D exemption
23	Offences - to acquire any solid fuel (other than an authorised fuel) for use in an SCA: whether in a building or fireplace which is not exempt, or in a fixed boiler or industrial plant which is not exempt (except where there is a s18(2) exclusion). Also an offence to sell by retail any solid fuel for delivery to an SCA building or to SCA premises where there is a fixed boiler or industrial plant. Defence = reasonable grounds for believing building was exempt or the fuel was acquired for use in an exempt fireplace, boiler or plant.	B E – should include sale in a SCA
24-28	LA power to order owner/occupier of private dwelling to make improvements to comply with s20. Section 25 and Sch 2 apply to expenditure incurred on improvements. Section 26 provides for LA grants. Section 27 lists the types of improvements. Improvement works include in relation to fixed cooking or heating appliances.	B
29	definitions re sections 18-28.	-
Control of certain forms of air pollution		
30+32	SoS can make Regulations re composition and content of any motor vehicle fuel , and to prevent/restrict production, treatment, distribution import, sale or use of any non-compliant fuel.	all As and Bs. mention of quality of fuel for biomass plant
31+32	SoS can make Regulations limiting sulphur content of oil fuel used in furnaces or engines	all As and Bs
33	As amended, level 5 fine for cable burning if not regulated through Environmental Permitting.	2 x B 2 x E – want a strict offence; also reference to fines and confiscation of vehicles 3 comments:

		-already an offence of no permit -use EA waste management + nuisance -want offence to include those receiving metal recovered from cable burning
Information about air pollution		
34 + 38	LAs can undertake or pay for research into air pollution, publish information, display "cinematograph films" etc. SoS can make Regs specifying how LAs do this.	4 x D – references to EA95, local Acts, and no resources to do this 1 x E - "Defra's job!"
35-39	LAs can obtain information of emissions to air by issuing s36 notices, measuring and recording emissions themselves (with associated rights of entry – as amended), and arranging with occupiers for them to measure and record. A notice can require information by periodical returns. For EP Regs premises, a notice can't require information not required by the EA under the EP permit. Section 36 applies to Crown premises. Level 5 fine for non-compliance with a notice or providing false etc information. Right of appeal. SoS can make Regs specifying how LAs do this. SoS can direct LAs to make arrangements re provision etc of air monitoring and submitting data to the SoS.	1 x D 1 x E – put burden on occupier reference to LAQM re the final sentence
40	re information about air pollution, "emission of substances into the atmosphere" includes substances in gaseous or liquid or solid state, or any combination of these.	D
Special cases		
41 + 41A	Sections 1-29 don't apply to regulated facilities covered by the Environmental Permitting Regs	1 x B 1 x B/C – keep as no other legislation
42	The owner of a coal or shale mine or quarry (as defined in Mines and Quarries Act 1954) must use all practicable means to prevent combustion of refuse deposited from the mine or quarry and prevent/minimise smoke and fume emissions from such refuse. Level 5 fine. EPA90 Part III and sections 1-29 of CAA are disapplied	2 x C 2 x D -2 refs to using nuisance -"not BPM but absolute offence"
45	exemptions from various of the provisions in ss 1-29 if LA deems it expedient so investigation or research can be undertaken into the problems of air pollution.	1 x D use EPA 1 x E comment: "Defra's job" [no exclamation mark this time!]
46	Crown immunity: LA to report problems to the appropriate Minister.	D
Miscellaneous and general		
47	power to make Regulations to apply ss 4, 5, 6, 7, 11, 42(4), 43(5), 44(6) and 46(1) to fumes or prescribed gases or both. "Gas" defined as including "vapour and moisture precipitated from vapour".	B

48	power to give effect to international agreements.	B
49	disclosure of trade secrets	B
50-68	<p>various:</p> <p>50 – cumulative penalties B</p> <p>52 – offences by bodies corporate B</p> <p>53 – offences due to act or default of another B</p> <p>54 – power of county court to authorise works and order payments B</p> <p>55 – duty of LAs to enforce various CAA provisions B</p> <p>56 + 57 – rights of entry B</p> <p>58 – power of LAs to obtain information B</p> <p>59 – SoS power to hold a local inquiry</p> <p>60 – default powers of SoS</p> <p>61 – power for 2 or more LAs to combine to declare an SCA 1 x B, 1 x BD</p> <p>62 – application of certain provisions of the Public Health Act 1936</p> <p>63 – power to make orders and regulations 3 x B</p> <p>64 – interpretation (general) including “chimney”, “domestic furnace”, “fireplace”, “fixed boiler or industrial plant”, “fumes”, “industrial plant”, “practicable”, and “smoke”. 2 x B, 1 x BE, 1 comment to extend and update</p> <p>65-68 – application to Scilly Isles, consequential amendments, short title “who cares!”</p>	<p>2 requests for powers of entry for domestic premises</p> <p>1 mention of fixed penalty notices</p> <p>see previous column for marking for individual sections</p>