

CLEAN AIR ACT.

Act No. 69, 1961.

An Act relating to the prevention and minimising of air pollution; to repeal the Smoke Nuisance Abatement Act, 1902; to amend the Local Government Act, 1919, and certain other Acts; and for purposes connected therewith. [Assented to, 15th December, 1961.]

Elizabeth II,
No. 69, 1961

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Clean Air Act, 1961".
- (2) Short title, commencement and division into Parts.

No. 69, 1961 (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) This Act is divided into Parts, as follows : —

PART I.—PRELIMINARY.

PART II.—AIR POLLUTION ADVISORY COMMITTEE.

PART III.—SCHEDULED PREMISES.

DIVISION 1.—*Licensing provisions.*

DIVISION 2.—*Other provisions.*

PART IV.—PREMISES OTHER THAN SCHEDULED PREMISES.

PART V.—GENERAL PROVISIONS.

SCHEDULE.

Construc-
tion.

2. (1) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State to the intent that where any provision of this Act or the application thereof to any person or circumstance is held invalid the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

Act binds
Crown.

(2) This Act binds the Crown.

Repeal of
Act No. 77,
1902.

3. The Smoke Nuisance Abatement Act, 1902, is hereby repealed.

Certain
Acts not
affected.

4. (1) Nothing in this Act shall affect any of the provisions of the Maritime Services Act, 1935, the Sydney Harbour Trust Act, 1900, the Navigation Act, 1901, the Motor Traffic Act, 1909, or the Transport Act, 1930, or any Act amending or replacing any of those Acts, or any by-laws or regulations made thereunder, nor take away powers vested in any person or body by any of those Acts, by-laws or regulations.

(2)

(2) Where the provisions of this Act are inconsistent ^{No. 69, 1961} with the provisions of the Local Government Act, 1919, or the Public Health Act, 1902, or any Act amending or replacing either of those Acts, or any ordinances, regulations or by-laws made thereunder, the provisions of this Act shall prevail. ^{Incon-}
^{sistency of}
^{certain}
^{other Acts.}

5. (1) In this Act, unless the context or subject matter otherwise indicates or requires,— ^{Interpre-}
^{tation.}

“Air impurity” includes smoke, dust (including fly ash), cinders, solid particles of any kind, gases, fumes, mists, odours and radioactive substances.

“Air pollution” means the emission into the air of any air impurity.

“Authorised officer” means, in relation to scheduled premises, a person authorised in writing by the Under Secretary, and in relation to premises other than scheduled premises, a person authorised in writing by the Under Secretary or by a local authority, either generally or specially, to act in matters of any kind or in any manner, in relation to scheduled premises or premises other than scheduled premises, as the case may be.

“Chimney” includes any structure or opening from or through which air impurities may be emitted, and references to a chimney of or used in connection with any premises include references to a chimney which serves the whole or a part of the premises though structurally separate from such premises or any building thereon.

“Committee” means the Air Pollution Advisory Committee constituted under this Act.

“Control

No. 69, 1961

"Control equipment" means—

- (a) any apparatus for separating any air impurities from the gas medium in which they are carried;
- (b) any automatic device used for securing the more efficient operation of any fuel burning equipment;
- (c) any device to indicate, or record air pollution or to give warning of excessive air pollution; and
- (d) any other device used for the purposes of limiting air pollution.

"Department" means Department of Public Health.

"Fuel burning equipment" means any furnace, boiler, fireplace, oven, retort, incinerator, open fire, vehicle, vessel or chimney, or any other apparatus, device, mechanism or structure used or to be used in or in connection with the burning of fuel or other combustible material.

"Industrial plant" means any plant used for the generation of power or the operation of vessels, dredges, locomotives, cranes or other machines using fuels for their operation.

"License" means a valid and unexpired license or renewal of a license granted under this Act.

"Licensee" means the person to whom a license is granted or transferred under this Act.

"Local authority" means the council of a city, municipality or shire.

"Master" includes every person having lawfully, or de facto, the command, charge or management of a vessel for the time being.

"Occupier" in relation to any premises means the person in occupation or control of the premises and in relation to any premises where different parts are occupied

occupied by different persons, means, in relation to No. 69, 1961
any such part, the person in occupation or control
of such part.

“Practicable” means reasonably practicable having regard, amongst other things, to local conditions and circumstances, and to the current state of technical knowledge, and “practicable means” includes the provision and maintenance of plant and the proper use thereof.

“Premises” includes place.

“Prescribed” means prescribed by this Act or by the regulations.

“Regulations” means regulations made under this Act.

“Scheduled premises” means any premises for the time being included in the Schedule to this Act.

“Statutory body” means the Commissioner for Railways, the Commissioner for Government Transport, the Electricity Commission of New South Wales and any public body which the Governor may by proclamation published in the Gazette under this Act declare to be a statutory body.

“This Act” includes regulations.

“Under Secretary” means Under Secretary of the Department.

“Vessel” means ship, lighter, barge, boat, raft, craft, or vessel of whatever description and howsoever navigated.

(2) A local authority may exercise the powers conferred upon it by this Act only in respect of premises within its area or the occupiers of such premises.

(3) (a) The Governor may, by proclamation published in the Gazette, amend the Schedule to this Act by inserting therein or removing therefrom any premises or class of premises.

(b) The Schedule as so amended shall be the Schedule to this Act.

AIR POLLUTION ADVISORY COMMITTEE.

Air
Pollution
Advisory
Committee.

6. (1) For the purposes of this Act there shall be constituted an Air Pollution Advisory Committee which shall consist of twelve members.

(2) The members of the Committee shall be—

- (a) the person for the time being holding office as or duly acting in the office of Director-General of Public Health, or a person from time to time nominated by him; and
- (b) eleven members appointed by the Governor (in this section referred to as "appointed members") of whom—
 - (i) two shall be officers of the Department nominated by the Minister;
 - (ii) one shall be an officer of the Department of Local Government nominated by the Minister for Local Government and Highways;
 - (iii) one shall be a chemical engineer and one a fuel technologist, both nominated by the Minister;
 - (iv) one shall be a representative of the University of Sydney nominated by the Senate of that University;
 - (v) one shall be a representative of the University of New South Wales nominated by the Council of that University;
 - (vi) one shall be a representative of the Chamber of Manufactures of New South Wales nominated by that Chamber;
 - (vii) one shall be a representative of the Metal Trades Employers' Association nominated by that Association;
 - (viii) two shall be representatives of the Labor Council of New South Wales nominated by that Council.

(3)

(3) (a) The member referred to in paragraph (a) of No. 69, 1961 subsection two of this section shall be chairman of the Committee.

(b) The chairman shall preside at all meetings of the Committee at which he is present and in the absence of the chairman from any meeting the members present shall appoint one of their number to preside at that meeting.

(4) (a) The procedure for the calling of meetings of the Committee and for the conduct of business at such meetings shall, subject to any regulations in relation thereto, be as determined by the Committee.

(b) The number of members who shall constitute a quorum of the Committee shall be as prescribed and the decision of the majority of the members present at any meeting at which there is a quorum shall be the decision of the Committee.

(c) The chairman or member presiding at any meeting of the Committee shall have a deliberative vote and, in the event of an equality of votes, a second or casting vote.

(5) The appointed members shall hold office for a period of three years and shall be eligible for reappointment.

(6) (a) If any casual vacancy occurs in the office of an appointed member, the Governor may appoint a person having a like qualification or being representative of the like interest as his predecessor, to hold office for the balance of his predecessor's term of office.

(b) Any such appointment shall be made on the of the person whose office has been vacated was made. nomination of the person or body by whom the nomination

(7) Any nomination under this section (paragraph (a) of subsection two excepted) shall be made within the time and in the manner prescribed and in default of any person or body entitled to make any such nomination doing so within such time and in such manner the Governor may appoint any person to the Committee as if that person had been duly nominated by the person or body entitled to make the nomination.

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No. 69, 1961 (8) A member shall be deemed to have vacated his office if he—

- (a) dies;
- (b) resigns his office by writing under his hand addressed to the Governor;
- (c) becomes a mentally ill person, a protected person, or an incapable person, within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- (d) absents himself from four consecutive meetings of the Committee of which reasonable notice has been given to him either personally or in the ordinary course of post, except on leave granted by the Committee; or
- (e) is removed from office by the Governor.

(9) Every appointed member shall, if he is not a member of the Public Service, be paid such fees and travelling expenses for attending meetings and transacting business of the Committee, and making inspections under this Act, as may be prescribed.

(10) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to or in respect of the appointment of any appointed member, and any such member shall not, in his capacity as such member, be subject to the provisions of any such Act during his term of office.

(11) (a) No act or proceeding of the Committee shall be invalidated or prejudiced by reason only of the fact that at the time such act or proceeding was done, taken or commenced, there was a vacancy in the office of any member.

(b) All acts and proceedings of the Committee shall, notwithstanding the subsequent discovery of any defect in the appointment of any member thereof, or that any member was disqualified to act, be as valid as if such member
had

had been duly appointed and was qualified to act and had acted as a member of the Committee, and as if the Committee had been properly and fully constituted. No. 69, 1961

7. (1) The Committee may establish sub-committees for the purpose of advising the Committee upon such matters within the scope of the Committee's functions as may be referred to the sub-committees by the Committee. Sub-com-
mittees.

(2) A person may be appointed to any such sub-committee whether or not he is a member of the Committee.

(3) (a) Any such sub-committee may exercise and discharge such of the Committee's powers, authorities, duties and functions as may be delegated to it by the Committee.

(b) Notwithstanding any such delegation, the Committee may continue to exercise and discharge any of the powers, authorities, duties and functions so delegated.

(c) The Committee may at any time revoke any such delegation, either wholly or in part.

(4) Every member of a sub-committee appointed in terms of this section shall, if he is not a member of the Public Service, be paid such fees and travelling expenses for attending meetings and transacting business of the sub-committee and making inspections under this Act, as may be prescribed.

8. (1) The Committee may initiate and refer to the Minister— Functions
of
Committee.

- (a) recommendations for making, altering or repealing any regulation;
- (b) recommendations relating to the administration of this Act;
- (c) recommendations for the prevention, abatement or mitigation of air pollution.

(2)

No. 69, 1961

(2) It shall be the duty of the Committee to make recommendations to the Under Secretary in respect of matters referred to it by the Under Secretary and to consider and advise the Minister upon such matters and questions as the Minister may from time to time refer to it relating to—

- (a) any proposal for making, altering or repealing any regulation;
- (b) the administration of this Act;
- (c) the prevention, abatement or mitigation of air pollution.

(3) The Committee shall, not later than the thirtieth day of September in each year, forward to the Minister a report of its work and activities during the year ended the thirtieth day of June then last past.

A copy of such report shall be laid before both Houses of Parliament.

PART III.

SCHEDULED PREMISES.

DIVISION 1.—*Licensing provisions.*

Application
of
Division.

9. This Division shall apply within such parts of the State as may from time to time be specified by the Governor and notified by proclamation published in the Gazette.

Scheduled
premises
to be
licensed.

10. Any person who is the occupier of any scheduled premises in any part of the State to which this Division applies and who is not the holder of a license issued in respect of such premises shall be guilty of an offence against this Act.

The provisions of this section shall not apply to any person—

- (a) who at the time when the provisions of this Division are applied to any part of the State is the occupier of any scheduled premises within that part and who within the prescribed period after such time makes application for a license in respect of such scheduled premises;
- (b)

- (b) who at any time after the provisions of this Division No. 69, 1961 are applied to any part of the State commences to use any premises within that part as scheduled premises and who within the prescribed period after his so commencing makes application for a license in respect of such scheduled premises; or
- (c) who has made application under the provisions of subsection four of section eleven of this Act for the transfer to him of a license in respect of any scheduled premises and made such application within the prescribed period after he became the occupier of such premises,

until his application has been finally determined.

11. (1) (a) An application for a license under this Licenses. Division or for any renewal or transfer thereof shall be made to the Under Secretary in or to the effect of the prescribed form and shall be accompanied by the prescribed fee.

(b) The Under Secretary shall refer any such application to the Committee.

(c) An applicant for a license shall furnish such information as the Under Secretary may consider necessary and relevant to the application.

(2) The Under Secretary—

- (a) shall grant any application for a license or for a renewal or transfer thereof, either subject to conditions or unconditionally;
- (b) may during the currency of a license revoke or vary any condition attached to the license, or attach new conditions to the license.

The Under Secretary shall in imposing any conditions under paragraph (a), or in exercising any powers under paragraph (b), of this subsection have regard to any recommendation with respect thereto made by the Committee.

Without

No. 69, 1961 Without prejudice to the generality of the foregoing provisions of this subsection any conditions attached to a license may—

- (i) require the holder of the license—
 - (a) to install and operate control equipment in or on any scheduled premises specified in the license;
 - (b) to repair, alter or replace any control equipment installed in or on any such premises;
 - (c) to erect, or alter the height of, any chimney through which air impurities may be discharged from any such premises;
 - (d) to carry out any of the requirements imposed on him under the foregoing provisions of this paragraph within such period as may be specified in such conditions;
- (ii) prohibit the holder of the license from altering or replacing any control equipment installed in or on any such premises except with the approval of the Department.

Any condition attached under this subsection to a license shall not have force until the time limited for appealing against such condition has expired, and where an appeal against such condition has been made under this Act, until the court hearing such appeal confirms the decision of the Under Secretary imposing such condition.

(3) A license shall remain in force for a period of one year from the date of its issue and may from time to time be renewed for a period of one year upon application made within the prescribed time.

(4) Where a licensee ceases to be the occupier of any scheduled premises the occupier of such premises may make application in or to the effect of the prescribed form, accompanied by the prescribed fee, to the Under Secretary for approval of the transfer to him of the license in respect of such premises.

12. The Under Secretary shall cause to be kept such registers of licenses as may be prescribed.

No. 69, 1961
Register of
licenses.

13. (1) The fee payable under this Division for a license shall be such amount as may be prescribed not exceeding five hundred pounds.

(2) Different fees may be prescribed according to any one or more of the following factors :—

- (a) the class of scheduled premises;
- (b) the location of scheduled premises;
- (c) the number of persons employed at scheduled premises;
- (d) any other prescribed factor.

(3) Where the Under Secretary is satisfied upon the recommendation of the Committee that the air pollution from any scheduled premises would not be such as to warrant the payment of the prescribed fee, the Under Secretary may upon the application of the occupier of such scheduled premises remit in whole or in part the fee payable under this Division in respect of such scheduled premises.

(4) Where the fees that would, but for this subsection, have been payable for licenses in respect of any scheduled premises under the control of any Government Department or statutory body exceed five hundred pounds, the fees payable for such licenses shall be such amount not being less than five hundred pounds as the Minister may determine.

(5) The fee payable in respect of the transfer of a license shall be as prescribed.

DIVISION 2.—*Other provisions.*

14. The occupier of any scheduled premises shall maintain any control equipment installed in or on such premises in an efficient condition and shall operate such equipment in a proper and efficient manner.

Occupiers
to maintain
and operate
control
equipment.

15.

No. 69, 1961

Prescribed
standards
of air
impurities
not to be
exceeded—
scheduled
premises.

15. (1) The occupier of any scheduled premises shall not, unless he is in special circumstances exempted from the provisions of this section by the Minister, conduct any trade, industry or process, or operate any fuel burning equipment or industrial plant, in or on such premises in such a manner as to cause, permit or allow the emission at the prescribed point of air impurities in excess of the standard of concentration and rate, or the standard of concentration or the rate, prescribed in respect of such trade, industry, process, fuel burning equipment or industrial plant.

(2) Where any such standard has not been so prescribed the occupier of any scheduled premises shall conduct any trade, industry or process, or operate any fuel burning equipment or industrial plant, in or on such premises by such practicable means as may be necessary to prevent or minimise air pollution.

Certain
work not
to be
carried out
on scheduled
premises
except with
approval
of Under
Secretary.

16. (1) Except with the approval of the Under Secretary or where so required to do under section seventeen of this Act, the occupier of any scheduled premises shall not if by so doing he is likely to cause or increase air pollution from such premises—

- (a) alter the method of operation of any trade, industry or process, or fuel burning equipment or industrial plant in or on such premises; or
- (b) install, alter or replace any equipment in or on such premises.

(2) A person shall not—

- (a) on or in any premises carry out any work that would cause such premises to be scheduled premises;
- (b) on any land construct any building designed for use for a purpose that would cause such land or building to be scheduled premises; or

(c)

- (c) except where so required to do under section seven- No. 69, 1961
teen of this Act, erect, or alter the height of, any
chimney through which air impurities may be
emitted from any scheduled premises,

unless—

- (i) plans and specifications of such work or building or
erection or alteration as the case may be, have been
submitted to and approved by the Under Secretary;
and
- (ii) the site on which such work is to be carried out or
such building is to be constructed or such chimney
is to be erected or altered, as the case may be, has
been approved by the Under Secretary.

(3) Any application for an approval under this
section shall be in or to the effect of the prescribed form and
accompanied by—

- (a) the prescribed fee;
- (b) in any case to which paragraph (a) or (b) of
subsection two of this section applies, details of the
trade, industry or process proposed to be carried on
in or on the premises or proposed premises, together
with details of the methods intended to be adopted so
as to control air pollution from such premises; and
- (c) evidence that any necessary approval required under
the Local Government Act, 1919, as amended by
subsequent Acts, has been obtained.

The Under Secretary may require an applicant to furnish
such other information as the Under Secretary may consider
necessary and relevant to the application.

(4) The Under Secretary shall refer any such applica-
tion to the Committee.

(5) The Under Secretary may grant any such applica-
tion either subject to conditions or unconditionally.

(6)

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(6) The Under Secretary shall in exercising his powers under subsection one, two or five of this section have regard to any recommendation made by the Committee with respect to the application.

Under Secretary to require work on scheduled premises.

17. (1) Where any air impurities are being or are likely to be emitted from any scheduled premises in or on which is conducted any trade, industry or process or in or on which there is any fuel burning equipment or industrial plant, the Under Secretary may by notice in writing require the occupier of such premises to—

- (a) install and operate control equipment in or on such premises;
- (b) repair, alter or replace any control equipment installed in or on such premises; or
- (c) erect, or alter the height of, any chimney through which air impurities may be emitted from any such premises,

within such time and in such manner as may be specified in the notice.

(2) The Under Secretary may by notice in writing require the occupier of any scheduled premises in carrying on any trade, industry or process or in operating any fuel burning equipment or industrial plant to operate, in accordance with any directions contained in such notice, any control equipment in or on such premises.

(3) The Under Secretary shall in exercising his powers under this section have regard to any recommendation made by the Committee with respect to the scheduled premises concerned.

PART

PART IV.

No. 69, 1961

PREMISES OTHER THAN SCHEDULED PREMISES.

18. This Part shall not apply to any scheduled premises. Application of Part.

19. (1) The occupier of any premises shall not, unless he is in special circumstances exempted from the provisions of this section by the Minister, conduct any trade, industry or process, or operate any fuel burning equipment or industrial plant, in or on such premises in such a manner as to cause, permit or allow the emission at the prescribed point of air impurities in excess of the standard of concentration and rate, or the standard of concentration or the rate, prescribed in respect of such trade, industry, process, fuel burning equipment or industrial plant. Prescribed standards of air impurities not to be exceeded—unscheduled premises.

(2) Where any such standard has not been so prescribed the occupier of any premises shall conduct any trade, industry or process, or operate any fuel burning equipment or industrial plant, in or on such premises by such practicable means as may be necessary to prevent or minimise air pollution.

20. (1) Where any air impurities are being or are likely to be emitted from any premises in or on which is conducted any trade, industry or process or in or on which there is any fuel burning equipment or industrial plant, the local authority may by notice in writing require the occupier of such premises, if he has not taken all practicable means to prevent or minimise the emission of air impurities from such premises, Control of trades, industries, processes, fuel burning equipment and industrial plant.

to—

- (a) install and operate control equipment in or on such premises;
- (b) repair, alter or replace any control equipment installed in or on such premises; or
- (c) erect, or alter the height of, any chimney through which air impurities may be discharged from any such premises,

within such time and in such manner as may be specified in the notice. (2)

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(2) The local authority may by notice in writing require the occupier of any premises in carrying on any trade, industry or process or in operating any fuel burning equipment or industrial plant to operate, in accordance with any directions contained in such notice, any control equipment in or on such premises.

(3) Where in the opinion of the Under Secretary the occupier of any premises has not taken all practicable means to prevent or minimise the emission of air impurities from such premises or is not operating any control equipment in or on such premises in an efficient manner, and the local authority has not served a notice under subsection one or two of this section requiring such occupier to carry out any work referred to in paragraph (a), (b) or (c) of subsection one of this section, or operate such control equipment, as the case may be, the Under Secretary may by notice in writing require such occupier to carry out such work within such time and in such manner as may be specified in the notice; or to operate such control equipment in accordance with any directions contained in such notice.

(4) Where any requirement made in respect of any premises by a local authority under subsection one or two of this section is inconsistent with any exemption granted by the Minister under section nineteen of this Act to the occupier of such premises, the requirement shall not have effect to the extent of the inconsistency.

Mines and
open cut
workings.

21. The owner of a mine or open cut working shall employ all practicable means for preventing combustion of any refuse deposited from the mine or open cut working at the surface thereof and for preventing or minimising air pollution.

In this section "mine", "open cut working" and "owner" have respectively the meanings ascribed thereto in the Coal Mines Regulation Act, 1912, as amended by subsequent Acts.

PART V.

No. 69, 1961

GENERAL PROVISIONS.

22. The Department may—

Powers of
Department.

- (a) consult with such persons, bodies and organisations as it thinks fit for the purpose of obtaining information with respect to and developing methods of controlling air pollution;
- (b) give advice and assistance to the occupier of any premises or to any person operating any vehicle or vessel for the purpose of assisting such occupier or person in preventing or minimising air pollution from such premises, vehicle or vessel.

23. The Under Secretary, by notice in writing served on the occupier of any premises, and a local authority, by notice in writing served on the occupier of any premises (not being scheduled premises) may require such occupier to furnish to him or it within fourteen days or such longer period as may be specified in the notice, such information as to any fuel burning equipment or industrial plant in or on such premises and the fuel or waste burned therein or thereon as he or it requires by the notice.

Occupier of
premises
required
to furnish
information.

Any statement made to the Under Secretary or a local authority pursuant to any requirement made pursuant to this section shall not, if the person making the statement objected, at the time of making it, to doing so on the ground that it might tend to incriminate him, be admissible in evidence in any prosecution against such person for any offence not being the offence of neglecting or failing to comply with any requirement made pursuant to this section.

24. The Minister by order published in the Gazette may, on the recommendation of the Committee,—

Power to
prohibit
use of
fuel, fuel
burning
equipment
or indus-
trial plant in
certain areas.

- (a) prohibit the use of such fuel or fuel burning equipment or industrial plant or such classes of fuel or fuel burning equipment or industrial plant as may be specified in the order;

(b)

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- (b) prohibit the use of all fuel or fuel burning equipment or industrial plant other than such fuel or fuel burning equipment or industrial plant or such classes of fuel or fuel burning equipment or industrial plant as may be specified in the order,

within such area as may be so specified.

Power to prohibit trades, industries, processes, etc., in certain circumstances.

25. Where the Committee reports to the Minister that the emission of air impurities from any premises is or is likely to be injurious to public health, the Minister may, by order, direct the occupier of such premises to cease conducting any trade, industry, or process, or operating any fuel burning equipment or industrial plant, in or on such premises for such period as may be specified in the order.

Appeals.

26. (1) (a) Any person—

- (i) being the applicant for a license or for the renewal or transfer of a license, or a licensee, and who is aggrieved by any decision of the Under Secretary with respect to his application or license;
- (ii) being an applicant for the approval of the Under Secretary under section sixteen of this Act or a person on whom a notice under section seventeen of this Act has been served, and who is aggrieved by the decision of the Under Secretary with respect to his application or by the notice; or
- (iii) being a person on whom a notice under section twenty of this Act has been served and who is aggrieved by the notice,

may, in accordance with the rules of the District Court made in that behalf, appeal to the District Court exercising jurisdiction in the district in which the premises, building or land concerned are or is situated and the decision of that Court shall be final and shall be given effect to by the Under Secretary or the local authority, as the case may be.

(b)

(b) Every such appeal shall be in the nature of No. 69, 1961 a rehearing.

(c) Subparagraph (iii) of paragraph (a) of this subsection shall not apply to statutory bodies.

(2) If any dispute or difference arises between any local authority and a statutory body with respect to any notice under section twenty of this Act, served by the local authority on the statutory body, the local authority and the statutory body, or either of them, may refer the matter to the Minister for determination, and the Minister's decision on the matter shall be final and shall be carried into effect by the local authority and the statutory body.

27. (1) An authorised officer may at any reasonable time enter any premises and may therein or thereon—

Powers of
authorised
officers.

- (a) examine and inspect any control equipment, fuel burning equipment or industrial plant;
- (b) make such examination or inquiry and such tests as he considers necessary,

to ascertain whether the provisions of this Act or any requirement made under or pursuant thereto or the conditions in force and attached to any license are being or have been complied with.

(2) If any person wilfully delays or obstructs any authorised officer in the exercise of his powers under this Act, or being the occupier of any premises, refuses to permit or does not assist any authorised officer to enter and inspect any such premises and to examine and inspect any control equipment, fuel burning equipment or industrial plant therein or thereon or does not provide such assistance and facilities as may be prescribed for the purpose of enabling such authorised officer to exercise his powers under this Act, he shall be guilty of an offence against this Act.

28.

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Exemptions.

28. Any exemption granted by the Minister under this Act shall be in writing, remain in force during such period and be subject to such conditions as may be specified therein. Any such exemption may be revoked, any such period may be extended and any such conditions may be added to or varied by writing under the hand of the Minister.

Service of
notices.

29. Any notice under section seventeen or twenty, or order under section twenty-five, of this Act may be served—

- (a) by delivering it personally to the person to whom it is addressed;
- (b) by delivering it to the place of abode or business of the person to whom it is addressed and by leaving it there with some person for him; or
- (c) by posting it duly stamped and addressed to the person to whom it is addressed at the place last shown in the records of the Department as his place of abode or business.

Certificates
to be
evidence
of certain
matters.

30. A certificate purporting to be signed by the Under Secretary or any prescribed officer certifying that on any date or during any period mentioned in the certificate any person was or was not the holder of a license or certain conditions were or were not attached to a license, or that certain particulars did or did not appear in any register kept under this Act shall without proof of the signature or of the official character of the person purporting to have signed the certificate be prima facie evidence of the matters certified in and by the certificate.

Unjustified
disclosure
of infor-
mation.

31. If any person discloses any information relating to any manufacturing process or trade secret used in carrying on or operating any particular undertaking or equipment or plant, which information 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 or operating such undertaking, equipment or plant; or
- (b)

- (b) in connection with the execution of this Act; or No. 69, 1961
(c) subject to the provisions of section twenty-three of this Act, for the purposes of any legal proceedings arising out of this Act or of any report of such proceedings,

be guilty of an offence against this Act.

32. (1) Any person who—

Penalty.

- (a) fails to comply with any of the provisions of this Act;
(b) being a licensee, does not comply with any condition or prohibition in force and attached to the license issued to him under this Act;
(c) fails to comply with any condition subject to which an approval is granted by the Under Secretary; or
(d) neglects or fails to comply with any requirement or order made under or pursuant to this Act,

shall be guilty of an offence against this Act.

(2) No prosecution for an offence against this Act shall be instituted without the written consent of the Minister.

(3) Any person guilty of an offence against this Act shall where no other penalty is expressly provided be liable to a penalty not exceeding two hundred pounds and in the case of a continuing offence, a penalty not exceeding five pounds for each day the offence continues.

33. All proceedings for offences against this Act shall be disposed of summarily before a stipendiary magistrate or two justices in petty sessions. Proceedings
for offences.

34. (1) The Governor may make regulations for or with respect to—

Regulations.

- (a) the form and manner of applying for and granting, and the matters to be taken into consideration in respect of any application for, a license or any transfer of a license;

(b)

- (b) the keeping of registers under this Act;
- (c) the types of tests to be carried out and the records to be maintained by occupiers of premises with respect to the emission of air impurities from and the consumption of fuel on such premises;
- (d) the types of control equipment that may be used in or on any premises, and the manner in which such equipment shall be operated and maintained;
- (e) the assistance and facilities (including access to, and the means of making examinations, inspections and tests at, any prescribed point referred to in section fifteen or nineteen of this Act) to be provided by occupiers of premises and places to enable authorised officers to exercise their powers under this Act;
- (f) prescribing standards of concentration or rates of emission of air impurities; the points at which such standards of concentration or rates of emission are to be determined; the method of making tests for the purposes of ascertaining whether any of the provisions of this Act or any conditions attached to a license are being or have been complied with; and providing that any such test shall only be made in accordance with the prescribed method;
- (g) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

(2) Any regulations made under paragraphs (a) to (f) inclusive of subsection one of this section shall be made upon the recommendation of the Committee.

(3)

(3) A regulation may be made to apply or to have operation throughout the whole or any part of the State, may be of general or specially limited application according to time, place or circumstances and may be general or restricted to any specified class or subject-matter.

A regulation may vary according to different premises, trades, industries, processes, fuel burning equipment or industrial plants or different classes of premises, trades, industries, processes, fuel burning equipment or industrial plants.

(4) The regulations may impose a penalty not exceeding fifty pounds for any breach thereof, and in the case of a continuing breach, a penalty not exceeding five pounds for each day the breach continues.

(5) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of such publication or from a later date to be specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

35. The Local Government Act, 1919, as amended by subsequent Acts, is amended by inserting at the end of section three hundred and thirteen the following new paragraphs:—

- (o) whether any fuel burning equipment or industrial plant is to be provided in the building and if so whether proper provision is to be made to prevent the

Amendment
of Act No.
41, 1919,
sec. 313.
(Subjects
for consider-
ation.)

Clean Air Act.

No. 69, 1961

the emission at the points prescribed under the Clean Air Act, 1961, of air impurities in excess of the standards of concentration or rates so prescribed.

Paragraph (o) of this section shall not apply to scheduled premises.

In this section "air impurities", "fuel burning equipment", "industrial plant" and "scheduled premises" respectively have the meanings ascribed thereto in the Clean Air Act, 1961.

SCHEDULE.
SCHEDULED PREMISES.

Sec. 5.

Any premises—

(a) being used for—

Brick, tile, pipe and pottery works.

Cement works.

Chemical manufacturing works.

Coal or oil gas works.

Metallurgical works reclaiming metal from scrap.

Metallurgical works smelting or converting ores to metal of any kind.

Oil refineries.

(b) on which there is erected any—

Boiler consuming or capable of consuming more than one ton of solid fuel per hour.

Coke oven.

Furnace used for the melting of non-ferrous metals.

Furnace or cupola used for the melting of alloys of iron, or steel.

(c) on which any fuel burning equipment or industrial plant is operated by—

(i) the Commissioner for Railways.

(ii) the Commissioner for Government Transport.

CRIMES