

# Emissions Reduction (Local Authorities in London) Bill [HL]

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[AS INTRODUCED]

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# B I L L

TO

Enable London Borough Councils and the Common Council of the City of London to achieve reductions in airborne emissions from specified plant in their areas and to make provision for the Secretary of State to set emission limits for such plant; to provide for fixed penalty notices in specified circumstances; and for connected purposes.

**B**E 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:—

## *Designation of air quality improvement areas*

### **1 Air quality improvement areas**

- (1) Where the air quality in any area within a borough, or the City of London, exceeds World Health Organization Air Quality Guidelines for one or more pollutants, the local authority for that area may designate the area as an air quality improvement area. 5
- (2) The local authority may determine that an area designated under subsection (1) will cease to be an air quality improvement area.
- (3) Any designation under subsection (1) or determination under subsection (2) must— 10
  - (a) state the date and time from which the designation or determination will take effect;
  - (b) specify the types of plant which will be, or will cease to be, subject to the designation (being plant of a type described in any of sections 2 to 6 of this Act); 15
  - (c) in the case of a designation, specify for each type of plant to which the designation relates the NO<sub>x</sub> and PM emission limits for that type of plant as provided for in regulations made by the Secretary of State;
  - (d) state any time of day, period or occasion when operation of stationary generators is prohibited or will cease to be prohibited; and 20
  - (e) include a map of the area which is to be designated or will cease to be designated.

- (4) Not less than two months before such a designation or determination takes effect, the local authority must publish details of the designation or determination giving a description of its effect—
- (a) on the local authority’s website; and
  - (b) by advertisement in a newspaper circulating in the area to which the designation or determination relates, such notice to be published on two separate occasions, the first publication to be not more than seven days after the making of the designation or determination and the second publication to be not less than one month before the designation or determination takes effect.
- (5) In this section “World Health Organization Air Quality Guidelines” means guidelines on air quality and emissions as published by the World Health Organization from time to time.

### *Emission limits*

## **2 Boilers**

- (1) In any premises within an air quality improvement area, the amount of NO<sub>x</sub> emitted by a boiler which is fired by gaseous fuels and has a rated heat output of less than 1MW must at all times be less than an amount specified in regulations made by the Secretary of State.
- (2) A person who installs or permits the installation of a boiler which does not comply with subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) In this section, “boiler” means a device that provides heat to a water-based central heating system in order to reach and maintain at a desired level the indoor temperature of an enclosed space and includes a device that is designed to provide heat to deliver hot drinking or sanitary water at given temperature levels, quantities and flow rates during given intervals, and is connected to an external supply of drinking or sanitary water.

## **3 Non-road mobile machinery**

- (1) Within an air quality improvement area—
- (a) the amount of NO<sub>x</sub> and PM emitted by the operation of non-road mobile machinery must be less than an amount specified in regulations made by the Secretary of State; or
  - (b) the non-road mobile machinery must be of a description that is exempted from paragraph (a) by regulations made by the Secretary of State.
- (2) A person who operates or permits the operation of non-road mobile machinery which does not comply with subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) In this section “non-road mobile machinery” means any mobile machine, transportable equipment or vehicle, with or without bodywork or wheels—

- (a) in which an internal combustion engine is installed; and
  - (b) which is not intended for the transport of passengers or goods on roads, railways, or water;

and includes machinery installed on the chassis of a vehicle intended for the transport of passengers or goods on roads. 5
- (4) For the purposes of subsection (3) “non-road mobile machinery” does not include—
  - (a) agricultural and forestry tractors;
  - (b) sea-going vessels;
  - (c) inland waterway vessels; 10
  - (d) any recreational craft or personal watercraft;
  - (e) aircraft;
  - (f) recreational vehicles except snowmobiles, all-terrain vehicles and side-by-side vehicles;
  - (g) vehicles and machinery exclusively used or intended to be exclusively used in competitions; 15
  - (h) portable firefighting pumps;
  - (i) reduced-scale models or reduced-scale replicas of vehicles or machinery.

#### 4 Stationary generators 20

- (1) In any premises within an air quality improvement area, the amount of NO<sub>x</sub> and PM emitted by a stationary generator with a rated thermal input equal to or less than 1MW installed on the premises must be less than an amount specified in regulations made by the Secretary of State.
- (2) Where the designation of an air quality improvement area specifies any time of day, period or occasion when the operation of stationary generators is prohibited, a stationary generator must not be operated in that air quality improvement area except in an emergency. 25
- (3) A person who—
  - (a) installs or permits the installation of a stationary generator which does not comply with subsection (1); or
  - (b) operates or permits the operation of a stationary generator contrary to subsection (2),

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale. 30 35
- (4) In this section—
  - (a) “stationary generator” means fixed combustion plant which is used for the purpose of generating electricity, and does not include any generator that is mobile unless it is connected to—
    - (i) an electricity transmission system or distribution system, or
    - (ii) apparatus, equipment or appliances at a site performing a function that could be performed by a generator that is not mobile; 40

- (b) “emergency” means a disruption of the supply of electricity to the premises.

## 5 Solid fuel boilers

- (1) In any premises within an air quality improvement area the amount of NO<sub>x</sub> and PM emitted by a solid fuel boiler with a rated heat output of less than 1MW installed on the premises must be less than an amount specified in regulations made by the Secretary of State. 5
- (2) A person who installs or permits the installation of a solid fuel boiler which does not comply with subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale. 10
- (3) In this section –
- (a) “solid fuel boiler” means any plant that burns solid fuel to provide heat and is –
    - (i) designed in compliance with the Domestic Renewable Heat Incentive Scheme Regulations 2014 (S.I. 2014/928); and 15
    - (ii) installed to the relevant installation standard as defined in regulation 8(2) of those regulations;
  - (b) “solid fuel” means fuel that is solid at normal indoor room temperature, including solid biomass or solid fossil fuel;
  - (c) “biomass” means material, other than fossil fuel or peat, which is, or is derived directly or indirectly from, plant matter, animal matter, fungi or algae. 20

## 6 Combined cooling, heat and power plant

- (1) Within an air quality improvement area the amount of NO<sub>x</sub> and PM emitted by any – 25
- (a) combined cooling, heat and power plant; or
  - (b) combined heat and power plant,
- must be less than an amount specified in regulations made by the Secretary of State.
- (2) A person who installs or permits the installation of – 30
- (a) a combined cooling, heat and power plant; or
  - (b) a combined heat and power plant,
- which does not comply with subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) In this section – 35
- “combined cooling, heat and power plant” means technical apparatus in which fuels are oxidised to generate cooling, heat and electricity; and
  - “combined heat and power plant” means technical apparatus in which fuels are oxidised to generate heat and electricity.

*Offences and enforcement***7 Offences by bodies corporate**

- (1) Where an offence under this Act has been committed by a body corporate and is proved to have been committed with the consent or connivance of a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity, that person as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly. 5
- (2) In this section “body corporate” has the meaning given by section 1173(1) of the Companies Act 2006. 10

**8 Defences**

Where a NO<sub>x</sub> or PM limit is exceeded contrary to section 2(1), 3(1), 4(1), 5(1) or 6(1), it is a defence to establish that the plant in question was, or that the person charged reasonably believed the plant to have been—

- (a) designed to comply with that NO<sub>x</sub> or PM limit; 15
- (b) not modified other than in accordance with the manufacturer’s instructions; and
- (c) maintained in accordance with the manufacturer’s instructions.

**9 Fixed penalty notices**

- (1) Where an authorised officer has reason to believe that a person has committed an offence under this Act the officer may give the person a fixed penalty notice. 20
- (2) A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to be convicted of the offence to which it relates by payment of a fixed penalty. 25
- (3) A fixed penalty notice must be in writing and state—
  - (a) such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information about the offence;
  - (b) the amount of the fixed penalty;
  - (c) the period during which, by virtue of subsection (6), proceedings will not be taken for the offence; 30
  - (d) the name and address of the person to whom payment of the fixed penalty may be sent;
  - (e) the permissible methods of payment (which must include the method in subsection (8)); and
  - (f) the effect of subsection (9). 35
- (4) A fixed penalty notice must identify by name the person to whom it is issued unless the authorised officer cannot reasonably ascertain the person’s name.
- (5) A fixed penalty notice issued by post is regarded as having been issued at the time at which it would be delivered in the ordinary course of post. 40

- (6) Where a person is issued with a fixed penalty notice—
  - (a) no proceedings may be taken in respect of the alleged offence in relation to which the notice was issued before the end of the period of 14 days following the issuing of the notice; and
  - (b) the person may not be convicted of that offence if the fixed penalty is paid to the issuing local authority before the end of that period. 5
- (7) The amount specified in subsection (3)(b) is to be an amount prescribed by the issuing local authority, which—
  - (a) may prescribe different amounts in relation to different classes of cases;
  - (b) but may not prescribe an amount exceeding £150. 10
- (8) Payment of a fixed penalty may be made by pre-paying and posting to the person whose name is stated under subsection (3)(d), at the stated address, a letter containing the amount of the penalty (in cash or otherwise).
- (9) Where a letter is sent in accordance with subsection (8), payment is regarded as having been made at the time at which that letter would be delivered in the ordinary course of post. 15
- (10) In any proceedings, a certificate that—
  - (a) purports to be signed by or on behalf of the officer responsible for the issuing local authority's financial affairs; and
  - (b) states that payment of a fixed penalty was, or was not, received by the date specified in the certificate, 20
 is evidence of the facts stated.

## **10 Power to require name and address**

- (1) An authorised officer who proposes to—
  - (a) serve a summons on a person relating to an offence under this Act, 25
  - or
  - (b) issue a fixed penalty notice to a person under section 9,
 may require the person to give the person's name and address.
- (2) A person who, without reasonable excuse, fails to provide information required under subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale. 30

## **11 Rights of entry, inspection and seizure**

- (1) An authorised officer may at any reasonable time—
  - (a) enter any land or premises, except premises used wholly or mainly as a dwelling, for the purposes of determining whether any provision of this Act is being complied with; and 35
  - (b) carry out such inspections, measurements and tests on any plant on the land or premises as the authorised officer considers appropriate.
- (2) If an authorised officer has reasonable cause to suspect that an offence under this Act has been committed, the authorised officer may, for the purpose of ascertaining whether an offence has been committed, require any person who 40

- is in possession of or appears to be the owner or operator of plant to produce any records relating to that plant, and the authorised officer may take copies of those records or any part of them.
- (3) If an authorised officer has reasonable cause to suspect that an offence under this Act has been committed, the authorised officer may seize and detain any mobile plant for the purpose of ascertaining whether an offence has been committed. 5
- (4) An authorised officer may seize and detain any mobile plant or records which the officer has reason to believe may be required as evidence in proceedings for an offence under this Act. 10
- (5) If it is shown to the satisfaction of a justice of the peace on sworn information in writing that—
- (a) in relation to any land or any premises which a person is entitled to enter in pursuance of subsection (1)—
    - (i) admission has been refused; 15
    - (ii) refusal is apprehended;
    - (iii) the land or premises is unoccupied;
    - (iv) the occupier is temporarily absent;
    - (v) the case is one of emergency; or
    - (vi) an application for admission would defeat the object of the entry; and 20
  - (b) there is a reasonable ground for admission to the land or premises for the purpose for which entry is required,
- then subject to subsection (6) the justice of the peace may by warrant authorise that person to enter the land or premises, if need be by force. 25
- (6) A justice of the peace must not issue a warrant under subsection (5) in respect of any land or premises unless they are satisfied that—
- (a) admission to the land or premises under subsection (1) was sought no less than seven days after notice of the intended entry had been served on the occupier; or 30
  - (b) admission to the land in pursuance of subsection (1) was sought in an emergency and was refused by or on behalf of the occupier; or
  - (c) the land or premises is unoccupied; or
  - (d) an application for admission to the land or premises would defeat the object of the entry. 35
- (7) A warrant issued under this section will continue in force until the purpose for which the entry is required has been satisfied.
- (8) Any person who without lawful authority or excuse obstructs an authorised officer acting in pursuance of the powers conferred by this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. 40
- (9) In this section “emergency” means reference to a case where an authorised officer requiring entry to any land or premises has reasonable cause to believe that circumstances exist which are likely to endanger life or health and that

immediate entry to the land or premises is necessary to verify the existence of those circumstances or to ascertain their cause or to effect a remedy.

## 12 Notice requiring information

- (1) A local authority may by written notice require the occupier of any premises within an air quality improvement area to supply such information as may be specified. 5
- (2) The person on whom a notice is served under this section must comply with the requirements in the notice within 42 days from the day on which the notice was served, or within such longer period as the local authority may by notice allow. 10
- (3) A person on whom a notice is served under this section who—
  - (a) without reasonable excuse fails to comply with the requirements of the notice; or
  - (b) in supplying such information knowingly or recklessly makes any statement which is materially false, 15
 is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### *Miscellaneous*

## 13 Stationary idling: increase of penalties

- In relation to a stationary idling offence committed in an air quality improvement area within a borough or the City of London the council of which is a designated local authority— 20
- (a) regulation 8(b) of the 2002 Regulations has effect as if for “£20” there were substituted “£100”;
  - (b) regulation 17(6)(c) of the 2002 regulations has effect as if for “£20” there were substituted “£100” and for “£40” there were substituted “£150”. 25

## 14 Regulations

- (1) The Secretary of State must by regulations make provision for carrying this Act into effect. 30
- (2) Regulations may make—
  - (a) different provision for different sizes or types of plant;
  - (b) supplemental, incidental, transitional or consequential provision.
- (3) Regulations—
  - (a) are to be made by statutory instrument; and 35
  - (b) are subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Before making regulations the Secretary of State must consult—

- (a) local authorities;
- (b) persons who appear to the Secretary of State to represent the interests of plant manufacturers and retailers;
- (c) persons who appear to the Secretary of State to represent the interests of those who use, operate or manage plant; and
- (d) such other persons as the Secretary of State considers appropriate.

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## 15 Interpretation

In this Act—

“the 2002 regulations” means the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 (S.I. 2002/1808);

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“air quality improvement area” has the meaning given by section 1;

“authorised officer” means, in relation to any function, an officer or employee of a local authority, or other person acting under the control of a local authority, who is authorised in writing by the local authority for the purpose of the function concerned;

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“borough” means London Borough;

“designated local authority” means a local authority designated under regulation 4(1) of the 2002 regulations;

“local authority” means a London Borough Council, or the Common Council of the City of London acting in its capacity as a local authority;

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“NO<sub>x</sub>” means oxides of nitrogen comprising the sum of the volume mixing ratio (parts per billion by volume) of nitrogen monoxide (nitric oxide) and nitrogen dioxide expressed in units of mass concentration of nitrogen dioxide (µg/m<sup>3</sup> microgrammes per cubic metre);

“kW” means kilowatt;

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“MW” means megawatt;

“plant” means any of the plant defined in sections 2(3), 3(3), 4(4)(a), 5(3)(a) and 6(3);

“rated heat output”, expressed in kW, means the maximum calorific output laid down and guaranteed by the manufacturer as being deliverable during continuous operation while complying with the useful efficiency indicated by the manufacturer;

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“PM” means any particulate matter;

“reduced-scale models or reduced-scale replicas of vehicles or machinery” has the meaning set out in Article 2 of Regulation (EU) 2016/1628;

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“stationary idling offence” means a contravention of, or failure to comply with, so much of regulation 98 (stopping of engine when stationary) of the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078) as relates to the prevention of exhaust emissions.

## 16 Extent, commencement and citation

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- (1) This Act extends to England and Wales.
- (2) This Act comes into force on such day as the Secretary of State may by regulations appoint.

- (3) This Act may be cited as the Emissions Reduction (Local Authorities in London) Act 2022.



# Emissions Reduction (Local Authorities in London) Bill [HL]

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Enable London Borough Councils and the Common Council of the City of London to achieve reductions in airborne emissions from specified plant in their areas and to make provision for the Secretary of State to set emission limits for such plant; to provide for fixed penalty notices in specified circumstances; and for connected purposes.

*Lord Tope*

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Ordered to be Printed, 16th December 2021.

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