

# Clean Air (No. 3) Bill

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Schedule – The National Clean Air Agency  
Part 1 –

A

# B I L L

TO

Establish a right to breathe clean air; to make provision about reducing air pollution; to require the Secretary of State to set, measure, and report on air quality targets; to establish the National Clean Air Agency to enforce air quality targets; to make provision for the development of sustainable public, private and commercial transport by road, rail, air and sea; to restrict the use of polluting vehicles in urban areas; to prohibit the sale of new petrol- and diesel-powered vehicles from no later than 2030; to make it an offence to remove permanently devices that reduce vehicle emissions; to make requirements regarding indoor air quality; 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:—

## 1 Right to breathe clean air

- (1) This section establishes the right for people to breathe clean air.
- (2) So far as it is possible to do so, primary legislation and subordinate legislation must be read and given effect in a way which is compatible with that right.
- (3) It is unlawful for a public authority to act in a way which is incompatible with the right in subsection (1). 5
- (4) Subsection (3) does not apply to an act if—
  - (a) as the result of one or more provisions of primary legislation, the authority could not have acted differently; or
  - (b) in the case of one or more provisions of, or made under, primary legislation which cannot be read or given effect in a way which is compatible with the Convention rights, the authority was acting so as to give effect to or enforce those provisions. 10
- (5) In this section “public authority” includes—
  - (a) a court or tribunal, and
  - (b) any person certain of whose functions are functions of a public nature, 15
- (6) In relation to a particular act, a person is not a public authority by virtue only of subsection (4)(b) if the nature of the act is private.

- (7) “An act” includes a failure to act but does not include a failure to –
- (a) introduce in, or lay before, Parliament a proposal for legislation; or
  - (b) make any primary legislation or remedial order.

## 2 Air quality targets

- (1) The Secretary of State must, within 6 months of the passing of this Act, lay before Parliament a report establishing national air quality targets. 5
- (2) The Secretary of State may lay before Parliament further reports revising those targets to be consistent with higher air quality.
- (3) The Secretary of State must ensure that, at all times, the targets set under this section meet or exceed air quality and emissions standards set by the European Union. 10
- (4) Subsection (3) still applies if the United Kingdom has withdrawn from the European Union.
- (5) One of the targets under subsection (1) must be for health-harmful concentrations of key air pollutants outdoors and inside buildings and homes to be, by 2030, at or below the limits recommended by the World Health Organization. 15
- (6) The Secretary of State must regularly review the targets under this section in line with the latest guidance from public health authorities, including the World Health Organization and International Organization for Standardization. 20
- (7) The Secretary of State must publish annual reports on performance against the targets in this section and associated policy measures.

## 3 National Clean Air Agency

- (1) There shall be a body corporate known as the National Clean Air Agency (“the Agency”) which shall exercise the functions conferred on it by or under this Act or any other enactment. 25
- (2) The Schedule (which makes provision about the constitution of the Agency) has effect.
- (3) The Secretary of State must, by regulations, establish a framework for the Agency to carry out its functions. 30

## 4 Functions of the Agency

- (1) The functions of the Agency are to –
  - (a) advise the Secretary of State on targets in section 2;
  - (b) promote initiatives that limit air pollution, increase the use of green technology or increase carbon capture; and 35
  - (c) to monitor whether the Secretary of State has complied with their duties under sections 1 and 2.
- (2) Where the Agency has reasonable grounds to believe that the Secretary of State is not complying with a duty under section 1 or 2 it may apply to the relevant court for an order to take such action as the court considers necessary to comply with the duty. 40

**5 Prohibition of sale of new petrol- and diesel-powered vehicles**

- (1) A person commits an offence if they sell or supply a new petrol- or diesel-powered vehicle.
- (2) The Secretary of State must, by regulations, define –
- (a) a petrol-powered vehicle, and 5
  - (b) a diesel-powered vehicle.
- (3) A person guilty of an offence under this section shall be liable –
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or both;
  - (b) on summary conviction to a fine not exceeding the statutory maximum. 10

**6 Vehicle emissions-testing standards**

- (1) The Secretary of State must, within 20 months of the passing of this Act, by regulations, make provision for –
- (a) vehicles emissions-testing for nitrogen dioxide and particulates, including those from tyres and brakes, to reflect on-road driving conditions, 15
  - (b) the standards in Euro 6 applicable to laboratory testing to be applied to the testing under paragraph (a),
  - (c) inclusion of emissions in the MOT testing to include the detection of devices or configurations in vehicles aimed at, or with the effect of, distorting results, including the removal of emissions-reducing devices. 20
- (2) In this section, “MOT testing” means tests under section 45 of the Road Traffic Act 1988 (tests of satisfactory condition of vehicles).

**7 Removal of a device to reduce vehicle emissions 25**

- (1) Subject to subsection (2), a person who removes from a vehicle a fitted device designed to reduce vehicle emissions is guilty of an offence.
- (2) Subsection (1) does not apply where the device is removed –
- (a) to allow the vehicle to be repaired; or
  - (b) in any other circumstances specified in regulations made by the Secretary of State. 30
- (3) A person guilty of an offence under this section shall be liable on summary conviction to –
- (a) imprisonment for a period not exceeding 1 month,
  - (b) a fine not exceeding £5,000, or 35
  - (c) both.

**8 Local authority air pollution measures**

- The Secretary of State must, within 12 months of the passing of this Act, by regulations, empower and require local authorities to –
- (a) establish air pollution monitoring – 40
    - (i) in each postcode district, and

- (ii) in areas with high concentrations of people vulnerable to air pollution, including children and the elderly;
- (b) regularly report the results of that monitoring;
- (c) following appropriate local consultation, produce a local air quality plan containing measures to meet or exceed minimum European Union air quality standards for particulates and oxides of nitrogen; 5
- (d) have regard to the local air quality action plan when considering proposals for building work, in particular when considering the ventilation of buildings;
- (e) establish and extend low emission zones and restrict the access of vehicles that fail Euro 5 emissions standards and secondary engines including transport refrigeration units, to specified urban areas; 10
- (f) develop and implement coordinated urban planning strategies to reduce reliance on vehicle transport include (but not be limited to) measures relating to – 15
  - (i) site allocation,
  - (ii) development density and mix of uses,
  - (iii) the development of integrated walking and cycling infrastructure,
  - (iv) trees, green spaces and other green infrastructure, in both encouraging walking and cycling and reducing pollution; 20
- (g) produce sustainable transport plans for urban areas to provide for lower emission options, including but not limited to –
- (h) prohibit engine-powered boats from mooring beside schools; and
- (i) prohibit the idling of boat engines. 25

## 9 Penalties for stationary idling offences

- (1) The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 (S.I. 2002/1808) are amended as follows.
- (2) At the end of regulation 8(b) (amount of penalty), insert – 30
  - “(subject to paragraph (c));
  - (c) for a stationary idling offence outside a school, on payment of £200.”
- (3) (3)At the end of regulation 17(6)(c) (effect of issue of fixed penalty notice), insert – 35
  - “(d) of £200, in the case of a stationary idling offence outside a school, shall be increased to £400.”

## 10 Environment Agency air pollution measures

The Secretary of State must, within 12 months of the passing of this Act, by regulations, empower and require the Environment Agency to –

- (a) measure air pollution in certain specified high-risk areas on a regular basis including urban areas, ports and airports, 40
- (b) issue air pollution warnings in circumstances where measurement reveals breaches of specified levels of pollution, and
- (c) instigate traffic calming measures, including road closure orders, port and airport restrictions in circumstances where measurement reveals breaches of specified levels of pollution until air pollution levels return to within tolerance. 45

## 11 Maritime air pollution

- (1) The Secretary of State must, within 12 months of the passing of this Act, by regulations, require local authorities in coastal urban areas to measure local air pollution levels attributable to ships and maritime industries. 5
- (2) The Secretary of State, having consulted local authorities in coastal urban areas, must make regulations requiring ships using ports in England and Wales to use emissions-reduction technology.
- (3) The regulations at subsection (2), must include a mandatory requirement that ports provide electric supply points in docks as an alternative to fossil fuels for ships and allow charging schemes to recover installation and power supply. 10
- (4) The Secretary of State must, require ports' authorities to ensure air quality and emissions are kept within prescribed limits and, where they are breached, to impose financial penalties.
- (5) The Secretary of State must, within 12 months of the passing of this Act, lay a report before each House of Parliament on the levels of emissions from shipping within five miles of the UK coastline including oxides of sulphur, nitrogen oxide and particulate matter. 15

## 12 Airport and aircraft air pollution

- (1) The Secretary of State must, within 12 months of the passing of this Act, by regulations, require local authorities within which airports in urban areas are located to measure local air pollution levels attributable to aircraft, ground traffic and airport industries. 20
- (2) The Secretary of State, having consulted local authorities which within their areas have airports located in urban areas, must make regulations for emissions from aircraft ground traffic and airport industries. 25
- (3) The regulations in subsection (2), must include a requirement for airports to provide electric supply points for road vehicles.
- (4) The Secretary of State must require airports authorities to ensure air quality and emissions are kept within prescribed limits and the regulations will must empower local authorities to impose penalties if they are breached. 30
- (5) The Secretary of State must, within 12 months of the passing of this Act, lay a report before each House of Parliament on the current and future potential air quality levels and of emissions from aircraft and vehicles within ten miles of airports' perimeters. 35

## 13 Report on electric and hydrogen-powered vehicles

- (1) The Secretary of State must, within 12 months of the passing of this Act, lay a report before each House of Parliament a report on steps to be taken to promote the use of electric and hydrogen-powered vehicles.
- (2) The report must include— 40
  - (a) analysis of the costs, benefits and feasibility of a national network of—
    - (i) electric power points to enable electric vehicle use, and

- (ii) hydrogen supply points suitable for hydrogen vehicles; and
- (b) steps that will be taken to promote research and development relating to hydrogen fuel.

#### **14 Air quality: fiscal strategy**

- (1) The Secretary of State must within 6 months of the passing of this Act make arrangements for an independent review and report on the—
  - (a) current, and
  - (b) potential contribution to the improvement of air quality standards by the Government's fiscal strategy and the provision of proposals for that strategy to be used to incentivise and provide sustainable forms of public, private and commercial transport by road, rail, air and sea. 10
- (2) A report and review under subsection (1) must—
  - (a) consider and make proposals relating to the design of a vehicle scrappage scheme designed to incentivise owners of polluting vehicles to switch to vehicles which produce lower emissions, and 15
  - (b) include target dates to accelerate change towards emission-free transport.
- (3) The report and recommendations of the review under subsection (1) must be laid before the House of Commons within 12 months of the passing of this Act.
- (4) The laying of the report and recommendations under subsection (2) must be accompanied by a statement by the Secretary of State responding to each proposal of the independent review under subsection (1). 20

#### **15 Indoor air quality**

- (1) The Secretary of State must within 6 months of the passing of this Act—
  - (a) lay before Parliament a report on steps to be taken to ensure that World Health Organization and International Organization for Standardization guidelines on indoor air quality are adhered to, and 25
  - (b) establish a cross-government taskforce on indoor air quality.
- (2) That taskforce must advise central government departments, local government and other public bodies on the compatibility of proposed policies with improvements in indoor air quality. 30

#### **16 Ventilation and pollutants in construction**

- (1) The Secretary of State must make regulations under section 1 of the Building Act 1984 to amend the Building Regulations 2010 to stipulate minimum ventilation standards for new build properties. 35
- (2) The Secretary of State must—
  - (a) review the use of substances that emit volatile organic compounds in construction, and
  - (b) lay a report on that review before each House of Parliament within 6 months of the passing of this Act. 40

**17 Definitions**

The standards in Euro 5 and 6 are set out at Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 implemented by Commission Regulation (EC) No 692/2008 of 18 July 2008 and Commission Regulation (EU) No 459/2012 of 29 May 2012.

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**18 Financial provision**

*There is to be paid out of money provided by Parliament –*

- (a) *any expenditure incurred under or by virtue of this Act by a Minister of the Crown, and*
- (b) *any increase attributable to this Act in the sums payable under any other Act out of money so provided.*

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**19 Regulations**

- (1) A power to make regulations under this Act –
  - (a) is exercisable by statutory instrument;
  - (b) includes power to make different provision for different purposes;
  - (c) includes power to make supplementary, incidental, consequential, transitional, transitory and saving provision.
- (2) A statutory instrument containing regulations under this sections 3, 8 or 10 may not be made unless a draft of the instrument has been laid and approved by a resolution of each House of Parliament.
- (3) A statutory instrument containing regulations under sections 5, 6, 7, 11 or 12 or the Schedule is subject to annulment in pursuance of a resolution of either House of Parliament.

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**20 Extent, commencement and short title**

- (1) This Act extends to England and Wales.
- (2) Sections 1 to 4, 6 to 19 and this section come into force on the day after the day on which this Act receives Royal Assent.
- (3) The Secretary of State must, by regulations, bring section 5 into force no later than 1 January 2030.
- (4) This Act may be cited as the Clean Air Act 2019.

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## SCHEDULE

Section 3

## THE NATIONAL CLEAN AIR AGENCY

*Status*

- 1 The Agency shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the Agency's property is not to be regarded as the property of, or property held on behalf of, the Crown. 5

*General Powers*

- 2 Subject to any directions given by the Secretary of State, the Agency may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the exercise of its functions. 10

*General duty*

- 3 It is the duty of the Agency to carry out its functions effectively, efficiently and economically. 15

*Membership*

- 4 The Agency is to consist of a chair and other members appointed by the Secretary of State by regulations.

*Staff*

- 5 The Agency must appoint a person to be its chief executive. 20
- 6 The Agency may appoint such staff and on such conditions of service as it thinks fit.

*Appointment procedures*

- 7 The Secretary of State may by regulations make provisions as to— 25
- (a) the appointment of the chair and other members of the Agency (including the number, or limits on the number, of members who may be appointed and any conditions to be fulfilled for appointment);
  - (b) the tenure of office of the chair and other members of the Agency (including the circumstances in which they cease to hold office or are suspended from office); 30
  - (c) the appointment of, constitution of and exercise of functions by committees and sub-committees of the Agency.

- 8 Before making regulations under paragraph 7, the Secretary of State must consult the Welsh Ministers.

*Terms of appointment*

- 9 The Agency must keep accounts in such form as the Secretary of State decides. 5
- 10 The regulations may in particular make provision as to –  
(a) the period for which they are to hold office;  
(b) their eligibility for re-appointment;  
(c) remuneration and allowances; and  
(d) circumstances in which their membership is to be suspended or terminated. 10

*Accounts*

- 11 The Agency must keep accounts in such form as the Secretary of State decides.
- 12 The Agency must prepare annual accounts in respect of each financial year to which the annual accounts relate. 15
- 13 Before the end of the specified period following each financial year to which the annual accounts relate the Agency must send a copy of the annual accounts to –  
(a) examine, certify and report on the annual accounts; 20  
(b) lay a copy of the accounts and of his report before each House of Parliament.
- 14 The Comptroller and Auditor General must –  
(a) examine, certify and report on the annual accounts;  
(b) lay a copy of the accounts and of his report before each House of Parliament. 25
- 15 The specified period is such period as the Secretary of State directs.
- 16 The financial year is –  
(a) the period starting on the day the Agency is established and ending on the next 31st March; 30  
(b) each succeeding period of 12 months.

*Annual report*

- 17 The Agency must as soon as possible after the end of each financial year prepare and send to the Secretary of State a report on the carrying out of its functions during that year. 35
- 18 The Secretary of State must lay before each House of Parliament a copy of every report sent to him under sub-paragraph (1).

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## B I L L

To establish a right to breathe clean air; to make provision about reducing air pollution; to require the Secretary of State to set, measure, and report on air quality targets; to establish the National Clean Air Agency to enforce air quality targets; to make provision for the development of sustainable public, private and commercial transport by road, rail, air and sea; to restrict the use of polluting vehicles in urban areas; to prohibit the sale of new petrol- and diesel-powered vehicles from no later than 2030; to make it an offence to remove permanently devices that reduce vehicle emissions; to make requirements regarding indoor air quality; and for connected purposes.

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