



# Clean Air Act 1993

## 1993 CHAPTER 11

### PART II

#### SMOKE, GRIT, DUST AND FUMES

##### *Height of chimneys*

#### 16 Height of other chimneys.

- (1) This section applies where plans for the erection or extension of a building outside Greater London or in an outer London borough, other than a building used or to be used wholly for one or more of the following purposes, that is to say—
  - (a) as a residence or residences;
  - (b) as a shop or shops; or
  - (c) as an office or offices,are in accordance with building regulations deposited with the local authority and the plans show that it is proposed to construct a chimney, other than one serving a furnace, for carrying smoke, grit, dust or gases from the building.
- (2) The local authority shall reject the plans unless they are satisfied that the height of the chimney as shown on the plans will be sufficient to prevent, so far as practicable, the smoke, grit, dust or gases from becoming prejudicial to health or a nuisance having regard to—
  - (a) the purpose of the chimney;
  - (b) the position and descriptions of buildings near it;
  - (c) the levels of the neighbouring ground; and
  - (d) any other matters requiring consideration in the circumstances.
- (3) If a local authority reject plans under the authority of this section—
  - (a) the notice given under section 16(6) of the <sup>M1</sup>Building Act 1984 shall specify that the plans have been so rejected; and
  - (b) any person interested in the building may appeal to the Secretary of State.

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**Changes to legislation:** Clean Air Act 1993, Section 16 is up to date with all changes known to be in force on or before 18 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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- (4) On an appeal under subsection (3) the Secretary of State may confirm or cancel the rejection and, where he cancels the rejection, may, if he thinks it necessary, direct that the time for rejecting the plans otherwise than under the authority of this section shall be extended so as to run from the date on which his decision is notified to the local authority.
- (5) In the application of this section to Scotland—
- (a) any reference to plans deposited in accordance with building regulations shall be read as a reference to the plans, specifications and other information submitted with an application for a [<sup>F1</sup>building warrant under section 9 of the Building (Scotland) Act 2003 (asp 8)];
  - (b) any reference to a local authority shall be read as a reference to a [<sup>F2</sup>verifier] within the meaning of that Act;
  - (c) any reference to the rejection of plans shall be read as a reference to the refusal of a [<sup>F3</sup>building warrant under section 9] of that Act;
- and subsections (3) and (4) shall be omitted.

#### Textual Amendments

- F1** Words in s. 16(5)(a) substituted (S.) (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), s. 59(1), [Sch. 6 para. 20\(a\)](#) (with s. 53); S.S.I. 2004/404, art. 2(1)
- F2** Word in s. 16(5)(b) substituted (S.) (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), s. 59(1), [Sch. 6 para. 20\(b\)](#) (with s. 53); S.S.I. 2004/404, art. 2(1)
- F3** Words in s. 16(5)(c) substituted (S.) (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), s. 59(1), [Sch. 6 para. 20\(c\)](#) (with s. 53); S.S.I. 2004/404, art. 2(1)

#### Modifications etc. (not altering text)

- C1** S. 16 modified by S.I. 2010/675, Sch. 23 Pt. 8 para. 3, Table 9 (as substituted (E.W.) (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), reg. 1(b), [Sch. 1](#))
- C2** S. 16 modified (E.W.) (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), Sch. 23 paras. 1(3), [2](#) (with regs. 1(3), 77-79, Sch. 4)
- C3** S. 16 restricted (1.9.2018) by [The Environmental Authorisations \(Scotland\) Regulations 2018 \(S.S.I. 2018/219\)](#), reg. 1, [sch. 8 para. 39\(2\)\(a\)\(i\)](#) (with reg. 78, sch. 5 para. 2)

#### Marginal Citations

- M1** 1984 c. 55.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 16(4A)(4B) inserted by [S.I. 2023/908 reg. 16](#)
- s. 19E-19H and cross-heading inserted by [2024 asc 2 s. 19\(2\)](#)
- s. 20(5D)-(5F) inserted by [2021 c. 30 Sch. 12 para. 10\(2\)](#)
- s. 21(4A)-(4D) inserted by [2021 c. 30 Sch. 12 para. 11\(2\)](#)
- s. 28B inserted by [2024 asc 2 s. 20](#)
- s. 63(2A) inserted by [2024 asc 2 Sch. 1 para. 20\(b\)](#)
- Sch. 1 para. 1A1B inserted by [2024 asc 2 Sch. 1 para. 21\(a\)](#)
- Sch. 1 para. 6B inserted by [2024 asc 2 Sch. 1 para. 21\(c\)](#)
- Sch. 1A para. 3(5) inserted by [2024 asc 2 Sch. 1 para. 4\(c\)](#)
- Sch. 1A para. 4(7) inserted by [2024 asc 2 Sch. 1 para. 5\(d\)](#)
- Sch. 5 para. 12A12B inserted by [2024 asc 2 Sch. 1 para. 22\(a\)](#)