



ANALYSIS

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1986, No. 79

An Act to amend the Clean Air Act 1972

[6 November 1986]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Clean Air Amendment Act 1986, and shall be read together with and deemed part of the Clean Air Act 1972 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of December 1986.

2. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “dense smoke” (as amended by section 2 (1) of the Clean Air Amendment Act 1982), and substituting the following definition:

“ ‘Dense smoke’ means smoke that—

“(a) Is, in the opinion of an officer, of such opacity as to obscure that officer’s view to a degree that equals or exceeds 40 percent obscuration of transmitted light at the point of emission of the smoke; or

“(b) Causes, when measured by photo-electric means, more than 40 percent obscuration in the chimney or in the duct leading to the chimney; or

“(c) Is ascertained by a prescribed method to be dense smoke within the meaning of regulations made under this Act.”.

(2) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term “light smoke” (as amended by section 2 (3) of the Clean Air Amendment Act 1982), and substituting the following definition:

“ ‘Light smoke’ means smoke that—

- “(a) Is, in the opinion of an officer, of such opacity as to obscure that officer’s view to a degree that equals or exceeds 20 percent obscuration of transmitted light at the point of emission of the smoke but does not, in the opinion of that officer, equal or exceed 40 percent obscuration of transmitted light at that point; or

“(b) Causes, when measured by photo-electric means, more than 20 percent obscuration but not more than 40 percent obscuration in the chimney or in the duct leading to the chimney; or

“(c) Is ascertained by a prescribed method to be light smoke within the meaning of regulations made under this Act.”.

(3) Section 2 of the Clean Air Amendment Act 1982 is hereby consequentially amended by repealing subsections (1) and (3).

3. General obligation of occupiers of premises—(1) The principal Act is hereby amended by repealing section 7 (as amended by section 3 of the Clean Air Amendment Act 1982), and substituting the following section:

“7. (1) It shall be the duty of the occupier of any premises to adopt the best practicable means—

“(a) To collect and contain any air pollutant and to minimise, by the selection of the most appropriate process equipment, process control equipment, methods of control or otherwise, the emission of air pollutants from those premises; and

“(b) To render any air pollutant emitted from those premises harmless and inoffensive.

“(2) Subject to the provisions of this Act, every person commits an offence who, being an occupier of any premises,—

“(a) Contravenes any provision of subsection (1) of this section; or

- “(b) Fails to maintain any fuel burning equipment installed in or on the premises in an efficient condition; or
 “(c) Fails to operate all such equipment in a proper and efficient manner.

“(3) In any proceedings for an offence in respect of the emission of air pollutants contrary to subsection (1) of this section it shall be a defence to prove that the air pollutants emitted were air pollutants for which a standard of concentration or rate of emission has been prescribed under section 55 of this Act and that—

- “(a) That standard or rate had not been exceeded; or
 “(b) The emission was within the terms of an exemption granted under section 8 (3) or section 10 (4) of this Act.”

(2) Section 3 of the Clean Air Amendment Act 1982 is hereby consequentially repealed.

4. Prohibition on emission of dense smoke—(1) Section 10 of the principal Act is hereby amended by repealing subsection (1) (as substituted by section 5 (1) of the Clean Air Amendment Act 1982), and substituting the following subsection:

“(1) Subject to the provisions of this Act, if on any day dense smoke is emitted from—

- “(a) Any fuel burning equipment in or on premises comprising buildings other than a dwelling; or
 “(b) Any premises on which open burning without fuel burning equipment is carried out—

the occupier of the premises commits an offence.”

(2) Section 5 (1) of the Clean Air Amendment Act 1982 is hereby consequentially repealed.

5. Orders in Council—Section 13 (3) (c) of the principal Act (as substituted by section 8 (1) of the Clean Air Amendment Act 1982) is hereby amended by inserting, before the word “use” wherever it occurs, the words “installation or”.

6. Acquisition and sale of unauthorised fuel in clean air zone—Section 17 (1) of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:

- “(b) Sells any fuel, other than an authorised fuel, for delivery by that person or on that person’s behalf to any premises in a clean air zone, other than scheduled premises—”.

7. Licence fees—(1) Section 25A of the principal Act (as inserted by section 15 of the Clean Air Amendment Act 1982) is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) A licensee shall, in the month of March in each year, pay to the licensing authority a fee in respect of the continuance of the licence, which fee shall be known as a scheduled process fee and shall be of such amount as shall be prescribed.”

(2) Section 25A of the principal Act (as so inserted) is hereby further amended by repealing subsection (4), and substituting the following subsection:

“(4) Every scheduled process fee paid to a licensing authority shall,—

“(a) If so paid in respect of a process specified or described in Part A of the Second Schedule to this Act, be paid by the licensing authority into the Consolidated Account; and

“(b) If so paid in respect of any other scheduled process, be retained by the licensing authority.”

(3) Section 25A of the principal Act (as so inserted) is hereby further amended by omitting from subsection (5) the words “local authority”, and substituting the words “licensing authority”.

8. Legal proceedings—(1) Section 50 of the principal Act (as amended by section 24 of the Clean Air Amendment Act 1982) is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) In any proceedings brought under or by virtue of section 10 or section 16 of this Act, or under section 26 of this Act where compliance with the provisions of section 10 or section 16 of this Act is a condition of the licence, if any method of ascertaining whether smoke is dense smoke or light smoke is prescribed, proof in any such proceedings that that method was properly applied, and that the smoke was thereby ascertained to be dense smoke or light smoke, as the case may be, shall be accepted by the Court as sufficient.”

(2) Section 24 of the Clean Air Amendment Act 1982 is hereby consequentially repealed.

9. Bylaws controlling open fires—The principal Act is hereby amended by inserting, after section 55, the following section:

“55A. (1) Every local authority may, for the purposes of this Act, make bylaws permitting or regulating or prohibiting the setting on fire, in the open air, of any vegetation or any other combustible material whatsoever on the premises of any dwelling or on any other premises.

“(2) Every person who contravenes or fails to comply with any bylaw made under subsection (1) of this section commits an offence and is liable on summary conviction to a fine not exceeding \$500.

“(3) All bylaws made by a local authority under subsection (1) of this section shall be made in the same manner in all respects as if they were bylaws made pursuant to the Act under which the local authority is constituted.

“(4) The local authority shall cause printed copies of all its bylaws under subsection (1) of this section to be kept at its office, and to be sold at a reasonable charge to any person who applies for the same.

“(5) The powers conferred by subsection (1) of this section are in addition to the powers conferred on any local authority by any other Act.”

This Act is administered in the Department of Health.
