



GUERNSEY STATUTORY INSTRUMENT

2019 No. 116

The Air Pollution (Dark Smoke) (Exemptions) Regulations, 2019

<i>Made</i>	29 th November, 2019
<i>Coming into operation</i>	2 nd December, 2019
<i>Laid before the States</i>	, 2020

THE DIRECTOR OF ENVIRONMENTAL HEALTH AND POLLUTION REGULATION, in exercise of the powers conferred on him by section 4(6) of the Environmental Pollution (Air Pollution) Ordinance, 2019^a and section 72 of the Environmental Pollution (Guernsey) Law, 2004^b and all other powers enabling him in that behalf, hereby makes the following Regulations:-

Exemptions from prohibitions relating to emissions of dark smoke under the Air Pollution Ordinance.

1. (1) The emission of dark smoke caused by the burning of any matter in column 1 of Schedule 1 is exempt from section 4(1), (2) and (3) of the Air Pollution Ordinance provided that the corresponding condition in column 2 of Schedule 1 is met.

^a Approved by the States on 27th November, 2019.

^b Order in Council No. XIII of 2014; there are amendments to the Law not relevant to these Regulations.

(2) The emission of dark smoke from a chimney of a vessel which falls within a class of case in column 1 of Schedule 2 for a period not exceeding that set out in the corresponding entry in column 2 of Schedule 2, is exempt from section 4(5) and (6) of the Air Pollution Ordinance provided that –

- (a) any continuous emission of dark smoke, caused other than by the soot blowing of a water tube boiler, does not exceed –
 - (i) in the case of emissions of a description in class 1 or 2, 4 minutes, or
 - (ii) in the case of emissions of a description in class 4, 10 minutes, and
- (b) in no case is black smoke emitted for more than 3 minutes in total in any period of 30 minutes.

Interpretation.

2. (1) In these Regulations, unless the context requires otherwise –

"**the Air Pollution Ordinance**" means the Environmental Pollution (Air Pollution) Ordinance, 2019, and

"**black smoke**" means smoke which, if compared in the appropriate manner with a Ringelmann Smoke Chart, would appear to be as dark as or darker than shade 4 on that Chart.

(2) For the purposes of Schedule 2, a vessel is not under way when it is at anchor or made fast to the shore or bottom, and a vessel which is aground is deemed to be under way.

Citation and commencement.

3. These Regulations may be cited as the Air Pollution (Dark Smoke) (Exemptions) Regulations, 2019 and shall come into force on the 2nd December, 2019.

Dated this 29th day of November, 2019

A handwritten signature in black ink, appearing to read 'Tobin Cook', written in a cursive style.

TOBIN COOK

Director of Environmental Health and Pollution Regulation

SCHEDULE 1

Regulation 1(1)

EXEMPTIONS FOR EMISSIONS FROM CHIMINEYS OF BUILDINGS, FIXED
BOILERS AND INDUSTRIAL PLANT ETC.

Column 1 Exempted matter	Column 2 Conditions
1. Explosives which have become waste and matter which has been contaminated by such explosives.	Conditions A and B.
2. Matter which is burnt in connection with— (a) research into the cause or control of fire, or (b) training in fire fighting.	Condition B.
3. Tar, pitch, asphalt and other matter which is burnt in connection with – (a) the preparation and laying of any surface, or (b) which is burnt off any surface in connection with resurfacing, together with any fuel used for any such purpose.	Condition B.
4. Carcasses of animals which – (a) have died, or are reasonably believed to have died because of disease, (b) have been slaughtered because of disease, or (c) have been required to be slaughtered under the	Conditions A and B, unless the burning is carried out by or on behalf of the Committee for the Environment & Infrastructure under – (a) the Animal Health Ordinance, 1996, (b) the Avian Influenza (Precautionary Measures) and Miscellaneous Provisions (Amendment)

<p>Animal Health Ordinance, 1996^c, the Avian Influenza (Precautionary Measures) and Miscellaneous Provisions (Amendment) Ordinance, 2006^d or any other enactment relating to the spread of diseases in animals.</p>	<p>Ordinance, 2006, or (c) any other enactment relating to the spread of diseases in animals.</p>
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Interpretation of the Schedule.

1. (1) In this Schedule –

"**animal**" means any vertebrate except man,

"**Condition A**" means that there is no other reasonably safe and practicable method of disposing of the matter,

"**Condition B**" means that the burning is carried out under the direct and continuous supervision of the occupier of the premises concerned or a person authorised to act on his behalf, and

"**explosive**" has the meaning in the Explosives (Guernsey) Law, 1905^e.

- (2) In this Schedule references to matter which has become contaminated by other specified matter are to be read as including matter which is reasonably believed to be so contaminated.

^c Ordinance No. XI of 1996; amended by Ordinance No. XX of 2001, No. XXXII of 2003, No. XXXIII of 2003, No. VII of 2006, No. XXXIV of 2006 and No. IX of 2016; amended by G.S.I. No. 56 of 2002, No. 59 of 2013, No. 59 of 2017, No. 91 of 2018 and Nos. 25 and 35 of 2019.

^d Ordinance No. XXXIV of 2006; amended by Order in Council No. XIII of 2010 and Ordinance No. III of 2012 and No. IX of 2016.

^e Ordres en Conseil Vol. III, p. 414 and Vol. XXXIV, p. 586.

SCHEDULE 2

Regulation 1(2)

EXEMPTIONS FOR EMISSIONS FROM CHIMNEYS OF VESSELS

<p>Column 1 Class of case</p>	<p>Column 2 Permitted period for emission of dark smoke</p>
<p>1. Emissions from a forced draught oil-fired boiler furnace, or an oil engine.</p>	<p>10 minutes in total in any period of 2 hours.</p>
<p>2. Emissions from a natural draught oil-fired boiler furnace (except in a case falling within class 4).</p>	<p>10 minutes in total in any period of 1 hour.</p>
<p>3. Emissions from a coal-fired boiler furnace –</p> <p style="padding-left: 40px;">(a) when the vessel is not under way (except in the cases falling within class 4, or</p>	<p>10 minutes in total in any period of 1 hour.</p>
<p style="padding-left: 40px;">(b) when the vessel is under way.</p>	<p>20 minutes in total in any period of 1 hour.</p>
<p>4. Emissions from a natural draught oil-fired boiler furnace or a coal-fired boiler furnace in the following cases -</p> <p style="padding-left: 40px;">(a) a tug not under way, but preparing to get under way or supplying power to other vessels or to shore installations, or</p>	<p>20 minutes in total in any period of 1 hour.</p>

<p>(b) a vessel not under way but using main power for the purpose of dredging, lifting, pumping or performing some other special operation for which the vessel is designed.</p>	
<p>5. Emissions from any other source.</p>	<p>5 minutes in total in any period of 1 hour.</p>

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for exemptions from the prohibitions relating to the emission of dark smoke from chimneys of buildings, fixed boilers and industrial plant etc. and from vessels in section 4 of the Environmental Pollution (Air Pollution) Ordinance, 2019.

Regulation 1(1) and Schedule 1 set out the exemptions applying to all emissions except those from vessels; the burning of matter set out in column 1 of the Schedule is exempt provided that the corresponding conditions in column 2 of the Schedule are met.

Regulation 1(2) and Schedule 2 set out the exemptions applying to emissions from chimneys of vessels; emissions of dark smoke described in column 1 of Schedule 2, for periods not exceeding those set out in column 2 of Schedule 2, are exempt provided that the requirements in paragraphs (a) and (b) of regulation 1(2) are met.

These Regulations come into force on the 2nd day of December, 2019.