STATUTORY RULES OF NORTHERN IRELAND

1998 No. 328

EUROPEAN COMMUNITIES
CLEAN AIR

The Smoke Control Areas (Sale or Delivery of Unauthorised Fuel) Regulations (Northern Ireland) 1998

Made - - - -	*16th September 1998*
Coming into operation	*15th October 1998*

The Department of the Environment, being a Department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the control of air pollution, in exercise of the powers conferred on it by that section, and of all others powers enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Smoke Control Areas (Sale or Delivery of Unauthorised Fuel) Regulations (Northern Ireland) 1998, and shall come into operation on 15th October 1998.

Interpretation

2.—(1) In these Regulations—

"authorised fuel" has the same meaning as in Article 2(2) of the Clean Air (Northern Ireland) Order 1981(**3**);

"authorised officer" means an officer authorised by a district council for the purposes of these Regulations;

"the Department" means the Department of the Environment;

"deliver" includes deposit with or consign to any person;

"fireplace" has the same meaning as in Article 2(2) of the Clean Air (Northern Ireland) Order 1981;

"private dwelling" has the same meaning as in Article 2(5) of the Clean Air (Northern Ireland) Order 1981;

(**1**) S.I.1988/785
(**2**) 1972 c. 68
(**3**) S.I. 1981/158 (N.I. 4)

"relevant information" means any information held in whatever form dealing with the acquisition, sale, or storage of solid fuel;

"sell" includes possess for the purpose of sale or offer or expose for sale;

"smoke control area" means the whole or part of the district of a council declared in accordance with Article 17 of the Clean Air (Northern Ireland) Order 1981 to be a smoke control area;

"trade premises" means any place where solid fuel is held for sale or delivery, and includes any vehicle used for the delivery of such fuel.

(2) The Interpretation Act (Northern Ireland) 1954(**4**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Sale or delivery of unauthorised fuel in smoke control areas

3.—(1) Subject to paragraph (2), in a smoke control area a person shall not sell by retail or deliver in the course of retail sale any solid fuel other than an authorised fuel.

(2) Paragraph (1) shall not prohibit—

(a) the delivery of any such fuel to premises other than a private dwelling;

(b) the possession of any such fuel in a smoke control area for the purpose of its sale or delivery to any premises not within a smoke control area; or

(c) the delivery of any such fuel for use in a class of fireplace exempted from the provisions of Article 17 of the Clean Air (Northern Ireland) Order 1981 by regulations made under paragraph (7) of that Article.

Exemptions

4. Regulation 3 shall not apply to the sale or delivery of—

(a) solid fuel held on trade premises in a smoke control area on the date of commencement of these Regulations; or

(b) sticks and paper for use only for kindling purposes in a fireplace.

Enforcement

5. These Regulations shall be enforced and executed by each district council within its district.

Powers of entry

6.—(1) An authorised officer may, for the purpose of determining whether an offence has been committed under these Regulations, at any reasonable time and on production, if so required, of his authority—

(a) enter any trade premises on which he has reasonable cause to believe that it is necessary for him to enter;

(b) inspect any solid fuel which has been sold or delivered to such premises in a smoke control area;

(c) take a sample of such fuel from such premises;

(d) submit the sample referred to in sub-paragraph (*c*) for testing to a laboratory approved by the Department, for the purpose of determining whether or not it is authorised fuel; and

(e) request and inspect any relevant information and, where any such information is kept by means of a computer—

(**4**) 1954 c. 33 (N.I.)