

## **BOROUGH OF HAVANT**

### **STRAW AND STUBBLE BURNING**

Byelaws made under Section 235 of the Local Government Act 1972 by the Council of the Borough of Havant for the good rule and government of the Borough of Havant and for the prevention and suppression of nuisances.

### **EXTENT OF BYELAWS**

1. These byelaws shall extend to the whole of the district of the Council of the Borough of Havant.

### **RESTRICTIONS ON BURNING**

2. No person shall, on agricultural land, commence to burn any straw or stubble remaining on such land after the harvesting of any cereal crop which has been grown thereon, or knowingly cause or permit the commencement of burning of such straw or stubble at any time –
  - (a) During the period beginning one hour before sunset and ending at sunrise; or
  - (b) On any Saturday, Sunday or Bank holiday.
3. No person shall commence to burn or knowingly cause or permit the commencement of burning of such straw or stubble unless the area in which it is intended to burn such straw or stubble is more than 150 metres from any other area where such straw or stubble is being burned.
4. (1) No person shall commence to burn or knowingly cause or permit the commencement of burning of any area of such straw or stubble unless that area –
  - (a) Does not exceed 10 hectares; and
  - (b) Is bounded on all sides and at every place where the area to be burned must be distanced from any point or object in accordance with subparagraphs (c) and (d) below by a firebreak not less than 5 metres in width; and
  - (c) Is not less than 15 metres from:-
    - i. The trunk of any tree;
    - ii. Any hedgerow;
    - iii. Any fence not belonging to the occupier of land upon which the straw or stubble is to be burned the greater part of which is constructed of combustible material;
    - iv. Any pole which is or may be used to carry telegraph wires; and
  - (d) Is not less than 25 metres from:-
    - i. Any residential building;

- ii. Any structure having a thatched roof;
- iii. Any building, structure, fixed plant or machinery the greater part of which is constructed of combustible material or glass or both;
- iv. Any scheduled monument the greater part of which is constructed of combustible material;
- v. Any stack of hay or straw;
- vi. Any accumulation of combustible material other than straw removed in the construction of a firebreak;
- vii. Any standing cereal, oil seed or pulse crop;
- viii. Any woodland or nature reserve.

(2) Any straw which is:-

- (a) Between any object from which the area to be burned must be distanced in accordance with sub-paragraph (c) of paragraph (1) above and any firebreak; and
- (b) Within 15 metres of the area to be burned

Shall so far as is reasonably practicable be removed to a distance of not less than 25 metres from such object or incorporated into the soil prior to the commencement of burning.

(3) Any straw which is :-

- (a) Between any object from which the area to be burned must be distanced in accordance with sub-paragraph (d) of paragraph (1) above and any firebreak: and
- (b) Within 25 metres of the area to be burned

Shall so far as is reasonably practicable be removed or incorporated into the soil prior to the commencement of burning.

5. (1) No person who has commenced to burn or knowingly caused or permitted the commencement of burning of such straw or stubble shall without reasonable excuse cause or permit (whether knowingly or not) a fire to cross a firebreak to any area where burning has not otherwise been commenced.

(2) Without prejudice to the generality of the words "reasonable excuse" within paragraph (1) above, it shall be a reasonable excuse within that paragraph if a person shows that the construction of the firebreak was such that he could not reasonably have foreseen that the fire would travel across it.

6. No person shall burn or knowingly cause or permit the burning of any area of such straw or stubble unless during the whole time the material is burning the operation is under the supervision of at least two responsible persons present at the burning of that area, of whom one is in charge of the operation and is experienced in the burning of straw and stubble.

7. No person shall commence to burn or knowingly cause or permit the commencement of burning of such straw or stubble on any day unless not less than one hour's notice has been given on that day to:
- i. The County Fire Control of the Hampshire County Fire Brigade; and
  - ii. If available, such officer of the Council of the Borough of Havant as the Council may appoint for the purpose of receiving such notice.
8. No person shall, without reasonable excuse, burn or knowingly cause or permit the burning of any area of such straw or stubble unless during the whole of the time the material is burning the following means for fighting fire are available at the burning of that area, that is to say –
- (a) Not less than 500 litres of water in one or more mobile containers together with a means of dispensing the water for firefighting purposes; and
  - (b) Not less than five implements suitable for use for firebeating purposes.
9. The occupier of the land on which such straw or stubble has been burned shall not, without reasonable excuse, permit any ash or carbonised residues, not incorporated into the soil of the land, to remain for a period of more than 36 hours after the commencement of the burning on an area on which straw or stubble has been burned.

### **DEFENCE**

10. In proceedings against any person for an offence under byelaw 3 or 6 above it shall be a defence for that person to prove that he had taken all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

### **PENALTY**

11. Any person contravening any of these byelaws shall be liable on summary conviction of a fine not exceeding £2,000.

### **INTERPRETATION**

12. In these byelaws-

"combustible material" means material capable of undergoing combustion;

"combustion" means consumption by oxidation with the production of heat; usually with incandescence or flame or both;

"Council" means the Council of the Borough of Havant:

“firebreak” means an area of ground of which the surface consists wholly or mainly of any substance other than combustible material.

“nature reserve” has the same meaning as in Section 15 of the National Parks and Access to the Countryside Act 1949

“scheduled monument” has the same meaning as in Section 1 of the Ancient Monuments and Archaeological Areas Act 1979; and

### **REVOCATIONS**

13. The byelaws with respect to straw and stubble burning made by the Council on the 10<sup>th</sup> day of May 1984 and confirmed by the Secretary of State on the 28<sup>th</sup> day of June 1984 are hereby revoked.

ON THE 29<sup>TH</sup> DAY of NOVEMBER 1985  
THE COMMON SEAL OF THE COUNCIL OF  
THE BOROUGH OF HAVANT was hereunto  
affixed in the presence of:-

Borough Secretary

The foregoing byelaw(s) are hereby confirmed by the Secretary of State and shall come into operation on the 19 day of February 1986.

Signed by Authority of the Secretary of State

M. E. HEAD  
An Assistant Under-Secretary of State

5 Feb 1986  
Home Office  
London, Sw1