

Status: Law In Force

Control of Pollution Act 1974 c. 40

Part III NOISE

Construction sites

This version in force from: **January 1, 1976 to present**

(version 1 of 1)

60.— Control of noise on construction sites.

(1) This section applies to works of the following description, that is to say—

(a) the erection, construction, alteration, repair or maintenance of buildings, structures or roads;

(b) breaking up, opening or boring under any road or adjacent land in connection with the construction, inspection, maintenance or removal of works;

(c) demolition or dredging work; and

(d) (whether or not also comprised in paragraph (a), (b) or (c) above) any work of engineering construction.

(2) Where it appears to a local authority that works to which this section applies are being, or are going to be, carried out on any premises, the local authority may serve a notice imposing requirements as to the way in which the works are to be carried out and may if it thinks fit publish notice of the requirements in such way as appears to the local authority to be appropriate.

(3) The notice may in particular—

(a) specify the plant or machinery which is, or is not, to be used;

(b) specify the hours during which the works may be carried out;

(c) specify the level of noise which may be emitted from the premises in question or at any specified point on those premises or which may be so emitted during specified hours; and

(d) provide for any change of circumstances.

(4) In acting under this section the local authority shall have regard—

(a) to the relevant provisions of any code of practice issued under this Part of this Act;

(b) to the need for ensuring that the best practicable means are employed to minimise noise;

(c) before specifying any particular methods or plant or machinery, to the desirability in the interests of any recipients of the notice in question of specifying other methods or plant or machinery which would be substantially as effective in minimising noise and more acceptable to them;

(d) to the need to protect any persons in the locality in which the premises in question are situated from the effects of noise.

(5) A notice under this section shall be served on the person who appears to the local authority to be carrying out, or going to carry out, the works, and on such other persons appearing to the local authority to be responsible for, or to have control over, the carrying out of the works as the local authority thinks fit.

(6) A notice under this section may specify the time within which the notice is to be complied with, and may require the execution of such works, and the taking of such other steps, as may be necessary for the purpose of the notice, or as may be specified in the notice.

(7) A person served with a notice under this section may appeal against the notice to a magistrates' court within twenty one days from the service of the notice.

(8) If a person on whom a notice is served under this section without reasonable excuse contravenes any requirement of the notice he shall be guilty of an offence against this Part of this Act.

1

2

Notes

1.

Power to transfer certain functions conferred by Public Health (Control of Disease) Act 1984 (c.22), s. 7(3)(a)(4)(g)

2.

Pt. III (ss. 57–74) extended by Electricity Act 1989 (c.29), s. 112(1)(3), (ss. 57–74) Sch. 16 para. 1(1)(xxvii), Sch. 17 paras. 33, 35(1)

Modifications

| | |
|----------------|--|
| Whole Document | Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1 |
| Pt III | Modified by Heysham Port Health Authority Order 2011/2197, art. 5(2), Sch. 1 para. 1 |
| | Modified in relation to the functions, rights and liabilities assigned to the joint board by virtue of SI 2010/2676 by Tyne Port Health Authority Order 2010/2676, art. 8(2) |
| Pt III s. 60 | Modified by Bristol Port Health Authority Order 2010/1214, art. 4(2) |
| | Modified by Channel Tunnel Rail Link Act 1996 c. 61, Pt I s. 29(3) |

| | |
|-----------------|--|
| | Modified by Cornwall Port Health Authority Order 2010/1215, art. 4(2) |
| | Modified by Cowes Port Health Authority Order 2010/1216, art. 4(2) |
| | Modified by Crossrail Act 2008 c. 18, s. 20 |
| | Modified by Forth Crossing Act 2011 asp 2 (Scottish Act), Pt 9 s. 70(1) |
| | Modified by London Underground (East London Line Extension) (No. 2) Order 2001/3682, Pt IV art. 32 |
| | Modified by Portsmouth Port Health Authority Order 2010/1217, art. 4(2) |
| | Modified by Railtrack (Leeds Bridges) Order 1999/2336, Pt IV art. 22 |
| | Modified by Southampton Port Health Authority Order 2010/1218, art. 4(2) |
| Pt III s. 60(7) | Modified by Channel Tunnel Rail Link Act 1996 c. 61, Pt I s. 29(2) |
| | Modified by Railtrack (Shortlands Junction) Order 2001/2870, Pt IV art. 21 |

Crown Copyright material is reproduced with the permission of the Controller of HMSO and the Queen's Printer for Scotland

Subject: Environment

Keywords: Construction sites; Local authorities' powers and duties; Noise; Notices

Status: Law In Force

Control of Pollution Act 1974 c. 40

Part III NOISE

Construction sites

This version in force from: **May 1, 2005** to **present**

(version 3 of 3)

61.— Prior consent for work on construction sites.

(1) A person who intends to carry out works to which the preceding section applies may apply to the local authority for a consent under this section.

(2) Where approval under building regulations[...]

[1](#)

, or in Scotland a [building warrant]

[2](#)

under [section 9 of the Building (Scotland) Act 2003 (asp 8)]

[3](#)

, is required for the carrying out of the works, the application under this section must be made at the same time as, or later than, the request for the approval under building regulations or, as the case may be, the application for a [building warrant]

[2](#)

under the said Act of [2003]

[4](#)

.

(3) An application under this section shall contain particulars of—

(a) the works, and the method by which they are to be carried out; and

(b) the steps proposed to be taken to minimise noise resulting from the works.

(4) If the local authority considers that the application contains sufficient information for the purpose and that, if the works are carried out in accordance with the application, it would not serve a notice under the preceding section in respect of those works, the local authority shall give its consent to the application.

(5) In acting under this section a local authority shall have regard to the considerations set out in subsection (4) of the preceding section and shall have power to—

(a) attach any conditions to a consent; and

(b) limit or qualify a consent to allow for any change in circumstances; and

(c) limit the duration of a consent,

and any person who knowingly carries out the works, or permits the works to be carried out, in contravention of any conditions attached to a consent under this section shall be guilty of an offence against this Part of this Act.

(6) The local authority shall inform the applicant of its decision on the application within twenty-eight days from receipt of the application; and if the local authority gives its consent to the application it may if it thinks fit publish notice of the consent, and of the works to which it relates, in such way as appears to the local authority to be appropriate.

(7) If—

(a) the local authority does not give a consent within the said period of twenty-eight days; or

(b) the local authority gives its consent within the said period of twenty-eight days but attaches any condition to the consent or limits or qualifies the consent in any way,

the applicant may appeal to a magistrates' court within twenty-one days from the end of that period.

(8) In any proceedings for an offence under section 60(8) of this Act it shall be a defence to prove that the alleged contravention amounted to the carrying out of the works in accordance with a consent given under this section.

(9) A consent given under this section shall contain a statement to the effect that the consent does not of itself constitute any ground of defence against any proceedings instituted under [...]

[5](#)

[section 82 of the Environmental Protection Act 1990[...]

[5](#)

]

[6](#)

.

(10) Where a consent has been given under this section and the works are carried out by a person other than the applicant for the consent, it shall be the duty of the applicant to take all reasonable steps to bring the consent to the notice of that other person; and if he fails to comply with this subsection he shall be guilty of an offence against this Part of this Act.

Notes

1. Words repealed by Building Act 1984 (c.55), s. 133(2), Sch. 7
2. Word substituted by Building (Scotland) Act 2003 asp 8 (Scottish Act) Sch.6 para.10(a) (May 1, 2005)
3. Word substituted by Building (Scotland) Act 2003 asp 8 (Scottish Act) Sch.6 para.10(c)(i) (May 1, 2005)
4. Word substituted by Building (Scotland) Act 2003 asp 8 (Scottish Act) Sch.6 para.10(c)(ii) (May 1, 2005)
5. Words repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)
- 6.

Words inserted by Environmental Protection Act 1990 (c.43), s. 162(1), Sch. 15 para. 15(3)

Modifications

| | |
|-----------------|--|
| Whole Document | Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1 |
| Pt III | Modified by Heysham Port Health Authority Order 2011/2197, art. 5(2), Sch. 1 para. 1 |
| | Modified in relation to the functions, rights and liabilities assigned to the joint board by virtue of SI 2010/2676 by Tyne Port Health Authority Order 2010/2676, art. 8(2) |
| Pt III s. 61 | Modified by Bristol Port Health Authority Order 2010/1214, art. 4(2) |
| | Modified by Channel Tunnel Rail Link Act 1996 c. 61, Pt I s. 29(3) |
| | Modified by Cornwall Port Health Authority Order 2010/1215, art. 4(2) |
| | Modified by Cowes Port Health Authority Order 2010/1216, art. 4(2) |
| | Modified by Crossrail Act 2008 c. 18, s. 20 |
| | Modified by Forth Crossing Act 2011 asp 2 (Scottish Act), Pt 9 s. 70(2) |
| | Modified by London Underground (East London Line Extension) (No. 2) Order 2001/3682, Pt IV art. 32 |
| | Modified by Portsmouth Port Health Authority Order 2010/1217, art. 4(2) |
| | Modified by Railtrack (Leeds Bridges) Order 1999/2336, Pt IV art. 22 |
| | Modified by Southampton Port Health Authority Order 2010/1218, art. 4(2) |
| Pt III s. 61(7) | Modified by Channel Tunnel Rail Link Act 1996 c. 61, Pt I s. 29(2) |
| | Modified by Railtrack (Shortlands Junction) Order 2001/2870, Pt IV art. 21 |

Crown Copyright material is reproduced with the permission of the Controller of HMSO and the Queen's Printer for Scotland

Subject: Environment

Keywords: Applications; Consent; Construction sites; Noise

Status: Law In Force Amendment(s) Pending

Control of Pollution Act 1974 c. 40

Part III NOISE

Noise in streets

This version in force from: **April 1, 2013** to **present**

(version 8 of 8)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:

[England](#) | [Wales](#) | [Scotland](#)

England

[

62.— Noise in streets.

(1) Subject to the provisions of this section, a loudspeaker in a street shall not be operated—

(a) between the hours of nine in the evening and eight in the following morning, for any purpose;

(b) at any other time, for the purpose of advertising any entertainment, trade or business;

and any person who operates or permits the operation of a loudspeaker in contravention of this subsection shall be guilty of an offence against this Part of this Act.

In this section “street” means a highway and any other road, footway, square or court which is for the time being open to the public.

(1A) Subject to subsection (1B) of this section, the Secretary of State may by order amend the times specified in subsection (1)(a) of this section.

(1B) An order under subsection (1A) of this section shall not amend the times so as to permit the operation of a loudspeaker in a street at any time between the hours of nine in the evening and eight in the following morning.

(2) Subsection (1) of this section shall not apply to the operation of a loudspeaker—

(a) for police, fire and rescue authority or ambulance purposes, by the Environment Agency, [the Natural Resources Body for Wales,]

[Z](#)

a water undertaker or a sewerage undertaker in the exercise of any of its functions, or by a local authority within its area;

(b) for communicating with persons on a vessel for the purpose of directing the movement of that or any other vessel;

(c) if the loudspeaker forms part of a public telephone system;

(d) if the loudspeaker—

(i) is in or fixed to a vehicle, and

(ii) is operated solely for the entertainment of or for communicating with the driver or a passenger of the vehicle or, where the loudspeaker is or forms part of the horn or similar warning instrument of the vehicle, solely for giving warning to other traffic, and

(iii) is so operated as not to give reasonable cause for annoyance to persons in the vicinity;

(e) otherwise than on a highway, by persons employed in connection with a transport undertaking used by the public in a case where the loudspeaker is operated solely for making announcements to passengers or prospective passengers or to other persons so employed;

(f) by a travelling showman on land which is being used for the purposes of a pleasure fair;

(g) in case of emergency.

(3) Subsection (1)(b) of this section shall not apply to the operation of a loudspeaker between the hours of noon and seven in the evening on the same day if the loudspeaker—

(a) is fixed to a vehicle which is being used for the conveyance of a perishable commodity for human consumption; and

(b) is operated solely for informing members of the public (otherwise than by means of words) that the commodity is on sale from the vehicle; and

(c) is so operated as not to give reasonable cause for annoyance to persons in the vicinity.

(3A) Subsection (1) of this section shall not apply to the operation of a loudspeaker in accordance with a consent granted by a local authority under Schedule 2 to the Noise and Statutory Nuisance Act 1993.

(4) An offence under this section in Scotland may be prosecuted in any court of summary jurisdiction within the meaning of the Summary Jurisdiction (Scotland) Act 1954 having jurisdiction in the place where the offence was committed.

Wales

62.— Noise in streets.

(1) Subject to the provisions of this section, a loudspeaker in a street shall not be operated—

(a) between the hours of nine in the evening and eight in the following morning, for any purpose;

(b) at any other time, for the purpose of advertising any entertainment, trade or business;

and any person who operates or permits the operation of a loudspeaker in contravention of this subsection shall be guilty of an offence against this Part of this Act.

[In this section]

¹

“street” means a highway and any other road, footway, square or court which is for the time being open to the public.

[

(1A) Subject to subsection (1B) of this section, the Secretary of State may by order amend the times specified in subsection (1)(a) of this section.

(1B) An order under subsection (1A) of this section shall not amend the times so as to permit the operation of a loudspeaker in a street at any time between the hours of nine in the evening and eight in the following morning.

]

²

(2) [Subsection (1) of this section]

³

shall not apply to the operation of a loudspeaker—

(a) for police, [fire and rescue authority]

⁴

or ambulance purposes, by [the [Environment Agency]

⁶

, [the Natural Resources Body for Wales,]

⁷

a water undertaker or a sewerage undertaker]

⁵

in the exercise of any of its functions, or by a local authority within its area;

(b) for communicating with persons on a vessel for the purpose of directing the movement of that or any other vessel;

(c) if the loudspeaker forms part of a public telephone system;

(d) if the loudspeaker—

(i) is in or fixed to a vehicle, and

(ii) is operated solely for the entertainment of or for communicating with the driver or a passenger of the vehicle or, where the loudspeaker is or forms part of the horn or similar warning instrument of the vehicle, solely for giving warning to other traffic, and

(iii) is so operated as not to give reasonable cause for annoyance to persons in the vicinity;

(e) otherwise than on a highway, by persons employed in connection with a transport undertaking used by the public in a case where the loudspeaker is operated solely for making announcements to passengers or prospective passengers or to other persons so employed;

(f) by a travelling showman on land which is being used for the purposes of a pleasure fair;

(g) in case of emergency.

(3) Subsection (1)(b) of this section shall not apply to the operation of a loudspeaker between the hours of noon and seven in the evening on the same day if the loudspeaker—

(a) is fixed to a vehicle which is being used for the conveyance of a perishable commodity for human consumption; and

(b) is operated solely for informing members of the public (otherwise than by means of words) that the commodity is on sale from the vehicle; and

(c) is so operated as not to give reasonable cause for annoyance to persons in the vicinity.

[

(3A) Subsection (1) of this section shall not apply to the operation of a loudspeaker in accordance with a consent granted by a local authority under Schedule 2 to the Noise and Statutory Nuisance Act 1993.

]

[8](#)

(4) An offence under this section in Scotland may be prosecuted in any court of summary jurisdiction within the meaning of the Summary Jurisdiction (Scotland) Act 1954 having jurisdiction in the place where the offence was committed.

Scotland

62.— Noise in streets.

(1) Subject to the provisions of this section, a loudspeaker in a [road]

[10](#)

shall not be operated—

(a) between the hours of nine in the evening and eight in the following morning, for any purpose;

(b) at any other time, for the purpose of advertising any entertainment, trade or business;

and any person who operates or permits the operation of a loudspeaker in contravention of this subsection shall be guilty of an offence against this Part of this Act.

[...]

[11](#)

[

(1A) Subject to subsection (1B) of this section, the Secretary of State may by order amend the times specified in subsection (1)(a) of this section.

(1B) An order under subsection (1A) of this section shall not amend the times so as to permit the operation of a loudspeaker in a street at any time between the hours of nine in the evening and eight in the following morning.

]

[2](#)

(2) [Subsection (1) of this section]

[3](#)

shall not apply to the operation of a loudspeaker—

(a) for police [...]

[12](#)

or ambulance purposes, [for or in connection with the exercise of any function of [the Scottish Fire and Rescue Service]

[13](#)

),]

[12](#)

by [Scottish Water]

[14](#)

in the exercise of any of its [core functions (within the meaning of section 70(2) of the Water Industry (Scotland) Act 2002) (asp 3)]

[14](#)

, or by a local authority within its area;

(b) for communicating with persons on a vessel for the purpose of directing the movement of that or any other vessel;

(c) if the loudspeaker forms part of a public telephone system;

(d) if the loudspeaker—

(i) is in or fixed to a vehicle, and

(ii) is operated solely for the entertainment of or for communicating with the driver or a passenger of the vehicle or, where the loudspeaker is or forms part of the horn or similar warning instrument of the vehicle, solely for giving warning to other traffic, and

(iii) is so operated as not to give reasonable cause for annoyance to persons in the vicinity;

(e) otherwise than on a [public road (within the meaning of the Roads (Scotland) Act 1984)]

[15](#)

, by persons employed in connection with a transport undertaking used by the public in a case where the loudspeaker is operated solely for making announcements to passengers or prospective passengers or to other persons so employed;

(f) by a travelling showman on land which is being used for the purposes of a pleasure fair;

(g) in case of emergency.

(3) Subsection (1)(b) of this section shall not apply to the operation of a loudspeaker between the hours of noon and seven in the evening on the same day if the loudspeaker—

(a) is fixed to a vehicle which is being used for the conveyance of a perishable commodity for human consumption; and

(b) is operated solely for informing members of the public (otherwise than by means of words) that the commodity is on sale from the vehicle; and

(c) is so operated as not to give reasonable cause for annoyance to persons in the vicinity.

[

(3A) Subsection (1) of this section shall not apply to the operation of a loudspeaker in accordance with a consent granted by a local authority under Schedule 2 to the Noise and Statutory Nuisance Act 1993.

]

[8](#)

(4) An offence under this section in Scotland may be prosecuted in any court of summary jurisdiction within the meaning of the Summary Jurisdiction (Scotland) Act 1954 having jurisdiction in the place where the offence was committed.

[\[Back to Top\]](#)

Notes

- [1.](#) Words substituted by Noise and Statutory Nuisance Act 1993 c. 40 s.7(2) (January 5, 1994)
- [2.](#) Added by Noise and Statutory Nuisance Act 1993 c. 40 s.7(3) (January 5, 1994)
- [3.](#) Words substituted by Noise and Statutory Nuisance Act 1993 c. 40 s.7(4) (January 5, 1994)
- [4.](#) Words substituted by Fire and Rescue Services Act 2004 c. 21 Sch.1 para.45 (November 10, 2004 as SI 2004/2917)
- [5.](#) Words substituted by Water Act 1989 (c.15), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 48(7), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58
- [6.](#) Words substituted by Environment Act 1995 c. 25 Sch.22 para.28 (April 1, 1996)
- [7.](#) Words inserted by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.116 (April 1, 2013: insertion has effect subject to transitional provisions specified in SI 2013/755 art.10 and Sch.7)
- [8.](#) Added by Noise and Statutory Nuisance Act 1993 c. 40 s.7(5) (January 5, 1994)
- [9.](#) Words substituted by Fire and Rescue Services Act 2004 c. 21 Sch.1 para.45 (October 1, 2004 as SI 2004/2304)
- [10.](#) Words substituted by Roads (Scotland) Act 1984 (c.54), s. 156(1), Sch. 9 para. 74(5)(a)(i), Sch. 11
- [11.](#) Words repealed by Roads (Scotland) Act 1984 (c.54), s. 156(1), Sch. 9 para. 74(5)(a)(ii), Sch. 11
- [12.](#) Amended by Fire (Scotland) Act 2005 asp 5 (Scottish Act) Sch.3 para.6 (August 2, 2005)
- [13.](#) Words substituted by Police and Fire Reform (Scotland) Act 2012 asp 8 (Scottish Act) Sch.7(2) para.50 (April 1, 2013)
- [14.](#) Words substituted by Water Industry (Scotland) Act 2002 (Consequential Provisions) Order 2003/331 (Scottish SI) Sch.1(l) para.4(5) (June 25, 2003)
- [15.](#) Words substituted by Roads (Scotland) Act 1984 (c.54), s. 156(1), Sch. 9 para. 74(5)(b)

Modifications

| | |
|----------------|--|
| Whole Document | Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1 |
| Pt III | Modified by Heysham Port Health Authority Order 2011/2197, art. 5(2), Sch. 1 para. 1 |
| | Modified in relation to the functions, rights and liabilities assigned to the joint board by virtue of SI 2010/2676 by Tyne Port Health Authority Order 2010/2676, art. 8(2) |

| | |
|--------------|--|
| Pt III s. 62 | Modified by Bristol Port Health Authority Order 2010/1214, art. 4(2) |
| | Modified by Cornwall Port Health Authority Order 2010/1215, art. 4(2) |
| | Modified by Cowes Port Health Authority Order 2010/1216, art. 4(2) |
| | Modified by Portsmouth Port Health Authority Order 2010/1217, art. 4(2) |
| | Modified by Southampton Port Health Authority Order 2010/1218, art. 4(2) |

Crown Copyright material is reproduced with the permission of the Controller of HMSO and the Queen's Printer for Scotland

Subject: Environment

Keywords: Noise; Roads

Status: Law In Force

Control of Pollution Act 1974 c. 40

Part III NOISE

Noise from plant or machinery

This version in force from: **May 26, 2015** to **present**

(version 2 of 2)

68.— Noise from plant or machinery.

(1) Provision may be made by regulations—

(a) for requiring the use on or in connection with plant or machinery of devices or arrangements for reducing the noise caused by the plant or machinery;

(b) for limiting the level of noise which may be caused by any plant or machinery when used for works to which section 60 of this Act applies or which may be caused outside a factory within the meaning of the Factories Act 1961 by the use of plant or machinery in the factory;

and regulations under this section may apply standards, specifications, descriptions or tests laid down in documents not forming part of the regulations.

(2) It shall be the duty of the Secretary of State, before he makes regulations under this section, to consult persons appearing to him to represent producers and users of plants and machinery with a view to ensuring that the regulations do not contain requirements which in his opinion would be impracticable or involve unreasonable expense.

[

(2A) Subsection (2) does not apply to regulations which apply only in relation to England.

]

1

(3) Any person who contravenes or causes or permits another person to contravene regulations under this section shall be guilty of an offence against this Part of this Act; but in any proceedings for a contravention or regulations made in pursuance of paragraph (a) of subsection (1) of this section it shall be a defence to prove that means were used for the purpose of reducing the noise in question which were not less effective for that purpose than the means required by the regulations.

(4) Without prejudice to the generality of section 104(1)(a) of this Act, different regulations may be made under this section for different localities, and it shall be the duty of each local authority to enforce the provisions of regulations under this section within its area; but nothing in this section shall be taken to authorise a local authority in Scotland to institute proceedings for any offence.

(5) Nothing in this section or in regulations under this section shall be construed as derogating from any other provision of this Part of this Act.

Notes

1. Added by Deregulation Act 2015 c. 20 Sch.22(1) para.4 (May 26, 2015)

Modifications

| | |
|----------------|--|
| Whole Document | Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1 |
| Pt III | Modified by Heysham Port Health Authority Order 2011/2197, art. 5(2), Sch. 1 para. 1 |
| | Modified in relation to the functions, rights and liabilities assigned to the joint board by virtue of SI 2010/2676 by Tyne Port Health Authority Order 2010/2676, art. 8(2) |
| Pt III s. 68 | Modified by Bristol Port Health Authority Order 2010/1214, art. 4(2) |
| | Modified by Cornwall Port Health Authority Order 2010/1215, art. 4(2) |
| | Modified by Cowes Port Health Authority Order 2010/1216, art. 4(2) |
| | Modified by Portsmouth Port Health Authority Order 2010/1217, art. 4(2) |
| | Modified by Southampton Port Health Authority Order 2010/1218, art. 4(2) |

Crown Copyright material is reproduced with the permission of the Controller of HMSO and the Queen's Printer for Scotland

Subject: Environment

Keywords: Ministers' powers and duties; Noise; Plant and machinery; Regulations

Status: Law In Force

Control of Pollution Act 1974 c. 40

Part III NOISE

Supplemental

This version in force from: **Date not available to present**

(version 1 of 1)

70.— Appeals to Secretary of State and magistrates' court.

(1) Where any provision in this Part of this Act provides for an appeal to a magistrates' court, the procedure shall be by way of complaint for an order and [the Magistrates' Courts Act 1980]

[1](#)

shall apply to the proceedings.

(2) The Secretary of State may make regulations as to appeals under this Part of this Act to the Secretary of State or, subject to the preceding subsection, to magistrates' courts; and the regulations may in particular—

(a) include provisions comparable to those in section 290 of the Public Health Act 1936 (appeals against notices requiring the execution of works);

(b) prescribe the cases in which a notice under this Part of this Act is, or is not, to be suspended until the appeal is decided, or until some other stage in the proceedings;

(c) prescribe the cases in which the decision on appeal may in some respects be less favourable to the appellant than the decision from which he is appealing;

(d) prescribe the cases in which the appellant may claim that a notice should have been served on some other person and prescribe the procedure to be followed in those cases.

(3) Regulations under this section may prescribe the procedure and practice as respect appeals to the Secretary of State under this Part of this Act, and in particular may make provision as respects—

(a) the particulars to be included in the notice of appeal;

(b) the persons on whom notice of appeal is to be served and the particulars, if any, to accompany the notice; and

(c) the abandonment of an appeal.

(4) In entertaining any appeal under this Part of this Act the Secretary of State, or as the case may be the magistrates' court, shall have regard to any duty imposed by law on the appellant which concerns the activities in the course of which the noise is emitted.

(5) In the application of this section to Scotland, subsection (1) and the reference to that subsection in subsection (2) shall not have effect.

2

3

Notes

1. Words substituted by virtue of Interpretation Act 1978 (c. 30), s. 17(2)(a)
2. Power to transfer certain functions conferred by Public Health (Control of Disease) Act 1984 (c.22), s. 7(3)(a)(4)(g)
3. Pt. III (ss. 57–74) extended by Electricity Act 1989 (c.29), s. 112(1)(3), (ss. 57–74) Sch. 16 para. 1(1)(xxvii), Sch. 17 paras. 33, 35(1)

Modifications

| | |
|-----------------|--|
| Whole Document | Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1 |
| Pt III | Modified by Heysham Port Health Authority Order 2011/2197, art. 5(2), Sch. 1 para. 1 |
| | Modified in relation to the functions, rights and liabilities assigned to the joint board by virtue of SI 2010/2676 by Tyne Port Health Authority Order 2010/2676, art. 8(2) |
| Pt III s. 70(1) | Modified by Bristol Port Health Authority Order 2010/1214, art. 4(2) |
| | Modified by Cornwall Port Health Authority Order 2010/1215, art. 4(2) |
| | Modified by Cowes Port Health Authority Order 2010/1216, art. 4(2) |
| | Modified by Portsmouth Port Health Authority Order 2010/1217, art. 4(2) |
| | Modified by Southampton Port Health Authority Order 2010/1218, art. 4(2) |
| Pt III s. 70(4) | Modified by Bristol Port Health Authority Order 2010/1214, art. 4(2) |
| | Modified by Cornwall Port Health Authority Order 2010/1215, art. 4(2) |
| | Modified by Cowes Port Health Authority Order 2010/1216, art. 4(2) |
| | Modified by Portsmouth Port Health Authority Order 2010/1217, art. 4(2) |
| | Modified by Southampton Port Health Authority Order 2010/1218, art. 4(2) |

Crown Copyright material is reproduced with the permission of the Controller of HMSO and the Queen's Printer for Scotland

Subject: Environment

Keywords: Appeals; Magistrates' courts; Noise; Regulations; Secretaries of State

Status: Law In Force

Control of Pollution Act 1974 c. 40

Part III NOISE

Supplemental

This version in force from: **January 1, 1976 to present**

(version 1 of 1)

71.— Codes of practice for minimising noise.

(1) For the purpose of giving guidance on appropriate methods (including the use of specified types of plant or machinery) for minimising noise, the Secretary of State may—

(a) prepare and approve and issue such codes of practice as in his opinion are suitable for the purpose; and

(b) approve such codes of practice issued or proposed to be issued otherwise than by the Secretary of State as in the opinion of the Secretary of State are suitable for the purpose.

(2) The Secretary of State shall under paragraph (a) or paragraph (b) of the preceding subsection approve a code of practice for the carrying out of works to which section 60 of this Act applies.

(3) The powers conferred by this section on the Secretary of State shall be exercisable by order, and shall include power to vary or revoke a previous order under this section.

1

2

Notes

1. Power to transfer certain functions conferred by Public Health (Control of Disease) Act 1984 (c.22), s. 7(3)(a)(4)(g)
2. Pt. III (ss. 57–74) extended by Electricity Act 1989 (c.29), s. 112(1)(3), (ss. 57–74) Sch. 16 para. 1(1)(xxvii), Sch. 17 paras. 33, 35(1)

Modifications

| | |
|----------------|--|
| Whole Document | Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1 |
| Pt III | Modified by Heysham Port Health Authority Order 2011/2197, art. 5(2), Sch. 1 para. 1 |
| | Modified in relation to the functions, rights and liabilities assigned to the joint board by virtue of SI 2010/2676 by Tyne Port Health Authority Order 2010/2676, art. 8(2) |

Crown Copyright material is reproduced with the permission of the Controller of HMSO and the Queen's Printer for Scotland

Subject: Environment

Keywords: Codes of practice; Ministers' powers and duties; Noise

Status: Law In Force

Control of Pollution Act 1974 c. 40

Part III NOISE

Supplemental

This version in force from: **January 1, 1976 to present**

(version 1 of 1)

72.— “Best practicable means”.

(1) This section shall apply for the construction of references in this Part of this Act to best practicable means.

(2) In that expression “*practicable*” means reasonably practicable having regard among other things to local conditions and circumstances, to the current state of technical knowledge and to the financial implications.

(3) The means to be employed include the design, installation, maintenance and manner and periods of operation of plant and machinery, and the design, construction and maintenance of buildings and acoustic structures.

(4) The test of best practicable means is to apply only so far as compatible with any duty imposed by law, and in particular is to apply to statutory undertakers only so far as compatible with the duties imposed on them in their capacity of statutory undertakers.

(5) The said test is to apply only so far as compatible with safety and safe working conditions, and with the exigencies of any emergency or unforeseeable circumstances.

(6) Subject to the preceding provisions of this section, regard shall be had, in construing references to “*best practicable means*”, to any relevant provision of a code of practice approved under the preceding section.

[1](#)

[2](#)

Notes

[1.](#) Power to transfer certain functions conferred by Public Health (Control of Disease) Act 1984 (c.22), s. 7(3)(a)(4)(g)

[2.](#) Pt. III (ss. 57–74) extended by Electricity Act 1989 (c.29), s. 112(1)(3), (ss. 57–74) Sch. 16 para. 1(1)(xxvii), Sch. 17 paras. 33, 35(1)

Modifications

| | |
|----------------|---|
| Whole Document | Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1 |
| Pt III | Modified by Heysham Port Health Authority Order 2011/2197, art. 5(2), Sch. 1 para. 1 |

| | |
|--------------|--|
| | Modified in relation to the functions, rights and liabilities assigned to the joint board by virtue of SI 2010/2676 by Tyne Port Health Authority Order 2010/2676, art. 8(2) |
| Pt III s. 72 | Modified by Bristol Port Health Authority Order 2010/1214, art. 4(2) |
| | Modified by Cornwall Port Health Authority Order 2010/1215, art. 4(2) |
| | Modified by Cowes Port Health Authority Order 2010/1216, art. 4(2) |
| | Modified by Portsmouth Port Health Authority Order 2010/1217, art. 4(2) |
| | Modified by Southampton Port Health Authority Order 2010/1218, art. 4(2) |

Crown Copyright material is reproduced with the permission of the Controller of HMSO and the Queen's Printer for Scotland

Subject: Environment

Keywords: Best practicable means; Noise

Status: Law In Force

Control of Pollution Act 1974 c. 40

Part III NOISE

Supplemental

This version in force from: **October 1, 2015 to present**

(version 8 of 8)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:

[England and Wales](#) | [Scotland](#)

England and Wales

73.— Interpretation and other supplementary provisions.

(1) Except where the context otherwise requires, in this Part of this Act—

“*contravention*” includes a failure to comply with the provision in question, and “*contravene*” shall be construed accordingly;

“*local authority*” means —

(a) in England and Wales, the council of a district or a London borough, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple; and

(b) in Scotland, an islands or district council;

“*noise*” includes vibration;

[...]

[18](#)

“*statutory undertakers*” means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of [...]

[9](#)

[...]

[10](#)

[hydraulic power]

[19](#)

, and includes the Port Office;

“*work of engineering construction*” means the construction, structural alteration, maintenance or repair of any railway line or siding or any dock, harbour, inland navigation, tunnel, bridge, viaduct, waterworks, reservoir, pipeline, aqueduct, sewer, sewage works or gasholder.

(2) The area of a local authority which includes part of the seashore shall also include for the purposes of this Part of this Act, except [section 62]

[20](#)

, the territorial sea lying seawards from that part of the shore; and—

[...]

[15](#)

(b) this Part of this Act (except [section 62]

[20](#)

and this subsection) shall have effect, in relation to any area included in the area of a local authority by virtue of this subsection—

(i) as if references to premises and the occupier of premises included respectively a vessel and the master of a vessel, and

(ii) with such other modifications, if any, as are prescribed.

(3) Where more than one person is responsible for noise, this Part of this Act shall apply to each of those persons whether or not what any one of them is responsible for would by itself amount to a nuisance, or would result in a level of noise justifying action under this Part of this Act.

(4) This Part of this Act does not apply to noise caused by aircraft other than model aircraft and does not confer functions on port health authorities.

[\[Back to Top\]](#)

Scotland

73.— Interpretation and other supplementary provisions.

(1) Except where the context otherwise requires, in this Part of this Act—

“contravention” includes a failure to comply with the provision in question, and *“contravene”* shall be construed accordingly;

[...]

[1](#)

“local authority” means —

(a) in England [...]

[2](#)

, the council of a district or a London borough, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple; [...]

[3](#)

[

(aa) in Wales, the council of a county or a county borough; and

]
[3](#)

(b) in Scotland, [a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]

[4](#)

;

“noise” includes vibration;

[...]
[5](#)

[...]
[6](#)

[...]
[7](#)

[...]
[8](#)

[...]
[1](#)

“statutory undertakers” means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of [...]

[9](#)

[...]
[10](#)

hydraulic power or water, and includes [a universal service provider (within the meaning of [Part 3 of the Postal Services Act 2011]

[12](#)

) in his capacity as a person who provides a universal postal service (within the meaning of [that Part]

[13](#)

)]
[11](#)

;

“work of engineering construction” means the construction, structural alteration, maintenance or repair of any railway line or siding or any dock, harbour, inland navigation, tunnel, bridge, viaduct, waterworks, reservoir, pipeline, aqueduct, sewer, sewage works or gasholder.

(2) The area of a local authority which includes part of the seashore shall also include for the purposes of this Part of this Act, except [section 62]

[14](#)

, the territorial sea lying seawards from that part of the shore; and—

[...]

15

(b) this Part of this Act (except [section 62]

14

and this subsection) shall have effect, in relation to any area included in the area of a local authority by virtue of this subsection—

(i) as if references to premises and the occupier of premises included respectively a vessel and the master of a vessel, and

(ii) with such other modifications, if any, as are prescribed.

(3) Where more than one person is responsible for noise, this Part of this Act shall apply to each of those persons whether or not what any one of them is responsible for would by itself amount to a nuisance, or would result in a level of noise justifying action under this Part of this Act [...]

16

.

[

(3A) In the definition of “*statutory undertakers*” in subsection (1), “*enactment*” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.

]

17

(4) This Part of this Act does not apply to noise caused by aircraft other than model aircraft and does not confer functions on port health authorities.

[\[Back to Top\]](#)

Notes

1. Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)
2. Words repealed by Local Government (Wales) Act 1994 c. 19 Sch.18 para.1 (April 1, 1996: by SI 1996/396)
3. Added by Local Government (Wales) Act 1994 c. 19 Sch.9 para.10(3) (April 1, 1996)
4. Words substituted by Local Government etc. (Scotland) Act 1994 c. 39 Sch.13 para.95(7) (April 1, 1996)
5. Definition repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(4) para.16(7)(a)(i) (June 30, 2014)
6. Definition repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(4) para.16(7)(a)(ii) (June 30, 2014)
7. Definition repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(4) para.16(7)(a)(iii) (June 30, 2014)
8. Definition repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(4) para.16(7)(a)(iv) (June 30, 2014)
9. Word repealed by Electricity Act 1989 (c.29), s. 112(3)(4), Sch. 17 paras. 33, 35(1), Sch. 18

- [10](#) . Word repealed by Gas Act 1986 (c.44), s. 67(4), Sch. 9 Pt. I
- [11](#) . Words substituted by Postal Services Act 2000 (Consequential Modifications No. 1) Order 2001/1149 Sch.1(1) para.38 (March 26, 2001)
- [12](#) . Words substituted by Postal Services Act 2011 c. 5 Sch.12(3) para.97(a) (October 1, 2011)
- [13](#) . Words substituted by Postal Services Act 2011 c. 5 Sch.12(3) para.97(b) (October 1, 2011)
- [14](#) . Words substituted by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(4) para.16(7)(b) (June 30, 2014)
- [15](#) . S. 73(2)(a) repealed by Local Government, Planning and Land Act 1980 (c. 65), Sch. 34 Pt. II
- [16](#) . Words repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)
- [17](#) . Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(6) para.39(2) (June 30, 2014)
- [18](#) . Definitions repealed by Deregulation Act 2015 c. 20 Sch.13(5) para.13(a) (October 1, 2015)
- [19](#) . Words substituted by Water Act 1989 (c.15), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 48(8), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58
- [20](#) . Words substituted by Deregulation Act 2015 c. 20 Sch.13(5) para.13(b) (October 1, 2015)

Modifications

| | |
|----------------|--|
| Whole Document | Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1 |
| Pt III | Modified by Heysham Port Health Authority Order 2011/2197, art. 5(2), Sch. 1 para. 1 |
| | Modified in relation to the functions, rights and liabilities assigned to the joint board by virtue of SI 2010/2676 by Tyne Port Health Authority Order 2010/2676, art. 8(2) |
| Pt III s. 73 | Modified by Bristol Port Health Authority Order 2010/1214, art. 4(2) |
| | Modified by Cornwall Port Health Authority Order 2010/1215, art. 4(2) |
| | Modified by Cowes Port Health Authority Order 2010/1216, art. 4(2) |
| | Modified by Portsmouth Port Health Authority Order 2010/1217, art. 4(2) |
| | Modified by Southampton Port Health Authority Order 2010/1218, art. 4(2) |

Crown Copyright material is reproduced with the permission of the Controller of HMSO and the Queen's Printer for Scotland

Subject: Environment

Keywords: Interpretation; Noise; Supplemental provisions

Status: Law In Force

Control of Pollution Act 1974 c. 40

Part III NOISE

Supplemental

This version in force from: **June 30, 2014 to present**

(version 4 of 4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:

[England and Wales](#) | [Scotland](#)

England and Wales

74.— Penalties.

(1) [A]

¹

person guilty of an offence against this Part of this Act shall be liable on summary conviction—

(a) in the case of a first offence against this Part of this Act, to a fine not exceeding [level 5 on the standard scale]

²

; and

(b) in the case of a second or subsequent offence against this Part of this Act, to a fine not exceeding [level 5 on the standard scale]

²

,

together, in any case, with a further fine not exceeding £50 for each day on which the offence continues after the conviction.

(2) In determining whether an offence is a second or subsequent offence against this Part of this Act, account shall be taken of any offence—

(a) under section 24 of the Public Health (Scotland) Act 1897 by way of contravening a decree or interdict relating to noise; or

(b) under section 95 of the Public Health Act 1936 by way of contravening a nuisance order relating to noise [; or]

³

[

(c) under section 80(4) of the Environmental Protection Act 1990,

]

[4](#)

as if it were an offence against this Part of this Act.

[\[Back to Top\]](#)

Scotland

[

74.— Penalties.

(1) A person guilty of an offence against this Part of this Act shall be liable on summary conviction—

(a) to a fine not exceeding level 5 on the standard scale [.]

[6](#)

[...]

[6](#)

[...]

[6](#)

]

[5](#)

[\[Back to Top\]](#)

Notes

- [1.](#) Words repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)
- [2.](#) Substituted (E.W.) by virtue of Criminal Justice Act 1982 (c. 48), ss. 38, 46 and (S.) by Criminal Procedure (Scotland) Act 1975 (c. 21), ss. 289F, 289G (as inserted by Criminal Justice Act 1982 (c. 48), s. 54)
- [3.](#) Word inserted by Environmental Protection Act 1990 (c.43), s. 162(1), Sch. 15 para. 15(5)
- [4.](#) Subsection inserted by Environmental Protection Act 1990 (c.43), s. 162(1), Sch. 15 para. 15(5)
- [5.](#) Words repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(4) para.16(8)(a) (June 30, 2014)
- [6.](#) S.74(1)(b), (2) and words repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(4) para.16(8)(b) (June 30, 2014)

Modifications

| | |
|----------------|---|
| Whole Document | Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 |
|----------------|---|

| | |
|--------------|--|
| | para. 1 |
| Pt III | Modified by Heysham Port Health Authority Order 2011/2197, art. 5(2), Sch. 1 para. 1 |
| | Modified in relation to the functions, rights and liabilities assigned to the joint board by virtue of SI 2010/2676 by Tyne Port Health Authority Order 2010/2676, art. 8(2) |
| Pt III s. 74 | Modified by Bristol Port Health Authority Order 2010/1214, art. 4(2) |
| | Modified by Cornwall Port Health Authority Order 2010/1215, art. 4(2) |
| | Modified by Cowes Port Health Authority Order 2010/1216, art. 4(2) |
| | Modified by Portsmouth Port Health Authority Order 2010/1217, art. 4(2) |
| | Modified by Southampton Port Health Authority Order 2010/1218, art. 4(2) |

Crown Copyright material is reproduced with the permission of the Controller of HMSO and the Queen's Printer for Scotland

Subject: Environment

Keywords: Noise; Offences; Penalties