



# Clean Neighbourhoods and Environment Act 2005

## 2005 CHAPTER 16

### PART 9

#### MISCELLANEOUS

#### *Statutory nuisances*

#### **101 Statutory nuisance: insects**

- (1) Section 79 of the Environmental Protection Act 1990 (statutory nuisances and inspections) is amended as follows.
- (2) In subsection (1) (matters constituting statutory nuisances) after paragraph (f) insert—
  - “(fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance;”.
- (3) After subsection (5) insert—
  - “(5A) Subsection (1)(fa) does not apply to insects that are wild animals included in Schedule 5 to the Wildlife and Countryside Act 1981 (animals which are protected), unless they are included in respect of section 9(5) of that Act only.”
- (4) In subsection (7) at the appropriate place insert—
  - ““appropriate person” means—
    - (a) in relation to England, the Secretary of State;
    - (b) in relation to Wales, the National Assembly for Wales;”.
- (5) After subsection (7B) (as inserted by section 102(6)) insert—
  - “(7C) In this Part “relevant industrial, trade or business premises” means premises that are industrial, trade or business premises as defined in subsection (7), but excluding—

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**Changes to legislation:** *Clean Neighbourhoods and Environment Act 2005, Cross Heading: Statutory nuisances is up to date with all changes known to be in force on or before 11 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (a) land used as arable, grazing, meadow or pasture land,
- (b) land used as osier land, reed beds or woodland,
- (c) land used for market gardens, nursery grounds or orchards,
- (d) land forming part of an agricultural unit, not being land falling within any of paragraphs (a) to (c), where the land is of a description prescribed by regulations made by the appropriate person, and
- (e) land included in a site of special scientific interest (as defined in section 52(1) of the Wildlife and Countryside Act 1981),

and excluding land covered by, and the waters of, any river or watercourse, that is neither a sewer nor a drain, or any lake or pond.

(7D) For the purposes of subsection (7C)—

“agricultural” has the same meaning as in section 109 of the Agriculture Act 1947;

“agricultural unit” means land which is occupied as a unit for agricultural purposes;

“drain” has the same meaning as in the Water Resources Act 1991;

“lake or pond” has the same meaning as in section 104 of that Act;

“sewer” has the same meaning as in that Act.”

#### Commencement Information

- I1** S. 101 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, art. 3
- I2** S. 101 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), Sch. 2
- I3** S. 101 in force at 31.1.2007 (being the date on which S.I. 2007/117 came into force) for W. by S.I. 2006/2797, art. 6(a) (as amended by S.I. 2007/120, art. 3(c)(d))

## 102 Statutory nuisance: lighting

- (1) Section 79 of the Environmental Protection Act 1990 (c. 43) is amended as follows.
- (2) In subsection (1) (matters constituting statutory nuisances) after paragraph (fa) (as inserted by section 101 (2)) insert—
  - “(fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance;”.
- (3) In subsection (2) (exception from subsection (1)(b) and (g) for premises occupied for defence purposes) after “Subsection (1)(b)” insert “, (fb) ”.
- (4) After subsection (5A) (as inserted by section 101 (3)) insert—
  - “(5B) Subsection (1)(fb) does not apply to artificial light emitted from—
    - (a) an airport;
    - (b) harbour premises;
    - (c) railway premises, not being relevant separate railway premises;
    - (d) tramway premises;
    - (e) a bus station and any associated facilities;
    - (f) a public service vehicle operating centre;

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- (g) a goods vehicle operating centre;
- (h) a lighthouse;
- (i) a prison.”

(5) In subsection (7) (definitions) at the appropriate place insert—

““airport” has the meaning given by section 95 of the Transport Act 2000;”;

““associated facilities”, in relation to a bus station, has the meaning given by section 83 of the Transport Act 1985;”;

““bus station” has the meaning given by section 83 of the Transport Act 1985;”;

““goods vehicle operating centre”, in relation to vehicles used under an operator's licence, means a place which is specified in the licence as an operating centre for those vehicles, and for the purposes of this definition “operating centre” and “operator's licence” have the same meaning as in the Goods Vehicles (Licensing of Operators) Act 1995;”;

““harbour premises” means premises which form part of a harbour area and which are occupied wholly or mainly for the purposes of harbour operations, and for the purposes of this definition “harbour area” and “harbour operations” have the same meaning as in Part 3 of the Aviation and Maritime Security Act 1990;”;

““lighthouse” has the same meaning as in Part 8 of the Merchant Shipping Act 1995;”;

““prison” includes a young offender institution;”;

““public service vehicle operating centre”, in relation to public service vehicles used under a PSV operator's licence, means a place which is an operating centre of those vehicles, and for the purposes of this definition “operating centre”, “PSV operator's licence” and “public service vehicle” have the same meaning as in the Public Passenger Vehicles Act 1981;”;

““railway premises” means any premises which fall within the definition of “light maintenance depot”, “network”, “station” or “track” in section 83 of the Railways Act 1993;”;

““relevant separate railway premises” has the meaning given by subsection (7A);”;

““tramway premises” means any premises which, in relation to a tramway, are the equivalent of the premises which, in relation to a railway, fall within the definition of “light maintenance depot”, “network”, “station” or “track” in section 83 of the Railways Act 1993;”.

(6) After subsection (7) insert—

“(7A) Railway premises are relevant separate railway premises if—

- (a) they are situated within—
  - (i) premises used as a museum or other place of cultural, scientific or historical interest, or

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- (ii) premises used for the purposes of a funfair or other entertainment, recreation or amusement, and
- (b) they are not associated with any other railway premises.

(7B) For the purposes of subsection (7A)—

- (a) a network situated as described in subsection (7A)(a) is associated with other railway premises if it is connected to another network (not being a network situated as described in subsection (7A)(a));
- (b) track that is situated as described in subsection (7A)(a) but is not part of a network is associated with other railway premises if it is connected to track that forms part of a network (not being a network situated as described in subsection (7A)(a));
- (c) a station or light maintenance depot situated as described in subsection (7A)(a) is associated with other railway premises if it is used in connection with the provision of railway services other than services provided wholly within the premises where it is situated.

In this subsection “light maintenance depot”, “network”, “railway services”, “station” and “track” have the same meaning as in Part 1 of the Railways Act 1993.”

- (7) In subsection (8) (port health authority to have functions of local authority under Part 3 of that Act, except those relating to statutory nuisance within section 79(1)(g) or (ga)) after “paragraph” insert “ (fb), ”.
- (8) In subsection (10) (consent of Secretary of State or National Assembly for Wales required before taking proceedings for certain statutory nuisances) after “paragraph (b), (d), (e)” insert “ , (fb) ”.

#### Commencement Information

- I4** S. 102 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), Sch. 2
- I5** S. 102 in force at 31.1.2007 (being the date on which S.I. 2007/120, art. 2, Sch. came into force) for W. by S.I. 2006/2797, art. 7(a) (as amended by S.I. 2007/120, art. 3(e)-(h))

### 103 Sections 101 and 102: supplementary

- (1) The Environmental Protection Act 1990 (c. 43) is amended as follows.
- (2) In section 80(8) (summary proceedings for statutory nuisances: defence of best practicable means not available in certain cases)—
  - (a) in paragraph (a) after “paragraph (a), (d), (e), (f)” insert “ , (fa) ”, and
  - (b) after paragraph (a) insert—
    - “(aza) in the case of a nuisance falling within paragraph (fb) of section 79(1) above except where—
      - (i) the artificial light is emitted from industrial, trade or business premises, or
      - (ii) the artificial light (not being light to which subparagraph (i) applies) is emitted by lights used for the purpose only of illuminating an outdoor relevant sports facility;”.

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(3) After section 80(8) insert—

“(8A) For the purposes of subsection (8)(aza) a relevant sports facility is an area, with or without structures, that is used when participating in a relevant sport, but does not include such an area comprised in domestic premises.

(8B) For the purposes of subsection (8A) “relevant sport” means a sport that is designated for those purposes by order made by the Secretary of State, in relation to England, or the National Assembly for Wales, in relation to Wales.

A sport may be so designated by reference to its appearing in a list maintained by a body specified in the order.

(8C) In subsection (8A) “domestic premises” means—

- (a) premises used wholly or mainly as a private dwelling, or
- (b) land or other premises belonging to, or enjoyed with, premises so used.”

(4) In section 82(10) (summary proceedings by aggrieved person: defence of best practicable means not available in certain cases)—

- (a) in paragraph (a) after “paragraph (a), (d), (e), (f)” insert “, (fa)”, and
- (b) after paragraph (a) insert—

“(aza) in the case of a nuisance falling within paragraph (fb) of section 79(1) above except where—

- (i) the artificial light is emitted from industrial, trade or business premises, or
- (ii) the artificial light (not being light to which subparagraph (i) applies) is emitted by lights used for the purpose only of illuminating an outdoor relevant sports facility;”.

(5) After section 82(10) insert—

“(10A) For the purposes of subsection (10)(aza) “relevant sports facility” has the same meaning as it has for the purposes of section 80(8)(aza).”

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**Commencement Information**

- I6** S. 103 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, art. 3
- I7** S. 103 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), Sch. 2
- I8** S. 103(1)(2)(b)(3)(4)(b)(5) in force at 31.1.2007 (being the date on which S.I. 2007/120, art. 2, Sch. came into force) for W. in so far as not already in force by S.I. 2006/2797, art. 7(b) (as amended by S.I. 2007/120, art. 3(e)-(h))
- I9** S. 103(2)(a)(4)(a) in force at 31.1.2007 (being the date on which S.I. 2007/117 came into force) for W. in so far as not already in force by S.I. 2006/2797, art. 6(b) (as amended by S.I. 2007/120, art. 3(c)(d))

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**Commencement Orders yet to be applied to the Clean Neighbourhoods and Environment Act 2005**

Commencement Orders bringing provisions within this Act into force:

- [S.I. 2007/120 art. 3](#) Amendment to earlier commencing S.I. 2006/2797