



Crossrail Act 2008

2008 CHAPTER 18

Noise

20 Control of construction sites: appeals

- (1) In the Control of Pollution Act 1974 (c. 40), sections 60 (control of noise on construction sites) and 61 (prior consent for work on construction sites) shall have effect, in relation to works carried out in exercise of the powers conferred by this Act, with the following modifications.
- (2) In subsection (7) (appeal against failure to give consent or the giving of qualified consent), for “a magistrates' court” there shall be substituted “the Secretary of State”.
- (3) After that subsection there shall be inserted—

“(7A) If within seven days of the giving of notice of appeal under subsection (7) of this section the appellant and the local authority so agree, the appeal shall, instead of being determined by the Secretary of State, be referred to arbitration.”
- (4) The Secretary of State for Environment, Food and Rural Affairs and the Secretary of State for Transport acting jointly may, in relation to appeals which are referred to arbitration under subsection (7A) of section 60 or 61 of the Control of Pollution Act 1974 (c. 40), by regulations made by statutory instrument make any such provision as may be made by regulations under section 70 of that Act in relation to appeals under Part 3 of that Act to the Secretary of State.
- (5) A statutory instrument containing regulations under subsection (4) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

21 Proceedings in respect of statutory nuisance: defence

- (1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990 (c. 43) (summary proceedings by person aggrieved by statutory nuisance) in relation to—

Status: This is the original version (as it was originally enacted).

- (a) a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises), or
- (b) a nuisance falling within paragraph (ga) of that provision (noise emitted by vehicle, machinery or equipment in a street),

no order shall be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows that subsection (2) applies.

(2) This subsection applies if—

- (a) the nuisance relates to premises or, as the case may be, to a vehicle, machinery or equipment, used by the nominated undertaker for the purposes of or in connection with the exercise of the powers conferred by this Act with respect to works, and
- (b) the nuisance is attributable to the carrying out of works which are being carried out in accordance with a notice served under section 60, or a consent given under section 61 or 65, of the Control of Pollution Act 1974.

(3) The following provisions of the Control of Pollution Act 1974—

- (a) section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990), and
- (b) section 65(8) (corresponding provision in relation to consent for registered noise level to be exceeded),

shall not apply where the consent relates to the use of premises or, as the case may be, of a vehicle, machinery or equipment by the nominated undertaker for the purposes of or in connection with the exercise of the powers conferred by this Act with respect to works.