



# Control of Pollution Act 1974

## 1974 CHAPTER 40

### PART III

#### NOISE

##### *Construction sites*

**Modifications etc. (not altering text)**

**C1** S. 60 modified (9.11.2001) by [S.I. 2001/3682](#), [art. 32](#)

#### **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;

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- (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.

**Modifications etc. (not altering text)**

- C2** S. 60 modified (18.7.2001) by [S.I. 2001/2870, art. 21](#)
- C3** S. 60 applied (with modifications) (20.8.1999) by [S.I. 1999/2336, art. 22](#)
- C4** S. 60 modified (18.12.1996) by [1996 c. 61, s. 29](#)

**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 [<sup>F1</sup>under Part II of the <sup>M1</sup>Public Health Act 1936], or in Scotland a [<sup>F2</sup>building warrant] under [<sup>F3</sup>section 9] of the Building (Scotland) Act [<sup>F4</sup>2003 (asp 8)], 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 [<sup>F2</sup>building warrant] under the said Act of [<sup>F5</sup>2003].
- (3) An application under this section shall contain particulars of—

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- (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 . . . <sup>F6</sup>[<sup>F7</sup>section 82 of the Environmental Protection Act 1990].
- (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.

#### Textual Amendments

- F1** Words repealed (E.W.) by [Building Act 1984 \(c. 55, SIF 15\)](#), s. 133(2), [Sch. 7](#)
- F2** Words in s. 61(2) substituted (S.) (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), s. 59(1), [Sch. 6 para. 10\(a\)](#) (with s. 53); [S.S.I. 2004/404](#), art. 2(1)
- F3** Words in s. 61(2) substituted (S.) (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), s. 59(1), [Sch. 6 para. 10\(b\)](#) (with s. 53); [S.S.I. 2004/404](#), art. 2(1)

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- F4** Words in s. 61(2) substituted (S.) (1.5.2005) by Building (Scotland) Act 2003 (asp 8), s. 59(1), **Sch. 6 para. 10(c)(i)** (with s. 53); S.S.I. 2004/404, art. 2(1)
- F5** Word in s. 61(2) substituted (S.) (1.5.2005) by Building (Scotland) Act 2003 (asp 8), s. 59(1), **Sch. 6 para. 10(c)(ii)** (with s. 53); S.S.I. 2004/404, art. 2(1)
- F6** Words in s. 61(9) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F7** Words inserted by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(1), **Sch. 15 para. 15(3)**

#### **Modifications etc. (not altering text)**

- C5** S. 61 modified (9.11.2001) by S.I. 2001/3682, **art. 32**
- C6** S. 61 modified (18.7.2001) by S.I. 2001/2870, **art. 21**
- C7** S. 61 modified (18.12.1996) by 1996 c. 61, **s. 29**
- C8** S. 61(9) excluded (9.11.2001) by S.I. 2001/3682, **art. 31(2)(a)**
- C9** S. 61(9) restricted (18.7.2001) by S.I. 2001/2870, **art. 22(2)(a)**
- C10** S. 61(9) applied (with modifications) (20.8.1999) by S.I. 1999/2336, **art. 22**
- C11** S. 61(9) restricted (18.12.1996) by 1996 c. 61, **s. 30(2)**
- C12** S. 61(9) excluded (20.8.1999) by S.I. 1999/2336, **art. 23(2)**
- C13** S. 61(9) excluded (30.4.2002) by The Docklands Light Railway (Silvertown and London City Airport Extension) Order 2002 (S.I. 2002/1066), **art. 43(2)(a)**
- C14** S. 61(9) excluded (28.4.2003) by Network Rail (West Coast Main Line) Order 2003 (S.I. 2003/1075), arts. 1, **35(2)(a)** (with art. 40)
- C15** S. 61(9) excluded (4.3.2004) by The Network Rail (West Coast Main Line) Order 2004 (S.I. 2004/389), arts. 1, **33(2)(a)** (with art. 38)
- C16** S. 61(9) excluded (2.4.2004) by The Docklands Light Railway (Woolwich Arsenal Extension) Order 2004 (S.I. 2004/757), arts. 1, **50(2)(a)** (with art. 50(3))
- C17** S. 61(9) excluded (11.2.2005) by The Merseytram (Liverpool City Centre to Kirkby) Order 2005 (S.I. 2005/120), arts. 1, **73(2)** (with arts. 65, 66)
- C18** S. 61(9) excluded (4.5.2005) by The Telford Railfreight Terminal (Donnington) Order 2005 (S.I. 2005/1163), arts. 1, **20(2)(a)**
- C19** S. 61(9) excluded (25.11.2005) by The Docklands Light Railway (Capacity Enhancement) Order 2005 (S.I. 2005/3105), arts. 1, **48(2)(a)** (with arts. 3(5), 15(3))
- C20** S. 61(9) excluded (22.11.2006) by The Docklands Light Railway (Stratford International Extension) Order 2006 (S.I. 2006/2905), arts. 1, **46(2)(a)** (with arts. 43, 46(3))
- C21** S. 61(9) excluded (13.12.2006) by The Network Rail (Thameslink 2000) Order 2006 (S.I. 2006/3117), arts. 1, **36(2)(a)** (with arts. 34, 35(2))
- C22** S. 61(9) excluded (30.5.2007) by The Mersey Docks and Harbour Company (Seaforth River Terminal) Harbour Revision Order 2007 (S.I. 2007/1440), arts. 1(1), **17(2)(a)** (with arts. 19, 20)
- C23** S. 61(9) excluded (23.8.2007) by The Docklands Light Railway (Capacity Enhancement and 2012 Games Preparation) Order 2007 (S.I. 2007/2297), arts. 1, **41(2)(a)** (with arts. 3(6), 12(3), 41(3))

#### **Marginal Citations**

- M1** 1936 c. 49.

**Status:**

Point in time view as at 23/08/2007.

**Changes to legislation:**

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