



Control of Pollution Act 1974

1974 CHAPTER 40

PART III

NOISE

Supplemental

^{F1}69 Execution of works by local authority.

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Textual Amendments

- F1** S. 69 repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), Sch. 3 para. 16(2)(p); [S.S.I. 2014/160](#), art. 2(1)(2), Sch.
- S. 69 omitted (E.W.) (1.10.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 13 para. 12](#); [S.I. 2015/1732](#), art. 2(f)

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 [^{F2}the ^{M1}Magistrates' Courts Act 1980] 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 ^{M2}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;

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- (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.

Textual Amendments

F2 Words substituted by virtue of [Interpretation Act 1978 \(c. 30\), s. 17\(2\)\(a\)](#)

Marginal Citations

M1 1980 c. 43.

M2 1936 c. 49.

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.

72 “Best practicable means”.

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

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- (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.

73 Interpretation and other supplementary provisions. **E+W**

- (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 ^{F3} . . . , 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;
 - (aa) [^{F4}in Wales, the council of a county or a county borough;] and
 - (b) in Scotland, an islands or district council;
 - “noise” includes vibration;
^{F5} ...
^{F5} ...
^{F5} ...
^{F5} ...
 - “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 . . . ^{F6} , . . . ^{F7} , [^{F8}or hydraulic power], and includes [^{F9}a universal service provider (within the meaning of [^{F10}Part 3 of the Postal Services Act 2011]) in his capacity as a person who provides a universal postal service (within the meaning of [^{F11}that Part])];
 - “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 [^{F12}section 62] , the territorial sea lying seawards from that part of the shore; and—
 - ^{F13}(a)

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- (b) this Part of this Act (except [^{F12}section 62] 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.

Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland.

Textual Amendments

- F3** S. 73(1): words in the definition of “local authority” repealed (1.4.1996) by 1994 c. 19, ss. 22(3), 66(8), Sch. 9 para. 10(3), **Sch. 18** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, arts. 3, 4, Schs. 1, 2
- F4** S. 73(1): para. (aa) in the definition of “local authority” inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 10(3)** (with ss. 54(4)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**
- F5** Words in s. 73(1) omitted (E.W.) (1.10.2015) by virtue of **Deregulation Act 2015** (c. 20), s. 115(7), **Sch. 13 para. 13(a)**; S.I. 2015/1732, art. 2(f)
- F6** Word repealed by **Electricity Act 1989** (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 paras. 33, 35(1), **Sch. 18**
- F7** “gas,” repealed by **Gas Act 1986** (c. 44, SIF 44:2), s. 67(4), **Sch. 9 Pt. I**
- F8** Words in s. 73(1) substituted (E.W.) by **Water Act 1989** (c. 15, SIF 130), 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**
- F9** S. 73(1): By S.I. 2001/1149, art. 3(1), **Sch. 1 para. 38** it is provided (26.3.2001) that in the definition of “statutory undertakers” the words “a universal service provider (within the meaning of the Postal Services Act 2000) in his capacity as a person who provides a universal postal service (within the meaning of that Act)” shall be substituted for the words “the Post Office”
- F10** Words in s. 73(1) substituted (1.10.2011) by **Postal Services Act 2011** (c. 5), s. 93(2)(3), **Sch. 12 para. 97(a)**; S.I. 2011/2329, art. 3
- F11** Words in s. 73(1) substituted (1.10.2011) by **Postal Services Act 2011** (c. 5), s. 93(2)(3), **Sch. 12 para. 97(b)**; S.I. 2011/2329, art. 3
- F12** Words in s. 73(2) substituted (E.W.) (1.10.2015) by **Deregulation Act 2015** (c. 20), s. 115(7), **Sch. 13 para. 13(b)**; S.I. 2015/1732, art. 2(f)
- F13** S. 73(2)(a) repealed by **Local Government, Planning and Land Act 1980** (c. 65), **Sch. 34 Pt. II**

Modifications etc. (not altering text)

- C10** S. 73 extended by **Gas Act 1986** (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxix), **Sch. 8 para. 33**
s. 73 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xxii)**; S.I. 1996/218, art. 2

73 Interpretation and other supplementary provisions. **S**

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

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

F20

“local authority” means—

- (a) in England . . . ^{F3}, 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;
- (aa) [^{F4}in Wales, the council of a county or a county borough;] and
- (b) in Scotland, an islands or district council;

“noise” includes vibration;

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“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 . . . ^{F6}, . . . ^{F7}, [^{F8}or hydraulic power], and includes [^{F9}a universal service provider (within the meaning of [^{F10}Part 3 of the Postal Services Act 2011]) in his capacity as a person who provides a universal postal service (within the meaning of [^{F11}that Part])];

“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 [^{F26}section 62], the territorial sea lying seawards from that part of the shore; and—

^{F27}(a)

- (b) this Part of this Act (except [^{F26}section 62] 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 . . . ^{F28}

[^{F29}(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.]

- (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.

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- F3** S. 73(1): words in the definition of “local authority” repealed (1.4.1996) by 1994 c. 19, ss. 22(3), 66(8), Sch. 9 para. 10(3), **Sch. 18** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, arts. 3, 4, Schs. 1, 2
- F4** S. 73(1): para. (aa) in the definition of “local authority” inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 10(3)** (with ss. 54(4)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**
- F6** Word repealed by **Electricity Act 1989** (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 paras. 33, 35(1), **Sch. 18**
- F7** “gas,” repealed by **Gas Act 1986** (c. 44, SIF 44:2), s. 67(4), **Sch. 9 Pt. I**
- F8** Words in s. 73(1) substituted (E.W.) by **Water Act 1989** (c. 15, SIF 130), 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**
- F9** S. 73(1): By S.I. 2001/1149, art. 3(1), **Sch. 1 para. 38** it is provided (26.3.2001) that in the definition of “statutory undertakers” the words “a universal service provider (within the meaning of the Postal Services Act 2000) in his capacity as a person who provides a universal postal service (within the meaning of that Act)” shall be substituted for the words “the Post Office”
- F10** Words in s. 73(1) substituted (1.10.2011) by **Postal Services Act 2011** (c. 5), s. 93(2)(3), **Sch. 12 para. 97(a)**; S.I. 2011/2329, art. 3
- F11** Words in s. 73(1) substituted (1.10.2011) by **Postal Services Act 2011** (c. 5), s. 93(2)(3), **Sch. 12 para. 97(b)**; S.I. 2011/2329, art. 3
- F20** S. 73(1): definition of “equipment” 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**
- F21** Words in s. 73(1) repealed (30.6.2014) by **Regulatory Reform (Scotland) Act 2014** (asp 3), s. 61(2), **Sch. 3 para. 16(7)(a)(i)**; S.S.I. 2014/160, art. 2(1)(2), Sch.
- F22** Words in s. 73(1) repealed (30.6.2014) by **Regulatory Reform (Scotland) Act 2014** (asp 3), s. 61(2), **Sch. 3 para. 16(7)(a)(ii)**; S.S.I. 2014/160, art. 2(1)(2), Sch.
- F23** Words in s. 73(1) repealed (30.6.2014) by **Regulatory Reform (Scotland) Act 2014** (asp 3), s. 61(2), **Sch. 3 para. 16(7)(a)(iii)**; S.S.I. 2014/160, art. 2(1)(2), Sch.
- F24** Words in s. 73(1) repealed (30.6.2014) by **Regulatory Reform (Scotland) Act 2014** (asp 3), s. 61(2), **Sch. 3 para. 16(7)(a)(iv)**; S.S.I. 2014/160, art. 2(1)(2), Sch.
- F25** S. 73(1): definition of “road noise” 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**
- F26** Words in s. 73(2) substituted (S.) (30.6.2014) by **Regulatory Reform (Scotland) Act 2014** (asp 3), s. 61(2), **Sch. 3 para. 16(7)(b)**; S.S.I. 2014/160, art. 2(1)(2), Sch.
- F27** S. 73(2)(a) repealed by **Local Government, Planning and Land Act 1980** (c. 65), **Sch. 34 Pt. II**
- F28** Words in s. 73(3) 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**
- F29** S. 73(3A) inserted (S.) (30.6.2014) by **Regulatory Reform (Scotland) Act 2014** (asp 3), s. 61(2), **Sch. 3 para. 39(2)**; S.S.I. 2014/160, art. 2(1)(2), Sch.

Modifications etc. (not altering text)

- C11** S. 73 extended by **Gas Act 1986** (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxix), **Sch. 8 para. 33**
- C12** S. 73 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xxii)**; S.I. 1996/218, **art. 2**

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74 Penalties.

(1) . . . ^{F14}, a person guilty of an offence against this Part of this Act shall be liable on summary conviction—

- (a) [^{F15}in the case of a first offence against this Part of this Act,] to a fine not exceeding [^{F16}level 5 on the standard scale][^{F17}; and
- (b) in the case of a second or subsequent offence against this Part of this Act, to a fine not exceeding [^{F18}level 5 on the standard scale],

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

[^{F17}(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 ^{M3}Public Health (Scotland) Act 1897 by way of contravening a decree or interdict relating to noise; or
- (b) under section 95 of the ^{M4}Public Health Act 1936 by way of contravening a nuisance order relating to noise, [^{F19}; or
- (c) under section 80(4) of the Environmental Protection Act 1990,]

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

Textual Amendments

- F14** Words in s. 74 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**
- F15** Words in s. 74(1)(a) repealed (S.) (30.6.2014) by Regulatory Reform (Scotland) Act 2014 (asp 3), s. 61(2), **Sch. 3 para. 16(8)(a)**; S.S.I. 2014/160, art. 2(1)(2), Sch.
- F16** Words in s. 74(1)(a) substituted (S.) (11.4.1983) by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289E—289G** (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)
- F17** Words in s. 74 repealed (S.) (30.6.2014) by Regulatory Reform (Scotland) Act 2014 (asp 3), s. 61(2), **Sch. 3 para. 16(8)(b)**; S.S.I. 2014/160, art. 2(1)(2), Sch.
- F18** Words in s. 74(1)(b) substituted (S.) (11.4.1983) by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 389F, 389G** (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)
- F19** S. 74(2)(c) and word “; or” immediately preceding it inserted (E.W.S.) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(1), **Sch. 15 para. 15(5)**

Marginal Citations

- M3** 1897 c. 38.
M4 1936 c. 49.

Status:

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Changes to legislation:

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