



# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART III

#### STATUTORY NUISANCES AND CLEAN AIR

##### *Statutory nuisances: England and Wales*

#### **80 Summary proceedings for statutory nuisances.**

- (1) Where a local authority is satisfied that a statutory nuisance exists, or is likely to occur or recur, in the area of the authority, the local authority shall serve a notice (“an abatement notice”) imposing all or any of the following requirements—
  - (a) requiring the abatement of the nuisance or prohibiting or restricting its occurrence or recurrence;
  - (b) requiring the execution of such works, and the taking of such other steps, as may be necessary for any of those purposes,and the notice shall specify the time or times within which the requirements of the notice are to be complied with.
- (2) [<sup>F1</sup>Subject to section 80A(1) below, the abatement notice] shall be served—
  - (a) except in a case falling within paragraph (b) or (c) below, on the person responsible for the nuisance;
  - (b) where the nuisance arises from any defect of a structural character, on the owner of the premises;
  - (c) where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, on the owner or occupier of the premises.
- (3) [<sup>F2</sup>A person served with an abatement notice] may appeal against the notice to a magistrates’ court within the period of twenty-one days beginning with the date on which he was served with the notice.

*Status: Point in time view as at 05/01/1994. This version of this provision has been superseded.*

*Changes to legislation: Environmental Protection Act 1990, Section 80 is up to date with all changes known to be in force on or before 17 April 2024. 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)*

- (4) If a person on whom an abatement notice is served, without reasonable excuse, contravenes or fails to comply with any requirement or prohibition imposed by the notice, he shall be guilty of an offence.
- (5) Except in a case falling within subsection (6) below, a person who commits an offence under subsection (4) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after the conviction.
- (6) A person who commits an offence under subsection (4) above on industrial, trade or business premises shall be liable on summary conviction to a fine not exceeding £20,000.
- (7) Subject to subsection (8) below, in any proceedings for an offence under subsection (4) above in respect of a statutory nuisance it shall be a defence to prove that the best practicable means were used to prevent, or to counteract the effects of, the nuisance.
- (8) The defence under subsection (7) above is not available—
- (a) in the case of a nuisance falling within paragraph (a), (d), (e), (f) or (g) of section 79(1) above except where the nuisance arises on industrial, trade or business premises;
  - [<sup>F3</sup>(aa) in the case of a nuisance falling within paragraph (ga) of section 79(1) above except where the noise is emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes;]
  - (b) in the case of a nuisance falling within paragraph (b) of section 79(1) above except where the smoke is emitted from a chimney; and
  - (c) in the case of a nuisance falling within paragraph (c) or (h) of section 79(1) above.
- (9) In proceedings for an offence under subsection (4) above in respect of a statutory nuisance falling within paragraph (g) [<sup>F4</sup>or (ga)]of section 79(1) above where the offence consists in contravening requirements imposed by virtue of subsection (1)(a) above it shall be a defence to prove—
- (a) that the alleged offence was covered by a notice served under section 60 or a consent given under section 61 or 65 of the <sup>M1</sup>Control of Pollution Act 1974 (construction sites, etc); or
  - (b) where the alleged offence was committed at a time when the premises were subject to a notice under section 66 of that Act (noise reduction notice), that the level of noise emitted from the premises at that time was not such as to constitute a contravention of the notice under that section; or
  - (c) where the alleged offence was committed at a time when the premises were not subject to a notice under section 66 of that Act, and when a level fixed under section 67 of that Act (new buildings liable to abatement order) applied to the premises, that the level of noise emitted from the premises at that time did not exceed that level.
- (10) Paragraphs (b) and (c) of subsection (9) above apply whether or not the relevant notice was subject to appeal at the time when the offence was alleged to have been committed.

#### Textual Amendments

**F1** Words in s. 80(2) substituted (5.1.1994) by 1993 c. 40, ss. 3(2), 12(1)

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- F2** Words in s. 80(3) substituted (5.1.1994) by 1993 c. 40, ss. 3(3), 12(1)  
**F3** S. 80(8)(aa) inserted (5.1.1994) by 1993 c. 40, ss. 3(4), 12(1)  
**F4** Words in s. 80(9) inserted (5.1.1994) by 1993 c. 40, ss. 3(5), 12(1)

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**Marginal Citations**

- M1** 1974 c. 40.

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