
STATUTORY INSTRUMENTS

2007 No. 3219

The Felixstowe Dock and Railway
Harbour Revision Order 2007

PART 3

MISCELLANEOUS AND GENERAL

Defence to proceedings in respect of statutory nuisance

21.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990⁽¹⁾ (summary proceedings by persons aggrieved by statutory nuisances) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (statutory nuisances and inspections therefor) no order shall be made, and no fine shall be imposed, under section 82(2) of that Act if the defendant shows that the nuisance relates to premises used by the Company for the purposes of or in connection with the exercise of the powers conferred by this Order with respect to the construction or maintenance of the work; and

- (a) that 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⁽²⁾; or
- (b) that the nuisance is a consequence of the construction, maintenance or use of the work and that it cannot reasonably be avoided.

(2) The following provisions of the Control of Pollution Act 1974, namely—

- (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 by the Company for the purposes of, or in connection with, the exercise of the powers conferred by this Order with respect to the construction or maintenance of the work.

(1) 1990 c. 43.
(2) 1974 c. 40.