

STATUTORY INSTRUMENTS

2020 No. 325

The Reinforcement to the North Shropshire Electricity Distribution Network Order 2020

PART 7

MISCELLANEOUS AND GENERAL

Defence to proceedings in respect of statutory nuisance

34.—(1) Where proceedings are brought under section 82(1) ^{M1} of the Environmental Protection Act 1990 (summary proceedings by persons aggrieved by statutory nuisances) in relation to a nuisance falling within paragraph (g) of section 79(1) ^{M2} of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order is to be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows that the nuisance—

- (a) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 ^{M3} (prior consent for work on construction sites) of the Control of Pollution Act 1974 ^{M4};
- (b) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (c) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) of the Control of Pollution Act 1974 (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) is not to apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

Commencement Information

- II** Art. 34 in force at 14.4.2020, see [art. 1](#)

Marginal Citations

- M1** 1990 c.43. Section 82(1) was amended by the [Environment Act 1995 \(c.25\)](#) section 107, Schedule 17, paragraph 6. Section 82(2) was inserted by the [Noise and Statutory Nuisance Act 1993 \(c.40\)](#), [section 5\(2\)](#) and amended by the Environment Act 1995.
- M2** Relevant amendments to section 79(1) were made by the Noise and Statutory Nuisance Act 1993, section 2, the Environment Act [1995 c.25](#), [section 120](#), [Schedule 22](#), [paragraph 89\(2\)](#) and by the Clean Neighbourhoods and Environment Act [2005 c.16](#), [section 101](#).

Changes to legislation: There are currently no known outstanding effects for the The Reinforcement to the North Shropshire Electricity Distribution Network Order 2020, Section 34. (See end of Document for details)

- M3** Section 61 was amended by the Building Act 1984 c.55, section 133(2), **Schedule 7**, the Environmental Protection Act 1990 c.43, section 162, **Schedule 15 paragraph 15** and the Environment Act 1995 c.25, **Schedule 24 paragraph 1**.
- M4** 1974 c. 40.

Changes to legislation:

There are currently no known outstanding effects for the The Reinforcement to the North Shropshire Electricity Distribution Network Order 2020, Section 34.