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STATUTORY INSTRUMENTS

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**2022 No. 853**

**The Sizewell C (Nuclear Generating Station) Order 2022**

**PART 2**

**PRINCIPAL POWERS**

**Defence to proceedings in respect of statutory nuisance**

**12.**—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990<sup>(1)</sup> (Summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within sub-paragraphs (d), (fb), (g) or (ga) of section 79(1) of that Act (statutory nuisances and inspections thereof) no order may 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, maintenance or operation of the authorised development and that the nuisance is attributable to the carrying out or use of the authorised development in accordance with—
  - (i) a notice served under section 60 (control of noise on construction site);
  - (ii) a consent given under section 61 (prior consent for work on construction site); or
  - (iii) the controls and measures relating to noise, vibration, dust or lighting as described in the Construction Method Statement, Code of Construction Practice, Lighting Management Plan, Main Development Site Design and Access Statement, Associated Development Design Principles and Outline Landscape and Ecology Management Plan or in accordance with noise and lighting levels set out in an environmental permit relating to the construction, maintenance or operation of the authorised development; or
- (b) is a consequence of the construction, maintenance or operation of the authorised development and that it cannot, to the reasonable satisfaction of East Suffolk Council reasonably be avoided.

(2) Sections 61(9) of the Control of Pollution Act 1974<sup>(2)</sup> (consent for work on construction sites) as it relates to proceedings under section 82 of the Environmental Protection Act 1990 (Summary proceedings by persons aggrieved by statutory nuisance) does not 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.

(3) In this article “premises” has the same meaning as in section 79 of the Environmental Protection Act 1990.

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(1) [1990 c. 43](#). Section 79(1)(fb) was inserted by section 102 of the Clean Neighbourhoods and Environment Act 2005 ([c. 16](#)). There are amendments to this Act which are not relevant to this Order.

(2) [1974 c. 40](#). Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 15 to, the Environmental Protection Act 1990 ([c. 43](#)), and paragraph 1 of Schedule 24 to the Environment Act 1995 ([c. 25](#)). Section 61(2) was amended by section 133 of and Schedule 7 to the Building Act 1984 ([c. 55](#)). There are other amendments to the 1974 Act which are not relevant to the Order.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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