



Forth Crossing Act 2011

2011 asp 2

PART 9

ENVIRONMENTAL MATTERS

71 Statutory nuisance: noise under the Environmental Protection Act 1990

- (1) In this section “statutory nuisance” has the meaning given by section 79(1)(g) or (ga) of the Environmental Protection Act 1990 (c.43).
- (2) Noise from the carrying out of the Forth Crossing works does not constitute a statutory nuisance if the works are carried out in accordance with a consent given under section 61 of the Control of Pollution Act 1974 (c.40).
- (3) Part 3 of the Environmental Protection Act 1990 (c.43) applies to other noise from the carrying out of the Forth Crossing works which is alleged to be a statutory nuisance with the following modifications—
 - (a) a ground for an appeal to an abatement notice served under section 80 or 80A is that the works to which the notice relates are being, or are going to be, carried out in accordance with Ministers’ duties in relation to noise in the code of construction practice,
 - (b) if an appeal includes that ground—
 - (i) the abatement notice is suspended (irrespective of any contrary statement included in the notice), and is not authority for any other action to be taken under Part 3, until the appeal has been abandoned or decided by the sheriff, and
 - (ii) the sheriff, if satisfied that works to which the notice relates are being or are going to be carried out in accordance with Ministers’ duties in relation to noise in the code of construction practice, must recall the abatement notice insofar as it relates to an alleged statutory nuisance, and
 - (c) a sheriff must not make an order under section 82(2) or 82(12) on the basis of an alleged statutory nuisance if satisfied that works to which the application relates are being, or are going to be, carried out in accordance with Ministers’ duties in relation to noise in the code of construction practice.