
STATUTORY INSTRUMENTS

2015 No. 1832

The Ferrybridge Multifuel 2 Power Station Order 2015

PART 4

MISCELLANEOUS AND GENERAL

Defence to proceedings in respect of statutory nuisance constituted by noise emitted from premises

18.—(1) Paragraph (2) applies 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 section 79(1)(g) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance).

(2) 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 or maintenance of the authorised development and is attributable to that construction or maintenance—
 - (i) in accordance with a notice served under section 60 of the Control of Pollution Act 1974⁽²⁾ (control of noise on construction sites),
 - (ii) in accordance with a consent given under section 61 of that Act (prior consent for work on construction sites) or section 65 of that Act (noise exceeding registered level), or
 - (iii) in compliance with requirement 20 (construction hours), requirement 23(3) (British Standards) or the programme approved under requirement 23(1) (programme for the monitoring and control of construction noise);
- (b) relates to premises used by the undertaker for the purposes of or in connection with the operation of the authorised development and is attributable to that operation in compliance with the programme approved under requirement 24(1) (programme for the monitoring and control of operational noise); or
- (c) is a consequence of the construction, maintenance or operation of the authorised development and cannot reasonably be avoided.

(3) 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) and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded) do 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.

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

Status: This is the original version (as it was originally made).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