
STATUTORY INSTRUMENTS

2016 No. 844

The Hornsea Two Offshore Wind Farm Order 2016

PART 1

Preliminary

Defence to proceedings in respect of statutory nuisance

5.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990⁽¹⁾ (summary proceedings by person aggrieved by statutory nuisance) 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), 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 project and is attributable to the carrying out of the authorised project in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site), of the Control of Pollution Act 1974⁽²⁾;
- (b) is a consequence of the construction or maintenance of the authorised project and cannot reasonably be avoided; or
- (c) is a consequence of the use of the authorised project and cannot reasonably be avoided.

(2) 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) of the Control of Pollution Act 1974 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 project.

Commencement Information

II Art. 5 in force at 7.9.2016, see [art. 1\(2\)](#)

(1) [1990 c.43](#). Section 82(1) was amended by paragraph 6 of Schedule 17 to the Environment Act 1995. Section 82(2) was amended by section 5(2) of the Noise and Statutory Nuisance Act [1993 \(c.40\)](#) and paragraph 6 of Schedule 17 to the Environment Act 1995.

(2) [1974 c.40](#). Section 61 was amended by Schedule 7 to the Building Act [1984 \(c.55\)](#), paragraph 15 of Schedule 15 to the Environmental Protection Act 1990 and Schedule 24 to the Environment Act 1995.

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Hornsea Two Offshore Wind Farm Order 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 1 Pt.03 para. 6(l) words substituted by [S.I. 2016/1104 Sch.](#)
- Sch. 12 Pt. 6 para. 5(a) words substituted by [S.I. 2016/1154 Sch. 29 Pt. 2 para. 118\(4\)](#)