

## STATUTORY INSTRUMENTS

# 2020 No. 547

## The Cleve Hill Solar Park Order 2020

### PART 2

#### PRINCIPAL POWERS

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

7.—(1) Where proceedings are brought under section 82(1) (summary proceedings by a person aggrieved by statutory nuisance) of the Environmental Protection Act 1990 <sup>M1</sup> in relation to a nuisance falling within paragraph (g) of section 79(1) (noise emitted from premises so as to be prejudicial to health or a nuisance) of that Act no order may be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
  - (i) 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 site), or a consent given under section 61 (prior consent for work on construction site) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974 <sup>M2</sup>; or
  - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) [<sup>F1</sup>the defendant shows that the nuisance] is a consequence of the use of the authorised development and that it 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 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceed), do not apply where the consent relates to the use of premises by the undertaker for purposes of, or, in connection with, the construction or maintenance of the authorised development.

**F1** Words in art. 7(1)(b) inserted (11.8.2021) by [The Cleve Hill Solar Park \(Correction\) Order 2021 \(S.I. 2021/934\)](#), art. 1(2), [Sch.](#)

##### Commencement Information

**I1** Art. 7 in force at 19.6.2020, see [art. 1](#)

##### Marginal Citations

**M1** [1990 c.43](#)

**M2** [1974 c.40](#). Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990, c.25. There are other amendments to the

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**Changes to legislation:** There are currently no known outstanding effects for the  
The Cleve Hill Solar Park Order 2020, Section 7. (See end of Document for details)

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1974 Act which are not relevant to the Order.

**Changes to legislation:**

There are currently no known outstanding effects for the The Cleve Hill Solar Park Order 2020, Section 7.