
STATUTORY INSTRUMENTS

2023 No. 1033

The Awel y Môr Offshore Wind Farm Order 2023

PART 2

Principal Powers

Defence to proceedings in respect of statutory nuisance

8.—(1) Where proceedings are brought under section 82(1) (summary proceedings by persons aggrieved by statutory nuisances) of the Environmental Protection Act 1990⁽¹⁾ in relation to a nuisance falling within paragraphs (d), (fb), (g) and (ga) of section 79(1) (statutory nuisances and inspections therefor) of that Act no order is to 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 the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites), of the Control of Pollution Act 1974⁽²⁾;
- (b) is a consequence of the construction or maintenance of the authorised development and cannot reasonably be avoided; or
- (c) is a consequence of the use of the authorised development and cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site) of the Control of Pollution Act 1974⁽³⁾ 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.

(1) 1990 c. 43. Amended by section 103 of the Clean Neighbourhoods and Environment Act 2005 (c. 16). There are other amendments not relevant to this Order.

(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. There are other amendments to the 1974 Act which are not relevant to the Order.

(3) 1974 c. 40. Section 61 was amended by Schedule 7 to the Building Act 1984 (c. 55), paragraph 15 of Schedule 3 to the Environmental Protection Act 1990 and Paragraph 1 of Schedule 24 to the Environment Act 1995.