



# Control of Pollution Act 1974

## 1974 CHAPTER 40

### PART III **E+W+S**

#### NOISE

##### Modifications etc. (not altering text)

- C1** Pt. III (ss. 57-74) extended (E.W.) by [Electricity Act 1989](#) (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 1(1)(xxvii), Sch. 17 paras. 33, **35(1)**
- C2** Pt. III (except ss. 70(2)(3)(5), 71(1)): certain functions transferred (7.8.1991) by S.I. 1991/1773, art. 8(1)(3), **Sch. 2**  
Pt. III (except ss. 70(2)(3)(5), 71(1)) modified (7.8.1991) by S.I. 1991/1773, art. 8(2)(3), **Sch. 2**
- C3** Pt. III (except ss. 70(2)(3)(5), 71(1)): certain functions transferred (10.1.1992) by S.I. 1991/2913, art. 8(1)(3), **Sch. 2**  
Pt. III (except ss. 70(2)(3)(5), 71(1)) modified (10.1.1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**

#### *Periodical inspections by local authorities*

### 57 **Periodical inspections by local authorities.** **E+W+S**

It shall be the duty of every local authority to cause its area to be inspected from time to time—

[<sup>F1</sup>(a) .....]

(b) to decide how to exercise its powers concerning noise abatement zones.

##### Textual Amendments

- F1** S. 57(a) repealed (E.W.)(N.I.) by [Environmental Protection Act 1990](#) (c. 43, SIF 46:4), ss. 162(2), 164(2), **Sch. 16 Pt. III**; s. 57(a) repealed by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part III. (See end of Document for details)*

*Summary proceedings to deal with noise*

**F2 58** ..... **E+W+S**

**Textual Amendments**

**F2** S. 58 repealed (E.W) (N.I.) by [Environmental Protection Act 1990](#) (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. III**; S. 58 wholly repealed (1.4.1996) by [1995 c. 25](#), s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

**F3 58A** ..... **E+W+S**

**Textual Amendments**

**F3** S. 58A repealed (1.4.1996) by [1995 c. 25](#), s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

**F4 58B** ..... **E+W+S**

**Textual Amendments**

**F4** S. 58B repealed (1.4.1996) by [1995 c. 25](#), s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

**F5 59** ..... **E+W+S**

**Textual Amendments**

**F5** S. 59 repealed (1.4.1996) by [1995 c. 25](#), s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

**F6 59A** ..... **E+W+S**

**Textual Amendments**

**F6** S. 59A repealed (1.4.1996) by [1995 c. 25](#), s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part III. (See end of Document for details)*

### Construction sites

#### Modifications etc. (not altering text)

C4 S. 60 modified (9.11.2001) by S.I. 2001/3682, art. 32

## 60 Control of noise on construction sites. **E+W+S**

- (1) This section applies to works of the following description, that is to say—
  - (a) the erection, construction, alteration, repair or maintenance of buildings, structures or roads;
  - (b) breaking up, opening or boring under any road or adjacent land in connection with the construction, inspection, maintenance or removal of works;
  - (c) demolition or dredging work; and
  - (d) (whether or not also comprised in paragraph (a), (b) or (c) above) any work of engineering construction.
- (2) Where it appears to a local authority that works to which this section applies are being, or are going to be, carried out on any premises, the local authority may serve a notice imposing requirements as to the way in which the works are to be carried out and may if it thinks fit publish notice of the requirements in such way as appears to the local authority to be appropriate.
- (3) The notice may in particular—
  - (a) specify the plant or machinery which is, or is not, to be used;
  - (b) specify the hours during which the works may be carried out;
  - (c) specify the level of noise which may be emitted from the premises in question or at any specified point on those premises or which may be so emitted during specified hours; and
  - (d) provide for any change of circumstances.
- (4) In acting under this section the local authority shall have regard—
  - (a) to the relevant provisions of any code of practice issued under this Part of this Act;
  - (b) to the need for ensuring that the best practicable means are employed to minimise noise;
  - (c) before specifying any particular methods or plant or machinery, to the desirability in the interests of any recipients of the notice in question of specifying other methods or plant or machinery which would be substantially as effective in minimising noise and more acceptable to them;
  - (d) to the need to protect any persons in the locality in which the premises in question are situated from the effects of noise.
- (5) A notice under this section shall be served on the person who appears to the local authority to be carrying out, or going to carry out, the works, and on such other persons appearing to the local authority to be responsible for, or to have control over, the carrying out of the works as the local authority thinks fit.
- (6) A notice under this section may specify the time within which the notice is to be complied with, and may require the execution of such works, and the taking of such

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other steps, as may be necessary for the purpose of the notice, or as may be specified in the notice.

- (7) A person served with a notice under this section may appeal against the notice to a magistrates' court within twenty one days from the service of the notice.
- (8) If a person on whom a notice is served under this section without reasonable excuse contravenes any requirement of the notice he shall be guilty of an offence against this Part of this Act.

**Modifications etc. (not altering text)**

- C5 S. 60 modified (18.7.2001) by [S.I. 2001/2870, art. 21](#)  
 C6 S. 60 applied (with modifications) (20.8.1999) by [S.I. 1999/2336, art. 22](#)  
 C7 S. 60 modified (18.12.1996) by [1996 c. 61, s. 29](#)

**61 Prior consent for work on construction sites. E+W+S**

- (1) A person who intends to carry out works to which the preceding section applies may apply to the local authority for a consent under this section.
- (2) Where approval under building regulations [<sup>F7</sup>under Part II of the <sup>M1</sup>Public Health Act 1936], or in Scotland a [<sup>F8</sup>building warrant] under [<sup>F9</sup>section 9] of the Building (Scotland) Act [<sup>F10</sup>2003 (asp 8)], is required for the carrying out of the works, the application under this section must be made at the same time as, or later than, the request for the approval under building regulations or, as the case may be, the application for a [<sup>F8</sup>building warrant] under the said Act of [<sup>F11</sup>2003].
- (3) An application under this section shall contain particulars of—
  - (a) the works, and the method by which they are to be carried out; and
  - (b) the steps proposed to be taken to minimise noise resulting from the works.
- (4) If the local authority considers that the application contains sufficient information for the purpose and that, if the works are carried out in accordance with the application, it would not serve a notice under the preceding section in respect of those works, the local authority shall give its consent to the application.
- (5) In acting under this section a local authority shall have regard to the considerations set out in subsection (4) of the preceding section and shall have power to—
  - (a) Attach any conditions to a consent; and
  - (b) limit or qualify a consent to allow for any change in circumstances; and
  - (c) limit the duration of a consent,
 and any person who knowingly carries out the works, or permits the works to be carried out, in contravention of any conditions attached to a consent under this section shall be guilty of an offence against this Part of this Act.
- (6) The local authority shall inform the applicant of its decision on the application within twenty-eight days from receipt of the application; and if the local authority gives its consent to the application it may if it thinks fit publish notice of the consent, and of the works to which it relates, in such way as appears to the local authority to be appropriate.
- (7) If—

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- (a) the local authority does not give a consent within the said period of twenty-eight days; or
- (b) the local authority gives its consent within the said period of twenty-eight days but attaches any condition to the consent or limits or qualifies the consent in any way,
- the applicant may appeal to a magistrates' court within twenty-one days from the end of that period.
- (8) In any proceedings for an offence under section 60(8) of this Act it shall be a defence to prove that the alleged contravention amounted to the carrying out of the works in accordance with a consent given under this section.
- (9) A consent given under this section shall contain a statement to the effect that the consent does not of itself constitute any ground of defence against any proceedings instituted under . . . <sup>F12</sup>[<sup>F13</sup>section 82 of the Environmental Protection Act 1990].
- (10) Where a consent has been given under this section and the works are carried out by a person other than the applicant for the consent, it shall be the duty of the applicant to take all reasonable steps to bring the consent to the notice of that other person; and if he fails to comply with this subsection he shall be guilty of an offence against this Part of this Act.

#### Textual Amendments

- F7** Words repealed (E.W.) by [Building Act 1984 \(c. 55, SIF 15\)](#), s. 133(2), **Sch. 7**
- F8** Words in s. 61(2) substituted (S.) (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), s. 59(1), **Sch. 6 para. 10(a)** (with s. 53); S.S.I. 2004/404, art. 2(1)
- F9** Words in s. 61(2) substituted (S.) (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), s. 59(1), **Sch. 6 para. 10(b)** (with s. 53); S.S.I. 2004/404, art. 2(1)
- F10** Words in s. 61(2) substituted (S.) (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), s. 59(1), **Sch. 6 para. 10(c)(i)** (with s. 53); S.S.I. 2004/404, art. 2(1)
- F11** Word in s. 61(2) substituted (S.) (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), s. 59(1), **Sch. 6 para. 10(c)(ii)** (with s. 53); S.S.I. 2004/404, art. 2(1)
- F12** Words in s. 61(9) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F13** Words inserted by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(1), **Sch. 15 para. 15(3)**

#### Modifications etc. (not altering text)

- C8** S. 61 modified (9.11.2001) by S.I. 2001/3682, **art. 32**
- C9** S. 61 modified (18.7.2001) by S.I. 2001/2870, **art. 21**
- C10** S. 61 modified (18.12.1996) by 1996 c. 61, **s. 29**
- C11** S. 61(9) excluded (9.11.2001) by S.I. 2001/3682, **art. 31(2)(a)**
- C12** S. 61(9) restricted (18.7.2001) by S.I. 2001/2870, **art. 22(2)(a)**
- C13** S. 61(9) applied (with modifications) (20.8.1999) by S.I. 1999/2336, **art. 22**
- C14** S. 61(9) restricted (18.12.1996) by 1996 c. 61, **s. 30(2)**
- C15** S. 61(9) excluded (20.8.1999) by S.I. 1999/2336, **art. 23(2)**
- C16** S. 61(9) excluded (30.4.2002) by [The Docklands Light Railway \(Silvertown and London City Airport Extension\) Order 2002 \(S.I. 2002/1066\)](#), **art. 43(2)(a)**
- C17** S. 61(9) excluded (28.4.2003) by [Network Rail \(West Coast Main Line\) Order 2003 \(S.I. 2003/1075\)](#), **arts. 1, 35(2)(a)** (with **art. 40**)
- C18** S. 61(9) excluded (4.3.2004) by [The Network Rail \(West Coast Main Line\) Order 2004 \(S.I. 2004/389\)](#), **arts. 1, 33(2)(a)** (with **art. 38**)

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- C19** S. 61(9) excluded (2.4.2004) by [The Docklands Light Railway \(Woolwich Arsenal Extension\) Order 2004 \(S.I. 2004/757\)](#), arts. 1, **50(2)(a)** (with art. 50(3))
- C20** S. 61(9) excluded (11.2.2005) by [The Merseytram \(Liverpool City Centre to Kirkby\) Order 2005 \(S.I. 2005/120\)](#), arts. 1, **73(2)** (with arts. 65, 66)
- C21** S. 61(9) excluded (4.5.2005) by [The Telford Railfreight Terminal \(Donnington\) Order 2005 \(S.I. 2005/1163\)](#), arts. 1, **20(2)(a)**
- C22** S. 61(9) excluded (25.11.2005) by [The Docklands Light Railway \(Capacity Enhancement\) Order 2005 \(S.I. 2005/3105\)](#), arts. 1, **48(2)(a)** (with arts. 3(5), 15(3))
- C23** S. 61(9) excluded (22.11.2006) by [The Docklands Light Railway \(Stratford International Extension\) Order 2006 \(S.I. 2006/2905\)](#), arts. 1, **46(2)(a)** (with arts. 43, 46(3))

#### Marginal Citations

- M1** 1936 c. 49.

### *Noise in streets*

#### 62 Noise in streets. **E+W**

- (1) Subject to the provisions of this section, a loudspeaker in a street shall not be operated—
- between the hours of nine in the evening and eight in the following morning, for any purpose;
  - At any other time, for the purpose of advertising any entertainment, trade or business;

and any person who operates or permits the operation of a loudspeaker in contravention of this subsection shall be guilty of an offence against this Part of this Act.

<sup>F14</sup>In this section]“street” means a highway and any other road, footway, square or court which is for the time being open to the public.

<sup>F15</sup>[(1A) Subject to subsection (1B) of this section, the Secretary of State may by order amend the times specified in subsection (1)(a) of this section.

(1B) An order under subsection (1A) of this section shall not amend the times so as to permit the operation of a loudspeaker in a street at any time between the hours of nine in the evening and eight in the following morning.]

- (2) [<sup>F16</sup>Subsection (1) of this section] shall not apply to the operation of a loudspeaker—
- for police, [<sup>F17</sup>fire and rescue authority] or ambulance purposes, by [<sup>F18</sup>the [<sup>F19</sup>Environment Agency], a water undertaker or a sewerage undertaker] in the exercise of any of its functions, or by a local authority within its area;
  - for communicating with persons on a vessel for the purpose of directing the movement of that or any other vessel;
  - if the loudspeaker forms part of a public telephone system;
  - if the loudspeaker—
    - is in or fixed to a vehicle, and
    - is operated solely for the entertainment of or for communicating with the driver or a passenger of the vehicle or, where the loudspeaker is or forms part of the horn or similar warning instrument of the vehicle, solely for giving warning to other traffic, and

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- (iii) is so operated as not to give reasonable cause for annoyance to persons in the vicinity;
- (e) otherwise than on a highway, by persons employed in connection with a transport undertaking used by the public in a case where the loudspeaker is operated solely for making announcements to passengers or prospective passengers or to other persons so employed;
- (f) by a travelling showman on land which is being used for the purposes of a pleasure fair;
- (g) in case of emergency.
- (3) Subsection (1)(b) of this section shall not apply to the operation of a loudspeaker between the hours of noon and seven in the evening on the same day if the loudspeaker—
- (a) is fixed to a vehicle which is being used for the conveyance of a perishable commodity for human consumption; and
- (b) is operated solely for informing members of the public (otherwise than by means of words) that the commodity is on sale from the vehicle; and
- (c) is so operated as not to give reasonable cause for annoyance to persons in the vicinity.
- <sup>F20</sup>[(3A) Subsection (1) of this section shall not apply to the operation of a loudspeaker in accordance with a consent granted by a local authority under Schedule 2 to the Noise and Statutory Nuisance Act 1993.]
- (4) An offence under this section in Scotland may be prosecuted in any court of summary jurisdiction within the meaning of the <sup>M2</sup>Summary Jurisdiction (Scotland) Act 1954 having jurisdiction in the place where the offence was committed.

#### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

#### Textual Amendments

- F14** Words in s. 62(1) substituted (E.W.) (1.5.1994) by 1993 c. 40, ss. 7, 12(1).
- F15** S.62(1A)(1B) inserted (E.W.) (5.1.1994) by 1993 c. 40, ss. 7(3)(6), 12(1).
- F16** Words in s. 62(2) substituted (5.1.1994) by 1993 c. 40, ss. 7(4), 12(1).
- F17** Words in s. 62(2)(a) substituted (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, [Sch. 1 para. 45](#); S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2
- F18** Words in s. 62(2)(a) substituted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 25 para. 48\(7\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\), 58](#)
- F19** Words in s. 62(2)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 28](#) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)
- F20** S. 62(3A) inserted (5.1.1994) by 1993 c. 40, ss. 7(5), 12(1).

#### Modifications etc. (not altering text)

- C24** S. 69(1) power to exclude conferred (5.1.1994) by 1993 c. 40, ss. 8, 12(1), [Sch. 2 para. 1\(1\)](#)

#### Marginal Citations

- M2** 1954 c. 48.



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## 62 Noise in streets. **S**

(1) Subject to the provisions of this section, a loudspeaker in a [<sup>F40</sup>road] shall not be operated—

- (a) between the hours of nine in the evening and eight in the following morning, for any purpose;
- (b) At any other time, for the purpose of advertising any entertainment, trade or business;

and any person who operates or permits the operation of a loudspeaker in contravention of this subsection shall be guilty of an offence against this Part of this Act.

<sup>F41</sup> .....

<sup>F42</sup>[(1A) Subject to subsection (1B) of this section, the Secretary of State may by order amend the times specified in subsection (1)(a) of this section.

(1B) An order under subsection (1A) of this section shall not amend the times so as to permit the operation of a loudspeaker in a road at any time between the hours of nine in the evening and eight in the following morning.]

(2) [<sup>F43</sup>Subsection (1) of this section] shall not apply to the operation of a loudspeaker—

- (a) for police <sup>F44</sup>... or ambulance purposes, [<sup>F45</sup>for or in connection with the exercise of any function of a relevant authority (as defined in section 6 of the Fire (Scotland) Act 2005 (asp 5)),] by [<sup>F46</sup>Scottish Water] in the exercise of any of its [<sup>F47</sup>core functions (within the meaning of section 70(2) of the Water Industry (Scotland) Act 2002) (asp 3)], or by a local authority within its area;
- (b) for communicating with persons on a vessel for the purpose of directing the movement of that or any other vessel;
- (c) if the loudspeaker forms part of a public telephone system;
- (d) if the loudspeaker—
  - (i) is in or fixed to a vehicle, and
  - (ii) is operated solely for the entertainment of or for communicating with the driver or a passenger of the vehicle or, where the loudspeaker is or forms part of the horn or similar warning instrument of the vehicle, solely for giving warning to other traffic, and
  - (iii) is so operated as not to give reasonable cause for annoyance to persons in the vicinity;
- (e) otherwise than on a [<sup>F48</sup>public road (within the meaning of the Roads (Scotland) Act 1984)], by persons employed in connection with a transport undertaking used by the public in a case where the loudspeaker is operated solely for making announcements to passengers or prospective passengers or to other persons so employed;
- (f) by a travelling showman on land which is being used for the purposes of a pleasure fair;
- (g) in case of emergency.

(3) Subsection (1)(b) of this section shall not apply to the operation of a loudspeaker between the hours of noon and seven in the evening on the same day if the loudspeaker—

- (a) is fixed to a vehicle which is being used for the conveyance of a perishable commodity for human consumption; and



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- (b) is operated solely for informing members of the public (otherwise than by means of words) that the commodity is on sale from the vehicle; and
- (c) is so operated as not to give reasonable cause for annoyance to persons in the vicinity.

<sup>F49</sup>[(3A) Subsection (1) of this section shall not apply to the operation of a loudspeaker in accordance with a consent granted by a local authority under Schedule 2 to the Noise and Statutory Nuisance Act 1993.]

- (4) An offence under this section in Scotland may be prosecuted in any court of summary jurisdiction within the meaning of the <sup>M8</sup>Summary Jurisdiction (Scotland) Act 1954 having jurisdiction in the place where the offence was committed.

#### Extent Information

- E3** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

#### Textual Amendments

- F40** Word in s. 62(1) substituted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1) **Sch. 9 para. 74(5)(a)(i)**
- F41** Words repealed (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 74(5)(a)(ii)**, Sch. 11
- F42** S. 62(1A)(1B) inserted (S.) (5.1.1994) by [1993 c. 40](#), ss. 7(3)(6), 12(1).
- F43** Words in s. 62(2) substituted (5.1.1994) by [1993 c. 40](#), ss. 7(4), 12(1).
- F44** Words in s. 62(2)(a) repealed (S.) (2.8.2005) by [Fire \(Scotland\) Act 2005 \(asp 5\)](#), s. 90, **Sch. 3 para. 6(a)** (with s. 77); [S.S.I. 2005/392](#), art. 2(k)
- F45** Words in s. 62(2)(a) inserted (2.8.2005) by [Fire \(Scotland\) Act 2005 \(asp 5\)](#), s. 90, **Sch. 3 para. 6(b)** (with s. 77); [S.S.I. 2005/392](#), art. 2(k)
- F46** Words in s. 62(2)(a) substituted (S.) (25.6.2003) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Provisions\) Order 2003 \(S.S.I. 2003/331\)](#), art. 1, **Sch. para. 4(5)(a)**
- F47** Words in s. 62(2)(a) substituted (S.) (25.6.2003) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Provisions\) Order 2003 \(S.S.I. 2003/331\)](#), art. 1, **Sch. para. 4(5)(b)**
- F48** Words in s. 62(2)(e) substituted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 74(5)(b)**
- F49** S. 62(3A) inserted (5.1.1994) by [1993 c. 40](#), ss. 7(5), 12(1).

#### Modifications etc. (not altering text)

- C38** S. 62(1): power to exclude conferred (5.1.1994) by [1993 c. 40](#), ss. 8, 12(1), **Sch. 2 para. 1(1)**

#### Marginal Citations

- M8** [1954 c. 48](#).

### *Noise abatement zones*

#### 63 Designation of zones. **E+W+S**

- (1) A local authority may by order . . . <sup>F21</sup> designate all or any part of its area a noise abatement zone.

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- (2) An order under this section shall specify the classes of premises to which it applies (that is to say, the classes of premises subject to control under the following provisions of this Part of this Act).
- (3) An order made . . . <sup>F21</sup> under this section may be revoked or varied by a subsequent order so made . . . <sup>F21</sup>
- (4) The provisions of Schedule 1 to this Act shall apply to the . . . <sup>F21</sup> coming into operation of an order under this section.
- (5) In this Part of this Act a “noise abatement order” means an order made under this section.

#### Textual Amendments

**F21** Words repealed by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 1\(2\), Sch. 2 para. 14, Sch. 34 Pt. II](#) except in their application to orders made but not confirmed before 13.11.1980

## 64 Register of noise levels. **E+W+S**

- (1) Every local authority which has designated its area or any part of its area a noise abatement zone shall measure the level of noise emanating from premises within the zone which are of any class to which the relevant noise abatement order relates.
- (2) The local authority shall record all measurements taken in pursuance of the preceding subsection in a register (in this Part of this Act referred to as a “noise level register”) to be kept by the local authority for the purpose in accordance with regulations.
- (3) The local authority on recording any measurement in the noise level register shall serve a copy of that record on the owner and occupier of the premises in respect of which the measurement was taken; and any person on whom a copy of such a record is served may, within twenty-eight days of the date of service, appeal to the Secretary of State against the record.
- (4) On an appeal to the Secretary of State in pursuance of the preceding subsection the Secretary of State may give to the local authority in question such directions as he thinks fit as to the record of the measurement of noise which is the subject of the appeal, and it shall be the duty of the authority to comply with the directions.
- (5) Except as provided by the preceding provisions of this section the validity or accuracy of any entry in a noise level register shall not be questioned in any proceedings under this Part of this Act.
- (6) The premises as to which a local authority is to make measurements under this section shall include those which come within a class to which the relevant noise abatement order relates after the making of the order; and it shall be for the local authority to determine, both for those premises and all other premises of any class to which the relevant noise abatement order relates, when the measurements under this section are to be made.
- (7) A noise level register shall be open to public inspection at the principal office of the local authority free of charge at all reasonable hours, and the local authority shall afford members of the public reasonable facilities for obtaining from the authority, on payment of reasonable charges, copies of entries in the register.

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*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part III. (See end of Document for details)*

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- (8) Provision may be made by regulations—
- (a) for determining, or for authorising the Secretary of State to determine, the methods by which noise levels are to be measured for the purposes of any provision of this section and the three following sections; and
  - (b) for enabling noise levels calculated in accordance with the regulations, or in accordance with the directions of the Secretary of State, to be treated for those purposes as measured by a method determined in pursuance of the preceding paragraph.

## **65 Noise exceeding registered level. E+W+S**

- (1) The level of noise recorded in the noise level register in respect of any premises shall not be exceeded except with the consent in writing of the local authority.
- (2) The local authority's consent may be made subject to such conditions, whether as to the amount by which the level of noise may be increased, or as to the period for which, or the periods during which, the level of noise may be increased, as may be specified in the consent; and the authority shall record particulars of the consent in the noise level register.
- (3) If within the period of two months beginning with the date on which a local authority receives an application for its consent under this section, or within such longer period as the authority and the applicant agree in writing, the authority has not notified the applicant of its decision on the application, the authority shall be deemed to have refused consent in pursuance of the application.
- (4) An applicant for consent under this section may appeal to the Secretary of State against the local authority's decision on the application within the period of three months beginning with the date on which the authority notifies him of the decision or, in a case falling within the preceding subsection, beginning with the expiration of the period or longer period there mentioned; and it shall be the duty of the local authority to act in accordance with the decision of the Secretary of State on the appeal.
- (5) If noise emitted from any premises constitutes a contravention of subsection (1) of this section or of a condition attached to a consent under this section, the person responsible shall be guilty of an offence against this Part of this Act.
- (6) The magistrates' court convicting a person of an offence under the preceding subsection may, if satisfied that the offence is likely to continue or recur, make an order requiring the execution of any works necessary to prevent it continuing or recurring, and if that person without reasonable excuse contravenes any requirement of the order he shall be guilty of an offence against this Part of this Act.
- (7) The magistrates' court may, after giving the local authority in whose area the premises are situated an opportunity of being heard, direct the local authority to do anything which the court has power under the preceding subsection to require the person convicted to do, either instead of, or in addition to, imposing any requirement on that person.
- (8) A consent given under this section shall contain a statement to the effect that the consent does not of itself constitute any ground of defence against any proceedings instituted under <sup>F22</sup> . . . [<sup>F23</sup> section 82 of the Environmental Protection Act 1990 <sup>F22</sup> .].

*Status: Point in time view as at 22/11/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part III. (See end of Document for details)*

### Textual Amendments

- F22** Words in s. 65(8) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F23** Words inserted by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(1), **Sch. 15 para. 15(4)**

### Modifications etc. (not altering text)

- C25** S. 65(8) excluded (9.11.2001) by S.I. 2001/3682, **art. 31(2)(b)**
- C26** S. 65(8) restricted (18.7.2001) by S.I. 2001/2870, **art. 22(2)(b)**
- C27** S. 65(8) excluded (20.8.1999) by S.I. 1999/2336, **art. 23(2)**
- C28** S. 65(8) excluded (18.12.1996) by 1996 c. 61, s. **30(2)**
- C29** S. 65(8) excluded (30.4.2002) by The Docklands Light Railway (Silvertown and London City Airport Extension) Order 2002 (S.I. 2002/1066), **art. 43(2)(b)**
- C30** S. 65(8) excluded (28.4.2003) by Network Rail (West Coast Main Line) Order 2003 (S.I. 2003/1075), arts. 1, **35(2)(b)** (with art. 40)
- C31** S. 65(8) excluded (4.3.2004) by The Network Rail (West Coast Main Line) Order 2004 (S.I. 2004/389), arts. 1, **33(2)(b)** (with art. 38)
- C32** S. 65(8) excluded (2.4.2004) by The Docklands Light Railway (Woolwich Arsenal Extension) Order 2004 (S.I. 2004/757), arts. 1, **50(2)(b)** (with art. 50(3))
- C33** S. 65(8) excluded (11.2.2005) by The Merseytram (Liverpool City Centre to Kirkby) Order 2005 (S.I. 2005/120), arts. 1, **73(2)** (with arts. 65, 66)
- C34** S. 65(8) excluded (4.5.2005) by The Telford Railfreight Terminal (Donnington) Order 2005 (S.I. 2005/1163), arts. 1, **20(2)(b)**
- C35** S. 65(8) excluded (25.11.2005) by The Docklands Light Railway (Capacity Enhancement) Order 2005 (S.I. 2005/3105), arts. 1, **48(2)(b)** (with arts. 3(5), 15(3))
- C36** S. 65(8) excluded (22.11.2006) by The Docklands Light Railway (Stratford International Extension) Order 2006 (S.I. 2006/2905), arts. 1, **46(2)(b)** (with arts. 43, 46(3))

## 66 Reduction of noise levels. **E+W+S**

- (1) If it appears to the local authority—
- (a) that the level of noise emanating from any premises to which a noise abatement order applies is not acceptable having regard to the purposes for which the order was made; and
  - (b) that a reduction in that level is practicable at reasonable cost and would afford a public benefit,
- the local authority may serve a notice on the person responsible.
- (2) The notice shall require that person—
- (a) to reduce the level of noise emanating from the premises to such level as may be specified in the notice;
  - (b) to prevent any subsequent increase in the level of noise emanating from those premises without the consent of the local authority; and
  - (c) to take such steps as may be specified in the notice to achieve those purposes.
- (3) A notice under this section (in this Part of this Act referred to as a “noise reduction notice”) shall specify a time, not being less than six months from the date of service of the notice, within which the noise level is to be reduced to the specified level and, where the notice specifies any steps necessary to achieve that purpose, within which those steps shall be taken.

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- (4) A noise reduction notice may specify particular times, or particular days, during which the noise level is to be reduced, and may require the noise level to be reduced to different levels for different times or days.
- (5) A notice under this section shall take effect whether or not a consent under the preceding section authorises a level of noise higher than that specified in the notice.
- (6) The local authority shall record particulars of a noise reduction notice in the noise level register.
- (7) A person who is served with a noise reduction notice may, within three months of the date of service, appeal to a magistrates' court against the notice.
- (8) A person who without reasonable excuse contravenes a noise reduction notice shall be guilty of an offence against this Part of this Act.
- (9) In proceedings for an offence under the preceding subsection in respect of noise caused in the course of a trade or business, it shall be a defence to prove that the best practicable means had been used for preventing, or for counteracting the effect of, the noise.

#### 67 **New buildings etc.** **E+W+S**

- (1) Where it appears to the local authority—
  - (a) that a building is going to be constructed and that a noise abatement order will apply to it when it is erected; or
  - (b) that any premises will, as the result of any works, become premises to which a noise abatement order applies,the local authority may, on the application of the owner or occupier of the premises or a person who satisfies the authority that he is negotiating to acquire an interest in the premises or on its own initiative, determine the level of noise which will be acceptable as that emanating from the premises.
- (2) The local authority shall record in the noise level register the level of noise determined under this section for any premises.
- (3) The local authority shall give notice of its intention to the applicant or, in the case of a decision made on its own initiative, to the owner or the occupier of the premises, and the recipient of the notice may appeal to the Secretary of State against that decision within three months of the date on which the local authority notifies him of that decision; and it shall be the duty of the local authority to act in accordance with the decision of the Secretary of State on the appeal.
- (4) If within the period of two months beginning with the date when the local authority receives an application in pursuance of subsection (1) of this section, the authority has not given notice to the applicant of its decision on the application, the authority shall be deemed to have given him notice on the expiration of that period that it has decided not to make a determination in pursuance of the application; and the applicant may accordingly appeal against the decision to the Secretary of State in pursuance of the preceding subsection.
- (5) Where at any time after the coming into force of a noise abatement order any premises become premises to which the order applies as a result of the construction of a building or as a result of any works carried out on the premises but no level of noise has been

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determined under this section as respects the premises, section 66 of this Act shall apply as if—

- (a) paragraph (b) of subsection (1) were omitted; and
- (b) three months were substituted for six months in subsection (3); and
- (c) subsection (9) were omitted.

*Noise from plant or machinery*

**68 Noise from plant or machinery. E+W+S**

(1) Provision may be made by regulations—

- (a) for requiring the use on or in connection with plant or machinery of devices or arrangements for reducing the noise caused by the plant or machinery;
- (b) for limiting the level of noise which may be caused by any plant or machinery when used for works to which section 60 of this Act applies or which may be caused outside a factory within the meaning of the <sup>M3</sup>Factories Act 1961 by the use of plant or machinery in the factory;

and regulations under this section may apply standards, specifications, descriptions or tests laid down in documents not forming part of the regulations.

(2) It shall be the duty of the Secretary of State, before he makes regulations under this section, to consult persons appearing to him to represent producers and users of plants and machinery with a view to ensuring that the regulations do not contain requirements which in his opinion would be impracticable or involve unreasonable expense.

(3) Any person who contravenes or causes or permits another person to contravene regulations under this section shall be guilty of an offence against this Part of this Act; but in any proceedings for a contravention or regulations made in pursuance of paragraph (a) of subsection (1) of this section it shall be a defence to prove that means were used for the purpose of reducing the noise in question which were not less effective for that purpose than the means required by the regulations.

(4) Without prejudice to the generality of section 104(1)(a) of this Act, different regulations may be made under this section for different localities, and it shall be the duty of each local authority to enforce the provisions of regulations under this section within its area; but nothing in this section shall be taken to authorise a local authority in Scotland to institute proceedings for any offence.

(5) Nothing in this section or in regulations under this section shall be construed as derogating from any other provision of this Part of this Act.

**Marginal Citations**

M3 1961 c. 64.

*Supplemental*

**69 Execution of works by local authority. E+W+S**

(1) This section applies—

- <sup>F24</sup>(a) .....



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- (b) to a noise reduction notice; and
  - (c) to an order of a magistrates’ court under . . . <sup>F25</sup> section 65(6) of this Act, being a notice or order which requires any person to execute any works.
- (2) If that person fails to execute all or any of the works in accordance with the notice or order, the local authority may execute those works.
- (3) Where a local authority execute works in pursuance of—
- (a) . . . <sup>F26</sup> section 65(7) of this Act; or
  - (b) this section,
- the local authority may recover from the person in default the expenditure incurred by the local authority in executing the works, except such of the expenditure as that person shows was unnecessary in the circumstances.
- In this and the following subsection “the person in default” means—
- <sup>F27</sup>(i) . . . . .
  - (ii) in a case under section 65(7), the person convicted of an offence under subsection (5) of that section, and
  - (iii) in any other case, the person to whom the notice or order applies.
- (4) In proceedings to recover any amount due to a local authority under the preceding subsection in respect of works executed by the local authority in pursuance of this section, it shall not be open to the person in default to raise any question which he could have raised on an appeal against the notice or order.

**Textual Amendments**

- F24** S. 69(1)(a) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F25** Words in s. 69(1)(c) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F26** Words in s. 69(3) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F27** S. 69(3): Para. (i) in the definition of “the person in default” repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

**70 Appeals to Secretary of State and magistrates’ court. E+W+S**

- (1) Where any provision in this Part of this Act provides for an appeal to a magistrates’ court, the procedure shall be by way of complaint for an order and [<sup>F28</sup>the <sup>M4</sup>Magistrates’ Courts Act 1980] shall apply to the proceedings.
- (2) The Secretary of State may make regulations as to appeals under this Part of this Act to the Secretary of State or, subject to the preceding subsection, to magistrates’ courts; and the regulations may in particular—
  - (a) include provisions comparable to those in section 290 of the <sup>M5</sup>Public Health Act 1936 (appeals against notices requiring the execution of works);
  - (b) prescribe the cases in which a notice under this Part of this Act is, or is not, to be suspended until the appeal is decided, or until some other stage in the proceedings;



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- (c) prescribe the cases in which the decision on appeal may in some respects be less favourable to the appellant than the decision from which he is appealing;
  - (d) prescribe the cases in which the appellant may claim that a notice should have been served on some other person and prescribe the procedure to be followed in those cases.
- (3) Regulations under this section may prescribe the procedure and practice as respect appeals to the Secretary of State under this Part of this Act, and in particular may make provision as respects—
- (a) the particulars to be included in the notice of appeal;
  - (b) the persons on whom notice of appeal is to be served and the particulars, if any, to accompany the notice; and
  - (c) the abandonment of an appeal.
- (4) In entertaining any appeal under this Part of this Act the Secretary of State, or as the case may be the magistrates' court, shall have regard to any duty imposed by law on the appellant which concerns the activities in the course of which the noise is emitted.
- (5) In the application of this section to Scotland, subsection (1) and the reference to that subsection in subsection (2) shall not have effect.

#### Textual Amendments

**F28** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\), s. 17\(2\)\(a\)](#)

#### Marginal Citations

**M4** 1980 c. 43.

**M5** 1936 c. 49.

## 71 Codes of practice for minimising noise. **E+W+S**

- (1) For the purpose of giving guidance on appropriate methods (including the use of specified types of plant or machinery) for minimising noise, the Secretary of State may—
- (a) prepare and approve and issue such codes of practice as in his opinion are suitable for the purpose; and
  - (b) Approve such codes of practice issued or proposed to be issued otherwise than by the Secretary of State as in the opinion of the Secretary of State are suitable for the purpose.
- (2) The Secretary of State shall under paragraph (a) or paragraph (b) of the preceding subsection approve a code of practice for the carrying out of works to which section 60 of this Act applies.
- (3) The powers conferred by this section on the Secretary of State shall be exercisable by order, and shall include power to vary or revoke a previous order under this section.

## 72 “Best practicable means”. **E+W+S**

- (1) This section shall apply for the construction of references in this Part of this Act to best practicable means.

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- (2) In that expression “practicable” means reasonably practicable having regard among other things to local conditions and circumstances, to the current state of technical knowledge and to the financial implications.
- (3) The means to be employed include the design, installation, maintenance and manner and periods of operation of plant and machinery, and the design, construction and maintenance of buildings and acoustic structures.
- (4) The test of best practicable means is to apply only so far as compatible with any duty imposed by law, and in particular is to apply to statutory undertakers only so far as compatible with the duties imposed on them in their capacity of statutory undertakers.
- (5) The said test is to apply only so far as compatible with safety and safe working conditions, and with the exigencies of any emergency or unforeseeable circumstances.
- (6) Subject to the preceding provisions of this section, regard shall be had, in construing references to “best practicable means”, to any relevant provision of a code of practice approved under the preceding section.

### 73 Interpretation and other supplementary provisions. **E+W**

- (1) Except where the context otherwise requires, in this Part of this Act—
  - “contravention” includes a failure to comply with the provision in question, and “contravene” shall be construed accordingly;
  - “local authority” means—
    - (a) in England . . . <sup>F29</sup>, the council of a district or a London borough, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple;  
[<sup>F30</sup>(aa) in Wales, the council of a county or a county borough;]  
and
    - (b) in Scotland, an islands or district council;
  - “noise” includes vibration;
  - “noise abatement order” and “noise abatement zone” have the meanings given by section 63 of this Act;
  - “noise level register” has the meaning given by section 64(2) of this Act;
  - “noise reduction notice” has the meaning given by section 66(3) of this Act;
  - “person responsible”, in relation to the emission of noise, means the person to whose act, default or sufferance the noise is attributable;
  - “statutory undertakers” means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of . . . <sup>F31</sup>, . . . <sup>F32</sup>, [<sup>F33</sup>or hydraulic power], and includes [<sup>F34</sup>the Port Office];
  - “work of engineering construction” means the construction, structural alteration, maintenance or repair of any railway line or siding or any dock, harbour, inland navigation, tunnel, bridge, viaduct, waterworks, reservoir, pipeline, aqueduct, sewer, sewage works or gasholder.
- (2) The area of a local authority which includes part of the seashore shall also include for the purposes of this Part of this Act, except sections 62 to 67, the territorial sea lying seawards from that part of the shore; and—

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- <sup>F35</sup>(a) .....
- (b) this Part of this Act (except sections 62 to 67 and this subsection) shall have effect, in relation to any area included in the area of a local authority by virtue of this subsection—
- (i) As if references to premises and the occupier of premises included respectively a vessel and the master of a vessel, and
- (ii) with such other modifications, if any, as are prescribed.
- (3) Where more than one person is responsible for noise, this Part of this Act shall apply to each of those persons whether or not what any one of them is responsible for would by itself amount to a nuisance, or would result in a level of noise justifying action under this Part of this Act.
- (4) This Part of this Act does not apply to noise caused by aircraft other than model aircraft and does not confer functions on port health authorities.

#### Extent Information

- E2** This version of this provision extends to England and Wales only; a separate version has been created for Scotland.

#### Textual Amendments

- F29** S. 73(1): words in the definition of “local authority” repealed (1.4.1996) by 1994 c. 19, ss. 22(3), 66(8), Sch. 9 para. 10(3), **Sch. 18** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, arts. 3, 4, Schs. 1, 2
- F30** S. 73(1): para. (aa) in the definition of “local authority” inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 10(3)** (with ss. 54(4)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**
- F31** Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 paras. 33, 35(1), **Sch. 18**
- F32** “gas,” repealed by Gas Act 1986 (c. 44, SIF 44:2), s. 67(4), **Sch. 9 Pt. I**
- F33** Words in s. 73(1) substituted (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 48(8), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F34** S. 73(1): By S.I. 2001/1149, art. 3(1), **Sch. 1 para. 38** it is provided (26.3.2001) that in the definition of “statutory undertakers” the words “a universal service provider (within the meaning of the Postal Services Act 2000) in his capacity as a person who provides a universal postal service (within the meaning of that Act)” shall be substituted for the words “the Post Office”
- F35** S. 73(2)(a) repealed by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 34 Pt. II**

#### Modifications etc. (not altering text)

- C37** S. 73 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxix), **Sch. 8 para. 33**  
s. 73 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xxii)**; S.I. 1996/218, **art. 2**

## 73 Interpretation and other supplementary provisions. **S**

- (1) Except where the context otherwise requires, in this Part of this Act—
- “contravention” includes a failure to comply with the provision in question, and “contravene” shall be construed accordingly;
- .....  
<sup>F50</sup>
- “local authority” means—

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- (a) in England . . . <sup>F51</sup>, the council of a district or a London borough, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple;  
[<sup>F52</sup>(aa) in Wales, the council of a county or a county borough;]

and

- (b) in Scotland, [<sup>F53</sup>a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];  
“noise” includes vibration;  
“noise abatement order” and “noise abatement zone” have the meanings given by section 63 of this Act;  
“noise level register” has the meaning given by section 64(2) of this Act;  
“noise reduction notice” has the meaning given by section 66(3) of this Act;  
“person responsible”, in relation to

<sup>F54</sup>(a) the emission of noise, means the person to whose act, default or surrurance the noise is attributable;

<sup>F55</sup>(b) . . . . .

<sup>F55</sup>(c) . . . . .

<sup>F56</sup>

“statutory undertakers” means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of . . . <sup>F57</sup>, . . . <sup>F58</sup>, hydraulic power or water, and includes [<sup>F59</sup>the Port Office];

“work of engineering construction” means the construction, structural alteration, maintenance or repair of any railway line or siding or any dock, harbour, inland navigation, tunnel, bridge, viaduct, waterworks, reservoir, pipeline, aqueduct, sewer, sewage works or gasholder.

- (2) The area of a local authority which includes part of the seashore shall also include for the purposes of this Part of this Act, except sections 62 to 67, the territorial sea lying seawards from that part of the shore; and—

<sup>F60</sup>(a) . . . . .

- (b) this Part of this Act (except sections 62 to 67 and this subsection) shall have effect, in relation to any area included in the area of a local authority by virtue of this subsection—

- (i) As if references to premises and the occupier of premises included respectively a vessel and the master of a vessel, and
- (ii) with such other modifications, if any, as are prescribed.

- (3) Where more than one person is responsible for noise, this Part of this Act shall apply to each of those persons whether or not what any one of them is responsible for would by itself amount to a nuisance, or would result in a level of noise justifying action under this Part of this Act . . . <sup>F61</sup>

- (4) This Part of this Act does not apply to noise caused by aircraft other than model aircraft and does not confer functions on port health authorities.

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*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part III. (See end of Document for details)*

### Extent Information

- E4** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

### Textual Amendments

- F50** S. 73(1): definition of “equipment” repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F51** S. 73(1): words in the definition of “local authority” repealed (1.4.1996) by 1994 c. 19, ss. 22(3), 66(8), **Sch. 9 para. 10(3)**, **Sch. 18** (with ss. 54(4)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, arts. 3, 4, **Schs. 1, 2**
- F52** S. 73(1): para. (aa) in the definition of “local authority” inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 10(3)** (with ss. 54(4)(7), 55(5), **Sch. 17 para. 22(1), 23(2)**); S.I. 1996/396, art. 3, **Sch. 1**
- F53** S. 73(1): words in definition of “local authority” substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 95(7)**; S.I. 1996/323, **art. 4(c)**
- F54** Words in definition in s. 73(1) renumbered as para. (a) and paras. (b)(c) added (S.) (5.1.1994) by 1993 c. 40, ss. 6, 12(1), **Sch. 1 para. 7(a)(ii)**.
- F55** S. 73(1): paras. (b) and (c) in the definition of “person responsible” repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F56** S. 73(1): definition of “road noise” repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F57** Word repealed by **Electricity Act 1989** (c. 29, SIF 44:1), s. 112(3)(4), **Sch. 17 paras. 33, 35(1)**, **Sch. 18**
- F58** “gas,” repealed by **Gas Act 1986** (c. 44, SIF 44:2), s. 67(4), **Sch. 9 Pt. I**
- F59** S. 73(1): By S.I. 2001/1149, **art. 3(1)**, **Sch. 1 para. 38** it is provided (26.3.2001) that in the definition of “statutory undertakers” the words “a universal service provider (within the meaning of the Postal Services Act 2000) in his capacity as a person who provides a universal postal service (within the meaning of that Act)” shall be substituted for the words “the Post Office”
- F60** S. 73(2)(a) repealed by **Local Government, Planning and Land Act 1980** (c. 65), **Sch. 34 Pt. II**
- F61** Words in s. 73(3) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

### Modifications etc. (not altering text)

- C39** S. 73 extended by **Gas Act 1986** (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(1)(xxix)**, **Sch. 8 para. 33**
- C40** S. 73 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xxii)**; S.I. 1996/218, **art. 2**

## 74 Penalties. **E+W+S**

- (1) . . . <sup>F36</sup>, a person guilty of an offence against this Part of this Act shall be liable on summary conviction—
- (a) in the case of a first offence against this Part of this Act, to a fine not exceeding [<sup>F37</sup>level 5 on the standard scale]; and
  - (b) in the case of a second or subsequent offence against this Part of this Act, to a fine not exceeding [<sup>F38</sup>level 5 on the standard scale],
- together, in any case, with a further fine not exceeding £50 for each day on which the offence continues after the conviction.
- (2) In determining whether an offence is a second or subsequent offence against this Part of this Act, account shall be taken of any offence—
- (a) under section 24 of the <sup>M6</sup>Public Health (Scotland) Act 1897 by way of contravening a decree or interdict relating to noise; or

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*Status: Point in time view as at 22/11/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part III. (See end of Document for details)*

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- (b) under section 95 of the <sup>M7</sup>Public Health Act 1936 by way of contravening a nuisance order relating to noise, [<sup>F39</sup>; or
- (c) under section 80(4) of the Environmental Protection Act 1990,] as if it were an offence against this Part of this Act.

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#### **Textual Amendments**

- F36** Words in s. 74 repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F37** Words in s. 74(1)(a) substituted (S.) (11.4.1983) by virtue of **Criminal Procedure (Scotland) Act 1975** (c. 21), **ss. 289E**—289G (as inserted by **Criminal Justice Act 1982** (c. 48), **s. 54**)
- F38** Words in s. 74(1)(b) substituted (S.) (11.4.1983) by virtue of **Criminal Procedure (Scotland) Act 1975** (c. 21), **ss. 389F**, 389G (as inserted by **Criminal Justice Act 1982** (c. 48), **s. 54**)
- F39** S. 74(2)(c) and word “; or” immediately preceding it inserted (E.W.S.) by **Environmental Protection Act 1990** (c. 43, SIF 46:4), s. 162(1), **Sch. 15 para. 15(5)**
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#### **Marginal Citations**

- M6** 1897 c. 38.  
**M7** 1936 c. 49.

**Status:**

Point in time view as at 22/11/2006.

**Changes to legislation:**

There are currently no known outstanding effects for the Control of Pollution Act 1974, Part III.