



# Control of Pollution Act 1974

## 1974 CHAPTER 40

### PART III

#### NOISE

##### *Noise abatement zones*

#### 63 Designation of zones.

- (1) A local authority may by order . . . <sup>F1</sup> designate all or any part of its area a noise abatement zone.
- (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>F1</sup> under this section may be revoked or varied by a subsequent order so made . . . <sup>F1</sup>
- (4) The provisions of Schedule 1 to this Act shall apply to the . . . <sup>F1</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

- F1** Words repealed by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 1\(2\), Sch. 2 para. 14, Sch. 34 Pt.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

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#### **64 Register of noise levels.**

- (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.
- (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.**

- (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

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- 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>F2</sup> . . . [<sup>F3</sup>section 82 of the Environmental Protection Act 1990 <sup>F2</sup> .]

#### Textual Amendments

- F2** 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**
- F3** 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)

- C1** S. 65(8) excluded (9.11.2001) by S.I. 2001/3682, **art. 31(2)(b)**
- C2** S. 65(8) restricted (18.7.2001) by S.I. 2001/2870, **art. 22(2)(b)**
- C3** S. 65(8) excluded (20.8.1999) by S.I. 1999/2336, **art. 23(2)**
- C4** S. 65(8) excluded (18.12.1996) by 1996 c. 61, **s. 30(2)**
- C5** 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)**
- C6** 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**)
- C7** 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**)

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- C8** 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))
- C9** 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)
- C10** S. 65(8) excluded (4.5.2005) by [The Telford Railfreight Terminal \(Donnington\) Order 2005 \(S.I. 2005/1163\)](#), arts. 1, **20(2)(b)**
- C11** 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))
- C12** 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.

- (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.
- (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.

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## **67 New buildings etc.**

- (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 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.

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