
STATUTORY INSTRUMENTS

2016 No. 987

The Brechfa Forest Wind Farm Connection Order 2016

PART 4

Supplemental powers

Defence to proceedings in respect of statutory nuisance

16.—(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 paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance), no order is to 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), of the Control of Pollution Act 1974⁽²⁾; or
 - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot be reasonably 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 shall 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.

Commencement Information

II Art. 16 in force at 28.10.2016, see [art. 1](#)

⁽¹⁾ 1990 c. 43.

⁽²⁾ 1974 c. 40. Section 61(9) amended by section 162 of, and paragraph 15 of Schedule 15 to, the Environmental Protection Act 1990 (c. 43). There are other amendments to this Act which are not relevant to this Order.

Changes to legislation:

There are currently no known outstanding effects for the The Brechfa Forest Wind Farm Connection Order 2016, Section 16.