



# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART III

#### STATUTORY NUISANCES AND CLEAN AIR

*<sup>F1</sup> Statutory nuisances . . .*

#### 80 Summary proceedings for statutory nuisances. **E+W**

(1) [<sup>F2</sup>Subject to subsection (2A)] where a local authority is satisfied that a statutory nuisance exists, or is likely to occur or recur, in the area of the authority, the local authority shall serve a notice (“an abatement notice”) imposing all or any of the following requirements—

- (a) requiring the abatement of the nuisance or prohibiting or restricting its occurrence or recurrence;
- (b) requiring the execution of such works, and the taking of such other steps, as may be necessary for any of those purposes,

and the notice shall specify the time or times within which the requirements of the notice are to be complied with.

(2) [<sup>F3</sup>Subject to section 80A(1) below, the abatement notice] shall be served—

- (a) except in a case falling within paragraph (b) or (c) below, on the person responsible for the nuisance;
- (b) where the nuisance arises from any defect of a structural character, on the owner of the premises;
- (c) where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, on the owner or occupier of the premises.

[<sup>F4</sup>(2A) Where a local authority is satisfied that a statutory nuisance falling within paragraph (g) of section 79(1) above exists, or is likely to occur or recur, in the area of the authority, the authority shall—

- (a) serve an abatement notice in respect of the nuisance in accordance with subsections (1) and (2) above; or

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*Status: There are multiple versions of this provision on screen. These apply to different geographical extents. Skip to: E+W - England and Wales extent S - Scotland extent*

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- (b) take such other steps as it thinks appropriate for the purpose of persuading the appropriate person to abate the nuisance or prohibit or restrict its occurrence or recurrence.
- (2B) If a local authority has taken steps under subsection (2A)(b) above and either of the conditions in subsection (2C) below is satisfied, the authority shall serve an abatement notice in respect of the nuisance.
- (2C) The conditions are—
- (a) that the authority is satisfied at any time before the end of the relevant period that the steps taken will not be successful in persuading the appropriate person to abate the nuisance or prohibit or restrict its occurrence or recurrence;
  - (b) that the authority is satisfied at the end of the relevant period that the nuisance continues to exist, or continues to be likely to occur or recur, in the area of the authority.
- (2D) The relevant period is the period of seven days starting with the day on which the authority was first satisfied that the nuisance existed, or was likely to occur or recur.
- (2E) The appropriate person is the person on whom the authority would otherwise be required under subsection (2A)(a) above to serve an abatement notice in respect of the nuisance.]
- (3) [<sup>F5</sup>A person served with an abatement notice] may appeal against the notice to a magistrates' court [<sup>F6</sup>or in Scotland, the sheriff] within the period of twenty-one days beginning with the date on which he was served with the notice.
- (4) If a person on whom an abatement notice is served, without reasonable excuse, contravenes or fails to comply with any requirement or prohibition imposed by the notice, he shall be guilty of an offence.
- (5) Except in a case falling within subsection (6) below, a person who commits an offence under subsection (4) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale together with a further fine of an amount equal to [<sup>F7</sup>one-tenth of the greater of £5,000 or level 4 on the standard scale] for each day on which the offence continues after the conviction.
- (6) A person who commits an offence under subsection (4) above on industrial, trade or business premises shall be liable on summary conviction to [<sup>F8</sup>a fine].
- (7) Subject to subsection (8) below, in any proceedings for an offence under subsection (4) above in respect of a statutory nuisance it shall be a defence to prove that the best practicable means were used to prevent, or to counteract the effects of, the nuisance.
- (8) The defence under subsection (7) above is not available—
- (a) in the case of a nuisance falling within paragraph (a), (d), (e), (f) [<sup>F9</sup>, (fa)] or (g) of section 79(1) above except where the nuisance arises on industrial, trade or business premises;
  - [<sup>F10</sup>(aza) in the case of a nuisance falling within paragraph (fb) of section 79(1) above except where—
    - (i) the artificial light is emitted from industrial, trade or business premises, or
    - (ii) the artificial light (not being light to which sub-paragraph (i) applies) is emitted by lights used for the purpose only of illuminating an outdoor relevant sports facility;]

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- [<sup>F11</sup>(aa) in the case of a nuisance falling within paragraph (ga) of section 79(1) above except where the noise is emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes;]
- (b) in the case of a nuisance falling within paragraph (b) of section 79(1) above except where the smoke is emitted from a chimney; and
- (c) in the case of a nuisance falling within paragraph (c) or (h) of section 79(1) above.
- [<sup>F12</sup>(8A) For the purposes of subsection (8)(aza) a relevant sports facility is an area, with or without structures, that is used when participating in a relevant sport, but does not include such an area comprised in domestic premises.
- (8B) For the purposes of subsection (8A) “relevant sport” means a sport that is designated for those purposes by order made by the Secretary of State, in relation to England, or the National Assembly for Wales, in relation to Wales.
- A sport may be so designated by reference to its appearing in a list maintained by a body specified in the order.
- (8C) In subsection (8A) “domestic premises” means—
- (a) premises used wholly or mainly as a private dwelling, or
- (b) land or other premises belonging to, or enjoyed with, premises so used.]
- (9) In proceedings for an offence under subsection (4) above in respect of a statutory nuisance falling within paragraph (g) [<sup>F13</sup>or (ga)] of section 79(1) above where the offence consists in contravening requirements imposed by virtue of subsection (1)(a) above it shall be a defence to prove—
- (a) that the alleged offence was covered by a notice served under section 60 or a consent given under section 61 or 65 of the <sup>M1</sup>Control of Pollution Act 1974 (construction sites, etc); or
- (b) where the alleged offence was committed at a time when the premises were subject to a notice under section 66 of that Act (noise reduction notice), that the level of noise emitted from the premises at that time was not such as to constitute a contravention of the notice under that section; or
- (c) where the alleged offence was committed at a time when the premises were not subject to a notice under section 66 of that Act, and when a level fixed under section 67 of that Act (new buildings liable to abatement order) applied to the premises, that the level of noise emitted from the premises at that time did not exceed that level.
- (10) Paragraphs (b) and (c) of subsection (9) above apply whether or not the relevant notice was subject to appeal at the time when the offence was alleged to have been committed.

#### Extent Information

- E1** Ss. 79-82, which previously extended to England and Wales only, extend to Scotland from 1.4.1996 (except where specified) by virtue of the repeal of s. 83 of this Act by 1995 c. 25, s. 120(3), [Sch. 24](#); [S.I. 1996/186](#), [art. 3](#)
- E2** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

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### Textual Amendments

- F2** Words in s. 80(1) inserted (E.W.) (6.4.2006 for E. and 27.10.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), **ss. 86**, 108; S.I. 2006/795, **art. 2(3)**, Sch. 2; S.I. 2006/2797, **art. 2(q)**
- F3** Words in s. 80(2) substituted (5.1.1994) by [1993 c. 40](#), **ss. 3(2)**, 12(1)
- F4** S. 80(2A)-(2E) inserted (E.W.) (6.4.2006 for E. and 27.10.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), **ss. 86**, 108; S.I. 2006/795, **art. 2(3)**, Sch. 2; S.I. 2006/2797, **art. 2(q)**
- F5** Words in s. 80(3) substituted (5.1.1994) by [1993 c. 40](#), **ss. 3(3)**, 12(1)
- F6** Words in s. 80(3) inserted (1.4.1996) by [1995 c. 25](#), s. 107, **Sch. 17 para.3** (with ss. 7(6), 115, 117); S.I. 1996/186, **art.3**
- F7** Words in s. 80(5) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 3 para. 6(4)** (with reg. 5(1))
- F8** Words in s. 80(6) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 4 para. 22(5)** (with reg. 5(1))
- F9** Words in s. 80(8)(a) inserted (E.W.) (16.3.2006 for certain purposes for W., 6.4.2006 for E. and 31.1.2007 in so far as not already in force for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), **ss. 103(2)(a)**, 108; S.I. 2006/768, **art. 3**; S.I. 2006/795, **art. 2(3)**, Sch. 2; S.I. 2006/2797, **art. 6(b)** (as amended (30.1.2007) by S.I. 2007/120, art. 3)
- F10** S. 80(8)(aza) inserted (E.W.) (16.3.2006 for certain purposes for W., 6.4.2006 for E. and 31.1.2007 in so far as not already in force for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), **ss. 103(2)(b)**, 108; S.I. 2006/768, **art. 3**; S.I. 2006/795, **art. 2(3)**, Sch. 2; S.I. 2006/2797, **art. 7(b)** (as amended (30.1.2007) by S.I. 2007/120, art. 3)
- F11** S. 80(8)(aa) inserted (5.1.1994) by [1993 c. 40](#), **ss. 3(4)**, 12(1)
- F12** S. 80(8A)-(8C) inserted (E.W.) (16.3.2006 for certain purposes for W., 6.4.2006 for E. and 31.1.2007 in so far as not already in force for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), **ss. 103(3)**, 108; S.I. 2006/768, **art. 3**; S.I. 2006/795, **art. 2(3)**, Sch. 2; S.I. 2006/2797, **art. 7(b)** (as amended (30.1.2007) by S.I. 2007/120, art. 3)
- F13** Words in s. 80(9) inserted (5.1.1994) by [1993 c. 40](#), **ss. 3(5)**, 12(1)

### Modifications etc. (not altering text)

- C11** S. 80(4) restricted (E.) (13.4.2001) by [S.I. 2001/1478](#), **reg. 3(b)**

### Marginal Citations

- M1** [1974 c. 40](#).

## 80 Summary proceedings for statutory nuisances. **S**

- (1) Where a local authority is satisfied that a statutory nuisance exists, or is likely to occur or recur, in the area of the authority, the local authority shall serve a notice (“an abatement notice”) imposing all or any of the following requirements—
- (a) requiring the abatement of the nuisance or prohibiting or restricting its occurrence or recurrence;
  - (b) requiring the execution of such works, and the taking of such other steps, as may be necessary for any of those purposes,
- and the notice shall specify the time or times within which the requirements of the notice are to be complied with.
- (2) [<sup>F3</sup>Subject to section 80A(1) below, the abatement notice] shall be served—

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- (a) except in a case falling within paragraph (b) or (c) below, on the person responsible for the nuisance;
  - (b) where the nuisance arises from any defect of a structural character, on the owner of the premises;
  - (c) where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, on the owner or occupier of the premises.
- (3) [<sup>F5</sup>A person served with an abatement notice] may appeal against the notice to a magistrates' court [<sup>F6</sup>or in Scotland, the sheriff] within the period of twenty-one days beginning with the date on which he was served with the notice.
- (4) If a person on whom an abatement notice is served, without reasonable excuse, contravenes or fails to comply with any requirement or prohibition imposed by the notice, he shall be guilty of an offence.
- [<sup>F14</sup>(4A) Where a local authority have reason to believe that a person has committed an offence under subsection (4) above, the local authority may give that person a notice (a "fixed penalty notice") in accordance with section 80ZA offering the person the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.]
- (5) Except in a case falling within subsection (6) below, a person who commits an offence under subsection (4) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after the conviction.
- (6) A person who commits an offence under subsection (4) above on industrial, trade or business premises shall be liable on summary conviction to a fine not exceeding [<sup>F15</sup>£40,000].
- (7) Subject to subsection (8) below, in any proceedings for an offence under subsection (4) above in respect of a statutory nuisance it shall be a defence to prove that the best practicable means were used to prevent, or to counteract the effects of, the nuisance.
- (8) The defence under subsection (7) above is not available—
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F17(b) .....

F18(c) .....

F19(10) .....

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- F5** Words in s. 80(3) substituted (5.1.1994) by 1993 c. 40, **ss. 3(3)**, 12(1)
- F6** Words in s. 80(3) inserted (1.4.1996) by 1995 c. 25, s. 107, **Sch. 17 para.3** (with ss. 7(6), 115, 117); S.I. 1996/186, **art.3**
- F11** S. 80(8)(aa) inserted (5.1.1994) by 1993 c. 40, **ss. 3(4)**, 12(1)
- F13** Words in s. 80(9) inserted (5.1.1994) by 1993 c. 40, **ss. 3(5)**, 12(1)
- F14** S. 80(4A) inserted (S.) (26.1.2009) by Public Health etc. (Scotland) Act 2008 (asp 5) {ss. 113(2)}, 128(2) (with s. 127); S.S.I. 2009/9, **art. 2(a)**, Sch. 1
- F15** Words in s. 80(6) substituted (S.) (28.10.2004) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), ss. 66, 145(2), **Sch. 2 Pt. 1 para. 4(4)**; S.S.I. 2004/420, **art. 3**, Sch. 1
- F16** Words in s. 80(9)(a) repealed (S.) (30.6.2014) by Regulatory Reform (Scotland) Act 2014 (asp 3), s. 61(2), **sch. 3 para. 23(b)(i)**; S.S.I. 2014/160, art. 2(1)(2), sch.
- F17** S. 80(9)(b) and word repealed (S.) (30.6.2014) by Regulatory Reform (Scotland) Act 2014 (asp 3), s. 61(2), **sch. 3 para. 23(b)(ii)**; S.S.I. 2014/160, art. 2(1)(2), sch.
- F18** S. 80(9)(c) and word repealed (S.) (30.6.2014) by Regulatory Reform (Scotland) Act 2014 (asp 3), s. 61(2), **sch. 3 para. 23(b)(iii)**; S.S.I. 2014/160, art. 2(1)(2), sch.
- F19** S. 80(10) repealed (S.) (30.6.2014) by Regulatory Reform (Scotland) Act 2014 (asp 3), s. 61(2), **sch. 3 para. 23(b)(iv)**; S.S.I. 2014/160, art. 2(1)(2), sch.

### Modifications etc. (not altering text)

- C11** S. 80(4) restricted (E.) (13.4.2001) by S.I. 2001/1478, **reg. 3(b)**
- C12** S. 79-81 excluded (S.) (22.4.2006 for certain purposes and otherwise prosp.) by Water Services etc. (Scotland) Act 2005 (asp 3), **ss. 26(10)**, 37(2) (with s. 36); S.S.I. 2006/167, **art. 2**, Sch. 2

### Marginal Citations

- M1** 1974 c. 40.

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**Skip to:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 33ZB(10A) inserted by [2021 c. 30 s. 69\(3\)\(b\)](#)
- s. 34ZB(8A) inserted by [2021 c. 30 s. 69\(5\)\(b\)](#)
- s. 106A inserted by [2023 c. 6 s. 41\(2\)](#)
- s. 161(2AA)(2AB) inserted by [2016 anaw 3 s. 69\(4\)](#)