



Environmental Protection Act 1990

1990 CHAPTER 43

PART III

STATUTORY NUISANCES AND CLEAN AIR

^{F1} Statutory nuisances . . .

81 Supplementary provisions. **E+W**

(1) [^{F2}Subject to subsection (1A) below, where] more than one person is responsible for a statutory nuisance section 80 above 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.

[^{F3}(1A) In relation to a statutory nuisance within section 79(1)(ga) above for which more than one person is responsible (whether or not what any one of those persons is responsible for would by itself amount to such a nuisance), section 80(2)(a) above shall apply with the substitution of “any one of the persons” for “the person”.

(1B) In relation to a statutory nuisance within section 79(1)(ga) above caused by noise emitted from or caused by an unattended vehicle or unattended machinery or equipment for which more than one person is responsible, section 80A above shall apply with the substitution—

- (a) in subsection (2)(a), of “any of the persons” for “the person” and of “one such person” for “that person”,
- (b) in subsection (2)(b), of “such a person” for “that person”,
- (c) in subsection (3), of “any of the persons” for “the person” and of “one such person” for “that person”,
- (d) in subsection (5), of “any person” for “the person”, and
- (e) in subsection (7), of “a person” for “the person” and of “such a person” for “that person”.]

(2) Where a statutory nuisance which exists or has occurred within the area of a local authority, or which has affected any part of that area, appears to the local authority to be wholly or partly caused by some act or default committed or taking place outside

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the area, the local authority may act under section 80 above as if the act or default were wholly within that area, except that any appeal shall be heard by a magistrates' court [^{F4}or in Scotland, the sheriff] having jurisdiction where the act or default is alleged to have taken place.

- (3) Where an abatement notice has not been complied with the local authority may, whether or not they take proceedings for an offence [^{F5}or, in Scotland, whether or not proceedings have been taken for an offence,] under section 80(4) above, abate the nuisance and do whatever may be necessary in execution of the notice.
- (4) Any expenses reasonably incurred by a local authority in abating, or preventing the recurrence of, a statutory nuisance under subsection (3) above may be recovered by them from the person by whose act or default the nuisance was caused and, if that person is the owner of the premises, from any person who is for the time being the owner thereof; and the court [^{F6}or sheriff] may apportion the expenses between persons by whose acts or defaults the nuisance is caused in such manner as the court consider [^{F6}or sheriff considers] fair and reasonable.
- (5) If a local authority is of opinion that proceedings for an offence under section 80(4) above would afford an inadequate remedy in the case of any statutory nuisance, they may, subject to subsection (6) below, take proceedings in the High Court [^{F7}or, in Scotland, in any court of competent jurisdiction,] for the purpose of securing the abatement, prohibition or restriction of the nuisance, and the proceedings shall be maintainable notwithstanding the local authority have suffered no damage from the nuisance.
- (6) In any proceedings under subsection (5) above in respect of a nuisance falling within paragraph (g) [^{F8}or (ga)] of section 79(1) above, it shall be a defence to prove that the noise was authorised by a notice under section 60 or a consent under section 61 (construction sites) of the ^{M1}Control of Pollution Act 1974.
- (7) The further supplementary provisions in Schedule 3 to this Act shall have effect.

Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only
- E2** 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](#)

Textual Amendments

- F2** Words in s. 81(1) substituted (5.1.1994) by [1993 c. 40, ss. 4\(2\)](#), 12(1)(2)
- F3** S. 81(1A)(1B) inserted (5.1.1994) by [1993 c. 40, ss. 4\(3\)](#), 12(1)(2)
- F4** Words in s. 81(2) inserted (1.4.1996) by [1995 c. 25, s. 107, Sch. 17 para. 4\(a\)](#) (with [ss. 7\(6\)](#), 115, 117); [S.I. 1996/186, art.3](#)
- F5** Words in s. 81(3) inserted (1.4.1996) by [1995 c. 25, s. 107, Sch. 17 para. 4\(b\)](#) (with [ss. 7\(6\)](#), 115, 117); [S.I. 1996/186, art.3](#)
- F6** Words in s. 81(4) inserted (1.4.1996) by [1995 c. 25, s. 107, Sch. 17 para. 4\(c\)](#) (with [ss. 7\(6\)](#), 115, 117); [S.I. 1996/186, art.3](#)
- F7** Words in s. 81(5) inserted (1.4.1996) by [1995 c. 25, s. 107, Sch. 17 para. 4\(d\)](#) (with [ss. 7\(6\)](#), 115, 117); [S.I. 1996/186, art.3](#)
- F8** Words in s. 81(6) inserted (5.1.1994) by [1993 c. 40, ss. 4\(4\)](#), 12(1)(2)

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Modifications etc. (not altering text)

- C11** 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
- C12** S. 81(3) extended (19.9.1996) by [1996 c. 37](#), **s. 10(7)**; S.I. 1996/2219, **art.2**

Marginal Citations

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

81 Supplementary provisions. **S**

- (1) [^{F2}Subject to subsection (1A) below, where] more than one person is responsible for a statutory nuisance section 80 above 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.
- [^{F3}(1A) In relation to a statutory nuisance within section 79(1)(ga) above for which more than one person is responsible (whether or not what any one of those persons is responsible for would by itself amount to such a nuisance), section 80(2)(a) above shall apply with the substitution of “any one of the persons” for “the person”.
- (1B) In relation to a statutory nuisance within section 79(1)(ga) above caused by noise emitted from or caused by an unattended vehicle or unattended machinery or equipment for which more than one person is responsible, section 80A above shall apply with the substitution—
- in subsection (2)(a), of “any of the persons” for “the person” and of “one such person” for “that person”,
 - in subsection (2)(b), of “such a person” for “that person”,
 - in subsection (3), of “any of the persons” for “the person” and of “one such person” for “that person”,
 - in subsection (5), of “any person” for “the person”, and
 - in subsection (7), of “a person” for “the person” and of “such a person” for “that person”.]
- (2) Where a statutory nuisance which exists or has occurred within the area of a local authority, or which has affected any part of that area, appears to the local authority to be wholly or partly caused by some act or default committed or taking place outside the area, the local authority may act under section 80 above as if the act or default were wholly within that area, except that any appeal shall be heard by a magistrates’ court [^{F4}or in Scotland, the sheriff] having jurisdiction where the act or default is alleged to have taken place.
- [^{F9}(3) Where an abatement notice has not been complied with, the local authority may, whether or not—
- proceedings have been taken for an offence under section 80(4); or
 - a fixed penalty notice has been given under section 80(4A) in respect of that offence (regardless of whether the fixed penalty notice is accepted),
- abate the nuisance and do whatever may be necessary in execution of the abatement notice.]
- [^{F10}(3A) The power under subsection (3) above shall, where the matter to be abated is a statutory nuisance by virtue of section 79(1)(g) above, include power to seize and remove any equipment which it appears to the authority is being or has been used in the emission of the noise in question.

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- (3B) A person who wilfully obstructs any person exercising, by virtue of subsection (3A) above, the power conferred by subsection (3) above shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (3C) Schedule 1 to the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8) shall have effect in relation to equipment seized by virtue of subsection (3A) above as it does in relation to equipment seized under section 47(2) of that Act, subject to the following modifications—
- (a) in paragraph 1(a), “noise offence” means an offence under section 80(4) above in respect of a statutory nuisance falling within section 79(1)(g) above; and
 - (b) in paragraph 1(b), “seized equipment” means equipment seized by virtue of subsection (3A) above.]
- (4) Any expenses reasonably incurred by a local authority in abating, or preventing the recurrence of, a statutory nuisance under subsection (3) above may be recovered by them from the person by whose act or default the nuisance was caused and, if that person is the owner of the premises, from any person who is for the time being the owner thereof; and the court [^{F6}or sheriff] may apportion the expenses between persons by whose acts or defaults the nuisance is caused in such manner as the court consider [^{F6}or sheriff considers] fair and reasonable.
- (5) If a local authority is of opinion that proceedings for an offence under section 80(4) above would afford an inadequate remedy in the case of any statutory nuisance, they may, subject to subsection (6) below, take proceedings in the High Court [^{F7}or, in Scotland, in any court of competent jurisdiction,] for the purpose of securing the abatement, prohibition or restriction of the nuisance, and the proceedings shall be maintainable notwithstanding the local authority have suffered no damage from the nuisance.
- (6) In any proceedings under subsection (5) above in respect of a nuisance falling within paragraph (g) [^{F8}or (ga)] of section 79(1) above, it shall be a defence to prove that the noise was authorised by a notice under section 60 or a consent under section 61 (construction sites) of the ^{M1}Control of Pollution Act 1974.
- (7) The further supplementary provisions in Schedule 3 to this Act shall have effect.

Extent Information

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

Textual Amendments

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- F6** Words in s. 81(4) inserted (1.4.1996) by 1995 c. 25, s. 107, **Sch. 17 para. 4(c)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art.3**
- F7** Words in s. 81(5) inserted (1.4.1996) by 1995 c. 25, s. 107, **Sch. 17 para. 4(d)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art.3**

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F8 Words in s. 81(6) inserted (5.1.1994) by 1993 c. 40, **ss. 4(4)**, 12(1)(2)

F9 S. 81(3) substituted (S.) (26.1.2009) by Public Health etc. (Scotland) Act 2008 (asp 5), **ss. 113(4)**, 128(2) (with s. 127); S.S.I. 2009/9, **art. 2(a)**, Sch. 1

F10 S. 81(3A)-(3C) inserted (S.) (1.12.2004) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), **ss. 144(1)**, 145(2), **Sch. 4 para. 3**; S.S.I. 2004/420, **art. 3**, Sch. 3

Modifications etc. (not altering text)

C11 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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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\(4\)](#)