2006 No. 771

ENVIRONMENTAL PROTECTION, ENGLAND

The Statutory Nuisance (Appeals) (Amendment) (England) Regulations 2006

Made - - - -	10th March *2006*
Laid before Parliament	16th *March 2006*
Coming into force - -	*6th April 2006*

The Secretary of State makes the following Regulations in exercise of the powers conferred by paragraph 1(4) of Schedule 3 to the Environmental Protection Act 1990(**a**):

Citation, commencement and application

1. These Regulations—

(a) may be cited as the Statutory Nuisance (Appeals) (Amendment) (England) Regulations 2006;

(b) come into force on 6th April 2006;

(c) apply in England only.

Amendment of the Statutory Nuisance (Appeals) Regulations 1995

2.—(1) Regulation 2 (appeals under section 80(3) of the 1990 Act) of the Statutory Nuisance (Appeals) Regulations 1995(**b**) is amended as follows.

(2) In paragraph (2)(e)—

(a) in paragraph (i), after "(f)" insert ", (fa)"(**c**);

(b) after paragraph (iii) insert—

"or

(iv) is a nuisance falling within section 79(1)(fb) of the 1990 Act and—

(aa) the artificial light is emitted from industrial, trade or business premises, or

(bb) the artificial light (not being light to which sub-paragraph (aa) applies) is emitted by lights used for the purpose only of illuminating an

(**a**) 1990 c.43; the relevant functions of the Secretary of State, insofar as they relate to Wales, were transferred to the National Assembly for Wales by article 2(a) of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

(**b**) S.I. 1995/2644; the Regulations extend to England and Wales, and were made by the Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales.

(**c**) Section 79(1)(fa) of the 1990 Act was inserted by section 101(2) of the Clean Neighbourhoods and Environment Act 2005 (c.16).

outdoor relevant sports facility (within the meaning given by section 80(8A) of the 1990 Act),"(**a**).

Ben Bradshaw
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

Date 10th March 2006

(**a**) Section 79(1)(fb) of the 1990 Act was inserted by section 102(2) of the Clean Neighbourhoods and Environment Act 2005 (c.16). Section 80(8A) was inserted by section 103(3) of the 2005 Act.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Statutory Nuisance (Appeals) Regulations 1995 (S.I. 1995/2644) ("the 1995 Regulations").

The 1995 Regulations (regulation 2(2)) describe the grounds on which a person may rely when appealing to the magistrates' court under section 80(3) of the Environmental Protection Act 1990 (c.43) ("the 1990 Act") against an abatement notice that has been served on him in respect of a statutory nuisance. In respect of any of the statutory nuisances described at section 79(1)(a), (d), (e), (f) or (g) of 1990 Act, where such a nuisance arose on industrial, trade or business premises, the grounds are that the best practicable means were used to prevent, or to counteract the effects of the nuisance (see regulation 2(2)(e)(i) of the 1995 Regulations).

The Clean Neighbourhoods and Environment Act 2005 (c.16) (sections 101 to 103) adds two new statutory nuisances to those listed in section 79(1) of the 1990 Act. These are (at section 79(1)(fa)) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance, and (at section 79(1)(fb)) artificial light emitted from premises so as to be prejudicial to health or a nuisance.

The amendments made by these Regulations enable reliance to be placed, upon an appeal to the magistrates' court against an abatement notice which cites either an insect or artificial light statutory nuisance, on best practicable means having been used to abate, or to counteract the effect of, such a nuisance. Section 79(1)(fa) (the insect nuisance) is added to the list of provisions at regulation 2(2)(e)(i) of the 1995 Regulations (*regulation 2(2)(a)*). Section 79(1)(fb) (the artificial light nuisance) is made the subject of a new regulation 2(2)(e)(iv) of the 1995 Regulations, providing that best practicable means are a ground of appeal against an abatement notice in respect of this nuisance where the artificial light is emitted either from industrial, trade or business premises, or by lights used for the purpose only of illuminating an outdoor relevant sports facility (*regulation 2(2)(b)*).

A full regulatory impact assessment has not been produced for these Regulations as they have no impact on the costs of business.

STATUTORY INSTRUMENTS

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