

Jersey Law 34/1999

STATUTORY NUISANCES (JERSEY) LAW 1999

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STATUTORY NUISANCES (JERSEY) LAW 1999

A LAW to provide for statutory nuisances; for procedures for dealing with them; and for connected purposes; sanctioned by Order of Her Majesty in Council of the

24th day of NOVEMBER 1999

(Registered on the 24th day of December 1999)

STATES OF JERSEY

The 22nd day of June 1999

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

ARTICLE 1

Interpretation

(1) In this Law, unless the context otherwise requires –

“abatement notice” has the meaning assigned to it by paragraph (1) of Article 5;

“authorized person” means any person authorized by the Committee for the purposes of discharging any or all of the functions contained in this Law;

“best practicable means” is to be interpreted by reference to the following provisions –

- (a) “practicable” means reasonably practicable having regard among other things to local conditions and circumstances, to the current state of technical knowledge and to the financial implications;
- (b) the means to be employed include the design, installation, maintenance and manner and periods of operation of plant and machinery, and the design, construction and maintenance of buildings and structures;
- (c) the test is to apply only so far as compatible with any duty imposed by law;
- (d) the test is to apply only so far as compatible with safety and safe working conditions, and with the exigencies of any emergency or unforeseeable circumstances;

“chimney” includes structures or openings of any kind from or through which smoke may be emitted;

“the Committee” means the Health and Social Services Committee;

“the Court” means the Royal Court;

“dust” does not include dust emitted from a chimney as an ingredient of smoke;

“equipment” includes a musical instrument;

“fumes” means any airborne solid matter smaller than dust;

“gas” includes vapour and moisture precipitated from vapour;

“industrial, agricultural, trade or business premises” means premises used for any industrial, agricultural, trade or business purposes or premises not so used on which matter is burnt in connection with any industrial, agricultural, trade or business process, and premises are used for industrial purposes where

they are used for the purposes of any treatment or process as well as where they are used for the purposes of manufacturing;

“injury to health” includes any impairment whether permanent or temporary;

“noise” includes vibration;

“person responsible” –

- (a) in relation to a statutory nuisance, means the person to whose act, default or sufferance the nuisance is attributable;
- (b) in relation to a vehicle, includes the owner whose vehicle is for the time being registered under the Motor Vehicle Registration (Jersey) Law 1993 and any other person who is for the time being the driver of the vehicle;
- (c) in relation to machinery or equipment, includes any person who is for the time being the operator of the machinery or equipment;

“police officer” means a member of the Honorary Police or the States of Jersey Police Force;

“prejudicial to health” means injurious, or likely to cause injury, to health;

“prescribed” means prescribed by Regulations;

“premises” includes land and any vessel;

“private dwelling” means any building, or part of a building, used or intended to be used, as a dwelling;

“smoke” includes soot, ash, grit, and gritty particles emitted in smoke;

“statutory nuisance” has the meaning assigned to it by Article 2;

“street” means any public road, any other road to which the public has access, any road administered by the Housing Committee, any of the roads on the Rue des Près Trading Estate, any bridge over which a road passes, any road privately maintained and any sea beach;

“water supply” includes public and private water supplies.

(2) In this Law, references to premises and the occupier of premises include respectively a vessel and the master of a vessel.

(3) Unless the context otherwise requires, references in this Law to any other enactment shall be construed as references to that enactment as amended, extended or applied by or under any other enactment and to any enactment which repeals and re-enacts the first-mentioned enactment with or without further amendment.

(4) A reference in this Law to a numbered Article without further identification is a reference to the Article so numbered in this Law.

(5) A reference in any Article of this Law to a paragraph, sub-paragraph or clause by number or letter only, and without further identification, is a reference to the paragraph, sub-paragraph or clause of that number or letter contained in the Article of this Law in which such reference occurs.

ARTICLE 2

Matters constituting statutory nuisances

(1) Subject to paragraphs (2) and (3), the following matters constitute “statutory nuisances” for the purposes of this Law –

(a) any premises in such a state as to be prejudicial to health or a nuisance;

- (b) smoke emitted from premises so as to be prejudicial to health or a nuisance;
- (c) fumes or gas emitted from premises so as to be prejudicial to health or a nuisance;
- (d) light energy emitted from premises so as to be prejudicial to health or a nuisance;
- (e) any dust, steam, smell, or other effluvia arising on or emanating from industrial, agricultural, trade or business premises or resulting from processes conducted on such premises and being prejudicial to health or a nuisance;
- (f) any accumulation or deposit which is prejudicial to health or a nuisance;
- (g) any animal, bird, insect, reptile or fish kept in such a place or manner as to be prejudicial to health or a nuisance;
- (h) noise emitted from premises so as to be prejudicial to health or a nuisance;
- (j) noise emitted from or caused by a vehicle, machinery or equipment in a street so as to be prejudicial to health or a nuisance;
- (k) any well, tank, cistern, water-butt or other water supply howsoever constructed which is used for the supply of water for domestic purposes which is so placed, constructed or kept or maintained as to render the water therein liable to contamination prejudicial to health;
- (l) any pond, pool, ditch, gutter or watercourse which is so foul or in such a state as to be prejudicial to health or a nuisance;
- (m) any tent, van, shed or similar structure used for human habitation which is in such a state, or so overcrowded, as to

be prejudicial to the health of the inmates, or the use of which, by reason of the absence of proper sanitary accommodation or otherwise, gives rise, whether on the site or on other land, to a nuisance or to conditions prejudicial to health;

- (n) any other matter constituting a statutory nuisance by virtue of Regulations made under Article 3.

(2) Sub-paragraph (c) of paragraph (1) does not apply in relation to premises other than private dwellings.

(3) Sub-paragraph (h) of paragraph (1) does not apply to noise caused by aircraft other than model aircraft.

(4) Sub-paragraph (j) of paragraph (1) does not apply to noise made by –

- (a) traffic;
- (b) any naval, military or air force of the Crown; or
- (c) a political demonstration or a demonstration supporting or opposing a cause or campaign.

ARTICLE 3

Power to extend statutory nuisances

(1) The States may by Regulations modify the list of statutory nuisances set out in Article 2.

(2) Regulations under paragraph (1) may state whether and in what circumstances it shall be a defence to prove that the best practical means were used to prevent or counteract the effect of a nuisance so added or amended.

ARTICLE 4

Functions of the Committee

(1) The Committee shall have the powers conferred on it by this Law and the duty to take such steps as are reasonably practical to investigate a complaint of statutory nuisance made to it.

(2) The Committee may cause inspections to be made to detect the presence or existence of any statutory nuisance in respect of which no complaint has been made to it.

ARTICLE 5

Proceedings for statutory nuisances

(1) Where the Committee is satisfied that a statutory nuisance exists, or is likely to occur or recur, it shall serve a notice (in this Law referred to as “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.

(2) The abatement notice shall –

- (a) specify the time or times within which the requirements of the notice are to be complied with; and
- (b) include a statement –
 - (i) indicating that an appeal against the notice lies; and
 - (ii) specifying the time within which it must be brought.

(3) Subject to paragraph (1) of Article 6, the abatement notice shall be served –

- (a) except in a case falling within sub-paragraph (b) or (c), 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.

(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) Subject to paragraph (6), a person who commits an offence under paragraph (4) shall be liable to a fine not exceeding level 4 on the standard scale¹ together with a further fine not exceeding level 2 for each day on which the offence continues after conviction for that offence.

(6) A person who commits an offence under paragraph (4) on industrial, agricultural, trade or business premises shall be liable to a fine.

(7) Subject to paragraph (8), in any proceedings for an offence under paragraph (4) 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 paragraph (7) is not available –

- (a) in the case of a statutory nuisance falling within sub-paragraph (a), (d), (e), (f), (g) or (h) of paragraph (1) of

¹ Volume 1992-1993, page 437.

Article 2, except where the nuisance arises on industrial, agricultural, trade or business premises;

- (b) in the case of a statutory nuisance falling within sub-paragraph (j) of paragraph (1) of Article 2, except where the noise is emitted from or caused by a vehicle, machinery or equipment being used for industrial, agricultural, trade or business purposes;
- (c) in the case of a statutory nuisance falling within sub-paragraph (b) of paragraph (1) of Article 2, except where the smoke is emitted from a chimney; and
- (d) in the case of a statutory nuisance falling within sub-paragraph (c) of paragraph (1) of Article 2.

ARTICLE 6

Abatement notice in respect of noise in street

(1) In the case of a statutory nuisance within sub-paragraph (j) of paragraph (1) of Article 2 that –

- (a) has not yet occurred; or
- (b) arises from noise emitted from or caused by an unattended vehicle or unattended machinery or equipment,

the abatement notice shall be served in accordance with paragraph (2).

(2) The notice shall be served –

- (a) where the person responsible for the vehicle, machinery or equipment can be found, on that person;
- (b) where that person cannot be found or where the Committee determines that this paragraph should apply, by fixing the notice to the vehicle, machinery or equipment.

- (3) Where –
- (a) an abatement notice is served in accordance with sub-paragraph (b) of paragraph (2) by virtue of a determination of the Committee; and
 - (b) the person responsible for the vehicle, machinery or equipment can be found and served with a copy of the notice within an hour of the notice being fixed to the vehicle, machinery or equipment,

a copy of the notice shall be served on that person accordingly.

(4) Where an abatement notice is served in accordance with sub-paragraph (b) of paragraph (2) by virtue of a determination of the Committee, the notice shall state that, if a copy of the notice is subsequently served under paragraph (3), the time specified in the notice as the time within which its requirements are to be complied with is extended by such further period as is specified in the notice.

(5) Where an abatement notice is served in accordance with sub-paragraph (b) of paragraph (2), the person responsible for the vehicle, machinery or equipment may appeal against the notice as if he had been served with the notice on the date on which it was fixed to the vehicle, machinery or equipment.

(6) Paragraph (4) of Article 5 shall apply in relation to a person on whom a copy of an abatement notice is served under paragraph (3) as if the copy were the notice itself.

(7) A person who removes or interferes with a notice fixed to a vehicle, machinery or equipment in accordance with sub-paragraph (b) of paragraph (2) shall be guilty of an offence, unless he is the person responsible for the vehicle, machinery or equipment or he does so with the authority of that person.

(8) A person who commits an offence under paragraph (7) shall be liable to a fine not exceeding level 2 on the standard scale.

ARTICLE 7

Supplementary provisions

(1) Subject to paragraph (2), where more than one person is responsible for a statutory nuisance, Article 5 shall apply to each of those persons whether or not what any of them is responsible for would by itself amount to a nuisance.

(2) In relation to a statutory nuisance within sub-paragraph (j) of paragraph (1) of Article 2 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), sub-paragraph (a) of paragraph (3) of Article 5 shall apply with the substitution of “any one of the persons” for “the person”.

(3) In relation to a statutory nuisance within sub-paragraph (j) of paragraph (1) of Article 2 caused by noise emitted from or caused by an unattended vehicle or unattended machinery or equipment for which more than one person is responsible, Article 6 shall apply with the substitution –

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

(4) Where an abatement notice has not been complied with, the Committee may, whether or not proceedings are taken for an

offence under paragraph (4) of Article 5, abate the nuisance and do whatever may be necessary in execution of the notice.

(5) Any expenses reasonably incurred by the Committee in abating, or preventing the recurrence of, a statutory nuisance under paragraph (4) shall be recoverable as a civil debt from the person or persons by whose act or default the nuisance was caused, and the Court may apportion expenses between persons by whose acts or defaults the nuisance is caused in such manner as the Court considers fair and reasonable.

(6) If the Committee is of the opinion that proceedings for an offence under paragraph (4) of Article 5 would afford an inadequate remedy in the case of any statutory nuisance, they may take proceedings in the Court for the purpose of securing the abatement, prohibition or restriction of the nuisance, and the proceedings shall be maintainable notwithstanding the Committee has suffered no damage from the nuisance.

ARTICLE 8

Proceedings by persons aggrieved by statutory nuisances by Committee

(1) The Court may act under this Article on a representation made by any person on the ground that he is aggrieved by the existence of a statutory nuisance for which the Committee is responsible.

(2) If the Court is satisfied that the alleged nuisance exists, or that although abated it is likely to recur on the same premises or, in the case of a nuisance within sub-paragraph (j) of paragraph (1) of Article 2, in the same street, the Court may make an order for either or both of the following purposes –

- (a) requiring the Committee to abate the nuisance, within a time specified in the order, and to execute any works necessary for that purpose;

- (b) prohibiting a recurrence of the nuisance, and requiring the Committee, within a time specified in the order, to execute any works necessary to prevent the recurrence.

(3) If the Court is satisfied that the alleged nuisance exists and is such as, in the opinion of the Court, to render premises unfit for human habitation, an order under paragraph (2) may prohibit the use of the premises for human habitation until the premises are, to the satisfaction of the Court, rendered fit for that purpose.

ARTICLE 9

Appeals and compensation

(1) A person aggrieved by the service of an abatement notice has a right of appeal in the manner and on a ground set out in the Schedule and the Schedule shall have effect with regard to such appeals.

(2) Where, pursuant to an appeal under this Article, an abatement notice is cancelled or modified, the Court shall have power to award compensation to the appellant.

ARTICLE 10

Powers of entry to premises etc.

(1) Subject to paragraph (2), any authorized person may, on production, if so required, of his authority, enter any premises at any reasonable time –

- (a) if he suspects, on reasonable grounds, that a statutory nuisance exists or will exist on those premises;
- (b) for the purpose of taking any action, or executing any work, authorized or required by this Law.

(2) Admission by virtue of paragraph (1) to any premises used wholly or mainly for residential purposes shall not except in an

emergency be demanded as of right unless twenty-four hours notice of the intended entry has been given to the occupier.

(3) If it is shown to the satisfaction of the Bailiff by information on oath that –

- (a) admission to any premises has been refused, or that refusal is apprehended, or that the premises are unoccupied or that the occupier is temporarily absent, or that the case is one of emergency, or that an application for admission would defeat the object of the entry; and
- (b) there is reasonable ground for entry into the premises for the purpose for which entry is required,

the Bailiff may issue a warrant under this Article authorizing the Committee by any authorized person to enter the premises, if need be by force.

(4) An authorized person entering any premises by virtue of paragraph (1) or a warrant under paragraph (3) may –

- (a) take with him such other person and such equipment as he considers necessary;
- (b) carry out such inspections, measurements and tests as he considers necessary for the discharge of any of the Committee's functions under this Law; and
- (c) take away such samples or articles as he considers necessary for that purpose.

(5) On leaving any unoccupied premises which he has entered by virtue of paragraph (1) or a warrant under paragraph (3) the authorized person shall leave them as effectively secured against unauthorized entry as he found them.

(6) A warrant issued in pursuance of paragraph (3) shall continue in force until the purpose for which the entry is required has been satisfied.

(7) Any reference in this Article to an emergency is a reference to a case where the person requiring entry has reasonable cause to believe that circumstances exist which are likely to endanger life or health and that immediate entry is necessary to verify the existence of those circumstances or to ascertain their cause and effect a remedy.

ARTICLE 11

Powers of entry to vehicles, machinery or equipment

(1) Any authorized person may, on production, if so required, of his authority –

- (a) enter or open a vehicle, machinery or equipment, if necessary by force; or
- (b) remove a vehicle, machinery or equipment from a street to a secure place,

for the purpose of taking any action, or executing any work, authorized by or required under this Law in relation to a statutory nuisance within sub-paragraph (j) of paragraph (1) of Article 2 caused by noise emitted from or caused by the vehicle, machinery or equipment.

(2) Subject to paragraph (3), on leaving any unattended vehicle, machinery or equipment that he has entered or opened under paragraph (1), the authorized person shall leave it secured against interference or theft in such a manner and as effectually as he found it.

(3) If the authorized person is unable to comply with paragraph (2), he shall for the purpose of securing the unattended vehicle, machinery or equipment either –

- (a) immobilise it by such means as he considers expedient; or

(b) remove it from the street to a secure place.

(4) In carrying out any function under paragraph (1), (2) or (3), the authorized person shall not cause more damage than is necessary.

(5) Before a vehicle, machinery or equipment is entered, opened or removed under paragraph (1), the Committee shall notify a police officer of the intention to take action under that paragraph.

(6) After a vehicle, machinery or equipment has been removed under paragraph (1) or (3), the Committee shall notify a police officer of its removal and current location.

(7) For the purposes of paragraph (5) of Article 7, any expenses reasonably incurred by the Committee under paragraph (2) or (3) shall be treated as incurred by the Committee under paragraph (4) of Article 7 in abating or preventing the recurrence of the statutory nuisance in question.

ARTICLE 12

Offences relating to entry

(1) A person who wilfully obstructs any person acting in the exercise of any powers conferred by Article 10 or 11 shall be guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.

(2) If a person discloses any information relating to any trade secret obtained in the exercise of any powers conferred by Article 10 or 11, he shall, unless the disclosure was made in the performance of his duty, or with the consent of the person having the right to disclose the information, be guilty of an offence and liable to a fine not exceeding level 4 on the standard scale.

ARTICLE 13

Criminal liability of officers; aiders and abettors

(1) Where an offence under this Law committed by a company is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary, or other similar officer of the company or any person who was purporting to act in any such capacity, he, as well as the company, shall be guilty of that offence and shall be liable to be prosecuted and punished accordingly.

(2) Without prejudice to paragraph (1), any person who knowingly and wilfully aids, abets, counsels, causes, procures or commands the commission of an offence under this Law shall be liable to be dealt with, tried and punished as a principal offender.

ARTICLE 14

Rules of Court

Rules may be made in the manner prescribed by the Royal Court (Jersey) Law 1948² to make such provision as appears to the Superior Number of the Royal Court to be necessary or expedient for the purposes of this Law.

ARTICLE 15

Orders

(1) The Committee may make Orders for any purpose for which Orders may be made under this Law and generally for the purposes of carrying this Law into effect.

(2) The Subordinate Legislation (Jersey) Law 1960³ shall apply to Orders made under this Law.

² Tome VII, page 510, and Volume 1996–1997, page 147.

³ Tome VII, page 849.

ARTICLE 16

General provisions as to Regulations and Orders

Except insofar as this Law otherwise provides, any power conferred by it to make any Regulations or Order may be exercised –

- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case; and
- (b) so as to make in relation to the cases in relation to which it is exercised –
 - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise), or
 - (ii) the same provision for all cases in relation to which the power is exercised or different provisions for different cases or classes of case, or different provisions as respects the same case or class of case for different purposes of this Law, or
 - (iii) any such provision either unconditionally or subject to any specified conditions.

ARTICLE 17

Service of notices

(1) This Article shall have effect in relation to any notice or other document required or authorized by or under this Law to be given to or served on any person.

(2) Any such document may be given to or served on the person in question –

- (a) by delivering it to him;

- (b) by leaving it at his proper address; or
 - (c) by sending it by post to him at that address.
- (3) Any such document may –
- (a) in the case of a company, be given to or served on the secretary, clerk or other similar officer of the company or any person who purports to act in any such capacity, by whatever name called;
 - (b) in the case of a partnership, be given to or served on a partner or a person having the control or management of the partnership business.

(4) For the purposes of this Article and Article 12 of the Interpretation (Jersey) Law 1954⁴ (meaning of service by post) in its application to this Article, the proper address of any person to or on whom a document is to be given or served shall be his last known address, except that –

- (a) in the case of a company or its secretary, clerk or other officer or person referred to in sub-paragraph (a) of paragraph (3), it shall be the address of the registered or principal office of the company;
- (b) in the case of a partnership or a person having the control or management of the partnership business, it shall be that of the principal office of the partnership,

and for the purposes of this paragraph the principal office of a company registered outside the Island or of a partnership carrying on business outside the Island shall be their principal office within the Island.

(5) If the person to be given or served with any document mentioned in paragraph (1) has specified an address within the Island other than his proper address within the meaning of paragraph (4) as the

⁴ Tome VIII, page 381.

one at which he or someone on his behalf will accept documents of the same description as that document, that address shall also be treated for the purposes of this Article and Article 12 of the Interpretation (Jersey) Law 1954 as his proper address.

ARTICLE 18

Saving provisions

This Law shall be in addition to and not in derogation of –

- (a) the “Loi (1934) sur la Santé Publique⁵”; and
- (b) any other law relating to public health.

ARTICLE 19

Short title and commencement

This Law may be cited as the Statutory Nuisances (Jersey) Law 1999 and shall come into force on such day as the States may by Act appoint.

G.H.C. COPPOCK

Greffier of the States.

⁵ Tome VII, page 114.

SCHEDULE**(Article 9)****APPEALS**

(1) A person served with an abatement notice under Article 5 may appeal against the notice to the Court within the period of twenty-one days beginning with the day on which he was served the notice.

(2) A person referred to in paragraph (1) may appeal on any one or more of the grounds set out in paragraph (3) that are appropriate in the circumstances of the particular case.

(3) The grounds referred to in paragraph (2) are –

- (a) that the abatement notice is not justified by Article 5;
- (b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the abatement notice served under paragraph (3) of Article 6;
- (c) that the Committee has refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonable in character or extent, or are unnecessary;
- (d) that the time, or where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
- (e) where the nuisance to which the notice relates –
 - (i) is a nuisance falling within sub-paragraph (a), (d), (e), (f), (g) or (h) of paragraph (1) of Article 2 and

arises on industrial, agricultural, trade or business premises; or

(ii) is a nuisance falling within sub-paragraph (b) of that paragraph and the smoke is emitted from a chimney; or

(iii) is a nuisance falling within sub-paragraph (j) of that paragraph and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, agricultural, trade or business purposes,

that the best practicable means were used to prevent, or to counteract the effects of, the nuisance;

(f) that the abatement notice should have been served on some person instead of the appellant, being –

(i) the person responsible for the nuisance; or

(ii) the person responsible for the vehicle, machinery or equipment; or

(iii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises; or

(iv) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;

(g) that the abatement notice might lawfully have been served on some person instead of the appellant being –

(i) in the case where the appellant is the owner of the premises, the occupier of the premises; or

(ii) in the case where the appellant is the occupier of the premises, the owner of the premises,

and that it would have been equitable for it to have been so served;

- (h) that the abatement notice might lawfully have been served on some person in addition to the appellant, being –
 - (i) a person also responsible for the nuisance; or
 - (ii) a person who is also owner of the premises; or
 - (iii) a person who is also an occupier of the premises; or
 - (iv) a person who is also the person responsible for the vehicle, machinery or equipment,

and that it would have been equitable for it to have been so served.

(4) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the notice served under paragraph (3) of Article 6, the Court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(5) Where the grounds upon which an appeal is brought include a ground specified in sub-paragraph (g) or (h) of paragraph (3), the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which these regulations apply he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.

- (6) On the hearing of the appeal the Court may –
 - (a) quash the abatement notice to which the appeal relates; or
 - (b) vary the abatement notice in favour of the appellant in such manner as it thinks fit; or

- (c) dismiss the appeal,

and an abatement notice that is varied under sub-paragraph (b) shall be final and shall otherwise have effect, as so varied, as if it had been so made by the Committee.

(7) Subject to paragraph (8), on the hearing of an appeal the Court may make such order as it thinks fit –

- (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work; or
- (b) as to the proportions in which any expenses which may become recoverable by the Committee under the Law are to be borne by the appellant and by any other person.

(8) In exercising its powers under paragraph (7) the Court

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- (a) shall have regard, as between an owner and an occupier, to the terms and conditions of any relevant tenancy and to the nature of the works required; and
- (b) shall be satisfied before it imposes any requirement thereunder on any person other than the appellant, that that person has received a copy of the notice of appeal in pursuance of paragraph (5).

(9) Where –

- (a) an appeal is brought against an abatement notice served under Article 5 or 6; and –
- (b) either –
 - (i) compliance with the abatement notice would involve any person in expenditure on the carrying out of works before the hearing of the appeal; or

- (ii) in the case of a nuisance under sub-paragraph (h) of paragraph (1) of Article 2, the noise to which the abatement notice relates is noise necessarily caused in the course of the performance of some duty imposed by law on the appellant; and
- (c) either paragraph (10) does not apply, or it does apply but the requirements of paragraph (11) have not been met,

the abatement notice shall be suspended until the appeal has been abandoned or decided by the Court.

- (10) This paragraph applies where –
 - (a) the nuisance to which the abatement notice relates –
 - (i) is injurious to health; or
 - (ii) is likely to be of a limited duration such that suspension of the notice would render it of no practical effect; or
 - (b) the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.
- (11) Where paragraph (10) applies the abatement notice –
 - (a) shall include a statement that paragraph (10) applies, and that as a consequence it shall have effect notwithstanding any appeal to the Court which has not been decided by the Court; and
 - (b) shall include a statement as to which of the grounds set out in paragraph (10) apply.