

Department for Environment, Food and Rural Affairs

Artificial light statutory nuisance - continued utility of the current exemptions for certain premises

Section 79(5B) Environmental Protection Act 1990

Summary of responses

June 2012

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Background

1. On 13th December 2011, Defra published an informal consultation inviting views on the continued utility of exempting certain premises from the artificial light statutory nuisance provisions under Part III Environmental Protection Act 1990 (EPA) in England. The consultation closed on 17th February 2012.
2. Further details of the consultation can be found on the Defra website at www.defra.gov.uk/consult/2011/12/13/artificial-light-1112/.

Summary of responses

3. 30 responses were received in total; 25 by email and 5 by post. A full list of respondents can be found at the end of this document.
4. Responses fell into two broad categories of approximately equal numbers; those in favour of retaining the exemptions (representatives from the industries that use the exempt premises) and those in favour of removing them (predominantly environmental and artificial light campaign groups, and local authorities).
5. The main arguments to support these positions are summarised as follows:

Position	Main arguments to support position
The exemptions for certain premises should be removed	1. Removing the exemptions would provide a more effective form of redress and encourage better lighting design The case was made that under the current regime people affected by light nuisance from exempt premises can find it difficult to obtain redress. If the exemptions were removed, local authorities would have a more effective method of preventing nuisance lighting from these premises affecting neighbouring properties, and any corrections made by operators to abate light nuisance would also encourage good lighting design, adoption of appropriate standards and energy saving.
	2. The ‘best practicable means’ defence would be available to allow premises to continue to light their

	<p>premises safely</p> <p>If the exemptions were removed, it was argued that the 'best practicable means' defence would give adequate protection for the legitimate use of light for health and safety reasons, and that responsible operators already employing 'best practicable means' should not have to take additional measures to abate artificial light nuisance. It was also noted that other industrial premises are not exempt and manage to cope with the statutory nuisance provisions.</p>
<p>The exemptions for certain premises should be retained</p>	<p>1. The current complaint data does not create discernible pressure for change</p> <p>Premises operators noted that local authorities have received very few complaints against exempt premises since artificial light was added to the statutory nuisance regime (<i>a 2010 Defra survey of artificial light complaints found that a total of 22 'transport-related' lighting complaints were made to 122 local authorities in England and Wales between 2006/7 and 2009</i>). Premises operators also reported receiving few or no complaints directly. It was argued that these complaint figures do not create discernible pressure for change.</p>
	<p>2. Lighting requirements already exist that might come into conflict with the statutory nuisance regime</p> <p>Operators of exempt premises argued that lighting requirements are placed on them by other regulatory bodies (e.g. the Civil Aviation Authority, the Dock Regulations 1988 and the Rail Safety and Standards Board) and that these requirements might come into conflict with the statutory nuisance regime if the exemptions were removed.</p>
	<p>3. Removing the exemptions would increase the regulatory burden for businesses</p> <p>Premises operators were concerned that removing the exemptions would result in additional regulation on the businesses occupying these premises. This would go against the aims of the Government's Red Tape Challenge to reduce the regulatory burden on businesses.</p>
	<p>4. Some premises already use best practice lighting principles</p> <p>Operators of some of the exempt premises noted that they already share information and expertise or consider best practice guidance when lighting their premises.</p>

Government response

6. We would like to thank the respondents for their comments on the utility of the current exemptions.
7. While we found the arguments to remove the exemptions to be valid, the consultation responses provided very little additional data on the costs or benefits of both the current situation and of removing the exemptions. This lack of additional data, when considered alongside the current low complaint figures, does not provide a strong case for legislative change at this time. As a result, the Government proposes that the exemptions for certain premises from the artificial light statutory nuisance regime in England should be retained.
8. However, it is possible that not all local authorities record complaints against known exempt premises and that the current data may therefore underestimate the extent of nuisance lighting from these sources. As a result, we intend to keep the issue of the utility of the exemptions under review and will encourage local authorities to record complaints received against exempt premises in order to do so.
9. We will also continue to work towards tackling major sources of light nuisance complaint. The 2010 Defra report of artificial light complaints found that of the 2475 domestic lighting complaints made to 122 local authorities in England and Wales between 2006/7 and 2009, 1760 were categorised as being derived from domestic security lighting. We are currently working with artificial light stakeholders to develop mutually agreed installation guidance for domestic security light customers to provide advice on how to correctly install a security light so as to reduce the likelihood of light nuisance and light pollution.
10. Additionally, and subsequent to us launching our consultation on this issue, the Government published the National Planning Policy Framework in March 2012. This sets out new planning policies for England and highlights the need for such policies to consider the impact of artificial light. This means that local authority planning departments will need to encourage good lighting design in their planning policies

and ensure that future developments limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

List of respondents

- Associated British Ports
- Association of Train Operating Companies
- Aylesbury Vale District Council
- BAA
- British Ports Association
- Campaign for Dark Skies (x2)
- Campaign for Dark Skies – North West England
- Campaign to Protect Rural England
- Campaign to Protect Rural England - Norfolk
- Chartered Institute of Environmental Health
- Confederation of Passenger Transport UK
- Exeter International Airport
- G4S Care and Justice Services
- Highway Electrical Association
- Institute of Historic Building Conservation
- Lincolnshire County Council
- London Midland
- Maersk Company Limited
- Members of the public (x2)
- National Organisation of Residents Associations
- Network Rail
- Rail Safety and Standards Board
- Southeastern
- Southern
- TAG Farnborough Airport Limited
- Trinity House
- UK Major Ports Group
- Wakefield Council

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This document/publication is also available on our website at:

www.defra.gov.uk/consult/2011/12/13/artificial-light-1112/

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