

EXPLANATORY MEMORANDUM TO
THE CONTROL OF NOISE (CODE OF PRACTICE ON NOISE FROM AUDIBLE INTRUDER
ALARMS) (REVOCATION) (ENGLAND) ORDER 2014

2014 No. 2123

1. This explanatory memorandum has been prepared by the Department for the Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The instrument revokes the Control of Noise (Code of Practice on Noise from Audible Intruder Alarms) Order 1981.

3. Matters of special interest to the [Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments]

3.1 None

4. Legislative Context

4.1 Section 71(1) of the Control of Pollution Act 1974, gives the Secretary of State the power to approve such codes of practice which in her opinion are suitable for the purpose of giving guidance on minimising noise. The Code of Practice on Noise from Audible Intruder Alarms 1982 (the Code) was developed to give guidance on the installation and the use of intruder alarms. It sets out best practice in avoiding causing noise nuisance from intruder alarms, such as:

- Minimising the likelihood of false alarms by correct fitting and maintenance
- Reducing the duration of ringing by fitting a 20-minute cut-out
- Reducing the time before the alarm is de-activated by proposing a key-holder registration system in conjunction with both the police and the local authority.

The Code was approved by Order under section 71 of the Control of Pollution Act in 1981 and covers England, Scotland and Wales. This revocation applies to England only as noise is a devolved issue.

4.2 Section 79(1)(g) of the Environmental Protection Act 1990 (“the EPA”) provides that noise that is prejudicial to health or a nuisance that is emitted from premises is a statutory nuisance. Under section 80(7) of the Environmental Protection Act 1990, businesses have a defence against nuisance action if they are able to prove that the ‘best practicable means’ were used to prevent, or to counteract the effects of, the nuisance. Section 79(9) EPA provides that regard must be had to a code of practice issued under section 71 of the Control of Pollution Act 1974 when interpreting ‘best practical means’.

4.3 In addition, under section 77 of the Clean Neighbourhoods and Environment Act 2005 (“the CNEA”), local authorities have powers of entry to silence alarms after 20 minutes continuous sounding or 1 hour intermittent sounding. In addition, section 69 CNEA gives a local authority the power to designate all or part of its area as an alarm notification area. If premises are in an alarm notification area and an audible intruder alarm has been installed then the occupier or owner if there is no occupier must nominate a key holder in respect of the premises and notify their details to the local authority in writing (sections 71(2) CNEA).

4.4 Technological standards for intruder alarms have also developed over the last 20 years. There are now European and British standards for a cut-off time of 15 minutes for all modern intruder alarms (BS EN50131). There is also a British Standard used by approved firms and British Security Industry Association (BSIA) accredited installers that mandates maintenance twice a year for alarms that cause a police response (PD6662: 2010) and recommends maintenance at least once a year for all audible intruder alarms (BSI DD 263).

4.5 The Code covers subject matter that now comes under the CNEA and has also been superseded by British and European technological standards for intruder alarms. Therefore the Control of Noise (Code of Practice on Noise from Audible Intruder Alarms) (Revocation) (England) Order 2014 revokes the Order that approves the Code and withdraws the Code.

5. Territorial Extent and Application

5.1 This instrument applies to England only.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 In April 2011, the Government launched the Red Tape Challenge, an initiative to review all potentially unnecessary regulation on business over this Parliamentary Term. The Code was identified as a potential area for change as part of this process.

7.2 Since the Code was approved in 1981, primary legislation regarding managing noise from intruder alarms has changed. Under the EPA and the CNEA, local authorities have powers to stop noise from misfiring intruder alarms to avoid them causing nuisance. The Code is a guide to the exercise of the powers under the EPA. However, more recent standards, which are market-led and regularly reviewed, provide more appropriate assistance to local authorities and magistrates courts in the exercise of these powers. Standards form the basis of industry self-regulation, and are combined with accredited conformity assessment to ensure what is being supplied actually meets the requirements

specified. This gives the highest degree of confidence in compliance where required. In terms of guidance for the alarm holder, maintenance instructions provided by the manufacturer also set out what alarm holders should be doing to ensure that their alarm works properly.

7.3 These findings suggested that the Code was redundant. To test this and ensure that there would not be any unintended consequences of removing the Code, we consulted with key groups.

8. Consultation outcome

8.1 In line with Cabinet Office ‘consultation principles’ we focused on engagement with key groups with an interest in this area rather than consulting the public at large.

8.2 We investigated whether removing the Code could impact business by contacting the trade association for the private security industry in the UK, BSIA and the National Security Inspectorate (NSI) which is recognised as the leading certification body for the security sector in the UK. BSIA members provide over 70% of UK security products and services including the manufacture, distribution and installation of audible intruder alarms, and NSI has 1000 companies certified to provide intruder alarm systems. Neither raised objections to the removal of the statutory backing of the Code and withdrawing the Code.

8.3 We consulted local authorities and other groups representing environmental health professionals to establish whether removing the Code could impact on enforcement of noise nuisance regulations relating to audible intruder alarms. This included conducting a short survey of 23 local authorities in England and contacting environmental health officers working on noise nuisance enforcement via information sharing networks.

8.4 Of the 19 local authorities that responded to the survey, 13 considered the Code in discharging their duty to respond to complaints; it was mainly used to support officers’ judgements and decisions and prescribe specific measures within abatement notices served under section 80 of the Environmental Protection Act 1990. Two of the local authorities thought that withdrawing the Code would have some effect on their service but 8 said that it would have little or no effect. No local authority thought that removing the Order that approves the Code would have a considerable effect on their enforcement service. Some local authorities reported having their own internal guidance or code for dealing with intruder alarms, partly because the approved Code was out of date. These results were supported by the responses received via the local authority information sharing networks; no one raised concerns that removing the Code would hinder enforcement action. In addition whilst courts will no longer have a duty to consider the Code when interpreting ‘best practicable means’ it is best practice for courts to look at relevant British Standards which are more up-to-date and arguably more relevant.

8.5 We also alerted key noise stakeholders to our intention to remove the statutory backing of the Code. This included the Chartered Institute of Environmental Health, the Noise Abatement Society and Environmental Protection UK. The latter saw there to be some merit in keeping the Code because the annex contained useful forms that local

authorities could give alarm holders to complete as part of an alarm notification process. However, withdrawing the code would not prevent local authorities from using these forms for administrative purposes as the annexes are not part of the approved Code.

8.6 After careful consideration of the legislation and responses to our consultations, the Government decided to revoke the Order approving the Code and withdraw the Code for England; it has been superseded by more recent legislation and standards, and its revocation will not impact on enforcement action by local authorities or impose burdens on business, charities or voluntary bodies.

9. Guidance

9.1 The Government will use local authority information sharing networks and engagement with key stakeholders to notify them of the changed status of the Code.

10. Impact

10.1 No impact on business, charities or voluntary bodies is foreseen.

10.2 No impact on the public sector is foreseen.

10.3 An Impact Assessment has not been prepared for this instrument as we are withdrawing a Code that is, in practice redundant.

11. Regulating small business

11.1 The legislation applies to small business. However, the Code is redundant as it has been superseded by principles set out in more recent primary legislation and industry standards. Therefore removing the Order that approves the Code and withdrawing the Code does not make major changes to the law or to the principles of British and European Standards for audible intruder alarms.

12. Monitoring & review

12.1 The Department will continue to monitor and review the impact of revoking the order that approves the Code and withdrawing the Code as part of its standard business as usual policy-making, including through the monitoring of complaint statistics.

13. Contact

13.1 Anna Hunt at the Department for Environment, Food and Rural Affairs Tel: 0207 358 5617 or email: anna.hunt@defra.gsi.gov.uk can answer any queries regarding the instrument.