



# Clean Neighbourhoods and Environment Act 2005

## 2005 CHAPTER 16

### PART 7

#### NOISE

#### CHAPTER 1

#### AUDIBLE INTRUDER ALARMS

##### *Alarm notification areas*

VALID FROM 06/04/2006

#### **69 Designation of alarm notification areas**

- (1) A local authority may designate all or any part of its area as an alarm notification area.
- (2) If a local authority proposes to designate an area as an alarm notification area it must arrange for notice of the proposal to be published in a newspaper circulating in the area.
- (3) The notice must state—
  - (a) that representations may be made to the authority about the proposal;
  - (b) that any such representations must be made before a specified date.
- (4) The specified date must be at least 28 days after the date on which the notice is published in accordance with subsection (2).
- (5) The local authority must consider any representations about the proposal which it receives before the specified date.

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- (6) If a local authority decides to designate an area as an alarm notification area it must—
  - (a) arrange for notice of the decision to be published in a newspaper circulating in the area, and
  - (b) send a copy of the notice to the address of all premises in the area.
- (7) The notice must specify the date on which the designation is to have effect.
- (8) The date specified must be at least 28 days after the date on which the notice is published in accordance with subsection (6)(a).
- (9) If a local authority decides not to designate an area as an alarm notification area it must arrange for notice of the decision to be published in a newspaper circulating in the area.

VALID FROM 06/04/2006

#### **70 Withdrawal of designation**

- (1) A local authority which has designated an area as an alarm notification area may withdraw the designation.
- (2) If a local authority decides to withdraw a designation of an area as an alarm notification area, it must—
  - (a) arrange for notice of the decision to be published in a newspaper circulating in the area, and
  - (b) send a copy of the notice to the address of all premises in the area.
- (3) The notice must specify the date on which the withdrawal of the designation is to have effect.

VALID FROM 06/04/2006

#### **71 Notification of nominated key-holders**

- (1) This section and section 72 apply in relation to premises if—
  - (a) the premises are in an area designated by a local authority as an alarm notification area, and
  - (b) an audible intruder alarm has been installed in or on the premises.
- (2) The responsible person must—
  - (a) nominate a key-holder in respect of the premises in accordance with section 72;
  - (b) notify the local authority in writing before the end of the required period of the name, address and telephone number of the key-holder nominated in respect of the premises in accordance with that section.
- (3) The required period for the purposes of subsection (2)(b) is the period before the end of which the key-holder is required to be nominated in accordance with section 72.

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- (4) A person commits an offence if he fails to comply with a requirement of subsection (2).
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

VALID FROM 06/04/2006

## 72 Nomination of key-holders

- (1) The responsible person must before the end of the required period nominate a person as a key-holder in respect of the premises.
- (2) The required period for the purposes of subsection (1) is—
- if the alarm was installed before the date on which the designation of the area had effect, the period of 28 days starting with that date;
  - if the alarm was installed on or after that date, the period of 28 days starting with the date on which the installation was completed.
- (3) A person may be nominated as a key-holder in respect of premises under this section only if—
- he holds keys sufficient to enable him to gain access to the part of the premises in which the controls for the alarm are situated;
  - he normally resides or is situated in the vicinity of the premises;
  - he has information sufficient to enable him to silence the alarm;
  - he agrees to be a nominated key-holder in respect of the premises;
  - where the premises are residential premises, he falls within subsection (4);
  - where the premises are non-residential premises, he falls within subsection (5).
- (4) A person falls within this subsection if he is—
- an individual who is not the occupier of the premises, or
  - a key-holding company.
- (5) A person falls within this subsection if he is—
- an individual who—
    - is the responsible person, or
    - is acting on behalf of the responsible person, if the responsible person is not an individual, or
  - a key-holding company.
- (6) If the responsible person becomes aware that a person who has been nominated as a key-holder in respect of premises under this section no longer satisfies one or more of the requirements in subsection (3), the responsible person must before the end of the required period nominate another person as a key-holder in respect of the premises.
- (7) The required period for the purposes of subsection (6) is the period of 28 days starting with the date on which the responsible person becomes aware of that fact.
- (8) In this section—

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“key-holding company” means a body corporate or an unincorporated association—

- (a) the business of which consists of or includes holding keys, and
- (b) which is capable of being contacted at any hour of the day;

“non-residential premises” means premises which are not residential premises;

“residential premises” means premises all or part of which comprise a dwelling.

### **73 Offences under section 71: fixed penalty notices**

- (1) This section applies if it appears to an authorised officer of a local authority that a person has committed an offence under section 71(4) in the area of the local authority.
- (2) The officer may give the person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty.
- (3) If a person is given a notice under this section in respect of an offence—
  - (a) no proceedings may be instituted for the offence before the end of the period of 14 days starting with the day after that on which the notice is given, and
  - (b) he may not be convicted of the offence if he pays the fixed penalty before the end of that period.
- (4) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.
- (5) A notice under this section must also state—
  - (a) the period during which, by virtue of subsection (3), proceedings will not be taken for the offence,
  - (b) the amount of the fixed penalty, and
  - (c) the person to whom and the address at which the fixed penalty may be paid.
- (6) Payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in subsection (5)(c) at the address so mentioned.
- (7) If a letter is sent in accordance with subsection (6) payment is to be regarded as having been made at the time at which the letter would be delivered in the ordinary course of post.
- (8) Subsection (6) does not prevent payment of the fixed penalty being made by another method.
- (9) In any proceedings a certificate which—
  - (a) purports to be signed by or on behalf of the chief finance officer of a local authority, and
  - (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,
 is evidence of the facts stated.
- (10) The form of a notice under this section is to be such as the appropriate person may by order prescribe.

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(11) In this section—

“authorised officer”, in relation to a local authority, means—

- (a) an employee of the authority who is authorised in writing by the authority for the purpose of giving notices under this section;
- (b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function;
- (c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices;

“chief finance officer”, in relation to a local authority, is the person having responsibility for the financial affairs of the authority.

#### Commencement Information

**II** S. 73 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, art. 3

## 74 Amount of fixed penalty

- (1) This section applies in relation to a penalty payable to a local authority in pursuance of a notice under section 73.
- (2) The amount of the penalty is—
  - (a) the amount specified by the local authority in relation to its area, or
  - (b) if no amount is so specified, £75.
- (3) The local authority may make provision for treating the penalty as having been paid if a lesser amount is paid before the end of a period specified by the authority.
- (4) The appropriate person may by regulations make provision in connection with the powers conferred on local authorities under subsections (2)(a) and (3).
- (5) Regulations under subsection (4) may (in particular)—
  - (a) require an amount specified under subsection (2)(a) to fall within a range prescribed in the regulations;
  - (b) restrict the extent to which, and the circumstances in which, an authority can make provision under subsection (3).
- (6) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (2)(b).

#### Commencement Information

**I2** S. 74 in force at 14.3.2006 for specified purposes for E. by S.I. 2006/795, art. 2(1), Sch. 1

**I3** S. 74 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, art. 3

## 75 Use of fixed penalty receipts

- (1) A local authority may use any sums it receives in respect of fixed penalties payable in pursuance of notices given under section 73 (its “penalty receipts”) only for the purposes of functions of its that are qualifying functions.

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- (2) The following are qualifying functions for the purposes of this section—
- (a) functions under this Chapter;
  - (b) functions under the Noise Act 1996 (c. 37);
  - (c) functions under sections 79 to 82 of the Environmental Protection Act 1990 (c. 43) (statutory nuisances) in connection with statutory nuisances falling with section 79(1)(g) or (ga) (noise) of that Act;
  - (d) functions of a description specified in regulations made by the appropriate person.
- (3) Regulations under subsection (2)(d) may (in particular) have the effect that a local authority may use its penalty receipts for the purposes of any of its functions.
- (4) A local authority must supply the appropriate person with such information relating to the use of its penalty receipts as the appropriate person may require.
- (5) The appropriate person may by regulations—
- (a) make provision for what a local authority is to do with its penalty receipts—
    - (i) pending their being used for the purposes of qualifying functions of the authority;
    - (ii) if they are not so used before such time after their receipt as may be specified by the regulations;
  - (b) make provision for accounting arrangements in respect of a local authority's penalty receipts.
- (6) The provision that may be made under subsection (5)(a)(ii) includes (in particular) provision for the payment of sums to a person (including the appropriate person) other than the local authority.
- (7) Before making regulations under this section the appropriate person must consult—
- (a) the local authorities to which the regulations are to apply, and
  - (b) such other persons as the appropriate person thinks fit.
- (8) The powers to make regulations conferred by this section are, for the purposes of subsection (1) of section 100 of the Local Government Act 2003 (c. 26), to be regarded as included among the powers mentioned in subsection (2) of that section.

#### Commencement Information

**I4** S. 75 in force at 14.3.2006 for specified purposes for E. by S.I. 2006/795, art. 2(1), Sch. 1

**I5** S. 75 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, art. 3

VALID FROM 06/04/2006

#### 76 Fixed penalty notices: power to require name and address

- (1) If an authorised officer of a local authority proposes to give a person a notice under section 73, the officer may require the person to give him his name and address.
- (2) A person commits an offence if—
- (a) he fails to give his name and address when required to do so under subsection (1), or

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- (b) he gives a false or inaccurate name or address in response to a requirement under that subsection.
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) “Authorised officer” has the meaning given in section 73.

VALID FROM 06/04/2006

### *Powers in relation to alarms*

#### **77 Power of entry**

- (1) This section applies if an authorised officer of a local authority is satisfied that the conditions in subsection (2) are met in relation to an audible intruder alarm installed in or on premises in the area of the local authority.
- (2) The conditions are—
  - (a) that the alarm has been sounding continuously for more than twenty minutes or intermittently for more than one hour;
  - (b) that the sounding of the alarm is likely to give persons living or working in the vicinity of the premises reasonable cause for annoyance;
  - (c) if the premises are in an alarm notification area, that reasonable steps have been taken to get the nominated key-holder to silence the alarm.
- (3) The officer may enter the premises for the purpose of silencing the alarm.
- (4) The officer may not enter premises by force under this section.
- (5) The officer must, if required, show evidence of his authority to act under this section.
- (6) In this section—
  - “authorised officer” means an officer of a local authority who is authorised by the authority (generally or specifically) for the purposes of this section;
  - “nominated key-holder”, in respect of premises in the area of a local authority, means a person in respect of whom the authority has received notification in accordance with section 71(2)(b).

#### **78 Warrant to enter premises by force**

- (1) This section applies if, on an application made by an authorised officer of a local authority, a justice of the peace is satisfied—
  - (a) that the conditions in section 77(2)(a) and (b) are met in relation to an audible intruder alarm installed in or on premises in the area of the local authority,
  - (b) if the premises are in an alarm notification area, that the condition in section 77(2)(c) is met, and
  - (c) that the officer is unable to gain entry to the premises without the use of force.

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- (2) The justice of the peace may issue a warrant authorising the officer to enter the premises, using reasonable force if necessary, for the purpose of silencing the alarm.
- (3) Before applying for a warrant under this section, the officer must leave a notice at the premises stating—
  - (a) that the officer is satisfied that the sounding of the alarm is likely to give persons living or working in the vicinity of the premises reasonable cause for annoyance, and
  - (b) that an application is to be made for a warrant authorising the officer to enter the premises, using reasonable force if necessary, for the purpose of silencing the alarm.
- (4) The officer must, if required, show evidence of a warrant issued under this section.
- (5) “Authorised officer” has the meaning given in section 77.

#### **79 Powers of entry: supplementary**

- (1) This section applies where an officer of a local authority enters any premises under section 77 or under a warrant issued under section 78.
- (2) The officer may take any steps he thinks necessary for the purpose of silencing the alarm.
- (3) The officer may take with him—
  - (a) such other persons, and
  - (b) such equipment,
 as he thinks necessary for the purpose of silencing the alarm.
- (4) The officer and any person who enters the premises with him by virtue of subsection (3) must not cause more damage to or disturbance at the premises than is necessary for the purpose of silencing the alarm.
- (5) If the premises are unoccupied or (where the premises are occupied) the occupier of the premises is temporarily absent the officer must—
  - (a) leave a notice at the premises stating what action has been taken on the premises under this section and section 77 or 78;
  - (b) leave the premises (so far as is reasonably practicable) as effectively secured against entry as he found them.
- (6) But the officer is not required by virtue of subsection (5)(b) to re-set the alarm.
- (7) Any expenses reasonably incurred by the local authority in connection with entering the premises, silencing the alarm and complying with subsection (5) may be recovered by the authority from the responsible person.
- (8) A warrant under section 78 continues in force until—
  - (a) the alarm has been silenced, and
  - (b) the officer has complied with subsection (5) (if that subsection applies).
- (9) Nothing done by, or by a member of, a local authority or by an officer of or another person authorised by a local authority, if done in good faith for the purposes of



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section 77, 78 or this section, is to subject the authority or any of those persons personally to any action, liability, claim or demand.

### Supplementary

## 80 Orders and regulations

- (1) This section applies to a power conferred on the appropriate person under any provision of this Chapter to make an order or regulations.
- (2) The power includes—
  - (a) power to make different provision for different purposes (including different provision for different local authorities and descriptions of local authority);
  - (b) power to make consequential, supplementary, incidental, transitional and saving provision.
- (3) The power is exercisable by statutory instrument.
- (4) A statutory instrument containing an order or regulations made by the Secretary of State under any provision of this Chapter is subject to annulment in pursuance of a resolution of either House of Parliament.

### Commencement Information

**I6** S. 80 in force at 14.3.2006 for E. by S.I. 2006/795, art. 2(1), Sch. 1

## 81 Interpretation

- (1) In this Chapter—
  - “alarm notification area” means an area in respect of which a designation under section 69 has effect;
  - “the appropriate person” is—
    - (a) in relation to a local authority in England, the Secretary of State;
    - (b) in relation to a local authority in Wales, the National Assembly for Wales;
  - “local authority” means—
    - (a) a district council in England;
    - (b) a county council in England for an area for which there is no district council;
    - (c) a London borough council;
    - (d) the Common Council of the City of London;
    - (e) the Council of the Isles of Scilly;
    - (f) a county or county borough council in Wales;
  - “the occupier” in respect of premises means (subject to subsection (2))—
    - (a) a person occupying the premises, or
    - (b) if the premises are unoccupied, a person entitled to occupy the premises (other than the owner);
  - “premises” does not include a vehicle;
  - “the responsible person” in respect of premises means—

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- (a) the occupier, or
  - (b) if there is no occupier, the owner.
- (2) The fact that a person is occupying premises is to be disregarded for the purposes of this Chapter if—
- (a) the premises comprise a building that is being erected, constructed, altered, improved, maintained, cleaned or repaired,
  - (b) the person is occupying the premises in connection with the erection, construction, alteration, improvement, maintenance, cleaning or repair, and
  - (c) the person is doing so by virtue of a licence granted for less than four weeks.

#### Commencement Information

**I7** S. 81 in force at 14.3.2006 for E. by S.I. 2006/795, art. 2(1), Sch. 1

## CHAPTER 2

### GENERAL

#### *Noise from premises*

#### **82 Noise offences: fixed penalty notices**

- (1) In section 8 of the Noise Act 1996 (c. 37) (fixed penalty notices), omit subsection (8) (amount of fixed penalty).
- (2) After that section insert—

#### **“8A Amount of fixed penalty**

- (1) This section applies in relation to a fixed penalty payable to a local authority in pursuance of a notice under section 8.
- (2) The amount of the fixed penalty—
  - (a) is the amount specified by the local authority in relation to the authority's area, or
  - (b) if no amount is so specified, is £100.
- (3) The local authority may make provision for treating the fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by the authority.
- (4) The appropriate person may by regulations make provision in connection with the powers conferred on local authorities under subsections (2)(a) and (3).
- (5) Regulations under subsection (4) may (in particular)—
  - (a) require an amount specified under subsection (2)(a) to fall within a range prescribed in the regulations;
  - (b) restrict the extent to which, and the circumstances in which, a local authority can make provision under subsection (3).

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- (6) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (2)(b).

### **8B Fixed penalty notices: power to require name and address**

- (1) If an officer of a local authority who is authorised for the purposes of section 8 proposes to give a person a fixed penalty notice, the officer may require the person to give him his name and address.
- (2) A person commits an offence if—
- (a) he fails to give his name and address when required to do so under subsection (1), or
  - (b) he gives a false or inaccurate name or address in response to a requirement under that subsection.
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.”

#### **Commencement Information**

**18** S. 82 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, art. 3

### **83 Noise offences: use of fixed penalty receipts**

- (1) Section 9 of the Noise Act 1996 (c. 37) (fixed penalty notices: supplementary) is amended as follows.
- (2) In subsection (4A) (qualifying functions for the use of penalty receipts), omit “and” at the end of paragraph (a) and after that paragraph insert—
- “(aa) functions under Chapter 1 of Part 7 of the Clean Neighbourhoods and Environment Act 2005;
  - (ab) functions under sections 79 to 82 of the Environmental Protection Act 1990 (statutory nuisances) in connection with statutory nuisances falling with section 79(1)(g) or (ga) (noise) of that Act;”.
- (3) After subsection (4F) insert—
- “(4G) The powers to make regulations conferred by this section are, for the purposes of subsection (1) of section 100 of the Local Government Act 2003, to be regarded as included among the powers mentioned in subsection (2) of that section.
- (4H) Regulations under this section relating to local authorities in England may—
- (a) make provision in relation to—
    - (i) all local authorities,
    - (ii) particular local authorities, or
    - (iii) particular descriptions of local authority;
  - (b) make different provision in relation to different local authorities or descriptions of local authority.”

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#### Commencement Information

**I9** S. 83(2) in force at 7.6.2005, see s. 108(4)

**I10** S. 83(1)(3) in force at 14.3.2006 for E. by S.I. 2006/795, art. 2(1), Sch. 1

### 84 Extension of Noise Act 1996 to licensed premises etc

Schedule 1 (which makes provision amending the Noise Act 1996 (c. 37) so that it applies to licensed premises etc) has effect.

#### Commencement Information

**I11** S. 84 in force at 14.3.2006 for specified purposes for E. by S.I. 2006/795, art. 2(1), Sch. 1

### 85 Noise Act 1996: supplementary

- (1) Section 11 of the Noise Act 1996 (interpretation and subordinate legislation) is amended as follows.
- (2) After subsection (2) insert—
  - “(2A) In this Act “appropriate person” means—
    - (a) the Secretary of State, in relation to England;
    - (b) the National Assembly for Wales, in relation to Wales.”
- (3) In subsection (3), after “section 14” insert “ or an order or regulations made solely by the National Assembly for Wales ”.

VALID FROM 06/04/2006

#### *Statutory noise nuisances*

### 86 Deferral of duty to serve abatement notice

In section 80 of the Environmental Protection Act 1990 (c. 43) (summary proceedings for statutory nuisances), at the beginning of subsection (1) insert “ Subject to subsection (2A) ” and after subsection (2) insert—

“(2A) Where a local authority is satisfied that a statutory nuisance falling within paragraph (g) of section 79(1) above exists, or is likely to occur or recur, in the area of the authority, the authority shall—

- (a) serve an abatement notice in respect of the nuisance in accordance with subsections (1) and (2) above; or
- (b) take such other steps as it thinks appropriate for the purpose of persuading the appropriate person to abate the nuisance or prohibit or restrict its occurrence or recurrence.

(2B) If a local authority has taken steps under subsection (2A)(b) above and either of the conditions in subsection (2C) below is satisfied, the authority shall serve an abatement notice in respect of the nuisance.

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(2C) The conditions are—

- (a) that the authority is satisfied at any time before the end of the relevant period that the steps taken will not be successful in persuading the appropriate person to abate the nuisance or prohibit or restrict its occurrence or recurrence;
- (b) that the authority is satisfied at the end of the relevant period that the nuisance continues to exist, or continues to be likely to occur or recur, in the area of the authority.

(2D) The relevant period is the period of seven days starting with the day on which the authority was first satisfied that the nuisance existed, or was likely to occur or recur.

(2E) The appropriate person is the person on whom the authority would otherwise be required under subsection (2A)(a) above to serve an abatement notice in respect of the nuisance.”

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