



# Clean Neighbourhoods and Environment Act 2005

## 2005 CHAPTER 16

### PART 7

#### NOISE

#### CHAPTER 1

##### AUDIBLE INTRUDER ALARMS

###### *Alarm notification areas*

#### **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.
- (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.

## **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.

## **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.
- (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.

## **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—

- (a) 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;
  - (b) 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—
- (a) 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;
  - (b) he normally resides or is situated in the vicinity of the premises;
  - (c) he has information sufficient to enable him to silence the alarm;
  - (d) he agrees to be a nominated key-holder in respect of the premises;
  - (e) where the premises are residential premises, he falls within subsection (4);
  - (f) where the premises are non-residential premises, he falls within subsection (5).
- (4) A person falls within this subsection if he is—
- (a) an individual who is not the occupier of the premises, or
  - (b) a key-holding company.
- (5) A person falls within this subsection if he is—
- (a) an individual who—
    - (i) is the responsible person, or
    - (ii) is acting on behalf of the responsible person, if the responsible person is not an individual, or
  - (b) 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—
- “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.

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*Status: This is the original version (as it was originally enacted).*

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- (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.
- (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.

#### **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).

#### **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.
- (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.

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- (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.

## **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
  - (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.