ANTISOCIAL BEHAVIOUR

ETC. (SCOTLAND) ACT 2004

_____

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5 –Noise Nuisance

Section 41 - Application of noise control provisions to local authority areas

91.   Section 41 enables a local authority to adopt the noise control provisions in Part 5 of the Act.

92.   Subsection (1) applies the noise control provisions set out in sections 43 to 47 of the Act to the local authority area if the local authority resolves that the provisions should apply to its area.

93.   Subsection (2)(a) provides that if a local authority resolves to apply the noise control provisions to its area, there must be a period of 2 months before the provisions take effect (the "commencement date"). Subsection (2)(b) requires specification of the periods of the week for which noise is to be controlled by the provisions (the "noise control period").

94.   Subsection (3) enables a resolution to specify the whole week as a noise control period, and different noise control periods for different areas, times of the year or other circumstances. Subsection (4) explains that a week begins on Monday. This allows local authorities to choose which periods of the day and night, days of the week, times of the year, and areas in which the noise control provisions will operate. For example, a resolution could specify noise control periods for weekend nights only i.e. on a Friday and Saturday between 7.00pm and 7.00am.

95.   Subsection (5)(a) requires a local authority, at least a month in advance of the commencement date, to have a notice published in 2 consecutive weeks in a local newspaper. Subsection (5)(b) requires the local authority to give a copy of the notice to both the Scottish Ministers and neighbouring local authorities, at least one month before the commencement date.

96.   Subsection (6) specifies certain things that the notice must state.

97.   Subsection (7) requires a neighbouring local authority, which receives a notice under subsection (5)(b)(ii), to take appropriate steps to inform persons in its area of the content of that notice.