

# **ANTISOCIAL BEHAVIOUR ETC. (SCOTLAND) ACT 2004**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 5 –Noise Nuisance**

##### ***Section 43 - Investigation of excessive noise from certain places***

99. [Section 43](#) sets out the duties of a local authority and its officers in relation to the investigation of noise from relevant property.
100. Subsection (1), as read with subsection (3), places a duty on a local authority, where the noise control provisions apply to its area by virtue of section 41., to investigate a complaint of excessive noise from relevant property, and requires an officer of the authority to take reasonable steps to investigate the complaint.
101. Subsection (2) enables a complaint to be made by any means.
102. Subsection (3) enables a local authority officer, having undertaken an investigation under subsection (1), to serve a warning notice under section 44, if the local authority officer is satisfied that noise is being emitted from the offending property during a noise control period, and the noise, if measured from within a relevant place (as defined in section 53), would or might exceed the permitted level.
103. Subsection (4) provides that it is for the local authority officer, when making the assessment under subsection (3), to decide whether any noise, if measured from a relevant place would or might exceed the permitted level. In reaching this decision it is for the local authority officer to decide the place in which to measure the noise, and whether any device should be used for measuring the noise.
104. Subsection (5) makes provision for a situation where one local authority receives a complaint and the offending property is situated in another local authority area. It enables the local authority which receives the complaint to apply the noise control provisions as if the offending dwelling were situated in its area, and therefore act whether or not the noise control provisions apply in the local authority area where the offending property is situated.