



# Antisocial Behaviour etc. (Scotland) Act 2004

2004 asp 8

## PART 5

### NOISE NUISANCE

#### *Noise control provisions*

#### **45 Offence where noise exceeds permitted level after service of notice**

- (1) If a warning notice has been served in respect of noise emitted from relevant property, any person who is responsible for noise which—
  - (a) is emitted from the relevant property in the period specified in the notice; and
  - (b) exceeds the permitted level as measured from a relevant place,shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) It shall be a defence for a person charged with an offence under subsection (1) to show that there was a reasonable excuse for the act, failure or sufferance by reference to which the person was charged.
- (4) A person shall be taken to have shown the matter mentioned in subsection (3) if—
  - (a) sufficient evidence is adduced to raise an issue with respect to it; and
  - (b) the prosecution does not prove the contrary beyond reasonable doubt.
- (5) In proceedings for an offence under this section, a measurement of noise by a device is not admissible as evidence of a level of noise unless the device is an approved device and any conditions subject to which the approval was given are satisfied.

**Changes to legislation:**

Antisocial Behaviour etc. (Scotland) Act 2004, Section 45 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 85B inserted by [2014 asp 14 s. 21\(1\)](#)