

*Status: Point in time view as at 07/04/2005. This version of this chapter contains provisions that are not valid for this point in time.*

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# Clean Neighbourhoods and Environment Act 2005

## 2005 CHAPTER 16

### PART 7

#### NOISE

### CHAPTER 2

#### GENERAL

#### *Noise from premises*

VALID FROM 16/03/2006

#### **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.

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- (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).
- (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.”

VALID FROM 07/06/2005

#### **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,

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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.”

#### Commencement Information

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

VALID FROM 14/03/2006

#### 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.

#### 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—

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- “(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.
- (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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