



# 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.