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STATUTORY INSTRUMENTS

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**1978 No. 1049**

**Pollution Control and Local Government  
(Northern Ireland) Order 1978**

**PART III**

**NOISE**

Noise abatement zones

**Designation of zones**

**43.**—(1) A district council may by order<sup>F1</sup> . . . (in this Part referred to as a “noise abatement order”) designate all or any part of its district a noise abatement zone.

(2) An order under this Article shall specify the classes of premises to which it applies (that is to say, the classes of premises subject to control under the following provisions of this Part).

(3) The provisions of Schedule 1 shall apply to the<sup>F1</sup> making] and coming into operation of an order under this Article.

**F1** 1985 NI 15

**Register of noise levels**

**44.**—(1) Every district council which has designated its district or any part of its district a noise abatement zone shall measure the level of noise emanating from premises within the zone which are of any class to which the relevant noise abatement order relates.

(2) The district council shall record all measurements taken under paragraph (1) in a register (in this Part referred to as a “noise level register”) to be kept by the council for the purpose in accordance with regulations.

(3) The district council on recording any measurement in the noise level register shall serve a copy of that record on the owner and occupier of the premises in respect of which the measurement was taken; and any person on whom a copy of such a record is served may, within twenty-eight days of the date of service, appeal to the Department against the record.

(4) On an appeal to the Department under paragraph (3) the Department may give to the district council in question such directions as the Department thinks fit as to the record of the measurement of noise which is the subject of the appeal, and the council shall comply with the directions.

(5) Except as provided by paragraphs (3) and (4) the validity or accuracy of any entry in a noise level register shall not be questioned in any proceedings under this Part.

(6) The premises as to which a district council is to make measurements under this Article shall include those which come within a class to which the relevant noise abatement order relates after the making of the order; and it shall be for the council to determine, both for those premises and all other

premises of any class to which the relevant noise abatement order relates, when the measurements under this Article are to be made.

(7) A noise level register shall be open to public inspection at the principal office of the district council free of charge at all reasonable hours, and the council shall afford members of the public reasonable facilities for obtaining from the authority, on payment of reasonable charges, copies of entries in the register.

(8) Provision may be made by regulations—

- (a) for determining, or for authorising the Department to determine, the methods by which noise levels are to be measured for the purposes of any provision of this Article and Articles 45 to 47; and
- (b) for enabling noise levels calculated in accordance with the regulations, or in accordance with the directions of the Department to be treated for those purposes as measured by a method determined under sub-paragraph ( a).

### Noise exceeding registered level

**45.—**(1) The level of noise recorded in the noise level register in respect of any premises shall not be exceeded except with the consent in writing of the district council.

(2) The district council's consent may be made subject to such conditions, whether as to the amount by which the level of noise may be increased, or as to the period for which, or the periods during which, the level of noise may be increased, as may be specified in the consent; and the council shall record particulars of the consent in the noise level register.

(3) If within the period of two months beginning with the date on which a district council receives an application for its consent under this Article or within such longer period as the council and the applicant agree in writing, the council has not notified the applicant of its decision on the application, the council shall be deemed to have refused the consent.

(4) An applicant for consent under this Article may appeal to the Department against the district council's decision on the application within the period of three months beginning with the date on which the council notifies him of the decision or, in a case falling within paragraph (3), beginning with the expiration of the period or longer period there mentioned; and the district council shall act in accordance with the decision of the Department on the appeal.

(5) If noise emitted from any premises constitutes a contravention of paragraph (1) or of a condition attached to a consent under this Article, the person responsible shall be guilty of an offence against this Part.

(6) The court of summary jurisdiction convicting a person of an offence under paragraph (5) may, if satisfied that the offence is likely to continue or recur, make an order requiring the execution of any works necessary to prevent it continuing or recurring, and if that person without reasonable excuse contravenes any requirement of the order he shall be guilty of an offence against this Part.

(7) The court of summary jurisdiction may, after giving the district council in whose district the premises are situated an opportunity of being heard, direct the council to do anything which the court may under paragraph (6) require the person convicted to do, either instead of, or in addition to, imposing any requirement on that person.

(8) A consent given under this Article shall contain a statement to the effect that the consent does not of itself constitute any ground of defence against any proceedings instituted under [F2section 70 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 ] .

**F2** Words in art. 45(8) substituted (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\), s. 78, Sch. 3 para. 9\(2\)](#); S.R. 2012/13, art. 2(2), Sch. 2

## **Reduction of noise levels**

**46.**—(1) If it appears to the district council—

- (a) that the level of noise emanating from any premises to which a noise abatement order applies is not acceptable having regard to the purposes for which the order was made; and
- (b) that a reduction in that level is practicable at reasonable cost and would afford a public benefit,

the council may serve a notice on the person responsible.

(2) The notice shall require that person—

- (a) to reduce the level of noise emanating from the premises to such level as may be specified in the notice;
- (b) to prevent any subsequent increase in the level of noise emanating from those premises without the consent of the district council; and
- (c) to take such steps as may be specified in the notice to achieve those purposes.

(3) A notice under this Article (in this Part referred to as a “noise reduction notice”) shall specify a time, not being less than six months from the date of service of the notice, within which the noise level is to be reduced to the specified level and, where the notice specifies any steps necessary to achieve that purpose, within which those steps shall be taken.

(4) A noise reduction notice may specify particular times, or particular days, during which the noise level is to be reduced, and may require the noise level to be reduced to different levels for different times or days.

(5) A noise reduction notice shall take effect whether or not a consent under Article 45 authorises a level of noise higher than that specified in the notice.

(6) The district council shall record particulars of a noise reduction notice in the noise level register.

(7) A person who is served with a noise reduction notice may, within three months of the date of service, appeal to a court of summary jurisdiction against the notice.

(8) A person who without reasonable excuse contravenes a noise reduction notice shall be guilty of an offence against this Part.

(9) In proceedings for an offence under paragraph (8) in respect of noise caused in the course of a trade or business, it shall be a defence to prove that the best practicable means had been used for preventing, or for counteracting the effect of, the noise.

## **New buildings, etc.**

**47.**—(1) Where it appears to the district council—

- (a) that a building is going to be constructed and that a noise abatement order will apply to it when it is erected; or
- (b) that any premises will, as the result of any works, become premises to which a noise abatement order applies,

the council may, on the application of the owner or occupier of the premises or a person who satisfies the authority that he is negotiating to acquire an interest in the premises or on its own initiative, determine the level of noise which will be acceptable as that emanating from the premises.

(2) The district council shall record in the noise level register the level of noise determined under this Article for any premises.

(3) The district council shall give notice of its decision to the applicant or, in the case of a decision made on its own initiative, to the owner or the occupier of the premises, and the recipient of the

notice may appeal to the Department against that decision within three months of the date on which the council notifies him of that decision; and the district council shall act in accordance with the decision of the Department on the appeal.

(4) If within the period of two months beginning with the date when the district council receives an application under paragraph (1), or within such longer period as the council and the applicant may at any time agree in writing, the council has not given notice to the applicant of its decision on the application, the council shall be deemed to have given him notice that it has decided not to make a determination on the application; and the applicant may accordingly appeal against the decision to the Department under paragraph (3).

(5) Where at any time after the coming into force of a noise abatement order any premises become premises to which the order applies as a result of the construction of a building or as a result of any works carried out on the premises but no level of noise has been determined under this Article as respects the premises, Article 46 shall apply as if—

- (a) paragraph (1)( *b*) were omitted; and
- (b) three months were substituted for six months in paragraph (3); and
- (c) paragraph (9) were omitted.

**Changes to legislation:**

There are currently no known outstanding effects for the Pollution Control and Local Government (Northern Ireland) Order 1978, Noise abatement zones.