



## 2011 CHAPTER 23

### **PART 7**

#### STATUTORY NUISANCES

##### **Supplementary provisions**

**67.**—(1) Subject to subsection (2), where more than one person is responsible for a statutory nuisance section 65 shall apply to each of those persons whether or not what any one of them is responsible for would by itself amount to a nuisance.

(2) In relation to a statutory nuisance within section 63(1)(j) for which more than one person is responsible (whether or not what any one of those persons is responsible for would by itself amount to such a nuisance), section 65(2)(a) shall apply with the substitution of “ any one of the persons ” for “the person”.

(3) In relation to a statutory nuisance within section 63(1)(j) caused by noise emitted from or caused by an unattended vehicle or unattended machinery or equipment for which more than one person is responsible, section 66 shall apply with the substitution—

- (a) in subsection (2)(a), of the words “ any of the persons ” for “the person” and of “ one such person ” for “that person”,
- (b) in subsection (2)(b), of the words “ such a person ” for “that person”,
- (c) in subsection (3), of the words “ any of the persons ” for “the person” and of “ one such person ” for “that person”,
- (d) in subsection (5), of the words “ any person ” for “the person”, and
- (e) in subsection (7), of the words “ a person ” for “the person” and of “ such a person ” for “that person”.

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*Changes to legislation: There are currently no known outstanding effects for the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011, Section 67. (See end of Document for details)*

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(4) Where a statutory nuisance which exists or has occurred within the district of a district council, or which has affected any part of that district, appears to the council to be wholly or partly caused by some act or default committed or taking place outside the district, the district council may act under section 65 as if the act or default were wholly within that district, except that any appeal shall be heard by a court of summary jurisdiction having jurisdiction where the act or default is alleged to have taken place.

(5) Where an abatement notice has not been complied with the district council may, whether or not it takes proceedings for an offence under section 65(9), abate the nuisance and do whatever may be necessary in execution of the notice.

(6) Any expenses reasonably incurred by a district council in abating, or preventing the recurrence of, a statutory nuisance under subsection (5) may be recovered by it from the person by whose act or default the nuisance was caused and, if that person is the owner of the premises, from any person who is for the time being the owner thereof; and the court may apportion the expenses between persons by whose acts or defaults the nuisance is caused in such manner as the court consider fair and reasonable.

(7) If a district council is of opinion that proceedings for an offence under section 65(9) would afford an inadequate remedy in the case of any statutory nuisance, it may, subject to subsection (8), take proceedings in the High Court for the purpose of securing the abatement, prohibition or restriction of the nuisance, and the proceedings shall be maintainable notwithstanding the district council has suffered no damage from the nuisance.

(8) In any proceedings under subsection (7) in respect of a nuisance falling within paragraph (i) or (j) of section 63(1), it shall be a defence to prove that the noise was authorised by a notice under Article 40 or a consent under Article 41 (construction sites), of the Pollution Control and Local Government (Northern Ireland) Order 1978 (NI 19).

(9) The further supplementary provisions in Schedule 2 shall have effect.

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**Commencement Information**

- I1** S. 67 in operation at 18.1.2012 for specified purposes by S.R. 2012/13, art. 2(1), Sch. 1
- I2** S. 67 in operation at 1.4.2012 in so far as not already in operation by S.R. 2012/13, art. 2(2), Sch. 2

**Changes to legislation:**

There are currently no known outstanding effects for the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011, Section 67.