



# Noise Act 1996

## 1996 CHAPTER 37

An Act to make provision about noise emitted from dwellings at night; about the forfeiture and confiscation of equipment used to make noise unlawfully; and for connected purposes. [18th July 1996]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Extent Information

- E1** Act does not extend to Scotland see [s. 14\(3\)](#).  
Act extends to Northern Ireland but the operation of s.14 is limited by application as mentioned in s. 14(4)

### Modifications etc. (not altering text)

- C1** Act: transfer of functions (1.7.1999) by [S.I. 1999/672](#), [art. 2 Sch. 1](#)

### *Summary procedure for dealing with noise at night*

## 1 <sup>[F1]</sup> Application of sections 2 to 9]

<sup>[F1]</sup>Sections 2 to 9 apply to the area of every local authority in England and Wales.]

### Extent Information

- E2** In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 14; see 14(4)

*Status: Point in time view as at 01/10/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Noise Act 1996. (See end of Document for details)*

### Textual Amendments

- F1** S. 1 and heading substituted (E.W.) (31.3.2004 for W., 31.3.2004 for E.) by [Anti-social Behaviour Act 2003 \(c. 38\), ss. 42\(2\), 93](#); [S.I. 2004/690, art. 3\(c\)](#); [S.I. 2004/999, art. 2\(c\)](#); [S.I. 2004/690, art. 3\(c\)](#); [S.I. 2004/999, art. 2\(c\)](#)

### Commencement Information

- II** S. 1 wholly in force at 1.9.1997; s. 1 not in force at Royal Assent see s. 14(2); s. 1 in force at 23.7.1997 for England and Wales by [S.I. 1997/1695, art. 2](#) and 1.9.1997 for Northern Ireland by [S.R. 1997/366, art. 2](#)

## 2 Investigation of complaints of noise [<sup>F2</sup>from a dwelling] at night.

- (1) [<sup>F3</sup>A local authority in England and Wales may, if they receive a complaint of the kind mentioned in subsection (2), arrange for an officer of the authority to take reasonable steps to investigate the complaint.]
- (2) The kind of complaint referred to is one made by any individual present in a dwelling during night hours (referred to in this Act as “the complainant’s dwelling”) that excessive noise is being emitted from
  - [<sup>F4</sup>(a)] another dwelling (referred to in this group of sections as “the offending dwelling”)[<sup>F5</sup>, or
  - (b) any premises in respect of which a premises licence or a temporary event notice has effect (referred to in this group of sections as “the offending premises”).]
- (3) A complaint under subsection (2) may be made by any means.
- (4) If an officer of the authority is satisfied, in consequence of an investigation under subsection (1), that—
  - (a) noise is being emitted from the offending dwelling [<sup>F6</sup>or the offending premises] during night hours, and
  - (b) the noise, if it were measured from within the complainant’s dwelling, would or might exceed the permitted level,
 he may serve a notice about the noise under section 3.
- (5) For the purposes of subsection (4), it is for the officer of the authority dealing with the particular case—
  - (a) to decide whether any noise, if it were measured from within the complainant’s dwelling, would or might exceed the permitted level, and
  - (b) for the purposes of that decision, to decide whether to assess the noise from within or outside the complainant’s dwelling and whether or not to use any device for measuring the noise.
- (6) In this group of sections, “night hours” means the period beginning with 11 p.m. and ending with the following 7 a.m.
- (7) Where a local authority receive a complaint under subsection (2) and the offending dwelling is [<sup>F7</sup>, or the offending premises are,] within the area of another local authority, the first local authority may act under this group of sections as if the offending dwelling [<sup>F8</sup>or the offending premises] were within their area, [<sup>F9</sup>and accordingly may so act whether or not this group of sections applies to the area of the other local authority].

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[<sup>F10</sup>(7A) In this group of sections—

“premises licence” has the same meaning as in the Licensing Act 2003 (c. 17);

“temporary event notice” has the same meaning as in the Licensing Act 2003 (and is to be treated as having effect in accordance with section 171(6) of that Act).]

(8) In this section and sections 3 to 9, “this group of sections” means this and those sections.

#### Extent Information

**E3** In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 14; see 14(4)

#### Textual Amendments

- F2** Words in s. 2 heading repealed (E.W.) (6.4.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 2](#), [Sch. 5 Pt. 7](#); S.I. 2006/795, art. 2(3), [Sch. 2](#)
- F3** S. 2(1) substituted (E.W.) (31.3.2004) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), [ss. 42\(3\)](#), 93; S.I. 2004/690, art. 3(c); S.I. 2004/999, art. 2(c); S.I. 2004/690, art. 3(c); S.I. 2004/999, art. 2(c)
- F4** Word in s. 2(2) inserted (E.W.) (1.10.2006 for E., 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 3\(2\)](#); S.I. 2006/2006, art. 2; S.I. 2006/2797, art. 4(kk)
- F5** S. 2(2)(b) and preceding word inserted (E.W.) (1.10.2006 for E., 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 3\(2\)](#); S.I. 2006/2006, art. 2; S.I. 2006/2797, art. 4(kk)
- F6** Words in s. 2(4)(a) inserted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 3\(3\)](#); S.I. 2006/2006, art. 2
- F7** Words in s. 2(7) inserted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 3\(4\)\(a\)](#); S.I. 2006/2006, art. 2
- F8** Words in s. 2(7) inserted (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 3\(4\)\(b\)](#); S.I. 2006/2006, art. 2
- F9** Words in s. 2(7) repealed (E.W.) (31.3.2004) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), [ss. 42\(4\)](#), 93, [Sch. 3](#); S.I. 2004/690, art. 2(c)(ii)
- F10** S. 2(7A) inserted (E.W.) (1.10.2006 for E., 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 3\(5\)](#); S.I. 2006/2006, art. 2; S.I. 2006/2797, art. 4(kk)

#### Commencement Information

**I2** S. 2 wholly in force at 1.9.1997; s. 2 not in force at Royal Assent see s. 14(2); s. 2 in force at 23.7.1997 for England and Wales by [S.I. 1997/1695](#), [art. 2](#) and 1.9.1997 for Northern Ireland by [S.R. 1997/366](#), [art. 2](#)

### 3 Warning notices.

(1) A notice under this section (referred to in this Act as “a warning notice”) must—

(a) state that an officer of the authority considers—

(i) that noise is being emitted from the offending dwelling [<sup>F11</sup>or the offending premises] during night hours, and

(ii) that the noise exceeds, or may exceed, the permitted level, as measured from within the complainant’s dwelling, and

[<sup>F12</sup>(b) give warning—

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- (i) in a case where the complaint is in respect of a dwelling, that any person who is responsible for noise which is emitted from the offending dwelling in the period specified in the notice and which exceeds the permitted level, as measured from within the complainant's dwelling, may be guilty of an offence;
  - (ii) in a case where the complaint is in respect of other premises, that the responsible person in relation to the offending premises may be guilty of an offence if noise which exceeds the permitted level, as measured from within the complainant's dwelling, is emitted from the premises in the period specified in the notice.]
- (2) The period specified in a warning notice must be a period—
  - (a) beginning not earlier than ten minutes after the time when the notice is served, and
  - (b) ending with the following 7 a.m.
- (3) [<sup>F13</sup>In a case where the complaint is in respect of a dwelling, ] A warning notice must be served—
  - (a) by delivering it to any person present at or near the offending dwelling and appearing to the officer of the authority to be responsible for the noise, or
  - (b) if it is not reasonably practicable to identify any person present at or near the dwelling as being a person responsible for the noise on whom the notice may reasonably be served, by leaving it at the offending dwelling.
- [<sup>F14</sup>(3A) In a case where the complaint is in respect of other premises, a warning notice must be served by delivering it to the person who appears to the officer of the authority to be the responsible person in relation to the offending premises at the time the notice is delivered.]
- (4) A warning notice must state the time at which it is served.
- (5) For the purposes of this group of sections, a person is responsible for noise emitted from a dwelling if he is a person to whose act, default or sufferance the emission of the noise is wholly or partly attributable.
- [<sup>F15</sup>(6) For the purposes of this group of sections, the responsible person in relation to premises at a particular time is—
  - (a) where a premises licence has effect in respect of the premises—
    - (i) the person who holds the premises licence if he is present at the premises at that time,
    - (ii) where that person is not present at the premises at that time, the designated premises supervisor under the licence if he is present at the premises at that time, or
    - (iii) where neither of the persons mentioned in sub-paragraphs (i) and (ii) is present at the premises at that time, any other person present at the premises at that time who is in charge of the premises;
  - (b) where a temporary event notice has effect in respect of the premises—
    - (i) the premises user in relation to that notice if he is present at the premises at that time, or
    - (ii) where the premises user is not present at the premises at that time, any other person present at the premises at that time who is in charge of the premises.]

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#### Extent Information

- E4** In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 14; see 14(4)

#### Textual Amendments

- F11** Words in s. 3(1)(a)(i) inserted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), s. 108\(1\)\(2\), Sch. 1 para. 4\(2\)\(a\)](#); S.I. 2006/2006, art. 2
- F12** S. 3(1)(b) substituted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), s. 108\(1\)\(2\), Sch. 1 para. 4\(2\)\(b\)](#); S.I. 2006/2006, art. 2
- F13** Words in s. 3(3) inserted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), s. 108\(1\)\(2\), Sch. 1 para. 4\(3\)](#); S.I. 2006/2006, art. 2
- F14** S. 3(3A) inserted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), s. 108\(1\)\(2\), Sch. 1 para. 4\(4\)](#); S.I. 2006/2006, art. 2
- F15** S. 3(6) inserted (E.W.) (1.10.2006 for E., 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), s. 108\(1\)\(2\), Sch. 1 para. 4\(5\)](#); S.I. 2006/2006, art. 2; S.I. 2006/2797, art. 4(kk)

#### Commencement Information

- I3** S. 3 wholly in force at 1.9.1997; s. 3 not in force at Royal Assent see s. 14(2); s. 3 in force at 23.7.1997 for England and Wales by [S.I. 1997/1695, art. 2](#) and 1.9.1997 for Northern Ireland by [S.R. 1997/366, art. 2](#)

## 4 Offence where noise [<sup>F16</sup>from a dwelling] exceeds permitted level after service of notice.

- (1) If a warning notice has been served in respect of noise emitted from a dwelling, any person who is responsible for noise which—
- is emitted from the dwelling in the period specified in the notice, and
  - exceeds the permitted level, as measured from within the complainant's dwelling,
- is guilty of an offence.
- (2) It is a defence for a person charged with an offence under this section to show that there was a reasonable excuse for the act, default or sufferance in question.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### Textual Amendments

- F16** Words in s 4 heading inserted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), s. 108\(1\)\(2\), Sch. 1 para. 5](#); S.I. 2006/2006, art. 2

#### Commencement Information

- I4** S. 4 wholly in force at 1.9.1997; s. 4 not in force at Royal Assent see s. 14(2); s. 4 in force at 23.7.1997 for England and Wales by [S.I. 1997/1695, art. 2](#) and 1.9.1997 for Northern Ireland by [S.R. 1997/366, art. 2](#)

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**[<sup>F17</sup>4A Offence where noise from other premises exceeds permitted level after service of notice**

- (1) If—
- (a) a warning notice has been served under section 3 in respect of noise emitted from premises,
  - (b) noise is emitted from the premises in the period specified in the notice, and
  - (c) the noise exceeds the permitted level, as measured from within the complainant's dwelling,
- the responsible person in relation to the offending premises at the time at which the noise referred to in paragraph (c) is emitted is guilty of an offence.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.]

**Textual Amendments**

**F17** S. 4A inserted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 6](#); S.I. 2006/2006, art. 2

**5 Permitted level of noise.**

- (1) For the purposes of this group of sections, [<sup>F18</sup>the appropriate person] may by directions in writing determine the maximum level of noise (referred to in this group of sections as “the permitted level”) which may be emitted during night hours from any dwelling [<sup>F19</sup>or other premises].
- (2) The permitted level is to be a level applicable to noise as measured from within any other dwelling in the vicinity by an approved device used in accordance with any conditions subject to which the approval was given.
- (3) Different permitted levels may be determined for different circumstances, and the permitted level may be determined partly by reference to other levels of noise.
- (4) [<sup>F20</sup>The appropriate person] may from time to time vary his directions under this section by further directions in writing.

**Extent Information**

**E5** In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 14; see 14(4)

**Textual Amendments**

**F18** Words in s. 5(1) substituted (E.W.) (6.4.2006 for E., 27.10.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 7\(2\)\(a\)](#); S.I. 2006/795, art. 2(3), [Sch. 2](#); S.I. 2006/2797, art. 2(p)

**F19** Words in s. 5(1) inserted (1.10.2006 for E., 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 7\(2\)\(b\)](#); S.I. 2006/2006, art. 2

**F20** Words in s. 5(4) substituted (E.W.) (6.4.2006 for E., 27.10.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 7\(3\)](#); S.I. 2006/795, art. 2(3), [Sch. 2](#); S.I. 2006/2797, art. 2(p)

*Status: Point in time view as at 01/10/2006.*  
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#### Commencement Information

- I5** S. 5 wholly in force at 1.9.1997; s. 5 not in force at Royal Assent see s. 14(2); s. 5 in force at 23.7.1997 for England and Wales by [S.I. 1997/1695](#), [art. 2](#) and 1.9.1997 for Northern Ireland by [S.R. 1997/366](#), [art. 2](#)

## 6 Approval of measuring devices.

- (1) For the purposes of this group of sections, [<sup>F21</sup>the appropriate person] may approve in writing any type of device used for the measurement of noise; and references in this group of sections to approved devices are to devices of a type so approved.
- (2) Any such approval may be given subject to conditions as to the purposes for which, and the manner and other circumstances in which, devices of the type concerned are to be used.
- (3) In proceedings for an offence under section 4 [<sup>F22</sup>or 4A], a measurement of noise made by a device is not admissible as evidence of the level of noise unless it is an approved device and any conditions subject to which the approval was given are satisfied.

#### Extent Information

- E6** In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 14; see 14(4)

#### Textual Amendments

- F21** Words in s. 6(1) substituted (E.W.) (6.4.2006 for E., 27.10.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 8\(2\)](#); [S.I. 2006/795](#), art. 2(3), Sch. 2; [S.I. 2006/2797](#), art. 2(p)
- F22** Words in s. 6(3) inserted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 8\(3\)](#); [S.I. 2006/2006](#), art. 2

#### Commencement Information

- I6** S. 6 wholly in force at 1.9.1997; s. 6 not in force at Royal Assent see s. 14(2); s. 6 in force at 23.7.1997 for England and Wales by [S.I. 1997/1695](#), [art. 2](#) and 1.9.1997 for Northern Ireland by [S.R. 1997/366](#), [art. 2](#)

## 7 Evidence.

- (1) In proceedings for an offence under section 4 [<sup>F23</sup>or 4A], evidence—
  - (a) of a measurement of noise made by a device, or of the circumstances in which it was made, or
  - (b) that a device was of a type approved for the purposes of section 6, or that any conditions subject to which the approval was given were satisfied,may be given by the production of a document mentioned in subsection (2).
- (2) The document referred to is one which is signed by an officer of the local authority and which (as the case may be)—
  - (a) gives particulars of the measurement or of the circumstances in which it was made, or

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- (b) states that the device was of such a type or that, to the best of the knowledge and belief of the person making the statement, all such conditions were satisfied;
- and if the document contains evidence of a measurement of noise it may consist partly of a record of the measurement produced automatically by a device.
- (3) In proceedings for an offence under section 4, evidence that noise, or noise of any kind, measured by a device at any time was noise emitted from a dwelling may be given by the production of a document—
- (a) signed by an officer of the local authority, and
  - (b) stating that he had identified that dwelling as the source at that time of the noise or, as the case may be, the noise of that kind.
- [<sup>F24</sup>(3A) In proceedings for an offence under section 4A, evidence that noise, or noise of any kind, measured by a device at any time was noise emitted from any other premises may be given by the production of a document—
- (a) signed by an officer of the local authority, and
  - (b) stating that he had identified those premises as the source at that time of the noise or, as the case may be, noise of that kind.]
- (4) For the purposes of this section, a document purporting to be signed as mentioned in subsection (2) [<sup>F25</sup>, (3)(a) or (3A)(a)] is to be treated as being so signed unless the contrary is proved.
- (5) This section does not make a document admissible as evidence in proceedings for an offence unless a copy of it has, not less than seven days before the hearing or trial, been served on the person charged with the offence.
- (6) This section does not make a document admissible as evidence of anything other than the matters shown on a record produced automatically by a device if, not less than three days before the hearing or trial or within such further time as the court may in special circumstances allow, the person charged with the offence serves a notice on the prosecutor requiring attendance at the hearing or trial of the person who signed the document.

#### Extent Information

- E7** In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 14; see 14(4)

#### Textual Amendments

- F23** Words in s. 7(1) inserted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), s. 108\(1\)\(2\), Sch. 1 para. 9\(2\)](#); S.I. 2006/2006, art. 2
- F24** S. 7(3A) inserted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), s. 108\(1\)\(2\), Sch. 1 para. 9\(3\)](#); S.I. 2006/2006, art. 2
- F25** Words in s. 7(4) substituted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), s. 108\(1\)\(2\), Sch. 1 para. 9\(4\)](#); S.I. 2006/2006, art. 2

#### Commencement Information

- I7** S. 7 wholly in force at 1.9.1997; s. 7 not in force at Royal Assent see s. 14(2); s. 7 in force at 23.7.1997 for England and Wales by [S.I. 1997/1695, art. 2](#) and 1.9.1997 for Northern Ireland by [S.R. 1997/366, art. 2](#)



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## 8 Fixed penalty notices.

- (1) Where an officer of a local authority who is authorised for the purposes of this section has reason to believe that a person is committing or has just committed an offence under section 4 [<sup>F26</sup>or 4A], he may give that person a notice (referred to in this Act as a “fixed penalty notice”) offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.
- (2) A fixed penalty notice may be given to a person—
  - (a) by delivering the notice to him, or
  - (b) if it is not reasonably practicable to deliver it to him, by leaving the notice, addressed to him, at the offending dwelling [<sup>F27</sup>or the offending premises (as the case may be)].
- (3) Where a person is given a fixed penalty notice in respect of such an offence—
  - (a) proceedings for that offence must not be instituted before the end of the period of fourteen days following the date of the notice, and
  - (b) he cannot be convicted of that offence if he pays the fixed penalty before the end of that period.
- (4) A fixed penalty notice must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.
- (5) A fixed penalty notice must state—
  - (a) the period during which, because of subsection (3)(a), proceedings will not be taken for the offence,
  - (b) the amount of the fixed penalty, and
  - (c) the person to whom and the address at which the fixed penalty may be paid.
- (6) Payment of the fixed penalty may (among other methods) be made by pre-paying and posting to that person at that address a letter containing the amount of the penalty (in cash or otherwise).
- (7) Where a letter containing the amount of the penalty is sent in accordance with subsection (6), payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (8) [<sup>F28</sup>The fixed penalty payable under this section is £100.]

### Extent Information

- E8** In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 14; see 14(4)

### Textual Amendments

- F26** Words in s. 8(1) inserted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 10\(2\)](#); S.I. 2006/2006, art. 2
- F27** Words in s. 8(2)(b) inserted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 10\(3\)](#); S.I. 2006/2006, art. 2
- F28** S. 8(8) repealed (E.W.) (16.3.2006 for W. for specified purposes, 6.4.2006 for E., 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. in so far as not already in force) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 82(1), 108(1), (2), [Sch. 5 Pt. 7](#); S.I. 2006/768, art. 3; S.I. 2006/795, art. 2(3), [Sch. 2](#); S.I. 2006/2797, art. 4(jj); s. 8(8) repealed (N.I.) (18.1.2012

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for specified purposes, 1.4.2012 in so far as not already in force) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\)](#), ss. 61(1), 78, **Sch. 4 Pt. 4**; S.R. 2012/13, art. 2(1), Sch. 1Sch. 2

#### Commencement Information

- I8** S. 8 wholly in force at 1.9.1997; s. 8 not in force at Royal Assent see s. 14(2); s. 8 in force at 23.7.1997 for England and Wales by [S.I. 1997/1695](#), **art. 2** and 1.9.1997 for Northern Ireland by [S.R. 1997/366](#), **art. 2**

#### [<sup>F29</sup>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) [<sup>F30</sup>In the case of an offence under section 4] 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.

[ In the case of an offence under section 4A the amount of the fixed penalty is £500.]  
<sup>F31</sup>(2A)

- (3) The local authority may make provision for treating the fixed penalty [<sup>F32</sup>payable in the case of an offence under section 4] 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) [<sup>F33</sup>or (2A)].

#### Textual Amendments

- F29** Ss. 8A, 8B inserted (E.W.) (16.3.2006 for W. for specified purposes, 6.4.2006 for E., 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. in so far as not already in force) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), **ss. 82(2)**, 108(1), (2); S.I. 2006/768, art. 3; S.I. 2006/795, art. 2(3), Sch. 2; S.I. 2006/2797, art. 4(jj)
- F30** Words in s. 8A(2) inserted (1.10.2006 for E., 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), **Sch. 1 para. 11(2)**; S.I. 2006/2006, art. 2; S.I. 2006/2797, art. 4(kk)
- F31** S. 8A(2A) inserted (1.10.2006 for E., 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), **Sch. 1 para. 11(3)**; S.I. 2006/2006, art. 2; S.I. 2006/2797, art. 4(kk)
- F32** Words in s. 8A(3) inserted (1.10.2006 for E., 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), **Sch. 1 para. 11(4)**; S.I. 2006/2006, art. 2; S.I. 2006/2797, art. 4(kk)

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**F33** Words in s. 8A(6) inserted (1.10.2006 for E., 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), s. 108\(1\)\(2\), Sch. 1 para. 11\(5\)](#); S.I. 2006/2006, art. 2; S.I. 2006/2797, art. 4(kk)

## **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.]

### **Textual Amendments**

**F29** Ss. 8A, 8B inserted (E.W.) (16.3.2006 for W. for specified purposes, 6.4.2006 for E., 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. in so far as not already in force) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), ss. 82\(2\), 108\(1\), \(2\)](#); S.I. 2006/768, art. 3; S.I. 2006/795, art. 2(3), Sch. 2; S.I. 2006/2797, art. 4(jj)

## **9 Section 8: supplementary.**

- (1) If a form for a fixed penalty notice is specified in an order made by [<sup>F34</sup>the appropriate person], a fixed penalty notice must be in that form.
- (2) If a fixed penalty notice is given to a person in respect of noise emitted from a dwelling in any period specified in a warning notice—
  - (a) no further fixed penalty notice may be given to that person in respect of noise emitted from the dwelling during that period, but
  - (b) that person may be convicted of a further offence under section 4 in respect of noise emitted from the dwelling after the fixed penalty notice is given and before the end of that period.
- [<sup>F35</sup>(2A) If a fixed penalty notice is given to a person in respect of noise emitted from other premises in any period in a warning notice—
  - (a) no further fixed penalty notice may be given to that person in respect of noise emitted from the premises during that period, but
  - (b) that person may be convicted of a further offence under section 4A in respect of noise emitted from the premises after the fixed penalty notice is given and before the end of that period.]
- (3) [<sup>F36</sup>The Secretary of State may from time to time by order amend section 8(8) so as to change the amount of the fixed penalty payable under that section.]
- [<sup>F37</sup>(4) A local authority may use any sums it receives under section 8 (its “penalty receipts”) only for the purposes of functions of its that are qualifying functions.

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- (4A) The following are qualifying functions for the purposes of this section—
- (a) functions under this Act, <sup>F38</sup>...
  - <sup>F39</sup> [ 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;]
  - (b) functions of a description specified in regulations made by [<sup>F40</sup>the appropriate person].
- (4B) Regulations under subsection (4A)(b) may (in particular) have the effect that a local authority may use its penalty receipts for the purposes of any of its functions.
- (4C) A local authority must supply [<sup>F41</sup>the appropriate person] with such information relating to the use of its penalty receipts as [<sup>F41</sup>the appropriate person] may require.
- (4D) [<sup>F42</sup>The appropriate person] may by regulations—
- (a) make provision for what a local authority is to do with its penalty receipts—
    - (i) pending their being used for the purposes of qualifying functions of the authority;
    - (ii) if they are not so used before such time after their receipt as may be specified by the regulations;
  - (b) make provision for accounting arrangements in respect of a local authority's penalty receipts.
- (4E) The provision that may be made under subsection (4D)(a)(ii) includes (in particular) provision for the payment of sums to a person (including [<sup>F43</sup>the appropriate person]) other than the local authority.
- (4F) Before making regulations under this section, [<sup>F44</sup>the appropriate person] must consult—
- (a) the local authorities to which the regulations are to apply, and
  - (b) such other persons as [<sup>F44</sup>the appropriate person] considers appropriate.]
- <sup>F45</sup>(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, 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.]
- (5) In proceedings for an offence under section 4 [<sup>F46</sup>or 4A], evidence that payment of a fixed penalty was or was not made before the end of any period may be given by the production of a certificate which—
- (a) purports to be signed by or on behalf of the person having responsibility for the financial affairs of the local authority, and

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- (b) states that payment of a fixed penalty was made on any date or, as the case may be, was not received before the end of that period.

#### Extent Information

- E9** In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 14; see 14(4)

#### Textual Amendments

- F34** Words in s. 9(1) substituted (E.W.) (6.4.2006 for E., 27.10.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), s. 108\(1\)\(2\), Sch. 1 para. 12\(2\)](#); S.I. 2006/795, art. 2(3), Sch. 2; S.I. 2006/2797, art. 2(p)
- F35** S. 9(2A) inserted (E.W.) (1.10.2006 for E., 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), s. 108\(1\)\(2\), Sch. 1 para. 12\(3\)](#); S.I. 2006/2006, art. 2; S.I. 2006/2797, art. 4(kk)
- F36** S. 9(3) repealed (E.W.) (6.4.2006 for E., 18.1.2008 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), s. 108\(1\)\(2\), Sch. 5 Pt. 7](#); S.I. 2006/795, art. 2(3), Sch. 2; S.I. 2007/3371, art. 2(c)
- F37** S. 9(4)-(4F) substituted for s. 9(4) (E.W.) (31.3.2004 for W., 31.3.2004 for E.) by [Anti-social Behaviour Act 2003 \(c. 38\), ss. 42\(5\), 93](#); S.I. 2004/690, art. 3(c); S.I. 2004/999, art. 2(c); S.I. 2004/690, art. 3(c); S.I. 2004/999, art. 2(c)
- F38** Word in s. 9(4A)(a) repealed (7.6.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), ss. 83\(2\), 108\(4\), Sch. 5 Pts. 7](#)
- F39** S. 9(4A)(aa)(ab) inserted (7.6.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), ss. 83\(2\), 108\(4\)](#)
- F40** Words in s. 9(4A)(b) substituted (14.3.2006 for E., 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), s. 108\(1\)\(2\), Sch. 1 para. 12\(4\)](#); S.I. 2006/795, art. 2(1), Sch. 1; S.I. 2006/2797, art. 4(kk)
- F41** Words in s. 9(4C) substituted (14.3.2006 for E., 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), s. 108\(1\)\(2\), Sch. 1 para. 12\(4\)](#); S.I. 2006/795, art. 2(1), Sch. 1; S.I. 2006/2797, art. 4(kk)
- F42** Words in s. 9(4D) substituted (6.4.2006 for E., 27.10.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), s. 108\(1\)\(2\), Sch. 1 para. 12\(5\)](#); S.I. 2006/795, art. 2(3), Sch. 2; S.I. 2006/2797, art. 2(p)
- F43** Words in s. 9(4E) substituted (6.4.2006 for E., 27.10.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), s. 108\(1\)\(2\), Sch. 1 para. 12\(6\)](#); S.I. 2006/795, art. 2(3), Sch. 2; S.I. 2006/2797, art. 2(p)
- F44** Words in s. 9(4F) substituted (6.4.2006 for E., 27.10.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), s. 108\(1\)\(2\), Sch. 1 para. 12\(6\)](#); S.I. 2006/795, art. 2(3), Sch. 2; S.I. 2006/2797, art. 2(p)
- F45** S. 9(4G)(4H) inserted (E.W.) (14.3.2006 for E., 27.10.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), ss. 83\(3\), 108\(1\), \(2\)](#); S.I. 2006/795, art. 2(1), Sch. 1; S.I. 2006/2797, art. 2(o)
- F46** Words in s. 9(5) inserted (E.W.) (1.10.2006 for E., 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), s. 108\(1\)\(2\), Sch. 1 para. 12\(7\)](#); S.I. 2006/2006, art. 2; S.I. 2006/2797, art. 4(kk)

#### Commencement Information

- I9** S. 9 wholly in force at 1.9.1997; s. 9 not in force at Royal Assent see s. 14(2); s. 9 in force at 23.7.1997 for England and Wales by [S.I. 1997/1695, art. 2](#) and 1.9.1997 for Northern Ireland by [S.R. 1997/366, art. 2](#)

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*Seizure, etc. of equipment used to make noise unlawfully*

**10 Powers of entry and seizure etc.**

- (1) The power conferred by subsection (2) may be exercised where an officer of a local authority has reason to believe that—
  - (a) a warning notice has been served in respect of noise emitted from a dwelling [<sup>F47</sup>or other premises], and
  - (b) at any time in the period specified in the notice, noise emitted from the dwelling [<sup>F48</sup>or other premises] has exceeded the permitted level, as measured from within the complainant's dwelling.
- (2) An officer of the local authority, or a person authorised by the authority for the purpose, may enter the dwelling [<sup>F49</sup>or other premises] from which the noise in question is being or has been emitted and may seize and remove any equipment which it appears to him is being or has been used in the emission of the noise.
- (3) A person exercising the power conferred by subsection (2) must produce his authority, if he is required to do so.
- (4) If it is shown to a justice of the peace on sworn information in writing that—
  - (a) a warning notice has been served in respect of noise emitted from a dwelling [<sup>F50</sup>or other premises],
  - (b) at any time in the period specified in the notice, noise emitted from the dwelling [<sup>F51</sup>or other premises] has exceeded the permitted level, as measured from within the complainant's dwelling, and
  - (c) entry of an officer of the local authority, or of a person authorised by the authority for the purpose, to the dwelling [<sup>F52</sup>or other premises] has been refused, or such a refusal is apprehended, or a request by an officer of the authority, or of such a person, for admission would defeat the object of the entry,

the justice may by warrant under his hand authorise the local authority, by any of their officers or any person authorised by them for the purpose, to enter the [<sup>F53</sup>dwelling or other] premises, if need be by force.
- (5) A person who enters any [<sup>F54</sup>dwelling or other] premises under subsection (2), or by virtue of a warrant issued under subsection (4), may take with him such other persons and such equipment as may be necessary; and if, when he leaves, [<sup>F55</sup>the dwelling is, or the other premises are, unoccupied, must leave it or them as effectively secured against trespassers as he found it or them].
- (6) A warrant issued under subsection (4) continues in force until the purpose for which the entry is required has been satisfied.
- (7) The power of a local authority under section 81(3) of the <sup>M1</sup>Environmental Protection Act 1990 to abate any matter, where that matter is a statutory nuisance by virtue of section 79(1)(g) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance), includes power to seize and remove any equipment which it appears to the authority is being or has been used in the emission of the noise in question.
- (8) A person who wilfully obstructs any person exercising any powers conferred under subsection (2) or by virtue of subsection (7) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

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- (9) The Schedule to this Act (which makes further provision in relation to anything seized and removed by virtue of this section) has effect.

#### Extent Information

- E10** S. 10(7) extends to England and Wales only.  
In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 14; see 14(4)

#### Textual Amendments

- F47** Words in s. 10(1)(a) inserted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 13\(2\)\(a\)](#); S.I. 2006/2006, art. 2
- F48** Words in s. 10(1)(b) inserted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 13\(2\)\(b\)](#); S.I. 2006/2006, art. 2
- F49** Words in s. 10(2) inserted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 13\(3\)](#); S.I. 2006/2006, art. 2
- F50** Words in s. 10(4)(a) inserted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 13\(4\)\(a\)](#); S.I. 2006/2006, art. 2
- F51** Words in s. 10(4)(b) inserted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 13\(4\)\(b\)](#); S.I. 2006/2006, art. 2
- F52** Words in s. 10(4)(c) inserted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 13\(4\)\(c\)](#); S.I. 2006/2006, art. 2
- F53** Words in s. 10(4) inserted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 13\(4\)\(d\)](#); S.I. 2006/2006, art. 2
- F54** Words in s. 10(5) inserted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 13\(5\)\(a\)](#); S.I. 2006/2006, art. 2
- F55** Words in s. 10(5) substituted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 1 para. 13\(5\)\(b\)](#); S.I. 2006/2006, art. 2

#### Commencement Information

- I10** S. 10 wholly in force; s. 10 not in force at Royal Assent see s. 14(2); s. 10(7) fully in force and s. 10(8) (9) in force for England and Wales for specified purposes at 19.9.1996 by [S.I. 1996/2219](#), [art. 2](#); s. 10 in force at 23.7.1997 insofar as not already in force for England and Wales by [S.I. 1997/1695](#), [art. 2](#); s. 10 in force at 1.9.1997 for Northern Ireland by [S.R. 1997/366](#), [art. 2](#)

#### Marginal Citations

- M1** 1990 c. 43.

### General

## 11 Interpretation and subordinate legislation.

- (1) In this Act, “local authority” means—
- (a) in Greater London, a London borough council, the Common Council of the City of London and, as respects the Temples, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple respectively,
  - (b) outside Greater London—
    - (i) any district council,
    - (ii) the council of any county so far as they are the council for any area for which there are no district councils,



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- (iii) in Wales, the council of a county borough, and  
(c) the Council of the Isles of Scilly.

(2) In this Act—

- (a) “dwelling” means any building, or part of a building, used or intended to be used as a dwelling,  
(b) references to noise emitted from a dwelling include noise emitted from any garden, yard, outhouse or other appurtenance belonging to or enjoyed with the dwelling.

[<sup>F56</sup>(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) The power to make an order [<sup>F57</sup>or regulations] under this Act is exercisable by statutory instrument which (except in the case of an order under section 14 [<sup>F58</sup>or an order or regulations made solely by the National Assembly for Wales]) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Extent Information

- E11** S. 11(1) extends to England and Wales only.  
In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 14; see 14(4)

#### Textual Amendments

- F56** S. 11(2A) inserted (E.W.) (7.4.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), **ss. 85(2)**, 108  
**F57** Words in s. 11(3) inserted (E.W.) (31.3.2004 for W., 31.3.2004 for E.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), **ss. 42(6)**, 93; [S.I. 2004/690](#), art. 3(c); [S.I. 2004/999](#), art. 2(c); [S.I. 2004/690](#), art. 3(c); [S.I. 2004/999](#), art. 2(c)  
**F58** Words in s. 11(3) inserted (E.W.) (7.4.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), **ss. 85(3)**, 108

#### Commencement Information

- I11** S. 11 wholly in force; s. 11 not in force at Royal Assent see s. 14(2); s. 11 in force for England and Wales for specified purposes at 19.9.1996 by [S.I. 1996/2219](#), **art. 2**; s. 11 in force at 23.7.1997 insofar as not already in force for England and Wales by [S.I. 1997/1695](#), **art. 2**; s. 11 in force at 1.9.1997 for Northern Ireland by [S.R. 1997/366](#), **art. 2**

## 12 Protection from personal liability.

- (1) A member of a local authority or an officer or other person authorised by a local authority is not personally liable in respect of any act done by him or by the local authority or any such person if the act was done in good faith for the purpose of executing powers conferred by, or by virtue, of this Act.  
(2) Subsection (1) does not apply to liability under [<sup>F59</sup>section 17 or 18 of the Audit Commission Act 1998] (powers of district auditor and court).



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#### Textual Amendments

**F59** Words in s. 12(2) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), **Sch. 3 para. 31**

#### Commencement Information

**I12** S. 12 wholly in force; s. 12 not in force at Royal Assent see s. 14(2); s. 12 in force for England and Wales for specified purposes at 19.9.1996 by S.I. 1996/2219, **art. 2**; s. 12 in force at 23.7.1997 insofar as not already in force for England and Wales by S.I. 1997/1695, **art. 2**; s. 12 in force at 1.9.1997 for Northern Ireland by S.R. 1997/366, **art. 2**

### 13 Expenses.

There is to be paid out of money provided by Parliament any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

#### Commencement Information

**I13** S. 13 wholly in force at 1.9.1997; s. 13 not in force at Royal Assent see s. 14(2); s. 13 in force at 19.9.1996 by S.I. 1996/2219, **art. 2**; and 1.9.1997 for Northern Ireland by S.R. 1997/366, **art. 2**

### 14 Short title, commencement and extent.

- (1) This Act may be cited as the Noise Act 1996.
- (2) This Act is to come into force on such day as the Secretary of State may by order appoint, and different days may be appointed for different purposes.
- (3) This Act does not extend to Scotland.
- (4) In its application to Northern Ireland this Act has effect with the following modifications—
  - (a) for any reference to a local authority there is substituted a reference to a district council,
  - (b) for any reference to the area of a local authority there is substituted a reference to the district of a district council,
  - (c) for any reference to the Secretary of State there is substituted a reference to the Department of the Environment for Northern Ireland,
  - (d) any reference to an enactment includes reference to an enactment comprised in Northern Ireland legislation,
  - (e) in section 10(4) for the words “sworn information” there is substituted the words “a complaint made on oath and”,
  - (f) in section 11 for subsection (3) there is substituted—

“(3) The power to make orders under this Act shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979, and any orders made under this Act shall (except in the case of an order under section 14) be subject to negative resolution within the meaning assigned by section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were statutory instruments within the meaning of that Act.”,
  - (g) in section 12 for subsection (2) there is substituted—

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- “(2) Subsection (1) does not apply to liability under section 81 or 82 of the Local Government Act (Northern Ireland) 1972 (powers of local government auditor and court).”,
- (h) the following provisions are omitted—
- (i) section 10(7),
  - (ii) in section 10(8) the words “or by virtue of subsection (7)”,
  - (iii) section 11(1),
  - (iv) in the Schedule, paragraph 1(a)(ii) and the word “and” immediately before it,
  - (v) in the Schedule, in paragraph 1(b), the words “or section 81(3) of the Environmental Protection Act 1990 (as so extended)”.

#### **Extent Information**

- E12** S. 14 extends to Northern Ireland but the operation of s. 14 is limited by application as mentioned in s. 14(4)

#### **Subordinate Legislation Made**

- P1** S. 14(2) power partly exercised (28.8.1996): 19.9.1996 appointed for specified provisions by [S.I. 1996/2219, art. 2](#)  
S. 14(2) power partly exercised (10.7.1997): 23.7.1997 appointed for specified provisions by [S.I. 1997/1695, art. 2](#)
- P2** S. 14(2)(4) power partly exercised (12.8.1997): 1.9.1997 appointed for Northern Ireland by [S.R. 1997/366, art. 2](#)

#### **Commencement Information**

- I14** S. 14 wholly in force; s. 14 not in force at Royal Assent see s. 14(2); s. 14(1)-(3) in force for England and Wales at 19.9.1996 by [S.I. 1996/2219, art. 2](#); s. 14 in force at 23.7.1997 insofar as not already in force for England and Wales by [S.I. 1997/1695, art. 2](#); s. 14 in force at 1.9.1997 for Northern Ireland by [S.R. 1997/366, art. 2](#)

*Status: Point in time view as at 01/10/2006.*  
*Changes to legislation: There are currently no known outstanding effects for the Noise Act 1996. (See end of Document for details)*

## SCHEDULE

Section 10.

### POWERS IN RELATION TO SEIZED EQUIPMENT

#### Extent Information

**E13** In its application to Northern Ireland, this Schedule has effect subject to the modifications set out in s. 14; see 14(4)

#### Commencement Information

**I15** *Sch.* wholly in force; *Sch.* not in force at Royal Assent see s. 14(2); *Sch.* in force for England and Wales for specified purposes at 19.9.1996 by S.I. 1996/2219, **art. 3**; *Sch.* in force at 23.7.1997 insofar as not already in force for England and Wales by S.I. 1997/1695, **art. 2**; *Sch.* in force at 1.9.1997 for Northern Ireland by S.R. 1997/366, **art. 2**

#### *Introductory*

- 1 In this Schedule—
- (a) a “noise offence” means—
    - (i) in relation to equipment seized under section 10(2) of this Act, an offence under section 4 [<sup>F60</sup>or 4A] of this Act, and
    - (ii) in relation to equipment seized under section 81(3) of the <sup>M2</sup>Environmental Protection Act 1990 (as extended by section 10(7) of this Act), an offence under section 80(4) of that Act in respect of a statutory nuisance falling within section 79(1)(g) of that Act,
  - (b) “seized equipment” means equipment seized in the exercise of the power of seizure and removal conferred by section 10(2) of this Act or section 81(3) of the Environmental Protection Act 1990 (as so extended),
  - (c) “related equipment”, in relation to any conviction of or proceedings for a noise offence, means seized equipment used or alleged to have been used in the commission of the offence,
  - (d) “responsible local authority”, in relation to seized equipment, means the local authority by or on whose behalf the equipment was seized.

#### Textual Amendments

**F60** Words in Sch. para. 1(a)(i) inserted (E.W.) (1.10.2006 for E.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), **Sch. 1 para. 14**; S.I. 2006/2006, **art. 2**

#### Marginal Citations

**M2** 1990 c. 43.

#### *Retention*

- 2 (1) Any seized equipment may be retained—
- (a) during the period of twenty-eight days beginning with the seizure, or
  - (b) if it is related equipment in proceedings for a noise offence instituted within that period against any person, until—

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- (i) he is sentenced or otherwise dealt with for the offence or acquitted of the offence, or
  - (ii) the proceedings are discontinued.
- (2) Sub-paragraph (1) does not authorise the retention of seized equipment if—
- (a) a person has been given a fixed penalty notice under section 8 of this Act in respect of any noise,
  - (b) the equipment was seized because of its use in the emission of the noise in respect of which the fixed penalty notice was given, and
  - (c) that person has paid the fixed penalty before the end of the period allowed for its payment.

#### *Forfeiture*

- 3
- (1) Where a person is convicted of a noise offence the court may make an order (“a forfeiture order”) for forfeiture of any related equipment.
  - (2) The court may make a forfeiture order whether or not it also deals with the offender in respect of the offence in any other way and without regard to any restrictions on forfeiture in any enactment.
  - (3) In considering whether to make a forfeiture order in respect of any equipment a court must have regard—
    - (a) to the value of the equipment, and
    - (b) to the likely financial and other effects on the offender of the making of the order (taken together with any other order that the court contemplates making).
  - (4) A forfeiture order operates to deprive the offender of any rights in the equipment to which it relates.

#### *Consequences of forfeiture*

- 4
- (1) Where any equipment has been forfeited under paragraph 3, a magistrates’ court may, on application by a claimant of the equipment (other than the person in whose case the forfeiture order was made) make an order for delivery of the equipment to the applicant if it appears to the court that he is the owner of the equipment.
  - (2) No application may be made under sub-paragraph (1) by any claimant of the equipment after the expiry of the period of six months beginning with the date on which a forfeiture order was made in respect of the equipment.
  - (3) Such an application cannot succeed unless the claimant satisfies the court—
    - (a) that he had not consented to the offender having possession of the equipment, or
    - (b) that he did not know, and had no reason to suspect, that the equipment was likely to be used in the commission of a noise offence.
  - (4) Where the responsible local authority is of the opinion that the person in whose case the forfeiture order was made is not the owner of the equipment, it must take reasonable steps to bring to the attention of persons who may be entitled to do so their right to make an application under sub-paragraph (1).

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- (5) An order under sub-paragraph (1) does not affect the right of any person to take, within the period of six months beginning with the date of the order, proceedings for the recovery of the equipment from the person in possession of it in pursuance of the order, but the right ceases on the expiry of that period.
- (6) If on the expiry of the period of six months beginning with the date on which a forfeiture order was made in respect of the equipment no order has been made under sub-paragraph (1), the responsible local authority may dispose of the equipment.

*Return etc. of seized equipment*

- 5 If in proceedings for a noise offence no order for forfeiture of related equipment is made, the court (whether or not a person is convicted of the offence) may give such directions as to the return, retention or disposal of the equipment by the responsible local authority as it thinks fit.
- 6 (1) Where in the case of any seized equipment no proceedings in which it is related equipment are begun within the period mentioned in paragraph 2(1)(a)—
- (a) the responsible local authority must return the equipment to any person who—
- (i) appears to them to be the owner of the equipment, and
- (ii) makes a claim for the return of the equipment within the period mentioned in sub-paragraph (2), and
- (b) if no such person makes such a claim within that period, the responsible local authority may dispose of the equipment.
- (2) The period referred to in sub-paragraph (1)(a)(ii) is the period of six months beginning with the expiry of the period mentioned in paragraph 2(1)(a).
- (3) The responsible local authority must take reasonable steps to bring to the attention of persons who may be entitled to do so their right to make such a claim.
- (4) Subject to sub-paragraph (6), the responsible local authority is not required to return any seized equipment under sub-paragraph (1)(a) until the person making the claim has paid any such reasonable charges for the seizure, removal and retention of the equipment as the authority may demand.
- (5) If—
- (a) equipment is sold in pursuance of—
- (i) paragraph 4(6),
- (ii) directions under paragraph 5, or
- (iii) this paragraph, and
- (b) before the expiration of the period of one year beginning with the date on which the equipment is sold any person satisfies the responsible local authority that at the time of its sale he was the owner of the equipment,
- the authority is to pay him any sum by which any proceeds of sale exceed any such reasonable charges for the seizure, removal or retention of the equipment as the authority may demand.
- (6) The responsible local authority cannot demand charges from any person under sub-paragraph (4) or (5) who they are satisfied did not know, and had no reason to suspect, that the equipment was likely to be used in the emission of noise exceeding the level determined under section 5.

**Status:**

Point in time view as at 01/10/2006.

**Changes to legislation:**

There are currently no known outstanding effects for the Noise Act 1996.