

Status: Point in time view as at 15/03/2007.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 84

APPLICATION OF THE NOISE ACT 1996 TO LICENSED PREMISES ETC

1 The Noise Act 1996 (c. 37) is amended as follows.

Commencement Information

- I1** Sch. 1 para. 1 in force at 1.10.2006 for E. by S.I. 2006/2006, art. 2
- I2** Sch. 1 para. 1 in force at 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. by S.I. 2006/2797, art. 4(kk)

2 In the heading to section 2, omit “from a dwelling”.

Commencement Information

- I3** Sch. 1 para. 2 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), Sch. 2
- I4** Sch. 1 para. 2 in force at 27.10.2006 for W. by S.I. 2006/2797, art. 2(p)

- 3 (1) Section 2 (investigations of complaints of noise) is amended as follows.
- (2) In subsection (2), after “emitted from” insert “ (a) ” and at the end insert “, 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) In subsection (4)(a), after “the offending dwelling” insert “ or the offending premises ”.
- (4) In subsection (7)—
- (a) after “the offending dwelling is” insert “, or the offending premises are, ”;
- (b) after “if the offending dwelling” insert “ or the offending premises ”.
- (5) After subsection (7) insert—
- “(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).”

Commencement Information

- I5** Sch. 1 para. 3 in force at 1.10.2006 for E. by S.I. 2006/2006, art. 2

Status: Point in time view as at 15/03/2007.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

16 Sch. 1 para. 3 in force at 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. by S.I. 2006/2797, art. 4(kk)

- 4 (1) Section 3 (warning notices) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a)(i), after “offending dwelling” insert “ or the offending premises ”;
 - (b) for paragraph (b) substitute—
 - “(b) give warning—
 - (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.”
- (3) In subsection (3), at the beginning insert “ In a case where the complaint is in respect of a dwelling, ”.
- (4) After subsection (3) insert—
- “(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.”
- (5) After subsection (5) insert—
- “(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

Status: Point in time view as at 15/03/2007.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (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.”

Commencement Information

- I7** Sch. 1 para. 4 in force at 1.10.2006 for E. by S.I. 2006/2006, art. 2
I8 Sch. 1 para. 4 in force at 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. by S.I. 2006/2797, art. 4(kk)

- 5 In the heading to section 4, after “where noise” insert “ from a dwelling ”.

Commencement Information

- I9** Sch. 1 para. 5 in force at 1.10.2006 for E. by S.I. 2006/2006, art. 2
I10 Sch. 1 para. 5 in force at 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. by S.I. 2006/2797, art. 4(kk)

- 6 After section 4 insert—

“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.”

Commencement Information

- I11** Sch. 1 para. 6 in force at 1.10.2006 for E. by S.I. 2006/2006, art. 2
I12 Sch. 1 para. 6 in force at 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. by S.I. 2006/2797, art. 4(kk)

- 7 (1) Section 5 (permitted level of noise) is amended as follows.
- (2) In subsection (1)—
- (a) for “the Secretary of State” substitute “ the appropriate person ”;
 - (b) after “from any dwelling” insert “ or other premises ”.
- (3) In subsection (4), for “The Secretary of State” substitute “ The appropriate person ”.

Status: Point in time view as at 15/03/2007.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

- I13** Sch. 1 para. 7(1)(2)(b) in force at 1.10.2006 for E. by S.I. 2006/2006, art. 2
- I14** Sch. 1 para. 7(1)(2)(b) in force at 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. by S.I. 2006/2797, art. 4(kk)
- I15** Sch. 1 para. 7(2)(a)(3) in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), Sch. 2
- I16** Sch. 1 para. 7(2)(a)(3) in force at 27.10.2006 for W. by S.I. 2006/2797, art. 2(p)

- 8 (1) Section 6 (approval of measuring devices) is amended as follows.
- (2) In subsection (1), for “the Secretary of State” substitute “ the appropriate person ”.
- (3) In subsection (3), after “section 4” insert “ or 4A ”.

Commencement Information

- I17** Sch. 1 para. 8(1)(3) in force at 1.10.2006 for E. by S.I. 2006/2006, art. 2
- I18** Sch. 1 para. 8(1)(3) in force at 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. by S.I. 2006/2797, art. 4(kk)
- I19** Sch. 1 para. 8(2) in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), Sch. 2
- I20** Sch. 1 para. 8(2) in force at 27.10.2006 for W. by S.I. 2006/2797, art. 2(p)

- 9 (1) Section 7 (evidence) is amended as follows.
- (2) In subsection (1), after “section 4” insert “ or 4A ”.
- (3) After subsection (3) insert—
- “(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) In subsection (4), for “or (3)(a)” substitute “ , (3)(a) or (3A)(a) ”.

Commencement Information

- I21** Sch. 1 para. 9 in force at 1.10.2006 for E. by S.I. 2006/2006, art. 2
- I22** Sch. 1 para. 9 in force at 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. by S.I. 2006/2797, art. 4(kk)

- 10 (1) Section 8 (fixed penalty notices) is amended as follows.
- (2) In subsection (1), after “section 4” insert “ or 4A ”.
- (3) In subsection (2)(b), after “the offending dwelling” insert “ or the offending premises (as the case may be) ”.

Commencement Information

- I23** Sch. 1 para. 10 in force at 1.10.2006 for E. by S.I. 2006/2006, art. 2

Status: Point in time view as at 15/03/2007.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

I24 Sch. 1 para. 10 in force at 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. by S.I. 2006/2797, art. 4(kk)

- 11 (1) Section 8A (amount of fixed penalty), as inserted by section 82 of this Act, is amended as follows.
- (2) In subsection (2), at the beginning insert “ In the case of an offence under section 4 ”.
- (3) After subsection (2) insert—
- “(2A) In the case of an offence under section 4A the amount of the fixed penalty is £500.”
- (4) In subsection (3), after “the fixed penalty” insert “ payable in the case of an offence under section 4 ”.
- (5) In subsection (6), after “(2)(b)” insert “ or (2A) ”.

Commencement Information

I25 Sch. 1 para. 11 in force at 1.10.2006 for E. by S.I. 2006/2006, art. 2

I26 Sch. 1 para. 11 in force at 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. by S.I. 2006/2797, art. 4(kk)

- 12 (1) Section 9 (section 8: supplementary) is amended as follows.
- (2) In subsection (1), for “the Secretary of State” substitute “ the appropriate person ”.
- (3) After subsection (2) insert—
- “(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.”
- (4) In subsections (4A)(b) and (4C), for each occurrence of “the Secretary of State” substitute “ the appropriate person ”.
- (5) In subsection (4D), for “The Secretary of State” substitute “ The appropriate person ”.
- (6) In subsections (4E) and (4F), for each occurrence of “the Secretary of State” substitute “ the appropriate person ”.
- (7) In subsection (5), after “section 4” insert “ or 4A ”.

Commencement Information

I27 Sch. 1 para. 12(1)(3)(7) in force at 1.10.2006 for E. by S.I. 2006/2006, art. 2

I28 Sch. 1 para. 12(1)(3)(4)(7) in force at 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. by S.I. 2006/2797, art. 4(kk)

I29 Sch. 1 para. 12(2)(5)(6) in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), Sch. 2

I30 Sch. 1 para. 12(2)(5)(6) in force at 27.10.2006 for W. by S.I. 2006/2797, art. 2(p)

Status: Point in time view as at 15/03/2007.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

I31 Sch. 1 para. 12(4) in force at 14.3.2006 for E. by S.I. 2006/795, art. 2(1), Sch. 1

- 13 (1) Section 10 (powers of entry and seizure etc) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), after “a dwelling” insert “ or other premises ”;
- (b) in paragraph (b), after “the dwelling” insert “ or other premises ”.
- (3) In subsection (2), after “the dwelling” insert “ or other premises ”.
- (4) In subsection (4)—
- (a) in paragraph (a), after “a dwelling” insert “ or other premises ”;
- (b) in paragraph (b), after “the dwelling” insert “ or other premises ”;
- (c) in paragraph (c), after “the dwelling” insert “ or other premises ”;
- (d) after “to enter the” insert “ dwelling or other ”.
- (5) In subsection (5)—
- (a) after “enters any” insert “ dwelling or other ”;
- (b) for the words from “the premises are unoccupied” to the end substitute “ 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. ”

Commencement Information

I32 Sch. 1 para. 13 in force at 1.10.2006 for E. by S.I. 2006/2006, art. 2

I33 Sch. 1 para. 13 in force at 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. by S.I. 2006/2797, art. 4(kk)

- 14 In the Schedule (powers in relation to seized equipment) in paragraph 1(a)(i), after “section 4” insert “ or q4A ”.

Commencement Information

I34 Sch. 1 para. 14 in force at 1.10.2006 for E. by S.I. 2006/2006, art. 2

I35 Sch. 1 para. 14 in force at 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. by S.I. 2006/2797, art. 4(kk)

SCHEDULE 2

Section 87

COMMISSION FOR ARCHITECTURE AND THE BUILT ENVIRONMENT

Status

- 1 (1) The Commission is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (2) The property of the Commission is not to be regarded as the property of, or property held on behalf of, the Crown.

Status: Point in time view as at 15/03/2007.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Service as a member of the Commission is not service in the civil service of the Crown.

Commencement Information

I36 Sch. 2 para. 1 in force at 1.1.2006 by S.I. 2005/3439, art. 2

Membership

- 2 (1) The Secretary of State must—
- (a) appoint the members of the Commission;
 - (b) appoint one of the members as chairman.
- (2) Subject to the other provisions of this Schedule, a person holds and vacates office as a member of the Commission or as chairman in accordance with the terms of his appointment.
- (3) The Commission is to have a minimum of eight and a maximum of sixteen members.
- (4) The Secretary of State may by order vary either or both of the numbers specified in sub-paragraph (3).
- (5) The validity of proceedings of the Commission is not affected by—
- (a) the number of members being less than the minimum as specified for the time being in sub-paragraph (3);
 - (b) a defect in the appointment of a person as a member of the Commission or as chairman.

Commencement Information

I37 Sch. 2 para. 2 in force at 1.1.2006 by S.I. 2005/3439, art. 2

Tenure

- 3 (1) The Secretary of State may not appoint a person to hold office as a member of the Commission or as chairman for a term of more than four years.
- (2) A person may at any time resign as a member of the Commission or as chairman by giving notice in writing to the Secretary of State.
- (3) The Secretary of State may remove a person from office as a member of the Commission or as chairman on the grounds that—
- (a) a bankruptcy order has been made against the person, his estate has been sequestrated or he has made a composition or arrangement with, or granted a trust deed for, his creditors, or
 - (b) he is, in the opinion of the Secretary of State, unable, unwilling or unfit to discharge the functions of his office.
- (4) A person who ceases to be a member of the Commission or chairman may be re-appointed.

Status: Point in time view as at 15/03/2007.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I38 Sch. 2 para. 3 in force at 1.1.2006 by S.I. 2005/3439, art. 2

Staff etc

- 4 (1) The Commission may appoint staff, agents and advisers.
- (2) Service as a member of staff of the Commission is not service in the civil service of the Crown.

Commencement Information

I39 Sch. 2 para. 4 in force at 1.1.2006 by S.I. 2005/3439, art. 2

Committees

- 5 (1) The Commission may establish one or more committees.
- (2) A committee—
- (a) must include at least one member of the Commission, and
 - (b) may also include other persons (who may include members of staff of the Commission).

Commencement Information

I40 Sch. 2 para. 5 in force at 1.1.2006 by S.I. 2005/3439, art. 2

Remuneration etc

- 6 (1) The Commission may pay to or in respect of a member of the Commission or the chairman such sums as the Secretary of State may determine by way of, or in respect of—
- (a) remuneration;
 - (b) pensions.
- (2) The Commission may also pay to or in respect of a member of the Commission or the chairman sums by way of, or in respect of—
- (a) allowances;
 - (b) expenses.
- (3) If the Secretary of State thinks that there are special circumstances that make it right for a person ceasing to hold office as a member of the Commission or as chairman to receive compensation, the Commission may pay to the person such compensation as the Secretary of State may determine.
- (4) The Commission may pay to or in respect of a member of staff sums by way of or in respect of remuneration, subject to any conditions imposed by the Secretary of State.
- (5) The Commission may also pay to or in respect of a member or former member of staff sums by way of, or in respect of—

Status: Point in time view as at 15/03/2007.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (a) allowances;
 - (b) expenses;
 - (c) pensions;
 - (d) gratuities;
 - (e) compensation for loss of employment.
- (6) The Commission may pay to or in respect of a person who is a member of a committee established under paragraph 5 (but who is not a member of the Commission or a member of staff) sums by way of, or in respect of—
- (a) allowances;
 - (b) expenses.

Commencement Information

I41 Sch. 2 para. 6 in force at 1.1.2006 by S.I. 2005/3439, art. 2

Delegation

- 7 The Commission may delegate any of its functions to—
- (a) a member of the Commission,
 - (b) a member of its staff,
 - (c) a committee established under paragraph 5, or
 - (d) any other person.

Commencement Information

I42 Sch. 2 para. 7 in force at 1.1.2006 by S.I. 2005/3439, art. 2

Proceedings

- 8 (1) The Commission may, subject to the other provisions of this Schedule, regulate its own proceedings and those of its committees.
- (2) In particular, the Commission may specify a quorum for meetings.

Commencement Information

I43 Sch. 2 para. 8 in force at 1.1.2006 by S.I. 2005/3439, art. 2

Accounts

- 9 (1) The Commission must—
- (a) keep proper accounting records, and
 - (b) prepare a statement of accounts in respect of each financial year in accordance with directions given, with the consent of the Treasury, by the Secretary of State.
- (2) The statement must comply with any directions given by the Secretary of State, with the consent of the Treasury, as to—

Status: Point in time view as at 15/03/2007.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (a) the information to be contained in the statement;
 - (b) the form which the statement is to take;
 - (c) the manner in which the information is to be presented;
 - (d) the methods and principles according to which the statement is to be prepared.
- (3) The Commission must send a copy of a statement under sub-paragraph (1)(b) to—
- (a) the Secretary of State, and
 - (b) the Comptroller and Auditor General.
- (4) A copy of a statement must be sent under sub-paragraph (3) within such period, beginning with the end of the financial year to which the statement relates, as the Secretary of State may, with the consent of the Treasury, direct.
- (5) The Comptroller and Auditor General must—
- (a) examine, certify and report on a statement received under this paragraph, and
 - (b) lay a copy of the statement and his report before Parliament.
- (6) Directions given by the Secretary of State under sub-paragraph (2) may, with the consent of the Treasury, be amended or revoked by him.

Commencement Information

I44 Sch. 2 para. 9 in force at 1.1.2006 by S.I. 2005/3439, art. 2

Annual report

- 10 (1) The Commission must send to the Secretary of State a report on the discharge of its functions during each financial year.
- (2) A report must be sent under sub-paragraph (1) within such period, beginning with the end of the financial year to which the report relates, as the Secretary of State may, with the consent of the Treasury, direct.
- (3) The Secretary of State must lay before Parliament a copy of each report received by him under this paragraph.

Commencement Information

I45 Sch. 2 para. 10 in force at 1.1.2006 by S.I. 2005/3439, art. 2

Instruments and authentication

- 11 (1) The fixing of the seal of the Commission must be authenticated by the signature of the chairman or of another person authorised by the Commission to act for that purpose.
- (2) A document purporting to be duly executed under the seal of the Commission, or to be signed on the Commission's behalf, is to be received in evidence and, unless the contrary is proved, is to be treated as having been so executed or signed.

Status: Point in time view as at 15/03/2007.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I46 Sch. 2 para. 11 in force at 1.1.2006 by S.I. 2005/3439, art. 2

Records

- 12 In Schedule 1 to the Public Records Act 1958 (c. 51) (definition of public records), at the appropriate place in Part 2 of the Table at the end of paragraph 3 insert— “ Commission for Architecture and the Built Environment. ”

Commencement Information

I47 Sch. 2 para. 12 in force at 1.1.2006 by S.I. 2005/3439, art. 2

Disqualification

- 13 In the House of Commons Disqualification Act 1975 (c. 24), in Part 2 of Schedule 1 (bodies of which all members are disqualified), at the appropriate place insert— “ Commission for Architecture and the Built Environment. ”

Commencement Information

I48 Sch. 2 para. 13 in force at 1.1.2006 by S.I. 2005/3439, art. 2

Transitional provisions

- 14 (1) A person who immediately before the appointed day was a member of the old Commission is to be treated—
- (a) as having been appointed as a member of the Commission under paragraph 2;
 - (b) for the purposes of paragraph 3(1), as having been so appointed on the date on which he was appointed as a member of the old Commission.
- (2) A person who immediately before the appointed day was the chairman of the old Commission is to be treated—
- (a) as having been appointed as chairman of the Commission under paragraph 2;
 - (b) for the purposes of paragraph 3(1), as having been so appointed on the date on which he was appointed chairman of the old Commission.
- (3) A committee of the old Commission which was in existence immediately before the appointed day is to be treated as having been established as a committee of the Commission under paragraph 5.

Commencement Information

I49 Sch. 2 para. 14 in force at 1.1.2006 by S.I. 2005/3439, art. 2

Interpretation

- 15 (1) The appointed day is the day on which section 92 comes into force.

Status: Point in time view as at 15/03/2007.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The financial year of the Commission is the period of 12 months ending on 31 March.
- (3) But the first financial year of the Commission is the period—
- (a) starting on the appointed day, and
 - (b) ending on the following 31 March.

Commencement Information

I50 Sch. 2 para. 15 in force at 1.1.2006 by [S.I. 2005/3439](#), [art. 2](#)

SCHEDULE 3

Section 92

TRANSFER OF STAFF, PROPERTY ETC FROM THE OLD COMMISSION

Transfer of staff

- 1 For the purposes of TUPE—
- (a) the functions conferred on the Commission by this Act are to be treated as transferred to the Commission from the old Commission on the appointed day;
 - (b) that transfer of functions is to be treated as a transfer of an undertaking;
 - (c) each person who was, immediately before the appointed day, employed by the old Commission under a contract of employment is to be treated as employed in the undertaking immediately before the appointed day.

Commencement Information

I51 Sch. 3 para. 1 in force at 1.1.2006 by [S.I. 2005/3439](#), [art. 2](#)

- 2 In paragraph 1 “TUPE” means the Transfer of Undertakings (Protection of Employment) Regulations 1981 (S.I. 1981/1794).

Commencement Information

I52 Sch. 3 para. 2 in force at 1.1.2006 by [S.I. 2005/3439](#), [art. 2](#)

Transfer of property, rights and liabilities

- 3 All property, rights and liabilities to which the old Commission was entitled or subject immediately before the appointed day become on that day property, rights and liabilities of the Commission.

Commencement Information

I53 Sch. 3 para. 3 in force at 1.1.2006 by [S.I. 2005/3439](#), [art. 2](#)

Status: Point in time view as at 15/03/2007.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- 4 The reference in paragraph 3 to rights and liabilities does not include rights and liabilities under a contract of employment transferred by virtue of paragraph 1.

Commencement Information

I54 Sch. 3 para. 4 in force at 1.1.2006 by [S.I. 2005/3439](#), [art. 2](#)

- 5 Paragraph 3 has effect in relation to property, rights and liabilities—
- (a) despite any provision (of whatever nature) which would otherwise prevent, penalise or restrict their transfer by the old Commission;
 - (b) without any instrument or other formality being required.

Commencement Information

I55 Sch. 3 para. 5 in force at 1.1.2006 by [S.I. 2005/3439](#), [art. 2](#)

- 6 Anything done by or in relation to the old Commission which has effect immediately before the appointed day is, so far as is necessary for continuing its effect after that day, to have effect as if done by or in relation to the Commission.

Commencement Information

I56 Sch. 3 para. 6 in force at 1.1.2006 by [S.I. 2005/3439](#), [art. 2](#)

- 7 Anything (including legal proceedings) which immediately before the appointed day is in the process of being done by or in relation to the old Commission may be continued by or in relation to the Commission.

Commencement Information

I57 Sch. 3 para. 7 in force at 1.1.2006 by [S.I. 2005/3439](#), [art. 2](#)

- 8 So far as is necessary or appropriate in consequence of paragraph 3, on and after the appointed day a reference to the old Commission in an enactment, instrument or other document is to be treated as a reference to the Commission.

Commencement Information

I58 Sch. 3 para. 8 in force at 1.1.2006 by [S.I. 2005/3439](#), [art. 2](#)

The appointed day

- 9 The appointed day is the day on which section 92 comes into force.

Commencement Information

I59 Sch. 3 para. 9 in force at 1.1.2006 by [S.I. 2005/3439](#), [art. 2](#)

Status: Point in time view as at 15/03/2007.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULE 4

Section 106

MINOR AND CONSEQUENTIAL AMENDMENTS

Highways Act 1980 (c. 66)

- 1 In section 325 of the Highways Act 1980, in subsection (2)(a), after “subsection (2A) below” insert “or regulations made by the National Assembly for Wales under Part 8A”.

Environmental Protection Act 1990 (c. 43)

- 2 The Environmental Protection Act 1990 is amended as follows.
- 3 (1) Section 52 is amended as follows.
- (2) After subsection (4) insert—
- “(4A) The Secretary of State may by regulations impose on waste disposal authorities in England a duty to make payments corresponding to the payments which are authorised by subsection (3)(a) above to such persons in such circumstances and in respect of such descriptions or quantities of waste as are specified in the regulations.”
- (3) In subsection (5)—
- (a) after “authorities” insert “in Wales”; and
- (b) for “subsection (3)” substitute “subsection (3)(b)”.
- (4) In subsection (6), for “subsections (1), (3)” substitute “subsections (1)(b), (3)(b)”.
- (5) In subsection (7), for “subsections (2) and (4)” substitute “subsections (2)(b) and (4)(b)”.
- (6) In subsection (8), for “subsections (1), (2), (3), (4)” substitute “subsections (1)(b), (2)(b), (3)(b), (4)(b)”.

Commencement Information

I60 Sch. 4 para. 3(1)-(4) in force at 6.4.2006 by S.I. 2006/656, art. 3(e)(i)

I61 Sch. 4 para. 3(6) in force at 6.4.2006 for specified purposes by S.I. 2006/656, art. 3(e)(ii)

- 4 In section 60(1)—
- (a) in paragraph (a), for the words from “a waste disposal contractor” to the end substitute “or under arrangements made with a waste disposal authority or by any other local authority or person”;
- (b) in paragraph (b), for the words from “a waste disposal contractor” to the end substitute “or under arrangements made with a waste disposal authority, by a parish or community council or by a holder of a waste management licence; or”.

Commencement Information

I62 Sch. 4 para. 4 in force at 18.10.2005 for E. by S.I. 2005/2896, art. 3(i)

Status: Point in time view as at 15/03/2007.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

I63 Sch. 4 para. 4 in force at 16.3.2006 for W. by S.I. 2006/768, art. 2(c)

5 In section 89(1), at the end of paragraph (e) insert “ and ”.

Commencement Information

I64 Sch. 4 para. 5 in force at 6.3.2007 for E. by S.I. 2007/390, art. 2(a)

6 In section 91(1), at the end of paragraph (e) insert “ or ”.

Commencement Information

I65 Sch. 4 para. 6 in force at 6.3.2007 for E. by S.I. 2007/390, art. 2(a)

7 In section 92(1), at the end of paragraph (b) insert “ or ”.

Commencement Information

I66 Sch. 4 para. 7 in force at 6.3.2007 for E. by S.I. 2007/390, art. 2(a)

8 In section 95(1), after paragraph (b) insert “and
(c) all orders made by the authority under paragraph 2(1) of
Schedule 3A.”

Commencement Information

I67 Sch. 4 para. 8 in force at 6.3.2007 for E. by S.I. 2007/390, art. 2(a)

9 In section 96(1)(b), after “section 92(9)” insert “ or 92C(3) ”.

Commencement Information

I68 Sch. 4 para. 9 in force at 6.3.2007 for E. by S.I. 2007/390, art. 2(a)

10 (1) Section 161 is amended as follows.
(2) In subsection (1) after “Secretary of State” insert “, National Assembly for Wales ”.
(3) After subsection (2), insert—
“(2A) Subsection (2) does not apply to a statutory instrument made solely by the
National Assembly for Wales.”
(4) In subsection (4), at the end insert “or
(c) which is made solely by the National Assembly for Wales.”

Control of Pollution (Amendment) Act 1989 (c. 14)

11 (1) Section 8 of the Control of Pollution (Amendment) Act 1989 is amended as follows.
(2) In subsection (1), after “regulations” insert “ or orders ”.
(3) After that subsection insert—

Status: Point in time view as at 15/03/2007.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

“(1A) The powers of the National Assembly for Wales to make regulations or orders under sections 5 to 5C above are exercisable by statutory instrument.”

(4) In subsection (2)—

- (a) after “Regulations” insert “ or orders ”;
- (b) in paragraph (a) for “Secretary of State” substitute “ person making the regulations or order ”.

Anti-social Behaviour Act 2003 (c. 38)

12 The Anti-social Behaviour Act 2003 is amended as follows.

13 In section 41(3), in the definition of “temporary event notice” for “section 170(6)” substitute “ section 171(6) ”.

14 In section 45, for subsection (1) substitute—

“(1) The fixed penalty payable in pursuance of a notice under section 43(1) is payable to the local authority whose authorised officer gave the notice.”

Commencement Information

I69 Sch. 4 para. 14 in force at 6.3.2007 for E. by [S.I. 2007/390](#), **art. 2(b)**

15 In section 47(1), after “sections 43” insert “ to 43B ”.

Commencement Information

I70 Sch. 4 para. 15 in force at 6.3.2007 for E. by [S.I. 2007/390](#), **art. 2(b)**

16 In the cross-heading preceding section 48, after “graffiti” insert “ and fly-posting ”.

Commencement Information

I71 Sch. 4 para. 16 in force at 6.3.2007 for E. by [S.I. 2007/390](#), **art. 2(b)**

17 (1) Section 48 is amended as follows.

- (2) In the heading, for “Graffiti removal notices” substitute “ Defacement removal notices ”.
- (3) In subsections (2) and (6), for “graffiti removal notice” substitute “ defacement removal notice ”.
- (4) In subsection (7), for “graffiti removal notices” substitute “ defacement removal notices ”.
- (5) In subsection (8)(a), for “graffiti removal notice” substitute “ defacement removal notice ”.
- (6) In subsection (12), for ““graffiti removal notice”” substitute “ “defacement removal notice” ”.

Status: Point in time view as at 15/03/2007.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

(7) In that subsection, in the definition of “local authority”, at the end insert “ but not a parish or community council ”.

Commencement Information

I72 Sch. 4 para. 17 in force at 6.3.2007 for E. by S.I. 2007/390, art. 2(b)

18 In sections 49(1) and 51(1) and (3), for “graffiti removal notice” substitute “ defacement removal notice ”.

Commencement Information

I73 Sch. 4 para. 18 in force at 6.3.2007 for E. by S.I. 2007/390, art. 2(b)

19 In the heading to section 52, for “graffiti removal notices” substitute “ defacement removal notices ”.

Commencement Information

I74 Sch. 4 para. 19 in force at 6.3.2007 for E. by S.I. 2007/390, art. 2(b)

SCHEDULE 5

Section 107

REPEALS

PART 1

VEHICLES

Commencement Information

I75 Sch. 5 Pt. 1 in force at 18.10.2005 for specified purposes for E. by S.I. 2005/2896, art. 3(j)

I76 Sch. 5 Pt. 1 in force at 27.10.2006 for specified purposes for W. by S.I. 2006/2797, art. 2(t)

I77 Sch. 5 Pt. 1 is partly in force; Sch. 5 Pt. 1 in force for certain purposes at 7.6.2005, see s. 108(4)

Short title and chapter

Extent of repeal

Refuse Disposal (Amenity) Act 1978 (c. 3)

In section 3—

- (a) subsection (5);
- (b) in subsection (8), the words from “, other than” to “subsection (5) above,”.

In section 4—

- (a) in subsection (1), the words from “but not earlier” to the end;
- (b) subsection (2).

Status: Point in time view as at 15/03/2007.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Greater London Council (General Powers) Act 1982 (c.i)	Section 5.
Road Traffic Regulation Act 1984 (c. 27)	Section 99(4). In section 101(3)— (a) in paragraph (a), the words from “and on which” to “at the time of its removal”; (b) the words from “but, in a case” to the end.
London Local Authorities Act 2004 (c. i)	Section 3. Section 11.

PART 2

LITTER AND REFUSE

Commencement Information

- I78** Sch. 5 Pt. 2 in force at 6.4.2006 for specified purposes for E. by S.I. 2006/795, art. 2(3), Sch. 2 (with art. 3)
- I79** Sch. 5 Pt. 2 in force at 6.3.2007 for E. in so far as not already in force by S.I. 2007/390, art. 2(e)
- I80** Sch. 5 Pt. 2 in force at 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. by S.I. 2006/2797, art. 4(oo)

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Environmental Protection Act 1990 (c. 43)	Section 86(12). Section 89(1)(g) and the preceding “and”. Section 90. Section 91(1)(g) and the preceding “or”. In section 92— (a) subsection (1)(d) and the preceding “or”; (b) subsection (3)(d). In section 94(3), the words from “but a specified area” to the end. Section 95(1)(a).
London Local Authorities Act 1994 (c. xii)	Section 4.
City of Newcastle upon Tyne Act 2000 (c. viii)	Sections 21 and 22.

PART 3

GRAFFITI AND OTHER DEFACEMENT

Commencement Information

- I81** Sch. 5 Pt. 3 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), Sch. 2

Status: Point in time view as at 15/03/2007.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

182 Sch. 5 Pt. 3 is partly in force; Sch. 5 Pt. 3 in force for certain purposes at 7.6.2005, see s. 108(4)

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Town and Country Planning Act 1990 (c. 8)	Section 324(3)(a).
London Local Authorities Act 1995 (c. x)	Section 10.
Anti-social Behaviour Act 2003 (c. 38)	Section 43(10) and (11).
London Local Authorities Act 2004 (c. i)	Section 25.

PART 4

WASTE

Commencement Information

- 183** Sch. 5 Pt. 4 in force for certain purposes at 7.6.2005, see s. 108(4)
- 184** Sch. 5 Pt. 4 in force at 18.10.2005 for specified purposes for E. by [S.I. 2005/2896](#), [art. 3\(k\)](#) (with [art. 6](#)) (as amended by [S.I. 2006/1002](#), [art. 2](#))
- 185** Sch. 5 Pt. 4 in force at 16.3.2006 for specified purposes for W. by [S.I. 2006/768](#), [art. 2\(d\)](#) (with [art. 5](#)) (as amended by [S.I. 2006/2797](#), [art. 11](#))

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Control of Pollution (Amendment) Act 1989 (c. 14)	Section 1(4)(c) and the preceding “or”. In section 2— (a) in subsection (2)(c), the words “free of charge”; (b) subsection (2)(d); (c) in subsection (2)(e), the words “free of charge”; (d) subsection (3)(b); (e) subsection (3A)(a). Section 6.
Environmental Protection Act 1990 (c. 43)	Section 30(5). Section 32. Section 33(7)(b). In section 48— (a) in subsection (4), the words “with a waste disposal contractor” and “for the contractor”; (b) in subsection (6), the words “, subject to subsection (7) below,”; (c) subsection (7). In section 51— (a) in subsection (1), the words from “in either case” to the end; (b) subsection (4)(b) to (d); (c) subsections (5) and (6).

Status: Point in time view as at 15/03/2007.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

In section 55(2)(a) and (b), the words “with waste disposal contractors for them”.

In section 60(2)(a) and (b), the word “, contractor”.

In section 77—

(a) in subsection (1), the definitions of “existing disposal authority”, “existing disposal plan”, “relevant part of its undertaking” and “the vesting date”;

(b) subsection (4);

(c) subsections (6) to (9).

Schedule 2.

PART 5

DOG CONTROLS

Commencement Information

186 Sch. 5 Pt. 5 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), Sch. 2 (with art. 4)

187 Sch. 5 Pt. 5 in force at 15.3.2007 (being the date on which S.I. 2007/702 came into force) for W. by S.I. 2006/2797, art. 5(g) (with art. 10(1)(3)(b)) (as amended by S.I. 2007/120, art. 3(a)(b)(i)(j))

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Dogs (Fouling of Land) Act 1996 (c. 20)	The whole Act.
Police Reform Act 2002 (c. 30)	In Schedule 4, paragraph 1(2)(c). In Schedule 5, paragraph 1(2)(b).

VALID FROM 06/04/2008

PART 6

STRAY DOGS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Dogs Act 1906 (c. 32)	Sections 3 and 4.
Dogs (Amendment) Act 1928 (c. 21)	Section 2.
Local Government Act 1988 (c. 9)	Section 39.
Environmental Protection Act 1990 (c. 43)	In the heading to section 150, the words “police or”. In section 150— (a) in subsection (1), in paragraph (b), sub-paragraph (ii) and the preceding “or”;

Status: Point in time view as at 15/03/2007.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

(b) in that subsection, the words from “or the police officer” to “as the case may be,”.
In Schedule 15, paragraph 3.

PART 7

NOISE

Commencement Information

188 Sch. 5 Pt. 7 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), Sch. 2

<i>Short title and chapter</i>	<i>Extent of repeal</i>
London Local Authorities Act 1991 (c. xiii)	Section 23.
Noise and Statutory Nuisance Act 1993 (c. 40)	Section 9. Schedule 3.
Noise Act 1996 (c. 37)	In the heading to section 2, the words “from a dwelling”. Section 8(8). Section 9(3). In section 9(4A), the word “and” at the end of paragraph (a).

PART 8

ARCHITECTURE AND THE BUILT ENVIRONMENT

Commencement Information

189 Sch. 5 Pt. 8 in force at 1.1.2006 by S.I. 2005/3439, art. 2

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Environmental Protection Act 1990	In section 153(1), the paragraph (rr) inserted by article 2 of the Financial Assistance for Environmental Purposes (England) Order 2003 (S.I. 2003/714).

Status: Point in time view as at 15/03/2007.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

PART 9

USE OF FIXED PENALTY RECEIPTS

Commencement Information

- I90** Sch. 5 Pt. 9 in force at 6.4.2006 for specified purposes for E. by S.I. 2006/795, art. 2(3), Sch. 2 (with art. 4)
- I91** Sch. 5 Pt. 9 in force at 6.3.2007 for E. in so far as not already in force by S.I. 2007/390, art. 2(d)
- I92** Sch. 5 Pt. 9 in force at 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. for specified purposes by S.I. 2006/2797, art. 4(pp) (with art. 10(3)(c))

Short title and chapter

Extent of repeal

Local Government Act 2003 (c. 26)

Section 100(2)(f).
Section 119.

Anti-social Behaviour Act 2003 (c. 38)

Section 45(3) to (9).

PART 10

CONTAMINATED LAND

Commencement Information

- I93** Sch. 5 Pt. 10 in force at 4.8.2006 for specified purposes for E. by S.I. 2006/1361, art. 2
- I94** Sch. 5 Pt. 10 in force at 10.12.2006 (being the day on which S.I. 2006/2989 came into force) for W. by S.I. 2006/768, art. 4(b)

Short title and chapter

Extent of repeal

Environmental Protection Act 1990 (c. 43)

In section 78L—

(a) in subsection (4), paragraph (b) and, in paragraph (c), the words from “or on” to the end;

(b) in subsection (6), the words “, so far as relating to appeals to the Secretary of State,”.

Status:

Point in time view as at 15/03/2007.

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Clean Neighbourhoods and Environment Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations.