

These notes refer to the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c.23) which received Royal Assent on 4 May 2011

Clean Neighbourhoods and Environment Act (Northern Ireland) 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6 – Noise

Chapter 2: Amendments to the Noise Act 1996

Section 60 – Dealing with noise at night

This section amends the Noise Act 1996, which currently gives powers to district councils to deal with noise at night (by way of warning notices, fixed penalties etc.). These powers have previously only applied to a district council in Northern Ireland that adopts them in its district. Subsection (2) confers these powers on all councils. Subsection (3) removes the previously associated duty (once the powers had been adopted) to take reasonable steps to investigate a complaint, and substitutes a discretionary power to take such steps in response to a complaint. Subsection (4) removes a provision that would have applied to a situation where one district council had adopted powers under the Act but a neighbouring council had not, as this will no longer apply.

Section 61 – Noise offences: fixed penalty notices

This section makes various amendments to the provisions in the Noise Act 1996 relating to fixed penalties. The Noise Act 1996, in its application to Northern Ireland, currently permits a district council to deal with noise exceeding permitted levels only from dwellings at night-time. An authorised officer of a district council can, under section 8 of that Act, give a person who the officer believes has committed an offence under the Act a fixed penalty notice, offering that person the opportunity to discharge any liability to conviction for that offence by payment of a fixed penalty.

Subsection (2) introduces new sections 8A and 8B to the Noise Act 1996. Under the new section 8A(2)(a) a district council will be able to set the level of the fixed penalty (in lieu of liability to conviction for an offence) in its district. The fixed penalty is set at £100 where no amount is specified by a district council (which is the amount of the penalty under the current regime). In either case, a district council may treat a penalty as having been paid if a lesser amount is

paid before the end of such (shorter) period as it may specify. Section 8A(3) provides that where the alleged offence relates to licensed premises, the amount of the fixed penalty will be fixed at £500 (with no power for a district council to set an alternative). New sections 8A(5) and (6) give powers to the Department to make regulations governing the power of district councils to set local fixed penalty rates (e.g. by specifying a range within which the amount must fall or limiting the extent and circumstances in respect of which a district council may provide for reduced early payment). The new section 8B provides an authorised officer of a district council with the power to require the name and address of a person if the officer proposes to give that person a fixed penalty notice, and makes it an offence for that person either to fail to give that information or to give false or inaccurate information.

Subsection (3) amends section 9 of the Noise Act 1996 and specifies the qualifying functions for which a district council can use the receipts from fixed penalty notices. The new section 9(4B) to (4F) makes further provision regarding the use of fixed penalty receipts and includes a power for the Department to make regulations about how district councils can use their fixed penalty receipts.

Section 62 – Extension of Noise Act 1996 to licensed premises etc.

This section and Schedule 1 extend the powers under the Noise Act 1996 for a district council to take action to deal with noise at night (formerly restricted to noise from dwellings) to premises as specified in paragraph 3(2) of the said Schedule 1.