

Status: Point in time view as at 01/04/2012.

Changes to legislation: There are currently no known outstanding effects for the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011, SCHEDULE 1. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 62.

APPLICATION OF THE NOISE ACT 1996 TO LICENSED PREMISES ETC.

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

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Commencement Information

I1 Sch. 1 para. 1 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), Sch. 2

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

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Commencement Information

I2 Sch. 1 para. 2 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), Sch. 2

3.—(1) Section 2 (investigations of complaints of noise) is amended as follows.

(2) In subsection (2), after the words “emitted from” insert “ (a) ” and at the end insert “, or

(b) any of the following (referred to in this group of sections as “the offending premises”)—

- (i) any premises in relation to which an exhibition licence has effect;
- (ii) any place in relation to which an entertainment licence has effect;
- (iii) any licensed premises;
- (iv) a place at which the sale of intoxicating liquor is for the time being authorised by an occasional licence;
- (v) any premises where meals or refreshments are supplied whether for consumption on or off the premises;
- (vi) any premises occupied by a registered club.”.

(3) After subsection (2) insert—

“(2A) For the purposes of subsection (2)(b)—

“exhibition licence” means a licence granted under Article 3 of the Cinemas (Northern Ireland) Order 1991;

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“entertainment licence” means a licence granted under paragraph 3 of Schedule 1 to the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985;

“intoxicating liquor”, “licensed premises” and “occasional licence” have the same meanings as in the Licensing (Northern Ireland) Order 1996;

“registered club” has the same meaning as in Article 2(2) of the Registration of Clubs (Northern Ireland) Order 1996.”.

(4) In subsection (4)(a), after the words “the offending dwelling” insert “ or the offending premises ”.

(5) In subsection (7)—

(a) after the words “the offending dwelling is” insert “ , or the offending premises are, ”;

(b) after the words “if the offending dwelling” insert “ or the offending premises ”.

Commencement Information

I3 Sch. 1 para. 3 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), Sch. 2

4.—(1) Section 3 (warning notices) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a)(i), after the words “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, ”.

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(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 district council 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 offending premises at a particular time is—

(a) in the case of any premises mentioned in sub-paragraph (i), (ii), (iii) or (iv) of section 2(2)(b)—

(i) the holder of the licence if he is present at the premises at that time,

(ii) where that person is not present at the premises at that time, any other person who is present at the premises at that time and in charge of the premises;

(b) in the case of any premises mentioned in sub-paragraph (v) of section 2(2)(b), any person who is present at the premises at that time and in charge of the premises;

(c) in the case of any premises mentioned in sub-paragraph (vi) of section 2(2)(b)—

(i) any official of the club who is present at the premises at that time;

(ii) where no such official is present at the premises at that time, any other person who is present at the premises at that time and in charge of the premises;

and for the purposes of this paragraph “official” has the same meaning as in Article 2(2) of the Registration of Clubs (Northern Ireland) Order 1996.”.

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I4 Sch. 1 para. 4 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), Sch. 2

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

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I5 Sch. 1 para. 5 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), Sch. 2

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6 After section 4 (offence where noise exceeds permitted level after notice) 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.”.

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16 Sch. 1 para. 6 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), Sch. 2

7 In section 5 (permitted level of noise), in subsection (1) after the words “from any dwelling” insert “ or other premises ”.

Commencement Information

17 Sch. 1 para. 7 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), Sch. 2

8 In section 6 (approval of measuring devices), in subsection (3) after the words “section 4” insert “ or 4A ”.

Commencement Information

18 Sch. 1 para. 8 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), Sch. 2

9.—(1) Section 7 (evidence) is amended as follows.

(2) In subsection (1), after the words “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

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emitted from any other premises may be given by the production of a document—

- (a) signed by an officer of the district council, 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 the words “or (3)(a)” substitute “, (3)(a) or (3A)(a) ”.

Commencement Information

I9 Sch. 1 para. 9 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), Sch. 2

10.—(1) Section 8 (fixed penalty notices) is amended as follows.

(2) In subsection (1), after the words “section 4” insert “ or 4A ”.

(3) In subsection (2)(b), after the words “the offending dwelling” insert “ or the offending premises (as the case may be) ”.

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I10 Sch. 1 para. 10 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), Sch. 2

11.—(1) Section 9 (section 8: supplementary) is amended as follows.

(2) 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.”.

(3) In subsection (5), after the words “section 4” insert “ or 4A ”.

Commencement Information

I11 Sch. 1 para. 11 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), Sch. 2

12.—(1) Section 10 (powers of entry and seizure etc.) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a), after the words “a dwelling” insert “ or other premises ”;
- (b) in paragraph (b), after the words “the dwelling” insert “ or other premises ”.

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- (3) In subsection (2), after the words “the dwelling” insert “ or other premises ”.
- (4) In subsection (4)—
- (a) in paragraph (a), after the words “a dwelling” insert “ or other premises ”;
 - (b) in paragraph (b), after the words “the dwelling” insert “ or other premises ”;
 - (c) in paragraph (c), after the words “the dwelling” insert “ or other premises ”;
 - (d) after the words “to enter the” insert “ dwelling or other ”.
- (5) In subsection (5)—
- (a) after the words “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. ”.

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I12 Sch. 1 para. 12 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), Sch. 2

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

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I13 Sch. 1 para. 13 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), Sch. 2

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