

*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 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.

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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.