

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 7 – Statutory Nuisances

Section 63 – Statutory nuisances

This section sets out a definitive list of statutory nuisances. It also updates and clarifies the definitions of statutory nuisances in a number of minor respects.

Section 64 – Duty of district council to inspect for statutory nuisance

This section re-enacts the existing duty on councils to inspect their district from time to time to detect any statutory nuisance that ought to be dealt with under sections 65 or 66, and to take such steps as are reasonably practicable to investigate a complaint about a statutory nuisance.

Section 65 – Summary proceedings for statutory nuisances

This section streamlines the procedures for nuisance abatement action by district councils. It replaces the present two-stage procedure by a simpler procedure based upon the noise abatement provisions of the Pollution Control and Local Government (Northern Ireland) Order 1978. It gives district councils a new power to serve an abatement notice in anticipation of a statutory nuisance occurring. It gives councils power to serve a notice to abate existing nuisance or to prohibit commission of future nuisance. It provides for: a mechanism to appeal against the notice; offences if the notice is contravened; defences for the offence of contravening the notice.

Section 66 – Abatement notice in respect of noise in the street

This section stipulates the procedure to be followed by district councils in serving an abatement notice with regard to noise in the street. This section further provides for offences for removing or interfering with a notice fixed to a vehicle, machinery or equipment.

Section 67 – Supplementary provisions

This section provides that where more than one person is responsible for a statutory nuisance, section 65 shall apply to each of those persons whether or not what any one of them is responsible for would, by itself, amount to a nuisance. In particular, this section provides that where an abatement notice has not been complied with, a district council may abate the nuisance and do whatever may be necessary in execution of the notice. This section further provides that if a council is of the opinion that proceedings for an offence in a court of summary jurisdiction would afford inadequate remedy in the case of any statutory nuisance, it may take proceedings in the High Court for specified purposes notwithstanding the council has suffered no damage from the nuisance.

Section 68 – Expenses recoverable from owner to be a charge on premises

This section enables district councils, in certain circumstances, to charge premises with expenses reasonably incurred in abating a statutory nuisance. The section also provides that the expenses and interest are a charge on the property until they are paid off and makes provision for appeal to the county court against the notice making the expenses a charge.

Section 69 – Payment of expenses by instalments

This section provides for the payment of expense by instalments where any expenses are a charge on premises under section 68. The section also permits the sum charged to be taken by the council from the rent of any tenant.

Section 70 – Summary proceedings by persons aggrieved by statutory nuisances

This section provides a right for a private individual who is aggrieved by the existence of a statutory nuisance to apply to the court of summary jurisdiction for a nuisance abatement order. The provision: allows a court of summary jurisdiction to impose a fine on the individual causing the nuisance in addition to the order abating the nuisance; allows the court to prevent habitation of a house where the house is not fit; sets out notice requirements which must be followed prior to applying to the court; creates an offence of failing to comply with an abatement order made by the court and provides defences to such an offence. The section also: allows a court of summary jurisdiction to direct a district council to do anything which a person convicted of such an offence was required to do by an order to which the conviction relates; requires a court of summary jurisdiction to order a defendant, in a case where it is proved that an alleged nuisance existed at the date of the making of the complaint, to pay the person bringing the proceedings an amount to compensate that person for any expenses properly incurred by that person in the proceedings.

Section 71 – Application of this Part to the Crown

This section provides for Part 7 of this Act to bind the Crown.