2011 CHAPTER 23

PART 6

NOISE

CHAPTER 1

AUDIBLE INTRUDER ALARMS

Alarm notification areas

Designation of alarm notification areas

48.—(1) A district council may designate all or any part of its district as an alarm notification area.

(2) If a district council proposes to designate an area as an alarm notification area it must arrange for notice of the proposal to be published in a newspaper circulating in the area.

(3) The notice must state—

(a) that representations may be made to the council about the proposal;

(b) that any such representations must be made before a specified date.

(4) The specified date must be at least 28 days after the date on which the notice is published in accordance with subsection (2).

(5) The district council must consider any representations about the proposal which it receives before the specified date.

(6) If a district council decides to designate an area as an alarm notification area it must—

(a) arrange for notice of the decision to be published in a newspaper circulating in the area, and

(b) send a copy of the notice to the address of all premises in the area.

(7) The notice must specify the date on which the designation is to have effect.

(8) The date specified must be at least 28 days after the date on which the notice is published in accordance with subsection (6)(a).

(9) If a district council decides not to designate an area as an alarm notification area it must arrange for notice of the decision to be published in a newspaper circulating in the area.

Commencement Information

I1 S. 48 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), **Sch. 2**

Withdrawal of designation

49.—(1) A district council which has designated an area as an alarm notification area may withdraw the designation.

(2) If a district council decides to withdraw a designation of an area as an alarm notification area, it must—

(a) arrange for notice of the decision to be published in a newspaper circulating in the area, and

(b) send a copy of the notice to the addresses of all premises in the area.

(3) The notice must specify the date on which the withdrawal of the designation is to have effect.

Commencement Information

I2 S. 49 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), **Sch. 2**

Notification of nominated key-holders

50.—(1) This section and section 51 apply in relation to premises if—

(a) the premises are in an area designated by a district council as an alarm notification area, and

(b) an audible intruder alarm has been installed in or on the premises.

(2) The responsible person must—

(a) nominate a key-holder in respect of the premises in accordance with section 51;

(b) notify the council in writing before the end of the required period of the name, address and telephone number of the key-holder nominated in respect of the premises in accordance with that section.

(3) The required period for the purposes of subsection (2)(b) is the period before the end of which the key-holder is required to be nominated in accordance with section 51.

(4) A person who fails to comply with a requirement of subsection (2) commits an offence.

(5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I3 S. 50 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), **Sch. 2**

Nomination of key-holders

51.—(1) The responsible person must before the end of the required period nominate a person as a key-holder in respect of the premises.

(2) The required period for the purposes of subsection (1) is—

(a) if the alarm was installed before the date on which the designation of the area had effect, the period of 28 days starting with that date;

(b) if the alarm was installed on or after that date, the period of 28 days starting with the date on which the installation was completed.

(3) A person may be nominated as a key-holder in respect of premises under this section only if—

(a) that person holds keys sufficient to enable access to be gained to the part of the premises in which the controls for the alarm are situated;

(b) that person normally resides or is situated in the vicinity of the premises;

(c) that person has information sufficient to enable the alarm to be silenced;

(d) that person agrees to be a nominated key-holder in respect of the premises;

(e) where the premises are residential premises, that person falls within subsection (4);

(f) where the premises are non-residential premises, that person falls within subsection (5).

(4) A person falls within this subsection if that person is—

(a) an individual who is not the occupier of the premises, or

(b) a key-holding company.

(5) A person falls within this subsection if that person is—

(a) an individual who—

(i) is the responsible person, or

(ii) is acting on behalf of the responsible person, if the responsible person is not an individual, or

(b) a key-holding company.

(6) If the responsible person becomes aware that a person who has been nominated as a key-holder in respect of premises under this section no longer satisfies one or more of the requirements in subsection (3), the responsible person must before the end of the required period nominate another person as a key-holder in respect of the premises.

(7) The required period for the purposes of subsection (6) is the period of 28 days starting with the date on which the responsible person becomes aware of that fact.

(8) In this section—

"key-holding company" means a body corporate or an unincorporated association—

(a) the business of which consists of or includes holding keys, and

(b) which is capable of being contacted at any hour of the day;

"non-residential premises" means premises which are not residential premises;

"residential premises" means premises all or part of which comprise a dwelling.

Commencement Information

I4 S. 51 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), **Sch. 2**

Offences under section 50: fixed penalty notices

52.—(1) This section applies if it appears to an authorised officer of a district council that a person has committed an offence under section 50(4) in the district of the district council.

(2) The officer may give the person a notice offering the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty.

(3) If a person is given a notice under this section in respect of an offence—

(a) no proceedings may be instituted for the offence before the end of the period of 14 days starting with the day after that on which the notice is given, and

(b) that person may not be convicted of the offence if that person pays the fixed penalty before the end of that period.

(4) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

(5) A notice under this section must also state—

(a) the period during which, by virtue of subsection (3), proceedings will not be taken for the offence,

(b) the amount of the fixed penalty, and

(c) the person to whom and the address at which the fixed penalty may be paid.

(6) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in subsection (5)(c) at the address so mentioned.

(7) If a letter is sent in accordance with subsection (6) payment is to be regarded as having been made at the time at which the letter would be delivered in the ordinary course of post.

(8) In any proceedings a certificate which—

(a) purports to be signed by or on behalf of the clerk of the council, and

(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(9) The form of a notice under this section is to be such as the Department may by order prescribe.

(10) In this section "authorised officer", in relation to a district council, means—

(a) an employee of the council who is authorised in writing by the council for the purpose of giving notices under this section;

(b) any person who, in pursuance of arrangements made with the council, has the function of giving such notices and is authorised in writing by the council to perform that function;

(c) any employee of such a person who is authorised in writing by the council for the purpose of giving such notices.

Commencement Information

I5 S. 52 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), **Sch. 2**

Amount of fixed penalty

53.—(1) This section applies in relation to a penalty payable to a district council in pursuance of a notice under section 52.

(2) The amount of the penalty is—

(a) the amount specified by the district council in relation to its district, or

(b) if no amount is so specified, £75.

(3) The district council may make provision for treating the penalty as having been paid if a lesser amount is paid before the end of a period specified by the council.

(4) The Department may by regulations make provision in connection with the powers conferred on district councils under subsections (2)(a) and (3).

(5) Regulations under subsection (4) may (in particular)—

(a) require an amount specified under subsection (2)(a) to fall within a range prescribed in the regulations;

(b) restrict the extent to which, and the circumstances in which, a council can make provision under subsection (3).

(6) The Department may by order substitute a different amount for the amount for the time being specified in subsection (2)(b).

Commencement Information

I6 S. 53 in operation at 18.1.2012 for specified purposes by S.R. 2012/13, art. 2(1), **Sch. 1**

I7 S. 53 in operation at 1.4.2012 in so far as not already in operation by S.R. 2012/13, art. 2(2), **Sch. 2**

Use of fixed penalty receipts

54.—(1) A district council may use any sums it receives in respect of fixed penalties payable in pursuance of notices given under section 52 (its "penalty receipts") only for the purposes of functions of the council that are qualifying functions.

(2) The following are qualifying functions for the purposes of this section—

(a) functions under this Chapter;

(b) functions under the Noise Act 1996 (c. 37);

(c) functions under section 63 to 70 (statutory nuisances), in connection with statutory nuisances falling with section 63(1)(i) or (j) (noise);

(d) functions of a description specified in regulations made by the Department.

(3) Regulations under subsection (2)(d) may (in particular) have the effect that a district council may use its penalty receipts for the purposes of any of its functions.

(4) A district council must supply the Department with such information relating to the use of its penalty receipts as the Department may require.

(5) The Department may by regulations—

(a) make provision for what a council is to do with its penalty receipts—

(i) pending their being used for the purposes of qualifying functions of the council;

(ii) if they are not so used before such time after their receipt as may be specified by the regulations;

(b) make provision for accounting arrangements in respect of a council's penalty receipts.

(6) The provision that may be made under subsection (5)(a)(ii) includes (in particular) provision for the payment of sums to a person (including the Department) other than the district council.

(7) Before making regulations under this section the Department must consult—

(a) district councils, and

(b) such other persons as the Department thinks fit.

Commencement Information

I8 S. 54 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), **Sch. 2**

Fixed penalty notices: power to require name and address

55.—(1) If an authorised officer of a district council proposes to give a person a notice under section 52, the officer may require the person to give the officer the person's name and address.

(2) A person commits an offence if—

(a) that person fails to give that person's name and address when required to do so under subsection (1), or

(b) that person gives a false or inaccurate name or address in response to a requirement under that subsection.

(3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) "Authorised officer" has the meaning given in section 52.

Commencement Information

I9 S. 55 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), **Sch. 2**

Powers in relation to alarms

Power of entry

56.—(1) This section applies if an authorised officer of a district council is satisfied that the conditions in subsection (2) are met in relation to an audible intruder alarm installed in or on premises in the district of the district council.

(2) The conditions are—

(a) that the alarm has been sounding continuously for more than 20 minutes or intermittently for more than one hour;

(b) that the sounding of the alarm is likely to give persons living or working in the vicinity of the premises reasonable cause for annoyance;

(c) if the premises are in an alarm notification area, that reasonable steps have been taken to get the nominated key-holder to silence the alarm.

(3) The officer may enter the premises for the purpose of silencing the alarm.

(4) The officer may not enter premises by force under this section.

(5) The officer must, if required, show evidence of the officer's authority to act under this section.

(6) In this section—

"authorised officer" means an officer of a district council who is authorised by the council (generally or specifically) for the purposes of this section;

"nominated key-holder", in respect of premises in the district of a district council, means a person in respect of whom the council has received notification in accordance with section 50(2)(b).

Commencement Information

I10 S. 56 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), **Sch. 2**

Warrant to enter premises by force

57.—(1) This section applies if, on an application made by an authorised officer of a district council, a lay magistrate is satisfied—

(a) that the conditions in section 56(2)(a) and (b) are met in relation to an audible intruder alarm installed in or on premises in the district of the district council,

(b) if the premises are in an alarm notification area, that the condition in section 56(2)(c) is met, and

(c) that the officer is unable to gain entry to the premises without the use of force.

(2) The lay magistrate may issue a warrant authorising the officer to enter the premises, using reasonable force if necessary, for the purpose of silencing the alarm.

(3) Before applying for a warrant under this section, the officer must leave a notice at the premises stating—

(a) that the officer is satisfied that the sounding of the alarm is likely to give persons living or working in the vicinity of the premises reasonable cause for annoyance, and

(b) that an application is to be made for a warrant authorising the officer to enter the premises, using reasonable force if necessary, for the purpose of silencing the alarm.

(4) The officer must, if required, show evidence of a warrant issued under this section.

(5) "Authorised officer" has the meaning given in section 56.

Commencement Information

I11 S. 57 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), **Sch. 2**

Powers of entry: supplementary

58.—(1) This section applies where an officer of a district council enters any premises under section 56 or under a warrant issued under section 57.

(2) The officer may take any steps the officer thinks necessary for the purpose of silencing the alarm.

(3) The officer may take to the premises—

(a) such other persons, and

(b) such equipment,

as the officer thinks necessary for the purpose of silencing the alarm.

(4) The officer and any person who enters the premises by virtue of subsection (3) must not cause more damage to or disturbance at the premises than is necessary for the purpose of silencing the alarm.

(5) If the premises are unoccupied or (where the premises are occupied) the occupier of the premises is temporarily absent the officer must—

(a) leave a notice at the premises stating what action has been taken on the premises under this section and section 56 or 57;

(b) leave the premises (so far as is reasonably practicable) as effectively secured against entry as the officer found them.

(6) But the officer is not required by virtue of subsection (5)(b) to re-set the alarm.

(7) Any expenses reasonably incurred by the district council in connection with entering the premises, silencing the alarm and complying with subsection (5) may be recovered by the council from the responsible person.

(8) A warrant under section 57 continues in force until—

(a) the alarm has been silenced, and

(b) the officer has complied with subsection (5) (if that subsection applies).

(9) Nothing done by, or by a member of, a district council or by an officer of or another person authorised by a district council, if done in good faith for the purposes of section 56 or 57 or this section, is to subject the council or any of those persons personally to any action, liability, claim or demand.

(10) Subsection (9) does not apply so as to prevent an award of damages in respect of an act or omission on the ground that the act or omission was unlawful by virtue of section 6(1) of the Human Rights Act 1998 (c. 42).

Commencement Information

I12 S. 58 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), **Sch. 2**

Interpretation of Chapter

Interpretation of this Chapter

59.—(1) In this Chapter—

"alarm notification area" means an area in respect of which a designation under section 48 has effect;

"the occupier" in respect of premises means (subject to subsection (2))—

(a) a person occupying the premises, or

(b) if the premises are unoccupied, a person entitled to occupy the premises (other than the owner);

"premises" does not include a vehicle;

"the responsible person" in respect of premises means—

(a) the occupier, or

(b) if there is no occupier, the owner.

(2) The fact that a person is occupying premises is to be disregarded for the purposes of this Chapter if—

(a) the premises comprise a building that is being erected, constructed, altered, improved, maintained, cleaned or repaired,

(b) the person is occupying the premises in connection with the erection, construction, alteration, improvement, maintenance, cleaning or repair, and

(c) the person is doing so by virtue of a licence granted for less than 4 weeks.

Commencement Information

I13 S. 59 in operation at 18.1.2012 by S.R. 2012/13, art. 2(1), **Sch. 1**

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, CHAPTER 1.