



# Noise and Statutory Nuisance Act 1993

## 1993 CHAPTER 40

### *Noise in street to be a statutory nuisance*

#### **2 Noise in street to be a statutory nuisance**

- (1) Section 79 of the 1990 Act (statutory nuisances) shall be amended as follows.
- (2) In subsection (1) (list of statutory nuisances)—
  - (a) for “Subject to subsections (2) to (6) below” there shall be substituted “Subject to subsections (2) to (6A) below”,
  - (b) after paragraph (g) there shall be inserted—
    - “(ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street;”, and
  - (c) after “section 80 below” there shall be inserted “or sections 80 and 80A below”.
- (3) After subsection (6) there shall be inserted—

“(6A) Subsection (1)(ga) above does not apply to noise made—

  - (a) by traffic,
  - (b) by any naval, military or air force of the Crown or by a visiting force (as defined in subsection (2) above), or
  - (c) by a political demonstration or a demonstration supporting or opposing a cause or campaign.”
- (4) In subsection (7) (interpretation)—
  - (a) after the definition of “dust” there shall be inserted—

““equipment” includes a musical instrument;”,
  - (b) for the definition of “person responsible” there shall be substituted—

““person responsible”—

    - (a) in relation to a statutory nuisance, means the person to whose act, default or sufferance the nuisance is attributable;

- (b) in relation to a vehicle, includes the person in whose name the vehicle is for the time being registered under the Vehicles (Excise) Act 1971 and any other person who is for the time being the driver of the vehicle;
  - (c) in relation to machinery or equipment, includes any person who is for the time being the operator of the machinery or equipment;”, and
- (c) after the definition of “smoke” there shall be inserted—
- ““street” means a highway and any other road, footway, square or court that is for the time being open to the public;”.
- (5) In subsection (8) (port health authority to have functions of a local authority under Part III of the 1990 Act, except those relating to a statutory nuisance within section 79(1)(g)) after “paragraph (g)” there shall be inserted “or (ga)”.

### 3 Summary proceedings in respect of noise in street

- (1) Section 80 of the 1990 Act (summary proceedings for statutory nuisances) shall be amended as follows.
- (2) In subsection (2) (person on whom abatement notice is to be served) for “The abatement notice” there shall be substituted “Subject to section 80A(1) below, the abatement notice”.
- (3) In subsection (3) (right of appeal to magistrates' court) for “The person served with the notice” there shall be substituted “A person served with an abatement notice”.
- (4) In subsection (8) (defence that the best practicable means were used to prevent, or counteract the effects of, the nuisance not available in certain cases) after paragraph (a) there shall be inserted—
  - “(aa) in the case of a nuisance falling within paragraph (ga) of section 79(1) above except where the noise is emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes;”.
- (5) In subsection (9) (defence to proceedings in respect of a nuisance within section 79(1)(g) that noise was authorised by a notice served under section 60 or a consent given under section 61 etc. of the 1974 Act: construction sites) after “paragraph (g)” there shall be inserted “or (ga)”.
- (6) After section 80 of the 1990 Act there shall be inserted—

#### “80A Abatement notice in respect of noise in street

- (1) In the case of a statutory nuisance within section 79(1)(ga) above that—
  - (a) has not yet occurred, or
  - (b) arises from noise emitted from or caused by an unattended vehicle or unattended machinery or equipment,
 the abatement notice shall be served in accordance with subsection (2) below.
- (2) The notice shall be served—
  - (a) where the person responsible for the vehicle, machinery or equipment can be found, on that person;

- (b) where that person cannot be found or where the local authority determines that this paragraph should apply, by fixing the notice to the vehicle, machinery or equipment.
- (3) Where—
- (a) an abatement notice is served in accordance with subsection (2)(b) above by virtue of a determination of the local authority, and
  - (b) the person responsible for the vehicle, machinery or equipment can be found and served with a copy of the notice within an hour of the notice being fixed to the vehicle, machinery or equipment,
- a copy of the notice shall be served on that person accordingly.
- (4) Where an abatement notice is served in accordance with subsection (2)(b) above by virtue of a determination of the local authority, the notice shall state that, if a copy of the notice is subsequently served under subsection (3) above, the time specified in the notice as the time within which its requirements are to be complied with is extended by such further period as is specified in the notice.
- (5) Where an abatement notice is served in accordance with subsection (2)(b) above, the person responsible for the vehicle, machinery or equipment may appeal against the notice under section 80(3) above as if he had been served with the notice on the date on which it was fixed to the vehicle, machinery or equipment.
- (6) Section 80(4) above shall apply in relation to a person on whom a copy of an abatement notice is served under subsection (3) above as if the copy were the notice itself.
- (7) A person who removes or interferes with a notice fixed to a vehicle, machinery or equipment in accordance with subsection (2)(b) above shall be guilty of an offence, unless he is the person responsible for the vehicle, machinery or equipment or he does so with the authority of that person.
- (8) A person who commits an offence under subsection (7) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.”

#### **4 Supplementary provisions**

- (1) Section 81 of the 1990 Act (provisions supplementary to sections 79 and 80) shall be amended as follows.
- (2) In subsection (1) (application of section 80 where more than one person is responsible for statutory nuisance) for “Where” there shall be substituted “Subject to subsection (1A) below, where”.
- (3) After subsection (1) there shall be inserted—
- “(1A) In relation to a statutory nuisance within section 79(1)(ga) above for which more than one person is responsible (whether or not what any one of those persons is responsible for would by itself amount to such a nuisance), section 80(2)(a) above shall apply with the substitution of “any one of the persons” for “the person”.

- (1B) In relation to a statutory nuisance within section 79(1)(ga) above caused by noise emitted from or caused by an unattended vehicle or unattended machinery or equipment for which more than one person is responsible, section 80A above shall apply with the substitution—
- (a) in subsection (2)(a), of “any of the persons” for “the person” and of “one such person” for “that person”,
  - (b) in subsection (2)(b), of “such a person” for “that person”,
  - (c) in subsection (3), of “any of the persons” for “the person” and of “one such person” for “that person”,
  - (d) in subsection (5), of “any person” for “the person”, and
  - (e) in subsection (7), of “a person” for “the person” and of “such a person” for “that person”.
- (4) In subsection (6) (defence to proceedings in respect of a nuisance within section 79(1)(g) that noise was authorised by a notice served under section 60 or a consent given under section 61 etc. of the 1974 Act: construction sites) after “paragraph (g)” there shall be inserted “or (ga)”.
- (5) In Schedule 3 to the 1990 Act (further supplementary provisions) after paragraph 2 there shall be inserted—
- “2A (1) Any person authorised by a local authority may on production (if so required) of his authority—
- (a) enter or open a vehicle, machinery or equipment, if necessary by force, or
  - (b) remove a vehicle, machinery or equipment from a street to a secure place,
- for the purpose of taking any action, or executing any work, authorised by or required under Part III in relation to a statutory nuisance within section 79(1)(ga) above caused by noise emitted from or caused by the vehicle, machinery or equipment.
- (2) On leaving any unattended vehicle, machinery or equipment that he has entered or opened under sub-paragraph (1) above, the authorised person shall (subject to sub-paragraph (3) below) leave it secured against interference or theft in such manner and as effectually as he found it.
- (3) If the authorised person is unable to comply with sub-paragraph (2) above, he shall for the purpose of securing the unattended vehicle, machinery or equipment either—
- (a) immobilise it by such means as he considers expedient, or
  - (b) remove it from the street to a secure place.
- (4) In carrying out any function under sub-paragraph (1), (2) or (3) above, the authorised person shall not cause more damage than is necessary.
- (5) Before a vehicle, machinery or equipment is entered, opened or removed under sub-paragraph (1) above, the local authority shall notify the police of the intention to take action under that sub-paragraph.
- (6) After a vehicle, machinery or equipment has been removed under sub-paragraph (1) or (3) above, the local authority shall notify the police of its removal and current location.

- (7) Notification under sub-paragraph (5) or (6) above may be given to the police at any police station in the local authority's area or, in the case of the Temples, at any police station of the City of London Police.
- (8) For the purposes of section 81(4) above, any expenses reasonably incurred by a local authority under sub-paragraph (2) or (3) above shall be treated as incurred by the authority under section 81(3) above in abating or preventing the recurrence of the statutory nuisance in question."
- (6) In paragraph 3(1) of that Schedule (wilful obstruction of a person exercising any powers under paragraph 2 is an offence) after "paragraph 2" there shall be inserted "or 2A".
- (7) In paragraph 4(1) of that Schedule (function of local authority in relation to which Secretary of State's default powers apply)—
  - (a) after "section 80" there shall be inserted "or sections 80 and 80A", and
  - (b) after "paragraph 2" there shall be inserted "or 2A".

## **5 Summary proceedings by persons aggrieved by noise in street**

- (1) Section 82 of the 1990 Act (summary proceedings by persons aggrieved by statutory nuisances) shall be amended as follows.
- (2) In subsection (2) (duty of magistrates' court to make an order if satisfied that nuisance exists or is likely to recur on same premises) after "premises" there shall be inserted "or, in the case of a nuisance within section 79(1)(ga) above, in the same street".
- (3) In subsection (4) (person against whom proceedings are to be brought)—
  - (a) in paragraph (a), for "paragraph (b) or (c) below" there shall be substituted "paragraph (b), (c) or (d) below", and
  - (b) after paragraph (c) there shall be added—
    - "(d) in the case of a statutory nuisance within section 79(1)(ga) above caused by noise emitted from or caused by an unattended vehicle or unattended machinery or equipment, against the person responsible for the vehicle, machinery or equipment."
- (4) In subsection (5) (application of subsections (1) to (4) where more than one person is responsible for statutory nuisance) for "Where" there shall be substituted "Subject to subsection (5A) below, where".
- (5) After subsection (5) there shall be inserted—
  - "(5A) In relation to a statutory nuisance within section 79(1)(ga) above for which more than one person is responsible (whether or not what any one of those persons is responsible for would by itself amount to such a nuisance), subsection (4)(a) above shall apply with the substitution of "each person responsible for the nuisance who can be found" for "the person responsible for the nuisance".
  - (5B) In relation to a statutory nuisance within section 79(1)(ga) above caused by noise emitted from or caused by an unattended vehicle or unattended machinery or equipment for which more than one person is responsible,

subsection (4)(d) above shall apply with the substitution of “any person” for “the person”.

- (6) In subsection (7)(a) (at least three days' notice of proceedings to be given in the case of a nuisance within section 79(1)(g)) after “paragraph (g)” there shall be inserted “or (ga)”.
- (7) In subsection (10) (cases where defence that the best practicable means were used to prevent, or counteract the effects of, the nuisance is not available) after paragraph (a) there shall be inserted—
- “(aa) in the case of a nuisance falling within paragraph (ga) of section 79(1) above except where the noise is emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes;”.
- (8) In subsection (13) (power of court where person responsible for the nuisance etc. cannot be found to direct local authority to do anything that person would have been ordered to do) after “the owner or occupier of the premises” there shall be inserted “or (as the case may be) the person responsible for the vehicle, machinery or equipment”.

## **6 Nuisance caused by noise in roads in Scotland**

Schedule 1 (which as regards Scotland makes amendments to Part III of the 1974 Act analogous to those made by sections 2 to 5 of this Act to Part III of the 1990 Act) shall have effect.