

SCHEDULES

SCHEDULE 1

Section 6.

NUISANCE CAUSED BY NOISE IN ROADS IN SCOTLAND

- 1 The 1974 Act shall be amended as follows.
- 2 In section 58 (summary proceedings to deal with noise)—
- (a) in subsection (1), after the word “nuisance” where it first occurs there shall be inserted “(including without prejudice to the generality of this subsection but subject to subsection (1A) below “road noise”, that is to say noise emitted from or caused by a vehicle, machinery or equipment in a road)”;
 - (b) after subsection (1) there shall be inserted—
 - “(1A) Subsection (1) above does not apply to road noise made—
 - (a) by traffic;
 - (b) by any naval, military or air force of the Crown or by any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of the Visiting Forces Act 1952; or
 - (c) by a political demonstration or a demonstration supporting or opposing a cause or campaign.”;
 - (c) in subsection (2), after the word “occurred” there shall be inserted “(and the noise in question is not road noise)”;
 - (d) in subsection (6), in each of paragraphs (b) and (c), for the words “the premises” where they first occur, there shall be substituted “premises to which the offence relates”; and
 - (e) at the end there shall be added—
 - “(10) This section is subject to section 58A of this Act.”.

- 3 After section 58 there shall be inserted—

“58A Service of notice in respect of anticipated road noise or road noise from unattended vehicles, machinery or equipment.

- (1) In the case of road noise to which subsection (1) of section 58 of this Act applies and which—
 - (a) has not yet occurred; or
 - (b) is emitted from or caused by an unattended vehicle or unattended machinery or equipment;any such notice as is mentioned in the said subsection (1) shall be served in accordance with subsection (2) below.
- (2) The notice shall be served—

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- (a) where the person responsible for the vehicle, machinery or equipment can be found, on that person;
- (b) where—
 - (i) that person cannot be found; or
 - (ii) the local authority determines that this paragraph shall apply,
 by fixing the notice to the vehicle, machinery or equipment.
- (3) Where a notice is fixed in accordance with subsection (2)(b)(ii) above but within an hour thereafter the person responsible for the vehicle, machinery or equipment can be found and served with a copy of the notice, then the copy shall be so served on him.
- (4) A notice served in accordance with subsection (2)(b)(ii) above 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 so specified.
- (5) Where a notice is served in accordance with subsection (2)(b) above, the person responsible for the vehicle, machinery or equipment may appeal, under section 58(3) of this Act, against the notice as if he had been served with it on the date on which it was fixed to the vehicle, machinery or equipment.
- (6) Section 58(4) of this Act shall apply in relation to a person on whom a copy of a 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, in accordance with subsection (2)(b) above, to a vehicle, machinery or equipment shall be guilty of an offence, unless he is, or does so with the authority of, the person responsible for the vehicle, machinery or equipment.
- (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.

58B Actings where notice in respect of road noise not complied with.

- (1) Where a notice under section 58 of this Act in respect of road noise has not been complied with, the local authority may execute works to abate, restrict or prevent the recurrence of the nuisance and do whatever may be necessary in furtherance of the requirements specified in the notice.
- (2) Any expenses reasonably incurred under subsection (1) above by a local authority may be recovered by them from any person on whom the notice under section 58 was duly served or by whose act or default the nuisance was caused; and the court may apportion those expenses between such persons in such manner as it considers fair and reasonable.”.

4 In section 59 (summary application by occupier of premises aggrieved by noise amounting to nuisance)—

- (a) in subsection (2), after the word “premises” there shall be inserted “(or, where the noise in question is road noise, in the same road)”; and

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- (b) in subsection (3), the existing words from “against” to the end shall be paragraph (a) and after that paragraph there shall be added—

“; or

- (b) in the case of road noise emitted from or caused by an unattended vehicle or unattended machinery or equipment, against the person responsible for the vehicle, machinery or equipment.”.

5 After section 59 there shall be inserted—

“59A Supplementary provisions in relation to road noise.

- (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 road to a secure place,
- for the purpose of taking any action, or executing any work, authorised by this Part of this Act in relation to a nuisance caused by road noise.
- (2) On leaving any unattended vehicle, machinery or equipment that he has entered or opened under subsection (1) above, a person shall, subject to subsection (3) below, leave it secured against interference or theft in such manner and as effectually as he found it.
- (3) If the person is unable to comply with subsection (2) above, he shall for the purposes 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 road to a secure place.
- (4) In carrying out any function under subsection (1), (2) or (3) above, a person shall not cause more damage than is necessary.
- (5) Before a vehicle, machinery or equipment is entered, opened or removed under subsection (1) above, the local authority shall notify the police of the intention to take action under that subsection.
- (6) After a vehicle, machinery or equipment has been removed under subsection (1) or (3) above, the local authority shall notify the police of its removal and current location.
- (7) Notification under subsection (5) or (6) above may be given to the police at any police station in the local authority’s area.
- (8) For the purposes of subsection (2) of section 58B of this Act, any expenses reasonably incurred by a local authority under subsection (2) or (3) above shall be treated as incurred by the authority under subsection (1) of that section.
- (9) A person who wilfully obstructs any person who is acting in exercise of powers conferred by the foregoing provisions of this section shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

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- (10) Nothing done in good faith under subsections (1) to (6) above by, or by a member of, a local authority or by any officer of, or other person authorised by, a local authority shall subject the authority, or any of them personally, to any action, liability, claim or demand whatsoever.”.
- 6 In section 69 (execution of works by local authority), at the end of paragraph (a) of subsection (1) there shall be added “, other than a notice in respect of road noise”.
- 7 In section 73 (interpretation etc.)—
- (a) in subsection (1)—
- (i) after the definition of “contravention” there shall be inserted—
- ““equipment” includes a musical instrument;”;
- (ii) in the definition of “person responsible”, the existing words from “the emission” to the end shall be paragraph (a) and after that paragraph there shall be added—
- “(b) 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) machinery or equipment, includes any person who is for the time being the operator (or where the equipment is a musical instrument, player) of the machinery or equipment;”;
- (iii) after the definition of “person responsible”, there shall be inserted—
- ““road noise” has the meaning given by subsection (1) of section 58 of this Act but except in that subsection and in subsection (1A) of that section does not include noise made as is mentioned in paragraphs (a) to (c) of the said subsection (1A);”;
- and
- (b) in subsection (3), at the end there shall be added “; but a requirement for service under section 58(2) of this Act in respect of road noise, or under section 58A(2)(a) thereof, shall be satisfied by service on any one of them”.
- 8 In section 74 (penalties), at the beginning of subsection (1) there shall be inserted “Subject to sections 58A(8) and 59A(9) of this Act,”.