



# Anti-social Behaviour Act 2003

## 2003 CHAPTER 38

### PART 6

#### THE ENVIRONMENT

##### *Noise*

#### **40 Closure of noisy premises**

- (1) The chief executive officer of the relevant local authority may make a closure order in relation to premises to which this section applies if he reasonably believes that—
  - (a) a public nuisance is being caused by noise coming from the premises, and
  - (b) the closure of the premises is necessary to prevent that nuisance.
- (2) This section applies to premises if—
  - (a) a premises licence has effect in respect of them, or
  - (b) a temporary event notice has effect in respect of them.
- (3) In this section “closure order” means an order which requires specified premises to be kept closed during a specified period which—
  - (a) does not exceed 24 hours, and
  - (b) begins when a manager of the premises receives written notice of the order.
- (4) A person commits an offence if without reasonable excuse he permits premises to be open in contravention of a closure order.
- (5) A person guilty of an offence under this section shall be liable on summary conviction to—
  - (a) imprisonment for a term not exceeding three months,
  - (b) a fine not exceeding £20,000, or
  - (c) both.

*Status: Point in time view as at 07/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Anti-social Behaviour Act 2003, Cross Heading: Noise. (See end of Document for details)*

#### Commencement Information

- I1** S. 40 in force at 31.3.2004 for E. by S.I. 2004/690, art. 3(a)  
**I2** S. 40 in force at 31.3.2004 for W. by S.I. 2004/999, art. 2(a)

### 41 Closure of noisy premises: supplemental

- (1) Where a closure order is made in relation to premises, the chief executive officer of the relevant local authority—
- (a) may cancel the closure order by notice in writing to a manager of the premises,
  - (b) shall cancel the order as soon as is reasonably practicable if he believes that it is no longer necessary in order to prevent a public nuisance being caused by noise coming from the premises, and
  - (c) shall give notice of the order as soon as is reasonably practicable to the licensing authority for the area in which the premises are situated.
- (2) The chief executive officer of a local authority may authorise an environmental health officer of the authority to exercise a power or duty of the chief executive officer under section 40(1) or under subsection (1) above; and—
- (a) authority under this subsection may be general or specific, and
  - (b) a reference in section 40(1) or subsection (1) above to a belief of the chief executive officer includes a reference to a belief of a person authorised under this subsection.
- (3) In section 40 and this section—
- “chief executive officer” of an authority means the head of the paid service of the authority designated under section 4 of the Local Government and Housing Act 1989 (c. 42),
- “environmental health officer” of an authority means an officer authorised by the authority for the purpose of exercising a statutory function in relation to pollution of the environment or harm to human health,
- “licensing authority” has the same meaning as in the Licensing Act 2003 (c. 17),
- “manager” in relation to premises means—
- (a) a person who holds a premises licence in respect of the premises,
  - (b) a designated premises supervisor under a premises licence in respect of the premises,
  - (c) the premises user in relation to a temporary event notice which has effect in respect of the premises, and
  - (d) any other person who works at the premises in a capacity (paid or unpaid) which enables him to close them,
- “premises licence” has the same meaning as in the Licensing Act 2003,
- “relevant local authority” in relation to premises means an authority which has statutory functions, for the area in which the premises are situated, in relation to minimising or preventing the risk of pollution of the environment or of harm to human health, and
- “temporary event notice” has the same meaning as in the Licensing Act 2003 (and is to be treated as having effect in accordance with [F1section 171(6)] of that Act).

*Status: Point in time view as at 07/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Anti-social Behaviour Act 2003, Cross Heading: Noise. (See end of Document for details)*

### Textual Amendments

- F1** Words in s. 41(3) substituted (7.4.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108, [Sch. 4 para. 13](#)

### Commencement Information

- I3** S. 41 in force at 31.3.2004 for W. by [S.I. 2004/999](#), [art. 2\(b\)](#)  
**I4** S. 41 in force at 31.3.2004 for E. by [S.I. 2004/690](#), [art. 3\(b\)](#)

## 42 Dealing with noise at night

- (1) The Noise Act 1996 (c. 37) is amended as follows.
- (2) For section 1 (sections 2 to 9 only apply to area of local authority if authority have so resolved or an order by Secretary of State so provides) substitute—

### “1 Application of sections 2 to 9

Sections 2 to 9 apply to the area of every local authority in England and Wales.”

- (3) For section 2(1) (local authority under duty to investigate complaint of noise from dwelling at night) substitute—

“(1) A local authority in England and Wales may, if they receive a complaint of the kind mentioned in subsection (2), arrange for an officer of the authority to take reasonable steps to investigate the complaint.”

- (4) In section 2(7) (power of local authority to act in relation to dwelling within area of other authority) omit the words from “and accordingly” to the end.

- (5) In section 9 (section 8: supplementary), for subsection (4) substitute—

“(4) A local authority may use any sums it receives under section 8 (its “penalty receipts”) only for the purposes of functions of its that are qualifying functions.

- (4A) The following are qualifying functions for the purposes of this section—

- (a) functions under this Act, and  
(b) functions of a description specified in regulations made by the Secretary of State.

- (4B) Regulations under subsection (4A)(b) may (in particular) have the effect that a local authority may use its penalty receipts for the purposes of any of its functions.

- (4C) A local authority must supply the Secretary of State with such information relating to the use of its penalty receipts as the Secretary of State may require.

- (4D) The Secretary of State may by regulations—

- (a) make provision for what a local authority is to do with its penalty receipts—  
(i) pending their being used for the purposes of qualifying functions of the authority;

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- (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 local authority's penalty receipts.
- (4E) The provision that may be made under subsection (4D)(a)(ii) includes (in particular) provision for the payment of sums to a person (including the Secretary of State) other than the local authority.
- (4F) Before making regulations under this section, the Secretary of State must consult—
- (a) the local authorities to which the regulations are to apply, and
  - (b) such other persons as the Secretary of State considers appropriate.”
- (6) In section 11 (interpretation and subordinate legislation), in subsection (3) after “order”, in the first place where it occurs, insert “ or regulations ”.
- (7) The reference to the Noise Act 1996 (c. 37) in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) is to be treated as referring to that Act as amended by this section.

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**Commencement Information**

- I5** S. 42 in force at 31.3.2004 for E. by [S.I. 2004/690](#), [art. 3\(c\)](#)
- I6** S. 42 in force at 31.3.2004 for W. by [S.I. 2004/999](#), [art. 2\(c\)](#)

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