

# **CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### *Commentary on Sections*

#### **Part 7: Noise**

#### *Chapter 1: Audible Intruder Alarms*

#### **Alarm notification areas**

196. **Sections 69 to 76** introduce new powers for local authorities to deal with the annoyance caused by audible intruder alarms in their areas. The regime enables a local authority to designate its area (or part of it) as an alarm notification area. The effect of a designation is that the occupier or owner of any premises (residential or non-residential) in the area must notify the local authority of the details of a “key-holder” for the premises. The authority can then turn to that key-holder for assistance in silencing an alarm. Under these provisions it is an offence to fail to nominate or notify the local authority of the details of a key-holder.

#### *Section 69 Designation of alarm notification areas*

197. **Section 69** sets out the steps that must be followed by a local authority wishing to designate an area as an alarm notification area. In particular, *subsection (5)* provides that an authority must consider representations on a proposal to make a designation and *subsection (8)* provides that where it decides to make a designation, the authority must send notice of that decision to all premises in the area.

#### *Section 70 Withdrawal of designation*

198. **Section 70** enables a local authority to withdraw a designation made under section 69.

#### *Section 71 Notification of nominated key-holders*

199. **Section 71** requires that the responsible person in respect of premises with an audible intruder alarm within an alarm notification area must nominate a key-holder for the premises and then notify the local authority of that key-holder’s name, address and telephone number. The responsible person is the occupier of (or a person entitled to occupy) the premises or, where there is no such person, the owner of the premises. Section 71(2) and (4) makes it an offence for the responsible person to fail either to nominate or to notify within the specified time period.

### **Section 72 Nomination of key-holders**

200. **Section 72** (*subsections (3), (4) and (5)*) describes who is eligible to be nominated as a key-holder.
201. *Subsection (6)* provides that where a key-holder ceases to satisfy certain requirements, the responsible person must nominate a replacement. The responsible person then, under section 71, has to notify the details of the new key-holder to the local authority. Again, failure either to nominate or notify is an offence.

### **Section 73 Offences under section 71:fixed penalty notices**

202. **Section 73** (*subsections (1) and (2)*) enables an “authorised officer” of a local authority, to issue a fixed penalty notice where it appears to him that an offence of failing to nominate or notify details of a key-holder has been committed, offering the offender an opportunity to discharge, by payment of a fixed penalty within 14 days, any liability to conviction for the offence. Who qualifies as an authorised officer is described in *subsection (11)*. The rest of the section sets out the effects of the fixed penalty notice, what information such a notice should contain, and procedures for payment.

### **Section 74 Amount of fixed penalty**

203. **Section 74** (*subsections (2) and (3)*) enables a local authority to specify the amount of a fixed penalty for an offence committed in its area. Where no amount is set by a local authority, the penalty amount is £75. In either case, a local authority may treat a penalty as having been paid if a lesser amount is paid before the end of such (shorter) period as it may specify.
204. *Subsections (4) and (5)* give power to the Secretary of State or the National Assembly for Wales (as appropriate) to make regulations governing the power of local authorities to set local fixed penalty rates (e.g. by specifying a range within which the amount must fall or limiting the extent and circumstances in respect of which a local authority may provide for reduced early payment).

### **Section 75 Use of fixed penalty receipts**

205. **Section 75** (*subsections (1) to (3)*) allows a local authority to retain the receipts arising from fixed penalty notices issued pursuant to section 73, and specifies the functions for which the receipts may be used. These include its new functions in relation to audible intruder alarms, its functions under the Noise Act 1996 and its functions in relation to noise statutory nuisance under the Environmental Protection Act 1990.
206. *Subsections (4) to (7)* make further provision regarding the spending of fixed penalty receipts and include a power for the Secretary of State or the National Assembly for Wales (as the case may be) to make regulations about how local authorities can use their penalty receipts.
207. *Subsection (8)* makes similar provision to that made by section 8 (*subsection (8)*) as described in paragraph 44 above.

### **Section 76 Fixed penalty notices: power to require name and address**

208. **Section 76** provides an authorised officer of a local authority with the power to require the name and address of a person if the officer proposes to give him a fixed penalty notice, and makes it an offence for that person either to fail to give that information or to give false or inaccurate information.

## **Powers in relation to alarms**

### ***Section 77 Power of entry***

209. **Section 77** (*subsections (3) and (4)*) provides an authorised officer of a local authority with a power of entry (but not by force) in order to silence an intruder alarm in or on premises in the authority's area where he is satisfied that the conditions described in section 77(2) are met. The use of the power is not limited to premises in an area which has been designated as an alarm notification area, but where the premises are in such an area, one of the conditions that must be satisfied before the power can be used is that reasonable steps have been taken to get the key-holder to silence the alarm.

### ***Section 78 Warrant to enter premises by force***

210. **Section 78** provides that an authorised officer may enter premises using reasonable force if necessary to silence an alarm following the issue of a warrant by a justice of the peace. Before issuing a warrant, the justice of the peace must be satisfied certain conditions are met (*subsection (1)*). These include that the officer is unable to enter the premises without the use of force.

### ***Section 79 Powers of entry: supplementary***

211. **Section 79** makes supplementary provision where an officer of a local authority enters any premises to silence an alarm either under section 77 or under a warrant issued under section 78.
212. This includes provision allowing a local authority to recover expenses reasonably incurred by it in connection with entering the premises and silencing the alarm (*subsection (7)*) and ensuring that action taken in good faith by the authority under these powers does not subject it to any liability (*subsection (9)*).

## **Supplementary**

### ***Section 80 Orders and regulations***

213. **Section 80** provides that orders or regulations made under chapter 1 of this Part of the Act are to be made by statutory instrument by negative resolution.