



Noise Act 1996

1996 CHAPTER 37

An Act to make provision about noise emitted from dwellings at night; about the forfeiture and confiscation of equipment used to make noise unlawfully; and for connected purposes. [18th July 1996]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Annotations:

Extent Information

- E1** Act does not extend to Scotland see [s. 14\(3\)](#).
Act extends to Northern Ireland but the operation of s.14 is limited by application as mentioned in s. 14(4)

Modifications etc. (not altering text)

- C1** Act: transfer of functions (1.7.1999) by [S.I. 1999/672](#), [art. 2 Sch. 1](#)

Annotations:

Extent Information

- E1** Act does not extend to Scotland see [s. 14\(3\)](#).
Act extends to Northern Ireland but the operation of s.14 is limited by application as mentioned in s. 14(4)

Modifications etc. (not altering text)

- C1** Act: transfer of functions (1.7.1999) by [S.I. 1999/672](#), [art. 2 Sch. 1](#)

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Summary procedure for dealing with noise at night

1 Adoption of these provisions by local authorities.

- (1) Sections 2 to 9 only apply to the area of a local authority if the authority have so resolved or an order made by the Secretary of State so provides.
- (2) If a local authority resolve to apply those sections to their area—
 - (a) those sections are to have effect there on and after a date specified in the resolution (“the commencement date”), which must be at least three months after the passing of the resolution, and
 - (b) the local authority must cause a notice to be published, in two consecutive weeks ending at least two months before the commencement date, in a local newspaper circulating in their area.
- (3) A notice published under subsection (2)(b) must—
 - (a) state that the resolution has been passed,
 - (b) give the commencement date, and
 - (c) set out the general effect of those sections.
- (4) An order under this section must not provide for those sections to have effect before the end of the period of three months beginning with the making of the order.

Annotations:

Extent Information

- E2** In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 14; see 14(4)

Commencement Information

- I1** [S. 1](#) wholly in force at 1.9.1997; [s. 1](#) not in force at Royal Assent see [s. 14\(2\)](#); [s. 1](#) in force at 23.7.1997 for England and Wales by [S.I. 1997/1695](#), [art. 2](#) and 1.9.1997 for Northern Ireland by [S.R. 1997/366](#), [art. 2](#)

2 Investigation of complaints of noise from a dwelling at night.

- (1) A local authority must, if they receive a complaint of the kind mentioned in subsection (2), secure that an officer of the authority takes reasonable steps to investigate the complaint.
- (2) The kind of complaint referred to is one made by any individual present in a dwelling during night hours (referred to in this Act as “the complainant’s dwelling”) that excessive noise is being emitted from another dwelling (referred to in this group of sections as “the offending dwelling”).
- (3) A complaint under subsection (2) may be made by any means.
- (4) If an officer of the authority is satisfied, in consequence of an investigation under subsection (1), that—
 - (a) noise is being emitted from the offending dwelling during night hours, and
 - (b) the noise, if it were measured from within the complainant’s dwelling, would or might exceed the permitted level,

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he may serve a notice about the noise under section 3.

- (5) For the purposes of subsection (4), it is for the officer of the authority dealing with the particular case—
- (a) to decide whether any noise, if it were measured from within the complainant's dwelling, would or might exceed the permitted level, and
 - (b) for the purposes of that decision, to decide whether to assess the noise from within or outside the complainant's dwelling and whether or not to use any device for measuring the noise.
- (6) In this group of sections, "night hours" means the period beginning with 11 p.m. and ending with the following 7 a.m.
- (7) Where a local authority receive a complaint under subsection (2) and the offending dwelling is within the area of another local authority, the first local authority may act under this group of sections as if the offending dwelling were within their area, and accordingly may so act whether or not this group of sections applies to the area of the other local authority.
- (8) In this section and sections 3 to 9, "this group of sections" means this and those sections.

Annotations:

Extent Information

- E3** In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 14; see 14(4)

Commencement Information

- I2** [S. 2](#) wholly in force at 1.9.1997; [s. 2](#) not in force at Royal Assent see [s. 14\(2\)](#); [s. 2](#) in force at 23.7.1997 for England and Wales by [S.I. 1997/1695](#), [art. 2](#) and 1.9.1997 for Northern Ireland by [S.R. 1997/366](#), [art. 2](#)

3 Warning notices.

- (1) A notice under this section (referred to in this Act as "a warning notice") must—
- (a) state that an officer of the authority considers—
 - (i) that noise is being emitted from the offending dwelling during night hours, and
 - (ii) that the noise exceeds, or may exceed, the permitted level, as measured from within the complainant's dwelling, and
 - (b) give warning that any person who is responsible for noise which is emitted from the dwelling, in the period specified in the notice, and exceeds the permitted level, as measured from within the complainant's dwelling, may be guilty of an offence.
- (2) The period specified in a warning notice must be a period—
- (a) beginning not earlier than ten minutes after the time when the notice is served, and
 - (b) ending with the following 7 a.m.
- (3) A warning notice must be served—

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- (a) by delivering it to any person present at or near the offending dwelling and appearing to the officer of the authority to be responsible for the noise, or
 - (b) if it is not reasonably practicable to identify any person present at or near the dwelling as being a person responsible for the noise on whom the notice may reasonably be served, by leaving it at the offending dwelling.
- (4) A warning notice must state the time at which it is served.
- (5) For the purposes of this group of sections, a person is responsible for noise emitted from a dwelling if he is a person to whose act, default or sufferance the emission of the noise is wholly or partly attributable.

Annotations:

Extent Information

- E4** In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 14; see 14(4)

Commencement Information

- I3** [S. 3](#) wholly in force at 1.9.1997; [s. 3](#) not in force at Royal Assent see [s. 14\(2\)](#); [s. 3](#) in force at 23.7.1997 for England and Wales by [S.I. 1997/1695](#), [art. 2](#) and 1.9.1997 for Northern Ireland by [S.R. 1997/366](#), [art. 2](#)

4 Offence where noise exceeds permitted level after service of notice.

- (1) If a warning notice has been served in respect of noise emitted from a dwelling, any person who is responsible for noise which—
- (a) is emitted from the dwelling in the period specified in the notice, and
 - (b) exceeds the permitted level, as measured from within the complainant's dwelling,
- is guilty of an offence.
- (2) It is a defence for a person charged with an offence under this section to show that there was a reasonable excuse for the act, default or sufferance in question.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Annotations:

Commencement Information

- I4** [S. 4](#) wholly in force at 1.9.1997; [s. 4](#) not in force at Royal Assent see [s. 14\(2\)](#); [s. 4](#) in force at 23.7.1997 for England and Wales by [S.I. 1997/1695](#), [art. 2](#) and 1.9.1997 for Northern Ireland by [S.R. 1997/366](#), [art. 2](#)

5 Permitted level of noise.

- (1) For the purposes of this group of sections, the Secretary of State may by directions in writing determine the maximum level of noise (referred to in this group of sections as “the permitted level”) which may be emitted during night hours from any dwelling.

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- (2) The permitted level is to be a level applicable to noise as measured from within any other dwelling in the vicinity by an approved device used in accordance with any conditions subject to which the approval was given.
- (3) Different permitted levels may be determined for different circumstances, and the permitted level may be determined partly by reference to other levels of noise.
- (4) The Secretary of State may from time to time vary his directions under this section by further directions in writing.

Annotations:

Extent Information

- E5** In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 14; see 14(4)

Commencement Information

- I5** [S. 5](#) wholly in force at 1.9.1997; [s. 5](#) not in force at Royal Assent see [s. 14\(2\)](#); [s. 5](#) in force at 23.7.1997 for England and Wales by [S.I. 1997/1695](#), [art. 2](#) and 1.9.1997 for Northern Ireland by [S.R. 1997/366](#), [art. 2](#)

6 Approval of measuring devices.

- (1) For the purposes of this group of sections, the Secretary of State may approve in writing any type of device used for the measurement of noise; and references in this group of sections to approved devices are to devices of a type so approved.
- (2) Any such approval may be given subject to conditions as to the purposes for which, and the manner and other circumstances in which, devices of the type concerned are to be used.
- (3) In proceedings for an offence under section 4, a measurement of noise made by a device is not admissible as evidence of the level of noise unless it is an approved device and any conditions subject to which the approval was given are satisfied.

Annotations:

Extent Information

- E6** In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 14; see 14(4)

Commencement Information

- I6** [S. 6](#) wholly in force at 1.9.1997; [s. 6](#) not in force at Royal Assent see [s. 14\(2\)](#); [s. 6](#) in force at 23.7.1997 for England and Wales by [S.I. 1997/1695](#), [art. 2](#) and 1.9.1997 for Northern Ireland by [S.R. 1997/366](#), [art. 2](#)

7 Evidence.

- (1) In proceedings for an offence under section 4, evidence—
 - (a) of a measurement of noise made by a device, or of the circumstances in which it was made, or

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- (b) that a device was of a type approved for the purposes of section 6, or that any conditions subject to which the approval was given were satisfied, may be given by the production of a document mentioned in subsection (2).
- (2) The document referred to is one which is signed by an officer of the local authority and which (as the case may be)—
- (a) gives particulars of the measurement or of the circumstances in which it was made, or
 - (b) states that the device was of such a type or that, to the best of the knowledge and belief of the person making the statement, all such conditions were satisfied;
- and if the document contains evidence of a measurement of noise it may consist partly of a record of the measurement produced automatically by a device.
- (3) In proceedings for an offence under section 4, evidence that noise, or noise of any kind, measured by a device at any time was noise emitted from a dwelling may be given by the production of a document—
- (a) signed by an officer of the local authority, and
 - (b) stating that he had identified that dwelling as the source at that time of the noise or, as the case may be, the noise of that kind.
- (4) For the purposes of this section, a document purporting to be signed as mentioned in subsection (2) or (3)(a) is to be treated as being so signed unless the contrary is proved.
- (5) This section does not make a document admissible as evidence in proceedings for an offence unless a copy of it has, not less than seven days before the hearing or trial, been served on the person charged with the offence.
- (6) This section does not make a document admissible as evidence of anything other than the matters shown on a record produced automatically by a device if, not less than three days before the hearing or trial or within such further time as the court may in special circumstances allow, the person charged with the offence serves a notice on the prosecutor requiring attendance at the hearing or trial of the person who signed the document.

Annotations:

Extent Information

- E7** In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 14; see 14(4)

Commencement Information

- I7** [S. 7](#) wholly in force at 1.9.1997; [s. 7](#) not in force at Royal Assent see [s. 14\(2\)](#); [s. 7](#) in force at 23.7.1997 for England and Wales by [S.I. 1997/1695](#), [art. 2](#) and 1.9.1997 for Northern Ireland by [S.R. 1997/366](#), [art. 2](#)

8 Fixed penalty notices.

- (1) Where an officer of a local authority who is authorised for the purposes of this section has reason to believe that a person is committing or has just committed an offence under section 4, he may give that person a notice (referred to in this Act as a “fixed penalty notice”) offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

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- (2) A fixed penalty notice may be given to a person—
 - (a) by delivering the notice to him, or
 - (b) if it is not reasonably practicable to deliver it to him, by leaving the notice, addressed to him, at the offending dwelling.
- (3) Where a person is given a fixed penalty notice in respect of such an offence—
 - (a) proceedings for that offence must not be instituted before the end of the period of fourteen days following the date of the notice, and
 - (b) he cannot be convicted of that offence if he pays the fixed penalty before the end of that period.
- (4) A fixed penalty notice must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.
- (5) A fixed penalty notice must state—
 - (a) the period during which, because of subsection (3)(a), 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) Payment of the fixed penalty may (among other methods) be made by pre-paying and posting to that person at that address a letter containing the amount of the penalty (in cash or otherwise).
- (7) Where a letter containing the amount of the penalty is sent in accordance with subsection (6), payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (8) The fixed penalty payable under this section is £100.

Annotations:

Extent Information

- E8** In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 14; see 14(4)

Commencement Information

- I8** [S. 8](#) wholly in force at 1.9.1997; [s. 8](#) not in force at Royal Assent see [s. 14\(2\)](#); [s. 8](#) in force at 23.7.1997 for England and Wales by [S.I. 1997/1695](#), [art. 2](#) and 1.9.1997 for Northern Ireland by [S.R. 1997/366](#), [art. 2](#)

9 Section 8: supplementary.

- (1) If a form for a fixed penalty notice is specified in an order made by the Secretary of State, a fixed penalty notice must be in that form.
- (2) If a fixed penalty notice is given to a person in respect of noise emitted from a dwelling in any period specified in a warning notice—
 - (a) no further fixed penalty notice may be given to that person in respect of noise emitted from the dwelling during that period, but

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- (b) that person may be convicted of a further offence under section 4 in respect of noise emitted from the dwelling after the fixed penalty notice is given and before the end of that period.
- (3) The Secretary of State may from time to time by order amend section 8(8) so as to change the amount of the fixed penalty payable under that section.
- (4) Sums received by a local authority under section 8 must be paid to the Secretary of State.
- (5) In proceedings for an offence under section 4, evidence that payment of a fixed penalty was or was not made before the end of any period may be given by the production of a certificate which—
 - (a) purports to be signed by or on behalf of the person having responsibility for the financial affairs of the local authority, and
 - (b) states that payment of a fixed penalty was made on any date or, as the case may be, was not received before the end of that period.

Annotations:

Extent Information

- E9** In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 14; see 14(4)

Commencement Information

- I9** [S. 9](#) wholly in force at 1.9.1997; [s. 9](#) not in force at Royal Assent see [s. 14\(2\)](#); [s. 9](#) in force at 23.7.1997 for England and Wales by [S.I. 1997/1695](#), [art. 2](#) and 1.9.1997 for Northern Ireland by [S.R. 1997/366](#), [art. 2](#)

Seizure, etc. of equipment used to make noise unlawfully

10 Powers of entry and seizure etc.

- (1) The power conferred by subsection (2) may be exercised where an officer of a local authority has reason to believe that—
 - (a) a warning notice has been served in respect of noise emitted from a dwelling, and
 - (b) at any time in the period specified in the notice, noise emitted from the dwelling has exceeded the permitted level, as measured from within the complainant's dwelling.
- (2) An officer of the local authority, or a person authorised by the authority for the purpose, may enter the dwelling from which the noise in question is being or has been emitted and may seize and remove any equipment which it appears to him is being or has been used in the emission of the noise.
- (3) A person exercising the power conferred by subsection (2) must produce his authority, if he is required to do so.
- (4) If it is shown to a justice of the peace on sworn information in writing that—
 - (a) a warning notice has been served in respect of noise emitted from a dwelling,

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- (b) at any time in the period specified in the notice, noise emitted from the dwelling has exceeded the permitted level, as measured from within the complainant's dwelling, and
- (c) entry of an officer of the local authority, or of a person authorised by the authority for the purpose, to the dwelling has been refused, or such a refusal is apprehended, or a request by an officer of the authority, or of such a person, for admission would defeat the object of the entry,

the justice may by warrant under his hand authorise the local authority, by any of their officers or any person authorised by them for the purpose, to enter the premises, if need be by force.

- (5) A person who enters any premises under subsection (2), or by virtue of a warrant issued under subsection (4), may take with him such other persons and such equipment as may be necessary; and if, when he leaves, the premises are unoccupied, must leave them as effectively secured against trespassers as he found them.
- (6) A warrant issued under subsection (4) continues in force until the purpose for which the entry is required has been satisfied.
- (7) The power of a local authority under section 81(3) of the ^{M1}Environmental Protection Act 1990 to abate any matter, where that matter is a statutory nuisance by virtue of section 79(1)(g) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance), includes power to seize and remove any equipment which it appears to the authority is being or has been used in the emission of the noise in question.
- (8) A person who wilfully obstructs any person exercising any powers conferred under subsection (2) or by virtue of subsection (7) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (9) The Schedule to this Act (which makes further provision in relation to anything seized and removed by virtue of this section) has effect.

Annotations:

Extent Information

E10 [S. 10\(7\)](#) extends to England and Wales only.

In its application to Northern Ireland, this section has effect subject to the modifications set out in [s. 14](#); see [14\(4\)](#)

Commencement Information

I10 [S. 10](#) wholly in force; [s. 10](#) not in force at Royal Assent see [s. 14\(2\)](#); [s. 10\(7\)](#) fully in force and [s. 10\(8\)](#) (9) in force for England and Wales for specified purposes at 19.9.1996 by [S.I. 1996/2219](#), [art. 2](#); [s. 10](#) in force at 23.7.1997 insofar as not already in force for England and Wales by [S.I. 1997/1695](#), [art. 2](#); [s. 10](#) in force at 1.9.1997 for Northern Ireland by [S.R. 1997/366](#), [art. 2](#)

Marginal Citations

M1 [1990 c. 43](#).

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General

11 Interpretation and subordinate legislation.

- (1) In this Act, “local authority” means—
- (a) in Greater London, a London borough council, the Common Council of the City of London and, as respects the Temples, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple respectively,
 - (b) outside Greater London—
 - (i) any district council,
 - (ii) the council of any county so far as they are the council for any area for which there are no district councils,
 - (iii) in Wales, the council of a county borough, and
 - (c) the Council of the Isles of Scilly.
- (2) In this Act—
- (a) “dwelling” means any building, or part of a building, used or intended to be used as a dwelling,
 - (b) references to noise emitted from a dwelling include noise emitted from any garden, yard, outhouse or other appurtenance belonging to or enjoyed with the dwelling.
- (3) The power to make an order under this Act is exercisable by statutory instrument which (except in the case of an order under section 14) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Annotations:

Extent Information

E11 [S. 11\(1\)](#) extends to England and Wales only.

In its application to Northern Ireland, this section has effect subject to the modifications set out in [s. 14](#); see [14\(4\)](#)

Commencement Information

I11 [S. 11](#) wholly in force; [s. 11](#) not in force at Royal Assent see [s. 14\(2\)](#); [s. 11](#) in force for England and Wales for specified purposes at 19.9.1996 by [S.I. 1996/2219](#), [art. 2](#); [s. 11](#) in force at 23.7.1997 insofar as not already in force for England and Wales by [S.I. 1997/1695](#), [art. 2](#); [s. 11](#) in force at 1.9.1997 for Northern Ireland by [S.R. 1997/366](#), [art. 2](#)

12 Protection from personal liability.

- (1) A member of a local authority or an officer or other person authorised by a local authority is not personally liable in respect of any act done by him or by the local authority or any such person if the act was done in good faith for the purpose of executing powers conferred by, or by virtue of, this Act.
- (2) Subsection (1) does not apply to liability under [^{F1}section 17 or 18 of the Audit Commission Act 1998] (powers of district auditor and court).

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Annotations:

Amendments (Textual)

F1 Words in [s. 12\(2\)](#) substituted (11.9.1998) by [1998 c. 18, ss. 54\(1\), 55\(2\)](#), [Sch. 3 para. 31](#)

Commencement Information

I12 [S. 12](#) wholly in force; [s. 12](#) not in force at Royal Assent see [s. 14\(2\)](#); [s. 12](#) in force for England and Wales for specified purposes at 19.9.1996 by [S.I. 1996/2219, art. 2](#); [s. 12](#) in force at 23.7.1997 insofar as not already in force for England and Wales by [S.I. 1997/1695, art. 2](#); [s. 12](#) in force at 1.9.1997 for Northern Ireland by [S.R. 1997/366, art. 2](#)

13 Expenses.

There is to be paid out of money provided by Parliament any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

Annotations:

Commencement Information

I13 [S. 13](#) wholly in force at 1.9.1997; [s. 13](#) not in force at Royal Assent see [s. 14\(2\)](#); [s. 13](#) in force at 19.9.1996 by [S.I. 1996/2219, art. 2](#); and 1.9.1997 for Northern Ireland by [S.R. 1997/366, art. 2](#)

14 Short title, commencement and extent.

- (1) This Act may be cited as the Noise Act 1996.
- (2) This Act is to come into force on such day as the Secretary of State may by order appoint, and different days may be appointed for different purposes.
- (3) This Act does not extend to Scotland.
- (4) In its application to Northern Ireland this Act has effect with the following modifications
 - (a) for any reference to a local authority there is substituted a reference to a district council,
 - (b) for any reference to the area of a local authority there is substituted a reference to the district of a district council,
 - (c) for any reference to the Secretary of State there is substituted a reference to the Department of the Environment for Northern Ireland,
 - (d) any reference to an enactment includes reference to an enactment comprised in Northern Ireland legislation,
 - (e) in section 10(4) for the words “sworn information” there is substituted the words “
a complaint made on oath and”,
 - (f) in section 11 for subsection (3) there is substituted—

“(3) The power to make orders under this Act shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979, and any orders made under this Act shall (except in the case of an order under section 14) be subject to negative resolution within the meaning assigned by section 41(6) of the Interpretation Act

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(Northern Ireland) 1954 as if they were statutory instruments within the meaning of that Act.”,

(g) in section 12 for subsection (2) there is substituted—

“(2) Subsection (1) does not apply to liability under section 81 or 82 of the Local Government Act (Northern Ireland) 1972 (powers of local government auditor and court).”,

(h) the following provisions are omitted—

- (i) section 10(7),
- (ii) in section 10(8) the words “or by virtue of subsection (7)”,
- (iii) section 11(1),
- (iv) in the Schedule, paragraph 1(a)(ii) and the word “and” immediately before it,
- (v) in the Schedule, in paragraph 1(b), the words “or section 81(3) of the Environmental Protection Act 1990 (as so extended)”.

Annotations:

Extent Information

E12 S. 14 extends to Northern Ireland but the operation of s. 14 is limited by application as mentioned in s. 14(4)

Subordinate Legislation Made

- P1** S. 14(2) power partly exercised (28.8.1996): 19.9.1996 appointed for specified provisions by [S.I. 1996/2219](#), [art. 2](#)
S. 14(2) power partly exercised (10.7.1997): 23.7.1997 appointed for specified provisions by [S.I. 1997/1695](#), [art. 2](#)
- P2** S. 14(2)(4) power partly exercised (12.8.1997): 1.9.1997 appointed for Northern Ireland by [S.R. 1997/366](#), [art. 2](#)

Commencement Information

I14 S. 14 wholly in force; s. 14 not in force at Royal Assent see [s. 14\(2\)](#); [s. 14\(1\)-\(3\)](#) in force for England and Wales at 19.9.1996 by [S.I. 1996/2219](#), [art. 2](#); s. 14 in force at 23.7.1997 insofar as not already in force for England and Wales by [S.I. 1997/1695](#), [art. 2](#); s. 14 in force at 1.9.1997 for Northern Ireland by [S.R. 1997/366](#), [art. 2](#)

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SCHEDULE

Section 10.

POWERS IN RELATION TO SEIZED EQUIPMENT

Annotations:

Extent Information

- E13** In its application to Northern Ireland, this Schedule has effect subject to the modifications set out in s. 14; see 14(4)

Commencement Information

- I15** *Sch.* wholly in force; *Sch.* not in force at Royal Assent see s. 14(2); *Sch.* in force for England and Wales for specified purposes at 19.9.1996 by S.I. 1996/2219, **art. 3**; *Sch.* in force at 23.7.1997 insofar as not already in force for England and Wales by S.I. 1997/1695, **art. 2**; *Sch.* in force at 1.9.1997 for Northern Ireland by S.R. 1997/366, **art. 2**

Introductory

1 In this Schedule—

- (a) a “noise offence” means—
- (i) in relation to equipment seized under section 10(2) of this Act, an offence under section 4 of this Act, and
 - (ii) in relation to equipment seized under section 81(3) of the ^{M2}Environmental Protection Act 1990 (as extended by section 10(7) of this Act), an offence under section 80(4) of that Act in respect of a statutory nuisance falling within section 79(1)(g) of that Act,
- (b) “seized equipment” means equipment seized in the exercise of the power of seizure and removal conferred by section 10(2) of this Act or section 81(3) of the Environmental Protection Act 1990 (as so extended),
- (c) “related equipment”, in relation to any conviction of or proceedings for a noise offence, means seized equipment used or alleged to have been used in the commission of the offence,
- (d) “responsible local authority”, in relation to seized equipment, means the local authority by or on whose behalf the equipment was seized.

Annotations:

Marginal Citations

- M2** 1990 c. 43.

Retention

2 (1) Any seized equipment may be retained—

- (a) during the period of twenty-eight days beginning with the seizure, or
- (b) if it is related equipment in proceedings for a noise offence instituted within that period against any person, until—
 - (i) he is sentenced or otherwise dealt with for the offence or acquitted of the offence, or
 - (ii) the proceedings are discontinued.

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- (2) Sub-paragraph (1) does not authorise the retention of seized equipment if—
- (a) a person has been given a fixed penalty notice under section 8 of this Act in respect of any noise,
 - (b) the equipment was seized because of its use in the emission of the noise in respect of which the fixed penalty notice was given, and
 - (c) that person has paid the fixed penalty before the end of the period allowed for its payment.

Forfeiture

- 3
- (1) Where a person is convicted of a noise offence the court may make an order (“a forfeiture order”) for forfeiture of any related equipment.
 - (2) The court may make a forfeiture order whether or not it also deals with the offender in respect of the offence in any other way and without regard to any restrictions on forfeiture in any enactment.
 - (3) In considering whether to make a forfeiture order in respect of any equipment a court must have regard—
 - (a) to the value of the equipment, and
 - (b) to the likely financial and other effects on the offender of the making of the order (taken together with any other order that the court contemplates making).
 - (4) A forfeiture order operates to deprive the offender of any rights in the equipment to which it relates.

Consequences of forfeiture

- 4
- (1) Where any equipment has been forfeited under paragraph 3, a magistrates’ court may, on application by a claimant of the equipment (other than the person in whose case the forfeiture order was made) make an order for delivery of the equipment to the applicant if it appears to the court that he is the owner of the equipment.
 - (2) No application may be made under sub-paragraph (1) by any claimant of the equipment after the expiry of the period of six months beginning with the date on which a forfeiture order was made in respect of the equipment.
 - (3) Such an application cannot succeed unless the claimant satisfies the court—
 - (a) that he had not consented to the offender having possession of the equipment, or
 - (b) that he did not know, and had no reason to suspect, that the equipment was likely to be used in the commission of a noise offence.
 - (4) Where the responsible local authority is of the opinion that the person in whose case the forfeiture order was made is not the owner of the equipment, it must take reasonable steps to bring to the attention of persons who may be entitled to do so their right to make an application under sub-paragraph (1).
 - (5) An order under sub-paragraph (1) does not affect the right of any person to take, within the period of six months beginning with the date of the order, proceedings for the recovery of the equipment from the person in possession of it in pursuance of the order, but the right ceases on the expiry of that period.

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- (6) If on the expiry of the period of six months beginning with the date on which a forfeiture order was made in respect of the equipment no order has been made under sub-paragraph (1), the responsible local authority may dispose of the equipment.

Return etc. of seized equipment

- 5 If in proceedings for a noise offence no order for forfeiture of related equipment is made, the court (whether or not a person is convicted of the offence) may give such directions as to the return, retention or disposal of the equipment by the responsible local authority as it thinks fit.
- 6 (1) Where in the case of any seized equipment no proceedings in which it is related equipment are begun within the period mentioned in paragraph 2(1)(a)—
- (a) the responsible local authority must return the equipment to any person who—
 - (i) appears to them to be the owner of the equipment, and
 - (ii) makes a claim for the return of the equipment within the period mentioned in sub-paragraph (2), and
 - (b) if no such person makes such a claim within that period, the responsible local authority may dispose of the equipment.
- (2) The period referred to in sub-paragraph (1)(a)(ii) is the period of six months beginning with the expiry of the period mentioned in paragraph 2(1)(a).
- (3) The responsible local authority must take reasonable steps to bring to the attention of persons who may be entitled to do so their right to make such a claim.
- (4) Subject to sub-paragraph (6), the responsible local authority is not required to return any seized equipment under sub-paragraph (1)(a) until the person making the claim has paid any such reasonable charges for the seizure, removal and retention of the equipment as the authority may demand.
- (5) If—
- (a) equipment is sold in pursuance of—
 - (i) paragraph 4(6),
 - (ii) directions under paragraph 5, or
 - (iii) this paragraph, and
 - (b) before the expiration of the period of one year beginning with the date on which the equipment is sold any person satisfies the responsible local authority that at the time of its sale he was the owner of the equipment,
- the authority is to pay him any sum by which any proceeds of sale exceed any such reasonable charges for the seizure, removal or retention of the equipment as the authority may demand.
- (6) The responsible local authority cannot demand charges from any person under sub-paragraph (4) or (5) who they are satisfied did not know, and had no reason to suspect, that the equipment was likely to be used in the emission of noise exceeding the level determined under section 5.

Changes to legislation:

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Changes and effects yet to be applied to the whole Act, associated Parts and Chapters:

- [S.I. 2004/690](#) commences (2003 c. 38)
- [S.I. 2006/2006](#) commences (2005 c. 16)
- [S.I. 2006/795](#) commences (2005 c. 16)
- [S.I. 2004/999](#) commences (2003 c. 38)
- [S.I. 2006/2797](#) commences (2005 c. 16. This SI is amended by SI 2007/120)
- [S.I. 2006/768](#) commences (2005 c. 16. This SI is amended by SI 2006/2797)
- [S.I. 2007/3371](#) commences (2005 c. 16)
- Act applied (with modifications) by [2007 c. 2](#)
- Act inserted by [2005 c. 16](#)
- Act repealed by [2005 c. 16](#)
- Act substituted by [2003 c. 38](#)
- Act substituted by [2005 c. 16](#)
- Act substituted for s. 9(4) by [2003 c. 38](#)
- Act text amended by [2003 c. 38](#)
- Act text amended by [2005 c. 16](#)