



AN BILLE UM THORANN 2006
NOISE BILL 2006

Mar a tionscnaíodh
As initiated

ARRANGEMENT OF SECTIONS

Section

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ACTS REFERRED TO

Control of Dogs Act 1986	1986, No. 32
Environmental Protection Agency Act 1992	1992, No. 7
Local Government Act 2001	2001, No. 37
Planning and Development Act 2000	2000, No. 30



AN BILLE UM THORANN 2006
NOISE BILL 2006

BILL

entitled

5 AN ACT TO PROVIDE FOR EFFECTIVE CONTROL OF
NOISE EMITTED FROM VARIOUS SOURCES, POWERS
TO SEIZE OFFENDING EQUIPMENT AND RELATED
MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

10 1.—This Act may be cited as the Noise Act 2006.

Short title.

2.—In this Act—

Definitions.

“noise control officer” refers to an officer of the local authority who
is competent in carrying out the procedures provided for in this Bill
and who has received adequate training in the measurement of noise
15 and matters incidental to the carrying out of their role;

“Noise” and “premises” are to be construed as they appear in the
Environmental Protection Agency Act 1992;

“Local Authority” is to be construed as it appears in the Local
Government Act 2001;

20 “dwelling” means any building, or part of a building, used or
intended to be used as a dwelling, and a reference to noise emitted
from a dwelling will include noise emitted from any garden, yard,
outhouse or other appurtenance belonging to or enjoyed with the
dwelling;

25 “The Minister” refers to the Minister for the Environment, Heritage
and Local Government.

3.—(1) A local authority may, if they receive a complaint of the
kind mentioned in *subsection (2)*, secure that a noise control officer
takes reasonable steps to investigate the complaint.

Complaints of
neighbourhood
noise at night.

30 (2) The kind of complaint referred to is one made by any individ-
ual present in a dwelling (referred to in this Act as “the complain-
ant’s dwelling”) that excessive noise is being emitted from another
dwelling or premises (referred to as “the offending dwelling or

premises”) between the hours of 11.00 p.m. and the following 7.00 a.m.

(3) If the noise control officer is satisfied, in consequence of an investigation under *subsection (1)* that—

- (a) noise is being emitted from the offending dwelling or offending premises, and 5
- (b) the noise, if measured from within the complainant’s dwelling, would or might exceed the permitted level,

he or she may serve a notice under *section 4*.

(4) For the purposes of *subsection (3)*, it is for the noise control officer dealing with the particular case— 10

- (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 15 assess the noise from within or outside the complainant’s dwelling and whether or not to use any device for measuring the noise.

(5) Where the local authority receives a complaint under *subsection (2)* and the offending premises or dwelling is within the area of another local authority, the first local authority may choose to act under this group of sections as if the offending dwelling was within their area. 20

(6) A noise control officer appointed within the relevant local authority shall deal with any such complaints, and may work from a centralized location to deal with several local authority areas within reasonable proximity to each other, or adopt any arrangement as determined by local needs and circumstances which gives adequate protection to the area in question. 25

(7) The powers vested in noise control officers by virtue of this Act operate without prejudice to the power of local authorities and the Environmental Protection Agency to abate matters where a statutory nuisance occurs under sections 106 to 108 of the Environmental Protection Agency Act. 30

(8) Any noise control officer is not personally liable in respect of any act done by him or by the local authority if the act was done in good faith for the purpose of executing powers conferred by, or by virtue, of this Act. 35

Warning notices.

4.—(1) A notice under this section (referred to as a “warning notice”) must— 40

- (a) state that the noise control officer considers—
 - (i) that noise is being emitted from the offending dwelling or premises during night hours, and
 - (ii) that the noise exceeds, or may exceed, the permitted level, as measured from within the complainant’s dwelling, and 45

5 (b) give warning that any person who is responsible for the premises, or the noise emitted from the offending dwelling in the period specified in the notice and which exceeds the permitted level, as measured from within the complainant's dwelling, may be guilty of an offence.

(2) The warning notice will give at least 10 minutes within which the noise must cease.

(3) A warning notice must be served—

10 (a) by delivering it to any person present at or near the dwelling or premises and appearing to the officer to be responsible for the noise, or

(b) if it is not reasonably practicable to identify any person as being so responsible, by leaving it at the offending dwelling or premises.

15 (4) A warning notice must specify the time and location at which it was served.

20 (5) A person shall be deemed responsible for noise emitted from the dwelling or premises if he or she is a person to whose act, default or sufferance the emission of the noise is wholly or partly attributable.

5.—(1) If a warning notice has been served in respect of noise emitted from a dwelling, any person responsible for noise which—

Offence where noise exceeds permitted level after service of notice.

(a) is emitted from the dwelling in the period specified in the notice, and

25 (b) exceeds the permitted level, as measured from within the complainant's dwelling,

is guilty of an offence.

30 (2) It is a defence for a person charged with the offence under this section to show that there was 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 €1,500.

6.—(1) For the purposes of an offence under *section 5*, the permitted level shall be—

Permitted level of noise.

35 (a) 35dB where the underlying noise does not exceed 25dB,

(b) 10dB in excess of the underlying level where the underlying level exceeds 25dB.

40 (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 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 Minister may, from time to time vary the permitted levels under this section by further direction in writing.

Approval of
measuring devices
and evidential
matters.

7.—(1) The Minister may approve the equipment to be used and the manner in which it is to be used.

(2) In proceedings for an offence under *section 5*, a measurement of noise from an approved device used in the approved manner will be admissible as evidence of the level of noise which occurred at the time of the alleged offence. 5

(3) Evidence of the level of noise as outlined in *subsection (2)* may be given in the form of a document signed by the noise control officer and shall outline— 10

(a) the particulars of the measurement and the circumstances in which it was made, and

(b) that the noise complained of was emitted from the dwelling in question, and 15

(c) that the instrument was, at the time of measurement approved in the manner outlined in *subsection (1)* to the best of the noise control officer's knowledge and belief.

(4) A document will not be 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. 20

(5) 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. 25

Fixed penalty
notices.

8.—(1) Where a noise control officer has reason to believe that a person is committing or has just committed an offence under *section 5*, he may give that person a fixed penalty notice, offering him the opportunity of discharging any liability for conviction for that offence by payment of a fixed penalty. 30

(2) A fixed penalty notice may be given to a person— 35

(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 or her, at the offending dwelling or premises.

(3) Where a person is given a fixed penalty notice in respect of such an offence— 40

(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. 45

- (4) 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,
 - 5 (c) the person to whom and the address at which the fixed penalty may be paid,

and any other particulars of the circumstances as are necessary to give reasonable information of the alleged offence.

- 10 (5) Payment may be made to the noise control officer at the relevant local authority and will be considered to have occurred upon receipt of full payment by the noise control officer.

(6) The fixed penalty payable under this section is €200, but may be changed from time to time by the Minister.

- 15 (7) If a fixed penalty notice is given to a person in respect of noise emitted from a dwelling or premises 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 that dwelling during that period, but,
- 20 (b) that person may be convicted of a further offence under *section 5* in respect of noise emitted from the dwelling after the fixed penalty notice is given and before the end of that period.

- 25 (8) The relevant local authority must keep a receipt of any such payment available as evidence as to whether payment occurred or not within the specified period, detailing—

- (a) the amount paid,
- (b) the date on which it was paid, and
- (c) signed by the noise control officer.

- 30 (9) If payment of the fixed penalty does not occur within the specified period, the matter shall proceed to hearing or trial.

- 35 9.—(1) A noise control officer may enter the dwelling form which noise is being or has been emitted, and may seize and remove any equipment which it appears to him is being used in the emission of the noise, where he or she has reason to believe that— Powers to search and seize.

- (a) a warning notice has been served in respect of noise emitted from a dwelling, and
- 40 (b) at any time in the period specified in the notice, noise emitted from the dwelling or premises has exceeded the permitted level, as measured from within the complainant's dwelling.

(2) A person exercising his power under *subsection (1)* must produce his authority, if he is required to do so.

(3) A person who enters the dwelling or premises under *subsection (1)* 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.

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Complaints of
neighbourhood
noise during the
day.

10.—For complaints received between 7.00 a.m. and 11.00 p.m., a noise control officer shall carry out the local authority's function provided for under section 107 of the Environmental Protection Agency Act and the Environmental Protection Agency's function under that section should they so agree.

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Intruder alarms.

11.—(1) An alarm device externally fitted to a building may be activated externally for a minimum of 90 seconds and a maximum of 15 minutes in accordance with European Standard EN 50131/1/1997.

(2) The noise control officer shall retain a list of alarmed premises and the monitoring body supervising every such alarm.

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(3) It shall be the responsibility of every monitoring body to ensure an alarm operates in accordance with this standard and is registered with the relevant local authority within ten working days of its installation.

(4) External intruder alarms which remain activated after the 15 minute maximum will be considered unmonitored and may be removed on foot of a complaint to a noise control officer in order to cease the noise.

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(5) In the event that the Standard EN 50131/1/1997 is revised, the Minister may make provision that the revised standard is that applicable in this context.

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(6) An alarm device fitted to a vehicle may be activated for a minimum of 15 seconds and a maximum of 90 seconds.

(7) Where an alarm fitted to a vehicle remains activated after the 90 second maximum, a noise control officer, on foot of a complaint may arrange for the said vehicle to be towed.

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(8) A release fee of €100 is payable to the relevant local authority upon retrieving the said vehicle.

(9) Following payment to the relevant local authority, the owner of the vehicle may appeal the fine, and where a reasonable explanation can be given for non-compliance with the 90-second maximum, the local authority shall return the fine to the owner.

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Noise caused by
barking dogs.

12.—(1) Where the noise complained of is caused by the excessive barking of a dog, a noise control officer may investigate the dwelling or premises in question.

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(2) The noise control officer may issue the occupier of that premises with a warning, stating that further violations may result in a fine being imposed should the problem not cease where he is of the opinion that a noise nuisance has or is occurring.

(3) Where the local authority receives 2 or more complaints regarding the same dwelling or premises within a two week period from the issuing of the notice, a fine of €100 shall be imposed.

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(4) Should the problem persist after this period, a person may make a complaint to the District Court in the manner set down in section 25(2) of the Control of Dogs Act 1986.

5 **13.—**(1) Where a local authority grants permission for an open- Noise from open air
air event with 5,000 people or more in attendance, governed by s. events.
229 Planning and Development (Licensing of Outdoor Events)
Regulations, 2001, it shall consider the impact on environmental
noise on the surrounding areas under s.231(4)(d) of those
regulations.

10 (2) Where an impact on noise levels is likely to occur, the local
authority shall specifically include in the planning permission a speci-
fied period following the event within which noise must cease.

15 (3) Where noise exceeds the specified period, in compliance with
which the licence was granted, either or both of the individuals
who—

 (a) organises, promotes, holds or is otherwise materially
involved in the organisation of an event to which this
section applies, or

20 (b) is in control of land on which an event to which this section
applies is held,

shall be deemed to be the person responsible for such noise and may
duly be served with a fixed penalty notice by the noise control officer
in the manner set out in s.2.

25 (4) Where the noise does not cease within what the noise control
officer deems to be a reasonable time of the period specified in the
notice, the persons outlined in *subsection (3)* shall be guilty of an
offence and liable on summary conviction to a fine of an amount not
exceeding €3,000.

30 **14.—**(1) Where conditions have been attached to a planning per- Road and
mission outlining limits to the volume and duration of noise to be construction noise.
emitted from a site during construction, a noise control officer is
empowered to investigate complaints that such conditions have
been violated.

35 (2) Where noise occurs in excess of these limits, a noise control
officer may serve a warning notice as outlined in *section 4* on the
person responsible for making such noise.

 (3) Where the noise does not cease within the period specified,
an offence as outlined in *section 5* shall be deemed to have occurred.

40 (4) The National Roads Authority ‘Guidelines for the Treatment
of Noise and Vibration in National Road Schemes’ shall be instruc-
tive with regard to noise levels during the construction of national
road schemes.