

**Department for Environment, Food and Rural Affairs**

**Welsh Government**

# **Consultation on Repeal of sections 63 to 67 of the Control of Pollution Act 1974**

## **Abolishing Noise Abatement Zones**

### **Summary of Responses**

**March 2013**

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# Background

1. The Government committed to removing the legislation underlying Noise Abatement Zones (NAZs) under the Red Tape Challenge Environment theme, subject to consultation. The Red Tape Challenge aims to remove unnecessary and burdensome regulation from the Statute book.
2. Sections 63 to 67 of the Control of Pollution Act 1974 give local authorities the power to implement NAZs in England, Wales and Scotland. These are areas in which current sound levels are established for classified premises and then used as reference levels for the control of noise in that area. The legislation sets out how the NAZs should be established and implemented.
3. NAZs were introduced to prevent deterioration in environmental noise levels and to achieve reductions in noise levels wherever practicable. They were intended to provide a means to control creeping background sound levels and to tackle unacceptable noise environments resulting from multiple sources of noise. However, it appears establishing and maintaining NAZs proved onerous for local authorities.
4. Desk-based analysis in 2011 and more recent informal direct contact with local authorities suggests that a total of 86 NAZs have been established since the legislation was introduced nearly 40 years ago, of which only 2 remain in active use. Our analysis also suggests that only 5 NAZs have been revoked while the residual 79 NAZs (76 in England and 3 in Wales) remain in existence without enforcement powers being used (for brevity, these are described in this document as 'inactive' NAZs).
5. The initial feedback also indicated that 'inactive' NAZs are not a significant ongoing burden for local authorities. However, they are flagged in property transaction searches, thereby potentially triggering queries to the local authority.
6. NAZs may be revoked under section 63 of the Control of Pollution Act 1974 but no provision is made for 'inactive' NAZs. Local authorities delay formally revoking 'inactive' NAZs because of the costs and personnel resource it would absorb.
7. Overall, our analysis suggested that the legislation is little used, is not providing a significant benefit in England and Wales, may be causing uncertainty for businesses in 'inactive' NAZs and there would be benefits for local authorities in repealing it.
8. Repealing NAZs via primary legislation presents a resource-efficient way of removing the burden on local authorities of individually revoking their NAZs.
9. Defra and the Welsh Government therefore formally consulted on repealing the relevant sections of the Control of Pollution Act 1974 to check that this would not

cause any significant unexpected negative consequences and, where possible, confirm our initial evidence.

10. The consultation only applied to England and Wales and was open for 5 weeks, closing on the 14<sup>th</sup> January 2013. Further details of the consultation may be found at <http://www.defra.gov.uk/consult/2012/12/07/noise-abatement-zones/>

11. It is thought that no NAZs exist in Scotland. The Scottish Government may review this legislation separately as part of its Better Regulation Agenda and therefore Scotland was outside the scope of the consultation.

## Summary of responses

12. The consultation received 6 responses:

- 4 from local authorities
- 2 from environmental health bodies

13. Of the two options presented in the consultation, Option 1, (make no change) was not supported by any of the respondents. Respondents felt the legislation is 'cumbersome and time-consuming' and that 'there seems little point in retaining these largely redundant provisions'.

14. Option 2 (abolish NAZs) was supported by all respondents, although for one, support was inferred rather than clearly stated. Reasons given were that it would remove inactive NAZs and that NAZs are 'obsolete' and 'of limited value'.

15. No alternative figures or estimates to those in the Impact Assessment were provided. Two respondents fully agreed with the costs and benefits but two other respondents only partially agreed, differing in their views over the costs associated with 'inactive' NAZs. One felt there are no operational costs for the local authority when enforcement powers are not being used. Conversely another respondent felt there are additional costs for local authorities once a NAZ becomes operative, as they are required to measure the noise levels emanating from premises and keep a public record (the Impact Assessment only recognised these management costs for active NAZs). The conflicting views perhaps illustrate the confusion that may arise with 'inactive' NAZs, which the legislation makes no provision for.

16. One important assumption in the consultation stage Impact Assessment was that there are 10 premises in the average NAZ, rather than an earlier estimate of 50 to 150. Although the number of responses was very limited, this assumption was broadly supported, with the number of premises ranging between 0 and approximately 20.

## Government response

17. The responses, although very limited in number, unanimously support the repeal of sections 63-67 of Control of Pollution Act (1974) and the abolition of Noise Abatement Zones. No unexpected negative consequences were highlighted in the consultation responses.
18. This concurs with initial feedback from local authorities in October 2012, where repeal was welcomed and 44 of the 47 local authorities said it would cause them no operational difficulties.
19. No revisions have been made to the Impact Assessment in light of the responses. The costs and benefits to business have been examined more closely, with the conclusion that repeal should result in a small net benefit to business. There is uncertainty over the level of local authority management activity that continues when premises are covered by an 'inactive' NAZ but further research would be disproportionate. The Impact Assessment conservatively assumes only property search costs are borne, which were flagged in the recent feedback from local authorities.
20. Consequently, we have decided to go ahead with our proposal to repeal sections 63 to 67 of the Control of Pollution Act (1974) and abolish Noise Abatement Zones in England and Wales at the earliest practical legislative opportunity, which will remove this unnecessary and potentially burdensome regulation from the Statute book.

# List of respondents

## Local Authorities:

- Middlesbrough Council
- Norwich City Council
- Salford City Council
- South Gloucestershire Council

## Environmental Health Professional Body:

- Chartered Institute of Environmental Health

## Local Authority body:

- Pollution Control Technical Panel of Wales Heads of Environmental Health

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This document/publication is also available on our website at:

<http://www.defra.gov.uk/consult/closed/#withresponse>

Any enquiries regarding this document/publication should be sent to us at:

[noise@defra.gsi.gov.uk](mailto:noise@defra.gsi.gov.uk)