

<b>Title:</b> Repeal of s63- 67 of the Control of Pollution Act 1974 (NAZs) <b>IA No:</b> DEFRA 1484  <b>Lead department or agency:</b> Defra  <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>
	<b>Date:</b> 06/03/2013
	<b>Stage:</b> Final
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Primary legislation
	<b>Contact for enquiries:</b> Yvette Hood, Noise and Nuisance team 0207 238 4854

<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> RPC Opinion Status
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£0.313m	£0.032m	£0.032m	Yes   OUT

**What is the problem under consideration? Why is government intervention necessary?**

Analysis suggests that just 86 Noise Abatement Zones (NAZs) have been set up since the legislation was introduced nearly 40 years ago. It appears NAZs have proved onerous to establish and it is thought only 2 remain in use, each covering a single business. Due to costs, only 5 have been revoked while enforcement powers are not being used in the remaining 79 (for brevity called 'inactive'), which may cause burdens and uncertainty for business. The legislation appears to be little used and providing little benefit. Repeal would remove the need to revoke individual NAZs, saving local authorities money and providing benefits for businesses.

**What are the policy objectives and the intended effects?**

As part of the Red Tape Challenge, the objective is to remove unnecessary legislation, especially where it is causing a burden, uncertainty or confusion. Removing this unnecessary legislation would reduce burdens for Local Authorities, while also providing direct benefits and greater clarity for premises covered by 'inactive' NAZs in England and Wales.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Option 1 (Baseline): Retain sections 63 to 67 of the Control of Pollution Act (1974) i.e. make no change  
 Option 2: Repeal sections 63 to 67 of the Control of Pollution Act (1974) for England and Wales i.e abolish Noise Abatement Zones.

The preferred option in the consultation was Option 2, which was supported by all the respondents to the consultation. Evidence suggests the legislation is not needed and repeal could potentially save local authorities approximately £0.3m by avoiding the need to individually revoke inactive NAZs and would also provide benefits to properties covered by 'inactive' NAZs.

<b>Will the policy be reviewed?</b> It will not be reviewed. <b>If applicable, set review date:</b> Month/Year					
Does implementation go beyond minimum EU requirements?			Yes / No / N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> Yes/No	<b>&lt; 20</b> Yes/No	<b>Small</b> Yes/No	<b>Medium</b> Yes/No	<b>Large</b> Yes/No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b>		<b>Non-traded:</b>

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.***

Signed by the responsible SELECT SIGNATORY: \_\_\_\_\_ Date: \_\_\_\_\_

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Baseline: Retain s63-67 CoPA (make no change)

## FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			

### Description and scale of key monetised costs by 'main affected groups'

The current situation is assumed to continue i.e. 2 NAZs are actively managed by local authorities while in the remaining 79 NAZs across England and Wales, local authorities just respond to legal queries arising out of property transaction searches. Local authorities at some stage incur the costs of revoking the 79 NAZs no longer required. Businesses may incur costs following-up searches during property transactions in 79 'inactive' NAZs.

### Other key non-monetised costs by 'main affected groups'

There may be uncertainty and confusion for businesses in 'inactive' NAZs e.g if they wish to make changes that may increase the noise level or a risk the NAZ may become 'active' again. This may be a possible barrier to growth.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			

### Description and scale of key monetised benefits by 'main affected groups'

Benefit assumed to continue for one company through reduced noise survey costs as part of planning application process. This is considered an unintended benefit of the legislation.

### Other key non-monetised benefits by 'main affected groups'

Increased certainty for a further single business in Great Britain in knowing the noise level they need to work to when planning developments.  
New NAZs could be established (although this appears unlikely as none are believed to have been formed in the last 10 years).

<b>Key assumptions/sensitivities/risks</b>	<b>Discount rate (%)</b>	
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## BUSINESS ASSESSMENT (Option 1)

<b>Direct impact on business (Equivalent Annual) £m:</b>			<b>In scope of OIOO?</b>	<b>Measure qualifies as</b>
Costs: N/A	Benefits: N/A	Net: N/A	No	NA

# Summary: Analysis & Evidence

# Policy Option 2

**Description:** Option 2: Repeal s63-67 CoPa '74 for England and Wales (abolish Noise Abatement Zones)

## FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2012	Time Period Years 1	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: £0.313m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			£0.002m

### Description and scale of key monetised costs by 'main affected groups'

Additional planning application costs have been assumed for one business in England and Wales of up to £2000, due to increased noise survey work. One planning application has been assumed in the year under consideration (although this is likely to overstate the frequency) and thus a £0.002m annual lost benefit to business.

### Other key non-monetised costs by 'main affected groups'

There may be less certainty for a further single business in England and Wales, although it is understood that this could be overcome via a planning condition.  
There may be less flexibility for local authorities in England and Wales dealing with noise problems due to the removal of powers to implement NAZs, although take-up have been very limited since the legislation came into force.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			£0.315m

### Description and scale of key monetised benefits by 'main affected groups'

Removal of costs to local authorities for eventually revoking all NAZs in existence in England and Wales. The benefit is assumed to cover 79 'inactive' NAZs to produce an estimated saving of £0.269m. Savings for local authorities in managing NAZs which have been estimated at £0.012m pa. Avoided property search costs for business during property transactions, estimated at £0.034m.

### Other key non-monetised benefits by 'main affected groups'

Businesses in 'inactive' NAZs will be freed from NAZ regulation, which may provide greater certainty e.g. that enforcement powers will not be used in future.

<b>Key assumptions/sensitivities/risks</b>	<b>Discount rate (%)</b>	3.5
<p>Costs of revoking a NAZ and when this would occur is the major sensitivity. For simplicity, it has been assumed that all NAZs would have been revoked at the end of year 1. Number of properties in NAZs (assumed to be 10 per NAZ) influences management costs and avoided costs of revoking NAZs. A risk may be that repeal would prevent future use of NAZs, should circumstances change in a way that increases their appeal.</p>		

## BUSINESS ASSESSMENT (Option 2)

<b>Direct impact on business (Equivalent Annual) £m:</b>	<b>In scope of OIOO?</b>	<b>Measure qualifies as</b>
Costs: 0.002	Yes	OUT
Benefits: 0.034		
Net: 0.032		

# Evidence Base

## Policy objective, problem under consideration and rationale for intervention

The Government committed to removing the legislation underlying 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.

Sections 63 to 67 of the Control of Pollution Act 1974 give local authorities the power to implement Noise Abatement Zones (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.

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.

The powers appear to have been little used and feedback suggests setting up a NAZ is onerous and costly for local authorities, making them unpopular. Alternative noise management tools and other legislation have also provided options that local authorities have found more useful. However, only a small proportion of NAZs have been revoked, with the majority remaining in place without enforcement powers being used (for brevity, described in this document as 'inactive'). It is understood that local authorities delay revoking NAZs due to the costs and personnel this would absorb versus the small ongoing burden of these 'inactive' NAZs on local authorities.

## Options considered

Against a baseline option to make no change (Option 1: baseline – retain the legislation), a single option was considered, which is to repeal sections 63 to 67 of the Control of Pollution Act (1974) (Option 2 – repeal s63-67 CoPA '74) for England and Wales. This would abolish all NAZs in England and Wales and prevent new ones being established.

## Evidence gathered and technical advisor cost estimates

Desk-based analysis in 2011, which built on earlier work by BRE in 1992, suggested that there were approximately 86 NAZs in 53 local authorities. Geographically these were split as follows: 83 NAZs in England (in 51 local authorities), 3 NAZs in Wales (in 2 local authorities) and none in Scotland. The powers to introduce NAZs did not extend to Northern Ireland. Nearly half (42 of the 86 NAZs) were believed to be 'inactive' (which is used here for brevity to mean that enforcement powers are not being used) or revoked, whilst the status of 29 NAZs was unknown.

The 86 NAZs had mainly been established in the 1970s and 1980s, with the most recent NAZ established in 1999, indicating that not only has interest in NAZs amongst local authorities been limited, there has been a clear fall-off in interest (see Table 1) since the legislation was introduced.

**TABLE 1:** Number of NAZs introduced and % of total NAZs by decade.

	1974-1979	1980-1989	1990-1999	2000-2009	2010-2011
Number NAZs designated	39	38	9	0	0
% total NAZ (86)	45%	44%	11%	0%	0%

This suggested that the legislation was not meeting its objectives and was very little used and therefore a suitable candidate for repeal as part of the Government's Red Tape Challenge. When considered alongside anecdotal feedback in 1992 that suggested that NAZs are onerous for local authorities to implement, Defra proposed that this legislation could be repealed.

Recent informal contact with local authorities in England in October 2012 to check the results of the desk-based study suggested that only 2 NAZs remain active in England, with 5 revoked and 76 'inactive'. The number of local authorities with NAZs is believed to be 49. Land use change (e.g. switching to residential use, factory closures) and alternative legislation were cited as a cause for the decline. Three further NAZs identified in Wales are also believed to be 'inactive'. The feedback suggested that the two NAZs in active use cover just one premises each but were felt to provide benefits to these businesses, although for one of the businesses, it is understood that the benefit could equally be provided by a planning condition.

Feedback has also indicated that NAZs are not a significant ongoing burden for local authorities but NAZs are flagged in property transaction searches, triggering legal queries. Local authorities delay formally revoking inactive NAZs by the costs and personnel resource it would absorb.

Local authorities did not anticipate repeal would cause any problems and generally welcomed the idea, as it would remove the burden on local authorities in revoking NAZs.

Although local authorities could not provide cost estimates, Defra's technical advisors on noise, Bureau Veritas have used their expert judgement to provide some provisional estimates on which to base this Impact Assessment.

#### Cost estimates

BRE'S 1992 work indicated that the number of premises covered by a NAZ could be quite varied – from zero to 350 premises. Anecdotal feedback suggests that the early NAZs covered larger areas and more premises (say 100-250 premises) but later ones were smaller (covering say 50-100 premises). The number of premises is important when estimating costs as a large proportion of the costs Local Authorities bear is related to the work involved in setting-up the Noise Register and serving notices on the premises concerned and it is also relevant to the costs of revoking a NAZ. While a range of 50 to 150 premises and a central estimate of 100 premises per NAZ may appear appropriate given their size when established, the recent informal contact with local authorities suggests otherwise. This indicated significant land-use changes that have resulted in the NAZs covering far fewer premises, so a central estimate of 100 appears likely to overstate the costs and skew the analysis. To be conservative, just 10 premises per 'inactive' NAZ have been assumed, although it is recognised that this may *understate* the avoided costs for Option 2. Responses to the consultation were limited but broadly support the assumption of 10 premises per NAZ, given the number reported ranged between zero and approximately 20. For active NAZs, it has been assumed that there are two, each covering one premises as per the informal feedback in October 2012. Both of these assumptions have been applied to the costs per premises as provided by Defra's technical advisors on noise, Bureau Veritas (see Table 2).

**Table 2 – monetised annual costs estimates for local authorities of NAZs**

Activity	Sub-task	LA time (hours) NAZ with 1 premises	Cost (£) NAZ with 1 premises	Cost (£) NAZ with 10 premises
Setting up a NAZ	Drafting Order	4.00	203	203
	Newspaper adverts	-	666	666
	Creation of the Noise Level Register	22.50	1139	1139x10x0.75 = 8544
	Service of Notice on each property detailing their noise record from the Noise Level Register	5.00	253	2532
	Sub-total		2261	11,944
Managing an active NAZ	Update of Noise Level Register (incl negotiation with company and neighbours)	20.00	1013	Not applicable
	Responding to property searches from within NAZ	0.25	13	
	Sub-total		1026	
Managing an inactive NAZ	Responding to property searches from within NAZ	0.25	13	130
	Sub-total		13	130
Revoking a NAZ	Serving a Notice on each premises of the appropriate category in the NAZ	5.00	253	2530
	Drafting Order	4.00	203	203
	Newspaper adverts	-	666	666
	Sub-total		1,122	3,399

### Monetised and non-monetised costs and benefits for each option considered

#### **Option 1 (baseline) – Retain s63-67 CoPA '74 i.e. make no change**

The current situation is assumed to continue i.e. based on the best current information this means 2 NAZs are actively managed by local authorities while in the remaining 79 NAZs across England and Wales, local authorities just respond to legal queries arising out of property transaction searches. NAZs may be revoked under sections 63 of the Control of Pollution Act 1974 but no provision is made for 'inactive' NAZs so, at some stage, local authorities are assumed to incur the costs of revoking the 79 NAZs no longer required. Potential costs for businesses include following up property transaction search queries in the 79 NAZs where enforcement powers are not being used. Additionally, there may be confusion and uncertainty for businesses in the 79 'inactive' NAZs where enforcement powers are not being used e.g. if they wish to make changes that may increase the noise level above the level in the Noise Level Register or a risk the NAZ may become 'active' again. This uncertainty could be a potential barrier to growth.

Against this, it is assumed benefits continue for two businesses covered by the two NAZs in active use. These are understood to include reduced noise survey work costs in planning applications (considered to be an unintended benefit of the legislation) and the benefit of clarity of the noise level to work to. Local authorities would still be able to utilise powers provided

under sections 63 to 67 of CoPA 1974 to establish new Noise Abatement Zones, should they so wish.

## **Option 2 – Repeal s63-67 CoPA '74, which would automatically abolish all existing NAZs**

### **Costs**

It is estimated there would be a cost to a single business of approximately £0.002m pa and a non-monetised cost to a further business (clarity of the noise level to work to), which it is understood could be overcome via a planning condition. The £0.002m pa direct cost to the business assumes one planning application is made every year. It is not known how often a planning application is submitted so, to be conservative, an assumption of once a year has been made although this is likely to overstate the frequency.

There may be small administrative costs to local authorities if they have to update their information systems but this is assumed to be trivial.

A further possible cost may be that repeal would prevent future use of NAZs should circumstances change and their appeal increase (e.g. for cumulative effects issues or due to legislative changes such as ones to the licensing regime) although take-up has been very limited so far.

### **Benefits**

This would avoid the costs of revoking the 79 'inactive' NAZs across England and Wales currently believed to be in existence. This saving is estimated to be worth approximately £0.269m (79 x £3,399). For simplicity, it has been assumed that all NAZs would be revoked at the end of year in the baseline. In reality it could take longer but without detailed information from local authorities this simplifying assumption is considered appropriate given the scale of the impacts. A one-year timescale has also been chosen to better communicate the costs and benefits involved.

NAZ management costs would be avoided, which would result in a saving for local authorities. For two active NAZs (each covering 1 premises) an estimated cost saving of £0.002m pa (2x £1026) has been assumed plus a saving for the 79 'inactive' NAZs across England and Wales, estimated at £0.010m pa (79 x £130). For simplicity, it has been assumed that in the baseline these costs would have been incurred for 12 months before the NAZs were revoked, while the repeal would happen at the start of the year.

There is uncertainty over the level of local authority management activity that continues when premises are covered by an 'inactive' NAZ and the consultation responses suggested some divergence in approach. It is not considered proportionate to research this issue further and the Impact Assessment conservatively assumes only property search costs are borne, which were flagged in our informal contact with local authorities.

Businesses would also benefit from avoiding the costs of legal queries triggered during property transaction searches. Given the assumption of 10 premises per NAZ, it is estimated that approximately 790 premises could potentially benefit from repeal. If property transactions occur every 5 years (which was the assumption for local authority costs tested at consultation), this implies 20% of these premises would be affected each year. Together with an estimate of £214 for the cost of each search (based on hourly rates for solicitors), the estimated direct annual benefit to business is £0.034m (790 x 0.2 x £214).

It is expected there may also be non-monetised benefits for businesses within 'inactive' NAZs, where there would be greater clarity.

Another potential non-monetised benefit is that repeal would prevent other local authorities incurring the costs of setting up NAZs, when other have found them of little benefit and the costs disproportionate.

Overall the benefits are estimated to be £0.315m, assuming that NAZs would be revoked after 12 months in the baseline. This assumption was tested to see what the impact would be if NAZs were instead revoked after ten years. The avoided cost for local authorities of revoking their NAZs is reduced to £0.019m in present value terms but their avoided costs of managing NAZs are now higher (accruing for ten years rather than one). Similarly the avoided search costs for businesses accrue for ten years. Overall the present value of the benefits increases to £0.596m while the costs increase to £0.019m.

The net present value is therefore £0.577m when NAZs are assumed to be revoked in the tenth year in the baseline, compared to £0.313m when they are revoked in the first year. Given the uncertainty around when NAZs would be revoked, using the simplifying assumption that NAZs would be revoked after one year produces a conservative estimate of the net impact of the repeal.

**There appears to be a net benefit to the economy in the region of £0.313m with Option 2.**

#### Justification for level of analysis used in Impact Assessment

The costs and benefits involved are very small in the context of England and Wales, few businesses are affected and the impacts relatively small for the individual businesses and local authorities affected. Gathering further data to increase the robustness of these estimates would be resource consuming and is considered disproportionate.

#### Risks and Assumptions

##### Assumptions:

The options considered are assumed to apply to both England and Wales.

Benefits of scale for Noise Register tasks reduces pro-rata costs by 25% when the number of premises increase.

Cost of creating/updating Noise Level Register is based upon discussions with a local authority who has carried out these tasks.

Cost of Officer time taken from Defra's "Consultation on Local Authority Environmental Regulation of Industrial Plant 2009/10" and is £50.63 per hour.

The cost of complaints made about the properties in the NAZ have not been considered, as these complaints would need to be investigated regardless of whether NAZ was in existence.

Cost of advert in London Gazette from London Gazette Website (Accessed 16/10/12)

Cost of adverts in Local Paper estimated from discussions with the Caerphilly Campaign. (Discussed 16/10/12)

In managing a NAZ it is assumed that each activity occurs once every 5 years.

Additional property search costs for business are based on solicitors' hourly guideline rates for 2010 (Judiciary of England and Wales)

<http://www.judiciary.gov.uk/Resources/JCO/Documents/Guidance/guideline-hourly-rates-2010-v2.pdf>  
(accessed 06/03/13)

All costs are exclusive of VAT.

##### Risks:

Repeal would prevent local authorities establishing new NAZs should they wish to. Although this appears unlikely (given their unpopularity and the costs involved in doing so) removing a potential noise management tool may result in less flexibility for local authorities in dealing with noise problems e.g. issues of cumulative effects or changes in legislation such as changes to

entertainment licensing. It is not considered good practice to retain legislation 'just in case' and regular review of existing policy should identify new issues, so this risk, on its own, would not justify retaining unnecessary legislation.

#### Direct costs and benefits to business (following OIOO methodology)

For the preferred option (Option 2- repeal), there is an overall net benefit to business of £0.032m. This consists of the benefit to businesses from avoiding the costs of legal queries triggered during property transactions searches in 'inactive' NAZs, estimated at £0.034m pa, less the cost from increased survey costs for a business in an active NAZ, which is estimated at £0.002m pa. It is also expected that there will be direct benefits to businesses located (or thinking of locating) in currently inactive NAZs, in terms of having a clarified regulatory landscape. These benefits have not been monetised.

#### Summary and preferred option with description of implementation plan.

The costs and benefits involved are very small, although the costs of revoking NAZs where enforcement powers are not being used may have been understated in an attempt to take a conservative approach. Nonetheless, initial work suggests that this legislation is little used, is not providing a significant benefit in England and Wales, may be causing uncertainty and costs for businesses in NAZs where enforcement powers are not currently used and there would be benefits for local authorities in repealing it.

Despite the small size of the impacts in a national context, it appears that local authorities would appreciate repeal and repealing the legislation via primary legislation presents a resource-efficient opportunity to do this and remove the burden on local authorities of individually revoking their NAZs.

The preferred option is therefore to repeal sections 63 to 67 of the Control of Pollution Act (1974) for England and Wales.

Scotland may consider this legislation separately as part of its own Better Regulation Agenda and is outside the scope of this consultation and Impact Assessment