

Queensland



NOISE ABATEMENT ACT 1978

**Reprinted as in force on 3 May 1996
(includes amendments up to Act No. 103 of 1989)**

Reprint No. 1

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Information about this reprint

This Act is reprinted as at 3 May 1996. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (pt 4, div 2)
- update references (pt 4, div 3)
- express gender specific provisions in a way consistent with current drafting practice (s 24)
- use different spelling consistent with current drafting practice (s 26(2))
- use standard punctuation consistent with current drafting practice (s 27)
- use conjunctives and disjunctives consistent with current drafting practice (s 28)
- use expressions consistent with current drafting practice (s 29)
- reorder other provisions consistent with current drafting practice (s 30A)
- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (ss 36, 37, 38, 39 and 40)
- omit the enacting words (s 42A)
- number and renumber certain provisions and references (s 43)
- make all necessary consequential amendments (s 7(1)(k)).

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in the reprint, including—**
 - **table of changed names and titles**
 - **table of changed citations and remade laws**
 - **table of obsolete and redundant provisions**
 - **table of renumbered provisions.**

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NOISE ABATEMENT ACT 1978

[as amended by all amendments that commenced on or before 3 May 1996]

An Act to provide for the abatement of excessive noise and for related purposes

PART 1—PRELIMINARY

Citation

1. This Act may be cited as the *Noise Abatement Act 1978*.

Application of Act excluded or restricted in certain cases

- 4.(1) This Act does not apply in respect of—
 - (a) noise emitted in the course of using premises for any purpose of agriculture if it is necessary to the attainment of that purpose having regard to seasonal requirements in relation to that purpose;
 - (aa) noise emitted in the course of using premises for any purpose of animal husbandry if it is necessary to the attainment of that purpose;
 - (b) noise emitted in the course of operating a public utility undertaking if it is necessary to the ordinary operation of the undertaking to emit noise of the nature and to the degree of the noise so emitted;
 - (c) noise emitted from licensed premises within the meaning of the *Liquor Act 1992* other than noise emitted by means of an audible alarm system;
 - (d) noise emitted by the ringing of bells or the operation of carillons associated with the conduct of religious activities;

- (e) noise emitted by or associated with the operation of aircraft including noise emitted in the course of the maintenance, repair or testing of aircraft engines.

(2) Subject to subsection (1), this Act, other than a provision that would make the Crown liable as for an offence, extends to and binds the Crown in right of the State.

Relation of Act to other Acts

5.(1) This Act and any order or regulation made under this Act and any licence granted under this Act shall be in addition to and not in substitution for any other Act or any order or regulation made thereunder or any licence granted thereunder.

(2) Where any provision of this Act or of an order or regulation made under this Act or any licence granted under this Act is inconsistent with any provision of any other Act or of an order or regulation made thereunder or any licence granted thereunder the former shall prevail and the latter shall, to the extent of the inconsistency, be inoperative.

Interpretation

6.(1) In this Act—

“**abate**” includes prevent, reduce, eliminate and control including control by a method designed to minimise the effects of noise.

“**advisory council**” has the same meaning as it has in the *State Environment Act 1988*, section 4.

“**agriculture**” means the growing and harvesting of grains, fruit, vegetables and other crops.

“**aircraft**” means any machine for flying and includes a helicopter.

“**animal husbandry**” means the keeping of animals (other than dogs, horses and poultry) for the purpose of making use of the produce thereof.

“**audible alarm system**” means any device, whether fixed or movable, which operates or is designed to operate so as to activate an audible alarm upon contact being made with the premises or any part thereof

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on which the system is situated and includes any apparatus or device with which the system is mechanically or electrically connected.

“chief executive” has the same meaning as it has in the *State Environment Act 1988*.

“commercial premises” means premises or any part thereof—

- (a) that are or will be ordinarily used as a business office or for business or commercial purposes; or
- (b) that are declared by order in council to be commercial premises for the purposes of this Act.

“director” has the same meaning as it has in the *State Environment Act 1988*.

“excessive noise” means—

- (a) any noise that is prescribed under this Act to be excessive noise or, where not so prescribed either at all or in respect of a particular noise, that is considered to be excessive noise in the opinion of any person authorised by or under this Act to form such an opinion, either by reason of the level of such noise or the nature thereof; and
- (b) in relation to noise of a description such that its abatement or regulation, when excessive, is by this Act entrusted to local governments—any noise that is prescribed by a local law of a local government to be excessive noise or, where not so prescribed either at all or in respect of a particular noise, that is considered to be excessive noise in the opinion of any person authorised by a local law of a local government to form such an opinion, either by reason of the level of such noise or the nature thereof.

“industrial premises” means premises or any part thereof that are or will be ordinarily used for industrial purposes but does not include premises which are being used solely in connection with the erection, demolition or renovation of a single residential unit or 2 residential units.

“licence” means a valid and unexpired licence issued under this Act but does not include a temporary licence issued under section 26A.

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“motor vehicle” means a motor vehicle within the meaning of the *Traffic Act 1949*.

“noise” means any sound capable of prejudicially affecting the health of or occasioning annoyance, distress or irritation to any person.

“noise abatement order” means a noise abatement order issued by the chief executive pursuant to section 16.

“notice” means a noise abatement notice issued pursuant to part 3.

“occupier” includes—

- (a) in relation to any premises—the person in occupation or control of the premises or, if there is no person in occupation or control, the person entitled to possession thereof;
- (b) in relation to any part of premises in which different parts are occupied by different persons—the person in occupation or control of that part or, if there is no person in occupation or control, the person entitled to possession of that part.

“open-air concert” means a presentation of public entertainment at a venue such that the performer or performers and the audience, or either of them, is not or are not within a building completely enclosed by walls and a roof.

“premises” includes land on whatever tenure held and any building or structure.

“public meeting” means a meeting lawfully held for a lawful purpose and for the furtherance or discussion in good faith of a matter of public concern or for the advocacy of the candidature of any person for public office, whether the meeting is held in the open air or in a building and whether admission to it is open or restricted.

“public utility undertaking” means any work, service or other activity—

- (a) in connection with the provision of ambulance, police or firefighting services; or
- (b) in the operation of rolling stock in connection with the provision of public railway services; or
- (c) determined by the Governor in Council by order in council to be a public utility undertaking for the purposes of this Act.

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“residential premises” means any premises which or any part of which are ordinarily used or which are so designed or equipped that they are capable of being used for human habitation.

“road” means a road within the meaning of the *Traffic Act 1949*.

“sound” means any vibration capable of manifesting itself through the response of the faculty of hearing in any person or animal.

(2) Where for the purposes of this Act an opinion is to be formed as to whether a noise is excessive noise regard shall be had in the formation of an opinion on the question to such of the following matters as are assessable by the person required to form the opinion and as are, in the person’s opinion, relevant—

- (a) the sound pressure level of the noise;
- (b) the type and characteristics of the noise and in particular whether it is a continuous noise at a steady level or whether it is of a fluctuating, intermittent or impulsive nature;
- (c) the frequency components associated with the noise;
- (d) the degree of interference that the noise is likely to cause to the conduct of activities ordinarily carried on on premises other than those from which the noise is emitted;
- (e) the nature of the lawful uses permitted for premises in the neighbourhood of the premises from which the noise is emitted and the dates of establishment of particular lawful uses;
- (f) the topographical features of the area in which are situated the premises from which the noise is emitted;
- (g) the number of complaints received concerning the alleged excessive noise;
- (h) other noises ordinarily present in the neighbourhood of the premises from which the noise is emitted;
- (i) if the complaint on which the person required to form the opinion is acting has been made by an owner or occupier of premises who has become such owner or occupier at a date subsequent to the date when the noise complained of first came to be emitted—the action taken in relation to such premises to limit the effect of noise emitted from other premises in the neighbourhood.

PART 2—ADMINISTRATION

Authorisation of local government officers

7A. If by delegation made under this Act a local government acquires any function, authority, duty, power or discretion such local government may authorise any of its officers to perform or exercise the same on its behalf and any performance or exercise thereof by such authorised officer shall have force and effect as if it were by the local government.

PART 3—ABATEMENT OF EXCESSIVE NOISE FROM COMMERCIAL AND INDUSTRIAL PREMISES

Division 1—General

Application of part

8.(1) This part applies in respect of the abatement of excessive noise emitted from commercial or industrial premises.

(2) For the purposes of this part commercial and industrial premises do not include a venue while it is being used for the presentation of an open-air concert.

Power of delegation

9.(1) The chief executive may, with the consent of a local government, delegate to the local government all or any of the functions, authorities, duties, powers and discretions had by the chief executive for the purposes of this Act and may delegate the same either generally or otherwise as provided in the instrument of delegation.

(1A) Each such delegation shall be evidenced by instrument in writing under the hand of the chief executive.

(2) If in relation to a delegation the chief executive resolves that the delegate should perform or exercise the function, authority, duty, power or discretion in question in accordance with conditions or guidelines specified by the chief executive, such conditions or guidelines shall be conveyed in writing to the delegate and it shall be the duty of the delegate to comply with such conditions or guidelines as conveyed to it.

(3) An act or thing done or suffered by a local government acting under a delegation has the same force and effect as if it had been done or suffered by the chief executive.

(4) A delegation may be revoked by the chief executive at any time and does not prevent or prejudice the performance or exercise of the function, authority, duty, power or discretion (the subject of the delegation) by the chief executive.

Action upon complaint of excessive noise

10.(1) A person desirous of making a complaint concerning alleged excessive noise may do so to the chief executive.

(1A) Such complaint may be made in writing or verbally but, if made verbally, shall be reduced into writing as soon as possible thereafter.

(2) If the chief executive, having regard to all the circumstances, considers that a complaint made under subsection (1) is of a frivolous or vexatious nature, the chief executive may reject the complaint and take no action in respect of it.

(2A) A rejection of a complaint by the chief executive and the chief executive's failure to take action in respect of it shall not be questioned in any proceedings whatever.

(3) Subject to subsection (2), it is the duty of the chief executive to investigate a complaint made to the chief executive under subsection (1) and—

- (a) by whatever means the chief executive considers adequate, assess the noise being emitted from the premises to which the complaint relates; and
- (b) inform the occupier of the premises from which the noise is being emitted that a complaint has been made concerning such

noise and the nature of the complaint.

(4) Where the chief executive considers it desirable to do so the chief executive may cause a further assessment of the noise to be made before proceeding to deal further with the matter of the complaint as provided by this part.

Chief executive's duty to abate excessive noise

11. Where the chief executive, following the procedure prescribed by section 10, considers that noise being emitted from commercial or industrial premises is excessive noise it is the chief executive's duty to exercise the powers and authorities conferred on the chief executive by this part with a view to causing the excessive noise to be abated.

Abatement of excessive noise

12.(1) For the purposes of this part, excessive noise may be abated by 1 or more of the following methods—

- (a) by cessation of the noise or by control implemented at the source of the noise;
- (b) by the acoustic treatment of buildings or other structures;
- (c) by a process of shielding or barriers to restrict the emission of noise from premises;
- (d) by the restriction of the time or place or manner of operations giving rise to the noise;
- (e) by the progressive phasing out of the noise or the progressive phasing out or control of activities that product the noise.

(2) Where the abatement of excessive noise cannot, in the opinion of the chief executive, be reasonably achieved through any of the methods referred to in subsection (1), such noise may, subject to this Act, be permitted to continue provided that it is of sufficiently infrequent occurrence or of sufficiently short duration as to be unlikely to occasion undue annoyance or distress to any person, and provided further that there is reasonable cause, in the opinion of the chief executive, to permit such noise to continue.

Reference by local government of applications for its approval etc.

13.(1) A local government, when considering an application made to it pursuant to a requirement prescribed by or under any Act for its approval, consent, permission or authority for the implementation of a proposal shall take into consideration whether the implementation of the proposal would be likely to give rise to excessive noise.

(2) If a local government considers that the implementation of a proposal is likely to give rise to excessive noise it shall refer the proposal to the chief executive.

(2A) As soon as practicable after receipt by it of the chief executive's decision with respect to the proposal the local government shall inform the applicant of such receipt and the date thereof.

(3) The chief executive may, according to his or her decision upon a reference under subsection (2), issue to the applicant concerned a noise abatement order or licence under this part notwithstanding that a noise abatement notice has not been issued or served pursuant to section 15.

(4) Where a local government has granted its approval, consent, permission or authority for the implementation of a proposal, whether or not the proposal has been referred to the chief executive under subsection (2), such grant shall not affect the right of the chief executive to issue a noise abatement notice, a noise abatement order or a licence in accordance with this part.

Inspection

14.(1) For the purpose of this part the chief executive or an officer authorised in that behalf by the chief executive, together with any person the chief executive or officer may think competent to assist him or her, may enter any commercial or industrial premises and—

- (a) examine and inspect such premises and any equipment, plant, structure, machinery or process therein;
- (b) make such examination, inquiry and tests, and ask such questions, and request such information as he or she considers desirable;

so as to measure or determine the noise that is or is likely to be emitted

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from the premises.

(1A) For the purposes of subsection (1) the following persons shall ex officio and without further or other appointment be deemed to be officers authorised by the chief executive—

- (a) a person who is an inspector within the meaning of the *Clean Air Act 1963* or who is construed to be an inspector under section 17(7) of that Act;
- (b) a person who is an inspector within the meaning of the *Clean Waters Act 1971* or who is construed to be an inspector under section 10(6) of that Act.

(2) A person seeking to enter commercial or industrial premises for the purposes of this part shall furnish to the occupier of the premises or to the person in charge or apparently in charge of the premises at the time entry is sought reasonable proof of the person's identity and of the person's entitlement to enter the premises.

(3) The occupier of premises and the person in charge or apparently in charge of premises shall give to a person exercising a power conferred by subsection (1) all reasonable assistance and furnish to the person all such information as he or she is capable of furnishing and as would assist such person in his or her exercise of such power.

(4) A person who—

- (a) obstructs or hinders any person in the exercise of a power conferred by subsection (1); or
- (b) fails to facilitate by all reasonable means the exercise by any person of a power conferred by subsection (1);

commits an offence against this Act and is liable to a penalty of \$200.

(5) Any statement made or information furnished by a person in compliance with any requirement of this section shall not, if the person making the statement or furnishing the information objected, at the time of such making or furnishing, to doing so on the ground that it might tend to incriminate the person, be admissible in evidence in any proceeding against such person for any offence not being the offence of contravening or failing to comply with any provision of this section.

(5A) A person who, in exercise of a power conferred on the person by

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subsection (1), seeks a statement or information from another shall, before requesting the same, inform such other of the provisions of subsection (5).

(6) A person who discloses any information relating to a manufacturing process or trade secret used in carrying on or operating any undertaking, equipment or plant, which information has been acquired by the person under or for the purposes of this Act or in connection with the execution of this Act commits an offence against this Act and is liable to a penalty of \$200 unless such disclosure is made—

- (a) with the consent of the person carrying on or operating the undertaking, equipment or plant; or
- (b) for the purposes of the proper administration of this Act; or
- (c) with the Minister's permission first had and obtained; or
- (d) for the purposes of any legal proceedings concerning a matter under this Act or of a report of such proceedings.

*Division 2—Noise abatement notices***Noise abatement notices**

15.(1) Where the chief executive considers that a noise investigated under section 10 is excessive noise the chief executive may cause a noise abatement notice to be served on the occupier of the premises from which the noise is emitted.

(2) A noise abatement notice shall be in the prescribed form and shall require the person to whom it is directed to show cause to the official specified therein at the place and time specified therein why there should not be issued to the person pursuant to section 16 a noise abatement order requiring the person to abate excessive noise in the premises specified in the notice.

(3) The chief executive may at any time before the expiration of the time specified in a noise abatement notice or deemed so to be, from time to time by notice served on the occupier of the premises to which the noise abatement notice relates, extend the time specified in the noise abatement

notice or deemed so to be and thereupon it shall be deemed that the time specified in the noise abatement notice is the time as so extended for the time being.

Division 3—Noise abatement orders

Noise abatement order

16.(1) Where the chief executive—

- (a) is of opinion that a noise investigated under section 10 is an excessive noise and there is no good reason that the noise should not be abated forthwith; or
- (b) is of opinion that the implementation of a proposal which is the subject of an application to a local government for its approval, consent, permission or authority and which has been referred to the chief executive under section 13 is likely to give rise to excessive noise; or
- (c) is of opinion that sufficient cause has not been shown to a noise abatement notice issued under section 15 why a noise abatement order should not be issued to the occupier of the premises concerned;

the chief executive may issue a noise abatement order requiring the person to whom it is directed to abate the excessive noise referred to therein in the manner indicated therein.

(2) A noise abatement order shall be in the prescribed form and shall be served—

- (a) in the case referred to in subsection (1)(a) or (c)—on the occupier of the premises from which the noise is emitted;
- (b) in the case referred to in subsection (1)(b)—on the applicant for the approval, consent, permission or authority.

(3) A noise abatement order shall be in force for the period specified therein or where no period is so specified until it is revoked by the chief executive.

(4) A noise abatement order shall continue in force in respect of premises

to which it relates notwithstanding that the person named therein as occupier of the premises has ceased to be such occupier.

Revocation and amendment of noise abatement order

17.(1) The chief executive may revoke or, subject to section 26, amend a noise abatement order if the chief executive is of opinion that, since the date of issue of the order, circumstances have so changed as to warrant such revocation or amendment.

(2) The chief executive shall proceed to amend a noise abatement order by way of imposing more stringent requirements only if the chief executive has first given to the person to whom the order is directed the opportunity to show cause why the amendment should not be made and sufficient cause to the contrary is not shown.

Register of orders

18.(1) The chief executive shall cause to be kept a register of noise abatement orders issued by the chief executive.

(2) The register of noise abatement orders may be inspected at the office of the chief executive by any person during normal office hours.

Obligation under noise abatement order

18A.(1) A person on whom a noise abatement order is served shall take all steps necessary to comply with the order with a view to the abatement of excessive noise referred to in the order.

(2) For as long as a noise abatement order continues in force in respect of premises the occupier of those premises shall not cause or suffer noise to be emitted from those premises save in conformity with the order.

Division 3A—Temporary noise abatement orders

Temporary noise abatement order

18B.(1) Where the chief executive is of opinion that a noise investigated

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under section 10 is an excessive noise and there is no good reason that the noise should not be abated forthwith the chief executive may issue a temporary noise abatement order requiring the person to whom it is directed to abate the excessive noise referred to therein in the manner indicated therein.

(2) A temporary noise abatement order shall be in the prescribed form and shall be served on the occupier of the premises from which the noise is emitted.

(3) The chief executive may at any time revoke a temporary noise abatement order.

(4) A temporary noise abatement order shall remain in force—

- (a) until a noise abatement order is served on the occupier of the premises concerned; or
- (b) for a period of 7 days from the issuing of the temporary noise abatement order; or
- (c) until it is revoked;

whichever is the first to occur.

(5) A person on whom a temporary noise abatement order is served shall take all steps necessary to comply with the order with a view to the abatement of excessive noise referred to in the order.

(6) For as long as a temporary noise abatement order continues in force in respect of premises the occupier of those premises shall not cause or suffer noise to be emitted from those premises save in conformity with the order.

*Division 4—Licensing provisions***Licences**

19.(1) Where the chief executive—

- (a) is of opinion as the result of cause shown upon the issue of a noise abatement notice that a noise abatement order should not be issued pursuant to section 16 and that there exists sufficient reason to permit the activity responsible for the emission of the noise to continue; or

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- (b) is of opinion that the implementation of a proposal the subject of an application to a local government for its approval, consent, permission or authority and referred to the chief executive under section 13 is likely to give rise to excessive noise but that there exists, in the opinion of the chief executive, sufficient reason for that proposal to be permitted to proceed and for such noise to be permitted to occur;

the chief executive may issue a licence in accordance with this section.

(1A) A licence issued pursuant to this section may be issued subject to such conditions as the chief executive thinks fit.

(2) A licence shall be in the prescribed form and shall be issued—

- (a) in the circumstances referred to in subsection (1)(a)—to the occupier of the premises from which the noise is emitted; or
- (b) in the circumstances referred to in subsection (1)(b)—to the applicant to the local government for approval, consent, permission or authority.

(3) The conditions subject to which a licence is issued shall be specified in and form part of the licence and shall be directed to the abatement of the excessive noise emitted or likely to be emitted from the premises to which the licence relates.

(3A) Without limiting the conditions subject to which a licence may be issued, such conditions may—

- (a) specify the levels of noise which may or may not be emitted from premises to which the licence relates;
- (b) limit the times during which noise may be emitted from premises to which the licence relates;
- (c) specify in relation to equipment installed and activities carried on in premises to which the licence relates, at the time the licence is issued, the manner of operation of the equipment or conduct of the activities;
- (d) provide for abatement of noise or modification of equipment operated or activities carried on within a specified period or progressively over a specified period;
- (e) specify work to be performed by way of acoustic treatment of

premises to which the licence relates or work or equipment to be performed or installed in or in relation to such premises with a view to the abatement or monitoring of noise;

- (f) specify the manner of measuring noise levels for the purposes of the licence;
- (g) specify a period within which any noise abatement measure referred to in this subsection shall be carried out;
- (h) specify a program for progressive compliance with noise abatement measures required pursuant to this subsection to be carried out over a period specified by the chief executive.

(4) Where the chief executive specifies such a period the chief executive may from time to time grant an extension of the period specified or deemed so to be, if the chief executive is satisfied that the licensee has been unable to comply with the relevant condition of the licence within such period because of circumstances for which the licensee is not responsible.

(5) Where the chief executive duly extends any period pursuant to subsection (4) the period as so extended for the time being shall be deemed to be the period specified in the conditions of the licence in lieu of the period specified in the conditions or deemed so to be.

Register of licences

19A.(1) The chief executive shall cause to be kept a register of licences issued by the chief executive under section 19.

(2) The register of licences may be inspected at the office of the chief executive by any person during normal office hours.

Revocation and amendment of licences

20.(1) The chief executive may at any time, subject to section 26, revoke a licence issued by the chief executive or amend a licence issued by the chief executive by—

- (a) adding conditions to which the licence shall be subject; or
- (b) omitting conditions to which the licence is subject; or
- (c) amending conditions to which the licence is subject.

(2) The chief executive shall proceed to amend so as to make more stringent any condition to which a licence is subject or to add to the conditions to which a licence is subject only if, in the chief executive's opinion, the circumstances existing at the time the licence was issued have so altered as to warrant the imposition of more stringent or additional conditions.

(3) The chief executive shall proceed to revoke a licence or to amend so as to make more stringent any condition to which a licence is subject or add to the conditions to which a licence is subject only if the chief executive has first given to the person who is occupier of the premises to which the licence relates the opportunity to show cause why the revocation, amendment or addition should not occur and sufficient cause to the contrary is not shown.

(4) Notice of revocation or amendment of a licence shall be given in writing to the occupier of the premises to which the licence relates.

(5) In the case of a revocation of a licence or an amendment of a licence that consists of an addition to or an amendment of the conditions to which the licence is subject the holder of the licence shall surrender the licence to the chief executive for appropriate endorsement and—

- (a) in the case of revocation—retention by the chief executive; or
- (b) in the case of amendment—return to the holder.

Duration of licence

21.(1) A licence shall be in force for the period specified therein or where no period is so specified until it is revoked by the chief executive.

(2) A licence in force immediately prior to the commencement of the *Noise Abatement Act Amendment Act 1982* shall continue in force until it is revoked by the chief executive.

(3) Subject to this Act, a licence remains in force in respect of premises to which it relates, notwithstanding a change in the ownership or occupation of the premises, if there is no alteration in the use that was being made of the premises at the time the licence was issued.

(4) A person who becomes owner or occupier of premises to which a licence relates shall, if the licence remains in force, be deemed to be a

licensee under that licence and shall, within 30 days after becoming the owner or occupier, notify the chief executive in writing of the change in ownership or occupation.

Obligation of licensee

22.(1) The occupier of premises to which a licence relates shall not cause or suffer noise to be emitted from those premises save in conformity with the conditions to which the licence is subject.

(2) Subsection (1) does not apply—

- (a) to the occupier of premises to which a licence relates who is the holder of a current exemption granted in respect of those premises by the chief executive; or
- (b) where a condition to which a licence is subject is not complied with because of circumstances beyond the control of the licensee and the chief executive has been or is about to be informed of all circumstances affecting the noncompliance and all necessary steps have been or are being taken to ensure that the condition is complied with within a reasonable time.

Exemption from compliance with licence

23.(1) Upon application made in the prescribed form by the occupier of premises to which a licence relates the chief executive may, if the chief executive considers the circumstances warrant it, grant to the applicant an exemption in writing from the chief executive's obligation to conform with 1 or more of the conditions to which the licence is subject.

(2) An exemption may be granted—

- (a) for a period specified therein;
- (b) subject to such conditions as the chief executive considers appropriate and are specified therein.

(2A) Where an exemption is granted subject to conditions the person to whom it is granted, if the person uses the authority of the exemption, shall comply with the conditions to which it is subject.

(3) An exemption shall be in force for the period specified therein or where no period is so specified until it is duly revoked.

Revocation and amendment of exemption

24.(1) The chief executive may at any time, subject to section 26, revoke an exemption granted by the chief executive or amend an exemption granted by the chief executive by—

- (a) adding conditions to which the exemption shall be subject; or
- (b) omitting conditions to which the exemption is subject; or
- (c) amending conditions to which the exemption is subject.

(2) The chief executive shall proceed to amend so as to make more stringent any condition to which an exemption is subject or add to the conditions to which an exemption is subject only if, in the chief executive's opinion, the circumstances existing at the time the exemption was granted have so altered as to warrant the imposition of more stringent or additional conditions.

(3) The chief executive shall proceed to revoke an exemption or to amend so as to make more stringent any condition to which an exemption is subject or add to the conditions to which an exemption is subject only if the chief executive has first given to the person to whom the exemption was granted an opportunity to show cause why the revocation, amendment or addition should not occur and sufficient cause to the contrary is not shown.

(4) Notice of revocation or amendment of an exemption shall be given in writing to the holder of the licence in respect of which the exemption was granted.

(5) In the case of a revocation of an exemption or an amendment of an exemption that consists of an addition to or an amendment of the conditions to which the exemption is subject the holder of the licence in respect of which the exemption was granted shall surrender to the chief executive the instrument that evidences the exemption for appropriate endorsement and—

- (a) in the case of revocation—retention by the chief executive; or
- (b) in the case of amendment—return to the holder.

(6) However, where such instrument is the licence it shall in all cases be returned to the holder.

No fee payable

25. A fee shall not be charged for—

- (a) the issuing of a licence or temporary licence to any person; or
- (b) the granting of an exemption to any person in respect of a licence.

Show cause proceedings

26.(1) If the chief executive seeks to—

- (a) amend a noise abatement order by way of imposing more stringent requirements;
- (b) revoke a licence or exemption;
- (c) amend so as to make more stringent any condition to which a licence or exemption is subject;
- (d) add to the conditions to which a licence or exemption is subject;

the chief executive shall cause notice in writing of the proposed action to be served on the occupier of the premises to which the licence or exemption relates calling on the occupier to show cause to the official specified therein at the place and time specified therein why the action sought by the chief executive should not be carried out.

(1A) The chief executive may, at any time before the time specified in a notice to show cause or deemed so to be, from time to time by notice served on the occupier of the premises to which the notice to show cause relates, extend the time specified in the notice to show cause or deemed so to be and thereupon it shall be deemed that the time specified in the notice to show cause is the time as so extended for the time being.

(2) A person to whom a notice has been given pursuant to section 15 or pursuant to subsection (1) may attempt to show the cause required of the person in person at the place and time and to the official specified in the notice or in writing to the chief executive at any time before the time specified in the notice.

Temporary licences

26A.(1) Where the chief executive considers that a noise investigated under section 10 is excessive noise the chief executive may issue to the occupier of the premises from which the noise is emitted a temporary licence in the prescribed form.

(2) A temporary licence may be issued—

- (a) whether or not the chief executive has caused a noise abatement notice to be served on the occupier of the premises; and
- (b) at any time before a noise abatement order or a licence under section 19 is issued to the occupier of the premises.

(3) A temporary licence issued pursuant to this section may be issued subject to such conditions as the chief executive in the chief executive's discretion thinks fit.

(4) The conditions subject to which a temporary licence is issued shall be specified in and form part of the licence.

(5) The chief executive may in the chief executive's discretion revoke a temporary licence issued under this section or amend such a licence by—

- (a) adding conditions to which the licence shall be subject; or
- (b) omitting conditions to which the licence is subject; or
- (c) amending conditions to which the licence is subject.

(6) A temporary licence shall remain in force—

- (a) until a noise abatement order is issued to the occupier of the premises concerned; or
- (b) until a licence under section 19 is issued to the occupier of the premises concerned; or
- (c) for a period of 60 days from the issuing of the temporary licence; or
- (d) until it is revoked;

whichever is the first to occur.

(7) The occupier of premises to which a temporary licence relates shall not cause or suffer noise to be emitted from those premises save in conformity with the conditions to which the temporary licence is subject.

Division 5—Appeals**Appeals from chief executive's decisions**

27.(1) A person (including the Crown in right of the State and any person incorporated by an Act) being—

- (a) a person to whom is directed a noise abatement order; or
- (b) the occupier of premises to which a licence relates; or
- (c) an applicant for exemption from the conditions to which a licence is subject; or
- (d) a person to whom an exemption is granted;

who is aggrieved by a decision made by the chief executive with respect to such order, licence, exemption or the person's application may appeal against the decision in accordance with this section to a District Court or to a Magistrates Court exercising jurisdiction in the Magistrates Courts district in which the premises to which the decision relates are situated.

(1A) Every such court is hereby invested with jurisdiction to hear and determine every such appeal duly made and may make therein such order as the court considers just including an order as to costs of the appeal.

(2) An appeal shall be instituted by filing a notice of appeal in the prescribed form—

- (a) in the case of an appeal to a District Court—with the registrar of the District Court at the place where the appeal is to be instituted; and
- (b) in the case of an appeal to a Magistrates Court—with the clerk of the court at the court having jurisdiction.

(2A) Every such appeal shall be instituted within 30 days after service of notice of the decision, the subject of the appeal, on the person aggrieved by the decision and not thereafter.

(3) The hearing of an appeal shall be had on the best evidence available.

(3A) The decision of the court on appeal shall be final and shall be given effect to by the appellant and the chief executive and by all other persons affected by it.

(4) The power to make rules of court governing the practice of District Courts or Magistrates Courts includes power to make rules for the hearing of appeals under this section.

(4A) Until such rules of court are made or in so far as the rules made do not extend to a particular case the judge or magistrate hearing an appeal may give such directions as to the hearing as the judge or magistrate thinks fit and such direction shall be complied with.

(5) Upon application made by or on behalf of the chief executive, a District Court or a Magistrates Court may order that an appeal instituted in that court be struck out for want of prosecution.

(5A) Such an order shall be final and binding on the parties to the appeal and shall not be questioned in any proceedings whatever.

(6) Where an appeal is duly instituted, the chief executive's decision to which it relates shall be deemed not to have had effect before the institution of the appeal and shall not have effect thereafter until and subject to the determination of the appeal or until the appeal is struck out for want of prosecution, whichever first occurs, and, if the case be such, an emission of noise to which the decision purports to relate may continue in the interim.

PART 4—ABATEMENT AND REGULATION OF EXCESSIVE NOISE AFFECTING RESIDENTIAL OR COMMERCIAL PREMISES

Division 1—Excessive noise from machines etc.

Local governments may legislate on excessive noise

28.(1) The power conferred on local governments by the *Local Government Act 1993* or the *City of Brisbane Act 1924* to make local laws includes power to make local laws in relation to the abatement or regulation of excessive noise that—

- (a) is emitted from or is audible in residential premises; or

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- (b) is emitted from premises being used solely in connection with the erection, demolition or renovation of a single residential unit or 2 residential units; or
- (c) is or is likely to be emitted from premises while they are being used as a venue for the presentation of an open-air concert.

(2) Without limiting the power referred to in subsection (1), for the purposes of local laws referred to in that subsection a local government—

- (a) may prescribe excessive noise; and
- (b) may authorise any person or class of person specified therein to form an opinion of what is an excessive noise, either by reason of the level of such noise or the nature thereof; and
- (c) may provide that noise emitted from any machine, appliance or equipment specified therein shall be presumed to be excessive noise if it is emitted within hours specified therein or, as the local government thinks fit, outside hours specified therein.

Restriction on local governments' power to abate noise

29. It is not competent to a local government to provide, by local law, for the abatement of excessive noise emitted by any means or in any circumstances if the abatement of such noise emitted by those means or in those circumstances is provided for by this Act and in particular for the abatement of excessive noise emitted from commercial or industrial premises.

Private rights of action to be preserved

30. The making of local laws referred to in section 28(1) shall not be taken to prejudice the right in law had by any person to be granted relief or to recover damages in respect of noise.

Division 1A—Excessive noise from swimming pool equipment and spa bath equipment

Local governments to administer and enforce provisions

30A. The administration and enforcement of the provisions of this division are a function of local government and shall be discharged by local governments.

Regulations directed to abatement

30B.(1) The power to make regulations conferred on the Governor in Council by section 57 includes power to make regulations for the abatement of excessive noise from swimming pool equipment and from spa bath equipment or from either of them.

(2) Without limiting the generality of subsection (1) such regulations may be made in respect of the following—

- (a) prescription of excessive noise from swimming pool equipment and from spa bath equipment;
- (b) different prescriptions of such excessive noise for different times of the day (including prescriptions of such excessive noise at night);
- (c) prescription of measurement location;
- (d) prescription of tonal adjustments;
- (e) prescription of a minimum measurement period;
- (f) prescription of action to be taken by the local government concerned following complaint of excessive noise from swimming pool equipment or spa bath equipment;
- (g) prescription of the powers, authorities, functions and duties to be exercised or discharged by local governments in the administration and enforcement of the provisions of this division;
- (h) prescription of the issue of permits authorising the emission of excessive noise in certain circumstances;
- (i) prescription of the penalties that may be imposed by a local

government for contravention of or failure to comply with the regulations prescribed pursuant to this section;

- (j) prescription of the manner in which proceedings may be instituted by the local government in respect of offences in respect of the contravention of or failure to comply with the regulations made pursuant to this section.

(3) The power to regulate includes the power to prohibit.

Interpretation

30C. In section 30B—

“spa bath” means any bath or artificial pool through which aerated water is pumped under pressure.

“spa bath equipment” means equipment, or any part thereof, used in or provided for filtering, aerating, pressurising or otherwise creating movement in spa bath water and, without limiting the generality thereof, includes any motor, pump, air blower or compressor used or provided for any such purpose.

“swimming pool” means an artificial pool of water, whether located wholly in the ground or wholly above the ground or partially in the ground and partially out of the ground, constructed, used or capable of being used for swimming purposes.

“swimming pool equipment” means equipment, or any part thereof, used in or provided for aerating, circulating, filtering or vacuuming or otherwise creating movement in swimming pool water, and includes any motor or pump used or provided for any such purpose.

Division 2—Excessive noise from musical instruments or rowdy premises

Application of division

31.(1) Subject to subsection (2), this division applies in respect to the abatement of excessive noise that is—

- (a) emitted by means of a musical instrument; or

- (b) emitted by means of an appliance for electrically producing or amplifying music or any other noise; or
- (c) emitted by a motor vehicle other than upon a road; or
- (d) a result of a congregation of persons on premises for the purpose of a meeting, party, celebration or like occasion;

and that—

- (e) is audible in any residential or commercial premises; and
- (f) cannot be abated by the taking of action pursuant to any provision of part 3.

(2) This division does not apply in respect to the abatement of excessive noise that is emitted from premises while being used as a venue for the presentation of an open-air concert.

Complaint to police concerning noise

32.(1) Where any noise as described in section 31 that in the opinion of any person is excessive noise is emitted from any premises at any time that person may make a complaint concerning such noise to a police officer.

(2) It is the duty of a police officer to whom is made a complaint referred to in subsection (1) to investigate the matter of complaint unless the police officer considers that the complaint is frivolous or vexatious.

Powers of police

33.(1) If upon investigation of a complaint made under section 32 a police officer—

- (a) is satisfied that the noise complained of is clearly audible within a part of the residential or, as the case may be, commercial premises of the complainant that the police officer might be reasonably expected to use (other than for a brief period) at the time of emission of the noise; and
- (b) is of the opinion that the noise is excessive noise;

such police officer, together with such assistants as the police officer considers necessary, may enter upon and into the premises from which the

noise is being emitted, using such force as is reasonable for the purposes, and may direct the occupier of those premises and such other persons therein as appear to the police officer to be responsible for causing the noise or permitting the noise to be caused to abate the excessive noise forthwith.

(2) A direction may be given under subsection (1) to 1 person only or to any number of persons at the one time and may be given orally or in writing at the discretion of the police officer who gives it.

Sections 32 and 33 not applicable in certain cases

34. Sections 32 and 33 do not apply in the case of noise emitted from premises by a public meeting held thereon or therein under the authority of a permit duly issued under any Act or law and in accordance with the conditions (if any) of such permit with respect to the amplification or reproduction of sound by means of any electrical or other mechanical appliance, apparatus or device or by other means whatever.

Compliance with direction

35.(1) A person to whom a direction is given under section 33—

- (a) shall comply with the direction forthwith; and
- (b) shall, for a period of 12 hours from the giving of the direction, refrain from the emission or contributing to the emission from the premises to which the direction relates of noise that is excessive noise.

(2) A person who knows that a direction has been given under section 33 in relation to the emission of noise from premises shall, for a period of 12 hours from the giving of the direction, refrain from the emission or contributing to the emission from those premises of noise that is excessive noise.

(3) For the purpose of the application of subsections (1) and (2) it is immaterial that a noise emitted from premises in contravention of either of those subsections is not of the same nature or of the same level as the excessive noise to which the direction given related.

Additional powers of police on subsequent investigation under s 33

36.(1) Where a direction (in this section called the “**first direction**”) has been duly given under section 33 in relation to premises and within 12 hours after that direction was given a police officer, upon investigating a further complaint concerning noise emitted from the same premises, is of opinion that he or she is entitled to exercise the powers conferred by that section, then in addition to or in lieu of exercising those powers (as the police officer thinks fit) the police officer, together with such assistants as the police officer considers necessary, may enter upon and into the premises from which the noise is being emitted, using such force as is reasonable for the purpose, and may deal, in a manner authorised by this section, with such property as in the police officer’s opinion is or was being used to produce or to contribute to the production of the noise.

(2) Property referred to in subsection (1) may be—

- (a) seized and removed from the premises concerned;
- (b) rendered inoperable by removal of any part or parts thereof and the seizure and removal from the premises concerned of such part or parts, but so that such property is not thereby damaged;
- (c) locked, sealed or masked so that it cannot be used.

(3) Any thing seized and removed from premises pursuant to subsection (2) shall be kept at a police station and, subject to this subsection, may be recovered by the owner or person from whose possession it was seized after the expiration of 12 hours after the giving of the first direction that related to the premises from which the thing is removed.

(3A) If any thing kept pursuant to subsection (3) is not claimed by or on behalf of a person entitled to recover the same within 28 days after it is seized such thing may be disposed of as unclaimed property in accordance with the *Police Service Administration Act 1990* or, if the officer in charge of the police station where it is kept believes such thing to be of little or no monetary value, in such other manner as the commissioner of the police service directs.

(4) Any costs incurred by a police officer in the exercise of powers conferred by this section may be recovered from the owner of the thing seized or from the person from whom the thing was seized in a court of competent jurisdiction as a debt due and owing to the Crown.

Restricted liability upon exercise of s 36 powers

37.(1) No liability on account of—

- (a) damage occasioned to any thing while it is being seized or removed or is kept pursuant to section 36; or
- (b) the loss or destruction of any thing while it is kept pursuant to section 36(3);

shall be incurred by the Crown or any other person except a person whose wilful or negligent conduct has caused the damage, loss or destruction.

(2) No liability shall be incurred by the Crown or any other person on account of loss or damage occasioned to any person by reason of the disposal as authorised by section 36(3) of any thing kept pursuant to that subsection.

Obstruction

38.(1) A person shall not obstruct or attempt to obstruct a police officer in the exercise of the powers conferred on the police officer by section 33 or 36.

(2) Where a police officer, in the exercise of powers conferred by section 36, has taken in respect of any property referred to in section 36(1) a step referred to in section 36(2)(c) a person shall not unlock, unseal or unmask, as the case may be, the property in question before the expiration of 12 hours after the giving in relation to the premises in which such step is taken of the direction that in section 36 is called the “**first direction**”.

Correct name and address to be given if required

39.(1) Where a direction under section 33 is given any police officer may require any person to whom the direction is given to state his or her correct name and usual place of residence.

(2) A person to whom a requisition is directed under subsection (1) shall forthwith comply with the requisition.

Power of arrest and detention

40.(1) A police officer may without further authority than this Act arrest any person—

- (a) who fails to comply with section 39(2); or
- (b) who contravenes section 38(1);

and such person shall be dealt with according to law.

(2) A police officer who reasonably suspects that a person required under section 39 to state the person's correct name and usual place of residence has failed to comply with the requisition may without further authority than this Act take such person to a police station (using such force as is reasonable for the purpose) and detain the person there until the person's identity and usual place of residence are established.

Show cause proceedings

40A.(1) Where a person has been directed by a police officer acting pursuant to section 33 to abate excessive noise forthwith on 3 separate occasions within any period of 6 months, the chief executive may cause to be served on the person a notice in the prescribed form calling on the person to show cause at the time and place specified therein to a magistrate sitting in the Magistrates Court district in which the person is residing at the time when the notice is served on the person why the person should not forfeit to the chief executive a sum not exceeding \$500.

(2) If, at the time and place specified in a notice served under subsection (1) or at the time or place to which the proceedings to show cause may be adjourned, the person served with the notice fails to appear or, having appeared, fails to show, to the satisfaction of the magistrate hearing the proceedings—

- (a) that the person is not a person on whom a notice to show cause could be served under subsection (1); or
- (b) that, being such a person, any of the directions to abate excessive noise given to the person pursuant to section 33 was given in circumstances such that it should not have been given;

the magistrate hearing the proceedings may order that such person forfeit to the chief executive a sum in such amount not exceeding \$500 as the

magistrate thinks fit and may further order that such sum be paid to the chief executive forthwith or within a period specified in the order.

(3) If a person ordered to forfeit a sum to the chief executive fails to pay such sum in accordance with the order the chief executive may recover such sum by action for a debt due and owing to the chief executive by such person in a court of competent jurisdiction.

(4) The chief executive shall cause all such sums paid to or recovered by the chief executive to be paid into the consolidated fund.

PART 5—ABATEMENT OF EXCESSIVE NOISE FROM MOTOR VEHICLES

Regulations directed to abatement

41.(1) The power to make regulations conferred on the Governor in Council by section 57 includes power to make regulations with respect to the abatement of excessive noise emitted from or in connection with motor vehicles on roads.

(2) The enforcement of regulations of the description referred to in subsection (1) shall be the duty of the following persons severally—

- (a) the chief executive and officers authorised by the chief executive or deemed to be so authorised under and for the purposes of section 14, who in the performance of that duty shall have and may exercise the powers and authorities conferred on them by the regulations made under this Act;
- (b) police officers who in the performance of that duty shall have and may exercise all the powers and authorities had by them under the *Traffic Act 1949* and the regulations made under that Act or otherwise by law.

(3) Regulations made under this Act shall not affect the execution of the *Traffic Act 1949* or the regulations made thereunder with a view to controlling the emission of undue noise from or in connection with a vehicle.

PART 5A—AUDIBLE ALARM SYSTEMS

Audible alarm systems

41A.(1) The occupier of premises from which excessive noise is emitted by means of an audible alarm system for a period exceeding the prescribed period commits an offence against this Act.

(2) For the purpose of subsection (1) different periods may be prescribed having regard to the purpose for which the audible alarm system is being used.

(3) In subsection (1)—

“excessive noise” means any noise that is, in the opinion of a police officer formed on reasonable grounds, considered to be excessive noise either by reason of the level of such noise or the nature thereof.

PART 6—POWER OF THE GOVERNOR IN COUNCIL AND OFFICERS

Power of Governor in Council to rescind decisions etc. of chief executive

51A.(1) The Governor in Council may, by order in council, at any time rescind any decision or determination of or any order or licence issued by the chief executive and may, in relation to any such rescission, give such directions to the chief executive as to the Governor in Council seem appropriate.

(2) Every decision, determination, order or licence rescinded pursuant to this section shall be absolutely void as from the making of the decision or determination or, as the case may be, the issuing of the order or licence.

(3) However, such rescission shall not affect any penalty imposed prior thereto.

Officers

52. Such inspectors and other officers as are deemed necessary for the effectual administration of this Act may be appointed and shall hold office under the *Public Service Management and Employment Act 1988*.

PART 7—MISCELLANEOUS PROVISIONS**Service of notices etc.**

53.(1) A notice, order or other document to be served on a person for the purposes of this Act may be duly served—

- (a) by serving the same personally on that person; or
- (b) by sending the same by prepaid post letter addressed to that person at the person's place of residence or business last known to the person by whom the same is sent.

(2) Where by this Act time is limited to run from the receipt by any person of a notice or information (however expressed), then in the case where such notice or information is given by post the time shall be taken to commence to run from the day on which the person to whom the same is addressed would have received it in the ordinary course of post.

Offences and procedure

54.(1) Any person who contravenes or fails to comply with any provision of this Act commits an offence against this Act.

(2) Proceedings in respect of offences against this Act may be prosecuted in a summary way under the *Justices Act 1886* and, save where otherwise prescribed, upon the complaint of any person authorised by the Minister or a person aggrieved by the offence and without prejudice to any other right or remedy, all fees imposed by or pursuant to this Act may be recovered in a summary way by complaint under the *Justices Act 1886*, or as a debt by action in any court of competent jurisdiction.

General penalty

55. A person guilty of an offence against this Act shall be liable, if no specific penalty is provided for that offence to a penalty—

- (a) for a first such offence—of \$2 500 and in addition, where the offence is a continuing one a further penalty of \$150 for each day during which the offence has continued after the conviction thereof;
- (b) for a second or subsequent such offence, whether the second or subsequent offence is an offence of the same type as any previous offence or otherwise—of \$5 000 and in addition where the offence is a continuing one a further penalty of \$300 for each day during which the offence has continued after the conviction thereof.

Regulations

57.(1) The Governor in Council may make regulations, not inconsistent with this Act, for or with respect to—

- (a) the keeping of any registers of matters or things as may be required for the purposes of this Act;
- (b) the prescribing of forms under this Act, and the respective purposes for which such forms shall be used;
- (c) types of tests to be carried out in relation to the measurement of noise and the methods for making such tests;
- (d) the provision to be made by such persons as may be prescribed for assistance, access and facilities and the means of making examinations, inspections and tests to enable persons authorised by this Act to exercise their powers under this Act;
- (e) prescribing any technical matters, tests, methods of assessment, standards for sound level meters or any other technical equipment, calibration of equipment, methods of use of equipment, and persons by whom various tests, assessments, or other matters may be carried out;
- (ea) prescribing standards in relation to audible alarm systems and prohibiting the use of audible alarm systems which do not

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comply with those standards: different standards may be prescribed having regard to the purpose for which the audible alarm systems are designed to be used;

- (f) prescribing excessive noise for the purposes of this Act or any part thereof and may authorise any person or class of person to form an opinion of what is an excessive noise, either by reason of the level of such noise or the nature thereof;
- (g) prescribing times within which anything required by the regulations to be done or achieved shall be done or achieved;
- (h) prescribing fees payable under this Act and the bases on which such fees shall be assessed and payable;
- (i) all matters that are required or permitted by this Act to be prescribed or that may be convenient for the administration of this Act or that may be necessary or expedient to achieve the objects and purposes of this Act.

(3) The power of the Governor in Council to make regulations includes power to adopt, wholly or in part, in relation to any matter provided for in the regulations any of the standard rules, codes or specifications of the bodies known as the Standards Association of Australia, the British Standards Institute or a like body identified in the regulations.

ENDNOTES**1 Index to endnotes**

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 3 May 1996. Future amendments of the Noise Abatement Act 1978 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 List of legislation

Noise Abatement Act 1978 No. 51

date of assent 12 June 1978

commenced 28 September 1978 (see s 2 and proc pubd gaz 30 September 1978 p 371)

as amended by—

Noise Abatement Act Amendment Act 1982 No. 24

date of assent 29 April 1982

ss 1–2 commenced on date of assent (see s 2(1))

remaining provisions commenced 15 May 1982 (see s 2(2) and proc pubd gaz 22 May 1982 p 751)

Noise Abatement Act Amendment Act 1983 No. 3

date of assent 10 March 1983

commenced on date of assent

Noise Abatement Act Amendment Act 1984 No. 100

date of assent 6 December 1984

ss 1–2 commenced on date of assent (see s 2(1))

remaining provisions commenced 26 January 1985 (see s 2(2) and proc pubd gaz 26 January 1985 p 308)

Noise Abatement Act Amendment Act 1985 No. 16

date of assent 4 April 1985

commenced on date of assent

State Environment Act 1988 No. 77 pt 7

date of assent 11 November 1988

commenced 10 December 1988 (proc pubd gaz 26 November 1988 p 1487)

Statute Law (Miscellaneous Provisions) Act 1989 No. 103 s 3 sch

date of assent 25 October 1989

commenced on date of assent (see s 2(1))

5 List of annotations

Long title

amd R1 (see RA s 40)

Commencement of Act

s 2 om R1 (see RA s 37)

Arrangement of Acts 3 amd 1982 No. 24 s 3; 1988 No. 77 s 89; 1989 No. 103 s 3 sch
om R1 (see RA s 36)**Application of Act excluded or restricted in certain cases**

s 4 amd 1982 No. 24 s 4; 1985 No. 16 s 2

Interpretation

s 6 def “**advisory council**” ins 1988 No. 77 s 90(a)
 def “**aircraft**” ins 1985 No. 16 s 3(a)
 def “**animal husbandry**” ins 1982 No. 24 s 5(a)
 def “**audible alarm system**” ins 1982 No. 24 s 5(a)
 def “**Authority**” om 1988 No. 77 s 90(b)
 def “**by-law**” om R1 (see RA s 7(1)(k))
 def “**chairman**” ins 1984 No. 100 s 4(a)
 om 1988 No. 77 s 90(c)
 def “**chief executive**” ins 1988 No. 77 s 90(d)
 def “**commercial premises**” ins 1982 No. 24 s 5(b)
 def “**deputy chairman**” ins 1984 No. 100 s 4(b)
 om 1988 No. 77 s 90(e)
 def “**director**” sub 1988 No. 77 s 90(f)
 def “**District Court**” om R1 (see RA s 39)
 def “**excessive noise**” sub 1983 No. 3 s 2
 amd 1985 No. 16 s 3(b)
 def “**industrial premises**” ins 1982 No. 24 s 5(c)
 def “**licence**” amd 1982 No. 24 s 5(d)
 def “**Local Authority**” om R1 (see RA s 39)
 def “**Magistrates Court**” om R1 (see RA s 39)
 def “**Minister**” sub 1982 No. 24 s 5(e)
 om R1 (see RA s 39)
 def “**motor vehicle**” ins 1982 No. 24 s 5(f)
 def “**noise abatement order**” ins 1982 No. 24 s 5(fa)
 amd 1988 No. 77 s 90(g)
 def “**open-air concert**” ins 1985 No. 16 s 3(c)

def “**order**” om 1982 No. 24 s 5(fb)
 def “**public meeting**” ins 1982 No. 24 s 5(g)
 def “**public utility undertaking**” amd 1982 No. 24 s 5(h)

Minister to administer Act

s 7 om 1988 No. 77 s 91

Application of part

s 8 amd 1982 No. 24 s 6; 1985 No. 16 s 4

Power of delegation

s 9 amd 1988 No. 77 s 92

Action upon complaint of excessive noise

s 10 amd 1982 No. 24 s 7; 1988 No. 77 s 93

Chief executive’s duty to abate excessive noise

prov hdg amd 1988 No. 77 s 94(a)

s 11 amd 1988 No. 77 s 94(b)–(d)

Abatement of excessive noise

s 12 amd 1988 No. 77 s 95

Reference by local government of applications for its approval etc.

s 13 amd 1988 No. 77 s 96

Authority may appoint committee to exercise its functions etc. under s. 13

s 13A ins 1982 No. 24 s 8

om 1988 No. 77 s 97

Inspection

s 14 amd 1988 No. 77 s 98

Noise abatement notices

s 15 amd 1982 No. 24 s 9; 1988 No. 77 s 99

Noise abatement order

s 16 amd 1988 No. 77 s 100

Revocation and amendment of noise abatement order

s 17 amd 1988 No. 77 s 101

Register of orders

s 18 amd 1982 No. 24 s 10; 1988 No. 77 s 102

Division 3A—Temporary noise abatement orders

div hdg ins 1982 No. 24 s 10A

Temporary noise abatement order

s 18B ins 1982 No. 24 s 10A

amd 1988 No. 77 s 103

Licences

s 19 amd 1988 No. 77 s 104

Register of licences

s 19A ins 1982 No. 24 s 11
amd 1988 No. 77 s 105

Revocation and amendment of licences

s 20 amd 1988 No. 77 s 106

Duration of licence

prov hdg amd 1982 No. 24 s 11A(a)
s 21 amd 1982 No. 24 s 11A(b); 1988 No. 77 s 107

Obligation of licensee

s 22 amd 1988 No. 77 s 108

Exemption from compliance with licence

s 23 amd 1988 No. 77 s 109

Revocation and amendment of exemption

s 24 amd 1988 No. 77 s 110

No fee payable

s 25 sub 1982 No. 24 s 12

Show cause proceedings

s 26 amd 1988 No. 77 s 111

Temporary licences

s 26A ins 1982 No. 24 s 13
amd 1988 No. 77 s 112

Appeals from chief executive's decisions

prov hdg amd 1988 No. 77 s 113(a)
s 27 amd 1982 No. 24 s 13A; 1988 No. 77 s 113(b)–(d)

**PART 4—ABATEMENT AND REGULATION OF EXCESSIVE NOISE
AFFECTING RESIDENTIAL OR COMMERCIAL PREMISES**

pt hdg amd 1982 No. 24 s 14; 1985 No. 16 s 5

Local governments may legislate on excessive noise

s 28 amd 1982 No. 24 s 15; 1983 No. 3 s 3; 1985 No. 16 s 6

Restriction on local governments' power to abate noise

s 29 amd 1982 No. 24 s 16

**Division 1A—Excessive noise from swimming pool equipment and spa bath
equipment**

div hdg ins 1988 No. 77 s 114

Local governments to administer and enforce provisions

s 30A ins 1988 No. 77 s 114

Regulations directed to abatement

s 30B ins 1988 No. 77 s 114

Interpretation

s 30C ins 1988 No. 77 s 114

Application of division

- s 31** sub 1982 No. 24 s 17
amd 1985 No. 16 s 7; 1989 No. 103 s 3 sch

Powers of police

- s 33** amd 1982 No. 24 s 18

Sections 32 and 33 not applicable in certain cases

- s 34** amd 1982 No. 24 s 19

Show cause proceedings

- s 40A** ins 1982 No. 24 s 20
amd 1988 No. 77 s 115

Regulations directed to abatement

- s 41** amd 1988 No. 77 s 116

PART 5A—AUDIBLE ALARM SYSTEMS

- pt hdg** ins 1982 No. 24 s 21

Audible alarm systems

- s 41A** ins 1982 No. 24 s 21

PART 6—POWER OF THE GOVERNOR IN COUNCIL AND OFFICERS

- pt hdg** sub 1988 No. 77 s 117

Constitution of Authority

- s 42** om 1988 No. 77 s 118

Membership of Authority

- s 43** sub 1984 No. 100 s 5
om 1988 No. 77 s 118

Appointment of public servants as members

- s 44** sub 1984 No. 100 s 6
om 1988 No. 77 s 118

Term of appointment of members of Authority

- s 45** om 1988 No. 77 s 119

Casual vacancies

- s 46** amd 1984 No. 100 s 7
om 1988 No. 77 s 119

Appointment of deputy members

- s 47** amd 1984 No. 100 s 8
om 1988 No. 77 s 119

Committees

- s 48** om 1988 No. 77 s 120

Remuneration of members of Authority

- s 49** amd 1982 No. 24 s 22
om 1988 No. 77 s 120

Functions of Authority

- s 50** om 1988 No. 77 s 120

Proceedings of Authority

s 51 amd 1984 No. 100 s 9
 om 1988 No. 77 s 121

Power of Governor in Council to rescind decisions etc. of chief executive

prov hdg amd 1988 No. 77 s 122
s 51A ins 1982 No. 24 s 23
 amd 1988 No. 77 s 122

Annual Report

s 51B ins 1982 No. 24 s 23
 om 1988 No. 77 s 123

Officers

s 52 sub 1988 No. 77 s 124

General penalty

s 55 sub 1982 No. 24 s 24

Moratorium in respect of certain excessive noise

s 56 om 1988 No. 77 s 125

Regulations

s 57 amd 1982 No. 24 s 25; 1983 No. 3 s 4; R1 (see RA s 38)

Repeal of s. 35A Vagrants, Gaming, and Other Offences Act

s 58 om R1 (see RA s 40)

6 Table of changed names and titles

TABLE OF CHANGED NAMES AND TITLES
 under the Reprints Act 1992 ss 23 and 23A

Old	New	Reference provision
by-law (of a local authority)	local law (of a local government)	Local Government Act 1993 s 796(1)(l)
commissioner (of police)	commissioner (of the police service)	Police Service Administration Act 1990 s 11.1(1)(b)
consolidate revenue fund	consolidated fund	Financial Administration and Audit Act 1977 s 112
local authority	local government	Local Government Act 1993 s 796(1)(a)
member (of the police force)	(police) officer	Police Service Administration Act 1990 s 11.1(1)(c) (see also s 1.4)
ordinance (of a local authority)	local law (of a local government)	Local Government Act 1993 s 796(1)(l)

7 Table of changed citations and remade laws

TABLE OF CHANGED CITATIONS AND REMADE LAWS under the Reprints Act 1992 ss 21A and 22

Old	New	Reference provision
Liquor Act 1912	Liquor Act 1992	Liquor Act 1992 s 251
Local Government Act 1936	Local Government Act 1993	Local Government Act 1993 s 796(1)(o)
Police Act 1937	Police Service Administration Act 1990	Police Service Administration Act 1990 s 11.2

8 Table of obsolete and redundant provisions

TABLE OF OBSOLETE AND REDUNDANT PROVISIONS under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
definitions to be read in context	Acts Interpretation Act 1954 s 32A
references to stipendiary magistrate	Acts Interpretation Act 1954 s 36 def "magistrate"
def "District Court"	Acts Interpretation Act 1954 s 36 def "District Court"
def "local authority"	Acts Interpretation Act 1954 s 27A and s 36 def "local government" and Local Government Act 1993 s 796(1)(a) (see also Reprints Act 1992 s 39, example 2)
def "Magistrates Court"	Acts Interpretation Act 1954 s 36 def "Magistrates Court"
def "Minister"	Acts Interpretation Act 1954 s 36 def "Minister" and ss 33(1) to (4) and 24B(8)(b) (see also Reprints Act 1992 s 39, example 2)

9 Table of renumbered provisions

TABLE OF RENUMBERED PROVISIONS under the Reprints Act 1992 s 43

Previous	Renumbered as
5, 1st sentence	5(1)
5, 2nd sentence	5(2)
8, 1st sentence	8(1)
8, 2nd sentence	8(2)
9(1), 2nd sentence	9(1A)
10(1), 2nd sentence	10(1A)
10(2), 2nd sentence	10(2A)
13(2), 2nd sentence	13(2A)
14(5), 2nd sentence	14(5A)
15(2), 2nd sentence	15(3)
19(1), 2nd sentence	19(1A)
19(3), 2nd sentence	19(3A)
20(4), 2nd sentence	20(5)
21(3), 2nd sentence	21(4)
22, 1st sentence	22(1)
22, 2nd sentence	22(2)
23(2), 2nd sentence	23(2A)
24(4), 2nd sentence	24(5)
24(4), proviso	24(6)
26(1), 2nd sentence	26(1A)
27(1), 2nd sentence	27(1A)
27(2), 2nd sentence	27(2A)
27(3), 2nd sentence	27(3A)
27(4), 2nd sentence	27(4A)
27(5), 2nd sentence	27(5A)
36(3), 2nd sentence	36(3A)
51A(2), proviso	51A(3)

10 Transitional and savings provisions

Section 5 of the Noise Abatement Act Amendment Act 1983 No. 3 provides—

Validation of certain by-laws or ordinances

5. Where before the commencement of this Act a Local Authority has purported to make a by-law or ordinance, such that it is authorized by the Principal Act as amended by this Act to make, the by-law or ordinance shall

not be held to be invalid by reason only of the fact that the Principal Act did not authorize the making of it.