

South Australia

Environment Protection (Noise) Policy 2007

under the *Environment Protection Act 1993*

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Part 1—Preliminary

1—Short title

This policy may be cited as the *Environment Protection (Noise) Policy 2007*.

2—Commencement

This policy will come into operation on a day to be fixed by the Governor by notice in the Gazette.

3—Interpretation

(1) In this policy—

Act means the *Environment Protection Act 1993*;

ambient noise at a place affected by noise from a noise source means the noise at the place other than the noise from the noise source;

ambient noise level (continuous) means the value, expressed in dB(A), of a continuous steady sound that, for the period over which the measurement is taken using fast time weighting, has the same mean square sound pressure as the ambient noise level which varies with time when measured in accordance with Part 3;

ambient noise level (maximum) means the value, expressed in dB(A), of the highest instantaneous noise level measured using fast time weighting during measurement of the ambient noise level (continuous);

background noise level means the noise level that, according to a measurement taken using fast time weighting in accordance with Part 3, is equalled or exceeded for 90 per cent of the period over which the measurement is taken;

building includes a structure and part of a building or structure;

characteristic, in relation to noise from a noise source, means a tonal, impulsive, low frequency or modulating characteristic of the noise that is determined by the Authority or another administering agency, in accordance with the *Guidelines for the use of the Environment Protection (Noise) Policy 2007* published by the Authority as in force from time to time, to be fundamental to the nature and impact of the noise;

dB(A) means decibels measured using the "A" weighting network of a sound level meter;

Development Plan means a Development Plan under the *Development Act 1993*;

domestic premises means premises principally used for a purpose other than a business purpose;

extraneous noise means—

- (a) noise caused by wind (such as wind on vegetation or the microphone diaphragm), insects, animals, birds, aircraft or unusual traffic conditions or any other infrequently occurring event; or
- (b) noise that the Authority or another administering agency determines to be of a significant level and the result of an organised activity that might be discontinued, reduced or relocated;

fast time weighting means a setting of a sound level meter to a "fast" or "F" response;

habitable room means any room that is not a storage area, bathroom, laundry or toilet;

impulsive characteristic—a noise has an impulsive characteristic if it has a dominant characteristic consisting of a single pressure peak, or a sequence of such peaks, or a single burst with multiple pressure peaks whose amplitude decays with time, or a sequence of such bursts;

indicative noise level for a noise source means the indicative noise level determined for the noise source under clause 5;

land use category means a category of land use determined under clause 4 for the purpose of determining the indicative noise level for a noise source or the relevant allowable noise level for noise-affected premises;

locality means an area to which a Development Plan applies (whether described in the Plan as a locality, or as a zone or a precinct or otherwise) that is—

- (a) made subject to a set of land use rules by provisions of the Plan; and
- (b) not itself further divided by the Plan into areas that are made subject to separate sets of land use rules;

low frequency characteristic—a noise has a low frequency characteristic if it has a characteristic that dominates the overall noise with content between 20 hertz and 250 hertz;

modulating characteristic—a noise has a modulating characteristic if it varies significantly in frequency character or amplitude;

noise-affected premises—see clause 12;

noise level means sound pressure level in dB(A);

noise source means premises or a place at which an activity is undertaken, or a machine or device is operated, resulting in the emission of noise;

premises means land, or the whole or part of a building or vessel;

quiet locality—a locality is a quiet locality if the Development Plan provisions that make land use rules for the locality principally promote land uses that all fall within either or both of the following land use categories:

- (a) Residential;
- (b) Rural Living;

relevant Development Plan provisions for premises means the Development Plan provisions that make land use rules for the locality in which the premises are situated;

source noise level (continuous) means the value, expressed in dB(A), of a continuous steady sound that, for the period over which the measurement is taken using fast time weighting, has the same mean square sound pressure as the noise level which varies over time when measured in relation to a noise source and noise-affected premises in accordance with Part 3;

source noise level (maximum), in relation to a noise source, means the value, expressed in dB(A), of the highest instantaneous noise level using fast time weighting during the measurement of the source noise level (continuous) in relation to the noise source and noise-affected premises;

tonal characteristic—a noise has a tonal characteristic if it has a perceptible and definite pitch or tone.

- (2) In this policy, the expression **mandatory provision** followed by a statement as to the category of offence is to be taken to signify that contravention of the provision at the foot of which the expression appears is, for the purposes of Part 5 of the Act, an offence of the category so stated.
- (3) In this policy, a reference to an Australian Standard, an Australian/New Zealand Standard or an International Electro-technical Commission Standard is a reference to the Standard as varied from time to time.

Note—

Unless the contrary intention appears, terms used in this policy that are defined in the Act have the respective meanings assigned to those terms by the Act.

4—Land uses and land use categories

- (1) For the purposes of this Policy, relevant Development Plan provisions for a locality **principally promote** a particular land use in the locality if—
 - (a) that land use alone is promoted by the provisions; or
 - (b) that land use is clearly given precedence by the provisions over other land uses also promoted by the provisions; or
 - (c) that land use is one of a number of land uses promoted by the provisions, none of which is given precedence as referred to in paragraph (b).
- (2) If there is uncertainty as to what land uses are principally promoted by relevant Development Plan provisions, the question is to be determined, for the purposes of this Policy, by the Authority in consultation with the council for the area concerned.

- (3) The land use category within which a land use principally promoted by relevant Development Plan provisions falls is to be determined by the Authority in accordance with the *Guidelines for the use of the Environment Protection (Noise) Policy 2007* published by the Authority as in force from time to time.
- (4) If there is uncertainty as to what land use category a land use principally promoted by the relevant Development Plan provisions falls within, the question is to be determined, for the purposes of this Policy, by the Authority in consultation with the council for the area concerned.

5—Indicative noise levels

- (1) Subject to this clause, the indicative noise level for a noise source is to be determined as follows:
 - (a) where—
 - (i) the land uses principally promoted by the relevant Development Plan provisions for the noise source fall within a land use category specified in Table 1 in subclause (9); and
 - (ii) the land uses principally promoted by the relevant Development Plan provisions for the noise-affected premises fall within the same category as those principally promoted by the relevant Development Plan provisions for the noise source,
by reference to indicative noise factors set out in Table 1;
 - (b) in any other case—by reference to indicative noise factors set out in Table 2 in subclause (9).
- (2) When measurements to determine the source noise level (continuous) are taken—
 - (a) between 7.00 a.m. and 10.00 p.m. on the same day—an indicative noise factor used to determine the indicative noise level for the noise source is found in Table 1 or 2 in the column under the heading "**Day**"; or
 - (b) between 10.00 p.m. on one day and 7.00 a.m. on the following day—an indicative noise factor used to determine the indicative noise level for the noise source is found in Table 1 or 2 in the column under the heading "**Night**".
- (3) An indicative noise factor is also selected from Table 1 or 2 by reference to a land use category—an indicative noise factor for a land use category is found in the table in the column alongside the land use category.
- (4) If the land uses principally promoted by the relevant Development Plan provisions for the noise source and those principally promoted by the relevant Development Plan provisions for the noise-affected premises all fall within a single land use category, the indicative noise level for the noise source is the indicative noise factor for that land use category.
- (5) Subject to subclause (6), if the land uses principally promoted by the relevant Development Plan provisions for the noise source and those principally promoted by the relevant Development Plan provisions for the noise-affected premises do not all fall within a single land use category, the indicative noise level is the average of the indicative noise factors for the land use categories within which those land uses fall.

- (6) Subclause (5) does not apply if the locality in which the noise source is situated is separated from the locality in which the noise-affected premises are situated by another locality that is (on an imaginary straight line joining the noise source and the noise-affected premises) at least 100 metres wide, but instead subclause (4) applies as if the land uses principally promoted by the relevant Development Plan provisions for the noise source were the same as those principally promoted by the relevant Development Plan provisions for the noise-affected premises.
- (7) A figure resulting from the calculation of an average under subclause (5) must, if it contains a fraction, be rounded to the nearest whole number.
- (8) Despite the other provisions of this clause, if the measurement place is within a habitable room but cannot be located at an open window, the indicative noise level for the noise source is—
- (a) the satisfactory level set out in *Australian/New Zealand Standard AS/NZS 2107:2000—Acoustic Recommended Design Sound Levels and Reverberation Times for Building Interiors*, determined by the Authority to be the relevant level; or
 - (b) 20 dB(A) less than the indicative noise level that would, but for this subclause, apply,

whichever is the greater.

(9) **Tables**

Table 1 (subclause (1)(a))		
Land Use Category	Indicative Noise Factor (dB(A))	
	Day	Night
General Industry	65	65
Special Industry	70	70

Table 2 (subclause (1)(b))		
Land Use Category	Indicative Noise Factor (dB(A))	
	Day	Night
Rural Living	47	40
Residential	52	45
Rural Industry	57	50
Light Industry	57	50
Commercial	62	55
General Industry	65	55
Special Industry	70	60

6—Application of policy

Except insofar as it forms part of ambient noise, this Policy does not apply to—

- (a) a noise of a class set out in Schedule 1; or

- (b) a noise if an environmental authorisation, environment protection order, or exemption, relating to the noise, applied to the noise immediately before the commencement of this policy and continues to apply to the noise.

7—Revocation of other policies

The following environment protection policies are revoked:

- (a) *Environment Protection (Machine Noise) Policy 1994* (see *Gazette 27.10.1994 p1376*);
- (b) *Environment Protection (Industrial Noise) Policy 1994* (see *Gazette 27.10.1994 p1366*), as amended.

8—Amendment of policy without following normal procedure (section 32)

- (1) The following provisions of this policy may be amended by the Minister, by notice in the *Gazette*, under section 32(1)(c) of the Act:
 - (a) clause 3;
 - (b) Part 3;
 - (c) Part 6;
 - (d) Part 7;
 - (e) Schedule 1.
- (2) The kinds of changes that may be made to a provision by amendment under subclause (1) are as follows:
 - (a) the provision may be substituted wholly or in part;
 - (b) material may be varied or struck out from the provision;
 - (c) material may be inserted into the provision.
- (3) The Authority will not make a recommendation to the Minister for amendment of a provision under subclause (1) unless it has—
 - (a) developed a written proposal for the amendment, clearly setting out the purpose and likely impact of and reasons for the proposed amendment; and
 - (b) consulted with relevant organisations and industries and the community likely to be affected by the proposed amendment; and
 - (c) given consideration to and informed the Minister of the views expressed by those consulted.

Part 2—Objects of policy

9—Objects of policy

This policy has the following objects:

- (a) to set out procedures for measuring noise to determine compliance with the Act and this policy (see Part 3);
- (b) to fix noise goals for most noise sources compliance with which will satisfy the general environmental duty under section 25 of the Act in relation to noise from those noise sources (see Part 4);

Note—

Clause 6 excludes certain noise from the application of this policy.

Part 4 does not apply to noises of the kinds to which Part 6 and Part 7 apply.

- (c) to set out criteria for determining what requirements (if any) the Authority or another administering agency will impose to deal with noise sources not complying with applicable noise goals under this policy (see Part 4);
- (d) to provide the basis for a consistent approach to issues relating to noise in the determination of applications for development authorisation under the *Development Act 1993* (see Part 5);
- (e) to make special provision for certain kinds of noises (see Part 6);
- (f) to apply guidelines or other guidance documents to certain kinds of noises (see Part 7).

Part 3—Measurement procedure

10—Application of Part

Except as otherwise specified, this Part does not apply to noise to which guidelines under Part 7 apply.

11—Instrumentation

- (1) The measurement of noise for the purposes of this policy must be taken by a sound level meter that complies with *Australian Standard AS 1259-1990 Acoustics—Sound Level Meters* and has been tested in the previous 24 months by a National Association of Testing Authorities of Australia registered laboratory and certified by the laboratory to be accurate within relevant tolerances allowed for a Type 0, 1 or 2 sound level meter in *Australian Standard AS 1259-1990* or *International Electro-technical Commission Standards IEC 651-1979* and *IEC 804-1985*.
- (2) Other equipment may be used in conjunction with a sound level meter when taking a noise measurement provided that the overall accuracy of the measurement, as certified by a National Association of Testing Authorities of Australia registered laboratory in the previous 24 months, is no less than that acceptable for a Type 2 sound level meter.
- (3) For each series of noise measurements taken, a calibrated reference sound source accurate within plus or minus 1 dB(A) must be used to check the performance of the sound level meter and other equipment used in the measurement, before and after that measurement.

12—Noise-affected premises and measurement place

- (1) For the purposes of this policy, measurements to determine the compliance with this policy of noise from a noise source are to be taken in relation to premises at which the noise is audible (*noise-affected premises*) that—
 - (a) are in separate occupation from the noise source and used for residential or business purposes; or
 - (b) constitute a quiet ambient environment set aside as a park or reserve or for public recreation or enjoyment.

- (2) The measurement of a source noise level (continuous) and, subject to clause 15, an ambient noise level (continuous) or background noise level must be taken at a place, determined in accordance with subclauses (3), (4) and (5), at the noise-affected premises that is within or near, and at the same approximate elevation as, an area frequented by persons residing, working or sleeping at the premises, or, in the case of land set aside as a park or reserve or for public recreation or enjoyment, by members of the public.
- (3) Unless the Authority or another administering agency determines that it is not practicable or relevant to do so, the measurement place must be located outside any buildings.
- (4) If the Authority or another administering agency determines that it is not practicable or relevant to locate the measurement place outside any buildings—
 - (a) the measurement place must be at a window of a habitable room; and
 - (b) the window must be opened as wide as possible.
- (5) If the measurement place cannot be located at an open window of a habitable room, the measurement place must be within such a room.
- (6) Subclauses (3), (4) and (5) do not apply to measurements for the purposes of Part 6 Division 5.

13—General procedures

The following procedures must be adopted when measuring a source noise level (continuous), ambient noise level (continuous) or background noise level:

- (a) if the measurement is taken outside—
 - (i) the microphone of the sound level meter must be at a height of 1.2 to 1.5 metres above any horizontal acoustically reflecting surface, and, if it is practicable and relevant, at a distance of at least 3.5 metres from any vertical acoustically reflecting surface; and
 - (ii) the axis of maximum sensitivity of the microphone of the sound level meter must be directed towards the noise source; and
 - (iii) a wind shield approved by the sound level meter manufacturer must be used; and
 - (iv) the wind velocity at the measurement place must not exceed 5 metres per second; and
 - (v) care must be taken to avoid any effect on the measurement of extraneous noise, acoustic vibration or electrical interference; and
 - (vi) steps must be taken, as determined by the Authority or another administering agency, to take account of any significantly varying meteorological patterns in the locality;
- (b) if the measurement is taken at an open window of a room—
 - (i) the microphone of the sound level meter must be in the middle of the plane of the open window; and
 - (ii) the axis of maximum sensitivity of the microphone of the sound level meter must be perpendicular to the plane of the window; and

- (iii) a wind shield approved by the sound level meter manufacturer must be used; and
 - (iv) the wind velocity at the measurement place must not exceed 5 metres per second; and
 - (v) care must be taken to avoid any effect on the measurement of extraneous noise, acoustic vibration or electrical interference or noise generated within the premises in which the measurement is taken; and
 - (vi) steps must be taken, as determined by the Authority or another administering agency, to take account of any significantly varying meteorological patterns in the locality;
- (c) if the measurement is taken within a room or at any place determined by the Authority or another administering authority—
- (i) the sound level meter must be held at a position that produces the highest noise level reading in the room or place when at least 1 metre from walls, at least 1.5 metres from windows, and at a height of 1.2 to 1.5 metres above floor level; and
 - (ii) a wind shield approved by the sound level meter manufacturer must be used; and
 - (iii) care must be taken to avoid any effect on the measurement of any extraneous noise, acoustic vibration or electrical interference or noise generated within the premises in which the measurement is taken; and
 - (iv) steps must be taken, as determined by the Authority or other administering agency, to take account of any significantly varying meteorological patterns in the locality.

14—Source noise level procedures

- (1) A measurement of a source noise level (continuous) made for the purposes of this policy—
- (a) must be made using fast time weighting; and
 - (b) must be made—
 - (i) over a period of 15 minutes; or
 - (ii) if the Authority or another administering agency has determined, in accordance with the *Guidelines for the use of the Environment Protection (Noise) Policy 2007* published by the Authority as in force from time to time, that a different period is more or equally representative of the impact of the noise from the noise source—over the period so determined by the Authority or other administering agency.
- (2) The source noise level (continuous) must be adjusted in a manner determined by the Authority to remove the influence of the ambient noise level (continuous).

- (3) If the noise from the noise source contains characteristics, the source noise level (continuous) must be further adjusted in the following way (except for the purposes of comparison with the background noise level plus 5 dB(A)):
 - (a) if the noise from the noise source contains 1 characteristic, 5 dB(A) must be added to the source noise level (continuous);
 - (b) if the noise from the noise source contains 2 characteristics, 8 dB(A) must be added to the source noise level (continuous);
 - (c) if the noise from the noise source contains 3 or 4 characteristics, 10 dB(A) must be added to the source noise level (continuous).
- (4) Subclause (3) does not apply to measurements for the purposes of Part 6 Division 5.

15—Ambient and background noise level procedures

- (1) A measurement of ambient noise level (continuous) or background noise level made for the purposes of this policy must be made—
 - (a) using fast time weighting; and
 - (b) over a period when the noise from the noise source is absent from the measurement place, being a period determined by the Authority or another administering agency to be adequately representative of the nature of the ambient noise.
- (2) If it is not reasonably practicable to measure the ambient noise level (continuous) or background noise level at the noise-affected premises because of difficulty in eliminating noise from the noise source or eliminating the effect of extraneous noise on the measurement, the measurement must be taken at a place determined by the Authority or another administering agency where—
 - (a) the noise from the noise source is absent; and
 - (b) extraneous noise does not affect the measurement; and
 - (c) the noise is determined by the Authority or other administering agency to adequately match the ambient noise at the noise-affected premises.

16—Rounding

The final result of a measurement procedure under this Part must, if it contains a fraction, be rounded to the nearest whole number.

Part 4—General noise control provisions

17—Application of Part

Except as otherwise specified, this Part does not apply to noise to which the provisions of Part 6, or guidelines under Part 7, apply.

18—Compliance with noise goals satisfies general environmental duty

- (1) The general environmental duty under section 25 of the Act is satisfied in relation to noise from a noise source, insofar as the noise affects particular noise-affected premises, if the noise complies with the noise goals.

- (2) The noise complies with the noise goals if measurements taken in relation to the noise source and the noise-affected premises show that—
- (a) the source noise level (continuous) does not exceed the background noise level plus 5 dB(A); or
 - (b) the source noise level (continuous) does not exceed the indicative noise level for the noise source.

19—Criteria for determining action to deal with non-complying noise

If noise from a noise source does not comply with the noise goals, the Authority or another administering agency must, in determining whether it should require any action to be taken to reduce the noise and, if so, what action should be required and what period should be allowed for taking such action, have regard to the following matters:

- (a) the amount in dB(A) by which the source noise level (continuous) exceeds the relevant level and the frequency and duration of the noise level that give rise to that result;
- (b) any component of the ambient noise or extraneous noise that—
 - (i) has a noise level similar to or greater than the source noise level (continuous); and
 - (ii) has a similar noise character or similar regularity and duration to the noise from the noise source;
- (c) the times of occurrence of the noise from the noise source;
- (d) the number of persons adversely affected by the noise from the noise source and whether there is any special need for quiet at the noise-affected premises;
- (e) the land uses existing in the vicinity of the noise source when the kind of activity currently undertaken at the noise source was first undertaken there;
- (f) the kind of activity undertaken at the noise source and the other land uses existing in the vicinity of the noise-affected premises when the current occupancy of the noise-affected premises commenced;
- (g) whether Development Plan provisions applicable to the noise source have been introduced or changed since the kind of activity currently undertaken at the noise source was first undertaken there;
- (h) whether Development Plan provisions applicable to the noise-affected premises have been introduced or changed since the current occupancy of the noise-affected premises commenced;
- (i) any other matter required to be taken into account under section 25 of the Act or determined to be relevant by the Authority or the other administering agency.

Part 5—Development authorisation applications

20—Development authorisation applications

- (1) This clause applies for the purpose of the determination by the Authority under Part 6 Division 7 of the Act of the Authority's response in relation to an application for development authorisation referred to it under the *Development Act 1993*.
- (2) For the purposes of this clause—
 - (a) the land to which the application for development authorisation relates is to be taken to be a **noise source** of the kind that would exist if the development proposed in the application had been undertaken and an activity of the kind proposed to be undertaken by the applicant were being undertaken there; and
 - (b) assuming that measurements were taken, in accordance with this policy, in relation to the noise source and existing or future premises (**noise-affected premises**) determined by the Authority to be premises that might be adversely affected by the noise from the noise source—
 - (i) a **predicted source noise level (continuous)** for the development is the noise level determined by the Authority to be the source noise level (continuous) for the noise source that would result from those measurements; and
 - (ii) a **predicted source noise level (maximum)** for the development is a noise level determined by the Authority to be the source noise level (maximum) that would be recorded during those measurements; and
 - (c) the **relevant indicative noise level** is the indicative noise level determined for the noise source in relation to the noise-affected premises.
- (3) A predicted source noise level (continuous) for the development should not exceed the relevant indicative noise level less 5 dB(A).
- (4) In addition, if the noise-affected premises are situated in a quiet locality—
 - (a) a predicted source noise level (continuous) for the development, as determined by the Authority for a period between 7.00 a.m. and 10.00 p.m. on the same day, should not exceed 52 dB(A); and
 - (b) a predicted noise level (continuous) for the development, as determined by the Authority for a period between 10.00 p.m. on one day and 7.00 a.m. on the following day, should not exceed 45 dB(A); and
 - (c) a predicted source noise level (maximum) for the development, as determined by the Authority for a time between 10.00 p.m. on one day and 7.00 a.m. on the following day, should not exceed 60 dB(A).
- (5) Determinations to be made by the Authority for the purposes of subclauses (2) to (4) are, to the extent required by the Authority, to be made on the basis of documents and information (including calculations and technical details) provided by the applicant for development authorisation.

- (6) If a predicted source noise level (continuous) or predicted source noise level (maximum) for the development exceeds a relevant level prescribed in subclause (3) or (4), the Authority must have regard to the following matters in determining its response:
- (a) the amount in dB(A) by which the predicted source noise level (continuous) or predicted source noise level (maximum) exceeds the relevant level and the likely frequency and duration of the noise levels that give rise to that result;
 - (b) any component of the ambient noise or extraneous noise that—
 - (i) has a noise level similar to or greater than the predicted source noise level (continuous) or predicted source noise level (maximum); and
 - (ii) has a similar noise character or similar regularity and duration to the noise from the noise source;
 - (c) the times of occurrence of the noise from the noise source;
 - (d) the number of persons likely to be adversely affected by the noise from the noise source and whether there is or is likely to be any special need for quiet at noise-affected premises;
 - (e) the land uses existing in the vicinity of the noise source;
 - (f) any other matter required to be taken into account under section 25 of the Act or determined to be relevant by the Authority.

Part 6—Special noise control provisions

Division 1—Construction noise

21—Interpretation

- (1) In this Division—

construction activity includes—

- (a) demolition work, site preparation work and building maintenance or repair work; and
- (b) the operation of vehicles within, or entering or leaving, a construction site; and
- (c) any activities, at or within the immediate vicinity of a construction site, of persons who perform work at the site, or work connected with work at the site;

responsible person for construction activity means each of the following:

- (a) if the activity is undertaken by or for the owner of the construction site, the owner;
- (b) if the activity is undertaken by or for the occupier of the construction site, the occupier;
- (c) if there is a contractor performing the work, the contractor;
- (d) if there is a head contractor for the work, the head contractor.

- (2) In this Division, a reference to the *noise source* is a reference to the premises or place at which the construction activity is being undertaken.

22—Application

This Division does not apply to—

- (a) construction activity at or within the immediate vicinity of a site if development authorisation is not required under the *Development Act 1993* in respect of any of the activities undertaken at the site; or
- (b) construction activity related to roads, railways or other public infrastructure.

23—Construction activity

- (1) The following provisions apply to construction activity resulting in noise with an adverse impact on amenity:
- (a) subject to paragraph (b), the activity—
 - (i) must not occur on a Sunday or other public holiday; and
 - (ii) must not occur on any other day except between 7.00 a.m. and 7.00 p.m.;
 - (b) a particular operation may occur on a Sunday or other public holiday between 9.00 a.m. and 7.00 p.m., or may commence before 7.00 a.m. on any other day—
 - (i) to avoid an unreasonable interruption of vehicle or pedestrian traffic movement; or
 - (ii) if other grounds exist that the Authority or another administering agency determines to be sufficient;
 - (c) all reasonable and practicable measures must be taken to minimise noise resulting from the activity and to minimise its impact, including (without limitation)—
 - (i) commencing any particularly noisy part of the activity (such as masonry sawing or jack hammering) after 9.00 a.m.; and
 - (ii) locating noisy equipment (such as masonry saws or cement mixers) or processes so that their impact on neighbouring premises is minimised (whether by maximising the distance to the premises, using structures or elevations to create barriers or otherwise); and
 - (iii) shutting or throttling equipment down whenever it is not in actual use; and
 - (iv) ensuring that noise reduction devices such as mufflers are fitted and operating effectively; and
 - (v) ensuring that equipment is not operated if maintenance or repairs would eliminate or significantly reduce a characteristic of noise resulting from its operation that is audible at noise-affected premises; and
 - (vi) operating equipment and handling materials so as to minimise impact noise; and

- (vii) using off-site or other alternative processes that eliminate or lessen resulting noise.
- (2) The responsible person for construction activity must ensure that if the construction activity results in noise with an adverse impact on amenity, the construction activity does not occur or commence except as permitted by subclause (1)(a) and (b).
Mandatory Provision: Category B offence.
- (3) For the purposes of this clause, construction activity results in noise with an adverse impact on amenity if measurements taken in relation to the noise source and noise-affected premises show—
 - (a) that the source noise level (continuous) exceeds 45 dB(A); or
 - (b) that the source noise level (maximum) exceeds 60 dB(A).
- (4) However—
 - (a) if measurements of ambient noise at the noise-affected premises show that the ambient noise level (continuous) exceeds 45 dB(A), the construction activity does not result in noise with an adverse impact on amenity unless the source noise level (continuous) exceeds the ambient noise level (continuous);
 - (b) if measurements of ambient noise at the noise-affected premises show that the ambient noise level (maximum) consistently exceeds 60 dB(A), the construction activity does not result in noise with an adverse impact on amenity unless the source noise level (maximum) exceeds the ambient noise level (maximum) or the frequency of the occurrence of the ambient noise level (maximum).

Division 2—Domestic noise

24—Interpretation

- (1) In this Division—
 - domestic activity* means an activity at domestic premises involving the use of machinery, tools or other equipment but does not include the use of a fixed domestic machine;
 - fixed domestic machine* means a machine that is installed and operated in a fixed position at domestic premises.
- (2) In this Division, a reference to the *noise source* is a reference to the premises at which the fixed domestic machine is installed or, as the case requires, the domestic activity is being undertaken.

25—Fixed domestic machine noise

- (1) A person must not install a machine in a fixed position at domestic premises such that noise resulting from the operation of the machine has an adverse impact on amenity.
Mandatory Provision: Category B offence.

- (2) The owner of domestic premises and, if a different person is occupier of the domestic premises, the occupier must each ensure that a fixed domestic machine is not operated at the premises if—
- (a) noise resulting from the operation of the machine has an adverse impact on amenity; or
 - (b) maintenance or repairs would eliminate or significantly reduce a characteristic of the noise resulting from its operation that is audible at any noise-affected premises.

Mandatory Provision: Category B offence.

- (3) An installer (being a contractor and not the owner or occupier of the domestic premises) is not guilty of an offence against subclause (1) unless it is proved that—
- (a) at the time of taking measurements as referred to in subclause (5) or (6), the machine did not have a defect resulting in noise with a characteristic that was audible at the noise-affected premises; and
 - (b) the adverse impact on amenity was not the result of the removal of a barrier at the noise source after the time of installation of the machine.
- (4) It will be a defence to a charge of an offence against subclause (1) for an installer of the machine who is a contractor and not the owner or occupier of the domestic premises if the person proves that the person had, before installing the machine, been given written plans for the installation or construction by the owner or occupier of a barrier that would prevent any adverse impact on amenity resulting from the operation of the machine.
- (5) For the purposes of this clause, the operation of a fixed domestic machine results in noise with an adverse impact on amenity if—
- (a) measurements taken in relation to the noise source and noise-affected premises when the machine is operated between 7.00 a.m. and 10.00 p.m. on the same day show that the source noise level (continuous) exceeds 52 dB(A); or
 - (b) measurements taken in relation to the noise source and noise-affected premises when the machine is operated between 10.00 p.m. on one day and 7.00 a.m. on the following day show that the source noise level (continuous) exceeds 45 dB(A).
- (6) However—
- (a) if measurements of ambient noise at the noise-affected premises taken when the machine is operated between 7.00 a.m. and 10.00 p.m. on the same day show that the ambient noise level (continuous) exceeds 52 dB(A), the operation of the machine does not result in noise with an adverse impact on amenity unless the source noise level (continuous) exceeds the ambient noise level (continuous);
 - (b) if measurements of ambient noise at the noise-affected premises taken when the machine is operated between 10.00 p.m. on one day and 7.00 a.m. on the following day show that the ambient noise level (continuous) exceeds 45 dB(A), the operation of the machine does not result in noise with an adverse impact on amenity unless the source noise level (continuous) exceeds the ambient noise level (continuous).
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- (7) If the machine is operated simultaneously with other fixed domestic machines at the same premises (whether on every occasion of its operation or some occasions only), measurements taken as referred to in subclause (5) or (6) for the purposes of subclause (2) must be taken in relation to the noise emitted when all the machines are in operation.

26—Noise from domestic activity

- (1) The following provisions apply to domestic activity resulting in noise with an adverse impact on amenity:
- (a) the activity must not be undertaken except—
 - (i) between 9.00 a.m. and 8.00 p.m. on a Sunday; or
 - (ii) between 8.00 a.m. and 8.00 p.m. on any other day;
 - (b) all reasonable and practicable measures must be taken to minimise noise resulting from the activity and to minimise its impact, including (without limitation)—
 - (i) commencing any particularly noisy part of the activity after 9.00 a.m.; and
 - (ii) locating noisy equipment or processes so that their impact on neighbouring premises is minimised (whether by maximising the distance to the premises, using structures or elevations to create barriers or otherwise); and
 - (iii) shutting or throttling equipment down whenever it is not in actual use; and
 - (iv) ensuring that noise reduction devices such as mufflers are fitted and operating effectively; and
 - (v) ensuring that equipment is not operated if maintenance or repairs would eliminate or significantly reduce a characteristic of noise resulting from its operation that is audible at noise-affected premises.
- (2) The occupier of domestic premises must ensure that if domestic activity at the premises results in noise with an adverse impact on amenity, the domestic activity is not undertaken except as permitted by subclause (1)(a).

Mandatory Provision: Category B offence.

- (3) For the purposes of this clause, domestic activity has an adverse impact on amenity if measurements taken in relation to the noise source and noise-affected premises show—
- (a) that the source noise level (continuous) exceeds 45 dB(A); or
 - (b) that the source noise level (maximum) exceeds 60 dB(A).
- (4) However—
- (a) if measurements of ambient noise at the noise-affected premises show that the ambient noise level (continuous) exceeds 45 dB(A), the domestic activity does not result in noise with an adverse impact on amenity unless the source noise level (continuous) exceeds the ambient noise level (continuous);

- (b) if measurements of ambient noise at the noise-affected premises show that the ambient noise level (maximum) consistently exceeds 60 dB(A), the domestic activity does not result in noise with an adverse impact on amenity unless the source noise level (maximum) consistently exceeds the ambient noise level (maximum) or the frequency of the occurrence of the ambient noise level (maximum).
- (5) If the Authority or another administering agency determines that it is appropriate to do so because of the nature and duration of the noise resulting from the domestic activity, the Authority or other administering agency may, in addition, by an environment protection order, require that the source noise level (continuous), as measured during the hours referred to in subclause (1)(a), not exceed 52 dB(A) or the ambient noise level (continuous), whichever is the greater.

Division 3—Rubbish collection, street sweeping machines etc

27—Application

- (1) This Division applies to the following activities:
 - (a) rubbish collection when part of an organised program of such activity undertaken by or on behalf of a council or business;
 - (b) the operation of sweeping machines, blowers or other similar machines when part of an organised program of such activity undertaken by or on behalf of a council or business;
 - (c) the operation of powered saws or mulching machines when part of a program of work related to public street trees.
- (2) In this Division, a reference to the *noise source* is a reference to the premises or place at which the activity to which this Division applies is being undertaken.

28—Rubbish collection, street sweeping machines etc

- (1) The following provisions apply to an activity to which this Division applies when it results in noise with an adverse impact on amenity:
 - (a) subject to paragraph (b), the activity must not be undertaken except—
 - (i) between 9.00 a.m. and 7.00 p.m. on a Sunday or other public holiday;
 - (ii) between 7.00 a.m. and 7.00 p.m. on any other day;
 - (b) if the activity is to be undertaken on a public street, it may be commenced before 9.00 a.m. on a Sunday or public holiday, or before 7.00 a.m. on any other day—
 - (i) to avoid an unreasonable interruption of vehicle or pedestrian traffic movement; or
 - (ii) if other grounds exist that the Authority or another administering agency determines to be sufficient;
 - (c) all reasonable and practicable measures must be taken to minimise noise resulting from the activity and to minimise its impact, including (without limitation)—

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- (i) commencing any particularly noisy part of the activity after 9.00 a.m.; and
 - (ii) locating noisy equipment or processes so that their impact is minimised (whether by maximising the distance to the premises, using structures or elevations to create barriers or otherwise); and
 - (iii) scheduling the various parts of the activity so that sites with higher impacts on noise sensitive premises are scheduled for times after 9.00 a.m.; and
 - (iv) shutting or throttling equipment down whenever it is not in actual use; and
 - (v) ensuring that noise reduction devices such as mufflers are fitted and operating effectively; and
 - (vi) ensuring that equipment is not operated if maintenance or repairs would eliminate or significantly reduce a characteristic of noise resulting from its operation that is audible at noise-affected premises.
- (2) If an activity to which this Division applies results in noise with an adverse impact on amenity, a person who causes the activity to be undertaken, and the contractor (if any) engaged to perform such work, must each ensure that the activity does not occur or commence except as permitted by subclause (1)(a) or (b).

Mandatory Provision: Category B offence.

- (3) For the purposes of this clause, an activity to which this Division applies results in noise with an adverse effect on amenity if measurements taken in relation to the noise source and noise-affected premises show that the source noise level (maximum) exceeds 60 dB(A).
- (4) However, if measurements of ambient noise at the noise-affected premises show that the ambient noise level (maximum) consistently exceeds 60 dB(A), the activity does not result in noise with an adverse impact on amenity unless the source noise level (maximum) consistently exceeds the ambient noise level (maximum) or the frequency of the occurrence of the ambient noise level (maximum).

Division 4—Building intruder alarm systems

29—Interpretation

In this Division—

building intruder alarm system means an electronic alarm system fitted to a building other than a fire or smoke alarm system.

30—Operation of building intruder alarm systems

- (1) A building intruder alarm system must not be operated unless—
- (a) it automatically ceases to sound (whether the sound was continuous or intermittent) within 5 minutes after initial activation by a detection device; and
 - (b) it cannot be reactivated by the same detection device except after the system has been re-set manually; and

- (c) it is positioned in a way that minimises its impact on premises in separate occupation consistently with maintaining its effectiveness as an alarm system.
- (2) The owner of a building to which a building intruder alarm system is fitted and, if a different person is occupier of the building, the occupier must each ensure compliance with subclause (1) in relation to the operation of the system.

Mandatory Provision: Category B offence.

Division 5—Frost fans

31—Interpretation

In this Division—

frost fan means a device designed or adapted to combat frost by fanning warmer air over the frost-affected surfaces;

operator of a frost fan means the person responsible for the operation of the fan.

32—Operation of frost fans

- (1) The following provisions apply to the operation of a frost fan:
 - (a) the fan must not be of dimensions, or have an operating speed, greater than is reasonably required for its effective operation;
 - (b) the fan must not be operated except during a period when frost occurs or is reasonably likely to occur, or as necessary for maintenance work;
 - (c) maintenance work must not be carried out on the fan except between 7.00 a.m. and 10.00 p.m. on the same day;
 - (d) the fan must not be operated if measurements taken in relation to the noise source and noise-affected premises that are residential premises show that the source noise level (continuous) exceeds—
 - (i) the background noise level plus 5 dB(A); and
 - (ii) the relevant allowable noise level for the noise-affected premises set out in the table in subclause (6).
- (2) Measurements for the purposes of subclause (1)(d) must first be taken outside any buildings and, if the source noise level (continuous) exceeds the relevant levels prescribed in subclause (1)(d), that result must be ignored and measurements must then be taken in the noise-affected premises within the habitable room most affected by noise from the noise source and the windows of that room must be kept closed during the measurements.
- (3) If the fan is operated simultaneously with other frost fans at the same premises (whether on every occasion of its operation or some occasions only), measurements taken for the purposes of subclause (1)(d) must be taken in relation to the noise emitted when all the fans are in operation.

- (4) For the purposes of this clause, the *relevant allowable noise level* for noise-affected premises is selected from the table as follows:
- (a) if the land uses principally promoted by the relevant Development Plan provisions for the noise-affected premises fall within either or both of the land use categories Residential or Rural Living, the relevant allowable noise level is found in the table in the column alongside those land use categories;
 - (b) in any other case, the relevant allowable noise level is found in the column alongside the land use categories Rural Industry or Light Industry.
- (5) The operator of a frost fan or an occupier of premises at which a frost fan is operated must ensure compliance with subclause (1) in relation to its operation.

(6) **Table**

Land Use Category	Allowable Noise Level (dB(A))	
	Measurements Outside	Measurements within Habitable Room
Residential or Rural Living	45	25
Rural Industry or Light Industry	55	35

Part 7—Guidance documents

33—Audible bird scaring devices

- (1) If a person operates an audible bird scaring device, the *Audible Bird Scaring Devices Environmental Noise Guidelines 2007* prepared by the Authority apply.
- (2) In this clause—
- audible bird scaring device* means a device designed, adapted or used to scare birds by the emission of noise.

34—Wind farms

- (1) If a person operates a wind farm, the *Wind Farms Environmental Noise Guidelines 2003* prepared by the Authority apply.
- (2) In this clause—
- wind farm* means a group of wind turbine generators.

35—Issue of environment protection orders to give effect to guidelines

The Authority or another administering agency may issue an environment protection order to a person who undertakes an activity referred to in this Part to give effect to the guidelines that apply to the activity under this Part.

Schedule 1—Noise excluded from policy (clause 6)

- 1 Noise principally consisting of music or voices, or both, resulting from an activity at domestic premises.
- 2 Noise from a school, kindergarten, child care centre or place of worship.
- 3 Aircraft or railway noise.

- 4 Other vehicle noise except from vehicles operating within, or entering or leaving, business premises.
- 5 Noise that may be the subject of proceedings under—
 - (a) the *Liquor Licensing Act 1997*; or
 - (b) the *Community Titles Act 1996*; or
 - (c) the *Strata Titles Act 1988*; or
 - (d) the *Residential Tenancies Act 1995*.
- 6 Noise caused by dogs or other animals resulting from an activity at domestic premises.
- 7 Noise from any of the following as described in clause 8 of Schedule 1 of the Act:
 - (a) aerodromes;
 - (b) helicopter landing facilities;
 - (c) motor racing or testing venues;
 - (d) shooting ranges.
- 8 Noise from blasting operations carried out as part of a mining operation within the meaning of the *Mines and Works Inspection Act 1920* or *Mining Act 1971*.
- 9 Noise caused by emergency vehicle sirens.
- 10 Noise outside of the human audible range.