

## **Environmental Protection (Noise) Regulations 1997**

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**THE TEXT OF THE LEGISLATION FOLLOWS**



## **Environmental Protection (Noise) Regulations 1997**

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## **Environmental Protection (Noise) Regulations 1997**

### **Part 1 — Preliminary**

#### **1. Citation**

These regulations may be cited as the *Environmental Protection (Noise) Regulations 1997*<sup>1</sup>.

#### **2. Interpretation**

- (1) In these regulations, unless the contrary intention appears —
- “**assigned level**” means a noise level determined under regulation 8;
  - “**blasting**” means the use of explosive materials to fracture —
    - (a) rock, coal and other minerals for later recovery; or
    - (b) structural components or other items to facilitate removal from a site or for reuse;
  - “**caravan park or camping ground**” means a caravan park or camping ground licensed or taken to be licensed under the *Caravan Parks and Camping Grounds Act 1995*;
  - “**commercial premises**” means premises —
    - (a) referred to in Part B of Schedule 1; and

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(b) that are not premises, or part of premises, referred to in Part A of Schedule 1;

**“industrial and utility premises”** means premises referred to in Part A of Schedule 1;

**“ $L_{A\text{Slow}}$ ”** means the reading in decibels (dB) obtained using the “A” frequency-weighting characteristic and the “S” time-weighting characteristic as specified in AS 1259.1-1990 with sound level measuring equipment that complies with the requirements of Schedule 4;

**“local government”** means a local government within the meaning of the *Local Government Act 1995*;

**“measured”**, in relation to the measurement of a noise emission, means measured and adjusted in accordance with these regulations;

**“noise-sensitive premises”** means premises —

- (a) referred to in Part C of Schedule 1; and
- (b) that are not premises, or part of premises, referred to in Part A or Part B of Schedule 1;

**“public holiday”**, in relation to premises or a public place in any area means a public holiday under the *Public and Bank Holidays Act 1972* in that area or throughout the State;

**“representative assessment period”** means a period of time of not less than 15 minutes, and not exceeding 4 hours, determined by an inspector or authorised person to be appropriate for the assessment of a noise emission, having regard to the type and nature of the noise emission;

**“rural premises”** means premises used primarily for pastoral or agricultural purposes on land classified or zoned agricultural or rural use, or for rural lifestyle living, under a town planning scheme prepared or adopted under the *Town Planning and Development Act 1928*.

(2) In these regulations —

- (a) AS or AS/NZS followed by a designation is a reference to an Australian Standard having that designation that is published by the Standards Association of Australia<sup>2</sup> as amended from time to time, and includes a reference to an Australian Standard made in substitution for the standard specified in the regulation;
- (b) ADR followed by a designation is a reference to an Australian Design Rule having that designation as amended from time to time and includes a reference to an Australian Design Rule made in substitution for the rule specified in the regulation; and
- (c) a reference to an IEC Standards Publication followed by a designation is a reference to an International Electrotechnical Commission publication having that designation as amended from time to time and includes a reference to an International Electrotechnical Commission Standards Publication made in substitution for the publication specified in the regulation.

**3. Noise emissions from vehicles, trains etc.**

Nothing in these regulations applies to —

- (a) noise emissions from the propulsion and braking systems of motor vehicles operating on roads (as defined in section 5(1) of the *Road Traffic Act 1974*);
- (b) noise emissions from trains or aircraft (other than model aircraft and trains operating on railways with a gauge of less than 70 centimetres);
- (c) noise emissions from safety warning devices fitted to motor vehicles, mining and earth moving machinery, vessels and buildings if —
  - (i) it is a requirement under another written law that such a device be fitted; and
  - (ii) it is not practicable to fit a safety warning device that complies with the written law under which it

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is required to be fitted and emits noise that  
complies with these regulations;

or

- (d) noise emissions from an emergency vehicle as defined in regulation 103(1) of the *Road Traffic Code 1975*<sup>3</sup>.

*[Regulation 3 amended in Gazette 7 Nov 2000 p. 6143.]*

## **Part 2 — Allowable noise emissions**

### **4. General effect of this Part**

- (1) The requirements prescribed by regulations 7 and 11 for the emission of noise from premises are, subject to these regulations, prescribed standards for the purposes of section 51, 62(4)(c), 65, 74(3)(a), and clause 22 of Schedule 4 of the Act.
- (2) An emission of noise otherwise than in accordance with regulation 7 or 11 is, if either of those regulations apply to the emission, a prescribed alteration of the environment for the purposes of paragraph (c) of the definition of “pollution” in section 3(1) of the Act.
- (3) Nothing in these regulations affects the application of section 49(4) or (5) of the Act.

*[Regulation 4 amended in Gazette 7 Nov 2000 p. 6143.]*

### **5. Unreasonable noise**

- (1) Without limiting section 3(3)(a) of the Act, noise emitted in contravention of a standard prescribed under regulation 7 or 11 is to be taken to be unreasonable.
- (2) Subject to subregulation (3), noise is unreasonable for the purposes of section 3(3)(c) of the Act if —
  - (a) a complaint to a police officer or an authorised person has been made, by an occupier of noise sensitive premises where the noise is received, that noise emitted from any premises or public place is unreasonable; and
  - (b) having regard to the duration of the noise emission, the frequency of similar noise emissions from those premises or that public place, and the time of day at which the noise is emitted, the noise unreasonably interferes with the health, welfare, convenience, comfort or amenity of the occupier making the complaint.

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- (3) Noise is not unreasonable for the purposes of section 3(3)(c) of the Act if the person causing the noise emission shows that —
- (a) the noise is not emitted in contravention of a standard prescribed under regulation 7 or 11;
  - (b) by virtue of regulation 12, 13, 14 or 15, regulation 7 does not apply to the noise emitted; or
  - (c) the noise is emitted in accordance with an approval granted under regulation 17 or 18.

**6. Regulation of noise from public places**

- (1) The emission of noise from public places is regulated as follows under the power described in item 14 of Schedule 2 of the Act —
- (a) public places are to be treated as premises to which sections 51, 79, 80, 81, 81A, 82 and 99 of the Act apply;
  - (b) in respect of any particular emission of noise from a public place, the person who is causing or permitting that noise to be emitted is to be treated as the occupier of that public place for the purposes of section 51 of the Act; and
  - (c) the requirements prescribed by regulations 7 and 11 for the emission of noise from public places are, subject to these regulations, prescribed standards for the purposes of section 51 as applied by this regulation.
- (2) A person must not fail to comply with section 51, 79, 80, 81 or 82 of the Act as applied by subregulation (1).

Penalty: \$5 000.

*[Regulation 6 amended in Gazette 11 Dec 1998 p. 6613;  
7 Nov 2000 p. 6144.]*

**7. Prescribed standard for noise emissions**

- (1) Noise emitted from any premises or public place when received at other premises —
  - (a) must not cause, or significantly contribute to, a level of noise which exceeds the assigned level in respect of noise received at premises of that kind; and
  - (b) must be free of —
    - (i) tonality;
    - (ii) impulsiveness; and
    - (iii) modulation,when assessed under regulation 9.
- (2) For the purposes of subregulation (1)(a), a noise emission is taken to **“significantly contribute to”** a level of noise if the noise emission as determined under subregulation (3) exceeds a value which is 5 dB below the assigned level at the point of reception.
- (3) A level of a noise emission may be determined by —
  - (a) measurement at its point of reception when, to the extent practicable, other noises that would contribute to the measured noise level are not present; or
  - (b) calculation of the level at its point of reception based on measurement of the noise emission at a reference point determined by the inspector or authorised person to be a point where the relationship between the noise emission as measured at the reference point and at the point of reception can be established.

**8. Assigned levels**

- (1) In the table to this regulation —

**“building”** includes a camp, caravan, or park home, within the meaning of those terms under the *Caravan Parks and Camping Grounds Act 1995*, that is located on a serviced site in a caravan park or camping ground;

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**“influencing factor”**, in relation to noise received at noise sensitive premises, means the influencing factor determined under Schedule 3;

**“ $L_{A\ max}$  assigned level”** means an assigned level which, measured as a  $L_{A\ Slow}$  value, is not to be exceeded at any time;

**“ $L_{A\ 1}$  assigned level”** means an assigned level which, measured as a  $L_{A\ Slow}$  value, is not to be exceeded for more than 1% of the representative assessment period;

**“ $L_{A\ 10}$  assigned level”** means an assigned level which, measured as a  $L_{A\ Slow}$  value, is not to be exceeded for more than 10% of the representative assessment period.

- (2) The assigned level for all premises is to be determined by reference to the table to this regulation.

**Table 1**

Type of premises receiving noise	Time of day	Assigned level (dB)		
		$L_{A\ 10}$	$L_{A\ 1}$	$L_{A\ max}$
Noise sensitive premises at locations within 15 metres of a building directly associated with a noise sensitive use	0700 to 1900 hours Monday to Saturday	45 + influencing factor	55 + influencing factor	65 + influencing factor
	0900 to 1900 hours Sunday and public holidays	40 + influencing factor	50 + influencing factor	65 + influencing factor
	1900 to 2200 hours all days	40 + influencing factor	50 + influencing factor	55 + influencing factor
	2200 hours on any day to 0700 hours Monday to Saturday and 0900 hours Sunday and public holidays	35 + influencing factor	45 + influencing factor	55 + influencing factor

Type of premises receiving noise	Time of day	Assigned level (dB)		
		L <sub>A 10</sub>	L <sub>A 1</sub>	L <sub>A max</sub>
Noise sensitive premises at locations further than 15 metres from a building directly associated with a noise sensitive use	All hours	60	75	80
Commercial premises	All hours	60	75	80
Industrial and utility premises	All hours	65	80	90

**9. Intrusive or dominant noise characteristics**

(1) In this regulation and in regulation 7 —

**“impulsiveness”** means a variation in the emission of a noise where the difference between L<sub>A peak</sub> and L<sub>A Max slow</sub> is more than 15 dB when determined for a single representative event;

**“modulation”** means a variation in the emission of noise that —

- (a) is more than 3 dB L<sub>A Fast</sub> or is more than 3 dB L<sub>A Fast</sub> in any one-third octave band;
- (b) is present for at least 10% of the representative assessment period; and
- (c) is regular, cyclic and audible;

**“tonality”** means the presence in the noise emission of tonal characteristics where the difference between —

- (a) the A-weighted sound pressure level in any one-third octave band; and
- (b) the arithmetic average of the A-weighted sound pressure levels in the 2 adjacent one-third octave bands,

is greater than 3 dB when the sound pressure levels are determined as L<sub>Aeq,T</sub> levels where the time period T is

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greater than 10% of the representative assessment period, or greater than 8 dB at any time when the sound pressure levels are determined as  $L_{A\text{ Slow}}$  levels.

(2) In subregulation (1) —

“ $L_{A\text{ Fast}}$ ” means the reading in decibels (dB) obtained using the “A” frequency-weighting characteristic and the “F” time-weighting characteristic as specified in AS 1259.1-1990 with sound level measuring equipment that complies with the requirements of Schedule 4;

“ $L_{A\text{ peak}}$ ” means the maximum reading in decibels (dB) obtained using the “A” frequency-weighting characteristic and “P” time-weighting characteristic as specified in AS 1259.1-1990 with sound level measuring equipment that complies with the requirements of Schedule 4;

“ $L_{Aeq,T}$ ” means the equivalent continuous A-weighted sound pressure level in decibels (dB) as specified in AS 1055.1-1989 determined over measurement time period T with sound level measuring equipment that complies with the requirements of Schedule 4;

“ $L_{A\text{ Max slow}}$ ” means the maximum reading in decibels (dB) obtained using the “A” frequency-weighting characteristic and the “S” time-weighting characteristic as specified in AS 1259.1-1990 with sound level measuring equipment that complies with the requirements of Schedule 4;

“**one-third octave band**” means a band of frequencies spanning one-third of an octave and having a centre frequency between 25 Hz and 20 000 Hz inclusive as incorporated in a filter that complies with the requirements of Schedule 4.

(3) Noise is taken to be free of the characteristics of tonality, impulsiveness and modulation if —

- (a) the characteristics cannot be reasonably and practicably removed by techniques other than attenuating the overall level of the noise emission; and

- (b) the noise emission complies with the standard prescribed under regulation 7(1)(a) after the adjustments in the table to this subregulation are made to the noise emission as measured at the point of reception.

**Table 2**

Adjustment where noise emission is not music. These adjustments are cumulative to a maximum of 15 dB.			Adjustment where noise emission is music	
Where tonality is present	Where modulation is present	Where impulsiveness is present	Where impulsiveness is not present	Where impulsiveness is present
+5 dB	+5 dB	+10 dB	+10 dB	+15 dB

**10. Non-conforming uses and changes of zoning**

- (1) In this regulation —

**“non-conforming use”** means a use of premises which, though lawful immediately prior to the coming into operation of a town planning scheme, is not in conformity with any provision of that scheme which deals with a matter specified in clause 10 of the First Schedule to the *Town Planning and Development Act 1928*;

**“town planning scheme”** means a town planning scheme in force under the *Town Planning and Development Act 1928*, or a redevelopment scheme referred to in section 6(4) of that Act.

- (2) Subject to subregulation (4), the noise that may lawfully be emitted from premises used for a non-conforming purpose when received at any part of noise sensitive premises that is within 450 metres of the first-mentioned premises is the same noise that could have been emitted and received in accordance with regulation 7 if the provisions of the town planning scheme that caused the non-conforming use had not come into operation.
- (3) Subject to subregulation (4), if a town planning scheme is amended with respect to any land after the coming into operation of these regulations, the noise that may be lawfully

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emitted from other premises (“**emitting premises**”) when received at any part of noise sensitive premises on the first-mentioned land that is within 450 metres of the emitting premises is to be determined as if —

- (a) the premises receiving the noise are noise sensitive premises; but
  - (b) for the purposes of Schedule 3, the land on which the premises are situated has the same use as would have been lawful immediately before the coming into operation of the amendment to the town planning scheme.
- (4) Subregulations (2) and (3) do not apply to premises from which noise is emitted unless —
- (a) an acknowledgment from the Authority issued under subregulation (8) has effect in relation to those premises;
  - (b) the occupier of the premises displays a prominent sign visible from outside the premises from which the noise is emitted detailing the claim made under subregulation (5) and the acknowledgment of the Authority; and
  - (c) a copy of the claim, accompanying documents required under subregulation (6), and the Authority’s acknowledgment of the claim have been lodged by the occupier of those premises with the local government for the area in which the premises are situated.
- (5) An occupier of premises from which noise is emitted may make a claim to the Authority for acknowledgment that —
- (a) the premises are premises used for a non-conforming use; or
  - (b) the premises are premises —
    - (i) from which noise emitted is received at premises on land in respect of which the town planning scheme has been amended; and

- (ii) which have had the same use continuously since the coming into operation of the amendments to the town planning scheme, as they had immediately before those amendments came into operation.
- (6) A claim under subregulation (5) is to be accompanied by —
  - (a) a statutory declaration as to —
    - (i) the town planning scheme, if any, which applied to the premises immediately before the coming into operation of the provisions of the town planning scheme that caused the non-conforming use; or
    - (ii) the town planning scheme which applied to the premises receiving the noise immediately before the scheme was amended,as the case requires;
  - (b) a statutory declaration as to —
    - (i) the town planning scheme that caused the non-conforming use, or the amendments to the town planning scheme referred to in paragraph (a)(ii), as the case requires; and
    - (ii) if the claim is for acknowledgment that the premises are premises of a kind referred to in subregulation (5)(b), the use of those premises immediately before they became premises of that kind, and since becoming such premises;and
  - (c) copies of the relevant town planning schemes referred to in paragraphs (a) and (b).
- (7) The statutory declarations referred to in subregulation (6)(a) and (b) may be made by the occupier of the premises or by any other person who has the relevant knowledge.

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- (8) The Authority is to give the occupier of premises written acknowledgment of any claim made in accordance with this regulation.
- (9) The Authority may revoke an acknowledgment at any time if it becomes aware that the use of the premises in respect of which the acknowledgment was given has changed or that the acknowledgment was given on the basis of incomplete or incorrect information.
- (10) Any claim acknowledged by the Authority, accompanying documentation required under subregulation (6) and the Authority's acknowledgment are to be available for public inspection during normal office hours at the public reading room of the Department.

**11. Airblast levels due to blasting**

- (1) In this regulation —
  - “**airblast level**” means a noise level resulting from blasting;
  - “**L<sub>Linear peak</sub>**” means the maximum reading in decibels (dB) obtained using the “P” time-weighting characteristic as specified in AS 1259.1-1990 with all frequency-weighting networks inoperative and with sound level measuring equipment that complies with the requirements of Schedule 4.
- (2) The provisions of this regulation apply to airblast levels and where they apply they have effect in place of regulation 7.
- (3) No airblast level resulting from blasting on any premises or public place, when received at any other premises, may exceed —
  - (a) 125 dB L<sub>Linear peak</sub> between 0700 hours and 1800 hours on Monday to Saturday inclusive; or
  - (b) 120 dB L<sub>Linear peak</sub> between 0700 hours and 1800 hours on a Sunday or public holiday.

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- (4) Notwithstanding subregulation (3), airblast levels for 9 in any 10 consecutive blasts (regardless of the interval between each blast), when received at any other premises, must not exceed —
- (a) 120 dB  $L_{\text{Linear peak}}$  between 0700 hours and 1800 hours on Monday to Saturday inclusive; or
  - (b) 115 dB  $L_{\text{Linear peak}}$  between 0700 hours and 1800 hours on a Sunday or public holiday.
- (5) No airblast level resulting from blasting on any premises or public place, when received at any other premises, may exceed —
- (a) 90 dB  $L_{\text{Linear peak}}$  outside the periods between 0700 hours and 1800 hours on any day except where that blasting is carried out in accordance with regulation 8.28(4) of the *Mines Safety and Inspection Regulations 1995*; or
  - (b) the levels specified in subregulations (3) and (4) outside the periods between 0700 hours and 1800 hours, as appropriate for the time when it was intended that the blast be fired, if the exception in paragraph (a) applies.

## 12. Rural premises

- (1) In this regulation —
- “farming vehicle”** means a motor vehicle which is used for, or in association with, soil preparation and cultivation, land drainage and water management, crop seeding and planting, crop spraying and fertilisation, pest management, produce harvesting or stock management.
- (2) This regulation does not apply to noise emitted from a farming vehicle —
- (a) on premises used for intensive animal husbandry, poultry farming or dog kennels; or
  - (b) used for pumping water for crop or pasture irrigation, stock watering or land drainage.

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- (3) Regulation 7 does not apply to noise emitted from a farming vehicle on rural premises at any time between sunrise and sunset if the farming vehicle complies with subregulation (5).
- (4) Regulation 7 does not apply to noise emitted from a farming vehicle on rural premises at any time between sunset and sunrise if —
  - (a) the farming vehicle complies with subregulation (5); and
  - (b) the occupier of the premises shows that it was reasonably necessary for the vehicle to be operated at that time and not between sunrise and sunset.
- (5) A farming vehicle complies with this subregulation if the vehicle, when equated to the relevant class of goods vehicle on the basis of its mass and engine power and tested in accordance with the requirements of sections 1 and 3 of ADR 28/01, shows noise levels not exceeding those specified in ADR 28/01 for goods vehicles intended for off road use.

**13. Construction sites**

- (1) In this regulation —
  - “**construction site**” means premises or a public place on which the sole or principal activity is the carrying out of construction work;
  - “**construction work**” means —
    - (a) the construction, erection, installation, alteration, repair, maintenance, cleaning, painting, renewal, removal, excavation, dismantling or demolition of, or addition to, any building or structure, or any work in connection with any of these things, that is done at or adjacent to the place where the building or structure is located;
    - (b) work on which a hoisting appliance or any scaffold or shoring is used;
    - (c) work in driving or extracting piles, sheet piles or trench sheet;

- (d) work in laying any pipe or work in lining pipe that is done at or adjacent to the place where the pipe is laid or to be laid;
  - (e) work in sinking or lining or altering, repairing, maintaining, renewing, removing, or dismantling a well or borehole; or
  - (f) road works, earth works or other similar site works or reclamation.
- (2) Regulation 7 does not apply to noise emitted from a construction site as a result of construction work carried out between 0700 hours and 1900 hours on any day which is not a Sunday or public holiday if the occupier of the premises or public place, shows that —
- (a) the construction work was carried out in accordance with control of environmental noise practices set out in section 6 of AS 2436-1981 Guide to Noise Control on Construction, Maintenance and Demolition Sites;
  - (b) the equipment used on the premises was the quietest reasonably available; and
  - (c) if the occupier was required to prepare a noise management plan under subregulation (4) in respect of the construction site —
    - (i) the noise management plan was prepared and given in accordance with the requirement, and approved by the Chief Executive Officer; and
    - (ii) the construction work was carried out in accordance with the management plan.
- (3) Regulation 7 does not apply to noise emitted from a construction site as a result of construction work carried out other than between the hours specified in subregulation (2) if the occupier of the construction site shows that —
- (a) the construction work was carried out in accordance with control of environmental noise practices set out in

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- section 6 of AS 2436-1981 Guide to Noise Control on Construction, Maintenance and Demolition Sites;
- (b) the equipment used on the premises was the quietest reasonably available;
  - (c) the construction work was carried out in accordance with a noise management plan in respect of the construction site —
    - (i) prepared and given to the Chief Executive Officer not later than 7 days before the construction work commenced; and
    - (ii) approved by the Chief Executive Officer;
  - (d) at least 24 hours before the construction work commenced, the occupier of the construction site gave written notice of the proposed construction work to the occupiers of all premises at which noise emissions received were likely to fail to comply with the standard prescribed under regulation 7; and
  - (e) it was reasonably necessary for the construction work to be carried out at that time.
- (4) The Chief Executive Officer may require an occupier of a construction site on which it is proposed to carry out construction work to prepare a noise management plan in respect of the premises.
- (5) An occupier required to prepare a noise management plan under subregulation (4) must provide the Chief Executive Officer, or another person specified in the notice, with a copy of the plan within the period specified in the notice of requirement.
- (6) A noise management plan prepared under subregulation (3)(c) or (4) is to include, but is not limited to —
- (a) details of, and reasons for, construction work on the construction site that is likely to be carried out other than between 0700 hours and 1900 hours on any day which is not a Sunday or public holiday;

- (b) details of, and the duration of, activities on the construction site likely to result in noise emissions that fail to comply with the standard prescribed under regulation 7;
- (c) predictions of noise emissions on the construction site;
- (d) details of measures to be implemented to control noise (including vibration) emissions;
- (e) procedures to be adopted for monitoring noise (including vibration) emissions; and
- (f) complaint response procedures to be adopted.

**14. Equipment used on residential premises**

- (1) In this regulation —  
    **“specified equipment”** means any item of equipment which requires the constant presence of an operator for normal use.
- (2) Regulation 7 does not apply to noise emitted from residential premises from the use of specified equipment on any day if —
  - (a) the specified equipment is used in a reasonable manner;
  - (b) the specified equipment has not been used —
    - (i) in the case of equipment other than a musical instrument, for more than 2 hours since the beginning of the relevant day; or
    - (ii) in the case of a musical instrument, for more than one hour since the beginning of the relevant day;
  - (c) the noise resulting from the use of that specified equipment on those premises, having regard to the duration of the noise emission, the frequency of similar noise emissions from those premises and the purpose for which the equipment is used, does not unreasonably interfere with the health, welfare, convenience, comfort or amenity of an occupier of premises receiving the noise; and

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- (d) the specified equipment is used —
  - (i) between 0700 hours and 1900 hours on Monday to Saturday inclusive; or
  - (ii) between 0900 hours and 1900 hours on a Sunday or public holiday.

**15. Bellringing and calls to worship**

- (1) In this regulation —

**“amplified call to worship”** means a call or invitation to worship (including the ringing of a single bell or a set of bells) which is amplified or reproduced by the use of electronic amplification equipment;

**“bellringing”** means the ringing of a set of bells, where not amplified by electronic amplification equipment;

**“other call to worship”** means any call or invitation to worship (including the ringing of a single bell) other than bellringing or an amplified call to worship.

- (2) Regulation 7 does not apply to noise emitted from premises or a public place, other than premises used exclusively as residential premises, where the noise results from —

- (a) bellringing using equipment, which was used for bellringing on those premises at any time during the year before 29 December 1995;
- (b) bellringing, other than that referred to in paragraph (a), if the conditions prescribed in subregulation (3) are complied with;
- (c) an amplified call to worship, if the conditions prescribed in subregulation (3) are complied with; or
- (d) any other call to worship, if the conditions prescribed in subregulation (3) are complied with.

- (3) The following conditions are prescribed for the purposes of subregulation (2)(b), (c) and (d) —
- (a) the call to worship is to be made only on the premises or public place where the worship is to take place;
  - (b) the premises or public place on which the worship is to take place is to be on land which is referred to in section 6.26(2)(d), (e) or (f) of the *Local Government Act 1995*;
  - (c) where the noise emission measured under subregulation (4) exceeds 55 dB  $L_{A\text{ Slow}}$  as a result of bellringing or an amplified call to worship then —
    - (i) bellringing or the amplified call to worship is to be conducted only between 0800 hours and 1900 hours on Monday to Friday inclusive, or between 0900 hours and 1900 hours on Saturdays, Sundays and public holidays;
    - (ii) bellringing or the amplified call to worship is to last no more than 10 minutes on each occasion that it takes place;
    - (iii) bellringing or the amplified call to worship is not to take place on more than 2 occasions on the one day;
    - (iv) bellringing or the amplified call to worship is not to take place on more than 12 occasions in any period of 2 months;
    - (v) bellringing or the amplified call to worship is not to take place on more than 8 occasions in any one month; and
    - (vi) if so requested by the Chief Executive Officer, a log is to be kept recording details of the date, time and duration of all bellringing or amplified calls to worship made.

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- (4) For the purposes of this regulation, the noise emission is to be —
- (a) measured on any premises other than —
    - (i) the premises on which the bellringing or amplified call to worship was made;
    - (ii) premises which are owned or occupied by the same person or persons as the premises on which the bellringing or amplified call to worship was made; or
    - (iii) premises that are not noise-sensitive premises;
  - (b) measured as the average maximum of the  $L_{A\ Slow}$  readings; and
  - (c) representative of the highest such noise emission recorded on the premises when the bell tower (where applicable) is in its open condition.

*[Regulation 15 amended in Gazette 7 Nov 2000 p. 6144.]*

**16. Community activities**

- (1) In this regulation —  
**“exempt noise”** means noise of a type listed in Schedule 2;  
**“noise control notice”** means a notice under subregulation (4).
- (2) Nothing in this regulation —
- (a) affects the application of regulations 5 and 15 and sections 79 to 81A of the Act; or
  - (b) applies to noise emitted in accordance with an approval granted under regulation 17 or 18.
- (3) Regulation 7 does not apply to exempt noise.
- (4) If the Chief Executive Officer is satisfied that —
- (a) a type of exempt noise has increased, or has increased its effect on the environment, since the coming into operation of these regulations; or

- (b) a type of exempt noise has, or is likely to have, a detrimental effect on the environment that exceeds the benefit to the community of the activity that gives rise to that noise,

the Chief Executive Officer may cause to be served on the owner or the occupier, or on both the owner and the occupier, of the premises or public place a noise control notice in respect of the exempt noise.

- (5) A noise control notice —
  - (a) is to specify the reason for which it is served;
  - (b) may include a requirement that any person bound by it is to take such measures as —
    - (i) the Chief Executive Officer considers necessary to control or abate the emission of noise to which the noise control notice relates; and
    - (ii) are specified in the noise control notice, within such period, or at such times, as are specified in the noise control notice; and
  - (c) may include a direction that any person bound by it is to make application under regulation 17 for approval to allow the emission of noise to exceed or vary from the standard prescribed under regulation 7.
- (6) The measures required under a noise control notice by the Chief Executive Officer may include a requirement that the person on whom a noise control notice is served is to prepare a noise management plan specifying —
  - (a) the levels of noise emissions specified in the notice from the premises; and
  - (b) strategies the person bound by the notice will adopt to manage the noise emissions.
- (7) A noise control notice, while it is in force, binds each owner or occupier on whom it is served.

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- (8) If —
- (a) a person bound by a noise control notice fails to comply with a requirement of the notice; or
  - (b) the Minister refuses to grant an application for approval made pursuant to a direction under subregulation (5)(c),
- then —
- (c) the emission of noise to which the notice or refusal relates ceases to be “exempt noise” for the purposes of this regulation; and
  - (d) regulation 7 applies to that emission of noise.
- (9) The Chief Executive Officer may by written notice served on every person bound by a noise control notice revoke the notice or amend it —
- (a) by extending the period within which a requirement contained in the notice is to be complied with if the Chief Executive Officer is satisfied that the circumstances of the case justify such an extension;
  - (b) by revoking or amending any requirement included in the notice.
- (10) The Chief Executive Officer, before exercising in respect of a person, the power of amendment under subregulation (9)(b), is to afford the person a reasonable opportunity to show cause in writing why that power should not be exercised in respect of that person.
- (11) An opportunity is not a reasonable opportunity within the meaning of subregulation (10) unless the relevant person is informed of the right to show cause under that subregulation not less than 21 days before the day on which the Chief Executive Officer exercises the power in question.
- (12) A person who is aggrieved by —
- (a) a requirement under subregulation (5)(b) included in a noise control notice served on that person; or

- (b) an amendment included in a notice served on that person under subregulation (9),

may within 14 days of that service lodge with the Minister an appeal in writing setting out the grounds of that appeal.

- (13) Part VII of the Act applies to an appeal lodged under subregulation (12) as if the appeal were an appeal referred to in section 103 of the Act.

**17. Where standard cannot reasonably be met**

- (1) Where a person is of the opinion that he or she cannot reasonably or practicably comply with a standard prescribed under these regulations, or that a proposal of that person will not be reasonably or practicably capable of complying with that standard, that person may apply to the Minister for approval to allow the emission of noise in that case to exceed or vary from the standard.
- (2) An application made under subregulation (1) or made pursuant to a direction under regulation 16(5)(c) is to be referred by the Minister to the Authority for assessment.
- (3) When an application is referred to the Authority, the Authority —
  - (a) if it considers that the emission of noise in that case will not exceed or vary from a standard prescribed under these regulations, is to so inform the Minister;
  - (b) if it considers that the emission of noise in that case exceeds or will exceed or vary from a standard prescribed under these regulations —
    - (i) is to so inform the Minister and the applicant; and
    - (ii) is to assess the application and report to the Minister.

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- (4) The Authority may, for the purposes of assessing an application under subregulation (3) require any person to provide it with such information as is specified in that requirement.
- (5) Subject to any direction given under subregulation (6), the Authority is to determine the form, content, timing and procedure of any assessment undertaken under this regulation.
- (6) The Minister may, during or after the assessment by the Authority of an application referred to it, and after consulting the Authority, direct the Authority to assess or re-assess, as the case requires, that application more fully or more publicly or both in accordance with that direction, and the Authority is to comply with that direction.
- (7) After receiving the report of the Authority the Minister may grant, or may refuse to grant, the application for approval.
- (8) An approval under subregulation (7) may be made —
  - (a) to have effect for a specified period; and
  - (b) subject to any condition or restriction,and despite any other regulation in this Part has effect according to its terms.
- (9) The Minister may, if the Minister considers that any approval under subregulation (7) should be amended or revoked, request the Authority to inquire into and report on the proposed amendment or revocation and for that purpose this regulation applies as if the proposed amendment or revocation were an application referred to the Authority.
- (10) After receiving a report of the Authority under subregulation (9) the Minister may amend or revoke the approval.
- (11) Notice of an approval under subregulation (7), and any variation or revocation of that approval under subregulation (10), is to be published in the *Gazette*.

- (12) If a condition subject to which an approval is given is breached, or an approval is revoked under subregulation (10), the approval ceases to have effect and the standards prescribed under these regulations apply to that emission of noise.
- (13) Any person who disagrees with a decision made under subregulation (7) or (10), or any of the conditions or restrictions imposed upon an approval granted under subregulation (7) may, within 14 days of the publication of the approval, variation or revocation, lodge with the Minister an appeal in writing setting out the grounds of that appeal.
- (14) Part VII of the Act applies to an appeal lodged under subregulation (13) as if that appeal were an appeal referred to in section 100(3) of the Act.

**18. Venues used for sporting, entertainment purposes etc.**

- (1) In this regulation —
  - “**approved non-complying event**” means an event approved under subregulation (3);
  - “**noise**” means noise associated directly with the approved non-complying event and does not include noise normally emitted from the venue (such as noise from plant, pumps and machinery) when it is not being used for the purposes of an approved non-complying event;
  - “**venue**” means any premises or public place.
- (2) Despite any other regulation in this Part —
  - (a) an approval under subregulation (3) has effect according to its terms; and
  - (b) except to the extent that the regulation is applied as a condition under subregulation (3), regulation 7 does not apply to noise resulting from an approved non-complying event.

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- (3) Where the Chief Executive Officer is satisfied that a proposed sporting, cultural or entertainment event that is to be open to the public —
- (a) is likely to result in the emission of noise in contravention of the standard prescribed under regulation 7; and
  - (b) would lose its character or usefulness if it were required to comply with that standard,

the Chief Executive Officer may approve the event, subject to such conditions as the Chief Executive Officer thinks fit, for the purposes of this regulation.

- (4) If a condition imposed on an approved non-complying event under subregulation (3) or (8) is breached —
- (a) the event ceases to be an approved non-complying event; and
  - (b) regulation 7 has effect in relation to that event.
- (5) An approval under subregulation (3) may extend to a practice or rehearsal or sound system test relating to an event even though the practice, rehearsal or sound system test is not open to the public.
- (6) An application for approval under subregulation (3) is to be —
- (a) made not later than 60 days before the event to which the application relates is proposed to commence; and
  - (b) accompanied by an application fee of \$500.
- (7) Conditions imposed under subregulation (3) may —
- (a) limit the duration of practice and rehearsal sessions, sound system tests and the event;
  - (b) specify starting and completion times for practice and rehearsal sessions, sound system tests and the event;
  - (c) specify times when facilities such as stages, temporary seating and lighting towers can be erected and dismantled; and

- (d) specify any other requirements, including maximum allowable noise levels, considered necessary to maintain the impact of noise emissions on other premises at an acceptable level.
- (8) It is a condition imposed on the conduct of every event approved under subregulation (3) that, if the Chief Executive Officer determines that noise received as a result of the event —
- (a) at any noise sensitive premises is likely to exceed 65 dB  $L_{A\ Slow}$  between 0700 hours and 1900 hours on any day or 60 dB  $L_{A\ Slow}$  between 1900 hours on any day and 0700 hours on the following day; or
  - (b) at any other premises is likely to exceed 75 dB  $L_{A\ Slow}$  at any time,
- the person to whom the approval is granted is to pay to the Chief Executive Officer, within the time specified by the Chief Executive Officer, a noise monitoring fee specified by the Chief Executive Officer.
- (9) The Chief Executive Officer may amend any condition to which an approved non-complying event is subject, but must before doing so —
- (a) give to the person responsible for the conduct of the event at least 14 days' notice of the proposed amendment to enable the person to make written representations on the proposal; and
  - (b) where the condition was determined under subregulation (13), obtain the approval of the Minister.
- (10) A person to whom notice of a proposal is given under subregulation (9)(a) may by written agreement accept the proposal and waive the period of notice.
- (11) The Chief Executive Officer is not to approve the holding of more than 2 approved non-conforming events in or at a particular venue in any period of 12 consecutive months unless the Chief Executive Officer is satisfied that the majority of

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occupiers on whom the noise emissions will impact have no objection to the holding of the additional events.

- (12) An approval must not be granted unless the local government of each district in which noise emissions received from the event are likely to fail to comply with the standard prescribed under regulation 7 agrees to the proposed conditions applicable to the approval.
- (13) Where an agreement cannot be reached under subregulation (12) the conditions are to be determined by the Minister after receiving the advice of the Chief Executive Officer.
- (14) The Chief Executive Officer may, if satisfied that the noise from approved non-conforming events held at any 2 or more venues affects generally the same noise-sensitive premises, determine that those venues are to be treated as a single venue for the purposes of subregulation (3) in which case subregulation (11) applies to those venues as if they were one venue.
- (15) Notwithstanding subregulation (6)(b), the Chief Executive Officer may, in his or her discretion and if satisfied that an application for approval is made by an organization licensed under the *Charitable Collections Act 1946*, and that money received from the event will be substantially applied for a charitable purpose within the meaning of that Act, waive or reduce the application fee payable under that subregulation.

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## Part 3 — Noise measurement

### 19. Place of measurement of noise

- (1) In this regulation —  
“**boundary**”, in relation to premises, means the apparent or reputed boundary of the premises.
- (2) For the purposes of Part 2, unless otherwise provided in regulation 21, measurement of noise on premises must be made —
  - (a) if the premises comprise a building or buildings and surrounding land, within the boundary of the surrounding land, but is not to be made inside a building unless —
    - (i) the use of the building is directly associated with the type of premises receiving the noise; and
    - (ii) the building is of a type of construction that is typical of buildings so used;
  - (b) where the premises comprise a building or part of a building without surrounding land, inside the premises;
  - (c) where the premises receiving the noise comprise part of a building and the noise is being emitted from another part of that building, inside the part of the building which is receiving the noise;
  - (d) where the premises receiving the noise comprise a building which shares a common wall with another building and the noise is being emitted from the second-mentioned building, inside the building which is receiving the noise.
- (3) Where premises comprise a caravan park or camping ground, measurement of noise must not be made inside a caravan, camp or park home within the meaning of those terms under the *Caravan Parks and Camping Grounds Act 1995*.

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- (4) Where a measurement is made inside a building —
  - (a) external windows and doors must be shut and the measurement must be adjusted by adding 15 dB; or
  - (b) external windows and doors must be open and the measurement must be adjusted by adding 10 dB.

**20. Measurement of noise at premises**

- (1) This regulation does not apply to the measurement of airblast levels.
- (2) Noise measurement must be made with the measuring microphone located at least 1.2 metres above the ground or floor plane.
- (3) Outdoor noise measurements should be made with the measuring microphone located at least 3 metres from any substantial sound reflecting surface (other than the ground plane).
- (4) If it is not practicable to comply with subregulation (3), the microphone must be located as far as practicable from substantial sound reflecting surfaces (other than the ground plane).
- (5) If noise measurements are made indoors, the measurement position must be at least one metre from any open external window or door.

**21. Measurement of airblast levels**

- (1) For the purposes of regulation 11, measurement of airblast levels must be made outside or, if it is not possible to make a measurement outside on a particular premises, outside at a location as close as practicable to the premises.
- (2) Airblast level measurements must be made with the measuring microphone located 1.2 metres to 1.6 metres above the ground plane.

- (3) Airblast level measurements must be made with the measuring microphone located at least 5 metres from any substantial sound reflecting surface (other than the ground plane).

**22. Instruments to comply with Schedule 4**

- (1) Measurement and assessment of noise emissions for the purposes of these regulations must be made with instruments that are calibrated in accordance with and otherwise comply with Schedule 4.
- (2) An instrument for which a certificate has been issued under clause 2 of Schedule 4 within the 2 year period immediately preceding the date of its use is taken to have been calibrated in accordance with Schedule 4.
- (3) Where immediately before the commencement of these regulations an instrument complied with regulation 16(2) of the *Noise Abatement (Neighbourhood Annoyance) Regulations 1979*<sup>4</sup>, the instrument is to be taken to comply with Schedule 4 until the expiration of 2 years from the last date on which that instrument was calibrated.

**23. Calibration results to be available**

The owner or person in control of a calibration laboratory must —

- (a) retain complete details of all calibration measurements undertaken, and all calibration results obtained, under Schedule 4 for a period of not less than 3 years from the date of calibration; and
- (b) at the Chief Executive Officer's written request make those results available to the Chief Executive Officer.

Penalty: \$5 000.

*[Regulation 23 amended in Gazette 11 Dec 1998 p. 6613.]*

*[Part 4 (r. 24, 25) omitted under the Reprints Act 1984 s. 7(4)(e) and (f).]*

## **Part 5 — Review**

### **26. Review of regulations**

- (1) The Authority is to report to the Minister on the operation and effectiveness of these regulations within 24 months after their commencement.
- (2) The report is to be made after —
  - (a) the public has been given an opportunity to make submissions on the operation and effectiveness of the regulations; and
  - (b) a reasonable endeavour has been made to obtain the views of public authorities and persons that appear to the Authority to be significantly affected by the regulations.
- (3) As soon as is practicable after the preparation of the report the Minister is to cause it to be laid before each House of Parliament.

## Schedule 1

[Regulation 2]

### Classification of premises

#### Part A — Industrial and utility premises

1. Premises used for the purpose of providing water, sewerage, electricity, gas, drainage, communications, passenger transport or other similar services.
2. Premises used by aircraft or ships or as a freight yard.
3. Premises used for the carrying out of any process for and incidental to —
  - (a) production, processing or manufacture;
  - (b) dismantling or breaking up equipment;
  - (c) repairing, laundering and servicing of equipment and buildings, but not including on-site work on buildings;
  - (d) packaging;
  - (e) outdoor storage not in association with any other activity on the site, but not including a vehicle sales yard.
4. A mine within the meaning of the *Mines Safety and Inspection Act 1994*.
5. Without limiting item 4, any premises used for sand, gravel, clay, limestone, or rock excavation.
6. Waste disposal sites and premises used for carrying out any process for and incidental to the treatment of waste.
7. Grounds, administrative premises, and premises or parts of premises used for the personal comfort, convenience or enjoyment of leisure of employees, or persons otherwise engaged in the conduct of an industry or utility, where those premises are attached to or form part of premises referred to in this Part.
8. Caretaker's and like residences attached to or forming part of premises referred to in this Part.

#### Part B — Commercial premises

1. Offices — premises used for the conduct of administration, the practice of a profession, the carrying on of agencies, banks, typist and secretarial services and services of a similar nature.

**Schedule 1** Classification of premises

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2. General retail shops, small retail shops and special retail shops within the meaning of the *Retail Trading Hours Act 1987*, showrooms, warehouses and wholesale sales places and display areas.
3. Premises in or from which meals or food are sold to the public.
4. Filling stations within the meaning of the *Retail Trading Hours Act 1987* but not including premises where motor body works are carried out.
5. Indoor premises used for public amusement — theatres, cinemas, dance halls, skating rinks, gymnasiums or otherwise for games or for the recreation or entertainment requirements of the public; public swimming pools.
6. Premises used principally to provide entertainment or amusement by the use of mechanical amusement structures within the meaning of the *Occupational Safety and Health Regulations 1996*.
7. Taverns, hotels, club premises and reception lodges which do not provide accommodation for the public.
8. Health centres — premises used for medical, maternal or x-ray centres, district clinics, physiotherapy, pathology, radiology, paramedical and other ancillary services and which do not provide in-patient services.
9. Hospitals having accommodation for 150 or more in-patients.
10. Premises used principally for meetings of community, professional, business, social or cultural groups.
11. Premises used for the carrying out of any process of and incidental to testing or analysis of articles, goods or materials.
12. Veterinary clinics and premises, other than rural premises, used for the care, boarding or breeding of animals.
13. Grounds, administrative premises, and premises or parts of premises used for the personal comfort, convenience or enjoyment of leisure of employees, or persons otherwise engaged in the conduct of commerce, where those premises are attached to or form part of premises referred to in this Part.
15. Caretaker's and like residential premises attached to or forming part of premises referred to in this Part.

**Part C — Noise-sensitive premises**

1. Premises occupied solely or mainly for residential or accommodation purposes.
2. Rural premises.

3. Premises used for the purpose of —
  - (a) a caravan park or camping ground;
  - (b) a hospital having accommodation for less than 150 in-patients;
  - (c) a sanatorium, home or institution for care of persons, a rehabilitation centre, home or institution for persons requiring medical or rehabilitative treatment;
  - (d) education — school, college, university, technical institute, academy or other educational centre, lecture hall or other premises used for the purpose of instruction;
  - (e) public worship;
  - (f) a tavern, hotel, club premises, reception lodge or other premises which provides accommodation for the public;
  - (g) aged care;
  - (h) child care;
  - (i) a prison or detention centre.
4. Any other premises not referred to in Part A or Part B of this Schedule.

**Schedule 2**

[Regulation 16]

**Community activities — exempt noise**

- | <b>Item</b> | <b>Activity</b>   |
|-------------|---|
| 1.          | Noise emitted by spectators at a sporting activity that is —<br>(a) arranged by a sporting organization;<br>(b) conducted at a sporting venue; or<br>(c) advertised prior to the conduct of the event.  |
| 2.          | Noise emitted by participants and spectators at a meeting or procession authorised under a permit or order granted under the <i>Public Meetings and Processions Act 1984</i> .  |
| 3.          | Noise emitted from an assembly convened solely for the purpose of divine worship where —<br>(a) the noise is not noise of a kind referred to in regulation 15(2); and<br>(b) the premises or public place on which the worship takes place is land which is referred to in section 6.26(2)(d), (e) or (f) of the <i>Local Government Act 1995</i> . |
| 4.          | Noise emitted as a consequence of a recreational or educational activity from premises occupied for educational purposes if the activity —<br>(a) is conducted under the control of the occupier of the premises; and<br>(b) does not include the use of mechanical equipment other than musical instruments.                                       |
| 5.          | Noise emitted from agricultural shows, fairs, fetes, exhibitions and like events.   |

### Schedule 3

[Regulation 8]

#### Determination of influencing factor on noise sensitive premises

##### 1. Interpretation

(1) In this Schedule —

**“average daily traffic count”** means the average daily traffic count as estimated under subclause (2);

**“inner circle”** means a circle having a radius of 100 metres referred to in clause 2(1);

**“land use map”** means —

- (a) a map prepared and in use by a local government for the purposes of imposing differential general rates;
- (b) a map that is included in a town planning scheme in force under the *Town Planning and Development Act 1928*; and
- (c) a map that is included in a redevelopment scheme referred to in section 6(4) of the *Town Planning and Development Act 1928*;

**“major road”** means a road estimated to have an average daily traffic count of more than 15 000 vehicles;

**“mining operation”** has the same definition as in the *Mines Safety and Inspection Act 1994* but does not include mining operations of a kind referred to in paragraph (a), (h) or (k) of that definition;

**“outer circle”** means a circle having a radius of 450 metres referred to in clause 2(1);

**“secondary road”** means a road estimated to have an average daily traffic count of 6 000 to 15 000 vehicles;

**“transport factor”** means —

- (a) for a major road where any point inside the road reserve is present in the relevant inner circle, a transport factor of 6 dB;

**Schedule 3** Determination of influencing factor on noise sensitive premises

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- (b) for a major road where any point inside the road reserve is present in the relevant outer circle, a transport factor of 2 dB;
  - (c) for each secondary road where any point inside the road reserve is present in the relevant inner circle, a transport factor of 2 dB.
- (2) The average daily traffic count of a road is to be estimated —
- (a) by reference to the latest edition of the Main Roads Western Australia publication “Average Weekday Traffic Flows”; or
  - (b) if the average daily traffic count of a road cannot be estimated by reference to that publication, by conducting a traffic count to estimate the average daily traffic count of that road.
- (3) If the average daily traffic count of a road is not estimated under subclause (2), that road is to be taken not to be a major or secondary road.

**2. Influencing factor**

- (1) The influencing factor for noise received on noise sensitive premises is to be determined as follows —
- (a) using an appropriate land use map, 2 concentric circles, having radii representing 100 metres and 450 metres, and centred on the measurement point on the noise sensitive premises are to be drawn;
  - (b) subject to subclause (2) the land within the circles that is —
    - (i) Type A — industrial and utility premises; or
    - (ii) Type B — commercial premises,is to be identified as such by reference to one or more appropriate land use maps; and
  - (c) the area of each type of premises is to be calculated as a percentage of the full area of each circle and used to determine the Influencing Factor to the nearest dB in accordance with the following formula —  
$$\text{Influencing Factor in dB} = 1/10 (\text{sum of Type A percentages for both circles}) +$$

Determination of influencing factor on noise sensitive premises **Schedule 3**

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1/20 (sum of Type B percentages for both circles) + transport factor or 6, whichever is the lesser amount

(Note that the fractions of the land use types in the inner circle are included in both circles).

- (2) If it is not possible to identify the land for the purposes of subclause (1)(b) by reference to a land use map, the land within the circles is to be identified by determining the actual land use at the time the noise was received.
- (3) If the land within either of the circles —
  - (a) is land on which a mining operation is carried on; and
  - (b) is categorised on the land use map as land used for purposes other than for industrial or utility purposes,the land within the circles that includes the mining operation is to be taken to be Type A land for the purposes of subclause (1).
- (4) If the land within either of the circles —
  - (a) is within the boundary of Area B of the Kwinana Policy Area within the meaning of the *Environmental Protection (Kwinana) (Atmospheric Wastes) Policy Approval Order 1992*; and
  - (b) is categorised on the land use map as land used for purposes other than for industrial or utility purposes,that land is taken to be Type B land for the purposes of subclause (1).
- (5) Where a noise emission from any premises located within the boundaries of the area known as the Kemerton Industrial Park Policy Area, as specified in the Shire of Harvey District Planning Scheme No. 1, is assessed, an adjustment of 5 dB is to be added to the influencing factor determined under subclause (1) at the point of reception of the noise emission in respect of any period between —
  - (a) 0900 hours and 1900 hours on a Sunday or public holiday;
  - (b) 1900 hours and 2200 hours on any day;
  - (c) 2200 hours and 0700 hours on Monday to Saturday inclusive; and
  - (d) 2200 and 0900 hours on a Sunday or public holiday.

**Schedule 3** Determination of influencing factor on noise sensitive premises

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- (6) If the land within either of the circles is used for —
- (a) a road reserve;
  - (b) a railway reserve;
  - (c) a drainage easement;
  - (d) a powerline easement or reserve;
  - (e) a pipeline or aqueduct easement or reserve;
  - (f) a water storage dam; or
  - (g) an airport,

that land is not to be taken to be Type A or Type B land for the purposes of subclause (1).

## **Schedule 4**

[Regulation 22]

### **Rules for sound level measuring equipment**

#### **1. References to AS Z41-1969**

In this Schedule, references to AS Z41-1969 and clauses of that standard, are, when AS/NZS 4476:1997, Acoustics — Octave-band and fractional-octave-band filters comes into operation, to be read as references to the second-mentioned standard and the relevant clauses of that standard.

#### **2. Sound level measuring instruments**

- (1) Sound level measuring instruments must meet or exceed the requirements of the relevant sections of AS 1259.1-1990 Sound Level Meters Part 1: Non-integrating for type 0, type 1 or type 2 meters.
- (2) In addition to the requirements of subclause (1), sound level measuring instruments which include integrating functions must meet or exceed the requirements of the relevant sections of AS 1259.2-1990 Sound Level Meters Part 2: Integrating for type 0, type 1 or type 2 meters, as applicable to the integrating functions.
- (3) Sound level measuring instruments not covered by subclauses (1) and (2), including magnetic tape recorders, level recorders, spectrum analysers and computers, must meet or exceed the relevant performance requirements of a type 2 sound level meter.
- (4) Filter sets used with any sound level meter must meet or exceed the requirements specified in clauses 7 and 8.1(a) of AS Z41-1969 Octave, Half Octave and One Third Octave Band Pass Filters Intended for the Analysis of Sound and Vibrations.
- (5) Standard sound sources (acoustic calibrators and piston phones) used for field performance checks must meet or exceed the relevant requirements of IEC Standards Publication 942-1988 for class 2 sound sources.

**Schedule 4** Rules for sound level measuring equipment

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**3. Calibration of sound level measuring instruments**

(1) In this clause —

**“approved calibration laboratory”** means a calibration laboratory —

- (a) registered with the National Association of Testing Authorities (“NATA”) for the calibration of sound level measuring instruments in accordance with the relevant provisions of AS 1259-1990, AS Z41-1969 and IEC Standards Publication 942-1988; or
- (b) approved by the Chief Executive Officer for calibration of sound level measuring instruments in accordance with the relevant provisions of AS 1259-1990, AS Z41-1969 and IEC Standards Publication 942-1988 or for calibration of instruments used for the measurement of airblast under clause 5.

(2) A sound level measuring instrument must not be used for the purposes of these regulations unless —

- (a) the instrument has been calibrated in an approved calibration laboratory within the 2 year period immediately preceding the date of its use; and
- (b) the owner or a person in control of the laboratory has issued a certificate —
  - (i) identifying the laboratory undertaking the calibration;
  - (ii) identifying the instrument by type, manufacturer and serial number;
  - (iii) recording the date of calibration;
  - (iv) certifying that the calibration procedures followed were in accordance with the terms of the NATA registration of the laboratory or the procedures specified in the approval of the laboratory by the Chief Executive Officer;
  - (v) certifying that the sound level measuring instrument complies with the relevant provisions of AS 1259-1990, AS Z41-1969 and IEC Standards Publication 942-1988; and

- (vi) specifying the standard or standards, and the clause numbers of the standard or standards, against which the instrument has been calibrated.
- (3) The certificate referred to in subclause (2)(b) is not required to give detailed results of individual tests but must provide sufficient information to indicate that the instrument has met the relevant requirements of the standards against which it was calibrated.

**4. Field performance checks**

- (1) A sound level measuring instrument —
  - (a) must be subjected to field performance checks using a standard sound source that complies with clause 2(5) as nearly as practicable immediately prior to, and immediately after, a measurement or set of measurements is to be, or has been, made using the instrument;
  - (b) must indicate, after adjustment of its sensitivity if necessary and before it is used to make measurements, the stated level of the standard sound source within + or - 0.5 dB; and
  - (c) must indicate, without further adjustment of its sensitivity, the stated level of the standard sound source within + or - 0.5 dB after the instrument is used.
- (2) If the sound level measuring instrument does not comply with subclause (1) the results of the measurement made by the instrument must not be used.

**5. Instrument used for measurement of airblast levels**

- (1) For the purposes of regulation 11, airblast levels resulting from blasting must be measured using sound level measuring instruments having the capability to measure in linear peak hold ( $L_{\text{Linear peak}}$ ) mode.
- (2) Sound level measuring instruments which are used for measuring airblast levels from blasting must, in addition to being calibrated in accordance with clause 3 and checked in accordance with clause 4 —
  - (a) be calibrated to establish that their sensitivity remains within + 0 dB and - 3 dB of the sensitivity at 100 Hz when tested at selected frequencies within the range 2 Hz to 10 Hz; and
  - (b) have an upper frequency response of at least 500 Hz.

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- (3) Sound level measuring instruments which do not meet the requirements of subclause (2) must not be used for airblast measurements.

### **Notes**

- <sup>1</sup> This reprint is a compilation as at 7 November 2003 of the *Environmental Protection (Noise) Regulations 1997* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

#### **Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Environmental Protection (Noise) Regulations 1997</i>	31 Oct 1997 p. 6035-74	31 Oct 1997
<i>Environmental Protection (Miscellaneous Amendments) Regulations 1998 Pt. 5</i>	11 Dec 1998 p. 6597-614	8 Jan 1999 (see r. 2)
<i>Environmental Protection (Noise) Amendment Regulations 2000</i>	7 Nov 2000 p. 6143-4	7 Nov 2000
<b>Reprint 1: The <i>Environmental Protection (Noise) Regulations 1997</i> as at 7 Nov 2003</b> (includes amendments listed above)		

- <sup>2</sup> The Standards Association of Australia has changed its corporate status and its name. It is now Standards Australia International Limited (ACN 087 326 690). It also trades as Standards Australia.
- <sup>3</sup> Repealed by the *Road Traffic Code 2000*.
- <sup>4</sup> Repealed by r. 24.