

NOISE CONTROL (AMENDMENT) ACT 1987 No. 190

NEW SOUTH WALES



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NOISE CONTROL (AMENDMENT) ACT 1987 No. 190

NEW SOUTH WALES



Act No. 190, 1987

An Act to amend the Noise Control Act 1975 so as to assist the control of noise and to abolish the Noise Advisory Committee. [Assented to 4 December 1987]

Noise Control (Amendment) 1987

The Legislature of New South Wales enacts:**Short title**

1. This Act may be cited as the Noise Control (Amendment) Act 1987.

Commencement

2. This Act shall commence on a day or days to be appointed by proclamation.

Principal Act

3. The Noise Control Act 1975 is referred to in this Act as the Principal Act.

Amendment of Act No. 35, 1975

4. The Principal Act is amended as set out in Schedule 1.

Savings

5. (1) A warrant granted under section 61 of the Principal Act but which has not been executed before the commencement of Schedule 1 (8) shall be deemed to have been granted under section 61 of that Act, as amended by this Act.

- (2) A regulation made under section 62 of the Principal Act and in force immediately before the commencement of Schedule 1 (10) shall—

- (a) if the regulation was made under section 62 (1) (a) (iii), be deemed to be a regulation made under section 62 (a) of that Act, as amended by this Act; or
- (b) if the regulation was made under section 62 (1) (b) (iii), be deemed to be a regulation made under section 62 (b) of that Act, as amended by this Act.

SCHEDULE 1—AMENDMENTS

(Sec. 4)

- (1) Section 3 (**Arrangement**)—
Omit the section.
- (2) Section 4 (**Interpretation**)—
Section 4 (1), definition of “Committee”—
Omit the definition.
- (3) Part II (**Noise Advisory Committee**)—
Omit the Part.

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SCHEDULE 1—AMENDMENTS—*continued*(4) Section 27 (**Approval required for certain work**)—

(a) Section 27 (1) (a) (i)—

Omit “or” where lastly occurring.

(b) Section 27 (1) (a) (ii), (iii)—

Omit section 27 (1) (a) (ii), insert instead:

(ii) install, replace or alter any plant in or on those premises; or

(iii) alter the physical features of those premises,

(c) Section 27 (1) (b)—

Omit the paragraph, insert instead:

(b) shall not carry out any work in or on those premises that constitutes the beginning of, or any subsequent step in—

(i) the installation, replacement or alteration of any plant in or on those premises; or

(ii) any alteration of the physical features of those premises,

which, if the installation, replacement or alteration were completed, would be likely to cause or increase the emission of noise from those premises,

(5) Section 39—

Omit the section, insert instead:

Definition

39. In this Division—

“appropriate authority” means—

(a) except as provided by paragraph (b)—a local authority; and

(b) in relation to—

(i) vessels in navigable waters; and

(ii) premises used in connection with vessels and situated adjacent to, or partly or wholly over, navigable waters,

the Maritime Services Board.

SCHEDULE 1—AMENDMENTS—*continued*

(6) Section 44—

Omit the section, insert instead:

Definition

44. In this Division—

“appropriate authority” means—

- (a) except as provided by paragraphs (b) and (c)—a local authority;
- (b) in relation to scheduled premises—the Commission; and
- (c) in relation to—
 - (i) vessels in navigable waters; and
 - (ii) premises used in connection with vessels and situated adjacent to, or partly or wholly over, navigable waters,

the Maritime Services Board.

(7) Section 58 (**Interpretation**)—

Section 58 (a), (b)—

Omit section 58 (a)–(c), insert instead:

- (a) in any case—an authorised officer or a member of the police force;
- (b) in relation to a lawful sporting activity involving vessels in navigable waters—
 - (i) an officer or employee of the Maritime Services Board;
 - (ii) an officer or servant of a local authority; or
 - (iii) an officer, employee or servant of any other statutory authority,

authorised by the Maritime Services Board; and

(8) Section 61 (**Powers of entry**)—

(a) Section 61 (1)—

Omit the subsection, insert instead:

(1) In this section, a reference—

- (a) to a telephone includes a reference to a radio or any other communication device; or

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SCHEDULE 1—AMENDMENTS—*continued*

- (b) to a Magistrate includes a reference to a justice of the peace employed in the Attorney General's Department.
- (b) Section 61 (2)–(6), (11)—
Omit “stipendiary magistrate” wherever occurring, insert instead “Magistrate”.
- (c) Section 61 (2) (a)—
Omit “a specified dwelling-house”, insert instead “any specified premises”.
- (d) Section 61 (2), (6) (d), (11) (a), (12)—
Omit “the dwelling-house” wherever occurring, insert instead “the premises”.
- (e) Section 61 (8)—
Omit “a dwelling-house” insert instead “any premises”.
- (f) Section 61 (12) (b) (ii)—
Omit “a dwelling-house was”, insert instead “any premises were”.
- (g) Section 61 (12) (d)—
Omit “a dwelling-house”, insert instead “the premises”.
- (9) Section 61A (**Powers of entry and investigations**)—
- (a) Section 61A (1), (2)—
Omit “a dwelling-house” wherever occurring, insert instead “any premises”.
- (b) Section 61A (1), (2)—
Omit “the dwelling-house” wherever occurring, insert instead “the premises”.
- (c) Section 61A (7)—
Omit the subsection.
- (10) Section 62—
Omit the section, insert instead:
- Restrictions on noise abatement directions**
62. A noise abatement direction has no force in so far as—
- (a) it is directed to a prescribed person or body;
- (b) it would have the result of affecting an activity of a prescribed class or description; or

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SCHEDULE 1—AMENDMENTS—*continued*

- (c) except in the case of a direction given by the Commission—
 - (i) it is directed to the Crown or a person acting on behalf of the Crown; or
 - (ii) it would have the result of affecting any lawful sporting activity (other than an activity involving vessels in navigable waters or the use or operation of motor cycles).
- (11) **Section 70 (Appeals to Local Courts)—**
 - (a) Section 70 (1), (4)—

Omit “court of petty sessions” wherever occurring, insert instead “Local Court”.
 - (b) Section 70 (4)—

Omit “stipendiary magistrate”, insert instead “Magistrate”.
 - (c) Section 70 (5)—

Omit “court”, insert instead “Local Court”.
- (12) **Section 75 (Disclosure of information)—**

Omit the section.
- (13) **Section 76 (Powers of authorised officers)—**
 - (a) Section 76 (2) (b) (iv)—

Omit “24 hours”, insert instead “3 days (excluding any Saturday, Sunday or public holiday observed in the locality)”.
 - (b) Section 76 (7)—

Omit the subsection.
- (14) **Section 78 (Evidence)—**

Omit the section.
- (15) **Section 82 (Proceedings for offences)—**
 - (a) Section 82 (1), (4)—

Omit “court of petty sessions” wherever occurring, insert instead “Local Court”.

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SCHEDULE 1—AMENDMENTS—*continued*

- (b) Section 82 (4)—
Omit “the court” insert instead “the Local Court”.
- (c) Section 82 (7)—
Omit the subsection.