



New South Wales

# Protection of the Environment Operations (Noise Control) Regulation 2008

under the

Protection of the Environment Operations Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Protection of the Environment Operations Act 1997*.

PHILIP KOPERBERG, M.P.,  
Minister for Climate Change, Environment and Water

## Explanatory note

The object of this Regulation is to repeal and remake, with minor amendments, the provisions of the *Protection of the Environment Operations (Noise Control) Regulation 2000*.

This Regulation creates offences (maximum penalty \$11,000 for corporations and \$5,500 for individuals) for selling or driving a vehicle with a temporary noise reduction device or with temporary noise reduction packing or for modifying or repairing a vehicle so as to include any such device or packing. A person is not guilty of any such offence if the conduct alleged to give rise to the offence occurs within 6 months after the commencement of this Regulation.

This Regulation also makes provision with respect to the following:

- (a) the selling or using of certain classes of motor vehicles and motor vehicle accessories that are capable of emitting noise levels above a prescribed level,
- (b) the use of motor vehicle horns and motor vehicle intruder alarms,
- (c) the times during which it is not permissible to use certain motor vehicles if they emit noise that can be heard in other residential premises,
- (d) the sounding of sirens and similar devices and the use of sound systems on vessels,
- (e) the emission of noise from the engines or exhausts of motor vehicles and vessels,
- (f) the maintenance of noise control equipment on motor vehicles and vessels,
- (g) the issue of defective vehicle notices and defective vessel notices,
- (h) the prohibition on selling certain articles that are capable of emitting noise levels above a prescribed level,
- (i) the obligation to label certain articles,

## **2008 No 40**

Protection of the Environment Operations (Noise Control) Regulation 2008

Explanatory note

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- (j) the times during which it is not permissible to use certain articles (including musical instruments) if they emit noise that can be heard in any residential premises,
- (k) the inspection and testing procedures for the purpose of determining noise emission levels of certain motor vehicles, motor vehicle accessories, vessels, articles or equipment.

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including sections 136 and 323 (the general regulation-making power) and clauses 3 and 4 (6) of Schedule 2.

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## Contents

	Page
<b>Part 1 Preliminary</b>	
1 Name of Regulation	7
2 Commencement	7
3 Definitions	7
<b>Part 2 Motor vehicle and motor vehicle accessories</b>	
<b>Division 1 Sale of motor vehicles and motor vehicle accessories</b>	
<b>Subdivision 1 Motor vehicles and related articles</b>	
4 Sale of motor vehicles generally	13
5 Sale of used motor vehicles with defective noise control equipment	13
<b>Subdivision 2 Motor vehicle horns</b>	
6 Subdivision applies only to retail sale of new motor vehicle horns	14
7 Sale of motor vehicle horns generally	14
<b>Subdivision 3 Motor vehicle intruder alarms</b>	
8 Subdivision applies only to retail sale of new motor vehicle intruder alarms	15
9 Sale of motor vehicle intruder alarms generally	15
10 Sale of motor vehicle intruder alarms with a panic or override switch	15
11 Sale of motor vehicle intruder alarms having certain sound characteristics	15
<b>Division 2 Use of motor vehicles and motor vehicle accessories</b>	
<b>Subdivision 1 Motor vehicles</b>	
12 Use of motor vehicles on road or road related area	16
13 Use of motor vehicles in places other than on road or road related area	17
14 Use of motor vehicles on residential premises	18
15 Use of refrigeration units fitted to motor vehicles	18
16 Use of motor vehicle sound systems	19
17 Drive or use motor vehicle on road or road related area if vehicle's sound system emits offensive noise	19

## 2008 No 40

Protection of the Environment Operations (Noise Control) Regulation 2008

### Contents

---

	Page
18 Drive or use motor vehicle on road or road related area if noise control equipment defective or modified	19
19 Repairs and modifications	20
20 Owners and drivers of motor vehicles involved in excess noise offences	20
<b>Subdivision 2 Motor vehicle horns</b>	
21 Motor vehicle horns generally	21
<b>Subdivision 3 Motor vehicle intruder alarms</b>	
22 Interpretation	22
23 Use of motor vehicle intruder alarms triggered by panic switches	22
24 Use of motor vehicle intruder alarms generally	22
25 Design and construction of motor vehicle intruder alarms	23
<b>Division 3 Defective vehicle notices</b>	
26 Defective vehicle notices	23
27 Defective vehicle labels	25
<b>Part 3 Marine vessels</b>	
<b>Division 1 Use of marine vessels</b>	
28 Interpretation	26
29 Sounding of sirens from vessels	26
30 Vessels not to emit offensive noise	26
31 Liability of owner of vessel	26
32 Noise control equipment to be properly maintained	27
33 Use of sound systems on vessels	28
<b>Division 2 Defective vessel notices</b>	
34 Defective vessel notices	28
35 Defective vessel labels	29
<b>Part 4 Miscellaneous articles</b>	
<b>Division 1 Sale of articles</b>	
<b>Subdivision 1 Preliminary</b>	
36 Division applies only to retail sale of new articles	30
37 Size, design, format and construction of noise labels	30

		Page
<hr/>		
<b>Subdivision 2</b>	<b>Grass-cutting machines</b>	
38	Noise labels on grass-cutting machines	30
39	Mowers	30
40	Edge-cutters	30
41	String-trimmers	31
42	Brush cutters	31
43	Other grass-cutting machines	31
<b>Subdivision 3</b>	<b>Other articles</b>	
44	Labelling of chainsaws	31
45	Labelling of domestic air conditioners	31
46	Labelling of mobile air compressors	31
47	Labelling of pavement breakers	32
48	Labelling of mobile garbage compactors	32
49	Sale of building intruder alarms	32
<b>Division 2</b>	<b>Use of articles</b>	
<b>Subdivision 1</b>	<b>Time limits on the use of certain articles</b>	
50	Power tools and equipment	32
51	Musical instruments and sound equipment	33
52	Air conditioners and heat pump water heaters	34
<b>Subdivision 2</b>	<b>Building intruder alarms</b>	
53	Use of building intruder alarms	35
<b>Part 5</b>	<b>Inspection and testing of certain articles</b>	
54	Determining the noise level of an article	36
55	Measuring instruments—motor vehicle accessory, grass-cutting machine, chainsaw or mobile garbage compactor	37
56	Measurements may be disregarded on account of extraneous noise	38
<b>Part 6</b>	<b>Miscellaneous</b>	
57	Savings provision	39
58	Amendment of Protection of the Environment Operations (Penalty Notices) Regulation 2004	39
59	Repeal	39
<b>Schedule 1</b>	<b>Prescribed noise levels for types of motor vehicles</b>	40

## **2008 No 40**

Protection of the Environment Operations (Noise Control) Regulation 2008

Contents

---

	Page
<b>Schedule 2</b>	
<b>Testing procedures</b>	43
<b>Schedule 3</b>	
<b>Amendment of Protection of the Environment Operations (Penalty Notices) Regulation 2004</b>	58

## Protection of the Environment Operations (Noise Control) Regulation 2008

under the

Protection of the Environment Operations Act 1997

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Protection of the Environment Operations (Noise Control) Regulation 2008*.

#### 2 Commencement

This Regulation commences on 1 March 2008.

#### 3 Definitions

(1) In this Regulation:

**ADR 83/00** means the national standard made under section 7 of the *Motor Vehicle Standards Act 1989* of the Commonwealth entitled *Australian Design Rule 83/00—External Noise*.

**approved** (except in Part 3) means approved by the EPA.

**building intruder alarm** means a device used or intended to be used as an intruder alarm for a building that:

- (a) incorporates or connects to a sounding device, and
- (b) on being triggered, causes the sounding device to emit sound.

**certified to ADR 83/00** means, in relation to a motor vehicle, that approval has been given, under section 10A of the *Motor Vehicle Standards Act 1989* of the Commonwealth, to place identification plates on vehicles of that type showing compliance with ADR 83/00.

**compliance plate date**, in relation to a motor vehicle, means the date that appears on an identification plate authorised to be placed on a vehicle, or taken to have been placed on a vehicle, under the *Motor Vehicle Standards Act 1989* of the Commonwealth.

**defective noise control equipment** in relation to a motor vehicle means noise control equipment that:

- (a) allows gas to escape from a place other than the intended exhaust outlet, or

## 2008 No 40

Clause 3 Protection of the Environment Operations (Noise Control) Regulation 2008

Part 1 Preliminary

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- (b) allows the emission of more noise than the original noise control equipment fitted by the manufacturer of the vehicle and (if the noise control equipment relates to, or is part of, the vehicle's exhaust system) the system of which is capable of emitting exhaust noise at a level that an authorised officer reasonably believes is above the level prescribed by clause 4 (b) or (c) in respect of the vehicle, or
- (c) has been modified in a way that an authorised officer reasonably believes makes it less effective than it would have been if the modification had not been made and (if the modified noise control equipment relates to, or is part of, the vehicle's exhaust system) the system of which is capable of emitting exhaust noise at a level that an authorised officer reasonably believes is above the level prescribed by clause 4 (b) or (c) in respect of the vehicle.

**defective vehicle notice** means a notice issued under clause 26.

**defective vessel notice** means a notice issued under clause 34.

**domestic air conditioner** means a split or packaged mechanical system:

- (a) that is capable of controlling air temperature and distribution and that may also control the humidity and cleanliness of the air, and
- (b) the nominal cooling capacity of which does not exceed 12 kilowatts,

but does not include a device of the kind that is commonly known as an evaporative system, and does not include a device that is designed exclusively for heating.

**emergency vehicle** means a vehicle that is used by, or on behalf of, one of the following organisations, for the purposes of that organisation:

- (a) the NSW Police Force, Fire Brigades, Rural Fire Brigades, Ambulance Service, State Emergency Service, Volunteer Rescue Association or any other agency which manages or controls an accredited rescue unit (within the meaning of the *State Emergency and Rescue Management Act 1989*), or
- (b) an organisation of the Commonwealth or a State or Territory that exercises similar functions to an organisation specified in paragraph (a), or
- (c) the Australian Protective Service, or
- (d) the Australian Customs Service, or
- (e) Airservices Australia.

**engine**, in relation to a vessel, includes the whole of the machinery involved in the propulsion and operation of the vessel.



**grass-cutting machine** means a machine that:

- (a) is designed principally for the purpose of cutting grass or other soft undergrowth, and
- (b) is powered by a motor,

but does not include electrically powered shears with a cutting width of less than 120 millimetres.

**GVM (gross vehicle mass)** has the same meaning as in the *Road Transport (Vehicle Registration) Act 1997*.

**habitable room** means any room other than a garage, storage area, bathroom, laundry, toilet or pantry.

**master** of a vessel means the person having the command or charge of the vessel, but does not include a pilot.

**mobile air compressor** means an air compressor that is mounted on a trailer, or other vehicle, capable of being registered under the *Road Transport (Vehicle Registration) Act 1997*.

**mobile garbage compactor** means a motor lorry that is comprised of a garbage compactor mounted on a truck cab-chassis.

**motor bus** means a motor vehicle constructed primarily for the carriage of persons and equipped to seat more than 8 adult persons (including the driver).

**motor car** means:

- (a) a motor vehicle constructed primarily for the carriage of persons, or
- (b) a motor car derivative, being a motor vehicle:
  - (i) that is of the type known as a utility, station wagon or panel van, and
  - (ii) that is of the same make as a factory produced motor car, and
  - (iii) in which that part of the body form that is forward of the windscreen, and the greater part of the mechanical equipment, are the same or substantially the same as in a factory produced motor car,

but does not include a motor bus, a motor cycle, a motor lorry or a special purpose motor vehicle.

**motor cycle** means any 2 or 3 wheeled motor vehicle constructed primarily for the carriage of persons.

**motor lorry** means a motor vehicle constructed primarily for the conveyance of goods or for use otherwise than for the carriage of persons, and includes the separate components (the prime mover and semi-trailer) of an articulated vehicle, but does not include a special purpose motor vehicle.

## 2008 No 40

Clause 3 Protection of the Environment Operations (Noise Control) Regulation 2008

Part 1 Preliminary

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**motor vehicle accessory** includes:

- (a) a motor vehicle horn, and
- (b) a motor vehicle intruder alarm, and
- (c) a motor vehicle sound system, and
- (d) any other device that is attached to or forms part of, or is intended to be attached to or form part of, a motor vehicle.

**motor vehicle horn** means a sounding device designed to be attached to or form part of a motor vehicle, but does not include a sounding device designed solely for use in connection with a motor vehicle intruder alarm.

**motor vehicle intruder alarm** means a device that:

- (a) incorporates or connects to a sounding device, and
- (b) on being triggered, causes the sounding device to emit sound, being a device that is attached to or forms part of a motor vehicle for use as an intruder alarm, whether or not the device is also designed to be used for any other purpose.

**noise control equipment** means any apparatus or device used or designed:

- (a) to prevent, limit or regulate the emission of noise, or
- (b) to monitor or to give warning of the emission of noise, or
- (c) to give warning of the excessive emission of noise,

and includes any apparatus or device that, though not so used, is or would, if properly maintained and operated, be capable (without modification) of being so used, but does not include any apparatus or device prescribed as excluded from the definition of **control equipment** in the Act. An apparatus or device can be noise control equipment whether or not it is used for additional purposes or designed for other or additional purposes.

**pavement breaker** means a pneumatic device:

- (a) capable of being manually lifted and manoeuvred by a single operator, and
- (b) designed for the purpose of breaking up rock, concrete and similar materials.

**road** means a road within the meaning of the *Road Transport (General) Act 2005* (other than a road that is the subject of a declaration made under section 15 (1) (b) of that Act relating to all of the provisions of that Act).

**Note.** The definition in the *Road Transport (General) Act 2005* is as follows:

**road** means an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving or riding of motor vehicles.

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**road related area** means a road related area within the meaning of the *Road Transport (General) Act 2005* (other than a road related area that is the subject of a declaration made under section 15 (1) (b) of that Act relating to all of the provisions of that Act).

**Note.** The definition in the *Road Transport (General) Act 2005* is as follows:

**road related area** means:

- (a) an area that divides a road, or
- (b) a footpath or nature strip adjacent to a road, or
- (c) an area that is open to the public and is designated for use by cyclists or animals, or
- (d) an area that is not a road and that is open to or used by the public for driving, riding or parking vehicles, or
- (e) a shoulder of a road, or
- (f) any other area that is open to or used by the public and that has been declared under section 15 to be an area to which specified provisions of this Act or the regulations apply.

**special purpose motor vehicle** means a fork lift truck or motor vehicle constructed principally for off-road agricultural use or for use in road or building site construction work, and includes a tractor, harvester, header, thresher, swather, baler, cuber, loader, digger, bulldozer, excavator, grader, scraper, roller, or a mobile crane the engine of which is used for the purpose of both lifting loads and propelling the vehicle, but not does not include any vehicle constructed on a chassis of a type normally used in the construction of a motor lorry.

**temporary noise reduction device** includes the following exhaust system components that reduces noise:

- (a) a valve or other device that is adjustable,
- (b) a plate, baffle or other device:
  - (i) that is part of a muffler, resonator or the like, and
  - (ii) that is not substantially welded or riveted in place.

**temporary noise reduction packing** means packing or other matter in an exhaust system that reduces noise but which is not permanently sealed in the system by way of welding or rivets.

**the Act** means the *Protection of the Environment Operations Act 1997*.

- (2) In Part 2, a reference to the noise level or noise emission characteristics of a motor vehicle or other article is a reference to the noise level or noise emission characteristics of the motor vehicle or article when tested in accordance with the provisions of Part 5 and the relevant Parts of Schedule 2.

## **2008 No 40**

Clause 3            Protection of the Environment Operations (Noise Control) Regulation 2008

Part 1              Preliminary

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- (3) In Part 4, a reference to the noise level of an article is a reference to the noise level of the article when tested in accordance with the provisions of Part 4 and the relevant Parts of Schedule 2.
- (4) Notes in this Regulation do not form part of this Regulation.

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## Part 2 Motor vehicle and motor vehicle accessories

### Division 1 Sale of motor vehicles and motor vehicle accessories

**Note.** Section 136 of the Act creates an offence of selling any article of a class prescribed by the regulations if, when in use or operation, the article emits noise in excess of a prescribed level.

A person who is guilty of an offence under section 136 of the Act is liable, on conviction:

- (a) in the case of a corporation—to a penalty not exceeding \$1,000,000 and, in the case of a continuing offence, to a further penalty not exceeding \$120,000 for each day the offence continues, or
- (b) in the case of an individual—to a penalty not exceeding \$250,000 and, in the case of a continuing offence, to a further penalty not exceeding \$60,000 for each day the offence continues (Section 141 of the Act).

### Subdivision 1 Motor vehicles and related articles

#### 4 Sale of motor vehicles generally

For the purposes of section 136 of the Act:

- (a) motor vehicles, other than special purpose motor vehicles, are a prescribed class of articles, and
- (b) the prescribed level for a motor vehicle of a particular type that is certified to ADR 83/00 is:
  - (i) if the compliance plate date of the vehicle is on or before the date that is 2 years after the commencement of this Regulation—the noise level established by ADR 83/00 for a motor vehicle of that type when stationary plus 5 dB(A) or the noise level specified in Schedule 1 for a motor vehicle of that type, whichever is the greater, and
  - (ii) in any other case—the noise level established by ADR 83/00 for a motor vehicle of that type when stationary plus 5 dB(A), and
- (c) the prescribed level for a motor vehicle of a particular type that is not certified to ADR 83/00 is the noise level specified in Schedule 1 for a motor vehicle of that type.

#### 5 Sale of used motor vehicles with defective noise control equipment

- (1) A person must not sell a used motor vehicle if:
  - (a) the motor vehicle has defective noise control equipment, or
  - (b) the motor vehicle's noise control equipment is not securely in place or has been removed and not replaced, or

## 2008 No 40

Clause 6 Protection of the Environment Operations (Noise Control) Regulation 2008

Part 2 Motor vehicle and motor vehicle accessories

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- (c) the motor vehicle has temporary noise reduction packing, or
  - (d) the motor vehicle has a temporary noise reduction device fitted.
- Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.
- (2) A person is not guilty of an offence under subclause (1) (c) or (d) if the conduct alleged to give rise to the offence occurs within 6 months after the commencement of this Regulation.
  - (3) A person is not guilty of an offence under subclause (1) (d) if the temporary noise reduction device:
    - (a) was fitted by the vehicle manufacturer, or is an equivalent replacement for any such device fitted by the vehicle manufacturer, or
    - (b) is a plate, baffle or other device that is part of a muffler, resonator or the like and is fitted to a motor cycle.

### Subdivision 2 Motor vehicle horns

#### 6 Subdivision applies only to retail sale of new motor vehicle horns

This Subdivision applies to the sale of new motor vehicle horns by retail, but does not apply to the sale of motor vehicle horns otherwise than by retail or to the sale of second-hand motor vehicle horns.

#### 7 Sale of motor vehicle horns generally

- (1) For the purposes of section 136 of the Act:
  - (a) motor vehicle horns that emit noise at a single non-varying loudness and pitch are a prescribed class of articles, and
  - (b) 120 dB(A) is the prescribed level for such motor vehicle horns.
- (2) For the purposes of section 136 of the Act:
  - (a) motor vehicle horns that emit noise otherwise than at a single non-varying loudness and pitch are a prescribed class of articles, and
  - (b) 85 dB(A) is the prescribed level for such motor vehicle horns.
- (3) Motor vehicle horns that are sold for the express purpose of being attached to or forming part of any of the following motor vehicles are excluded from the classes of articles prescribed by subclauses (1) and (2):
  - (a) an emergency vehicle,

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- (b) a vehicle that is at least 25 years old that is fitted as an emergency vehicle if the vehicle:
    - (i) is used for exhibition purposes, or
    - (ii) is part of a collection of former emergency vehicles.
  - (4) In this clause, a reference to a motor vehicle horn that is designed to emit noise at a single non-varying loudness and pitch is a reference to a device designed to emit noise that:
    - (a) remains at a constant noise level, and
    - (b) consists of one or more sounds that each remain at a constant frequency,while the device is being operated.

### **Subdivision 3 Motor vehicle intruder alarms**

#### **8 Subdivision applies only to retail sale of new motor vehicle intruder alarms**

This Subdivision applies to the sale of new motor vehicle intruder alarms by retail, but does not apply to the sale of motor vehicle intruder alarms otherwise than by retail or to the sale of second-hand motor vehicle intruder alarms.

#### **9 Sale of motor vehicle intruder alarms generally**

For the purposes of section 136 of the Act:

- (a) motor vehicle intruder alarms are a prescribed class of articles, and
- (b) 115 dB(A) is the prescribed level for motor vehicle intruder alarms.

#### **10 Sale of motor vehicle intruder alarms with a panic or override switch**

A person must not sell a motor vehicle intruder alarm that has a sounding device that is operable (while the engine of the motor vehicle is running or the ignition of the motor vehicle is turned on) by means of a panic or override switch.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

#### **11 Sale of motor vehicle intruder alarms having certain sound characteristics**

- (1) A person must not sell a motor vehicle intruder alarm (including any component of a motor vehicle intruder alarm) that consists of:
  - (a) a dual tone horn:

## 2008 No 40

Clause 12 Protection of the Environment Operations (Noise Control) Regulation 2008

Part 2 Motor vehicle and motor vehicle accessories

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- (i) that has a lower frequency tone of 1,000 Hertz or less, and
  - (ii) that has a higher frequency tone of 2,000 Hertz or less, and
  - (iii) that emits between 40 and 100 cycles of sound per minute (each cycle consisting of a lower pitched sound followed by a higher pitched sound), or
- (b) a variable tone horn:
- (i) that has a lower frequency tone of 1,000 Hertz or less, and
  - (ii) that has a higher frequency tone of 2,000 Hertz or less, and
  - (iii) that emits between 5 and 20 cycles of sound per minute (each cycle consisting of a sound that moves from the lower frequency to the higher frequency and then returns to the lower frequency), or
- (c) a rising tone horn:
- (i) that has a lower frequency tone of 100 Hertz or less, and
  - (ii) that has a higher frequency tone of 2,600 Hertz or less, and
  - (iii) that emits between 100 and 200 cycles of sound per minute (each cycle consisting of an ascending tone followed by a brief interval of either descending tone or lower frequency tone before the cycle is repeated).

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

(2) In this clause:

***dual tone horn*** means a horn that emits a continuous sound composed of the alternating emission of two predominant tones of approximately equal duration.

***rising tone horn*** means a horn that emits a continuous sound composed of the emission of a variable frequency tone that is predominantly characterised by an ascending tone.

***variable tone horn*** means a horn that emits a continuous sound composed of the emission of a variable frequency tone that ascends and then descends between a lower and higher frequency in a repetitive and approximately uniform manner.

## Division 2 Use of motor vehicles and motor vehicle accessories

### Subdivision 1 Motor vehicles

#### 12 Use of motor vehicles on road or road related area

- (1) A person must not cause or permit a motor vehicle to be used on a road or road related area if the motor vehicle is capable of emitting noise at



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a level in excess of the level prescribed by clause 4 (b) or (c) for that type of motor vehicle (the *prescribed noise level*).

Maximum penalty:

- (a) if the vehicle is capable of emitting noise at a level that exceeds the prescribed noise level for that type of motor vehicle but does not exceed that prescribed noise level by 5 dB(A)—100 penalty units in the case of a corporation, 50 penalty units in the case of an individual, or
  - (b) if the vehicle is capable of emitting noise at a level that exceeds the prescribed noise level for that type of motor vehicle by 5 dB(A) but does not exceed that prescribed noise level by 15 dB(A)—150 penalty units in the case of a corporation, 75 penalty units in the case of an individual, or
  - (c) if the vehicle is capable of emitting noise at a level that exceeds the prescribed noise level for that type of motor vehicle by 15 dB(A) or more—300 penalty units in the case of a corporation, 150 penalty units in the case of an individual.
- (2) A person is not guilty of an offence under this clause arising because the motor vehicle is being taken directly to a place:
- (a) where repairs or other work required to reduce the noise level of the vehicle are to be carried out, or
  - (b) to be tested or inspected in accordance with a notice issued in respect of the motor vehicle under clause 26 or under section 207 of the Act,
- or is being taken directly from any such place to the place where the vehicle is usually kept.
- (3) A person is not guilty of an offence under this clause in relation to the use of:
- (a) a special purpose motor vehicle, or
  - (b) a motor vehicle being used on a road or road related area that is closed to traffic as part of a race, speed record attempt or speed trial approved by the Commissioner of Police under section 40 of the *Road Transport (Safety and Traffic Management) Act 1999*.

### **13 Use of motor vehicles in places other than on road or road related area**

A person must not cause a motor vehicle to be used in a place (other than on a road or road related area) in such a manner that it emits offensive noise.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

## 2008 No 40

Clause 14 Protection of the Environment Operations (Noise Control) Regulation 2008

Part 2 Motor vehicle and motor vehicle accessories

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### 14 Use of motor vehicles on residential premises

- (1) A person must not cause or permit a motor vehicle to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
  - (a) before 8 am or after 8 pm on any Saturday, Sunday or public holiday, or
  - (b) before 7 am or after 8 pm on any other day.Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.
- (2) A person is not guilty of an offence under this clause unless:
  - (a) the person has, within 7 days after causing or permitting a motor vehicle to be used in such a manner, been warned by an authorised officer or enforcement officer not to cause or permit the motor vehicle to be used in that manner, and
  - (b) the person causes or permits the motor vehicle to be used in that manner within 28 days after the warning has been given.
- (3) A person is not guilty of an offence under this clause merely because noise is emitted from the motor vehicle while the motor vehicle is entering or leaving residential premises.

### 15 Use of refrigeration units fitted to motor vehicles

- (1) A person must not cause or permit a refrigeration unit fitted to a motor vehicle to be used in such a manner that it emits noise that can be heard within a habitable room in any residential premises (regardless of whether any door or window to that room is open):
  - (a) before 8 am or after 8 pm on any Saturday, Sunday or public holiday, or
  - (b) before 7 am or after 8 pm on any other day.Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.
- (2) A person is not guilty of an offence under this clause unless:
  - (a) the person has, within 7 days after causing or permitting a refrigeration unit to be used in such a manner, been warned by an authorised officer or enforcement officer not to cause or permit the refrigeration unit to be used in that manner, and
  - (b) the person causes or permits the refrigeration unit to be used in that manner within 28 days after the warning has been given.

**16 Use of motor vehicle sound systems**

A person must not cause the sound system of a motor vehicle to be used in such a manner that it emits offensive noise.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

**17 Drive or use motor vehicle on road or road related area if vehicle's sound system emits offensive noise**

(1) A person must not drive or use a motor vehicle on a road or road related area if the sound system of the motor vehicle emits offensive noise.

Maximum penalty: 50 penalty units.

(2) If an act or omission constitutes an offence under this clause and clause 16, the offender is not liable to be punished twice in respect of the offence.

(3) In this clause, *drive* and *use* have the same meanings as in the *Road Transport (General) Act 2005*.

**18 Drive or use motor vehicle on road or road related area if noise control equipment defective or modified**

(1) A person must not cause or permit a motor vehicle to be driven or used on a road or road related area if:

- (a) the motor vehicle has defective noise control equipment, or
- (b) the motor vehicle's noise control equipment is not securely in place or has been removed and not replaced, or
- (c) the motor vehicle has temporary noise reduction packing, or
- (d) the motor vehicle has a temporary noise reduction device fitted.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

(2) A person is not guilty of an offence under subclause (1) (c) or (d) if the conduct alleged to give rise to the offence occurs within 6 months after the commencement of this Regulation.

(3) A person is not guilty of an offence under subclause (1) (d) if the temporary noise reduction device:

- (a) was fitted by the vehicle manufacturer, or is an equivalent replacement for any such device fitted by the vehicle manufacturer, or
- (b) is a plate, baffle or other device that is part of a muffler, resonator or the like and is fitted to a motor cycle.

## 2008 No 40

Clause 19 Protection of the Environment Operations (Noise Control) Regulation 2008

Part 2 Motor vehicle and motor vehicle accessories

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### 19 Repairs and modifications

- (1) A person must not cause or permit a motor vehicle to be modified or repaired so that:
  - (a) the motor vehicle has defective noise control equipment, or
  - (b) the motor vehicle's noise control equipment is not securely in place or has been removed and not replaced, or
  - (c) the motor vehicle has temporary noise reduction packing, or
  - (d) the motor vehicle has a temporary noise reduction device fitted.Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.
- (2) A person is not guilty of an offence under subclause (1) (c) or (d) if the conduct alleged to give rise to the offence occurs within 6 months after the commencement of this Regulation.
- (3) A person is not guilty of an offence under subclause (1) (d) if the temporary noise reduction device:
  - (a) was fitted by the vehicle manufacturer, or is an equivalent replacement for any such device fitted by the vehicle manufacturer, or
  - (b) is a plate, baffle or other device that is part of a muffler, resonator or the like and is fitted to a motor cycle.

### 20 Owners and drivers of motor vehicles involved in excess noise offences

- (1) If a motor vehicle or the sound system of a motor vehicle is used contrary to clause 13 or 16, the driver and owner of the motor vehicle are each taken to be guilty of an offence under that provision.
- (2) Subclause (1) does not affect the liability of the actual offender but, if a penalty (including a penalty under a penalty notice) has been imposed or recovered from any person in relation to the offence (whether the actual offender, the driver or the owner), no further penalty may be imposed on or recovered from any other person.
- (3) Subclause (1) does not apply to the owner of a motor vehicle if:
  - (a) the motor vehicle was at the time of the commission of the offence a stolen motor vehicle or a motor vehicle illegally taken or used, or
  - (b) the owner was not in the motor vehicle at the relevant time and:
    - (i) gives notice in accordance with subclause (4) of the name and address of the person who was in charge of the motor vehicle at the relevant time, or

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- (ii) satisfies the officer who gave the penalty notice for the offence or the court dealing with the offence (as the case requires) that the owner did not know, and could not with reasonable diligence have ascertained, that name and address.
- (4) The notice must be verified by statutory declaration and:
- (a) if a penalty notice has been given for the offence—the notice must be given to an officer specified in the penalty notice for the purpose within 28 days after service of the penalty notice, and
  - (b) if a court is dealing with the offence—the notice must be given to the informant within 28 days after service of the summons for the offence.

**Note.** Sections 307B and 307C of the *Crimes Act 1900* provide a maximum penalty of imprisonment for 2 years, or a fine of \$22,000, or both for giving false or misleading information, or providing false or misleading documents, in compliance, or purported compliance, with a law of the State.

## Subdivision 2 Motor vehicle horns

### 21 Motor vehicle horns generally

- (1) A person must not attach a motor vehicle horn to a motor vehicle if that horn:
- (a) is capable of emitting noise at a single non-varying loudness and pitch at a noise level of more than 120 dB(A), or
  - (b) is capable of emitting noise otherwise than at a single non-varying loudness and pitch at a noise level of more than 85 dB(A).

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

- (2) A person must not, on a road or road related area, cause or permit a motor vehicle to be used if the motor vehicle is fitted with a horn that:
- (a) is capable of emitting noise at a single non-varying loudness and pitch at a noise level of more than 120 dB(A), or
  - (b) is capable of emitting noise otherwise than at a single non-varying loudness and pitch at a noise level of more than 85 dB(A).

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

- (3) This clause does not apply to a motor vehicle horn fitted to:
- (a) an emergency vehicle, or

## 2008 No 40

Clause 22 Protection of the Environment Operations (Noise Control) Regulation 2008

Part 2 Motor vehicle and motor vehicle accessories

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- (b) a vehicle that is at least 25 years old that is fitted as an emergency vehicle if the vehicle:
  - (i) is used for exhibition purposes, or
  - (ii) is part of a collection of former emergency vehicles.
- (4) In this clause, a reference to a motor vehicle horn that is designed to emit noise at a single non-varying loudness and pitch is a reference to a device designed to emit noise that:
  - (a) remains at a constant noise level, and
  - (b) consists of one or more sounds that each remain at a constant frequency,while the device is being operated.

### Subdivision 3 Motor vehicle intruder alarms

#### 22 Interpretation

- (1) For the purposes of this Subdivision, a person is taken to cause a motor vehicle intruder alarm to be sounded if the person leaves the motor vehicle unattended while the motor vehicle intruder alarm is turned on and the alarm subsequently sounds.
- (2) A motor vehicle intruder alarm that sounds intermittently is taken to sound continuously for the purpose of measuring the period of time for which it sounds.

#### 23 Use of motor vehicle intruder alarms triggered by panic switches

A person must not, in connection with the use of a motor vehicle, cause or permit a motor vehicle intruder alarm to be used that is capable of being triggered (while the engine of the motor vehicle is running or the ignition of the motor vehicle is turned on) by means of a panic or override switch.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

#### 24 Use of motor vehicle intruder alarms generally

- (1) A person must not, in connection with the use of a motor vehicle, cause or permit a motor vehicle intruder alarm to be sounded, whether continuously or intermittently:
  - (a) in the case of a motor vehicle manufactured before 1 September 1997—for more than 90 seconds after the alarm first sounds, or
  - (b) in the case of a motor vehicle manufactured on or after 1 September 1997—for more than 45 seconds after the alarm first sounds.

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Maximum penalty:

- (a) if the alarm is sounded, whether continuously or intermittently, for a period that does not exceed 4 hours—100 penalty units in the case of a corporation, 50 penalty units in the case of an individual, or
  - (b) if the alarm is sounded, whether continuously or intermittently, for a period that exceeds 4 hours but does not exceed 8 hours—200 penalty units in the case of a corporation, 100 penalty units in the case of an individual, or
  - (c) if the alarm is sounded, whether continuously or intermittently, for a period that exceeds 8 hours—300 penalty units in the case of a corporation, 150 penalty units in the case of an individual.
- (2) A person is not guilty of an offence under this clause in the case of a motor vehicle manufactured before a date that is 12 months after the commencement of this Regulation, if the motor vehicle intruder alarm sounds for longer than 90 or 45 seconds, as the case may be, because:
- (a) a window or windscreen in the motor vehicle is broken or removed, or
  - (b) the motor vehicle is involved in an accident, or
  - (c) the motor vehicle is illegally broken into or there is an illegal attempt to break into the motor vehicle.

## **25 Design and construction of motor vehicle intruder alarms**

- (1) A person must not, in connection with the use of a motor vehicle, cause or permit a motor vehicle intruder alarm to be sounded unless the alarm is so constructed and regulated that:
- (a) it has a maximum noise level of not more than 115 dB(A), and
  - (b) it cannot be reactivated until it has been manually reset.
- Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.
- (2) This clause applies only to motor vehicles manufactured on or after 1 September 1997.

## **Division 3 Defective vehicle notices**

### **26 Defective vehicle notices**

- (1) An authorised officer who is satisfied that a motor vehicle:
- (a) emits noise at a level in excess of the level prescribed by clause 4 (b) or (c) for that type of motor vehicle, or
  - (b) has defective noise control equipment, or

## 2008 No 40

Clause 26 Protection of the Environment Operations (Noise Control) Regulation 2008

Part 2 Motor vehicle and motor vehicle accessories

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- (c) the motor vehicle's noise control equipment is not securely in place or has been removed and not replaced, or
  - (d) the motor vehicle has temporary noise reduction packing, or
  - (e) the motor vehicle has a temporary noise reduction device fitted, or
  - (f) has installed in it a motor vehicle accessory that does not comply with the Act or this Regulation,
- may issue a defective vehicle notice to the owner of the vehicle.
- (2) A defective vehicle notice is to be in the approved form and must include the following particulars:
    - (a) the defect on the basis of which it is issued,
    - (b) where the motor vehicle should be taken for inspection or testing for the purpose of having the notice withdrawn.
  - (3) A defective vehicle notice may indicate:
    - (a) what needs to be done to remedy the defect, and
    - (b) a date after which the motor vehicle must not be used on a road or road related area if the defect has not been remedied, and
    - (c) a date after which the motor vehicle's registration under the *Road Transport (Vehicle Registration) Act 1997* may be suspended if the defect has not been remedied.
  - (4) An authorised officer may withdraw a defective vehicle notice if satisfied that the motor vehicle in respect of which the notice has been issued no longer has the defect on the basis of which the notice was issued.
  - (5) If a defective vehicle notice indicates a date after which the motor vehicle must not be used on a road or road related area, a person must not cause or permit the motor vehicle to be used on a road or road related area after that date unless the notice has been withdrawn.  
Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.
  - (6) A person is not guilty of an offence under subclause (5) arising because the motor vehicle is being taken directly to a place:
    - (a) where repairs or other work required to reduce the noise level of the vehicle are to be carried out, or
    - (b) in accordance with a notice issued in respect of the motor vehicle under this clause or under section 207 of the Act,or is being taken directly from any such place to the place where the vehicle is usually kept.



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**27 Defective vehicle labels**

- (1) An authorised officer who issues a defective vehicle notice for a motor vehicle may also affix a defective vehicle label to the inside or outside of the front windscreen of the motor vehicle or in a conspicuous position on some other part of the vehicle.
- (2) A defective vehicle label is to be in the approved form and must include the following particulars:
  - (a) the defect on the basis of which the defective vehicle notice was issued,
  - (b) the date (if any) after which the motor vehicle must not be used on a road or road related area if the defect has not been remedied,
  - (c) such other particulars as the EPA may require.
- (3) An authorised officer who withdraws a defective vehicle notice for a motor vehicle must also remove, or direct the removal of, the defective vehicle label from the motor vehicle.
- (4) A person must not remove, obscure or deface a defective vehicle label affixed to a motor vehicle under this clause unless the person is an authorised officer or is acting under the direction of an authorised officer.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.
- (5) A person must not cause or permit a motor vehicle to be used if the person knows, or ought reasonably to know, that a defective vehicle label affixed to the motor vehicle under this clause has been removed, obscured or defaced in contravention of subclause (4).

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.
- (6) A person is not guilty of an offence under subclause (5) arising because the motor vehicle is being taken directly to a place:
  - (a) where repairs or other work required to reduce the noise level of the vehicle are to be carried out, or
  - (b) in accordance with a notice issued in respect of the motor vehicle under clause 26 or under section 207 of the Act,or is being taken directly from any such place to the place where the vehicle is usually kept.

## 2008 No 40

Clause 28 Protection of the Environment Operations (Noise Control) Regulation 2008

Part 3 Marine vessels

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### Part 3 Marine vessels

#### Division 1 Use of marine vessels

##### 28 Interpretation

In this Part:

*approved form*, in relation to a defective vessel notice or defective vessel label, means a form approved by:

- (a) the EPA, or
- (b) the authority or body whose officers or employees are authorised by this Part to issue or affix such a notice or label.

*authorised officer* means:

- (a) a person who is appointed as an authorised officer for the purposes of the Act, and
- (b) a police officer, and
- (c) an officer or employee of the marine authority who is authorised by the authority for the purposes of this Part.

##### 29 Sounding of sirens from vessels

A person must not cause or permit a vessel's siren, whistle, hooter, fog horn or bell to be sounded on navigable waters except for the purposes of navigation.

Maximum penalty: 20 penalty units in the case of a corporation, 10 penalty units in the case of an individual.

##### 30 Vessels not to emit offensive noise

A person must not cause a vessel to be used on navigable waters in such a way as to emit offensive noise.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

##### 31 Liability of owner of vessel

- (1) If a vessel is used contrary to clause 30, the person in charge and owner of the vessel are each taken to be guilty of an offence under that clause.
- (2) Subclause (1) does not affect the liability of the actual offender but, if a penalty (including a penalty under a penalty notice) has been imposed or recovered from any person in relation to the offence (whether the actual offender, the person in charge or the owner), no further penalty may be imposed on or recovered from any other person.

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- (3) Subclause (1) does not apply to the owner of a vessel if:
- (a) the vessel was at the time a stolen vessel or a vessel illegally taken or used, or
  - (b) the owner was not in the vessel at the relevant time and:
    - (i) gives notice in accordance with subclause (4) of the name and address of the person who was in charge of the vessel at the relevant time, or
    - (ii) satisfies the officer who gave the penalty notice for the offence or the court dealing with the offence (as the case requires) that the owner did not know, and could not with reasonable diligence have ascertained, that name and address.
- (4) The notice must be verified by statutory declaration and:
- (a) if a penalty notice has been given for the offence—the notice must be given to an officer specified in the penalty notice for the purpose within 28 days after service of the penalty notice, and
  - (b) if a court is dealing with the offence—the notice must be given to the informant within 28 days after service of the summons for the offence.

**Note.** Sections 307B and 307C of the *Crimes Act 1900* provide a maximum penalty of imprisonment for 2 years, or a fine of \$22,000, or both for giving false or misleading information, or providing false or misleading documents, in compliance, or purported compliance, with a law of the State.

### **32 Noise control equipment to be properly maintained**

- (1) A person must not cause or permit an engine powered vessel to be used on navigable waters if the vessel's noise control equipment is defective or is not securely in place.  
Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.
- (2) A person must not remove, or render less effective, a vessel's noise control equipment, otherwise than for the purpose of repairing or replacing it.  
Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.
- (3) For the purposes of subclause (1), defective noise control equipment includes:
- (a) equipment that an authorised officer reasonably believes has been modified in a way that makes it less effective than it would have been if the modification had not been made, or

## 2008 No 40

Clause 33 Protection of the Environment Operations (Noise Control) Regulation 2008

Part 3 Marine vessels

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- (b) equipment that allows gas to escape from a place other than the intended exhaust outlet.

### 33 Use of sound systems on vessels

A person must not cause or permit any musical instrument or sound system to be used on a vessel in such a manner that it emits offensive noise.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

## Division 2 Defective vessel notices

### 34 Defective vessel notices

- (1) An authorised officer who is satisfied that a vessel has no noise control equipment, does not have appropriate noise control equipment or has defective noise control equipment may issue a defective vessel notice to the vessel's owner or master.
- (2) A defective vessel notice is to be in the approved form and must include the following particulars:
  - (a) the defect on the basis of which it is issued,
  - (b) where the vessel should be taken for inspection or testing for the purpose of having the notice withdrawn.
- (3) A defective vessel notice:
  - (a) may indicate what needs to be done to remedy the defect, and
  - (b) may indicate a date after which the vessel must not be used if the defect has not been remedied.
- (4) An authorised officer may withdraw a defective vessel notice if satisfied that the vessel in respect of which the notice has been issued no longer has the defect on the basis of which the notice was issued.
- (5) If a defective vessel notice indicates a date after which the vessel must not be used, a person must not cause or permit the vessel to be used in navigable waters after that date unless the notice has been withdrawn.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.
- (6) A person is not guilty of an offence under this clause arising because the vessel is being taken directly to a place where:
  - (a) repairs or other work required to remedy the defect are to be carried out, or

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(b) an authorised officer may inspect or test the vessel, or is being taken directly from any such place to the place where the vessel is usually kept.

**35 Defective vessel labels**

- (1) An authorised officer who issues a defective vessel notice for a vessel may also affix a defective vessel label in a conspicuous position on some part of the vessel.
- (2) A defective vessel label is to be in the approved form and must include the following particulars:
  - (a) the defect on the basis of which the defective vessel notice was issued,
  - (b) the date (if any) after which the vessel must not be used if the defect has not been remedied,
  - (c) such other particulars as the EPA may require.
- (3) An authorised officer who withdraws a defective vessel notice for a vessel must also remove, or direct the removal of, the defective vessel label from the vessel.
- (4) A person must not remove, obscure or deface a defective vessel label that is affixed to a vessel under this clause unless the person is an authorised officer or is acting under the direction of an authorised officer.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.
- (5) A person must not cause or permit a vessel to be used if the person knows, or ought reasonably to know, that a defective vessel label affixed to the vessel under this clause has been removed, obscured or defaced in contravention of subclause (4).

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.
- (6) A person does not commit an offence under subclause (5) if the vessel is being taken directly to a place where:
  - (a) repairs or other work required to remedy the defect are to be carried out, or
  - (b) an authorised officer may inspect or test the vessel, or is being taken directly from any such place to the place where the vessel is usually kept.

## **2008 No 40**

Clause 36 Protection of the Environment Operations (Noise Control) Regulation 2008

Part 4 Miscellaneous articles

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### **Part 4 Miscellaneous articles**

#### **Division 1 Sale of articles**

##### **Subdivision 1 Preliminary**

###### **36 Division applies only to retail sale of new articles**

This Division applies to the sale of new articles by retail, but does not apply to the sale of articles otherwise than by retail or to the sale of second-hand articles.

###### **37 Size, design, format and construction of noise labels**

A noise label required by this Division must be a label of a size, design, format and construction approved by the EPA.

##### **Subdivision 2 Grass-cutting machines**

###### **38 Noise labels on grass-cutting machines**

A person must not sell a machine of a class prescribed under this Subdivision unless it has a noise label, securely attached to it in a conspicuous position, displaying the machine's maximum noise level as determined in accordance with Part 5.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

###### **39 Mowers**

- (1) For the purposes of section 136 of the Act:
  - (a) lawn mowers with a cutting width of more than 620 millimetres but less than 950 millimetres are a prescribed class of articles, and
  - (b) 80 dB(A) is the prescribed level for such lawn mowers.
- (2) For the purposes of section 136 of the Act:
  - (a) ride-on mowers are a prescribed class of articles, and
  - (b) 80 dB(A) is the prescribed level for ride-on mowers.

###### **40 Edge-cutters**

For the purposes of section 136 of the Act:

- (a) edge-cutters are a prescribed class of articles, and
- (b) 75 dB(A) is the prescribed level for edge-cutters.

**41 String-trimmers**

For the purposes of section 136 of the Act:

- (a) string-trimmers are a prescribed class of articles, and
- (b) 80 dB(A) is the prescribed level for string-trimmers.

**42 Brush cutters**

For the purposes of section 136 of the Act:

- (a) brush cutters are a prescribed class of articles, and
- (b) 85 dB(A) is the prescribed level for brush cutters.

**43 Other grass-cutting machines**

For the purposes of section 136 of the Act:

- (a) grass-cutting machines with cutting edges of 950 millimetres or less (other than grass-cutting machines referred to elsewhere in this Subdivision) are a prescribed class of articles, and
- (b) 75 dB(A) is the prescribed level for such grass-cutting machines.

**Subdivision 3 Other articles**

**44 Labelling of chainsaws**

A person must not sell a chainsaw unless it has a noise label, securely attached to it in a conspicuous position, displaying the chainsaw's maximum noise level as determined in accordance with Part 5.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

**45 Labelling of domestic air conditioners**

A person must not sell a domestic air conditioner unless it has a noise label, securely attached to it in a conspicuous position, displaying the air conditioner's sound power level as determined in accordance with Part 5.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

**46 Labelling of mobile air compressors**

A person must not sell a mobile air compressor unless it has a noise label, securely attached to it in a conspicuous position, displaying the

## **2008 No 40**

Clause 47 Protection of the Environment Operations (Noise Control) Regulation 2008

Part 4 Miscellaneous articles

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mobile air compressor's mean noise level as determined in accordance with Part 5.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

### **47 Labelling of pavement breakers**

A person must not sell a pavement breaker unless it has a noise label, securely attached to it in a conspicuous position, displaying the pavement breaker's mean noise level as determined in accordance with Part 5.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

### **48 Labelling of mobile garbage compactors**

A person must not sell a mobile garbage compactor unless it has a noise label, securely attached to it in a conspicuous position, displaying the mobile garbage compactor's maximum noise level as determined in accordance with Part 5.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

### **49 Sale of building intruder alarms**

(1) A person must not sell a building intruder alarm unless the alarm is constructed and regulated so that:

- (a) it automatically ceases to sound, whether continuously or intermittently, within 5 minutes after being activated by a detection device, and
- (b) it cannot be reactivated (except by a different detection device) until it has been manually reset.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

(2) A building intruder alarm that sounds intermittently is taken to sound continuously for the purpose of measuring the period of time for which it sounds.

## **Division 2 Use of articles**

### **Subdivision 1 Time limits on the use of certain articles**

#### **50 Power tools and equipment**

(1) A person must not cause or permit a power tool or swimming pool pump to be used on residential premises in such a manner that it emits noise



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that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):

- (a) before 8 am or after 8 pm on any Sunday or public holiday, or
- (b) before 7 am or after 8 pm on any other day.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

- (2) A person is not guilty of an offence under this clause unless:
  - (a) the person has, within 7 days after causing or permitting a power tool or swimming pool pump to be used in such a manner, been warned by an authorised officer or enforcement officer not to cause or permit the tool or pump to be used in that manner, and
  - (b) the person causes or permits the tool or pump to be used in that manner within 28 days after the warning has been given.

- (3) In this clause:

*power tool* means any of the following:

- (a) a powered garden tool (that is, a tool powered by a petrol engine or an electric motor), including a lawn mower, a lawn trimmer, a blower or sweeper, a garden mulcher, an edge-cutter or a chipper or shredder,
- (b) an electric power tool (including battery-operated power tools),
- (c) a pneumatic power tool,
- (d) a chainsaw,
- (e) a circular saw,
- (f) a gas or air compressor.

*swimming pool pump* includes a spa pump.

#### **51 Musical instruments and sound equipment**

- (1) A person must not cause or permit any musical instrument or electrically amplified sound equipment to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):

- (a) before 8 am and after midnight on any Friday, Saturday or day immediately before a public holiday, or
- (b) before 8 am and after 10 pm on any other day.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

## 2008 No 40

Clause 52 Protection of the Environment Operations (Noise Control) Regulation 2008

Part 4 Miscellaneous articles

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- (2) A person is not guilty of an offence under this clause unless:
- (a) the person has, within 7 days after causing or permitting a musical instrument or electrically amplified sound equipment to be used in such a manner, been warned by an authorised officer or enforcement officer not to cause or permit the instrument or equipment to be used in that manner, and
  - (b) the person causes or permits the instrument or equipment to be used in that manner within 28 days after the warning has been given.
- (3) In this clause:  
*electrically amplified sound equipment* means any electrical or battery powered device that can be used to make or amplify sound including television sets and home entertainment systems.

### 52 Air conditioners and heat pump water heaters

- (1) A person must not cause or permit an air conditioner or heat pump water heater to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
- (a) before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
  - (b) before 7 am or after 10 pm on any other day.
- Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.
- (2) A person is not guilty of an offence under subclause (1) in relation to a heat pump water heater if the conduct alleged to give rise to the offence occurs within 6 months after the commencement of this Regulation.
- (3) A person is not guilty of an offence under subclause (1) unless:
- (a) the person has, within 7 days after causing or permitting an air conditioner or heat pump water heater to be used in such a manner, been warned by an authorised officer or enforcement officer not to cause or permit the air conditioner or heat pump water heater to be used in that manner, and
  - (b) the person causes or permits an air conditioner or heat pump water heater to be used in that manner within 28 days after the warning has been given.
- (4) In this clause:  
*heat pump water heater* means a device that heats water using the energy generated from the compression of a gas.

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## Subdivision 2 Building intruder alarms

### 53 Use of building intruder alarms

- (1) The occupier of any premises must not cause or permit a building intruder alarm installed on those premises to be used so as to emit noise that can be heard within a habitable room in any residential premises, (regardless of whether any door or window to that room is open), unless the alarm is so constructed and regulated that:
  - (a) in the case of an alarm installed before 1 December 1997:
    - (i) it automatically ceases to sound, whether continuously or intermittently, within 10 minutes after being activated by a detection device, and
    - (ii) it cannot be reactivated (except by a different detection device) until it has been manually or automatically reset, or
  - (b) in the case of an alarm installed on or after 1 December 1997:
    - (i) it automatically ceases to sound, whether continuously or intermittently, within 5 minutes after being activated by a detection device, and
    - (ii) it cannot be reactivated (except by a different detection device) until it has been manually reset.

Maximum penalty:

- (a) if the alarm is sounded, whether continuously or intermittently, for a period that does not exceed 4 hours—100 penalty units in the case of a corporation, 50 penalty units in the case of an individual, or
  - (b) if the alarm is sounded, whether continuously or intermittently, for a period that exceeds 4 hours but does not exceed 8 hours—200 penalty units in the case of a corporation, 100 penalty units in the case of an individual, or
  - (c) if the alarm is sounded, whether continuously or intermittently, for a period that exceeds 8 hours—300 penalty units in the case of a corporation, 150 penalty units in the case of an individual.
- (2) A building intruder alarm that sounds intermittently is taken to sound continuously for the purpose of measuring the period of time for which it sounds.

## 2008 No 40

Clause 54 Protection of the Environment Operations (Noise Control) Regulation 2008

Part 5 Inspection and testing of certain articles

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### Part 5 Inspection and testing of certain articles

#### 54 Determining the noise level of an article

- (1) The maximum noise level of a motor vehicle horn or a motor vehicle intruder alarm, and the noise emission characteristics of a motor vehicle intruder alarm are to be determined in accordance with Part 1 of Schedule 2.
- (2) The maximum noise level of a grass-cutting machine is to be determined in accordance with Part 2 of Schedule 2.
- (3) The maximum noise level of a chainsaw is to be determined in accordance with Part 3 of Schedule 2.
- (4) The maximum noise level of a mobile garbage compactor is to be determined in accordance with Part 4 of Schedule 2.
- (5) The maximum noise level of a motor bus, motor car, motor cycle or motor lorry is to be determined in accordance with the National Stationary Exhaust Noise Test Procedures, and in determining the maximum noise level, any reference in that document to an omnibus or a goods vehicle is taken to be a reference to a motor bus or a motor lorry respectively.

**Note.** A copy of the *National Stationary Exhaust Noise Test Procedures* is available for inspection at the offices of the EPA.

- (6) The sound power level of a domestic air conditioner is to be determined in accordance with the document published by the Australian Environment Council entitled *Technical Basis for the Regulation of Noise Labelling of New Air Conditioners in Australia* dated July 1984 as in force on 1 March 2008.

**Note.** A copy of *Technical Basis for the Regulation of Noise Labelling of New Air Conditioners in Australia* is available for inspection at the offices of the EPA.

- (7) The mean sound level of a mobile air compressor or pavement breaker is to be determined in accordance with the document published by the Australian Environment Council entitled *Technical Basis for the Regulation of Noise Labelling of New Pavement Breakers and Mobile Air Compressors in Australia* dated July 1984 as in force on 1 March 2008.

**Note.** A copy of *Technical Basis for the Regulation of Noise Labelling of New Pavement Breakers and Mobile Air Compressors in Australia* is available for inspection at the offices of the EPA.

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- (8) In this clause:

*National Stationary Exhaust Noise Test Procedures* means the document published by the National Road Transport Commission entitled *National Stationary Exhaust Noise Test Procedures for In-service Motor Vehicles* dated April 2000 as amended or replaced from time to time.

**55 Measuring instruments—motor vehicle accessory, grass-cutting machine, chainsaw or mobile garbage compactor**

- (1) This clause applies to a sound level meter that is being used to measure and determine the noise level of a motor vehicle accessory, grass-cutting machine, chainsaw or mobile garbage compactor.
- (2) A class 1 or 2 sound level meter complying with AS IEC 61672 and associated equipment, including a microphone windshield must be used.
- (3) The sound level meter must be set to measure A-weighted noise levels and must have its meter dynamic characteristic set:
- (a) to “fast”, when measuring the noise level of a motor vehicle accessory or chainsaw, or
  - (b) to “slow”, when measuring the noise level of a grass-cutting machine or mobile garbage compactor.
- (4) The calibration of a sound level meter must be checked, and any necessary adjustments made, immediately before the sound level meter is used to make the noise level measurements required by this Regulation (*the pre-test check*) and must be checked again immediately after making those measurements (*the post-test check*).
- (5) The calibration is to be checked by performing a field calibration, using a reference sound source, when the article whose noise level is being measured is not operating.
- (6) If the noise level recorded during the post-test check (after any necessary adjustments have been made) differs by more than 1 dB(A) from the noise level recorded during the pre-test check, then all measurements made in the intervening period must be disregarded.
- (7) In this clause:

*AS IEC 61672* means AS IEC 61672—2004, *Electroacoustics—Sound level meters*, as in force on 1 March 2008.

**Note.** A copy of AS IEC 61672 is available for inspection at the offices of the EPA.

## **2008 No 40**

Clause 56            Protection of the Environment Operations (Noise Control) Regulation 2008

Part 5                Inspection and testing of certain articles

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### **56    Measurements may be disregarded on account of extraneous noise**

- (1) The person making the noise level measurements is to take all reasonable precautions to ensure that extraneous noise does not interfere with the making of measurements required by this Part.
- (2) If the noise levels recorded during the pre-test and post-test checks (when the article whose noise level is being measured is not operating) are not each 10 dB(A) or more below the lowest maximum noise level reading observed when making those noise level measurements, then all measurements made in the intervening period may be disregarded.

## **Part 6 Miscellaneous**

### **57 Savings provision**

Any act, matter or thing that, immediately before the repeal of the *Protection of the Environment Operations (Noise Control) Regulation 2000*, had effect under that Regulation is taken to have effect under this Regulation.

### **58 Amendment of Protection of the Environment Operations (Penalty Notices) Regulation 2004**

The *Protection of the Environment Operations (Penalty Notices) Regulation 2004* is amended as set out in Schedule 3.

### **59 Repeal**

The *Protection of the Environment Operations (Noise Control) Regulation 2000* is repealed.

## 2008 No 40

Protection of the Environment Operations (Noise Control) Regulation 2008

Schedule 1 Prescribed noise levels for types of motor vehicles

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### Schedule 1 Prescribed noise levels for types of motor vehicles

(Clause 4)

#### 1 Stationary noise levels—motor car and motor cycle

The stationary noise level of a motor car or motor cycle, must not exceed:

- (a) for a motor car built on or after 1 January 1983—90 dB(A), or
- (b) for a motor car built before 1 January 1983—96 dB(A), or
- (c) for a motor cycle designed or manufactured for use on a road that was built on or after 1 March 1984—94 dB(A), or
- (d) for any other motor cycle—100 dB(A).

#### 2 Stationary noise levels—motor lorry or motor bus with engine other than a diesel engine

- (1) This clause applies to a motor lorry or motor bus that has an engine other than a diesel engine.
- (2) For any such vehicle built before 1 July 1983 that has:
  - (a) a GVM of more than 3.5 tonnes, the stationary noise level of the motor vehicle must not exceed:
    - (i) 94 dB(A) if the exhaust of the vehicle is 1.5 metres or more above the ground, or
    - (ii) 98 dB(A) if the exhaust of the vehicle is less than 1.5 metres above the ground, or
  - (b) a GVM of 3.5 tonnes or less, the stationary noise level of the motor vehicle must not exceed:
    - (i) 88 dB(A) if the exhaust of the vehicle is 1.5 metres or more above the ground, or
    - (ii) 92 dB(A) if the exhaust of the vehicle is less than 1.5 metres above the ground.
- (3) For any such vehicle built on or after 1 July 1983 that has:
  - (a) a GVM of more than 3.5 tonnes, the stationary noise level of the motor vehicle must not exceed:
    - (i) 91 dB(A) if the exhaust of the vehicle is 1.5 metres or more above the ground, or
    - (ii) 95 dB(A) if the exhaust of the vehicle is less than 1.5 metres above the ground, or



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- (b) a GVM of 3.5 tonnes or less, the stationary noise level of the motor vehicle must not exceed:
    - (i) 85 dB(A) if the exhaust of the vehicle is 1.5 metres or more above the ground, or
    - (ii) 89 dB(A) if the exhaust of the vehicle is less than 1.5 metres above the ground.

**3 Stationary noise levels—motor lorry or motor bus with diesel engine**

- (1) This clause applies to a motor lorry or a motor bus that has a diesel engine.
- (2) For any such vehicle built before 1 July 1980 that has:
  - (a) a GVM of more than 12 tonnes, the stationary noise level of the motor vehicle must not exceed:
    - (i) 105 dB(A) if the exhaust of the vehicle is 1.5 metres or more above the ground, or
    - (ii) 109 dB(A) if the exhaust of the vehicle is less than 1.5 metres above the ground, or
  - (b) a GVM of more than 3.5 tonnes but no more than 12 tonnes, the stationary noise level of the motor vehicle must not exceed:
    - (i) 103 dB(A) if the exhaust of the vehicle is 1.5 metres or more above the ground, or
    - (ii) 107 dB(A) if the exhaust of the vehicle is less than 1.5 metres above the ground, or
  - (c) a GVM of 3.5 tonnes or less, the stationary noise level of the motor vehicle must not exceed:
    - (i) 101 dB(A) if the exhaust of the vehicle is 1.5 metres or more above the ground, or
    - (ii) 105 dB(A) if the exhaust of the vehicle is less than 1.5 metres above the ground.
- (3) For any such vehicle built on or after 1 July 1980 but before 1 July 1983 that has:
  - (a) a GVM of more than 12 tonnes, the stationary noise level of the motor vehicle must not exceed:
    - (i) 102 dB(A) if the exhaust of the vehicle is 1.5 metres or more above the ground, or
    - (ii) 106 dB(A) if the exhaust of the vehicle is less than 1.5 metres above the ground, or

## 2008 No 40

### Protection of the Environment Operations (Noise Control) Regulation 2008

#### Schedule 1 Prescribed noise levels for types of motor vehicles

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- (b) a GVM of more than 3.5 tonnes but no more than 12 tonnes, the stationary noise level of the motor vehicle must not exceed:
    - (i) 100 dB(A) if the exhaust of the vehicle is 1.5 metres or more above the ground, or
    - (ii) 104 dB(A) if the exhaust of the vehicle is less than 1.5 metres above the ground, or
  - (c) a GVM of 3.5 tonnes or less, the stationary noise level of the motor vehicle must not exceed:
    - (i) 98 dB(A) if the exhaust of the vehicle is 1.5 metres or more above the ground, or
    - (ii) 102 dB(A) if the exhaust of the vehicle is less than 1.5 metres above the ground.
- (4) For any such vehicle built on or after 1 July 1983 that has:
- (a) a GVM of more than 12 tonnes, the stationary noise level of the motor vehicle must not exceed:
    - (i) 99 dB(A) if the exhaust of the vehicle is 1.5 metres or more above the ground, or
    - (ii) 103 dB(A) if the exhaust of the vehicle is less than 1.5 metres above the ground, or
  - (b) a GVM of more than 3.5 tonnes but no more than 12 tonnes, the stationary noise level of the motor vehicle must not exceed:
    - (i) 97 dB(A) if the exhaust of the vehicle is 1.5 metres or more above the ground, or
    - (ii) 101 dB(A) if the exhaust of the vehicle is less than 1.5 metres above the ground, or
  - (c) a GVM of 3.5 tonnes or less, the stationary noise level of the motor vehicle must not exceed:
    - (i) 95 dB(A) if the exhaust of the vehicle is 1.5 metres or more above the ground, or
    - (ii) 99 dB(A) if the exhaust of the vehicle is less than 1.5 metres above the ground.

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## Schedule 2 Testing procedures

(Clause 54)

### Part 1 Motor vehicle horns and intruder alarms

#### 1 Definitions

In this Part:

**alarm** means a motor vehicle intruder alarm.

**horn** means a motor vehicle horn.

**test site** means the site at which the noise level of a horn or an alarm is measured, or the noise emission characteristics of an alarm is recorded.

#### 2 Determination of noise level

- (1) The person making the measurements of the noise level of a horn or an alarm is to make as many noise level measurements as are reasonably appropriate.
- (2) The noise level of a horn or an alarm is the greatest noise level reading obtained from the noise level measurements made on the horn or alarm. If that reading is not a whole number of decibels, it must be rounded down to the next lower whole number of decibels.

#### 3 Instruments for recording noise

- (1) A tape recorder and associated leads may be used in conjunction with the sound level meter to record the noise from an alarm.
- (2) For tape recording purposes, the sound level meter is to be set to "linear" and appropriate recording level adjustments made together with the recording of a field calibration tone.

#### 4 Determination of character of noise emitted

The frequency characteristics and the repeat rate of emitted sound may be determined by:

- (a) laboratory analysis of a tape recording of noise emitted by an alarm under test, or
- (b) readings from a class 1 sound level meter capable of measuring sound level variations over time.

#### 5 Operation of horn or alarm

A horn or an alarm under test:

- (a) must, as far as practicable, be directed towards the microphone, and

## 2008 No 40

Protection of the Environment Operations (Noise Control) Regulation 2008

Schedule 2 Testing procedures

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- (b) must be operated by means of a power supply that complies, as far as practicable, with the power supply by means of which the manufacturer of the horn or alarm recommends it to be operated, and
- (c) must be operated:
  - (i) in the case of a horn, for periods of not less than 5 seconds each in duration, and
  - (ii) in the case of an alarm, for periods of not less than 15 seconds each in duration.

### 6 Horns and alarms that are not attached to a motor vehicle

- (1) This clause applies to a horn or alarm that is not attached to a motor vehicle.
- (2) The test site:
  - (a) must consist of an area having its perimeter at least 3 metres from any part of the horn or alarm under test, and
  - (b) must be in the open air, and
  - (c) must be covered with grass no more than 80 millimetres high or with concrete, asphalt or any other approved material.
- (3) While the noise level of the horn or alarm is measured, or the noise emission characteristics of the alarm is recorded:
  - (a) the following people only may be within the test site:
    - (i) the person operating the horn or alarm,
    - (ii) the person making the measurements or recordings,
    - (iii) one observer, standing in a position specified by that person, and
  - (b) the following articles only may be within the test site:
    - (i) the horn or alarm,
    - (ii) a stand for the horn or alarm,
    - (iii) any instruments and other objects used in connection with the measurement of the noise level or the recording of the noise,
    - (iv) any other article that, in the opinion of the person making the measurements or recordings, will not substantially affect the measurements or recordings.
- (4) That part of the horn or alarm under test that emits noise:
  - (a) must be mounted firmly on a stand, placed in the centre of the test site, that has a mass of not less than 30 kilograms, or 10 times the mass of the horn or alarm, whichever is the greater, and

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- (b) must, as far as practicable, be attached to the stand by means of the fittings recommended by the manufacturer, and
  - (c) must be placed at a height of not less than 1.2 metres above the ground, and
  - (d) must be placed, as far as practicable, vertically beneath the microphone, and
  - (e) must be directed towards that microphone.
- (5) The microphone must be placed in such position as the person making the measurements or recordings considers appropriate, but must not be placed:
- (a) at a height of less than 3.2 metres above the ground, or
  - (b) at a distance of less than 2 metres from the horn or alarm under test.
- (6) The microphone must face towards and have its nominal axis of maximum sensitivity (as indicated by the manufacturer of the microphone) directed towards the part of the horn or alarm under test that emits noise.

**7 Motor vehicle horns and intruder alarms that are attached to a motor vehicle**

- (1) This clause applies to a horn or alarm that is attached to a motor vehicle.
- (2) The test site:
- (a) must be in the open air, or
  - (b) must be beneath:
    - (i) an open-sided canopy, or
    - (ii) a canopy supported by one wall (where that wall does not extend for more than 25% of the perimeter of the canopy), if no part of the canopy or its supports is within 3 metres of the horn or alarm under test or of the microphone used in conjunction with the measurement.
- (3) While the noise level of the horn or alarm is measured, or the noise emission characteristics of the alarm is recorded:
- (a) the following people only may be within the test site:
    - (i) the person operating the horn or alarm,
    - (ii) the person making the measurements or recordings,
    - (iii) one observer, standing in a position specified by that person, and

## 2008 No 40

Protection of the Environment Operations (Noise Control) Regulation 2008

Schedule 2 Testing procedures

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- (b) the following articles only may be within the test site:
  - (i) the motor vehicle to which the horn or alarm under test is attached,
  - (ii) the contents of the motor vehicle,
  - (iii) any instruments and other objects used in connection with the measurement of the noise level or the recording of the noise,
  - (iv) any other article that, in the opinion of the person making the measurements or recordings, will not substantially affect the measurements or recordings.
- (4) The microphone must be placed in such position as the person making the measurements or recordings considers appropriate, but must not be placed:
  - (a) at a distance of less than 1.2 metres from the front of the vehicle,  
or
  - (b) at a distance of less than 200 millimetres from the ground.
- (5) The microphone must face towards, and have its nominal axis of maximum sensitivity (as indicated by the manufacturer of the microphone) directed towards the part of the horn or alarm under test that emits noise.

## Part 2 Grass-cutting machines

### 8 Definition

In this Part:

*test site* means the site at which the noise level of a grass-cutting machine is measured.

### 9 Site requirements

- (1) The test site:
  - (a) must have its perimeter at least 30 metres from any part of the grass-cutting machine under test, and
  - (b) must be in the open air, and
  - (c) must be covered with grass not more than 80 millimetres high.
- (2) While the noise level of a grass-cutting machine is being measured:
  - (a) the following people only may be within the test site:
    - (i) the person operating the grass-cutting machine,
    - (ii) the person making the measurements,

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- (iii) one observer, standing in a position specified by that person, and
  - (b) the following articles only may be within the test site:
    - (i) the grass-cutting machine,
    - (ii) a test pad (where applicable),
    - (iii) the instrumentation and other objects necessary for the measurement of the noise level of the grass-cutting machine,
    - (iv) any other article that, in the opinion of the person making the measurements, will not substantially affect the measurements.
  - (3) The measurements must be made at each of the positions marked A, B, C and D in Figure 1 at the end of this Schedule.

**10 Position of microphone**

- (1) The microphone:
  - (a) must be placed at a height of 1.5 metres ( $\pm 0.1$  metres) above the ground, and
  - (b) must be placed at a distance of 7.5 metres ( $\pm 0.2$  metres) from the centre of the test site, and
  - (c) must face towards and have its nominal axis of maximum sensitivity (as indicated by the manufacturer of the microphone) directed towards the centre of the test site.
- (2) Figure 2 at the end of this Schedule shows the position of the microphone relative to the noise source.

**11 Condition of grass-cutting machine**

- (1) A lawn mower or ride-on mower must be fitted with an empty grass-catcher if such a catcher is normally supplied with the mower.
- (2) Where a catcher is not normally supplied, or is supplied as an optional accessory, the mower must be fitted with a safety discharge chute if such a chute is supplied.
- (3) Where blades having varying degrees of grass lift are available, those providing the greatest amount of lift must be fitted.
- (4) A reel lawnmower must have the cutting cylinder and stationary blade correctly sharpened and set. For that purpose, the ability of the lawnmower to cut kraft paper weighing not less than 80 grams per square metre over the full cutting width, and at any position, of the cylinder when the cylinder is turned by hand is an acceptable indication that the cylinder and blade are correctly sharpened and set.

## 2008 No 40

Protection of the Environment Operations (Noise Control) Regulation 2008

Schedule 2      Testing procedures

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- (5) The grass-cutting machine under test must not have been previously run for more than 2 hours at the manufacturer's recommended operating speed.
- (6) Immediately before each series of measurements the correctly adjusted grass-cutting machine must be operated for a period of not less than 5 minutes at its maximum governed or ungoverned speed.
- (7) The height adjustment position of a rotary mower must be determined by the person making the measurements as being the position approximately midway between the maximum and minimum adjustable height positions (where fitted).
- (8) For edge-cutters, the lower edge cutting tip of the blade or cord must be more than 30 millimetres but not more than 200 millimetres above the test pad.
- (9) A lawn mower or ride-on mower, and in particular the underside of the base plate and the cutting disc and blades assembly of a rotary mower, must be generally clean and free of all grass and dirt.
- (10) Where applicable, the engine oil level must be within the manufacturer's allowable tolerances.
- (11) Blades of reel mowers must be lubricated before and during operation.
- (12) For string-trimmers and brush-cutters, the lower edge of the cutting system must be not more than 200 millimetres above the test site.
- (13) When a harness is fitted, the attachment point, when the machine is balanced for the operator, must be not more than 785 millimetres and not less than 765 millimetres above the test site.
- (14) When a string-trimmer or brush-cutter is to be tested, only a nylon line head must be used.

### 12 Engine operating conditions

- (1) The grass-cutting machine must be stationary during testing.
- (2) Where the grass-cutting machine is propelled by the engine, the controls must be set so that the propulsion drive is activated and the driving wheels are raised above the test pad and, in all instances, the cutting mechanism is operating.
- (3) Where the grass-cutting machine is a ride-on mower, rollers may be placed under the driving wheels and the operator seated to operate the controls.
- (4) If a speed control governor (and throttle control) is fitted to the grass-cutting machine (not being a string-trimmer or brush-cutter), the engine must be operated with the speed control set on the maximum



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throttle setting or, if a governor is not fitted, the engine must be operated at the maximum speed attainable.

- (5) Grass-cutting machines powered by electric motors must be operated at the maximum pre-set motor speed set by the manufacturer.
- (6) For string-trimmers and brush-cutters, the engine speed that corresponds to the manufacturer's stated maximum power rating must be the speed ( $\pm 100$  revolutions per minute) at which the noise level measurements are taken.

### 13 Test pad

The test pad (where applicable) must conform:

- (a) to the design specified in the document entitled *Technical Basis for the Regulation of Noise Labelling of New Grass-Cutting Machines* published in 1988 by the Australian Environment Council, as in force on 1 March 2008, or

**Note.** A copy of *Technical Basis for the Regulation of Noise Labelling of New Grass-Cutting Machines* is available for inspection at the offices of the EPA.

- (b) to such other design as may be approved.

### 14 Test procedure

- (1) For a rotary mower, cylinder mower or edge-cutter, the test pad must be positioned generally at the centre of the test site, and the rotary mower, cylinder mower or edge-cutter must be located on the test pad so that:
  - (a) for a rotary mower, the vertical axis passing through the geometric centre of the cutting blades coincides generally with the vertical axis passing through the geometric centre of the test pad, and
  - (b) for a cylinder mower, the mid-point of the rectangular area formed by projecting the outer planes of the front and rear rollers or wheels coincides generally with the vertical axis passing through the geometric centre of the test pad, and
  - (c) for an edge-cutter, the cutting mechanism must be placed so that it generally coincides with the vertical axis passing through the geometric centre of the test pad.
- (2) For a ride-on mower, string-trimmer or brush-cutter, the ride-on mower, string-trimmer or brush-cutter must be located so that:
  - (a) where a ride-on mower is driven through the front wheels, the vertical axis passing through the geometric centre of the machine coincides generally with the vertical axis passing through the geometric centre of the test site, or

## 2008 No 40

Protection of the Environment Operations (Noise Control) Regulation 2008

Schedule 2 Testing procedures

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- (b) where a ride-on mower is driven otherwise than through the front wheels, the vertical axis passing through the geometric centre of the cutting disk coincides generally with the vertical axis passing through the geometric centre of the test site, or
- (c) for a string-trimmer or brush-cutter, the operator is positioned approximately on the vertical axis passing through the geometric centre of the test site as shown in Figure 2 at the end of this Schedule.

### 15 Determination of noise level

- (1) The person making the measurements is to make as many noise level measurements of the grass-cutting machine as are reasonably appropriate.
- (2) The maximum noise level ( $LpA$ ) of a grass-cutting machine is to be the average of the greatest noise level readings obtained at the positions A, B, C and D (shown in Figure 1 at the end of this Schedule), as calculated in accordance with this clause, taken, if the average reading is not a whole number of decibels, to the next lower whole number of decibels.
- (3) An A-weighted sound pressure level must be calculated from the measured values of the A-weighted sound pressure levels ( $LpAi$ ) from the following equation:

$$LpA = \frac{10 \log_{10} \sum_{i=1}^N 10^{0.1LpAi}}{N}$$

Where:

$LpA$  = A-weighted sound pressure level.

$LpAi$  = A-weighted sound pressure level at the  $i$ 'th measured position, in decibels.

$N$  = Total number of measured points.

- (4) If the range of values of  $LpAi$  does not exceed 5 dB(A), the A-weighted sound pressure level is to be the arithmetical mean of those values.

## Part 3 Chainsaws

### 16 Site requirements

- (1) The site at which the noise level of a chainsaw is measured:
  - (a) must have its perimeter at least 30 metres from any part of the chainsaw under test, and

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- (b) must be in the open air, and
  - (c) must be covered with grass not more than 80 millimetres high or with concrete, asphalt or any other approved material or with a mixture of those coverings.
- (2) While the noise level of a chainsaw is being measured, the following people only may be within the test site:
- (a) the person operating the chainsaw,
  - (b) the person making the measurements,
  - (c) one observer, standing in the position specified by that person.
- (3) While the noise level of the chainsaw is being measured, the following articles only may be within the test site:
- (a) the chainsaw,
  - (b) the timber to be cut,
  - (c) the timber stands,
  - (d) the instrumentation and other objects necessary for the measurement of the noise level of the chainsaw,
  - (e) any other article that, in the opinion of the person making the measurements, will not substantially affect the measurements.
- (4) The measurements must be made at each of the positions marked A, B, C and D in Figure 3 at the end of this Schedule.

**17 Position of microphone**

- (1) The microphone used to measure the noise level of a chainsaw:
- (a) must be placed at a height of 1.5 metres ( $\pm 0.1$  metres) above the ground, and
  - (b) must be placed at a distance of 7.5 metres ( $\pm 0.2$  metres) from the nearest point of the motor of the chainsaw under test to the microphone, and
  - (c) must face towards the motor of the chainsaw, and
  - (d) must have its nominal axis of maximum sensitivity (as indicated by the manufacturer of the microphone) directed towards the motor of the chainsaw.
- (2) Figure 4 at the end of this Schedule shows the position of the microphone relative to the noise source.

**18 Operation of chainsaw during measurement**

- (1) Noise measurements must be taken while the chainsaw is cutting a log.

## 2008 No 40

Protection of the Environment Operations (Noise Control) Regulation 2008

Schedule 2 Testing procedures

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- (2) The noise level measurement must be taken at the engine speed that corresponds to the manufacturer's stated maximum power rating.
- (3) Immediately before the noise level of a chainsaw is measured, the motor of the chainsaw must be operated for not less than 5 minutes.
- (4) The position of the log and chainsaw during cutting must be as shown in Figure 4 at the end of this Schedule.
- (5) When the noise level of a chainsaw is being measured:
  - (a) the chainsaw must be held in a horizontal position by the operator and operated in a manner appropriate to normal cross-cutting, and
  - (b) the guide bar must be fed into the log and the load applied so that the engine speed is the same as, or within 300 revolutions per minute of, the speed at which maximum power is developed according to the manufacturer's specification, and
  - (c) the slices of timber cut must not be more than 25 millimetres thick, and
  - (d) full throttle must be maintained during the cutting operation.

### 19 Determination of noise level

- (1) The person making the measurements is to make as many noise level measurements of the chainsaw as are reasonably appropriate.
- (2) The maximum noise level ( $LpA$ ) of a chainsaw is to be the average of the greatest noise level readings obtained from the positions A, B, C and D (shown in Figure 3 at the end of this Schedule), as calculated in accordance with this clause. If the average reading is not a whole number of decibels, it must be rounded down to the next lower whole number of decibels.
- (3) An A-weighted sound pressure level must be calculated from the measured values of the A-weighted sound pressure levels ( $LpAi$ ) from the following equation:

$$LpA = \frac{10 \log_{10} \sum_{i=1}^N 10^{0.1 LpAi}}{N}$$

Where:

$LpA$  = A-weighted sound pressure level.

$LpAi$  = A-weighted sound pressure level at the  $i$ 'th measured position, in decibels.

$N$  = Total number of measured points.

- (4) If the range of values of  $L_{pAi}$  does not exceed 5 dB(A), the A-weighted sound pressure level is to be the arithmetical mean of those values.

## **Part 4 Mobile garbage compactors**

### **20 Site requirements**

- (1) The test site at which the noise level of a mobile garbage compactor is measured must:
- (a) be in the open air, and
  - (b) be free from obstructions, and
  - (c) have a perimeter at least 20 metres from the mobile garbage compactor under test, and
  - (d) be covered with concrete, asphalt or other approved material, or a mixture of those coverings.
- (2) While the noise level of a mobile garbage compactor is being measured, the following people only may be within the test site:
- (a) the driver or operator of the compactor,
  - (b) the person making the measurements,
  - (c) one observer, standing in a position specified by that person.
- (3) While the noise level measurements are being made, only the following articles may be within the test site:
- (a) the mobile garbage compactor,
  - (b) the instruments necessary for the measurement of noise emitted by the compactor,
  - (c) any other article that, in the opinion of the person making the measurements, will not substantially affect the measurements.
- (4) Noise measurements must not be made when wind speed exceeds 5 metres per second.

### **21 Position of mobile garbage compactor**

The mobile garbage compactor must be positioned in the approximate centre of the test site.

### **22 Position of microphone**

The microphone:

- (a) must be placed at a height of 1.5 metres ( $\pm$  0.1 metres) above the ground, and

## 2008 No 40

Protection of the Environment Operations (Noise Control) Regulation 2008

Schedule 2      Testing procedures

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- (b) must (in any sequence) be placed at a distance of 15 metres ( $\pm 0.2$  metres) from the approximate geometric centre of the vehicle at each of the 4 points on the principal axes of the vehicle, and
- (c) must have its nominal axis of maximum sensitivity (as indicated by the manufacturer of the microphone) directed towards the mobile garbage compactor under test.

### 23 Operation of mobile garbage compactor

- (1) The controls of the mobile garbage compactor being tested must be operated in such manner as to cause the compactor to operate over full compaction cycles.
- (2) The bin lifters must not be operated during the tests unless this is necessary for operation of the compactor.
- (3) The tests must be conducted without any garbage present in the compactor body or loading chute.
- (4) The compactor must be operated over as many cycles as the person making the measurements considers necessary to obtain representative results.
- (5) The compactor must be operated over full compaction cycles for a minimum period of 15 minutes prior to conducting the noise tests.
- (6) Relief valves must be set to operate at the pressures or flows, or pressures and flows, specified by the manufacturer of the compactor.

### 24 Engine rotation speed

- (1) The object of this clause is to provide the rotation speed at which the engine driving the hydraulic pump must be operated.
- (2) For a mobile garbage compactor with a hydraulic pump the rotation speed of which cannot be increased by operation of the accelerator pedal while the compactor is engaged, the engine speed during the test must be set to the governed engine speed as specified by the manufacturer of the compactor unit.
- (3) If the speed of the hydraulic pump can be altered by use of the accelerator pedal while the compactor is engaged, the speed of the engine driving the hydraulic pump must be:
  - (a) the greater of the engine speed that is automatically obtained when the compactor is engaged and an engine speed that provides between 80% and 85% of the speed of the pump at which the

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compactor operation is disengaged or its performance is reduced or limited:

- (i) by the use of a dump circuit, a pump unloader system or a clutch on the drive to the pump, or
  - (ii) by other appropriate means built into the compactor unit to limit the flow of hydraulic fluid or to limit the engine rotation speed, or
- (b) a rotation speed between 95% and 100% of the maximum speed of the engine where the compactor has no facility for limiting the flow or pressure, or flow and pressure, applied to the compaction system, or
- (c) where a variable displacement pump is used, the design speed for normal operation of the compaction system as stated by the compactor manufacturer.

**25 Instruments to test rotation speed**

A suitable engine or pump rotation speed measurement device capable of measuring the maximum rotation speed to within ( $\pm$ ) 50 revolutions per minute of the actual speed of the engine or hydraulic pump during a compaction cycle must be used to measure the engine or pump rotation speed during the test.

**26 Determination of mean noise level**

- (1) The person making the measurements is to make as many noise level measurements of the mobile garbage compactor as are reasonably appropriate.
- (2) The compactor must be operated with the engine powering the hydraulic pump operating at a speed determined in accordance with this Schedule and the maximum sound pressure level must be observed and recorded with an accuracy to the first decimal place at each of the 4 microphone positions on the principal axes of the vehicle.
- (3) The mean noise level of a mobile garbage compactor is the logarithmic average of the maximum noise level readings at those 4 positions but, if the range of levels is 5 dB(A) or less, the arithmetic average may be used instead.
- (4) If the average so determined is not a whole number of decibels, it must be rounded down to the next lower whole number of decibels.

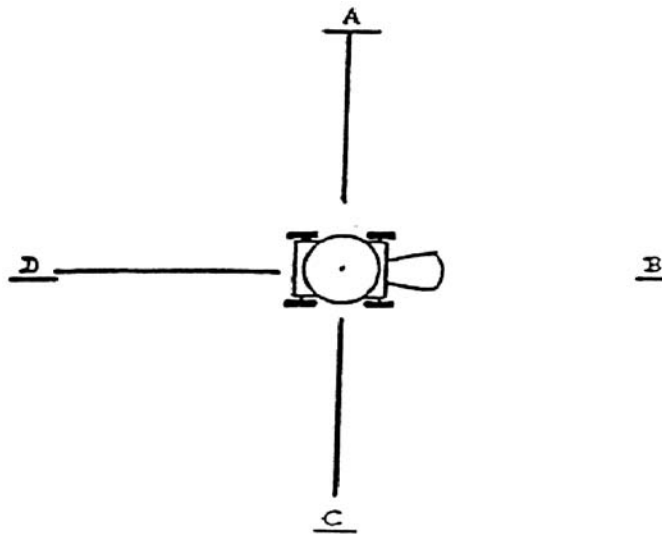
**2008 No 40**

Protection of the Environment Operations (Noise Control) Regulation 2008

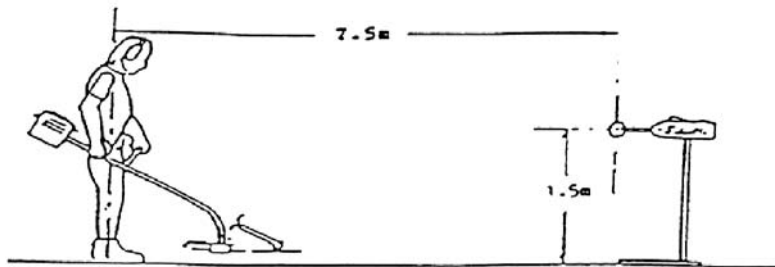
Schedule 2 Testing procedures

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**Figure 1 Typical test site layout and microphone positions:  
grass-cutting machines (plan view)**

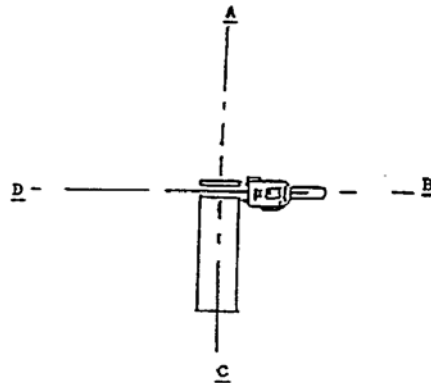


**Figure 2 Typical test site layout and microphone positions:  
grass-cutting machines (side view)**

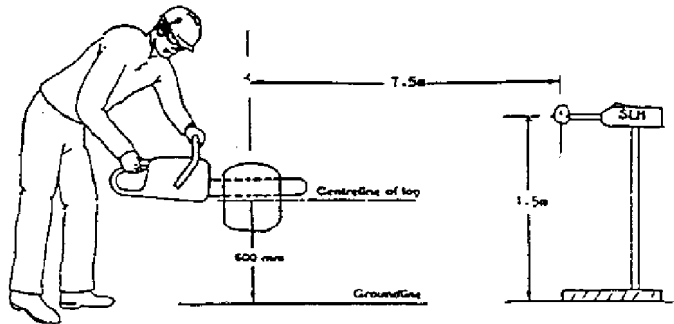




**Figure 3 Typical test site layout and microphone positions: chainsaws (plan view)**



**Figure 4 Typical test site layout and microphone positions: chainsaws (side view)**



## 2008 No 40

Protection of the Environment Operations (Noise Control) Regulation 2008

Schedule 3 Amendment of Protection of the Environment Operations (Penalty Notices) Regulation 2004

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### Schedule 3 Amendment of Protection of the Environment Operations (Penalty Notices) Regulation 2004

(Clause 58)

#### Schedule 1 Penalty notice offences

Omit the matter relating to the *Protection of the Environment Operations (Noise Control) Regulation 2000*.

Insert instead:

#### Protection of the Environment Operations (Noise Control) Regulation 2008

Column 1	Column 2	Column 3	Column 4
Provision of Regulation	Officer	Penalty (individuals)	Penalty (corporations)
Clause 5 (1)	2A	\$300	\$600
Clause 10	2A	\$300	\$600
Clause 11 (1)	2A	\$300	\$600
Clause 12 (1): Cause or permit use of vehicle capable of emitting noise exceeding maximum level by up to 5 dB(A).	2A	\$150	\$300
Clause 12 (1): Cause or permit use of vehicle capable of emitting noise exceeding maximum level by between 5 and 15 dB(A).	2A	\$250	\$500
Clause 12 (1): Cause or permit use of vehicle capable of emitting noise exceeding maximum level by more than 15 dB(A).	2A	\$500	\$1,000
Clause 13	1, 2, 4	\$200	\$400
Clause 14 (1)	1, 2, 4	\$200	\$400
Clause 15 (1)	1, 2, 4	\$200	\$400
Clause 16	1, 2, 4	\$150	\$300
Clause 17 (1)	2, 4	\$150	
Clause 18 (1)	2, 4	\$200	\$400
Clause 19 (1)	2A	\$200	\$400

## Protection of the Environment Operations (Noise Control) Regulation 2008

Amendment of Protection of the Environment Operations (Penalty Notices) Regulation 2004 Schedule 3

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Regulation</b>	<b>Officer</b>	<b>Penalty (individuals)</b>	<b>Penalty (corporations)</b>
Clause 21 (1)	2A	\$200	\$400
Clause 21 (2)	2A	\$200	\$400
Clause 23	1, 2, 4	\$200	\$400
Clause 24 (1): Cause or permit use of noisy alarm (for up to 4 hours).	1, 2, 4, 7	\$200	\$400
Clause 24 (1): Cause or permit use of noisy alarm (for more than 4 hours and up to 8 hours).	1, 2, 4, 7	\$400	\$800
Clause 24 (1): Cause or permit use of noisy alarm (for more than 8 hours).	1, 2, 4, 7	\$600	\$1,200
Clause 25 (1)	2A	\$200	\$400
Clause 26 (5)	2, 4	\$300	\$600
Clause 27 (4)	2, 4	\$300	\$600
Clause 27 (5)	2, 4	\$300	\$600
Clause 29	1, 3, 4, 13	\$200	\$400
Clause 30	1, 3, 4, 13	\$300	\$600
Clause 32 (1)	3, 4, 13	\$200	\$400
Clause 32 (2)	3, 4, 13	\$200	\$400
Clause 33	1, 3, 4, 13	\$300	\$600
Clause 34 (5)	3, 4, 13	\$300	\$600
Clause 35 (4)	3, 4, 13	\$300	\$600
Clause 35 (5)	3, 4, 13	\$300	\$600
Clause 50 (1)	1, 4	\$200	\$400
Clause 51 (1)	1, 4	\$200	\$400
Clause 52 (1)	1, 4	\$200	\$400
Clause 53 (1): Cause or permit use of noisy intruder alarm (for up to 4 hours).	1, 2, 4	\$200	\$400
Clause 53 (1): Cause or permit use of noisy intruder alarm (for more than 4 hours and up to 8 hours).	1, 2, 4	\$400	\$800

## 2008 No 40

Protection of the Environment Operations (Noise Control) Regulation 2008

Schedule 3 Amendment of Protection of the Environment Operations (Penalty Notices) Regulation 2004

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Regulation</b>	<b>Officer</b>	<b>Penalty (individuals)</b>	<b>Penalty (corporations)</b>
Clause 53 (1): Cause or permit use of noisy intruder alarm (for more than 8 hours).	1, 2, 4	\$600	\$1,200

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BY AUTHORITY