

NOISE CONTROL ACT 1975—REGULATION

(Noise Control (General) Regulation 1995)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Noise Control Act 1975, has been pleased to make the Regulation set forth hereunder.

PAM ALLAN, M.P.,
Minister for the Environment.

Citation

1. This Regulation may be cited as the Noise Control (General) Regulation 1995.

Commencement

2. This Regulation commences on 1 September 1995.

Definitions

3. (1) In this Regulation:

“the Act” means the Noise Control Act 1975.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

**Prescribed periods after which scheduled premises must be licensed:
sec. 18**

4. (1) For the purposes of section 18 (2) (a) of the Act, the prescribed period is 90 days after Division 1 of Part 3 of the Act is applied to the part of the State in which the premises are situated.

(2) For the purposes of section 18 (3) (a) of the Act, the prescribed period is 90 days after the premises become scheduled premises.

(3) For the purposes of section 18 (4) (a) of the Act, the prescribed period is 30 days after the person becomes the occupier of scheduled premises.

**Noise control notices for premises other than scheduled premises:
sec. 40**

5. For the purposes of section 40 of the Act, the following kinds of conditions are prescribed:

- (a) that in specified circumstances noise control equipment with a specified noise reduction capability is fitted in a specified manner to a specified article while it is being used or operated in or on the premises;
- (b) that noise control equipment is fitted to or around a specified article while it is being used or operated in or on the premises so that the noise emitted from that article, when measured as specified, does not exceed a specified level;
- (c) that a building in or on the premises is modified so that the noise emitted from that building, when measured as specified, does not exceed a specified level;
- (d) that a specified article is used or operated in or on the premises only in a specified location;
- (e) that a specified article is not used or operated in or on the premises within a specified distance of a specified location;
- (f) that in specified circumstances a specified article is used or operated in or on the premises in a specified manner;
- (g) that the noise emitted in specified circumstances by the use or operation of a specified article in or on the premises, when measured as specified, does not exceed a specified level;
- (h) that the level of noise emitted by sound reproduction equipment or musical instruments in or on the premises, when measured as specified, does not exceed a specified level;
- (i) that specified noise control equipment or a specified noise barrier is used, operated or erected in or on the premises during specified times.

Warrants relating to noise abatement directions: sec. 61

6. (1) For the purposes of section 61 (6) of the Act, the prescribed form of record to be made when a warrant is granted is Form 1.

(2) For the purposes of section 61 (11) of the Act, the prescribed form of record to be made by a member of the police force when a warrant is granted is Form 2.

(3) For the purposes of section 61 (12) (a) of the Act, the prescribed statement to be furnished to a resident of premises entered pursuant to a warrant is Form 3.

Exemptions from licensing obligations: sec. 64

7. For the purposes of section 64 (3) (a) of the Act, the following premises are exempted from section 18 of the Act:

- (a) premises described in paragraph 1 (a) of the Schedule to the Act, other than those having a site area of more than 10,000 square metres;
- (b) premises described in paragraph 2 (a) of the Schedule to the Act, other than those operated for profit or financial reward of any kind;
- (c) premises described in paragraph 2 (b) of the Schedule to the Act, but only to the extent to which they are used exclusively for the arrival and departure of helicopters used for the provision of emergency medical services;
- (d) premises described in paragraph 2 (e), 3 (a) or 3 (d) of the Schedule to the Act.

Appeals to Court regarding noise control notices: sec. 70

8. For the purposes of section 70 (2) (a) of the Act, the prescribed period before the expiration of which an appeal must be made is:

- (a) 7 days, in the case of a noise control notice under section 40 of the Act warning an occupier about causing, permitting or allowing any specified animal to be kept in or on premises; or
- (b) 21 days, in the case of any other noise control notice under section 40 of the Act.

Repeal

9. (1) The Noise Regulation 1975 is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the Noise Control Regulation 1975, had effect under that Regulation continues to have effect under:

- (a) this Regulation; or
- (b) the Noise Control (Miscellaneous Articles) Regulation 1995; or
- (c) the Noise Control (Motor Vehicles and Motor Vehicle Accessories) Regulation 1995,

as the case requires.

SCHEDULE 1—FORMS
Form 1

(Cl. 6 (1))

NOISE CONTROL ACT 1975

(Section 61 (6))

MAGISTRATE'S RECORD OF COMPLAINT REQUESTING THE ISSUE OF A WARRANT TO ENTER PREMISES*Details of the complaint*

On at a.m./p.m., I, the undersigned Magistrate, received a complaint alleging that the complainant had been denied entry to premises at

The complaint was made in person*/by telephone*.

The complaint was made by, a member of the police force stationed at

The complainant caused the complaint to be transmitted to me by
, a member of the police force stationed at *

Further details of the complaint are set out on the other side of this page.

Grounds of the complaint

The complainant stated their belief that:

- offensive noise was being emitted from the premises*
- that offensive noise had, within the 30 minutes preceding the complaint, been emitted from the premises*.

The officer requested the grant of a warrant because the officer believed it was necessary to enter the premises immediately in order:

- to give a noise abatement direction in relation to offensive noise emitted from the premises*
- to investigate whether an offence arising under section 60 of the Noise Control Act 1975 has been committed*.

Outcome of consideration of the complaint

After considering the complaint I was satisfied that there were reasonable grounds for that belief.

The grounds on which I relied to justify my finding that there were reasonable grounds for that belief are as follows:

.....
.....
.....

Details of grant of warrant

I have granted my warrant authorising and requiring the complainant to enter the premises and:

- to give a noise abatement direction*
- to investigate whether an offence arising under section 60 of the Noise Control Act 1975 had been committed*.

The warrant was granted on at a.m./p.m.

Signed

(Magistrate)

* Delete if inapplicable.

(Overleaf)

Details of Complaint

1. Names of persons involved (if known):
2. Location of premises:
3. Name of civilian informant (if known):
4. The complainant police officer believed that:
 - (a) offensive noise was being emitted from the premises*
 - (b) offensive noise had, within the past 30 minutes, been emitted from the premises*.
5. Other information obtained by complainant police officer:
 - (a) Personal observations by police (e.g. noise from the house is being emitted, type of noise, etc.):
 - (b) Civilian informant's information (indications that noise has recently been emitted):
 - (c) Any other information cited as grounds for the belief of the complainant by reason of which the warrant was requested and granted:
6. The officer had been denied entry to the premises, details of which (including anything said or done) are:

* Delete if inapplicable.

Form 2

(Cl. 6 (2))

NOISE CONTROL ACT 1975

(Section 61 (11))

NOTICE OF GRANT OF WARRANT TO ENTER PREMISES

A warrant has been granted to enter premises at

The warrant was granted on the basis of a complaint made by,
a member of the police force stationed at police station.

The warrant was granted at a.m./p.m. on

The warrant was granted by a Magistrate of the
Local Court.

The warrant was granted subject to the following additional terms: *

.....
Signature of complainant police officer

* Delete if inapplicable.

Form 3

(Cl. 6 (3))

NOISE CONTROL ACT 1975

(Section 61 (12))

IMPORTANT INFORMATION FOR OCCUPIERS CONCERNING THE WARRANT

A warrant has been granted by a Magistrate.

The warrant gives the authority and power to police to enter premises and:

- (a) to give a noise abatement direction (which is a direction under the Noise Control Act 1975 to reduce or stop noise amounting to a nuisance to another person or not to repeat such a noise); or

- (b) to investigate whether a noise abatement direction has been breached.

Reasons for the issue of the warrant

A member of the police force has made a complaint to a Magistrate that the police officer was denied entry to the premises and that the member of the police force believed:

- (a) that offensive noise was being emitted from the premises (or that offensive noise had been emitted within the previous 30 minutes); and
- (b) that it was necessary for a member of the police force to enter the premises immediately in order to give a noise abatement direction in relation to offensive noise emitted from the premises or to investigate whether an offence arising under section 60 of the Noise Control Act 1975 (involving a contravention of a noise abatement direction) has been committed.

The Magistrate was satisfied that there were reasonable grounds for that belief.

Details of the warrant

The member of the police force who was the complainant should have prepared a form containing details of:

- (a) the address of the premises the subject of the warrant; and
- (b) the name of the Magistrate who granted the warrant; and
- (c) the name of the member of the police force; and
- (d) the time at which the warrant was granted.

You should have been given that form by the member of the police force who entered the premises.

Expiry

The warrant must be executed as soon as practicable after the time it is granted.

The warrant must be executed within 24 hours after the time it was granted.

The warrant may be executed at any time during the day or night.

Use of force

The police may use such force as is necessary for the purpose of entering any premises.

This may include breaking open any door.

Any force used must be reasonably necessary.

Limitations on the powers conferred

Only functions and powers authorised under the warrant or by the Act authorising the issue of the warrant may be performed.

The member of the police force is not authorised to stay on your premises any longer than is necessary.

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SCHEDULE 1—FORMS

EXPLANATORY NOTE

The object of this Regulation is to repeal the Noise Control Regulation 1975 and to remake some of its provisions. The Regulation makes provision in respect of the following matters:

- (a) the licensing of scheduled premises (clauses 4 and 7);
- (b) conditions that may be attached to noise control notices (clause 5);
- (c) forms required in relation to the issue of warrants relating to noise abatement directions (clause 6 and Schedule 1);
- (d) appeals regarding noise control notices (clause 8);
- (e) other formal matters (clauses 1-3 and 9).

This Regulation is made under the provisions of the Noise Control Act 1975, including section 64 (the general regulation making power) and sections 18, 40, 61, 64 and 70.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
