



New South Wales

Noise Control (Marine Vessels) Regulation 1996

under the
Noise Control Act 1975

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Noise Control Act 1975*.

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

Explanatory note

The object of this Regulation is to make provision for the control of the emission of noise from marine vessels. This Regulation makes provision for the following matters:

- (a) the sounding of sirens and similar devices on vessels (clause 4),
- (b) the emission of noise from the engines or exhausts of vessels (clause 5),
- (c) the maintenance of noise control equipment on vessels (clause B),
- (d) the times during which it not permissible to use sound systems on vessels if they emit noise that can be heard in any residential premises (clause 7),
- (e) the inspections, testing and stopping of vessels for the purpose of determining compliance with the Regulation (clauses 8 and 9),
- (f) the issue of notices to defective vessels (clauses 10 and 11),
- (g) other formal matters (clauses 1–3).

This Regulation is made under the provisions of the *Noise Control Act 1975*, including section 64 (the general regulation making power).

1996 No 496

Noise Control (Marine Vessels) Regulation 1996

Contents

	Page
1 Name of Regulation	3
2 Commencement	3
3 Definitions	3
4 Sounding of sirens from vessels	3
5 Vessels not to emit offensive noise	4
6 Noise control equipment to be properly maintained	4
7 Use of sound systems on vessels	4
a Power to inspect and test vessels	5
9 Power to stop vessels	5
10 Defective vessel labels	6

Noise Control (Marine Vessels) Regulation 1996

1 Name of Regulation

This Regulation is the *Noise Control (Marine Vessels) Regulation 1996*.

2 Commencement

This Regulation commences on 4 October 1996.

3 Definitions

In this Regulation:

approved means approved by the Authority.

authorised officer includes not only any person who is authorised in writing by the Authority for the purposes of this Regulation (as referred to in section 4 (1) of the Act), but also:

- (a) any police officer, and
- (b) any officer or employee of the Waterways Authority who is authorised in writing by the Waterways Authority for the purposes of this Regulation.

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

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

navigable waters means all waters that are from time to time capable of navigation and are open to or used by the public for navigation, whether on payment of a fee or otherwise. but does not include flood waters that have temporarily flowed over the established bank of a watercourse.

the Act means the *Noise Control Act 1975*

4 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: 5 penalty units.

1996 No 496

Clause 5 Noise Control (Marine Vessels) Regulation 1996

5 Vessels not to emit offensive noise

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

Maximum penalty: 40 penalty units in the case of a corporation, 5 penalty units in any other case.

6 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 unless the vessel has noise control equipment and that equipment is in place and in effective condition and good working order.

Maximum penalty: 50 penalty units in the case of a corporation, 5 penalty units in any other case.

- (2) A person must not:
- (a) remove, or render less effective, a vessel's noise control equipment, otherwise than for the purpose of repairing or replacing it, or
 - (b) replace a vessel's noise control equipment with noise control equipment that is less effective than the vessel's original noise control equipment when first installed.

Maximum penalty: 50 penalty units in the case of a corporation, 5 penalty units in any other case.

7 Use of sound systems on vessels

- (1) 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 noise that can be heard within a room in any residential premises between midnight and 8 a.m. on any day.

Maximum penalty: 5 penalty units.

- (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 sound system to be used in such a manner, been warned by any other person not to cause or permit the sound system to be used in that manner, and
 - (b) the person causes or permits the sound system to be used in that manner within 28 days after the warning has been given.

8 Power to inspect and test vessels

An authorised officer may inspect and test a vessel that the authorised officer knows or reasonably suspects of being used in breach of this Regulation.

9 Power to stop vessels

- (1) An authorised officer who reasonably suspects that an offence against this Regulation is being committed in connection with the use of a vessel may give either or both of the following directions to the master of the vessel:
 - (a) a direction to stop the vessel,
 - (b) a direction to do whatever is reasonably necessary to enable the vessel to be tested or inspected.
- (2) A person must not, without reasonable cause, fail to comply with any direction given under this clause.
Maximum penalty: 5 penalty units.
- (3) For the purpose of inspecting or testing a vessel, an authorised officer may enter and operate the vessel.
- (4) An authorised officer must produce evidence of his or her appointment as an authorised officer if requested to do so by a person to whom the authorised officer has given a direction.

10 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 noise control equipment that is incomplete or not in effective condition or good working order 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, and
 - (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

1996 No 496

Clause 10 Noise Control (Marine Vessels) Regulation 1996

- (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: 50 penalty units in the case of a corporation, 5 penalty units in any other case.
- (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
 - (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.

11 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 Authority 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.

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- (4) A person must not remove, obscure or deface a defective vessel label that is affixed to a vessel unless the person is an authorised officer or is acting under the direction of an authorised officer.

Maximum penalty: 50 penalty units in the case of a corporation, 5 penalty units in any other case.