

# Protection of the Environment Operations (Noise Control) Regulation 2017

[2017-449]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
[Statute Law \(Miscellaneous Provisions\) Act 2020 No 30](#), Sch 4.79 (not commenced — amendments made by Sch 4.79 to commence on 22.1.2021)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Protection of the Environment Operations (Noise Control) Regulation 2017



New South Wales

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# Protection of the Environment Operations (Noise Control) Regulation 2017



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the [Protection of the Environment Operations \(Noise Control\) Regulation 2017](#).

### 2 Commencement

This Regulation commences on 1 September 2017 and is required to be published on the NSW legislation website.

**Note—**

This Regulation replaces the [Protection of the Environment Operations \(Noise Control\) Regulation 2008](#), which is repealed on 1 September 2017 by section 10 (2) of the [Subordinate Legislation Act 1989](#).

### 3 Definitions

(1) In this Regulation—

**Approved Methods document** means the document entitled *Approved Methods for Testing Noise Emissions*, prepared by the EPA and published in the Gazette, as in force from time to time.

**approved noise label**, in relation to an article, means a noise label of a size, design, format and construction approved by the EPA for articles of that type.

**approved nomination notice** has the same meaning as in section 38 of the [Fines Act 1996](#).

**authorised marine officer** means any of the following—

- (a) an authorised officer,
- (b) a police officer,
- (c) an officer or employee of the marine authority who is authorised by the authority

for the purposes of Parts 3 and 5.

**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
- (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 specified in Schedule 1 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 specified in Schedule 1 in respect of the vehicle.

**defective vehicle notice** means a notice under clause 59 (1).

**defective vessel notice** means a notice under clause 59 (2).

**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.

**drive** has the same meaning as in the [Road Transport Act 2013](#).

**EU Outdoor Noise Directive** means *Directive 2000/14/EC of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors*.

**Note—**

European Union law can be accessed at <http://eur-lex.europa.eu/>.

**heavy vehicle** has the same meaning as in the [Heavy Vehicle National Law \(NSW\)](#).

**mobile air compressor** means an air compressor that is mounted on a trailer, or other vehicle, of a kind capable of being registered within the meaning of the [Road Transport Act 2013](#).

**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.

**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 be, if properly maintained and operated, 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 section 4 (1) of the [Road Transport Act 2013](#) (other than a road that is the subject of a declaration made under section 18 (1) (b) of that Act relating to all of the provisions of that Act).

**road related area** means a road related area within the meaning of section 4 (1) of the [Road Transport Act 2013](#) (other than a road related area that is the subject of a declaration made under section 18 (1) (b) of that Act relating to all of the provisions of that Act).

**shooting range** means an area for firearm shooting competition, training or practice but does not include a shooting range that is able to be moved.

**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 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 reduce noise—

(a) a valve or other device that is adjustable,

(b) a plate, baffle or other device that is part of a muffler, resonator or the like and that is not substantially welded 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](#).

**use**, in relation to a motor vehicle, has the same meaning as in the *Road Transport Act 2013*.

**Note—**

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

- (2) In this Regulation, a reference to the sale of new articles by retail does not include the sale of articles otherwise than by retail or the sale of used or second-hand articles.
- (3) Notes in this Regulation do not form part of this Regulation.

## **Part 2 Motor vehicles and motor vehicle accessories**

### **Division 1 Motor vehicles that emit noise in excess of prescribed levels**

#### **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 vehicle of a type specified in Schedule 1 is the noise level specified in that Schedule as determined in accordance with Part 6.

#### **5 Use on roads of motor vehicles capable of emitting noise in excess of prescribed level**

- (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 a level in excess of the level specified in Schedule 1 for that type of motor vehicle as determined in accordance with Part 6 (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 or 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 or 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 or 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 defective vehicle notice issued in respect of the motor vehicle, or
  - (c) to be tested or inspected in accordance with a notice issued in respect of the motor vehicle 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 heavy vehicle, or
  - (c) 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 115 of the [Road Transport Act 2013](#).

## **Division 2 Motor vehicles that emit offensive or other noise**

### **6 Use away from roads of vehicles that emit offensive noise**

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 or 50 penalty units in the case of an individual.

### **7 Owners and drivers of vehicles that emit offensive noise when used away from roads**

- (1) The owner and driver of a motor vehicle are each guilty of an offence under clause 6 if any person causes the 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.
- (2) This clause does not affect the liability of the actual offender but, if a penalty (including a penalty under a penalty notice) has been imposed on 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) This clause 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 this clause of the name and address of the person who was in charge of the motor vehicle 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) A notice of the kind referred to in subclause (3) (b) (i) must be in the form of an approved nomination notice and—
- (a) if a penalty notice has been issued for the offence—the notice must be given to an officer specified in the penalty notice for the purpose within 21 days after the issue of the penalty notice, and
  - (b) if a court is dealing with the offence—the notice must be given to the prosecutor within 21 days after service of the summons or court attendance notice for the offence.
- (5) Despite any other provision of this Regulation, an approved nomination notice may be provided by the owner of a motor vehicle issued with a penalty notice within 90 days of the penalty notice being issued to the owner if the approved nomination notice is provided in the circumstances specified in section 23AA or 23AB of the [Fines Act 1996](#).
- (6) If the owner of a vehicle supplies an approved nomination notice to an officer or a prosecutor for the purposes of this clause, an officer or prosecutor may, by written notice served on the owner, require the owner to supply a statutory declaration for use in court proceedings that verifies the nomination contained in the approved nomination notice.
- (7) An owner who fails to supply such a statutory declaration within the time required by the officer or prosecutor is taken not to have given notice in accordance with this clause.

## **8 Use of motor vehicles on residential premises**

- (1) A person is guilty of an offence if—
- (a) the person causes or permits a motor vehicle to be used on residential premises in such a manner that it emits noise that can be heard within any room in any other residential premises (that is not a garage, storage area, bathroom, laundry, toilet or pantry) whether or not any door or window to that room is open—

- (i) before 8 am or after 8 pm on any Saturday, Sunday or public holiday, or
  - (ii) before 7 am or after 8 pm on any other day, and
- (b) within 7 days of doing so, the person is warned by an authorised officer or enforcement officer not to cause or permit a motor vehicle to be used on residential premises in that manner, and
- (c) the person again causes or permits a motor vehicle to be used on residential premises in that manner within 28 days after the warning has been given.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

- (2) 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.

### **9 Use of refrigeration units fitted to motor vehicles near residential premises**

A person is guilty of an offence if—

- (a) the person causes or permits a refrigeration unit fitted to a motor vehicle to be used in such a manner that it emits noise that can be heard within any room in any other residential premises (that is not a garage, storage area, bathroom, laundry, toilet or pantry) whether or not any door or window to that room is open—
- (i) before 8 am or after 8 pm on any Saturday, Sunday or public holiday, or
  - (ii) before 7 am or after 8 pm on any other day, and
- (b) within 7 days of doing so, the person is warned by an authorised officer or enforcement officer not to cause or permit a refrigeration unit fitted to a motor vehicle to be used in that manner, and
- (c) the person again causes or permits a refrigeration unit fitted to a motor vehicle to be used in that manner within 28 days after the warning has been given.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

## **Division 3 Motor vehicles with defective or modified noise control equipment**

### **10 Sale of used vehicles with defective noise control equipment**

A person must not sell a used motor vehicle if the motor vehicle has defective noise control equipment.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

**11 Driving or using vehicles with defective noise control equipment**

A person must not cause or permit a motor vehicle that is not a heavy vehicle to be driven or used on a road or road related area if the motor vehicle has defective noise control equipment.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

**12 Modification or repair of vehicles causing noise control equipment to be defective**

A person must not cause or permit a motor vehicle that is not a heavy vehicle to be modified or repaired so that the noise control equipment in the vehicle is defective.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

**Division 4 Motor vehicles with unauthorised temporary noise reduction packing**

**13 Sale of used vehicles with unauthorised temporary noise reduction packing**

A person must not sell a used motor vehicle if the motor vehicle has temporary noise reduction packing that—

- (a) was not fitted by the vehicle manufacturer, or
- (b) is not an equivalent replacement for any such packing fitted by the vehicle manufacturer.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

**14 Use of vehicles with unauthorised temporary noise reduction packing**

A person must not cause or permit a motor vehicle that is not a heavy vehicle to be driven or used on a road or road related area if the motor vehicle has temporary noise reduction packing that—

- (a) was not fitted by the vehicle manufacturer, or
- (b) is not an equivalent replacement for any such packing fitted by the vehicle manufacturer.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

### **15 Modification or repair of vehicles with unauthorised temporary noise reduction packing**

A person must not cause or permit a motor vehicle that is not a heavy vehicle to be modified or repaired so that the motor vehicle has temporary noise reduction packing that—

- (a) was not fitted by the vehicle manufacturer, or
- (b) is not an equivalent replacement for any such packing fitted by the vehicle manufacturer.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

## **Division 5 Motor vehicles with temporary noise reduction equipment**

### **16 Sale of used vehicles with unauthorised temporary noise reduction equipment**

A person must not sell a used motor vehicle if the motor vehicle has a temporary noise reduction device fitted that—

- (a) was not fitted by the vehicle manufacturer, or
- (b) is not an equivalent replacement for any such device fitted by the vehicle manufacturer, or
- (c) is not a plate, baffle or other device that is part of a muffler, resonator or the like and that is fitted to a motor cycle.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

### **17 Use of vehicles with unauthorised temporary noise reduction equipment**

A person must not cause or permit a motor vehicle that is not a heavy vehicle to be driven or used on a road or road related area if the motor vehicle has a temporary noise reduction device fitted that—

- (a) was not fitted by the vehicle manufacturer, or
- (b) is not an equivalent replacement for any such device fitted by the vehicle manufacturer, or
- (c) is not a plate, baffle or other device that is part of a muffler, resonator or the like and that is fitted to a motor cycle.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

### **18 Modification or repair of vehicles with unauthorised temporary noise reduction**

### **equipment**

A person must not cause or permit a motor vehicle that is not a heavy vehicle to be modified or repaired so that the motor vehicle has a temporary noise reduction device fitted that—

- (a) was not fitted by the vehicle manufacturer, or
- (b) is not an equivalent replacement for any such device fitted by the vehicle manufacturer, or
- (c) is not a plate, baffle or other device that is part of a muffler, resonator or the like and that is fitted to a motor cycle.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

## **Division 6 Motor vehicle intruder alarms**

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

For the purposes of section 136 of the Act—

- (a) new motor vehicle intruder alarms sold by retail are a prescribed class of article, and
- (b) the prescribed level for new motor vehicle intruder alarms sold by retail is 115 dB(A) as determined in accordance with Part 6.

### **20 Sale of certain alarms that emit dual tone**

A person must not sell by retail a new motor vehicle intruder alarm (including any component of a motor vehicle intruder alarm) that—

- (a) emits a continuous sound composed of the alternating emission of two predominant tones of approximately equal duration, and
- (b) has a lower frequency tone of 1,000 Hertz or less as determined in accordance with Part 6, and
- (c) has a higher frequency tone of 2,000 Hertz or less as determined in accordance with Part 6, and
- (d) emits between 40 and 100 cycles of sound per minute (each cycle consisting of a lower pitched sound followed by a higher pitched sound).

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.



## **21 Sale of certain alarms that emit variable tone**

A person must not sell by retail a new motor vehicle intruder alarm (including any component of a motor vehicle intruder alarm) that—

- (a) 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, and
- (b) has a lower frequency tone of 1,000 Hertz or less as determined in accordance with Part 6, and
- (c) has a higher frequency tone of 2,000 Hertz or less as determined in accordance with Part 6, and
- (d) 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).

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

## **22 Sale of certain alarms that emit rising tones**

A person must not sell by retail a motor vehicle intruder alarm (including any component of a motor vehicle intruder alarm) that—

- (a) emits a continuous sound composed of the emission of a variable frequency tone that is predominantly characterised by an ascending tone, and
- (b) has a lower frequency tone of 100 Hertz or less as determined in accordance with Part 6, and
- (c) has a higher frequency tone of 2,600 Hertz or less as determined in accordance with Part 6, and
- (d) 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 or 50 penalty units in the case of an individual.

## **23 Sale of alarms with a panic or override switch**

A person must not sell a new motor vehicle intruder alarm by retail 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 or 50 penalty units in the case of an individual.

#### **24 Use of alarms with panic or override 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 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 or 50 penalty units in the case of an individual.

#### **25 Alarms that sound for length of time**

- (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.

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 or 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 or 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 or 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 1 September 2009, 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.

(3) For the purposes of this clause—

- (a) 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, and
- (b) 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.

## **26 Design and construction of alarms**

(1) A person must not, in connection with the use of a motor vehicle manufactured on or after 1 September 1997, 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) as determined in accordance with Part 6, and
- (b) it cannot be reactivated until it has been manually reset.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

(2) For the purposes of this clause, 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.

## **Division 7 Motor vehicle horns**

### **27 Attaching certain motor vehicle horns**

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) as determined in accordance with Part 6, 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) as determined in accordance with Part 6.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

### **28 Use of certain motor vehicle horns**

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) as determined in accordance with Part 6, 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) as determined in accordance with Part 6.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

## 29 Exemptions for emergency-related vehicles

This Division does not apply to a motor vehicle horn fitted to—

- (a) an **emergency vehicle**, that is a vehicle that is used by, or on behalf of, one of the following organisations, for the purposes of that organisation—
  - (i) the NSW Police Force,
  - (ii) Fire and Rescue NSW,
  - (iii) the NSW Rural Fire Service,
  - (iv) the Ambulance Service of NSW,
  - (v) the NSW State Emergency Service,
  - (vi) the NSW Volunteer Rescue Association,
  - (vii) any other agency that manages or controls an accredited rescue unit (within the meaning of the *State Emergency and Rescue Management Act 1989*),
  - (viii) an organisation of the Commonwealth or a State or Territory that exercises similar functions to an organisation specified in any of subparagraphs (i)–(vii),
  - (ix) the Australian Protective Service,
  - (x) the Australian Border Force,
  - (xi) Airservices Australia, or
- (b) a vehicle that is at least 25 years old, that is fitted as an emergency vehicle and that is either—
  - (i) used for exhibition purposes, or
  - (ii) part of a collection of former emergency vehicles, or
- (c) any vehicle used by Roads and Maritime Services, Transport for NSW, or the National Heavy Vehicle Regulator established under section 656 of the *Heavy Vehicle National Law (NSW)*, for emergency, traffic control or enforcement purposes.

## 30 References to loudness and pitch

In this Division, 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.

## **Division 8 Motor vehicle sound systems**

### **31 Use of motor vehicle sound systems that emit offensive noise**

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 or 50 penalty units in the case of an individual.

### **32 Owners and drivers of vehicles in which motor vehicle sound systems that emit offensive noise are used**

- (1) The owner and driver of a motor vehicle are each guilty of an offence under clause 31 if any person causes the sound system of the motor vehicle to be used in such a manner that it emits offensive noise.
- (2) This clause does not affect the liability of the actual offender but, if a penalty (including a penalty under a penalty notice) has been imposed on 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) This clause 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 this clause of the name and address of the person who was in charge of the motor vehicle 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) A notice of a kind referred to in subclause (3) (b) (i) must be in the form of an approved nomination notice and—
  - (a) if a penalty notice has been issued for the offence—the notice must be given to an

officer specified in the penalty notice for the purpose within 21 days after the issue of the penalty notice, and

(b) if a court is dealing with the offence—the notice must be given to the prosecutor within 21 days after service of the summons or court attendance notice for the offence.

(5) Despite any other provision of this Regulation, an approved nomination notice may be provided by the owner of a motor vehicle issued with a penalty notice within 90 days of the penalty notice being issued to the owner if the approved nomination notice is provided in the circumstances specified in section 23AA or 23AB of the *Fines Act 1996*.

(6) If the owner of a vehicle supplies an approved nomination notice to an officer or a prosecutor for the purposes of this clause, an officer or prosecutor may, by written notice served on the owner, require the owner to supply a statutory declaration for use in court proceedings that verifies the nomination contained in the approved nomination notice.

(7) An owner who fails to supply such a statutory declaration within the time required by the officer or prosecutor is taken not to have given notice in accordance with this clause.

### **33 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 31, the offender is not liable to be punished twice in respect of the offence.

## **Part 3 Marine vessels**

### **34 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 or 10 penalty units in the case of an individual.

### **35 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 or 50 penalty units in

the case of an individual.

### **36 Persons in charge or owners of vessels that emit offensive noise**

- (1) If a vessel is used on navigable waters in such a way as to emit offensive noise the person in charge and owner of the vessel are each taken to be guilty of an offence under clause 35.
- (2) This clause does not affect the liability of the actual offender but, if a penalty (including a penalty under a penalty notice) has been imposed on 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.
- (3) This clause 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 this clause 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) A notice in accordance with this clause must be in the form of an approved nomination notice and—
  - (a) if a penalty notice has been issued for the offence—the notice must be given to an officer specified in the penalty notice for the purpose within 28 days after the issue of the penalty notice, and
  - (b) if a court is dealing with the offence—the notice must be given to the prosecutor within 28 days after service of the summons or court attendance notice 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.

- (5) Despite any other provision of this Regulation, an approved nomination notice may be provided by a person issued with a penalty notice within 90 days of the penalty notice being issued to the person if the approved nomination notice is provided in the circumstances specified in section 23AA or 23AB of the [Fines Act 1996](#).

- (6) If the owner of a vessel supplies an approved nomination notice to an officer or a prosecutor for the purposes of this clause, an officer or prosecutor may, by written notice served on the owner, require the owner to supply a statutory declaration for use in court proceedings that verifies the nomination contained in the approved nomination notice.
- (7) An owner who fails to supply such a statutory declaration within the time required by the officer or prosecutor is taken not to have given notice in accordance with this clause.

### **37 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 or 50 penalty units in the case of an individual.

- (2) For the purposes of this clause, the circumstances in which noise control equipment is **defective** are taken to include—
  - (a) where an authorised marine officer reasonably believes the equipment has been modified in a way that makes it less effective than it would have been if the modification had not been made, or
  - (b) where the equipment allows gas to escape from a place other than the intended exhaust outlet.

- (3) In this clause—

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

### **38 Noise control equipment not to be removed or rendered less effective**

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 or 50 penalty units in the case of an individual.

### **39 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 or 50 penalty units in the case of an individual.



## **Part 4 Miscellaneous articles**

### **Division 1 Building intruder alarms**

#### **40 Meaning of “building intruder alarm”**

In this Division—

**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.

#### **41 Sale of building intruder alarms**

A person must not sell a new building intruder alarm by retail 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 or 50 penalty units in the case of an individual.

#### **42 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 room in any other residential premises (that is not a garage, storage area, bathroom, laundry, toilet or pantry), 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.

(2) The maximum penalty for an offence under subclause (1) is—

- (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 or 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 or 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 or 150 penalty units in the case of an individual.

#### **43 Determining alarm characteristics**

For the purposes of this Division, 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 Air conditioners**

#### **44 Labelling of domestic air conditioners with sound power level**

A person must not sell a new domestic air conditioner by retail unless it has an approved noise label, securely attached to it in a conspicuous position, displaying the air conditioner's sound power level as determined in accordance with Part 6.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

#### **45 Use of air conditioners on residential premises**

A person is guilty of an offence if—

- (a) the person causes or permits an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within any room in any other residential premises (that is not a garage, storage area, bathroom, laundry, toilet or pantry) whether or not any door or window to that room is open—
  - (i) before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
  - (ii) before 7 am or after 10 pm on any other day, and
- (b) within 7 days of doing so, the person is warned by an authorised officer or enforcement officer not to cause or permit an air conditioner to be used on residential

premises in that manner, and

- (c) the person again causes or permits an air conditioner to be used on residential premises in the manner referred to in paragraph (a) within 28 days after the warning has been given.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

### **Division 3 Grass-cutting machines**

#### **46 Meaning of “grass-cutting machine”**

In this Division—

***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.

#### **47 Sale of grass-cutting machines that emit noise in excess of prescribed level**

For the purposes of section 136 of the Act—

- (a) the articles specified in Column 1 of the table to this clause are of a prescribed class of article, and
- (b) the prescribed level for such an article is the noise level specified in Column 2 of that table in relation to such an article as determined in accordance with Part 6.

<b>Column 1</b>	<b>Column 2</b>
<b>Article</b>	<b>Sound power level</b>
lawn mowers with a cutting width of more than 620 millimetres but less than 950 millimetres	105 dB(A)
ride-on mowers	105 dB(A)
edge-cutters	100 dB(A)
string trimmers	105 dB(A)
brush cutters	110 dB(A)
grass-cutting machines with cutting edges of 950 millimetres or less (other than grass-cutting machines referred to elsewhere in this table)	100 dB(A)

#### **48 Labelling of grass-cutting machines with maximum sound power level**

- (1) A person must not sell by retail a new Category 1 grass-cutting machine unless it has securely attached to it in a conspicuous position—
  - (a) an approved noise label displaying the machine's maximum sound power level as determined in accordance with Part 6, or
  - (b) a label that accords with the EU Outdoor Noise Directive and that displays—
    - (i) the marking of conformity in the form shown in Annex IV to that Directive, and
    - (ii) the machine's guaranteed sound power level.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

- (2) A person must not sell by retail a new Category 2 grass-cutting machine unless it has securely attached to it in a conspicuous position an approved noise label displaying the machine's maximum sound power level as determined in accordance with Part 6.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

- (3) In this clause—

**Category 1 grass-cutting machine** means any of the following—

- (a) a lawn mower with a cutting width of more than 620 millimetres but less than 950 millimetres,
- (b) a ride-on mower,
- (c) an electric edge-cutter,
- (d) an electric string trimmer.

**Category 2 grass-cutting machine** means any of the following—

- (a) an edge-cutter that is not an electric edge-cutter,
- (b) a string trimmer that is not an electric string trimmer,
- (c) a brush cutter,
- (d) any other grass-cutting machine with cutting edges of 950 millimetres or less that is not a Category 1 grass-cutting machine.

#### **49 (Repealed)**

## Division 4 Power tools

### 50 Labelling of chainsaws with maximum sound power level

- (1) A person must not sell a new chainsaw by retail unless it has securely attached to it in a conspicuous position—
- (a) an approved noise label displaying the chainsaw's maximum sound power level as determined in accordance with Part 6, or
  - (b) a label that accords with the EU Outdoor Noise Directive and that displays—
    - (i) the marking of conformity in the form shown in Annex IV to that Directive, and
    - (ii) the chainsaw's guaranteed sound power level.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

- (2) (Repealed)

### 51 Use of power tools on residential premises

- (1) A person is guilty of an offence if—
- (a) the person causes or permits a power tool to be used on residential premises in such a manner that it emits noise that can be heard within any room in any other residential premises (that is not a garage, storage area, bathroom, laundry, toilet or pantry) whether or not any door or window to that room is open—
    - (i) before 8 am or after 8 pm on any Saturday, Sunday or public holiday, or
    - (ii) before 7 am or after 8 pm on any other day, and
  - (b) within 7 days of doing so, the person is warned by an authorised officer or enforcement officer not to cause or permit a power tool to be used on residential premises in that manner, and
  - (c) the person again causes or permits a power tool to be used on residential premises in that manner within 28 days after the warning has been given.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

- (2) In this clause—

**power tool** means any tool actuated by an additional power source and mechanism other than manual power and includes 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.

## **Division 5 Pumps and heat pump water heaters**

### **52 Use of pumps on residential premises**

(1) A person is guilty of an offence if—

- (a) the person causes or permits a pump to be used on residential premises in such a manner that it emits noise that can be heard within any room in any other residential premises (that is not a garage, storage area, bathroom, laundry, toilet or pantry) whether or not any door or window to that room is open—
  - (i) before 8 am or after 8 pm on any Saturday, Sunday or public holiday, or
  - (ii) before 7 am or after 8 pm on any other day, and
- (b) within 7 days of doing so, the person is warned by an authorised officer or enforcement officer not to cause or permit a pump to be used on residential premises in that manner, and
- (c) the person again causes or permits a pump to be used on residential premises in the manner referred to in paragraph (a) within 28 days after the warning has been given.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

(2) In this clause—

**pump** includes any of the following (but does not include a heat pump water heater, within the meaning of clause 53)—

- (a) a swimming pool pump,
- (b) a spa pump,
- (c) a sump pump,

- (d) a water cooler that uses a pump,
- (e) any other apparatus or machine for raising, driving, exhausting or compressing fluid by means of a piston, plunger or rotating vanes.

### **53 Use of heat pump water heaters**

- (1) A person is guilty of an offence if—
  - (a) the person causes or permits a heat pump water heater to be used on residential premises in such a manner that it emits noise that can be heard within any room in any other residential premises (that is not a garage, storage area, bathroom, laundry, toilet or pantry) whether or not any door or window to that room is open—
    - (i) before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
    - (ii) before 7 am or after 10 pm on any other day, and
  - (b) within 7 days of doing so, the person is warned by an authorised officer or enforcement officer not to cause or permit a heat pump water heater to be used on residential premises in that manner, and
  - (c) the person again causes or permits a heat pump water heater to be used on residential premises in that manner within 28 days after the warning has been given.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

- (2) In this clause—

***heat pump water heater*** means a device that heats water using the energy generated from the compression of a gas.

## **Division 6 Other motorised articles**

### **54 Labelling of mobile air compressors with mean sound power level**

- (1) A person must not sell a new mobile air compressor by retail unless it has securely attached to it in a conspicuous position an approved noise label displaying the mobile air compressor's mean sound power level as determined in accordance with Part 6.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

- (2) (Repealed)

### **55 Labelling of pavement breakers with mean sound power level**

- (1) A person must not sell a new pavement breaker by retail unless it has securely

attached to it in a conspicuous position an approved noise label displaying the pavement breaker's mean sound power level as determined in accordance with Part 6.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

(2) (Repealed)

#### **56 Labelling of mobile garbage compactors with maximum sound power level**

(1) A person must not sell a new mobile garbage compactor by retail unless it has securely attached to it in a conspicuous position an approved noise label displaying the mobile garbage compactor's maximum sound power level as determined in accordance with Part 6.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

(2) (Repealed)

### **Division 7 Musical instruments and sound equipment**

#### **57 Use of musical instruments**

A person is guilty of an offence if—

- (a) the person causes or permits a musical instrument to be used on residential premises in such a manner that it emits noise that can be heard within any room in any other residential premises (that is not a garage, storage area, bathroom, laundry, toilet or pantry) whether or not any door or window to that room is open—
  - (i) before 8 am or after midnight on any Friday, Saturday or day immediately before a public holiday, or
  - (ii) before 8 am or after 10 pm on any other day, and
- (b) within 7 days of doing so, the person is warned by an authorised officer or enforcement officer not to cause or permit a musical instrument to be used on residential premises in that manner, and
- (c) the person again causes or permits a musical instrument to be used on residential premises in that manner within 28 days after the warning has been given.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

#### **58 Use of electrically amplified sound equipment**

(1) A person is guilty of an offence if—



- (a) the person causes or permits electrically amplified sound equipment to be used on residential premises in such a manner that it emits noise that can be heard within any room in any other residential premises (that is not a garage, storage area, bathroom, laundry, toilet or pantry) whether or not any door or window to that room is open—
  - (i) before 8 am or after midnight on any Friday, Saturday or day immediately before a public holiday, or
  - (ii) before 8 am or after 10 pm on any other day, and
- (b) within 7 days of doing so, the person is warned by an authorised officer or enforcement officer not to cause or permit electrically amplified sound equipment to be used on residential premises in that manner, and
- (c) the person again causes or permits electrically amplified sound equipment to be used on residential premises in a manner referred to in paragraph (a) within 28 days after the warning has been given.

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

(2) 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.

## **Part 5 Enforcement through defective vehicle or vessel notices**

### **59 Issue of defective vehicle notices and defective vessel notices**

- (1) An authorised officer may issue a defective vehicle notice to the owner of a motor vehicle if satisfied that the motor vehicle—
  - (a) emits noise at a level in excess of the level specified in Schedule 1 for that type of motor vehicle, or
  - (b) has defective noise control equipment, or
  - (c) has a temporary noise reduction device fitted, or
  - (d) has installed in it any of the following accessories that do not comply with the Act or this Regulation—
    - (i) a motor vehicle horn,
    - (ii) a motor vehicle intruder alarm,

- (iii) a motor vehicle sound system,
  - (iv) any other device that is attached to or forms part of, or is intended to be attached to or form part of, the motor vehicle.
- (2) An authorised marine 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 defective (within the meaning of clause 37 (2)) may issue a defective vessel notice to—
- (a) the vessel's owner, or
  - (b) the vessel's master.
- (3) In this clause—
- master**, in relation to a vessel, means a person, other than a pilot, having command or charge of the vessel.

#### 60 Form of notices

- (1) A defective vehicle notice or defective vessel notice is to be in the form approved by the EPA and must include the following particulars—
- (a) the defect on the basis of which it is issued,
  - (b) where the motor vehicle or vessel should be taken for inspection or testing for the purpose of having the notice withdrawn.
- (2) 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 Act 2013](#) may be suspended if the defect has not been remedied.
- (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 in navigable waters if the defect has not been remedied.

#### 61 Withdrawal of notices

- (1) 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.

- (2) An authorised marine 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.

## **62 Use of motor vehicle in breach of defective vehicle notice**

- (1) 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 or 50 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) in accordance with a defective vehicle notice or a notice under section 207 of the Act,or is being taken directly from any such place to the place where the vehicle is usually kept.

## **63 Use of vessel in breach of defective vessel notice**

- (1) 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 or 50 penalty units in the case of an individual.

- (2) 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 marine 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.

## **64 Use of vessel in breach of defective vessel label**

- (1) An authorised marine 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 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 label.
- (3) A defective vessel label 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.
- (4) An authorised marine 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.
- (5) A person must not remove, obscure or deface a defective vessel label 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 or 50 penalty units in the case of an individual.

- (6) 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 (5).

Maximum penalty—100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

- (7) A person does not commit an offence under this clause 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 marine 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.

## **Part 6 Determining noise levels**

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

A person making noise level measurements for the purposes of this Regulation is to take

all reasonable precautions to ensure that extraneous noise does not interfere with the making of measurements required by this Regulation.

**66 Determining maximum noise level of a motor bus, motor car, motor cycle or motor lorry**

- (1) 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.
- (2) 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.
- (3) In this clause—

**National Stationary Exhaust Noise Test Procedures** means the document published by the National Transport Commission entitled *National Stationary Exhaust Noise Test Procedures for In-Service Motor Vehicles* dated September 2006 as amended or replaced from time to time.

**Note—**

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

**67 Determining maximum noise level and noise emission characteristics of motor vehicle intruder alarms and horns**

The maximum noise level of, and noise emission characteristics of, a motor vehicle intruder alarm or a motor vehicle horn are to be determined in accordance with the Approved Methods document.

**68 Determining sound power level of domestic air conditioners**

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.

**Note—**

The document *Technical Basis for the Regulation of Noise Labelling of New Air Conditioners in Australia* is posted on the EPA's website and a copy is available for inspection at the offices of the EPA.

**69 Determining noise levels of certain accessories**

The noise level of the following is to be determined in accordance with the Approved Methods document—

- (a) grass-cutting machines,
- (b) chainsaws,

- (c) mobile air compressors,
- (d) pavement breakers,
- (e) mobile garbage compactors,

#### **70 Method for determining noise levels from shooting ranges**

- (1) The method for determining the noise level from a shooting range, for the purposes of any requirement imposed by or under the Act, is to be the method specified in Schedule 2.
- (2) The method specified in Schedule 2 is to be carried out or supervised by a person who has the qualifications and experience necessary to carry out the method.

### **Part 7 Miscellaneous**

#### **71 Savings provision**

Any act, matter or thing that, immediately before the repeal of the *Protection of the Environment Operations (Noise Control) Regulation 2008*, had effect under that Regulation is taken to have effect under this Regulation.

#### **72 Repeals**

- (1) Schedule 3 is repealed on 2 September 2017.
- (2) Clauses 49, 50 (2), 54 (2), 55 (2) and 56 (2) are repealed on 1 September 2019.

### **Schedule 1 Prescribed stationary noise levels**

(Clause 4)

#### **1 Definitions**

In this Schedule—

**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*.

**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.

**GVM (gross vehicle mass)** has the same meaning as in the *Road Transport Act 2013*.

## **2 Motor cars**

For the purposes of section 136 of the Act, the prescribed level for a motor car of a particular type is—

- (a) in the case of a motor car of a particular type that is not certified to ADR 83/00, the motor car's stationary noise level must not exceed—
  - (i) for a motor car built on or after 1 January 1983—a stationary noise level of 90 dB(A), or
  - (ii) for a motor car built before 1 January 1983—a stationary noise level of 96 dB(A), or
- (b) in the case of a motor car of a particular type that is certified to ADR 83/00—
  - (i) if the compliance plate date of the vehicle is on or before 1 September 2011—the greater of the following—
    - (A) 90 dB(A), or
    - (B) the noise level established by ADR 83/00 for a motor car of that type when stationary plus 5 dB(A), or
  - (ii) if the compliance plate date of the motor car is after 1 September 2011—the noise level established by ADR 83/00 for a motor car when stationary plus 5 dB(A).

## **3 Motor cycles**

For the purposes of section 136 of the Act, the prescribed level for a motor cycle of a particular type is—

- (a) in the case of a motor cycle of a particular type that is not certified to ADR 83/00—
  - (i) for a motor cycle designed or manufactured for use on a road and that was built on or after 1 March 1984—a stationary noise level of 94 dB(A), or
  - (ii) for any other motor cycle—a stationary noise level of 100 dB(A), or
- (b) in the case of a motor cycle of a particular type that is certified to ADR 83/00—
  - (i) if the compliance plate date of the motor cycle is on or before 1 September 2011, the greatest of the following—
    - (A) for any motor cycle—the noise level established by ADR 83/00 for a motor cycle of that type when stationary plus 5 dB(A),
    - (B) for a motor cycle designed or manufactured for use on a road and that was built on or after 1 March 1984—94 dB(A),
    - (C) for a motor cycle that was built before 1 March 1984—100 dB(A), or

- (ii) if the compliance plate date of the motor cycle is after 1 September 2011—the noise level established by ADR 83/00 for a motor cycle when stationary plus 5 dB(A).

#### **4 Motor lorries and motor buses**

For the purposes of section 136 of the Act, the prescribed level for a motor lorry or a motor bus of a particular type is—

- (a) in the case of a motor lorry or a motor bus of a particular type that is not certified to ADR 83/00—
  - (i) in the case of a motor lorry or motor bus that has a diesel engine—the stationary noise level specified in clause 5 of this Schedule for a motor vehicle of that type, or
  - (ii) in the case of a motor lorry or motor bus that does not have a diesel engine—the stationary noise level specified in clause 6 of this Schedule for a motor vehicle of that type, or
- (b) in the case of a motor lorry or motor bus of a particular type that is certified to ADR 83/00—
  - (i) if the compliance plate date of the vehicle is on or before 1 September 2011, the greatest of—
    - (A) the stationary noise level established by ADR 83/00 for a motor vehicle of that type when stationary plus 5 dB(A),
    - (B) in the case of a motor lorry or motor bus that has a diesel engine—the stationary noise level specified in clause 5 of this Schedule for a motor vehicle of that type,
    - (C) in the case of a motor lorry or motor bus that does not have a diesel engine—the stationary noise level specified in clause 6 of this Schedule for a motor vehicle of that type, or
  - (ii) if the compliance plate date of the vehicle is after 1 September 2011—the stationary noise level established by ADR 83/00 for a motor lorry or motor bus of that type when stationary plus 5 dB(A).

#### **5 Motor lorries or motor buses with diesel engines**

- (1) For a motor lorry or a motor bus that has a diesel engine 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.
- (2) For a motor lorry or a motor bus that has a diesel engine 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
  - (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.

(3) For a motor lorry or a motor bus that has a diesel engine 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.

## **6 Motor lorries or motor buses with engines other than a diesel engine**

(1) For a motor lorry or motor bus that has an engine other than a diesel engine 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.
- (2) For a motor lorry or motor bus that has an engine other than a diesel engine 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
  - (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.

## Schedule 2 Determining noise levels from shooting ranges

(Clause 70)

### Part 1 Preliminary

#### 1 Definitions

In this Schedule—

**LZpeak hold level** means the maximum reading within a measurement interval from an instrument that is set to record or display the LZpeak level.

**LZpeak level** means the maximum absolute value of the instantaneous sound pressure level using a Z-weighting frequency curve.

**shot** means a gunshot noise level measured, or identified, at a measurement location.

## **Part 2 Measurement instruments**

### **2 Measuring instruments**

The sound pressure level from a shooting range must be measured using—

- (a) a sound level instrument, and
- (b) a microphone.

### **3 Sound level instrument**

The sound level instrument must—

- (a) meet the specifications of a precision (Class 1) or general purpose (Class 2) sound level meter as defined in AS IEC 61672.1—2004, *Electroacoustics—Sound level meters—specifications*, and
- (b) be set to a Z-weighting frequency curve as specified in that document, and
- (c) use a noise descriptor for measurement that is the LZpeak level, and
- (d) use a sampling rate of 48kHz or other rate approved by the EPA in writing.

### **4 Microphone**

The measurement microphone must—

- (a) be placed at a height of between 1.2 metres and 1.5 metres above ground level, and
- (b) be placed at least 5 metres from any sound reflecting surface other than the ground, and
- (c) have a wind screen that meets the specifications of the instrument's manufacturer for outdoor measurements, and
- (d) be oriented for optimum accuracy in accordance with the manufacturer's instructions.

### **5 Calibration of various instruments**

All sound level instruments, microphones and calibration instruments must be calibrated in accordance with AS 1055.1—1997 *Acoustics—Description and measurement of environmental noise—General procedures*.

**Note—**

AS 1055.1—1997 *Acoustics—Description and measurement of environmental noise—General procedures* refers to the following standards in its detailed instructions for calibrations—

- (a) AS 1259.1—1990*Acoustics—Sound level meters—Non-integrating*,
- (b) AS IEC 61672.1—2004*Electroacoustics—Sound level meters—specifications*.

## **6 Calibration of sound level instrument**

- (1) The calibration of the sound level instrument must be checked by performing a field calibration, using a field calibrator according to the manufacturer's instructions before and after making measurements.
- (2) The calibration of a sound level instrument must be checked, and any necessary adjustments made, immediately before the sound level instrument is used to make the noise level measurements (the **pre-test check**) and must be checked again after making those measurements and before the instrument is switched off (the **post-test check**).
- (3) If the noise level recorded during the post-test check differs by more than 1 dB from the noise level recorded during the pre-test check, then all measurements made in the intervening period must be disregarded.

## **Part 3 Measuring shot noise**

### **7 Measurement locations—residential premises**

If a measurement of shot noise is to be made on a parcel of land on which residential premises are situated, the measurement must be taken—

- (a) on or within the boundary of that land that is closest to the shooting range, or
- (b) if the boundary of that land that is closest to the shooting range is more than 30 metres away from any residential premises on the land—within 30 metres of the nearest residential premises in the direction of the shooting range.

### **8 Test measurements must be representative**

- (1) The testing measurements must be representative of noise from the shooting range and exclude extraneous and weather-affected measurements.
- (2) Noise measurements clearly affected by extraneous noise are to be discarded when determining the noise level.

## **Part 4 Methods of measuring shot noise**

### **9 Methods of measuring shot noise**

The person making the measurements must use either—

- (a) a manual method, or
- (b) a post processing method.

## 10 Classification of shot noise

- (1) The noise level from a shot is to be classified as one of the following—
  - (a) Category A,
  - (b) Category B,
  - (c) Category C,
  - (d) Category D,
  - (e) Not valid.
- (2) The noise level of a shot is to be classified as **Category A** if the noise level—
  - (a) has a peak level higher than the peak level immediately prior to the sound of the shot, and
  - (b) cannot be attributed to any other extraneous noise or due to weather conditions.
- (3) A Category A level is considered an accurate representation of the noise contribution from the shot.
- (4) The noise level of a shot is to be classified as **Category B** if the noise level has a peak level that may have been elevated by the weather or extraneous noise.
- (5) A Category B level is considered as an upper estimate of the measured noise from the shot unless it is clearly affected by extraneous noise in which case the shot is Not valid.
- (6) The noise level of a shot is to be classified as **Category C** if the shot is audible at the measurement location but the noise level from the shot cannot be classified as Category A or Category B.
- (7) A Category C level is not considered a measurable noise contribution from the shot.
- (8) The noise level of a shot is to be classified as **Category D** if the shot is not audible at the measurement location and the noise level from the shot cannot be classified as Category A or Category B.
- (9) A Category D level is not considered a measurable noise contribution from the shot.
- (10) The noise level of a shot is to be classified as **Not valid** if, in the opinion of the person making the measurement—
  - (a) the noise level is the result of a noise that is not shooting noise, or
  - (b) the noise level is the result of shooting noise that is not shooting noise from the range being measured, or

(c) weather conditions have excessively elevated the measurement.

(11) The classification of the noise level of a shot may be demoted (but not promoted) in accordance with clause 11 or 12 of this Schedule, as appropriate.

### **11 Manual method of measuring shot noise**

If a manual method is used, the LZpeak hold level that can be reasonably attributed to an audible shot is to be recorded and—

- (a) if the difference between the level of the shot and the peak hold level immediately preceding the sound of the shot is at least 3 dB—the noise level is to be classified as Category A, or
- (b) if the difference is between zero and 3 dB—the noise level is to be classified as Category B, or
- (c) if there is no difference—the noise level is to be classified as Not valid.

### **12 Post processing method of measuring shot noise**

(1) If a post processing method is used, the stored LZpeak level measurements are to be reviewed with any of the following to obtain the level of each shot—

- (a) suitable identifying markers for each audible shot attached to the data,
- (b) time-synchronised audio,
- (c) time-synchronised data from the range.

(2) If those measurements are reviewed using a post processing method that complies with this clause then—

- (a) if the difference between the level of a shot and the preceding LZpeak level is 5 dB or greater—the noise level of the shot is to be classified as Category A, or
- (b) if the difference is greater than zero dB but less than 5 dB—the noise level of the shot is to be classified as Category B, or
- (c) if the difference is zero dB but the shot is audible—the noise level of the shot is to be classified as Category C, or
- (d) if the shot is not audible and not measurable—the noise level of the shot is to be classified as Category D.

(3) If time-synchronised data from the range is used, an observation must also be made at a location that has an unobstructed view of the firing line.

### **13 Determining noise levels from shooting ranges—manual method**

- (1) If more than 50 Category A shots are measured within 1 hour of commencing the measurements—
  - (a) the noise level for the shooting range is the arithmetic average of the first 50 Category A shots, and
  - (b) that determination of the noise level can be regarded as representing a true measurement (since there is no interference).
- (2) If 50 Category A shots are measured within 1 hour of commencing the measurements—
  - (a) the noise level for the shooting range is the arithmetic average of the 50 Category A shots, and
  - (b) that determination of the noise level can be regarded as representing a true measurement (since there is no interference).
- (3) If fewer than 50 Category A shots but 30 or more Category A and B shots combined are measured within 1 hour of commencing the measurements, the noise level for the shooting range is the arithmetic average of the total number of Category A shots and Category B shots.
- (4) If fewer than 30 Category A shots and Category B shots combined have been measured within 1 hour of commencing the measurements—
  - (a) the measurements may be continued until the numbers in subclause (1), (2) or (3) are reached, or
  - (b) the measurements are to be discarded and the assessment is to be rescheduled.
- (5) If the noise level so determined in accordance with subclause (3) or (4) is—
  - (a) less than or equal to the maximum noise level specified in the relevant requirement imposed by or under the Act—that determination can be regarded as representing a true measurement for the purposes of establishing compliance with the requirement (since, even with any interference, the noise level is within the limit), and
  - (b) greater than the maximum noise level specified in the relevant requirement imposed by or under the Act—that determination is not to be regarded as representing a true measurement for the purposes of establishing compliance with the requirement (since there may be interference).
- (6) In this clause—

**Category A shot** or **Category B shot** means a shot the noise level of which is



classified as Category A or Category B, as the case may be, by virtue of clause 10 of this Schedule.

**14 Determining noise levels from shooting ranges—post processing method**

- (1) If more than 50 Category A shots are measured within 1 hour of commencing the measurements—
  - (a) the noise level for the shooting range is the arithmetic average of the first 50 Category A shots, and
  - (b) that determination of the noise level can be regarded as representing a true measurement (since there is no interference).
- (2) If 50 Category A shots are measured within 1 hour of commencing the measurements—
  - (a) the noise level for the shooting range is the arithmetic average of the 50 Category A shots, and
  - (b) that determination of the noise level can be regarded as representing a true measurement (since there is no interference).
- (3) If fewer than 50 Category A shots but 30 or more Category A and Category B shots combined are measured within 1 hour of commencing the measurements, the noise level for the shooting range is the arithmetic average of the total number of Category A shots and Category B shots.
- (4) If fewer than 30 Category A and B shots combined, but 50 or more Category A, B, C and D shots combined, are identified within 1 hour of commencing the measurements, the noise level for the shooting range is the arithmetic average of the total number of Category A shots and Category B shots.
- (5) If the noise level so determined in accordance with subclause (3) or (4) is—
  - (a) less than or equal to the maximum noise level specified in the relevant requirement imposed by or under the Act—that determination can be regarded as representing a true measurement for the purposes of establishing compliance with the requirement (since, even with any interference, the noise level is within the limit), and
  - (b) greater than the maximum noise level specified in the relevant requirement imposed by or under the Act—that determination is not to be regarded as representing a true measurement for the purposes of establishing compliance with the requirement (since there may be interference).
- (6) In this clause—

**Category A shot, Category B shot, Category C shot or Category D shot** means a shot the noise level of which is classified as Category A, Category B, Category C or Category D, as the case may be, by virtue of clause 10 of this Schedule.

### **Schedule 3 (Repealed)**