

Noise

The main piece of legislation regulating neighbourhood noise is the Protection of the Environment Operations Act 1997 (NSW). This Act places restrictions on the times that certain activities can be conducted. It also deals with noise being made over long periods. The Protection of the Environment Operations (Noise Control) Regulation 2008 (NSW) places restrictions on the use of certain noise-producing articles.

WHAT IS OFFENSIVE NOISE?

Under the *Protection of the Environment Operations Act*, 'offensive noise' means noise which is likely to be harmful to, or to interfere unreasonably with, people outside the premises from which the noise is emitting. The interference or harm could come from the level, or the type of noise. The Regulations prescribes particular times outside of which excessive noise is deemed to be offensive.

REMEDIES

If a neighbour's noisy activity is bothering you, your first option is to discuss the problem with your neighbour. If this does not work, or if you do not feel comfortable approaching your neighbour on your own, you can contact a Community Justice Centre for help to resolve your dispute.

Noise abatement direction

In the case of urgent noise problems, such as late-night noise or burglar alarms, you can make a complaint to the Police. Police have the power to issue a noise abatement direction. In such a case, a police officer may direct the person believed to be the occupier of the premises or a person making or contributing to the noise to stop making the offensive noise. If a noise abatement direction is broken, the police can issue an on-the-spot fine.

Noise control notices

For non-urgent but persistent noise problems, it is best to make a complaint to your Local Council. Local Councils have the power to issue a noise control notice to prohibit the use of articles causing noise at certain times. Failure to comply with a noise control notice may result in an on-the-spot fine.

Noise abatement orders

This is a court order issued to stop offensive noise or to prevent offensive noise from recurring. Under the *Protection of the Environment Operations Act 1997*, a resident or person in a commercial or industrial premises who is affected by offensive noise can seek a noise abatement order. Contact your local court for more information on how to apply for a noise abatement order. There are fees for applying for a noise abatement order.

Nuisance orders (for barking dogs)

For persistent animal-related noise problems such as barking dogs, you can ask your local council to issue a nuisance order. Under the *Companion Animals Act 1998*, a council officer has the power to issue a nuisance order to the owner of the animal. The order can be issued to either the registered owner of the dog or to the person who normally keeps the animal. The dog can be declared a nuisance if they bark or make another noise that keeps occurring or continues to such a degree that it unreasonably disturbs neighbours.

The order remains in force for six months. If the owner does not comply with the order, the owner may face a fine of \$550 or more.

REMEDIES RELATING TO INTRUDER ALARMS

[Information from Department of Environment and Climate Change NSW; www.environment.nsw.gov.au/noise/alarms.htm]

The police should be contacted first to find out if theft is the cause of the sounding alarm. Both police and council officers can issue penalty notices for vehicle or building alarms that sound longer, either continuously or intermittently, than the period permitted under the Regulations. Council officers may also issue a prevention notice for a faulty alarm, requiring the owner to repair or replace it. Where a prevention notice is breached, the council may issue penalty notices (fines).

For faulty car alarm systems, the council or police can issue the owner of the motor vehicle with a vehicle defect notice under clause 26 of the *Protection of the Environment Operations (Noise Control) Regulation 2008*, requiring that the alarm system be repaired. If the notice is not obeyed, the vehicle's registration can be cancelled or suspended under section 165 of the *Protection of the Environment Operations Act 1997*, and the owner fined.

WHEN DO NOISE RESTRICTIONS APPLY?

Protection of the Environment Operations (Noise Control) Regulation 2008 (NSW).

Noise Source	Restrictions	Relevant Clause
Power tools or swimming pool pumps Includes: <ul style="list-style-type: none"> • lawn mowers • lawn trimmers • blower/sweepers • garden mulchers • edge-cutters and chipper/shredders • electric power tools (including battery-operated power tools) • pneumatic power tools • chainsaws • circular saws • gas or air compressors • spa pumps 	8.00 pm-7.00 am on weekdays and Saturdays 8.00 pm-8.00 am on Sundays and public holidays	cl 50
Musical Instruments and Sound Equipment Means any electrical or battery powered device used to make or amplify sound such as: <ul style="list-style-type: none"> • computers • radios • televisions • tape recorders • record players • compact disc players • digital video disc (DVD) players • public address systems 	12.00 midnight-8.00 am on any Friday, Saturday or any day immediately before a public holiday 10.00 pm-8.00 am any other day	cl 51
Air conditioners	10.00 pm-7.00 am on weekdays 10.00 pm-8.00 am on weekends and public holidays	cl 52
Motor vehicles on residential premises (except when entering or exiting residential premises)	8.00 pm-7.00 am on weekdays 8.00 pm-8.00 am on weekends and public holidays	cl 14

The Regulation also restricts how long a car alarm or house alarm is allowed to sound, unless, in the case of a car alarm, the car has been involved in an accident, a window has been broken, or the car has been broken in to.

Type of Intruder Alarm	Restrictions	Relevant Clause
Motor vehicle manufactured before 1 September 1997	Not more than 90 seconds after the alarm first sounds	cl 24
Motor vehicle manufactured on or after 1 September 1997	Not more than 45 seconds after the alarm first sounds	cl 24
Building intruder alarm installed before 1 December 1997	Not more than 10 minutes after it is activated	cl 53
Building intruder alarm installed on or after 1 December 1997	Not more than 5 minutes after it is activated	cl 53

STRATA TITLE UNITS

If you live in a strata title scheme, and you are affected by offensive noise from a neighbour who also lives in the strata title scheme, you can apply to the Strata Schemes and Mediation Branch for assistance in resolving the problem.

DEPARTMENT OF HOUSING

Department of Housing tenants can make a complaint to their local housing office if they are being unreasonably disturbed by the noise created by a neighbour, who is also a Department of Housing tenant.

LIVING NEXT TO A HOTEL OR NIGHTCLUB

If you are affected by noise from a nearby nightclub or hotel, you can make a complaint to the Liquor Administration Board, which has the power to order clubs and hotels to take measures to reduce noise levels in the neighbourhood.

If the board does not take action, it may be possible to make an application to the Licensing Court. This is a technical area of the law and it best to seek legal advice on this issue.

NOISE FROM ROADS, AIRPORTS AND WATERWAYS

The Road and Traffic Authority can deal with noise coming from the construction of main roads, and traffic noise from freeways, tollways and main roads. Complaints can also be made to the NSW Department of Environment and Climate Change (DECC), which now incorporates the Environment Protection Authority.

Airservices Australia handles complaints about noise from Kingsford Smith Airport and aircraft in flight (National Noise Enquiry Line 1300-302-240). Local councils deal with complaints relating to local council operated airports.

The Waterways Authority can deal with complaints about noise from ships, boats, pleasure craft and jet skis. The Ports Corporation deals with noise from naval vessels and container and passenger ships. The Waterways Authority Infoline is 131 256 or (02) 9563 8557.

[Some information in this section from Lawlink NSW fact sheet 'Information on Noise Problems']