

1995—No. 476

**ENVIRONMENTAL OFFENCES AND PENALTIES ACT 1989—
REGULATION**

(Relating to penalty notices for offences under the Noise Control Act 1975)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Environmental Offences and Penalties Act 1989, has been pleased to make the Regulation set forth hereunder.

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

Commencement

1. This Regulation commences on 1 September 1995.

Amendments

2. Schedule 2 to the Environmental Offences and Penalties Act 1989 is amended:

- (a) by inserting after the headings relating to the Noise Control Act 1975 the following matter:

Section 28: Sell article of prescribed class (other than a motor vehicle horn or motor vehicle intruder alarm) if, when in use or operation, the article emits noise that, when measured at any point specified in or determined in accordance with the regulations, is in excess of the level prescribed in respect of the class to which it belongs	Sell noisy article	2	\$200
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<p>Section 28: Sell article of prescribed class (other than a motor vehicle horn or motor vehicle intruder alarm) if, when in use or operation, the article emits noise that, when measured at any point specified in or determined in accordance with the regulations, is in excess of the level prescribed in respect of the class to which it belongs by 5dB(A) or more</p>	<p>Sell noisy article 5dB(A) or more above limit</p>	<p>2</p>	<p>\$400</p>
<p>Section 28: Sell article of prescribed class (being a motor vehicle horn or a motor vehicle intruder alarm) if, when in use or operation, the article emits noise that, when measured at any point specified in or determined in accordance with the regulations, is in excess of the level prescribed in respect of the class to which it belongs</p>	<p>Sell noisy horn/alarm</p>	<p>2</p>	<p>\$300</p>
<p>Section 41 (1) (a): Being the occupier of premises, cause, permit or allow a dog to be kept in or on premises if, as a result of keeping the dog, offensive noise is emitted from the premises while noise control notice has effect</p>	<p>Caus/permit allow dog to make offensive noise while notice has effect</p>	<p>1, 2, 6</p>	<p>\$200</p>
<p>Section 41 (1) (b): Being the occupier of premises, cause, permit or allow a dog to be kept in or on premises in contravention of a condition of a noise control notice if, as a result of the contravention, offensive noise is emitted from the premises</p>	<p>Keep dog in contravention of condition of notice</p>	<p>1, 2, 6</p>	<p>\$200</p>

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- (b) by omitting the matter relating to the Noise Control Regulation 1975 and by inserting instead the following matter:

Noise Control (Miscellaneous Articles) Regulation 1995

<i>Provision of Regulation</i>	<i>Short description</i>	<i>officer</i>	<i>Penalty</i>
Clause 19 (1): Cause or permit power tool or swimming pool pump to be used on residential premises in such a manner that it emits noise that can be heard within a room in any other residential premises, during specified hours, within 28 days after being warned not to	Cause/permit repeat of swimming pool pump/power tool noise after warning	1, 2, 5, 6	\$200
Clause 20 (1): Cause or permit musical instrument or sound equipment to be used on residential premises in such a manner that it emits noise that can be heard within a room in any other residential premises, during specified hours, within 28 days after being warned not to	cause/permit repeat of musical instrument/sound equipment noise after warning	1, 2, 5, 6	\$200
Clause 21 (1): Cause or permit air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a room in any other residential premises, during specified hours, within 28 days after being warned not to	Cause/permit repeat of air conditioner noise after warning	1, 2, 5, 6	\$200
Clause 22 (1): Being the occupier of premises, cause or permit use of non-complying building intruder alarm that is audible outside the premises	Cause/permit use of noisy intruder alarm	1,2,5,6,9	\$200

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*Noise Control (Motor Vehicles and Motor Vehicle Accessories) Regulation
1995*

<i>Provision of Regulation</i>	<i>Short description</i>	<i>Officer</i>	<i>Penalty</i>
Clause 9: Sell motor vehicle intruder alarm whose sounding device is operable by means of a panic or override switch	Sell alarm with panic/override switch	2	\$300
Clause 10 (1): Sell dual tone horn, variable tone horn or rising tone horn with certain sound characteristics	Sell non-complying dual/variable/rising tone horn	2	\$300
Clause 11 (1): Cause or permit a motor vehicle to be used in a public place if the motor vehicle is capable of emitting noise at a level in excess of the maximum level prescribed for that kind of motor vehicle	Cause/permit use of noisy vehicle	2	\$150
Clause 11 (1): Cause or permit a motor vehicle to be used in a public place if the motor vehicle is capable of emitting noise at a level between 5 dB(A) and 15 dB(A) in excess of the maximum level prescribed for that kind of motor vehicle	Cause/permit use of vehicle between 5 and 15 dB(A) above limit	2	\$250
Clause 11 (1): Cause or permit a motor vehicle to be used in a public place if the motor vehicle is capable of emitting noise at a level more than 15 dB(A) in excess of the maximum level prescribed for that kind of motor vehicle	Cause/permit use of vehicle more than 15 dB(A) above limit	2	\$400
Clause 12: Cause or permit a motor vehicle to be used in a place (other than a public place) in such a manner as to emit offensive noise	Cause/permit vehicle to emit offensive noise in non-public place	2	\$200

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Clause 13 (1): Cause or permit a motor vehicle to be used on residential premises in such a manner that it emits noise that can be heard within a room in any other residential premises, during specified hours, within 28 days after being warned not to	Cause/permit repeat of vehicle noise after warning	1, 2, 5, 6	\$200
Clause 14 (1): Cause or permit a refrigeration unit fitted to a motor vehicle to be used in such a manner that it emits noise that can be heard within a room in any residential premises, during specified hours, within 28 days after being warned not to	Cause/permit repeat of refrigeration unit noise after warning	2	\$200
Clause 15: Cause or permit the sound system of a motor vehicle to be used in such a manner that it emits offensive noise	Cause/permit offensive noise from motor vehicle sound system	2	\$150
Clause 16(1): Cause or permit a motor vehicle to be used in a public place unless the motor vehicle's noise control equipment is in place and in effective condition and good working order	Cause/permit vehicle to be used when noise control equipment not in place/ ineffective/ defective	2, 6	\$200
Clause 16 (2) (a): Remove, or render less effective, a motor vehicle's noise control equipment	Remove/render less effective noise control equipment	2, 6	\$200
Clause 16 (2) (b): Replace a motor vehicle's noise control equipment with noise control equipment that is less effective than the motor vehicle's original noise control equipment when first installed	Fit less effective noise control equipment	2, 6	\$200

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Clause 17: Cause or permit a motor vehicle's engine, or its air intake or exhaust system, to be modified or repaired in such a manner that the noise level of the motor vehicle after the repair or modification exceeds the maximum noise level prescribed in relation to that kind of motor vehicle	Modify/repair engine/air intake system/exhaust system so that noise level exceeds limit	2	\$200
Clause 18 (1) (a): In connection with the use of a motor vehicle in a public place, cause or permit to be used a motor vehicle horn that is capable of emitting noise at a single non-varying loudness and pitch at a noise level of more than 120 dB(A)	Use/cause/permit use of noisy horn with single loudness and pitch	2	\$200
Clause 18 (1) (b): In connection with the use of a motor vehicle in a public place, cause or permit to be used a motor vehicle horn that 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)	Use/cause/permit use of a horn with varying loudness and pitch	2	\$200
Clause 19 (a): Cause or permit a telephone to be connected to a motor vehicle horn in such a way that the horn emits noise when the telephone receives a call	Cause/permit telephone to be connected to horn	2	\$200
Clause 19 (b): Cause or permit a telephone to remain connected to a motor vehicle horn in such a way that the horn emits noise when the telephone receives a call	Cause/permit telephone to remain connected to horn	2	\$200

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Clause 21: In connection with the use of a motor vehicle, cause or permit to be used a motor vehicle intruder alarm that is capable of being triggered (while the engine of the motor vehicle is running or the ignition of the motor vehicle is turned on) by means of a panic or override switch	Use/cause/permit to be used vehicle with panic/override switch on alarm	1, 2, 6	\$200
Clause 22 (1) (a): Cause or permit a motor vehicle intruder alarm in a motor vehicle manufactured before 1 September 1997 to sound for more than 90 seconds	Cause/permit use of noisy alarm (pre-September 1997 vehicle)	1, 2, 6, 9	\$200
Clause 22 (1) (b): Cause or permit a motor vehicle intruder alarm in a motor vehicle manufactured on or after 1 September 1997 to sound for more than 45 seconds	Cause/permit use of noisy alarm (post-September 1997 vehicle)	1, 2, 6, 9	\$200
Clause 23: Cause or permit a motor vehicle intruder alarm to be sounded unless the alarm is so constructed and regulated that it has a maximum noise level of not more than 115 dB(A) and it cannot be reactivated until it has been manually reset	Cause/permit use of non-complying motor vehicle intruder alarm	2	\$200
Clause 24 (a): Cause or permit a telephone to be connected to a motor vehicle intruder alarm in such a way that the alarm emits noise when the telephone receives a call	Cause/permit telephone to be connected to alarm	2	\$200
Clause 24 (b): Cause or permit a motor vehicle to remain connected to a motor vehicle intruder alarm in such a way that the alarm emits noise when the telephone receives a call	Cause/permit telephone to remain connected to alarm	2	\$200

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Clause 26: Fail to comply with a direction given by an authorised officer to stop a motor vehicle and/or to do whatever the authorised officer considers reasonably necessary to enable the motor vehicle or motor vehicle accessory to be tested or inspected	Fail to comply with direction to stop/test/inspect motor vehicle/vehicle accessory	2	\$300
Clause 27 (2): Fail to comply with the terms of a vehicle inspection notice without reasonable excuse	Fail to comply with motor vehicle inspection notice	2	\$300
Clause 29 (5): Cause or permit a motor vehicle to be used after a date indicated on a defective vehicle notice	Use/cause/permit vehicle to be used contrary to defective vehicle notice	2	\$300
Clause 30 (4): Remove, obscure or deface a defective vehicle label from a motor vehicle otherwise than under the direction of an authorised officer	Remove/obscure/deface defective vehicle label	2	\$300

EXPLANATORY NOTE

The object of this Regulation is to update the list of offences under the Noise Control Act 1975 for which penalty notices can be issued. The update is necessitated by the repeal of the Noise Control Regulation 1975 and its replacement by the following regulations:

- (a) the Noise Control (General) Regulation 1995;
- (b) the Noise Control (Miscellaneous Articles) Regulation 1995;
- (c) the Noise Control (Motor Vehicles and Motor Vehicles Accessories) Regulation 1995.

This Regulation is made under the Environmental Offences and Penalties Act 1989, in particular section 8G (penalty notices) and section 28 (the general regulation making power).
