

# NOISE CONTROL (AMENDMENT) ACT 1987 No. 190

NEW SOUTH WALES



## TABLE OF PROVISIONS

1. Short title
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4. Amendment of Act No. 35, 1975
5. Savings

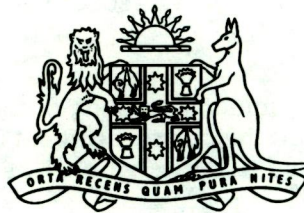
## SCHEDULE 1—AMENDMENTS

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**NOISE CONTROL (AMENDMENT) ACT 1987 No. 190**

**NEW SOUTH WALES**



**Act No. 190, 1987**

An Act to amend the Noise Control Act 1975 so as to assist the control of noise and to abolish the Noise Advisory Committee. [Assented to 4 December 1987]

*Noise Control (Amendment) 1987***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Noise Control (Amendment) Act 1987.

**Commencement**

2. This Act shall commence on a day or days to be appointed by proclamation.

**Principal Act**

3. The Noise Control Act 1975 is referred to in this Act as the Principal Act.

**Amendment of Act No. 35, 1975**

4. The Principal Act is amended as set out in Schedule 1.

**Savings**

5. (1) A warrant granted under section 61 of the Principal Act but which has not been executed before the commencement of Schedule 1 (8) shall be deemed to have been granted under section 61 of that Act, as amended by this Act.

(2) A regulation made under section 62 of the Principal Act and in force immediately before the commencement of Schedule 1 (10) shall—

- (a) if the regulation was made under section 62 (1) (a) (iii), be deemed to be a regulation made under section 62 (a) of that Act, as amended by this Act; or
- (b) if the regulation was made under section 62 (1) (b) (iii), be deemed to be a regulation made under section 62 (b) of that Act, as amended by this Act.

**SCHEDULE 1—AMENDMENTS**

(Sec. 4)

- (1) Section 3 (**Arrangement**)—  
Omit the section.
- (2) Section 4 (**Interpretation**)—  
Section 4 (1), definition of “Committee”—  
Omit the definition.
- (3) Part II (**Noise Advisory Committee**)—  
Omit the Part.

SCHEDULE 1—AMENDMENTS—*continued*(4) Section 27 (**Approval required for certain work**)—

## (a) Section 27 (1) (a) (i)—

Omit “or” where lastly occurring.

## (b) Section 27 (1) (a) (ii), (iii)—

Omit section 27 (1) (a) (ii), insert instead:

(ii) install, replace or alter any plant in or on those premises; or

(iii) alter the physical features of those premises,

## (c) Section 27 (1) (b)—

Omit the paragraph, insert instead:

(b) shall not carry out any work in or on those premises that constitutes the beginning of, or any subsequent step in—

(i) the installation, replacement or alteration of any plant in or on those premises; or

(ii) any alteration of the physical features of those premises,

which, if the installation, replacement or alteration were completed, would be likely to cause or increase the emission of noise from those premises,

## (5) Section 39—

Omit the section, insert instead:

**Definition**

39. In this Division—

“appropriate authority” means—

(a) except as provided by paragraph (b)—a local authority; and

(b) in relation to—

(i) vessels in navigable waters; and

(ii) premises used in connection with vessels and situated adjacent to, or partly or wholly over, navigable waters,

the Maritime Services Board.

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**SCHEDULE 1—AMENDMENTS—*continued*****(6) Section 44—**

Omit the section, insert instead:

**Definition**

44. In this Division—

“appropriate authority” means—

- (a) except as provided by paragraphs (b) and (c)—a local authority;
- (b) in relation to scheduled premises—the Commission; and
- (c) in relation to—
  - (i) vessels in navigable waters; and
  - (ii) premises used in connection with vessels and situated adjacent to, or partly or wholly over, navigable waters,

the Maritime Services Board.

**(7) Section 58 (Interpretation)—**

Section 58 (a), (b)—

Omit section 58 (a)–(c), insert instead:

- (a) in any case—an authorised officer or a member of the police force;
- (b) in relation to a lawful sporting activity involving vessels in navigable waters—
  - (i) an officer or employee of the Maritime Services Board;
  - (ii) an officer or servant of a local authority; or
  - (iii) an officer, employee or servant of any other statutory authority,

authorised by the Maritime Services Board; and

**(8) Section 61 (Powers of entry)—**

(a) Section 61 (1)—

Omit the subsection, insert instead:

(1) In this section, a reference—

- (a) to a telephone includes a reference to a radio or any other communication device; or

*Noise Control (Amendment) 1987*SCHEDULE 1—AMENDMENTS—*continued*

- (b) to a Magistrate includes a reference to a justice of the peace employed in the Attorney General's Department.
- (b) Section 61 (2)–(6), (11)—  
Omit “stipendiary magistrate” wherever occurring, insert instead “Magistrate”.
- (c) Section 61 (2) (a)—  
Omit “a specified dwelling-house”, insert instead “any specified premises”.
- (d) Section 61 (2), (6) (d), (11) (a), (12)—  
Omit “the dwelling-house” wherever occurring, insert instead “the premises”.
- (e) Section 61 (8)—  
Omit “a dwelling-house” insert instead “any premises”.
- (f) Section 61 (12) (b) (ii)—  
Omit “a dwelling-house was”, insert instead “any premises were”.
- (g) Section 61 (12) (d)—  
Omit “a dwelling-house”, insert instead “the premises”.
- (9) Section 61A (**Powers of entry and investigations**)—
- (a) Section 61A (1), (2)—  
Omit “a dwelling-house” wherever occurring, insert instead “any premises”.
- (b) Section 61A (1), (2)—  
Omit “the dwelling-house” wherever occurring, insert instead “the premises”.
- (c) Section 61A (7)—  
Omit the subsection.
- (10) Section 62—  
Omit the section, insert instead:
- Restrictions on noise abatement directions**
62. A noise abatement direction has no force in so far as—
- (a) it is directed to a prescribed person or body;
- (b) it would have the result of affecting an activity of a prescribed class or description; or

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SCHEDULE 1—AMENDMENTS—*continued*

- (c) except in the case of a direction given by the Commission—
  - (i) it is directed to the Crown or a person acting on behalf of the Crown; or
  - (ii) it would have the result of affecting any lawful sporting activity (other than an activity involving vessels in navigable waters or the use or operation of motor cycles).
  
- (11) Section 70 (**Appeals to Local Courts**)—
  - (a) Section 70 (1), (4)—

Omit “court of petty sessions” wherever occurring, insert instead “Local Court”.
  - (b) Section 70 (4)—

Omit “stipendiary magistrate”, insert instead “Magistrate”.
  - (c) Section 70 (5)—

Omit “court”, insert instead “Local Court”.
  
- (12) Section 75 (**Disclosure of information**)—

Omit the section.
  
- (13) Section 76 (**Powers of authorised officers**)—
  - (a) Section 76 (2) (b) (iv)—

Omit “24 hours”, insert instead “3 days (excluding any Saturday, Sunday or public holiday observed in the locality)”.
  - (b) Section 76 (7)—

Omit the subsection.
  
- (14) Section 78 (**Evidence**)—

Omit the section.
  
- (15) Section 82 (**Proceedings for offences**)—
  - (a) Section 82 (1), (4)—

Omit “court of petty sessions” wherever occurring, insert instead “Local Court”.



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SCHEDULE 1—AMENDMENTS—*continued*

- (b) Section 82 (4)—  
Omit “the court” insert instead “the Local Court”.
- (c) Section 82 (7)—  
Omit the subsection.







## NOISE CONTROL (AMENDMENT) BILL 1987

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

This Bill is cognate with the State Pollution Control Commission (Amendment) Bill 1987.

The object of this Bill is to amend the Noise Control Act 1975 so as—

- (a) to abolish the Noise Advisory Committee;
- (b) to add to the circumstances in which an occupier of premises listed in the Schedule to the Principal Act is prohibited from carrying out work on the premises unless authorised by a pollution control approval or a noise control notice;
- (c) to vary in minor respects the present division in the Principal Act of the powers of authorities to serve noise control notices or to give noise abatement directions;
- (d) to enable members of the police force to obtain warrants to enter premises other than dwelling-houses in circumstances in which they may presently obtain warrants to enter dwelling-houses;
- (e) to vary the restrictions on the issue of noise abatement directions;
- (f) to omit provisions facilitating the giving of evidence and restricting the disclosure of information obtained by officers of the Commission, for which provision is intended to be made in the State Pollution Control Commission Act 1970;
- (g) to extend the time within which an authorised officer is permitted to require an occupier of premises to supply the occupier's name and address after the emission of offensive noise from the premises; and
- (h) to make minor changes for the purpose of statute law revision.

The Bill also contains savings relating to certain warrants granted and regulations made before the commencement of relevant amendments.

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Clause 1 specifies the short title of the proposed Act.

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Clause 2 provides that the proposed Act will commence on a day or days to be proclaimed by the Governor-in-Council.

Clause 3 states that the Noise Control Act 1975 is referred to as the Principal Act.

Clause 4 is a formal provision giving effect to the Schedule of amendments to the Principal Act.

Clause 5 provides that the amendments to be made by the proposed Act do not affect—

- (a) any warrant granted but not executed under section 61 (Powers of entry) of the Principal Act; and
- (b) any regulation imposing a restriction on the issue of noise abatement directions under section 62 (Restrictions on noise abatement directions) of that Act.

Schedule 1 (1) repeals section 3 (Arrangement) of the Principal Act which is redundant.

Schedule 1 (2) repeals the definition of "Committee" in section 4 (Interpretation) of the Principal Act as a consequential amendment.

Schedule 1 (3) repeals Part II of the Principal Act so as to abolish the Noise Advisory Committee.

Schedule 1 (4) amends section 27 (Approval required for certain work) of the Principal Act so as to prohibit an occupier of scheduled premises from making any change to the physical features of the premises which is likely to cause or increase noise coming from them, except in accordance with a pollution control approval or noise control notice.

Schedule 1 (5) substitutes section 39 (Definition) of the Principal Act. Because of the proposed definition of "appropriate authority", the Maritime Services Board will be able to serve a noise control notice under Division 4 of Part V of that Act on an occupier of a wharf or certain other premises used in connection with vessels.

Schedule 1 (6) substitutes section 44 (Definition) of the Principal Act. Because of the proposed definition of "appropriate authority", the Maritime Services Board will be able to serve a noise control notice under Division 5 of Part V of that Act on an occupier of a wharf or certain other premises used in connection with vessels, except where they are scheduled premises.

Schedule 1 (7) amends the definition of "authorised person" in section 58 (Interpretation) of the Principal Act so as to permit a member of the police force to give noise abatement directions concerning water sport activities and to enable the Maritime Services Board to authorise officers of local or statutory authorities to give such directions.

Schedule 1 (8) amends section 61 (Powers of entry) of the Principal Act so as to enable Magistrates to grant warrants for the entry of any premises to a member of the police force in the same limited circumstances in which warrants for the entry of dwelling-houses may presently be granted.

Schedule 1 (9) amends section 61A (Powers of entry and investigations) of the Principal Act so as to apply that section to the entry of any premises by a member of the police force, not just dwelling-houses.

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Schedule 1 (10) substitutes section 62 (Restrictions on noise abatement directions) of the Principal Act so as to enable the Commission to direct noise abatement directions to the Crown or a person acting on behalf of the Crown or so as to affect any lawful sporting activity. As a result of the proposed amendment a noise abatement direction will also be able to be directed to a public authority or its members, officers, employees or servants.

Schedule 1 (11) and (15) amend sections 70 (Appeals to Local Courts) and 82 (Proceedings for offences) of the Principal Act for the purpose of statute law revision.

Schedule 1 (12) and (14) repeal sections 75 (Disclosure of information) and 78 (Evidence) of the Principal Act because of amendments intended to be made by the proposed State Pollution Control Commission (Amendment) Act 1987.

Schedule 1 (13) amends section 76 (Powers of authorised officers) of the Principal Act so as to extend from 24 hours to 3 days the time within which an authorised officer is permitted to require an occupier of premises to supply personal particulars after the emission of offensive noise from the premises.

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# NOISE CONTROL (AMENDMENT) BILL 1987

NEW SOUTH WALES



## TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Principal Act
4. Amendment of Act No. 35, 1975
5. Savings

SCHEDULE 1—AMENDMENTS

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# NOISE CONTROL (AMENDMENT) BILL 1987

NEW SOUTH WALES



No. , 1987

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## A BILL FOR

An Act to amend the Noise Control Act 1975 so as to assist the control of noise and to abolish the Noise Advisory Committee.

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*Noise Control (Amendment) 1987***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Noise Control (Amendment) Act 1987.

**Commencement**

2. This Act shall commence on a day or days to be appointed by proclamation.

**Principal Act**

3. The Noise Control Act 1975 is referred to in this Act as the Principal Act.

**10 Amendment of Act No. 35, 1975**

4. The Principal Act is amended as set out in Schedule 1.

**Savings**

5. (1) A warrant granted under section 61 of the Principal Act but which has not been executed before the commencement of Schedule 1 (8) shall be deemed to have been granted under section 61 of that Act, as amended by this Act.

(2) A regulation made under section 62 of the Principal Act and in force immediately before the commencement of Schedule 1 (10) shall—

- (a) if the regulation was made under section 62 (1) (a) (iii), be deemed to be a regulation made under section 62 (a) of that Act, as amended by this Act; or
- (b) if the regulation was made under section 62 (1) (b) (iii), be deemed to be a regulation made under section 62 (b) of that Act, as amended by this Act.

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**SCHEDULE 1—AMENDMENTS**

(Sec. 4)

- (1) Section 3 (**Arrangement**)—

Omit the section.

- (2) Section 4 (**Interpretation**)—

30 Section 4 (1), definition of “Committee”—

Omit the definition.

- (3) Part II (**Noise Advisory Committee**)—

Omit the Part.

SCHEDULE 1—AMENDMENTS—*continued*(4) Section 27 (**Approval required for certain work**)—

## (a) Section 27 (1) (a) (i)—

Omit “or” where lastly occurring.

## (b) Section 27 (1) (a) (ii), (iii)—

5 Omit section 27 (1) (a) (ii), insert instead:

(ii) install, replace or alter any plant in or on those premises; or

(iii) alter the physical features of those premises,

## (c) Section 27 (1) (b)—

10 Omit the paragraph, insert instead:

(b) shall not carry out any work in or on those premises that constitutes the beginning of, or any subsequent step in—

(i) the installation, replacement or alteration of any plant in or on those premises; or

15 (ii) any alteration of the physical features of those premises,

which, if the installation, replacement or alteration were completed, would be likely to cause or increase the emission of noise from those premises,

## 20 (5) Section 39—

Omit the section, insert instead:

**Definition**

39. In this Division—

“appropriate authority” means—

25 (a) except as provided by paragraph (b)—a local authority; and

(b) in relation to—

(i) vessels in navigable waters; and

30 (ii) premises used in connection with vessels and situated adjacent to, or partly or wholly over, navigable waters,

the Maritime Services Board.

*Noise Control (Amendment) 1987*SCHEDULE 1—AMENDMENTS—*continued*

## (6) Section 44—

Omit the section, insert instead:

**Definition**

44. In this Division—

“appropriate authority” means—

(a) except as provided by paragraphs (b) and (c)—a local authority;

(b) in relation to scheduled premises—the Commission; and

(c) in relation to—

(i) vessels in navigable waters; and

(ii) premises used in connection with vessels and situated adjacent to, or partly or wholly over, navigable waters,

the Maritime Services Board.

15 (7) Section 58 (**Interpretation**)—

Section 58 (a), (b)—

Omit section 58 (a)–(c), insert instead:

(a) in any case—an authorised officer or a member of the police force;

20 (b) in relation to a lawful sporting activity involving vessels in navigable waters—

(i) an officer or employee of the Maritime Services Board;

(ii) an officer or servant of a local authority; or

25 (iii) an officer, employee or servant of any other statutory authority,

authorised by the Maritime Services Board; and

(8) Section 61 (**Powers of entry**)—

(a) Section 61 (1)—

30 Omit the subsection, insert instead:

(1) In this section, a reference—

(a) to a telephone includes a reference to a radio or any other communication device; or

35 (b) to a Magistrate includes a reference to a justice of the peace employed in the Attorney General’s Department.

*Noise Control (Amendment) 1987*SCHEDULE 1—AMENDMENTS—*continued*

- (b) Section 61 (2)–(6), (11)—  
Omit “stipendiary magistrate” wherever occurring, insert instead “Magistrate”.
- 5 (c) Section 61 (2) (a)—  
Omit “a specified dwelling-house”, insert instead “any specified premises”.
- (d) Section 61 (2), (6) (d), (11) (a), (12)—  
Omit “the dwelling-house” wherever occurring, insert instead “the premises”.
- 10 (e) Section 61 (8)—  
Omit “a dwelling-house” insert instead “any premises”.
- (f) Section 61 (12) (b) (ii)—  
Omit “a dwelling-house was”, insert instead “any premises were”.
- (g) Section 61 (12) (d)—  
15 Omit “a dwelling-house”, insert instead “the premises”.
- (9) Section 61A (**Powers of entry and investigations**)—
- (a) Section 61A (1), (2)—  
Omit “a dwelling-house” wherever occurring, insert instead “any premises”.
- 20 (b) Section 61A (1), (2)—  
Omit “the dwelling-house” wherever occurring, insert instead “the premises”.
- (c) Section 61A (7)—  
Omit the subsection.
- 25 (10) Section 62—  
Omit the section, insert instead:
- Restrictions on noise abatement directions**
62. A noise abatement direction has no force in so far as—
- 30 (a) it is directed to a prescribed person or body;
- (b) it would have the result of affecting an activity of a prescribed class or description; or
- (c) except in the case of a direction given by the Commission—
- 35 (i) it is directed to the Crown or a person acting on behalf of the Crown; or

*Noise Control (Amendment) 1987*SCHEDULE 1—AMENDMENTS—*continued*

- (ii) it would have the result of affecting any lawful sporting activity (other than an activity involving vessels in navigable waters or the use or operation of motor cycles).
- 5 (11) Section 70 (**Appeals to Local Courts**)—  
 (a) Section 70 (1), (4)—  
 Omit “court of petty sessions” wherever occurring, insert instead “Local Court”.  
 (b) Section 70 (4)—
- 10 Omit “stipendiary magistrate”, insert instead “Magistrate”.  
 (c) Section 70 (5)—  
 Omit “court”, insert instead “Local Court”.
- (12) Section 75 (**Disclosure of information**)—  
 Omit the section.
- 15 (13) Section 76 (**Powers of authorised officers**)—  
 (a) Section 76 (2) (b) (iv)—  
 Omit “24 hours”, insert instead “3 days (excluding any Saturday, Sunday or public holiday observed in the locality)”.  
 (b) Section 76 (7)—
- 20 Omit the subsection.
- (14) Section 78 (**Evidence**)—  
 Omit the section.
- (15) Section 82 (**Proceedings for offences**)—  
 (a) Section 82 (1), (4)—
- 25 Omit “court of petty sessions” wherever occurring, insert instead “Local Court”.  
 (b) Section 82 (4)—  
 Omit “the court” insert instead “the Local Court”.  
 (c) Section 82 (7)—
- 30 Omit the subsection.