

# **Noise Abatement, Prevention and Control Act**

## **Article 1 Title**

The short title of this Act is the Noise Abatement, Prevention and Control Act.

## **Article 2 Interpretation**

In this Act unless the context otherwise requires:

“Pollution” means the direct or indirect introduction by man into the environment of substances, organism, genetic material or energy that cause or are likely to cause hazard to human health, harm to living resources or to ecosystems, or damage to amenities, or interfere with other legitimate uses of the environment;

“Noise Pollution” means excessive, unreasonable, displeasing human, animal, or machine-created noise that disrupts the activity or balance of human or animal life or biodiversity;

“Minister” means the Minister responsible for the Environment;

“Neighbourhood Noise” means any noise emitted from dwellings in excess of the noise levels determined in this Act which shall cause prejudice to the health or causes nuisance;

“Noise Control Commission” means the Commission as established in Article 5 of this Act;

“Noise” means any unwanted sound or vibration;

“Noise level” means the objective criteria that establish guidelines for permitted noise levels as determined in article 5 of this Act and any noise levels referred to in any other law as prescribed in this Act;

“Noise Regulatory Bodies” means the competent public authorities as listed in Schedule I;

### **Article 3 Scope**

The purpose and scope of this Act is to:

- (i) To recognise that unreasonable noise is a form of pollution, as defined in Article 2 of this Act;
- (ii) To prevent and control those sources of noise which may cause nuisance and to such end to adopt noise mitigation strategies, plans and procedures;

### **Article 4 The Noise Control Commission**

(1) There is hereby established a Commission, to be known as the Noise Control Commission which shall consist of the following:

- (a) a Chairman appointed by the Minister;
- (b) a Deputy Chairman appointed by the Minister;
- (c) a member representing each of the Regulatory Bodies listed in Schedule I to this Act;
- (d) a person appointed by the Minister with technical competence on noise, prevention, abatement and measurement;
- (e) a person appointed by the Minister to represent the interest of Non-Governmental Organisations;

Provided that the Minister may allow the Commission to appoint any further expert or group of experts to assist it in the performance of its functions as may be necessary.

(2) The Minister shall appoint a person to be the secretary of the Commission;

(3) The Chairman, the other members of the Commission and the secretary of the Commission shall hold office for a period of 3 years, but the members so appointed may be re-appointed on the expiration of their term of office;

Provided that if a member is appointed at any time after the other members have already been appointed the term of appointment of such other member shall end on the same date as that of the other members.

(4) A person shall not be qualified to hold office as a member of the Commission, if the person:-

- (a) is a Minister or a Parliamentary Secretary; or
- (b) is legally incapacitated; or
- (c) has been declared bankrupt or has made a composition or arrangement with his/her creditors; or
- (d) has been convicted of a crime affecting public trust or theft or fraud or knowingly receiving property obtained by theft or fraud, or of any offence against this Act; or
- (e) has a financial or other interest in any enterprise or activity which is likely to affect the discharge of the functions as a member of the Commission:

(5) A member of the Commission may be removed from office by the Minister if in the opinion of the Minister, such member is unfit to continue in office or has become incapable of properly performing the duties as a member;

(6) Any member of the Commission who has any direct or indirect interest relating to any particular function of the Commission, not being an interest which disqualifies such member from remaining a member, shall disclose the nature of the interest at the first meeting of the Commission after the relevant facts have come to that member's knowledge; such disclosure shall then be recorded in the minutes of the meeting, and the member having an interest as aforesaid shall withdraw from any meetings at which such matter is discussed. Any such disclosure shall be communicated to the Minister without delay. Where the interest of the member is such as to disqualify that member from remaining a member, he/she shall report the fact immediately to the Minister and tender his/her resignation.

(7) The appointment of any person as a member of the Commission and the termination of office or resignation of any such person, as well as any additional functions assigned to the Commission by the Minister shall be notified in the gazette, and it shall have effect forthwith;

Provided that failure to publish the appointment or termination of office as the case may be, shall have no effect on the validity of such appointment or termination.

#### **Article 5 Duties of the Commission**

The Noise Control Commission shall have the following functions:

(1) The Commission shall have such functions as are set out in this Act and such other functions as may devolve upon it under any law, or as may be assigned to it by the Minister;

(2) It shall be the function of the Commission:

- (a) To advise the Minister on all matters concerning policy, regulations and enforcement related to the prevention, abatement and control of various forms of noise pollution;
- (b) To advise the Minister on applicable guidelines, methodologies and standards related to noise emission from any activities and objects in use;
- (c) To advise the Minister on the mainstreaming and streamlining of noise abatement, prevention and control requirements in permits issued by noise regulatory bodies;
- (d) To establish measures, guidelines or codes of practice required to prevent noise from any activity or object;
- (e) To review existing legislation which aims to control and prevent noise at source and make recommendations to the Minister accordingly;
- (f) To establish accreditation systems so as to ensure that products do not exceed the noise limit specified or determined in accordance with regulations;
- (g) To establish strategies by which the general national policy relating to the abatement, prevention and control of noise pollution may be implemented;
- (h) To establish and adopt rules prescribing noise mitigation strategies, methods and procedures that aim to prevent noise pollution;
- (i) To establish the background noise levels and noise limits for zones;
- (j) To establish national standards for buildings and premises in use and for the proper installation and maintenance of any object/product that is in use, in order to prevent and control noise at source;
- (k) To establish noise action plans with short-term, medium term and long-term objectives for reducing noise levels in various sectors;

- (l) To apply any provisions of this Act and of any regulations or orders made there under;
- (m) To monitor compliance with relevant noise control and abatement legislation;
- (n) To establish mediation proceedings between the parties following a complaint on any matter concerning the abatement, prevention and control of various forms of noise pollution;
- (o) To establish and implement effective administrative procedures for dealing with noise-related complaints from the public;
- (p) To collate and analyse data and statistics on noise related matters;  
Provided that the Chairman may request data or information on any matter related to noise pollution, and such data or information shall be provided forthwith and shall be deemed to have been given and received under the obligation of confidentiality.
- (q) To promote and carry out scientific research aimed at better methods of abating, preventing and controlling noise pollution;
- (r) To promote the dissemination of information regarding the effects of noise pollution;
- (s) To promote education on the abatement, prevention and control of noise pollution;
- (t) To issue certification schemes for any person who is compliant with the national standards established by it;
- (u) To carry out any other task related to noise prevention, abatement and control which the Minister or itself may consider necessary.

(3) The Commission shall establish cooperation with any Ministry, government department or other organisation, whether local or overseas to promote and assure the abatement, prevention and control of all forms of noise pollution;

(4) The Commission may also undertake such other activity it may deem necessary or expedient for the purpose of its functions and objectives under this Act;

#### **Article 6. Legal Representation of the Commission**

The legal representation of the Commission shall vest in the Chairman;

Provided that the Chairman may appoint any one or more of its members to appear in the name and on behalf of the Commission in any judicial proceedings and in any act, contract, instrument or other document whatsoever.

#### **Article 7. Proposals by the Commission**

The Commission shall regulate its own procedures and shall give directions to the Noise Regulatory Bodies, on *inter alia*:

- (i) Noise limits for activities, including one off events and for certain premises, including places of entertainment and premises where trading activities take place, in accordance with the internationally-accepted guidelines such as World Health Organisation's Guidelines on Community Noise, Guidelines for Night-time Noise in Europe and other guidelines of equivalent standing including any national guidelines;
- (ii) Certification Schemes for any person who is compliant with the national standards established by this Commission;
- (iii) The determination of the type of device to be used for the measurement of noise;
- (iv) Health guidelines on noise prevention, abatement and control and for the promotion of information on the effects of harmful noise exposure;
- (v) Enhancing coordination between the noise regulatory bodies listed in Schedule I.

#### **Article 8. Minutes of Meetings**

9. The Commission shall provide the Minister with a copy of the minutes of its meetings and shall issue a report every three months to the Minister and publish an annual report on its activities;

#### **Article 9. Panel of Experts**

10. The Minister shall nominate such panels as necessary, each panel consisting of such number of experts as he may deem fit, to perform the duties as established in this Act, or in any regulations or to carry out those functions which the Minister may deem appropriate.

## Article 10. **Noise Regulatory Bodies**

(1) Any noise regulatory body must inform the Commission in writing before it grants a permit to any person to carry out or organize an activity, where the noise regulatory body intends to alter or exempts the applicant in whole or in part from the conditions and noise emission levels established by the Commission;

(2) Before issuing any permit in terms of (1) the Noise Regulatory Body shall obtain the written authorisation of the Commission which may propose any specific conditions relating to noise abatement, prevention and control in terms of this Act;

## Article 11. **Offences**

(1) Any person, personally or through an employee or an agent who –

(a) at any time of the day and night disturbs the peace or causes annoyance to any other person or negatively affects status of any biological species, habitats or ecosystems by generating unreasonable noise that exceeds the corresponding noise levels established by the Commission;

(b) refuses or neglects to comply with any order or direction lawfully made or given under this Act;

(c) knowingly or recklessly provides information which is false in a material particular, for the purpose of obtaining any permit or certificate or for the purported compliance with any requirements of this Act;

(d) alters, forges, counterfeits, defaces or destroys any document presented to or issued by the Chairman or by any of the Noise Regulatory Bodies under this Act;

(e) contravenes any of the provisions of this Act or of any regulations made under this Act; shall be guilty of an offence under this Act.

(2) When for any reason it is not possible to determine the noise levels in accordance with subparagraph 1 of this Article, or in cases of persistent noise pollution at the levels lower than those specified by the Commission such person may still be guilty of an offence under this Act:

- (i) If he or she allows activities organised in premises or areas where he is the owner and /or is the occupier that generates unreasonable noise which causes annoyance or disturbance to others or such noise that may negatively affect status of any biological species, habitats or ecosystems; or
- (ii) If he/ she allows animals and objects of which he is either the owner or in possession thereof, to generate unreasonable noise that may cause a disturbance or annoyance to others, or such noise that may negatively affect status of any biological species, habitats or ecosystems.

Provided that subparagraphs (2) (i) and (ii) of this sub-article, shall not apply, if a noise regulatory body has lawfully issued a permit to any person, and such person is not in contravention of the conditions regarding noise emissions established in the said permit.

#### Article 12. **Punishment**

(1) Any person who acts in violation of this Act or in breach of any regulations made there under, shall:

(a) on a first conviction, be liable to a fine (*multa*) of not more than two thousand and five hundred Euros (€2,500);

(b) on a second or subsequent conviction be liable to a fine (*multa*) of not more than two hundred and fifty thousand Euros (€250,000) the confiscation of the *corpus delicti* and the suspension or revocation of any permit as the case may be.

Provided that in determining the punishment in terms of this article consideration shall be made of the intensity and duration of exposure to noise

(2) Any person who acts in contravention of this Act and generates, causes or allows unreasonable neighbourhood noise shall be guilty of a contravention and on conviction shall be liable to a fine (*multa*) not exceeding forty-six euros and fifty-nine cents (€46.59).

(2) Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence against this Act shall be taken before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, sitting as courts of criminal judicature.

(3) Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal from any judgement given by the Courts of Magistrates (Malta) or by the Court of Magistrates (Gozo) in respect of proceedings for any offence against this Act or any regulations made by virtue of this Act.

**Article 13. Special Procedure in case of neighbourhood noise.**

(1) Notwithstanding any other law provided for the trial and punishment of offences where any person commits an offence as set out in sub article 2 of this Act the following provision of this article shall apply.

(2) Any police officer in whose opinion such contravention has been committed may hand over to the owner or the person causing or allowing such noise, a notice containing a general description of the contravention and such other information or requirements as the Minister may prescribe by regulations mad under this sub-article.

(3) Where any notice has been handed over as provided in sub article 2 the owner or the person causing or allowing such noise, as the case may be, or any other person who accepts responsibility for the contravention referred to in the said notice may, within ten days of the notice call at the place referred to in the notice, produce all such documents therein referred to and pay the fine, or such person shall send those documents and payment of the fine by registered post or by any other means shown in that notice.

(4) Where any notice which has been handed over as provide din sub article 2 is not complied with or the said fine is not paid within the period referred to in sub article 3 hereof, ordinary proceedings may be taken in accordance with the provisions of this Act and of the criminal code in respect of the offence in question.

(5) Where any such notice is complied with and the said fine is paid within the said period, no proceedings may be taken in respect of the offence in question and the payment of such fine shall, for all intents and purposes, be deemed to be an admission of the commission of the offence.

**Article 14. Administrative Fine**

Where -

(a) an offence against this Act has been committed by any person; and

(b) having regard to the previous conduct of the person concerned, it would be appropriate to impose a penalty under this article,

the Noise Regulatory Bodies, according to the type of noise being emitted may cause a notice in writing in accordance with sub-article (2) in the appropriate form to be served on that person.

(2) A notice under sub-article (1) shall specify -

(a) the date and nature of the offence;

(b) a summary of the facts upon which the allegation that an offence has been committed is based (being a sufficient summary fully and fairly to inform the person of the allegation against him);

(c) any other matter (not being previous convictions) that the Noise Regulatory Body considers relevant to the imposition of a penalty; and

(d) the amount of the penalty due, and, where the penalty due depends on a previous conviction, the date of such conviction, and shall be endorsed on a statement setting out the provisions of this article.

(3) Any person on whom a notice under sub-article (1) is served may, within thirty days after such service, by notice in writing in the appropriate form served on the Noise Regulatory Body issuing the said notice, require that proceedings in respect of the alleged offence shall be dealt with by the Court, in which case the following provisions shall apply:

(a) no further proceedings shall be taken under this article by the Noise Regulatory Body; and

(b) nothing in this article shall be construed as preventing the institution of any proceedings in respect of the alleged offence or the conviction of the person for the offence by the Court or the imposition of any penalty under this Act upon such conviction.

(4) Any person on whom a notice under sub-article (1) is served who does not wish that proceedings in respect of the alleged offence shall be dealt with by the Court may by notice in writing served on the Noise Regulatory Body issuing the said notice -

(a) admit the offence, and

(b) pay the amount of the penalty to the Noise Regulatory Body issuing the said notice within thirty days after the notice of the penalty is served or after such subsequent period as the Noise Regulatory Body may determine.

(5) Where under this article a person admits an offence, the Noise Regulatory Body shall impose a monetary penalty on that person in respect of the offence, which penalty shall not exceed one third of the maximum penalty to which the person would be liable if he were convicted of the offence by the Court.

(6) The penalty imposed under sub-article (5) shall be due as a civil debt enforceable by the competent Court of civil jurisdiction in favour of the Government and the declaration by the person on whom the penalty is imposed that he admits the charge shall constitute an executive title for the purposes of article 253 of the Code of Organization and Civil Procedure in the same manner as if it were a judgement of the competent Court of civil jurisdiction.

(7) Notwithstanding any other provision of this Act or of any other enactment, where an offence has been admitted under this article no charge may be laid in respect of the offence against any person by whom it has been admitted.

(8) Where a person on whom a notice under sub-article (1) is served does not, within thirty days after the notice is served on him, admit the offence, the Noise Regulatory Body shall cause proceedings to be instituted before the Court in respect of the alleged offence.

#### **Article 15. Power to make regulations**

The Minister may make regulations to give effect to any of the provisions of this Act, or to regulate or otherwise provide about anything in respect of Noise Abatement, Prevention and Control in accordance to this Act.

#### **Article 16. Procedure for making regulations.**

(1) Regulations under this article shall not be made unless the Minister shall have first published a draft thereof in the Government Gazette allowing any person a period of at least four (4) weeks to make representations to the Minister.

(2) The Minister shall consider any representations made under sub-article (1) and may, proceed to revise the draft regulations and to promulgate such regulations in accordance with such revision, or to amend any regulations already promulgated;

(3) When the Minister makes regulations concerning the procedure before any board, commission or other body established under this Act, he shall also consult such board, commission or body.

#### **Article 17. Power to revoke (Cap 249)**

Without prejudice to the provisions of article 6 of the Interpretation Act, any power conferred by this Act to make regulations, rules, orders, lists, schedules and any other instrument of like nature, includes the power from time to time to revoke, replace, amend, alter or add to any such instrument as aforesaid.

#### **Article 18. Power of Minister to make regulations in relations to criminal offences**

Without prejudice to any other provision of this Act the Minister may make regulations prescribing penalties for criminal offences against any regulations made under this Act, and such regulations may:

(a) prescribe imprisonment and different fines (multi) for different offences;

(b) prescribe fines (multi) calculated in accordance with the duration of the commission of the offence

Noise Regulatory Bodies in terms of Article 5 (1)(c) shall mean:

- a) The competent authority responsible for environment protection;
- b) The competent authority responsible for regulation of development planning;
- c) The competent authority responsible for regulating noise as an occupational health and safety issue;
- d) The competent authority responsible for the regulation of the noise level of new products that are placed on the market;
- e) The Police;
- f) The competent authority responsible for Local Government;
- g) The competent authority responsible for licensing places of entertainment and catering establishments and one off events when the latter do not fall within the jurisdiction of local councils;
- h) The competent authority responsible for licensing commercial premises and / or activities;
- i) The competent authority responsible for regulating noise levels from transport;
- j) The competent authority responsible for regulating noise in buildings' design and construction activities;
- k) The competent authority responsible for environmental health;
- l) The competent authority responsible for animal welfare and veterinary services.