Noise – Summary of the Environmental Protection Act and Noise Regulations

Section 79(1) creates an offence where a person causes/allows an emission of unreasonable noise from a premises (s79) or public place (noise reg. 6). The Act (s3(3)) defines noise as unreasonable if, because of its nature, duration, frequency or the time of day, it unreasonably interferes with the health, welfare convenience, comfort or amenity of any person.

How to determine: The definition of noise includes vibration, so if it can be heard or felt, it is noise. Noise must be assessed from the complainant’s boundary. This is important as buildings shield noise. No meter is required; but use your senses to collect evidence to support your action: consider time of day, type of noise, duration, how often it has occurred at this site. Also assess from police car with windows up to simulate a house. With ongoing noise from equipment, have the local authority measure the noise.

Guide to times and loudness:
- Day: 0700 (0900 Sundays and public holidays) – 1900 noise should not exceed that emitted by a standard garden appliance (lawnmower);
- Evening: 1900 – 2200 noise should not exceed raised voices (not shouting);
- Night: 2200 – 0700 noise should not exceed normal speaking voices and after midnight music should not be clearly audible.

Exemptions: Regulations exempt: Agriculture between dawn and dusk (r.12); Construction work, but needs local government approval if out-of-hours (r.13); Calls to worship (bells, speakers etc (r.15); Concerts by special approval (r.18). With the above, plus industry, dogs, air-conditioning, and pool pumps collect the evidence and advise the local authority. Community activities, e.g. schools, crowds, churches, fetes (r.16) are exempt, but Police can still take action if the noise is unreasonable. The propulsion and braking of motor vehicles on roads; trains and aircraft, are exempt. Boats on waterways are dealt with by Dept of Transport. Vehicle and building alarms and stereos are included in the Act.

Hand-held equipment on residential premises: Reg. 14 allows a person to use hand-operated equipment or a musical instrument during the 'Day' times (above), for; (i) equipment a total of two hours a day; or (ii) musical instrument a total of one hour a day. The noise must have a purpose other than annoying the neighbours.

Power to issue a Noise Abatement Direction (s81): Where a member considers unreasonable noise has been or is being emitted from any premises, they may direct orally or in writing that the noise cease, to; a) any person believed to be the occupier; or b) any person making or contributing to the noise; and to take any action needed to abate or remove the noise. A Direction remains in force for 7 days unless revoked earlier by the person who gave it or by a person prescribed by the Environmental Protection Act.

Section 81A(1)(b) is the power to seize equipment or any part of it, where you believe a Direction will not be complied with. Seizing cables often makes equipment unworkable. S81A(2) Seized equipment must be returned within 7 days. S81A(3) Not liable for any loss, damage or injury to equipment unless a deliberate failure to take reasonable care is proved. S99V allows Police to seek forfeiture of property used in the offence.

Powers: Section 82(1)(a) may demand entry without warrant to enter to control the noise. S82(1)(b) may require name and address of person making noise and of occupier. S93 an offence to delay or obstruct. S99 is the power to disable faulty audible alarms (obtain assistance from Chubb Security).

Enforcement: S79(2) empowers a Police officer to prosecute. A Police officer can institute prosecution under s81(2), 82(2), 83 and 93, but requires consent of the CEO. Department of Environment and Conservation (s114 (3)). Police can issue Infringement Notices using s99J, but there is no Infringement Book. Most local governments have one if needed.