

(24 May 1991 - to date)

## ENVIRONMENT CONSERVATION ACT 73 OF 1989

*(Gazette No. 11927, Notice No. 1188. Commencement date: 9 June 1989)*

### REGULATIONS UNDER THE ENVIRONMENT CONSERVATION ACT, 1989 (ACT NO. 73 OF 1989)

*Published under Government Notice R1193 in Government Gazette 13241. Commencement date: 24 May 1991*

#### DEPARTMENT OF ENVIRONMENT AFFAIRS

The Minister of Environment Affairs has promulgated the regulations in the Schedule under section 25 and 28 of the Environment Conservation Act, 1989 (Act No. 73 of 1989), after compliance with the provisions of section 32 of the said Act, with the concurrence of the local authorities mentioned in Schedule A.

#### SCHEDULE

##### ARRANGEMENT OF REGULATIONS

1. Definitions
2. Powers of a local authority
3. General prohibition
4. Prohibition of disturbing noise
5. Prohibition of noise nuisance
6. Use of measuring instruments
7. Exemptions
8. Attachment
9. Penalties
10. Application of regulations
11. Commencement

#### 1. Definitions

In these Regulations any word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned to it and, unless the context otherwise indicates—

“**ambient sound level**” means the reading on an integrating impulse sound level meter taken at a measuring point in the absence of any alleged disturbing noise at the end of a total period of at least 10 minutes, after such meter had been put into operation;

“animal” also includes birds and poultry;

“controlled area” means a piece of land designated by a local authority where, in the case of—

- (a) road transport noise in the vicinity of a road—
  - (i) the reading on an integrating impulse sound level meter, taken outdoors at the end of a period extending from 06:00 to 24:00 while such meter is in operation, exceeds 65 dBA; or
  - (ii) the equivalent continuous “A”-weighted sound pressure level at a height of at least 1,2 metres, but not more than 1,4 metres, above the ground for a period extending from 06:00 to 24:00 as calculated in accordance with SABS 0210-1986, titled: “Code of Practice for calculating and predicting road traffic noise”, published under Government Notice No. 358 of 20 February 1987, and projected for a period of 15 years following the date on which the local authority has made such designation, exceeds 65 dBA;
- (b) aircraft noise in the vicinity of an airfield, the calculated noisiness index, projected for a period of 15 years following the date on which the local authority has made such designation, exceeds 65 dBA; or
- (c) industrial noise in the vicinity of an industry—
  - (i) the reading on an integrating impulse sound level meter, taken outdoors at the end of a period of 24 hours while such meter is in operation, exceeds 61 dBA; or
  - (ii) the calculated outdoor equivalent continuous “A”-weighted sound pressure level at a height of at least 1,2 metres, but not more than 1,4 metres, above the ground for a period of 24 hours, exceeds 61 dBA;

“dBA” means the value of the sound pressure level in decibels, determined using a frequency weighting network A, and derived from the following equation:

$$L_{p_A} = 10 \log_{10} \left[ \frac{p_A}{p_o} \right]^2, \text{ where—}$$

$p_A$  = the “A”-weighted sound pressure; and

$p_o$  = the reference sound pressure  
( $p_o = 20 \mu \text{ Pa}$ );

**“disturbing noise”** means a noise level which exceeds the zone sound level or, if no zone sound level has been designated, a noise level which exceeds the ambient sound level at the same measuring point by 7 dBA or more;

**“erect”** also means alter, convert, extend or re-erect;

**“integrating impulse sound level meter”** means a device which integrates a function of the root mean square value of sound pressure over a period of time while it is set on “1”-time weighting and indicates the result in dBA;

**“measuring point”**, relating to—

- (a) a piece of land from which an alleged disturbing noise emanates, means a point outside the property projection plane where an alleged disturbing noise, in the opinion of a local authority, shall be measured in accordance with the provisions of regulation 6;
- (b) a building with more than one occupant, means a point in or outside the building where an alleged disturbing noise, in the opinion of a local authority, shall be measured in accordance with the provisions of regulation 6; and
- (c) a stationary vehicle, means a point as described in SABS 0181-1981, titled: “Code of Practice for the measurement of noise emitted by road vehicles when stationary”, published under General Notice No. 463 of 9 July 1982, where a measuring microphone shall be placed;

**“noise level”** means the reading on an integrating impulse sound level meter taken at a measuring point in the presence of any alleged disturbing noise at the end of a total period of at least 10 minutes, after such meter had been put into operation, and, if the alleged disturbing noise has a discernible pitch, to which 5 dBA has been added;

**“noise nuisance”** means any sound which disturbs or impairs or may disturb or impair the convenience or peace of any person;

**“noisiness index”** means a number expressed, in dBA as defined in SABS 0117-1974, titled: “Code of Practice for the determination and limitation of disturbance around an aerodrome due to noise from aeroplanes”, published under Government Notice No. 151 of 1 February 1985;

**“plant”** means a refrigeration machine, air-conditioner, fan system, compressor, power generator or pump;

**“property projection plane”** means a vertical plane on, and including the boundary line of a piece of land defining the boundaries of such piece of land in space;

**“recreational vehicle”** also means—

- (a) an off-road vehicle, scrambler, dune buggy or ultra-light aircraft;
- (b) a model aircraft, vessel or vehicle;
- (c) any aircraft or helicopter used for sport or recreational purposes; or
- (d) any other conveyance or model which in the opinion of a local authority is a recreational vehicle;

**“sound level”** means the reading on a sound level meter taken at a measuring point;

**“sound level meter”** means a device measuring sound pressure while it is set on “F”-time weighting and indicates the result in dBA;

**“the Act”** means the Environment Conservation Act, 1989 (Act No. 73 of 1989);

**“zone sound level”** means a derived dBA value determined indirectly by means of a series of measurements, calculations or table readings. and designated by a local authority for an area.

## **2. Powers of a local authority**

A local authority may—

- (a) for the purposes of applying these Regulations; at any reasonable time enter a premises without prior notice—
  - (i) to conduct any appropriate examination, enquiry or inspection as it may deem expedient thereon; and
  - (ii) to take any steps it may deem necessary;
- (b) in order to determine whether a vehicle using any road in the area of jurisdiction of that local authority, including a private, provincial or national road crossing its area of jurisdiction, complies with the provisions of these Regulations, instruct the owner; or person in, control of the vehicle—
  - (i) to have any appropriate inspection or test as such authority may deem necessary conducted on the vehicle on a date and at a time and place determined by the local authority in writing;
  - (ii) to stop the vehicle or cause it to be stopped;

- (iii) to have any appropriate inspection or test as such authority may deem necessary conducted on the vehicle;
  
- (c) if a noise emanating from a building, premises, vehicle, recreational vehicle or street is a disturbing noise or noise nuisance, or may in the opinion of the local authority concerned be a disturbing noise or noise nuisance, instruct in writing the person causing such noise or who is responsible therefor, or the owner or occupant of such building or premises from which or from where such noise emanates or may emanate, or all such persons, to discontinue or cause to be discontinued such noise, or to take steps to lower the level of the noise to a level conforming to the requirements of these Regulations within the period stipulated in the instruction: Provided that the provisions of this paragraph shall not apply in respect of a disturbing noise or noise nuisance caused by rail vehicles or aircraft which are not used as recreational vehicles;
  
- (d) before changes are made to existing facilities or existing uses of land or buildings, or before new buildings are erected, in writing require that noise impact assessments or tests are conducted to the satisfaction of that local authority by the owner, developer, tenant or occupant of the facilities, land or buildings or that, for the purposes of regulation 3 (b) or (c), reports or certificates in relation to the noise impact to the satisfaction of that local authority are submitted by the owner, developer, tenant or occupant to the local authority on written demand;
  
- (e) if excavation work, earthmoving work, pumping work, drilling work, construction work or demolition work or any similar activity, power generation or music causes a noise nuisance or a disturbing noise, instruct in writing that such work, activity, generation or music be forthwith discontinued until such conditions as the local authority may deem necessary have been complied with;
  
- (f) designate a controlled area in its area of jurisdiction or amend or cancel an existing controlled area by notice in the Official Gazette concerned;
  
- (g) if the owner or person in charge of an animal fails to comply with an instruction referred to in paragraph (c), subject to the appropriate provisions of any other law, impound or cause to be impounded such animal;
  
- (h) subject to the provisions of regulation 8 and the appropriate provisions of any other law, attach a vehicle if the sound level of such vehicle exceeds the sound level referred to in regulation 3 ( j) by more than 5 dBA;
  
- (i) in writing request the owner or person in control of a plant referred to in regulation 3 (k) to furnish forthwith proof to its satisfaction that the plant shall not cause a disturbing noise;

- (j) impose such conditions as it may deem fit when granting any permission or exemption in terms of these Regulations;
- (k) incorporate conditions in relation to noise control with the establishment of a new township, in order to implement the objectives of the Act;
- (l) subject to the appropriate provisions of any other law, place or cause to be placed measuring instruments or similar devices, road traffic signs or notices at any place within its area of jurisdiction for the enforcement of the provisions of these Regulations: Provided that road traffic signs and notices be placed on private property only with the permission of the owner;
- (m) designate zone sound levels for specific areas and for specific times by notice in the Official Gazette concerned.

### **3. General prohibition**

No person shall—

- (a) establish a new township unless the lay-out plan concerned, if required by a local authority, indicates in accordance with the specifications of the local authority, the existing and future sources of noise, with concomitant dBA values which are foreseen in the township for a period of 15 years following the date on which the erection of the buildings in and around the township commences;
- (b) erect educational, residential, flat, hospital, church or office buildings in an existing township within a controlled area, unless acoustic screening measures have been provided in the building to limit the reading on an integrating impulse sound level meter, measured inside the building after completion, to 40 dBA: Provided that any air-conditioning or ventilating system shall be switched off during the course of such noise measurements;
- (c) make changes to existing facilities or existing uses of land or buildings or erect new buildings, if it shall in the opinion of a local authority house or cause activities which shall, after such change or erection, cause a disturbing noise, unless precautionary measures to prevent the disturbing noise have been taken to the satisfaction of the local authority;
- (d) build a road or change an existing road, or alter the speed limit on a road, if it shall in the opinion of the local authority concerned cause an increase in noise in or near residential areas, or office, church, hospital or educational buildings, unless noise control measures have been taken in consultation with the local authority concerned to ensure that the land in the vicinity of such road shall not be designated as a controlled area;

- (e) situate educational, residential, hospital or church erven within a controlled area in a new township an area which has been rezoned: Provided that such situation may be allowed by the local authority concerned in accordance with the acoustic screening measures mentioned by that local authority in the approved building plans;
- (f) fail to comply with a directive, instruction or notice issued by a local authority in terms of these Regulations;
- (g) notwithstanding the provisions of paragraph (h), stage an organised open-air music festival or similar gathering without the prior consent in writing of a local authority;
- (h) subject to the provisions of regulations 4 and 5 (a), operate or play a radio, television set, gramophone, recording device, drum, musical instrument, sound amplifier or similar device producing, reproducing or amplifying sound, or allow it to be operated or played, in a public place, if the noise level, measured at any point which may be occupied by a member of the public, exceeds 95 dBA, unless the following warning is displayed in both official languages and in legible form in a conspicuous place at each entrance to such place:

WARNING:                   SOUND LEVELS INSIDE MAY CAUSE PERMANENT  
HEARING DAMAGE

WAARSKUWING:           KLANKPEILE BINNE KAN PERMANENTE GEHOORSKADE  
VEROORSAAK;

- (i) use any power tool or power equipment for construction, earth drilling or demolition works, or allow it to be used, in a residential area during the following periods of time:
  - (i) Before 06:00 and after 18:00 from Monday to Saturday; and
  - (ii) at any time on any Sunday, Good Friday, Ascension Day, Day of the Covenant and Christmas Day, or any other day as may be determined by a local authority;
- (j) drive a vehicle, or allow it to be driven, on a public road, if the sound level at the measuring point measured in accordance with the procedure prescribed in SABS 0181-1981, titled: "Code of Practice for the measurement of noise emitted by road vehicles when stationary", published under General Notice No. 463 of 9 July 1982, exceeds the sound level indicated in the second or third column, as the case may be, of the following table opposite to the type of vehicle indicated in the first column of that table:

Type of vehicle	Sound level dBA up to and including 1992-01-01	Sound level dBA after 1992-01-01
Two and three-wheeled vehicles	95	95
Vehicles with spark ignition and with four or more wheels used for the conveyance of passengers or goods	99	96
Vehicles with diesel engines and not equipped with an engine brake	109	105
Vehicles with diesel engines and equipped with an engine brake:		
(i) engine brake switched off	109	105
(ii) engine brake switched on	109	109

(k) if required by a local authority, install, replace or modify a plant with a total input power exceeding 10 kilowatts on any premises, unless the local authority has been notified by the owner of the plant in writing at least 14 days before such installation, replacement or modification of—

- (i) the particulars of the plant;
- (ii) the number, street address and title deed description of the premises concerned; and
- (iii) the nature of and the date on which the installation, replacement or modification shall commence:

Provided that if an existing plant had to be replaced by necessity without preceding notification to the local authority, the local authority shall be notified thereof by the owner of the plant in writing within 14 days after the replacement of the plant;

(l) tamper with, remove, put out of action, damage or impair the functioning of a noise monitoring system, noise limiter, noise measuring instrument, acoustic device, road traffic sign or notice, placed in a position; by or on behalf of a local authority;

(m) for the purposes of these Regulations in respect of a duly authorised employee of a local authority—

- (i) fail or refuse to grant admission to such employee to enter and to inspect a premises;
- (ii) fail or refuse to give information which may lawfully be required of him to such employee;



- (iii) hinder or obstruct such employee in the execution of his duties; or
- (iv) give false or misleading information to such employee knowing that it is false or misleading.

#### **4. Prohibition of disturbing noise**

No person shall make, produce or cause a disturbing noise, or allow it to be made, produced or caused by any person, machine, device or apparatus or any combination thereof.

#### **5. Prohibition of noise nuisance**

No person shall—

- (a) cause a noise nuisance, or allow it to be caused, by operating or playing any radio, television set, drum, musical instrument, sound amplifier, loudspeaker system or similar device producing, reproducing or amplifying sound;
- (b) offer any article for sale by shouting or ringing a bell, or by allowing shouting or the ringing of a bell, in a manner which may cause a noise nuisance;
- (c) allow an animal owned or controlled by him to cause a noise nuisance;
- (d) build, repair, rebuild, modify, operate or test a vehicle, vessel or aircraft on residential premises, or allow it to be built, repaired, rebuilt, modified, operated or tested, if it may cause a noise nuisance;
- (e) use or discharge any explosive, firearm or similar device which emits impulsive sound, or allow it to be used or discharged, if it may cause a noise nuisance, except with the prior consent in writing of the local authority concerned and subject to such conditions as the local authority may deem necessary;
- (f) on a piece of land designated by local authority by means of a notice on that piece of land and in the press in both official languages, or in the air-space above that piece of land—
  - (i) move about on or in a recreational vehicle;
  - (ii) exercise control over a recreational vehicle; or
  - (iii) as owner or person in control of the piece of land concerned, allow that on that piece of land or in the airspace above that piece of land—

- (aa) is being moved about on or in a recreational vehicle; or
- (bb) control is being exercised over a recreational vehicle, if it may cause a noise nuisance;
- (g) except in an emergency, emit a sound, or allow a sound to be emitted, by means of a bell, carillon, siren, hooter, static alarm, whistle, loudspeaker or similar device, if it may cause a noise nuisance;
- (h) operate any machinery, saw, sander, drill, grinder, lawnmower, power garden implement or similar device in a residential area, or allow it to be operated, if it may cause a noise nuisance;
- (i) load, unload, open, shut or in any other way handle a crate, box, container, building material, rubbish container or similar article, or allow it to be loaded, unloaded, opened, shut or handled, if it may cause a noise nuisance;
- (j) drive a vehicle on a public road in such a manner that it may cause a noise nuisance.

## **6. Use of measuring instruments**

- (1) The measurement of dBA values in respect of controlled areas, ambient sound levels or noise levels in terms of these Regulations shall be done as follows:
  - (a) Outdoor measurements on a piece of land: By placing the microphone of an integrating impulse sound level meter at least 1,2 metres, but not more than 1,4 metres, above the ground and at least 3,5 metres away from walls, buildings or other sound reflecting surfaces; and
  - (b) indoor measurements in a room or enclosed space, which is not ventilated mechanically: By placing the microphone of an integrating impulse sound level meter at least 1,2 metres, but not more than 1,4 metres, above the floor and at least 1,2 metres away from the wall, with all the windows and outer doors of the room or enclosed space entirely open: Provided that the windows and doors are closed for indoor measurements in rooms or enclosed spaces which are mechanically ventilated.
- (2) Any person taking readings, shall ensure that—
  - (a) the microphone of an integrating impulse sound level meter is at all times provided with a windshield;

- (b) the measuring instruments are operated strictly in accordance with the manufacturer's instructions; and
- (c) sound measuring instruments are checked annually by the South African Bureau of Standards or a calibration laboratory approved by the Minister in order to comply with the appropriate specifications for accuracy.

## **7. Exemptions**

- (1) The provisions of these Regulations shall not apply, if—
  - (a) the emission of sound is for the purposes of warning people of a dangerous situation; or
  - (b) the emission of sound takes place during an emergency.
- (2) Any person may by means of a written application, in which the reasons are given in full, apply to the local authority concerned for exemption from any provision of these Regulations.
- (3) An exemption shall, if approved, be granted by a local authority in writing, and the conditions under which and the period for which such exemption is granted, shall be stipulated in such exemption.
- (4) An exemption shall not take effect before the applicant has undertaken in writing to comply with all conditions imposed by a local authority under subregulation (3): Provided that if activities are commenced before such undertaking has been submitted to the local authority concerned, the exemption shall lapse.
- (5) If any condition of exemption is not complied with, the exemption shall lapse forthwith.

## **8. Attachment**

- (1) A vehicle attached under regulation 2 (h) shall be kept in safe custody by a local authority.
- (2) A local authority may lift the attachment contemplated in regulation 2 (h) if the owner of person in control of the vehicle concerned has been instructed in writing by such authority—
  - (a) to repair or to modify the vehicle concerned or cause it to be repaired or to be modified; and
  - (b) to have any inspection or test as such authority may deem necessary conducted on the vehicle on a date and at a time and place mentioned in the instruction.

## **9. Penalties**

Any person who contravenes or fails to comply with a provision of regulation 3, 4 or 5, shall be guilty of an offence and liable on conviction to a fine not exceeding R20 000, or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment, and, in the event of a continuing contravention, to a fine not exceeding R250, or to imprisonment for a period not exceeding 20 days, or to both such fine and such imprisonment, for each day on which such contravention continues.

**10. Application of regulations**

These regulations shall only apply in the area of jurisdiction of a local authority mentioned in the first column of Schedule A, to wit to the extent indicated in the second column thereof opposite to the local authority mentioned in the first column of that Schedule.

**11. Commencement**

These Regulations shall come into operation on the date of publication

**SCHEDULE A**

<b>Local authority</b>	<b>To what extent applicable</b>
1.Municipality of Virginia	The regulations in its entirety.
2.Municipality of Vredendal	The regulations in its entirety.
3.Borough of Westville	The regulations in its entirety.