

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

**NOISE CONTROL (AMENDMENT) BILL 1993**

**EXPLANATORY MEMORANDUM**

**Circulated by authority of Bill Wood MLA  
Minister for the Environment, Land and Planning**

## Outline

The Noise Control (Amendment) Bill 1993 (the Bill) amends certain provisions of the Noise Control Act 1988 (the Principal Act).

The Principal Act provides for the control of excessive noise from both residential and non-residential premises.

It prescribes maximum permissible noise levels during daytime and nighttime for various types of noise generating equipment.

There are certain noise generating sources which are not controlled under the Principal Act namely motor vehicles travelling on a public street, animal noise (for example barking dogs), aircraft noise and people noise. These noise sources are controlled through other legislation.

The Principal Act also provides for the granting of exemptions where an activity cannot comply with the provisions of the Principal Act. The Pollution Control Authority, in determining whether an exemption should be granted, is required to take into consideration a number of factors. These are:

- (a) the level and frequency of the noise;
- (b) the times at which the noise is, or is to be, emitted;
- (c) how often the noise is, or is to be, emitted;
- (d) the location of the premises;
- (e) the distance of the premises from other occupied premises;
- (f) whether it is technically feasible for the applicant to reduce the noise to a level that will not constitute

excessive noise;

(g) the cost of so reducing the noise;

(h) in the case of intermittent noise - the duration of the periods during which the noise is, or is to be, emitted.

It is unclear as to whether conditions may be imposed in granting an exemption.

The Principal Act also provides for the publication of a Noise Control Manual and that the Manual is a disallowable instrument. However, it is unclear whether any amendments to the Manual would be regarded as disallowable instruments.

In order to remove any doubt about the intention of sections 16 and 20 it is necessary to carry out minor modifications to the Act.

#### **Financial Impact**

The Bill has no impact on revenue or expenditure.

#### **Detail of Bill**

##### **Clauses 1, 2 and 3**

Clause 1 identifies the short title of the Bill. Clause 2 provides that the Bill shall commence on the day it is notified in the Gazette. Clause 3 specifies that the Act to be amended is the Noise Control Act 1988 and this Act is referred to in the Bill as the Principal Act.

##### **Clause 4**

Clause 4 will amend section 12 of the Principal Act to recognise that an exemption granted under 16 of the Principal

Act may contain a condition. Clause 4 will achieve this by omitting subsection 12(3) and substituting a new subsection 12(3).

Section 12 of the Principal Act empowers an inspector to give the occupier of a premises a noise direction notice.

Existing subsection 12(3) provides that where an exemption under section 16 is in force a noise direction notice will be invalid. Proposed new subsection 12(3) will provide that when an exemption is in force under section 16 of the Principal Act and there is no break of any condition of the exemption then a noise direction notice shall be invalid.

#### Clause 5

Clause 5 will make several amendments to section 16 of the Principal Act.

Section 16 of the Principal Act empowers the Pollution Control Authority to grant an exemption from the requirement of section 12 of the Principal Act.

Clause 5 will amend subsections 16(2), (3), (4) and (5) to recognise that the Pollution Control Authority may impose conditions when granting an exemption.

#### Clause 6

Clause 6 will amend section 20 in Division 4 of the Principal Act.

Division 4 of the Principal Act contains provisions relating to the preparation and approval of the Noise Control Manual. Section 18 specifies that the Minister may, by notice published in the Gazette, approve the Noise Control Manual or an amendment to that Manual. Section 19 imposes an obligation on the Minister to cause the Manual and each amendment of the Manual to be published within 14 days of the date of

publication of the notice of approval of the Manual or an amendment to the Manual.

While existing section 20 specifies that the Noise Control Manual shall be a disallowable instrument for the purposes of section 10 of the Subordinate Laws Act 1989, no mention is made in the section of an amendment. The proposed amendment to section 20 will make it clear that any amendment to the Manual is also a disallowable instrument.

#### Clause 7

Clause 7 will amend section 44 of the Principal Act. Section 44 provides for administrative review by the Administrative Appeals Tribunal of a decision listed in the section.

The proposed amendment will omit paragraph 44(2)(b) and substitute two new subparagraphs. These new subparagraphs will enable review of an exemption granted by the Pollution Control Authority under section 16 of the Principal Act and of a decision by the Pollution Control Authority to vary, or refuse to vary, any condition of an exemption granted.