

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

**NOISE CONTROL (AMENDMENT) BILL 1994**

**EXPLANATORY MEMORANDUM**

**Circulated by authority of Bill Stefaniak MLA  
Opposition Spokesman on the Environment**

## Outline

The Noise Control (Amendment) Bill amends the *Noise Control Act 1988* ("the Act").

Motor racing is currently conducted at three venues in the Territory: Fairbairn Park, Sutton Park and the Canberra International Dragway.

Motor sports conducted at those locations strive to limit the amount of noise made by vehicles involved in motor sport to a level of 95 decibels, measured at a point 30 metres from the track on which the vehicle is operated. This is called the '95 decibels at 30 metres drive-by test'. This is the minimum standard enforced nationally by the governing bodies of the various codes of motor sport and condoned by pollution control authorities throughout Australia for long term motor racing venues.

In the usual case, vehicles complying with this standard should not make more than 10 decibels above ambient background noise when measured at the closest residential premises effected by motor racing noise.

However, the *Noise Control Act* currently makes it unlawful for more than 5 decibels above ambient background noise to be made (in effect) during the day and early evening from premises.

Motor racing has been allowed to continue pursuant to the granting of *en block* exemptions from the provisions of the Act permitted by section 16. This is not satisfactory to the motor racing fraternity, who wish to have their sport free from a possible sudden end to their sport by an end of exemptions granted by government: they wish to be free from "continuation by exemption".

Nor is this situation satisfactory to residents living near the race tracks, who say that motor racing affects the enjoyment of their property by making too much noise.

This Bill:

- \* makes the method by which motor sport noise is usually measured in Australia the lawful way by which such noise is to be measured for the purposes of determining compliance with the Act;
- \* provides for a noise measurement method that can permit the abatement of noise at the time it is made, rather than relying on a system of measurement of noise that only permits, in the usual case, "after the event" enforcement provisions to be implemented; and
- \* clarifies with certainty the rights and obligations of the motor sport fraternity, *vis-a-vis* nearby residents.

## Detail of the Bill

### Clauses 1 and 2

Provide the short title for the Bill, and identify that the amendments are to take effect from the date of Gazettal.

### **Clauses 3 and 4**

Identify that the Act being amended by this Bill is the *Noise Control Act 1988*; that the term "Authority" used in the Bill means the Pollution Control Authority and the term "Manual" means the Noise Control Manual prepared by the Authority, and that references to the Minister means the Minister responsible for the *Noise Control Act*.

### **Clause 5**

Amends some of the definitions used in the Act. Most importantly, the clause provides that vehicles involved in organised motor sport will be considered to be making excessive noise if the vehicle fails to comply with the so-called 95 decibels at 30 metres" drive by test (**paragraphs 5(a) and (b)**).

**Paragraph 5(b)** provides the definition of "organised motor sport" only apply to vehicles participating in sport controlled by clubs and bodies affiliated with the governing bodies of the various codes of motor sport such as the Confederation of Australian Motor Sport, Motor Bike Australia and the Australian Karting Association, at facilities operating at the time this Bill commences operation, or such other places where organised motor sport may be relocated to in the future.

**Paragraph 5(c)** removes any doubt that places where organised motor sport is to take place are regarded as "premises" for the purposes of the Act.

### **Clause 6**

Allows the Administrative Appeals Tribunal to review a decision of the Minister with administrative responsibility for this Act to refuse to Gazette any new racetrack to which motor sport is relocated as a place of organised motor sport for the purposes of this Act.

### **Clause 7 and the Schedule**

Adds to the Noise Control Manual published pursuant to the Act a new Section 12, which makes the 95 decibels at 30 metres" test the method of measuring whether motor vehicles involved in motor sport are making excessive noise for the purposes of the Act.

**Subclauses 7(2) to 7(4)** provide that the addition to the Manual is to be treated as if it had been made in the usual way by the Executive, although as the addition has already been approved by the Assembly, the usual requirement of giving the Assembly the right to disallow an amendment to the law made by the Executive is unnecessary, and is suspended for the purposes of this addition to the Manual.