

2009

THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY

ENVIRONMENT PROTECTION AMENDMENT  
REGULATION 2009 (No 1)

SL2009-29

EXPLANATORY STATEMENT

Circulated with the authority of  
Simon Corbell MLA  
Minister for the Environment, Climate Change and Water

## **Environment Protection Amendment Regulation 2009 (No 1)**

### **Outline**

This regulation amends the Environment Protection Regulation 2005. It gives the Minister the power to approve a noise measurement manual, applicable to the ACT, which outlines the procedures to be followed when measuring noise for the purposes of the *Environment Protection Act 1997* and Environment Protection Regulation 2005.

The noise measurement manual will replace the current reference to the Environmental Noise Control Manual, published by the NSW Environment Protection Authority under the Protection of the *Environment Administration Act 1991*. This NSW manual is out of date.

### **Regulation Notes**

**Clause 1** provides that the regulation is the Environment Protection Amendment Regulation 2009 (No 1).

Under **Clause 2** the regulation commences on the day after its notification day.

The regulation amends the Environment Protection Regulation 2005. (See **Clause 3**).

**Clause 4** inserts new section 29A. This section provides that the Minister may approve a manual (the noise measurement manual) for the measurement of noise under the *Environment Protection Act 1997* and the Environment Protection Regulation 2005 (EP Regulation).

It specifies the provisions the noise measurement manual may make (including procedures, instruments and modifying factors for measuring noise). It also makes the noise measurement manual a disallowable instrument.

**Clause 5** amends section 31(b) of the EP Regulation and effectively replaces the noise control manual with the noise measurement manual.

**Clause 6**, Section 31 (b), note 2 refers the reader to section 29A of the EP Regulation for the meaning of a noise measurement manual.

**Clause 7** amends section 67 (2) (g) of the EP Regulation to omit the reference to the *Protection of the Environment Administration Act 1991* (NSW). This reflects the change under this regulation from the noise control manual published under the above Act to the (Ministerial approved) noise measurement manual.

**Clause 8** inserts a new Part 12. This Part continues the operation of the NSW Environmental Noise Control Manual until the Minister approves the noise measurement manual and that manual commences operation.

The Environmental Noise Control Manual (NSW) has been incorporated into this regulation. Section 47(5) of the Legislation Act provides that an incorporated document is a notifiable instrument. This means the Environmental Noise Control Manual (NSW) must be notified on the legislation register, which includes making it electronically available, unless section 47(5) of the Legislation Act is disapplied.

It would be administratively unworkable to make the Environmental Noise Control Manual (NSW) accessible electronically. For that reason section 47(5) of the Legislation Act is disapplied under section 100(2).

The new section 101 means that the manual is available for inspection from the Environment Protection Authority at any reasonable time.

The regulation also provides definitions of the approval day and noise control manual under the new section 100 of the Environment Protection Regulations.

This transitional Part 12 expires on 1 January 2010.

**Clause 9** replaces the old Schedule 2, table 2.3, item 10 with a new item 10 for mobile selling. The old item 10 dealt with noise emitted in the course of mobile selling and referred to the noise control manual. With the commencement of the noise measurement manual that reference will be redundant.

**Clause 10** omits the definition of noise control manual from the dictionary. It inserts a new definition, that of the noise measurement manual, by referring readers to section 29A.