



NOISE CONTROL RESOURCE MANAGEMENT ACT 1991

The Resource Management Act 1991 came into force on 1 October 1991. The noise provisions of this Act are designed to:

- protect people from unreasonable or excessive noise
- provide better noise control in your community
- protect the rights of people and industry to make a reasonable level of noise
- allow the public, the local authorities and police to work together to control noise

Everyone is responsible for the noise they make.

The Act points out that it is *your duty* as an occupier of land, not to make noise that disturbs other people by ensuring noise does not exceed a reasonable level.

What is a reasonable level of noise?

Noise can disturb some people and not others. The Upper Hutt City Council has Noise Control Officers, who investigate complaints and decide whether the noise complained of is reasonable, unreasonable or excessive. If you have a problem with noise from your neighbour's place, try talking to them first. Often a friendly word over the fence is all that is required. While such noise may be a nuisance to you temporarily, provided the hours of operation are reasonable, noise control may not consider the noise excessive or unreasonable. E.g. lawn mowing during the daytime.

Excessive noise

Excessive noise is noise under human control, which unreasonably interferes with the peace, comfort and convenience of any person. Excessive noise differs from unreasonable noise, which is explained later in this brochure.

Most complaints are investigated under the excessive noise provisions of the Act. Loud party and stereo noise are by far the most common complaints. When making a complaint, you will often be asked to confirm that the noise has been occurring for at least 30 minutes. This is because many noisy activities only occur for a limited time, usually less than 30 minutes.

On investigation of a complaint, if the noise is deemed excessive, a noise control officer or Police officer may direct the occupier or person responsible for causing the excessive noise to immediately reduce it to a reasonable level. The assessment required is subjective and no noise measurements have to be taken. Once a direction to reduce noise to a reasonable level has been given, no one on the premises may generate excessive noise for 72 hours.

What happens if the notice is not complied with?

If the person/persons on the premises, who have been issued with the Notice refuse to reduce the noise to a reasonable level, or there is a repeat offence within the 72 hour period, the Noise Control Officer, with assistance of the Police, has the right to:

- seize/remove whatever is making the noise
- take away any working parts
- lock up or seal off the object making the noise, or
- take any other steps needed to reduce noise

Council, in some instances may issue an Infringement Notice, which carries a fee of \$500.

It should be noted that anyone making unreasonable or excessive noise can be fined up to \$10,000 and where the offence is a continuing one, a further fine of up to \$1,000 for each day the offence is continued.

What happens to equipment, which is seized?

Any equipment seized is held by the Upper Hutt City Council for a period of 72 hours, before it can be released to the owner, provided Council is satisfied that there will not be a repeat offence. A fee of \$130.00 + \$4.50 per month after the first month of storage is payable upon collection of the equipment. (This covers the cost of removal and storage). The claimant of the seized equipment must also be able to satisfy Council that they are the legal owner, or the person from whom the equipment was seized. This can be achieved by bringing in the Notice, sufficient identification, and/or details of ownership.

Unreasonable Noise

There are certain noisy activities in our community that Noise Control cannot reduce or abate immediately, such as continuous industrial or commercial noise and ongoing business related noise. In these situations noise measurements are normally required over a period of time. The Council also controls noise from building and construction activities. Noise from these activities are

required to comply with the NZ Standard for Construction Noise, which allows construction-related noise, within set hours. Unreasonable noise complaints are investigated by an Environmental Health Officer, and measurements may be taken to determine if the noise is breaching the Noise Rules contained in the City of Upper Hutt District Plan. Anyone making unreasonable noise may be served an Abatement Notice. This Notice requires action to be taken to reduce the noise to a reasonable level within a defined period of time.

Appeals

If you believe that any notice or action taken to reduce noise is not fair, you can appeal to the Environment Court. The noise must be reduced until the appeal is heard.

Does the Act cover all types of noise?

NO. There are several types of noise, which are specifically covered or controlled by other pieces of legislation. For example:

- Barking Dogs are covered by the **Dog Control Act 1996**. Contact Animal Control Services on 527 2169.
- Noisy vehicles being driven on the road are covered by the **Traffic Regulations 1976**. Contact the Traffic Safety Branch of the NZ Police.
- Noise within the workplace is covered by the **Health and Safety in Employment Act 1992**. Contact the Occupational Safety and Health Service of the Department of Labour.

To register a noise complaint

- Contact the Upper Hutt City Council, at any time, telephone 527 2169.