

The City of Hobart often receives complaints about construction noise in residential areas. The *Environmental Management and Pollution Control (Noise) Regulations 2016* details the prohibited hours of use for mobile machinery and portable equipment.

ENVIRONMENTAL MANAGEMENT AND POLLUTION CONTROL (NOISE) REGULATIONS 2016

Regulation 6. Equipment with noise restrictions relating to hours of use

- (1) A person must not operate equipment, or a machine, specified in Schedule 1, on –
- (a) any residential premises; or
- (b) any site where construction, or demolition, that is not the construction or demolition of a public street, is taking place –
- if the noise emitted by the equipment, or machine, when so operated is, or is likely to be, audible in a habitable room in any residential premises, other than the residential premises referred to in paragraph (a), whether or not the doors and windows of that habitable room are opened or closed.

Penalty: Fine not exceeding 50 penalty units and, in the case of a continuing offence, a further fine not exceeding 5 penalty units for each day during which the offence continues. [The value of a penalty unit is set every year under the *Penalty Units and Other Penalties Act 1987*. In November 2016, one penalty unit was \$157].

- (2) Subregulation (1) does not apply in respect of the operation of equipment, or a machine, if
- (a) the equipment or machine is operated outside the prohibited hours of use specified in Schedule 1 –
- (i) for that equipment or machine; and
- (ii) for the day on which the equipment or machine is operated; and
- (b) the noise emitted by the equipment or machine is not otherwise unlawful.

SCHEDULE 1 PROHIBITED HOURS OF USE FOR MOBILE MACHINERY, FORKLIFT TRUCK OR PORTABLE EQUIPMENT* (see NOTE)

Days of Operation	Prohibited hours of use
(a) Monday to Friday	Before 7 a.m. and after 6 p.m.
(b) Saturday	Before 8 a.m. and after 6 p.m.
(c) Sunday or Public Holiday	Before 10 a.m. and after 6 p.m.

NOTE: Portable equipment includes any equipment that can be demounted and transported without major disassembly, such as a power tool, gas or air compressor, generator, pump or cement mixer.

ANY NOISE MAY BE DETERMINED AS UNREASONABLE

People undertaking construction or demolition work should also be aware that noise created at any time of the day or night may be determined as unreasonable. This includes noise outside the 'Prohibited Hours of Use' specified in Schedule 1 of the Noise Regulations 2016 and noise from equipment that is not listed in the Regulations.

Section 53 of the *Environmental Management and Pollution Control Act 1994* (EMPCA) allows an environmental health officer to consider the following factors when assessing whether a noise is unreasonable and may be causing an environmental nuisance:

- its volume, intensity or duration
- the time, place and other circumstances in which it is emitted
- whether it is, or is likely to be, audible in a habitable room in any other residential premises.



NOISE MEASUREMENT AND AUDIBILITY

Depending on the circumstances, a 'nuisance' assessment may involve measurement of noise levels using a noise meter and recording equipment. However, in most cases, noise measurements would only be one part of a broader nuisance assessment. Section 53A of EMPCA allows 'council officers' to form their own unbiased, reasonable view of whether a noise is audible within a residence, without having to enter that property or even take noise measurements.

The issues listed below would be considered during a noise nuisance assessment:

- the location of the noise source
- the loudness of the noise, especially compared with other noise in the area
- its audibility – particularly in living areas or bedrooms
- the time and duration of the noise
- other noise characteristics (high pitched, vibration, bass)
- whether it is typical for the area
- how often it occurs
- the number of people affected
- its reported effects on people.

WHAT YOU CAN DO TO MINIMISE THE IMPACT OF NOISE ON NEIGHBOURING RESIDENTS AND BUSINESSES

- Consult with local businesses and residents in advance about when the noise is most likely to impact on them.
- Undertake the noisiest activities during the daytime when there is more general background noise, making the environment more tolerable, as opposed to the evening when people are at home resting after work.
- Keep residents and businesses informed about when the noisiest work is going to occur and how long it will take. People are more likely to tolerate some noise if they are kept informed and can organise themselves around it. Include a name and contact number on any communications so they can contact you directly.

FURTHER INFORMATION

For more information, contact:

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Noise from construction and demolition works