

Noise control notice

«AcctPartyName»

«AcctPartyTradingName» AcctPartyABN» if relevant

«AcctPartyACN» if relevant

«PostalAddressStreet»

«PostalAddressSuburb» «PostalAddressState» «PostalAddressPostcode»

Attention: <insert contact name>

By <insert method of service e.g. registered post, email>

Notice Number «NoticeNumber»

File Number «FileNumber»

Date «NoticeIssueDate»

Why is the <insert regulatory authority name> writing to you?

The <insert regulatory authority name> is writing to you in relation to <activities / the use or operation of articles / activities and the use or operation of articles> at «LocationAddress» (**Premises**). The <insert regulatory authority name> has issued you with this noise control notice. Further information is set out in the notice below.

What are you required to do?

Please read this notice carefully and comply with the noise control prohibition specified in this notice. If you have any queries about this matter, please contact <insert name of officer> on <insert phone number>.

Notices should be drafted in the following manner:

- give general overview sentence about the regulatory authority's role
- introduce the person the notice is issued to, the capacity in which that person is receiving the notice, the premises and the relevant activities or articles subject to this notice as applicable
- set out chronologically the regulatory authority's relevant involvement, including any inspections and what was observed (i.e. just stating the facts)
- set out the relevant legislative provisions
- prohibit the person from causing, permitting or allowing:
 - any specified activity to be carried on at the premises, or
 - any specified article to be used or operated at the premises,or both, in a manner to cause the emission from the premises at all times or on specified days, or between specified times on all days or on specified days, of noise that, when measured at any specified point (whether within or outside the premises), is in excess of a specified level.

Background

- A. The <insert regulatory authority name> has responsibility for enforcement of the *Protection of the Environment Operations Act 1997* (POEO Act).
- B. **Insert whichever is applicable:**
«AcctPartyName» is the occupier of the Premises in that «AcctPartyName» has management or control of the Premises for the purposes of s 264 of the POEO Act. <Set out the facts that support the statement that the notice recipient has management or control of the Premises. If the accountable party is using a business or trading name, include those details for context, but make sure that the entity specified as the accountable party is either a person or a corporation.>
OR
«AcctPartyName» carries on, or proposes to carry on, <set out details of the activity that is the subject of this notice> at the Premises. <Set out any relevant details to support the statement that the notice recipient carries on or proposes to carry on the relevant activity at the Premises. If the accountable party is using a business or trading name, include those details for context, but make sure that the entity specified as the accountable party is either a person or a corporation.>
OR
«AcctPartyName» uses or operates, or proposes to use or operate, an <set out the details of the article that is the subject of this notice> at the Premises. <Set out any relevant facts to support the statement that the notice recipient uses or operates/proposes to use or operate the relevant article at the Premises. If the accountable party is using a business or trading name, include those details for context, but make sure that the entity specified as the accountable party is either a person or a corporation.>
- C. The <insert regulatory authority name> is the appropriate regulatory authority for <set out why the regulatory authority is the ARA. This may require an explanation stepping through the relevant legislation>. <Section 263 of the POEO Act states that the marine authority is the ARA in relation to vessels in navigable waters, and premises used in connection with vessels and situated adjacent to, or partly or wholly over, navigable waters – delete this text if matter does not relate to vessels in navigable waters>.
- D. <Provide any further details that explain the basis for the notice, including in relation to the activity or article that is subject to the notice>.

Environment Protection Law

- E. The Dictionary to the POEO Act defines:
- i. “noise” as – noise including sound and vibration.
 - ii. <omit if not relevant> “occupier” as – occupier of premises means the person who has management or control of the premises.
- F. Section 264 of the POEO Act allows the <insert regulatory authority name> to issue a noise control notice in relation to a premises to prohibit a person from causing, permitting or allowing any specific activity to be carried out at the premises or any specified article to be used or operated at the premises, or both, in a manner that causes the emission from the premises at all times or on specified days, or between specified times on all days or on specified days, of noise that, when measured at any specified point (either within or outside the premises), is in excess of a specified level.

Noise prohibition

1. The <insert regulatory authority name> by this notice prohibits «AcctPartyName» from causing, permitting or allowing:

<insert specified activity to be carried on at the Premises or specified article to be used or operated at the Premises, or both> in such a manner as to cause the emission from the Premises at <all times / **Specified Times and Days** (defined below in clause 1.1)> of noise that, when measured at <insert any specified point (whether within or outside the Premises) / the **Specified Noise Measuring Point** (defined below in clause 1.2)>, is in excess of < the **Specified Noise Level** (defined below in clause 1.3)>].

1.1 Specified Days and Times

For the purposes of the prohibition above in clause 1, the following times and days are specified <specify here the times and/or days during which the prohibition applies for each activity/article>.

1.2 Specified Noise Measuring Point

For the purposes of the prohibition above in clause 1, the following noise measuring point is specified <Specify here the point at which the noise is to be measured for each activity/article>.

1.3 Specified Noise Level

For the purposes of the prohibition above in clause 1, the following noise level is specified <Specify here the noise level that is not to be exceeded for each activity/article>.

Fee to be paid

You are required by law to pay a fee for the administrative costs of issuing this notice. An invoice for the fee has been attached to this notice.

It is an offence not to pay this fee. However, you can apply for an extension of time to pay the fee or for the fee to be waived. At the end of this notice there is information about how and when to pay the fee and how to apply for an extension or a waiver of the fee.

.....
«**NoticeAuthorisingOfficer**»
«**NoticeAuthorisingOfficerTitle**»
«**NoticeAuthorisingOfficerSection**»
(by Delegation)

Warnings and information about this noise control notice

- This notice is issued under section 264 of the POEO Act.
- It is an offence to contravene a noise control notice. But a person is not guilty of the offence unless it is established that the emission of the noise from the premises was able to have been detected or perceived outside those premises without the aid of an instrument, machine or device.
- Details provided in this notice will be available on the <insert regulatory authority name> Public Register in accordance with section 308 of the POEO Act.

Penalty for not complying with this notice

The maximum penalty that a court may impose in the case of a corporation is \$60,000 and a further \$6,000 for each day the offence continues and, for an individual, \$30,000 and a further \$600 for each day the offence continues.

Appeals against this notice

You can appeal to the Land and Environment Court against this noise control notice. The deadline for lodging appeals is 21 days (7 days for a notice relating to the keeping of an animal at premises) after you were served with this notice.

When this notice begins to operate

- This notice operates immediately from the day this notice is given unless another day is specified in this notice.
- If an appeal is made against this notice and the Land and Environment Court directs that the notice is stayed, the notice does not operate until: the stay ceases to have effect, or the Land and Environment Court confirms the notice, or you withdraw the appeal (whichever occurs first).
- If this notice does not specify times or days during which the prohibition in the notice operates, the prohibition operates at all times.

Continuing obligation

Under section 319A of the POEO Act, your obligation to comply with the requirements of this notice continues until the notice is complied with in full, even if the due date for compliance has passed.

Deadline for paying the fee

The fee must be paid by **no later than 30 days after the date of this notice**, unless you appeal to a court against this notice, or unless the <insert regulatory authority name> extends the time to pay the fee or waives the fee. If you appeal against this notice and the decision of the court does not invalidate this notice, the fee is payable within 30 days of the decision.

How to pay the fee

Possible methods of payment are listed on the attached invoice/statement.

How to apply for an extension of time to pay/have fee waived

Any application for an extension of time to pay the fee or for the fee to be waived must be made in writing to the <insert regulatory authority name>. The application should set out clearly why you think your application should be granted.

Other costs

The POEO Act allows the <insert regulatory authority name> to recover from you reasonable costs it incurs in monitoring action taken under this notice, ensuring the notice is complied with and any other associated matters.

If you are required to pay these other costs you will later be sent a compliance cost notice in accordance with section 267B of the POEO Act.

The <insert regulatory authority name> may recover any unpaid amounts specified in a compliance cost notice as a debt in a court of competent jurisdiction.

If the person given a compliance cost notice complies with the notice but was not the person who caused the noise, the cost of complying with the notice may be recovered by the person who complied with the notice as a debt in a court of competent jurisdiction from the person who caused the noise.

Variation of this notice

The requirements of this notice may only be varied or revoked by written notice issued by <insert regulatory authority name>.

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