



ST. CHRISTOPHER AND NEVIS

CHAPTER 23.35

NOISE ABATEMENT ACT

Revised Edition

showing the law as at 31 December 2009

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This edition contains a consolidation of the following laws—

NOISE ABATEMENT ACT

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CHAPTER 23.35
NOISE ABATEMENT ACT

AN ACT TO PROVIDE FOR THE ABATEMENT OF EXCESSIVE NOISE, AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

PART I
PRELIMINARY

Short title.

1. This Act may be cited as the Noise Abatement Act.

Interpretation.

2. In this Act—

“Minister” means the Minister responsible for National Security;

“noise abatement zone” means a zone declared to be a noise abatement zone, by the Minister in accordance with section 4.

Exemptions.

3. This Act does not apply to any type of noise specified in the Schedule.

PART II
NOISE ABATEMENT ZONES AND PERMISSION TO EMIT NOISE

Establishment of noise abatement zones.

4. (1) The Minister may declare any part of Saint Christopher and Nevis to be a noise abatement zone by Order published in the *Official Gazette*.

(2) An Order made under subsection (1) shall specify—

- (a) the area to which the Order applies;
- (b) the duration of the Order, if it is not for an indefinite period;
- (c) the days of the week to which the Order applies, if other than every day; and
- (d) the hours of the day to which the Order applies, if other than all hours.

(3) Where a noise abatement zone is declared by the Minister special conditions shall apply to the level of noise that can be emitted in that zone.

Steps to be taken prior to making an Order.

5. (1) Before making an Order under section 4 the Minister shall publish a notice of his intention, in accordance with subsection (2), in the *Official Gazette* and in at least two issues of any newspaper published and circulated in Saint Christopher and Nevis.

- (2) The Minister shall, in the notice referred to in subsection (1), state—
- (a) that the Minister proposes to make an Order and indicate the general effect of that Order;
 - (b) the place where a copy of the proposed Order and of relevant maps, plans and other documents may be inspected by any person free of charge during official working hours for a period of not less than seven days from the date of the last publication of the notice;
 - (c) that within a period of seven days, any person who is likely to be adversely affected by the Order may by notice in writing to the Minister object to the making of the Order.

(3) Where an objection is duly made to the Minister, he shall not make the order without first considering the objection.

(4) Where the Order varies or revokes a previous Order, the Minister may disregard any objection to the Order which in his opinion amounts, in substance, to an objection which was made to the previous Order.

Written permission to emit noise.

6. Notwithstanding sections 4 and 9, the Commissioner of Police may grant written permission allowing noise to be emitted in the manner prescribed by Regulations.

Application.

7. An application for permission to emit noise in a noise abatement zone shall be made to the Commissioner of Police in the manner prescribed by Regulations.

Appeals.

8. An applicant for permission to emit noise who is aggrieved by the decision of the Commissioner of Police may appeal, within seven days of the decision, to a judge in Chambers.

PART III

COMPLAINTS, INVESTIGATIONS AND OTHER AREAS

Noise outside a noise abatement zone.

9. (1) A person shall not cause or make unreasonable noise that disturbs the peace, quiet and comfort of his neighbours in any area outside of a noise abatement zone.

(2) Notwithstanding the generality of subsection (1), it shall be *prima facie* evidence of a violation of this subsection where the noise is unreasonable and is—

- (a) plainly audible at a distance of one hundred feet from the source of the noise; or
- (b) plainly audible in an adjoining apartment or building.

(3) The police may regulate the emission of noise from any property or place in Saint Christopher and Nevis.

Complaints.

10. A person disturbed by noise emitted from any property or place may make a written or oral complaint to the police.

Police duties and investigation.

11. (1) The police, upon—

(a) receipt of a complaint; or

(b) becoming aware of noise which is likely to disturb persons,

shall investigate and notify the person who is directly responsible for the noise, or, if that person cannot be found, the person who occupies the property from which the noise is emitted, that a complaint has been made or that the noise is likely to disturb persons and, if the circumstances so warrant, may direct that person to reduce the noise to such level as seems reasonable to the police officer or issue a notice pursuant to section 13, having regard to all the circumstances.

(2) For the purposes of the police investigation, noise emitted in such a manner as to be plainly audible at a distance of one hundred feet from the source of the noise or which is plainly audible in an adjoining apartment or building shall be considered to be unreasonable noise which may disturb persons.

(3) Notwithstanding subsection (2), the Minister may, after consultation with the Commissioner of Police, prescribe the use of any appropriate device for the detection of noise.

PART IV

MISCELLANEOUS

Offences and penalties.

12. (1) A person who—

(a) fails to comply with a directive from the police to reduce noise; or

(b) fails to comply with the conditions specified in an Order establishing a noise abatement zone,

commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(2) Notwithstanding subsection (1), a person who commits a second or subsequent offence under this Act is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding six months or to both such fine and imprisonment.

Fixed penalty.

13. (1) Notwithstanding subsections 12 (1) and (2), where a person contravenes the provisions of this Act or Regulations made under this Act, a police officer may issue a notice offering the person an opportunity through payment of a fixed penalty to discharge any liability that would arise out of a conviction by a court.

(2) No proceedings shall be brought against a person on whom a notice has been issued under this section until after the expiration of a period of one month from the date of the notice.

(3) Notwithstanding subsections 12 (1) and (2), where a notice has been issued and it is not paid and the person issued with the notice is convicted of an offence, under this Act or Regulations made under this Act, the fine imposed by the Court shall—

- (a) be a minimum of one thousand dollars for a first offence;
- (b) be a minimum of one thousand five hundred dollars for a second or subsequent offence.

(4) The fixed penalty referred to in this section is five hundred dollars.

(5) A notice referred to in this section shall be prepared in triplicate, that is to say, the original which shall be served on the offender, the second copy, which the police officer shall send to the Clerk of the Magistrate's Court and which shall be deemed to be a complaint laid before a Magistrate and a summons issued by the Magistrate for the purposes of the Magistrate's Code of Procedure Act, Cap. 3.17 and the third copy retained by the police officer, and such notice must be served personally on the person responsible for the noise or the person in charge of the source of the noise and must—

- (a) contain a statement of the alleged contravention of this Act with particulars sufficient to inform the offender adequately of the allegation;
- (b) specify the period allowed for payment of the fixed penalty after the expiration of which proceedings will be brought;
- (c) specify the amount of the fixed penalty.

(6) Where the fixed penalty is not paid within the time specified in the notice, proceedings in respect of the offence specified in the notice shall proceed in the manner prescribed by the Magistrate's Code of Procedure Act.

Amendment of Schedule.

14. The Minister may, by order, amend, vary or alter the Schedule to this Act.

Regulations.

15. (1) The Minister may make Regulations generally for giving effect to the provisions of this Act.

(2) Notwithstanding the generality of subsection (1), the Minister may make Regulations to prescribe the following—

- (a) the types of tests to be carried out in relation to the measurement of noise and the methods for making such tests;
- (b) any technical matters, methods of assessment, standards for sound level meters or any other technical equipment, calibration of equipment, methods of use of equipment and persons by whom various assessments or other matters may be carried out;
- (c) all matters that are required or permitted by this Act to be prescribed or that may be convenient for the administration of this Act or that may be necessary or expedient to achieve the purposes of this Act.

(3) Regulations made under this Act may make a contravention of any provision an offence punishable on summary conviction by—

- (a) a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment, for a first offence; or
- (b) a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment, for a second or subsequent offence.

SCHEDULE

(Section 3)

EXEMPTIONS

This Act does not apply to noise emitted—

- (a) by a recognised religious organisation;
 - (b) by an educational institution;
 - (c) in the course of operating a public utility undertaking;
 - (d) by or associated with the operation of aircraft including noise emitted in the course of the maintenance, repair or testing of aircraft engines;
 - (e) in the course of using premises for any purpose of animal husbandry if it is necessary to the attainment of that purpose;
 - (f) for police, fire and rescue or ambulance purposes;
 - (g) by a statutory authority in the exercise of any of its functions;
 - (h) by a garbage truck to inform the members of the public that the truck is collecting the garbage in the area;
 - (i) for the purpose of communicating with persons on board a vessel to direct the movement of that or any other vessel;
 - (j) in the case of an emergency pursuant to section 19 of the Saint Christopher and Nevis Constitution Order 1983;
 - (k) by a musical or noisy instrument fixed or located in a vehicle which is being used for the conveyance of a perishable commodity for human consumption and the noise is solely to inform the members of the public, otherwise than by the means of words, that the perishable commodity is on sale from the vehicle.
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