

Noise in excess of permissible levels

(1) Subject to these Regulations, no person shall, for an activity specified in regulation 6, emit noise in excess of the permissible noise level, unless permitted by a licence issued under these Regulations.

(2) Any person who contravenes sub-regulation (1) commits an offence.

Part III: Control and Mitigation of Noise.

8. Duty to control noise.

(1) It is the duty of the owner of machinery or the owner or occupier of a facility or premises, to use the best practicable means to ensure that the emission of noise from that machinery, facility or premises does not exceed the permissible noise levels.

(2) The owner of machinery, or the owner or occupier of an industry or establishment shall install, at the premises, sound level meters for the measurement and monitoring of sound from the industry or establishment to ensure that the noise emitted does not exceed the permissible noise levels.

(3) The owner of machinery, or the owner or occupier of a facility who contravenes this regulation- commits an offence.

9. Prohibition of generation of noise by place and time.

(1) No person shall emit or cause to be emitted, or permit the emission of noise resulting from any act specified in sub-regulation (2) if that noise is clearly audible at a point of reception or in the neighbourhood for more than two minutes or is within the prohibited time in a residential area or Noise Control Zone as determined by the local council under regulation 5.

(2) The acts referred to in sub-regulation (1) are -

(a) Yelling, laughing, clapping, shouting, hooting, pounding, whistling and singing;

(b) selling or advertising by shouting or outcry or amplified sound;

(c) operation of any equipment in connection with construction;

(d) detonation of fireworks or explosive devices not used in construction:

(e) operating any auditory signalling device, including but not limited to the ringing of bells or gongs and the blowing of horns or sirens or whistles, or the production, reproduction or amplification of any similar sound by electronic means; and

(f) operating or playing a radio or musical instrument or any electronic device or group of connected devices incorporating one or more loudspeakers transducers or other electro-mechanism, which is intended for the production, reproduction or amplification of sound.

(3) Notwithstanding sub-regulation (1), a local council may permit the operation of an electronic device or loudspeakers or the emission of noise for purposes of creating public awareness, demonstration, religious assembly, political debate, cinematography, musical or other theatrical entertainment, beauty competition, handicraft show, fair, circus, private dance, party, lecture or public hearing.

(4) Sub-regulation (1) does not apply to -

(a) noise caused by the operation of a loudspeaker or siren for fire brigade, ambulance or police purposes;

(b) noise caused by emergency measures undertaken to safeguard health, safety or welfare of the people;

(c) noise caused, or continuance of noise caused by a person as a result of temporary Or accidental cause which could not have been prevented by the exercise of due diligence and care on the part of that person;

(d) noise caused by the horn of a vehicle for the purpose of giving sufficient warning of the approach or position of the vehicle;

(e) noise caused at or by an educational class or recreation in or around a school, college, university or other educational institution;

(f) noise caused at or by athletics or sports;

(g) noise caused at a cultural activity or cultural show, funeral service or rite held between the hours of 6.00 a.m. and 11.00 p. m. of the same day in any area;

(h) noise caused at a marriage ceremony or wedding celebration or ritual between the hours of 8.00 a.m. and 11.00 p.m. of the same day; or

(i) noise caused during a period, or by such a cause or for a purpose as the Executive Director may, by notice, specify.

(5) For purposes of this regulation, a residential or Noise Control Zone means a geographical area that encompasses hospitals, schools, residential houses and other institutions that require special considerations for noise control.

(6) A person who contravenes this regulation commits an offence.

10. Noise in streets, Cap 303

Subject to these Regulations, and except where permitted in accordance with the Police Act, a loudspeaker shall not be operated in a street between the hours of 11.00 p.m. and 7.00 a.m. the following day, for any purpose.

11. Noise Control Zone

(1) The Executive Director may, in consultation with a local council, by notice in the Gazette, designate any area as a Noise Control Zone for the purpose of controlling the emission of noise in that area.

(2) A notice issued under sub-regulation (1) shall describe and delimit the area to which it applies, including the radius of the Noise Control Zone, and shall define the period and time of the day during which persons are subject to control, or a particular building which is subject to control.

(3) Where the area in respect of which a Noise Control Zone notice is issued is within a specified radius of any specified building, the notice shall describe and delimit the area by reference to that area, building and radius.

(4) A person who fails to comply with a notice issued under this regulation commits an offence.

Part IV: License for Noise in Excess of Permissible Noise Levels.

12. Application for a license

(1) An owner or occupier of premises whose works or activities are likely to emit noise in excess of the permissible noise levels shall apply to the Executive Director in the form prescribed in Part I of the Second Schedule, for a licence to emit noise in excess of the permissible levels.

(2) The Executive Director, on receiving an application under sub-regulation (1), may issue the occupier or owner of the premises with a licence to emit noise in excess of the permissible levels in the form prescribed in Part II of the Second Schedule, on such terms and conditions as may be contained in the licence.

(3) A licence shall contain requirements relating to the manner in which the works or activities are to be carried out and may, in particular specify -

- the plant or machinery to be used;
- the hours during which the works or activities may be carried out;
- the level of noise which may be emitted in excess of , the permissible noise levels;
- the works or activities and the method by which they are to be carried out; and
- the steps proposed to be taken to minimize noise resulting from the works or activities.

(4) In issuing a licence, the Executive Director shall have regard to -

- the need for ensuring that the best practicable means are employed to minimize noise;
- the desirability, in the interest of a licensee, of other methods or plant or machinery which would be substantially as effective in minimizing noise and which are more acceptable; and
- the need to protect any person in the locality in which the premises in question are situated, from the effects of the noise.

13. Duty to comply with licence

(1) Where the works or activities to which the licence relates are carried out by a person other than the licensee, it is the duty of the licensee to take all steps to ensure that the licence, and any conditions specified in it are complied with by the person carrying out the works or activities.

(2) A person who carries out works or activities, or permits works or activities to be carried out without a licence, or contravenes any requirement or condition of a licence commits an offence.

14. Revocation of licence

The Executive Director may, at any time and after giving notice of seven days to the licensee, revoke a licence if he, or she is satisfied that the conditions of the licence have not been complied with, or that the continued emission of noise in excess of the permissible noise levels is likely to be injurious to the residents in the area, or to the environment.

Part V: Enforcement.

15. General action for noise

- (1) Any person may lodge a complaint with the Executive Director or a local council on the grounds that he or she is aggrieved by noise being emitted, or likely to be emitted, in contravention of these Regulations.
- (2) Any person or group of persons is entitled to bring an action in a court to stop, prevent or control the emission of noise from any source or place.
- (3) In lodging a complaint under sub-regulation (1) or an action under sub-regulation (2) it is not necessary for the complainant to show or prove personal loss or injury or discomfort caused by the emission of the alleged noise.
- (4) On receiving a complaint under sub-regulation (1), the Executive Director or local council shall take all reasonable steps to ensure that the noise is abated or controlled, and that these Regulations are complied with.
- (5) The magistrate's court is the court of first instance for bringing an action for the control of noise under sub-regulation (2).

16. Noise control orders

(1) Where an Environmental Inspector has reasonable cause to believe that any person is emitting or is likely to emit noise in any area in excess of the maximum permissible noise levels, or to cause or likely to cause annoyance, the Environmental Inspector may serve an improvement notice on that person in the form prescribed in the Third Schedule, ordering all or any of the following -

- (a) the stopping of the noise or prevention or discontinuance of any annoyance, or prohibiting or restricting its occurrence or reoccurrence;
- (b) compliance with the permissible noise levels;

(c) the reduction of [he level of noise emanating from the premises to a level as may be specified in the notice:

(d) requiring the carrying out of an environmental audit;

(e) compelling a local council to take measures to prevent, discontinue or stop the emission of the noise;

(f) the prevention of any subsequent increase in the level of noise emanating from the premises or area:

(g) issue such directions intended to contribute to the reduction of emission of excessive noise from or within the vicinity of a specified area;

(h) the execution of such works, and the taking of such steps, as may be specified in the notice; or

(i) carrying out of any other order as may be issued.

(2) Notwithstanding the other provisions of these Regulations, where it appears to the Environmental Inspector that the level of noise emanating from any premises or area is not acceptable or is causing a public nuisance, the inspector may issue an improvement notice, for the benefit of the public.

(3) An improvement notice issued under sub-regulation (1) or (2) shall specify the period within which the requirements of the notice are to be complied with.

(4) The improvement notice shall be served on the person responsible or alleged to cause or likely to cause the noise pollution or annoyance or, if that person cannot be found, or the noise or annoyance has not yet occurred, on the owner or occupier of the premises from which the noise is emitted or is likely to be emitted.

(5) A person on whom an improvement notice is served under this regulation who contravenes or fails to carry out any requirements of the improvement notice commits an offence.

(6) The failure to comply with the conditions in an improvement notice within the period specified in the notice is prima facie evidence of the commission of an offence.

17. Power to confiscate machinery

(1) An Environmental Inspector, the Executive Director or a member of a local council may seize, impound or confiscate any property, tool, machinery or other instrument which is likely to, or has caused the emission of noise, if, in his or her opinion the confiscation would cause tranquility in the area.

(2) The Executive Director, an Environmental Inspector or a member of a local council may remove from the source of the noise, or render inoperable by the removal of any part from, or lock or seal or close so as to make unusable, any instrument, appliance, vehicle, or machine that is producing or contributing to the noise.

(3) The owner of any thing seized, impounded or confiscated under this regulation is responsible for the costs incurred in the confiscation.

18. Restitution of property

(1) Where any property, tool, machinery or other instrument has been seized or impounded or confiscated under regulation 17, the owner or occupier, or person using that property, tool, machinery or other instrument may, at any time, in writing, apply to the Executive Director, Environmental Inspector or local council which seized or impounded it for the property, tool, machinery or other instrument to be returned to him or her.

(2) On receipt of an application under subsection (1), the Executive Director, Environmental Inspector or local council may return the property, tool, machinery or other instrument or part of it, upon being satisfied that its return is not likely to lead to the resumption of the emission of noise, or on terms and conditions as may be directed by the Executive Director, Environmental

Inspector or local council as the case may be.

(3) Nothing in this regulation prevents the Executive Director, Environmental Inspector, or local council from returning the property, tool, machinery or other instrument to which this section applies without being requested to do so.

19. Guidelines for noise from plant

(1) The Executive Director may, in consultation with a lead agency, issue guidelines requiring the use, in connection with any plant or machinery, of devices or arrangements for purposes of reducing the noise caused by the plant or machinery or from other sources of noise.

(2) Guidelines issued under sub-regulation (1) may apply standard specifications, descriptions or tests laid down in relevant documents not forming part of these Regulations.

20. Codes of Practice

For the purpose of giving guidance on appropriate methods, including the use of specified types of plant or machinery for minimizing noise, the Executive Director may by Notice in the Gazette

- (a) issue codes of practice as, in his or her opinion, are suitable for the purpose; and
- (b) approve codes of practice issued or proposed to be issued by other relevant bodies which, in the opinion of the Executive Director, are suitable for the purpose.

21. Offences

(1) A person who -

- (a) emits noise in excess of the permissible noise levels prescribed by regulation 6;
- (b) fails, neglects or refuses to control noise in accordance with these Regulations;
- (c) fails to immediately reduce noise to a permissible noise level when required to do so;

(d) causes or contributes to the emission of noise in excess of the permissible noise levels from or within the vicinity of the premises during a prohibited period:

(e) fails, without lawful justification, to comply with any term or condition of a licence or order issued under these Regulations;

(f) makes a statement, or produces a document, that is false or misleading in a material particular; or

(g) obstructs the Executive Director, an Environmental Inspector or member of a local council in the execution of his or her duties, commits an offence and is liable, on conviction, to a fine not less than one hundred and eighty thousand shillings and not more than eighteen million shillings, or to imprisonment for a term not exceeding eighteen months, or both.

(2) A person convicted of an offence under these regulations for which no penalty is provided is liable, on conviction, to a fine of not less than one hundred and eighty thousand shillings and not more than eighteen million shillings or to imprisonment for a term not exceeding eighteen months, or both.