

DECISION
NO.

CABINET MINUTE

DECISION
NO.

BRISBANE, 28 / 7 / 1981.

35674

CIRCULATION RECORD.

SUBJECT: proposed Amendment - The Noise Abatement Act 1978

(Submission No. 31552)

Hewitt

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C A B I N E T M I N U T E

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Brisbane, 28th July, 1981

Decision No. 35674

Submission No. 31882

TITLE: Proposed Amendment - The Noise
Abatement Act 1978.

CABINET decided:-

That approval be given for a Bill, in accordance with Draft No. 1 accompanying the Submission, to be submitted to the next meeting of the Joint Government Parties with a view to its coming before the House in the present Session.

CIRCULATION: Department of Mapping and Surveying and copy to Minister.
Premier's Department and copy to Premier.
Parliamentary Counsel.
Treasury Department and copy to Treasurer.
Solicitor-General and copy to Minister.
The Honourable the Leader of the House.
All other Ministers for perusal and return.

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Secretary to Cabinet.

SUBMISSION NO.
COPY NO.

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FOR CABINET

PROPOSED AMENDMENT - THE NOISE ABATEMENT ACT 1978

1. By Decision No. 35072 dated 5 May, 1981, Cabinet approved the preparation of a Bill to amend the Noise Abatement Act 1978 to facilitate the administrative efficiency of the Act, to remove certain ambiguities that have been found to exist, and in other minor matters.
2. Preparation of the Bill has now been completed and a copy of Draft No. 1 is attached as Annexure "A" for the information of Ministers.
3. Also attached as Annexure "B" is a Schedule showing the relevant portions of the existing Act, the proposed amendment, and the reason for making such amendments.
4. It is recommended that the Bill as presented by submitted to the next meeting of the Joint Government Parties with a view to its coming before the House in the present session.

W.D. HEWITTMINISTER FOR ENVIRONMENT, VALUATION
AND ADMINISTRATIVE SERVICESDEPARTMENT OF MAPPING AND SURVEYING,
DIVISION OF NOISE ABATEMENT
BRISBANE.

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**Department of Mapping and Surveying
Division of Noise Abatement**

Draft No. 1

1981

A BILL

**To amend the Noise Abatement Act 1978 in certain
particulars**

Noise Abatement Act Amendment Bill—2

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title and citation. (1) This Act may be cited as the *Noise Abatement Act Amendment Act 1981*.

(2) In this Act the *Noise Abatement Act 1978* is referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Noise Abatement Act 1978-1981*.

2. Commencement. (1) This Act other than this section and section 1 shall commence on a date to be fixed by Proclamation.

(2) This section and section 1 shall commence on the date on which the Governor gives his assent to this Act for and on behalf of Her Majesty.

3. Amendment of s. 3. Arrangement of Act. Section 3 of the Principal Act is amended by—

(a) omitting the expression "26" and substituting the expression "26A";

(b) inserting after the word "RESIDENTIAL" the words "OR COMMERCIAL"; and

(c) omitting the expression "40;" and substituting the following expression:—
"40b);

PART IVA—PRESENTATION OF PUBLIC MUSICAL ENTERTAINMENTS
(ss. 40C-40E); "

4. Amendment of s. 4. Application of Act excluded or restricted in certain cases. Section 4 of the Principal Act is amended by in subsection (1)—

(a) inserting after paragraph (a) the following paragraph:—

"(aa) noise emitted in the course of using premises for any purpose of animal husbandry if it is necessary to the attainment of that purpose;"; and

(b) in paragraph (c) inserting after the expression "1978" the words "other than noise made by an intruder alarm system".

5. Amendment of s. 6. Interpretation. Section 6 of the Principal Act is amended by in subsection (1)—

(a) inserting after the definition "agriculture" the following definition:—

" "animal husbandry" means the keeping of animals (other than dogs, horses and poultry) for the purpose of making use of the produce thereof; "

(b) inserting after the definition "by-law" the following definition:—

" "commercial premises" means premises or any part thereof—

(a) that are or will be ordinarily used as a business office or for business or commercial purposes;

(b) that are declared by Order in Council to be commercial premises for the purposes of this Act;";

(c) inserting after the definition "excessive noise" the following definitions:—

" "industrial premises" means premises or any part thereof that are or will be ordinarily used for industrial purposes but does not include premises which are being used solely in connexion with the erection, demolition or renovation of a single residential unit or 2 residential units;

"intruder alarm system" means any device, whether fixed or movable, which operates or is designed to operate so as to activate an audible alarm upon contact being made with the premises or any part thereof on which the system is situated and includes any apparatus or device with which the system is mechanically or electrically connected;".

Noise Abatement Act Amendment Bill—3

(d) in the definition "licence" inserting after the words "renewed licence" the words "but does not include a temporary licence issued under section 26A";

(e) omitting the definition "Minister" and substituting the following definition:—

"Minister" includes a Minister of the Crown who is temporarily performing the duties of the Minister;"

(f) inserting after the definition "Minister" the following definition:—

"motor vehicle" means a motor vehicle within the meaning of the *Traffic Act 1949-1980*;"

(g) inserting after the definition "premises" the following definition:—

"public meeting" means a meeting lawfully held for a lawful purpose and for the furtherance or discussion in good faith of a matter of public concern or for the advocacy of the candidature of any person for public office, whether the meeting is held in the open air or in a building and whether admission to it is open or restricted;"

(h) in the definition "public utility undertaking" omitting the word "medical,".

6. Amendment of s. 8. Application of Part. Section 8 of the Principal Act is amended by—

(a) omitting the expression "(1)";

(b) omitting subsections (2) and (3).

7. Amendment of s. 10. Action upon complaint of excessive noise. Section 10 of the Principal Act is amended by—

(a) in subsection (1) omitting the second and last paragraphs and substituting the following paragraph:—

"Such complaint may be made in writing or verbally but, if made verbally, shall be reduced into writing as soon as possible thereafter;"

(b) in subsection (3) omitting paragraph (b) and substituting the following paragraph:—

"(b) inform the occupier of the premises from which the noise is being emitted that a complaint has been made concerning such noise and the nature of the complaint;"

(c) omitting subsection (4) and substituting the following subsection:—

"(4) Where the Authority considers it desirable to do so it may cause a further assessment of the noise to be made before proceeding to deal further with the matter of the complaint as provided by this Part."

8. New s. 13A. The Principal Act is amended by inserting after section 13 the following section:—

"13A. Authority may appoint committee to exercise its functions etc. under s. 13. (1) The Authority may appoint a committee consisting of members of the Authority and may delegate to that committee all or any of its functions and powers under section 13.

(2) All business of the committee shall be conducted by a quorum at the least, which shall consist of 3 members.

(3) An act or thing done or suffered by the committee acting under a delegation has the same force and effect as if it had been done or suffered by the Authority.

(4) A delegation may be revoked by the Authority at any time and does not prevent or prejudice the performance or exercise of the function or power (the subject of the delegation) by the Authority."

9. Amendment of s. 15. Noise abatement notices. Section 15 of the Principal Act is amended by in subsection (1) omitting the words "which has not been satisfactorily reduced".

10. Amendment of s. 18. Register of orders. Section 18 of the Principal Act is amended by—

(a) numbering the present section as subsection (1);

(b) inserting after subsection (1) as so numbered the following subsection:—

"(2) The register of noise abatement orders may be inspected at the office of the secretary to the Authority by any person during normal office hours."

Noise Abatement Act Amendment Bill—4

11. **New s. 19A.** The Principal Act is amended by inserting after section 19 the following section:—

“19A. **Register of licences.** (1) The Authority shall cause to be kept a register of licences issued by it under section 19.

(2) The register of licences may be inspected at the office of the secretary to the Authority by any person during normal office hours.”

12. **Repeal of and new s. 25.** The Principal Act is amended by repealing section 25 and substituting the following section:—

“25. **No fee payable.** A fee shall not be charged for—

(a) the issuing of a licence or temporary licence to any person;

(b) the renewing of a licence issued to any person; or

(c) the granting of an exemption to any person in respect of a licence.”

13. **New s. 26A.** The Principal Act is amended by inserting after section 26 the following section:—

“26A. **Temporary licences.** (1) Where the chairman of the Authority considers that a noise investigated under section 10 is excessive noise he may issue to the occupier of the premises from which the noise is emitted a temporary licence in the prescribed form.

(2) A temporary licence may be issued—

(a) whether or not the Authority has caused a noise abatement notice to be served on the occupier of the premises; and

(b) at any time before a noise abatement order or a licence under section 19 is issued to the occupier of the premises.

(3) A temporary licence issued pursuant to this section may be issued subject to such conditions as the chairman in his discretion thinks fit.

(4) The conditions subject to which a temporary licence is issued shall be specified in and form part of the licence.

(5) The chairman may in his discretion revoke a temporary licence issued under this section or amend such a licence by—

(a) adding conditions to which the licence shall be subject;

(b) omitting conditions to which the licence is subject; or

(c) amending conditions to which the licence is subject.

(6) A temporary licence shall remain in force—

(a) until a noise abatement order is issued to the occupier of the premises concerned;

(b) until a licence under section 19 is issued to the occupier of the premises concerned;

(c) for a period of 60 days from the issuing of the temporary licence; or

(d) until it is revoked,

whichever is the first to occur.

(7) The occupier of premises to which a temporary licence relates shall not cause or suffer noise to be emitted from those premises save in conformity with the conditions to which the temporary licence is subject.”

14. **Amendment of heading.** The heading of Part IV of the Principal Act is amended by inserting after the word “RESIDENTIAL” the words “OR COMMERCIAL”.

15. **Amendment of s. 28.** Local Authorities may legislate on excessive noise. Section 28 of the Principal Act is amended by in subsection (1) omitting the words “audible in any residential premises” and substituting the expression:—

“(a) emitted from or audible in any residential premises; or

(b) emitted from any premises which are being used solely in connexion with the erection, demolition or renovation of a single residential unit or 2 residential units.”

16. **Amendment of s. 29.** Restriction on Local Authorities’ power to abate noise. Section 29 of the Principal Act is amended by omitting all the words occurring after the word “premises.”

Noise Abatement Act Amendment Bill—5

16~~7~~ Repeal of and new s. 31. The Principal Act is amended by repealing section 31 and substituting the following section:—

“31. Application of Division. This Division applies in respect to the abatement of excessive noise that is—

- (a) emitted by means of a musical instrument;
- (b) emitted by means of an appliance for electrically producing or amplifying music or any other noise;
- (c) emitted by a motor vehicle other than upon a road; or
- (d) a result of a congregation of persons on premises for the purpose of a meeting, party, celebration or like occasion,

and that—

- (e) is audible in any residential or commercial premises; and
- (f) cannot be abated by the taking of action pursuant to any provision of Part III; or
- (g) is not a musical entertainment of a public nature to which Part IV~~A~~ applies.”

17. Amendment of s. 33. Powers of police. Section 33 of the Principal Act is amended by in paragraph (a) of subsection (1) inserting after the word “residential” the words “or, as the case may be, commercial”.

18. Amendment of s. 34. Ss. 32 and 33 not applicable in certain cases. Section 34 of the Principal Act is amended by omitting the second paragraph.

19. New ss. 40A and 40B. The Principal Act is amended by inserting after section 40 the following sections:—

“40A. Show cause proceedings. (1) Where a person has been directed by a member of the police force acting pursuant to section 33 to abate excessive noise forthwith on 3 separate occasions within any period of 6 months, the chairman of the Authority may cause to be served on the person a notice in the prescribed form calling on the person to show cause at the time and place specified therein to a stipendiary magistrate sitting in the Magistrates Court District in which the person is residing at the time when the notice is served on him why he should not forfeit to the Authority a sum not exceeding \$500.

(2) If, at the time and place specified in a notice served under subsection (1) or at the time or place to which the proceedings to show cause may be adjourned, the person served with the notice fails to appear or, having appeared, fails to show, to the satisfaction of the stipendiary magistrate hearing the proceedings—

- (a) that he is not a person on whom a notice to show cause could be served under subsection (1); or
- (b) that, being such a person, any of the directions to abate excessive noise given to him pursuant to section 33 was given in circumstances such that it should not have been given.

the stipendiary magistrate hearing the proceedings may order that such person forfeit to the Authority a sum in such amount not exceeding \$500 as the stipendiary magistrate thinks fit and may further order that such sum be paid to the chairman of the Authority forthwith or within a period specified in the order.

(3) If a person ordered to forfeit a sum to the Authority fails to pay such sum in accordance with the order the chairman of the Authority may recover such sum by action for a debt due and owing to him by such person in a court of competent jurisdiction.

(4) The chairman of the Authority shall cause all such sums paid to or recovered by him to be paid into the Consolidated Revenue Fund.

40B. Abatement of excessive noise when premises left unattended.

(1) If upon investigation of a complaint made under section 32 a member of the police force—

- (a) is satisfied that the noise complained of is clearly audible within a part of the residential or, as the case may be, commercial premises of the complainant that he might be reasonably expected to use (other than for a brief period) at the time of emission of the noise;

Noise Abatement Act Amendment Bill—6

- (b) is of the opinion that the noise is excessive noise;
- (c) is satisfied that there is no person in or on the premises from which the excessive noise is being emitted; and

(d) has heard the excessive noise complained of continue uninterrupted for at least 20 minutes.

that member of the police force, together with such assistants as he considers necessary, may enter upon and into the premises from which the excessive noise is being emitted, using such force as is reasonable for the purpose, and stop or abate the noise forthwith.

(2) A member of the police force shall not leave unattended any premises entered by him pursuant to subsection (1) until he has caused the premises to be restored, at the least, to a condition as secure as that in which the premises were immediately prior to his entry upon and into the premises and for that purpose he may cause to be carried out in relation to the premises such work as he believes to be necessary.

(3) Any costs incurred by a member of the police force as a result of his exercising a power conferred on him by subsection (2) may be recovered from the occupier of the premises from which the excessive noise was being emitted in a court of competent jurisdiction as a debt due and owing to the Crown.

(4) No liability shall be incurred by the Crown or any person on account of damage caused by a member of the police force to any thing that produced or contributed to the production of the excessive noise referred to in subsection (1) consequent upon his taking action, pursuant to this section, to stop or abate the noise if the action taken was, in his opinion formed on reasonable grounds, necessary in the circumstances to stop or abate the noise forthwith."

20. New Part IVA. The Principal Act is amended by inserting after Part IV the following Part:—

"PART IVA—PRESENTATION OF PUBLIC MUSICAL ENTERTAINMENTS

40C. Permit required to present a public musical entertainment. (1) A person shall not present or cause to be presented a musical entertainment of a public nature if in the presentation thereof sound is to be emitted by means of an appliance for electrically producing or amplifying sound unless he has a permit of the Authority so to do.

Penalty: \$10 000.

(2) The Governor in Council may, by Order in Council, exempt from the application of subsection (1) such occasions or descriptions of musical entertainment as he thinks fit and for as long as such exemption subsists that subsection shall not apply to a musical entertainment on an occasion or of a description so exempted.

40D. Permits. (1) The Authority may issue its permit to present a musical entertainment to which section 40C (1) applies upon an application in the prescribed form made to it by a person who is promoting in Queensland the presentation of the entertainment.

(2) An application referred to in subsection (1) shall be lodged with the secretary to the Authority at least 14 days, or such lesser number of days as the Authority may in a particular case allow, prior to the day on which it is proposed to present the entertainment.

(3) Where the Authority issues its permit for the presentation of a musical entertainment it may make the permit subject to such conditions as the Authority thinks fit, being conditions calculated to—

- (a) preventing excessive noise being emitted from such entertainment;
- (b) stipulating the method or methods by which noise emitted from such entertainment may be measured for the purposes of the Authority and the premises or locations within the neighbourhood of such entertainment at which such measurements shall be taken; or
- (c) limiting the period during which noise, whether excessive or not, may be emitted from such entertainment.

Noise Abatement Act Amendment Bill—7

(4) The Authority may, as a condition precedent to its issuing a permit under this section, require the applicant to lodge with it a cash security in such amount not exceeding \$10 000 as it thinks fit as security against a breach of the conditions to which the permit is to be subject committed in the presentation of the musical entertainment to which the permit would relate.

40E. Consequences of breach of permit conditions. (1) If any condition to which a permit issued under section 40D is subject is breached during the presentation of the musical entertainment to which the permit relates the person to whom the permit was issued shall be deemed to have committed an offence against this Act.

(2) Where a person deemed to have committed an offence against this Act by reason of a breach of any condition of a permit has lodged with the Authority a cash security in connexion with that permit and is convicted of the offence deemed to have been so committed the Authority may forfeit the whole amount of such security.

Such forfeiture shall not be effected until the expiration of the time within which an appeal against such conviction may be duly instituted and, if an appeal is duly instituted, unless the conviction is upheld.

(3) Where a person deemed to have committed an offence against this Act by reason of a breach of any condition of a permit has lodged with the Authority a cash security in connexion with that permit and is acquitted of the offence deemed to have been so committed the Authority shall release to him such security held by it.

Such release shall not be effected until the expiration of the time within which an appeal against such acquittal may be duly instituted and, if an appeal is duly instituted unless the acquittal is affirmed.

(4) If within a period of three months after the commission of an offence against this Act by a person deemed to have committed the offence by reason of a breach of any condition of a permit the Authority has not caused proceedings to be commenced against such person in respect of the offence, the Authority shall release to such person the whole of any cash security that he lodged with the Authority in connexion with that permit.

(5) The amount of any cash security forfeited by the Authority pursuant to this section shall be paid to the Consolidated Revenue Fund."

21. Amendment of s. 49. Remuneration of members of Authority. Section 49 of the Principal Act is amended by omitting the expression "48 shall be paid such remuneration as may be prescribed" and substituting the expression "13A or 48 shall be paid such remuneration, if any, as is provided for by Order in Council".

22. New ss. 51A and 51B. The Principal Act is amended by inserting after section 51 the following sections:—

"51A. Power of Governor in Council to rescind decisions etc. of Authority. (1) The Governor in Council may, by Order in Council, at any time rescind any decision or determination of or any order or licence issued by the Authority and may, in relation to any such rescission, give such directions to the Authority as to him seem appropriate.

(2) Every decision, determination, order or licence rescinded pursuant to this section shall be absolutely void as from the making of the decision or determination or, as the case may be, the issuing of the order or licence:

Provided that such rescission shall not affect any penalty imposed prior thereto.

51B. Annual Report. (1) The Authority shall, as soon as practicable but not more than 3 months after the end of each financial year, cause a report on its operations throughout the year to be prepared and furnished to the Minister.

(2) The Minister shall lay the report of the Authority before the Legislative Assembly within 14 sitting days of its receipt by him."

Noise Abatement Act Amendment Bill—8

23. Repeal of and new s. 55. The Principal Act is amended by repealing section 55 and substituting the following section:—

“55. General Penalty. A person guilty of an offence against this Act shall be liable, if no specific penalty is provided for that offence to a penalty—

- (a) for a first such offence—of \$2 500 and in addition, where the offence is a continuing one a further penalty of \$150 for each day during which the offence has continued after the conviction thereof;
- (b) for a second or subsequent such offence, whether the second or subsequent offence is an offence of the same type as any previous offence or otherwise—of \$5 000 and in addition where the offence is a continuing one a further penalty of \$300 for each day during which the offence has continued after the conviction thereof.”.

24. Amendment of s. 57. Regulations. Section 57 of the Principal Act is amended by in subsection (1) inserting after paragraph (c) the following paragraph—

- “(ca) prescribing standards in relation to intruder alarm systems and prohibiting the use of intruder alarm systems which do not comply with those standards;”.

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**Department of Mapping and Surveying
Division of Noise Abatement**

Draft No. 1

1981

A BILL

**To amend the Noise Abatement Act 1978 in certain
particulars**

Noise Abatement Act Amendment Bill—2

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title and citation. (1) This Act may be cited as the *Noise Abatement Act Amendment Act 1981*.

(2) In this Act the *Noise Abatement Act 1978* is referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Noise Abatement Act 1978–1981*.

2. Commencement. (1) This Act other than this section and section 1 shall commence on a date to be fixed by Proclamation.

(2) This section and section 1 shall commence on the date on which the Governor gives his assent to this Act for and on behalf of Her Majesty.

3. Amendment of s. 3. Arrangement of Act. Section 3 of the Principal Act is amended by—

(a) omitting the expression “26” and substituting the expression “26A”;

(b) inserting after the word “RESIDENTIAL” the words “OR COMMERCIAL”; and

(c) omitting the expression “40);” and substituting the following expression:—
“40a);”

PART IVA—PRESENTATION OF PUBLIC MUSICAL ENTERTAINMENTS
(ss. 40C–40E);”

4. Amendment of s. 4. Application of Act excluded or restricted in certain cases. Section 4 of the Principal Act is amended by in subsection (1)—

(a) inserting after paragraph (a) the following paragraph:—

“(aa) noise emitted in the course of using premises for any purpose of animal husbandry if it is necessary to the attainment of that purpose;”; and

(b) in paragraph (c) inserting after the expression “1978” the words “other than noise made by an intruder alarm system”.

5. Amendment of s. 6. Interpretation. Section 6 of the Principal Act is amended by in subsection (1)—

(a) inserting after the definition “agriculture” the following definition:—

““animal husbandry” means the keeping of animals (other than dogs, horses and poultry) for the purpose of making use of the produce thereof;”;

(b) inserting after the definition “by-law” the following definition:—

““commercial premises” means premises or any part thereof—

(a) that are or will be ordinarily used as a business office or for business or commercial purposes;

(b) that are declared by Order in Council to be commercial premises for the purposes of this Act;”;

(c) inserting after the definition “excessive noise” the following definitions:—

““industrial premises” means premises or any part thereof that are or will be ordinarily used for industrial purposes but does not include premises which are being used solely in connexion with the erection, demolition or renovation of a single residential unit or 2 residential units;

“intruder alarm system” means any device, whether fixed or movable, which operates or is designed to operate so as to activate an audible alarm upon contact being made with the premises or any part thereof on which the system is situated and includes any apparatus or device with which the system is mechanically or electrically connected;”.

Noise Abatement Act Amendment Bill—3

(d) in the definition "licence" inserting after the words "renewed licence" the words "but does not include a temporary licence issued under section 26A";

(e) omitting the definition "Minister" and substituting the following definition:—

" "Minister" includes a Minister of the Crown who is temporarily performing the duties of the Minister;"

(f) inserting after the definition "Minister" the following definition:—

" "motor vehicle" means a motor vehicle within the meaning of the *Traffic Act 1949-1980*;"

(g) inserting after the definition "premises" the following definition:—

" "public meeting" means a meeting lawfully held for a lawful purpose and for the furtherance or discussion in good faith of a matter of public concern or for the advocacy of the candidature of any person for public office, whether the meeting is held in the open air or in a building and whether admission to it is open or restricted;"

(h) in the definition "public utility undertaking" omitting the word "medical".

6. Amendment of s. 8. Application of Part. Section 8 of the Principal Act is amended by—

(a) omitting the expression "(1)";

(b) omitting subsections (2) and (3).

7. Amendment of s. 10. Action upon complaint of excessive noise. Section 10 of the Principal Act is amended by—

(a) in subsection (1) omitting the second and last paragraphs and substituting the following paragraph:—

"Such complaint may be made in writing or verbally but, if made verbally, shall be reduced into writing as soon as possible thereafter;"

(b) in subsection (3) omitting paragraph (b) and substituting the following paragraph:—

"(b) inform the occupier of the premises from which the noise is being emitted that a complaint has been made concerning such noise and the nature of the complaint;"

(c) omitting subsection (4) and substituting the following subsection:—

"(4) Where the Authority considers it desirable to do so it may cause a further assessment of the noise to be made before proceeding to deal further with the matter of the complaint as provided by this Part."

8. New s. 13A. The Principal Act is amended by inserting after section 13 the following section:—

"13A. Authority may appoint committee to exercise its functions etc. under s. 13. (1) The Authority may appoint a committee consisting of members of the Authority and may delegate to that committee all or any of its functions and powers under section 13.

(2) All business of the committee shall be conducted by a quorum at the least, which shall consist of 3 members.

(3) An act or thing done or suffered by the committee acting under a delegation has the same force and effect as if it had been done or suffered by the Authority.

(4) A delegation may be revoked by the Authority at any time and does not prevent or prejudice the performance or exercise of the function or power (the subject of the delegation) by the Authority."

9. Amendment of s. 15. Noise abatement notices. Section 15 of the Principal Act is amended by in subsection (1) omitting the words "which has not been satisfactorily reduced".

10. Amendment of s. 18. Register of orders. Section 18 of the Principal Act is amended by—

(a) numbering the present section as subsection (1);

(b) inserting after subsection (1) as so numbered the following subsection:—

"(2) The register of noise abatement orders may be inspected at the office of the secretary to the Authority by any person during normal office hours."

Noise Abatement Act Amendment Bill—4

11. New s. 19A. The Principal Act is amended by inserting after section 19 the following section:—

“19A. Register of licences. (1) The Authority shall cause to be kept a register of licences issued by it under section 19.

(2) The register of licences may be inspected at the office of the secretary to the Authority by any person during normal office hours.”

12. Repeal of and new s. 25. The Principal Act is amended by repealing section 25 and substituting the following section:—

“25. No fee payable. A fee shall not be charged for—

(a) the issuing of a licence or temporary licence to any person;

(b) the renewing of a licence issued to any person; or

(c) the granting of an exemption to any person in respect of a licence.”

13. New s. 26A. The Principal Act is amended by inserting after section 26 the following section:—

“26A. Temporary licences. (1) Where the chairman of the Authority considers that a noise investigated under section 10 is excessive noise he may issue to the occupier of the premises from which the noise is emitted a temporary licence in the prescribed form.

(2) A temporary licence may be issued—

(a) whether or not the Authority has caused a noise abatement notice to be served on the occupier of the premises; and

(b) at any time before a noise abatement order or a licence under section 19 is issued to the occupier of the premises.

(3) A temporary licence issued pursuant to this section may be issued subject to such conditions as the chairman in his discretion thinks fit.

(4) The conditions subject to which a temporary licence is issued shall be specified in and form part of the licence.

(5) The chairman may in his discretion revoke a temporary licence issued under this section or amend such a licence by—

(a) adding conditions to which the licence shall be subject;

(b) omitting conditions to which the licence is subject; or

(c) amending conditions to which the licence is subject.

(6) A temporary licence shall remain in force—

(a) until a noise abatement order is issued to the occupier of the premises concerned;

(b) until a licence under section 19 is issued to the occupier of the premises concerned;

(c) for a period of 60 days from the issuing of the temporary licence; or

(d) until it is revoked.

whichever is the first to occur.

(7) The occupier of premises to which a temporary licence relates shall not cause or suffer noise to be emitted from those premises save in conformity with the conditions to which the temporary licence is subject.”

14. Amendment of heading. The heading of Part IV of the Principal Act is amended by inserting after the word “RESIDENTIAL” the words “OR COMMERCIAL”.

15. Amendment of s. 28. Local Authorities may legislate on excessive noise. Section 28 of the Principal Act is amended by in subsection (1) omitting the words “audible in any residential premises” and substituting the expression:—

“(a) emitted from or audible in any residential premises; or

(b) emitted from any premises which are being used solely in connexion with the erection, demolition or renovation of a single residential unit or 2 residential units.”

16. Amendment of s. 29. Restriction on Local Authorities' power to abate noise. Section 29 of the Principal Act is amended by omitting all the words occurring after the word “premises.”

Noise Abatement Act Amendment Bill—5

16Z Repeal of and new s. 31. The Principal Act is amended by repealing section 31 and substituting the following section:—

“31. Application of Division. This Division applies in respect to the abatement of excessive noise that is—

- (a) emitted by means of a musical instrument;
- (b) emitted by means of an appliance for electrically producing or amplifying music or any other noise;
- (c) emitted by a motor vehicle other than upon a road; or
- (d) a result of a congregation of persons on premises for the purpose of a meeting, party, celebration or like occasion,

and that—

- (e) is audible in any residential or commercial premises; and
- (f) cannot be abated by the taking of action pursuant to any provision of Part III; or
- (g) is not a musical entertainment of a public nature to which Part IVA applies.”

17. Amendment of s. 33. Powers of police. Section 33 of the Principal Act is amended by in paragraph (a) of subsection (1) inserting after the word “residential” the words “or, as the case may be, commercial”.

18. Amendment of s. 34. Ss. 32 and 33 not applicable in certain cases. Section 34 of the Principal Act is amended by omitting the second paragraph.

19. New ss. 40A and 40B. The Principal Act is amended by inserting after section 40 the following sections:—

“40A. Show cause proceedings. (1) Where a person has been directed by a member of the police force acting pursuant to section 33 to abate excessive noise forthwith on 3 separate occasions within any period of 6 months, the chairman of the Authority may cause to be served on the person a notice in the prescribed form calling on the person to show cause at the time and place specified therein to a stipendiary magistrate sitting in the Magistrates Court District in which the person is residing at the time when the notice is served on him why he should not forfeit to the Authority a sum not exceeding \$500.

(2) If, at the time and place specified in a notice served under subsection (1) or at the time or place to which the proceedings to show cause may be adjourned, the person served with the notice fails to appear or, having appeared, fails to show, to the satisfaction of the stipendiary magistrate hearing the proceedings—

(a) that he is not a person on whom a notice to show cause could be served under subsection (1); or

(b) that, being such a person, any of the directions to abate excessive noise given to him pursuant to section 33 was given in circumstances such that it should not have been given,

the stipendiary magistrate hearing the proceedings may order that such person forfeit to the Authority a sum in such amount not exceeding \$500 as the stipendiary magistrate thinks fit and may further order that such sum be paid to the chairman of the Authority forthwith or within a period specified in the order.

(3) If a person ordered to forfeit a sum to the Authority fails to pay such sum in accordance with the order the chairman of the Authority may recover such sum by action for a debt due and owing to him by such person in a court of competent jurisdiction.

(4) The chairman of the Authority shall cause all such sums paid to or recovered by him to be paid into the Consolidated Revenue Fund.

40B. Abatement of excessive noise when premises left unattended. (1) If upon investigation of a complaint made under section 32 a member of the police force—

- (a) is satisfied that the noise complained of is clearly audible within a part of the residential or, as the case may be, commercial premises of the complainant that he might be reasonably expected to use (other than for a brief period) at the time of emission of the noise;

Noise Abatement Act Amendment Bill—6

- (b) is of the opinion that the noise is excessive noise;
- (c) is satisfied that there is no person in or on the premises from which the excessive noise is being emitted; and

(d) has heard the excessive noise complained of continue uninterrupted for at least 20 minutes,
that member of the police force, together with such assistants as he considers necessary, may enter upon and into the premises from which the excessive noise is being emitted, using such force as is reasonable for the purpose, and stop or abate the noise forthwith.

(2) A member of the police force shall not leave unattended any premises entered by him pursuant to subsection (1) until he has caused the premises to be restored, at the least, to a condition as secure as that in which the premises were immediately prior to his entry upon and into the premises and for that purpose he may cause to be carried out in relation to the premises such work as he believes to be necessary.

(3) Any costs incurred by a member of the police force as a result of his exercising a power conferred on him by subsection (2) may be recovered from the occupier of the premises from which the excessive noise was being emitted in a court of competent jurisdiction as a debt due and owing to the Crown.

(4) No liability shall be incurred by the Crown or any person on account of damage caused by a member of the police force to any thing that produced or contributed to the production of the excessive noise referred to in subsection (1) consequent upon his taking action, pursuant to this section, to stop or abate the noise if the action taken was, in his opinion formed on reasonable grounds, necessary in the circumstances to stop or abate the noise forthwith."

20. **New Part IVA.** The Principal Act is amended by inserting after Part IV the following Part:—

"PART IVA—PRESENTATION OF PUBLIC MUSICAL ENTERTAINMENTS

40C. Permit required to present a public musical entertainment. (1) A person shall not present or cause to be presented a musical entertainment of a public nature if in the presentation thereof sound is to be emitted by means of an appliance for electrically producing or amplifying sound unless he has a permit of the Authority so to do.

Penalty: \$10 000.

(2) The Governor in Council may, by Order in Council, exempt from the application of subsection (1) such occasions or descriptions of musical entertainment as he thinks fit and for as long as such exemption subsists that subsection shall not apply to a musical entertainment on an occasion or of a description so exempted.

40D. Permits. (1) The Authority may issue its permit to present a musical entertainment to which section 40C (1) applies upon an application in the prescribed form made to it by a person who is promoting in Queensland the presentation of the entertainment.

(2) An application referred to in subsection (1) shall be lodged with the secretary to the Authority at least 14 days, or such lesser number of days as the Authority may in a particular case allow, prior to the day on which it is proposed to present the entertainment.

(3) Where the Authority issues its permit for the presentation of a musical entertainment it may make the permit subject to such conditions as the Authority thinks fit, being conditions calculated to—

- (a) preventing excessive noise being emitted from such entertainment;
- (b) stipulating the method or methods by which noise emitted from such entertainment may be measured for the purposes of the Authority and the premises or locations within the neighbourhood of such entertainment at which such measurements shall be taken; or
- (c) limiting the period during which noise, whether excessive or not, may be emitted from such entertainment.

(4) The Authority may, as a condition precedent to its issuing a permit under this section, require the applicant to lodge with it a cash security in such amount not exceeding \$10 000 as it thinks fit as security against a breach of the conditions to which the permit is to be subject committed in the presentation of the musical entertainment to which the permit would relate.

40E. Consequences of breach of permit conditions. (1) If any condition to which a permit issued under section 40D is subject is breached during the presentation of the musical entertainment to which the permit relates the person to whom the permit was issued shall be deemed to have committed an offence against this Act.

(2) Where a person deemed to have committed an offence against this Act by reason of a breach of any condition of a permit has lodged with the Authority a cash security in connexion with that permit and is convicted of the offence deemed to have been so committed the Authority may forfeit the whole amount of such security.

Such forfeiture shall not be effected until the expiration of the time within which an appeal against such conviction may be duly instituted and, if an appeal is duly instituted, unless the conviction is upheld.

(3) Where a person deemed to have committed an offence against this Act by reason of a breach of any condition of a permit has lodged with the Authority a cash security in connexion with that permit and is acquitted of the offence deemed to have been so committed the Authority shall release to him such security held by it.

Such release shall not be effected until the expiration of the time within which an appeal against such acquittal may be duly instituted and, if an appeal is duly instituted unless the acquittal is affirmed.

(4) If within a period of three months after the commission of an offence against this Act by a person deemed to have committed the offence by reason of a breach of any condition of a permit the Authority has not caused proceedings to be commenced against such person in respect of the offence, the Authority shall release to such person the whole of any cash security that he lodged with the Authority in connexion with that permit.

(5) The amount of any cash security forfeited by the Authority pursuant to this section shall be paid to the Consolidated Revenue Fund."

21. Amendment of s. 49. Remuneration of members of Authority. Section 49 of the Principal Act is amended by omitting the expression "48 shall be paid such remuneration as may be prescribed" and substituting the expression "13A or 48 shall be paid such remuneration, if any, as is provided for by Order in Council".

22. New ss. 51A and 51B. The Principal Act is amended by inserting after section 51 the following sections:—

"51A. Power of Governor in Council to rescind decisions etc. of Authority. (1) The Governor in Council may, by Order in Council, at any time rescind any decision or determination of or any order or licence issued by the Authority and may, in relation to any such rescission, give such directions to the Authority as to him seem appropriate.

(2) Every decision, determination, order or licence rescinded pursuant to this section shall be absolutely void as from the making of the decision or determination or, as the case may be, the issuing of the order or licence:

Provided that such rescission shall not affect any penalty imposed prior thereto.

51B. Annual Report. (1) The Authority shall, as soon as practicable but not more than 3 months after the end of each financial year, cause a report on its operations throughout the year to be prepared and furnished to the Minister.

(2) The Minister shall lay the report of the Authority before the Legislative Assembly within 14 sitting days of its receipt by him."

Noise Abatement Act Amendment Bill—8

23. Repeal of and new s. 55. The Principal Act is amended by repealing section 55 and substituting the following section:—

“55. General Penalty. A person guilty of an offence against this Act shall be liable, if no specific penalty is provided for that offence to a penalty—

- (a) for a first such offence—of \$2 500 and in addition, where the offence is a continuing one a further penalty of \$150 for each day during which the offence has continued after the conviction thereof;
- (b) for a second or subsequent such offence, whether the second or subsequent offence is an offence of the same type as any previous offence or otherwise—of \$5 000 and in addition where the offence is a continuing one a further penalty of \$300 for each day during which the offence has continued after the conviction thereof.”

24. Amendment of s. 57. Regulations. Section 57 of the Principal Act is amended by in subsection (1) inserting after paragraph (e) the following paragraph—

- “(ea) prescribing standards in relation to intruder alarm systems and prohibiting the use of intruder alarm systems which do not comply with those standards;”.

Existing

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. **1. Citation.** This Act may be cited as the *Noise Abatement Act 1978*.

2. **2. Commencement of Act.** The Governor may, by Proclamation—
 - (a) appoint a date on which this Act shall come into operation; or
 - (b) appoint dates on which the provisions of this Act specified in the Proclamation shall come into operation.

Such dates may be appointed in one or in different Proclamations.

This Act, or a provision thereof specified in the Proclamation, shall come into operation on the date appointed by Proclamation made under this section for the coming into operation of this Act or, as the case may be, that provision.

3. **3. Arrangement of Act.** This Act is divided into Parts as follows:—

PART I—PRELIMINARY (ss. 1-6);

PART II—ADMINISTRATION (ss. 7-7A);

PART III—ABATEMENT OF EXCESSIVE NOISE FROM COMMERCIAL AND INDUSTRIAL PREMISES;

Division 1—General (ss. 8-14);

Division 2—Noise Abatement Notices (s. 15);

Division 3—Noise Abatement Orders (ss. 16-18A);

Division 4—Licensing Provisions (ss. 19-26);

Division 5—Appeals (s. 27);

PART IV—ABATEMENT OF EXCESSIVE NOISE AFFECTING RESIDENTIAL PREMISES;

Division 1—Excessive Noise from Machines etc. (ss. 28-30);

Division 2—Excessive Noise from Musical Instruments or Rowdy Premises (ss. 31-40);

PART V—ABATEMENT OF EXCESSIVE NOISE FROM MOTOR VEHICLES (s. 41);

PART VI—NOISE ABATEMENT AUTHORITY (ss. 42-52);

PART VII—MISCELLANEOUS PROVISIONS (ss. 53-58).

4. **4. Application of Act excluded or restricted in certain cases.** (1) This Act does not apply in respect of—

(a) noise emitted in the course of using premises for any purpose of agriculture if it is necessary to the attainment of that purpose having regard to seasonal requirements in relation to that purpose;

(b) noise emitted in the course of operating a public utility undertaking if it is necessary to the ordinary operation of the undertaking to emit noise of the nature and to the degree of the noise so emitted;

(c) noise emitted from licensed premises within the meaning of the *Liquor Act 1912-1978*;

(d) noise emitted by the ringing of bells or the operation of carillons associated with the conduct of religious activities.

Existing

5.

New Definition

(a) commercial premises are premises or any part thereof that are or will be ordinarily used as a business office or for business or commercial purposes but not premises or any part thereof that are places of assembly;

(b) industrial premises are premises or any part thereof that are or will be ordinarily used for industrial purposes.

New Definition

"licence" means a valid and unexpired licence issued under this Act whether it is an original or a renewed licence;

"Minister" means the Minister for Local Government and Main Roads or other Minister of the Crown who at the material time is charged with the administration of this Act and includes any person who at the material time is performing the duties of the Minister;

Existing

New Definition

"public utility undertaking" means any work, service or other activity—

- (a) in connexion with the provision of medical, ambulance, police or firefighting services;
- (b) in the operation of rolling stock in connexion with the provision of public railway services: or
- (c) determined by the Governor in Council by Order in Council to be a public utility undertaking for the purposes of this Act;

6.

8. Application of Part. (1) This Part applies in respect of the abatement of excessive noise emitted from commercial or industrial premises.

(2) For the purposes of this Part—

- (a) commercial premises are premises or any part thereof that are or will be ordinarily used as a business office or for business or commercial purposes but not premises or any part thereof that are places of assembly;
- (b) industrial premises are premises or any part thereof that are or will be ordinarily used for industrial purposes.

(3) "Places of assembly" referred to in subsection (2) are premises or any part thereof used—

- (a) as public halls, theatres, picture theatres, music halls, concert halls or dance halls;
- (b) as meeting places of lodges, associations, friendly societies, clubs or like organizations;
- (c) as places of public assembly, whether or not so used for purposes of gain.

Existing

7.

10. Action upon complaint of excessive noise. (1) A person desirous of making a complaint concerning alleged excessive noise may do so to the Authority.

Such complaint may be made in writing in the prescribed form or verbally but, if made verbally, shall be reduced into the prescribed form as soon as possible thereafter.

The prescribed form shall be made available by the Authority free of charge.

(2) If the Authority, having regard to all the circumstances, considers that a complaint made under subsection (1) is of a frivolous or vexatious nature, it may reject the complaint and take no action in respect of it.

A rejection of a complaint by the Authority and its failure to take action in respect of it shall not be questioned in any proceedings whatever.

(3) Subject to subsection (2), it is the duty of the Authority to investigate a complaint made to it under subsection (1) and—

(a) by whatever means it considers adequate, assess the noise being emitted from the premises to which the complaint relates; and

(b) inform the occupier of the premises from which the noise is being emitted,

(i) that a complaint has been made concerning such noise and the nature of the complaint; and

(ii) that a further assessment of such noise will be made after the expiration of seven days from the occupier being so informed to ascertain whether there has been any abatement of the noise being emitted from the premises.

(4) If after the further assessment referred to in subsection (3) the Authority considers that the noise emitted from the premises in question has not been satisfactorily abated, it shall proceed to deal with the matter of the complaint as provided by this Part.

8.

New Section

9.

15. Noise abatement notices. (1) Where the Authority considers that a noise investigated under section 10 is excessive noise which has not been satisfactorily reduced it may cause a noise abatement notice to be served on the occupier of the premises from which the noise is emitted.

Existing

10.

13. Register of orders. The Authority shall cause to be kept a register of noise abatement orders issued by it.

11.

New Section

12.

25. Fees to be paid for licences etc. Before the Authority—

(a) issues a licence to any person;

(b) renews a licence issued to any person; or

(c) grants an exemption to any person in respect of a licence,

that person shall pay to the Authority the prescribed fee, which shall not exceed \$50 for any of those purposes.

13.

New Section

Existing

14.

PART IV—ABATEMENT OF EXCESSIVE NOISE AFFECTING RESIDENTIAL PREMISES

15.

28. Local Authorities may legislate on excessive noise. (1) The power conferred on Local Authorities by the *Local Government Act 1936-1977* or the *City of Brisbane Act 1924-1977* to make by-laws or ordinances includes power to make by-laws or ordinances in relation to the abatement of excessive noise that is audible in any residential premises.

16.

29. Restriction on Local Authorities' power to abate noise. It is not competent to a Local Authority to provide, by by-law or ordinance, for the abatement of excessive noise emitted by any means or in any circumstances if the abatement of such noise emitted by those means or in those circumstances is provided for by this Act and in particular for the abatement of excessive noise emitted from commercial or industrial premises while being used for a business, commercial or industrial purpose.

16Z.

31. Application of Division. (1) This Division applies in respect of the abatement of excessive noise that is—

- (a) emitted by means of a musical instrument or an appliance for electrically producing or amplifying music or other noise;
- (b) emitted by a motor cycle other than on a road;
- (c) a result of a congregation of persons on premises for the purpose of a meeting, party, celebration or like occasion; or
- (d) emitted from places of assembly,

and that—

- (i) is audible in any residential premises; and
- (ii) cannot be abated by the taking of action pursuant to any provision of Part III.

(2) In subsection (1)—

- (a) the expression "places of assembly" has the meaning assigned to places of assembly by section 8 (3); and
- (b) the expression "motor cycle" has the meaning assigned to it from time to time by the *Traffic Act 1949-1977*.

Existing

17.

33. Powers of police. (1) If upon investigation of a complaint made under section 32 a member of the police force—

- (a) is satisfied that the noise complained of is clearly audible within a part of the residential premises of the complainant that he might be reasonably expected to use (other than for a brief period) at the time of emission of the noise; and

18.

34. Ss. 32 and 33 not applicable in certain cases. Sections 32 and 33 do not apply in the case of noise emitted from premises by a public meeting held thereon or therein under the authority of a permit duly issued under any Act or law and in accordance with the conditions (if any) of such permit with respect to the amplification or reproduction of sound by means of any electrical or other mechanical appliance, apparatus or device or by other means whatever.

In this section the expression "public meeting" means a meeting lawfully held for a lawful purpose and for the furtherance or discussion in good faith of a matter of public concern or for the advocacy of the candidature of any person for public office, whether the meeting is held in the open air or in a building and whether admission to it is open or restricted.

19.

New Sections

Existing

Existing

20.

New Part

Existing

21.

49. Remuneration of members of Authority. A member of the Authority and of any committee appointed under section 48 shall be paid such remuneration as may be prescribed.

A member of the Authority or of a committee who is an officer of the Public Service of the State shall not be paid any remuneration on account of his attendance at meetings of the Authority or committee during his ordinary hours of duty but he shall be entitled to expenses as prescribed necessarily incurred by him in so attending.

22.

New Sections

23.

55. General penalty. A person guilty of an offence against this Act shall be liable, if no specific penalty is provided for that offence, to a penalty not exceeding \$500 and in addition, where the offence is a continuing one a further sum not exceeding \$100 for each day during which the offence has continued after conviction thereof.

Existing

24.

New Clause

Proposed

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. 1. Short title and citation. (1) This Act may be cited as the *Noise Abatement Act Amendment Act 1981*.
 (2) In this Act the *Noise Abatement Act 1978* is referred to as the Principal Act.
 (3) The Principal Act as amended by this Act may be cited as the *Noise Abatement Act 1978-1981*.

2. 2. Commencement. (1) This Act other than this section and section 1 shall commence on a date to be fixed by Proclamation.
 (2) This section and section 1 shall commence on the date on which the Governor gives his assent to this Act for and on behalf of Her Majesty.

3. 3. Amendment of s. 3. Arrangement of Act. Section 3 of the Principal Act is amended by—
 (a) omitting the expression "26" and substituting the expression "26A";
 (b) inserting after the word "RESIDENTIAL" the words "OR COMMERCIAL"; and
 (c) omitting the expression "40):" and substituting the following expression:—
 "40a);

PART IVA—PRESENTATION OF PUBLIC MUSICAL ENTERTAINMENTS (ss. 40C-40E); "

4. 4. Amendment of s. 4. Application of Act excluded or restricted in certain cases. Section 4 of the Principal Act is amended by in subsection (1)—
 (a) inserting after paragraph (a) the following paragraph:—
 "(aa) noise emitted in the course of using premises for any purpose of animal husbandry if it is necessary to the attainment of that purpose;"; and
 (b) in paragraph (c) inserting after the expression "1978" the words "other than noise made by an intruder alarm system".

REASON: (a) TO EXCLUDE CERTAIN ASPECTS OF ANIMAL HUSBANDRY
 FROM THE APPLICATION OF THE ACT

(b) TO PLACE NOISE FROM INTRUDER ALARMS LOCATED ON
 LICENSED PREMISES UNDER THE JURISDICTION OF THIS
 ACT.

Proposed

5.

5. Amendment of s. 6. Interpretation. Section 6 of the Principal Act is amended by in subsection (1)—

(a) inserting after the definition "agriculture" the following definition:—

"animal husbandry" means the keeping of animals (other than dogs, horses and poultry) for the purpose of making use of the produce thereof: "

REASON: TO INCLUDE THE DEFINITION OF "ANIMAL HUSBANDRY"

(b) inserting after the definition "by-law" the following definition:—

"commercial premises" means premises or any part thereof—

(a) that are or will be ordinarily used as a business office or for business or commercial purposes;

(b) that are declared by Order in Council to be commercial premises for the purposes of this Act; "

REASON: TO REDEFINE THE DEFINITION OF "COMMERCIAL PREMISES", AND TRANSFER IT FROM S.8 TO S.6(1)

(c) inserting after the definition "excessive noise" the following definitions:—

"industrial premises" means premises or any part thereof that are or will be ordinarily used for industrial purposes but does not include premises which are being used solely in connexion with the erection, demolition or renovation of a single residential unit or 2 residential units;

REASON: TO REDEFINE THE DEFINITION OF "INDUSTRIAL PREMISES", AND TRANSFER IT FROM S.8 TO S.6(1)

"intruder alarm system" means any device, whether fixed or movable, which operates or is designed to operate so as to activate an audible alarm upon contact being made with the premises or any part thereof on which the system is situated and includes any apparatus or device with which the system is mechanically or electrically connected; "

REASON: TO INCLUDE THE DEFINITION OF "INTRUDER ALARM SYSTEM"

(d) in the definition "licence" inserting after the words "renewed licence" the words "but does not include a temporary licence issued under section 26A";

REASON: TO EXCLUDE A TEMPORARY LICENCE, WHICH IS ONLY ISSUED IN EMERGENCY CIRCUMSTANCES, FROM THE DEFINITION OF "LICENCE"

(e) omitting the definition "Minister" and substituting the following definition:—

"Minister" includes a Minister of the Crown who is temporarily performing the duties of the Minister; "

REASON: TO CONFORM TO THE "ACTS INTERPRETATION ACT"

Proposed

(f) inserting after the definition "Minister" the following definition:—

" "motor vehicle" means a motor vehicle within the meaning of the *Traffic Act 1949-1980*;"

REASON: TO INCLUDE THE DEFINITION OF "MOTOR VEHICLE"

(g) inserting after the definition "premises" the following definition:—

" "public meeting" means a meeting lawfully held for a lawful purpose and for the furtherance or discussion in good faith of a matter of public concern or for the advocacy of the candidature of any person for public office, whether the meeting is held in the open air or in a building and whether admission to it is open or restricted;"

REASON: TO TRANSFER THE DEFINITION OF "PUBLIC MEETING" FROM S.34 TO S.6(1)

(h) in the definition "public utility undertaking" omitting the word "medical,".

REASON: TO AVOID LOSS OF CONTROL OVER EQUIPMENT NOISE FROM HOSPITALS.

6. Amendment of s. 8. Application of Part. Section 8 of the Principal Act is amended by—

- (a) omitting the expression "(1)";
- (b) omitting subsections (2) and (3).

REASON: TO CLARIFY THE APPLICATION OF PART III

Proposed

7.

7. Amendment of s. 10. Action upon complaint of excessive noise. Section 10 of the Principal Act is amended by—

(a) in subsection (1) omitting the second and last paragraphs and substituting the following paragraph:—

“Such complaint may be made in writing or verbally but, if made verbally, shall be reduced into writing as soon as possible thereafter.”;

(b) in subsection (3) omitting paragraph (b) and substituting the following paragraph:—

“(b) inform the occupier of the premises from which the noise is being emitted that a complaint has been made concerning such noise and the nature of the complaint.”;

(c) omitting subsection (4) and substituting the following subsection:—

“(4) Where the Authority considers it desirable to do so it may cause a further assessment of the noise to be made before proceeding to deal further with the matter of the complaint as provided by this Part.”

REASON: (a) TO ELIMINATE THE REQUIREMENT TO COMPLETE THE
PRESCRIBED FORM

(b) TO AVOID THE NECESSITY FOR A SECOND ASSESSMENT IN
EXTREME SITUATIONS

8.

8. New s. 13A. The Principal Act is amended by inserting after section 13 the following section:—

“13A. Authority may appoint committee to exercise its functions etc. under s. 13. (1) The Authority may appoint a committee consisting of members of the Authority and may delegate to that committee all or any of its functions and powers under section 13.

(2) All business of the committee shall be conducted by a quorum at the least, which shall consist of 3 members.

(3) An act or thing done or suffered by the committee acting under a delegation has the same force and effect as if it had been done or suffered by the Authority.

(4) A delegation may be revoked by the Authority at any time and does not prevent or prejudice the performance or exercise of the function or power (the subject of the delegation) by the Authority.”

REASON: TO ENABLE A SUB-COMMITTEE TO DECIDE SECTION 13
REFERRALS

9.

9. Amendment of s. 15. Noise abatement notices. Section 15 of the Principal Act is amended by in subsection (1) omitting the words “which has not been satisfactorily reduced”.

REASON: TO REMOVE WORDING THAT IMPLIES A SECOND ASSESSMENT
IS MANDATORY

Proposed

10.

10. Amendment of s. 18. Register of orders. Section 18 of the Principal Act is amended by—

(a) numbering the present section as subsection (1);
(b) inserting after subsection (1) as so numbered the following subsection:—

"(2) The register of noise abatement orders may be inspected at the office of the secretary to the Authority by any person during normal office hours."

REASON: TO PROVIDE FOR THE REGISTER OF ORDERS TO BE AVAILABLE TO THE PUBLIC

11.

11. New s. 19A. The Principal Act is amended by inserting after section 19 the following section:—

"19A. Register of licences. (1) The Authority shall cause to be kept a register of licences issued by it under section 19.

(2) The register of licences may be inspected at the office of the secretary to the Authority by any person during normal office hours."

REASON: TO PROVIDE FOR A REGISTER OF LICENCES TO BE KEPT AND FOR IT TO BE AVAILABLE TO THE PUBLIC

12.

12. Repeal of and new s. 25. The Principal Act is amended by repealing section 25 and substituting the following section:—

"25. No fee payable. A fee shall not be charged for—

(a) the issuing of a licence or temporary licence to any person;
(b) the renewing of a licence issued to any person; or
(c) the granting of an exemption to any person in respect of a licence."

REASON: TO DELETE THE REQUIREMENT TO PAY A LICENCE FEE

13.

13. New s. 26A. The Principal Act is amended by inserting after section 26 the following section:—

"26A. Temporary licences. (1) Where the chairman of the Authority considers that a noise investigated under section 10 is excessive noise he may issue to the occupier of the premises from which the noise is emitted a temporary licence in the prescribed form.

(2) A temporary licence may be issued—

(a) whether or not the Authority has caused a noise abatement notice to be served on the occupier of the premises; and
(b) at any time before a noise abatement order or a licence under section 19 is issued to the occupier of the premises.

(3) A temporary licence issued pursuant to this section may be issued subject to such conditions as the chairman in his discretion thinks fit.

(4) The conditions subject to which a temporary licence is issued shall be specified in and form part of the licence.

(5) The chairman may in his discretion revoke a temporary licence issued under this section or amend such a licence by—

(a) adding conditions to which the licence shall be subject;
(b) omitting conditions to which the licence is subject; or
(c) amending conditions to which the licence is subject.

(6) A temporary licence shall remain in force—

(a) until a noise abatement order is issued to the occupier of the premises concerned;
(b) until a licence under section 19 is issued to the occupier of the premises concerned;
(c) for a period of 60 days from the issuing of the temporary licence; or
(d) until it is revoked,

whichever is the first to occur.

(7) The occupier of premises to which a temporary licence relates shall not cause or suffer noise to be emitted from those premises save in conformity with the conditions to which the temporary licence is subject."

REASON: TO PROVIDE FOR THE ISSUE OF A TEMPORARY LICENCE IN EMERGENCY SITUATIONS

Proposed

14.

14. Amendment of heading. The heading of Part IV of the Principal Act is amended by inserting after the word "RESIDENTIAL" the words "OR COMMERCIAL".

REASON: TO INCLUDE NOISE ORIGINATING FROM RESIDENTIAL PREMISES AND AUDIBLE IN COMMERCIAL PREMISES IN PART IV

15.

15. Amendment of s. 28. Local Authorities may legislate on excessive noise. Section 28 of the Principal Act is amended by in subsection (1) omitting the words "audible in any residential premises" and substituting the expression:—

-
- (a) emitted from or audible in any residential premises; or
- (b) emitted from any premises which are being used solely in connexion with the erection, demolition or renovation of a single residential unit or 2 residential units."

REASON: TO INCLUDE RESIDENTIAL NOISE THAT IS AUDIBLE IN COMMERCIAL PREMISES AND CONSTRUCTION SITES FOR A SINGLE RESIDENTIAL UNIT OR TWO RESIDENTIAL UNITS UNDER THE JURISDICTION OF LOCAL AUTHORITIES

16.

16. Amendment of s. 29. Restriction on Local Authorities' power to abate noise. Section 29 of the Principal Act is amended by omitting all the words occurring after the word "premises."

REASON: TO REMOVE THE WORDS "WHILE BEING USED" WHICH INDICATE THAT COMMERCIAL OR INDUSTRIAL PREMISES MUST BE ACTUALLY OPERATING FOR PART III TO APPLY

16Z.

16Z. Repeal of and new s. 31. The Principal Act is amended by repealing section 31 and substituting the following section:—

"31. Application of Division. This Division applies in respect to the abatement of excessive noise that is—

- (a) emitted by means of a musical instrument;
- (b) emitted by means of an appliance for electrically producing or amplifying music or any other noise;
- (c) emitted by a motor vehicle other than upon a road; or
- (d) a result of a congregation of persons on premises for the purpose of a meeting, party, celebration or like occasion,

and that—

- (e) is audible in any residential or commercial premises; and
- (f) cannot be abated by the taking of action pursuant to any provision of Part III; or
- (g) is not a musical entertainment of a public nature to which Part IVA applies."

REASON: TO INCLUDE ALL MOTOR VEHICLES OTHER THAN UPON A ROAD IN PART IV, DIV. II, AND TO REMOVE THE CONCEPT "PLACES OF ASSEMBLY"

Proposed

17.

17. Amendment of s. 33. Powers of police. Section 33 of the Principal Act is amended by in paragraph (a) of subsection (1) inserting after the word "residential" the words "or, as the case may be, commercial".

REASON: TO ENABLE RESIDENTIAL NOISE THAT IS AUDIBLE IN COMMERCIAL PREMISES TO BE ABATED

18.

18. Amendment of s. 34. Ss. 32 and 33 not applicable in certain cases. Section 34 of the Principal Act is amended by omitting the second paragraph.

REASON: THE DEFINITION OF "PUBLIC MEETING" WAS TRANSFERRED TO S.6(1)

19.

19. New ss. 40A and 40B. The Principal Act is amended by inserting after section 40 the following sections:—

"40A. Show cause proceedings. (1) Where a person has been directed by a member of the police force acting pursuant to section 33 to abate excessive noise forthwith on 3 separate occasions within any period of 6 months, the chairman of the Authority may cause to be served on the person a notice in the prescribed form calling on the person to show cause at the time and place specified therein to a stipendiary magistrate sitting in the Magistrates Court District in which the person is residing at the time when the notice is served on him why he should not forfeit to the Authority a sum not exceeding \$500.

(2) If, at the time and place specified in a notice served under subsection (1) or at the time or place to which the proceedings to show cause may be adjourned, the person served with the notice fails to appear or, having appeared, fails to show, to the satisfaction of the stipendiary magistrate hearing the proceedings—

(a) that he is not a person on whom a notice to show cause could be served under subsection (1); or

(b) that, being such a person, any of the directions to abate excessive noise given to him pursuant to section 33 was given in circumstances such that it should not have been given.

the stipendiary magistrate hearing the proceedings may order that such person forfeit to the Authority a sum in such amount not exceeding \$500 as the stipendiary magistrate thinks fit and may further order that such sum be paid to the chairman of the Authority forthwith or within a period specified in the order.

(3) If a person ordered to forfeit a sum to the Authority fails to pay such sum in accordance with the order the chairman of the Authority may recover such sum by action for a debt due and owing to him by such person in a court of competent jurisdiction.

(4) The chairman of the Authority shall cause all such sums paid to or recovered by him to be paid into the Consolidated Revenue Fund.

REASON: TO LIMIT THE NUMBER OF POLICE DIRECTIONS TO ABATE EXCESSIVE NOISE THAT ARE NECESSARY, BEFORE THE ORIGINATOR IS PENALISED

Proposed

40B. Abatement of excessive noise when premises left unattended.

(1) If upon investigation of a complaint made under section 32 a member of the police force—

(a) is satisfied that the noise complained of is clearly audible within a part of the residential or, as the case may be, commercial premises of the complainant that he might be reasonably expected to use (other than for a brief period) at the time of emission of the noise;

(b) is of the opinion that the noise is excessive noise;

(c) is satisfied that there is no person in or on the premises from which the excessive noise is being emitted; and

(d) has heard the excessive noise complained of continue uninterrupted for at least 20 minutes,

that member of the police force, together with such assistants as he considers necessary, may enter upon and into the premises from which the excessive noise is being emitted, using such force as is reasonable for the purpose, and stop or abate the noise forthwith.

(2) A member of the police force shall not leave unattended any premises entered by him pursuant to subsection (1) until he has caused the premises to be restored, at the least, to a condition as secure as that in which the premises were immediately prior to his entry upon and into the premises and for that purpose he may cause to be carried out in relation to the premises such work as he believes to be necessary.

(3) Any costs incurred by a member of the police force as a result of his exercising a power conferred on him by subsection (2) may be recovered from the occupier of the premises from which the excessive noise was being emitted in a court of competent jurisdiction as a debt due and owing to the Crown.

(4) No liability shall be incurred by the Crown or any person on account of damage caused by a member of the police force to any thing that produced or contributed to the production of the excessive noise referred to in subsection (1) consequent upon his taking action, pursuant to this section, to stop or abate the noise if the action taken was, in his opinion formed on reasonable grounds, necessary in the circumstances to stop or abate the noise forthwith."

REASON: TO PROVIDE THE POLICE WITH RIGHT OF ENTRY IN EMERGENCY SITUATIONS, ESPECIALLY WHEN THE NOISE CONTINUES UNABATED RESULTING IN EXTREME ANNOYANCE TO NEIGHBOURS

Proposed

20.

20. New Part IVA. The Principal Act is amended by inserting after Part IV the following Part:—

"PART IVA—PRESENTATION OF PUBLIC MUSICAL ENTERTAINMENTS

40C. Permit required to present a public musical entertainment. (1) A person shall not present or cause to be presented a musical entertainment of a public nature if in the presentation thereof sound is to be emitted by means of an appliance for electrically producing or amplifying sound unless he has a permit of the Authority so to do.

Penalty: \$10 000.

(2) The Governor in Council may, by Order in Council, exempt from the application of subsection (1) such occasions or descriptions of musical entertainment as he thinks fit and for as long as such exemption subsists that subsection shall not apply to a musical entertainment on an occasion or of a description so exempted.

40D. Permits. (1) The Authority may issue its permit to present a musical entertainment to which section 40C (1) applies upon an application in the prescribed form made to it by a person who is promoting in Queensland the presentation of the entertainment.

(2) An application referred to in subsection (1) shall be lodged with the secretary to the Authority at least 14 days, or such lesser number of days as the Authority may in a particular case allow, prior to the day on which it is proposed to present the entertainment.

(3) Where the Authority issues its permit for the presentation of a musical entertainment it may make the permit subject to such conditions as the Authority thinks fit, being conditions calculated to—

- (a) preventing excessive noise being emitted from such entertainment;
- (b) stipulating the method or methods by which noise emitted from such entertainment may be measured for the purposes of the Authority and the premises or locations within the neighbourhood of such entertainment at which such measurements shall be taken; or
- (c) limiting the period during which noise, whether excessive or not, may be emitted from such entertainment.

(4) The Authority may, as a condition precedent to its issuing a permit under this section, require the applicant to lodge with it a cash security in such amount not exceeding \$10 000 as it thinks fit as security against a breach of the conditions to which the permit is to be subject committed in the presentation of the musical entertainment to which the permit would relate.

40E. Consequences of breach of permit conditions. (1) If any condition to which a permit issued under section 40D is subject is breached during the presentation of the musical entertainment to which the permit relates the person to whom the permit was issued shall be deemed to have committed an offence against this Act.

(2) Where a person deemed to have committed an offence against this Act by reason of a breach of any condition of a permit has lodged with the Authority a cash security in connexion with that permit and is convicted of the offence deemed to have been so committed the Authority may forfeit the whole amount of such security.

Such forfeiture shall not be effected until the expiration of the time within which an appeal against such conviction may be duly instituted and, if an appeal is duly instituted, unless the conviction is upheld.

(3) Where a person deemed to have committed an offence against this Act by reason of a breach of any condition of a permit has lodged with the Authority a cash security in connexion with that permit and is acquitted of the offence deemed to have been so committed the Authority shall release to him such security held by it.

Such release shall not be effected until the expiration of the time within which an appeal against such acquittal may be duly instituted and, if an appeal is duly instituted unless the acquittal is affirmed.

(4) If within a period of three months after the commission of an offence against this Act by a person deemed to have committed the offence by reason of a breach of any condition of a permit the Authority has not caused proceedings to be commenced against such person in respect of the offence, the Authority shall release to such person the whole of any cash security that he lodged with the Authority in connexion with that permit.

(5) The amount of any cash security forfeited by the Authority pursuant to this section shall be paid to the Consolidated Revenue Fund."

REASON: TO PROVIDE CONTROL OVER PUBLIC MUSICAL ENTERTAINMENTS, ESPECIALLY OVER OPEN AIR CONCERTS WHICH, AT TIMES IN THE PAST, HAVE GIVEN RISE TO CONSIDERABLE PUBLIC CONCERN

Proposed

21.

21. Amendment of s. 49. Remuneration of members of Authority. Section 49 of the Principal Act is amended by omitting the expression "48 shall be paid such remuneration as may be prescribed" and substituting the expression "13A or 48 shall be paid such remuneration, if any, as is provided for by Order in Council".

REASON: REMUNERATION TO BE PROVIDED FOR BY ORDER IN COUNCIL

22.

22. New ss. 51A and 51B. The Principal Act is amended by inserting after section 51 the following sections:—

"51A. Power of Governor in Council to rescind decisions etc. of Authority. (1) The Governor in Council may, by Order in Council, at any time rescind any decision or determination of or any order or licence issued by the Authority and may, in relation to any such rescission, give such directions to the Authority as to him seem appropriate.

(2) Every decision, determination, order or licence rescinded pursuant to this section shall be absolutely void as from the making of the decision or determination or, as the case may be, the issuing of the order or licence:

Provided that such rescission shall not affect any penalty imposed prior thereto.

REASON: TO PROVIDE FOR THE GOVERNOR IN COUNCIL TO RESCIND DECISIONS, DETERMINATIONS AND ORDERS OF THE AUTHORITY

51B. Annual Report. (1) The Authority shall, as soon as practicable but not more than 3 months after the end of each financial year, cause a report on its operations throughout the year to be prepared and furnished to the Minister.

(2) The Minister shall lay the report of the Authority before the Legislative Assembly within 14 sitting days of its receipt by him."

REASON: TO PROVIDE FOR AN ANNUAL REPORT TO BE MADE BY THE AUTHORITY

23.

23. Repeal of and new s. 55. The Principal Act is amended by repealing section 55 and substituting the following section:—

"55. General Penalty. A person guilty of an offence against this Act shall be liable, if no specific penalty is provided for that offence to a penalty—

(a) for a first such offence—of \$2 500 and in addition, where the offence is a continuing one a further penalty of \$150 for each day during which the offence has continued after the conviction thereof;

(b) for a second or subsequent such offence, whether the second or subsequent offence is an offence of the same type as any previous offence or otherwise—of \$5 000 and in addition where the offence is a continuing one a further penalty of \$300 for each day during which the offence has continued after the conviction thereof."

REASON: TO PROVIDE FOR HIGHER PENALTIES

Proposed

24-

24. Amendment of s. 57. Regulations. Section 57 of the Principal Act is amended by in subsection (1) inserting after paragraph (e) the following paragraph—

"(ea) prescribing standards in relation to intruder alarm systems and prohibiting the use of intruder alarm systems which do not comply with those standards;".

REASON: TO ENABLE INTRUDER ALARM SYSTEMS TO BE THE SUBJECT
OF REGULATION