

NOISE CONTROL AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Noise Control Act 1982.

Clause 1 relates to the Short Title.

Clause 2 repeals the definition of the term “noise control officer” in section 2 of the principal Act, and substitutes a new definition of that term. The amendment is consequential upon the amendment effected by *clause 3*.

Clause 3 inserts a new section 4A in the principal Act. The new section empowers local authorities to engage security firms to carry out the duties of noise control officers as an alternative to, or in addition to, employing their own officers for that purpose.

Clause 4 amends section 13 of the principal Act. The amendment makes it clear that all costs incurred by a local authority in seizing, impounding, transporting, and storing any property seized and impounded pursuant to section 7 or section 11 of the principal Act must be paid before that property may be returned to the occupier of the premises from which it was seized.

Clause 5 inserts a new section 14A in the principal Act. The new section provides that any Court before which any person convicted of an offence against section 5 or section 12 of the principal Act, or against any regulations made under the principal Act, appears for sentence shall, if the information for that offence was laid by a local authority, order that any fine that that Court imposes on the offender be paid to that local authority. Except where any money awarded by a Court in respect of any loss or damage is recovered as a fine, 10 percent of any fine ordered to be paid to a local authority under the new section is to be deducted from the amount paid to the local authority and credited to the Consolidated Account. Section 103 of the Public Finance Act 1977 provides a general authority for the payment of fines to local authorities which institute prosecutions, and the application of that section to such prosecutions under the Noise Control Act 1982 is consequently excluded by subsection (6) of the new section.

Clause 6 amends section 15 of the principal Act by adding a new subsection (4). The new subsection defines the term “dwellinghouse” for the purposes of section 15 so as to exclude the land on which the dwellinghouse is sited. The effect of that exclusion is that noise control officers will be entitled to enter the

land on which a dwellinghouse is sited unaccompanied by a police constable for the purposes of serving a noise abatement notice under section 6 of the principal Act, and of investigating a complaint of excessive noise under section 9 of the principal Act, but will be permitted to enter the dwellinghouse itself for those purposes only if accompanied by a police constable.

Hon. Dr Michael Bassett

NOISE CONTROL AMENDMENT

Title	ANALYSIS
1. Short Title	4. Restitution of property
2. Interpretation	5. Fines to be paid to local authority instituting prosecution
3. Local authorities may contract with security guards to carry out duties as noise control officers	6. Powers of entry

A BILL INTITULED

An Act to amend the Noise Control Act 1982

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. **Short Title**—This Act may be cited as the Noise Control Amendment Act 1986, and shall be read together with and deemed part of the Noise Control Act 1982* (hereinafter referred to as the principal Act).
- 10 2. **Interpretation**—Section 2 of the principal Act is hereby amended by omitting the definition of the term “noise control officer”, and substituting the following definition:
- “ ‘Noise control officer’, in relation to any local authority, means—
- 15 “(a) The officer or each of the officers of that local authority who is appointed as or deemed to be a noise control officer under or by section 4 of this Act; and
- 20 “(b) Any person who is deemed to be a noise control officer by **section 4A** of this Act.”.

*1982, No. 140

3. Local authorities may contract with security guards to carry out duties as noise control officers—The principal Act is hereby amended by inserting, after section 4, the following section:

“4A. (1) Without limiting the provisions of section 4 of this Act, a local authority may contract with any person who is the holder of a security guard’s licence, issued under section 26 of the Private Investigators and Security Guards Act 1974, for that person to carry out the duties of a noise control officer for that local authority.

“(2) Every person with whom a local authority enters into a contract, pursuant to **subsection (1)** of this section, to carry out the duties of a noise control officer for that local authority, and every person who is employed by that person and who holds a certificate of approval issued under section 40 of the Private Investigators and Security Guards Act 1974, shall be deemed, for the purposes of this Act, to be a noise control officer for that local authority.”

4. Restitution of property—Section 13 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) On receipt of an application under subsection (1) of this section, the local authority shall arrange for the restitution of the property upon—

“(a) Being satisfied that the return of the property is not likely to lead to the resumption of the emission of noise from the premises beyond a reasonable level; and

“(b) Payment of all costs incurred by that local authority in seizing, impounding, transporting, and storing the property.”

5. Fines to be paid to local authority instituting prosecution—The principal Act is hereby amended by inserting, after section 14, the following section:

“14A. (1) Subject to **subsection (2)** of this section, where a person is convicted of an offence against section 5 or section 12 of this Act, or against any regulations made under this Act, and the Court before which the offender appears for sentence imposes a fine on the offender, the Court shall, where the information for that offence was laid by a local authority, order that fine to be paid to that local authority.

“(2) There shall be deducted from every amount payable to a local authority under **subsection (1)** of this section a sum equal to 10 percent thereof, and this sum shall be credited to the Consolidated Account.

5 “(3) Notwithstanding anything in **subsection (2)** of this section, where any money awarded by a Court in respect of any loss or damage is recovered as a fine, and that fine is ordered to be paid to a local authority pursuant to **subsection (1)** of this section, no deduction shall be made under **subsection (2)** of this section
10 in respect of that money.

“(4) Subject to **subsection (2)** of this section, an order of the Court made under **subsection (1)** of this section shall be sufficient authority for the Registrar receiving the fine to pay that fine to the local authority entitled to it under the order.

15 “(5) The payment of a fine to a local authority under this section shall not affect the entitlement of that local authority to recover—

 “(a) Any expenses incurred in the abatement of any noise under section 7 of this Act; and

20 “(b) Any costs incurred in seizing, impounding, transporting, or storing any property seized and impounded pursuant to section 7 or section 11 of this Act.

 “(6) Nothing in section 103 of the Public Finance Act 1977 shall apply to any fine ordered to be paid to any local
25 authority pursuant to **subsection (1)** of this section.”

6. Powers of entry—Section 15 of the principal Act is hereby amended by adding the following subsection:

 “(4) For the purposes of this section, ‘dwellinghouse’ means any building or structure, whether permanent or temporary,
30 that is occupied, in whole or in part, as a residence; and includes any building, structure, or outdoor living area that is accessory to, and used wholly or principally for the purposes of, the residence; but does not include the land upon which the residence is sited.”