



## ANALYSIS

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1987, No. 84

**An Act to amend the Noise Control Act 1982**

[28 May 1987

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title**—This Act may be cited as the Noise Control Amendment Act 1987, and shall be read together with and deemed part of the Noise Control Act 1982 (hereinafter referred to as the principal Act).

**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—

“(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

“(b) Any person who is deemed to be a noise control officer by section 4A of this Act.”.

**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.

“(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 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.

“(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

“(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 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, 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.”

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This Act is administered in the Department of Health.

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