

*Mr MacDonell*

## NOISE ABATEMENT

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### ANALYSIS

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### A BILL INTITULED

**An Act to provide for the prevention or reduction of excessive noise**

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 Abatement Act 1970.

**2. Interpretation**—In this Act, unless the context otherwise requires,—

“Premises” includes a ship or an aircraft:

“Local Authority” means a local authority within the meaning of the Local Authorities Loans Act 1956.

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**3. Nuisance defined for the purposes of this Act**—For the purposes of this Act, and without otherwise limiting the meaning of the term “nuisance”, a nuisance shall be deemed to be created where there is any noise which is injurious or dangerous to health or any sound which has a disturbing effect on a reasonable state of physical, mental, and social well-being: 5

Provided that in respect of a noise caused in the course of a trade or business it shall be a defence for the defendant to prove that the best practicable means have been used for prevention, and for counteracting the effect of the noise. 10

**4. Penalty for permitting or causing a nuisance**—(1) Everyone by whose act, default, or sufferance a nuisance arises or continues, whether that person is or is not the owner or occupier of the premises in respect of which the nuisance exists, commits an offence against this Act. 15

(2) Whenever, after any conviction for an offence under this section, the person convicted can lawfully abate the nuisance and fails or neglects, or continues to fail or neglect, to do so, he shall be deemed to have committed a further offence and shall be liable therefor under subsection (1) of this section. 20

**5. Provisions of this Act to be in addition to other rights**—The provisions of this Act relating to a nuisance shall be deemed not to abridge or affect any right, remedy, or proceeding under any other Act or at law or in equity: 25

Provided that no person shall be punished for the same offence both under the provisions of this Act and under any other enactment or any bylaw except as provided in subsection (2) of section 4 of this Act. 30

**6. Provisions of this Act to bind the Crown**—The provisions of this Act shall bind the Crown.

**7. Powers and duties of local authorities in respect of nuisance**—Every local authority shall have all the powers and duties conferred on it by section 23 of the Health Act 1956 in respect of the nuisance defined for the purposes of this Act. 35

**8. Proceedings in respect of nuisance**—(1) All proceedings under this Act in respect of nuisances shall be heard and determined by a Magistrate's Court presided over by a Magistrate alone.

5 (2) The Court, if satisfied that a nuisance exists on any premises or that, though abated, it is likely to recur, may by order—

10 (a) Require the owner and the occupier or the person causing the nuisance to abate the nuisance effectively:

(b) Prohibit the recurrence of the nuisance:

(c) Both require the abatement and prohibit the recurrence of the nuisance:

15 (d) Specify the works to be done in order to abate the nuisance or prevent its recurrence, and the time within which they shall be done.

(3) Every person commits an offence against this Act who makes default in duly complying with any order made under the foregoing provisions of this section.

20 **9. Penalty for offences**—Every person who commits an offence against this Act is liable to a fine not exceeding \$200 and, if the offence is a continuing one, to a further fine not exceeding \$50 for every day on which the offence has continued.

25 **10. Other Acts not affected**—Except as far as may be expressly provided in this Act, nothing in this Act shall be so construed as to limit or affect in any way the provisions of any other Act.