

**Authorised Version No. 002**  
**Environment Protection (Residential Noise)**  
**Regulations 2008**

**S.R. No. 121/2008**

Authorised Version as at  
6 March 2013

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**1 Objectives**

These Regulations—

- (a) prescribe items and the times during which noise resulting from their use is deemed to be unreasonable noise for the purposes of section 48A(5) of the **Environment Protection Act 1970**; and
- (b) in certain circumstances exempt certain premises from the application of those prescriptions.

**2 Authorising provisions**

These Regulations are made under sections 48A(5) and 71 of the **Environment Protection Act 1970**.

**3 Commencement**

These Regulations come into operation on 26 October 2008.

**4 Revocation**

The Environment Protection (Residential Noise) Regulations 1997<sup>1</sup> are **revoked**.

## 5 Definitions

In these Regulations—

***earthmoving machinery*** means plant used to excavate, load, transport or spread earth, overburden, rubble, spoil, aggregate or similar material but does not include—

- (a) plant to compact earth, overburden, rubble, spoil, aggregate or similar material; or
- (b) a tractor or industrial lift truck or a vehicle designed to be used primarily as a means of transport on public roads;

***fringe residential subdivision*** means any relevant land—

- (a) within a growth area or an urban growth zone under any planning scheme; or
- (b) which is undeveloped land that is land identified for future urban development but does not include land within Metropolitan Melbourne that is not in a metropolitan fringe planning scheme within the meaning of section 46AA of the **Planning and Environment Act 1987**;

***growth area*** has the same meaning as it has in section 46AO of the **Planning and Environment Act 1987**;

***land identified for future urban development***

means land which—

- (a) is zoned for residential development under any planning scheme or which is described as for use for future residential development in a Local Planning Policy Framework in any planning scheme or a document that is incorporated into or referenced in a Local Planning Policy Framework; and
- (b) is not land described as infill, brownfield, formerly developed for urban purposes or for redevelopment in a Local Planning Policy Framework in any planning scheme or a document that is incorporated into or referenced in a Local Planning Policy Framework;

***Metropolitan Melbourne*** has the same meaning as it has in the Victoria Planning Provisions;

***relevant land*** means land—

- (a) which is the whole of the land on a certified plan of subdivision under the **Subdivision Act 1988**; and
- (b) part of which is land which is set aside on the certified plan of subdivision as a road; and
- (c) in relation to which an engineering plan submitted by the applicant for subdivision includes specifications for works to construct the road or, if it is already constructed, works to upgrade the road; and
- (d) used for or in connection with any residential premises or upon which a residential premises is under construction;

***storey*** means a space within a building which is situated between one floor level and the floor level next above, or if there is no floor level next above, the ceiling or roof next above, but does not include—

- (a) a space that contains only—
  - (i) a lift, shaft, stairway or meter room; or
  - (ii) a bathroom, shower room, laundry, water closet or other sanitary compartment; or
  - (iii) accommodation intended for not more than 3 vehicles; or
  - (iv) a combination of anything specified in subparagraph (i), (ii) or (iii); or
- (b) a space which is an intermediate floor within a room;

***urban growth zone*** means the zone described in clause 37.07 of the Victoria Planning Provisions;

***Victoria Planning Provisions*** has the same meaning as it has in section 3(1) of the **Planning and Environment Act 1987**.

## 6 Prescribed items and prescribed prohibited times under section 48A(5) of the Environment Protection Act 1970

The following items and prohibited times are prescribed for the purposes of section 48A(5) of the **Environment Protection Act 1970**—

<i>Group</i>	<i>Prescribed items</i>	<i>Prohibited times</i>
1	A motor vehicle (except a vehicle moving in or out of premises), lawn mower or other grass cutting device and any equipment or appliance not falling within Group 2 having an internal combustion engine.	Monday to Friday: before 7am and after 8pm. Weekends and public holidays: before 9am and after 8pm.
2	An electric power tool, chain or circular saw, gas or air compressor, pneumatic power tool, hammer and any other impacting tool and grinding equipment.	Monday to Friday: before 7am and after 8pm. Weekends and public holidays: before 9am and after 8pm.
3	A domestic air conditioner or evaporative cooler, heat pump, swimming pool pump, spa pump, water pump other than a pump being used to fill a header tank, domestic heating equipment (including central heating and hot water systems) and a domestic vacuum cleaner.	Monday to Friday: before 7am and after 10pm. Weekends and public holidays: before 9am and after 10pm.

<i>Group</i>	<i>Prescribed items</i>	<i>Prohibited times</i>
4	A musical instrument and any electrical amplified sound reproducing equipment including a stereo, radio, television and public address system.	Monday to Thursday: before 7am and after 10pm. Friday: before 7am and after 11pm. Saturday and public holidays: before 9am and after 11pm. Sunday: before 9am and after 10pm.
5	Any electric equipment or appliance not falling within Group 2, Group 3, or Group 4, including electric gardening equipment, but not electric equipment or appliances for personal care or grooming, or for heating, refrigeration or preparation of food.	Monday to Friday: before 7am and after 8pm. Weekends and public holidays: before 9am and after 8pm.

**7 Premises on fringe residential subdivisions more than 35 metres from nearest property may be partially exempt from application of section 48A(5) of the Environment Protection Act 1970**

- (1) A residential premises is exempt from the application of section 48A(5) of the **Environment Protection Act 1970** to the listed items in subregulation (2) during the prohibited times between 7am and 9am on a Saturday if the premises is located—
- (a) on a fringe residential subdivision; and
  - (b) more than 35 metres from the nearest point of the property boundary of the closest other residential premises.

- (2) For the purposes of subregulation (1), the listed items are prescribed items in Group 1 or Group 5 in regulation 6 which are equipment that is or a motor vehicle that is—
- (a) earthmoving machinery not using an impacting, vibrating or rotating implement operated by hydraulic or pneumatic means; or
  - (b) a concrete dispensing truck; or
  - (c) compaction plant being a self-propelled single drum vibrating roller or non-vibrating compaction machinery.
- (3) Subregulation (1) ceases to have effect with respect to a residential premises—
- (a) when 20 weeks has elapsed from the commencement of work on the premises using any listed item in subregulation (2); or
  - (b) when the premises is a lot on the certified plan of subdivision referred to in the definition of *relevant land* and the works referred to in that definition required to construct a road or to upgrade a road have been completed on the section of road that adjoins the lot—

whichever occurs first.

**8 Premises on fringe residential subdivisions more than 200 metres from nearest property may be partially exempt from application of section 48A(5) of the Environment Protection Act 1970**

- (1) A residential premises is exempt from the application of section 48A(5) of the **Environment Protection Act 1970** to the listed items in subregulation (2) during the prohibited times between 7am and 9am on a Saturday if the premises is located—



- (a) on a fringe residential subdivision; and
  - (b) more than 200 metres from the nearest point of the property boundary of the closest other residential premises.
- (2) For the purposes of subregulation (1), the listed items are prescribed items in Group 1 or Group 2 or Group 5 in regulation 6 which are—
- (a) equipment that is or a motor vehicle that is—
    - (i) earthmoving machinery using an impacting, vibrating or rotating implement operated by hydraulic or pneumatic means; or
    - (ii) any type of compaction plant; or
    - (iii) any type of motor vehicle or equipment listed in regulation 7(2); or
  - (b) any item from Group 2 in regulation 6 except a pile driver; or
  - (c) any item from Group 5 in regulation 6.
- (3) Subregulation (1) ceases to have effect with respect to a residential premises when the premises is a lot on the certified plan of subdivision referred to in the definition of *relevant land* and the works referred to in that definition required to construct a road or to upgrade a road have been completed on the section of road that adjoins the lot.

**9 Premises with large scale residential developments in non-residential zones may be partially exempt from application of section 48A(5) of the Environment Protection Act 1970**

A premises is exempt from the application of section 48A(5) of the **Environment Protection Act 1970** during the prohibited times prescribed for Groups 1, 2 and 5 in regulation 6 to the items

prescribed in Groups 1, 2 and 5 in regulation 6 if the premises is located on land—

- (a) no part of which is occupied by a person as a residence; and
- (b) upon which a residential premises is under construction; and

**Note**

A residential premises under construction may include a residential premises being extended or structurally altered or commercial or industrial premises being converted into a residence.

- (c) no part of which is zoned residential under any planning scheme; and

**Example**

For example, zones R1Z, R2Z, LDRZ, MUZ, TZ or R3Z, which are the residential zones specified in clause 32 of the Victoria Planning Provisions.

- (d) upon which the residential premises has, or will have when constructed—
  - (i) 4 or more storeys above ground level; or
  - (ii) 2 or more storeys below ground level.

**Example**

A developer is constructing 3-storey residential apartments and a 9-storey mixed residential/commercial development within a priority development zone (land zoned priority development under any planning scheme). While the 3-storey development would be subject to the prohibited times under regulation 6, the prohibited times would not apply to the 9-storey development.

This means the noise from the 9-storey development is not deemed to be unreasonable noise just on the basis of audibility at any hour. However, it would still be subject to the general unreasonable noise provisions under section 48A(3) of the **Environment Protection Act 1970** at any hour. The developer must not cause unreasonable noise, and would have regard

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to guidance from the Environment Protection  
Authority for noise control and suitable work hours  
for large-scale construction.

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## ENDNOTES

### 1. General Information

The Environment Protection (Residential Noise) Regulations 2008, S.R. No. 121/2008 were made on 14 October 2008 by the Governor in Council, on the recommendation of the Environment Protection Authority, under sections 48A(5) and 71 of the **Environment Protection Act 1970**, No. 8056/1970 and came into operation on 26 October 2008: regulation 3.

The Environment Protection (Residential Noise) Regulations 2008 will sunset 10 years after the day of making on 14 October 2018 (see section 5 of the **Subordinate Legislation Act 1994**).

**2. Table of Amendments**

There are no amendments made to the Environment Protection (Residential Noise) Regulations 2008 by statutory rules, subordinate instruments and Acts.

### **3. Explanatory Details**

<sup>1</sup> Reg. 4: S.R. No. 120/1997 as extended in operation by S.R. No. 114/2007.