

Authorised Version
Environment Protection (Residential Noise)
Regulations 2018
S.R. No. 146/2018

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Authorised Version

STATUTORY RULES 2018

S.R. No. 146/2018

Environment Protection Act 1970

**Environment Protection (Residential Noise)
Regulations 2018**

The Lieutenant-Governor as the Governor's deputy, with the advice of the Executive Council, makes the following Regulations:

Dated: 2 October 2018

Responsible Minister:

LILY D'AMBROSIO

Minister for Energy, Environment and Climate Change

ANDREW ROBINSON
Clerk of the Executive Council

1 Objectives

The objectives of these Regulations are—

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

2 Authorising provision

These Regulations are made under section 71 of the **Environment Protection Act 1970**.

3 Commencement

These Regulations come into operation on
13 October 2018.

4 Revocation

The Environment Protection (Residential Noise)
Regulations 2008¹ are **revoked**.

5 Definitions

In these Regulations—

Chief Health Officer has the same meaning as
in section 3(1) of the **Public Health and
Wellbeing Act 2008**;

earthmoving machinery means powered 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) that is undeveloped land identified for
future urban development, other than
land within Metropolitan Melbourne
that is not covered by 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 in section 3(1) of the **Planning and Environment Act 1987**;

heat health alert means an alert issued by the Chief Health Officer under the heat health alert system operated by the Department of Health and Human Services;

land identified for future urban development means land that—

- (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;

Local Planning Policy Framework means the framework set out in clause 20 of the Victoria Planning Provisions;

Metropolitan Melbourne has the same meaning as ***Metropolitan Waste and Resource Recovery Region*** has in the Act;

relevant land means land—

- (a) that is the whole of the land on a certified plan of subdivision under the **Subdivision Act 1988**; and

- (b) part of which is land 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 residential premises or on which a residential premises is being constructed;

storey means a space within a building that 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 space—

- (a) 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 described in subparagraph (i), (ii) or (iii); or
- (b) that is an intermediate floor within a room;

the Act means the **Environment Protection Act 1970**;

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

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

6 Prescribed items and prohibited times

- (1) For the purposes of section 48A(5) of the Act—
- (a) an item set out in Column 2 of the Table is a prescribed item; and
 - (b) subject to subregulation (2), a prohibited time for a prescribed item is the time specified in Column 3 of the Table that corresponds to that prescribed item.
- (2) For the purposes of subsection 48A(5) of the Act, a time specified in Column 3 of the Table is not a prohibited time in respect of a prescribed item that falls within Group 4 at any time a heat health alert is in effect in the weather forecast district in which the item is located.

Example

Noise emitted from a domestic air conditioner in the Central Forecast Region while a heat health alert is in effect in that Region is not taken to be unreasonable noise under section 48A(5) of the Act whether or not the noise is emitted at a time that would otherwise be a prohibited time in respect of domestic air conditioners.

Table

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Group</i>	<i>Prescribed items</i>	<i>Prohibited times</i>
1	A motor vehicle (other than a vehicle moving in or out of premises), lawn mower or other grass cutting device and any equipment or appliance with an internal combustion engine that does not fall within Group 2.	Monday to Friday: before 7 a.m. and after 8 p.m. Weekends and public holidays: before 9 a.m. and after 8 p.m.

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Group</i>	<i>Prescribed items</i>	<i>Prohibited times</i>
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 7 a.m. and after 8 p.m. Weekends and public holidays: before 9 a.m. and after 8 p.m.
3	Heating equipment (including central heating, a hot water system or a heat pump, air conditioner or split system used for heating), a vacuum cleaner, swimming pool pump, spa pump, and water pump (other than a pump being used to fill a header tank).	Monday to Friday: before 7 a.m. and after 10 p.m. Weekends and public holidays: before 9 a.m. and after 10 p.m.
4	An air conditioner, evaporative cooler or split system used for cooling.	Monday to Friday: before 7 a.m. and after 11 p.m. Weekends and public holidays: before 9 a.m. and after 11 p.m.
5	A musical instrument and any electrical amplified sound reproducing equipment including a stereo, radio, television and public address system.	Monday to Thursday: before 7 a.m. and after 10 p.m. Friday: before 7 a.m. and after 11 p.m. Saturday and public holidays: before 9 a.m. and after 11 p.m. Sunday: before 9 a.m. and after 10 p.m.
6	Any electric equipment or appliance that does not fall within Groups 2 to 5, including electric gardening equipment, other than electric equipment or appliances for personal care or grooming or equipment for heating, refrigeration or preparation of food.	Monday to Friday: before 7 a.m. and after 8 p.m. Weekends and public holidays: before 9 a.m. and after 8 p.m.

7 Partial exemptions for premises on fringe residential subdivisions more than 35 metres from nearest property

- (1) Section 48A(5) of the Act does not apply to noise from an item listed in subregulation (2) that is emitted between 7 a.m. and 9 a.m. on a Saturday from residential premises 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), an item is listed if it is equipment or a motor vehicle that falls within Group 1 or 6 in the Table in regulation 6 and is—
 - (a) earthmoving machinery that does not use an impacting, vibrating or rotating implement operated by hydraulic or pneumatic means; or
 - (b) a concrete dispensing truck; or
 - (c) compaction plant that is a self-propelled single drum vibrating roller or non-vibrating compaction machinery.
- (3) Subregulation (1) ceases to have effect with respect to noise emitted from a residential premises on one of the following first occurring—
 - (a) 20 weeks passes from the commencement of work on the premises using any item listed in subregulation (2);
 - (b) in the case of premises that is a lot on the certified plan of subdivision referred to in the definition of *relevant land*, the works referred to in that definition required to construct or upgrade a road are completed on the section of road that adjoins the lot.

8 Partial exemptions for premises on fringe residential subdivisions more than 200 metres from nearest property

- (1) Section 48A(5) of the Act does not apply to noise from an item listed in subregulation (2) that is emitted between 7 a.m. and 9 a.m. on a Saturday from residential premises 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), an item is listed if it falls within Group 1, 2 or 6 in the Table in regulation 6 and is—
- (a) equipment or a motor vehicle that is—
 - (i) earthmoving machinery that uses 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 that falls within Group 2 in the Table in regulation 6, other than a pile driver; or
 - (c) any item that falls within Group 6 in the Table in regulation 6.
- (3) Subregulation (1) ceases to have effect with respect to noise emitted from a residential premises that is a lot on a certified plan of subdivision referred to in the definition of ***relevant land*** when the works referred to in that definition required to construct or upgrade a road

are completed on the section of road that adjoins the lot.

9 Partial exemptions for premises with large scale residential developments in non-residential zones

Section 48A(5) of the Act does not apply to noise from an item that falls within Group 1, 2 or 6 in the Table in regulation 6 that is emitted during the prohibited time prescribed for that Group if the premises from which the noise is emitted is located on land—

- (a) no part of which is occupied by a person as a residence; and
- (b) on 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 for residential purposes under any planning scheme; and

Note

The following residential zones are specified in clause 32 of the Victoria Planning Provisions: RGZ, GRZ, NRZ, LDRZ, MUZ and TZ.

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

¹ Reg. 4: S.R. No. 121/2008.