

A CONCISE GUIDE
TO THE
NOISE CONTROL ORDINANCE

Environmental Protection Department

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1. Introduction

The purpose of the Noise Control Ordinance is to provide statutory controls to restrict and reduce the nuisance caused by environmental noise. The Ordinance does not seek to control occupational noise (that is, noise generated inside a factory or other industrial undertaking which affects employees in that work-place); this type of noise is subject to control under the Factories and Industrial Undertakings Ordinance, the enforcement of which is carried out by the Labour Department.

The Noise Control Ordinance deals with the following forms of noise:

- (a) noise from domestic premises and public places (often referred to as general neighbourhood noise);
- (b) noise from construction activities (including piling);
- (c) noise from places other than domestic premises, public places or construction sites (for example, noise from industrial or commercial premises);
- (d) noise from intruder alarm system installed in any premises or vehicle;
- (e) noise from individual items of plant or equipment (referred to in the Ordinance as Product Noise, for example, noise from hand-held breaker and air compressor); and
- (f) noise emission from motor vehicles.

The Ordinance enables Regulations and Technical Memoranda to be made which introduce detailed control criteria, measurement procedures and other technical matters. The provisions of the Ordinance are enforced by the Director of Environmental Protection (who has been appointed as the Noise Control Authority) and the Hong Kong Police Force.

This booklet is for explanatory purposes only and it is intended to serve as a simple introduction to the provisions of the Ordinance and the associated Regulations and Technical Memoranda. In case of doubt, the reader is advised to consult the Ordinance itself and the Regulations or Technical Memoranda. Copies of the Ordinance and the Regulations are on sale at the Government Publications Centre. Copies of prescribed forms, information booklets and the Technical Memoranda are available from the Environmental Protection Department. Addresses of the Regional Offices of the Department are given in Appendix 1.

The main provisions of the Ordinance are summarized in the following sections. The numbers in brackets following the headings refer to the relevant section numbers in the Ordinance.

The Ordinance provides that different provisions may come into operation on different dates to be notified in the *Gazette*.

2. Noise from Domestic Premises and Public Places (sections 4 and 5)

Noise from domestic premises or public places includes noise which is produced in domestic premises by sources such as television sets, air conditioners or dogs, and noise produced in public places by sources such as radios, hawkers or loudspeakers. Both sections 4 and 5 came into operation on 1 November 1989.

Section 4 of the Ordinance is a general provision to control noise of this nature which is causing annoyance to any person at night (11 p.m. to 7 a.m.) or on a general holiday.

Section 5 of the Ordinance provides control over particular noise sources (in domestic premises or public places) at any time of the day or night. These sources are animals and birds, musical instruments, loudspeakers, games, trades or businesses and air conditioners.

It should be noted that the term 'domestic premises' applies to individual dwellings or household units and not to an entire building, which may have mixed commercial and residential uses or even industrial activities on lower floors. Noise from the non-residential parts of such buildings is controlled by provisions in section 13 of the Ordinance.

The nature of the noise sources covered by these provisions in sections 4 and 5 of the ordinance is such that it is not possible to specify fixed acceptable noise levels or noise measurement procedures to be used in assessing the acceptability of the noise. As is the case in other countries, noise from domestic premises and in public places is to be responsively dealt with by the police on a reasonableness approach.

3. Noise from Construction Sites (sections 6 to 8 and 8A)

Under the Ordinance, construction activities are grouped into two categories: general construction work and percussive piling (for example, piling by means of a hydraulic hammer or a drop hammer). Each of these categories of work is controlled by means of a system of Construction Noise Permits, as described below.

As of 17 August 1989, the carrying out of general construction work using powered mechanical equipment during the restricted hours, that is between 7 p.m. and 7 a.m. or at any time on a general holiday (including Sunday), is prohibited under the Ordinance unless a valid Construction Noise Permit is in force.

From 1 November 1996 during the restricted hours in Designated Areas, the use of specified powered mechanical equipment (for example, hand-held breakers and dump truck) and/or the carrying out of the prescribed construction activities (for example, erection or dismantling of formwork and hammering) is subject to more stringent control. The same system of Construction Noise Permits for controlling of powered mechanical equipment is used. The Designated Areas, referred to as predominantly populated built-up areas, are defined under the Noise Control (Construction Work Designated Areas) Notice. The Notice first came into operation on 1 May 1996 and was amended on 1 December 2001.

The carrying out of percussive piling is prohibited between 7 p.m. and 7 a.m. and on holidays unless specifically exempted by an order made by the Chief Executive in Council. As of 17 November 1989, percussive piling during the daytime may only be carried out in accordance with a Construction Noise Permit. To tighten the control, the use of noisy diesel, pneumatic and steam hammers for percussive piling is banned in built-up areas with noise sensitive uses from 1 October 1999.

An application for a Construction Noise Permit for the two categories of works must be made to the Noise Control Authority in a respective prescribed form and accompanied by a cheque of the prescribed fee. In considering applications for carrying out general construction work and percussive piling the Authority will assess the impact of the noise generated by the equipment at any Noise Sensitive Receiver (such as domestic premises) in the vicinity in accordance with the assessment procedures contained in relevant Technical Memoranda (see Section 4 of this booklet).

A Construction Noise Permit, with appropriate conditions, will be issued if the Authority is satisfied that the noise which will be generated will comply with the requirements stipulated in the said Technical Memoranda.

The conditions of a Construction Noise Permit for the carrying out of percussive piling are subject to appeal (see Section 10 of this booklet).

4. Technical Memoranda (sections 9 to 12)

In relation to the Construction Noise Permit system, the Ordinance introduces the concept of 'Technical Memoranda' which contain the technical principles to be applied in determining whether or not a permit should be issued and what conditions, if any, should be included in the permit. Three Technical Memoranda relevant to the construction noise provisions have been issued, namely the Technical Memorandum on Noise from Construction Work other than Percussive Piling (GW-TM), the Technical Memorandum on Noise from Construction Work in Designated Areas (DA-TM) and the Technical Memorandum on Noise from Percussive Piling (PP-TM).

Another Technical Memorandum for the Assessment of Noise from Places other than Domestic Premises, Public Places or Construction Sites (IND-TM) has also been issued. This contains the technical procedures that should be adopted by the Authority when investigating a complaint regarding noise emanating from industrial or commercial premises to determine whether or not a Noise Abatement Notice should be issued.

All four Technical Memoranda came into operation in phases on the following dates after they were gazetted and laid on the table of the Legislative Council for the consideration by its members. Any amendments will have to follow the same procedure before they become legally effective.

Technical Memorandum

Operational Date

GW-TM

http://www.epd.gov.hk/epd/english/environmentinhk/noise/guide_ref/files/tm_nonpp.pdf

PP-TM

http://www.epd.gov.hk/epd/english/environmentinhk/noise/guide_ref/files/tm_pp.pdf

IND-TM

http://www.epd.gov.hk/epd/english/environmentinhk/noise/guide_ref/files/tm_nondomestic.pdf

DA-TM

http://www.epd.gov.hk/epd/english/environmentinhk/noise/guide_ref/files/book4_2.pdf

7 December 1988

14 February 1996 (Revised)

7 December 1988

19 June 1997 (Revised)

7 December 1988

19 June 1997 (Revised)

13 March 1996

5 July 2001 (Revised)

5. Noise from Places other than Domestic Premises, Public Places or Construction Sites (section 13)

These provisions deal with noise emanating from places such as industrial, commercial, trade or business premises. Noise from these places is controlled by means of Noise Abatement Notices which may be served on owners or occupiers of premises if the noise emitted:

- (a) does not comply with objective technical criteria in the form of Acceptable Noise Levels as set out in the Technical Memorandum for the Assessment of Noise from Places other than Domestic Premises, Public Places or Construction Sites (see Section 4 of this booklet);
- (b) is a source of annoyance to any person (other than a person in the place from which the noise is emanating) in any place considered to be a noise sensitive receiver in the Technical Memorandum mentioned in paragraph (a); or
- (c) does not comply with any standard or limit contained in any Regulations which may be made in future.

As of 1 November 1989, the provisions mentioned in (a) and (b) above came into operation. It is intended that most Noise Abatement Notices will be served in accordance with the Technical Memorandum mentioned in (a). Only in circumstances where the Technical Memorandum is inapplicable will the Authority make use of the general nuisance provisions mentioned in (b).

A Noise Abatement Notice may require the owner or occupier to bring his noise emissions into a state of compliance by certain date and non-compliance with such a Notice will be an offence. The terms of a Noise Abatement Notice are subject to appeal (see Section 10 of this booklet).

It should be noted that there is no immediate requirement for industry in general to achieve the Acceptable Noise Levels. The Authority will, in practice, respond to complaints lodged by members of the public and compliance with the Acceptable Noise Levels will be required only after a Noise Abatement Notice has been served.

6. Noise from Intruder Alarm Systems (sections 13A & 13B)

Intruder Alarm System installed in any premises and vehicle shall not sound for more than 15 minutes and 5 minutes respectively after being triggered. In addition, the vehicle alarms shall not sound unless the vehicles are being tampered with. The controllers or registered owners have to ensure their Intruder Alarm Systems comply with the requirements.

7. Control of Noisy Products (sections 14 to 17)

When technical or administrative difficulties make other forms of control inappropriate, Regulations to control noise from products prescribed in the Regulations may be made under the Ordinance. It will be an offence to manufacture, import, sell or hire a prescribed product if it is intended for use in Hong Kong and does not comply with noise standards set out in the Regulations. It will also be an offence to use such a product.

Powers are also available to require prescribed products to be fitted with noise control devices of a certain standard. Regulations may also require testing or labelling so that the claimed noise level of a particular prescribed product can be readily ascertained.

As an initial step, the Noise Control (Hand Held Percussive Breakers) Regulations and the Noise Control (Air Compressors) Regulations were made and came into operation on 1 March 1992. As of 1 June 1992, only the equipment complying with the noise emission standards shall be allowed to be imported, manufactured or supplied for use in Hong Kong. From 1 September 1992, in addition to compliance with the noise emission standard, every hand held percussive breaker shall be fitted with a Noise Emission Label before its usage. For air compressor, similar requirements came into operation on 1 December 1992.

An application for such a label must be made to the Authority in the prescribed form and accompanied by a cheque of the prescribed fee. A Noise Emission Label will be issued if the Authority is satisfied that the relevant noise emission standard has been complied with. This would in effect phase out the particularly noisy equipment items and minimize the noise disturbances emanated from the work sites.

8. Noise Emission from Motor Vehicles (section 27)

Noise Emission from motor vehicles including motor cycles is under control and have to meet specific noise emission standards for registration purpose.

The provisions in the Noise Control (Motor Vehicles) Regulation, made under section 27 of the Ordinance, deal with the control of mechanical noise emanating from motor vehicles. As of 1 August 1996 only the motor vehicle complying with the noise emission standards shall be allowed for first registration in Hong Kong. The noise emission standards were further tightened as from 1 June 2002. Documents showing proof of compliance with the required noise emission standards shall be made available for the vehicle's first registration use.

9. Liability of Directors (section 28A to 28C)

Under the Ordinance, a person concerned in the management of a body corporate is held personally liable for repeated noise offences. The provisions, which came into effect on 8 October 2004, state explicitly that where a noise offence has been committed by a body corporate, certain persons concerned in the management of the body corporate [e.g. a director or a delegated officer concerned] shall be guilty of the like offence when the body corporate commits a repeated offence at the same place. For the purpose of these provisions, "body corporate" does not include any corporation [such as Incorporated Owners] registered under the Building Management Ordinance (Cap 344). The directors concerned will receive warning notices from the Noise Control Authority before they are held liable for any further noise offence committed by that body corporate within two years from the date the warning notice is served. Two Codes of Practice, one for construction industry and the other for industrial/commercial operations, to provide general guidance on good management practices to prevent violation of the Noise Control Ordinance were also published in the Gazette on 8 October 2004.

10. Appeals (sections 18 to 23)

The Ordinance provides for a statutory right of appeal in respect of certain decisions or requirements of the Authority to ensure that the provisions of the Ordinance are applied in a fair and reasonable manner. An appeal may be lodged against any decision or requirement of the Authority relating to:

- (a) Construction Noise Permits for the carrying out of percussive piling;
- (b) Noise Abatement Notices; and
- (c) notices in connection with the testing of products.

The Appeal Board may confirm, reverse or vary the decision or requirement of the Authority and may also make an award of costs involved in the appeal as appropriate. In the case of appeals against Noise Abatement Notices, the Notice to which the appeal relates will normally be suspended in its operation until such time as the appeal is disposed of.

11. Penalties

Any person who commits an offence under the Ordinance shall be liable to the following maximum penalties:

<i>Section (s)</i>	<i>Type of offence</i>	<i>Maximum penalty</i>
4, 5	Noise from Domestic Premises and Public Place (neighbourhood noise)	\$10,000
6, 7	Noise from construction sites)) \$100,000 on first
13	Noise from places other than Domestic Premises, Public Places or Construction Sites (industrial-type noise)) conviction or \$200,000) on second or subsequent) conviction, plus) \$20,000 a day) (where appropriate)
14 to 17	Noise from products)
28A	Liability of Directors) same as the maximum) penalty for the offence) committed by the concerned) body corporate
13A	Noise from Intruder Alarm System installed in any premises) \$10,000 and imprisonment) for 3 months
13B	Noise from Intruder Alarm System installed in any vehicle	\$10,000

12. Additional Information

Further details regarding the Ordinance are contained in the following information leaflet:

- (a) What to do when you receive a Noise Abatement Notice.

Three further booklets providing practical information on ways to reduce noise from construction works and from industrial-type noise sources are also prepared. These are:

- (a) A Practical Guide for the Reduction of Noise from Construction Works;
- (b) Good Practices on Ventilation System Noise Control http://www.epd.gov.hk/epd/english/environmentinhk/noise/guide_ref/files/vent_sys.pdf ; and
- (c) Good Practices on Pumping System Noise Control http://www.epd.gov.hk/epd/english/environmentinhk/noise/guide_ref/files/pump_sys.pdf .

Copies of these booklets are available from the Environmental Protection Department at the addresses given in Appendix 1 of this booklet.

Further information booklet/leaflet regarding the Construction Noise Permit and two Codes of Practice providing practical information on good management to prevent violation of the Noise Control Ordinance are also available from Environmental Protection Department web site. They are:

- (a) How to apply for a Construction Noise Permit http://www.epd.gov.hk/epd/english/application_for_licences/guidance/files/how_chow_e.pdf ;
- (b) How to complete and submit Construction Noise Permit application forms http://www.epd.gov.hk/epd/english/application_for_licences/guidance/cnp.html ;
- (c) Code of Practice on Good Management Practice to Prevent Violation of the Noise Control Ordinance (Chapter 400) (for Construction Industry) http://www.epd.gov.hk/epd/english/news_events/current_issue/files/construction_cop.pdf ; and
- (d) Code of Practice on Good Management Practice to Prevent Violation of the Noise Control Ordinance (Chapter 400) (for Industrial/Commercial Operations) http://www.epd.gov.hk/epd/english/news_events/current_issue/files/industrial_cop.pdf .

13. Complaints

Written complaints concerning noise pollution can be sent to the Environmental Protection Department at the addresses shown in Appendix 1 of this booklet. Complaints can also be lodged by telephone to either the Environmental Protection Department (EPD) Complaint Hotline (Tel 2838 3111) or to a police station as follows:

<i>Type of noise</i>	<i>Responsible Office</i>
Noise from domestic premises or public places (neighbourhood noise); or noise from intruder alarm systems	Local police station
Noise from construction works (daytime) (evening, night-time or on holidays)	EPD Complaint Hotline (Tel : 2838 3111) Local police station or EPD Hotline (Tel : 2838 3111)
Noise from industrial, commercial, trade or business premises	EPD Complaint Hotline (Tel : 2838 3111)
Other types of noise	EPD Complaint Hotline (Tel : 2838 3111)

The Environmental Protection Department's Complaint Hotline is manned during normal office hours and a recorded message service is provided outside office hours. Enquiry can also be made to the Regional Offices, at the addresses and enquiry telephone numbers shown in Appendix 1.

Appendix I

ADDRESSES AND TELEPHONE NUMBERS OF ENVIRONMENTAL PROTECTION DEPARTMENT'S OFFICES

EPD office	District Covered (District Boards Areas)	Address	Enquiry Tel. No.
Regional Office (East)	Kwun Tong, Wong Tai Sin, Sai Kung, Yau Tsim Mong & Kowloon City	5/F., Nan Fung Commercial Centre, 19 Lam Lok Street, Kowloon Bay, Kowloon.	2755 5518
Regional Office (South)	Hong Kong Island & Islands	2/F., Chinachem Exchange Square, 1 Hoi Wan Street, Quarry Bay, Hong Kong.	2516 1718
Regional Office (West)	Tuen Mun, Tsuen Wan, Kwai Tsing & Sham Shui Po	8/F., Tsuen Wan Government Offices, 38 Sai Lau Kok Road, Tsuen Wan, New Territories.	2417 6116
Regional Office (North)	Yuen Long, Sha Tin, Tai Po & North	10/F., Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin, New Territories.	2158 5757
Revenue Tower Office		33/F., Revenue Tower, 5 Gloucester Road, Wan Chai, Hong Kong.	2824 3773
Southern Centre Office		28/F., Southern Centre, 130 Hennessy Road, Wan Chai, Hong Kong.	2573 7746
Cheung Sha Wan Office		8/F., Cheung Sha Wan Government Offices, 303 Cheung Sha Wan Road, Kowloon.	2402 5200