

Neighbourhood Support New Zealand



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Neighbourhood Support Fact Sheet

Noise and Nuisance

The **Resource Management Act 1991** allows abatement notices and excessive noise directions to be issued.

Sections 322 to 324 of the Act allow an enforcement officer appointed by the local authority (note - a licensed security guard may be appointed) to issue an abatement notice containing the prescribed particulars to an occupier of land where noxious, dangerous, offensive or objectionable nuisances exist or where "unreasonable noise" is allowed to emanate from that property. The occupier must comply within the time allowed by the enforcement officer (which must not be less than 7 days).

If the abatement notice relating to the emission of noise is not complied with the enforcement officer may, without notice, enter the place and reduce the noise to a reasonable level or (if accompanied by a constable) seize and impound the noise source (other nuisances require an order from the Environment Court). Abatement notices for noise are normally issued where there is ongoing industrial noise, or perhaps for continually barking dogs etc. disturbing a neighbourhood. There is a right of appeal against the notice to the Environment Court within 7 days.

Sections 326 to 328 concern excessive noise directions. These are issued in more urgent cases by an enforcement officer or by a constable at his request. They require the occupier or any other person who appears to be responsible for causing the excessive noise to reduce it to a reasonable level "within 72 hours or such shorter period as the enforcement officer or constable specifies" and may be given in writing or orally.

If the excessive noise direction is not complied with an enforcement officer (accompanied by a constable), or a constable, may enter the place without further notice and

- a. Seize and remove from the place; or
- b. Render inoperable by the removal of any part from; or
- c. Lock or seal so as to make unusable any instrument, appliance, vehicle, aircraft, train, or machine that is producing or contributing to the excessive noise.

Where an excessive noise direction cannot be given because there is no "occupier" or the occupier cannot reasonably be identified, and there is no other person who appears to be responsible for causing the excessive noise, an enforcement officer (accompanied by a constable) or a constable, may enter the place without notice and take the actions listed above, and must leave a written notice stating what has been done and the address of the office where enquiries can be made.

Directions from a noise control officer are usually given as a result of a complaint from a neighbour or member of the public and could cover situations where, for example, a burglar alarm is sounding continuously, or a noisy party continues to an unreasonable hour, or may be given where there are unreasonably noisy persons.

An offender can apply to have the seized property returned under s.338 and this will occur, provided the local authority is satisfied that the return is not likely to lead to a resumption of the noise and the applicant pays all the costs of seizing and impounding the property. Where an authority refuses to return the property, the applicant can apply to the Environment Tribunal, provided the application is made within 6 months of the seizure.

More information on the Resource Management Act is available from [Community Law Centres](#).

[New Zealand legislation](#) can be located at this address under Statutes.