

The Law, the Environment and Permissible Noise Levels - Legal Alert – March 2017

Introduction

Issues bothering on the protection of the environment, delivering qualitative health care services in a fast industrialising and noisy world, has continued to occupy the attention of Environmental Regulators.

The National Environmental Standards and Regulations Enforcement Agency (Establishment) Act, 2007 established the National Environmental Standards and Regulations Enforcement Agency (“NESREA”) with the primary responsibility of enforcing environmental standards, regulations, rules, laws, policies and guidelines which protect and enhance the quality of our environment.

In furtherance of the above-mentioned Act of Parliament that created NESREA, and pursuant to the powers vested in the Minister for Environment, the National Environmental (Noise Standards and Control) Regulations was published in 2009; with fines and terms of imprisonment prescribed for any infringement of the Noise Regulations.

NESREA Permissible Noise Regulations

The maximum permissible noise levels emanating from any premises like residences, mixed-use residential and commercial properties, factories, construction sites, places of entertainment, religious worship centers, etc. are as enumerated in the NESREA Noise Regulations.

The measurement of sound levels, which is also known as **decibels** or **dBA**, has with advancements in technology, become more automated and electronic.

The NESREA Noise Regulations requires all Owners or Managers of any premises, from which noise emanates, which noise may be over and above the permissible levels, to undertake the measurement of such noise and to ensure that it is within the Maximum Permissible Noise Limits allowed for such an environment.

Noise Measurements are required to be taken during the day and night times at the fence line of the premises concerned.

Data obtained from the noise measurements, for residential, semi-residential and small scale commercial premises range between 50 to 60 decibels during the daytime, and 30 to 50 decibels during the night time.

Penalties for Violations

Some of the penalties for infringing any of the above Noise Limit Regulations include an initial fine that does not exceed Fifty Thousand Naira (N50,000) and or imprisonment for a term that does not exceed one (1) year.

In addition to the above fine and term of imprisonment, a violator of any of the permissible maximum noise level regulations will also bear on conviction, an additional fine of Five Thousand Naira (₦5,000) for every day that the violation persists.

Power to Enter Premises

Officials of NESREA, who properly identify themselves, have the legal authority to enter and search any premises with a warrant issued by a competent Court of Law, for the purpose of conducting, inspecting, searching and taking samples for analysis, where NESREA reasonably believes that activities which contravene the NESREA Act and Regulations are being carried on from such premises.

Obstructing a NESREA official from carrying out his or her duties is an offence which on conviction carries penalties of fines and terms of imprisonment.

Noise Control Zones and Permit.

In consultations with State and Local Government authorities, NESREA may designate some areas as a Noise Control Zone; and place conspicuous signs in such noise control zones.

Owners or Occupiers, whose works may emit noise in excess of the permissible levels, must apply to NESREA for a special permit which usually specifies special conditions for the emission of such noise above the allowed limit.

Noise Violation and Improvement Notices

Any person, who is affected by noise levels which are higher than the noise levels permitted under NESREA Regulations, can lodge a complaint with NESREA for investigation and substantiation after which the noise will be abated or controlled to permitted levels, under NESREA supervision.

A complainant does not need to show or prove personal loss or injury, or discomfort caused by the emission of the alleged noise, before such a complainant can lodge a complaint with NESREA.

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