Under section 25 of the Act everybody has a general environmental duty not to undertake an activity which pollutes (pollutes includes noise) the environment unless that person takes all reasonable and practicable measures to prevent or minimise environmental harm, including environmental nuisance.

Compliance with noise goals set out in the Noise Policy satisfies the general environmental duty.

Environmental nuisance includes any adverse effect on the amenity of an area that is caused by noise which unreasonably interferes with or is likely to interfere with the enjoyment of the area by people nearby, whether they are living in the area or just visiting (section 3).

Noise levels can be assessed by an authorised officer from the Environment Protection Agency and Local Councils as well as police officers (section 139). The officers can issue orders to stop or reduce excessive noise (sections 85 & 93). The officers, including police officers, have powers to seize and retain the equipment that is causing the noise (section 89). In addition, a person who causes an environmental nuisance intentionally or recklessly can be liable to a fine up to $30,000 (section 82).

Under the Environment Protection Act 1993, community members can apply to the Environment Resources and Development Court for civil enforcement orders that a person comply with the General Environmental Duty and/or that a person stop creating an environmental nuisance (section 104).

**POLICY IN SOUTH AUSTRALIA:**
The main policy governing noise in South Australia is the *Environment Protection (Noise) Policy 2007*. This policy covers both industrial and domestic noise.

**IMPORTANT DEFINITIONS:**
- **Sound Level Meter:** an instrument used to measure sound pressure levels. It must comply with *Australian Standard AS 1259-1990 Acoustics—Sound Level Meters*.
- **dB (A):** Noise is often measured in “dB (A)” this means: decibels measured using the “A” weighting network of a sound level meter.

**General Noise Control Provisions**

**DOMESTIC NOISE (s24-26)**
A person is not allowed to install a machine in a fixed position at a domestic premises where noise from that machine has an adverse impact on amenity. The below table demonstrates the noise required to demonstrate an adverse impact on amenity:

<table>
<thead>
<tr>
<th>Time of Day</th>
<th>Measurement of Noise in dB(A)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Between 7a.m. and 10p.m.</td>
<td>A continuous noise level exceeding 52</td>
</tr>
<tr>
<td>Between 10p.m. and 7a.m. the following morning</td>
<td>A continuous noise level exceeding 45</td>
</tr>
</tbody>
</table>

**OBLIGATIONS ON CONSTRUCTION WORKERS (s21-23) AND COUNCIL WORKERS (s27-28)**
Construction and council workers are required to reduce noise where possible and not work on Sundays or public holidays with only minor exceptions—for example where it would inconvenience traffic (s23).

**INTRUDER ALARM SYSTEMS (s29-30)**
A building intruder alarm system must not be operated unless it automatically ceases to sound within 5 minutes after initial activation by a detection device.

**FROST FANS (s31-32)**
A frost fan must not be operated in a residential area if there is a continuous noise level which exceeds: the background noise level plus 5 dB (A).
The noise level must be measured by an authorised officer, at any place at which the person affected by the noise resides or works other than the place from which the noise emanates. The measurements must take into account factors such as the time of the day, the area in which the premises are situated and the background noise level.

Failure to comply with the noise level requirements in the *Environment Protection (Noise) Policy 2007* could result in the issuing of orders to stop or reduce the excessive noise (sections 85 & 93).

In addition, failure to comply with the noise level requirements can amount to a breach of the General Environmental Duty and create an environmental nuisance.

Under the *Environment Protection Act 1993*, community members can apply to Environment Resources and Development Court for civil enforcement orders that a person to comply with the General Environmental Duty and/or that a person comply with the Environment Protection (Noise) Policy (section 104).
Noise Pollution Control

What to do When You are Being Disturbed by Excessive Noise

If you are being disturbed by a neighbour's noise you should first try to talk with the neighbour to reach a satisfactory arrangement. Can the noise level be reduced? Can the machinery be operated at a different time? Can the hours of operation be reduced? Can the noisy dog be trained?

If the excessive noise continues, mediation may solve the dispute. Contact a Community Mediation Service to obtain information and advice or to arrange for a conference. The Mediation Service can help to resolve neighbours disputes working as an independent and non-judgmental facilitator. It assists in the voluntary negotiation between the parties outside the legal process, avoiding the need for legal action, saving time, money and emotional stress.

If negotiation and mediation fail, you can lodge a complaint with the Environment Protection Agency (phone 8204 2004).

The EDO can provide advice about your rights to take legal action to stop or reduce noise.

For more information
If you would like more information about the Acts and Policies mentioned in this fact sheet, copies can be purchased from Service SA, 108 North Tce Adelaide (ph 13 2324).

Legislation is also available on the Internet at http://www.austlii.edu.au

The EPA office is on Level 8, 250 Victoria Square, Adelaide (ph 8204 2004, fax 8204 9393, free call 1800 623 445).

If you would like more information about the Mediation Services, contact:

Southern Community Legal Service
40 Beach Road, Christies Beach SA 5165 (ph 8394 5222).

The Environmental Defenders Office (SA) Inc, (EDO) is a non-profit community legal centre offering free advice to individuals and groups on all matters of environmental law.

The EDO operates an advisory on Thursday evenings between 6-8PM at:
408 King William St
Adelaide SA 5000 Fax +61 (08) 8410 3855
Appointments are necessary and must be made by ringing 8410 3833 or freecall 1800 337 566.

This guide is not a substitute for proper legal advice. Important legal details have been omitted to provide a brief overview of this law. Contact the EDO or your solicitor for more detailed legal advice about your specific problem.

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