

Queensland



FIG TREE POCKET NOISE EMISSION ACT 1984

**Reprinted as in force on 9 April 1996
(includes amendments up to Act No. 80 of 1990)**

Reprint No. 1

**This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

Information about this reprint

This Act is reprinted as at 9 April 1996. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (pt 4, div 2)
- update references (pt 4, div 3)
- express gender specific provisions in a way consistent with current drafting practice (s 24)
- use different spelling consistent with current drafting practice (s 26(2))
- use standard punctuation consistent with current drafting practice (s 27)
- use expressions consistent with current drafting practice (s 29)
- reorder definitions consistent with current drafting practice (s 30)
- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (s 39)
- omit unnecessary referential words (s 41)
- omit the enacting words (s 42A)
- number and renumber certain provisions and references (s 43).

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in the reprint, including—**
 - **table of changed names and titles**
 - **table of obsolete and redundant provisions**
 - **table of renumbered provisions.**

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FIG TREE POCKET NOISE EMISSION ACT 1984

[as amended by all amendments that commenced on or before 9 April 1996]

An Act to provide for a permissible level of noise emission from certain premises in Brisbane and for related purposes

Short title

1. This Act may be cited as the *Fig Tree Pocket Noise Emission Act 1984*.

Meaning of terms

2. In this Act—

“**director**” means the director within the meaning of the *State Environment Act 1988*.

“**permissible noise level**” means a permissible noise level determined in accordance with section 3.

“**plant**” means the operation in and about the production premises of 1 of the producers of sand and gravel who carry on operations in and about those premises.

“**prescribed land**” means the land particularised in the schedule.

“**production premises**” means the land abutting on the Brisbane River opposite the area known as Fig Tree Pocket used at the commencement of this Act for the purposes of sand and gravel production and includes—

- (a) all buildings, structures, machinery, equipment and facilities within or over that land;
- (b) all structures adjacent to that land providing access between that

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land and the river or vessels in the river;

- (c) all vessels, machinery, equipment and facilities in or over the river adjacent to that land;
- (d) all vehicles within or adjacent to that land;

used from time to time for any purpose of or connected with sand and gravel production, whether or not they form part of the production premises at the commencement of this Act.

“**river**” means the Brisbane River in its Fig Tree Pocket reach.

Permissible noise level

3.(1) The permissible noise level in relation to 1 plant being carried on at the material time shall be an L_{10} of 59dB(A) and in relation to more than 1 plant being carried on at the material time shall be an L_{10} of 65dB(A) where L_{10} is the level exceeded for 10% of any period of 30 minutes measured in decibels on a precision sound level meter using ‘fast’ response and the ‘A’ weighted scale.

(2) Measurements taken to establish noise levels for the purposes of subsection (1) shall be taken at a point nominated by the director within the part of the prescribed land that is included in the residential A zone under the town plan for the City of Brisbane as at the passing of this Act.

Noise emission not ground for action in certain circumstances

4.(1) Noise emitted from the production premises shall not provide a cause of action or constitute a ground for the institution of any proceeding in any jurisdiction of any court at the suit of any owner or occupier of the whole or any part of the prescribed land where the provisions of subsection (3) are complied with.

(2) Noise emitted from the production premises shall not provide a ground for the institution of any proceeding or the taking of any action—

- (a) on account of a contravention of or failure to comply with any local law of Brisbane City Council; or
- (b) on account of a contravention of or failure to comply with or pursuant to any provision of the *Noise Abatement Act 1978* or any

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other provision of law relating to the emission of noise so as to affect persons outside the production premises;

where the provisions of subsection (3) are complied with.

(3) The provisions of this subsection shall be taken to be complied with if—

- (a) where the noise is emitted from 1 plant only—the level of noise emitted does not exceed the permissible noise level determined in accordance with section 3 in relation to 1 plant; or
- (b) where the noise is emitted from more than 1 plant—the level of noise emitted does not exceed the permissible noise level determined in accordance with section 3 in relation to more than 1 plant.

Brisbane City Council to inform of likelihood of noise

5.(1) It is the duty of Brisbane City Council, if it proposes to sell the prescribed land or any part thereof, to cause each prospective purchaser from it to be clearly and adequately informed—

- (a) that the occupier of any part of the prescribed land is likely to be subject to high levels of noise emitted from the production premises throughout the whole of 24 hours per day; and
- (b) that section 4 curtails the right of an occupier of any part of the prescribed land to relief under the law in respect of such noise.

(2) It is the duty of the town clerk of Brisbane City Council to cause necessary information to be inserted and maintained in the computer rates record file of the council so that where any person enquires as to payment of rates in respect of the prescribed land or any part thereof the person will be informed of the matters specified in subsection (1)(a) and (b).

Termination of Act

6. The provisions of this Act and the prescription of permissible noise levels thereunder shall continue in force for a period of 30 years from the commencement of this Act, unless sooner repealed or revoked, and upon the expiration of that period shall terminate.

SCHEDULE

section 2

Land bounded by Fig Tree Pocket Road, Ormsby Street, Mactier Street and the river described as lots 1 to 5, 28 to 62 and 88 to 92 shown on registered plan no. 121595, lots 6 to 27, 93 to 106 and 109 shown on registered plan no. 121593, lots 63 to 87, 107, 108 and 110 shown on registered plan no. 121594, lot 1 shown on registered plan no. 165938, portions 151, 152 and 153 and subdivisions 1 and 2 of portion 154, county of Stanley, parish of Indooroopilly.

ENDNOTES**1 Index to endnotes**

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 9 April 1996. Future amendments of the Fig Tree Pocket Noise Emission Act 1984 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 List of legislation

Fig Tree Pocket Noise Emission Act 1984 No. 38

date of assent 9 May 1984

commenced on date of assent

Note— This Act expires 9 May 2014 (see s 6)

as amended by—

Public Service (Administrative Arrangements) Act 1990 (No. 2) No. 80 s 3 sch 2

date of assent 14 November 1990

commenced on date of assent (see s 2(1))

5 List of annotations

Note—Repealed by Environmental Protection Act 1994 No. 62 s 222 sch 2 pt B (not yet proclaimed into force)

Meaning of terms

s 2 def “director” sub 1990 No. 80 s 3 sch 2

6 Table of changed names and titles

TABLE OF CHANGED NAMES AND TITLES
under the Reprints Act 1992 ss 23 and 23A

Old	New	Reference provision
ordinance (of a local authority)	local law (of a local government)	Local Government Act 1993 s 796(1)(1)

7 Table of obsolete and redundant provisions

TABLE OF OBSOLETE AND REDUNDANT PROVISIONS
under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
definitions to be read in context	Acts Interpretation Act 1954 s 32A

8 Table of renumbered provisions

TABLE OF RENUMBERED PROVISIONS
under the Reprints Act 1992 s 43

Previous	Renumbered as
4(2), 1st unnum para	4(2)(a)
4(2), 2nd unnum para	4(2)(b)