

DEPARTMENT OF ENVIRONMENT

Environmental Protection Agency Act, 1992

Notice pursuant to section 108 {3} of the Environmental Protection Agency Act, 1992 of intention to make a complaint to the District Court in relation to noise giving reasonable cause for annoyance

Complainant _____ ¹

Of _____

Defendant _____ ²

Of _____ -

WHEREAS the above-named complainant alleges that the above-named defendant is the *person *body ³ making, causing or responsible for the following noise, namely,

_____ ⁴

at _____ ⁴ in District Court district No. _____ and District Court

area of _____ ⁴ which noise is so loud/ so continuous / so repeated of such

duration or pitch/occurring at such times ⁵

as to give reasonable cause for annoyance to

- the complainant,
- a person in any premises in the neighbourhood
- a person lawfully using a public place, ³

NOTICE IS HEREBY GIVEN to the defendant that the complainant intends to make a complaint pursuant to section 108{1} of the above Act to a sitting of the District Court for the said court area and district to be held at

on the _____ day of _____ 20__ at _____ a.m./p.m. ⁶ being a date not

earlier than 7 days from the date of this notice, and to seek an order pursuant to that section in relation

to the said noise.

Dated this _____ day of _____ 20__ ⁷ Signed _____ ⁸

To _____ of _____ ²

The above-named defendant.

This leaflet outlines the steps open to you under the law where you are experiencing nuisance caused by noise. It is intended as a practical guide and is not a legal interpretation of the law. For more information you may consult your County Council or County Borough Corporation, depending on where you live.

1. Has the procedure for dealing with complaints about noise been simplified?

Yes, The Minister for Environmental Protection made Regulations in July, 1994 to make it easier to bring complaints about noise to the District Court.

2. How does the new procedure differ from the previous one under the Planning Acts ?

It is simpler and quicker since one person acting alone may now complain to the District Court. Previously, at least three persons living or carrying on business in the area of the alleged noise nuisance had to sign the notice of complaint.

3. Are the new procedures intended to deal with particular types of noise ?

Yes, Noise problems reported to the Department of the Environment mainly relate to the neighbourhood type noise, such as continual noise from other houses, home workshops, local businesses etc. The Regulations are intended primarily to address such complaints.

4. Are exceptions made for any types of noise?

Yes. Complaints about aircraft noise are specifically excepted and such complaints should be directed to the airport authority in question or to the Department of Transport, Energy and Communications.

5. When can I take action to deal with noise as a nuisance ?

Whenever you consider a noise to be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times that it gives reasonable cause for annoyance you can initiate action to deal with it.

6. What action can I take ?

Initially, it may be sufficient to explain to whomever is causing the noise that it is a nuisance and so come to some mutually acceptable understanding.

Where, for whatever reason, such an approach is not successful you can consider exercising your right to complain to the District Court to seek an Order to deal with the nuisance.

7. Will the District Court solve my problem ?

The task of the District Court is to hear both sides of the case.

Where it finds in your favour it can order the person or body making the noise to reduce it to a specific level, to limit it, e.g., to specified times, or to stop it altogether.

8. Are there any legal conditions which I need to take into consideration before I decide to complain to the District Court ?

Yes, the legislation specifies certain conditions that amount to a good defence in Court for the person allegedly causing the nuisance.

9. What are the "good defence" conditions ?

The person concerned may prove

- that he/she took all reasonable care to prevent or limit the noise by using facilities, practices and methods of operation that are suitable for that purpose, or
- that the noise is in accordance with a licence issued under the Environmental Protection Agency Act or with Regulations made by the Minister under the Act.

10. Must the Court Order be complied with ?

Yes, the person {or body} concerned must comply with the Court Order.

11. How do I complain to the District Court ?

Once you have decided to take your case to the Court there are a number of steps which you must follow

- {i} Consult with the Clerk of your local District Court about an appointment for the hearing of your case. This appointment must be at least seven days later than the date on which you inform the person responsible for the noise nuisance that you will be taking your case to the Court.

When consulting the Court Clerk you should be in a position to refer precisely to the law relating to Your case; this is section 108 of the Environmental Protection Agency Act, 1992 and the Environmental Protection Agency Act, 1992 {Noise} Regulations, 1994 {S.I. No. 179 of 1994}.

- {ii} Once a time has been set for your Court hearing you must inform the person concerned that you will be making a complaint to the Court.
- {iii} You must use a particular form of notice in informing the person concerned. This has been specified in the Regulations and you will find a specimen copy attached. It is important that you see this form of notice only and that you complete it fully and accurately. You will see from the specimen notice that the date of your complaint to the Court must be **at least 7 days** after the date of the notice.
- {iv} You attend Court at the arranged time and present your complaint.

12. Must I consult a solicitor if I wish to complain to the Court ?

No, nor is there a requirement to be represented in Court by one. However, if you wish, you may engage a solicitor to prepare the complaint and/or to present it in Court.

13. Has the Environmental Protection Agency a role in dealing with noise problems ?

Yes. The Agency has the same powers as an individual to complain about noise nuisance to the District Court. In addition, in the case of an activity for which a licence is required under the Environmental Protection Agency Act, the Agency can require the taking of specified measures to prevent or limit the noise. The person {or body} required to take such measures must do so or face prosecution. Alternatively, the Agency may take the remedial measures itself and recover the cost from the person in charge of the source of the noise.

14. Has my local authority a role in dealing with noise problems ?

Yes, Local authorities have the same powers as individuals to complain about noise problems to the District Court. In addition, they have similar powers to the Environmental Protection Agency in relation to premises, processes and works other than those which require licences under the Environmental Protection Agency Act.

15. Can I approach the Environmental Protection Agency or my local authority about noise problems?

Yes. The Environmental Protection Agency has power to require measures to be taken to prevent or limit noise from activities which are licensable by the Agency. In other cases local authorities have similar powers. A citizen may request the Agency or the local authority, as the case may be, to exercise its power in relation to noise causing a nuisance.

16. What are the penalties for a breach of the law ?

A fine of up to €1,000 or imprisonment for up to 12 months or both.

17. Are there specified noise standards, such as maximum levels in certain locations ?

Not at present but the necessary work to do so is under way. Priority will be given to standards for residential commercial and industrial area, schools and hospitals.

The law governing noise as a nuisance is contained in two legal instruments, namely

- The Environmental Protection Agency Act, 1992, {sections 107 and 108}
- The Environmental Protection Agency Act, 1992 {Noise} Regulations, 1994 {S.I. No. 179 of 1994}.

NOTES FOR COMPLETING THIS FORM

1. Insert name and address of person or local authority making complaint.
2. Insert name and address of person or body alleged to have made or have caused or have been responsible for the noise {see section 14 of the Act in regard to the service of notice}.
3. * Delete as appropriate
4. Insert details of the noise complained of - including location in the court area and district, nature, source, date, time, etc.
5. Delete whichever of these terms and conditions may not be appropriate in the case of the noise concerned.
6. Insert details of Court sitting concerned.
7. Insert date.
8. To be signed by the complainant, i.e. the local authority or person concerned.

N.B. The Court may order the person or body making, causing or responsible for the noise to take the measures necessary to reduce the noise to a specified level or to take specified measures for the prevention or limitation of the noise.

