

No. 7 -1997

I assent,

[L.S.]

Governor-General

March 25, 1997

AN ACT to Control Noise caused by amplified sound and other specified equipment.

[*March 26, 1997*]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Noise Abatement Act, Short title, 1997.

2. In this Act—

“political meeting” means any assembly or gathering of persons—

*Interpreta-
tion.*

(a) convened by—

(i) a member of Parliament; or

- (ii) a member of a Parish Council or a councillor of the Kingston and Saint Andrew Corporation; or
- (iii) a political party or any member of a political party,

for the purpose of the transaction of matters of public interest or for the discussion of such matters or for the purpose of the expression of views upon such matters; or

(b) convened—

- (i) for the purpose of furthering or criticizing the aims, objects, action or programme of any political party; or
- (ii) for the purpose of supporting or opposing the candidature of any individual as against any other or others at an election for a member of Parliament or a member of a Parish council or a councillor of the Kingston and St. Andrew Corporation,

and if any speaker at any assembly or gathering held as aforesaid refers to or discusses the aims, objects, action or programme of any political party or the candidature of any individual at such election, such assembly or gathering shall, until the contrary is proved, be deemed to be a political meeting;

“public meeting” includes any meeting in a public place and any meeting which the public or any section thereof are permitted to attend, whether on payment or otherwise.

“specified equipment” means any instrument or device mentioned in paragraph (a) or (b) of subsection (1) of section 3.

3.—(1) Subject to subsection (2) and section 5, no person shall, on any private premises or in any public place at any time of day or night—

Noise from private premises and public places.

- (a) sing, or sound or play upon any musical or noisy instrument; or
- (b) operate, or permit or cause to be operated, any loudspeaker, microphone or any other device for the amplification of sound,

in such a manner that the sound is audible beyond a distance of one hundred metres from the source of such sound and is reasonably capable of causing annoyance to persons in the vicinity so, however, that where during the periods specified in subsection (4) such sound is audible beyond that distance in the vicinity of any dwelling house, hospital, nursing home, infirmary, hotel or guest house, such sound shall be presumed to cause annoyance to persons in that vicinity.

(2) No person shall operate a loudspeaker—

- (a) later than 11 o'clock in the night at a public meeting; and
- (b) later than midnight at a political meeting held between nomination day and the day next but one before election day, both days inclusive.

(3) Any person who contravenes the provisions of subsection (1) or (2) shall be guilty of violating the public peace, and shall be liable on summary conviction in a Resident Magistrate's Court—

- (a) in the case of a first offence, to a fine not exceeding fifteen thousand dollars or, in default of payment, to imprisonment for a term not exceeding three months; or

- (b) in the case of a second offence, to a fine not exceeding thirty thousand dollars or, in default of payment, to imprisonment for a term not exceeding six months; or
- (c) in the case of a subsequent offence, to a fine not exceeding fifty thousand dollars or, in default of payment, to imprisonment for a term not exceeding twelve months and, in addition, the Court may, upon the application of the prosecution, order the forfeiture of the specified equipment used in the commission of the offence.

(4) The periods referred to in subsection (1) are—

- (a) 2 o'clock and 6 o'clock in the morning on a Saturday or Sunday; and
- (b) midnight on a Sunday, Monday, Tuesday, Wednesday or Thursday and 6 o'clock in the following morning.

Liability of
owner of
premises or
equipment,
etc.

4.—(1) The occupier of any premises on which an offence under section 3 (1) has been committed, commits an offence, if the court is satisfied that—

- (a) he was present on the premises at the time of the offence; and
- (b) he had not taken all reasonable steps to prevent the commission of the offence.

(2) An owner or operator of any specified equipment used in the commission of an offence under section 3 commits an offence, if the Court is satisfied that—

- (a) he was present at the place where the contravention took place; and
- (b) he had not taken all reasonable steps to prevent the commission of the offence.

(3) Where the prosecution proposes to apply for forfeiture of any specified equipment under section 3 (3) (c),

notice of such intention and of the grounds therefor shall be given forthwith to any person who, to the knowledge of the prosecution, is the owner thereof.

(4) Without prejudice to any other form of service, notification may, for the purpose of subsection (3), be made by two publications in a daily newspaper printed and circulating in Jamaica, the second of such publications being not later than three days after the first.

(5) Any person having a claim to any specified equipment in respect of which an application for forfeiture is made pursuant to section 3 (3) (c) may appear before the Court on the hearing of the application and show cause why an order for forfeiture should not be made.

(6) Where, on the hearing of an application pursuant to section 3 (3) (c) for forfeiture of any specified equipment, no person appears before the Court to show cause why an order for forfeiture should not be made, the Court shall presume that such equipment has been abandoned.

(7) If, upon the application of any person aggrieved by an order made by the Court under section 3 (3) (c), the Court is satisfied that it is just to revoke such order, the Court may revoke that order upon such terms and conditions as it deems appropriate, and, without prejudice to the generality of the foregoing, shall require the person to pay, in respect of storage, maintenance, administrative expenses, security and insurance of the specified equipment, such charges as shall be approved by the Court not exceeding one and a half times the value of the equipment, as determined by the Court, as a pre-condition for the release of the equipment.

(8) An application to the Court under subsection (7) for the revocation of an order shall be made within thirty days of the date of the order or within such greater time, not exceeding three months after the date of the order, as the Court may allow.

Permission
required for
operation of
specified
equipment
in certain
cases.

5.—(1) Where a person intends to operate any specified equipment to provide music for dancing or any other form of entertainment in a public place in circumstances where such music is reasonably capable of disturbing any person occupying or residing in any private premises, such person shall make a written application to the Superintendent of Police in charge of the division in which the activity will be held for permission to do so, not later than ten clear days before the date on which it is proposed to hold such activity.

(2) Every application under subsection (1) shall contain particulars of the nature and purpose of the proposed activity, the place at which and the hours during which it will be held.

(3) Where any specified equipment is used to provide music for dancing or any other form of entertainment in the vicinity of any hotel, dwelling house or guest house, such activity shall not continue later than two o'clock in the morning.

(4) The Superintendent of Police may upon receipt of an application under subsection (1) refuse to grant permission or may grant such permission subject to such conditions as he may specify in writing, so, however, that no permission shall be granted for the operation of specified equipment in the vicinity of any hospital, nursing home or infirmary.

(5) A person aggrieved by—

- (a) a decision of the Superintendent of Police refusing to grant permission; or
- (b) any condition subject to which permission is granted,

may within seven days after the date of that decision, appeal in writing to the Commissioner of Police who may revoke, vary or confirm such decision subject to such conditions as he deems necessary.

(6) A person who contravenes this section or fails to comply with any condition relating to the grant of permission under this section imposed by the Superintendent or by the Commissioner of Police shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one hundred thousand dollars or in default of payment to imprisonment for a term not exceeding six months.

6.—(1) Where—

- (a) a person (hereinafter referred to in this subsection as the operator) is playing upon any musical instrument or operating any specified equipment in the vicinity of any dwelling house, hospital, nursing home, infirmary, hotel or guest house between the hours of 10 o'clock in the evening and 6 o'clock in the following morning in such a manner so as to be reasonably capable of causing annoyance to persons in that vicinity;
- (b) the operator is requested to reduce or discontinue the sound caused by the specified equipment by or on behalf of any person who is affected by the sound; and
- (c) the operator fails to comply with that request,

Power to
seize and
detain
specified
equipment.

the operator shall, without prejudice to subsection (2), be guilty of an offence against this section and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding twenty thousand dollars or in default of payment to imprisonment for a term not exceeding six months.

(2) Where a request is made as mentioned in paragraph (b) of subsection (1) because of the serious illness of any person or for any other reasonable cause and the request is not complied with, a member of the Constabulary Force, not below the rank of Sergeant, may seize and detain any specified equipment used in the commission of the offence, so, however, that such seizure and detention shall,

subject to the provisions of section 3, be for such period only as may be necessary for the purposes of any investigation, trial or enquiry.

Regulations.

7. The Minister may make regulations generally for giving effect to the provisions and purposes of this Act.

Repeal of
section 12
of Towns
and Com-
munities
Act.

8. Section 12 of the Towns and Communities Act is hereby repealed.

Passed in the House of Representatives this 18th day of February, 1997, with nine (9) amendments.

CARL MARSHALL,
Speaker.

Passed in the Senate this 20th day of March, 1997.

SYRINGA MARSHALL-BURNETT,
President.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.

Clerk to the Houses of Parliament.