



SAINT VINCENT AND THE GRENADINES

ACT NO 18 OF 1988

I ASSENT

[L.S.]

HENRY H. WILLIAMS.

Ag. Governor-General.

24th June, 1988.

AN ACT to make new provisions in respect of the control of noise and vibration with a view to their abatement.

(19th July, 1988)

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly of Saint Vincent and the Grenadines and by the authority of the same as follows:-

1. This Act may be cited as the Noise Control Act, 1988, and shall come into operation on the 6th day of July, 1988.

Short title
and commence-
ment

2. (1) In this Act, except where the context otherwise requires -

Interpretation

"Board" means the Physical Planning and Development Board established under section 3 of the Town and Country Planning Act 1976 (No. 8 of 1976);

"Carnival period" means Carnival Tuesday and the eleven days immediately preceding it, or such other period as the Minister with responsibility for Culture may appoint by Proclamation in the Gazette;

"contravention" includes a failure to comply with the provision in question, and "contravene" shall be construed accordingly;

"loudspeaker" includes a megaphone and any other device for amplifying sound;

"Minister" means the Minister charged with responsibility for health;

"musical instrument" includes a radio receiver, television receiver, keyboard, wind

instrument, string instrument, drums, steel pans, cowbell, scraper, tambourine, or any article or thing made or adapted for use in making or attempting to make musical sound;

"noise" includes vibration;

"noise abatement order" means an order made under section 8;

"noise abatement zone" means a noise abatement zone designated by the Minister under section 8;

"noise reduction notice" means a notice served pursuant to section 9;

"period of elections" means the period between the date of nomination of candidates for any general, local or bye-elections, and the date of polling for the same, inclusive of those dates;

"street" includes highway, boulevard, market place, park, square, court, bridge, footway and any other road which is lawfully used by the public, whether used as a public thoroughfare or otherwise;

"person responsible" in relation to the emission of noise, means the person to whose act, default or sufferance the noise is attributable, and includes any person who is the owner or occupier or lessor or lessee or proprietor in respect of the premises from which the noise is emitted or about to be emitted;

"political meeting" means a meeting held for the purpose of furthering or discussing the aims, objects, actions or policies or programme of any political party or for the purpose of supporting the intended candidacy of any individual or group of individuals;

"public meeting" includes any meeting in a public place and any meeting which the public or any section of the public is permitted to attend, whether on payment or otherwise and whether by special or general invitation or otherwise;

"public place" includes any public way, building, place or conveyance to which the public are entitled to have access whether on payment or otherwise;

"statutory undertaking" means any undertaking for the supply of electricity, telephone, water, or any other public utility as may be specified by the Minister from time to time by Proclamation in the Gazette;

"work of engineering construction" means the construction, structural alteration, maintenance or repair of any dock, harbour, tunnel, bridge, waterworks, reservoir, pipeline, sewer, sewerage works, gasholder, plant or factory;

(2) Where more than one person is responsible for noise, this Act shall apply to each of those persons whether or not the act or omission for which any one of them is responsible would by itself amount to a nuisance or would result in a level of noise justifying action under this Act.

3. (1) Where the Board is satisfied that noise amounting to a nuisance exists, or is likely to occur or recur or continue in any area of Saint Vincent and the Grenadines, it may serve a notice prescribing all or any of the following requirements -

Summary proceedings to deal with noise

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- (a) requiring the abatement of the nuisance, or prohibiting or restricting its occurrence or recurrence or continuation;
 - (b) requiring the execution of such work, and the taking of such other steps, as may be necessary for the purpose of the notice or as may be specified in the notice;

and the notice shall specify the time or times within which the requirements of the notice are to be complied with.

(2) The notice shall be served on any of the persons deemed to be responsible for the noise or, if the noise has not yet occurred, on any of the persons who would be thus responsible if it should occur.

(3) The person served with the notice may appeal against the notice to a Judge in Chambers within fourteen days from service of the notice.

(4) A person on whom a notice is served under this section who, without reasonable excuse, contravenes any requirement of the notice, commits an offence.

(5) In proceedings for an offence under subsection (4) in respect of noise caused in the course of a trade or business, it shall be a defence to prove that the best practicable means have been used for preventing, or for counteracting the effect of the noise.

(6) In proceedings for an offence under subsection (4) of contravening requirements imposed by virtue of paragraph (a) of subsection (1) it shall be a defence to prove -

(a) that the alleged offence was covered by a notice served under section 5 or a consent given under section 6; or

(b) where the alleged offence was committed at a time when the premises were subjected to a notice under section 9, that the level of noise

emanating from the premises at that time was not such as to constitute a contravention of the notice under section 9.

(7) Where the Board is of the opinion that proceedings for an offence under subsection (4) would not afford an adequate remedy in the case of any noise which is a nuisance affecting any person, it may take proceedings in the High Court for the purpose of securing the abatement, prohibition or restriction of the nuisance; but in any proceedings taken in pursuance of this subsection it shall be a defence to prove that the noise was authorised by a notice under section 5 or a consent under section 6.

Summary proceedings by occupier of premises

4. (1) A Magistrate's Court may act under this section on a complaint made by any person on the ground that he is aggrieved by noise amounting to a nuisance.

(2) If the Magistrate's Court is satisfied that the alleged nuisance exists, or that although abated it is likely to recur, the court shall make an order for either or both of the following purposes -

- (a) requiring the defendant to abate the nuisance, within a time specified in the order, and to execute any works necessary for that purpose;
- (b) prohibiting a recurrence of the nuisance, and requiring the defendant, within a time specified in the order, to execute any work necessary to prevent the recurrence.

(3) Proceedings under this section shall be brought against the person directly responsible for the nuisance or, if that person cannot be found, against the owner or occupier of the premises from which the noise is emitted or would be emitted.

(4) A person who without reasonable excuse contravenes any requirement of an order under subsection (2) commits an offence.

(5) In proceedings for an offence under this section in respect of noise caused in the course of a trade or business, it shall be a defence to prove that the best practicable means have been used for preventing, or for counteracting the effect of the noise.

Control of noise 5. (1) This section applies to works of on construction the following description, that is to say - sites

- (a) the erection, construction, alteration, repair or maintenance of buildings, structures or roads;
- (b) breaking up, opening or boring under any road or adjacent land in connection with the construction, inspection, maintenance or removal of works;
- (c) demolition or dredging work; and
- (d) any work of engineering construction.

(2) Where it appears to the Board that works to which this section applies are being, or are going to be, carried out on any premises, it may serve a notice imposing requirements as to the way in which the works are to be carried out and may publish notice of the requirements in such way as appears to it to be appropriate.

(3) The notice may in particular -

- (a) specify the plant or machinery which is or is not to be used;
- (b) specify the hours during which the works may be carried out;
- (c) specify the level of noise which may be emitted from the premises in question or which may be so emitted during specified hours; and
- (d) provide for any change of circumstances.

(4) In acting under this section the Board shall have regard -

- (a) to the need for ensuring that the best practicable means are employed to minimise noise;
- (b) before specifying any particular method or plant or machinery, to the

desirability in the interest of any recipients of the notice in question of specifying other methods or plant or machinery which would be substantially as effective in minimising noise and more acceptable to them;

- (c) to the need to protect any person in the locality in which the premises in question are situated from the effects of noise.

(5) A notice under this section shall be served on the person who appears to the Board to be carrying out, or going to carry out, the works, and on such other persons appearing to the Board to be responsible for, or to have control over, the carrying out of the works.

(6) A notice under this section may specify the time within which the notice is to be complied with, and may require the execution of such works, and the taking of such other steps, as may be necessary for the purpose of the notice, or as may be specified in the notice.

(7) A person who has been served a notice under this section may appeal against the notice to a Judge in Chambers within fourteen days from the date of the service of the notice, but shall comply therewith from the date of its receipt until disposal of the appeal.

(8) A person on whom a notice is served under this section and who without reasonable excuse contravenes any requirement of the notice, commits an offence.

Prior consent
for work on
construction
sites

6. (1) A person who intends to carry out works to which section 5 applies shall make an application to the Board for consent under this section.

(2) An application under this section shall contain particulars of -

- (a) the works, and the method by which they are to be carried out; and
- (b) the steps proposed to be taken to minimise noise resulting from the works.

(3) If the Board considers that the application contains sufficient information for the purpose and that, if the works are carried out in accordance with the application, no actionable nuisance would arise or be occasioned in respect of those works, the Board may give its consent to the application.

(4) In acting under this section the Board shall have regard to the considerations set out in subsection (4) of section 5 and shall have power to -

- (a) attach such conditions to a consent as may to it appear reasonable in all the circumstances ;and
- (b) limit or qualify a consent to allow for any change in circumstances; and
- (c) limit the duration of a consent.

(5) A person who knowingly carries out the works, or permits the works to be carried out, in contravention of any condition attached to a consent under this section, commits an offence.

(6) The Board shall inform the applicant of its decision on the application within twenty-eight days from the receipt of the application.

(7) Where the Board gives its consent to the application it may publish notice of the consent, and of the works to which it relates, in the Gazette.

(8) Where -

(a) the Board does not give a consent within the said period of fourteen days; or

(b) the Board gives its consent within the said period of fourteen days but attaches any condition to the consent or limits or qualifies the consent in any way,

the applicant may appeal to a Judge in Chambers within fourteen days from the end of that period or from the date of notification of the Board's decision, but until the disposal of the appeal the applicant shall in law be deemed not to have received the Board's consent.

(9) In any proceedings for an offence under subsection (8) of section 5 it shall be a defence to prove that the alleged contravention amounted to the carrying out of the works in accordance with the consent given under this section.

(10) A consent given under this section shall contain a statement to the effect that the consent does not of itself constitute any ground of defence against any proceedings instituted under section 4.

(11) Where a consent has been given under this section and the works are carried out by a person other than the applicant for the consent, it shall be the duty of the applicant to take all reasonable steps to bring the consent to the notice of that other person; and if he fails to comply with this subsection he commits an offence.

Restriction on
operating
loudspeaker in
the street

7. (1) Subject to the other provisions of this Act, a loudspeaker in a street or public place shall not be operated -

- (a) between the hours of ten o'clock in the evening and seven o'clock in the following morning;

- (b) at any time except between the hours of twelve noon and one o'clock in the afternoon, and four o'clock in the afternoon and six o'clock in the same afternoon for the purpose of advertising any entertainment, meeting, procession, trade or business.

(2) A person who operates or permits the operation of a loudspeaker in contravention of subsection (1) commits an offence.

(3) Subsection (1) shall not apply to the operation of a loudspeaker -

- (a) for police, fire brigade or ambulance purposes, or by a statutory undertaking in the exercise of any of its functions;
- (b) for communicating with the persons on a vessel for the purpose of directing the movement of that or any other vessel;

-
- (c) if the loudspeaker forms part of a public telephone system;
 - (d) if the loudspeaker -
 - (i) is in or fixed to a vehicle, and is operated solely for the entertainment of or for communicating with the driver or a passenger of the vehicle or, where the loudspeaker is or forms part of the horn of a similar warning instrument of the vehicle, solely for giving warning to other traffic, and
 - (ii) is so operated as not to give reasonable cause for annoyance to persons in the vicinity;
 - (e) by a travelling showman on land which is being used for the purposes of a pleasure fair;

(f) during -

(i) the traditional Nine Mornings before Christmas day celebrations, being the period between the 15th and 24th days of December inclusive of such days;

(ii) the carnival period;

except in an area designated a noise abatement zone;

(g) in case of emergency.

(4) Paragraph (b) of subsection (1) shall not apply to the operation of a loudspeaker between the hours of ten in the forenoon and seven in the evening on the same day if the loudspeaker -

(a) is fixed to a vehicle which is being used for the conveyance of a perishable commodity for human consumption; and

- (b) is operated solely for informing members of the public (otherwise than by means of words) that the commodity is on sale from the vehicle; and
- (c) is so operated as not to give reasonable cause for annoyance to persons in the vicinity; or
- (d) is operated by a licensed auctioneer for the actual conducting of a sale at a public auction.

Designation 8. (1) The Minister may by order designate any area or areas of Saint Vincent and the Grenadines as a noise abatement zone.

(2) An order under this section shall specify the classes of premises to which it applies.

Reduction of noise levels 9. (1) If it appears to the Board, after consultation with the Minister -

(a) that the level of noise emanating from any premises to which a noise abatement order applies is not acceptable having regard to the purposes for which the order was made; and

(b) that a reduction in that level is practicable at reasonable cost and would afford a public benefit,

the Board may serve a noise abatement notice on the person responsible.

(2) The notice shall require that person -

(a) to reduce the level of noise emanating from the premises to such level as may be specified in the notice;

(b) to prevent any subsequent increase in the level of noise emanating from those premises without the consent of the Board; and

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- (c) to take such steps as may be specified in the notice to achieve those purposes.

(3) A notice under this section (in this Act referred to as a "noise reduction notice") shall specify a time, not being less than three weeks from the date of service of the notice, within which the noise level is to be reduced to the specified level, and where the notice specified any steps necessary to achieve that purpose, a time within which those steps shall be taken.

(4) A noise reduction notice may specify particular times, or particular days, during which the noise level is to be reduced, and may require the noise level to be reduced to different levels for different times or days.

(5) A person who is served with a noise reduction notice may, within fourteen days of the date of service, appeal to a Judge in Chambers against the notice.

(6) A person who without reasonable excuse contravenes a noise reduction notice commits an offence under this Act.

(7) In proceedings for an offence under subsection (6) in respect of noise caused in the course of a trade or business, it is a defence to prove that the best practicable means had been used for preventing or for counteracting the effect of the noise.

Noise from plant
or machinery

10. (1) Without prejudice to the generality of the powers conferred by section 25, the Minister may, after consultation with the Board, make regulations -

(a) for requiring the use or in connection with any plant or machinery of devices or arrangements for reducing the noise caused by the plant or machinery;

(b) for limiting the level of noise which may be caused by any plant or machinery when used for works to which section 5 applies or which may be caused outside a factory within the meaning of the Factories Ordinance, 1955 by the use of plant or machinery in the factory;

and regulations under this section may apply standards, specifications, descriptions or tests laid down in documents not forming part of the regulations.

(2) The Minister may, before he makes regulations under this section, consult persons (other than those sitting on the Board) who appear to him to represent producers and users of plant and machinery with a view to ensuring that the regulations do not contain requirements which would be impracticable or involve unreasonable expense.

(3) Any person who contravenes or causes or permits another person to contravene regulations under this Act commits an offence; but in any proceedings for a contravention of regulations made in pursuance of paragraph (a) of subsection (1) it shall be a defence to prove that means were used for the purpose of reducing the noise in question which were not less effective for that purpose than the means required by the regulations.

(4) Nothing in this section or in regulations under this section shall be construed as derogating from any other provisions of this Act.

Appeal to Judge
in Chambers

11. (1) Where any provision of this Act provides for an appeal to a Judge in Chambers the procedure shall be by way of originating summons for an Order, and the Rules of the Supreme Court, 1970 shall apply to the proceedings.

(2) The Judge may at any stage of the proceedings and either on his own motion or on application by any party to an appeal, adjourn the hearing of the appeal or any part thereof to the open Court if he thinks fit so to do. No appeal shall lie from the exercise of the Judge's discretion to adjourn or not to adjourn the proceedings into the open Court.

Codes of
practice for
minimising
noise

12. For the purpose of giving guidance on appropriate methods (including the use of specified types of plant or machinery) for minimising noise, the Board may by order made after consultation with the Minister -

- (a) prepare and approve and issue codes of practice as in its opinion are suitable for the purpose; and
- (b) approve such codes or practice issued or proposed to be issued otherwise than by the

Board as in the opinion of the Board are suitable for the purpose.

Noise disturbing church meetings etc. and neighbourhood 13. (1) Subject to section 15, no person shall operate or continue to operate a loudspeaker or musical instrument in such a manner that, by reason of the level of noise emitted therefrom, it disturbs -

- (a) persons participating or endeavouring to participate in a church meeting or church service or any other function being conducted in a church, or any function of a religious nature, whether or not the premises being used or sought to be used as a church or for the religious function on the occasion in question are normally or usually used as a church or for religious functions;
- (b) other persons living or residing in the neighbourhood.

(2) A person who contravenes subsection (1) commits an offence under this Act.

Noise near to
hospital,
school

14. (1) Subject to section 15, no person shall operate a loudspeaker or musical instrument:

- (a) within the compound of, or near to, a hospital, health centre, clinic or any premises used either ordinarily or occasionally as a day care centre for young children;
- (b) within the compound of, or near to, a school during school hours or the hours during which evening classes are held,

in such a manner that the level of noise emitted from that loudspeaker or musical instrument disturbs any person in the hospital, health centre, clinic or day care centre, or disturbs the holding of any class at the school, as the case may be.

(2) A person who contravenes subsection (1) commits an offence.

Non-application
of sections 13
and 14

15. The exceptions to subsection (1) of section 7 as are provided by paragraphs (a), (b), (c), (d), (e) and (g) of subsection (3) of section 7 shall apply to sections 13 and 14.

Restriction on
noise in a
National Park

16. (1) No person shall operate a loudspeaker or musical instrument in a National Park unless with the written permission of an official having responsibility in that behalf.

(2) A person who contravenes subsection (1) commits an offence.

Permission
required
in certain
cases

17. (1) No loudspeaker or musical instrument shall be operated or used for the purpose of providing music in any public place or in any private premises in circumstances where such music is reasonably capable of disturbing any person occupying or residing in private premises -

(a) during the hours between six o'clock in the afternoon on Fridays and six o'clock in the afternoon on the following Saturdays, or

(b) between two o'clock in the morning on Sundays and midnight on the same Sundays, or

- (c) between two o'clock in the morning and midnight on Good Friday,

unless written application for permission for the same shall have been made to the Police by lodging the same at the Police Station nearest to the proposed venue not later than ten clear days before the date on which it is proposed to operate the loudspeaker or musical instrument, and permission for the same shall have been granted in writing by the Commissioner of Police; provided that the Commissioner of Police shall respond to any such application within ninety-six hours of receiving the same.

(2) The Commissioner of Police may attach such conditions and restrictions to any permission granted by him in response to an application made to the Police pursuant to subsection (1) as may to him appear reasonable in all the circumstances.

(3) Notwithstanding the provisions of sections 3 and 4 of the Public Officers Protection Act, 1981, (as amended) any applicant who is aggrieved by any decision of the Commissioner of Police refusing permission or imposing any condition which to the applicant appears unreasonable, may appeal therefrom within three days to the Judge in Chambers.

(4) The Judge shall have jurisdiction, in respect of an appeal to him under subsection (3) or under any other provision of this Act, to make any order (whether or not such order is provided for in this Act) or to grant any relief or remedy including an award of damages as may appear to meet the ends of justice having regard to the letter and spirit of this Act.

(5) A person who contravenes subsection (1) or who fails to comply with any condition imposed by the Commissioner of Police pursuant to subsection (2) commits an offence under this Act.

(6) The exceptions set out in subsections (3) and (4) of section 7 shall apply to this section.

Hours of holding of meeting

18. (1) The operation of a loudspeaker for the holding of any public or political meeting shall terminate not later than 11 o'clock in the evening except during a period of elections when the operation of a loudspeaker for the holding of a political meeting shall terminate not later than 11 o'clock midnight.

(2) A person who contravenes subsection (1) commits an offence.

Loudspeakers
operated in
dance halls
etc.

19. (1) Subject to the other provisions of this Act, where a loudspeaker or musical instrument is operated or used for the purpose of providing music for dancing or for other forms of entertainment at any location (whether private or public) situated within two hundred yards of any dwelling house, guest house or hotel, the operation of the loudspeaker or musical instrument shall be discontinued by not later than 2 o'clock in the morning except during the Carnival period and during the traditional Nine Mornings before Christmas Day as defined in section 7(3) (f) (i), when the loudspeaker or musical instrument may be operated up to 7 o'clock in the morning.

(2) A person who contravenes subsection (1) commits an offence.

Control of noise
by Police

20. (1) Where any person in a neighbourhood is disturbed by noise emitted from a loudspeaker or musical instrument, the person affected may, either directly or through the good offices of an intermediary, bring the complaint to the attention of the person who is believed to be responsible (within the meaning of this Act) for the noise, and shall request such person to reduce the noise to a reasonable level. If such person fails or neglects or refuses to comply with the request for the reduction of the noise to a reasonable

level, the person affected may thereafter lodge a complaint about the matter to the Police who, immediately upon receiving such complaint, shall inform the person responsible for the noise of the complaint, and shall request that person to reduce and maintain the level of the noise emitted from the loudspeaker or musical instrument to and at a reasonable level, having regard to the circumstances.

(2) If the person responsible for the noise fails to comply with a request from the Police under subsection (1), or where such person has complied for the time being with the request under subsection (1) but at any time thereafter resumes or causes or permits or suffers to be resumed the operation of the loudspeaker or musical instrument in a manner which again disturbs any person in the neighbourhood (whether such person is the original complainant or not) and another complaint is made to the Police, the Police shall immediately visit the scene and shall undertake such investigations and inquiries as may appear appropriate. Upon being satisfied that there has been wilful non-compliance with the request by the Police made under subsection (1), the Police shall inform the person responsible that a complaint will be made against him for an offence under the relevant section of this Act and shall institute the said complaint.

(3) Where the Police have informed the person responsible that a complaint will be made against him for an offence as provided for in subsection (2), a Police officer not below the rank of Sergeant may enter any premises and take away as exhibits the loudspeaker and/or the musical instrument or any of them which the said Police officer reasonably suspects to have been operated to produce the sounds which gave rise to the complaint, regardless of the ownership of such loudspeaker or musical instrument.

(4) The loudspeaker or musical instrument removed under subsection (3) shall be kept in the custody of the Police until the hearing of the complaint (reasonable care being taken to keep the same safe and secure), and the Police shall produce the same to the Court as exhibits in the case.

(5) Where any loudspeaker or musical instrument has been taken into the possession of the Police under subsection (3), the Police shall ensure that the complaint is brought against the alleged offender within fourteen days of the date thereof.

(6) The Magistrate hearing the complaint may, in addition to imposing any of the penalties provided for in section 21, make any of

the orders set out in subsection (7) hereof as he may think fit in respect of the loudspeaker or musical instrument (hereinafter referred to as "the equipment") taken as exhibits under subsection (3), provided that if in the opinion of the Magistrate the equipment ought to be forfeited to the Crown and the Magistrate makes an order to that effect, any person entitled to possession of the equipment ordered to be forfeited, whether or not that person was a party to the proceedings before the Magistrate, may within seven days of such order lodge an appeal to the Judge in Chambers against such order.

(7) The orders referred to in subsection (6) are as follows:-

- (a) that the equipment or any of them be returned forthwith by the Police to specified premises or to specified persons;
- (b) that the equipment or any of them be detained in the custody of the Police for a specified period subsequent to the date of the order not exceeding three months in

respect of each offence, and that at the end of the specified period the equipment thus detained be returned immediately thereafter by the Police to specified premises or to specified persons;

- (c) that the equipment or any of them be forfeited to the Crown.

(8) No liability shall arise on the part of the Police for any action taken, or in respect of any loudspeaker or musical instrument removed under subsection (3) or ordered to be detained under subsection (7).

Penalties

21. (1) A person who commits an offence under this Act is liable on summary conviction -

- (a) in the case of a first offence, to a fine not exceeding two hundred and fifty dollars; and
- (b) in the case of a second offence, to a fine of not less than two hundred and

fifty dollars and not exceeding five hundred dollars, or to imprisonment for a term of six months or to both; and

- (c) in the case of a third offence, to a fine of not less than five hundred dollars and not exceeding one thousand dollars, or to imprisonment for a term of twelve months or to both; and
- (d) in the case of a fourth or subsequent offence, to imprisonment for not less than three months or more than twelve months.

(2) It shall be lawful for a Magistrate in dealing with any complaint under this Act to order the production before him of any loudspeaker or musical instrument in respect of which it has been alleged or proved that an offence has been committed under this Act, and upon such production the Magistrate may, upon the conviction of any person, in addition to the penalties provided

in subsection (1), make an order under section 20 (7) in relation to such loudspeaker or musical instrument notwithstanding the circumstance that such loudspeaker or musical instrument had not been detained by the Police pursuant to section 20 (3).

(3) The powers conferred on the Magistrate by subsection (2) may be exercised by him either on his own motion or on the application of a party to the proceedings.

(4) The provisions of section 20 (6) relating to appeals to the Judge in Chambers shall apply to any decision by the Magistrate in respect of forfeiture pursuant to the powers conferred upon him by subsection (2) hereof.

Civil
proceedings

22. (1) Nothing contained in this Act shall be held to affect the right of any person to institute or pursue civil proceedings in the High Court or in the Magistrate's Court (including but not limited to actions for damages for nuisance) against any person or authority in respect of any complaint or grievance involving noise or vibration, and such civil proceedings may be prosecuted in respect of acts and omissions which constituted the subject matter of complaints under this Act; provided that in making any award or order in such

civil proceedings as last mentioned, the relevant court may take into account the results of any prior proceedings under this Act.

(2) On the conviction of any person in respect of any complaint under this Act the Magistrate, in addition to imposing the penalties prescribed under this Act, may award damages and costs (subject to the maximum amounts prescribed by the enactments governing the monetary jurisdiction of Magistrate's Courts generally) payable by the person or persons convicted of an offence under this Act, and payable to the person or persons found by the Magistrate to have been adversely affected (whether materially, physically, psychologically or otherwise) by the act or omission on which the conviction was based.

Inconsistency

23. Subject to section 25 and except as is otherwise provided in this Act, where there occurs any inconsistency between the provisions of this Act and the provisions of any other enactment or any subsidiary legislation made under any enactment, the provisions of this Act, to the extent of such inconsistency, shall prevail.

Appeals to Court of Appeal

24. (1) Subject to the provisions hereof providing for appeals in certain cases to the Judge in Chambers, there shall be preserved to all parties (both prosecution and defence) the right to

appeal to the Court of Appeal from decisions of a Magistrate or the High Court in accordance with all enactments regulating appeals from Magistrate's Courts and from the High Court to the Court of Appeal.

(2) An appeal shall lie to the Court of Appeal with the leave of the High Court from decisions of the High Court made on appeal from the Magistrate's Court and from the decisions of the Commissioner of Police.

Non-derogation
from other
legislation

25. The provisions of sections 3, 5, 6, 8, 9, and 10 shall be supplementary to and not in derogation of the provisions of all enactments (including regulations made under such enactments) now in force in respect of the regulation of town and country planning, and where a power or authority is exercisable under this Act and a similar power or authority is exercisable under any other enactment as aforesaid, whether or not in relation to the same person who is likely to be affected by the exercise of the power or authority, that power or authority may be exercised pursuant to either or both, whether simultaneously or successively, as the person exercising the same may deem fit:

Provided that a court may, at any stage in any proceedings before it, take cognisance of the exercise of that power or authority (and the known consequences thereof) and may adjudicate upon the matter then before it, in the light of those known consequences.

Excessive noise
always object-
ionable and
always
actionable

26. Every person in Saint Vincent and the Grenadines shall observe the basic principle that the making or continuance of excessive noise shall be deemed to be against the public interest and shall be actionable under this Act or otherwise, and the granting of permission to any person under this Act to operate a loudspeaker or a musical instrument shall not be deemed to constitute any authorisation to such person to create or maintain a significantly higher volume of sound than is reasonably necessary to satisfy the primary purpose for which such loudspeaker or musical instrument is being operated.

Test of
reasonableness

27. (1) A court in deciding the question of reasonableness as under this Act, shall use the objective test of ordinary standards and ordinary sensitivities, and shall attach to purely personal sensitivities and idiosyncracies only such weight as to the court might seem meet to prevent injustice.

(2) A court in deciding any matter which falls to be decided, whether originally or on appeal, shall endeavour to balance the personal rights and interests of individuals as against the rights and interests of the community as a whole, and shall endeavour to take into account the following factors (among others) -

- (a) the desirability for cultural and social development;
- (b) the desirability of the pursuit of just economic rewards for labour;
- (c) the traditions and norms of particular localities and of the society as a whole;
- (d) the sanctity of religious worship, teaching, practice and observance;
- (e) the rights of privacy of family life;
- (f) the rights of the disabled, the aged, the young, and the sick;

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- (g) the necessity for orderly progress involving changing values and life-styles, but preserving the fundamental principle of respect for the rights of others.

Regulations

28. The Minister may from time to time make regulations generally for carrying out the purposes of this Act and for providing for such matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

Schedule

29. The form set out in the Schedule hereto may be used in connection with applications made pursuant to sections 7 and 17.