

Example of abatement notice under s322(1)(c)

ABATEMENT NOTICE UNDER SECTION 322 OF THE RESOURCE MANAGEMENT ACT 1991

TO: *[Property occupier. Include, if possible, the person's address and date of birth]*

ADDRESS FOR SERVICE: *[property address/Registered Office if company]*

_____ COUNCIL gives notice that you or your agents are required to adopt the best practicable option of ensuring that the emission of noise from _____ does not exceed a reasonable level, by:

[State what you require the person to do in order to adopt the Best Practicable Option to ensure that the emission of noise from the land does not exceed a reasonable level]

Location in respect of which this abatement notice applies:

[Street address and legal description]

You must comply with this abatement notice within the following period:

[State timeframe – eg, “immediately upon receipt of this notice” or state specific date. Note that the timeframe must be a reasonable one having regard to the circumstances]

This notice imposes the further following conditions:

[Delete if no further conditions imposed]

This notice is issued by a formally appointed _____ Council Enforcement Officer under:

Section 322(1)(c) of the Resource Management Act 1991.

If you do not comply with this notice, an enforcement officer may enter the place where the noise source is situated (with a constable if the place is a dwelling house) and –

- a) take all reasonable steps as the enforcement officer considers necessary to reduce the noise to a reasonable level; and
- b) if accompanied by a constable, seize and impound the noise source.

The reason(s) for this notice are:

That I have reasonable grounds to believe that you are failing to comply with section 16 of the Resource Management Act 1991 by not adopting the best practicable option to ensure that the emission of noise from _____ does not exceed a reasonable level.

Those grounds include the following occasions on which noise emitted from _____ exceeded a reasonable level:

[list brief details: date, time, noise source, measurement method, location and findings by Council]

[State any other reasons eg, subjective effects reported by a number of complainants, including their locations relative to the noise]

If you do not comply with this notice, you may be prosecuted under section 338 of the Resource Management Act 1991 (unless you appeal and the notice is stayed as explained below).

You have the right to appeal to the Environment Court against the whole or any part of this notice. If you wish to appeal, you must lodge a notice in Form 49 with the Environment Court within 15 working days of being served with this notice.

An appeal does not automatically stay the notice and so you must continue to comply with it unless you also apply for a stay from an Environment Judge under section 325 (3A) of the Resource Management Act 1991 (see form 50). To obtain a stay, you must lodge both an appeal and a stay with the Environment Court.

You also have the right to apply in writing to _____ Council to change or cancel this notice in accordance with the section 325A of the Resource Management Act 1991.

_____ Council authorised the Enforcement Officer who issued this notice. Its address is:

_____ Council
[Address]

The Enforcement Officer is acting under the following authorisation:

[Officer name, warrant number and date]

.....
Signature of Enforcement Officer

.....
Dated: *[Date]*