



The CMC review of Queensland's off-road motorbike noise laws

Invitation for public comment

CMC issues paper

CRIME AND
MISCONDUCT
COMMISSION



QUEENSLAND

June 2008

WHY ARE WE REVIEWING MOTORBIKE NOISE LAWS?

In July 2006, new laws were introduced into the *Police Powers and Responsibilities Act 2000* (Qld) to deal with noisy off-road motorbikes. The new provisions require that the Crime and Misconduct Commission (CMC) review the effectiveness of the laws and prepare a report (s. 808).¹

The following explains why the law was changed and what the changes were, the scope of the CMC review, and how to make your comments to the review.

WHY WAS THE LAW CHANGED?

In 2002, during the parliamentary debates on the motor-vehicle anti-hoon laws, several members raised the issue of noisy motorbikes in off-road areas. Excessive motorbike noise was said to be a problem for residents in many semi-residential and rural areas, including Gaven, Lockyer, Greenbank, Jimboomba, Sandgate, Nicklin, Springwood, Loganholme, Mudgeeraba, Tugun Heights and Currumbin Waters. Other concerns relating to trail bikes were also raised during the debates, including the lack of appropriate and legal places to ride, and safety issues, especially in relation to young riders.

In response to members' suggestion that the anti-hoon laws be extended to cover off-road motorbikes, the Honourable Tony McGrady, then Minister for Police and Corrective Services, stated that existing noise abatement legislation was sufficient to deal with noise from off-road motorbikes. However, the Police and Corrective Services Portfolio Subcommittee on Trail Bikes was later established to examine concerns relating to trail bikes and suggest solutions.

The subcommittee sought to balance the interests and rights of off-road motorbike riders with those of residents and others wanting to enjoy public space and private land. It identified off-road motorbike noise as the issue of greatest concern and recommended that parliament amend the law to deal with the problem.

New laws enabling police to take enforcement action against noisy off-road motorbike riders came into effect on 1 July 2006.

¹ All references to sections of legislation are to the *Police Powers and Responsibilities Act 2000* (Qld).

WHAT WERE THE CHANGES?

The new laws are complex, but they essentially provide police with the power to resolve excessive motorbike noise complaints through a series of graduated responses. These range from issuing a noise abatement direction notice to impounding a motorbike and applying to the court for a forfeiture order.

Summary of off-road motorbike noise laws

Police attending in response to a motorbike noise complaint must, before taking further action, be reasonably satisfied that the noise can be heard at, or close to, the complainant's residential or commercial premises (s. 579).

First noise complaint

Police may give a written *noise abatement direction notice* requiring the person to immediately stop the excessive noise for a period of 48 hours (ss. 581 & 582).²

Second noise complaint

If a second noise complaint is received about a motorbike in the same place within 48 hours of the initial noise abatement direction notice, police may:

- charge the person with a *noise abatement direction offence*; a person found guilty may be fined a maximum of \$750 (s. 582)³
- impound the motorbike for a period of 48 hours⁴
- apply to the court for a *noise abatement order* (s. 589).

Noise abatement order

Police can seek a *noise abatement order* if a person has contravened a noise abatement direction notice, or has been given two noise abatement direction notices in one month in relation to the driving of a motorbike in the same off-road place. Noise abatement orders may impose restrictions on the riding of the motorbike for a period of up to two years (s. 589).

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- ² If police are giving a noise abatement direction notice to a child, they must give a copy of the notice to the child's parent or guardian, if it is reasonably practicable to do so.
 - ³ When dealing with a person under 17 years of age, police can consider alternatives in accordance with the *Juvenile Justice Act 1992* (Qld), such as issuing a caution.
 - ⁴ Proceedings for impounding can only be undertaken if the rider is charged with a motorbike noise abatement direction offence, or if the rider is under 17 years of age and police reasonably suspect in the circumstances that the child has committed a motorbike noise direction offence but may not be charged (ss. 74, 79 & 583).



Motorbike noise order offence

A person who contravenes a noise abatement order can be charged with a *motorbike noise order offence* (s. 590).

If this is the person's first contravention, police can impound the motorbike for 48 hours upon charging the person. If found guilty, the person can be fined up to \$3000 and police may apply to have the motorbike impounded for three months. Owners of motorbikes can also be fined up to \$3000 if they knowingly permit a person subject to a noise abatement order to ride a motorbike in contravention of the order.

If within two years of a noise abatement order being issued, a motorbike is impounded because of a second or subsequent motorbike noise order offence, police may impound the motorbike for a period of not more than three months. In some circumstances, police may apply to the court for the forfeiture of the motorbike to the state (s. 84).

Other penalties

If the court believes that impounding or forfeiting a motorbike would cause severe financial or physical hardship to its owner or usual driver, it has the option of ordering a person to perform community service instead (s. 102). The court may also order a person to perform community service in addition to any other penalty imposed (s. 72).

WHAT ISSUES WILL THE CMC REVIEW CONSIDER?

Our review will consider whether the new laws have been effective in reducing the problem of excessive noise from motorbikes being ridden off-road, including on private land.

We will consider a broad range of issues associated with off-road motorbike riding including:

- Do the new laws provide police with sufficient power to deal with noisy off-road motorbikes?
- Could improvements be made to the way in which complaints are responded to?
- Do the new laws provide the courts with sufficient power to deal with noisy off-road motorbikes?
- How are off-road motorbike issues managed in local communities?
- Are there other issues that impact on dealing effectively with noisy off-road motorbikes?

If you live in an area affected by excessive motorbike noise, we are interested to hear whether the new laws have helped to resolve or reduce the problem. Or, if you are an off-road motorbike user, you may wish to comment on whether the new laws affected your capacity to pursue your sport.

HOW TO MAKE YOUR COMMENTS

Please send your submissions by **15 August 2008** to:

CMC Review of Motorbike Noise Laws
Attention: Nadine Seifert
GPO Box 3123, Brisbane Qld 4001

Email: Nadine.Seifert@cmc.qld.gov.au

Fax: **07 3360 6333**

Any written comments will be displayed on the CMC's website <www.cmc.qld.gov.au>, unless you ask for them not to be. Your identity will remain confidential if you request it.

For more information please contact **Nadine Seifert** on **07 3360 6300** or toll free **1800 061 611** (in Queensland outside Brisbane).



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