

SUBSIDIARY LEGISLATION 424.28

WORK PLACE (MINIMUM HEALTH AND SAFETY REQUIREMENTS FOR THE PROTECTION OF WORKERS FROM RISKS RESULTING FROM EXPOSURE TO NOISE) REGULATIONS

28th July, 2006

LEGAL NOTICE 158 of 2006.

1. (1) The title of these regulations is the Work Place (Minimum Health and Safety Requirements for the Protection of Workers from Risks resulting from exposure to Noise) Regulations.

Title, scope and applicability.

(2) The scope of these regulations is to lay down minimum requirements for the protection of workers from risks to their health and safety arising or likely to arise from exposure to noise and in particular the risk to hearing. The requirements of these regulations shall apply to all those activities in which workers are, or are likely to be exposed to risks from noise as a result of their work. These regulations shall implement Directive 2003/10/EC of the European Parliament and of the Council.

(3) These regulations shall apply fully to all workers without prejudice to more stringent and, or more specific provisions contained in any other law or regulation on the protection of workers from the risks related to exposure to noise.

(4) These regulations shall come into force on the date of publication:

Provided that, with regards to members of the crew on board seagoing vessels, the provisions of regulation 7 shall come into force on the 5th February, 2011:

Provided further that with regards to workers working in the music and entertainment sectors, these regulations shall come into force on the 5th February 2008, on condition that the levels of protection already achieved are maintained.

2. In these regulations, unless the context otherwise requires:

Interpretation.

"the Act" means the Occupational Health And Safety Authority Act;

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"the Authority" means the Occupational Health and Safety Authority established by article 8 of the Act;

"daily noise exposure level ($L_{EX,8h}$) (dB(A) re. 20 μ Pa)" means the time-weighted average of the noise exposure levels for a nominal eight-hour working day as defined by international standard ISO 1999: 1990, point 3.6. It covers all noises present at work, including impulsive noise;

"the Minister" means the Minister responsible for occupational health and safety;

Exposure limit values and exposure action values.

"peak sound pressure (P_{peak})" means the maximum value of the 'C'- frequency weighted instantaneous noise pressure;

"weekly noise exposure level ($L_{\text{EX},8\text{h}}$)" means the time-weighted average of the daily noise exposure levels for a nominal week of five eight-hour working days as defined by international standard ISO 1999:1990, point 3.6 (note 2).

3. (1) The occupational exposure limit values and exposure action limit values in respect of the daily noise exposure levels and peak sound pressure shall be as follows:

- (a) exposure limit values: $L_{\text{EX},8\text{h}} = 87 \text{ dB(A)}$ and $P_{\text{peak}} = 200 \text{ Pa}$ ⁽¹⁾ respectively;
- (b) upper exposure action values: $L_{\text{EX},8\text{h}} = 85 \text{ dB(A)}$ and $P_{\text{peak}} = 140 \text{ Pa}$ ⁽²⁾ respectively;
- (c) lower exposure action values: $L_{\text{EX},8\text{h}} = 80 \text{ dB(A)}$ and $P_{\text{peak}} = 112 \text{ Pa}$ ⁽³⁾ respectively.

(2) When applying the exposure limit values, the determination of the worker's effective exposure shall take account of the attenuation provided by the individual hearing protectors worn by the worker. The exposure action values shall not take account of the effect of any such protectors.

(3) In duly justified circumstances, for activities where daily noise exposure varies markedly from one working day to the next, the employer may, for the purposes of applying the exposure limit values and the exposure action values, use the weekly noise exposure level in place of the daily noise exposure level to assess the levels of noise to which workers are exposed, on condition that:

- (a) the weekly noise exposure level as shown by adequate monitoring does not exceed the exposure limit value of 87 dB(A); and
- (b) appropriate measures are taken in order to reduce the risk associated with these activities to a minimum.
 - ⁽¹⁾ 140 dB (C) in relation to 20 μPa .
 - ⁽²⁾ 137 dB (C) in relation to 20 μPa .
 - ⁽³⁾ 135 dB (C) in relation to 20 μPa .

Determination and assessment of risks.

4. (1) The employer shall assess and, if necessary, measure the levels of noise to which workers are exposed.

(2) The methods and apparatus used shall be adapted to the prevailing conditions particularly in the light of the characteristics of the noise to be measured, the length of exposure, ambient factors and the characteristics of the measuring apparatus. These methods and this apparatus shall make it possible to determine the parameters defined in regulation 2 and to decide whether, in a given case, the values fixed in regulation 3 have been exceeded.

(3) The methods used may include sampling, which shall be representative of the personal exposure of a worker.

(4) The assessment and measurement referred to in subregulation (1) shall be planned and carried out by competent persons at suitable intervals. The results obtained from the assessment and, or measurement of the level of exposure to noise shall be preserved in a suitable form so as to permit consultation at a later stage.

(5) When applying this regulation, the assessment of the measurement results shall take into account the measurement inaccuracies determined in accordance with metrological practice.

(6) The employer shall give particular attention, when carrying out the risk assessment, to the following:

- (a) the level, type and duration of exposure, including any exposure to impulsive noise;
- (b) the exposure limit values and the exposure action values laid down in regulation 3;
- (c) any effects concerning the health and safety of workers belonging to particularly sensitive risk groups;
- (d) as far as technically possible, any effects on workers' health and safety resulting from interactions between noise and work related ototoxic substances, and between noise and vibrations;
- (e) any indirect effects on workers' health and safety resulting from interactions between noise and warning signals or other sounds that need to be observed in order to reduce the risk of accidents;
- (f) information on noise emission provided by manufacturers of work equipment in accordance with the relevant Community Directives in force;
- (g) the existence of alternative work equipment designed to reduce the noise emission;
- (h) the extension of exposure to noise beyond normal working hours where the worker is under the employer's responsibility;
- (i) appropriate information obtained following health surveillance, including published information, as far as possible;
- (j) the availability of hearing protectors with adequate attenuation characteristics.

(7) The employer shall be in possession of an assessment of the risk in accordance with regulation 10 of the General Provisions for Health and Safety at Work Places Regulations, and shall identify those measures which must be taken in accordance with regulations 5, 6, 7 and 8 of these regulations. The risk assessment shall be recorded on a suitable medium. The risk assessment shall be kept up to date on a regular basis, particularly if there have been significant changes which could render it out of date, or when the results of health surveillance show it to be necessary.

Reduction of risks
resulting from
exposure to noise.

5. (1) Every employer shall take measures to eliminate at their source or minimize the risks arising from exposure to noise, taking account of technical progress and of the availability of measures to control the risk at source. The reduction of such risks shall be based on the general principles of prevention, taking into account in particular:

- (a) other working methods that require less exposure to noise;
- (b) the choice of appropriate work equipment, taking account of the work to be done, emitting the least possible noise, including the possibility of making available to workers work equipment subject to Community provisions with the aim or effect of limiting exposure to noise;
- (c) the design and layout of workplaces and work stations;
- (d) adequate information, training and instruction of workers to use work equipment correctly and safely in order to reduce their exposure to noise to a minimum;
- (e) noise reduction by technical means:
 - (i) reducing airborne noise, such as by shields, enclosures, sound-absorbent coverings;
 - (ii) reducing structure-borne noise, such as by damping or isolation;
- (f) appropriate maintenance programmes for work equipment, the workplace and workplace systems;
- (g) organisation of work to reduce noise:
 - (i) limitation of the duration and intensity of the exposure;
 - (ii) appropriate work schedules with adequate rest periods.

(2) On the basis of the risk assessment referred to in regulation 4, if the upper exposure action values are exceeded, the employer shall establish and implement a programme of technical and, or organisational measures intended to reduce the exposure to noise, taking into account in particular the measures referred to in sub-regulation (1).

(3) On the basis of the risk assessment referred to in regulation 4, workplaces where workers are likely to be exposed to noise exceeding the upper exposure action values shall be marked with appropriate signs. The areas in question shall also be delimited and access to them restricted where this is technically feasible and the risk of exposure so justifies.

(4) Where, owing to the nature of the activity, a worker benefits from the use of rest facilities under the responsibility of the employer, noise in these facilities shall be reduced to a level compatible with their purpose and the conditions of use. The employer shall adapt the measures referred to in this regulation to the requirements of workers at particular risk.

6. (1) If the risks arising from exposure to noise cannot be prevented by other means, appropriate, adequately-fitting individual hearing protectors shall be made available to workers and used by them in accordance with the provisions of the Minimum Requirements for the Use of Personal Protective Equipment at work Regulations, and under the conditions set out below:

Personal protection.

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- (a) where noise exposure exceeds the lower exposure action values, the employer shall make individual hearing protectors available to workers;
- (b) where noise exposure matches or exceeds the upper exposure action values, individual hearing protectors shall be used;
- (c) the individual hearing protectors shall be so selected as to eliminate the risk to hearing or to reduce the risk to a minimum.

(2) The employer shall make every effort to ensure the wearing of hearing protectors and shall be responsible for checking the effectiveness of the measures taken in compliance with this regulation.

7. (1) Under no circumstances shall the exposure of the worker as determined in accordance with regulation 3(2) exceed the exposure limit values.

Limitation of exposure.

(2) If, despite the measures taken to implement these regulations, exposures above the exposure limit values are detected, the employer shall:

- (a) take immediate action to reduce the exposure to below the exposure limit values;
- (b) identify the reasons why overexposure has occurred; and
- (c) amend the protection and prevention measures in order to avoid any recurrence.

8. (1) The employer shall ensure that workers who are exposed to noise at work at or above the lower exposure action values, and, or their representatives, receive information and training relating to risks resulting from exposure to noise concerning, in particular:

Information and training for workers.

- (a) the nature of such risks;
- (b) the measures taken to implement these regulations in order to eliminate or reduce to a minimum the risks from noise, including the circumstances in which the measures apply;
- (c) the exposure limit values and the exposure action values laid down in regulation 3;
- (d) the results of the assessment and measurement of the noise carried out in accordance with regulation 4 together with an explanation of their significance and

potential risk;

- (e) the correct use of hearing protectors;
- (f) why and how to detect and report signs of hearing damage;
- (g) the circumstances in which workers are entitled to health surveillance and the purpose of such health surveillance, in accordance with regulation 10;
- (h) safe working practices to minimise exposure to noise.

Consultation and participation of workers.

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9. (1) Consultation and participation of workers and, or their representatives on the matters covered by these regulations, including the assessment and measurement of noise experienced at work, shall take place in accordance with the General Provisions for Health and Safety at Work Places Regulations, in particular:

- (a) the assessment of risks and identification of measures to be taken, referred to in regulation 4,
- (b) the actions aimed at eliminating or reducing risks arising from exposure to noise, referred to in regulation 5,
- (c) the choice of individual hearing protectors referred to in paragraph 6(1)(c).

Health surveillance.

10. (1) Without prejudice to each worker's right, if the worker so wishes, to receive health surveillance at regular intervals, an employer shall make arrangements for carrying out appropriate health surveillance of workers for whom the results of the assessment referred to in regulation 4 reveal a risk to health, and such health records shall be made available to the Authority.

(2) A worker whose exposure exceeds the upper exposure action values shall have the right to have the hearing checked by a doctor or by another suitably competent person under the responsibility of a doctor. Preventive audiometric testing shall also be available for workers whose exposure exceeds the lower exposure action values, where the assessment and measurement provided for in regulation 4 indicate a risk to health. The objectives of these checks are to provide early diagnosis of any loss of hearing due to noise, and to preserve the hearing function.

(3) An employer shall ensure that for each worker who undergoes health surveillance in accordance with subregulation (1), individual health records are made and kept up-to-date.

- (4) (a) Health records shall contain a summary of the results of the health surveillance carried out, and shall be kept in a suitable form so as to permit any consultation in a confidential manner at a later date.
- (b) Copies of the appropriate records shall be supplied to the Authority on request; the individual worker shall, at his request, have access to the health records relating to him personally.

(5) Where, as a result of surveillance of the hearing function, a worker is found to have an identifiable hearing damage, a doctor or a specialist if the doctor considers it necessary, shall assess whether the damage is likely to be the result of exposure to noise at work. If this is the case:

- (a) the worker shall be informed by the doctor or other suitably competent person of the result which relates to him personally;
- (b) the employer shall:
 - (i) review the risk assessment carried out pursuant to regulation 4,
 - (ii) review the measures provided for to eliminate or reduce risks pursuant to regulations 5 and 6,
 - (iii) take into account the advice of the competent person or the Authority in implementing any measures required to eliminate or reduce risk in accordance with regulations 5 and 6, including the possibility of assigning the worker to alternative work where there is no risk of further exposure, and
 - (iv) arrange systematic health surveillance and provide for a review of the health status of any other worker who has been similarly exposed.

11. (1) In exceptional situations where, because of the nature of the work, the full and proper use of individual hearing protectors would be likely to cause greater risk to health or safety than not using such protectors, the Minister may by order in writing grant exemptions from the provisions of regulations 6(1)(a) and (b) and 7.

Exemptions.

(2) The exemptions referred to in subregulation (1), shall be subject to conditions, which in view of individual circumstances, ensure that the risks resulting from such exemptions are reduced to a minimum and the exemptions shall be reviewed periodically and be revoked as soon as is reasonably practicable.

12. In any proceedings for an offence under these regulations consisting of failure to comply with a duty or requirement to do something, or to do something so far as is reasonably practicable, it shall be for the accused to prove (as the case may be) that it was not practicable or not reasonably practicable to do more than was in fact done to satisfy the duty or requirement, or there was no better practicable means than was in fact used to satisfy the duty or requirement.

Onus of proof.

13. Any person who knowingly or recklessly interferes with the process of providing a safe and healthy place of work shall be guilty of an offence.

Offences.