
STATUTORY INSTRUMENTS

2001 No. 1701

**The Noise Emission in the Environment by
Equipment for use Outdoors Regulations 2001**

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Noise Emission in the Environment by Equipment for use Outdoors Regulations 2001.

(2) This regulation, regulations 2 and 14 shall come into force on 4th June 2001, except that regulation 2(1)(b) shall not have effect until the date of the coming into force of the Decision by the EEA Joint Committee by which the application of the Directive is extended to the EEA.

(3) The remaining regulations shall come into force on 3rd July 2001.

(4) The Construction Plant and Equipment (Harmonization of Noise Emission Standards) Regulations 1985(1), the Construction Plant and Equipment (Harmonisation of Noise Emission Standards) Regulations 1988(2), the Lawnmowers (Harmonization of Noise Emission Standards) Regulations 1992(3) and the Construction Plant and Equipment (Noise Emission) Regulations (Northern Ireland) 1987(4) are revoked with effect from 3rd January 2002.

Interpretation

2.—(1) In these Regulations—

- (a) “the Directive” means Directive [2000/14/EC](#) of the European Parliament and of the Council on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors(5);
- (b) except for the references to the European Communities in the definition of “the Commission” and in relation to the Official Journal, a reference to the Community includes a reference to the EEA, and a reference to a member State includes a reference to an EEA State: for this purpose—
 - (i) the “EEA” means the European Economic Area;
 - (ii) an “EEA State” means a State which is a Contracting Party to the EEA Agreement; and
 - (iii) the “EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993(6); and
- (c) unless the context otherwise requires, a reference to a numbered regulation or Schedule is a reference to the regulation or Schedule so numbered in these Regulations and a reference—

(1) S.I. 1985/1968, amended by S.I. 1989/1127.

(2) S.I. 1988/361, amended by S.I. 1992/488, 1992/3043, 1995/2357.

(3) S.I. 1992/168, amended by S.I. 1997/876.

(4) S.R. 1987 No. 328, amended by S.R. 1990 No. 102 and S.R. 1999 No. 123.

(5) OJ L162, 3.7.2000, p.1.

(6) A Decision of the EEA Joint Committee will extend the application of the Directive to the EEA. That Decision has not been made at the date of making of these Regulations.

- (i) to a paragraph in a regulation is a reference to a paragraph in that regulation;
 - (ii) to an Annex is a reference to an Annex of the Directive: for the purposes of these Regulations, Annexes I, II, III, IV, V, VI, VII and VIII are respectively set out in Schedules 4, 5, 6, 7, 8, 9, 10 and 11;
 - (iii) to a paragraph in an Annex is a reference to a paragraph in that Annex as set out in the relevant Schedule;
 - (iv) to an Article is a reference to an Article of the Directive.
- (2) In these Regulations, unless the context otherwise requires—
- “CE marking” means the CE marking referred to in regulation 11 consisting of the initials “CE” in the form shown in Schedule 7;
- “the Commission” means the Commission of the European Communities;
- “enforcement authority” shall be construed in accordance with paragraph 1(1) of Schedule 13;
- “equipment” means equipment for use outdoors;
- “equipment for use outdoors” means all machinery defined in Article 1(2) of Directive [98/37/EC](#) of the European Parliament and of the Council of 22nd June 1998 on the approximation of the laws of the Member States relating to machinery(7), that is to say;
- an assembly of linked parts or components, at least one of which moves, with the appropriate actuators, control and power circuits, and so on, joined together for a specific application, in particular for the processing, treatment, moving or packaging of a material, or
 - an assembly of machines which, in order to achieve the same end, are arranged and controlled so that they function as an integral whole, or
 - interchangeable equipment modifying the function of a machine, which is placed on the market for the purpose of being assembled with a machine or a series of different machines or with a tractor by the operator himself insofar as this equipment is not a spare part or a tool;
- which is either self-propelled or can be moved and which, irrespective of the driving element(s), is intended to be used, according to its type, in the open air and which contributes to environmental noise exposure, including non-powered equipment for industrial or environmental applications which is intended, according to its type, to be used outdoors and which contributes to environmental noise exposure;
- “indication of the guaranteed sound power level” means the indication referred to in regulation 11 in the form shown in Schedule 7;
- “open air” includes the use of equipment in an ambience where the transmission of sound is not or not significantly affected (for instance, under tents, under roofs for protection against rain or in the shell of houses);
- “responsible person” means
- (a) the manufacturer;
 - (b) the manufacturer’s authorised representative established in the Community; or
 - (c) where neither the manufacturer nor his authorised representative is established in the Community, the person placing the equipment on the market or putting it into service in the Community;
- “guaranteed sound power level” means a sound power level determined in accordance with the requirements laid down in Schedule 6 which includes the uncertainties due to production

(7) OJ L207, 23.7.1998, p.1. Directive as amended by Directive [98/79/EC](#) (OJ L331, 7.12.1998, p.1).

variation and measurement procedures and where the responsible person confirms that according to the technical instruments applied and referred to in the technical documentation it is not exceeded;

“measured sound power level” means a sound power level as determined from measurements as laid down in Schedule 6; measured values may be determined either from a single machine representative for the type of equipment or from the average of a number of machines;

“notified body” shall be construed in accordance with regulation 13;

“sound power level L_{WA} ” means the A-weighted sound power level in dB in relation to 1pW as defined in EN ISO 3744: 1995(8) and EN ISO 3746: 1995(9).

Application

3.—(1) Subject to regulations 4, 5 and 6, these Regulations shall apply to equipment listed in Schedules 1 and 2, as further defined in Schedule 4.

(2) These Regulations shall apply, and the provisions of paragraphs 1.5.8 and 1.7.4(f) of Schedule 3 to the Supply of Machinery (Safety) Regulations 1992(10) shall not apply, to any equipment listed in Schedules 1 and 2, as further defined in Schedule 4.

Excluded equipment

4. These Regulations shall not apply to—

- (a) non-powered attachments separately placed on the market or put into service except for hand-held concrete breakers and picks and those for hydraulic hammers;
- (b) all equipment primarily intended for the transport of goods or persons by road or rail or by air or on waterways; or
- (c) equipment specially designed and constructed for military and police purposes and for emergency services.

5. These Regulations shall not apply to equipment placed on the market before 3rd July 2001.

6.—(1) Subject to paragraph (2), these Regulations shall not apply to equipment placed on the market or put into service on or before 2nd January 2002 which comply with any provisions with which they would have been required to comply for them to be placed on the market in the United Kingdom on 2nd July 2001.

(2) The exclusion provided in paragraph (1) shall not apply in the case of equipment which—

- (a) unless required to bear the CE marking pursuant to any other Community obligation, bears the CE marking or an inscription liable to be confused with it; or
- (b) bears or is accompanied by any other indication, howsoever expressed, that it complies with the Directive.

General duty relating to placing on the market or putting into service

7.—(1) Subject to regulation 8, no person, who is a responsible person, shall place on the market or put into service any equipment listed in Schedules 1 and 2 and further defined in Schedule 4 unless the requirements of paragraph (2) have been complied with in relation to it.

(8) EN ISO 3744:1995—Acoustics—Determination of sound power levels of noise sources using sound pressure—Engineering method in an essentially free field over a reflecting plane.

(9) EN ISO 3746:1995—Acoustics—Determination of sound power levels of noise sources using sound pressure—Survey method using an enveloping measurement surface over a reflecting plane.

(10) S.I. 1992/3073, amended by S.I. 1994/2063.

- (2) The requirements in respect of equipment described in paragraph (1) are that:
- (a) it satisfies the relevant requirements set out in regulation 8;
 - (b) the appropriate conformity assessment procedure referred to in regulation 10 has been completed in relation to it;
 - (c) it bears the CE marking and the indication of the guaranteed sound power level in accordance with regulation 11; and
 - (d) it is accompanied by an EC declaration of conformity the minimum content of which is set out in Schedule 5.
- (3) In respect of equipment to be placed on the market or put into service in the United Kingdom, the declaration of conformity shall be in English.
- (4) A specimen of the declaration of conformity shall be retained by the responsible person for 10 years from the date on which the type of equipment was last manufactured, together with the technical documentation as provided for in Schedule 8 point 3, Schedule 9 point 3, Schedule 10 point 2, and Schedule 11 points 3.1 and 3.3.
- (5) Type-examination certificates issued and measurements of equipment carried out under the Regulations listed in regulation 1(4) may be used in drawing up the technical documentation referred to in paragraph (4) above.
- (6) Paragraph (1) shall only apply to equipment that is placed on the market or put into service as an entire unit suitable for the intended use of that equipment.

Permissible sound power level of equipment

- 8.—(1) The requirements concerning noise emission in the environment in the case of equipment listed in Schedule 1 and defined in Schedule 4 are that the guaranteed sound power level does not exceed the applicable permissible sound power level as laid down in the table set out in Schedule 3 and as calculated in accordance with the provisions in Schedule 6.
- (2) The sound power levels in the column headed “Stage I” of the table set out in Schedule 3 shall apply from 3rd January 2002 and those in the column headed “Stage II” of the said table shall apply from 3rd January 2006.
- (3) The requirements concerning noise emission in the environment in the case of equipment listed in Schedule 2 and defined in Schedule 4 are that the guaranteed sound power level shall be marked on the equipment.

Exceptions to placing on the market and putting into service of certain equipment

9. For the purposes of regulation 7, equipment shall not be regarded as being placed on the market or put into service—
- (a) where that equipment—
 - (i) will be put into service in a country outside the Community; or
 - (ii) is imported into the Community for re-export to a country outside the Community, save that this paragraph shall not apply if the CE marking, or any inscription liable to be confused therewith, is affixed thereto; or
 - (b) by the showing at trade fairs, exhibitions, demonstrations and similar events, of that equipment in respect of which the provisions of these Regulations are not satisfied if—
 - (i) a visible sign clearly indicates that—
 - (aa) such equipment does not conform; and

- (bb) it is not placed on the market or put into service until it has been brought into conformity by the responsible person; and
- (ii) adequate safety measures are taken during demonstrations to ensure the protection of persons.

Conformity assessment procedures

- 10.** For the purposes of regulation 7(2)(b), the appropriate conformity assessment procedure is:
- (a) for equipment listed in Schedule 1 and defined in Schedule 4, one of the procedures set out in Schedule 9, 10 or 11; or
 - (b) for equipment listed in Schedule 2 and defined in Schedule 4, the procedure set out in Schedule 8.

CE marking and indication of the guaranteed sound power level

11.—(1) The CE marking shall be accompanied by the indication of the guaranteed sound power level.

(2) The CE marking and the indication of the guaranteed sound power level shall be affixed in a visible, legible and indelible form to each item of equipment.

(3) Subject to paragraph (4), where the equipment is subject to other directives covering other aspects which provide for the affixing of the CE marking, the latter shall indicate that the equipment in question is also presumed to conform to the provisions of those other directives.

(4) Where one or more of the other directives referred to in paragraph (3) allow the manufacturer, during a transitional period, to choose which arrangements to apply, the CE marking shall indicate conformity only with the directives applied by the manufacturer, and in this case, particulars of the directives applied, as published in the Official Journal of the European Communities, must be given in the documents, notices or instructions required by the directives and accompanying the equipment.

(5) The affixing of markings or inscriptions on equipment which are likely to be misleading as to the meaning or form of the CE marking or to the indication of the guaranteed sound power level is prohibited.

(6) Any other marking may be affixed to equipment provided that the visibility and legibility of the CE marking and the indication of the guaranteed sound power level is not thereby reduced.

Provision of data

12. A copy of the declaration of conformity shall be sent by the responsible person to the Secretary of State at the Department of Trade and Industry(**11**) at such address as he shall from time to time require and to the Commission(**12**) within 28 days of placing the equipment on the market.

Notified Bodies

13. For the purposes of these Regulations, a notified body is a body which has been appointed to carry out one or more of the conformity assessment procedures mentioned or referred to in regulation 10 and which has been—

- (a) appointed as a notified body in the United Kingdom pursuant to regulation 14; or

(11) DTI, PO Box 1302, Bristol, BS99 2GB.

(12) The European Commission, F.A.O. Secretary General, (DG Environment-Noise Directive [2000/14/EC](#)), 200 Rue de la Loi, B-1049 Brussels, Belgium.

- (b) appointed by a member State other than the United Kingdom, and has been notified by the member State concerned to the Commission and the other member States pursuant to Article 15 of the Directive.

14.—(1) The Secretary of State may from time to time appoint such persons as he thinks fit to be notified bodies for the purposes of these Regulations.

(2) An appointment—

- (a) may relate to all descriptions of equipment or such descriptions (which may be framed by reference to any circumstances whatsoever) of equipment as the Secretary of State may from time to time determine;
- (b) may be made subject to such conditions as the Secretary of State may from time to time determine, and such conditions may include conditions which are to apply upon or following termination of the appointment;
- (c) shall, without prejudice to the generality of sub-paragraph (b) and subject to paragraph (4), require that body to carry out the procedures and specific tasks for which it has been appointed including (where so provided as part of those procedures) surveillance to ensure that the responsible person duly fulfils the obligations arising out of the relevant conformity assessment procedure;
- (d) shall be terminated upon 90 days' notice in writing to the Secretary of State, at the request of the notified body; and
- (e) may be terminated if it appears to the Secretary of State that any of the conditions of the appointment are not complied with.

(3) Subject to paragraphs (2)(d) and (e), an appointment under this regulation may be for the time being or for such period as may be specified in the appointment.

(4) A notified body appointed by the Secretary of State shall not be required to carry out the functions referred to in paragraph (2)(c) if—

- (a) for any reason the documents submitted to it in relation to carrying out such functions are not in English or another language acceptable to that body;
- (b) the person making the application has not submitted with his application the amount of the fee which the body requires to be submitted with the application pursuant to regulation 15; or
- (c) the body reasonably believes that, having regard to the number of applications made to it in relation to its appointment under these Regulations which are outstanding, it will be unable to commence the required work within three months of receiving the application.

(5) If for any reason the appointment of a notified body is terminated under this regulation, the Secretary of State may—

- (a) give such directions (either to the body the subject of the termination or to another notified body) for the purpose of making such arrangements for the determination of outstanding applications as he considers appropriate; and
- (b) without prejudice to the generality of the foregoing, authorise another notified body to take over its functions in respect of such cases as he may specify.

(6) Where a notified body is minded to refuse to issue a report or conformity certificate it shall—

- (a) give notice in writing to the applicant of the reasons why it is minded to do so; and
- (b) give the applicant the opportunity to make representations within a period of 28 days of the said notice being given and consider any representations made within that period by the applicant.

Fees

15.—(1) Without prejudice to the power of the Secretary of State, where he is appointed as a notified body in the United Kingdom, to charge fees pursuant to regulations made under section 56 of the Finance Act 1973(13) and subject to paragraph (2), a notified body appointed by the Secretary of State may charge such fees in connection with, or incidental to, carrying out its duties in relation to the functions referred to in regulation 14(2)(c) as it may determine; provided that such fees shall not exceed the sum of the following—

- (a) the costs incurred or to be incurred by the notified body in performing the relevant function; and
- (b) an amount on account of profit which is reasonable in the circumstances having regard to—
 - (i) the character and extent of the work done or to be done by the body on behalf of the applicant; and
 - (ii) the commercial rate normally charged on account of profit for that work or similar work.

(2) The power in paragraph (1) includes the power to require the payment of fees or a reasonable estimate thereof in advance of carrying out the work requested by the applicant.

Conditions for equipment being taken to conform

16.—(1) Subject to paragraph (2), any equipment which—

- (a) bears the CE marking and the indication of the guaranteed sound power level in accordance with regulation 7(2)(c); and
- (b) is accompanied by an EC declaration of conformity in accordance with regulation 7(2)(d),

shall be taken to conform with all the provisions of these Regulations which apply to it, including the appropriate conformity assessment procedure specified in regulation 10, unless there are reasonable grounds for suspecting that it does not so conform.

(2) Paragraph (1) does not apply in relation to an enforcement authority where a person fails or refuses to make available to the enforcement authority the documentation which he is required, by the conformity assessment procedure which applies to that equipment, to retain a copy thereof.

Enforcement

17.—(1) Subject to paragraph (2), Schedule 13 shall have effect for the purposes of providing for the enforcement of these Regulations and for matters incidental thereto.

(2) Where an enforcement authority has reasonable grounds for suspecting that the CE marking and the indication of the guaranteed sound power level has been affixed to equipment and in relation to which any provision of these Regulations except the requirements in regulation 8(1) has not been complied with it may serve notice in writing on—

- (a) the manufacturer of the equipment or his authorised representative established within the Community; or
- (b) in a case where neither the manufacturer of the equipment nor his authorised representative established within the Community has placed the equipment on the market, the person who places it on the market or puts it into service in the United Kingdom;

and subject to paragraph (3), no other action pursuant to Schedule 13 may be taken, and no proceedings may be brought pursuant to regulation 18, in respect of that equipment until such notice has been given and the person to whom it is given has failed to comply with its requirements.

- (3) A notice which is given under paragraph (2) shall—
- (a) state that the enforcement authority suspects that the CE marking and the indication of the guaranteed sound power level has not been correctly affixed to the equipment;
 - (b) specify the respect in which it is so suspected and give particulars thereof;
 - (c) require the person to whom the notice is given—
 - (i) to secure that any equipment to which the notice relates conforms as regards the provisions concerning the correct affixation of the CE marking and the indication of the guaranteed sound power level within such period as may be specified in the notice; or
 - (ii) to provide evidence within that period, to the satisfaction of the enforcement authority, that the CE marking and the indication of the guaranteed sound power level has been correctly affixed; and
 - (d) warn that person that if the non-conformity continues after, or if satisfactory evidence has not been provided within, the period specified in the notice, further action may be taken under these Regulations in respect of that equipment or equipment of the same type placed on the market or put into service by that person.

Offences

18. Any person who—

- (a) contravenes or fails to comply with regulation 7(1);
- (b) fails to retain a copy of the declaration of conformity as required by regulation 7(4); or
- (c) fails to supply a copy of the declaration of conformity as required by regulation 12,

shall be guilty of an offence.

Penalties

19.—(1) A person guilty of an offence under regulation 18(a) shall be liable on summary conviction—

- (a) to imprisonment for a term not exceeding three months; or
- (b) to a fine not exceeding level 5 on the standard scale,

or to both.

(2) A person guilty of an offence under regulation 18(b), (c) or paragraphs 9, 10, 11(1) or (2) of Schedule 13 shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Defence of due diligence

20.—(1) Subject to the following provisions of this regulation, in proceedings against any person for an offence under regulation 18 above it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) Where in any proceedings against any person for such an offence the defence provided by paragraph (1) involves an allegation that the commission of the offence was due—

- (a) to the act or default of another; or

(b) to reliance on information given by another,

that person shall not, without the leave of the court, be entitled to rely on the defence unless, not less than seven clear days before the hearing of the proceedings (or, in Scotland, the trial diet), he has served a notice under paragraph (3) on the person bringing the proceedings.

(3) A notice under this paragraph shall give such information identifying or assisting in the identification of the person who committed the act or default or gave the information as is in the possession of the person serving the notice at the time he serves it.

(4) It is hereby declared that a person shall not be entitled to rely on the defence provided by paragraph (1) by reason of his reliance on information supplied by another, unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular—

- (a) to the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) to whether he had any reason to disbelieve the information.

Liability of persons other than the principal offender

21.—(1) Where the commission by any person of an offence under regulation 18 is due to the act or default committed by some other person in the course of any business of his, the other person shall be guilty of the offence and may be proceeded against and punished by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

(2) Where a body corporate is guilty of an offence under these Regulations (including where it is so guilty by virtue of paragraph (1)) in respect of any act or default which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, paragraph (2) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(4) In this regulation, references to a “body corporate” include references to a partnership in Scotland and, in relation to such partnership, any reference to a director, manager, secretary or other similar officer of a body corporate is a reference to a partner.

Consequential amendments

22.—(1) In the Provision and Use of Work Equipment Regulations 1998⁽¹⁴⁾ in Schedule 1 there shall be added at the end of column one the words “The Noise Emission in the Environment by Equipment for use Outdoors Regulations 2001” and at the end of column two the words “S.I.2001/1701”.

(2) In the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999⁽¹⁵⁾, in Schedule 2 there shall be added at the end of column one the words “The Noise Emission in the Environment by Equipment for use Outdoors Regulations 2001” and at the end of column two the words “S.I. 2001/1701”.

⁽¹⁴⁾ 1973 c. 51.

⁽¹⁵⁾ S.R. 1999 No. 305.

3rd May 2001

Sainsbury of Turville,
Parliamentary Under-Secretary of State for
Science and Innovation,
Department of Trade and Industry