STATUTORY RULES OF NORTHERN IRELAND

2006 No. 1

HEALTH AND SAFETY

The Control of Noise at Work Regulations (Northern Ireland) 2006

Made - - - - *10th January 2006*

Coming into operation *6th April 2006*

The Department of Enterprise, Trade and Investment(**1**), being the Department concerned(**2**), makes the following Regulations in exercise of the powers conferred by Articles 17(1), (2) and (5) and 55(2) of, and paragraphs 1(1), 7(1), 8, 10, 12(2) and (3), 13, 14(1), 15 and 19 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**3**) ("the 1978 Order"). The Regulations give effect without modifications to proposals submitted to it by the Health and Safety Executive for Northern Ireland under Article 13(1A)(c) of the 1978 Order(**4**) after the Executive had carried out consultations in accordance with Article 46(3) of the 1978 Order(**5**).

Citation and commencement

1. These Regulations may be cited as the Control of Noise at Work Regulations (Northern Ireland) 2006 and shall come into operation on 6th April 2006, except that—

(a) for the music and entertainment sectors only they shall not come into operation until 6th April 2008; and

(b) subject to regulation 3(4), regulation 6(4) shall not come into operation in relation to the master and crew of a seagoing ship until 6th April 2011.

Interpretation

2.—(1) In these Regulations—

"daily personal noise exposure" means the level of daily personal noise exposure of an employee as ascertained in accordance with Schedule 1 Part 1, taking account of the level of noise and the duration of exposure and covering all noise;

(**1**) Formerly the Department of Economic Development: *see* S.I. 1982/846 (N.I. 11), Article 3 and S.I. 1999/283 (N.I. 1), Article 3(5)

(**2**) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)

(**3**) S.I. 1978/1039 (N.I. 9); the general purposes of Part II referred to in Article 17(1) were extended by S.I. 1992/1728 (N.I. 17), Article 3(1). Article 47A was inserted by Article 3, and Article 2 was amended by Articles 4 and 8 of S.I. 1997/1774 (N.I. 16). Article 55(2) was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 2, paragraph 19

(**4**) Article 13(1) was substituted by S.I. 1998/2795 (N.I. 18), Article 4

(**5**) Article 46(3) was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 1, paragraphs 8 and 18

"emergency services" include—

(a) police, fire, rescue and ambulance services;

(b) Her Majesty's Coastguard;

"enforcing authority" means the Executive or district council, determined in accordance with the provisions of the Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1999(**6**);

"the Executive" means the Health and Safety Executive for Northern Ireland;

"exposure limit value" means the level of daily or weekly personal noise exposure or of peak sound pressure set out in regulation 4 which must not be exceeded;

"health surveillance" means assessment of the state of health of an employee, as related to exposure to noise;

"lower exposure action value" means the lower of the two levels of daily or weekly personal noise exposure or of peak sound pressure set out in regulation 4 which, if reached or exceeded, require specified action to be taken to reduce risk;

"the music and entertainment sectors" means all workplaces where—

(a) live music is played; or

(b) recorded music is played in a restaurant, bar, public house, discotheque or nightclub, or alongside live music or a live dramatic or dance performance;

"noise" means any audible sound;

"peak sound pressure" means the maximum sound pressure to which an employee is exposed, ascertained in accordance with Schedule 2;

"risk assessment" means the assessment of risk required by regulation 5;

"ship" includes every description of vessel used in navigation;

"territorial sea" means the territorial sea of the United Kingdom adjacent to Northern Ireland and "within the territorial sea" includes on, over and under it;

"upper exposure action value" means the higher of the two levels of daily or weekly personal noise exposure or of peak sound pressure set out in regulation 4 which, if reached or exceeded, require specified action to be taken to reduce risk;

"weekly personal noise exposure" means the level of weekly personal noise exposure as ascertained in accordance with Schedule 1 Part 2, taking account of the level of noise and the duration of exposure and covering all noise; and

"working day" means a daily working period, irrespective of the time of day when it begins or ends, and of whether it begins or ends on the same calendar day.

(2) In these Regulations, a reference to an employee being exposed to noise is a reference to the exposure of that employee to noise which arises while he is at work, or arises out of or in connection with his work.

Application

3.—(1) These Regulations shall have effect with a view to protecting persons against risk to their health and safety arising from exposure to noise at work.

(2) Where a duty is placed by these Regulations on an employer in respect of his employees, the employer shall, so far as is reasonably practicable, be under a like duty in respect of any other

(**6**) S.R. 1999 No. 90, as amended by S.R. 2000 No. 375 and S.R. 2003 No. 33

person at work who may be affected by the work carried out by the employer except that the duties of the employer—

(a) under regulation 9 (health surveillance) shall not extend to persons who are not his employees; and

(b) under regulation 10 (information, instruction and training) shall not extend to persons who are not his employees, unless those persons are present at the workplace where the work is being carried out.

(3) These Regulations shall apply to a self-employed person as they apply to an employer and an employee and as if that self-employed person were both an employer and an employee, except that regulation 9 shall not apply to a self-employed person.

(4) These Regulations shall not apply to the master or crew of a ship or to the employer of such persons in respect of the normal shipboard activities of a ship's crew which are carried out solely by the crew under the direction of the master, and for the purposes of this paragraph "ship" includes every description of vessel used in navigation, other than a ship forming part of Her Majesty's Navy.

Exposure limit values and action values

4.—(1) The lower exposure action values are—

(a) a daily or weekly personal noise exposure of 80 dB (A-weighted); and

(b) a peak sound pressure or 135 dB (C-weighted).

(2) The upper exposure action values are—

(a) a daily or weekly personal noise exposure of 85 dB (A-weighted); and

(b) a peak sound pressure of 137 dB (C-weighted).

(3) The exposure limit values are—

(a) a daily or weekly personal noise exposure of 87 dB (A-weighted); and

(b) a peak sound pressure of 140 dB (C-weighted).

(4) Where the exposure of an employee to noise varies markedly from day to day, an employer may use weekly personal noise exposure in place of daily personal noise exposure for the purpose of compliance with these Regulations.

(5) In applying the exposure limit values in paragraph (3), but not in applying the lower and upper exposure action values in paragraphs (1) and (2), account shall be taken of the protection given to the employee by any personal hearing protectors provided by the employer in accordance with regulation 7(2).

Assessment of the risk to health and safety created by exposure to noise at the workplace

5.—(1) An employer who carries out work which is liable to expose any employees to noise at or above a lower exposure action value shall make a suitable and sufficient assessment of the risk from that noise to the health and safety of those employees, and the risk assessment shall identify the measures which need to be taken to meet the requirements of these Regulations.

(2) In conducting the risk assessment, the employer shall assess the levels of noise to which employees are exposed by means of—

(a) observation of specific working practices;

(b) reference to relevant information on the probable levels of noise corresponding to any equipment used in the particular working conditions; and

(c) if necessary, measurement of the level of noise to which his employees are likely to be exposed,

and the employer shall assess whether any employees are likely to be exposed to noise at or above a lower exposure action value, an upper exposure action value, or an exposure limit value.

(3) The risk assessment shall include consideration of—

(a) the level, type and duration of exposure, including any exposure to peak sound pressure;

(b) the effects of exposure to noise on employees or groups of employees whose health is at particular risk from such exposure;

(c) so far as is practicable, any effects on the health and safety of employees resulting from the interaction between noise and the use of ototoxic substances at work, or between noise and vibration;

(d) any indirect effects on the health and safety of employees resulting from the interaction between noise and audible warning signals or other sounds that need to be audible in order to reduce risk at work;

(e) any information provided by the manufacturers of work equipment;

(f) the availability of alternative equipment designed to reduce the emission of noise;

(g) any extension of exposure to noise at the workplace beyond normal working hours, including exposure in rest facilities supervised by the employer;

(h) appropriate information obtained following health surveillance, including, where possible, published information; and

(i) the availability of personal hearing protectors with adequate attenuation characteristics.

(4) The risk assessment shall be reviewed regularly, and forthwith if—

(a) there is reason to suspect that the risk assessment is no longer valid; or

(b) there has been a significant change in the work to which the assessment relates,

and where, as a result of the review, changes to the risk assessment are required, those changes shall be made.

(5) The employees concerned or their representatives shall be consulted on the assessment of risk under the provisions of this regulation.

(6) The employer shall record—

(a) the significant findings of the risk assessment as soon as is practicable after the risk assessment is made or changed; and

(b) the measures which he has taken and which he intends to take to meet the requirements of regulations 6, 7 and 10.

Elimination or control of exposure to noise at the workplace

6.—(1) The employer shall ensure that risk from the exposure of his employees to noise is either eliminated at source or, where this is not reasonably practicable, reduced to as low a level as is reasonably practicable.

(2) If any employee is likely to be exposed to noise at or above an upper exposure action value, the employer shall reduce exposure to as low a level as is reasonably practicable by establishing and implementing a programme of organisational and technical measures, excluding the provision of personal hearing protectors, which is appropriate to the activity.

(3) The actions taken by the employer in compliance with paragraphs (1) and (2) shall be based on the general principles of prevention set out in Schedule 1 to the Management of Health and Safety at Work Regulations (Northern Ireland) 2000(**7**) and shall include consideration of—

(**7**) S.R. 2000 No. 388, as amended by S.R. 2001 No. 348 and S.R. 2003 No. 454

(a) other working methods which reduce exposure to noise;

(b) choice of appropriate work equipment emitting the least possible noise, taking account of the work to be done;

(c) the design and layout of workplaces, work stations and rest facilities;

(d) suitable and sufficient information and training for employees, such that work equipment may be used correctly, in order to minimise their exposure to noise;

(e) reduction of noise by technical means;

(f) appropriate maintenance programmes for work equipment, the workplace and workplace systems;

(g) limitation of the duration and intensity of exposure to noise; and

(h) appropriate work schedules with adequate rest periods.

(4) The employer shall—

(a) ensure that his employees are not exposed to noise above an exposure limit value; or

(b) if an exposure limit value is exceeded forthwith—

(i) reduce exposure to noise to below the exposure limit value;

(ii) identify the reason for that exposure limit value being exceeded; and

(iii) modify the organisational and technical measures taken in accordance with paragraphs (1) and (2) and regulations 7 and 8(1) to prevent it being exceeded again.

(5) Where rest facilities are made available to employees, the employer shall ensure that exposure to noise in these facilities is reduced to a level suitable for their purpose and conditions of use.

(6) The employer shall adapt any measure taken in compliance with the requirements of this regulation to take account of any employee or group of employees whose health is likely to be particularly at risk from exposure to noise.

(7) The employees concerned or their representatives shall be consulted on the measures to be taken to meet the requirements of this regulation.

Hearing protection

7.—(1) Without prejudice to the provisions of regulation 6, an employer who carries out work which is likely to expose any employees to noise at or above a lower exposure action value shall make personal hearing protectors available to any employee who is so exposed.

(2) Without prejudice to the provisions of regulation 6, if an employer is unable by other means to reduce the levels of noise to which an employee is likely to be exposed to below an upper exposure action value, he shall provide personal hearing protectors to any employee who is so exposed.

(3) If in any area of the workplace under the control of the employer an employee is likely to be exposed to noise at or above an upper exposure action value for any reason the employer shall ensure that—

(a) the area is designated a Hearing Protection Zone;

(b) the area is demarcated and identified by means of the sign specified for the purpose of indicating that ear protection must be worn in paragraph 3.3 of Part 2 of Schedule 1 to the Health and Safety (Safety Signs and Signals) Regulations (Northern Ireland) 1996(**8**); and

(c) access to the area is restricted where this is practicable and the risk from exposure justifies it,

(**8**) S.R. 1996 No. 119, as amended by S.R. 1997 No. 247, S.R. 1999 No. 150 and S.R. 2000 No. 388