

Version No. 001
Occupational Health and Safety (Noise)
Regulations 2004

S.R. No. 10/2004

Version as at 30 January 2004

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PART 1—PRELIMINARY

1. Objective

The objective of these Regulations is to ensure that—

- (a) the exposure of employees to noise in the workplace is controlled so as to reduce the incidence and severity of hearing loss resulting from excessive exposure to noise;
- (b) there is consultation within the workplace in relation to the control of employees' exposure to noise.

2. Authorising provision

These Regulations are made under section 59 of the **Occupational Health and Safety Act 1985**.

3. Commencement

These Regulations come into operation on 30 January 2004.

4. Revocation

The Occupational Health and Safety (Noise) Regulations 1992¹ are **revoked**.

5. Definitions

In these Regulations—

"audiometric test" means the measurement of a person's hearing threshold levels by means of monaural pure tone air conduction threshold tests;

"administrative control" means—

- (a) increasing the distance of employees from sources of noise;
- (b) limiting the entry of employees into areas in which their exposure to noise may exceed the exposure standard;
- (c) reducing the duration of employees' exposure to noise;
- (d) any other system of work designed to reduce exposure to noise—

but does not include any engineering control or the use of hearing protectors;

"engineering control" means—

- (a) isolating plant by enclosures or barriers or the use of vibration isolation mountings;
- (b) any other physical control designed to reduce the generation or transmission of noise—

but does not include any administrative control or the use of hearing protectors;

"exposure standard" means—

- (a) the 8 hour equivalent continuous sound pressure level of 85 dB(A) measured in A-weighted decibels referenced to 20 micropascals at an employee's ear position; or

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- (b) the C-weighted peak hold sound pressure level reading of 140 dB(C) measured in decibels referenced to 20 micropascals at an employee's ear position;

"hearing protector" means a device that is designed to protect a person's hearing and that—

- (a) is inserted into the ear canal; or
(b) covers the ear canal entrance; or
(c) covers the entire ear;

"sound power level" means the total sound energy radiated per unit time, measured as decibels referenced to 1 picowatt using octave bands or an A-weighting;

"sound pressure level", expressed in decibels, means the pressure fluctuations in air calculated as 20 times the logarithm to the base 10 of the ratio of the root mean square sound pressure (in pascals) to the reference sound pressure of 20 micropascals.

6. Application to contractors and their employees

In Division 1 (except regulation 10) and Division 3 of Part 3—

- (a) **"employee"** includes an independent contractor engaged by an employer and any employees of the independent contractor;
- (b) the duties of an employer extend to such an independent contractor and the independent contractor's employees, in relation to matters over which the employer—
- (i) has control; or

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Part 1—Preliminary

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- (ii) would have had control but for any agreement between the employer and the independent contractor to the contrary.
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**PART 2—DUTIES OF DESIGNERS, MANUFACTURERS AND
SUPPLIERS OF PLANT**

7. Design

A person who designs plant for use at a workplace must ensure, by taking noise emission and exposure into account, that the plant is so designed that its sound power level is as low as practicable.

8. Manufacture

- (1) A person who manufactures plant for use at a workplace must ensure, by taking noise emission and exposure into account, that the plant is so constructed that its sound power level is as low as practicable.
- (2) If plant, when properly used at a workplace, may cause an employee's exposure to noise to exceed the exposure standard, the person who manufactures the plant must—
 - (a) determine its sound power level; and
 - (b) when supplying the plant to another person, ensure that the plant is accompanied by a record that states the sound power level of the plant.
- (3) For the purposes of this regulation, any plant is not to be regarded as properly used where it is used without regard to any relevant information or advice that is available relating to its use.

9. Supply

- (1) A person who supplies plant that is for use at a workplace must provide with the plant any record received from the person from whom the plant was acquired that states the sound power level of the plant.

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Part 2—Duties of Designers, Manufacturers and Suppliers of Plant

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- (2) The person who supplies the plant must take such action as is reasonably necessary in the circumstances to obtain the record that states the sound power level of the plant from the person from whom the plant was acquired.
- (3) In this regulation, "**a person who supplies**"—
- (a) includes a person who has imported the plant and supplies the plant to another person; and
 - (b) does not include a person who has manufactured the plant.
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PART 3—DUTIES OF EMPLOYERS

Division 1—Control of Exposure to Noise

10. Consultation

- (1) An employer who proposes to—
- (a) conduct, or review and revise, an assessment under regulation 11; or
 - (b) implement a control measure under regulation 12(1); or
 - (c) prepare a record under regulation 12(2); or
 - (d) review and revise a control measure under regulation 16(3)—

must, if practicable, consult with the health and safety representative of the designated workgroup to which the affected employees belong.

- (2) If the affected employees are not members of a designated workgroup or do not have a health and safety representative, the employer must, if practicable, consult with—
- (a) the employees themselves; or
 - (b) a representative, if any, nominated by the employees.

Note: Regulation 6 does not apply to this regulation.

11. Assessment of exposure to noise

- (1) If an employee may be exposed to noise that exceeds the exposure standard, the employer must assess the employee's exposure to noise by determining—
- (a) the level of noise to which the employee is exposed; and
 - (b) the duration of the exposure.

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- (2) In determining whether an employee may be exposed to noise that exceeds the exposure standard for the purposes of sub-regulation (1), the effect of any hearing protectors the employee may be using must not be taken into account.
- (3) An assessment—
- (a) must take into account—
 - (i) plant and other sources of noise at the workplace; and
 - (ii) systems of work at the workplace; and
 - (iii) any other relevant factors; and
 - (b) must not take into account the effect of any hearing protectors the employee may be using.
- (4) If several employees are exposed to identical sources of noise at a workplace and their exposure to noise is likely to be the same, the employer may assess their exposure to noise by conducting a representative assessment in relation to one or more of those employees.
- (5) An employer must review and, as necessary, revise an assessment—
- (a) if there are circumstances that indicate that the results of the assessment are no longer applicable;
 - (b) at any time when reasonably requested to do so by the health and safety representative of each designated workgroup to which the assessment relates;
 - (c) in any event, at least every 5 years.

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- (6) An employer who conducts or revises an assessment must—
- (a) make a written record that—
 - (i) describes how the matters referred to in sub-regulations (1) and (3)(a) have been taken into account; and
 - (ii) contains the results of the assessment;
 - (b) keep the record for as long as it is applicable;
 - (c) ensure that the record is accessible to—
 - (i) the health and safety representative of each designated workgroup to which the assessment relates;
 - (ii) any employee to whom the assessment relates.
- (7) If, under regulation 11 of the Occupational Health and Safety (Noise) Regulations 1992, an employer made an assessment of an employee's exposure to noise that is still applicable on 29 January 2004, that assessment is deemed to be an assessment conducted under this regulation on 30 January 2004.

12. Control of exposure to noise

- (1) An employer must ensure that no employee at the workplace is exposed to noise that exceeds the exposure standard by implementing the following control measures—
- (a) if practicable, the employer must eliminate the source of noise to which an employee is exposed;
 - (b) if it is not practicable to eliminate the source of the noise, the employer must reduce the exposure of the employee to noise, so far as is practicable, by—

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Part 3—Duties Of Employers

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- (i) substituting quieter plant or processes;
or
 - (ii) using engineering controls;
 - (c) if an employee is still exposed to noise that exceeds the exposure standard after the employer has complied with paragraph (b), the employer must reduce the exposure of the employee to noise, so far as is practicable, by the use of administrative controls;
 - (d) if an employee is still exposed to noise that exceeds the exposure standard after the employer has complied with paragraphs (b) and (c), the employer must provide hearing protectors to reduce the exposure of the employee to noise, so that it does not exceed the exposure standard.
- (2) If an employer proposes to implement a control measure referred to in sub-regulation (1)(a) or (1)(b) and it is not practicable to do so within 6 months after the most recent assessment under regulation 11, the employer must prepare a written record that describes the actions necessary to implement the control measure and when these actions will be carried out.
 - (3) An employer who prepares a record under sub-regulation (2) must ensure that it is accessible to the health and safety representative of each designated workgroup affected by the proposed control measure.
 - (4) Sub-regulation (2) does not reduce or limit an employer's obligation to comply with sub-regulation (1).
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13. Hearing protector signs and labels

If an employer is required under regulation 12(1)(d) to provide hearing protectors to an employee, the employer must clearly identify by signs, labelling of plant or other appropriate means, when and where the hearing protectors are to be worn.

14. Acquisition of plant

An employer who proposes to acquire plant for use in the workplace must have regard to the sound power level of the plant in order to ensure, so far as is practicable, that employees will not be exposed to noise that exceeds the exposure standard.

Division 2—Audiometric tests and audiological examinations

Note: Regulation 6 does not apply to this Division.

15. Audiometric tests

- (1) If an employer is required under regulation 12(1)(d) to provide hearing protectors to an employee, the employer must provide for audiometric testing for that employee—
 - (a) within 3 months after the employee commences the work in relation to which the hearing protectors are required;
 - (b) at any time when reasonably requested to do so by the health and safety representative of the designated workgroup of which the employee is a member;
 - (c) in any event, at least every 2 years.
- (2) An employer must pay for any audiometric test.

16. Audiological examinations

- (1) If the results of 2 consecutive audiometric tests indicate a reduction in hearing levels equal to or greater than 15 dB at 3000 Hz, 4000 Hz or 6000 Hz, the employer must provide for the employee to undergo an audiological examination.
- (2) The employer must—
 - (a) ensure that the person who conducts the audiological examination provides the employer with a report that—
 - (i) contains the results of the examination; and
 - (ii) states whether or not the employee has suffered hearing loss that is likely to be due to exposure to noise; and
 - (b) pay for the examination.
- (3) If the report by the person who conducts the audiological examination states that the employee has suffered hearing loss that is likely to be due to exposure to noise, the employer must review and, as necessary, revise the control measures implemented under regulation 12(1) in relation to the employee.

17. Test results and examination reports

- (1) If an employee is tested under regulation 15 or examined under regulation 16, the employer must—
 - (a) provide the employee with a copy of the test results or examination report; and
 - (b) keep the test results or examination report for as long as they are applicable; and
 - (c) ensure that the results or report are kept confidentially.
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- (2) The employer must, on request, provide a health and safety representative with aggregate results of the most recent audiometric tests under regulation 15 in relation to the representative's designated work group.
 - (3) Aggregate results provided under sub-regulation (2) must not contain information that identifies the employees tested.

Division 3—Information and Training

18. Informing, instructing and training employees

An employer who is required to implement one or more control measures under regulation 12(1) must provide all employees affected with such information, instruction and training in relation to—

- (a) the health effects associated with exposure to noise;
- (b) the need for control measures under regulation 12(1) to reduce exposure and the proper use of those control measures, including the selection, use and fit of hearing protectors;
- (c) the nature and purpose of audiometric testing and audiological examinations—

as is necessary to enable the employees to perform their work in a manner that is safe and without risks to health.

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Part 4—Duties of Employees

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PART 4—DUTIES OF EMPLOYEES

19. Comply with instructions etc.

An employee who has been provided with appropriate information, instruction and training under regulation 18(b) must, in the use of control measures implemented by the employer under regulation 12(1), act in accordance with that information, instruction and training.

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Endnotes

ENDNOTES

1. General Information

The Occupational Health and Safety (Noise) Regulations 2004, S.R. No. 10/2004 were made on 28 January 2004 by the Governor in Council under section 59 of the **Occupational Health and Safety Act 1985**, No. 10190/1985 and came into operation on 30 January 2004: regulation 3.

The Occupational Health and Safety (Noise) Regulations 2004 will sunset 10 years after the day of making on 28 January 2014 (see section 5 of the **Subordinate Legislation Act 1994**).

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Endnotes

2. Table of Amendments

There are no amendments made to the Occupational Health and Safety (Noise) Regulations 2004 by statutory rules, subordinate instruments and Acts.

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Endnotes

3. Explanatory Details

¹ Reg. 4: S.R. No. 196/1992. Reprint No. 2 as at 17 July 1998.