



Keep the noise down

HEALTH & SAFETY

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How the UK is implementing the new EU Directive on noise limits in the workplace

The 6th April 2006 will mark the implementation of the latest Regulations concerning the control of noise exposure within the workplace. Whilst the implementation is not going to make workplaces quiet overnight, the new Regulations will have a significant impact on commerce and industry in that the noise limits are significantly stricter than previously, and many more employees and workplaces will fall in to the net.

It has been known for many years that long-term exposure to high noise levels in the workplace can lead to permanent hearing damage. It is estimated that in the UK alone 170,000 employees currently exposed to high levels of workplace noise will suffer hearing damage. Back in 1972 the Department of Employment provided initial guidance to industry with the 'Code of Practice for Reducing the Exposure of Employed Persons to Noise. However, when the United Kingdom became part of the EEC then the issue of workplace noise became a European-led issue and in 1986 the EEC produced the Council Directive on the Protection of Workers from the Risks Related to Exposure to Noise at Work, 86/188/EEC, to harmonise the approach to workplace noise across Europe. The requirements of the Directive were implemented in the UK by The Noise at Work Regulations 1989.

The 1989 Regulations formalised the requirements for employers to assess noise levels and to take certain action if noise exposure was identified to exceed certain threshold values. Implicit in the setting of these values was the knowledge that hearing damage could be caused to some employees at levels below the second action level where noise attenuation measures were mandatory. It was accepted that it was simply not feasible to set threshold levels at that time such that no employees suffered any hearing loss. In accepting this fact, the intention was that the threshold values would be reduced over time, and the new Regulations are the next step along this road.

Workplace noise is still a major issue within Europe. The European Agency for Safety and Health reports that noise-induced hearing loss is still accounting for about one third of all work-related diseases and that about one third of employees in Europe are exposed to potentially dangerous levels of noise for at least a quarter of their time at work.

The Control of Noise at Work Regulations 2005 are the UK implementation of the European Directive 2003/10/EC, which replaces the 1986 directive. The implementation date of the new Regulations is 6th April 2006, with the exception of the music and entertainment industry which has been allowed an additional two years to comply, and the sea transport industry which has been allowed until 6th April 2011.

As with most new legislation, the scope is wider than the previous Regulations. One of the main changes with is that the lower threshold for noise assessments is reduced from 85 dB(A) to 80 dB(A). On the face of it, a 5 dB(A) change should not make a vast change to the number of employees requiring assessments. However, the Health and Safety Executive estimates that whilst there are just over 600,000 employees exposed to noise levels of 85 dB(A) and above,



there are approximately 1.6m employees in the 80-85 dB(A) band. The estimated cost of assessing these additional workers is £19.7m in the first year. The change will not only bring more workers into the net at workplaces where noise assessments are already carried out, but will also require noise assessments to be carried out at many workplaces that currently do not require an assessment. One feature of the new Regulations is that it has been clarified that the assessment can consider the noise exposure of an employee averaged over a week, rather than the worst day if there are significant variations from day to day. This will mean that employers that have occasional noisy operations will not be hit by the full implications of the new Regulations, but the employer may need to have a comprehensive noise survey and assessment carried out to prove that the employee's weekly average noise level is below 80 dB(A).

The new Regulations are more specific about providing audiometric testing than previously. There is a specific requirement to provide health surveillance, including hearing testing, for those staff where a risk assessment has shown a risk to health, which is likely to mean at levels above 85 dB(A) or for vulnerable workers between 80 and 85 dB(A). The old Regulations did not contain a specific requirement, although it was considered good practice to provide audiometric testing for staff exposed to levels of 90 dB(A) or above.

A new requirement in the 2005 Regulations is the need to ensure that the exposure of any employee does not exceed 87 dB(A) after taking account the use of any personal hearing protectors. The effectiveness of all hearing protectors varies with frequency, therefore an assessment of the employee's noise exposure will need to be carried out in octave bands, requiring a more sophisticated noise meter than those that simply measure dB(A).

Employers will also be required to spend more time and money on noise assessment and control. However, the need for this is the fact that current workplace noise levels do cause hearing damage to employees. Even if an employer does not yet comply with the new Regulations and continues to expose employees to high noise levels, the employer is still at risk of common law claims for damages because of hearing damage caused to employees, and would have little defence against such a claim if it could not be shown that the Regulations had been complied with. Therefore proactive compliance with the Regulations can be seen as a risk minimisation technique to avoid legal action at a later stage.

This article has deliberately been written using simple noise levels without a detailed explanation of the noise units and indices contained within the Regulations. In addition to the daily or weekly exposure levels, the Regulations also contain peak sound pressure criteria and all of these details are spelled out. There is also much valuable information provided on the HSE website with specific guidance to employers given at <http://www.hse.gov.uk/pubns/indg362.pdf>. This information will help employers come to grips with their new duties relating to noise in the workplace.