

Subsidiary Legislation made under s.18.

Environmental (Assessment and Management of Noise) Regulations 2006

LN.2006/121

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Amending
enactments

Relevant current
provisions

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Directive 2002/49/EC

Directive 2015/996

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In exercise of the powers conferred on it by section 18 of the Environment Act 2005 and all other enabling powers, the Government, for the purposes of transposing into the law of Gibraltar Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise, has made the following Regulations—

Title and commencement.

1.(1) These Regulations may be cited as the Environmental (Assessment and Management of Noise) Regulations 2006.

(2) These Regulations come into operation on a day to be appointed by the Minister for the Environment by notice in the Gazette.

Interpretation.

2. In these Regulations, unless the context otherwise requires—

“acoustical planning” means controlling future noise by planned measures, such as land-use planning, systems engineering for traffic, traffic planning, abatement by sound-insulation measures and noise control of sources;

“action plans” means plans designed to manage noise issues and effects, including noise reduction if necessary;

“annoyance” means the degree of community noise annoyance as determined by means of field surveys;

“assessment” means any method used to calculate, predict, estimate or measure the value of a noise indicator or the related harmful effects;

“calendar year” means a period of a year beginning on the 1st January of each year;

“Directive” means Directive 2002/49/EC of the European Parliament and of the Council relating to the assessment and management of environmental noise, as last amended by Commission Directive (EU) 2015/996;

“dose-effect relation” means the relationship between the value of a noise indicator and a harmful effect;

“environmental noise” means unwanted or harmful outdoor sound created by human activities, including noise emitted by means of transport, road traffic, rail traffic, air

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traffic, and from sites of industrial activity such as those defined in Schedule 1 of the Pollution Prevention and Control Act 2001;

“harmful effects” means negative effects on human health;

“Lden” (day-evening-night noise indicator) means the noise indicator for overall annoyance, as defined in Schedule 1;

“Lday” (day-noise indicator) shall mean the noise indicator for annoyance during the day period, as defined in Schedule 1;

“Levening” (evening-noise indicator) means the noise indicator for annoyance during the evening period, as defined in Schedule 1;

“Lnight” (night-time noise indicator) means the noise indicator for sleep disturbance, as defined in Schedule 1;

“limit value” means a value of Lden or Lnight, and where appropriate Lday and Levening, as determined by the Competent Authority, the exceeding of which causes the Competent Authority to consider or enforce mitigation measures which may be different –

- (a) for different types of noise such as road, air-traffic noise, industrial noise, etc, different surroundings and different noise sensitiveness of the populations; and
- (b) for existing situations and for new situations (where there is a change in the situation regarding the noise source or the use of the surrounding);

“major road” mean a road designated by the Government which has more than three million vehicle passages a year;

“Minister” means the Minister for the Environment;

“noise indicator” means a physical scale for the description of environmental noise, which has a relationship with a harmful effect;

“noise mapping” shall mean the presentation of data on an existing or predicted noise situation in terms of a noise indicator, indicating breaches of any relevant limit value in force, the number of people affected in a certain area, or the number of dwellings exposed to certain values of a noise indicator in a certain area;

“public” means one or more natural or legal persons;

“strategic noise map” means a map designed for the global assessment of noise exposure in a given area due to different noise sources or for overall predictions for such an area;

“Supplementary noise indicator” means a noise indicator as defined in paragraph 3 of Schedule 1.

Application of these Regulations.

3.(1) These Regulations apply to such part or parts of Gibraltar as the Minister may designate by notice in the Gazette.

(2) These Regulations do not apply to noise that is caused by the exposed person himself, noise from domestic activities, noise created by neighbours, noise at work places or noise inside means of transport or within military areas to noise caused by military activities.

Competent Authority.

4. The Environmental Agency is designated as the Competent Authority for the purposes of these Regulations.

Implementation and responsibilities.

5. The Competent Authority shall be responsible for—

- (a) implementing these Regulations;
- (b) making and, where relevant, approving noise maps and action plans for major roads; and
- (c) collecting noise maps and action plans.

Noise indicators and their application.

6.(1) The Competent Authority shall apply the noise indicators L_{den} and L_{night} as referred to in Schedule 1 for the preparation and revision of strategic noise mapping in accordance with regulation 8.

(2) The Competent Authority may use the existing noise indicators, if any and related data, if they are not more than 3 years old, for the purpose of this regulation, until the use of common assessment methods for the determination of L_{den} and L_{night} is made obligatory, in order to convert into the indicators as referred to in subregulation (1).

(3) The Competent Authority may use—

- (a) supplementary noise indicators for special cases such as those listed in paragraph 3 of Schedule 1; and
- (b) for acoustical planning and noise zoning.

Assessment methods.

7.(1) The values of L_{den} and L_{night} shall be determined either by computation (at the assessment position) and by means of the assessment methods set out in Annex 2 to the Directive.

(1A) In paragraph (1), “assessment position” means the assessment height in paragraph 7 of Annex 4 to the Directive.

(2) Harmful effects may be assessed by means of the dose-effect relations referred to in Schedule 2.

Strategic noise mapping.

8.(1) The Competent Authority shall ensure that no later than 30 June 2007 strategic noise maps showing the situation in the preceding calendar year have been made and approved by it, for all major roads which have more than six million vehicle passages a year.

(2) As soon as these Regulations come into operation and thereafter every five years, the Competent Authority shall inform the Commission of the major roads which have more than six million vehicle passages a year.

(3) The Competent Authority shall adopt the measures necessary to ensure that no later than 30 June 2012, and thereafter every five years, strategic noise maps showing the situation in the preceding calendar year have been made and, where relevant, approved by it and no later than 31 December 2008, inform the Commission of all the major roads.

(4) No strategic noise maps shall be prepared and approved under this regulation unless such maps satisfy the minimum requirements laid down in Schedule 3.

(5) The strategic noise maps shall be reviewed, and revised, if necessary, by the Competent Authority at least every five years after the date of their preparation.

Action plans.

9.(1) The Competent Authority shall ensure that no later than 18 July 2008 action plans are drawn up that is designed to manage noise issues and effects, including noise reduction if necessary for places near the major roads which have more than six million vehicle passages a year.

(2) Action plans drawn up pursuant to subregulation (1) shall address priorities which may be identified by the exceeding of any relevant limit value or by other criteria chosen by the Government and apply in particular to the most important areas as established by strategic noise mapping.

(3) The Competent Authority shall inform the Commission of the relevant criteria referred to in subregulation (2).

(4) The action plans prepared under this regulation shall–

- (a) meet the minimum requirements of Schedule 4; and
- (b) be reviewed, and revised if necessary, when a major development occurs affecting the existing noise situation, and at least every five years after the date of their approval.

(5) The Competent Authority shall ensure that the public is–

- (a) consulted about proposals for action plans, given early and effective opportunities to participate in the preparation and review of the action plans, that the results of that participation are taken into account;
- (b) is informed on the decisions taken; and
- (c) provided with reasonable time-frames to allow sufficient time for each stage of public participation.

(6) The Competent Authority may provide for joint procedures in order to avoid duplication if the obligation to carry out a public participation procedure arises simultaneously from these Regulations or any other European Community obligation.

Information to the public.

10.(1) The Competent Authority shall ensure that the strategic noise maps that it makes under regulation 8 and the action plans it draws up under regulation 9 are made available and

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disseminated to the public in accordance with the Freedom of Access to Information on the Environment Regulations 2005 and in conformity with Schedule 3 and Schedule 4.

(2) The information referred to in subregulation (1) shall be clear, comprehensible and accessible and a summary setting out the most important points shall be provided.

Collection and publication of data.

11. The Competent Authority shall ensure that the information from strategic noise maps and summaries of the action plans as referred to in Schedule 5 are sent to the Commission within six months of the dates laid down in regulations 8 and 9 respectively.

SCHEDULE 1

Regulations 2 and 6

NOISE INDICATORS

1. Definition of the day-evening-night level L_{den}

The day-evening-night level L_{den} in decibels (dB) is defined by the following formula:

$$L_{den} = 10 \lg \frac{1}{24} \left(12 * 10^{\frac{L_{day}}{10}} + 4 * 10^{\frac{L_{evening} + 5}{10}} + 8 * 10^{\frac{L_{night} + 10}{10}} \right) \text{ in which:}$$

- L_{day} is the A-weighted long-term average sound level as defined in ISO 1996-2: 1987, determined over all the day periods of a year,
- $L_{evening}$ is the A-weighted long-term average sound level as defined in ISO 1996-2: 1987, determined over all the evening periods of a year,
- L_{night} is the A-weighted long-term average sound level as defined in ISO 1996-2: 1987, determined over all the night periods of a year;

in which:

- the day is 12 hours, the evening four hours and the night eight hours. The Competent Authority may shorten the evening period by one or two hours and lengthen the day and/or the night period accordingly, provided that this choice is the same for all the sources and that they provide the Commission with information on any systematic difference from the default option,
- the start of the day (and consequently the start of the evening and the start of the night) shall be chosen by the Competent Authority (that choice shall be the same for noise from all sources); the default values are 07.00 to 19.00, 19.00 to 23.00 and 23.00 to 07.00 local time,
- a year is a relevant year as regards the emission of sound and an average year as regards the meteorological circumstances;

and in which:

- the incident sound is considered, which means that no account is taken of the sound that is reflected at the façade of the dwelling under consideration (as a general rule, this implies a 3 dB correction in case of measurement).

The height of the L_{den} assessment point depends on the application:

- in the case of computation for the purpose of strategic noise mapping in relation to noise exposure in and near buildings, the assessment points must be $4,0 \pm 0,2$ m (3,8 to 4,2 m) above the ground and at the most exposed façade; for this purpose, the most exposed façade will be the external wall facing onto and nearest to the specific noise source; for other purposes other choices may be made,
- in the case of measurement for the purpose of strategic noise mapping in relation to noise exposure in and near buildings, other heights may be chosen, but they must never be less than 1,5 m above the ground, and results should be corrected in accordance with an equivalent height of 4 m,
- for other purposes such as acoustical planning and noise zoning other heights may be chosen, but they must never be less than 1,5 m above the ground, for example for:
 - the design of local measures meant to reduce the noise impact on specific dwellings,
 - the detailed noise mapping of a limited area, showing the noise exposure of individual dwellings.

2. Definition of the night-time noise indicator

The night-time noise indicator L_{night} is the A-weighted long-term average sound level as defined in ISO 1996-2: 1987, determined over all the night periods of a year;

in which:

- the night is eight hours as defined in paragraph 1,
- a year is a relevant year as regards the emission of sound and an average year as regards the meteorological circumstances, as defined in paragraph 1,
- the incident sound is considered, as laid down in paragraph 1,
- the assessment point is the same as for L_{den} .

3. Supplementary noise indicators

In some cases, in addition to L_{den} and L_{night} , and where appropriate L_{day} and $L_{evening}$, it may be advantageous to use special noise indicators and related limit values. Some examples are given below:

- the noise source under consideration operates only for a small proportion of the time (for example, less than 20 % of the time over the total of the day periods in a year, the total of the evening periods in a year, or the total of the night periods in a year),
- the average number of noise events in one or more of the periods is very low (for example, less than one noise event an hour; a noise event could be defined as a noise that lasts less than five minutes;
- the low-frequency content of the noise is strong,
- L_{Amax} , or SEL (sound exposure level) for night period protection in the case of noise peaks,
- extra protection at the weekend or a specific part of the year,
- extra protection of the day period,
- extra protection of the evening period,
- a combination of noises from different sources,
- the noise contains strong tonal components,
- the noise has an impulsive character.

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SCHEDULE 2

Regulation 7(2)

ASSESSMENT METHODS FOR HARMFUL EFFECTS

1. Dose-effect relations should be used to assess the effect of noise on populations. The dose-effect relations introduced by future revisions of this Schedule will concern in particular:

- (a) the relation between annoyance and L_{den} for road and industrial noise,
- (b) the relation between sleep disturbance and L_{night} for road and for industrial noise.

2. If necessary, specific dose-effect relations could be presented for:

- (a) dwellings with special insulation against noise as defined in Schedule 3,
- (b) dwellings with a quiet façade as defined in Schedule 3,
- (c) different climates/different cultures,
- (d) vulnerable groups of the population,
- (e) tonal industrial noise,
- (f) impulsive industrial noise and other special cases.

SCHEDULE 3

Regulation 8(4)

MINIMUM REQUIREMENTS FOR STRATEGIC NOISE MAPPING

1. A strategic noise map is the presentation of data on one of the following aspects—
 - (a) an existing, a previous or a predicted noise situation in terms of a noise indicator,
 - (b) the exceeding of a limit value,
 - (c) the estimated number of dwellings, schools and hospitals in a certain area that are exposed to specific values of a noise indicator,
 - (d) the estimated number of people located in an area exposed to noise.

2. Strategic noise maps may be presented to the public as—
 - (a) graphical plots,
 - (b) numerical data in tables,
 - (c) numerical data in electronic form.

3. Strategic noise mapping will be used for the following purposes—
 - (a) the provision of the data to be sent to the Commission in accordance with regulation 11 and Schedule 5,
 - (b) a source of information for citizens in accordance with regulation 10,
 - (c) a basis for action plans in accordance with regulation 9.

Each of those applications requires a different type of strategic noise map.

4. Minimum requirements for the strategic noise maps concerning the data to be sent to the Commission are set out in paragraph (e) of Schedule 5.

5. For the purposes of informing the citizen in accordance with regulation 10 and the development of action plans in accordance with regulation 9, additional and more detailed information must be given, such as:

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- (a) a graphical presentation,
- (b) maps disclosing the exceeding of a limit value,
- (c) difference maps, in which the existing situation is compared with various possible future situations,
- (d) maps showing the value of a noise indicator at a height other than 4 m where appropriate.

The Government may prescribe rules by notice in the Gazette on the types and formats of these noise maps.

6. Strategic noise maps for application must be made for an assessment height of 4 m and the 5 dB ranges of L_{den} and L_{night} as detailed in Schedule 6.

SCHEDULE 4

Regulation 9(4)(a)

MINIMUM REQUIREMENTS FOR ACTION PLANS

1. An action plan shall at least include the following elements—
 - (a) a description of the major roads and other noise sources taken into account,
 - (b) the authority responsible,
 - (c) the legal context,
 - (d) any limit values in place in accordance with regulation 6,
 - (e) a summary of the results of the noise mapping,
 - (f) an evaluation of the estimated number of people exposed to noise, identification of problems and situations that need to be improved,
 - (g) a record of the public consultations organised in accordance with regulation 9(6),
 - (h) any noise-reduction measures already in force and any projects in preparation,
 - (i) actions which the competent authority intend to take in the next five years, including any measures to preserve quiet areas,
 - (j) long-term strategy,
 - (k) financial information (if available): budgets, cost-effectiveness assessment, cost-benefit assessment,
 - (l) provisions envisaged for evaluating the implementation and the results of the action plan.

2. The actions which the competent authority intend to take in the fields within their competence may include—
 - (a) traffic planning,
 - (b) land-use planning,

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- (c) technical measures at noise sources,
- (d) selection of quieter sources,
- (e) reduction of sound transmission,
- (f) regulatory or economic measures or incentives.

3. Each action plan should contain estimates in terms of the reduction of the number of people affected (annoyed, sleep disturbed, or other).

SCHEDULE 5

Regulation 11

DATA TO BE SENT TO THE COMMISSION

The data to be sent to the Commission in respect of major roads are as follows:

- (a) a general description of the roads: location, size, and data on the traffic;
- (b) a characterisation of their surroundings: villages, countryside or otherwise, information on land use, other major noise sources;
- (c) noise-control programmes that have been carried out in the past and noise-measures in place;
- (d) the computation or measurement methods that have been used;
- (e) the total area (in km²) exposed to values of L_{den} higher than 55, 65 and 75 dB respectively. The estimated total number of dwellings (in hundreds) and the estimated total number of people (in hundreds) living in each of these areas must also be given; and
- (f) a summary of the action plan covering all the important aspects referred to in Schedule 4, not exceeding ten pages in length.