
STATUTORY INSTRUMENTS

1975 No. 1763

The Noise Insulation Regulations 1975

Citation, commencement and transitional provisions

1.—(1) These Regulations may be cited as the Noise Insulation Regulations 1975 and shall come into operation on the tenth day after the date on which they are made.

(2) Except to the extent provided by paragraph (3) of this Regulation the Noise Insulation Regulations 1973 shall cease to have effect on the commencement date, but this provision shall not affect the previous operation of those Regulations or anything duly done or suffered under them.

(3) These Regulations shall have effect subject to the transitional provisions set out in Schedule 2.

Interpretation

2.—(1) In these Regulations, except where the context otherwise requires—

“the Act” means the Land Compensation Act 1973;

“the 1973 Regulations” means the Noise Insulation Regulations 1973;

“altered highway” means a highway of which the location, width or level of the carriageway has been or is to be altered (otherwise than by resurfacing) after 16th October 1969, and “alter” and “alteration” in relation to a highway shall be construed accordingly;

“additional carriageway” means a carriageway constructed or proposed to be constructed for a highway beside, above, or below an existing carriageway;

“the appropriate highway authority”, in relation to a highway or the carriageway of a highway, means the highway authority who constructed, or propose to construct a highway or additional carriageway, or who altered or proposed to alter a highway;

“building” includes part of a building;

“claimant” means a person who accepts an offer made under Regulation 8;

“the commencement date” means the date of coming into operation of these Regulations;

“dB(A)” is a measure of sound pressure level (“A” weighting) in decibels indicated by measuring equipment which complies with the British Standard Specification for a precision sound level meter published on 14th September 1967 under number B.S. 4197: 1967;

“eligible building” has the meaning assigned to it in Regulation 7;

“eligible room” means a living room or a bedroom having a qualifying door or qualifying window in an eligible building;

“facade” means a side of a building;

“highway” includes part of a highway and means a highway or part of a highway maintainable at the public expense as defined in section 295(1) of the Highways Act 1959;

“insulation work” means work carried out to insulate a building against noise and to provide for ventilation and solar control;

“L 10” is the sound level in dB(A) which is exceeded for one-tenth of a period of one hour;

“L 10 (18-hour)” is the arithmetic mean of all the levels of L 10 during a period from 0600 to 2400 hours on a normal working day;

“prevailing noise level” means the level of noise, expressed as a level of L 10 (18-hour), one metre in front of the most exposed of any windows and doors in a facade of a building caused by traffic using any highway immediately before works for the construction of a highway or additional carriageway, or for the alteration of a highway, as the case may be, were begun;

“qualifying door” and “qualifying window” have the meanings assigned to them respectively in Part I of Schedule 1;

“relevant date” means the date on which a highway or additional carriageway was first open to public traffic or, in the case of an altered highway, the date on which it was first open to public traffic after completion of the alteration;

“relevant noise level” means the level of noise, expressed as a level of L 10 (18-hour), one metre in front of the most exposed of any windows and doors in a facade of a building caused or expected to be caused by traffic using or expected to use any highway;

“the relevant specifications” means the items in Part I of Schedule 1, such of the items in Part II of that Schedule as may be approved by the appropriate highway authority and such of the specifications set out in Part III of that Schedule as are applicable in the circumstances of the case;

“specified level” means a noise level of L 10 (18-hour) of 68dB(A).

(2) A Regulation or Schedule referred to only by number in these Regulations means the Regulation or Schedule so numbered in these Regulations.

(3) The Interpretation Act 1889 applies for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

Duty to carry out insulation work or to make grants

3.—(1) Subject to and in accordance with the provisions of these Regulations, where the use of a highway to which this Regulation applies causes or is expected to cause noise at a level not less than the specified level, the appropriate highway authority shall carry out or make a grant in respect of the cost of carrying out insulation work in or to an eligible building.

(2) For the purpose of this and the next following Regulation the use of a highway causes or is expected to cause noise at a level not less than the specified level if—

- (a) the relevant noise level is greater by at least 1dB(A) than the prevailing noise level and is not less than the specified level, and
- (b) noise caused or expected to be caused by traffic using or expected to use that highway makes an effective contribution to the relevant noise level of at least 1dB(A).

(3) This Regulation applies to—

- (a) a highway, and
- (b) a highway for which an additional carriageway has been or is to be constructed,

if the highway or additional carriageway was or will be first open to public traffic after 16th October 1972.

Power to carry out insulation work or to make grants

4.—(1) Subject to and in accordance with the provisions of these Regulations, where the use of a highway to which this paragraph applies causes or is expected to cause noise at a level not less than the specified level the appropriate highway authority may carry out or make a grant in respect of the cost of carrying out insulation work in or to an eligible building.

(2) Paragraph (1) of this Regulation applies to—

- (a) a highway, and
- (b) a highway for which an additional carriageway has been or is to be constructed,

if the highway or additional carriageway was first open to public traffic after 16th October 1969 and before 17th October 1972;

- (c) an altered highway, and
- (d) a highway to which Regulation 3 applies before any duty under Regulation 8 has arisen in respect thereof.

(3) Where a highway becomes a highway maintainable at the public expense as defined in section 295(1) of the Highways Act 1959 within three years after the relevant date the highway authority for the highway may carry out or make a grant in respect of the cost of carrying out insulation work in or to an eligible building if a duty under Regulation 3, or a power under Regulation 4(1), to do so would have arisen had the highway been a highway so maintainable at the relevant date and had the construction of the highway or an additional carriageway therefor, or the alteration thereof, as the case may be, been carried out by a highway authority.

(4) Where the appropriate highway authority are required by Regulation 3 or empowered by paragraph (1) or (3) of this Regulation to carry out or make a grant in respect of the cost of carrying out insulation work in or to an eligible building, they may also carry out or make a grant in respect of the cost of carrying out insulation work in or to an eligible building in respect of which no duty under Regulation 3 or power under Regulation 4(1) or 4(3) has arisen, if the facades of both buildings are contiguous or form part of a series of contiguous facades.

(5) The provisions of these Regulations shall, so far as applicable, apply to the carrying out of insulation work or the making of grants under this Regulation subject to any necessary adaptations or modifications, as if the authority were acting in execution of a duty arising under Regulation 3 save that Regulation 6 shall not apply so as to require the preparation of any map or list or to require any map or list which is prepared—

- (a) to identify any building other than a building in respect of which an offer pursuant to Regulation 8 is to be made, or
- (b) to be prepared before any date.

Insulation of buildings against construction noise

5.—(1) Subject to and in accordance with the provisions of these Regulations, where works for the construction of a highway or additional carriageway or the alteration of a highway cause or are expected to cause noise at a level which, in the opinion of the appropriate highway authority, seriously affects or will seriously affect for a substantial period of time the enjoyment of an eligible building adjacent to the site on which the works are being or are to be carried out but in respect of which building no duty under Regulation 3 or power under Regulation 4(1) has arisen, the appropriate highway authority may carry out or make a grant in respect of the cost of carrying out insulation work in or to the building.

(2) The provisions of these Regulations shall, so far as applicable, apply to the carrying out of insulation work or the making of grants under this Regulation, subject to any necessary adaptations and modifications, save that—

- (a) an offer under Regulation 8 shall not be accepted after the expiration of two months after the date thereof or of such longer period as the appropriate highway authority may by extension at any time allow; and
- (b) Regulation 8(4) shall not apply so as to limit the period within which any person may accept such an offer.

Ascertainment of level of noise

6.—(1) For the purpose of determining whether a duty under Regulation 3 or a power under Regulation 4, as the case may be, has arisen with respect to an eligible building, the prevailing noise level, the relevant noise level and the effective contribution to the relevant noise level made by noise caused or expected to be caused by traffic using or expected to use a highway shall be ascertained in accordance with the advice and instruction contained in the technical memorandum entitled “Calculation of Road Traffic Noise” published by Her Majesty's Stationery Office (1975).

(2) The appropriate highway authority for a highway to which Regulation 3 applies shall ascertain every eligible building in respect of which a duty under that Regulation has arisen and shall prepare a map or list, or both, identifying every such building.

(3) Any such map or list shall be deposited at the office of the appropriate highway authority or their agent nearest to the buildings identified therein and made available for public inspection during the hours when the office is open, not later than six months after the relevant date or, if the relevant date was before the commencement date, not later than six months after that date.

Buildings to which these Regulations apply

7.—(1) Subject to the provisions of this Regulation, the classes of buildings in respect of which a duty or power is to arise under these Regulations are—

- (a) dwellings, and
- (b) other buildings used for residential purposes,

which will be not more than 300 metres from the nearest point on the carriageway of the highway after the construction of that highway or of an additional carriageway therefor or the alteration thereof, as the case may be, and the expression “eligible building” in these Regulations means a building falling within either of those classes.

(2) The following shall not be eligible buildings—

- (a) any building in respect of which a compulsory purchase order is in force, or in respect of which a compulsory purchase order has been submitted for confirmation to, or prepared in draft by, a Minister and in respect of which a notice has been published under paragraph 3(1)(a) of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946 or under any corresponding enactment applicable thereto, unless the order has been withdrawn or a decision has been taken not to confirm or make the order, as the case may be;
- (b) any building liable to be acquired compulsorily under any local or private Act of Parliament or under an order, rule, regulation, byelaw or scheme made under an Act of Parliament;
- (c) any building which is the subject of a closing order under Part II, a demolition order under Part II or III, or an undertaking accepted under section 16(4), of the Housing Act 1957, or which is the subject of a closing order, or an undertaking accepted, under section 60 of the Housing Act 1969;
- (d) any building within an area declared to be a clearance area by a resolution under section 42 of the Housing Act 1957;
- (e) any building which was first occupied after the relevant date;
- (f) any part of a building in respect of which part a grant has been paid or is payable in respect of the carrying out of insulation work under any enactment other than the Act or any instrument made under any such enactment.

Offer and acceptance of insulation work or grant

8.—(1) As soon as a highway authority have deposited a map or list pursuant to Regulation 6 the authority shall make an offer in writing in accordance with the provisions of paragraphs (2) and (3) of this Regulation.

(2) An offer shall be made in respect of every eligible building identified on the map or in the list to either—

- (a) the person who is the occupier of, or if the building is unoccupied, is entitled to occupy, the building; or
- (b) the immediate landlord or licensor of that person, if any.

(3) The offer shall—

- (a) identify the building to which it relates;
- (b) offer to carry out or make a grant in respect of the cost of carrying out insulation work in or to every eligible room in the building;
- (c) describe the work required to be carried out for this purpose;
- (d) where the offer is made to the person mentioned in paragraph 2(a) of this Regulation, require that person, if he is not the owner of the building, to notify his immediate landlord or licensor of the terms of the offer;
- (e) where the offer is made to the person mentioned in paragraph 2(b) of this Regulation, require that person to notify the person who is the occupier of, or if the building is unoccupied, is entitled to occupy, the building of the terms of the offer;
- (f) set out the conditions in Regulation 10, subject to which the offer is made; and
- (g) set out the restrictions on acceptance of the offer in paragraphs (4) and (7) of this Regulation.

(4) Subject to paragraphs (7) and (8) of this Regulation, an offer may be accepted by the person to whom it was made or his successor and, if it has not been so accepted, it may after the expiration of three months after the date thereof be accepted by any other person to whom it has or could have been notified pursuant to this Regulation and in that event it shall not thereafter be capable of being accepted by the person to whom it was made or his successor.

(5) An acceptance of an offer under this Regulation shall be in writing and may be an acceptance—

- (a) of the offer to carry out insulation work in or to some one or more or all of the rooms in respect of which the offer was made; and
- (b) of the offer of a grant in respect of the cost of carrying out such work in or to some one or more of the other rooms or all of the rooms in respect of which the offer was made,

but no offer of a grant shall be accepted in respect of any room if an offer to carry out insulation work has been accepted in respect thereof.

(6) An acceptance of an offer under this Regulation shall claim the benefit of the offer and shall contain the following—

- (a) the name and address of the claimant;
- (b) particulars identifying the eligible building;
- (c) a statement of the capacity (whether as occupier, person entitled to occupy, landlord or licensor) in which the claimant accepts the offer;
- (d) if he is required to notify any person pursuant to paragraph 3(d) or (e) of this Regulation of the terms of the offer, a statement that he has so notified that person, and whether or not that person consents to the carrying out of insulation work;

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- (e) particulars of the rooms (if any) in respect of which he accepts the offered work; and
 - (f) particulars of the rooms (if any) in respect of which he accepts the offered grant.
- (7) No offer shall be accepted except during one of the following periods—
- (a) six months after the date thereof, or
 - (b) twelve months after the relevant date;

Provided that the appropriate highway authority may extend the time limited by this paragraph, whether before or after the expiration thereof.

(8) Where insulation work has been carried out in or to an eligible building and completed in accordance with the relevant specifications before an offer is made, an offer under paragraph (2) of this Regulation shall be deemed to be an offer of a grant only, and may be accepted only by the person who incurred the cost of the work.

Nature and extent of work to be undertaken

9.—(1) Insulation work carried out pursuant to these Regulations shall be in accordance with the relevant specifications.

(2) Notwithstanding anything in these Regulations there shall not be carried out, nor shall a grant be made in respect of the cost of carrying out, insulation work in or to an eligible room in which there is installed any flueless combustion appliance other than a gas cooker, unless there will be in that room, after completion of the insulation work in or to that room in accordance with the relevant specifications, an uninsulated window capable of being opened.

(3) Nothing in these Regulations shall require an authority to carry out work or to make a grant in respect of the carrying out of work required—

- (a) to remedy a defect in a building, or
- (b) to maintain or repair any equipment or apparatus installed in or on any building pursuant to these Regulations.

Conditions for carrying out of insulation work or making of grants

10.—(1) The carrying out of insulation work and the making of grants shall be dependent upon compliance with the following conditions—

- (a) the claimant shall have complied with paragraphs (4) to (7) of Regulation 8;
- (b) a claimant who accepts an offer to carry out insulation work shall—
 - (i) if he is the occupier of or entitled to occupy the building, afford to the appropriate highway authority or their agent such access to the building as they may reasonably require for the purpose of carrying out and of inspecting the work to ascertain whether it complies with the relevant specifications, or
 - (ii) if he is not the occupier of nor entitled to occupy the building, procure the occupier or person entitled to occupy the building to afford them such access;
- (c) a claimant who accepts an offer to make a grant in respect of the cost of insulation work shall carry out the work in accordance with the relevant specifications and complete it before the expiration of twelve months from the date of acceptance and—
 - (i) if he is the occupier of or entitled to occupy the building, afford to the appropriate highway authority or their agent such access to the building as they may reasonably require for the purpose of inspecting the work to ascertain whether it complies with the relevant specifications, or

- (ii) if he is not the occupier of nor entitled to occupy the building, procure the occupier or person entitled to occupy the building to afford them such access.

Amount of grant

11. The amount of grant shall be equal to the actual cost incurred by the claimant in carrying out in accordance with the relevant specifications the insulation work in respect of which the claimant has accepted an offered grant, or to the reasonable cost of carrying out that work in accordance with those specifications, whichever shall be the less.

Consent to carrying out of insulation work

12. Where an eligible building is subject to a tenancy and a claim to be entitled to the benefit of an offer is made by a landlord or tenant of the building, insulation work may be carried out notwithstanding that the consent of the other party to the tenancy is required and is withheld.

Reconsideration of buildings

13.—(1) Where there is a highway to which Regulation 3 applies and no offer under Regulation 8(2) has been made in relation to an eligible building any of the persons specified in paragraph (2) of this Regulation who claims that a duty under Regulation 3 has arisen with respect to the building may apply in writing to the appropriate highway authority, setting out the facts on which he relies, and may request the authority to make him an offer in accordance with the provisions of Regulation 8.

(2) An application under paragraph (1) of this Regulation may be made by—

- (a) the person who is the occupier of, or if the building is unoccupied, is entitled to occupy, the building, or
- (b) the immediate landlord or licensor of that person, if any.

(3) Any application under paragraph (1) of this Regulation must be made within six months after either—

- (a) the date of depositing for public inspection under Regulation 6(3) of the map or list, or both, prepared under Regulation 6(2), or
- (b) the date six months after whichever is the later of the commencement date and the relevant date.

(4) Upon receipt of an application under this Regulation the appropriate highway authority shall review such calculations as have been made in relation to the building in accordance with Regulation 6, or shall make such calculations, and if they find that a duty under Regulation 3 has arisen with respect to the building they shall comply with the request but otherwise, subject to the provisions of paragraph 3(2) of Schedule 2, they shall refuse it.

(5) If they refuse the request, the authority shall furnish to the applicant a written statement of the reasons for their refusal.

(6) On the commencement of each period within which applications under paragraph (1) of this Regulation may be made the appropriate highway authority shall publish once in a local newspaper circulating in the area of the highway a notice setting out particulars of the right to make an application under that paragraph, including particulars of the time within which, and the authority to whom, such an application must be made.

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Local authorities as agents of highway authorities

14.—(1) A local authority may, subject to and in accordance with the provisions of these Regulations, act as agent for the appropriate highway authority in the discharge and exercise of its duties and powers under these Regulations.

(2) The appropriate highway authority alone, and not the agent local authority, unless that authority is also acting as agent of the appropriate highway authority in the construction or alteration of the highway or carriageway in relation to which the functions are exercisable—

- (a) shall determine the buildings in respect of which insulation work or a grant in respect of such work shall be offered, and
- (b) shall consider and determine applications made under paragraph (1) of Regulation 13.

(3) The appropriate highway authority shall reimburse to each local authority the amounts paid by them as agent under these Regulations.

(4) The appropriate highway authority shall pay to each local authority such sums as may be reasonable in respect of the services rendered to them by that authority under these Regulations.

(5) In this Regulation “local authority” means —

- (a) elsewhere than in Greater London, the council of a county or a district within the meaning of the Local Government Act 1972;
- (b) in Greater London, the Greater London Council, the council of a London borough and the Common Council of the City of London.

27th October 1975

Anthony Crosland
Secretary of State for the Environment

28th October 1975

John Morris
Secretary of State for Wales