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PUBLIC HEALTH, ENGLAND AND WALES

PUBLIC HEALTH, SCOTLAND

**The Household Appliances (Noise Emission)
Regulations 1990**

<i>Made</i> - - - -	<i>5th February 1990</i>
<i>Laid before Parliament</i>	<i>6th February 1990</i>
<i>Coming into force</i>	<i>28th February 1990</i>

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to household appliances which emit noise, in exercise of the powers conferred on him by that section and of all his other enabling powers, hereby makes the following Regulations:-

Citation, commencement and extent

1. These Regulations, which extend to Great Britain, may be cited as the Household Appliances (Noise Emission) Regulations 1990, and shall come into force on 28th February 1990.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires, the following expressions have the following meanings -

“appliance” means a household appliance consisting of any machine, part of a machine or installation manufactured principally for use in dwellings, including cellars, garages and other outbuildings and includes in particular household appliances for upkeep, cleaning purposes, preparation and storage of foodstuffs, production and distribution of heat and cold and air conditioning, but excluding -

- (i) appliances which are integrated parts of a building or its installations such as equipment for air conditioning, heating and ventilating (except household fans, cooker hoods and free-standing heating appliances), oil burners for central heating and pumps for water supply and for sewage systems;
- (ii) equipment components such as motors;
- (iii) electroacoustic appliances;

“batch” means all appliances of the same model or type produced at one operation under uniform conditions by the same manufacturer;

(a) S.I. 1987/926.
(b) 1972 c.68.

“the Directive” means Council Directive 86/594/EEC on airborne noise emitted by household appliances(a);

“harmonised standard” means a standard laid down and adopted by the European Committee for Standardisation or the European Committee for Electrotechnical Standardisation or both, on instructions from the Commission of the Communities, in accordance with Council Directive 83/189/EEC laying down a procedure for the provision of information in the field of technical standards and regulations(b) as amended(c);

“importer” means a person established in a member State who has imported an appliance into a member State which has been manufactured by a person who is not established in a member State;

“manufacturer” means a manufacturer of an appliance established in a member State;

“market” means supply by way of sale, lease, hire or hire-purchase, whether as principal or agent for another; and

“relevant national standard” and “relevant national technical regulations” means respectively a standard which is applicable, and regulations which are applicable, to the appliance in question and of which the reference numbers are published –

- (a) in the United Kingdom, by the Secretary of State in such manner as he considers appropriate, or
- (b) in another member State.

(2) Any reference in these Regulations to a numbered regulation is a reference to the regulation so numbered in these Regulations.

Marketing of appliances

3.—(1) No manufacturer or importer shall on or after 28th February 1990 market any appliance manufactured or imported by him in respect of which the requirements of regulation 4 or of the Directive as implemented in the law of Northern Ireland or in the law of a member State other than the United Kingdom are not satisfied.

(2) Where a person (“the ostensible supplier”) markets any appliance by supplying the same to another (“the customer”) under a hire-purchase agreement, conditional sale agreement or credit sale agreement, and the ostensible supplier:–

- (a) carries on the business of financing the acquisition of goods by others by means of such agreements; and
- (b) in the course of that business acquired his interest in the appliance supplied to the customer as a means of financing its acquisition by the customer from a third person (“the effective supplier”)

the effective supplier and not the ostensible supplier shall be treated for the purposes of this regulation as marketing the appliance to the customer and any duty imposed by these Regulations on those who market any appliance shall accordingly fall on the effective supplier and not on the ostensible supplier.

(3) Where a person (“the ostensible supplier”) markets any appliance by supplying the same to another (“the customer”) under a lease, and the ostensible supplier –

- (a) has not previously granted any lease to the customer in respect of that appliance; and
- (b) carries on the business of financing the use of goods by others by means of leases; and
- (c) in the course of that business acquired his interest in the appliance supplied to the customer for the purpose of financing its provision to the customer by a third person (“the effective supplier”); and
- (d) he or his agent either

(a) OJ No. L344, 6.12.86, p.24. (b) OJ No. L109, 26.4.83, p.8. (c) OJ No. L81, 26.3.88, p.75.

- (i) has not had physical possession of the appliance; or
- (ii) has had physical possession of the appliance only for the purpose of passing it to the customer; and
- (e) he or his agent has not modified, overhauled, repaired or restored the appliance;

then the effective supplier and not the ostensible supplier shall be treated for the purposes of this regulation as marketing the appliance to the customer and any duty imposed by these Regulations on those who market any appliance shall accordingly fall on the effective supplier and not on the ostensible supplier.

(4) Where –

- (a) paragraph (3) of this regulation has applied in respect of a lease; and
- (b) the ostensible supplier grants a further lease of the appliance to the same customer; and
- (c) the appliance has remained in the physical possession of the customer since he took possession of it under the first lease; and
- (d) the appliance has not at any time been modified, overhauled, repaired or restored by or on behalf of the ostensible supplier;

then no duty shall be imposed by these Regulations on the ostensible supplier in relation to the supply by way of that further lease.

Information about airborne noise emitted by appliances

4.—(1) Where a manufacturer or an importer of an appliance manufactured or imported by him on or after 28th February 1990 takes any steps to inform any person to whom the appliance is to be, or may be, marketed of the level of airborne noise emitted by the appliance, the level shall be determined in accordance with article 6(1) of the Directive which is set out in the Schedule to these Regulations.

(2) The level shall be stated in a manner which is readily understandable by any person to whom the appliance is to be, or may be, marketed.

(3) Where a label is attached to the appliance containing technical information other than in respect of the level of airborne noise emitted by the appliance the level of airborne noise shall be stated on that label.

Relevant national standard and technical regulations

5.—(1) The requirement in regulation 4(1) shall be taken to have been satisfied if the requirements set out in paragraph (2) of this regulation are satisfied.

(2) The requirements referred to in paragraph (1) of this regulation are that the measurements for determining the level of airborne noise have been carried out in accordance with –

- (a) the relevant national standard incorporating a harmonised standard the reference number of which has been published in the Official Journal of the Communities; or
- (b) the relevant national standard and the relevant national technical regulations the reference numbers of which have been published in the Official Journal of the Communities in so far as no harmonised standard exists in the areas covered by such national standard and regulations.

Periodic checks

6.—(1) The Secretary of State may from time to time carry out in Great Britain periodic checks of appliances which are for the time being held by or on behalf of the manufacturer, importer or other supplier of the appliances in respect of which steps have been taken to inform any person to whom the appliances are to be, or may be, marketed of the level of airborne noise emitted by the appliances in order to ascertain whether the level of airborne noise emitted by the appliances and specified in that information has been determined in accordance with the requirements of regulation 4 or of the Directive as implemented in the law of Northern Ireland or in the law of a member State other than the United Kingdom.

(2) If the Secretary of State, after checking any appliances under paragraph (1) of this regulation, is satisfied that the level of airborne noise emitted by the appliances and specified in the information referred to in paragraph (1) of this regulation has not been determined in accordance with the requirements of regulation 4 or of the Directive as implemented in the law of Northern Ireland or in the law of a member State other than the United Kingdom, he may give notice of that fact to the manufacturer or importer of any of the appliances, or any appliance of the same batch, and such notice shall specify the matters mentioned in paragraph (3) of this regulation.

(3) The matters to be specified in a notice given under paragraph (2) of this regulation are as follows –

- (a) the respects in which the level of airborne noise has not been determined in accordance with the requirements referred to in paragraph (2) of this regulation;
- (b) that unless within a specified period the manufacturer or importer takes such steps as are specified in the notice to ensure that none of the appliances so specified are marketed by him or any other person he shall within a further specified period take such steps as are so specified to ensure that the level of airborne noise contained in the information referred to in paragraph (1) of this regulation in respect of all such appliances is rectified so as to refer to the level as so determined.

Offences

7.—(1) Any person who without reasonable excuse contravenes or fails to comply with any of the provisions of regulation 3(1) or a notice given under regulation 6(2) shall be guilty of an offence punishable on summary conviction with a fine not exceeding level five on the standard scale.

(2) Where the commission by any person of an offence under these Regulations is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are taken against the first-mentioned person.

Offences by corporations

8.—(1) Where an offence under these Regulations committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate shall be deemed guilty of the offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) of this regulation shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

5th February 1990

Eric Forth
Parliamentary Under-Secretary of State,
Department of Trade and Industry

ARTICLE 6(1) OF COUNCIL DIRECTIVE OF 1ST DECEMBER 1986 ON AIRBORNE NOISE EMITTED BY HOUSEHOLD APPLIANCES

- (a) The general test method used to determine the airborne noise emitted by household appliances must be accurate enough for the measurement uncertainties to produce standard deviations not exceeding 2 dB in the case of A-weighted sound power levels.
- The standard deviations referred to in the first subparagraph shall represent the cumulative effects of all causes of uncertainty in the measurements, except for variations in the noise level of the appliance from one test to another.
- (b) The general test method referred to in (a) shall be supplemented, for each family of appliances, by a description of the location, mounting, load and operation of the appliances under test conditions to simulate normal use and ensure adequate repeatability and reproducibility. The standard deviation of reproducibility must be specified for each family of appliances.

NOTE: "family of household appliances" is defined in Article 2 of the Directive to mean all models (or types) of various household appliances designed for the same purpose and powered by the same principal energy source. Generally, a family includes several models (or types).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Council Directive 86/594/EEC on airborne noise emitted by household appliances.

1. The Regulations prohibit on or after 28th February 1990 the marketing by a manufacturer or importer into the European Community of any household appliance in respect of which the manufacturer or importer has taken steps to inform any person to whom the appliance is to be, or may be, marketed of the level of airborne noise emitted by it unless the level is determined in accordance with article 6. of the Directive (regulations 3, 4 and 7).

2. Harmonised standards prepared by the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (CENELEC) are incorporated by national standards bodies into relevant national standards the reference numbers of which are published in each member State (in the United Kingdom by the Secretary of State). The Regulations provide that where measurements for determining the level of airborne noise emitted by appliances have been carried out in accordance with the relevant national standard incorporating a harmonised standard or in so far as no harmonised standard exists in accordance with the relevant national standard and technical regulations of member States the reference numbers of which have been published in the Official Journal of the European Communities there shall be a presumption that the stated level of airborne noise emitted by the appliance satisfies the requirements of the Regulations (regulation 5).

3. The Regulations provide for periodic checks of appliances to be carried out by the Secretary of State in Great Britain to ensure compliance with the requirements of the Regulations or of the Directive as implemented in the law of Northern Ireland or of a member State other than the United Kingdom. If such a check shows that the level of airborne noise emitted by the appliances and specified in the information mentioned in paragraph 1 above has not been determined in accordance with such requirements the Secretary of State may give notice of that fact to the manufacturer or importer. The notice will require the manufacturer or importer, unless he withdraws from the market all appliances specified in the notice, to rectify the information in respect of them (regulations 6 and 7).

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