

EXPLANATORY MEMORANDUM TO
THE ENVIRONMENTAL NOISE (ENGLAND) (AMENDMENT)

REGULATIONS 2010

2010 No. 340

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs (Defra) and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 The purpose of the instrument is to amend the Environmental Noise (England) Regulations 2006 (SI 2006/2238 as amended by SI 2008/375 and SI 2009/1610) (“the 2006 Regulations”). The 2006 Regulations transpose the requirements of Directive 2002/49/EC relating to the assessment and management of environmental noise (“the Directive”) into English law.
- 2.2 The particular purpose of the instrument is to limit the scope of the ambulatory reference inserted by SI 2009/1610 to specified technical aspects of the Directive.

3. Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The House of Lords Merits of Statutory Instruments Committee reported the Environmental Noise (England) (Amendment) Regulations 2009 (SI 2009/1610) in their 25th Report on the grounds that they were politically and legally important on account of the use of the ambulatory reference. A “take note” motion was heard in the House of Lords on Wednesday 28 October 2009 on the use of the ambulatory reference in the 2009 Regulations.
- 3.2 The amendment made by this instrument limits the scope of the ambulatory reference inserted by SI 2009/1610 to references to Annex I, VI and paragraph 7 of Annex IV of the Directive. The Department is satisfied that limiting the ambit of the ambulatory reference in this way ensures that only amendments to the Directive that are of a minor and technical nature would be caught. The Department is also satisfied that any future amendments to the Directive caught by the ambulatory reference are unlikely to result in substantial increases in costs.

4. Legislative Context

- 4.1 This instrument is made under section 2(2) and paragraph 1A of Schedule 2 to the European Communities Act 1972.
- 4.2 As stated above, the 2006 Regulations transpose the requirements of the Directive into English law.
- 4.3 The objective of the Directive is to avoid, prevent or reduce on a prioritised basis the harmful effects, including annoyance, due to exposure to environmental noise. This includes the determination of exposure to environmental noise (from road traffic, rail traffic, aircraft and industry) through noise mapping; the provision of information to the public; and the adoption of action plans designed to manage noise issues, including noise reduction where necessary, and that also aim to protect quiet areas from an increase in noise.
- 4.4 The 2006 Regulations came into force on 1 October 2006 and minor amendments were made by the Environmental Noise (England) (Amendment) Regulations 2008 (SI 2008/375). Further amendments were made by the Environmental Noise (England) (Amendment) Regulations 2009 (SI 2009/1610). The amendments made by the 2009 Regulations mainly reflected changes in policy as to the approach to implementing the mapping and action planning requirements of the Directive. They also amended the definition of the Directive in the 2006 Regulations so as give ambulatory effect to the references to the Directive in those Regulations.

5. Territorial Extent and Application

- 5.1 This instrument applies only to England.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 The 2006 Regulations were amended in July by the Environmental Noise (England) (Amendment) Regulations 2009 (SI 2009/1610). Those amendments came into force on 25 July 2009.
- 7.2 The 2009 Regulations made various amendments to the 2006 Regulations. They included an amendment to the definition of the Directive in the 2006 Regulations so as to mean “as amended from time to time”. The amendment was made in reliance on the powers in paragraph 1A of Schedule 2 to the European Communities Act 1972. This power enables secondary legislation made for the purposes of section 2(2) of the European Communities Act 1972 to make ambulatory references to Community instruments.

7.3 The House of Lords Merits of Statutory Instruments Committee reported the 2009 Regulations in their 25th Report on the grounds that they were politically and legally important on account of the use of the ambulatory reference. A “take note” motion was heard in the House of Lords on Wednesday 28 October on the 2009 Regulations. Prior to the “take note motion”, the Department wrote to Baroness Maddock proposing to amend the Regulations so as to limit the ambit of the ambulatory reference to technical matters contained in the Annexes to the Directive. The Department’s proposal to amend the Regulations in this way was re-stated during the “take note” motion.

8. Consultation outcome

8.1 This instrument was not subject to consultation as it is of a technical, legal nature. The amendments made in July 2009 by way of SI 2009/1610 were subject to a full public consultation.

9. Guidance

9.1 In light of the technical and legal nature of this instrument, the Department considers that it is not necessary to issue guidance. However, the Department has undertaken to issue general internal guidance requiring Explanatory Memoranda to provide more detailed explanation of the scope and impact of any future ambulatory references than was the case for the Explanatory Memorandum that accompanied the 2009 Regulations.

10. Impact

10.1 No impact assessment has been prepared because this instrument is of a technical and legal nature and therefore no impact on the public, private or voluntary sector is foreseen.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The implementation of the 2006 Regulations, as amended, is a continual process and the Secretary of State for Environment, Food and Rural Affairs will monitor their implementation as the work progresses.

13. Contact

13.1 Any queries on this instrument should be addressed in the first instance to Tim Dice at the Department for Environment, Food and Rural Affairs, telephone: 020 7238 4315 or email: tim.dice@defra.gsi.gov.uk.