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WELSH STATUTORY INSTRUMENTS

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**2001 No. 604 (W.27)**

**BUILDING AND BULDINGS, WALES**

**The Highways Noise Payments (Movable Homes) (Wales) Regulations 2001**

*Made* - - - - - *27th February 2001*

*Coming into force* - - - - - *1st April 2001*

The National Assembly for Wales, in exercise of the powers conferred by section 20A of the Land Compensation Act 1973(1), hereby makes the following Regulations:—

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Highways Noise Payments (Movable Homes) (Wales) Regulations 2001 and shall come into force on the 1st April 2001.

(2) These Regulations apply to Wales.

**Interpretation**

2. In these Regulations —

“alteration” (“*newid*”) in relation to a highway means a change in the location, width or level of a carriageway which is part of that highway (otherwise than by resurfacing) or the construction of an additional carriageway beside above or below an existing carriageway and “alter” (“*newid*”) and “altered” (“*wedi'i newid*”) are to be interpreted in the same way;

“the authority” (“*yr awdurdod*”) in relation to a highway means the highway authority who constructed or altered or propose to construct or alter that highway;

“commencement date” (“*dyddiad cychwyn*”) means the date on which these Regulations come into force;

“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;

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(1) 1973 c. 26; section 20A was inserted by the Planning and Compensation Act 1991 (c. 34), section 70 and Schedule 15, paragraph 5(1). The power to make regulations under section 20A of the Land Compensation Act 1973 has been devolved to the National Assembly for Wales under the National Assembly for Wales (Transfer of Functions) Order 1999, article 2 and Schedule 1 (S.I. 1999/672).

“disqualifying interest” (“*buddiant anghymhwys*”) means an interest which qualifies for compensation under Part 1 of the Land Compensation Act 1973(2);

“eligible home” (“*cartref cymwys*”) has the meaning set out in regulation 7;

“highway” (“*priffordd*”) includes any part of a highway and means a highway or part of a highway which is maintainable at the public expense as defined in section 329(1) of the Highways Act 1980(3);

“houseboat” (“*cwch preswyl*”) means a boat or similar structure designed or adapted for use as a home;

“L10” is the sound level in dB(A) which is exceeded for one-tenth of a period of one hour;

(“L10 18-hour”); is the arithmetic mean of all the levels of L10 during a period from 0600 to 2400 hours on a normal working day;

“movable home” (“*cartref symudol*”) means —

(a) a caravan within the meaning (as defined in Part 1) of the Caravan Sites and Control of Development Act 1960(4) and section 13 of the Caravan Sites Act 1968 (disregarding the provisions of subsection (2) of section 13(5)), or

(b) a houseboat:

“noise payment” (“*taliad swm*”) has the meaning set out in regulation 3(5);

“prevailing noise level” (“*lefel swm gyffredinol*”) means the level of noise, expressed as a level of L10 (18-hour), one metre in front of the most exposed of any window or door in the most exposed face of a movable home caused by traffic using any highway immediately before works for the construction or alteration of the highway were begun;

“qualifying period” (“*cyfnod cymhwys*”) has the meaning set out in regulation 8;

“relevant date” (“*dyddiad perthnasol*”) means the date on which a highway was first open to public traffic or in the case of a highway which has been altered, the date on which it was first open to public traffic after construction of the alteration;

“relevant highway” (“*priffordd berthnasol*”) means a highway in respect of which the relevant date was after 25th September 1990;

“relevant noise level” (“*lefel swm berthnasol*”) means the level of noise, expressed as a level of L10 (18-hour), one metre in front of the most exposed of any window or door in the most exposed face of a movable home caused or expected to be caused by traffic using a relevant highway;

“relevant works” (“*gwaith perthnasol*”) means the works for the construction or alteration of a highway which cause or are expected to cause the noise which gives rise to a power to make a noise payment;

“specified level” (“*lefel benodedig*”) means a noise level of L10 (18-hour) of 68dB(A);

“the 1988 Code” (“*Cod 1988*”) means the advice and instruction contained in the technical memorandum entitled “Calculations of Road Traffic Noise” published by Her Majesty’s Stationery Office (1988).

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(2) 1973 c. 26.  
 (3) 1980 c. 66.  
 (4) 1960 c. 62.  
 (5) 1968 c. 52.

### **Power to make noise payments**

3.—(1) Subject to an in accordance with the provisions of these Regulations, where, in relation to an eligible home, the use of a relevant highway causes or is expected to cause noise at a level not less than the specified level the authority may make a payment under this paragraph of this regulation.

(2) For the purpose of paragraph (1) of this regulation the use of a relevant 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 1 dB(A) than the prevailing noise 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 1 dB(A).

(3) Subject to an in accordance with these Regulations, where at any time after the commencement date, works for the construction or alteration of a highway cause noise at a level which, in the opinion of the authority, has, over a continuous period of not less than 6 months, had a seriously adverse effect on the enjoyment of an eligible home, the authority may make a payment under this paragraph of this regulation.

(4) Where a highway becomes a highway maintainable at the public expense within the meaning of section 329(1) of the Highways Act 1980<sup>(6)</sup> within three years after the relevant date, the highway authority for the highway may make a payment under paragraphs (1) or (3) of this regulation in relation to an eligible home if a power to do so would have arisen had the highway been a highway maintainable at the public expense on the relevant date and had the construction or alteration of the highway been carried out by that highway authority.

(5) A payment under this regulation is referred to in these Regulations as a “noise payment”.

### **How to assess noise levels**

4. For the purposes of regulation 3(2) the prevailing noise level, the relevant noise level and the effective contribution to the relevant noise level caused or expected to be caused by traffic using or expected to use a highway must be assessed in accordance with the 1988 Code.

### **Amount of noise payments**

5. The amount of a noise payment is the sum which the authority in its discretion determines but may not exceed £1,650.

### **When noise payments may not be made**

6. If a noise payment has been made in relation to an eligible home arising out of the construction alteration or use of a highway, whether under regulation 3(1) or under regulation 3(3), no further noise payment may be made in respect of that eligible home arising out of the construction alteration or use of that highway unless that highway is subsequently altered and a power to make a noise payment in respect of that eligible home arises as a result of that alteration or the use of the highway as so altered.

### **Eligible homes**

7.—(1) Subject to paragraphs (2) and (3) of this regulation, an eligible home is a movable home which, throughout the qualifying period —

- (a) in the case of a caravan, has been lawfully stationed on a protected site within the meaning of section 1(2) of the Caravan Sites Act 1968<sup>(7)</sup>;

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<sup>(6)</sup> 1980 c. 66.

<sup>(7)</sup> 1968 c. 62.

- (b) in the case of a houseboat, has been lawfully moored or otherwise secured with such consent as may be necessary for the location in question from any navigation authority, harbour undertaking or canal undertaking responsible for the water in which it is located and with the consent of the person in possession of any land to which it is moored or secured;
- (c) has been located in such a position or positions that, after the construction or alteration of the relevant highway, some part of it is not more than 300 metres from the nearest point on the carriageway of that highway.

(2) A movable home is not an eligible home if at any time during the qualifying period it was a motor vehicle within the meaning of section 185(1) of the Road Traffic Act 1988<sup>(8)</sup> or it was a building or part of a building.

(3) For the purpose of a noise payment arising out of relevant works a movable home is not an eligible home —

- (a) if it was first occupied after the relevant date in respect of those works;
- (b) if, at the date when an application for a noise payment is made, it is located in a position which coincides, in whole or in part, with the position which any other eligible home, in respect of which a noise payment has already been made, occupied during any part of the qualifying period in respect of that noise payment, and if that noise payment arises out of the same relevant works.

### **Qualifying period**

8.—(1) Where a noise payment under regulation 3(1) is made as a result of relevant works in respect of which the relevant date falls before the commencement date the qualifying period is the period of three years which ends on the commencement date.

(2) Where a noise payment under regulation 3(1) is made as a result of relevant works in respect of which the relevant date falls on or within one year after the commencement date the qualifying period is the period which begins on the commencement date and ends two years after the relevant date.

(3) Where a noise payment under regulation 3(1) is made as a result of relevant works in respect of which the relevant date falls more than one year after the commencement date the qualifying period is the period which begins one year before the relevant date and ends two years after the relevant date.

(4) Where a noise payment is made under regulation 3(3) the qualifying period is the period which begins one year before the start of the relevant works and ends when the noise caused by those works has had a seriously adverse effect on the enjoyment of the eligible home over a continuous period of six months.

### **Persons to whom noise payments may be made**

9.—(1) A noise payment may only be made to a person who —

- (a) has made an application for a noise payment in accordance with Regulation 10;
- (b) at no time during the period which begins on the relevant date and ends on the date on which the application was made has had a disqualifying interest in the land on which the eligible home was stationed or, in the case of a houseboat, to which it was moored or otherwise secured;

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(8) 1988 c. 52.

- (c) occupied the eligible home in respect of which the payment is made as a sole or main residence throughout the whole of the qualifying period and continued to do so up to and including the day on which the application was made.

(2) Where, in relation to an eligible home, it appears to the authority that there is more than one person to whom paragraph (1) of this regulation would authorise a noise payment to be made the authority may, in its discretion apportion any noise payment which it decides to make between those persons and if it does so any payments which it makes to different persons under this sub-paragraph shall be treated for the purposes of regulation 5 as a single payment of the total of these payments.

### **Procedure for applying for noise payments**

**10.**—(1) The authority may consider an application for a noise payment if it is made during the period of six years which begins on the day after the end of the qualifying period.

(2) An application for a noise payment must be in writing and must contain the following information —

- (a) the full name and address of the applicant and of any person authorised to act on the applicant's behalf;
- (b) the address of the eligible home in respect of which application is made;
- (c) particulars of the size and nature of construction of the eligible home;
- (d) whether at the date of the application the applicant is in occupation of the eligible home as a sole or main residence and if so the date when such occupation began;
- (e) the nature of the applicant's interest in the eligible home and the date on which and the manner in which that interest was acquired;
- (f) whether, during the period when the eligible home has been occupied by the applicant, it has been located in any position other than that in which it is located on the date on which the application is made and if so particulars of such position or positions and the dates between which it was so located;
- (g) whether the applicant has on the date of the application any interest in the land on which the eligible home is stationed or, in the case of a houseboat to which it is moored or otherwise secured or has had such interest at any time during the applicant's occupation of the eligible home as a sole or main residence and if so particulars of such interest and the date when it was acquired and, if appropriate, disposed of;
- (h) particulars of the relevant works;
- (i) the relevant date;
- (j) whether the application is for a noise payment under regulation 3(1) or under regulation 3(3):

(3) An application under this regulation must be signed by the applicant and must incorporate a declaration by the applicant that the information which it contains is correct to the best of the applicant's knowledge and belief.

(4) An application under this regulation shall not be regarded as having been made unless it contains all the information prescribed by this regulation and incorporates the declaration required by paragraph (3) of this regulation and it shall not be regarded as having been made until it is actually received by the authority to whom it is intended to be made.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998<sup>(9)</sup>

27th February 2001

*D. Elis Thomas*  
The Presiding Officer of the National Assembly

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations give highway authorities the power to make payments of up to £1,650 to the occupiers of movable homes such as caravans and house-boats where they are affected or are likely to be affected, to a significant degree, by noise caused by the construction or use of new or altered roads. The power to make Regulations authorising such payments is under Section 20A of the Land Compensation Act 1973, inserted by paragraph 5(1) of Schedule 15 to the Planning and Compensation Act 1991. The power to make payments under these Regulations is parallel to the duty to provide noise insulation in buildings or to make grant payments instead, under the Noise Insulation Regulations 1975 (S.I. [1975/1763](#) as amended by S.I. [1988/2000](#)). For practical reasons those provisions cannot be applied to movable homes.

The memorandum entitled “Calculation of Traffic Noise” published by Her Majesty’s Stationery Office (1988) may be obtained from Oriel Bookshop, 18-19 High Street, Cardiff CF10 2BZ.

British Standard 4197:1967 may be obtained from any outlet operated by the British Standards Institution (BSI) or by post from BSI at 389 Chiswick High Road, London W4 4AL.