

2000 No. 2887

ENVIRONMENTAL PROTECTION

**The Highways Noise Payments and Movable Homes
(England) Regulations 2000**

Made - - - - 23rd October 2000

Laid before Parliament 1st November 2000

Coming into force 23rd November 2000

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The Secretary of State for the Environment, Transport and the Regions in exercise of the powers conferred by section 20A of the Land Compensation Act 1973(a), and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation and commencement

1.—(1) These Regulations may be cited as the Highways Noise Payments and Movable Homes (England) Regulations 2000 and shall come into force on 23rd November 2000.

(2) These Regulations extend to England only.

(a) 1973 c. 26; section 20A was inserted by the Planning and Compensation Act 1991 (c. 34), section 70 and Schedule 15, paragraph 5(1) with effect from 25th September 1991. 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).

Interpretation

2. In these Regulations:

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

“alteration” in relation to a highway means a change in the location, width or level of a carriageway comprised in that highway (otherwise than by resurfacing), and “alter” and “altered” shall be construed accordingly;

“the authority”, in relation to a highway or an additional carriageway, means the highway authority who constructed or propose to construct that highway or additional carriageway or who altered or propose to alter that highway, as the case may be;

“the commencement date” is the date that 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;

“eligible home” has the meaning assigned to it in regulation 6;

“houseboat” means a boat or similar structure designed or adapted for use as a place of permanent habitation;

“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 levels of L10 during a period from 0600 to 2400 hours on a normal working day;

“movable home” means—

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

(b) a houseboat;

“noise payment” has the meaning assigned to it in regulation 3(5);

“prevailing level” means the level of noise, expressed as a level of L10 (18-hour), one metre in front of the most exposed part of the most exposed facade of a movable home caused or expected to be 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, were begun;

“qualifying period” means—

(a) for a claim for a noise payment under regulation 3(1),

(i) if the relevant date falls on or after 25th September 1990 and more than three years before the commencement date the period of three years expiring on the commencement date,

(ii) if the relevant date falls not more than three years before or on or after the commencement date the period of three years from the relevant date, or

(b) for a claim for a noise payment under regulation 3(3), the period commencing on a date one year before the start of the relevant works and ending on the date when the enjoyment of the movable home in question has been seriously adversely affected by noise caused by those works for six months;

(a) 1960 c. 62.

(b) 1968 c. 52.

“relevant highway” means—

- (a) a new highway, or
- (b) a highway which has been or is to be altered, or

(c) a highway for which an additional carriageway has been or is to be constructed, if the new highway, the highway as so altered, or the additional carriageway (as the case may be) was first open to traffic on or after 25th September 1990;

“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 L10 (18-hour), one metre in front of the most exposed part of the most exposed facade of a movable home caused or expected to be caused by traffic using or expected to use the highway in question;

“the relevant works” means the work or works to or for a relevant highway—

- (a) which cause or are expected to cause noise, or
- (b) following the completion of which the use of the relevant highway in question causes or is expected to cause noise;

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

Power to make noise payments

3.—(1) Where at any time on or after the commencement date the use of a relevant highway as a result of relevant works causes or is expected to cause noise at a level not less than the specified level, the authority shall make a payment under this regulation in relation to an eligible home if a claim for such a payment is made in accordance with regulations 7 and 8.

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

(3) Where at any time on or after the commencement date works for the construction of a highway or additional carriageway, or for the alteration of a highway, cause or are expected to cause noise at a level which, in the opinion of the authority, has had, is having, or will have a seriously adverse effect on the enjoyment of an eligible home adjacent to the site on which those works have been, are being or are to be carried out, the authority may make a payment under this regulation in relation to that home if a claim for such a payment is made in accordance with regulations 7 and 8.

(4) Where a road becomes a highway maintainable at the public expense within the meaning of section 329(1) of the Highways Act 1980(a) within three years after the relevant date if the claim would have complied with the requirements of these Regulations had the highway been so maintainable at the relevant and commencement dates, the highway authority for the highway may make a payment under paragraph (1) or (3) above in relation to any movable home which would have been an eligible home if that highway had been so maintainable at the relevant date and the work of construction of that highway or an additional carriageway for it, or of alteration of it, had been carried out by a highway authority.

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

Calculation of noise levels

4.—(1) For the purposes of regulation 3 the relevant noise level, the prevailing level and the effective contribution to the relevant noise level made by noise caused or expected to be

(a) 1980 c. 66.

caused by traffic using or expected to use a highway shall be ascertained in accordance with the 1988 Code.

(2) The authority for a relevant highway may prepare a map or list or both identifying each movable home which is or may be an eligible home for the purpose of these Regulations.

(3) Any such list or map shall be deposited at the office of the authority or their agent nearest to the movable homes identified in it and shall be available for public inspection during normal office hours not later than six months after the relevant date.

Limitations on noise payments

5.—(1) The amount of a noise payment shall be £1,650.

(2) Only one payment shall be made in respect of the same relevant works for a movable home in the same location or substantially the same location.

Eligible homes

6.—(1) Subject to paragraph (2) of this regulation, an eligible home is a movable home which throughout the qualifying period:

- (a) if it is a caravan, has been lawfully stationed on a protected site within the meaning of section 1(2) of the Caravan Sites Act 1968(a);
- (b) if it is a houseboat, has been lawfully moored or otherwise secured with such consent as may be necessary for the location in question from the navigation authority, harbour undertaking or canal undertaking responsible for the water in which it is located, and with the written 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 some part of it was not more than 300 metres from the nearest carriageway of a relevant highway after the construction of that highway or of an additional carriageway for it, or the alteration of that highway, as the case may be.

(2) A movable home shall not be 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(b), or a building or part of a building.

(3) A movable home is not an eligible home if it was first occupied after the relevant date in the same or substantially the same location as that in respect of which a claim is made.

Classes of person entitled to make claims

7. A claim for a noise payment may only be made by a person who:

- (a) at the date of the claim does not have an interest which qualifies for compensation under Part I of the Land Compensation Act 1973(c) in the land on which the movable home in relation to which the noise payment is claimed is situated, or to which it is moored if it is a houseboat, and has not had any such interest at any time since the relevant date, and
- (b) has been in occupation of the movable home in relation to which the noise payment is claimed as his only or main residence throughout the qualifying period.

Procedure for making claims

8.—(1) A claim for a noise payment shall be in writing and may be made at any time during the period of six years commencing on the expiry of the qualifying period.

(a) 1968 c. 62.

(b) 1988 c. 52.

(c) 1973 c. 26.

(2) A claim for a noise payment shall state:

- (a) the full name and address of the claimant and of any person acting on the claimant's behalf;
- (b) the address of the movable home in relation to which the claim is made;
- (c) particulars of the size and nature of construction of the movable home;
- (d) whether at the date of the claim the claimant is in occupation of the movable home as his only or main residence, and if so the date on which that occupation commenced;
- (e) particulars of the claimant's interest in the movable home and the date on which and manner in which that interest was acquired;
- (f) particulars of the claimant's interest (if any) in the land on which the movable home is situated or to which it is moored if it is a houseboat, and the date on which and manner in which that interest was acquired;
- (g) particulars so far as known to the claimant of any other interest, including the interest of any mortgagee, in the movable home or the land on which it is situated or to which it is moored if it is a houseboat;
- (h) the relevant date and particulars of the relevant works;
- (i) whether the claim is for a noise payment under regulation 3(1) or under regulation 3(3);
- (j) except where the claim is for a noise payment under regulation 3(1) only, particulars of the noise caused or expected to be caused by the relevant works and the times at which and period during which that noise is caused or expected to be caused,

and shall include a declaration by the claimant that the information given in the claim is correct to the best of the claimant's knowledge.

Signed by the authority of the Secretary of State
for the Environment, Transport and the Regions

Larry Whitty
Parliamentary Under Secretary of State,
Department of the Environment, Transport
and the Regions

23rd October 2000

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 20A of the Land Compensation Act 1973, inserted by paragraph 5(1) of Schedule 15 to the Planning and Compensation Act 1991, enables Regulations to be made providing for payments to persons living in caravans and other structures which are not buildings which are, or are likely to be, affected by noise caused by the construction or use of public works. Such dwellings do not qualify for noise insulation or grant under the Noise Insulation Regulations 1975 (S.I. 1975/1763 amended by S.I. 1988/2000), but these Regulations empower a noise payment to be made where qualifying conditions are met, to the occupier of a caravan or movable home by the appropriate highway authority, of £1,650 specified in the Regulations. The memorandum entitled "Calculation of Road Traffic Noise" published by Her Majesty's Stationery Office (1988) may be obtained from the Stationery Office, National Publishing, 3rd Floor, St Crispins, Duke Street, Norwich NR3 1PD (telephone number: 0870 600 5522).

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 (telephone number: 0208 996 9000).

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