

EXPLANATORY MEMORANDUM TO
THE ENVIRONMENTAL NOISE (ENGLAND) (AMENDMENT) REGULATIONS
2009

2009 No. 1610

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) (“the 2006 Regulations”).

The 2006 Regulations transpose the requirements of Directive 2002/49/EC relating to the assessment and management of environmental noise (“the END”) into English law.

- 2.2 Since the 2006 Regulations came into force, there have been changes in the approach to implementing certain aspects of the END in England. This instrument gives effect those changes.

3. Matters of special interest to the [Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments]

- 3.1 None.

4. Legislative Context

- 4.1 This instrument is made under section 2(2) of the European Communities Act 1972.

As stated above, the 2006 Regulations transpose the requirements of the END into English law.

The objective of the END 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. The scope of the mapping currently covers 23 agglomerations, major roads, major railways and major airports. The END was adopted by the European Parliament and the Council of the European Union on 25 June 2002.

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)

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 After completion of the noise mapping process at the end of 2007, work began on the action planning phase. As implementation proceeded, it became clear that a change in approach in certain areas would lead to a more efficient and beneficial outcome. In order to give effect to this change in approach, amendments to the 2006 Regulations have to be made.

7.2 The proposed amendments in the instrument primarily reduce the burden on the Secretary of State while still ensuring that the Directive's minimum requirements can be fulfilled. In addition, the amendments will also enable noise action planning to take better account of local situations, particularly in relation to the identification of potential quiet areas.

7.3 Regulation 13 of the 2006 Regulations currently states that a list of identified quiet areas must be published in the form of regulations no later than 30 September 2007 for first round agglomerations and 30 September 2012 for all agglomerations. The proposed amendment replaces this provision with a duty on the Secretary of State to identify and publish quiet areas in such published form as is considered appropriate. This would allow liaison with local authorities on what might be appropriate areas to identify, and also to enable the quiet areas to be published through the action planning process rather than in Regulations. The amendment also includes a mechanism for reviewing and revising the quiet areas where necessary.

7.4 Regulation 14(1) of the 2006 Regulations currently imposes a duty on the Secretary of State to publish guidance setting out limit values or other criteria for the identification of priorities for actions plans by no later than 17 July 2007.

The proposed amendment to this duty, set out in new regulation 14A, requires the Secretary of State to set out limit values or other criteria (referred to as “relevant criteria”) in such published form as the Secretary of State considers appropriate and to keep the relevant criteria under review and make revisions where appropriate.

- 7.5 Regulation 14(2) of the 2006 Regulations currently states that the Secretary of State has a duty to produce a consolidated noise map from all strategic noise maps which are adopted pursuant to Regulation 23. Consolidated noise maps are not a requirement under the END, however they can be useful tools in the action planning process. The proposed amendment therefore removes the duty to produce consolidated noise maps and replaces this with a discretionary power to produce them in respect of any area covered by more than one strategic noise map as necessary.
- 7.6 There is a possibility that there will be changes to the END in the future, such as the updating of technical annexes or the possibility of other changes. There is a proposed amendment that alters the definition of the END in regulation 2 of the 2006 Regulations to include any future amendments of the END. This change will remove the need for further amendments to the Regulations if the Directive is changed. This will not, however, cover any new Directive.
- 7.7 A further amendment made by the instrument is to remove the requirement in the future to identify noise sources for mapping in the form of regulations. From 2011 onwards, noise sources will instead be identified in the form of published maps. This is given effect in regulation 4 of the instrument

8. Consultation outcome

- 8.1 The consultation on the proposed amendments to the Environmental Noise (England) Regulations 2006 (SI 2006 No 2238) was undertaken during the period 16 February 2009 -11 May 2009. The aim of the consultation was to set out the proposed amendments and invite views/comments from the public.
- 8.2 The proposals were placed on the Defra website and interested parties were specifically alerted to the consultation. In total, 34 responses were received, from a range of organisations including local authorities, airports and airport operators, pressure groups, professional organisations, and airport consultative committees.
- 8.3 A number of respondents felt that it was a good idea to utilise local knowledge in the identification of quiet areas, and a majority were in favour on the proposed amendment on the process for the identification of quiet areas.
- 8.4 There was a divided view with regard to replacing the duty to produce consolidated noise maps with a power. For those in favour of the proposal,

consolidated maps were seen as a helpful tool when identifying noise in areas. It appeared from the responses that those against the changes thought that the change would mean that consolidated maps would never be produced. This, of course, is not the case.

8.5 Some consultation responses expressed concern about the removal of the duty in regulation 14(1) regarding the production of guidance setting out limit values or other criteria for the identification of priorities for action plans, and the proposal to replace it with a more general power under regulation 30. In response to these concerns, the draft regulations propose to retain a duty relating to the setting of the limit values or other criteria. However, instead of requiring them to be set out in guidance, the proposed amendment requires that these are to be set out in such published form as the Secretary of State considers appropriate and to keep these under review.

8.6 A summary of responses to the consultation on proposed amendments to the Environmental Noise (England) Regulations 2006 can be found at: <http://www.defra.gov.uk/environment/noise/ambient.htm>.

9. Guidance

9.1 The relevant amendments to the 2006 Regulations will be reflected in the draft Noise Action Plans which will be consulted upon shortly.

10. Impact

10.1 The Environmental Noise (England) Regulations 2006 were the subject of a full consultation and a Regulatory Impact Assessment when they were laid before Parliament on 1 October 2006. No impact on the private or voluntary sectors arising from these amendments is foreseen.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The implementation of these Regulations is a continual process and the Secretary of State for Environment, Food and Rural Affairs will monitor the implementation of these Regulations 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