



Control of Noise at Work Regulations come into force for entertainment sector

Noise at work has been regulated since 1989, but more stringent regulations, required by an EU Directive, came into force on 6 April 2006 for all businesses other than the entertainment sector. These Regulations apply to the entertainment sector from 6 April 2008.

The entertainment sector is defined as including all workplaces where:

- live music is played, or
- recorded music is played in a restaurant, bar, public house, discotheque or nightclub, or alongside live music or a live dramatic or dance performance

If you fall into any of these categories you will have been exempt for the last two years. From 6 April 2008, however, all the requirements of the Regulations apply to you, even if you do not regard the music which is played in your premises as being loud. The reason for this is that it is not just the loudness of the music that matters, but the overall noise level in the premises.

The Regulations do not apply to your customers.

Everyone thinks they know the 'culprit' industries for excessive noise: manufacturing, construction, agriculture, mines, quarries, woodworking shops, mills, foundries, transport. But research carried out over the last 10 years has shown that workers in other occupations are equally at risk: motorcycle dispatch riders, sound engineers, anyone who uses earpiece communication systems and school teachers. The Institute of Sound and Vibration at Southampton University recently discovered that a referee's whistle is a potent and potentially damaging source of noise for the user.

The Regulations contain some technical expressions:

- Sound is measured in decibels (dB).
- The level is normally adjusted to take account of the ear's response to different frequencies and is written as dBA. A 3 dBA increase in noise level doubles the noise exposure.
- In most settings noise is made over a period of time, so it is the average sound energy over that period that matters (written as dBAeq).
- The degree of damage to hearing depends upon a person's exposure to noise over a working day of eight hours (written as dBA LEP,d).
- In some settings it is an instantaneous noise that is the problem. Peak values from instantaneous noise are measured in dB, but are referred to in the Regulations as dB(C), which is a way of harmonising readings from different types of sound measuring equipment.

The Regulations control exposure to noise through three “values”, each of which relates to the sound reaching the ear:

- the Lower Exposure Action Value (LEAV) is either 80 dBA LEP,d, or 135 dBC peak
- the Upper Exposure Action Value (UAEV) is either 85 dBA LEP,d, or 137 dBC peak
- the Exposure Limit Value (ELV) is either at 87 dBA LEP,d or 140 dBC peak

In order to assess whether either of the Action Values is exceeded, sound is measured on the assumption that the ear has no hearing protection. In assessing whether the ELV is exceeded, sound is measured on the assumption the ear has been provided with hearing protection.

Any employer who carries out work which is liable to expose any employees to noise at or above the LEAV must carry out a risk assessment. The HSE guidance to employers says that when deciding whether noise in the workplace has the potential to expose employees to noise at or above the LEAV, employers should ask themselves a range of questions. The questions that are relevant to the leisure industry are:

- is the noise intrusive - like a busy street, a vacuum cleaner or a crowded restaurant - for most of the working day?
- Do your employees have to raise their voices to carry out a normal conversation when about two metres apart for at least part of the day?

If the answer to either of these questions is "yes", the HSE says that it is likely that you have a noise problem and you must carry out a risk assessment. If you do not, you are breaking the law and can be prosecuted.

The risk assessment must:

- identify where there may be a risk from noise and who is likely to be affected
- contain a reliable estimate of your employees' exposures, and compare the exposure with the exposure action values and limit values

It may be that at this stage your assessment will establish that the LEAV is not liable to be met or exceeded, in which case you will need to take no further action apart from reviewing the risk assessment at regular intervals and whenever there is a change in your operation that might affect its conclusions. If, however, the risk assessment identifies the need for further action, it must:

- identify what you need to do to comply with the law, eg whether noise-control measures or hearing protection are needed, and, if so, where and what type, and
- identify any employees who need to be provided with health surveillance and whether any are at particular risk
- specify what information, instruction and training you need to provide to the affected employees

The Regulations impose an overriding duty to ensure that risk is eliminated at source. It is only when you have tried to eliminate the risk at source and have established that it is not reasonably practicable that you are allowed to take steps merely to reduce the risk to as low a level as is reasonably practicable. The regulations set out the steps that need to be considered and the order in which they have to be taken. You are not allowed simply to jump the intermediate steps and provide hearing protection as a first resort.

The LEAV triggers your duty to provide hearing protection upon request and to provide information, instruction and training. The regulations are very specific as to the range of topics that must be covered in the training (for example why and how to detect and report signs of hearing damage).

The UAEV triggers additional duties. You must reduce exposure to as low a level as is reasonably practicable by establishing and implementing a programme of organisational and technical measures. Inevitably, this will mean conducting a noise measurement survey.

It is only when this has been tried and the levels still remain above the UEAV that alternative measures are permitted: the areas affected must be marked as Hearing Protection Zones, access to them should be restricted (if practicable) and hearing protection within them is compulsory, with no exemptions (employees are subject for the first time to a new requirement to use hearing protection provided to them).

No exposure at all is permitted above the Exposure Limit Value.

The Regulations also introduce two additional new duties.

- The first is to conduct health surveillance for any employee whose health is identified by the risk assessment as being at risk. Guidance from the HSE suggests that this includes employees who are likely to be exposed regularly to noise above the UEAV or who have already suffered hearing loss.
- The second is to consult with employees or safety representatives on the risk assessments, the measures to comply with the overriding duty and the selection of hearing protection.

The HSE has published guidance on the regulations (<http://www.hse.gov.uk/pubns/indg362.pdf>). This guidance applies to all businesses, but specific guidance for the entertainment sector is due to be published in July. It will be available as a hard copy and web based version. It is unsatisfactory that it is not available now, but the earlier draft version is still available at <http://soundadvice.info> and the HSE says that the sector specific advice in it is unlikely to change between now and July.

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