

L.N. 193 of 2004

**ENVIRONMENT PROTECTION ACT, 2001
(CAP. 435)**

**Assessment and Management of Environment Noise
Regulations, 2004**

BY virtue of the powers conferred by article 9 of the Environment Protection Act, the Minister for Rural Affairs and the Environment has made the following regulations:-

1. The title of these regulations is the Assessment and Management of Environment Noise Regulations, 2004. Citation.

2. (1) The aim of these regulations is to define a common approach intended to avoid, prevent or reduce on a prioritised basis the harmful effects, including annoyance, due to the exposure to environmental noise. To that end the following actions shall be implemented progressively: Objectives.

(a) the determination of exposure to environmental noise, through noise mapping, by methods of assessment common to the Agreement States;

(b) ensuring that information on environmental noise and its effects are made available to the public;

(c) the adoption of action plans by the Agreement States, based upon noise-mapping results, with a view to preventing and reducing environmental noise where necessary and particularly where exposure levels can induce harmful effects on human health and preserving environmental noise quality where it is good.

(2) These regulations shall also aim at providing a basis for developing measures to reduce noise emitted by the major sources, in particular road and rail vehicles and infrastructure, aircraft, outdoor and industrial equipment and mobile machinery.

Scope.

3. (1) These regulations shall apply to environmental noise to which humans are exposed in particular in built-up areas, in public parks or other quiet areas in an agglomeration, in quiet areas in open country, near schools, hospitals and other noise-sensitive buildings and areas.

(2) These regulations shall not apply to noise that is caused by the exposed person himself, noise from domestic activities, noise created by neighbours, noise at work places or noise inside means of transport or due to military activities in military areas.

Definitions.

4. For the purposes of these regulations:

“acoustical planning” means controlling future noise by planned measures, such as land-use planning, systems engineering for traffic, traffic planning, abatement by sound-insulation measures and noise control of sources;

“action plans” means plans designed to manage noise issues and effects, including noise reduction if necessary;

“agglomeration” means part of a territory, delimited by the competent authority having a population in excess of 100,000 persons and a population density such that the competent authority considers it to be an urbanised area;

“Agreement States” means an agreement, to which Malta is a party, entered into by a group of states reciprocally granting to citizens of such states or their dependants the right to enter, remain and reside in and leave the territory of such state, to move freely within such states for such period as may be established in the agreement and to work or establish provide or receive services therein; and “Agreement State” and “citizen of an Agreement State” shall be construed accordingly; and where a state is a party to such an Agreement subject to modifications and adaptations, a citizen of an Agreement State shall be subject to such modifications or adaptations as may be prescribed;

“annoyance” means the degree of community noise annoyance as determined by means of field surveys;

“assessment” means any method used to calculate, predict, estimate or measure the value of a noise indicator or its related harmful effects;

“competent authority” means the Malta Environment and Planning Authority as prescribed by the notice entitled Nomination of the Malta Environment and Planning Authority as the competent authority, and such other body or person as the Minister responsible for the environment may by order in the Gazette prescribe and different bodies or persons may be designated as the competent authority for different provisions and different purposes of these regulations;

“dose-effect relation” means the relationship between the value of a noise indicator and a harmful effect;

“environmental noise” means unwanted or harmful outdoor sound created by human activities, including noise emitted by means of transport, road traffic, rail traffic, air traffic, and from sites of industrial activity such as those defined in Annex I of the Integrated Pollution Prevention and Control Regulations, L.N. 234 of 2002, 2002;

“harmful effects” means negative effects on human health;

“Lday Day-noise indicator” means the noise indicator for annoyance during the day period, as further defined in Annex I of Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise;

“Lden Day-evening-night noise indicator” means the noise indicator for overall annoyance, as further defined in Annex I of Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise;

“Levening evening-noise indicator” means the noise indicator for annoyance during the evening period, as further defined in Annex I of Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise;

“Limit value” means a value of Lden or Lnight, and where appropriate Lday and Levening, as determined by the competent authority, the exceeding of which causes the competent authority to consider or enforce mitigation measures; limit values may be different for different types of noise (road, rail, air-traffic noise, industrial noise, etc), different surroundings and different noise sensitiveness of the populations; they may also be different

for existing situations and for new situations (where there is a change in the situation regarding the noise source or the use of the surroundings);

“Lnight night-time noise indicator” means the noise indicator for sleep disturbance, as further defined in Annex I of Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise;

“major airport” means a civil airport, designated by the competent authority, which has more than 50 000 movements per year (a movement being a take-off or a landing), excluding those purely for training purposes on light aircraft;

“major railway” means a railway, designated by the competent authority which has more than 30,000 train passages per year;

“major road” means a regional, national or international road, designated by the competent authority which has more than three million vehicle passages a year;

“noise indicator” means a physical scale for the description of environmental noise, which has a relationship with a harmful effect;

“noise mapping” means the presentation of data on an existing or predicted noise situation in terms of a noise indicator, indicating breaches of any relevant limit value in force, the number of people affected in a certain area, or the number of dwellings exposed to certain values of a noise indicator in a certain area;

“the public” means one or more natural or legal persons and, in accordance with national legislation or practice, their associations, organisations or groups;

“quiet area in an agglomeration” means an area, delimited by the competent authority, for instance which is not exposed to a value of L_{den} or of another appropriate noise indicator greater than a certain value set by the competent authority from any noise source;

“quite area in open country” means an area, delimited by the competent authority, that is undisturbed by noise from traffic, industry or recreational activities;

“strategic noise map” means a map designed for the global assessment of noise exposure in a given area due to different noise sources or for overall predictions for such an area.

5. (1) The competent authority shall:

Implementation
and
responsibilities.

(a) make and, where relevant, approve noise maps and action plans for agglomerations, major roads, major railways and major airports;

(b) collect noise maps and action plans.

(2) The competent authority shall make the information referred to in subregulation (1) above available to the public.

6. (1) The competent authority shall apply the noise indicators L_{den} and L_{night} as referred to in Annex I of Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise for the preparation and revision of strategic noise mapping in accordance with regulation 8 hereof:

Noise indicators
and their
application.

Provided that until the use of common assessment methods for the determination of L_{den} and L_{night} is made obligatory, existing national noise indicators and related data may be used by the competent authority for this purpose and should be converted into the indicators mentioned above as long as this data is not more than three years old.

(2) The competent authority may use supplementary noise indicators for special cases such as those listed in paragraph 3 of Annex I of Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise;

(3) For acoustical planning and noise zoning, the competent authority may use other noise indicators than L_{den} and L_{night} .

7. (1) The values of L_{den} and L_{night} shall be determined by means of the assessment methods in Annex II of Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise and upon other methods laid down in any other regulations.

(2) Until these methods are adopted, Agreement States may use assessment methods adapted in accordance with Annex II of Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise and based upon the methods laid down in their own legislation. The competent authority must demonstrate that these methods give equivalent results to the results obtained with the methods set out in paragraph 2.2 of Annex II of Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise.

(3) Harmful effects may be assessed by means of the dose-effect relations referred to in Annex III of Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise.

8. (1) The competent authority shall ensure that no later than the 30th June, 2007 strategic noise maps showing the situation in the preceding calendar year have been made for all agglomerations with more than 250,000 inhabitants and for all major roads which have more than six million vehicle passages a year, major railways which have more than 60,000 train passages per year and major airports within their territories.

(2) The competent authority shall adopt the measures necessary to ensure that no later than the 30th June, 2012 and every five years thereafter, strategic noise maps showing the situation in the preceding calendar year have been made for all agglomerations and for all major roads and major railways within their territories.

(3) The strategic noise maps shall satisfy the minimum requirements laid down in Annex IV of Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise.

(4) Neighbouring Agreement States shall cooperate on strategic noise mapping near borders.

(5) The strategic noise maps shall be reviewed, and revised if necessary, at least every five years after the date of their preparation.

9. (1) Not later than the 18th July, 2008 the competent authority has to draw up action plans designed to manage, within its territories, noise issues and effects, including noise reduction if necessary for:

(a) places near the major roads which have more than six million vehicle passages a year, major railways which have more than 60,000 train passages per year and major airports;

(b) agglomerations with more than 250,000 inhabitants. Such plans shall also aim to protect quiet areas against an increase in noise.

The measures within the plans are at the discretion of the competent authority, but should notably address priorities which may be identified by exceeding of any relevant limit value or by other criteria chosen by the competent authority and apply in particular to the most important areas as established by strategic noise mapping.

(2) Not later than the 18th July, 2013, the competent authority has to draw up action plans notably to address priorities which may be identified by the exceeding of any relevant limit value or by other criteria chosen by the competent authority for the agglomerations and for the major roads as well as the major railways within their territories.

(3) The action plans shall meet the minimum requirements of Annex V of Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise.

(4) The action plans shall be reviewed, and revised if necessary, when a major development occurs affecting the existing noise situation, and at least every five years after the date of their approval.

(5) Neighbouring Agreement States shall cooperate on the action plans for border regions.

(6) The competent authority shall ensure that the public is consulted about proposals for action plans, given early and effective opportunities to participate in the preparation and review

of the action plans that the results of that participation are taken into account and that the public is informed on the decisions taken. Reasonable time-frames shall be provided allowing sufficient time for each state of public participation.

Information to the public.

LN 217 of 2001.

10. (1) The competent authority shall ensure that the strategic noise maps they have made, and where appropriate adopted, and the action plans they have drawn up are made available and disseminated to the public in accordance with the Freedom of Access to Information on the Environment Regulations, 2001 and in conformity with Annexes IV and V of Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise, including by means of available information technologies.

(2) This information shall be clear, comprehensible and accessible. A summary setting out the most important points shall be provided.

Collection and publication of data.

11. The competent authority shall set up a database of information on strategic noise maps in order to facilitate the compilation of a report referred to in regulation 12 and other technical and informative work.

Review and reporting.

12. (1) The report shall in particular assess the need for further actions on environmental noise and, if appropriate, propose implementing strategies on aspects such as:

(a) long-term and medium-term goals for the reduction of the number of persons harmfully affected by environmental noise;

(b) additional measures for a reduction of the environmental noise emitted by specific sources, in particular outdoor equipment, means and infrastructures of transport and certain categories of industrial activity, building on those measures already implemented or under discussion for adoption;

(c) the protection of quiet areas in open country.

(2) The report shall include a review of the acoustic environment quality in Malta based on the data referred to in regulation 11 and shall take account of scientific and technical progress and any other relevant information.

(3) The competent authority shall propose strategies and measures taking into account the reduction of harmful effects and the cost-effectiveness ratio shall be the main criteria for the selection of the strategies and measures proposed.

(4) The competent authority shall be reviewed every five years or more often if appropriate. It shall contain an assessment of the implementation of these regulations.

(5) The report shall, if appropriate, be accompanied by proposals for the amendment of these regulations.

13. Any person shall be guilty of an offence under these regulations if: Offences under these regulations.

(a) he fails to comply with any provision of these regulations or fails to comply with permit conditions or with any order lawfully given in terms of any provision of these regulations;

(b) he contravenes any restriction, prohibitions or requirement imposed by or under these regulations; or

(c) he acts in contravention of any of the provisions of these regulations; or

(d) he conspires or attempts, or aids, or abets, any other person by whatever means, including advertising, counselling or procurement to contravene the provisions of these regulations or to fail to comply with any such provisions, including any order lawfully given in terms of any of the provision of these regulations, or to contravene any restriction, prohibition or requirement imposed by or under the said regulations.

14. Any person who commits an offence against these regulations shall, on conviction, be liable: Penalties.

(a) on a first conviction to a fine (*multa*) of not less than five hundred liri but not exceeding one thousand liri;

(b) on a second or subsequent conviction, to a fine (*multa*) of not less than one thousand liri, but not exceeding two thousand liri or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment:

Provided that the court shall order any person who has been found guilty of committing an offence against these regulations to pay for the expenses incurred by the competent authority as a result of the said offence, the revocation of the permit issued by the competent authority and the confiscation of the *corpus delicti*.

Applicability of
the Criminal Code,
Cap. 9.

15. (1) The provisions of articles 23 and 30 of the Criminal Code shall, *mutatis mutandis*, apply to proceedings in respect of offences against these regulations, so however that the disqualification from holding or obtaining a licence, permit or authority shall in no case be for less than one year.

(2) Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence against these regulations shall be held before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts as courts of criminal judicature.

(3) Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of Criminal Appeal from any judgement given by the Court of Magistrates (Malta) or the court of Magistrates (Gozo) in respect of proceedings for any offence against these regulations.