

Explanatory Memorandum to the Environmental Noise (Wales) (Amendment) Regulations 2018

This Explanatory Memorandum has been prepared by the Environment and Communities Division of the Welsh Government and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Environmental Noise (Wales) (Amendment) Regulations 2018.

Hannah Blythyn
Minister for Environment
23 November 2018

1. Description

- 1.1 The Environmental Noise (Wales) (Amendment) Regulations 2018 (“the 2018 Regulations”) amend the Environmental Noise (Wales) Regulations 2006 (“the 2006 Regulations”) so as to require the Welsh Ministers and operators of non-designated major airports (of which there are currently none in Wales) to use the assessment methods set out in Annex II to 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 (“the Environmental Noise Directive”), as replaced by the Annex to Commission Directive 2015/996 of 18 May 2015 establishing common noise assessment methods according to Directive 2002/49/EC of the European Parliament and of the Council, when preparing strategic noise maps under Chapters 2 and 3 of the 2006 Regulations.

2. Matters of Special Interest to the Constitutional and Legislative Affairs Committee

- 2.1 Paragraph 3 of this Memorandum explains that these Regulations are made in reliance on section 2(2) of the European Communities Act 1972. By virtue of section 59(3) of the Government of Wales Act 2006, the Welsh Ministers are to determine whether an instrument made in exercise of the section 2(2) powers is to be subject to the negative or affirmative procedure.
- 2.2 As these Regulations are directly transposing the requirements of the Environmental Noise Directive, the Welsh Ministers have determined that these Regulations are to be subject to the negative resolution procedure.

3. Legislative Background

- 3.1 The Welsh Ministers make these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 (“the Act”). The Welsh Ministers are designated for the purposes of the Act in relation to measures relating to the assessment, management and control of environmental noise.
- 3.2 The 2018 Regulations are subject to the negative resolution procedure.

4. Purpose and Intended Effect of the 2018 Regulations

- 4.1 Environmental noise affects people primarily through sleep disturbance and annoyance, but also through an increased risk of hypertension-related health conditions and impacts on productivity and learning. Its cost to the UK has been valued conservatively at around £10 billion per year¹. According to

¹ <https://www.gov.uk/noise-pollution-economic-analysis>

strategic noise maps produced by the Welsh Ministers in 2012², the homes of more than 200,000 people in Wales are exposed to levels of road traffic noise exceeding World Health Organisation (WHO) night noise guidelines. According to the National Survey for Wales 2017-18³, 24% of people in Wales are regularly bothered by noise from outside their homes, and, of these, 45% say the noise bothering them is caused by traffic, businesses or factories.

- 4.2 Part 2 of the 2006 Regulations requires the Welsh Ministers and airport operators to produce strategic noise maps for major roads, major railways, major airports and agglomerations in Wales. Part 8 of the 2006 Regulations requires these maps to be published. The maps must be reviewed and, if necessary, revised whenever a major development occurs affecting the existing noise situation, or at least every five years. There are currently no airports in Wales requiring strategic noise maps under the 2006 Regulations. The 2012 and (where an update was judged necessary) 2017 strategic noise maps for major roads, major railways and environmental noise sources in agglomerations may be viewed on-line and downloaded at <http://lle.gov.wales>.
- 4.3 Annex II to the Environmental Noise Directive specifies how strategic noise maps should be produced. In the first three rounds of noise mapping (2007, 2012 and 2017), member states were permitted to use their national noise calculation methods to produce the maps. However, this led to an inconsistent approach to strategic noise mapping across Europe, and so a common noise mapping method was developed.
- 4.4 The Annex to Commission Directive (EU) 2015/996 of 19 May 2015 replaced the original text of Annex II to the Environmental Noise Directive, which permitted the use of national noise calculation methods, with a new mandatory common noise mapping method. It requires member states to bring into force the laws, regulations and administrative provisions necessary to comply with it by 31 December 2018 at the latest. For Wales, this means deleting Schedule 2 of the 2006 Regulations, which specifies the UK's national noise calculation methods, and replacing the reference to that Schedule with a reference to Annex II to the Environmental Noise Directive.
- 4.5 The 2018 Regulations also delete from Schedule 3 of the 2006 Regulations a reference to a supplementary noise indicator. This indicator was generated by the UK's national noise calculation method for road traffic, but is not generated by the new common noise mapping method.

5. Regulatory Impact Assessment

- 5.1 No impact assessment has been produced in relation to these Regulations as no impact on the private, voluntary or public sectors is foreseen.

² <https://gov.wales/topics/environmentcountryside/epq/noiseandnuisance/environmentalnoise/noisemonitoringmapping/noise-action-plan>

³ <https://gov.wales/statistics-and-research/national-survey>

6. Consultation

- 6.1 The Welsh Government ran a 12-week public consultation on a new noise and soundscape action plan from 11 July 2018 to 3 October 2018⁴. One of the proposed actions included in the draft action plan was as follows:

The Welsh Government will amend its Environmental Noise Regulations to bring them into line with new European legislation mandating the use of a common noise mapping method in the next round of noise mapping.

- 6.2 None of the responses to the consultation commented on this proposed action, and the change in noise mapping method is expected to have little impact outside of the Welsh Government.

7. Competition Analysis

- 7.1 These Regulations will not affect business, charities and/or the voluntary sector in ways that raise issues relating to competition.

8. Post-implementation Review

- 8.1 Through its membership of the British Standards Institution committee on transport noise, the Welsh Government will continue to participate in work to explore options for improved UK road traffic and railway noise calculation methods.

⁴ <https://beta.gov.wales/noise-and-soundscape-action-plan-2018-2023>