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GOVERNMENT NOTICE

DEPARTMENT OF LABOUR

No. R. 681

3 August 2001

OCCUPATIONAL HEALTH AND SAFETY ACT, 1993**DRAFT NOISE INDUCED HEARING LOSS REGULATIONS**

The Minister of Labour intends, in terms of section 43 of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), to make the regulations in the Schedule.

Interested persons are invited to submit any substantiated comments or representations on the proposed regulations to the Director General of Labour, Private Bag x117, Pretoria, 0001 (for the attention of the Chief Director: Occupational Health and Safety), within 90 days of the date of publication of this notice.

Schedule**Definitions**

1. In these Regulations, any word or expression to which a meaning has been assigned to in the Act shall have the meaning so assigned and, unless the context otherwise indicates—

“annexure” means an annexure to these regulations;

“approved inspection authority” means an inspection authority approved by the chief inspector for the monitoring of noise in the workplace;

“assessment” means a programme to determine any risk from exposure to noise associated with the workplace in order to identify the steps needed to be taken to remove, reduce or control such hazard;

“attenuation of hearing protectors” means the proven capability of hearing protectors to reduce the equivalent noise level to which the wearer thereof is exposed;

“audiogram” means a chart, graph or table indicating the hearing threshold levels of an individual as a function of frequency (viz. 0.5, 1, 2, 3, 4, 6 and 8 kilohertz), as determined during a measurement of a person’s hearing threshold levels by means of monaural, pure-

tone, air-conduction threshold test:

"competent person" means:

(a) A person registered with the Health Professions Council in any of the following three categories—

- (i) otorhinolaryngologist (ear, nose and throat specialist);
- (ii) speech therapist and audiologist; or
- (iii) occupational medical practitioner; or

(b) A person qualified in audiometric techniques from an institution registered with the relevant Education and Training Quality Assurer (ETQA) registered in terms of the South African Qualifications Authority Act (Act No.58 of 1995), or until that ETQA is established, approved by the chief inspector;

"dB(A)" means a unit of sound pressure level as contemplated in SABS 083;

"8 hour rating level" as defined in SABS 083;

"exposed" means exposed to noise whilst at a workplace and "exposure" has a corresponding meaning;

"General Administrative Regulations" means the General Administrative Regulations published under section 43 of the Act under Government Notice No. R.1449 of 6 September 1996;

"health and safety standard" means the health and safety standards that have been incorporated into these regulations under section 44 of the Act;

"noise-rating limit" means the value of the 8 hour rating level, 85 dB(A), at and above which hearing impairment is likely to result;

"SABS 083" means the Code of Practice for the Measurement and Assessment of Occupational Noise for Hearing Conservation Purposes, SABS 083, published by the South African Bureau of Standards (SABS);

"the Act" means the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993).

Scope of application

2. These regulations shall apply to an employer or a self-employed person who carries out work at a workplace that may expose any person at that workplace to noise at or above the noise-rating limit.

Exposure to noise

3. Subject to regulations 9 and 10(1) no employer or self-employed person shall require or permit any person to enter any workplace under his/her control within which the person will be exposed to noise at or above the 85 dB(A) noise-rating limit.

Information and training

4.(1) An employer shall, before any employee is exposed or may be exposed to noise at or above the noise-rating limit, after consultation with the health and safety committee established for that section of the workplace, ensure that the employee is adequately and comprehensively informed and trained, on both practical aspects and theoretical knowledge, with regard to the—

- (a) content and scope of these regulations;
- (b) potential sources of exposure to noise;
- (c) potential risk to health and safety caused by exposure to noise;
- (d) measures taken by the employer to protect an employee against the risk from noise exposure;
- (e) precautions to be taken by the employees to protect themselves against the health risks associated with the exposure, including the wearing and use of ear-plugs and ear-muffs;
- (f) necessity, correct use, maintenance and limitations of hearing protectors, facilities and engineering control measures provided;
- (g) assessment of exposure, the purpose of noise monitoring, the necessity for medical surveillance and the long term benefits of and limitations of undergoing such surveillance;
- (h) noise-rating limit for hearing conservation and its meaning;
- (i) procedures for reporting, correcting and replacing of defective personal hearing protectors and engineering noise control measures;
- (j) aspects contemplated in regulation 5.

(2) Refresher training must be given on aspects stipulated in sub-regulation (1) once a year or at intervals as may be recommended by the health and safety committee.

(3) The training should be provided by someone who is competent in doing so and who has adequate personal practical experience and theoretical knowledge of all aspects of the work carried out by the employer.

(4) An employer or self-employed person shall ensure as far as is reasonable practicable that their mandatories or any other persons that may be affected by noise exposure at the workplace other than employees are given adequate information, instruction and training.

(5) The employer shall keep a record of any training that was given in terms of this regulation to an employee.

Duties of persons who may be exposed

5. Any person who is or may be exposed to noise at or above the noise-rating limit shall obey any lawful instruction given by or on behalf of the employer or self-employed person, regarding—

- (a) the use and maintenance measures adopted for noise control;
- (b) the reporting of defective noise control equipment to the health and safety representative or the person responsible for its maintenance;
- (c) the use of personal hearing protectors when provided;
- (d) not entering areas where personal hearing protectors are required unless authorized;
- (e) the protection or use of hearing personal hearing protectors provided and shall immediately report any damage or loss of such items to a health and safety representative or the person responsible for its maintenance;
- (f) co-operation with the employer in his task of determining the employees noise exposure which may include the wearing of personal sound exposure meters; and
- (g) reporting for medical surveillance as required by regulation 8.

Assessment of potential exposure

6. (1) An employer or self-employed person shall cause—

- (a) his or her undertaking to be assessed within six months after the commencement of these Regulations and thereafter at intervals not exceeding two years, to determine if any person may be exposed to

noise which are at or above the noise-rating limit, disregarding any personal hear protectors used; and

- (b) the result of the assessments to be entered into the record required by regulation 11.

(2) The employer contemplated in sub-regulation (1) shall, before causing an assessment to be made, consult with the relevant health and safety committee and thereafter inform them in writing of the arrangements made for the assessment give reasonable time to comment thereon and ensure that the results of the assessment are made available to them for comment.

(3) When making the assessment, the employer or self-employed person shall keep a record and take into account factors such as—

- (a) the noise sources to which an employee may be exposed;
- (b) what health effects the excessive noise could have upon employees;
- (c) the extent to which an employee can be exposed;
- (d) the nature of the work process and any reasonable deterioration in or failure of any control measures.

(4) If the assessment made in accordance with sub-regulation (1) indicates that any person may be exposed to noise at or above the noise-rating limit, the employer or self-employed person shall ensure that the exposure is adequately controlled as contemplated in regulation 10(1).

(5) When making the assessment, the provisions of sub-regulations (2), (3) and (4) shall apply.

Noise monitoring

7.(1) Where an assessment of noise exposure indicates that any employee may be exposed at or above the noise-rating limit, the employer contemplated in regulation 2(1) shall ensure that a measurement programme of noise exposure at that workplace, is—

- (a) carried out in accordance with the provisions of these regulations;
- (b) carried out only after the relevant health and safety representative or relevant health and safety committee has been informed thereof and given a reasonable opportunity as mutually agreed upon to comment thereon;

- (c) carried out by an approved inspection authority who is approved for noise monitoring;
- (d) representative of the exposure of employees to noise in accordance with the provisions of sub-regulation (2).

(2) In order to comply with the provisions of sub-regulation (1)(d), an employer shall ensure:

- (a) That the measurement programme, in the case of a number of people working in an area of approximately equal noise level, makes provision for the selection of not less than four locations which are representative of the positions occupied by employed persons well distributed over the area to be tested as contemplated in paragraph 11.1.1.2 of SABS 083.
- (b) That the measurement programme, in the case of a person working at an approximately fixed location relative to the noise source, makes provision for the measurement at the approximate position of the person's ear that receives the higher noise level as contemplated in paragraph 11.1.1.1 of SABS 083.
- (c) Ensure that representative measurements are carried out at least every 12 months: Provided that whenever the noise-rating limit is exceeded, the provisions of regulation 10(1) shall apply.

Medical surveillance

8.(1) The employer shall establish and maintain a system of medical surveillance of all employees exposed at or above the noise-rating limit.

(2) The employer contemplated in sub-regulation (1) shall ensure that medical surveillance—

- (a) consist of a baseline audiogramme which is recorded before an employee commences employment or within 30 days of commencement of such employment in accordance with the requirements of SABS 083: Provided that an employee's exit audiogramme from a previous employer which was conducted in accordance with the requirements of these regulations may be used as a baseline audiogramme if it was carried-out within a year of the date of the new employment;
- (b) consist of a periodic audiogramme which is obtained at least annually for all employees in accordance with the requirement of SABS 083: Provided that all employees working in, or required to enter ear protection zones where the noise exposure equals or

exceeds an 8hr rating level of 105 dB(A) shall undergo audiometric testing at 6 monthly intervals;

- (c) of an exit audiogramme which is obtained in accordance with the requirements of SABS 083 for every employee whose employment is terminated or who is permanently transferred to another workplace in respect of which audiometric tests is not consist required; and
- (d) is performed by a competent person: Provided that if it is impossible for the competent person to establish a baseline audiogramme for an employee as contemplated in paragraph (a), the employee must be referred to an audiologist who may establish baseline-hearing levels by listing other techniques, such as speech reception thresholds.

(3) The employer shall ensure that—

- (a) a copy of the audiogramme contemplated in sub-regulation (2) (c) is entered into the employee's record of medical surveillance.
- (b) in the case of an employee who has a hearing threshold shift that equals or exceeds 15 dB(A) at either 3, 4 or 6 kHz and that was confirmed by a repeat audiogramme, he or she:
 - (i) Informs the relevant health and safety representative and committee of the finding;
 - (ii) Retrains and re-instructs the employee as contemplated in regulations 4 and 5;
 - (iii) Re-assesses noise control measures; and
 - (iv) Reports it as contemplated in regulation 6 of the General Administrative Regulations to the Provincial Director in the form of WCL 2.

Noise zone

9. The employer or self-employed person shall ensure that—

- (a) within any workplace or part of such workplace under his or her control, where the exposure to noise is equal to or in excess of the noise-rating limit, that workplace or part thereof is zoned as a noise zone;

- (b) a noise zone is clearly demarcated and identified by notice indicating that the relevant area is a noise zone and that hearing protective equipment as contemplated in regulation 12 must be worn;
- (c) no person enters or remains in a noise zone unless he or she wears the required hearing protective equipment; and
- (d) the reason is identified why noise exposure is equal to or in excess of the noise-rating limit and that action steps is taken, as soon as is reasonably practicable by means other than respiratory protective equipment, to lower the noise levels to below the noise-rating limit.

Control of noise exposure

10.(1) The employer or self-employed person shall ensure that the exposure of an person to noise is either prevented, or, where this is not reasonably practicable, adequately controlled: Provided that the control of the exposure shall be regarded as adequate if the exposure is below the noise-rating limit; or if the exposure is at or above the noise-rating limit but the reason has been identified and action is taken as soon as is reasonably practicable by means other than the use of hearing protective equipment to lower exposure so that it does not exceed the noise-rating limit.

(2) In order to comply with the provisions of sub-regulation (1) the employer or self-employed person shall reduce exposure as far as reasonably practicable by implementing a programme of control measures in the following priority—

- (a) engineering control measures to eliminate or reduce noise at its source, or modification of the routes by which noise reaches workplaces;
- (b) administrative control measures to limit the number of persons exposed and the duration of exposure; and
- (c) hearing protective equipment if engineering and administrative control measures fail to reduce exposure below the noise-rating limit.

Record

11. The employer shall—

- (a) keep records of the results of all assessments, noise monitoring, medical surveillance reports and maintenance of control measures required by these regulations;
- (b) subject to the provisions of paragraph (c), make the records contemplated in paragraph (a) available for inspection by an inspector;

- (c) subject to formal written consent of an employee, allow any person to peruse the records with respect to that particular employee;
- (d) make the records of all assessments and noise monitoring available for perusal by the relevant health and safety representative or relevant health and safety committee;
- (e) keep all records of assessments and noise monitoring for a minimum period of 40 years;
- (f) keep all medical surveillance records for a minimum period of 40 years and if the employer ceases activities, hand over or forward by registered post all these records to the relevant provincial director: Provided that these records shall contain at least the following information:
 - (i) Surname, forenames, gender, date of birth, name of spouse or closest relative, and where available, permanent address and postal code;
 - (ii) a record of types of work carried out that caused noise exposure and, where relevant, its location, with starting and finishing dates and with average duration of exposure in hours per week;
 - (iii) a record of any noise exposure prior to this employment; and
 - (iv) dates of medical examinations;
- (g) keep a record of training given to an employee, in terms of regulation 4(5) for as long as the employee remains employed at the workplace in which he or she is being exposed to noise.

Personal protective equipment

12. Where hearing protective equipment is provided, the employer or self-employed person shall ensure that—

- (a) the equipment is capable of keeping the exposure below the noise-rating limit;
- (b) the equipment is correctly selected and properly used;
- (c) information, instruction, training and supervision that are necessary with regard to the use of the equipment is known to the employees; and
- (d) the equipment is kept in good condition and efficient working order.

- (2) An employer or self-employed person shall, as far as is reasonably practicable—
- (a) issue no reusable personal protective equipment to any person, unless the protection equipment is properly decontaminated and where appropriate sterilised;
 - (b) provide separate containers or storage facilities for personal protective equipment when not in use; and
 - (c) ensure that all personal protective equipment not in use is stored only in the place provided.

Maintenance of control measures

13. Every employer or self-employed person shall ensure that anything provided by him or her—
- (a) for the benefit of any person in compliance with their duties under these regulations is fully and properly used; and
 - (b) in compliance with his or her duties under these regulations is maintained in an efficient state, in good working order and in good repair.

Offences and penalties

14. Any person who contravenes or fails to comply with any provision of regulation 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, or 13 shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months and, in the case of a continuous offence, to an additional fine of R200 for each day on which the offence continues or additional imprisonment of one day for each day on which the offence continues: Provided that the period of such additional imprisonment shall in no case exceed 90 days.

{Withdrawal of regulations

15. Regulation 7 of the Environmental Regulations for Workplace which were first published in Government Notice R. 2281 of 16 October 1987, and were subsequently amended by Government Notice R.1754 of 18 August 1989 and by Government Notice R. 489 of 18 March 1994 are hereby repealed.}

Short title

16. These regulations shall be called the Draft Noise Induced Hearing Loss Regulations.