

EU ENVIRONMENTAL NOISE DIRECTIVE – NOISE ACTIONS PLANS

What this paper is about

An update on the implementation in England of the EU's Environmental Noise Directive – (END) - strategic noise maps and noise action plans

Points for Discussion

Representatives of the Committees at airports required to produce a Noise Action Plan may like to discuss their experience of the process, sharing any examples of best practice as well as commenting on any problems which may have arisen – para.16.

Members may like to inform the meeting of any representations sent in response to the Defra consultation on the proposed changes to the *Environmental Noise (England) Regulations 2006 (SI 2006/2238)* – paras. 17 and 18.

Points for Possible Action

None are suggested but action points may arise in discussion.

Introduction

1. The European Directive 2002/49/EC¹, often known as the *Environmental Noise Directive* (END), which came into effect in June 2002.
2. The aim of the END is to define a common approach across the European Union with the intention of avoiding, preventing or reducing on a prioritised basis the harmful effects, including annoyance, due to exposure to environmental noise. This involves:
 - informing the public about environmental noise and its effects;
 - the preparation of strategic noise maps for large urban areas (known as 'agglomerations'), major roads, major railways and major airports as defined in the END; and
 - preparing *Noise Action Plans* (NAPs) based on the results of the noise mapping exercise.
3. The END was transposed into English law by the *Environmental Noise (England) Regulations 2006 (SI 2006/2238)*².
4. This paper refers primarily to the implementation of the Directive in England. The END is being separately implemented in Scotland, Wales and Northern Ireland. Northern Ireland is well ahead in implementing the END and draft Action Plans for road, rail and airports are already available³. For more information on Scotland and Wales visit the Scottish Government website⁴ or that of the Welsh Assembly Government⁵ although it is understood there are no directly affected airports in Wales.

Noise Maps

5. In England the noise mapping of airports, and the preparation of the NAPS, is the responsibility of the airport operator although in the case of airports designated under s.78 of the Civil Aviation Act 1982 (Heathrow, Gatwick and Stansted) the noise mapping part of the work (but not the action plans) is the responsibility of the Secretary of State.
6. In December 2007 DEFRA published the noise maps for 18 airports in England - these can be seen on the Department's website⁶. The airports include the following airports where the Consultative Committee is a member of UKACCs - *Birmingham, Bournemouth, Bristol, Leeds Bradford, Liverpool John Lennon, London City, London Gatwick, London Heathrow, London Luton, London Stansted, Manchester, Newcastle, East Midlands and Southampton*. It is understood that noise maps have also been produced for *Edinburgh, Glasgow, Prestwick and Aberdeen* airports in Scotland.

Noise Action Plans

7. The aim of the NAPS is to manage and reduce environmental noise where necessary, and preserve environmental noise quality where it is good. The NAPs are only required at those airports in respect of which noise maps have been produced – see paragraph 6 above.
8. After a period of consultation in the autumn of 2008, Defra on 24th March 2009 published Guidance for airport operators in relation to the drawing up of *Noise Action Plans*⁷. Full copies of the Guidance were sent to all members on 24th March and a copy has been

¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002L0049:EN:HTML>

² <http://www.opsi.gov.uk/si/si2006/20062238.htm>

³ [Click here](#) for a link to the NAPs for Belfast International and Belfast City Airports

⁴ <http://www.scotland.gov.uk/Topics/Environment/Pollution/Noise-Nuisance/17553/september>

⁵ [Click here](#) to access the relevant page on the website of the Welsh Assembly

⁶ <http://www.defra.gov.uk/environment/noise/mapping/index.htm>

⁷ <http://www.ukaccs.info/napguidance.pdf>

posted to the UKACCs website⁸. One line reminders of the main points can be seen at Annex A to this paper – these are drawn from the boxes in the Guidance document.

9. It will be seen that airport operators are required to prepare their NAPs having regard to the Guidance and according to the following timetable:
 - By not later than 1st July 2009 : Formal Consultation on draft noise action plan commences
 - By not later than 21st October 2009 : Formal Consultation ends
 - By not later than 30th November 2009 : Draft Noise Action Plan and accompanying summary to be sent to the DfT for review and copied to Defra
10. Defra says this timetable was been prepared to take account of, and correspond with, the expected progress on the preparation of the other noise action plans required by the Regulations.
11. As expected the Guidance says airport operators should “engage” with Airport Consultative Committees “in the development of the draft Noise Action Plan”. The Airport should also liaise with the local planning authority and other local authorities affected by the airport, as well as NATS and airline operators. Operators may also wish to consult local amenity groups with whom they would normally engage over airport issues.
12. When the draft NAP is ready there will be consultation with the public with 16 weeks allowed for the submission of comments. The Guidance goes on to say that airport operators should “examine and reflect upon the comments” received in consultation and complete the Draft Noise Action Plan including a description of the comments received during the consultation process and a reasoned justification for the response to the issues raised. If there are any unresolved conflicts between the Airport’s NAP and the action plan for the agglomeration (where applicable), these should be reported in the NAP.
13. In thinking about the content of the NAP Committees will want to keep in mind the new powers for the mitigation of airport noise which were included in the Civil Aviation Act 2006. The Act implements important *Future of Air Transport* White Paper commitments to sustainable aviation and protection of passenger interests. In particular the Act:
 - Clarifies and strengthens the measures available to airports for dealing with aircraft noise. This includes a greater ability to introduce and enforce noise amelioration measures beyond airport boundaries and an ability to take economic measures to deter aircraft from straying from routes designed to minimise noise - see paras 3.10 to 3.27 of the White Paper.
 - Provides explicit powers for airports to set charges which reflect local emissions from aircraft. The Secretary of State also has powers to direct airports to levy such charges - see paras 3.28 to 3.31 of the White Paper.
14. There is a more detailed note of these environmental provisions at Annex B to this paper.
15. Members may also like to refer to the NAPs already prepared for Belfast City and Belfast International Airports which can be seen on the Department of the Environment for Northern Ireland’s website⁹

Sharing Experience

16. By the time this paper is discussed at the Annual Meeting a number of Committees will have been engaged with the airport operator in drawing up the NAP and it may be helpful if the representatives of those Committees were to take the opportunity to share and discuss their experience of the process and any problems which may have arisen

⁸ <http://www.ukaccs.info/napguidance.pdf>

⁹ [Click here](#) for a link to the NAPs for Belfast International and Belfast City Airports

Amendment of the 2006 Regulations

17. On 16th February 2009 the UKACCs Support Service sent to all members details of the Defra consultation¹⁰ in relation to a number of proposed changes to the *Environmental Noise (England) Regulations 2006 (SI 2006/2238)* which as mentioned above transpose the END into English law. The changes of substance are:
- “Quiet Areas”: The proposed amendment replaces a requirement to publish the names of quiet areas by way of Regulations with a duty on the Secretary of State to identify “quiet areas” in such form as he may determine. The reasons for this are given on pages 6 and 7 of the consultation document.
 - Consolidated Noise Maps: The 2006 Regulations place the Secretary of State under a duty to produce a consolidated noise map from all strategic noise maps which are adopted pursuant to Regulation 23. The proposed amendment makes this a discretionary power to produce consolidated noise maps in respect of any area based on strategic noise maps produced for rail, roads, air and agglomerations. (See page 8 of the consultation document).
 - The 2006 Regulations impose 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. The proposed amendment would remove this duty.
 - The proposed revision to Regulation 30 provides that the Secretary of State has the power to issue guidance to competent authorities, at any time, with respect to the exercise of their functions under the Regulations. (See page 9 of the consultation document)
 - A further amendment is to remove the requirement 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.
18. The deadline for comments was Monday 11th May 2009 and individual Committee’s will have considered whether to offer a response. In this connection it is noted that among some Committees there is concern about the identification of “quiet areas”. It is hoped that if it is implemented the proposed change will make it easier and simpler for the Secretary of State to do this and to make changes as and when it seems necessary. There is also a belief that in a number of instances a consolidated noise map should be drawn up for the area in which the Airport is located.

Draft Action Plans for agglomerations, major roads and major railways

19. On 20th April 2009 Defra published their 'current thinking' on the draft noise action plans for agglomerations, major roads and major railways prior to formal public consultation on the draft plans later in the summer.
20. The Department said that although this was not a formal consultation they would nonetheless welcome stakeholders' comments, especially about the policy aspects of the plans. The Department’s aim was to offer stakeholders the opportunity to participate in the preparation of the action plans and not just in the reviewing them at the formal consultation stage later in the summer. This would also facilitate an understanding of how the amended Regulations, currently being consulted on (see paragraphs 17-18 above), will work in practice.
21. There is more information on the Defra website¹¹

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¹⁰ <http://www.defra.gov.uk/corporate/consult/envirnoise-regs2006/index.htm>

¹¹ <http://www.defra.gov.uk/environment/noise/mapping/action-plans.htm>

ANNEX A

SUMMARY OF DEFRA GUIDANCE ON THE PREPARATION OF NOISE ACTION PLANS

General requirements for Airport Action Planning

Action Plans must -

- Meet the objectives of Article 1(c) of the Directive;
- Be designed to manage noise issues and effects, including noise reduction if necessary;
- Aim to preserve quiet areas in agglomerations;
- Address priorities which must be identified having regard to guidance;
- Apply to the most important areas as established by strategic noise maps;
- Meet the requirements in Schedule 4 of the Regulations

Annex V from the END as it applies to airports

An Action Plan must at least include the following elements:

- A description of the airport and any other noise sources taken into account;
- The authority responsible;
- The legal context;
- Any limit values in place;
- A summary of the results of the noise mapping;
- An evaluation of the estimated number of people exposed to noise, identification of problems and situations that need to be improved;
- A record of the public consultations organised in accordance with Article 8(7);
- Any noise reduction measures already in force and any projects in preparation;
- Actions which the airport operator intends to take in the next five years, including measures to preserve quiet areas;
- Long term strategy;
- Financial information (if available): budgets, cost-effectiveness assessment, cost-benefit assessment;
- Provisions envisaged for evaluating the implementation and the results of the Action Plan

The Action Plan should contain estimates in terms of the reduction of the number of people affected (annoyed, sleep disturbed, or other)

Action Plans – Public Participation

In preparing and revising Action Plans Airport Operators must ensure that -

- the public is consulted about proposals for Action Plans;
 - the public is given early and effective opportunities to participate in the preparation and review of the Action Plans;
 - the results of the public participation are taken into account;
 - the public is informed of the decisions taken; and
 - reasonable time frames are provided allowing sufficient time for each stage of public participation.
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Section 1: Aerodrome charges

Section 1 replaces section 38 of the Civil Aviation Act 1982 with a new section on aerodrome charges. The new section 38(1) empowers an authority owning or managing a licensed aerodrome to fix its charges by reference to:

- the noise caused by an aircraft or the inconvenience resulting from that noise;
- the amount or nature of emissions produced by an aircraft or the atmospheric pollution resulting from those emissions;
- the effect of an aircraft on noise or atmospheric pollution in the vicinity of the aerodrome; or
- any failure of an aircraft operator to comply with noise or emission limits.

The new section 38(2) sets out the purposes for which such charges can be made, namely:

- to encourage the use of quieter aircraft and reduce inconvenience from aircraft noise;
- to encourage the use of aircraft which produce lower emissions;
- to control noise and atmospheric pollution in the vicinity of aerodromes; and
- to promote compliance with noise and emission limits.

The new section 38(4) empowers the Secretary of State to direct specified aerodrome authorities to fix their charges using the powers in subsections (1) and (2) of the new section 38. In determining whether to make use of this power, and if so how, the Secretary of State will be required by new section 38(5) to have regard (amongst other things) to the interests of people who live in the area of the aerodrome.

Section 2: Regulation by Secretary of State of noise and vibration from aircraft

This section amends section 78 of the Civil Aviation Act 1982. Section 78 enables the Secretary of State to take steps to limit or mitigate the effect of noise and vibration connected with the taking off or landing of aircraft at designated aerodromes (currently Heathrow, Gatwick and Stansted).

Subsection (2) inserts a new subsection (6A) after section 78(6) of the Civil Aviation Act 1982, to augment the powers of the Secretary of State to give to the manager of a designated aerodrome such directions as the Secretary of State considers appropriate for the purpose of avoiding, limiting or mitigating the effect of noise and vibration connected with aircraft landing or taking off. The manager is placed under a duty to comply with any such directions. New section 78(6A) will allow directions under subsection (6) to be given for the purposes of avoiding, limiting or mitigating the effect of noise and vibration either generally or in any particular area, for example arising from use of a particular runway.

Section 78(8) empowers the Secretary of State to require the manager of a designated airport to install, operate and maintain noise measuring equipment and to provide noise measurement reports as specified by him. The manager is placed under a duty to comply with any such requirements.

Where an airport manager fails to perform any of the requirements set down in an order under subsection (8), section 78(9)(a) empowers the Secretary of State to take such steps as he considers appropriate to remedy that failure, including the provision, operation and maintenance of equipment. The Secretary of State may recover any expenses he has incurred in so doing: section 78(9)(b). Where the airport manager has failed to provide reports to the Secretary of State, he is guilty of an offence: section 78(9)(i) and (ii).

Subsection (3) amends section 78(9) to provide that the maximum fine laid down in subsection (9)(i) is increased to level 5 on the standard scale (currently £5,000) and the daily fine in subsection (9)(ii) is not to exceed 10% of level 5.

Section 3: Penalty schemes

This section inserts into the Civil Aviation Act new sections 78A and 78B.

Section 78 of the Civil Aviation Act does not explicitly provide for aerodromes to impose financial penalties on aircraft operators for breaches of noise requirements set under section 78.

The effect of new section 78A is to confer on the manager of a designated aerodrome a power to levy financial penalties on an aircraft operator in respect of any breach by that aircraft operator of noise abatement requirements imposed by the Secretary of State under section 78.

New section 78A(8) requires the aerodrome manager to make payments, equal to the amount of penalties received, for the benefit of persons who live in the area in which the aerodrome is situated.

New section 78B(1) to (4) enables the Secretary of State to direct an aerodrome manager to make, amend or revoke a penalty scheme and sets out the duty to consult before doing so.

New section 78B(5) makes it an offence to fail to comply with a direction given under section 78B(1) with a provision for a daily fine if failure continues after any conviction.

Section 4: Power of aerodrome authorities to make noise control schemes

This section inserts into the Civil Aviation Act 1982 new sections 38A, 38B and 38C.

Although the Civil Aviation Act 1982 contains a number of provisions relating to environmental issues, those provisions do not include any explicit statutory provision for aerodrome operators to implement noise control schemes.

New section 38A(1) to (5) provides operators of non-designated aerodromes with powers to regulate noise and vibration from aircraft similar to those conferred on the Secretary of State by section 78 of the Civil Aviation Act 1982 (as amended by *section 2* of this Act).

New section 38A(8) excludes any aerodrome already designated under section 78 of the Civil Aviation Act 1982 because in that situation the noise control regime would be set by the Secretary of State rather than the aerodrome operator.

New section 38A(10) provides that the use of the powers contained in the new sections 38A, 38B and 38C does not prejudice the use of any other power at the aerodrome operator's disposal to control aircraft noise.

New section 38B makes supplementary provision for noise control schemes.

New section 38B(2) defines the maximum area within which the aerodrome operator's powers to control aircraft noise apply. There is also provision for the Secretary of State to define (by order) this maximum area, in respect of individual aerodromes.

New section 38B(5) provides for consultation by the Secretary of State before making an order under subsection (2).

New section 38C provides aerodrome operators with the power to impose penalties where the noise control scheme it is permitted to establish is not complied with.

New section 38C(2) and (3) provide for a financial penalty to be imposed on an aircraft operator if he breaches the requirements of a noise control scheme.

New section 38C(4) and (5) ensures that the scheme will provide for aircraft operators to be able to make representations to the aerodrome operator as regards the imposition of penalties and for the aerodrome operator to take such representations into account.

New section 38C(6) requires the aerodrome authority to make payments, equal to the amount of penalties received, for the benefit of persons who live in the area in which the aerodrome is situated.

Section 12: Scotland

Section 12 amends the *Scotland Act 1998 (Transfer of Functions to Scottish Ministers) Order 1999* to reflect the amendments to the CA Act 1982 being made by *sections 1, 3 and 4*. The Order provides that certain functions conferred on a Minister of the Crown by the CA Act 1982 are, in or as regards Scotland, exercisable by the Scottish Ministers instead.