

# inter-noise 83

## ENFORCING IMPROVEMENT IN INDUSTRY

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### THE ACT

Action on noise at work in the UK is taken mainly under the Health and Safety at Work etc Act 1974, although there are some specific regulations elsewhere [1] [2] [3] [4].

The general duties section of the Act requires the employer to ensure, so far as reasonably practicable, the health, safety and welfare at work of all his employees. The risk to health, caused by excessive noise is, therefore, covered by the Act. Other sections give powers to Inspectors including right of entry, taking of samples and issue of enforcement notices.

### THE CODE

A comprehensive Code of Practice [5] is available. While having no legal status in itself, this document is accepted as a guide to good practice.

### INSPECTORS' POWERS

Health and Safety Inspectors are, therefore, armed with:

- (a) An Act requiring employers to do what is reasonably practicable
- (b) An authoritative code describing good practice
- (c) The right to enter premises and make measurements

\* Opinions expressed in this paper are those of the author and not necessarily those of the Health and Safety Executive.

- (d) The ability to issue notices for improvement.

The largest of the various Health and Safety Inspectorates is HM Factory Inspectorate. This paper concerns an approach used by them in reducing exposure to industrial noise.

#### CONSIDERATIONS

Over 500 Inspectors work in the Industry Groups throughout the country. It is these Area based Inspectors who must decide if reduction of noise exposure is not only practicable but reasonable. Consideration will be given to the usual methods including reduction at source, separation, ear protection or a combination. Should they need assistance there are seven specialist noise Inspectors in Field Consultant Groups located in different parts of the country available for consultation. These, in turn, have the back-up of a Headquarters unit staffed by specialist noise Inspectors.

#### SPECIALISTS' ROLE

The Specialist noise inspector may, when offering solutions also include information regarding similar circumstances in other places. This is useful for the Area Inspectors since widespread acceptance of the particular measure or measures is a good guide towards reasonability and will assist when they have to reach a decision on action to be taken. The Specialist may also recommend a particular course of action and indicate willingness to give support in any resulting legal proceedings.

HM Factory Inspectorate also have a system for internally circulating brief details of existing examples of noise control. A collection of these will be published shortly to make them generally available [6].

#### LEGAL OPTIONS

However, the final decision on legal action is the responsibility of the Inspectors for the Area who consider many factors. Before deciding what is reasonable a computation will be made in which the quantum of risk is placed in one scale and the sacrifice involved, whether in money, time or trouble is placed in the other. They may also consider the previous record of the company when deciding

which of the options of persuasion, improvement notice or prosecution to use.

#### ENFORCEMENT NOTICES

When the improvement notice procedure is used the company have the right of appeal for three weeks after date of issue. These appeals are heard at Industrial Tribunals who, after considering the situation in the light of the Code of Practice, may affirm, modify or cancel the notice. If there is no appeal the company are deemed to have accepted the conditions and can be prosecuted for non compliance with the notice. This is an individual offence of itself, separated from any conditions of the notice whose specific contents cannot be used as a basis of defence.

#### CONCLUSION

In the field of industrial noise the improvement notice has proved a most useful and acceptable procedure. It avoids the sort of confrontations demands for immediate action through prosecution could cause and allows time for companies to make the necessary arrangements to deal with the excessive noise, a situation which, after all, may have existed for many years. The Inspector will often base time allowed on the firm's own estimate to complete the work, even sometimes adding a generous extra for unseen circumstances or extending the time at the request of some company whose original estimate was too optimistic. We are satisfied to see a definite date, even if sometime in the future, when we know the problem will be resolved.

## IMPROVEMENT NOTICES ISSUED BY H M FACTORY INSPECTORATE

<u>Year</u>	<u>I N Issued</u>	<u>Compliance</u>	<u>Withdrawn</u>	<u>Non- prosecution</u>	<u>No Further Action</u>	<u>Result Not Known</u>
1975	20	17	2	-	1	-
1976	25	25	-	-	-	-
1977	22*	22	-	-	-	-
1978	65	59	-	3	3	-
1979	74	70	2	-	2	-
1980	66	58	1	-	3	4
1981 <sup>1</sup>	35	14	1	-	-	20

\* Includes one prohibition notice

<sup>1</sup> Provisional only for 1981

## REFERENCES

- [1] The Woodworking Machines Regulations 1974
- [2] The Agriculture (Tractor Cabs) Regulations 1974
- [3] The Off-shore Installations (Construction and Survey) Regulations 1974
- [4] The Off-shore Installations (Operational Safety, Health and Welfare) Regulations 1976
- [5] Code of Practice for the reduction of exposure of employed persons to Noise HMSO 1972
- [6] 100 Practical Applications of Noise Reduction Methods (To be published 1983)