

CHIEF DIRECTORATE OF OCCUPATIONAL HEALTH & SAFETY

Draft Noise-Induced Hearing Loss Regulations

November 2022



employment & labour

Department:
Employment and Labour
REPUBLIC OF SOUTH AFRICA



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Definitions (1/4)

“Competent person: audiometric testing” means-

(a) for screening audiometry;

(i) a person registered in terms of the Health Professions Act, 1974 (Act No. 56 of 1974), with the Health Professions Council of Council of South Africa in any of the following categories:

(aa) ENT (ear, nose and throat specialist);

(bb) speech therapist;

(cc) audiologist; or

(dd) occupational medicine practitioner;

(ii) a person with a qualification in audiometric techniques obtained from an institution registered with the South African Qualification Authority or any of its structures in terms of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), and registered with the South African Society for Occupational Health Nursing (SASOHN); and

Definitions (2/4)

“Competent person: audiometric testing” means-

(b) for diagnostic audiology;

(i) a person registered in terms of the Health Professions Act, 1974 (Act No. 56 of 1974), with the Health Professions Council of Council of South Africa in any of the following categories:

(aa) ENT (ear, nose and throat specialist); or

(bb) an audiologist;

Definitions (3/4)

- **"competent person: risk assessment"** in relation to noise, means a person who—
- (a) has in respect of the work or task to be performed the required knowledge, training and experience in noise and, where applicable, qualifications that includes noise: provided that where appropriate qualifications and training are registered in terms of the provisions of the National Qualifications Framework Act, 2008 (Act No. 67 of 2008), those qualifications and that training must be regarded as the required qualifications and training; and
- (b) is familiar with the Act and the applicable regulations made under the Act;

“exposure” means the extent to which a person is exposed to noise at the workplace as determined by the noise risk assessment, and includes potential or accidental exposure, and exposed has a derivative meaning;

Definitions (4/4)

“**noise**” means unwanted sound that may cause annoyance, interference with speech or communication and/or hearing impairment;

“**noise action level**” means the value of the $L_{Req,8h}$ at or above 82 dB(A) for continuous noise and/or L_{peak} at or above 135 dB(C) for impulse noise at which specified actions or counter measures must be taken;

“**ototoxic chemical agents**” means chemical agents that damage the ear and cause hearing loss;

“**vulnerable employee**” means an employee who is at a higher risk of injury, disease or complications;

Scope of Application

2. (1) These Regulations will apply to:

(a) any employer or self-employed person at any workplace under their control, where persons are exposed to continuous or impulse noise at or above the applicable noise action level; and

(b) a designer, manufacturer, importer or supplier of machinery or plant for use at a workplace;

(2) With the exception of regulation 4 (6), the provision of regulation 4 shall not apply to a self-employed person.

Exposure to noise



3. Subject to regulations 9 and 10, an employer or self-employed person must ensure that no person entering the workplace under their control will be exposed to noise at or above the noise action level.

Information, Instruction and Training (1/4)

4. (1) An employer who undertakes work which exposes an employee to noise must inform and consult the relevant health and safety representatives or health and safety committee established for that workplace of the intention to conduct:
- (a) a noise risk assessment contemplated in regulation 7;
 - (b) noise exposure monitoring contemplated in regulation 8; and
 - (c) training contemplated in regulation 4 (3).
- (2) An employer who undertakes work which exposes an employee to a noise must inform the relevant health and safety representatives or health and safety committee for that workplace of the intention to conduct medical surveillance contemplated in regulation 8;
- (3) An employer must inform the relevant health and safety representatives or health and safety committee for that workplace of the documented outcomes of the:
- (a) noise risk assessment contemplated in regulation 7;
 - (b) noise exposure monitoring contemplated in regulation 8; and
 - (c) medical surveillance contemplated in regulation 9;

Information, Instruction and Training (2/4)

- (4) An employer must establish, for all employees who may be exposed to noise at or above the noise action level, a training programme with regard to these regulations;
- (5) The training programme contemplated in regulation 4 (4) must be conducted prior to the placement of the relevant employee;
- (6) The training programme contemplated in regulation 4 (4) with regard to these regulations, must focus on:
 - (a) the content and scope of these Regulations;
 - (b) the potential sources of exposure to noise;
 - (c) ototoxic chemical agents acting synergistically with noise to cause hearing loss;
 - (d) the potential risks to health and safety caused by exposure to noise;
 - (e) the differing effects of exposure to physical agents to men, women, young employees and vulnerable employees, where such difference may exist;
 - (f) the measures taken by the employer to protect an employee against the adverse effects of exposure to noise;

Information, Instruction and Training (3/4)

- (g) the necessity for the compliance with noise control measures in all areas, including the correct use, maintenance and limitations of HPDs;
- (h) the precautions to be taken by the employees to protect themselves against the adverse effects associated with the exposure;
- (i) the noise risk assessment, the purpose of noise exposure monitoring and the necessity for medical surveillance;
- (j) the noise action level and noise-rating limit for hearing conservation and their meaning;
- (k) the procedures for reporting, correcting and replacing defective noise control measures including HPDs;
- (l) any additional matters contemplated in regulations 5 and 9; and
- (m) access to records of noise risk assessment, noise exposure monitoring and personal medical records;

Information, Instruction and Training (4/4)

- (7) Refresher training must be conducted annually;
- (8) An employer or self-employed person must ensure, as far as is reasonably practicable, that mandatories or persons other than employees who may be affected by noise exposure at the workplace are informed and trained in accordance with regulation 4 (4); and
- (9) An employer must keep a record of employee training in terms of this regulation.

Duties of persons exposure

No change from the current regulation

Duties of designers, manufacturers, importers and suppliers

6. (1) Any designer, manufacturer, importer or supplier of machinery or plant for use at work must:
- (a) as far as is reasonably practicable, ensure that machinery or plant minimises the exposure to noise;
 - (b) as far as is reasonably practicable, supply machinery or plant that can be transported, received, stored and handled in a manner that minimises the exposure to noise;
 - (c) provide information, instruction and training as deemed necessary to minimises the exposure to noise during use of machinery or plant;
 - (d) as far as is reasonably practicable, install machinery or plant in a manner that minimises the exposure to noise; and
 - (e) provide information to potential users on the appropriate maintenance of machinery or plant to ensure safe operation and use.

Physical agents risk assessment (1/3)

7. (1) An employer or self-employed person must in respect of a workplace under their control cause the noise risk assessment to be done:
 - (a) within 60-days after the commencement of operations;
 - (b) thereafter at intervals not exceeding 24-months, to determine if any person may be exposed to noise which is at or above the noise action level; and
 - (c) by a competent person;
- (2) When making the noise risk assessment contemplated in regulation 7 (1), an employer or self-employed person must take into account the following:
 - (a) the noise sources to which a person may be exposed;
 - (b) adverse effects that the noise may have on persons;
 - (c) the extent to which a person may be exposed;
 - (d) the nature of the work process and any reasonable deterioration in or failure of any control measures;

Physical agents risk assessment (2/3)

(e) the presence and extent of exposure to ototoxic chemical agents;
and

(f) the presence and extent of exposure to whole body vibration;

(3) The risk assessment conducted in terms of sub-regulation (1) must take into account specific effects of exposure to men, women, young employees and vulnerable employees, where applicable;

(4) An employer must, in terms of the noise risk assessment:

(a) consider any deviations identified by the noise risk assessment and the proposed recommendations; and

(b) develop a documented action plan for the implementation of the recommendations;

Physical agents risk assessment (3/3)

- (5) An employer or self-employed person must forthwith review a noise risk assessment made in accordance with regulation 7 (1) if:
- (a) there is reason to believe that such noise risk assessment is no longer valid;
 - (b) control measures are no longer efficient;
 - (c) technological or scientific advances allow for more efficient control methods; or
 - (d) there has been a significant change in—
 - (i) work methods;
 - (ii) the type of work carried out; or
 - (iii) the type of equipment used to control exposure;
- (6) The review of the noise risk assessment contemplated in regulation 7 (5), must be carried out in accordance regulation 7 (2) and (4).

Noise exposure monitoring (1/2)

8. (1) An employer must ensure that a noise exposure monitoring programme at that workplace is implemented where the noise risk assessment or a review of such assessment indicates that any employee may be exposed to noise at or above the noise action level;
- (2) The noise exposure monitoring programme contemplated in regulation 8 (1) must be:
 - (a) carried out in accordance with the provisions of these regulations;
 - (b) carried out by an approved noise inspection authority; and
 - (c) representative of the employees' exposure to noise, in accordance with regulation 8 (3);
- (3) In order to comply with regulation 8 (2) (c), an employer must ensure:
 - (a) that area noise exposure monitoring:
 - (i) is done, as contemplated in SANS 10083 where a number of employees work in an area of approximately equal noise level;
 - (ii) is done, as contemplated in SANS 10083, where an employee is working at an approximate fixed location relative to the noise source;

Noise exposure monitoring (2/2)

- (b) that personal dosimetry monitoring must be done, as contemplated in SANS 10083, for employees who do not have a fixed workplace and move around from one position to another; and
- (c) that peak noise levels are monitored, where the noise risk assessment determines that employees may be exposed to impulse noise;
- (4) An employer must, in terms of the noise exposure monitoring report, develop a documented action plan for the implementation of the recommendations; and
- (5) The employer must ensure that the noise exposure monitoring contemplated in regulation 8 (3) is carried out at least every 24-months.

Medical surveillance

9. (1) An employer must establish, maintain and document a system of medical surveillance for all employees exposed to:
- a) noise at or above the noise-rating limit; or
 - b) noise at or above the noise action level where there is concomitant exposure to ototoxic chemical agents and/or whole body vibration;
- (2) In order to comply with the requirements of regulation 9 (1), medical surveillance must be implemented in conjunction with the Code of Practice for Medical Surveillance for Noise-Induced Hearing Loss, as contemplated in regulation 15.

Noise Zone

10. (1) An employer or self-employed person must ensure that:
- (a) any workplace or part of such workplace is designated as a noise zone, where:
 - (i) the exposure to noise is at or above the noise action level where there is concomitant exposure to ototoxic chemical agents and/or whole body vibration; or
 - (ii) the exposure to noise is at or above the noise-rating limit;
 - (b) a noise zone is clearly demarcated and identified by signage, in accordance with SANS 1186-1, indicating that the relevant area is a noise zone and that HPDs as contemplated in regulation 12 must be worn; and
 - (c) no person enters or remains in a noise zone unless HPDs are worn.

Control of exposure to noise

11. (1) An employer or self-employed person must ensure that the exposure of a person to noise is either prevented or, where this is not reasonably practicable, adequately controlled;
- (2) In order to comply with regulation 11 (1) an employer or self-employed person must, as far as is reasonably practicable, reduce noise exposure to levels below the limits referred to in regulation 10 (1)(a), by implementing a combination of the hierarchy of noise control measures including:
 - (a) engineering control measures to eliminate or reduce noise at its source, or the 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) the use of HPDs as a last resort, if engineering and administrative control measures are insufficient;
- (3) An employer must ensure that an employee who is exposed to noise receives information, instruction and training, as contemplated in regulation 4, with regard to the correct inspection, use, and reporting of failures of control measures implemented in regulation 11 (2).

Hearing Protective Devices

12. (1) Where HPDs are provided, an employer or self-employed person must ensure that HPDs:

(a) reduce exposure to noise:

(i) to below the noise-rating limit; or

(ii) to below the noise action level where there is concomitant exposure to ototoxic chemical agents and/or whole body vibration;

(b) are selected, used, maintained and stored in accordance with SANS 50458; and

(c) are procured in accordance with SANS 1451;

(2) The employee must, where there is the requirement to use HPDs as contemplated in regulation 12 (1):

(a) inspect, use, wear, store and dispose of the HPDs in accordance with any information, training or lawful instruction given by the employer;

(b) not intentionally misuse or damage the HPDs; and

(c) immediately inform the employer of any damage, defect, or any need to clean or replace any of the HPDs.

Maintenance of control measures

13. (1) Every employer or self-employed person must ensure that any control measure is:
- (a) fully and properly used; and
 - (b) maintained in an efficient state, in good working order and in good repair and cleanliness.

Records

14. (1) An employer or self-employed person must:

a) keep record of the reports for:

- (i) training, as contemplated in regulation 4;
 - (ii) noise risk assessments and action plan, as contemplated in regulation 7;
 - (iii) noise exposure monitoring and action plan, as contemplated in regulation 8;
 - (iv) medical surveillance reports, as contemplated in 3.8.7 of the code of practice; and
 - (v) maintenance of control measures, as contemplated in regulation 13;
- (b) keep records, as contemplated in regulation 14 (1)(a) for 40-years;
- (c) make the records contemplated in regulation 14 (1)(a) available for inspection by an inspector and relevant health and safety representative or health and safety committee; and
- (d) submit all records, as contemplated in regulation 14 (1)(a) to the relevant Chief Director: Provincial Operations, when they cease activity.

Code of Practice

15. (1) The Chief Inspector may, in consultation with the Noise Technical Committee, develop or review approved codes of practice relevant to hearing conservation in the workplace in order to guide and regulate exposure to noise in the workplace.

Noise technical committee (1/2)

16. (1) The Council must, after consultation with the Minister, establish a noise technical committee which must consist of:

- (a) a chairperson designated by the chief inspector from the employees of the Department of Employment and Labour;
- (b) one person designated by the chief inspector from the employees of the Department of Employment and Labour;
- (c) three persons designated by employer's organisations to represent employers;
- (d) three persons designated by employees' organisations to represent the federation of unions;
- (e) two persons to represent professional bodies recognised by the chief inspector;
- (f) one person representing a higher educational institution;
- (g) one person representing occupational medicine; and
- (h) persons who are competent in respect of the matters to be dealt with by the noise technical committee who have been co-opted by the committee with the authorisation of the council;

Noise technical committee (1/2)

(2) The council must:

- (a) appoint members of the noise technical committee for a period that the council may determine at the time of the appointment;
- (b) after having afforded a member a reasonable opportunity to respond, discharge such a member at any time, for reasons that are fair and just; and
- (c) appoint a new member in the place of a member who is discharged in terms of regulation 16 (2)(b);

(3) The noise technical committee must:

- (a) advise the council on noise related matters, including, but not limited to, codes, standards and training requirements;
- (b) make recommendations and submit reports to the council regarding any matter to which these Regulations apply;
- (c) advise the council regarding any matter referred to the noise technical committee by the council;
- (d) perform any other function for the administration of a provision of these Regulations that may be requested by the council; and
- (e) conduct its work in accordance with the instructions and rules of conduct framed by the council.



Offences and penalties

17. Any person who contravenes or fails to comply with any provision of regulations 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12-months and, in the case of a continuous offence, to an additional fine of R200 for each day on which the offence continues or to 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

18. XXXX

Short title

19. These Regulations are referred to as the draft Noise-Induced Hearing Loss Regulations, 20XX.

Comment Submissions

- Prescribed form
- Closing date 21 January 2023

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Thank You...



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