L.N. 91 of 2002

PRODUCT SAFETY ACT
(ACT NO. V OF 2001)

Airborne Noise Emitted by Household Appliances Regulations, 2002

IN exercise of the powers conferred by articles 38 to 40 of the Product Safety Act, 2001, the Minister for Economic Services, on the advice of the Malta Standards Authority, has made the following regulations:-

Citation and commencement.

1.1. The title of these regulations is the Airborne Noise Emitted by Household Appliances Regulations, 2002.

1.2. These regulations shall become operative on the 1st January, 2003:

Provided that the requirement to provide information to the European Commission referred to in regulation 8.4 of these regulations shall come into force on such date as the Minister responsible for consumer affairs, after consultation with the Malta Standards Authority, may prescribe.

Scope.

2.1. These regulations shall cover provisions relating to:

2.1.1. the general principles regarding the publication of information on the airborne noise emitted by household appliances,

2.1.2. the measuring methods for determining the airborne noise emitted by household appliances,

2.1.3. the arrangements for monitoring the levels of airborne noise emitted by household appliances.

2.2. The following shall be excluded from the scope of these regulations:

2.2.1. appliances, equipment or machines designed exclusively for industrial or professional purposes,

2.2.2. appliances which are integrated parts of a building or its installations such as equipment for air conditioning, heating and ventilating (except household fans, cooker hoods and free-standing heating appliances), oil burners for central heating and pumps for water supply and for sewage systems,

2.2.3. equipment components such as motors,

2.2.4. electroacoustic appliances.

Definitions.

3.1. For the purposes of these regulations, the following definitions shall apply:

3.1.1. "The Directive" means Council Directive 86/594/EEC[1] of 1st December, 1986 on airborne noise emitted by household appliances.

3.1.2. "Household appliance" means any machine, portion of a machine or installation manufactured principally for use in dwellings, including cellars, garages and other outbuildings, in particular household appliances for upkeep, cleaning purposes, preparation and storage of foodstuffs, production and distribution of heat and cold, air conditioning, and other appliances used for non-professional purposes;

3.1.3. "Family" of household appliances means all models (or types) of various household appliances designed for the same purpose and powered by the same principal energy source. Generally a family includes several models (or types);

3.1.4. "Series" of household appliances means all household appliances belonging to the same model (or type), which have defined characteristics and are produced by the same manufacturer;

3.1.5. "Batch" of household appliances means a specified quantity of a given series manufactured or produced under uniform conditions;

3.1.6. "Airborne noise emitted" means the A-weighted sound power level, LWA, of the household appliance, expressed in decibels (dB) with reference to the sound power of one picowatt (1 pW), transmitted by the air.

3.1.7. "Harmonised Standard" means a technical specification adopted by the European Committee for Standardisation (CEN) or the European Committee for Electrotechnical Standardisation (CENELEC) or the European Telecommunications Standards Institute (ETSI), upon a remit from the European Commission in accordance with Directive

[1] OJ No. L 344, 06-12-86, p. 24-27.

98/34/EC[2] of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical standards and regulations as amended by Directive 98/48/EC[3] of the European Parliament and of the Council.

3.1.8. "National Standard transposing the Harmonised Standard" means a Standard issued by one of the members of CEN/CENELEC/ ETSI which is declared and noted to be technically equivalent to the Harmonised Standard originally issued by CEN/CENELEC/ETSI.

3.1.9. "OJ" means the Official Journal of the European Communities.

3.1.10. "Community" means the European Community.

3.1.11. "Manufacturer" means the person:

3.1.11.1. who is primarily responsible for the design and construction of the household appliance so that it complies with the requirements of these regulations;

3.1.11.2. who is responsible for "re-building" or modifying an existing household appliance, and who in so doing is creating an "as-new" household appliance;

3.1.11.3. who takes responsibility for the appraisal of the design, construction and any necessary modification of used imported household appliances.

3.1.12. "Local authorised representative" means any person (or organisation) established in Malta who has been appointed by the manufacturer to act on his behalf in carrying out certain tasks required by these regulations;

3.1.13. "Importer" means any person who places a household appliance from a foreign country on to the Maltese market so that he supplies such a household appliance on the first occasion that it is supplied in Malta;

3.1.14. "Person who supplies household appliances" means wholesalers, distributors, retailers etc.

3.1.15. "Supply" includes offering to supply, agreeing to supply, exposing for supply and possessing for supply, and cognate expressions shall be construed accordingly:

[2] OJ No. L 204, 21-07-98, p. 37.

[3] OJ No. L 217, 05-08-98, p. 18.

Provided that "supply" does not include exhibition at trade fairs and exhibitions of household appliances in respect of which the provisions of these regulations are not satisfied if a notice is displayed in relation to the household appliance in question to the effect:-

3.1.15.1. that it does not satisfy those provisions; and

3.1.15.2. that it may not lawfully be supplied until the responsible person has ensured that those provisions are satisfied;

3.1.16. "Responsible person" in relation to household appliances means:

3.1.16.1. the manufacturer thereof

3.1.16.2. the manufacturer's local authorised representative; or

3.1.16.3. where the manufacturer is not established in Malta and he has not appointed a local authorised representative, the person who places the products on the local market.

3.1.17. "Placing on the market" means importation, wholesale, retail, sale and distribution free of charge.

Applicability.

4.1. The provisions of these regulations are applicable to all imported household appliances as well as to those manufactured for the local market.

4.2. No person may construct, import, place on the market or put into service any household appliance which does not comply with the provisions of these regulations.

General requirements.

5.1. The publication, for certain families of appliances, of information on the airborne noise emitted by such appliances may be required.

5.1.1. This information shall be supplied by the manufacturer or, where the manufacturer is established outside the Maltese Territory, by his authorised representative.

When this is so:

5.1.1.1. the level of noise subject to the information procedure shall be determined in accordance with the conditions set out in section 1 of the Schedule to these regulations;

5.1.1.2. the information may be subject to spot checks on the basis of the principles set out in section 2 of the Schedule to these regulations. Every appropriate step may be taken to ensure that the information supplied complies with the requirements of these regulations;

5.1.1.3. the manufacturer or importer shall be responsible for the accuracy of the information supplied.

5.2. Where the publication of information on the airborne noise emitted is not required, the manufacturer or importer may nevertheless publish such information but regulations 5.1.1.1, 5.1.1.2 and 5.1.1.3 of these regulations shall continue to apply.

5.3. Where, for the same family of household appliance, provision is made for a label relating to various types of information, such as those provided for pursuant to a separate Directive adopted under Directive 79/530/EEC[4], the information on the airborne noise emitted shall be given on that label.

Relevant standard and technical regulations.

6.1. It shall be presumed that the indication of airborne noise emitted by a household appliance is in accordance with the requirements of these regulations and that the checks have been performed adequately if the measurements for determining the level of airborne noise and the relevant checks have been carried out in accordance with:

6.1.1. national standards incorporating harmonized standards the references of which have been published in the Official Journal of the European Communities. The references for these national standards; or

6.1.2. the national standards and technical regulations referred to in paragraph 2 of Article 8 of the Directive in so far as no harmonized standards exist in the areas covered by these national standards and regulations.

Free movement.

7.1. The marketing of household appliances on grounds relating to information on the airborne noise emitted by such appliances where the information in respect of such appliances is given in accordance with the requirements of these regulations may not be refused, prohibited or restricted.

7.2. Without prejudice to the outcome of any spot checks which may be carried out once the household appliances have been offered for sale, the publication of information on the airborne noise emitted shall be regarded as complying with these regulations.

[4] OJ No. L 145, 13-06-79, p. 01.

Withdrawal and prohibition from market.

8.1. All necessary steps shall be taken to ensure that the manufacture or importer, if he does not choose to withdraw the defective batch from the market, corrects the information without delay should it appear from monitoring in accordance with section 2 of the Schedule to these regulations that the level of airborne noise emitted by a batch of appliances exceeds the declared level.

8.2. Where a non-complying household appliance, referred to in regulations 3.1.2 of these regulations bears the information referred to in regulation 5.1 of these regulations, the Director of Consumer Affairs shall take appropriate action against whom so ever has drawn up the information shall so inform the Consumer and Industrial Goods Directorate[5] of the Malta Standards Authority.

8.3. Any decision taken pursuant to these regulations, which contains a restriction on the placing on the market of household appliances, shall state the precise grounds on which it is based.

8.3.1. The party concerned shall be notified without delay of the decision and shall be informed at the same time of the possibilities and time limits regarding the legal remedies available to it under the laws in force in Malta and of the time limits to which such remedies are subject.

8.4. The Consumer and Industrial Goods Directorate of the Malta Standards Authority shall immediately inform the Commission of any measures taken in pursuance of regulations 8.2 of these regulations.

8.5. All appropriate measures shall be taken to encourage the local authorities responsible for implementing these regulations to cooperate with each other and provide each other with information in order to assist the functioning of these regulations.

[5] L.N. 213 of 2000 - Malta Standards Authority (Establishment of Directorates) Order, 2000, published in the Government Gazette No. 17, 002 of 20th October, 2000.

Schedule I

Based on Article 6 of the Directive

THE GENERAL TEST METHOD

1. (a) The general test method used to determine the airborne noise emitted by household appliances must be accurate enough for the measurement uncertainties to produce standard deviations not exceeding 2 dB in the case of A-weighted sound power levels.

The standard deviations referred to in the first subparagraph shall represent the cumulative effects of all causes of uncertainty in the measurements, except for variations in the noise level of the appliance from one test to another.

(b) The general test method referred to in part (a) of section 1 of this Schedule shall be supplemented, for each family of appliances, by a description of the location, mounting, load and operation of the appliances under test conditions to stimulate normal use and ensure adequate repeatability and reproducibility. The standard deviation of reproducibility must be specified for each family of appliances.

2. The statistical method used to verify the declared noise level of appliances in a batch shall be sampling measurement on isolated batches of appliances using unilateral tests.

The fundamental statistical parameters of the statistical method referred to in the first subparagraph shall be such that the acceptance probability is 95 % if 6.5 % of the noise emission levels of a batch are higher than the level claimed. The size of a simple or equivalent sample must be 3. The statistical method chosen requires the use of a total reference standard deviation of 3.5 dB.