

1996—No. 203

**OCCUPATIONAL HEALTH AND SAFETY ACT 1983—
REGULATION**

(Occupational Health and Safety (Noise) Regulation 1996)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Occupational Health and Safety Act 1983, has been pleased to make the Regulation set forth hereunder.

JEFFREY SHAW, Q.C., M.L.C.,
Minister for Industrial Relations.

Citation

1. This Regulation may be cited as the Occupational Health and Safety (Noise) Regulation 1996.

Commencement

2. This Regulation commences on 31 May 1997.

Definitions

3. (1) In this Regulation:

“**AS 1259 (Part 1)**” means the document entitled “Sound Level Meters—Part: Non-integrating”, numbered AS 1259.1—1990 and published by Standards Australia, as in force from time to time;

“**AS 1269**” means the document entitled “Acoustics—Hearing Conservation”, numbered AS 1269—1989 and published by Standards Australia, as in force from time to time;

“**the Act**” means the Occupational Health and Safety Act 1983;

“**WorkCover**” means the WorkCover Authority.

(2) Notes in this Regulation are explanatory notes and do not form part of this Regulation.

Application of regulation

4. This Regulation applies to all places of work other than mines within the meaning of the Coal Mines Regulation Act 1982 or the Mines Inspection Act 1901.

Limits on noise exposure

5. For the purposes of Part 3 of the Act (the provisions of which are adapted accordingly), a place of work is unsafe and a risk to health if any person is exposed there to noise levels:

- (a) that exceed an 8-hour noise level equivalent of 85 dB(A); or
- (b) that peak at more than 140 dB(lin).

Note: WorkCover has published a Code of Practice under the title “Code of Practice: Noise Management and Protection of Hearing at Work”. This Code is designed to assist in the identification of locations at which excessive noise levels may occur and to suggest practices that will minimise the risk of persons being exposed to excessive noise levels.

Determination of noise exposure

6. (1) For the purposes of clause 5, exposure to noise is taken to be that measured at the position of the ears of a person, or at an equivalent of that position.

(2) The measurement is to be made on the assumption that the person is not wearing any device to protect himself or herself from noise.

(3) For the purposes of clause 5 (a), the noise level to which a person is exposed is to be measured, in accordance with AS 1269, as $L_{Aeq,8h}$ (that is, an 8-hour equivalent continuous A-weighted sound pressure level, referenced to 20 micropascals).

(4) For the purposes of clause 5 (b), the noise level to which a person is exposed is to be measured, by means of a sound level meter with a peak detector-indicator characteristic complying with AS 1259 (Part 1), as L_{peak} (that is, a linear (unweighted) peak hold sound pressure level, referenced to 20 micropascals).

Exemptions

7. (1) An employer or self-employed person may apply to WorkCover in writing for an exemption from the operation of clause 5 in respect of the whole or any part of his or her place of work.

(2) Before making such an application, the employer or self-employed person must cause notice of the proposed application to be given to all persons employed at the place of work concerned.

(3) On receipt of the application, WorkCover:

- (a) may, by order in writing, exempt the employer or self-employed person from the operation of either or both of the provisions of clause 5 in respect of the whole or any part of his or her place of work; or
- (b) may refuse the application.

(4) An exemption may be given unconditionally or subject to such conditions as WorkCover considers appropriate.

NOTES

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EXPLANATORY NOTE

The object of this Regulation is to adapt the provisions of Part 3 of the Occupational Health and Safety Act 1983 (which imposes general obligations concerning the health and safety of persons at work) in connection with exposure to noise. The effect of this Regulation is such that a place of work is unsafe and a risk to health for the purposes of those provisions if its noise levels exceed the specifications established by the National Standard for Occupational Noise. The new Regulation contains a stricter continuous noise standard than that embodied in the provisions of the Factories (Health and Safety—Hearing Conservation) Regulation 1979, in certain provisions of the Timber Industry (Health and Safety) Regulation 1982 and in certain provisions of the Construction Safety Regulations 1950. Those provisions are being repealed.

This Regulation does not apply to mines (which are subject to their own occupational health and safety requirements) and also provides for exemptions to be granted on an individual workplace basis.

This Regulation is made under the Occupational Health and Safety Act 1983, including section 45 (the general regulation-making power) and section 46 (allowing regulations to be made adapting Part 3 of the Act).

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This Regulation comprises or relates to matters involving the adoption of an Australian standard where an assessment of the costs and benefits of that adoption has already been made.
