STATUTORY INSTRUMENTS

1985 No. 1968

PUBLIC HEALTH, ENGLAND AND WALES
PUBLIC HEALTH, SCOTLAND
NOISE

The Construction Plant and Equipment (Harmonization of Noise Emission Standards) Regulations 1985

Made - - - - -	*16th December* 1985
Laid Before Parliament	*17th December* 1985
Coming into operation	*8th January* 1986

The Secretary of State, being a Minister designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to matters relating to the harmonization of noise emission standards in exercise of the powers conferred on him by that section, and of all his other enabling powers hereby makes the following Regulations:—

Citation, commencement and extent

1. These Regulations, which extend to Great Britain, may be cited as the Construction Plant and Equipment (Harmonization of Noise Emission Standards) Regulations 1985, and shall come into operation on 8th January 1986.

Interpretation

2.— (1) In these Regulations, unless the context otherwise requires, the following expressions have the following meanings—

"approved body" means a body appointed by the Secretary of State under Regulation 4;

"certificate of conformity" means a certificate that an item of construction plant or equipment conforms with the type of construction plant or equipment in respect of which an EEC type-examination certificate has been issued;

"Commission Directives" means the Directives adopted by the Commission of the Communities which adapt the Special Directives to the requirements of technical progress(**c**);

"compressor" means any motor-driven device for circulating and compressing air other than the following two categories of device:

(**a**) S.I. 1985 749.
(**b**) 1972 c.68.
(**c**) 85/406/EEC, OJ No L233, 30.8.1985, p. 11, 85/407/EEC, OJ No L233, 30.8.1985, p. 16, 85/408/EEC, OJ No L233, 30.8.1985, p. 18, and 85/409/EEC, OJ No L233, 30.8.1985, p.20.

devices producing air circulation of a positive pressure of not more than 1,1, bar

devices or applicances for extraction of air from an enclosed space at a pressure not exceeding atmospheric pressure;

"construction plant" and "construction equipment" means compressors, tower cranes, welding generators, power generators and powered hand-held concrete-breakers and picks all of which are designed for use in or about the site of building or civil engineering operations and not primarily for the transport of goods or persons;

"EEC mark" means a mark in the form set out in Schedule 4;

"EEC type-examination certificate" means a certificate that a type of construction plant or equipment conforms with the EEC type-examination requirements;

"EEC type-examination requirements" means the requirements contained in the Special Directives being requirements with respect to the sound power level of airborne noise of construction plant and equipment;

"the Framework Directive" means the Directive adopted by the Council of the Communities No 84/532/EEC concerning the approximation of the laws of the Member States relating to common provisions for construction plant and equipment(**a**);

"market" means supply by way of sale, lease, hire or hire-purchase, whether as principal or agent for another;

"power generator" means any device comprising a motor unit driving a rotary generator producing continuous electical power;

"powered hand-held concrete-breaker and pick" means any hand held percussive device powered by means of electrical, hydraulic or pneumatic power or an internal combustion engine suitable for breaking concrete;

"Special Directives" means the Directives adopted by the Council of the Communities as amended by the Commission Directives, concerning the approximation of the laws of the Member States relating to the permissible sound power level of compressors(**b**), tower cranes(**c**), welding generators(**d**), power generators(**e**) and powered hand-held concrete-breakers and picks(**f**).

"tower crane" means a power-driven lifting appliance which:

—when in use, consists of a vertical tower with a jib fitted to the upper part,

—is equipped with means for raising and lowering suspended loads and for horizontal movement of such loads by variation of load-lifting radius or by slewing or by travelling of the complete appliance, or by any combination of such methods and

—is designed to be able to be removed when the work for which it was erected has been completed;

"welding generator" means any rotary device which produces a welding current;

(**a**) 84/532/EEC, OJ No. L300, 19.11.1984 p.111.
(**b**) 84/533/EEC, OJ No. L300, 19.11.1984, p.123.
(**c**) 84/534/EEC, OJ No. L300, 19.11.1984, p.130.
(**d**) 84/535/EEC, OJ No. L300, 19.11.1984, p.142.
(**e**) 84/536/EEC, OJ No. L300, 19.11.1984, p.149.
(**f**) 84/537/EEC, OJ No. L300, 19.11.1984, p.156.

(2) Any reference in these Regulations to a numbered Regulation or Schedule is a reference to the Regulation or Schedule so numbered in these Regulations.

Marketing or use of Construction Plant and Equipment

3.— (1) No person shall on or after 26 March 1986 market any item of construction plant or equipment manufactured on or after that date unless an EEC type-examination certificate and a certificate of conformity has been issued in respect thereof and an EEC mark has been placed thereon under these Regulations or under the law of Northern Ireland or of a Member State other than the United Kingdom.

(2) Where a person ("the ostensible supplier") markets any item of construction plant or equipment by supplying the same to another ("the customer") under a hire-purchase agreement, conditional sale agreement or credit sale agreement, and the ostensible supplier:—

(a) carries on the business of financing the acquisition of goods by others by means of such agreements; and

(b) in the course of that business acquired his interest in the item supplied to the customer as a means of financing its acquisition by the customer from a third person ("the effective supplier")

the effective supplier and not the ostensible supplier shall be treated for the purposes of this Regulation as marketing the item to the customer and any duty imposed by these Regulations on those who market items of construction plant or equipment shall accordingly fall on the effective supplier and not on the ostensible supplier.

(3) Where a person ("the ostensible supplier") markets any item of construction plant or equipment by supplying the same to another ("the customer") under a lease, and the ostensible supplier—

(a) has not previously granted any lease to the customer in respect of that item; and

(b) carries on the business of financing the use of goods by others by means of leases; and

(c) in the course of that business acquired his interest in the item supplied to the customer for the purpose of financing its provision to the customer by a third person ("the effective supplier"); and

(d) he or his agent either

(i) has not had physical possession of the item, or

(ii) has had physical possession of the item only for the purpose of passing it to the customer;

and

(e) he or his agent has not modified, overhauled, repaired or restored the item;

then the effective supplier and not the ostensible supplier shall be treated for the purposes of this Regulation as marketing the item to the customer and any duty imposed by these Regulations on those who market items of construction plant or equipment shall accordingly fall on the effective supplier and not on the ostensible supplier.

(4) Where—

(a) paragraph (3) of this Regulation has applied in respect of a lease; and

(b) the ostensible supplier grants a further lease of the item to the same customer; and

(c) the item has remained in the physical possession of the customer since he took possession of it under the first lease; and

(d) the item has not at any time been modified, overhauled, repaired or restored by or on behalf of the ostensible supplier;

then no duty shall be imposed by these Regulations on the ostensible supplier in relation to the supply by way of that further lease.

Appointment of approved bodies

4. The Secretary of State shall appoint a body or bodies of persons in accordance with the conditions of the Framework Directive and subject to such other conditions as he shall think fit to carry out examinations and periodic checks of construction plant and equipment and to issue EEC type-examination certificates and to do such other things as may be required or permitted under or in connection with these Regulations.

Application for EEC type-examination certificate

5.— (1) An application for an EEC type-examination certificate shall be made to the approved body by or on behalf of a manufacturer in writing and shall be accompanied by an information document duly completed so as to furnish all the information required by the information document in the form set out in Schedule 1 applicable to the construction plant or equipment of the type in respect of which the application is made together with such other documents as are required to be furnished by that document.

(2) Where in pursuance of this Regulation an application has been made to an approved body in respect of a type of construction plant or equipment then no other application in any Member State for an EEC type-examination certificate in respect of construction plant or equipment of that type shall be made by or on behalf of the same manufacturer and any application made to an approved body which to the knowledge of the approved body is contrary to this paragraph shall be rejected by the approved body.

(3) Where the approved body is satisfied on application made to it and after examination of the construction plant or equipment in respect of which the application was made that the construction plant or equipment conforms to the EEC type-examination requirements and after payment of the prescribed fee it shall grant an EEC type-examination certificate in the form set out in Schedule 2 in respect of that construction plant or equipment subject to any limitation on the period of validity laid down in the Special Directive relating to such construction plant or equipment.

(4) Where the approved body is satisfied on application made to it and after examination of the construction plant or equipment in respect of which the application was made that the construction plant or equipment does not conform to the EEC type-examination requirements and after payment of the prescribed fee it shall issue a full test failure report for such plant or equipment which states the reasons for the issue of such report and informs the applicant of his right to apply for review of the decision of the approved body under Regulation 8.

(5) The approved body shall after payment of the prescribed fee extend the period of validity of an EEC type-examination certificate issued under these Regulations by one period of five years provided that an application is made in the period of twelve months immediately before the expiry of the first period for which it was granted and provided that the type of construction plant or equipment in respect of which the application is made complies with the permissible sound power level requirements laid down in the Special Directives relating to such construction plant or equipment; and if the approved body refuses to grant such extension it shall inform the applicant of his right to apply for a review of the decision of the approved body under Regulation 8.

(6) The prescribed fee payable under paragraphs (3), (4) and (5) of this Regulation in every such case shall be equal to the sum of:—

(a) the costs of the approved body of and in connection with the functions carried out or to be carried out by it under these Regulations ("the relevant service"); and

(b) an amount on account of profit which is reasonable in the circumstances having regard to—

(i) the character and the extent of the work done or to be done by the approved body in providing the relevant service, and

(ii) the commercial rate normally charged on account of profit for that work or similar work.

(7) An EEC type-examination certificate may be issued or the period of validity of such a certificate may be extended under these Regulations subject to conditions with respect to the carrying out by an approved body of periodic checks of construction plant or equipment of a type in respect of which any EEC type-examination certificate is issued under these Regulations or under the law of Northern Ireland and, for that purpose, the entry into premises where any such construction plant or equipment is held by or on behalf of the manufacturer; and if it appears to the approved body which so issued or extended the period of validity of an EEC type-examination certificate (or such other approved body as the Secretary of State thinks fit) that there has been a breach of such conditions, or if it so appears to the Secretary of State, the approved body or the Secretary of State as the case may be may by notice under Regulation 7 suspend or withdraw the EEC type-examination certificate issued or extended subject to such conditions.

Certificate of Conformity and EEC Mark

6.— (1) The certificate of conformity and EEC mark mentioned in Regulation 3 may be issued in respect of, or placed on, construction plant or equipment, by or on behalf of the manufacturer of the construction plant or

equipment of a type in respect of which an EEC type-examination certificate issued under these Regulations or under the law of Northern Ireland or of a Member State other than the United Kingdom is in force.

(2) The certificate of conformity shall be issued in respect of each item of construction plant or equipment which conforms with the type of construction plant or equipment in respect of which the EEC type-examination certificate was issued and shall be in the form set out in Schedule 3.

(3) The EEC mark shall be placed on each such item of construction plant or equipment indicating either—

(i) the sound power level of the type of construction plant or equipment to which that item conforms ascertained in accordance with the Special Directive relating to such construction plant or equipment by the approved body, or other body having functions corresponding to those of the approved body appointed under the law of Northern Ireland or of another Member State, or on a review of the decision of such body; or

(ii) the sound power level of that item of construction plant or equipment so ascertained by the manufacturer if that sound power level is higher than that ascertained in accordance with Regulation 6(3)(i).

Conformity checks of construction plant and equipment

7.— (1) The approved body may carry out periodic checks of construction plant or equipment of a type in respect of which an EEC type-examination certificate has been issued under these Regulations or under the law of Northern Ireland and is in force to ascertain whether such plant or equipment has been manufactured to conform with the type of construction plant or equipment so certified.

(2) If the approved body, after checking items of construction plant or equipment of the same type as that in respect of which such an EEC type-examination certificate is in force, is satisfied that such items have not been manufactured to conform with the EEC type-examination requirements in respect of such items the approved body shall give notice of that fact to the holder of that EEC type-examination certificate and such notice shall specify

(a) the respects in which the items of construction plant or equipment do not so conform;

(b) that unless steps are taken which ensure that such items do so conform within a specified period the certificate will be suspended or withdrawn, and

(c) if the approved body thinks fit, that the certificate will be suspended immediately.

(3) If the approved body decides to suspend or withdraw an EEC type-examination certificate it shall immediately give notice of the decision to the holder of the certificate and to the Secretary of State.

(4) A notice to a holder of an EEC type-examination certificate of suspension under paragraph 2*(c)* of this Regulation or of suspension or withdrawal under paragraph (3) of this Regulation shall specify the date on

which the suspension or withdrawal is to take effect and shall specify the grounds for the decision and shall inform the holder of the certificate of his right to apply for a review of the decision under Regulation 8.

(5) The suspension or withdrawal of an EEC type-examination certificate shall not affect the validity of any certificate of conformity or EEC mark issued or placed on construction plant or equipment under Regulation 6 or under the law of Northern Ireland.

Review

8.— (1) A person who is aggrieved by a decision given by an approved body may, in accordance with paragraphs (2) and (3) of this Regulation, apply to the Secretary of State to review the decision and on such application the Secretary of State—

(a) shall have the like powers and duties as an approved body has on an application for an EEC-type examination certificate or an extension of the period thereof or under Regulation 7(2), (3) and (4),

(b) may hold an inquiry in connection therewith, and

(c) may appoint an assessor for the purpose of assisting him with his review or any such inquiry.

(2) An application under paragraph (1) of this Regulation shall be made by notice to the Secretary of State, Department of Trade and Industry, Ashdown House, 123 Victoria Street, London, SW1E 6RB, and shall be lodged with him not later than fourteen days from the date of the decision in respect of which the application for review is made.

(3) A notice of application for review under this Regulation shall state the grounds on which the application is made and shall be accompanied by the following documents—

(a) where the application is for review of a decision under Regulation 5(4) copies of the document which, in accordance with Regulation 5(1) accompanied the application under that Regulation for the certificate in question, and

(b) where the application for review relates to the extension of the period of a certificate or the suspension or withdrawal of a certificate, a copy of that certificate.

Offences

9.— (1) Any person who without reasonable excuse contravenes or fails to comply with any of the provisions of Regulation 3(1) shall be guilty of an offence, and liable on summary conviction to a fine not exceeding £2000.

(2) Where the commission by any person of an offence under Regulation 3(1) is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this Regulation whether or not proceedings are taken against the first-mentioned person.

Offences by Corporations

10.— (1) Where an offence under these Regulations committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of the offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) of this Regulation shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Paul Channon,
Minister for Trade.

16th December 1985.

SCHEDULE 1 Regulation 5

INFORMATION DOCUMENT FOR A TYPE OF COMPRESSOR TO BE SUPPLIED FOR EEC TYPE-EXAMINATION

1. General

1.1. Name and address of manufacturer .....

.....

1.2. Name and address of manufacturer's authorized representative (if any) ....

.....

1.3. Make (name of undertaking) .....

1.4. Trade name .....

1.5. Type .....

1.6. Compression system: reciprocating, rotary or centrifugal(1)

2. Dimensions of the compressor

2.1. Length ..... m
Width ..... m
Height ..... m
Mass ..... kg

3. Operating conditions

3.1. *Operation of the drive motor*

3.1.1. Make and type .....

3.1.2. Energy used: petrol, diesel, electicity, gas (1)

3.1.3. Nominal speed ..... rpm

3.1.4. Motor power ..... kW (Council Directive 80/1269/EEC)

3.2. *Operation of the compressor*

3.2.1. Make and type .....

3.2.2. Nominal speed at full load ..... rpm

3.2.3. Nominal delivery pressure ..... kPa

3.2.4. Nominal air flow at the above speed and pressure, measured in accordance with Point 12 of Annex I of Council Directive 533/84/EEC .....m^3/min

4. Attach descriptive trade leaflet, if any.

(1) Delete as appropriate.

INFORMATION DOCUMENT FOR A TYPE OF TOWER CRANE TO BE SUPPLIED FOR THE PURPOSES OF EEC TYPE-EXAMINATION

1.	General
1.1.	Name and address of manufacturer .....
1.2.	Name and address of manufacturer's authorized representative (if any) ....
1.3.	Make (name of undertaking) .....
1.4.	Trade name (mention any variations) .....
1.5.	Type .....
1.6.	Category .....
1.7.	Location of statutory data plates and inscriptions and method of fixing .....
2.	Operation
3.	Instructions for use
4.	Attach descriptive trade leaflet, if any.

INFORMATION DOCUMENT FOR A TYPE OF WELDING GENERATOR TO BE SUPPLIED FOR EEC TYPE-EXAMINATION

1.	General
1.1.	Name and address of manufacturer .....
1.2.	Name and address of manufacturer's authorized representative (if any) ....
1.3.	Make (name of undertaking) .....
1.4.	Trade name .....
1.5.	Type .....
2.	Dimensions of the welding generator unit
2.1.	Length ..... m
	Width ..... m
	Height ..... m
	Mass ..... kg
2.2.	Unit lay-out: skid-mounted, trailer, other (1)
3.	Operating conditions
3.1.	*Operation of the drive motor*
3.1.1.	Make and type .....
3.1.2.	Energy source: petrol, diesel, electricity, gas (1)
3.1.3.	Speed of rotation ..... rpm
3.2.	*Operation of the generator*
3.2.1.	Make and type .....
3.2.2.	Speed of rotation ..... rpm
3.2.3.	Nominal welding current ..... A
3.2.4.	Maximum nominal current ..... A
4.	Attach descriptive trade leaflet, if any.

(1) Delete as appropriate.

INFORMATION DOCUMENT FOR A TYPE OF POWER GENERATOR TO BE SUPPLIED FOR EEC TYPE-EXAMINATION

1.	General
1.1.	Name and address of manufacturer .....
1.2.	Name and address of manufacturer's authorized representative (if any) ....
1.3.	Make (name of undertaking) .....
1.4.	Trade name .....
1.5.	Type .....
2.	Dimensions of the power generator unit
2.1.	Length ..... m
	Width ..... m
	Height ..... m
	Mass ..... kg
2.2.	Unit lay-out: skid-mounted, trailer, other (1)
3.	Operating conditions
3.1.	*Operation of the drive motor*
3.1.1.	Make and type .....
3.1.2.	Energy source: petrol, diesel, gas (1)
3.1.3.	Speed of rotation ..... rpm
3.2.	*Operation of the generator*
3.2.1.	Make and type .....
3.2.2.	Speed of rotation ..... rpm
3.2.3.	Continuous operating power
	—apparent power kVA:
	—actual power (kW):
3.2.4.	Type of current: alternating current, single phase, three phase, direct current, etc. (1)
3.2.5.	Inter-phases and neutral voltage (1)
3.2.6.	Frequency of current ..... Hz
4.	Attach descriptive trade leaflet, if any.

(1) Delete as appropriate.

INFORMATION DOCUMENT FOR A TYPE OF POWERED HAND-HELD CONCRETE-BREAKER OR PICK TO BE SUPPLIED FOR EEC TYPE-EXAMINATION

1.	General
1.1.	Name and address of manufacturer .....
	.....
1.2.	Name and address of manufacturer's authorized representative (if any) ....
	.....
1.3.	Make (name of undertaking) .....
1.4.	Trade name (mention any variations) .....
1.5.	Type .....
1.6.	Location of statutory plates and inscriptions and method of fixing .....
2.	Mass
2.1.	Mass ..... kg
3.	Operation
3.1.	*Pneumatic*
3.1.1.	Operating pressure ..... pascals
3.1.2.	Air intake ..... m^3/sec
3.1.3.	Striking rate ..... strokes/sec
3.1.4.	Soundproofing device: fitted, removable (1) (make and type) .....
3.2.	*Hydraulic*
3.2.1.	Hydraulic fluid pressure .....
3.2.2.	Striking rate ..... strokes/sec
3.2.3.	Soundproofing device: fitted, removable (1) (make and type) .....
3.2.4.	Inertial mass .....
3.2.5.	Mass under movement .....
3.2.6.	Energy consumption per minute .....
3.3.	*Electric*
3.3.1.	Operating voltage V
3.3.2.	Striking rate ..... strokes/sec
3.3.3.	Soundproofing device: fitted, removable (1) (make and type) .....
3.3.4.	Inertial mass .....
3.3.5.	Mass under movement .....
3.3.6.	Energy consumption .....
3.4.	*Petrol*
3.4.1.	Engine speed ..... rpm

(1) Delete as appropriate.

3.4.2.	Striking rate ..... strokes/sec
3.4.3.	Make and type of silencer used .....
3.4.4.	Soundproofing device: fitted, removable (1) (make and type) .....
4.	Additional data
4.1.	Outline (showing scale) or photograph of the appliance
4.2.	Address from which further necessary data may be obtained .....
	.....
5.	Attach descriptive trade leaflet, if any.

SCHEDULE 2 Regulation 5

EEC TYPE-EXAMINATION CERTIFICATE

Competent administration or approved body (1) .....

.....

.....

Notification of EEC type-examination in respect of the harmonized requirements

.....

.....

.....

.....

EEC type-examination No .....

1. Category, make and type or trade name .....
2. Name and address of manufacturer .....

   .....

   .....
3. Name and address of certificate holder .....

   .....

   .....
4. Date of submission for EEC type examination .....
5. Certificate issued on the basis of the following requirements .....

   .....
6. Test laboratory .....
7. Date and number of laboratory report .....
8. Date of granting of EEC type-examination.....
9. The following documents bearing the EEC type-examination number shown above are annexed to this certificate .....
10. Date of expiration of this certificate.....
11. Any additional information .....

    .....

    .....

Place ....
(Date) (Signature)

(1) Delete as appropriate.

Regulation 6

SCHEDULE 3

CERTIFICATE OF CONFORMITY

I, the undersigned, ...
(Surname and first names)

hereby certify that the construction plant or equipment specified hereunder

1. Category .....

2. Make .....

.....

3. Type .....

4. Type serial number of equipment .....

5. Type serial number of chassis if different from that of the equipment .....

.....

6. Year of manufacture .....

has been manufactured in conformity with

—EEC type-examination as shown in the table below			
Separate Directives	No	date of EEC type-examination certificate	approved body

7. Date of expiration of EEC type-examination certificate .....

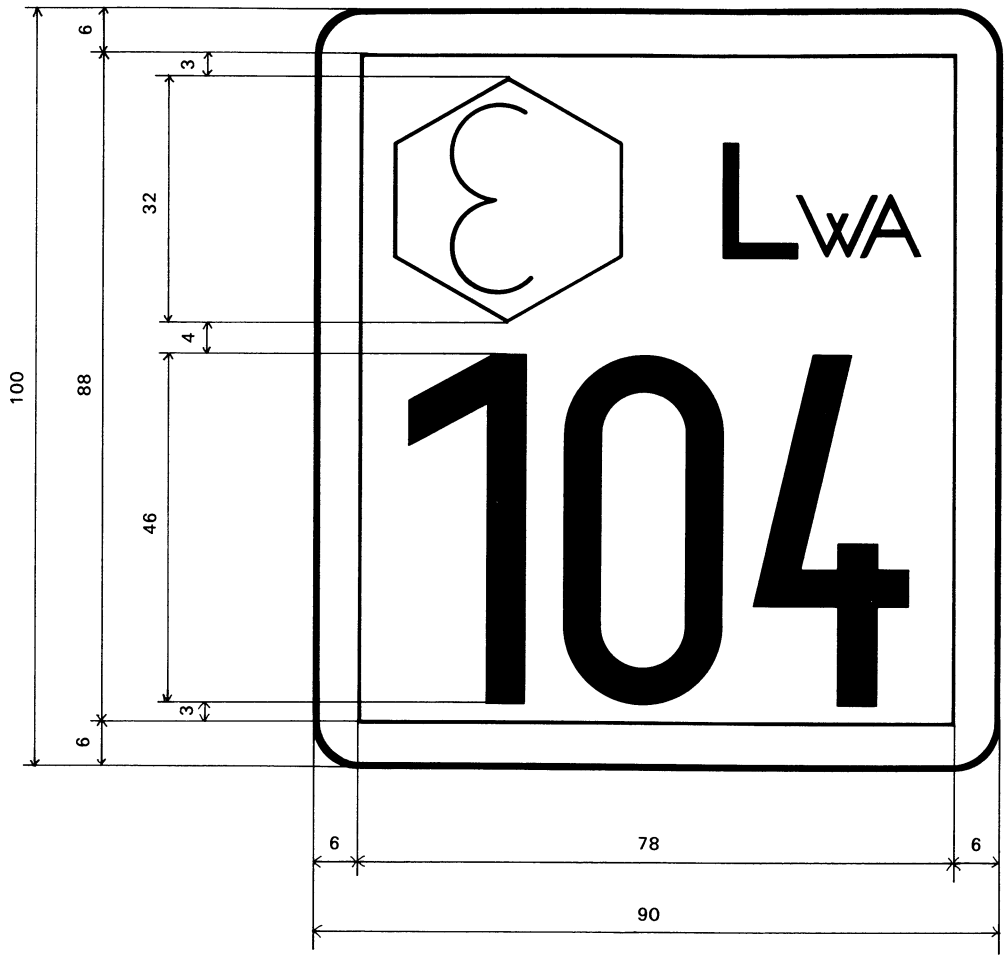
8. Special provisions .....

Done at ....
(Date) (Signature)

.....
(Position)

SCHEDULE 4 Regulation 2

EEC MARK TO BE PLACED ON CONSTRUCTION PLANT OR EQUIPMENT



(Note: The figure 104 is for purposes of illustration and represents the sound power level as mentioned in Regulation 6(3))

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations implement Council Directives 84/532/EEC, 84/533/EEC, 84/534/EEC, 84/535/EEC, 84/536/EEC and 84/537/EEC of 17 September 1984 (OJ L300 of 19 November 1984, pp. 111–170) as amended by Commission Directives 85/406/EEC, 85/407/EEC, 85/408/EEC and 85/409/EEC (OJ L233 of 30 August 1985, pp. 11–20). The Regulations apply to construction plant and equipment as defined in the Regulations ie compressors, tower cranes, welding generators, power generators and powered hand-held concrete-breakers and picks designed for use in or about building or civil engineering operations. In particular the Regulations:

1. Prohibit on or after 26 March 1986 the marketing of such construction plant or equipment manufactured on or after that date not covered by an EEC type-examination certificate: and a certificate of conformity and not bearing an EEC mark as provided for by the Directives;
2. Provide for EEC type-examination for such construction plant or equipment and the issue of an EEC type-examination certificate by approved bodies appointed by the Secretary of State whose decisions may be reviewed by the Secretary of State;
3. Provide for periodic checks to ensure compliance with the Regulations.

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