STATUTORY INSTRUMENTS

1986 No. 1795

PUBLIC HEALTH, ENGLAND AND WALES
PUBLIC HEALTH, SCOTLAND

NOISE

The Lawnmowers (Harmonization of Noise Emission Standards) Regulations 1986

Made - - -	17*th October* 1986
Laid before Parliament	28*th October* 1986
Coming into Operation	18*th November* 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 sound power level requirements of equipment for cutting grass, 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 Lawnmowers (Harmonization of Noise Emission Standards) Regulations 1986, and shall come into operation on 18th November 1986.

Interpretation

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

"certificate of conformity" means a certificate that the lawnmower is of a type in respect of which a laboratory test report has been issued and that it conforms with the requirements of the Directive;

"EEC mark" means a mark in the form set out in Schedule 4 and which gives the information required by Regulation 6(4);

"laboratory test report" means a report stating that the lawnmower tested is of a type of lawnmower in respect of which its sound power level having regard to its cutting width does not exceed the permissible sound power level set out in the Table in Schedule 2;

(**a**) S.I. 1985/749. (**b**) 1972 c.68.

"lawnmower" means any motorised equipment appropriate for the upkeep by cutting, by whatever method, of areas under grass used for recreational, decorative or similar purposes, but excluding —

(i) motorised cylinder mowers;

(ii) agricultural and forestry equipment;

(iii) non-independent devices, such as drawn cylinders, with cutting devices actuated by the wheels or by an integrated drawing or carrier component;

(iv) multi-purpose devices the main motorized components of which have an installed power of over 20 kw;

"the Directive" means the Directive adopted by the Council of the Communities concerning the approximation of the laws of the Member States relating to the permissible sound power level of lawnmowers(**a**);

"listed laboratory" means a body appointed by the Secretary of State under Regulation 4; and

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

(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 of Lawnmowers

3.—(1) No person shall on or after 1st July 1987 market any lawnmower manufactured on or after that date unless a certificate of conformity has been issued in respect thereof and the name of the manufacturer and the type of lawnmower 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 lawnmower 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 lawnmower 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 lawnmower to the customer and any duty imposed by these Regulations on those who market lawnmowers shall accordingly fall on the effective supplier and not on the ostensible supplier.

(**a**) 84/538/EEC, OJ No. L.300, 19.11.84, p.171.

(3) Where a person ("the ostensible supplier") markets any lawnmower 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 lawnmower; 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 lawnmower 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 lawnmower, or

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

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

then the effective supplier and not the ostensible supplier shall be treated for the purposes of this Regulation as marketing the lawnmower to the customer and any duty imposed by these Regulations on those who market lawnmowers 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 lawnmower to the same customer; and

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

(*d*) the lawnmower 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 listed laboratories

4. The Secretary of State shall appoint such a body or bodies of persons as he shall think fit to test lawnmowers and to issue laboratory test reports and to do such other things as may be required or permitted under or in connection with these Regulations.

Laboratory test reports

5.—(1) An application for a laboratory test report shall be made to a listed laboratory by or on behalf of a manufacturer in writing and shall be accompanied by an information document in the form set out in Schedule 1.

(2) Where the listed laboratory is satisfied on application made to it and after testing the lawnmower in respect of which the application was made that its sound power level as measured in accordance with Annex 1 of the Directive having regard to its cutting width does not exceed the permissible sound power level set out in the Table in Schedule 2 and after payment of the prescribed fee it shall issue to the applicant a laboratory test report on that lawnmower.

(3) Where the listed laboratory is satisfied on application made to it and after testing the lawnmower in respect of which the application was made that its sound power level as measured in accordance with Annex 1 of the Directive having regard to its cutting width exceeds the permissible sound power level set out in the Table in Schedule 2 and after payment of the prescribed fee it shall so inform the applicant in writing stating its reasons and also inform him of his right to apply for review of the decision under Regulation 8.

(4) The prescribed fee payable under paragraphs (2) and (3) of this Regulation shall be equal to the sum of:—

(*a*) the costs of the listed laboratory 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 listed laboratory in providing the relevant service, and

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

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, a lawnmower by or on behalf of the manufacturer of any lawnmower which is of the same type as that in respect of which a laboratory test report has been issued under these Regulations or under the law of Northern Ireland or of a Member State other than the United Kingdom.

(2) The certificate of conformity shall be issued in respect of each such lawnmower which conforms with the type of lawnmower in respect of which the laboratory test report was issued and shall be in the form set out in Schedule 3.

(3) The name of the manufacturer of the lawnmower and the type as described in the certificate of conformity and the EEC mark shall be placed on each such lawnmower.

(4) The EEC mark shall indicate —

(*a*) the sound power level of the type of lawnmower with which that lawnmower conforms having the same cutting width as that lawnmower ascertained in accordance with the Directive by the listed laboratory, or other body having functions corresponding to those of the listed laboratory appointed under the law of Northern Ireland or of another Member State; or

(*b*) the sound power level of the type of lawnmower with which that lawnmower conforms having the same cutting width as that lawnmower so ascertained by the manufacturer if that sound power level is higher than that ascertained by the listed laboratory but is in accordance with the requirements of the Directive.

Conformity checks

7.—(1) The Secretary of State may carry out periodic checks of any lawnmower in respect of which a certificate of conformity has been issued under these Regulations or under the law of Northern Ireland to ascertain whether it has been manufactured to conform with the type of lawnmower in respect of which a laboratory test report has been issued.

(2) If the Secretary of State, after checking a lawnmower of the same type as that in respect of which a laboratory test report has been issued, is satisfied that the lawnmower has not been manufactured to conform with the requirements of the Directive, the Secretary of State may give notice to the manufacturer specifying the matters mentioned in paragraph (4) of this Regulation.

(3) If the Secretary of State is notified by another Member State that a lawnmower in respect of which a certificate of conformity has been issued has not been manufactured to conform with the requirements of the Directive, the Secretary of State may give notice to the manufacturer specifying the matters mentioned in paragraph (4) of this Regulation.

(4) The following matters shall be specified in a notice given under paragraph (2) or (3) of this Regulation —

(*a*) the respects in which the lawnmower does not conform with the requirements of the Directive; and

(*b*) that unless steps are taken which ensure that the lawnmower does so conform within a specified period the right under Regulation 6 to issue further certificates of conformity with respect to that lawnmower or any lawnmower of the same type and to place EEC marks thereon will be suspended or withdrawn until such time as another laboratory test report has been issued under Regulation 5 or under the law of Northern Ireland or of a Member State other than the United Kingdom and the Secretary of State has been so informed in writing.

(5) If the Secretary of State decides that such right should be suspended or withdrawn he shall immediately give notice of the decision to the manufacturer.

(6) A notice of suspension or withdrawal under paragraph 4(*b*) or (5) 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.

(7) The suspension or withdrawal of the right under Regulation 6 shall not affect the validity of any certificate of conformity or EEC mark already issued or placed on a lawnmower under Regulation 6 or under the law of Northern Ireland.

Review

8.—(1) A person who is aggrieved by a decision given by a listed laboratory under Regulation 5(3) 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 a listed laboratory has on an application for a laboratory test report under Regulation 5,

(*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 a copy of the application made under Regulation 5(1) and of the accompanying information document, and the notification of the reasons given by the listed laboratory under Regulation 5(3).

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 £1000.

(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.

Giles Shaw,
Minister of State for Industry,
Department of Trade and Industry.

17th October 1986.

SCHEDULE 1 *Regulation 5(1)*

MODEL INFORMATION DOCUMENT

1. GENERAL

1.1 Name and address of manufacturer.....

.....

.....

.....

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

.....

.....

.....

1.3 Make.....

1.4 Type.....

1.5 Type serial no. .....

2. DESCRIPTION

2.1 Type of cutting device.....

2.2 Category of machine.....

2.3 Width of cut..... cm

2.4 The maximum speed of rotation of cutting device recommended by the manufacturer.....rpm

3. POWER SOURCE

3.1 (i) Electric.....kw
(ii) Petrol engine.....kw

4. ATTACH DESCRIPTIVE TRADE LEAFLET AND SUPPLY ANY OTHER INFORMATION AS APPROPRIATE

Regulation 5(2)

SCHEDULE 2

TABLE OF PERMISSIBLE SOUND POWER LEVELS

Cutting width of lawnmower (L)	Permissible sound power level in dB (A)/1 pW
$L \leqslant 50$ cm	96
50 cm $< L \leqslant 120$ cm	100
$L > 120$ cm	105

Regulation 6(2)

SCHEDULE 3

MODEL CERTIFICATE OF CONFORMITY ISSUED BY THE MANUFACTURER

I, the undersigned.....

.....

(name and address)

certify that the lawnmower:

1. Category.....
2. Make.....
3. Type.....
4. Type serial no.....

conforms to the specifications of Directive 84/538/EEC.

Guaranteed sound power level.....dB (A)

— type of cutting device.....

— width of cut.....cm

— speed of rotation of the cutting device.....rpm

Done at.....

(Date)

.....

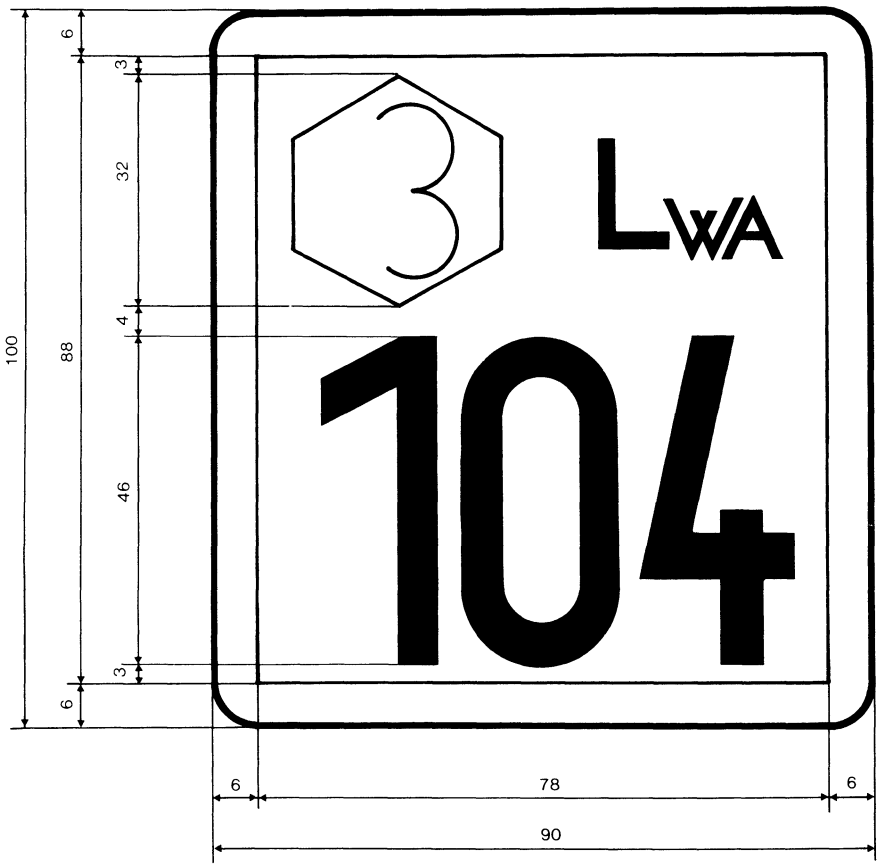
(Signature)

.....

(Position)

SCHEDULE 4 *Regulation 2(1)*

MODEL FOR EEC MARK FOR SOUND POWER LEVEL



(Note: The Figure 104 is for purposes of illustration and represents the sound power level as mentioned in Regulation 6(4).)

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations implement Council Directive 84/538/EEC (OJ No. L300 of 19th November 1984, pp. 171–178). The Regulations relate to the permissible sound power level requirements of motorised equipment for cutting grass areas used for recreational, decorative or similar purposes but excluding motorised cylinder mowers, agricultural and forestry equipment, and certain non-independent and multi-purpose devices. In particular the Regulations:

(*a*) provide for the appointment by the Secretary of State of listed laboratories whose decisions may be reviewed by the Secretary of State. (Regulations 4 and 8).

(*b*) provide for application to be made by or on behalf of a manufacturer for the issue by listed laboratories of laboratory test reports in respect of the sound power levels of lawnmowers which as measured in accordance with Annex 1 of the Directive do not exceed the permissible sound power level set out in the Table in Schedule 2. (Regulation 5).

(*c*) provide for the issue of certificates of conformity and the use of the EEC mark. (Regulation 6).

(*d*) provide for periodic checks of lawnmowers by the Secretary of State to ensure compliance with the requirements of the Directive. (Regulation 7).

(*e*) provide for the suspension and withdrawal of the right to issue further certificates of conformity and use the EEC mark until another laboratory test report has been issued by a listed laboratory or under the law of Northern Ireland or of a Member State other than the United Kingdom. (Regulation 7).

(*f*) prohibit on or after 1st July 1987 the marketing of such lawnmowers unless —

(i) a certificate of conformity has been issued under these Regulations or the law of Northern Ireland or of a Member State other than the United Kingdom; and

(ii) such a lawnmower bears the name of the manufacturer and the type and an EEC mark (Regulations 3, 9 and 10).

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