

Initial Regulatory Impact Assessment Standards and Technical Regulations Directorate

Proposal for a Directive of the European Parliament and of the Council amending Directive 2000/14/EC on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors

August 2005

Introduction

1. This is an initial assessment of the costs and benefits of the European Commission's proposed Directive to amend Directive 2000/14/EC, relating to the noise emission in the environment by equipment for use outdoors.

Purpose and intended effect of measure

The objective

2. The Commission's amending proposal is intended to:
 - Allow certain types of equipment (for which clear evidence has been provided that the stage II limits of Directive 2000/14/EC are not presently technically feasible)¹ to be placed on the market and/or put into service in the European Community from 3 January 2006;
 - Provide the Commission with sufficient time to fulfil its obligations under Articles 16 and 20 of the Directive 2000/14/EC;
 - Allow for the incorporation of the Report foreseen at Article 20(3) into the Report foreseen at Article 20(1) of Directive 2000/14/EC.

Background

3. The "Noise" Directive of 2000 set noise limits for 22 equipment types and was applicable in two stages. Stage I was set at 3 January 2002 and Stage II, which tightened the noise limits, was set at 3 January 2006. DG Enterprise have now accepted that some 8 equipment types will be unable to meet the "Stage II" noise limits for technical reasons.

Risk Assessment

4. If nothing was done, the 8 equipment types with annual European sales of some £1.3b would have to be withdrawn from the single market. (The equivalent UK figure is about 18% of the above ie £234m.) DG Enterprise

¹ Walk behind vibratory rollers;
Vibratory plates (>3kW);
Vibratory rammers;
Dozers (steel tracked);
Loaders (steel tracked) > 55Kw;
Combustion- engine driven counterbalanced lift trucks;
Compacting screed paver finishers;
Hand-held internal combustion engine concrete breakers and picks (15<m<30)
(as well as lawnmowers, lawn trimmers/lawn edge trimmers which are already covered by the existing footnote in Directive 2000/14/EC)

have announced that, subject to agreement by the College of Commissioners, they intend to introduce an amending Directive to the Council and European Parliament in July which, when enacted will disapply the stage II limits for the 8 named equipment types thus allowing them to remain on the European market.

5. The UK position thus far has been that, in principle, the proposed amendment should be given strong support in order to avoid the situation of an Article 95 Directive – designed to enhance trade – actually preventing the trade in such equipment. Not surprisingly, industry supports the proposal. NGOs consulted so far have not objected. The only reason for objection would appear to be if anyone is able to prove that some or all of the equipment on the list in fact is able to meet the Stage II limits. For this reason we have taken all possible steps to ensure that equipment is only on the list if it impossible for it to be made to comply with Stage II limits for technical reasons at any cost and not for economic reasons.
5. The proposal is based on direct inputs from Member States (18 of which have already agreed in principle to support the amendment), as well as a technical working group made up of MSs, industry and the Commission and other interested parties (WG7). The Commission has consulted widely and given the unusual situation of equipment being removed from the market in January 2006, it is likely that the proposal, when published will receive 100% support.
6. There is a risk that without the amendment, society will lose the advantage of such equipment not being available for major building and infrastructure projects throughout Europe.
7. “Lost” benefit to those who would wish a quieter environment is minimal, the average difference between Stage I and Stage II is 2db – an amount which is inaudible to the human ear;

Costs

8. The total economic impact of some £1.3b is reflecting the fact that depending on the product type, some machines will be stage II compliant, some others will not be. In any case, it remains a huge burden on the construction equipment industry, and especially the many SMEs may suffer irreparable economic damage. Beside the impact on industry, consideration should also be given to the following:
 - Due to the unavailability of new equipment, users may face serious problems in the realisation of planned important construction and infrastructure works;
 - Longer usage of less environmental friendly machines;
 - Increased import of non-compliant machines from outside the EU (grey market imports).

Benefits

9. The allowance of certain types of equipment (for which clear evidence has been provided that the stage II limits of Directive 2000/14/EC are not presently technically feasible)² to be placed on the market and/or put into service in the European Community from 3 January 2006, thus providing for the continuation of the “single market” in this sector;
10. The continuation of major building and infrastructure projects throughout Europe.

Consultation

11. Considerable Europe wide consultation has already been undertaken by the Commission. Member States and stakeholders were consulted on the draft amendment text in May 2005 and so far some 18 Member States have given support to the need for a legal solution to the issue of stage II limits that are technically impossible to meet. The Department of Trade and Industry, which is responsible for negotiating the proposal, has already carried out informal consultation with industry associations, individual manufacturers, DEFRA, NGOs concerned with noise matters including the Noise Abatement Society and the National Association for Clean Air and Environmental Protection. So far no objections have been received but more detailed responses will be requested during a formal consultation over the Summer.
12. A major factor on consultation is the tight timescale. It is expected that in the circumstances, on an exceptional basis, the consultation will take place starting in advance of the formal Proposal, over a four week period. It will inform the negotiating line in Council but will also deal with the form of the eventual domestic Regulations which will need to be brought into force urgently (and without time for further consultation).

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(as well as lawnmowers, lawn trimmers/lawn edge trimmers which are already covered by the existing footnote in Directive 2000/14/EC)



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, dd.mm.2005
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2005/zzz (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2000/14/EC on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Having regard to the opinion of the European Economic and Social Committee³,

Having regard to the opinion of the Committee of the Regions⁴,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

- (1) European Parliament and Council Directive 2000/14/EC of 8 May 2000 on the approximation of laws of the Member States relating to the noise emission in the environment by equipment for use outdoors⁵ has been the subject of a review by an independent Group of experts, the Working Group on Outdoor Equipment.

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ OJ C [...], [...], p. [...].

⁴ OJ L 162, 3.7.2000, p.1

⁵ During the sixth meeting of the Noise Steering Group on 16 May 2003, the Commission gave the Working Group on Outdoor Equipment, often referred to as “WG7”, the task to advise on the technical

- (2) In its Report dated 8 July 2004, the Working Group on Outdoor Equipment concluded that a number of the stage II limits due to be mandatorily applied as from 3 January 2006 were not technically feasible.
- (3) Member States and stakeholders were consulted on the findings of the above Report at the meetings of the Committee set up pursuant to Article 18 of Directive 2000/14/EC and of the Noise Experts Working Group held on 21 March 2005 in Brussels. A further five-week consultation period was allowed within which interested parties were invited to submit written observations with respect to those findings. Member States and stakeholders were consulted on the proposed amendment to Directive 2000/14/EC in May 2005 and given two weeks for submitting written observations.
- (4) In light of all the information received, there is a consensus among stakeholders that a number of types of equipment listed in Article 12 of Directive 2000/14/EC will not be able to meet the stage II limits for technical reasons only.
- (5) If no amendment to Article 12 is made before 3 January 2006, it is the general agreement of stakeholders that the Single Market shall be distorted, with a number of different types of equipment for use outdoors no longer able to be placed on the market and/or put into service due to failure to comply with the provisions of Directive 2000/14/EC.
- (6) Such equipment was never intended to be restricted from being placed onto the market or put into service where such reasons are solely based on technical feasibility.
- (7) The clarity of information on the “state of the art” relating to the technical potential for applying the stage II limits is sufficient so as to ensure that this amendment differentiating the treatment at stage II of equipment for which such limits are applied takes into account all available information.
- (8) The experience of the first five years of application of Directive 2000/14/EC has demonstrated that the provisions foreseen at Article 16 and Article 20 thereof require additional time to fulfil, including the need to review the Directive with a potential to amend, in particular with respect to the stage II limits referred to herein.
- (9) It therefore appears reasonable to incorporate the Report to the European Parliament and Council concerning whether and to what extent technical progress allows a reduction of limit values for lawnmowers and lawn trimmers/lawn edge trimmers as foreseen at Article 20(3) of Directive 2000/14/EC with the broader Report on the Commission’s experience in the implementation and administration of the Directive set out at Article 20(1) thereof.
- (10) Since the objectives of the proposed action, namely, to ensure the ongoing functioning of the internal market by requiring equipment used outdoors to comply with harmonised environmental noise provisions cannot be sufficiently achieved by Member States acting alone and can therefore, by reason of their scale and effects, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In

aspects of the comments and requests presented by industry and Member States in respect of Directive 2000/14/EC.

accordance with the principle of proportionality, as set out in that Article, this amending Directive does not go beyond what is necessary in order to achieve those objectives, by limiting the scope of the amendment to those types of equipment for which compliance with the stage II limits is presently impossible for technical reasons. In addition, it gives due recognition to the need for further investigation of the technical feasibility of the stage II limits of Directive 2000/14/EC.

(11) Directive 2000/14/EC should therefore be amended accordingly.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 2000/14/EC is amended as follows:

1) The table in Article 12 shall be replaced by the following:

Type of equipment	Net installed power P (in kW) Electric power P_{el} ⁽¹⁾ in kW Mass of appliance m in kg Cutting width L in cm	Permissible sound power level in dB/1 pW	
		Stage I as from 3 January 2002	Stage II as from 3 January 2006
Compaction machines (vibrating rollers, vibratory plates, vibratory rammers)	$P \leq 8$	108	105 ⁽²⁾
	$8 < P \leq 70$	109	106 ⁽²⁾
	$P > 70$	$89 + 11 \lg P$	$86 + 11 \lg P^{(2)}$
Tracked dozers, tracked loaders, tracked excavator-loaders	$P \leq 55$	106	103 ⁽²⁾
	$P > 55$	$87 + 11 \lg P$	$84 + 11 \lg P^{(2)}$

Wheeled dozers, wheeled loaders, wheeled excavator-loaders, dumpers, graders, loader-type landfill compactors, combustion-engine	$P \leq 55$	104	$101^{(2)}$
	$P > 55$	$85 + 11 \lg P$	$82 + 11 \lg P^{(2)}$
driven counter-balanced lift trucks, mobile cranes, compaction machines (non-vibrating rollers), paver-finishers, hydraulic power packs	$P \leq 15$	96	93
	$P > 15$	$83 + 11 \lg P$	$80 + 11 \lg P$
Excavators, builders' hoists for the transport of goods, construction winches, motor hoes	$m \leq 15$	107	105
	$15 < m < 30$	$94 + 11 \lg m$	$92 + 11 \lg m^{(2)}$
	$m \geq 30$	$96 + 11 \lg m$	$94 + 11 \lg m$
Hand-held concrete-breakers and picks			
Tower cranes		$98 + \lg P$	$96 + \lg P$
Welding and power generators	$P_{el} \leq 2$	$97 + \lg P_{el}$	$95 + \lg P_{el}$
	$2 < P_{el} \leq 10$	$98 + \lg P_{el}$	$96 + \lg P_{el}$
	$10 > P_{el}$	$97 + \lg P_{el}$	$95 + \lg P_{el}$
Compressors	$P \leq 15$	99	97
	$P > 15$	$97 + 2 \lg P$	$95 + 2 \lg P$
Lawnmowers, lawn trimmers/lawn edge trimmers	$L \leq 50$	96	$94^{(2)}$
	$50 < L \leq 70$	100	98
	$70 < L \leq 120$	100	$98^{(2)}$
	$L > 120$	105	$103^{(2)}$

(¹) P_{el} for Welding Generators: Conventional welding current multiplied by the conventional load voltage for the lowest value of the duty factor given by the manufacturer.

P_{el} for Power Generators: Prime power according to ISO 8528-1:1993, clause 13.3.2

(²) The figures for stage II are indicative only for the following types of equipment:

- Walk behind vibratory rollers;
- Vibratory plates (>3kW);
- Vibratory rammers;
- Dozers (steel tracked);
- Loaders (steel tracked > 55 kW);
- Combustion-engine driven counterbalanced lift trucks;
- Compacting screed paver finishers;
- Hand-held internal combustion engine concrete breakers and picks (15<m<30)
- Lawnmowers, lawn trimmers/lawn edge trimmers.

Definitive figures will depend on amendment of the Directive following the report required in Article 20(1). In the absence of any such amendment, the figures for stage I will continue to apply for stage II.

The permissible sound power level shall be rounded to the nearest whole number (less than 0.5 use lower number; greater than or equal to 0.5 use higher number)

2) Article 20 shall be amended as follows:

(a) In paragraph 1, first sentence, “*Not later than 3 January 2005*” is replaced by “*Not later than 3 January 2007*”;

(b) Paragraph 3 is deleted.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2005 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions with effect from 3 January 2006.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive

Article 3

This Directive shall enter into force on the twentieth day of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, [...]

For the European Parliament
The President
[...]

For the Council
The President
[...]