

HSSE Regulatory Update



Occupational Safety and Health (Noise Exposure) Regulations 2019 Peraturan-Peraturan Keselamatan and Kesihatan Pekerjaan (Pendedahan Bising) 2019

Summary

The new Regulations, come under the Occupational Safety and Health Act 1994 (OSHA), supersede the Factories and Machinery (Noise Exposure) Regulations 1989 that was under the Factories and Machinery Act 1967.

The new regulation is intended to ensure that employers identify excessive noise, protect employees and control excessive noise level at the workplace. The 1989 Regulations has been a legislation of noise exposure management and control for industries in Malaysia mainly targeting factory workplace environment. Due to the rising number of occupational noise related hearing disorders (ONRHD) cases in industries other than manufacturing sector, DOSH has enacted the 2019 Regulations to widen the current regulation's enforcement to all sectors under OSHA.

Along with the Regulations, an Industry Code of Practice (ICOP) was published intended to provide practical guidance to comply with the provisions of the Regulations.

Review/ Q&A

What are the key requirements for employers under the new regulations?

The key requirements for employers under the Regulations are as follow:

Basic Info & Links

Agency:	Department of Occupational Safety and Health (DOSH), Industrial Hygiene and Ergonomics Division
Implementation:	Gazetted 1st March 2019, effective 1st June 2019
Full Regulation:	DOSH Website
ICOP Full Text:	DOSH Website

- Employer shall identify if the employees are exposed to excessive noise in the workplace and 'hearing protection zone' to be demarcated and identified with warning signs
- Employer shall appoint a noise risk assessor (NRA) to conduct noise risk assessment and implement the recommendations within 30 days after receiving report
- Employer to provide training at least once a year and supervise the implementation of noise exposure control
- Employer shall provide personal hearing protector to employee, conduct audiometric testing annually (within 3 months after the employee commencing work at any area which is exposed to noise exceeding the limit specified), and notify DOSH for cases of occupational noise-induced hearing loss, hearing impairment or permanent standard threshold shift
- Employer to keep noise assessment report for 30 years and audiometric testing report of his employee for so long as the employee is employed and for a period of 5 years after the employee ceases to be his employee.

What are the differences between the revoked and new Regulations?

The OSH (Noise Exposure) Regulations 2019 have the following key differences comparing to FM (Noise Exposure) Regulations 1989:

- Extended applicability to all place of work covered under OSHA
- Requirements for employers to identify excessive noise
- Defined competency for NRA and registration of audiometric testing centre (ATC)
- Assess practicability of control measures
- More stringent noise exposure limit (NEL) [> 85 dBA, > 115 dBA (max), > 140 dB (peak)], action level [82 dBA], exchange rate [3 dBA], and audiometric baseline [3 months]
- Detailed scope of work on audiometric testing for employer, ATC, and occupational health doctor (OHD); requires the use of screening questionnaire, and included 8kHz as additional testing frequency
- Increased fine from RM1,000 to RM10,000 including imprisonment term not exceeding 1 year or both

Are those implemented under the revoked Regulations still valid?

All program/ provision under FM (Noise Exposure) Regulations 1989 before the commencement of the OSH (Noise exposure) 2019 will be deemed as valid for the purpose of record and reference. Any exposure monitoring carried out before 1st June 2019 is valid for the period of 12 months after the enforcement of the new Regulations. Control measures, audiometric testing, and records conducted/ maintained before 1st June 2019 is valid and in-compliance with the new Regulations, and shall be deemed as valid record and reference. Any pending proceedings under FM (Noise Exposure) Regulations 1989 is valid and shall continue under FM (Noise Exposure) Regulations 1989. Any approval under the FM (Noise Exposure) Regulations 1989 is deemed approved under the OSH (Noise Exposure) Regulations 2019. Any employer that has conducted a training program under FM (Noise exposure) Regulations 1989 shall conduct one training program to the employees after the new Regulations being enforced. (Ref: hrnews.my/2019/05/28/enforcement-of-the-occupational-safety-and-health-noise-exposure-regulations-2019/)

Is the Industry Code of Practice (ICOP) legally binding?

Yes. The Industry Code of Practice (ICOP) for Management of Occupational Noise Exposure and Hearing Conservation 2019, promulgated under Section 37 of OSHA, is a legally bound document.