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**June 2014**

## **Attempt to a coordinated review of noise under the Planning and Building Act and the Environmental Code, part two**

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In the newsletter of December 2012 we reported on the work initiated in order to achieve a coordinated review of the Planning and Building Act (SE: PBL) and the Environmental Code (SE: MB), in relation to noise. The work has now resulted in Bill 2013/14:128, which aims at facilitating planning and construction of housings in areas exposed to noise. The legislation is proposed to enter into force on 2 January 2015.

A coordinated regulatory framework to facilitate the application of PBL and MB in relation to noise is eagerly awaited. The present application entails a risk of conflict of laws, since PBL and MB represent a framework legislation and are applied in parallel, for instance in many development matters. Moreover the present regulatory framework conveys an uncertainty since new housings more often is constructed in the vicinity of industrial activities.

### **Summary of key points**

Below is a summary of the proposed revision.

- A coordination of definitions is made through defining the term noise disturbances in PBL as noise from airports, industrial activities, rail traffic and roads. The definition is substantially conformable to the regulation (2004:675) on noise disturbances. Moreover the expression "detrimental to human health" is coordinated through incorporation of MB's definition in the PBL.
- New requirements are stipulated in the PBL to prevent detriments to human health as regards noise pollution at choice of location, design and in disposition of housings. Proposed amendments shall be seen as supplements and clarifications to prevailing conditions, but imply that noise pollution from surroundings will have a more vital role already at the planning stage of new housings.
- Municipalities shall be able to determine in the plan description (detailed development plan) that building permits or decisions on startup merely shall be given on the condition that measures have been taken in order to prevent noise disturbances from the surroundings.

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- If considered necessary, assessments shall be made for likely environmental effects (noise disturbances) before planning permission can be granted. However, exactly how the noise disturbances shall be assessed and indicated is not stipulated, but shall be adapted to the circumstances in each specific case. The indicated values shall be assessed on the basis of prevalent as well as estimated future noise disturbances, which means e.g. that consideration shall be given to planned future developments.
- MB stipulates that at supervision of noise disturbances the supervisory authority must not decide on orders or prohibitions if there are indicated values for noise disturbances in the plan description to a local plan or a planning permission, and the noise disturbances in adjacent housings do not exceed these limits. There are, however, certain exemptions, so called exceptional reasons, when the supervisory authority can take such decisions - e.g. if the assessment of noise disturbance, which served as a basis for the plan description or the local plan, turn out to be incorrect and if this causes substantial detriment to the area of residents.

**Remaining part**

If the dwellings are allowed close proximity to an industrial activity, notwithstanding the proposed revisions, it entails a risk for the operator to risk intervention when reconsideration of existing permits may be raised. The complexity of problems is noted in the proposition, but it is established that in the present situation the statutory amendments necessary to meet the operator's legal certainty in this respect are not possible to stipulate. Thus it remains to be seen what amendments will be updated.

**Guidelines from the Swedish National Board of Housing and the Swedish Environmental Protection Agency**

Contemporaneously with the government work with the current proposal the Swedish National Board of Housing and the Swedish Environmental Protection Agency have been working out new guidelines to assessment of industrial noise disturbances as well as disturbances from other activities. Recently a draft to new guidelines were submitted, which will be completed and finalized when the parliament has proceeded bill 2013/14:128. From the draft guidelines it transpires, however, that the authorities propose the similar standard level of noise for planning of new housing as for supervision of noise disturbances for housings, which will facilitate and give a better predictability for municipalities, county administrative boards and operators.

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**Consequences of the revision to the building sector, operators and infrastructure holders**

The costs for the building sector will probably increase since the new requirements will entail more and/or more extensive noise investigations than today. The building sector will, however, be favored by an increased predictability.

The proposed revision will probably also incur increased administrative costs to infrastructure holders and operators, which to a larger extent will have to look after their interests in planning- and building permit matters.



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