

L.N. 33 of 2015**ENVIRONMENT AND DEVELOPMENT PLANNING ACT
(CAP. 504)****Ambient Air Quality (Amendment) Regulations, 2015**

BY VIRTUE of the powers conferred by articles 2, 61, 64 and 66 of the Environment and Development Planning Act, the Minister for Sustainable Development the Environment and Climate Change, in consultation with the Malta Environment and Planning Authority, has made the following regulations:

- Citation. **1. (1)** The title of these regulations is the Ambient Air Quality (Amendment) Regulations, 2015, and these regulations shall be read and construed as one with the Ambient Air Quality Regulations, hereinafter referred to as "the principal regulations".
- S.L. 504.100
- Scope. **(2)** These regulations jointly, with the principal regulations, transpose Directive 2004/107/EC of the European Parliament and of the Council of 15 December 2004 relating to arsenic, cadmium, mercury and nickel and polycyclic aromatic hydrocarbons in ambient air and Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe.
- Amends regulation 2 of the principal regulations. **2.** In regulation 2 of the principal regulations the definition of "combustion plant" shall be substituted by the following:
- " "combustion plant" means any technical apparatus, in which fuels are oxidised in order to use the heat thus generated and which has a rated thermal input $\geq 1\text{MW}$ but $< 50\text{MW}$;"
- Amends regulation 3 of the principal regulations. **3.** Sub-regulation (1) of regulation 3 of the principal regulations shall be amended as follows:
- (a) paragraphs (c) and (d) thereof shall be substituted by the following:
- (c) for the analysis of assessment methods;
- (d) for the coordination of Community-wide quality assurance programmes organised by the European Commission;"
- (b) immediately after paragraph (d) thereof as

amended there shall be added the following new paragraphs:

"(e) for cooperating with other Member States and with the European Commission;

(f) for the approval of measurement systems (methods, equipment, networks and laboratories).".

4. Sub-regulation (5) of regulation 25 of the principal regulations shall be substituted by the following:

Amends regulation 25 of the principal regulations.

"(5) The levels of ozone in ambient air shall be kept below the long-term objectives in sub-regulation (2) in those zones and agglomerations in which the levels of ozone in ambient air meet these long-term objectives, taking into consideration the transboundary nature of ozone pollution and meteorological conditions. The best ambient air quality compatible with a high level of environmental and human health protection shall be preserved.".

5. Regulation 27 of the principal regulations shall be substituted by the following:

Amends regulation 27 of the principal regulations.

"27. (1) Combustion plants in operation prior to the coming into force of these regulations shall register with the competent authority, within six months from the date of publication of these regulations in the Gazette. Combustion Plants in operation thereafter, shall register not later than six months after the commencement of operations.

(2) Without prejudice to thresholds set by the definition in regulation 2, combustion plants operated on commercial premises may be required to register if in the judgement of the competent authority, the significance of environmental impact of the activity carried out on the same premises, is sufficiently high.

(3) Combustion plants registered under sub-regulations (1) and (2) shall forward to the competent authority any information which in the judgement of the competent authority is considered to be relevant.".

6. Regulation 28 of the principal regulations shall be substituted by the following:

Amends regulation 28 of the principal regulations.

"28. (1) The minimum chimney heights for the installations within the scope of regulation 27 shall not be less than those calculated according to the guidelines issued by the

competent authority:

Provided that the chimney height shall in no case be less than 3 meters above roof level and 3 m above any habitable floor within a 25 m radius.

(2) The combustion plants listed below are exempt from compliance with minimum chimney heights:

(a) Combustion within residential areas or within a 25 metre radius of a residential area if they are operated for up to 50 hours *per annum* and if the fuel used is gaseous.

(b) Combustion plants operating for up to 500 hours *per annum* if they are situated in an exclusively non-residential area and if the fuel used is either a gas or else a liquid conforming to EN 590 as a minimum.

(3) The provisions of sub-regulations (1) and (2) may be reviewed by the competent authority on a case by case basis and provided that this review does not lead to an exceedances of the limit values or target values in Schedule 7."

Amends
regulation 31 of
the principal
regulations

7. Sub-regulation (1) of regulation 31 of the principal regulations shall be substituted by the following:

"(1) In order to assess compliance with the limit values, target values, long-term objectives and the national exposure reduction target in Schedule 7 the competent authority shall compile an air quality report on a yearly basis. The report shall be due on the 31st November of each subsequent year."

Amends
regulation 32 of
the principal
regulations.

8. Regulation 32 of the principal regulations shall be amended as follows:

(a) sub-regulation (1) thereof shall be substituted by the following:

"(1) The Minister shall, upon the competent authority's advice, declare an Air Quality Management Area wherever:

(a) the limit values, target values, long term objectives or the national exposure reduction target in Schedule 7, are not being achieved, keeping in mind the dates by when the limit values, target values, long term objectives or the national exposure reduction target are to

be achieved;

(b) it is forecasted, through the use of predictive modelling software that the limit values, target values, long term objectives or the national exposure reduction target in Schedule 7 to these regulations, will be exceeded.";

(b) sub-regulation (3) thereof shall be substituted by the following:

"(3) An order made under sub-regulation (2) may be revoked if as a result of a subsequent air quality assessment it is shown that the limit values, target values, long term objectives and the national exposure reduction target in Schedule 7 are being achieved in a location which had been previously designated as an Air Quality Management Area under sub-regulation (1).".

9. Regulation 33 of the principal regulations shall be amended as follows:

Amends
regulation 33 of
the principal
regulations.

(a) sub-regulation (1) thereof shall be substituted by the following:

"(1) Where an order under regulation 32(2) comes into effect, the competent authority shall, before the expiration of the twelve month period beginning with the publication of the order in the Gazette, prepare an Air Quality Action Plan for the area in question, which shall aim to keep the exceedance period as short as possible.";

(b) sub-regulation (3) thereof shall be substituted by the following:

"(3) The Action Plans compiled under sub-regulation (1) shall also include all those measures necessary in order to ensure that the limit values, target values, long term objectives or the national exposure target in Schedule 7 will be complied within the area in question. Action plans shall contain measures which can, through the use of predictive modelling software amongst other techniques, be shown to cause a decrease in the ambient levels of the pollutants concerned in the area in question, and may include amongst other things:

(a) the restriction or rerouting of traffic flows;

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(b) temporary bans on the passage of heavy goods vehicles not compliant with certain Euro Standards (to be determined by modelling);

(c) temporary suspension of any commercial or industrial activity having an adverse effect on air quality, such as stone quarrying, stone cutting and polishing, and industrial plants, among others;

(d) measures in relation to ships at berth in nearby ports;

(e) time-limits on the granting of development planning permits; and

(f) suspension of any construction works in the area.";

(c) immediately after sub-regulation (4) thereof there shall be added the following new sub-regulation:

"(5) If the air quality action plan in sub-regulation (1) is triggered by an exceedance of the environmental quality objectives in sub-regulation (3) for more than 1 pollutant then the competent authority shall prepare and implement an integrated air quality action plan targeting all the pollutants concerned."

Amends regulation 36 of the principal regulations.

10. Sub-regulation (2) of regulation 36 of the principal regulations shall be substituted by the following:

"(2) The Short Term Air Quality Action plan shall take into account Decision 2004/279/EC and shall indicate the measures to be taken in order to reduce the risk or duration of the exceedances in sub-regulation (1)."

Amends regulation 40 of the principal regulations.

11. Paragraph (d) of sub-regulation (1) of regulation 40 of the principal regulations shall be substituted by the following:

"(d) air quality plans as provided for in Articles 22(1), 23 and the programmes referred to in Article 17(2) of Directive 2008/50/EC of the European Parliament and of the Council of the 21 May 2008 on ambient air quality and cleaner air for Europe¹ and regulations 33(1) and 36(1) as well as the programme in regulation 25(3)."

Adds new regulation to the principal regulations.

12. Immediately after regulation 40 there shall be added the

following new regulation:

"Competent authority to initiate process.

40A. (1) Where any alert threshold, limit value, target value or long-term objective is exceeded due to significant transboundary transport of air pollutants or their precursors from neighbouring EU Member States, the competent authority shall contact the competent authorities within the concerned Member States in order to initiate the process in Article 25(1) of Directive 2008/50/EC, the aim of which is to cooperate and, where appropriate, draw up joint activities, such as the preparation of joint or coordinated air quality plans pursuant to Article 23 of Directive 2008/50/EC in order to remove such exceedances through the application of appropriate but proportionate measures.

(2) The competent authority shall, if appropriate, pursuant to Article 24 of the Directive approach the competent authorities within the neighbouring Member States in order to prepare and contribute to the implementation of joint short-term action plans covering neighbouring zones in other Member States. The competent authority shall ensure that neighbouring zones in other Member States which have developed short-term action plans receive all appropriate information.

(3) Where the information threshold or alert thresholds are exceeded in zones or agglomerations close to national borders, information shall be provided as soon as possible to the competent authorities in the neighbouring Member States concerned. That information shall also be made available to the public.

(4) In drawing up plans as provided for in sub-regulations (1) and (2) and in informing the public as referred to in sub-regulation (3), the competent authority shall, where appropriate, endeavour to pursue cooperation with third countries, and in particular with candidate countries."

13. Schedule 5 to the principal regulations shall be amended as follows:

Amends
Schedule 5 to
the principal
regulations.

(a) the heading "Diffuse sources" found in Section A of Schedule 5 shall be substituted by the heading "Point sources";

(b) footnote (2) of the table under the heading Point Sources as amended shall be substituted by the following:

"(2) Where PM_{2,5} and PM₁₀ are measured in accordance with regulation 18 at the same monitoring station, these shall count as two separate sampling points. The total number of PM_{2,5} and PM₁₀ sampling points in a Member State required under Section A(1), shall not differ by more than a factor of 2, and the number of PM_{2,5} sampling points in the urban background of agglomerations and urban areas shall meet the requirements under paragraph II of Schedule 5A."

Amends
Schedule 7 to
the principal
regulations.

14. Schedule 7 to the principal regulations shall be amended as follows:

(a) item 1 of Section DI thereof shall be substituted by the following:

"1. Definitions

AOT₄₀ (expressed in $\mu\text{g}/\text{m}^3 \cdot \text{hours}$) means the sum of the difference between hourly concentrations greater than $80 \mu\text{g}/\text{m}^3$ (= 40 parts per billion) and $80 \mu\text{g}/\text{m}^3$ over a given period using only the one-hour values measured between 8.00 and 20.00 Central European Time (CET) each day.";

(b) Section DII of Schedule 7 thereof shall be substituted by the following:

"II. Target Values

Objective	Averaging Period	Target Value	Date by which target value should be meet ⁽¹⁾
Protection of human health	Maximum daily eight-hour mean ⁽²⁾	120 $\mu\text{g}/\text{m}^3$ not to be exceeded on more than 25 days per calendar year averaged over three years ⁽³⁾	1.1.2010
Protection of vegetation	May to July	AOT ₄₀ (calculated from 1 h values). 18,000 $\mu\text{g}/\text{m}^3 \cdot \text{hr}$ averaged over five years ⁽³⁾	1.1.2010

- (¹) Compliance with target values will be assessed as of this date. That is, 2010 will be the first year the data for which is used in calculating compliance over the following three or five years, as appropriate.
- (²) The maximum daily eight-hour mean concentration shall be selected by examining eight-hour running averages, calculated from hourly data and updated each hour. Each eight-hour average so calculated shall be assigned to the day on which it ends. i.e. the first calculation period for any one day will be the period from 17:00 on the previous day to 01:00 on that day; the last calculation period for any one day will be the period from 16:00 to 24:00 on the day.
- (³) If the three or five year averages cannot be determined on the basis of a full and consecutive set of annual data, the minimum annual data required for checking compliance with the target values will be as follows:
- for the target value for the protection of human health: valid data for one year,
 - for the target value for the protection of vegetation: valid data for three years."

15. Section B of Schedule 8 to the principal regulations shall be substituted by the following:

Amends Schedule 8 to the principal regulations.

"B. Information and Alert thresholds for ozone

Purpose	Averaging period	Threshold
Information	1 hour	180µg/m ³
Alert	1 hour (¹)	240µg/m ³
(¹) For the implementation of regulation 36, the exceedance of the threshold is to be measured or predicted for three consecutive hours."		

16. Schedule 9 to the principal regulations shall be substituted by the following:

Amends Schedule 9 to the principal regulations.

"Critical Levels for the protection of vegetation

Averaging Period	Critical Level
Sulphur Dioxide	
Calendar year and winter (1 October to 31 March)	20µg/m ³
Oxides of nitrogen	
Calendar year	30µg/m ³ ."

17. Schedule 10 to the principal regulations shall be amended as follows:

Amends Schedule 10 to the principal regulations.

(a) item 1 of Section B thereof shall be substituted by the following:

"B. Demonstration of equivalence

It is possible to use any other method which is shown to

give results which are equivalent to any of the methods referred to in Section A or, in the case of particulate matter, any other method which displays a consistent relationship to the reference method. In that event the results achieved by that method must be corrected to produce results equivalent to those that would have been achieved by using the reference method.";

(b) item E of Section B thereof shall be substituted by the following:

"E. Mutual recognition of data

In carrying out the type approval to demonstrate that the equipment meets the performance requirements of the reference methods listed in Section A, competent authorities and bodies designated pursuant to Regulation 3 shall accept test reports issued in any one of the other EU Member States by laboratories accredited to EN ISO 17025 for carrying out such testing."
