

L.N. 11 of 2003

**ENVIRONMENT PROTECTION ACT, 2001
(ACT NO. XX OF 2001)**

Ozone in Ambient Air Regulations, 2003

BY virtue of the powers conferred by article 9 of the Environment Protection Act, the Minister of Home Affairs and the Environment has made the following regulations:-

Title and objectives.

1. (1) The title of these regulations is the Ozone in Ambient Air Regulations, 2003.

(2) The purpose of these regulations is:

(a) to establish long-term objectives, target values, an alert threshold and an information threshold for concentrations of ozone in ambient air in Malta, designed to avoid, prevent or reduce harmful effects on human health and the environment as a whole;

(b) to ensure that common methods and criteria are used to assess concentrations of ozone and, as appropriate, ozone precursors (oxides of nitrogen and volatile organic compounds) in ambient air in the Agreement States;

(c) to ensure that adequate information is obtained on ambient levels of ozone and that it is available to the public;

(d) to ensure that, with respect to ozone, ambient air quality is maintained where it is good, and improved in other cases;

(e) to promote increased cooperation between Agreement States, in reducing ozone levels, use of the potential of transboundary measures and agreement on such measures.

Definitions.

2. For the purposes of these regulations:

“agglomeration” means a zone with a population concentration in excess of 250,000 inhabitants or, where the population concentration is 250,000 inhabitants or less, a population density per km² which for Malta justifies the need for ambient air quality to be assessed and managed;

“Agreement States” means an agreement, to which Malta is a party, entered into by a group of states reciprocally granting to citizens of such states or their dependants the right to enter, remain and reside in and leave the territory of such state, to move freely within such states for such period as may be established in the agreement and to work or establish provide or receive services therein; and “Agreement State” and “citizen of an Agreement State” shall be construed accordingly; and where a state is a party to such an Agreement subject to modifications and adaptations, a citizen of an Agreement State shall be subject to such modifications or adaptations as may be prescribed;

“alert threshold” means a level beyond which there is a risk to human health from brief exposure for the general population and at which immediate steps shall be taken by the competent authority as laid down in Regulations 6 and 7 hereof;

“ambient air” means outdoor air in the troposphere, excluding work places;

“assessment” means any method used to measure, calculate, predict or estimate the level of a pollutant in the ambient air;

“competent authority” means the Malta Environment and Planning Authority as prescribed by the notice entitled Nomination of the Malta Environment and Planning Authority as the competent authority, and such other body or person as the Minister responsible for the environment may by order in the Gazette prescribe and different bodies or persons may be designated as the competent authority for different provisions and different purposes of these regulations.

“fixed measurements” means measurements taken in accordance with regulation 6 (4) of the Ambient Air Quality Assessment Regulations, 2001;

“information threshold” means a level beyond which there is a risk to human health from brief exposure for particularly sensitive sections of the population and at which up-to-date information is necessary;

“level” means the concentration of a pollutant in ambient air or the deposition thereof on surfaces in a given time;

“long-term objective” means an ozone concentration in the ambient air below which, according to current scientific knowledge,

direct adverse effects on human health and, or the environment as a whole are unlikely. The objective is to be attained in the long term, save where not achievable through proportionate measures, with the aim of providing effective protection of human health and the environment;

“ozone precursor substances” means substances which contribute to the formation of ground-level ozone, some of which are listed in Schedule VI;

“pollutant” means any substance introduced directly or indirectly by man into the ambient air and likely to have harmful effects on human health and/or the environment as a whole;

“target value” means a level fixed with the aim, in the long term, of avoiding harmful effects on human health and, or the environment as a whole, to be attained where possible over a given period;

“volatile organic compounds” (VOC) means all organic compounds from anthropogenic and biogenic sources, other than methane, that are capable of producing photochemical oxidants by reactions with nitrogen oxides in the presence of sunlight;

“zone” means part of the territory of Malta as delimited by it;

Target values.

3. (1) The target values for 2010 in respect of ozone concentrations in ambient air are those set out in Section II of Schedule I to these regulations.

(2) The competent authority shall draw up a list of zones and agglomerations in which the levels of ozone in ambient air, as assessed in accordance with regulation 9, are higher than the target values referred to in sub-regulation (1) hereof.

L.N. 291 of 2002.

(3) For the zones and agglomerations referred to in sub-regulation (2) hereof, the competent authority shall take measures to ensure, in accordance with the provisions of the National Emission Ceilings for Certain Atmospheric Pollutants Regulations, 2002, that a plan or programme is prepared and implemented in order to attain the target value, save where not achievable through proportionate measures, as from the date specified in Section II of Schedule I:

L.N. 216 of 2001.

Provided that where, in accordance with regulation 8(3) of the Ambient Air Quality Assessment and Management Regulations, 2001 plans or programmes have to be prepared or implemented in respect of

pollutants other than ozone, the competent authority shall, where appropriate, prepare and implement integrated plans or programmes covering all the pollutants concerned.

(4) The plans or programmes, referred to in sub-regulation (3) hereof, shall incorporate at least the information listed in Schedule IV to the Ambient Air Quality Assessment and Management Regulations, 2001 and shall be made available to the public and to appropriate organisations such as environmental organisations, consumer organisations, organisations representing the interests of sensitive population groups and other relevant health care bodies.

4. (1) The long-term objectives for ozone concentrations in ambient air are those set out in Section III of Schedule I to these regulations. Long-term objectives.

(2) The competent authority shall draw up a list of the zones and agglomerations in which the levels of ozone in ambient air, as assessed in accordance with regulation 9 hereof, are higher than the long-term objectives referred to in sub-regulation (1) hereof but below, or equal to, the target values set out in Section II of Schedule I hereto:

Provided that for such zones and agglomerations, the competent authority shall prepare and implement cost-effective measures with the aim of achieving the long-term objectives. The measures taken shall, at least, be consistent with all plans of programmes specified in regulation 3(3). Furthermore, they shall build upon measures taken under the provisions of the National Emission Ceilings for Certain Atmospheric Pollutants Regulations, 2002 and any other relevant legislation.

5. The competent authority shall draw up a list of zones and agglomerations in which ozone levels meet the long-term objectives. In so far as factors including the transboundary nature of ozone pollution and meteorological conditions permit, they shall maintain the levels of ozone in those zones and agglomerations below the long-term objectives and shall preserve through proportionate measures the best ambient air quality compatible with sustainable development and a high level of environmental and human health protection. Requirements in zones and agglomerations where ozone levels meet the long-term objectives.

6. (1) The competent authority shall take appropriate steps to: Information to the public.

(a) (i) ensure that up to date information on concentrations of ozone in ambient air is routinely made available to the public as well as to appropriate organisations such as environmental organisations, consumer organisations, organisations representing

the interests of sensitive population groups and other relevant health care bodies:

Provided that this information shall be updated on at least a daily basis and, whenever appropriate and practicable, on an hourly basis:

Provided also that such information shall at least indicate all excess of the concentrations in the long-term objective for the protection of health, the information threshold and the alert threshold for the relevant averaging period. It should also provide a short assessment in relation to effects on health;

(ii) the information threshold and the alert threshold for concentrations of ozone in ambient air are given in Section I of Schedule II hereto;

(b) make available to the public and to appropriate organisations such as environmental organisations, consumer organisations, organisations representing the interests of sensitive population groups and other relevant health care bodies comprehensive annual reports which shall at least indicate, in the case of human health, any such excess of concentrations in the target value and the long-term objective, the information threshold and the alert threshold, for the relevant averaging period, and in the case of vegetation, any excess of the target value and the long-term objective, combined with, as appropriate, a short assessment of the effects of such excesses:

Provided also that they may include, where appropriate, further information and assessments on forest protection, as specified in section I of Schedule III hereto, as well as information on relevant precursor substances; and

(c) (i) ensure that timely information about actual or predicted excesses of the alert threshold is provided to health care institutions and the population;

(ii) the information and reports referred to above shall all be published by appropriate means, such as the broadcasting media, the press or other publications, information screens or computer network services, such as the internet.

(2) Details supplied to the public in accordance with regulation 10 of the Ambient Air Quality Assessment and Management Regulations, 2001, when either threshold is exceeded, shall include the items listed in Section II of Schedule II hereto. The competent authority

shall, where practicable, also take steps to supply such information when an excess of the information threshold or alert threshold is predicted.

(3) Information supplied under sub-regulations (1) and (2) hereof shall be clear, comprehensible and accessible.

7. (1) (a) In accordance with regulation 7(2) of the Ambient Air Quality Assessment and Management Regulations, 2001 the competent authority shall draw up action plans, at appropriate administrative levels, indicating specific measures to be taken in the short term, taking into account particular local circumstances, for the zones where there is a risk of excesses of the alert threshold, if there is a significant potential for reducing that risk or for reducing the duration or severity of any excess of the alert threshold:

Short-term action plans.

Provided that where it is found that there is no significant potential for reducing the risk, duration or severity of any excess in the relevant zones, the competent authority shall be exempt from the provisions of regulation 7(2) of Ambient Air Quality Assessment and Management Regulations, 2001.

(b) It is for Agreement States to identify whether there is significant potential for reducing the risk, duration or severity of any exceedance, taking account of the national geographical, meteorological and economic conditions.

(2) (a) The competent authority shall be responsible for short-term action plans, including trigger levels for specific actions.

(b) Depending on the individual case, the plans may provide for graduated, cost-effective measures to control and, where necessary, reduce or suspend certain activities, including motor vehicle traffic, which contribute to emissions which result in the alert threshold being exceeded.

(c) Such measures may also include effective measures in relation to the use of industrial plants or products.

(3) When developing and implementing the short-term action plans, the competent authority shall consider examples of measures (the effectiveness of which has been assessed), which should be included in the guidance referred to in regulation 12.

(4) The competent authority shall make available to the public and to appropriate organisations such as environmental

organisations, consumer organisations, organisations representing the interests of sensitive population groups and other relevant health care bodies both the results of their investigations and the content of specific short-term action plans as well as information on the implementation of these plans.

Transboundary
pollution.

8. (1) Where ozone concentrations exceeding target values or long-term objectives are due largely to precursor emission in other Agreement States, the Agreement States concerned shall cooperate, where appropriate, in drawing up joint plans and programmes in order to attain the target values or long-term objectives, save where not achievable through proportionate measures.

(2) The competent authority shall, if appropriate according to regulation 7 hereof, prepare and implement joint short-term action plans covering neighbouring zones in different Agreement States. The competent authority shall ensure that neighbouring zones in different plans, receive all appropriate information.

(3) Where exceedances of the information threshold or alert threshold occur in zones close to national borders, the competent authority shall as soon as possible inform the competent authorities in the neighbouring Agreement States concerned in order to facilitate the provision of information to the public in those States.

(4) In drawing up the plans and programmes referred to in sub-regulations (1) and (2) hereof and in informing the public as referred to in sub-regulation (3) hereof, the competent authority shall, where appropriate, pursue cooperation with other countries.

Assessment of
concentrations of
ozone and precursor
substances in
ambient air

9. (1) (i) The competent authority shall effect fixed measurements in zones and agglomerations where, during any of the previous five years of measurement, concentrations of ozone have exceeded a long-term objective:

Provided that, where fewer than five years data are available, the competent authority may, determine excesses, combine measurement campaigns of short duration at times and locations likely to be typical of the highest pollution levels with results obtained from emission inventories and modelling.

(ii) Schedule IV hereto sets out criteria for determining the location of sampling points for the measurement of ozone.

(iii) Section I of Schedule V hereto sets out the minimum number of fixed sampling points for continuous measurement of

ozone in each zone or agglomeration within which measurement is the sole source of information for assessing air quality.

(iv) Measurements of nitrogen dioxide shall also be made at a minimum of 50% of the ozone sampling points required by Section I of Schedule V hereto. Measurement of nitrogen dioxide shall be continuous, except at rural background stations, as defined in Section I of Schedule IV hereto, where other measurement methods may be used.

(v) For zones and agglomerations within which information from sampling points for fixed measurement is supplemented by information from modelling and, or indicative measurement, the total number of sampling points specified in Section I of Schedule V hereto may be reduced, provided that:

(a) the supplementary methods provide an adequate level of information for the assessment of air quality with regard to target values, information and alert thresholds;

(b) the number of sampling points to be installed and the spatial resolution of other techniques are sufficient for the concentration of ozone to be established in accordance with the data quality objectives specified in Section I of Schedule VII hereto and lead to assessment results as specified in Section II of Schedule VII hereto;

(c) the number of sampling points in each zone or agglomeration amounts to at least one sampling point per two million inhabitants or one sampling point per 50,000 km², whichever produces the greater number of sampling points;

(d) each zone or agglomeration contains at least one sampling point, and

(e) nitrogen dioxide is measured at all remaining sampling points except at rural background stations. In this case, the results of modelling and, or indicative measurement shall be taken into account for the assessment of air quality with respect to the target values.

(2) In zones and agglomerations where, during each of the previous five years of measurement, concentrations are below the long-term objectives, the number of continuous measurement stations shall be determined in accordance with Section II of Schedule V hereto.

(3) The competent authority shall ensure that at least one measuring station to supply data on concentrations of the ozone precursor substances listed in Schedule VI hereto is installed and operated in its territory:

Provided that the competent authority choose the number and siting of the stations at which ozone precursor substances are to be measured, taking into account the objectives, methods and recommendations laid down in the said Schedule:

Provided also that as part of the guidance developed under regulation 12, guidelines for an appropriate strategy to measure ozone precursor substances shall be laid down, taking into account existing requirements laid down in existing legislation and the cooperative programme for monitoring and evaluation of the long-range transmission of air pollutants in Europe (EMEP).

(4) Reference methods for analysis of ozone are set out in Section I of Schedule VIII hereto, where as Section II of Annex VIII provides for reference modelling techniques for ozone.

Offences under these regulations.

10. Any person shall be guilty of an offence under these regulations if:

(a) he fails to comply with any provision of these regulations or fails to comply with permit conditions or with any order lawfully given in terms of any provision of these regulations;

(b) he contravenes any restriction, prohibition or requirement imposed by or under these regulations; or

(c) he acts in contravention of any of the provisions of these regulations; or

(d) he conspires or attempts, or aids, or abets, any other person by whatever means, including advertising, counselling or procurement to contravene the provisions of these regulations or to fail to comply with any such provisions, including any order lawfully given in terms of any of the provision of these regulations, or to contravene any restriction, prohibition or requirement imposed by or under the said regulations.

Penalties.

11. Any person who commits an offence against these regulations shall, on conviction, be liable:

(a) on a first conviction to a fine (multa) of not less than five hundred liri but not exceeding one thousand liri;

(b) on a second or subsequent convictions, to a fine (multa) of not less than one thousand liri, but not exceeding two thousand liri or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment:

Provided that the court shall order any person who has been found guilty of committing an offence against these regulations to pay for the expenses incurred by the competent authority as a result of the said offence, the revocation of the permit issued by the competent authority and the confiscation of the *corpus delicti*.

12. (1) The provisions of articles 23 and 30 of the Criminal Code shall, *mutatis mutandis*, apply to proceedings in respect of offences against these regulations, so however that the disqualification from holding or obtaining a licence, permit or authority shall in no case be for less than one year.

Applicability of the Criminal Code, Cap. 9.

(2) Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence against these regulations shall be held before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts as courts of criminal judicature.

(3) Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of Criminal Appeal from any judgement given by the Court of Magistrates (Malta) or the court of Magistrates (Gozo) in respect of proceedings for any offence against these regulations.

13. Schedules I to VIII to these regulations are being published in the English language with the English text of these regulations.

Language of Schedules.