**L.N. 216 of 2001**

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

## Ambient Air Quality Assessment and Management Regulations, 2001

BY virtue of the powers conferred by articles 3, 9 and 28 of the Environment Protection Act, 2001, the Minister for the Environment has made the following regulations:-

Citation and entry into force.

**1.** (1) The title of these regulations is the Ambient Air Quality Assessment and Management Regulations, 2001.

(2) These regulations shall come into force on such date as the Minister responsible for the environment may by notice in the Gazette appoint, and different dates may be so appointed for different provisions and different purposes of these regulations.

(3) A notice under subregulation (2) of this regulation may make such transitional provisions as appear to the Minister to be necessary or expedient in connection with the provisions thereby brought into force.

Definitions.

**2.** For the purpose of these regulations and unless the context otherwise requires:-

"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 ($km^2$) which for the competent authority justifies the need for ambient air quality to be assessed and managed;

"alert threshold" means a level beyond which there is a risk to human health from brief exposure and at which immediate steps shall be taken by the competent authority as laid down in these regulations;

"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 Department for Environment Protection under the guidance of the Director for Environment Protection 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 a competent authority for different provisions and different purposes of these regulations;

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

"limit value" means a level fixed on the basis of scientific knowledge, with the aim of avoiding, preventing or reducing harmful effects on human health or the environment as a whole, to be attained within a given period and not to be exceeded once attained;

"margin of tolerance" means the percentage of the limit value by which this value may be exceeded subject to the conditions laid down in these regulations;

"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 of avoiding more long-term harmful effects on human health and/or the environment as a whole, to be attained where possible over a given period;

"zone" means part of the territory delimited by the competent authority.

Implementation and responsibilities.

**3.** (1) The competent authority shall:

(a) assess ambient air quality;

(b) approve and establish measuring devices including methods, equipment, networks, laboratories;

(c) ensure the accuracy of measurement by measuring devices and checking the maintenance of such accuracy by those devices, in particular by internal quality controls carried out in

*accordance, inter alia,* with the requirements of quality assurance standards;

(d) analyse assessment methods.

(e) coordinate any quality assurance programmes.

(2) The competent authority shall make the information relating to the implementation of these regulations available to the public.

(3) The competent authority by notice in the Gazzette shall establish:

(a) limit values and alert thresholds for ambient air;

(b) criteria and techniques to be used for the measuring devices referred to in sub-regulation (1) of this regulation to determine:

(i) the location of the sampling points;

(ii) the minimum number of sampling points;

(iii) the reference measurement and sampling techniques.

(c) other techniques for assessing ambient air quality, particularly modelling:

(i) spatial resolution for modelling and objective assessment methods;

(ii) reference modelling techniques.

(4) The criteria and techniques in subregulation (3) shall be established in respect of each pollutant according to the size of agglomerations or to the levels of pollutants in the zones examined.

Margin of tolerance for limit value.

4. The competent authority may, to take into account the actual levels of a given pollutant when setting limit values and the time needed to implement measures for improving the ambient air quality, set a temporary margin of tolerance for the limit value. This margin shall be reduced according to procedures to be defined for each pollutant in order to attain the level of the limit value at the latest at the end of a period to be determined for each pollutant when that value is set.

Preliminary assessment of ambient air quality.

**5.** The competent authority may, if it so requires, undertake a series of representative measurements, surveys or assessments, in order to have the data available in time for implementation of the legislation referred to in regulation 4.

Assessment of ambient air quality.

**6.** (1) The competent authority shall ensure that in accordance with the criteria referred to in sub-regulation (3) of regulation 3, and in respect of the relevant pollutants under sub-regulation (4) of regulation 3, measurement shall be mandatory in the following zones:

(a) agglomerations as defined in regulation 2,

(b) zones in which levels are between the limit values and the levels provided for in sub-regulation (3) of regulation 3,

(c) other zones where levels exceed the limit values:

Provided that the measurements undertaken may be supplemented by modelling techniques to provide an adequate level of information on ambient air quality.

(2) The competent authority may use a combination of measurements and modelling techniques to assess ambient air quality where the levels over a representative period are below a level lower than the limit value.

(3) Where the levels are below a limit value, the competent authority may make sole use of modelling or objective estimation techniques for assessing levels:

Provided that this provision shall not apply to agglomerations in the case of pollutants for which alert thresholds have been fixed.

(4) The competent authority shall ensure that where pollutants have to be measured, the measurements shall be taken at fixed sites either continuously or by random sampling, the number of measurements shall be sufficiently large to enable the levels observed to be determined.

## IMPROVEMENT OF AMBIENT AIR QUALITY

General requirements.

**7.** (1) The competent authority shall take the necessary measures to ensure compliance with the limit values and to ensure an integrated environmental approach which would have no significant negative effects on the environment.

(2) The competent authority shall draw up action plans indicating the measures to be taken in the short term, where there is a risk of the limit values or alert thresholds being exceeded, in order to reduce that risk and to limit the duration of such an occurrence. Such plans may, depending on the individual case, provide for measures to control and, where necessary, suspend activities, including motor-vehicle traffic, which contribute to the limit values being exceeded.

Measures applicable in zones where levels are higher than the limit value.

**8.** (1) The competent authority shall draw up a list of zones and agglomerations in which the levels of one or more pollutants, are higher than the limit value plus the margin of tolerance:

Provided that where no margin of tolerance has been fixed for a specific pollutant, zones in which the level of that pollutant exceeds the limit value, shall be treated in the same way as the zones and agglomerations referred to in this sub-regulation, and sub-regulations (2), (3) and (4) of regulation 6 shall apply thereto.

(2) The competent authority shall draw up a list of zones in which the levels of one or more pollutants are between the limit value and the limit value plus the margin of tolerance.

(3) In the zones and agglomerations referred to in sub-regulation (1), the competent authority shall prepare a plan and implement it to attain the limit value within the specific time limit. The said plan shall be made available to the public and shall incorporate as a minimum the information listed in Annex IV.

(4) In the zones and agglomerations referred to in sub-regulation (1), where the level of more than one pollutant is higher than the limit values, the competent authority shall provide an integrated plan covering all the pollutants concerned.

Requirements in zones where the levels are lower than the limit value.

**9.** (1) The competent authority shall draw up a list of zones and agglomerations in which the levels of pollutants are below the limit values.

(2) The competent authority shall maintain the levels of pollutants in these zones below the limit values and shall endeavour to preserve the best ambient air quality, compatible with sustainable development.

Measures applicable in the event of the alert thresholds being exceeded.

**10.** When the alert thresholds are exceeded, the competent authority shall undertake to ensure that the necessary steps are taken to inform the public of the recorded levels and to the duration of any episode of pollution no later than three months following their occurrence. A

list of minimum details to be supplied to the public shall be drawn up together with the alert thresholds.

Offences under these regulations.

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

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

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

Penalties.

**12.** 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 whenever any person is found guilty of committing an offence under these regulations by means of a vehicle, the owner of the said vehicle, where applicable, is held liable in the same manner and degree:

Provided further 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 public entities and/or other persons acting on their behalf involved in the implementation of these regulations and restitution of the environment as a result of the said offence, the revocation of the permit issued by the Police and the confiscation of the *corpus delicti*.

Applicability of the Criminal Code. Cap. 9.

**13.** (1) The provisions of article 23 and subarticle (1) of article 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 obtain a licence, permit or authority shall in no case be for less than one year.

(2) Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence against these regulations

shall be taken 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.

Language of Annexes.

**14.** Annexes I to IV to these regulations are being published in the English language with the English text of these regulations.

## ANNEX I

## LIST OF ATMOSPHERIC POLLUTANTS TO BE TAKEN INTO CONSIDERATION IN THE ASSESSMENT AND MANAGEMENT OF AMBIENT AIR QUALITY

I. Pollutants to be studied at an initial stage, including pollutants governed by existing ambient air quality regulations

1. Sulphur dioxide

2.Nitrogendioxide

3. Fine particulate matter such as soot (including mw 10)

4. Suspended particulate matter

5. Lead

6. Ozone

II. Other air pollutants

7. Benzene

8. Carbon monoxide

9. Poly-aromatic hydrocarbons

10. Cadmium

11. Arsenic

12. Nickel

13. Mercury

## ANNEX II

## FACTORS TO BE TAKEN INTO ACCOUNT WHEN SETTING LIMIT VALUES AND ALERT THRESHOLDS

When setting the limit value and, as appropriate, alert threshold, the following factors may, by way of example, be taken into account:

- degree of exposure of sectors of the population, and in particular sensitive sub-groups,

- climatic conditions,

- sensitivity of flora and fauna and their habitats,

- historic heritage exposed to pollutants,

- economic and technical feasibility,

- long-range transmission of pollutants, of which secondary pollutants, including ozone.

## ANNEX III

## GUIDELINES FOR SELECTING AIR POLLUTANTS FOR CONSIDERATION

1. Possibility, severity and frequency of effects; with regard to human health and the environment as a whole, the irreversible effects must be of special concern.

2. Ubiquity and high concentration of the pollutant in the atmosphere.

3. Environmental transformations or metabolic alterations, as these alterations may lead to the production of chemicals with greater toxicity.

4. Persistence in the environment, particularly if the pollutant is not biodegradable and can accumulate in humans, the environment or food chains.

5. Impact of the pollutant:
- size of exposed population, living resources or ecosystems,

- existence of particularly sensitive targets in the zone concerned.

6. Risk-assessment methods may also be used.

The pertinent danger criteria established under the Classification, Packaging and Labelling of Dangerous Substances Regulations, 2000 and its successive adaptations must be taken into account in the selection of the pollutants.

## ANNEX IV

## INFORMATION TO BE INCLUDED IN THE LOCAL, REGIONAL OR NATIONAL PROGRAMMES FOR IMPROVEMENT IN THE AMBIENT AIR QUALITY

Information to be provided under sub-regulation (3) of regulation 8

1. Localisation of excess pollution

- region

- city (map)

- measuring station (map, geographical co-ordinates).

2. General information

- type of zone (city, industrial or rural area)

- estimate of the polluted area ($km^2$) and of the population exposed to the pollution

- useful climatic data

- relevant data on topography

- sufficient information on the type of targets requiring protection in the zone.

3. Responsible authorities

Names and addresses of persons responsible for the development and implementation of improvement plans.

4. Nature and assessment of pollution

- concentrations observed over previous years (before the implementation of the improvement measures)

- concentrations measured since the beginning of the project
- techniques used for the assessment.

5. Origin of pollution

- list of the main emission sources responsible for pollution (map)

- total quantity of emissions from these sources (tonnes/year)

- information on pollution imported from other regions.

6. Analysis of the situation

- details of those factors responsible for the excess (transport, including cross-border transport, formation)

- details of possible measures for improvement of air quality.

7. Details of those measures or projects for improvement which existed prior to the entry into force of these regulations, i.e.

- local, regional, national, international measures

- observed effects of these measures.

8. Details of those measures or projects adopted with a view to reducing pollution following the entry into force of these regulations

- listing and description of all the measures set out in the project

- timetable for implementation

- estimate of the improvement of air quality planned and of the expected time required to attain these objectives.

9. Details of the measures or projects planned or being researched for the long term.

10. List of the publications, documents, work, etc., used to supplement information requested in this Annex.