

Subsidiary Legislation made under s.18(c).

## **Control of Emissions from Medium Combustion Plants Regulations 2017**

**LN.2017/247**

*Commencement*                      **19.12.2017**

**Transposing -**  
Directive (EU) 2015/2193

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*In exercise of the powers conferred upon it by section 18(c) of the Environment Act 2005, and in order to transpose into the law of Gibraltar, Directive (EU) 2015/2193 of the European Parliament and of the Council of 25 November 2015 on the limitation of emissions of certain pollutants into the air from medium combustion plants, the Government has made the following Regulations-*

**PART 1  
GENERAL**

**Title.**

1. These Regulations may be cited as the Control of Emissions from Medium Combustion Plants Regulations 2017.

**Commencement.**

2. These Regulations come into operation on 19 December 2017.

**Scope.**

3. These Regulations do not apply to-

- (a) combustion plants and combinations prescribed in regulation 4(2) for which a permit is required (or which are part of an installation for which a permit is required) under the Pollution Prevention and Control Regulations 2013;
- (b) waste incineration installations and waste co-incineration installations for which a permit is required under the Pollution Prevention and Control Regulations 2013;
- (c) combustion plants covered by Regulation (EU) 2016/1628;
- (d) on-farm combustion plants with a total rated thermal input less than or equal to 5MW, that exclusively use unprocessed poultry manure, as referred to in Article 9(a) of Regulation (EC) No 1069/2009, as a fuel;
- (e) combustion plants in which the gaseous products of combustion are used for the direct heating, drying or any other treatment of objects or materials;
- (f) combustion plants in which the gaseous products of combustion are used for direct gas-fired heating used to heat indoor spaces for the purpose of improving workplace conditions;

- (g) post-combustion plants designed to purify the waste gases from industrial processes by combustion, and which are not operated as independent combustion plants;
- (h) any technical apparatus used in the propulsion of a vehicle, ship or aircraft;
- (i) gas turbines and gas and diesel engines, when used on offshore platforms;
- (j) facilities for the regeneration of catalytic cracking catalysts;
- (k) facilities for the conversion of hydrogen sulphide into sulphur;
- (l) reactors used in the chemical industry;
- (m) coke battery furnaces;
- (n) cowpers;
- (o) crematoria;
- (p) combustion plants firing refinery fuels alone or with other fuels for the production of energy within mineral oil and gas refineries;
- (q) recovery boilers within installations for the production of pulp; or
- (r) research activities, development activities or testing activities relating to medium combustion plants.

**Interpretation.**

4.(1) In these Regulations-

“the Agency” means the Environmental Agency Limited;

“biomass” means any of the following-

- (a) products consisting of any vegetable matter from agriculture or forestry which can be used as a fuel for the purpose of recovering its energy content;
- (b) the following waste-

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- (i) vegetable waste from agriculture and forestry,
- (ii) vegetable waste from the food processing industry, if the heat generated is recovered,
- (iii) fibrous vegetable waste from virgin pulp production and from production of paper from pulp, if it is co-incinerated at the place of production and the heat generated is recovered,
- (iv) cork waste,
- (v) wood waste with the exception of wood waste which may contain halogenated organic compounds or heavy metals as a result of treatment with wood preservatives or coating and which includes, in particular, such wood waste originating from construction and demolition waste;

“combustion plant” means any technical apparatus in which fuels are oxidised in order to use the heat thus generated;

“diesel engine” means an internal combustion engine which operates according to the Diesel cycle and uses compression ignition to burn fuel;

“Directive 2015/2193” means Directive (EU) 2015/2193 of the European Parliament and of the Council of 25 November 2015 on the limitation of emissions of certain pollutants into the air from medium combustion plants as amended from time to time;

Directive 2009/72/EC” means Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC as amended from time to time;

“dual fuel engine” means an internal combustion engine which uses compression ignition and operates according to the Diesel cycle when burning liquid fuels and according to the Otto cycle when burning gaseous fuels;

“dust” means particles, of any shape, structure or density, dispersed in the gas phase at the sampling point conditions which may be collected by filtration under specified conditions after representative sampling of the gas to be analysed, and which remain upstream of the filter and on the filter after drying under specified conditions;

“emission” means the discharge of substances from a combustion plant into the air;

“emission limit value” means the permissible quantity of a substance contained in the waste gases from a combustion plant which may be discharged into the air during a given period;

“engine” means a gas engine, diesel engine or dual fuel engine;

“existing medium combustion plant” means a medium combustion plant –

- (a) put into operation before 20 December 2018; or
- (b) for which a permit was granted before 19 December 2017, provided that the plant was put into operation no later than 20 December 2018;

“fuel” means any solid, liquid or gaseous combustible material;

“gas engine” means an internal combustion engine which operates according to the Otto cycle and uses spark ignition to burn fuel;

“gas oil” means-

- (a) any petroleum-derived liquid fuel falling within CN codes 2710 19 25, 2710 19 29, 2710 19 47, 2710 19 48, 2710 20 17, or 2710 20 19; or
- (b) any petroleum-derived liquid fuel of which less than 65% by volume (including losses) distils at 250°C and of which at least 85% by volume (including losses) distils at 350°C by the ASTM D86 method;

“gas turbine” means any rotating machine which converts thermal energy into mechanical work, consisting mainly of a compressor, a thermal device in which fuel is oxidised in order to heat the working fluid, and a turbine; this includes both open cycle and combined cycle gas turbines, and gas turbines in cogeneration mode, all with or without supplementary firing;

“heavy fuel oil” means-

- (a) any petroleum-derived liquid fuel falling within CN codes 2710 19 51 to 2710 19 68, 2710 20 31, 2710 20 35, or 2710 20 39; or
- (b) any petroleum-derived liquid fuel, other than gas oil, which by reason of its distillation limits, falls within the category of heavy oils intended for use as fuel and of which less than 65% by volume (including losses) distils into 250°C by the

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ASTM D86 method, and if the distillation cannot be determined by the ASTM D86 method, the petroleum product is likewise categorised as a heavy fuel oil;

“medium combustion plant” means-

- (a) combustion plants with a rated thermal input equal to or greater than 1 MW and less than 50MW, and
- (b) a combination of combustion plants formed in accordance with subregulation (2), including a combination where the total rated thermal input is equal to or greater than 50MW,

provided that it is not excluded under regulation 3;

“micro isolated system” or “MIS” means a micro isolated system as defined in point 27 of Article 2 of Directive 2009/72/EC;

“Minister” means the Minister with responsibility for the environment;

“natural gas” means naturally occurring methane with no more than 20% (by volume) of inerts and other constituents;

“new medium combustion plant” means a medium combustion plant that is not an existing medium combustion plant;

“nitrogen oxides” and “NO<sub>x</sub>” means nitric oxide and nitrogen dioxide, expressed as nitrogen dioxide (NO<sub>2</sub>);

“operating hours” means the time, expressed in hours, during which a combustion plant is operating and discharging emissions into the air, excluding start-up and shut-down periods;

“operator” means any natural or legal person who operates or controls the medium combustion plant, or, to whom decisive economic power over the technical functioning of the plant has been delegated;

“refinery fuel” means solid, liquid or gaseous combustible material from the distillation and conversion steps of the refining of crude oil, including refinery fuel gas, syngas, refinery oils and pet coke;

“Regulation (EC) No 1069/2009” means Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards



animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation) as amended from time to time;

“Regulation (EU) 2016/1628” means Regulation (EU) 2016/1628 of the European Parliament and of the Council of 14 September 2016 on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery, amending Regulations (EU) No 1024/2012 and (EU) No 167/2013, and amending and repealing Directive 97/68/EU as amended from time to time;

“small isolated system” and “SIS” means a small isolated system as defined in point 26 of Article 2 of Directive 2009/72/EC; and

“waste” means waste as defined in section 192A of the Public Health Act.

(2) A combination of combustion plants formed by two or more new medium combustion plants shall be considered to be a single medium combustion plant for the purposes of these Regulations and their rated thermal input shall be added together for the purpose of calculating the total rated thermal input of the plant where-

- (a) the waste gases of such medium combustion plants are discharged through a common stack; or
- (b) taking into account technical and economic factors, the waste gases of such medium combustion plants could, in the judgement of the Agency, be discharged through a common stack.

## **PART 2 COMPETENT AUTHORITY**

### **Designation as competent authority.**

5. The Agency is designated as the competent authority responsible for carrying out the obligations arising from Directive 2015/2193.

## **PART 3 PERMITS AND REGISTRATION**

### **Requirement for a permit.**

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6.(1) A person must not operate a medium combustion plant except under and to the extent authorised by a permit.

(2) Subregulation (1) does not apply in relation to the operation of-

- (a) a new medium combustion plant, before 20 December 2018;
- (b) an existing medium combustion plant with a rated thermal input greater than 5 MW, before 1 January 2024;
- (c) an existing medium combustion plant with a rated thermal input of less than or equal to 5 MW, before 1 January 2029.

**Application for a permit.**

7.(1) An application for a permit must be made in writing on a form made available by the Agency, and must-

- (a) in the case of an existing medium combustion plant, inform the Agency of the operation of that plant;
- (b) in the case of a new medium combustion plant, inform the Agency of the intention to operate a medium combustion plant;
- (c) include the information prescribed in Schedule 1;
- (d) specify which, if any, of regulations 18 to 25 is considered relevant to the application; and
- (e) be accompanied by any prescribed fee.

(2) Subject to subregulation (3), the Agency must start the procedure for determining an application for the grant of a permit within one month of the operator submitting the application and must inform the operator of the start of the procedure.

(3) Subregulation (2) applies only when the operator has submitted a duly made application that complies with subregulation (1).

(4) An application for a permit may be withdrawn at any time before it is determined.

**Granting a permit.**

- 8.(1) The Agency must, on receiving a duly made application for a permit, either-
- (a) grant a permit subject to the conditions required or authorised to be imposed by or under these Regulations; or
  - (b) refuse the application.
- (2) The Agency must refuse to grant an application for a permit if it considers that the applicant will not-
- (a) be the person who will have control over the operation of the plant concerned after the grant of the permit; or
  - (b) ensure the plant is operated so as to comply with these Regulations or the conditions which would be included in the permit.
- (3) In determining an application, the Agency may request such additional information as it considers necessary to make that determination.

**Register.**

- 9.(1) The Agency must maintain a register of medium combustion plants.
- (2) A medium combustion plant must be included on the register from the date it was granted a permit under these Regulations.
- (3) The register shall-
- (a) include the information-
    - (i) prescribed in Schedule 1; and
    - (ii) provided to the Agency in accordance with regulation 30;
  - (b) be maintained in the form the Agency deems fit.
- (4) The Agency must-
- (a) ensure the register is up to date; and
  - (b) make the information contained in the register available to the public in accordance with the Freedom of Access to Information on the Environment Regulations 2005.

**Standard rules.**

10.(1) The Agency, in consultation with the Minister, may make, revise or revoke rules (“standard rules”) imposing requirements on certain categories of medium combustion plants.

(2) The Agency must publish any standard rules made under subregulation (1).

(3) Where the standard rules are conditions of a permit, the Agency must give notice to the relevant operator of-

- (a) any revision to the standard rules;
- (b) the date on which the revision is expected to be published; and
- (c) the date on which the revision is expected to take effect.

**Conditions.**

11.(1) The Agency must include in a permit for a medium combustion plant the conditions it considers necessary to ensure that the plant complies with the requirements of these Regulations.

(2) The Agency may specify in a permit that the standard rules made under regulation 10 are to be conditions of the permit.

(3) A reference in a permit to standard rules is to the rules as revised from time to time.

**PART 4  
VARIATION AND CESSATION OF PERMITS**

**Variation of permit.**

12.(1) The Agency must vary a permit if it considers it necessary to do so in order to ensure compliance with these Regulations.

(2) The Agency may vary the conditions of a permit at any other time.

(3) The operator of a plant in respect of which a permit is granted may apply to the Agency for a variation of the permit.

(4) An application for variation must be made in writing on a form made available by the Agency, and must-

- (a) inform the Agency of the reason for the variation;
- (b) include the information prescribed in Schedule 1;
- (c) specify which, if any, of regulations 18 to 25 is considered relevant to the variation; and
- (d) be accompanied by the prescribed fee.

(5) Subject to subregulation (6), the Agency must start the procedure for determining an application to vary a permit within one month of the operator submitting the application and must inform the operator of the start of the procedure.

(6) Subregulation (5) applies only when the operator has submitted a duly made application that complies with subregulation (1).

(7) An application to vary a permit may be withdrawn at any time before it is determined.

#### **Granting a variation.**

13.(1) The Agency must, on receiving a duly made application to vary a permit, either-

- (a) vary the permit subject to the conditions required or authorised to be imposed by or under these Regulations;
- (b) refuse the application.

(2) The Agency must refuse to vary a permit if it considers that the applicant will not-

- (a) be the person who will have control over the operation of the plant concerned after the variation of the permit, or
- (b) ensure the plant is operated so as to comply with these Regulations or the conditions which would be included in the permit.

(3) In determining an application, the Agency may request such additional information as it considers necessary to make that determination.

(4) The Agency must, on varying a permit, give notice to the operator specifying the-

- (a) variation of conditions of the permit; and
- (b) date on which the variation is to take effect.

(5) A variation notice must, unless the notice relates to an application for variation, specify any fees that are required to be paid.

(6) The Agency must give notice to the operator if an application for variation is refused.

**Transfer of permit.**

14.(1) The Agency may transfer all or part of a permit to another person where subregulations (2) or (3) apply.

(2) This subregulation applies where the existing and proposed permit holders make a joint application to the Agency to approve the transfer of all or part of a permit.

(3) This subregulation applies where the Agency considers that all or part of a permit should be transferred to a new holder, and the proposed holder consents to the transfer.

(4) An application for a transfer must be accompanied by the permit and any prescribed fee.

(5) An application for a transfer must-

- (a) include the address, telephone number and email address of each of the existing and proposed permit holders and (if different) a correspondence address;
- (b) identify the medium combustion plant to which the transfer applies;
- (c) include, in the case of a partial transfer, the information prescribed in Schedule 1 for every relevant medium combustion plant;
- (d) include any such further information as the Agency requires.

(6) The Agency must approve an application for transfer unless it considers that the-

- (a) proposed holder will not be the person with control of the operation of the plant after any transfer; or
- (b) proposed holder will not ensure compliance with these Regulations or the permit conditions.

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(7) The Agency must effect a transfer-

(a) in the case of a partial transfer-

- (i) by issuing a new permit to the proposed holder for that part of the plant to which the transfer relates; and
- (ii) returning the original permit to the existing holder endorsed in respect of the transfer and any variation of the permit conditions;

(b) in any other case, by endorsing the permit in respect of the new holder and any variation of the permit conditions.

(8) A transfer of a permit has effect on the date specified in the endorsement, provided that where subregulation (2) applies the date must be as agreed by the existing and proposed permit holders.

(9) The Agency may vary the conditions of a permit only if it considers it necessary to do so to take account of the transfer.

(10) The Agency must, where subregulation (2) applies, give notice to the existing and proposed permit holders if it decides not to approve the transfer.

(11) The existing permit holder may by notice to the Agency hold the application as being refused if the Agency has failed to make a determination within the specified period.

(12) In subregulation (11), the specified period is 2 months beginning with the date of receipt of an application under subregulation (2), or such longer period as the Agency may agree in writing with the existing and proposed permit holders.

**Surrender of permit.**

15.(1) The operator of a medium combustion plant may apply to the Agency to surrender a permit.

(2) An application must-

- (a) be made on the form provided by the Agency;
- (b) include such information as is specified in the form; and

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- (c) be accompanied by the prescribed fee.
- (3) The Agency must approve an application if it is satisfied that all appropriate measures have been taken to-
  - (a) avoid pollution risk resulting from the operation of the plant;
  - (b) leave the site in a satisfactory state, taking into account the technical feasibility of the measures;
  - (c) ensure that, taking into account its current and future use, the site does not pose a significant risk to human health and the environment.
- (4) In determining the application, the Agency may request such additional information as it considers necessary to make the determination.
- (5) The Agency must-
  - (a) determine the application within-
    - (i) a 3-month period beginning on the date of receipt of the application, or
    - (ii) such longer period as the Agency and the operator may agree in writing;  
and
  - (b) give notice of approval or rejection of the application to the operator.
- (6) If the application is approved the permit ceases to have effect on the date specified in the determination notice.
- (7) In this regulation, and regulation 16 “pollution risk” includes only those risks arising from the carrying out of an activity under the permit after the date of the permit.

**Revocation of permit.**

- 16.(1) The Agency may at any time revoke a permit by serving a notice (“a revocation notice”) on the operator.
- (2) The Agency may in particular serve a revocation notice where the holder of the permit has ceased to be the operator of the plant covered by the permit.
  - (3) A revocation notice may-



- (a) revoke a permit entirely; or
- (b) revoke a permit only to the extent that it authorises the operation of some of the plant to which it applies.

(4) A revocation notice must specify-

- (a) the reasons for the revocation; and
- (b) the date on which the revocation will take place, which must not be less than 20 working days after the date on which the notice is served.

(5) Where a permit is revoked and the Agency considers that the operator must take steps in respect of the medium combustion plant once it is no longer operating to-

- (a) avoid pollution risk resulting from the operation of the plant;
- (b) leave the site in a satisfactory state, taking into account the technical feasibility of the measures;
- (c) ensure that, taking into account its current and future use, the site does not pose a significant risk to human health and the environment;

the revocation notice must specify any steps that must be taken in respect of that plant that are further to those required by the permit.

(6) Subject to subregulation (7), a permit ceases to have effect from the date specified in the notice.

(7) Where subregulation (5) applies, the permit-

- (a) continues to have effect in so far as it requires steps to be taken until the Agency issues a certificate of completion stating that it is satisfied that the steps have been taken, and
- (b) any steps specified under subregulation (5) are to be treated as conditions of the permit for the purposes of these Regulations until the Agency issues a certificate of completion.

(8) The Agency may withdraw a revocation notice before the date on which the revocation has effect.

**PART 5  
EMISSION LIMIT VALUES**

**Emission limit values.**

17.(1) Subregulations (2) to (4) apply, subject to regulations 18 to 25.

(2) From 20 December 2018, emissions into the air of sulphur dioxide, nitrogen oxides and dust from a new medium combustion plant must not exceed the emission limit values set out in Part 2 of Schedule 2.

(3) From 1 January 2025, emissions into the air of sulphur dioxide, nitrogen oxides and dust from an existing medium combustion plant with a rated thermal input greater than 5MW must not exceed the emission limit values set out in Tables 2 and 3 of Part 1 of Schedule 2.

(4) From 1 January 2030, emissions into the air of sulphur dioxide, nitrogen oxides and dust from an existing medium combustion plant with a rated thermal input of less than or equal to 5MW must not exceed the emission limit values set out in Tables 1 and 3 of Part 1 of Schedule 2.

**Limited operating hours – existing medium combustion plants.**

18.(1) An existing medium combustion plant which operates for no more than 500 operating hours per year, as a rolling average over a period of 5 years, is not required to comply with the emission limit values set out in Part 1 of Schedule 2, provided that the operator has signed a declaration in accordance with paragraph 7 of Schedule 1.

(2) An existing medium combustion plant is not required to comply with the emission limit values set out in Part 1 of Schedule 2 where it operates for no more than 1,000 operating hours per year, as a rolling average over a period of 5 years, in cases of emergency or extraordinary circumstances, to produce heat in cases of exceptionally cold weather events provided that the operator has signed a declaration in accordance with paragraph 7 of Schedule 1.

(3) Where an existing medium combustion plant firing solid fuels falls within subregulation (1) or (2), an emission limit value for dust of 200mg/Nm<sup>3</sup> applies.

**Limited operating hours – new medium combustion plants.**

19.(1) A new medium combustion plant which operates no more than 500 operating hours per year, as a rolling average over a period of 3 years, is not required to comply with the emission

limit values set out in Part 2 of Schedule 2, provided that the operator has signed a declaration in accordance with paragraph 7 of Schedule 1.

(2) Where a new medium combustion plant firing solid fuels falls within subregulation (1), an emission limit value for dust of 100mg/Nm<sup>3</sup> applies.

**Small and micro isolated systems.**

20.(1) Existing medium combustion plants which are part of a small isolated system or a micro isolated system are only required to comply with the emission limit values set out in Part 1 of Schedule 2 from 1 January 2030.

**Steam or hot water for district heating.**

21.(1) An existing medium combustion plant-

- (a) with a rated thermal input greater than 5MW; and
- (b) at least 50% of the useful heat production of the plant, as a rolling average over a period of five years, delivered in the form of steam or hot water to a public network for district heating;

is not required to comply with the emission limited values set out in Schedule 2 before 1 January 2030.

(2) Where an existing medium combustion plant falls under subregulation (1), the Agency may set a maximum emission limit value of up to-

- (a) 1,100 mg/Nm<sup>3</sup> for sulphur dioxide; and
- (b) 150mg/Nm<sup>3</sup> for dust.

**Ensured limit values.**

22.(1) A medium combustion plant is not required to comply with the emission limit values for dust set out in Schedule 2 until 1 January 2030 if-

- (a) the plant fires solid biomass as its main fuel; and
- (b) an assessment under the Environment (Air Quality Standards) Regulations 2010 shows that conformity with the limit values under those Regulations is ensured.

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(2) Where a medium combustion plant falls under subregulation (1), the Agency may set an emission limit value of up to 150mg/Nm<sup>3</sup> for dust.

**Duty on Agency.**

23. Notwithstanding the exception prescribed under regulations 21 and 22, the Agency must ensure that no significant pollution is caused and that a high level of protection of the environment as a whole is achieved.

**Plant at gas compressor stations.**

24. An existing medium combustion plant-

- (a) with a rated thermal input greater than 5MW; and
- (b) which is used to drive gas compressor stations required to ensure the safety and security of a national gas transmission system;

is not required to comply with the emission limit values for nitrogen oxides set out in Table 3 of Part 1 of Schedule 2.

**Temporary derogations.**

25.(1) This subregulation applies to a medium combustion plant which normally uses low-sulphur fuel, where the operator is unable to comply with the relevant emission limit values for sulphur dioxide because of an interruption in the supply of low-sulphur fuel from a serious shortage.

(2) Where subregulation (1) applies, the Agency may grant a derogation from the obligation to comply with those emission limit values for such period, up to a maximum of 6 months, if the operator satisfies the Agency it is justified under the circumstances.

(3) This subregulation applies in relation to a medium combustion plant using only gaseous fuel where-

- (a) the plant has to resort exceptionally to the use of other fuels because of a sudden interruption in the supply of gas; and
- (b) as a result of using those other fuels, the plant would need to be equipped with secondary abatement equipment in order to comply with the relevant emission limit values for sulphur dioxide, nitrogen oxides and dust in regulation 17.

(4) Where subregulation (3) applies, the Agency may grant a derogation from the obligation to comply with the relevant emission limit values in regulation 17-

- (a) for a maximum of 10 days; or
- (b) for such longer period, if the operator satisfies the Agency it is justified in the circumstances.

(5) The Agency must inform the Minister of any derogation granted under this regulation within 1 week of that derogation being granted.

(6) The Minister must ensure the European Commission is informed of any derogation granted under this regulation within 1 month of that derogation being granted.

**Multiple fuels – emission limit values.**

26. Where a medium combustion plant simultaneously uses two or more fuels, the emission limit value for each pollutant shall be calculated by-

- (a) taking the emission limit value relevant for each individual fuel as set out in Schedule 2;
- (b) determining the fuel-weighted emission limit value, which is obtained by multiplying the individual emission limit value referred to in paragraph (a) by the thermal input delivered by each fuel, and dividing the multiplication by the sum of the thermal inputs delivered by all fuels; and
- (c) aggregating the fuel-weighted emission limit values.

**PART 6  
OBLIGATIONS OF THE OPERATOR**

**Monitoring of emissions.**

27.(1) An operator must monitor the emissions of a medium combustion plant for which he has a permit.

(2) The monitoring of emissions under subregulation (1) must be carried out in accordance with Schedule 3.

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(3) For medium combustion plants using multiple fuels, the monitoring of emissions under subregulation (1) must be done while firing a fuel or fuel mix that is likely to result in the highest level of emissions and during a period representing normal operating conditions.

**Records.**

28.(1) The operator must maintain a record of and process all monitoring results obtained under regulation 27 in such a way as to enable the verification of compliance with the emission limit values in accordance with the rules set out in Schedule 4.

(2) For medium combustion plants using secondary abatement equipment in order to meet the emission limit values, the operator of that plant must keep a record of, or information proving, the effective continuous operation of that equipment.

(3) The operator of a medium combustion plant must keep the following in respect of each plant for which he has a permit-

- (a) the permit and, if relevant, its updated version and related information;
- (b) the monitoring results and information referred to in subregulations (1) and (2);
- (c) where applicable, a record of operating hours as referred to in regulations 18 and 19;
- (d) a record of the type and quantities of fuels used in the plant and of any malfunctions or breakdowns of secondary abatement equipment;
- (e) a record of the events of non-compliance and the measures taken as referred to in regulation 34.

(4) The data and information referred to in subregulation (3)(b) to (e) must be kept for a period of at least 6 years.

**Access to records.**

29.(1) An operator must, without undue delay, make data and information listed in regulation 28(3) available to the Agency upon request.

(2) The Agency may request data and information listed in regulation 28(3) in order to check compliance with these Regulations.

(3) The Agency must request data and information listed under regulation 28(3) if a member of the public has requested access to it.

**Changes to medium combustion plants.**

30. An operator must, without undue delay,-

- (a) inform the Agency of any planned change to a medium combustion plant which would affect the applicable emission limit values; and
- (b) where the planned changes would require a variation, transfer or surrender of a permit, make an application under regulations 12, 14 or 15.

**Co-operation with Agency.**

31. The operator of a medium combustion plant must provide the Agency with all necessary assistance to enable it to carry out any inspections and site visits, to take samples and to gather information necessary for the performance of its duties under these Regulations.

**Start-up and shut-down.**

32. An operator must keep the periods of start-up and shut-down of a medium combustion plant for which he has a permit as short as possible.

**PART 7  
COMPLIANCE**

**Duty to ensure compliance.**

33. The Agency must take such action under these Regulations as may be necessary for the purpose of ensuring that-

- (a) the conditions of a permit are complied with; and
- (b) valid values for emissions monitored in accordance with Schedule 3 do not exceed the emission limit values set out in Schedule 2.

**Operator duty in event of breach.**

34.(1) An operator of a medium combustion plant must immediately give notice to the Agency of any breach of-

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- (a) a condition of a permit for the plant; or
- (b) emission limit values.

(2) In the event of non-compliance with the emission limit values set out in Schedule 2, the operator must-

- (a) take any measures necessary to ensure that compliance is restored within the shortest possible time; and
- (b) provide the Agency with information concerning the event.

(3) Measures taken under subregulation (2)(a) must be in accordance with any measures required by the Agency in an enforcement notice under regulation 37.

(4) The Agency shall, in consultation with the Minister, prescribe rules on the type, frequency and format of information to be provided by the operator concerning events of non-compliance.

**Environmental inspection plan.**

35.(1) The Agency must maintain an environmental inspection plan in respect of medium combustion plants which are subject to these Regulations.

(2) An environmental inspection plan must-

- (a) include a general assessment of-
  - (i) the plant's compliance with these Regulations and permit conditions,
  - (ii) relevant significant environmental issues;
- (b) state the geographical area, and the medium combustion plants, covered by the plan,
- (c) provide for the carrying out of environmental inspections, and
- (d) provide for the frequency of environmental inspections.

(3) The Agency must regularly review, and where appropriate update or replace, an environmental inspection plan.



**Environmental inspections of medium combustion plants.**

36.(1) The Agency must carry out an environmental inspection of medium combustion plants that are subject to these Regulations.

- (2) The Agency must, in particular, ensure that an environmental inspection is carried out-
  - (a) to check compliance with these Regulations and any permit conditions;
  - (b) to investigate, as soon as possible, incidents and occurrences of non-compliance;
  - (c) where appropriate, before granting a permit and on the review or variation of a permit.
- (3) The period between site visits for the purpose of an environmental inspection must be based on a systematic appraisal of risk, and must not exceed-
  - (a) 1 year for a medium combustion plant posing the highest risk;
  - (b) 5 years from a medium combustion plant posing the lowest risk.
- (4) An additional site visit must take place within 6 months of the identification in an environmental inspection of an important case of non-compliance with these Regulations or with permit conditions.
- (5) The Agency must prepare a report on the site visit (a “site report”) describing its-
  - (a) findings regarding compliance with the permit and these Regulations, and
  - (b) conclusions on whether any further action is needed.
- (6) The Agency must notify a site visit report to the operator of the plant within 2 months of the site visit taking place.
- (7) In this regulation, “systematic appraisal of risk” means an appraisal by the Agency of the environmental risks of a plant based on-
  - (a) the potential and actual impacts on human health and the environment taking into account the levels and types of emissions, the sensitivity of the local environment, and the risk of accidents; and
  - (b) the record of compliance with permit conditions and these Regulations.

**Enforcement notices.**

37.(1) The Agency may serve a notice (an “enforcement notice”) on the operator of a medium combustion plant in respect of which a permit is granted if it considers that the operator has contravened, is contravening, or is likely to contravene a condition of the permit or a requirement of these Regulations.

- (2) An enforcement notice served under subregulation (1) must-
- (a) state why the Agency considers that there is, or is likely to be, such a contravention;
  - (b) specify the matter constituting the contravention, or making it likely that the contravention will arise (as the case may be); and
  - (c) specify the steps the operator must take to ensure that compliance is restored without undue delay, or to remedy the matter making it likely that the contravention will arise (as the case may be).
- (3) An enforcement notice must specify the period within which steps must be taken.
- (4) The operator of the medium combustion plant must comply with an enforcement notice.
- (5) The Agency may withdraw an enforcement notice at any time.

**Suspension notices.**

38.(1) The Agency must give notice under this regulation to the operator of a medium combustion plant if it considers that a contravention of a condition of the permit or a requirement of these Regulations has caused a significant degradation of local air quality.

- (2) A notice under subregulation (1) (“a suspension notice”) must-
- (a) state why the Agency considers that the suspension notice is required;
  - (b) specify-
    - (i) the nature of the degradation that has been caused by the operation of the plant,
    - (ii) the steps that must be taken to remedy the contravention, and

- (iii) the period within which those steps must be taken;
  - (c) state the extent to which the permit ceases to have effect, whether in whole or in part, to authorise the operation of the plant.
- (3) The operator of the medium combustion plant must comply with a suspension notice.
- (4) A permit ceases to have effect, to the extent stated in the suspension notice, on service of the notice.
- (5) The Agency may withdraw a suspension notice if compliance with the conditions of the permit or with the requirements of these Regulations has been restored.

**PART 8  
APPEALS**

**Appeals to the Minister.**

39.(1) A person-

- (a) who has been refused a permit after an application under regulation 7;
- (b) who has been refused a variation of a permit after an application under regulation 12;
- (c) who is aggrieved by the conditions attached to a permit granted to that person-
  - (i) after an application under regulation 7, or
  - (ii) by a variation notice following an application under regulation 12;
- (d) whose application for a transfer under regulation 14 has been refused, or who is aggrieved by the conditions attached to a permit to take account of such transfer;
- (e) whose application under regulation 15 to surrender a permit has been refused, or who is aggrieved by the conditions attached to that person's permit to take account of the surrender;

may appeal against the decision of the Agency to the Minister.

- (2) A person who is served with-

- (a) a variation notice (other than in respect of an application for variation);
- (b) a revocation notice;
- (c) an enforcement notice; or a
- (d) a suspension notice;

may appeal against the notice to the Minister.

(3) Subregulations (1) and (2) do not apply where the decision or notice (as the case may be) gives effect to a direction under subregulation (4), or under regulation 50.

(4) On determining an appeal against a decision of the Agency under subregulation (1), the Minister may-

- (a) affirm the decision;
- (b) where the decision was a refusal to grant a permit or to vary a permit, direct the Agency to grant the permit or to vary the permit;
- (c) where the decision was as to the conditions attached to a permit, quash all or any of the conditions of the permit;
- (d) where the decision was a refusal to effect the transfer or accept the surrender of a permit, direct the Agency to effect the transfer or accept the surrender;

and the Minister may give directions as to the conditions to be attached to the permit where the Minister exercises a power in paragraph (b) or (c).

(5) On determining an appeal against a notice under subregulation (2), the Minister may-

- (a) quash or affirm the notice;
- (b) if affirming it, may do so either in its original form or with such modifications as the Minister thinks fit.

(6) The determination or disposal of an appeal which relates to a decision to include in a permit a standard rules condition does not affect the continued validity of the relevant standard rules.

(7) In an appeal under-

- (a) subregulation (1)(c), (d) or (e) in relation to a condition attached to a permit, the bringing of the appeal does not suspend the operation of the condition; and
- (b) subregulation (2), the bringing of the appeal does not suspend the operation of an enforcement notice, a suspension notice or a variation notice.

(8) In an appeal under subregulation (2) against a revocation notice, the notice if affirmed does not take effect until the determination or disposal of the appeal.

(9) Where the Minister gives directions as to a condition to be included in a permit, Part 3 of these Regulations apply as if the Agency were determining whether to include the condition.

(10) The Agency must, when issuing any decision or determination in respect of which there exists a right of appeal to the Minister under this regulation, inform all persons who have such a right of the existence of the right.

(11) A person who, having a right of appeal under this regulation, is dissatisfied with a determination pursuant to this regulation, may appeal to the magistrates' court on a point of law, and in determining such an appeal the court may make such order as it deems fit.

**Notice by appellant.**

40.(1) A person who wishes to appeal to the Minister under regulation 39 (an "appellant") must at the same time-

- (a) give notice of the appeal to the Minister together with the documents specified in subparagraph (2); and
- (b) give the Agency a copy of that notice, together with copies of the documents specified in subparagraph (2)(a) and (f).

(2) The specified documents-

- (a) a statement of the grounds of appeal;
- (b) a copy of any relevant application;
- (c) a copy of any relevant permit;
- (d) a copy of any relevant correspondence between the appellant and the Agency;

- (e) a copy of any decision or notice which is the subject matter of the appeal;
- (f) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be disposed of on the basis of written representations.

(3) An appellant may withdraw an appeal by notifying the Minister in writing and must send a copy of that notification to the Agency.

**Time limits for appeals.**

41.(1) Subject to subparagraph (2), notice of appeal in accordance with regulation 40 is to be given-

- (a) in the case of an appeal under regulation 39(1), before the expiry of the period of 6 months beginning with the date of the decision or deemed decision which is the subject matter of the appeal;
- (b) in the case of an appeal under regulation 39(2) against a revocation notice, before the date on which the revocation takes effect;
- (c) in the case of an appeal under regulation 39(2) against a variation notice, an enforcement notice or a suspension notice, before the expiry of the period of 2 months beginning with the date of the notice which is the subject of the appeal.

(2) The Minister may, where he considers it proper to do so having regard to the circumstances of that case, allow notice of appeal to be given after the expiry of the periods mentioned in subparagraph (1)(a) or (c).

**Notice by Agency.**

42.(1) The Agency must, within 14 days of receipt of the copy of the notice of appeal sent in accordance with regulation 40, give notice of the appeal to-

- (a) any person who made representations to the Agency with respect to the subject matter of the appeal; and
- (b) any person who appears to the Agency to have a particular interest in the subject matter of the appeal.

(2) A notice under subparagraph (1) must-

- (a) state that a notice of appeal has been given;
- (b) state the name of the appellant and the address of the medium combustion plant;
- (c) describe the application or permit to which the appeal relates; and
- (d) state that representations with respect to the appeal may be made to the Minister in writing by any recipient of the notice within a period of 21 days beginning with the date of the notice, and that copies of any representations so made will be furnished to the appellant and to the Agency.

(3) The Agency must, within 14 days of sending a notice under subregulation (1), notify the Minister of the persons to whom and the date on which the notice was sent.

(4) In the event of an appeal being withdrawn, the Agency must give notice of the withdrawal to every person to whom notice was given under subregulation (1).

#### **Representations.**

43.(1) The Agency must submit any written representations to the Minister not later than 28 days after receiving a copy of the documents mentioned in regulation 40(2).

(2) The appellant must make any further representations by way of reply to any representations from the Agency no later than 17 days after the date of submission of those representations by it.

(3) Any representations made by the appellant or the Agency must bear the date on which they are submitted to the Minister.

(4) When the Agency or the appellant submits any representations to the Minister they must at the same time send a copy of them to the other party.

(5) The Minister must send to the appellant and the Agency a copy of any representations made to them by the persons mentioned in regulation 42(1) and must allow the appellant and the Agency a period of not less than 14 days in which to make representations on them.

(6) The Minister may in a particular case-

- (a) set later time limits than those mentioned in this regulation;
- (b) require exchanges of representations between the parties in addition to those mentioned in subregulations (1) and (2).

**Determination of appeal.**

44.(1) The Minister must give notice to the appellant of the determination of the appeal, and at the same time send a copy to any person mentioned in regulation 42(1) who made representations to the Minister and to any other person who made representations in relation to the appeal at the hearing.

(2) The Minister must advise the appellant of the further right of appeal to the magistrates' court, on a point of law.

**Further provision.**

45. The Agency shall ensure that practical information is made available to the public on access to administrative and judicial review procedures.

**PART 9  
OFFENCES****Offences.**

46.(1) It is an offence for a person-

- (a) to contravene regulation 6;
- (b) to fail to comply with or to contravene a condition of a permit or a requirement under Part 6 of these Regulations;
- (c) to fail to comply with the requirements of-
  - (i) an enforcement notice; or
  - (ii) a suspension notice;
- (d) to fail, without reasonable excuse, to comply with regulation 34;
- (e) to make a statement which that person knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, where the statement is made-
  - (i) in purported compliance with a requirement to furnish any information imposed by or under any provision of these Regulations; or



- (ii) for the purpose of obtaining the grant a permit issued under these Regulations to that person or any other person; or
  - (iii) for the purpose of obtaining the variation, transfer or surrender of a permit;
  - (f) intentionally to make a false entry in any record to be required under a condition of a permit or under these Regulations;
  - (g) with intent to deceive, to forge or use a document issued or authorised to be issued under a condition of a permit, or required for any purpose under such a condition, or to make or possess a document so closely resembling any such document as to be likely to deceive;
  - (h) to fail to comply with an order made by a court under regulation 49.
- (2) A person guilty of an offence under paragraphs (a), (b), (c), (d) or (h) of subregulation (1) is liable-
- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 12 months, or to both;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 5 years, or to both.
- (3) A person guilty of an offence under paragraph (e) to (g) of subregulation (1) is liable-
- (a) on summary conviction, to a fine not exceeding level 4 on the standard scale;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years, or to both.
- (4) Where an offence under this regulation is committed by a body corporate or a partnership and is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of-
- (a) any director, manager, secretary or other similar officer of the body corporate; or
  - (b) a person who was purported to act in any such capacity (or in the case of a partnership, a partner or a person who was purported to act as such);

that person as well as the body corporate or the partnership (as the case may be) is guilty of that offence and is liable to be proceeded against and punished accordingly.

(5) Where the affairs of a body corporate are managed by its members, subregulation (4) applies in relation to the acts or defaults of a member in connection with the functions of management of that member as if that member were a director of the body corporate.

**Courts: enforcement.**

47. The Agency may, if it considers that proceedings for an offence under regulation 46(1)(c) would not afford an effective remedy against a person who has failed to comply with an enforcement notice or a suspension notice, take proceedings in the Supreme Court for the purpose of securing compliance with such a notice.

**Courts: admissibility of evidence.**

48.(1) A statement by an operator made to the Agency for the purposes of complying with regulation 34 may only be used in a prosecution for an offence under regulation 46(1)(d) where in giving evidence the operator makes a statement inconsistent with it.

(2) Where-

- (a) by virtue of a condition of a permit or a requirement of these Regulations, an entry is required to be made in any record as to the observance of any such requirement or condition of the permit; and
- (b) the entry has not been made;

that fact is admissible as evidence that the condition has not been observed.

**Courts: power to order cause of offence to be remedied.**

49.(1) Where a person is convicted of an offence under regulation 46(1)(a) to (c) in respect of any matters which appear to the court to be matters which it is in the power of that person to remedy, the court may, in addition to or instead of imposing any punishment, order that person, within such time as may be fixed by the order of the court, to take such steps as may be specified in that order for remedying those matters.

(2) The time fixed by an order of the court under subregulation (1) may be extended or further extended by a further order of the court on an application made before the end of the time as originally fixed or extended under this subregulation, as the case may be.

(3) Where a person is ordered under subregulation (1) to remedy any matter, that person is not liable under regulation 46 in respect of the matter if it continues during the time fixed by the order of the court or any further time allowed under subregulation (2).

**PART 10  
MISCELLANEOUS**

**Directions to the Agency.**

50.(1) The Minister may give a direction to the Agency of a general or specific character with respect to the carrying out of its functions under these Regulations.

(2) Without prejudice to subregulation (1), the Minister may direct the Agency-

- (a) to exercise (or refrain from exercising) any functions under these Regulations;
- (b) to exercise (or refrain from exercising) any function in such circumstances, or in such manner, as may be specified;
- (c) as to the objectives which are to be achieved by any condition of a permit.

(3) Any direction given under this regulation-

- (a) must not be inconsistent with Directive 2015/2193;
- (b) must be in writing; and
- (c) may be varied or revoked by a further direction.

(4) It is the duty of the Agency to comply with any direction which is given to it under these Regulations.

**Guidance to the Agency.**

51.(1) The Minister may issue guidance to the Agency with respect to the carrying out of any of its functions under these Regulations.

(2) In carrying out any of its functions under these Regulations, the Agency must have regard to any guidance issued by the Minister under this regulation.

**Application to the Crown.**

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52.(1) Subject to the provisions of this regulation, these Regulations bind the Crown.

(2) No contravention by the Crown of any provision of these Regulations makes the Crown criminally liable for the contravention, and no proceedings may be taken against the Crown under these Regulations, but the Supreme Court may, on an application by the Agency, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) The provisions of these Regulations apply to persons in the public service of the Crown as they apply to other persons.

**Fees.**

53.(1) Where the Agency incurs costs in carrying out its functions under these Regulations it may charge a fee (determined in accordance with this regulation) to a person submitting an application or operating a medium combustion plant.

(2) The fee shall not exceed the sum of the costs reasonably incurred by the Agency in carrying out its functions including those referred to in subregulation (3).

(3) Where, in the opinion of the Agency, it can properly carry out its functions under these Regulations only by using specialist or other consultants, the cost of such specialists or other consultants shall be included in the fee payable under subregulation (1).

(4) The Agency shall provide the person by whom the fee is payable under subregulation (1) with a detailed statement of the work done and costs incurred.

(5) Until the fee (or such proportion of it as the Agency may specify) is paid, the person shall be deemed not to have complied with the requirements of these Regulations.

(6) The fee of such part of it as remains unpaid shall be recoverable as a civil debt.

**Reporting.**

54.(1) The Minister must ensure that the reports under subregulations (2), (4) and (6) are submitted to the European Commission by the relevant deadlines.

(2) A report under this subregulation shall include-

- (a) an estimate of the total annual emissions of carbon monoxide; and
- (b) any information available on the concentration of emissions of CO from medium combustion plants, grouped by fuel type and capacity class.

- (3) The relevant deadline for a report under subregulation (2) is 1 January 2021.
- (4) A report under this subregulation shall include-
- (a) an estimate of the total annual emissions of sulphur dioxide, nitrogen oxides and dust from medium combustion plants, grouped by plant type, fuel type and capacity class; and
  - (b) qualitative and quantitative information on-
    - (i) the implementation of Directive 2015/2193;
    - (ii) any action taken to verify compliance of the operation of medium combustion plants with these Regulations or Directive 2015/2193; and
    - (iii) any enforcement action for the purposes thereof.
- (5) The relevant deadline for a report under subregulation (4) is 1 October 2026.
- (6) A report under this subregulation shall include qualitative and quantitative information on-
- (a) the implementation of Directive 2015/2193;
  - (b) any action taken to verify compliance of the operation of medium combustion plants with these Regulations or Directive 2015/2193; and
  - (c) any enforcement action for the purposes thereof.
- (7) The relevant deadline for a report under subregulation (6) is 1 October 2031.
- (8) Reports made under this regulation must be on such electronic form made available by the European Commission under Article 11(3) of Directive 2015/2193.
- (9) The Minister must ensure that the European Commission is notified of any changes affecting the penalties imposed under regulation 46 or otherwise imposed under Article 16 of Directive 2015/2193.

**Amendment of the Environment (Air Quality Standards) Regulations 2010.**

55. In regulation 26 of the Environment (Air Quality Standards) Regulation 2010-

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(a) after subregulation (5) insert-

“(5A) The air quality plan must assess the need to apply lower emission limit values for individual medium combustion plants than those set out in Directive 2015/2193/EU of the European Parliament and of the Council of 25 November 2015 on the limitation of emissions of certain pollutants into the air from medium combustion plants (“the Medium Combustion Plant Directive”) provided that, in the opinion of the Minister, applying such emission limit values would effectively contribute to a noticeable improvement to air quality.

(5B) In considering whether to impose lower emission limit values, the Minister must take into account the results of the information exchange referred to in Article 6(10) of the Medium Combustion Plant Directive.”;

(b) after subregulation (7) insert-

“(8) In this regulation “emission limit values” and “medium combustion plants” have the meaning given in the Control of Emissions from Medium Combustion Plants Regulations 2017.”.

**SCHEDULE 1**

**INFORMATION TO BE PROVIDED BY THE OPERATOR TO THE AGENCY**

Regulation 7(1)

1. Rated thermal input (MW) of the medium combustion plant.
2. Type of the medium combustion plant (diesel engine, gas turbine, dual fuel engine, other engine or other medium combustion plant).
3. Type and share of fuels used according to the fuels categories laid down in Schedule 2.
4. Date of the start of the operation of the medium combustion plant or, where the exact date of the start of the operation is unknown, proof of the fact that the operation started before 20 December 2018.
5. Sector of activity of the medium combustion plant or the facility in which it is applied (NACE code).
6. Expected number of annual operating hours of the medium combustion plant and average load in use.
7. Where the exemption under regulations 18 or 19 is used, a declaration signed by the operator that the medium combustion plant will not be operated more than the number of hours referred to in those regulations.
8. Name and registered office of the operator, and in the case of stationary medium combustion plants, the address where the plant is located.

**SCHEDULE 2**
**EMISSION LIMIT VALUES**

Regulation 17

1. All emission limit values set out in this Schedule are defined at a temperature of 273,15 K, a pressure of 101,3 kPa and after correction for the water vapour content of the waste gases and at a standardised O<sub>2</sub> content of 6% for medium combustion plants using solid fuels, 3% for medium combustion plants, other than engines and gas turbines, using liquid and gaseous fuels and 15% for engines and gas turbines.

**PART 1**
**EMISSION LIMIT VALUES FOR EXISTING MEDIUM COMBUSTION PLANTS**
**Table 1**

Emission limit values (mg/Nm<sup>3</sup>) for existing medium combustion plants with a rated thermal input equal to or greater than 1 MW and less than or equal to 5 MW, other than engines and gas turbines

<b>Pollutant</b>	<b>Solid biomass</b>	<b>Other solid fuels</b>	<b>Gas oil</b>	<b>Liquid fuels other than gas oil</b>	<b>Natural gas</b>	<b>Gaseous fuels other than natural gas</b>
SO <sub>2</sub>	200 <sup>(1)</sup> <sup>(2)</sup>	1 100	—	350	—	200 <sup>(3)</sup>
NO <sub>x</sub>	650	650	200	650	250	250
Dust	50	50	—	50	—	—

<sup>(1)</sup> The value does not apply in the case of plants firing exclusively woody solid biomass.

<sup>(2)</sup> 300 mg/Nm<sup>3</sup> in the case of plants firing straw.

<sup>(3)</sup> 400 mg/Nm<sup>3</sup> in the case of low calorific gases from coke ovens in the iron and steel industry.

**Table 2**

Emission limit values (mg/Nm<sup>3</sup>) for existing medium combustion plants with a rated thermal input greater than 5 MW, other than engines and gas turbines



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Pollutant	Solid biomass	Other solid fuels	Gas oil	Liquid fuels other than gas oil	Natural gas	Gaseous fuels other than natural gas
SO <sub>2</sub>	200 <sup>(4)</sup> <sup>(5)</sup>	400 <sup>(6)</sup>	—	350 <sup>(7)</sup>	—	35 <sup>(8)</sup> <sup>(9)</sup>
NO <sub>x</sub>	650	650	200	650	200	250
Dust	30 <sup>(10)</sup>	30 <sup>(10)</sup>	—	30	—	—

<sup>(4)</sup> The value does not apply in the case of plants firing exclusively woody solid biomass.

<sup>(5)</sup> 300 mg/Nm<sup>3</sup> in the case of plants firing straw.

<sup>(6)</sup> 1 100 mg/Nm<sup>3</sup> in the case of plants with a rated thermal input greater than 5 MW and less than or equal to 20 MW.

<sup>(7)</sup> Until 1 January 2030, 850 mg/Nm<sup>3</sup> in the case of plants with a rated thermal input greater than 5 MW and less than or equal to 20 MW firing heavy fuel oil.

<sup>(8)</sup> 400 mg/Nm<sup>3</sup> in the case of low calorific gases from coke ovens, and 200 mg/Nm<sup>3</sup> in the case of low calorific gases from blast furnaces, in the iron and steel industry.

<sup>(9)</sup> 170 mg/Nm<sup>3</sup> in the case of biogas.

<sup>(10)</sup> 50 mg/Nm<sup>3</sup> in the case of plants with a rated thermal input greater than 5 MW and less than or equal to 20 MW.

**Table 3**

Emission limit values (mg/Nm<sup>3</sup>) for existing engines and gas turbines

Pollutant	Type of medium combustion plant	Gas oil	Liquid fuels other than gas oil	Natural gas	Gaseous fuels other than natural gas
SO <sub>2</sub>	Engines and gas turbines	—	120	—	15 <sup>(11)</sup> <sup>(12)</sup>
NO <sub>x</sub>	Engines	190 <sup>(13)</sup> <sup>(14)</sup>	190 <sup>(13)</sup> <sup>(15)</sup>	190 <sup>(16)</sup>	190 <sup>(16)</sup>
	Gas turbines <sup>(17)</sup>	200	200	150	200
Dust	Engines and gas turbines	—	10 <sup>(18)</sup>	—	—

<sup>(11)</sup> 60 mg/Nm<sup>3</sup> in the case of biogas.

<sup>(12)</sup> 130 mg/Nm<sup>3</sup> in the case of low calorific gases from coke ovens, and 65 mg/Nm<sup>3</sup> in the case of low calorific gases from blast furnaces, in the iron and steel industry.

<sup>(13)</sup> 1 850 mg/Nm<sup>3</sup> in the following cases:

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- (i) for diesel engines the construction of which commenced before 18 May 2006;  
(ii) for dual fuel engines in liquid mode.

<sup>(14)</sup> 250 mg/Nm<sup>3</sup> in the case of engines with a rated thermal input equal to or greater than 1 MW and less than or equal to 5 MW.

<sup>(15)</sup> 250 mg/Nm<sup>3</sup> in the case of engines with a rated thermal input equal to or greater than 1 MW and less than or equal to 5 MW; 225 mg/Nm<sup>3</sup> in the case of engines with a rated thermal input greater than 5 MW and less than or equal to 20 MW.

<sup>(16)</sup> 380 mg/Nm<sup>3</sup> for dual fuel engines in gas mode.

<sup>(17)</sup> Emission limit values are only applicable above 70 % load.

<sup>(18)</sup> 20 mg/Nm<sup>3</sup> in the case of plants with a rated thermal input equal to or greater than 1 MW and less than or equal to 20 MW.

### PART 2

#### EMISSION LIMIT VALUES FOR NEW MEDIUM COMBUSTION PLANTS

**Table 1**

Emission limit values (mg/Nm<sup>3</sup>) for new medium combustion plants other than engines and gas turbines

Pollutant	Solid biomass	Other solid fuels	Gas oil	Liquid fuels other than gas oil	Natural gas	Gaseous fuels other than natural gas
SO <sub>2</sub>	200 <sup>(19)</sup>	400	—	350 <sup>(20)</sup>	—	35 <sup>(21)</sup> <sup>(22)</sup>
NO <sub>x</sub>	300 <sup>(23)</sup>	300 <sup>(23)</sup>	200	300 <sup>(24)</sup>	100	200
Dust	20 <sup>(25)</sup>	20 <sup>(25)</sup>	—	20 <sup>(26)</sup>	—	—

<sup>(19)</sup> The value does not apply in the case of plants firing exclusively woody solid biomass.

<sup>(20)</sup> Until 1 January 2025, 1 700 mg/Nm<sup>3</sup> in the case of plants which are part of SIS or MIS.

<sup>(21)</sup> 400 mg/Nm<sup>3</sup> in the case of low calorific gases from coke ovens, and 200 mg/Nm<sup>3</sup> in the case of low calorific gases from blast furnaces, in the iron and steel industry.

<sup>(22)</sup> 100 mg/Nm<sup>3</sup> in the case of biogas.

<sup>(23)</sup> 500 mg/Nm<sup>3</sup> in the case of plants with a total rated thermal input equal to or greater than 1 MW and less than or equal to 5 MW.

<sup>(24)</sup> Until 1 January 2025, 450 mg/Nm<sup>3</sup> when firing heavy fuel oil containing between 0,2 % and 0,3 % N and 360 mg/Nm<sup>3</sup> when firing heavy fuel oil containing less than 0,2 % N in the case of plants which are part of SIS or MIS.

<sup>(25)</sup> 50 mg/Nm<sup>3</sup> in the case of plants with a total rated thermal input equal to or greater than 1 MW and less than or equal to 5 MW; 30 mg/Nm<sup>3</sup> in the case of plants with a total rated thermal input greater than 5 MW and less than or equal to 20 MW.

<sup>(26)</sup> 50 mg/Nm<sup>3</sup> in the case of plants with a total rated thermal input equal to or greater than 1 MW and less than or equal to 5 MW.

**Table 2**

Emission limit values (mg/Nm<sup>3</sup>) for new engines and gas turbines

Pollutant	Type of medium combustion plant	Gas oil	Liquid fuels other than gas oil	Natural gas	Gaseous fuels other than natural gas
SO <sub>2</sub>	Engines and gas turbines	—	120 <sup>(27)</sup>	—	15 <sup>(28)</sup>
NO <sub>x</sub>	Engines <sup>(29)</sup> <sup>(30)</sup>	190 <sup>(31)</sup>	190 <sup>(31)</sup> <sup>(32)</sup>	95 <sup>(33)</sup>	190
	Gas turbines <sup>(34)</sup>	75	75 <sup>(35)</sup>	50	75
Dust	Engines and gas turbines	—	10 <sup>(36)</sup> <sup>(37)</sup>	—	—

<sup>(27)</sup> Until 1 January 2025, 590 mg/Nm<sup>3</sup> for diesel engines which are part of SIS or MIS.

<sup>(28)</sup> 40 mg/Nm<sup>3</sup> in the case of biogas.

<sup>(29)</sup> Engines running between 500 and 1 500 hours per year are exempted from compliance with those emission limit values if they are applying primary measures to limit NO<sub>x</sub> emissions and meet the emission limit values set out in footnote (30).

<sup>(30)</sup> Until 1 January 2025 in SIS and MIS, 1 850 mg/Nm<sup>3</sup> for dual fuel engines in liquid mode and 380 mg/Nm<sup>3</sup> in gas mode; 1 300 mg/Nm<sup>3</sup> for diesel engines with ≤ 1 200 rpm with a total rated thermal input less than or equal to 20 MW and 1 850 mg/Nm<sup>3</sup> for diesel engines with a total rated thermal input greater than 20 MW; 750 mg/Nm<sup>3</sup> for diesel engines with > 1 200 rpm.

<sup>(31)</sup> 225 mg/Nm<sup>3</sup> for dual fuel engines in liquid mode.

<sup>(32)</sup> 225 mg/Nm<sup>3</sup> for diesel engines with a total rated thermal input less than or equal to 20 MW with ≤ 1 200 rpm.

<sup>(33)</sup> 190 mg/Nm<sup>3</sup> for dual fuel engines in gas mode.

<sup>(34)</sup> These emission limit values are only applicable above 70 % load.

<sup>(35)</sup> Until 1 January 2025, 550 mg/Nm<sup>3</sup> for plants which are part of SIS or MIS.

<sup>(36)</sup> Until 1 January 2025, 75 mg/Nm<sup>3</sup> for diesel engines which are part of SIS or MIS.

<sup>(37)</sup> 20 mg/Nm<sup>3</sup> in the case of plants with a total rated thermal input equal to or greater than 1 MW and less than or equal to 5 MW.

**SCHEDULE 3****MONITORING OF EMISSIONS BY THE OPERATOR**

Regulation 27

1. Periodic measurements shall be required at least-
  - (a) every three years for medium combustion plants with a rated thermal input equal to or greater than 1 MW and less than or equal to 20MW;
  - (b) every year for medium combustion plants with a rated thermal input greater than 20MW.
2. As an alternative to the frequencies referred to in paragraph 1, in the case of medium combustion plants which are subject to regulation 18 or 19, periodic measurements are required at least each time the following numbers of operating hours have elapsed-
  - (a) 3 times the number of maximum average annual operating hours, applicable pursuant to regulation 18 or 19, for medium combustion plants with a rated thermal input greater than 1 MW and less than or equal to 20 MW;
  - (b) the number of maximum average annual operating hours, applicable pursuant to regulation 18 or 19, for medium combustion plants with a rated thermal input greater than 20MW;

but the frequency of periodic measurements must in any case not be lower than once every 5 years.

3. Measurements are required for-
  - (a) pollutants for which an emission limit value is laid down in these Regulations for the plant concerned;
  - (b) Carbon monoxide for all plants.
4. The first measurements must be carried out within 4 months of the grant of a permit to, and registration of, the plant, or of the date of the start of the operation, whichever is the latest.

5. As an alternative to the measurements referred to in paragraphs 1, 2 and 3(a), as regards sulphur dioxide, other procedures, verified and approved by the Agency, may be used to determine the sulphur dioxide emissions.
6. As an alternative to the periodic measurements referred to in paragraph 1, the Agency may require continuous measurements and in the case of continuous measurements, the automated measuring systems are subject to checking by means of parallel measurements with the reference methods at least once per year and the operator must inform the Agency of the results of those checks.
7. Sampling and analysis of polluting substances and measurements of process parameters as well as any alternatives used as referred to under paragraph 5 and 6 shall be based on methods enabling reliable, representative and comparable results and methods complying with harmonised EN standards shall be presumed to satisfy this requirement. During each measurement, the plant must be operating under stable conditions at a representative even load. In this context, start-up and shut-down periods must be excluded.

**SCHEDULE 4****ASSESSMENT OF COMPLIANCE**

Regulation 28

1. In the case of periodic measurements under Schedule 3, the emission limit values referred to in Part 5 are regarded as having been complied with if the results of each of the series of measurements or of the other procedures defined and determined in accordance with the rules laid down by the Agency, do not exceed the relevant emission limit value.
2. In the case of contemporaneous measurements, compliance with the emission limit values referred to in Part 5 are to be assessed as set out in paragraph 1 of Part 4 of Schedule 10 to the Pollution Prevention and Control Regulations 2013. The validated average values are determined as set out in paragraphs 9 and 10 of Part 3 of Schedule 10 to the Pollution Prevention and Control Regulations 2013.
3. For the purpose of the calculation of the average emission values, the values measured during the periods referred to in regulation 25 as well as during the start-up and shut-down periods shall be disregarded.