
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2017 No.

ENVIRONMENTAL PROTECTION

**The Pollution Prevention and Control (Scotland) Amendment
Regulations 2017**

Made - - - - 2017

Coming into force - - 19th December 2017

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2 and schedule 1 of the Pollution Prevention and Control Act 1999^(a) and all other powers enabling them to do so.

In accordance with section 2(4) of that Act, they have consulted the Scottish Environment Protection Agency, such bodies and persons appearing to them to be representative of the interests of local government, industry, agriculture and small businesses respectively as they consider appropriate and such other bodies or persons as they consider appropriate.

In accordance with section 2(8) and (9)(d) of that Act a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Pollution Prevention and Control (Scotland) Amendment Regulations 2017 and come into force on 19th December 2017.

(2) These Regulations extend to Scotland only.

(a) 1999 c.24. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46), as read with section 5(3) of the Pollution Prevention and Control Act 1999 (“the 1999 Act”) and by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2008 (S.I. 2008/1776). The 1999 Act is to be read subject to the gloss in section 45(3) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), so that the maximum period of imprisonment that can be imposed on summary conviction of an offence triable either way under these Regulations is 12 months. Directive 2008/98/EC (OJ L 312, 22.11.2008, p.3), Directive 2008/1/EC (OJ L 24, 29.01.2008, p.8; as amended by Directive 2009/31/EC) and Directive 2000/60/EC (OJ L 327, 22.12.2000, p.1; as amended by Directives 2008/105/EC and 2009/31/EC, and by Decision 2455/2001/EC) were designated for the purposes of paragraph 20 of Part 1 of schedule 1 of the 1999 Act by S.S.I. 2010/131. Directive 2008/112/EC (OJ L 345, 23.12.2008, p.68) was designated for those purposes by S.S.I. 2010/235. Directive 2010/75/EU (OJ L 334, 17.12.2010, p.17) was designated for those purposes by S.S.I. 2011/423. Directive 2012/27/EU (OJ L 315, 14.11.2012, p.1) was designated for those purposes by S.S.I. 2013/321. Directive (EU) 2015/2193 (OJ L 313, 28.11.2015, p.1) was designated for those purposes by S.S.I. 2017/322.

Interpretation

2. In these Regulations, “the principal Regulations” means the Pollution Prevention and Control (Scotland) Regulations 2012(a).

Amendment of the principal Regulations

3. The principal Regulations are amended in accordance with regulations 4 to 16.

Interpretation: enactments etc.

4. In regulation 3(1) (interpretation: enactments etc.) after the definition of “Landfill Regulations” insert—

““Medium Combustion Plant Directive” means Directive (EU) 2015/2193 of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from medium combustion plants(b),”.

Interpretation: medium combustion plant

5. After regulation 3, insert—

“Interpretation: medium combustion plant

3A.—(1) In these Regulations—

“existing medium combustion plant” means a medium combustion plant put into operation before 20th December 2018 or for which a permit was granted before 19th December 2017 provided that the plant is put into operation no later than 20th December 2018,

“medium combustion plant” means a combustion plant with a rated thermal input equal to or greater than 1 megawatt and less than 50 megawatts but does not include—

- (a) combustion plants covered by Chapter III or IV of the Industrial Emissions Directive,
- (b) combustion plants covered by Regulation (EU) 2016/1628 of the European Parliament and of the Council on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery(c),
- (c) on-farm combustion plants with a total rated thermal input less than or equal to 5 megawatts, that exclusively use unprocessed poultry manure, as referred to in Article 9(a) of Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002(d), as a fuel,
- (d) combustion plants in which the gaseous products of combustion are used for the direct heating, drying or any other treatment of objects or materials,
- (e) 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,

(a) S.S.I. 2012/360; this instrument has been relevantly amended by S.S.I. 2014/267.

(b) OJ L 313, 28.11.2015, p.1.

(c) OJ L 252, 16.9.2016, p.53. Article 64 repeals Directive 97/68/EC (OJ L 59, 27.2.1998, p.1).

(d) OJ L 300, 14.11.2009, p.1, last amended by Council Regulation (EU) 1385/2013 (OJ L 354, 28.12.2013, p.86).

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

(2) For the purposes of regulation 26A, a combination formed by two or more new medium combustion plants is to be treated as a single new medium combustion plant and their rated thermal input is added together for the purpose of calculating the total rated thermal input of the plant where—

- (a) the waste gases of the plant are discharged through a common stack, or
- (b) the waste gases of the plant could be discharged through a common stack in the opinion of SEPA, taking into account technical and economic factors.”.

Designation as competent authority

6. In regulation 10 (SEPA: designation as competent authority)(a)—
- (a) for “and” substitute “,”; and
 - (b) after “Energy Efficiency Directive” insert “and the Medium Combustion Plant Directive”.

Schedule 1 activities

7. After regulation 20A (Schedule 1A: Energy Efficiency Directive) insert—

“Schedule 1B: Medium Combustion Plant Directive

20B. Schedule 1B has effect.”.

Schedule 1 conditions: best available techniques

8. After regulation 22(2), insert—
- “(3) Paragraph (1) does not apply to a permit for a Part B installation at which no activity is carried out other than an activity described in either or both—
- (a) paragraph (c) of Part B of Section 1.1 of Part 1 of schedule 1; or
 - (b) paragraph (d) of Part B of Section 1.1 of Part 1 of schedule 1.”.

(a) Regulation 10 has been relevantly amended by S.S.I. 2014/267.

Schedule 1 conditions

9. After regulation 26 (Schedule 1 conditions: large combustion plants) insert—

“Schedule 1 conditions: medium combustion plants

26A.—(1) SEPA must ensure that a permit contains such conditions as it considers necessary to give effect to the provisions of schedule 1B.

(2) SEPA may set stricter permit conditions than those required by paragraph (1).

(3) The Scottish Ministers may direct SEPA to include stricter emission limit values than required by the provisions of schedule 1B provided that, in the opinion of the Scottish Ministers, applying such emission limit values would effectively contribute to a noticeable improvement of air quality.”

Public Register

10. In regulation 64(1) (SEPA: public register), for “paragraphs 2 to 4” substitute “paragraphs 2 to 5”.

Activities and installations and mobile plant

11. In Part B of Section 1.1 (combustion) of Part 1 of schedule 1 (activities and installations and mobile plant), after paragraph (c) insert—

“(d) Burning any fuel in a medium combustion plant with a rated thermal input equal to or greater than 1 megawatt and less than or equal to 20 megawatts.”.

Schedule 1A

12. In schedule 1A (Energy Efficiency Directive), after paragraph 3 insert—

“3A.—(1) Where this schedule does not apply to an installation by virtue of paragraph 3(a), SEPA must take appropriate steps to verify that the exemption criteria are met.

(2) SEPA may comply with sub-paragraph (1) by—

- (a) service of notice under regulation 63(2) requiring the operator of the installation to provide information required to verify the installation’s operating hours,
- (b) inclusion of appropriate conditions in a permit for an installation of which the installation falling within paragraph 3(a) forms part.”

Schedule 1B

13. After schedule 1A of the principal Regulations insert schedule 1B as set out in the schedule.

Grant of permits

14. In schedule 4 (grant of permits)—

(a) after paragraph 11 insert—

“11A. An application for a permit to operate a Part B installation where no activity listed in schedule 1 or 2 other than the activities described in paragraph (d) of Part B of Section 1.1 of schedule 1 will be carried out need include only—

- (a) the information described in paragraph 1(1)(a), (b), and (f),
- (b) the rated thermal input (in megawatts) of the medium combustion plant,
- (c) the type of medium combustion plant (diesel engine, gas turbine, dual fuel engine, other engine or other medium combustion plant),

- (d) the type and share of fuels used (according to the categories in Part 2 of schedule 1B),
- (e) the 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 20th December 2018,
- (f) the sector of activity of the medium combustion plant or the facility in which it is applied (NACE code)(a),
- (g) the expected number of annual operating hours of the medium combustion plant and average load in use,
- (h) if required for the purposes of an exemption from compliance with emission limit values, a declaration signed by the operator that the medium combustion plant will not be operated for more than 500 hours or 1000 hours (as appropriate).

11B. An application in respect of a Part B installation at which the activities listed in both paragraphs (c) and (d) of Part B of Section 1.1 of schedule 1 will be carried out, but at which no other activity listed in schedule 1 or 2 will be carried out, need include only the information specified in paragraph 11A and the cost benefit analysis required by paragraph 5(b) of schedule 1A.

11C. The requirements of paragraphs 8 and 13 and paragraph 4(4)(c) and (8) of schedule 7 do not apply to an application in respect of a Part B installation where no activity listed in schedule 1 other than an activity in paragraph (d) of Part B of Section 1.1 is to be carried out.”;

(b) after paragraph 28 insert—

“**28A.** SEPA must, in respect of an application for a permit for a medium combustion plant, inform the applicant when it begins the procedure for determining the permit.

28B. SEPA must ensure, in respect of a permit for a Part B installation at which the only activity carried out is the activity described in paragraph (d) of Part B of Section 1.1 of schedule 1, that the permit includes only such conditions as set in accordance with regulation 26A and any other requirement in these Regulations to include any other condition does not apply in respect of the permit to that extent.

28C. SEPA must ensure, in respect of a permit for a Part B installation at which the activities listed in both paragraphs (c) and (d) of Part B of Section 1.1 of schedule 1 will be carried out but at which no other activity listed in schedule 1 or 2 will be carried out, that the permit includes only such conditions as SEPA considers necessary to comply with regulation 26A and paragraphs 13 and 14 of schedule 1A, and any requirement in these Regulations to include any other condition does not apply in respect of the permit to that extent.”.

Public Register

15. In schedule 9 (register), after paragraph 4 insert—

“**5.** Nothing in paragraph 1 requires SEPA to keep in the register information—

- (a) which relates to a Part B installation at which the only activity carried out is the activity described in paragraph (d) of Part B of Section 1.1 of schedule 1, and
- (b) which is kept in a separate register of medium combustion plants maintained—
 - (i) by another authority in the United Kingdom, or

(a) NACE (nomenclature statistique des activités économiques dans la Communauté Européenne) refers to the industry standard classification system used in the European Union. The current version is established by Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20th December 2006 establishing the statistical classification of economic activities NACE Revision 2 (OJ L 393, 30.12.2006, p.86).

(ii) jointly by SEPA and another authority in the United Kingdom.

6. SEPA must make available on or via its website the particulars described in paragraph 1(a), (g), (h) and (j) which relate to a medium combustion plant.

7. If a member of the public requests access to the information, SEPA must require the operator of a medium combustion plants to provide the information the operator is required to keep by paragraph 6(d)(ii) to (v) of schedule 1B.”.

Savings and transitional provisions

16. In schedule 10 (savings and transitional provisions), after Part 4 (fees and charges) insert—

“Part 5

Medium Combustion Plant

15.—(1) Regulation 11 applies to a new medium combustion plant with a rated thermal input equal to or greater than 1 megawatt and less than or equal to 20 megawatts on and after 20th December 2018.

(2) Regulation 11 applies to existing medium combustion plant on and after—

- (a) 1st January 2024, where the rated thermal input of the plant is greater than 5 megawatts,
- (b) 1st January 2029, where the rated thermal input of the plant is less than or equal to 5 megawatts.

(3) Paragraph 1(1) of schedule 1B applies to an existing medium combustion plant from 1st January 2025.

(4) Paragraph 1(2) of schedule 1B applies to an existing medium combustion plant from 1st January 2030.

(5) An application for a permit to operate an existing medium combustion plant must be received by SEPA by—

- (a) 30th June 2023, where the rated thermal input of the plant is greater than 5 megawatts and less than or equal to 20 megawatts,
- (b) 30th June 2028, where the rated thermal input of the plant is less than or equal to 5 megawatts.

(6) Paragraph 1(1) and (2) of schedule 1B applies to an existing medium combustion plant which is part of a small isolated system or a micro isolated system on and after 1st January 2030.

(7) In this paragraph “small isolated system” and “micro isolated system” have the same meaning as in paragraph 10 of schedule 1B.”.

Amendment of the Air Quality Standards (Scotland) Regulations 2010

17.—(1) The Air Quality Standards (Scotland) Regulations 2010(a) are amended as follows.

(2) In regulation 24 (air quality plans)—

(a) after paragraph (7), insert—

“(7A) An air quality plan must assess the need to apply lower emission limit values for individual medium combustion plants than those set out in 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 Medium

(a) S.S.I. 2010/204, to which there are amendments not relevant to these Regulations.

Combustion Plant Directive”) provided that, in the opinion of the Scottish Ministers, applying such emission limit values would effectively contribute to a noticeable improvement of air quality.

(7B) In considering whether to impose lower emission limit values, the Scottish Ministers must take into account the results of the information exchange referred to in Article 6(10) of the Medium Combustion Plant Directive.”;

(b) after paragraph (8) insert—

“(9) In this regulation “emission limit values” and “medium combustion plants” have the meanings given in the Pollution Prevention and Control (Scotland) Regulations 2012.”.

St Andrew’s House,
Edinburgh
Date

Name
A member of the Scottish Government

SCHEDULE

Regulation 13

Schedule 1B inserted into the Principal Regulations

“SCHEDULE 1B

Regulation 20B

Medium Combustion Plant Directive

PART 1

Permit conditions

Existing medium combustion plants

1.—(1) The emissions into air from an existing medium combustion plant with a rated thermal input greater than 5 megawatts must not exceed the emission limit values set out in—

- (a) Table 2, if the plant is not an engine or gas turbine,
- (b) Table 3, if the plant is an engine or gas turbine.

(2) The emissions into air from an existing medium combustion plant with a rated thermal input less than or equal to 5 megawatts must not exceed the emission limit values set out in—

- (a) Table 1, if the plant is not an engine or gas turbine,
- (b) Table 3, if the plant is an engine or gas turbine.

(3) An existing medium combustion plant is exempted from the requirements in sub-paragraphs (1) and (2) if either—

- (a) the plant does not operate more than 500 hours per year (calculated as a rolling average over a period of 5 years), or
- (b) the plant does not operate more than 1000 hours per year (calculated as a rolling average over a period of 5 years) and the plant is operated in case of emergency or extraordinary circumstances for—
 - (i) backup power production in connected islands in the event of an interruption of the main power supply to an island, or
 - (ii) heat production in cases of exceptionally cold weather events.

(4) A permit for a medium combustion plant which—

- (a) is exempted by sub-paragraph (3) from the requirements in sub-paragraphs (1) and (2), and
- (b) is firing solid fuels,

must contain an emission limit value for dust of 200 mg/Nm³.

(5) An existing medium combustion plant with a rated thermal input greater than 5 megawatts is exempted from the requirement in sub-paragraph (1) until 1st January 2030 where at least 50% of the useful heat production of the plant (calculated as a rolling average over a period of 5 years) is delivered in the form of steam or hot water to a public network for district heating.

(6) A permit for a medium combustion plant which is exempted by sub-paragraph (5) from the requirement in sub-paragraph (1) must contain—

- (a) emission limit values which do not exceed—
 - (i) 1100 mg/Nm³ for SO₂, and
 - (ii) 150 mg/Nm³ for dust,
- (b) conditions that are necessary to ensure that—
 - (i) no significant pollution is caused; and
 - (ii) a high level of protection for the environment as a whole is achieved.

(7) An existing medium combustion plant is exempted until 1st January 2030 from the requirements in sub-paragraphs (1) and (2) to comply with an emission limit value for dust in Table 1, 2 or 3 where—

- (a) the plant fires solid biomass as its main fuel, and
- (b) the plant is situated in a zone which conforms with the limit values set out in Directive 2008/50/EC of the European Parliament and of the Council on ambient air quality and cleaner air for Europe^(a).

(8) A permit for a medium combustion plant which is exempted by sub-paragraph (7) from the requirements in sub-paragraphs (1) and (2) must contain—

- (a) emission limit values which do not exceed 150 mg/Nm³ for dust, and
- (b) conditions that are necessary to ensure that—
 - (i) no significant pollution is caused; and
 - (ii) a high level of protection of the environment as a whole is achieved.

(10) An existing medium combustion plant is exempted until 1st January 2030 from the requirement in sub-paragraph (1) to comply with the emission limit values for NO_x in Table 3 where the plant is used to drive gas compressor stations required to ensure the safety and security of a national gas transmission system.

New medium combustion plants

2.—(1) The emissions into air from a new medium combustion plant must not exceed the emission limit values set out in—

- (a) Table 4, if the plant is not an engine or gas turbine,
- (b) Table 5, if the plant is an engine or gas turbine.

(2) A new medium combustion plant is exempted from the requirements in sub-paragraph (1) where the plant does not operate more than 500 hours per year (calculated as a rolling average over a period of 3 years).

(3) A permit for a new medium combustion plant which—

- (a) is exempted by sub-paragraph (2) from the requirements in sub-paragraph (1), and
- (b) is firing solid fuels,

must contain an emission limit value for dust of 100 mg/Nm³.

Temporary exemptions

3.—(1) A medium combustion plant may be exempted for a maximum period of 6 months from the requirements in paragraphs 1(1) and (2) and 2(1) to comply with an emission limit value for SO₂ where the plant—

- (a) normally uses low-sulphur fuel, and

(a) OJ L 152, 21.5.2008, p.1, last amended by Commission Directive (EU) 2015/1480 (OJ L 226, 29.8.2015, p.4).

- (b) the operator is unable to comply with an emission limit value due to an interruption in the supply of low-sulphur fuel resulting from a serious shortage.
- (2) A medium combustion plant may be exempted for a maximum period of 10 days from the requirements in paragraphs 1(1) and (2) and 2(1) where the plant—
- (a) uses only gaseous fuel,
 - (b) has to resort exceptionally to the use of non-gaseous fuel due to a sudden interruption on the supply of gas, and
 - (c) requires to be fitted with secondary abatement equipment due to the interruption.
- (3) The period referred to in sub-paragraph (2) may be extended where SEPA considers, following representations from the operator, that a longer period is justified.
- 4.** SEPA must inform the Scottish Ministers within 14 days if it grants an exemption from the requirements in paragraphs 1(1) and (2) and 2(1) on the grounds set out in paragraph 3(1) or (2).

Plants firing more than one fuel

- 5.** Where a medium combustion plant simultaneously fires two or more fuels, the emission limit value for each pollutant is calculated by—
- (a) taking the emission limit value in Table 1, 2, 3, 4 or 5 for each fuel,
 - (b) determining the fuel-weighted emission limit value, which is obtained by multiplying the individual emission limit value by the thermal input delivered by each fuel, and dividing the product of multiplication by the sum of the thermal inputs delivered by all fuels, and
 - (c) aggregating the fuel-weighted emission limit values.

Monitoring

- 6.—**(1) The operator of a medium combustion plant must—
- (a) where the plant is using more than one fuel type, monitor emissions—
 - (i) while the fuel or fuel mix likely to result in the highest level of emissions is being fired, and
 - (ii) during a period which is representative of normal operating conditions,
 - (b) keep a record of, and process, all monitoring results in such a way as to enable verification of compliance with the applicable emission limit values,
 - (c) keep a record of, or information proving, the effective continuous operation of secondary abatement equipment in use at the plant,
 - (d) keep the following:—
 - (i) the permit and, if relevant, variations and related information,
 - (ii) the monitoring results and information referred to in sub-paragraphs (b) and (c),
 - (iii) a record of the plant's operating hours if applicable for the purposes of paragraph 1(3) or 2(2),
 - (iii) a record of the type and quantities of fuel used in the plant,
 - (iv) a record of any breakdown or malfunction of secondary abatement equipment,
 - (v) a record of a breach of an emission limit value, and the measures taken by the operator to restore compliance,
 - (e) keep the information referred to in head (d)(ii) to (v) for a period of at least 6 years.

- (2) The operator of a medium combustion plant must either—
- (a) measure emissions at least every three years; or
 - (b) measure emissions continuously.
- (3) But where sub-paragraph (4) applies, the operator must measure emissions at the most frequent of—
- (a) after the elapse of three times the maximum permitted average annual operating hours,
 - (b) every five years.
- (4) This paragraph applies to a medium combustion plant which is—
- (a) exempted from the requirements of paragraph 1(1) and (2) by paragraph 1(3), or
 - (b) exempted from the requirements of paragraph 2(1) by paragraph 2(2).
- (5) The operator of a medium combustion plant is only required to measure emissions of—
- (a) pollutants for which an emission limit value is included in the operator's permit by virtue of this schedule, and
 - (b) carbon monoxide.
- (6) The operator of a medium combustion plant must take the first measurement of emissions by the later of the date falling 4 months after—
- (a) the grant of the permit,
 - (b) the date of the start of operation of the plant.
- (7) As an alternative to the requirements of sub-paragraphs (2), (3) and (5)(a), the operator of a medium combustion plant may use other procedures which have been verified and approved by SEPA to determine SO₂ emissions from the plant.
- (8) Where an operator is required to measure emissions continuously—
- (a) the measuring systems must be subject to checking by means of parallel measurements with the reference methods at least annually, and
 - (b) the operator must provide the results of the check to SEPA.
- (9) Measurements must be taken when—
- (a) the plant is operating under stable conditions at a representative even load, and
 - (b) the plant is not starting-up or shutting down.

Compliance

- 7.** Where an operator of a medium combustion plant fails to comply with an emission limit value—
- (a) the operator must immediately take such measures as are needed to ensure compliance with the permit as soon as reasonably practicable,
 - (b) the operator must provide SEPA within the shortest possible time with details (in writing) of the non-compliance and the measures taken to restore compliance,
 - (c) the operator must suspend operation of the plant until compliance is restored if the non-compliance causes a significant degradation of local air quality.

Assessment of Compliance

- 8.—(1)** In the case of periodic measurements, an emission limit value is to be treated as being complied with if each of the series of measurements (or other procedures) do not exceed the emission limit value.

(2) In the case of continuous measurements, an emission limit value is to be treated as being complied with if the evaluation of the measurement results indicates, for operating hours within a calendar year, that all of the following conditions have been met:—

- (a) no validated monthly average value exceeds the emission limit value,
- (b) no validated daily average value exceeds 110% of the emission limit value,
- (c) in the case of plant composed only of boilers using coal, no validated daily average value exceeds 150 % of the emission limit value,
- (d) 95% of all the validated hourly average values over the year do not exceed 20 % of the emission limit value.

(3) At the emission limit value level, the values of the 95% confidence intervals of a single measured result must not exceed the following percentages of the emission limit values:—

- (a) 10% for emissions of carbon monoxide,
- (b) 20% for emissions of sulphur dioxide,
- (c) 20% for emissions of nitrogen oxides,
- (d) 30% for dust.

(4) The validated hourly and daily average values are determined from the measured valid hourly average values after having subtracted the value of the confidence interval specified in sub-paragraph (3).

(5) A day is invalidated if more than three hourly average values are invalid due to malfunction or maintenance of the automated measuring system.

(6) For the purpose of calculating average emission limit values—

- (a) periods of start-up and shut-down, and
- (b) the periods referred to in paragraph 3,

are to be disregarded.

Start-up and shut-down

9. The operator of a medium combustion plant must keep periods of start-up and shut-down of the plant as short as possible.

Interpretation

10. In this schedule—

- (a) “biomass” means—
 - (i) 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,
 - (ii) vegetable waste from agriculture and forestry,
 - (iii) vegetable waste from the food processing industry, if the heat generated is recovered,
 - (iv) 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,
 - (v) cork waste,
 - (vi) 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,
- (b) “micro isolated system” means a micro isolated system as defined in point 27 of Article 2 of Directive 2009/72/EC of the European Parliament and of the Council

of 13th July 2009 concerning common rules for the internal market in electricity(a),

- (c) “small isolated system” means a small isolated system as defined in point 26 of Article 2 of Directive 2009/72/EC of the European Parliament and of the Council of 13th July 2009 concerning common rules for the internal market in electricity,
- (d) “Table 1”, “Table 2”, “Table 3”, “Table 4” and “Table 5” mean the tables with those numbers in Part 2 as read with the notes to the table,
- (e) a reference to any other term defined in the Medium Combustion Plant Directive has the same meaning in as in that Directive.

PART 2

Tables

11. All emission limit values set out in this Part are defined—

- (a) at a temperature of 273.15 K,
- (b) at a pressure of 101.3 kPa,
- (c) after correction for the water vapour content of the waste gases,
- (d) at a standardised O₂ content of—
 - (i) 6 % for medium combustion plants using solid fuels,
 - (ii) 3 % for medium combustion plants, other than engines and gas turbines, using liquid and gaseous fuels,
 - (iii) 15 % for engines and gas turbines.

Table 1

Emission Limit values for existing medium combustion plant with a rated thermal input less than or equal to 5 megawatts (other than engines or gas turbines)

<i>Pollutant</i>	<i>Solid Biomass</i>	<i>Other solid fuels</i>	<i>Gas oil</i>	<i>Liquid fuels other than gas oil</i>	<i>Natural gas</i>	<i>Gaseous fuels other than gas oil</i>
<i>SO₂</i> (mg/Nm ³)	200 ^{(1) (2)}	1100	—	350	—	200 ⁽³⁾
<i>NO_x</i> (mg/Nm ³)	650	650	200	650	250	250
<i>Dust</i> (mg/Nm ³)	50	50	—	50	—	—

⁽¹⁾ This value does not apply in the case of plant firing exclusively woody solid biomass.

⁽²⁾ 300 mg/Nm³ in the case of plants firing straw.

⁽³⁾ 400 mg/Nm³ in the case of low calorific gases from coke ovens in the iron and steel industry.

(a) OJ L 211, 14.8.2009, p.55.

Table 2**Emission Limit values for existing medium combustion plant with a rated thermal greater than or equal to 5 megawatts (other than engines or gas turbines)**

<i>Pollutant</i>	<i>Solid Biomass</i>	<i>Other solid fuels</i>	<i>Gas oil</i>	<i>Liquid fuels other than gas oil</i>	<i>Natural gas</i>	<i>Gaseous fuels other than gas oil</i>
<i>SO₂</i> <i>(mg/Nm³)</i>	200 ^{(1) (2)}	400 ⁽³⁾	–	350 ⁽⁴⁾	–	35 ^{(5) (6)}
<i>NO_x</i> <i>(mg/Nm³)</i>	650	650	200	650	200	250
<i>Dust</i> <i>(mg/Nm³)</i>	30 ⁽⁷⁾	30 ⁽⁷⁾	–	30	–	–

⁽¹⁾ This value does not apply in the case of plant firing exclusively woody solid biomass.

⁽²⁾ 300 mg/Nm³ in the case of plants firing straw.

⁽³⁾ 1100 mg/Nm³ in the case of plants with a rated thermal input greater than 5 megawatts and less than or equal to 20 megawatts.

⁽⁴⁾ Until 1st January 2030, 850 mg/Nm³ in the case of plants with a rated thermal input greater than 5 megawatts and less than or equal to 20 megawatts firing heavy fuel oil.

⁽⁵⁾ 400 mg/Nm³ in the case of low calorific gases from coke ovens, 200 mg/Nm³ in the case of low calorific gases from blast furnaces in the iron and steel industry.

⁽⁶⁾ 170 mg/Nm³ in the case of biogas.

⁽⁷⁾ 50 mg/Nm³ in the case of plants with a rated thermal input greater than 5 megawatts and less than or equal to 20 megawatts.

Table 3**Emission limit values for existing engines and gas turbines**

<i>Pollutant</i>	<i>Type of medium combustion plant</i>	<i>Gas oil</i>	<i>Liquid fuels other than gas oil</i>	<i>Natural gas</i>	<i>Gaseous fuels other than natural gas</i>
<i>SO₂</i> <i>(mg/Nm³)</i>	<i>Engines and gas turbines</i>	–	120	–	15 ^{(1) (2)}
<i>NO_x</i> <i>(mg/Nm³)</i>	<i>Engines</i>	190 ^{(3) (4)}	190 ^{(3) (5)}	190 ⁽⁶⁾	190 ⁽⁶⁾
	<i>Gas turbines⁽⁷⁾</i>	200	200	150	200
<i>Dust</i> <i>(mg/Nm³)</i>	<i>Engines and gas turbines</i>	–	10 ⁽⁸⁾	–	–

⁽¹⁾ 60 mg/Nm³ in the case of biogas.

⁽²⁾ 130 mg/Nm³ in the case of low calorific gases from coke ovens and 65 mg/Nm³ in the case of low calorific gases from blast furnaces in the iron and steel industry.

⁽³⁾ 1850 mg/Nm³ for (i) diesel engines the construction of which commenced before 18th May 2006 and (ii) dual fuel engines in liquid mode.

⁽⁴⁾ 250 mg/Nm³ in the case of engines with a rated thermal input equal to or greater than 1 megawatt and less than or equal to 5 megawatts.

⁽⁵⁾ 250 mg/Nm³ in the case of engines with a rated thermal input equal to or greater than 1 megawatt and less than or equal to 5 megawatts; 225 mg/Nm³ in the case of engines with a rated thermal input greater than 5 megawatts and less than or equal to 20 megawatts.

⁽⁶⁾ 380 mg/Nm³ for dual fuel engines in gas mode.

⁽⁷⁾ Emission limit values are only applicable above 70% load.

(8) 20 mg/Nm³ in the case of plants with a rated thermal input greater than 1 megawatt and less than or equal to 20 megawatts.

Table 4

Emission limit values for new medium combustion plant, other than engines and gas turbines

<i>Pollutant</i>	<i>Solid Biomass</i>	<i>Other solid fuels</i>	<i>Gas oil</i>	<i>Liquid fuels other than gas oil</i>	<i>Natural gas</i>	<i>Gaseous fuels other than gas oil</i>
<i>SO₂ (mg/Nm³)</i>	200 ⁽¹⁾	400	–	350 ⁽²⁾	–	35 ^{(3) (4)}
<i>NO_x (mg/Nm³)</i>	300 ⁽⁵⁾	300 ⁽⁵⁾	200	300 ⁽⁶⁾	100	200
<i>Dust (mg/Nm³)</i>	20 ⁽⁷⁾	20 ⁽⁷⁾	–	20 ⁽⁸⁾	–	–

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

(2) Until 1st January 2025, 1700 mg/Nm³ in the case of plants which are part of a small isolated system or a micro isolated system.

(3) 400 mg/Nm³ in the case of low calorific gases from coke ovens, and 200 mg/Nm³ in the case of low calorific gases from blast furnaces in the iron and steel industry.

(4) 100 mg/Nm³ in the case of biogas.

(5) 500 mg/Nm³ in the case of plants with a total rated thermal input equal to or greater than 1 megawatt and less than or equal to 5 megawatts.

(6) Until 1st January 2025, 450 mg/Nm³ when firing heavy fuel oil containing between 0.2 % and 0.3 % N and 360 mg/Nm³ when firing heavy fuel oil containing less than 0.2 % N in the case of plants which are part of a small isolated system or a micro isolated system.

(7) 50 mg/Nm³ in the case of plants with a total rated thermal input equal to or greater than 1 megawatt and less than or equal to 5 megawatts; 30 mg/Nm³ in the case of plants with a total rated thermal input greater than 5 megawatts and less than or equal to 20 megawatts.

(8) 50 mg/Nm³ in the case of plants with a total rated thermal input equal to or greater than 1 megawatt and less than or equal to 5 megawatts

Table 5

Emission limit values for new medium combustion plant which are engines or gas turbines

<i>Pollutant</i>	<i>Type of medium combustion plant</i>	<i>Gas oil</i>	<i>Liquid fuels other than gas oil</i>	<i>Natural gas</i>	<i>Gaseous fuels other than natural gas</i>
<i>SO₂ (mg/Nm³)</i>	<i>Engines and gas turbines</i>	–	120 ⁽¹⁾	–	15 ⁽²⁾
<i>NO_x (mg/Nm³)</i>	<i>Engines^{(3) (4)}</i>	190 ⁽⁵⁾	190 ^{(5) (6)}	95 ⁽⁷⁾	190
	<i>Gas turbines⁽⁸⁾</i>	75	75 ⁽⁹⁾	50	75
<i>Dust (mg/Nm³)</i>	<i>Engines and gas turbines</i>	–	10 ^{(10) (11)}	–	–

(1) Until 1st January 2025, 590 mg/Nm³ for diesel engines which are part of a small isolated system or a micro isolated system.

(2) 40 mg/Nm³ in the case of biogas.

- (3) Engines running between 500 and 1500 hours per year may be exempted from compliance with those emission limit values if they are applying primary measures to limit NO_x emissions and meet the emission limit values set out in footnote (4).
- (4) Until 1st January 2025 in a small isolated system and a micro isolated system, 1850 mg/Nm³ for dual fuel engines in liquid mode and 380 mg/Nm³ in gas mode; 1300 mg/Nm³ for diesel engines with ≤ 1200 rpm with a total rated thermal input less than or equal to 20 megawatts and 1850 mg/Nm³ for diesel engines with a total rated thermal input greater than 20 megawatts; 750 mg/Nm³ for diesel engines with > 1200 rpm.
- (5) 225 mg/Nm³ for dual fuel engines in liquid mode.
- (6) 225 mg/Nm³ for diesel engines with a total rated thermal input less than or equal to 20 megawatts with ≤ 1 200 rpm.
- (7) 190 mg/Nm³ for dual fuel engines in gas mode.
- (8) These emission limit values are only applicable above 70 % load.
- (9) Until 1st January 2025, 550 mg/Nm³ for plants which are part of a small isolated system or a micro isolated system.
- (10) Until 1st January 2025, 75 mg/Nm³ for diesel engines which are part of a small isolated system or a micro isolated system.
- (11) 20 mg/Nm³ in the case of plants with a total rated thermal input equal to or greater than 1 megawatt and less than or equal to 5 megawatts.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Pollution Prevention and Control (Scotland) Regulations 2012 (“the principal Regulations”) provide a regime for the regulation of certain industrial activities in Scotland. These Regulations amend the principal Regulations and the Air Quality Standards (Scotland) Regulations 2018, and come into force on 19th December 2017.

These Regulations amend the principal Regulations to add provisions relating to medium combustion plants (“MCPs”). They transpose Directive (EU) 2015/2193 of the European Parliament and of the Council on the limitation of certain pollutants into the air from medium combustion plants, which lays down rules to control emissions of sulphur dioxide, nitrogen oxides and dust from MCPs. A MCP is a combustion plant with a rated thermal input equal to or greater than 1 megawatt but less than 50 megawatts. As such, some MCPs were already within scope of the permitting regime in the principal Regulations, and in those cases the provisions inserted by Part 2 will impose additional requirements.

These Regulations provide that no MCP brought into operation on or after 20th December 2018 can expand, operate without a permit or being registered. In relation to MCPs already in operation as at that date, those with a rated thermal input above 5 megawatts are brought within the permitting regime from 1st January 2024, and those with a rated thermal input of 1 to 5 megawatts are brought within the permitting regime from 1st January 2029. MCPs are required to comply with emission limit values for sulphur dioxide, nitrogen oxides and dust, subject to specified exceptions.

These Regulations also amend the principal Regulations to make a minor addition to schedule 1A to clarify the scope of an exemption from the requirements of that Schedule.

Regulation 17 makes amendments to the Air Quality Standards (Scotland) Regulations 2010 to transpose the Medium Combustion Plant Directive. The amendments require that when preparing an air quality plan, the Scottish Ministers must consider whether to include measures imposing lower emission limit values for MCPs than those set out in the Medium Combustion Plant Directive, if that would make an improvement to air quality.

Two impact assessments of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector are available from the Air Quality Policy Team, Directorate for Environment & Forestry, Environmental Quality Division, Victoria Quay, Edinburgh EH6 6QQ. An updated transposition note is submitted with the Policy Note which is available alongside the instrument on www.legislation.gov.uk.

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