

TRANSPOSITION NOTE FOR THE IMPLEMENTATION OF DIRECTIVE 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

December 2017

The Department for Environment, Food and Rural Affairs is implementing Directive 2015/2193 on the limitation of emissions of certain pollutants into the air from medium combustion plants. The Directive has been transposed in the Environmental Permitting (England and Wales) (Miscellaneous Amendments) Regulations 2018 (which amend the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154) (the “EPR”) that establishes the environmental permitting regime). The transposing Regulations come into force on the day after they are made.

The table below sets out how the various articles of Directive 2015/2193 have been transposed in England and Wales.

Article	Objective	Implementation	Responsibility
2.1	Combustion plants in scope of legislation	Regulation 16 (EPR Schedule 25A, paragraph 2(1), see definition of “medium combustion plant”)	
2.2	Combinations of combustion plants in scope of legislation	As above	
2.3	Combustion plants exempt from Directive	As above	
2.4	Activities where Directive does not apply	As above	
3	Definitions	Regulation 3 and Regulation 16 (EPR Schedule 25A, paragraph 2(1) & 5)	
4	Definition of combinations of plants to be considered single MCP under Directive	Regulation 16 (EPR Schedule 25A, paragraph 4(1)(a))	
5.1	MSs to ensure all new MCPs operate with permit	Regulation 7, (EPR Regulation 12)	
5.2	MSs to ensure all existing MCPs over 5 MW operate with permit (from 1/1/24) and existing MCPs less than 5 MW operate with permit	As above	

	(from 1/1/29)		
5.3	MSs specify procedure for granting permit	Regulation 16 (EPR Regulation 13, 14 and Schedule 25A, paragraph 3(1)(a))	
5.4	Competent authority registers MCP within a month of application	Regulation 16 (EPR Schedule 25A, paragraph 3(2))	Regulator
5.5	Competent authority keeps register of MCPs and makes available to public	EPR Regulation 46	Regulator
5.6	MSs may include requirements for certain categories of MCPs in general rules	Regulation 16 (EPR Schedule 25A, paragraph 4(1)(c), and EPR Regulation 26)	
5.7	Requirements for MCPs covered by Chapter II Directive 2010/75/EU	Not necessary. Chapter II IED installations are subject to permitting; already under the EPR	
5.8	Permit may be combined with others to form single permit	Regulation 8 (EPR Regulation 17)	
6.1	Emission limit values (ELVs) set out in Annex II shall apply	Regulation 16 (EPR Schedule 25A, paragraph 4(1)(d) and 6)	
6.2	Timescales and ELVs applying to MCPs greater than, and less than or equal to, 5 MW	As above	
6.3	MSs may exempt existing MCPs from ELVs if do not operate more than 500 hours per year, and may extend limit in specified circumstances	Regulation 16 (EPR Schedule 25A, paragraph 7)	
6.4	Timescales and ELVs applying to existing MCPs which are part of SIS or MIS	Regulation 16 (EPR Schedule 25A, paragraph 9)	
6.5	Conditions regarding certain MCPs (district heating) and	Not transposed	

	using specified fuels from ELVs until 2030		
6.6	MSs may exempt certain MCPs driving gas compressor stations from ELVs	Regulation 16 (EPR Schedule 25A, paragraph 10)	
6.7	Timescales and ELVs set out in Annex II shall apply to new MCPs	Regulation 16 (EPR Schedule 25A, paragraph 4(1)(f) and 6)	
6.8	MSs may exempt new MCPs from ELVs if do not operate more than 500 hours per year	Regulation 16 (EPR Schedule 25A, paragraph 8)	
6.9	MSs shall assess need to apply stricter ELVs in zones not complying with air quality limit values set out in Directive 2008/50/EC	Regulations 18	
6.11	Competent authority may grant derogation for MCP using low sulphur fuel due to interruption in supply	Regulation 16 (EPR Schedule 25A, paragraph 11)	Competent authority
6.12	Competent authority may grant derogation for MCP using only gaseous fuel due to interruption in supply	Regulation 16 (EPR Schedule 25A, paragraph 11)	Competent authority
6.13	Method of calculating ELV for MCP simultaneously using two or more fuels	Regulation 16 (EPR Schedule 25A Paragraph 4(1)(g))	
7.1	MSs ensure operator monitors emissions	Regulation 16 (EPR Schedule 25A Paragraph 4(1)(h))	Regulator
7.2	Monitoring requirements for MCPs using multiple fuels	As above	Operator
7.3	Requirements for recording and processing monitoring results	As above	Operator
7.4	Recording requirements for	As above	Operator

	MCPs using secondary abatement equipment		
7.5	Requirement for operators to retain specified information	As above	Operator
7.6	Requirement for operators to make data available to competent authority on request	As above	Operator
7.7	Operator shall take measures necessary to ensure compliance restored in event of non-compliance with ELVs	As above	Operator
7.8	Requirements for operators related to inspections	Not necessary. Inspection powers already exist - see Environment Act 1995 section 108 which includes assistance.	Operator
7.9	Requirements for operators to keep start-up and short-down periods as short as possible	Regulation 16 (EPR Schedule 25A Paragraph 4(1)(h))	Operator
8.1	MSs to ensure emissions do not exceed ELVs	Not necessary	
8.2	Duty on MSs to set up system to check compliance	Regulation 16 (EPR Schedule 25A Paragraph 4(1)(i)) EPR regulation 34	
8.3	MSs to ensure competent authority requires operator to take measures to restore compliance in event of non-compliance	As above	
9	MSs to ensure operator informs competent authority of changes to MCPs affecting ELVs	Regulation 16 (EPR Schedule 25A Paragraph 4(1)(j))	
10	Duty on MSs to designate competent authorities	Regulation 10	

11.1	Duty of MS to report on compliance	Not necessary	
11.2	Duty on MSs to report on CO emissions	Not necessary	
12	Review procedures	Not applicable	
13	Commission empowered to amend Annexes	Not applicable	
14	Power to adopt delegated acts conferred on Commission	Not applicable	
15	Provisions related to Committee procedure	Not applicable	
16	Duty on MSs to set rules on penalties	It is an offence under EPR to operate a regulated facility (that now includes an MCP) without a permit or to breach permit conditions.	
17.1	Duty on MSs to transpose Directive	Not necessary	
17.2	Duty on MSs to send transposing legislation to Commission	Not necessary	
Annex 1	Information to be provided by the operator to the competent authority	Regulation 16 (EPR Schedule 25 A Paragraph 3(1)(a))	Operator
Annex II	Emission Limit Values for existing and new MCPs	Regulation 16 (EPR Schedule 25 A Paragraph 6 and 7)	
Annex III	Monitoring of emissions by the operator, and assessment of compliance	Regulation 16 (EPR Schedule 25 A Paragraph 4(1)(h))	Operator