

**EXPLANATORY MEMORANDUM TO**  
**THE NATIONAL EMISSION CEILINGS REGULATIONS 2018**  
**2018 No. 129**

**1. Introduction**

- 1.1 This Explanatory Memorandum has been prepared by the Department for Environment, Food and Rural Affairs (Defra) and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 The primary purpose of this statutory instrument is to transpose the obligations in the EU Directive on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC (2016/2284) (“the Directive”).
- 2.2 The instrument repeals and replaces the National Emission Ceilings Regulations 2002 (2002/3118), which transposed the EU’s previous Directive on national emission ceilings for certain atmospheric pollutants (2001/81/EC) (“NECD 2001”).

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 This instrument transposes the Directive in the United Kingdom. The instrument requires overall anthropogenic emissions in the United Kingdom for five damaging air pollutants: nitrogen oxides (NO<sub>x</sub>), non-methane volatile organic compounds (NMVOCs), sulphur dioxide (SO<sub>2</sub>), ammonia (NH<sub>3</sub>) and fine particulate matter (PM<sub>2.5</sub>) to be reduced below a specified percentage of overall emissions of those which were emitted in the base year (2005). These national emission reduction commitments need to be met in two phases, from 2020 to 2029, with more stringent levels to be met from 2030 onwards.
- 4.2 The instrument requires the Secretary of State to prepare an annual inventory of emissions occurring within the United Kingdom. Where non-compliance with national emission reduction commitments would result from applying improved emission inventory methods updated in accordance with scientific knowledge, the Directive provides for an adjusted inventory to be prepared to reflect that. Compliance with the national emission reduction commitments is assessed by reference to the inventory or adjusted inventory.

- 4.3 The instrument also transposes derogations which are permitted under the Directive, for example in extreme circumstances such as an exceptionally cold winter or an exceptionally dry summer. If the particular conditions of the derogation have been met, a national emission reduction commitment will be deemed to have been complied with for a prescribed period of time.
- 4.4 This instrument requires the Secretary of State to draw up a National Air Pollution Control Programme setting out the measures that will be taken to meet the respective national emission reduction commitments in 2020 and 2030. The instrument also requires the Secretary of State to monitor the impacts of air pollution on certain types of ecosystems and habitats.
- 4.5 The Directive repeals the NECD 2001, subject to a transitional provision ensuring that the emission ceilings established by that Directive to be met from 2010 continue to apply until 31 December 2019. Accordingly, this instrument revokes the National Emission Ceilings Regulations 2002 but includes a provision that ensures the 2010 ceilings continue to apply until the new emission reduction commitments have to be met in 2020.
- 4.6 The Directive must be transposed by 1 July 2018, which is the date that this instrument comes into force.

## **5. Extent and Territorial Application**

- 5.1 The extent of the instrument is the United Kingdom.
- 5.2 The instrument applies also to the area adjacent to the United Kingdom up to the seaward limits of the territorial waters, the area designated as Continental Shelf, the area within the United Kingdom Exclusive Economic Zone and pollution control zone.

## **6. European Convention on Human Rights**

- 6.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

### *What is being done and why*

- 7.1 The objective of the Directive is to reduce air pollution. This is wholly consistent with the aim of the UK Government to improve air quality and bring about a cleaner, healthier environment that benefits people and the economy. Improving air quality and cutting harmful emissions is a top priority for the UK government, and work is being undertaken across all levels of government to bring this about.
- 7.2 The UK is a Party to the 1979 Convention on Long-Range Transboundary Air Pollution (“the Convention”) of the United Nations Economic Commission for Europe (“UNECE”) and the original 1999 Gothenburg Protocol to the Convention which sets emission limits for four air pollutants. The 2012 amendment to the 1999 Gothenburg Protocol was agreed among Parties with a view to further improving the protection of human health and the environment through the establishment of emission reduction commitments for five air pollutants to be achieved by 2020 and updating emission limit values of air pollutants at source. The UK supported the amendment and it will be formally accepted following transposition of the relevant legislation in line with routine UK practice.

- 7.3 The Directive implements the emission reduction commitments agreed under 2012 amendment to the Gothenburg Protocol into EU law. The UK will continue as a member of the UNECE and Party to the Convention following exit from the EU. The Directive also sets further emission reduction commitments for 2030 for the five main air pollutants. The national emission reduction commitments for each pollutant are set individually for each Member State for 2020 and 2030.
- 7.4 The UK will publish a Clean Air Strategy for consultation in 2018 setting out how we will work towards these ambitious 2020 and 2030 targets.
- 7.5 On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until we leave the EU, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period, the Government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.

#### *Consolidation*

- 7.6 Not required. This amendment will revoke the previous National Emission Ceilings Regulations 2002.

### **8. Consultation outcome**

- 8.1 A consultation was not undertaken for this instrument as the instrument imposes no new obligations on external bodies.

### **9. Guidance**

- 9.1 No guidance is required.

### **10. Impact**

- 10.1 The assessment of impact undertaken to support negotiation of the Directive sets out the potential impact of this regulation on businesses. Charities and voluntary bodies will be largely unaffected by the regulation as they are not major sources of air pollutants. The instrument introduces a requirement for the United Kingdom to meet national emission reduction commitments of specific air pollutants but does not at this stage introduce specific measures to meet the required targets. Therefore, the impact on businesses of the present instrument is based on a hypothetical set of technical measures being implemented to achieve the national emission reduction commitments rather than actual measures. In a least cost approach to meeting the commitments, few sectors would be negatively affected by the measures in aggregate and the cost to those sectors would be limited. Actual measures to achieve the national emission reduction commitments will be introduced at a later stage.
- 10.2 To secure the necessary improvements in air quality, all parts of society have a part to play, through changes in behaviours at home, on the road and at work. This means that the costs will fall across a range of business sectors. The public sector (both central and local government) has responsibilities to reduce the impact of air pollution on public health, the environment and the economy. These responsibilities are long-standing and therefore this instrument is not expected to trigger significant additional costs for the public sector.

10.3 The assessment of impact produced for negotiations at EU level ahead of finalisation of this Directive has been updated to reflect current baseline data and will be published on the [legislation.gov.uk](http://legislation.gov.uk) website. As this has not resulted in substantive changes, it was not necessary to submit it to the Regulatory Policy Committee for scrutiny and clearance.

**11. Regulating small business**

11.1 The legislation does not apply to activities that are undertaken by small businesses.

**12. Monitoring and review**

12.1 A review provision is not appropriate as this SI does not directly apply to business.

**13. Contact**

13.1 Viana Iancu at the Department for Environment, Food and Rural Affairs Telephone: 0208 225 7874 or email: [viana.iancu@defra.gsi.gov.uk](mailto:viana.iancu@defra.gsi.gov.uk) can answer any queries regarding the instrument.