

Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants (repealed)

Article 1

This Directive shall apply to combustion plants, the rated thermal input of which is equal to or greater than 50 MW, irrespective of the type of fuel used (solid, liquid or gaseous).

Article 2

For the purpose of this Directive:

- (1) 'emission' means the discharge of substances from the combustion plant into the air;
- (2) 'waste gases' means gaseous discharges containing solid, liquid or gaseous emissions; their volumetric flow rates shall be expressed in cubic metres per hour at standard temperature (273 K) and pressure (101,3 kPa) after correction for the water vapour content, hereinafter referred to as (Nm³/h);
- (3) 'emission limit value' means the permissible quantity of a substance contained in the waste gases from the combustion plant which may be discharged into the air during a given period; it shall be calculated in terms of mass per volume of the waste gases expressed in mg/Nm³, assuming an oxygen content by volume in the waste gas of 3 % in the case of liquid and gaseous fuels, 6 % in the case of solid fuels and 15 % in the case of gas turbines;
- (4) 'rate of desulphurisation' means the ratio of the quantity of sulphur which is not emitted into the air at the combustion plant site over a given period to the quantity of sulphur contained in the fuel which is introduced into the combustion plant facilities and which is used over the same period;
- (5) 'operator' means any natural or legal person who operates the combustion plant, or who has or has been delegated decisive economic power over it;
- (6) 'fuel' means any solid, liquid or gaseous combustible material used to fire the combustion plant with the exception of waste covered by Council Directive 89/369/EEC of 8 June 1989 on the prevention of air pollution from new municipal waste incineration plants⁽¹⁾, Council Directive 89/429/EEC of 21 June 1989 on the reduction of air pollution from existing municipal waste incineration plants⁽²⁾, and Council Directive 94/67/EC of 16 December 1994 concerning the incineration of hazardous waste⁽³⁾ or any subsequent Community act repealing and replacing one or more of these Directives;
- (7) 'combustion plant' means any technical apparatus in which fuels are oxidised in order to use the heat thus generated.

This Directive shall apply only to combustion plants designed for production of energy with the exception of those which make direct use of the products of combustion in manufacturing processes. In particular, this Directive shall not apply to the following combustion plants:

- (a) plants in which the products of combustion are used for the direct heating, drying, or any other treatment of objects or materials e.g. reheating furnaces, furnaces for heat treatment;

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- (b) post-combustion plants i.e. any technical apparatus designed to purify the waste gases by combustion which is not operated as an independent combustion plant;
- (c) facilities for the regeneration of catalytic cracking catalysts;
- (d) facilities for the conversion of hydrogen sulphide into sulphur;
- (e) reactors used in the chemical industry;
- (f) coke battery furnaces;
- (g) cowpers;
- (h) any technical apparatus used in the propulsion of a vehicle, ship or aircraft;
- (i) gas turbines used on offshore platforms;
- (j) gas turbines licensed before 27 November 2002 or which in the view of the competent authority are the subject of a full request for a licence before 27 November 2002 provided that the plant is put into operation no later than 27 November 2003 without prejudice to Article 7(1) and Annex VIII(A) and (B);

Plants powered by diesel, petrol and gas engines shall not be covered by this Directive.

Where two or more separate new plants are installed in such a way that, taking technical and economic factors into account, their waste gases could, in the judgement of the competent authorities, be discharged through a common stack, the combination formed by such plants shall be regarded as a single unit;

- (8) ‘multi-fuel firing unit’ means any combustion plant which may be fired simultaneously or alternately by two or more types of fuel;
- (9) ‘new plant’ means any combustion plant for which the original construction licence or, in the absence of such a procedure, the original operating licence was granted on or after 1 July 1987;
- (10) ‘existing plant’ means any combustion plant for which the original construction licence or, in the absence of such a procedure, the original operating licence was granted before 1 July 1987;
- (11) ‘biomass’ means products consisting of any whole or part of a vegetable matter from agriculture or forestry which can be used as a fuel for the purpose of recovering its energy content and the following waste used as a fuel:
 - (a) vegetable waste from agriculture and forestry;
 - (b) vegetable waste from the food processing industry, if the heat generated is recovered;
 - (c) 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;
 - (d) cork waste;

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- (e) 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;
- (12) ‘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.
- (13) ‘Outermost Regions’ means the French Overseas Departments with regard to France, the Azores and Madeira with regard to Portugal and the Canary Islands with regard to Spain.

Article 3

1 Not later than 1 July 1990 Member States shall draw up appropriate programmes for the progressive reduction of total annual emissions from existing plants. The programmes shall set out the timetables and the implementing procedures.

2 In accordance with the programmes mentioned in paragraph 1, Member States shall continue to comply with the emission ceilings and with the corresponding percentage reductions laid down for sulphur dioxide in Annex I, columns 1 to 6, and for oxides of nitrogen in Annex II, columns 1 to 4, by the dates specified in those Annexes, until the implementation of the provisions of Article 4 that apply to existing plants.

3 When the programmes are being carried out, Member States shall also determine the total annual emissions in accordance with Annex VIII(C).

4 4. If a substantial and unexpected change in energy demand or in the availability of certain fuels or certain generating installations creates serious technical difficulties for the implementation by a Member State of its programme drawn up under paragraph 1, the Commission shall, at the request of the Member State concerned and taking into account the terms of the request, take a decision to modify, for that Member State, the emission ceilings and/or the dates set out in Annexes I and II and communicate its decision to the Council and to the Member States. Any Member State may within three months refer the decision of the Commission to the Council. The Council, acting by a qualified majority, may within three months take a different decision.

Article 4

1 Without prejudice to Article 17 Member States shall take appropriate measures to ensure that all licences for the construction or, in the absence of such a procedure, for the operation of new plants which in the view of the competent authority are the subject of a full request for a licence before 27 November 2002, provided that the plant is put into operation no later than 27 November 2003 contain conditions relating to compliance with the emission limit values laid down in part A of Annexes III to VII in respect of sulphur dioxide, nitrogen oxides and dust.

2 Member States shall take appropriate measures to ensure that all licences for the construction or, in the absence of such a procedure, for the operation of new plants, other than those covered by paragraph 1, contain conditions relating to compliance with the emission limit values laid down in part B of Annexes III to VII in respect of sulphur dioxide, nitrogen oxides and dust.

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3 Without prejudice to Directive 96/61/EC and Council Directive 96/62/EC of 27 September 1996 on ambient air quality assessment and management⁽⁴⁾, Member States shall, by 1 January 2008 at the latest, achieve significant emission reductions by:

- a taking appropriate measures to ensure that all licences for the operation of existing plants contain conditions relating to compliance with the emission limit values established for new plants referred to in paragraph 1; or
- b ensuring that existing plants are subject to the national emission reduction plan referred to in paragraph 6;

and, where appropriate, applying Articles 5, 7 and 8.

4 Without prejudice to Directives 96/61/EC and 96/62/EC, existing plants may be exempted from compliance with the emission limit values referred to in paragraph 3 and from their inclusion in the national emission reduction plan on the following conditions:

- a the operator of an existing plant undertakes, in a written declaration submitted by 30 June 2004 at the latest to the competent authority, not to operate the plant for more than 20 000 operational hours starting from 1 January 2008 and ending no later than 31 December 2015;
- b the operator is required to submit each year to the competent authority a record of the used and unused time allowed for the plants' remaining operational life.

5 Member States may require compliance with emission limit values and time limits for implementation which are more stringent than those set out in paragraphs 1, 2, 3 and 4 and in Article 10. They may include other pollutants, and they may impose additional requirements or adaptation of plant to technical progress.

6 Member States may, without prejudice to this Directive and Directive 96/61/EC, and taking into consideration the costs and benefits as well as their obligations under Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants⁽⁵⁾ and Directive 96/62/EC, define and implement a national emission reduction plan for existing plants, taking into account, *inter alia*, compliance with the ceilings as set out in Annexes I and II.

The national emission reduction plan shall reduce the total annual emissions of nitrogen oxides (NO_x), sulphur dioxide (SO₂) and dust from existing plants to the levels that would have been achieved by applying the emission limit values referred to in paragraph 3 to the existing plants in operation in the year 2000, (including those existing plants undergoing a rehabilitation plan in 2000, approved by the competent authority, to meet emission reductions required by national legislation) on the basis of each plant's actual annual operating time, fuel used and thermal input, averaged over the last five years of operation up to and including 2000.

The closure of a plant included in the national emission reduction plan shall not result in an increase in the total annual emissions from the remaining plants covered by the plan.

The national emission reduction plan may under no circumstances exempt a plant from the provisions laid down in relevant Community legislation, including *inter alia* Directive 96/61/EC.

The following conditions shall apply to national emission reduction plans:

- a the plan shall comprise objectives and related targets, measures and timetables for reaching these objectives and targets, and a monitoring mechanism;
- b Member States shall communicate their national emission reduction plan to the Commission no later than 27 November 2003;

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- c within six months of the communication referred to in point (b) the Commission shall evaluate whether or not the plan meets the requirements of this paragraph. When the Commission considers that this is not the case, it shall inform the Member State and within the subsequent three months the Member State shall communicate any measures it has taken in order to ensure that the requirements of this paragraph are met;
- d the Commission shall, no later than 27 November 2002, develop guidelines to assist Member States in the preparation of their plans.

7 Not later than 31 December 2004 and in the light of progress towards protecting human health and attaining the Community's environmental objectives for acidification and for air quality pursuant to Directive 96/62/EC, the Commission shall submit a report to the European Parliament and the Council in which it shall assess:

- a the need for further measures;
- b the amounts of heavy metals emitted by large combustion plants;
- c the cost-effectiveness and costs and advantages of further emission reductions in the combustion plants sector in Member States compared to other sectors;
- d the technical and economic feasibility of such emission reductions;
- e the effects of both the standards set for the large combustion plants sector including the provisions for indigenous solid fuels, and the competition situation in the energy market, on the environment and the internal market;
- f any national emission reduction plans provided by Member States in accordance with paragraph 6.

The Commission shall include in its report an appropriate proposal of possible end dates or of lower limit values for the derogation contained in footnote 2 to Annex VI A.

8 The report referred to in paragraph 7 shall, as appropriate, be accompanied by related proposals, having regard to Directive 96/61/EC.

Article 5

By way of derogation from Annex III:

- (1) Plants, of a rated thermal input equal to or greater than 400 MW, which do not operate more than the following numbers of hours a year (rolling average over a period of five years),
 - until 31 December 2015, 2 000 hours;
 - from 1 January 2016, 1 500 hours;

shall be subject to a limit value for sulphur dioxide emissions of 800 mg/Nm³.

This provision shall not apply to new plants for which the licence is granted pursuant to Article 4(2).

- (2) Until 31 December 1999, the Kingdom of Spain may authorise new power plants with a rated thermal input equal to or greater than 500 MW burning indigenous or imported solid fuels, commissioned before the end of 2005 and complying with the following requirements:
 - (a) in the case of imported solid fuels, a sulphur dioxide emission limit value of 800 mg/Nm³;
 - (b) in the case of indigenous solid fuels, at least a 60 % rate of desulphurisation,

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provided that the total authorised capacity of such plants to which this derogation applies does not exceed:

- 2 000 MWe in the case of plants burning indigenous solid fuels;
- in the case of plants burning imported solid fuels either 7 500 or 50 % of all the new capacity of all plants burning solid fuels authorised up to 31 December 1999, whichever is the lower.

Article 6

In the case of new plants for which the licence is granted pursuant to Article 4(2) or plants covered by Article 10, Member States shall ensure that the technical and economic feasibility of providing for the combined generation of heat and power is examined. Where this feasibility is confirmed, bearing in mind the market and the distribution situation, installations shall be developed accordingly.

Article 7

1 Member States shall ensure that provision is made in the licences or permits referred to in Article 4 for procedures relating to malfunction or breakdown of the abatement equipment. In case of a breakdown the competent authority shall in particular require the operator to reduce or close down operations if a return to normal operation is not achieved within 24 hours, or to operate the plant using low polluting fuels. In any case the competent authority shall be notified within 48 hours. In no circumstances shall the cumulative duration of unabated operation in any twelve-month period exceed 120 hours. The competent authority may allow exceptions to the limits of 24 hours and 120 hours above in cases where, in their judgement:

- a there is an overriding need to maintain energy supplies, or
- b the plant with the breakdown would be replaced for a limited period by another plant which would cause an overall increase in emissions.

2 The competent authority may allow a suspension for a maximum of six months from the obligation to comply with the emission limit values provided for in Article 4 for sulphur dioxide in respect of a plant which to this end normally uses low-sulphur fuel, in cases where the operator is unable to comply with these limit values because of an interruption in the supply of low-sulphur fuel resulting from a serious shortage. The Commission shall immediately be informed of such cases.

3 The competent authority may allow a derogation from the obligation to comply with the emission limit values provided for in Article 4 in cases where a plant which normally uses only gaseous fuel, and which would otherwise need to be equipped with a waste gas purification facility, has to resort exceptionally, and for a period not exceeding 10 days except where there is an overriding need to maintain energy supplies, to the use of other fuels because of a sudden interruption in the supply of gas. The competent authority shall immediately be informed of each specific case as it arises. Member States shall inform the Commission immediately of the cases referred to in this paragraph.

Article 8

1 In the case of plants with a multi-firing unit involving the simultaneous use of two or more fuels, when granting the licence referred to in Articles 4(1) or 4(2), and in the case of such plants covered by Articles 4(3) or 10, the competent authority shall set the emission limit values as follows:

- a firstly by taking the emission limit value relevant for each individual fuel and pollutant corresponding to the rated thermal input of the combustion plant as given in Annexes III to VII,

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- b secondly by determining fuel-weighted emission limit values, which are obtained by multiplying the above individual emission limit value by the thermal input delivered by each fuel, the product of multiplication being divided by the sum of the thermal inputs delivered by all fuels,
- c thirdly by aggregating the fuel-weighted limit values.

2 In multi-firing units using the distillation and conversion residues from crude-oil refining for own consumption, alone or with other fuels, the provisions for the fuel with the highest emission limit value (determinative fuel) shall apply, notwithstanding paragraph 1 above, if during the operation of the combustion plant the proportion contributed by that fuel to the sum of the thermal inputs delivered by all fuels is at least 50 %.

Where the proportion of the determinative fuel is lower than 50 %, the emission limit value is determined on a pro rata basis of the heat input supplied by the individual fuels in relation to the sum of the thermal inputs delivered by all fuels as follows:

- a firstly by taking the emission limit value relevant for each individual fuel and pollutant corresponding to the rated heat input of the combustion plant as given in Annexes III to VII,
- b secondly by calculating the emission limit value of the determinative fuel (fuel with the highest emission limit value according to Annexes III to VII and, in the case of two fuels having the same emission limit value, the fuel with the higher thermal input); this value is obtained by multiplying the emission limit value laid down in Annexes III to VII for that fuel by a factor of two, and subtracting from this product the emission limit value of the fuel with the lowest emission limit value,
- c thirdly by determining the fuel-weighted emission limit values, which are obtained by multiplying the calculated fuel emission limit value by the thermal input of the determinative fuel and the other individual emission limit values by the thermal input delivered by each fuel, the product of multiplication being divided by the sum of the thermal inputs delivered by all fuels,
- d fourthly by aggregating the fuel-weighted emission limit values.

3 As an alternative to paragraph 2, the following average emission limit values for sulphur dioxide may be applied (irrespective of the fuel combination used):

- a for plants referred to in Article 4(1) and (3): 1 000 mg/Nm³, averaged over all such plants within the refinery;
- b for new plants referred to in Article 4(2): 600 mg/Nm³, averaged over all such plants within the refinery, with the exception of gas turbines.

The competent authorities shall ensure that the application of this provision does not lead to an increase in emissions from existing plants.

4 In the case of plants with a multi-firing unit involving the alternative use of two or more fuels, when granting the licence referred to in Article 4(1) and (2), and in the case of such plants covered by Articles 4(3) or 10, the emission limit values set out in Annexes III to VII corresponding to each fuel used shall be applied.

Article 9

Waste gases from combustion plants shall be discharged in controlled fashion by means of a stack. The licence referred to in Article 4 and licences for combustion plants covered by Article 10 shall lay down the discharge conditions. The competent authority shall in particular ensure that the stack height is calculated in such a way as to safeguard health and the environment.

Article 10

Where a combustion plant is extended by at least 50 MW, the emission limit values as set in part B of Annexes III to VII shall apply to the new part of the plant and shall be fixed in relation to the thermal capacity of the entire plant. This provision shall not apply in the cases referred to in Article 8(2) and (3).

Where the operator of a combustion plant is envisaging a change according to Articles 2(10)(b) and 12(2) of Directive 96/61/EC, the emission limit values as set out in part B of Annexes III to VII in respect of sulphur dioxide, nitrogen oxides and dust shall apply.

Article 11

In the case of construction of combustion plants which are likely to have significant effects on the environment in another Member State, the Member States shall ensure that all appropriate information and consultation takes place, in accordance with Article 7 of Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment⁽⁶⁾.

Article 12

Member States shall take the necessary measures to ensure the monitoring, in accordance with Annex VIII(A), of emissions from the combustion plants covered by this Directive and of all other values required for the implementation of this Directive. Member States may require that such monitoring shall be carried out at the operator's expense.

Article 13

Member States shall take appropriate measures to ensure that the operator informs the competent authorities within reasonable time limits about the results of the continuous measurements, the checking of the measuring equipment, the individual measurements and all other measurements carried out in order to assess compliance with this Directive.

Article 14

1 In the event of continuous measurements, the emission limit values set out in part A of Annexes III to VII shall be regarded as having been complied with if the evaluation of the results indicates, for operating hours within a calendar year, that:

- a none of the calendar monthly mean values exceeds the emission limit values; and
- b in the case of:
 - (i) sulphur dioxide and dust: 97 % of all the 48 hourly mean values do not exceed 110 % of the emission limit values,
 - (ii) nitrogen oxides: 95 % of all the 48 hourly mean values do not exceed 110 % of the emission limit values.

The periods referred to in Article 7 as well as start-up and shut-down periods shall be disregarded.

2 In cases where only discontinuous measurements or other appropriate procedures for determination are required, the emission limit values set out in Annexes III to VII shall be regarded as having been complied with if the results of each of the series of measurements or of the other procedures defined and determined according to the rules laid down by the competent authorities do not exceed the emission limit values.

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[^{X13} In the cases referred to in Article 5(2), the rates of desulphurisation shall be regarded as having been complied with if the evaluation of measurements carried out pursuant to Annex VIII, point A.3, indicates that all of the calendar monthly mean values or all of the rolling monthly mean values achieve the required desulphurisation rates.]

The periods referred to in Article 7 as well as start-up and shut-down periods shall be disregarded.

4 For new plants for which the licence is granted pursuant to Article 4(2), the emission limit values shall be regarded, for operating hours within a calendar year, as complied with if:

- a no validated daily average value exceeds the relevant figures set out in part B of Annexes III to VII, and
- b 95 % of all the validated hourly average values over the year do not exceed 200 % of the relevant figures set out in part B of Annexes III to VII.

The ‘validated average values’ are determined as set out in point A.6 of Annex VIII.

The periods referred to in Article 7 as well as start up and shut down periods shall be disregarded.

Editorial Information

- X1** Substituted by [Corrigendum to Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants \(Official Journal of the European Communities L 309 of 27 November 2001\)](#).

Article 15

1 Member States shall, not later than 31 December 1990, inform the Commission of the programmes drawn up in accordance with Article 3(1).

At the latest one year after the end of the different phases for reduction of emissions from existing plants, the Member States shall forward to the Commission a summary report on the results of the implementation of the programmes.

An intermediate report is required as well in the middle of each phase.

2 The reports referred to in paragraph 1 shall provide an overall view of:

- a all the combustion plants covered by this Directive,
- b emissions of sulphur dioxide, and oxides of nitrogen expressed in tonnes per annum and as concentrations of these substances in the waste gases,
- c measures already taken or envisaged with a view to reducing emissions, and of changes in the choice of fuel used,
- d changes in the method of operation already made or envisaged,
- e definitive closures of combustion plants already effected or envisaged, and
- f where appropriate, the emission limit values imposed in the programmes in respect of existing plants.

When determining the annual emissions and concentrations of pollutants in the waste gases, Member States shall take account of Articles 12, 13 and 14.

3 Member States applying Article 5 or the provisions of the Nota Bene in Annex III or the footnotes in Annex VI.A shall report thereon annually to the Commission.

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Article 16

The Member States shall determine the penalties applicable to breaches of the national provisions adopted pursuant to this Directive. The penalties thus provided for shall be effective, proportionate and dissuasive.

Article 17

1 Directive 88/609/EEC shall be repealed with effect from 27 November 2002, without prejudice to paragraph 2 or to the obligations of Member States concerning the time limits for transposition and application of that Directive listed in Annex IX hereto.

2 In the case of new plants licensed [^{X1}before 27 November 2002 as specified in Article 4(1)] of this Directive, Article 4(1), Article 5(2), Article 6, Article 15(3), Annexes III, VI, VIII and point A.2 of Annex IX to Directive 88/609/EEC as amended by Directive 94/66/EC shall remain in effect until 1 January 2008 after which they shall be repealed.

3 References to Directive 88/609/EEC shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex X hereto.

Editorial Information

- X1** Substituted by [Corrigendum to Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants \(Official Journal of the European Communities L 309 of 27 November 2001\)](#).

Article 18

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 27 November 2002. They shall forthwith inform the Commission thereof.

When Member States adopt these provisions, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2 For existing plant, and for new plant for which a licence is granted pursuant to Article 4(1), the provisions of point A.2 of Annex VIII shall be applied from 27 November 2004.

3 Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field covered by this Directive.

Article 19

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 20

This Directive is addressed to the Member States.

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- (1) [OJ L 163, 14.6.1989, p. 32.](#)
- (2) [OJ L 203, 15.7.1989, p. 50.](#)
- (3) [OJ L 365, 31.12.1994, p. 34.](#)
- (4) [OJ L 296, 21.11.1996, p. 55.](#)
- (5) See p. 22 of this Edition of the Official Journal.
- (6) [OJ L 175, 5.7.1985, p. 40.](#) Directive as last amended by Council Directive 97/11/EC ([OJ L 73, 14.3.1997, p. 5.](#)).