

2005 No.300

ENVIRONMENTAL PROTECTION

**The Air Quality Limit Values (Scotland) Amendment
Regulations 2005**

<i>Made</i> - - - -	<i>2nd June 2005</i>
<i>Laid before the Scottish Parliament</i>	<i>3rd June 2005</i>
<i>Coming into force</i> - -	<i>25th June 2005</i>

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Air Quality Limit Values (Scotland) Amendment Regulations 2005 and shall come into force on 25th June 2005.

Amendment of the Air Quality Limit Values (Scotland) Regulations 2003

2. The Air Quality Limit Values (Scotland) Regulations 2003(b) are amended in accordance with regulations 3 and 4.

Public participation

3.—(1) For the definition of “public” in regulation 2 (interpretation), substitute—

““public” means one or more natural or legal persons and any body of persons (whether incorporated or not) including, but not limited to, health care bodies and organisations having an interest in ambient air quality and representing the interests of sensitive populations, consumers and the environment;”.

(2) In regulation 11 (action to be taken where limit values are exceeded), after paragraph (9) insert—

“(10) The Scottish Ministers shall ensure that the public is given early and effective opportunities to participate in the preparation, modification or review of the plans or programmes required to be drawn up under paragraph (3), in accordance with paragraphs (11) and (12).

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.
(b) S.S.I. 2003/428, as amended by S.S.I. 2003/547.

(11) The Scottish Ministers shall—

- (a) ensure that the public is informed, whether by public notice or other appropriate means such as electronic media, about any proposals for such plans or programmes or for their modification or review;
- (b) ensure that information about the proposals referred to in sub-paragraph (a) is made available to the public, including information about the right to participate in decision-making;
- (c) ensure that the public is entitled to make comments and express opinions before decisions concerning the plans and programmes are made;
- (d) in making those decisions, take due account of the results of the public participation;
- (e) having examined the comments made and opinions expressed by the public, make reasonable efforts to inform the public about—
 - (i) the decisions taken and the reasons and considerations on which those decisions are based; and
 - (ii) the public participation process.

(12) The Scottish Ministers shall publish any information required to carry out their functions under paragraphs (10) and (11) in such manner as they consider appropriate for the purpose of bringing it to the attention of the public and without prejudice to the foregoing shall—

- (a) publish such information on their website; and
- (b) specify in a notice on the website the detailed arrangements made to enable public participation in the preparation, modification or review of the plans or programmes including—
 - (i) the address to which comments may be submitted; and
 - (ii) the period within which such comments may be submitted.

(13) The Scottish Ministers shall ensure that sufficient time is allowed for each of the different stages of public participation required by paragraph (11).”.

(3) In regulation 14, omit paragraph (15).

Reference methods for the sampling and measurement of PM₁₀

4.—(1) In regulation 9(13)—

- (i) for “Reference” substitute “Subject to paragraph (13A), reference”; and
- (ii) omit “unless other methods are used which the Scottish Ministers consider can be demonstrated to give equivalent results”.

(2) After regulation 9(13) insert—

“(13A) The requirements of paragraph (13) do not apply where the Scottish Ministers consider that other methods can be used which—

- (a) can be demonstrated to give equivalent results; or

- (b) in relation to paragraph (13)(c) only, can be demonstrated to display a consistent relationship to the reference method.”.

LEWIS MACDONALD

Authorised to sign on behalf of the Scottish Ministers

St Andrew's House,
Edinburgh
2nd June 2005

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Air Quality Limit Values (Scotland) Regulations 2003 (“the 2003 Regulations”).

Regulation 3 amends the 2003 Regulations so as to implement Article 2 of Directive 2003/35/EC of the European Parliament and of the Council on public participation in respect of the drawing up of certain plans and programmes relating to the environment (O.J. No. L 156, 25.6.03, p.17). Regulation 3 implements Article 2 in respect of air quality plans and programmes, required by virtue of Article 8(3) of Council Directive 96/62/EC on ambient air quality assessment and management (O.J. No. L 296, 21.11.96, p.55).

The website of the Scottish Ministers on which they are required to publish information on public participation in air quality plans and programmes is www.scotland.gov.uk.

Regulation 4 amends the 2003 Regulations so as to insert an alternative method for the sampling and measurement of PM₁₀ to bring it into line with the methods provided for in Council Directive 99/30/EC relating to limit values for sulphur dioxide, nitrogen dioxide, and oxides of nitrogen, particulate matter and lead in ambient air (O.J. No. L 163, 29/6.99, p.41).

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