

2016 No. 376

ENVIRONMENTAL PROTECTION

**The Air Quality Standards (Scotland) Amendment Regulations
2016**

Made - - - - *16th November 2016*

Laid before the Scottish Parliament *18th November 2016*

Coming into force - - *31st December 2016*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Air Quality Standards (Scotland) Amendment Regulations 2016 and come into force on 31st December 2016.

Amendment of the Air Quality Standards (Scotland) Regulations 2010

2. The Air Quality Standards (Scotland) Regulations 2010(b) are amended in accordance with regulations 3 and 4.

Amendment of regulation 2

3. In regulation 2 (definitions)—

(a) for the definition of “Directive 2004/107/EC”, substitute—

““Directive 2004/107/EC” means Directive 2004/107/EC of the European Parliament and of the Council relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air(c);” and

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7), Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), so far as they are exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(b) S.S.I. 2010/204.

(c) OJ L 23, 26.1.2005, p.3, last amended by Commission Directive (EU) 2015/1480 (OJ L 226, 29.8.2015, p.4).

- (b) for the definition of “Directive 2008/50/EC”, substitute—
““Directive 2008/50/EC” means Directive 2008/50/EC of the European Parliament and of the Council on ambient air quality and cleaner air for Europe(a);”.

Amendment of schedule 1

4. Part 3 of schedule 1 is amended as follows—

- (a) for paragraph 1(a) and (b) substitute—
“(a) the flow around the inlet sampling probe must be unrestricted (in general free in an arc of at least 270°, or 180° for sampling points at the building line) without any obstructions affecting the airflow in the vicinity of the inlet. The inlet sampling probe must normally be some metres away from buildings, balconies, trees and other obstacles and at least 0.5 m from the nearest building in the case of sampling points representing air quality at the building line;
(b) in general, the inlet sampling point must be between 1.5 m (the breathing zone) and 4 m above the ground. Higher siting may also be appropriate if the station is representative of a large area. Any derogations must be fully documented;”;
- (b) at the end of paragraph 1(e) add “A ‘major junction’ is a junction which interrupts the traffic flow and as a result causes different emissions from the rest of the road.”; and
- (c) after paragraph 1 insert—
“**1A.** Any deviation from the criteria set out in this Part must be fully documented through the procedures described in Section D of Annex III to Directive 2008/50/EC.”.

R CUNNINGHAM
A member of the Scottish Government

St Andrew’s House,
Edinburgh
16th November 2016

(a) OJ L 152, 11.6.2008, p.1, as amended by Commission Directive (EU) 2015/1480 (OJ L 226, 29.8.2015, p.4).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Air Quality Standards (Scotland) Regulations 2010 (“the 2010 Regulations”), which implement Directive 2004/107/EC of the European Parliament and of the Council relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air (OJ L 23, 26.1.2005, p.3) (“the 2004 Directive”) and Directive 2008/50/EC of the European Parliament and of the Council on ambient air quality and cleaner air for Europe (OJ L 152, 11.6.2008, p.1) (“the 2008 Directive”).

The 2004 Directive and the 2008 Directive have been amended by Commission Directive (EU) 2015/1480 amending several annexes to Directives 2004/107/EC and 2008/50/EC of the European Parliament and of the Council laying down the rules concerning reference methods, data validation and location of sampling points for the assessment of ambient air quality (OJ L 226, 29.8.2015, p.4) (“the 2015 Directive”). The 2015 Directive amends Annexes IV and V of the 2004 Directive and Annexes I, III, VI and IX of the 2008 Directive.

These Regulations amend the 2010 Regulations to insert new definitions of the 2004 Directive and the 2008 Directive to take account of the amendments made by the 2015 Directive (regulation 3). They also amend schedule 1 of the 2010 Regulations to take account of amendments made to Annex III of the 2008 Directive by the 2015 Directive (regulation 4).

No business and regulatory impact has been prepared for these Regulations as no significant change is foreseen to the existing impacts upon business, charities or voluntary bodies.

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