

Subsidiary Legislation made under s.337.

Public Health (National Emission Reduction) Rules 2018

LN.2018/150

Commencement **1.7.2018**

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Public Health (National Emission Reduction) Rules 2018 2018/150

In exercise of the powers conferred on it by section 337 of the Public Health Act and Section 23 of the Interpretation and General Clauses Act, and in order to transpose into the law of Gibraltar, Commission Directive (EU) 2016/2284 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC the Government has made the following Rules-

PART 1**Introductory****Title.**

1. These rules may be cited as the Public Health (National Emission Reduction) Rules 2018.

Commencement.

2. These rules come into operation on 1 July 2018.

Interpretation.

- 3.(1) In these rules:-

‘anthropogenic emissions’ means atmospheric emissions of pollutants associated with human activities with the exception of -

- (a) emissions from international maritime traffic;
- (b) aircraft emissions beyond the landing and take-off cycle;
- (c) emissions of NO_x and NMVOC from activities falling under categories 3B (manure management) and 3D (agricultural soils) in NFR 2014;

‘black carbon’ or ‘BC’ means carbonaceous particulate matter that absorbs light;

‘Cd’ means cadmium

‘competent authority’ means any authority which, by reason of their specific environmental responsibilities in the field of air pollution, quality and management at all levels are likely to be concerned by the implementation of any national air pollution control programmes and any updates thereof;

‘the Directive’ means Directive 2016/2284/EU of the European Parliament and the Council on the reduction of national emissions of certain atmospheric pollutants;

‘EMEP’ means the European Monitoring and Evaluation Programme, established under the Convention;

‘EMEP/EEA Guidebook’ means the EMEP and EEA air pollution inventory guidebook dated 30 September 2016;

‘EMEP Reporting Guidelines’ means the EMEP guidelines for reporting emissions and projections under the Convention dated 13 March 2014;

‘emission’ means the release of a substance from a point or diffuse source into the atmosphere;

‘fine particulate matter’ or ‘PM_{2,5}’ means particles with an aerodynamic diameter equal to or less than 2,5 micrometres (µm);

‘PM₁₀’ means particles with an aerodynamic diameter equal to or less than 10 micrometres (µm);

‘HCB’ means hexachlorobenzene;

‘Hg’ means mercury;

‘air pollution control programme’ means the programme prepared, reviewed or revised in accordance with rule 10;

‘emission ceiling’ means the level to be met in accordance with rule 6(1) in respect of a specified pollutant for a particular calendar year;

‘emission reduction commitment’ means the emission reduction level for a relevant pollutant to be achieved in accordance with rule 7(2) or (3) in a particular calendar year;

‘NFR 2014’ means the Nomenclature for Reporting 2014 adopted by the EMEP;

‘international maritime traffic’ means journeys at sea and in coastal waters by water-borne vessels of all flags, except fishing vessels, that depart from the territory of one country and arrive in the territory of another country;

‘landing and take-off cycle’ means the cycle that includes taxi in and out, take-off, climb out, approach, landing and all other aircraft activities that take place below the altitude of 3 000 feet;

- ‘Minister’ means the Minister with responsibility for the Environment;
- ‘nitrogen oxides’ or ‘NO_x’ means nitric oxide and nitrogen dioxide, expressed as nitrogen dioxide;
- ‘non-methane volatile organic compounds’ or ‘NMVOC’ means all organic compounds other than methane, that are capable of producing photochemical oxidants by reaction with nitrogen oxides in the presence of sunlight;
- ‘ozone precursors’ means nitrogen oxides, non-methane volatile organic compounds, methane, and carbon monoxide;
- ‘PAH’ means polycyclic aromatic hydrocarbons;
- ‘Pb’ means lead;
- ‘PCBs’ mean polychlorinated biphenyls;
- ‘relevant pollutant’ means sulphur dioxide, nitrogen oxide, non-methane volatile organic compounds, ammonia and fine particulate matter
- ‘source-based air pollution control legislation’ means legislation of which one purpose is to reduce the emissions of a relevant pollutant at the source of those emissions
- ‘sulphur dioxide’ or ‘SO₂’ means all sulphur compounds expressed as sulphur dioxide, including sulphur trioxide (SO₃), sulphuric acid (H₂SO₄), and reduced sulphur compounds such as hydrogen sulphide (H₂S), mercaptans and dimethyl sulphides.

(2) In these rules-

- (a) references to Gibraltar include BGTW as defined in Section 98A of the Public Health Act;
- (b) references to ‘the public’ include any organisation or body representing or having an interest in the environment, health, business or consumers.

(3) In paragraph (1)-

‘the Convention’ means the 1979 UNECE Convention on Long-Range Transboundary Air Pollution(e), including its protocols, annexes and appendices

‘EEA’ means European Environment Agency;

PART 2

National emissions inventory and projections**Inventories and Projections.**

4.(1) The Minister must-

- (a) by 15 February each year prepare an inventory of emissions occurring within Gibraltar of the pollutants set out in Table A of Schedule 1 for the calendar year before the previous calendar year.
- (b) by 15 March 2019 and every 2 years after that date prepare and update a projection of emissions occurring within Gibraltar of the pollutants set out in Table B of Schedule 1 for the years specified in column 3 of that table that have not yet passed.

(2) The inventories and projections referred to in (1) above must be prepared or updated-

- (a) in accordance with Parts 1 and 2 of Annex 4 to the Directive;
- (b) without prejudice to sub-paragraph (a), in accordance with-
 - (i) the methodologies in the EMEP Reporting Guidelines;
 - (ii) the EMEP/EEA Guidebook.

(3) The Minister must take appropriate steps to ensure that the inventories and projections referred to in these rules are made available to the public.

Adjusted inventory of emissions.

5.(1) Where the Minister has prepared an inventory of emissions in accordance with rule 4(1)(a) that shows an exceedance of an emission ceiling or an emission reduction commitment, the Minister may prepare an adjusted inventory of emissions if -

- (a) the exceedance is the result of applying improved inventory methods; or
- (b) as regards an inventory for the calendar year 2025 or any subsequent year the exceedance-
 - (i) is the result of applying significantly different emission factors or methodologies used for determining emissions from specific source categories compared with those which were expected as a result of the

implementation of a norm or standard in source-based air pollution control legislation, and

- (ii) does not arise from the way in which such legislation has been implemented or enforced in Gibraltar.

(2) Where an adjusted inventory of emissions is prepared in accordance with this rule, it replaces, the inventory prepared under rule 4, and references to an inventory in other rules are to be read as references to the adjusted inventory of emissions.

(3) The Minister must take appropriate steps to ensure an adjusted inventory of emissions is made available to the public and must publish it alongside the information set out in Schedule 2.

(4) In rule 5(1)(a), "improved inventory methods" means methods for preparing an inventory that have been updated in line with the EMEP Reporting Guidelines and EMEP/EEA Guidebook after 4 May 2012.

PART 3

Emission ceilings, reduction commitments and derogations

National Emission Ceilings up to 2019.

6.(1) The Minister must ensure that in 2010 and in each subsequent year up to and including 2019, the total anthropogenic emissions occurring within Gibraltar for each of the pollutants set out at Table A of Schedule 3 do not exceed the amount specified in that Table for that pollutant.

(2) The achievement of the objectives in sub-rule (1) above is to be assessed by reference to the relevant inventory for emissions prepared under Part 2.

National Emission Reduction from 2020.

7.(1) Sub-rules (2) to (4) apply, subject to rule 9.

(2) The Minister must ensure that in 2020 and each year thereafter the total anthropogenic emissions occurring in Gibraltar of each relevant pollutant do not exceed the percentage of base year emissions specified for that pollutant in Table B of Schedule 3.

(3) The Minister must ensure that in 2030 and each year thereafter the total anthropogenic emissions occurring in Gibraltar of each relevant pollutant do not exceed the percentage of base year emissions specified for that pollutant in Table C of Schedule 3.

(4) The achievement of the objectives in sub-rule (2) and (3) above is to be assessed by reference to the relevant inventory for emissions prepared under Part 2.

(5) In these rules, "base year emissions" means the total anthropogenic emissions for 2005 in Gibraltar.

Trajectory of national emission reduction commitments.

8.(1) Subject to sub-rule (2), the Minister must ensure that in 2025 the total anthropogenic emissions of each of the relevant pollutants occurring within Gibraltar do not exceed the linear reduction trajectory.

(2) Total anthropogenic emissions of a relevant pollutant may not follow the linear reduction trajectory if the Minister determines it is necessary to do so because it is—

(a) economically more efficient; or

(b) technically more efficient.

(3) Where total anthropogenic emissions of a relevant pollutant do not follow the linear reduction trajectory in accordance with paragraph (2), the Minister must ensure that, in 2025 and each subsequent year up to and including 2029, those emissions reduce each year

(4) In paragraph (1), "linear reduction trajectory" means the straight linear trajectory between the emission reduction commitments to be met in 2020 and 2030.

National emission reduction commitment derogations.

9.(1) Where an inventory of emissions is prepared in accordance with Part 2 that shows the total anthropogenic emissions of a relevant pollutant were above the emission reduction commitment for that pollutant in a particular year, the Minister may apply a derogation contained within Article 5 of the Directive as may be applicable in the circumstances.

(2) Where the conditions for applying a derogation under Article 5 of the Directive are met and the derogation is so applied, the Minister shall be deemed to have complied with the relevant emission reduction commitment to the extent permitted by the relevant derogation.

PART 4

National air pollution control programme

National Programme.

10.(1) The Minister shall prepare an air pollution control programme ("programme") which, when taken with any air pollution control programme prepared by the Secretary of State under the National Emission Ceilings Regulations 2018 in respect of Great Britain and Northern Ireland, will limit anthropogenic emissions in accordance with the emission reduction commitments within Great Britain, Northern Ireland and Gibraltar.

(2) The Minister must publish the initial programme by 1 April 2019, including at least the information set out in Part 1 of Annex 3 to the Directive.

(3) When preparing, reviewing or implementing the programme, the Minister must -

- (a) assess to what extent national emission sources are likely to have an impact on air quality in Gibraltar;
- (b) take account of the need to reduce air pollutant emissions for the purpose of meeting air quality objectives;
- (c) prioritise emission reduction measures for black carbon when taking measures to achieve the reduction commitments for fine particulate matter;
- (d) ensure the programme is coherent with other plans or programmes established under source-based air pollution control legislation; and
- (e) include the emission reduction measures that are obligatory in Part 2 of Annex 3 to the Directive.

(4) Subject to paragraph (5), the Minister may review the programme from time to time and revise it as considered appropriate, but must review it at least once every four years from 1st April 2019.

(5) The Minister must review the programme within 18 months of the date on which either of the following is prepared -

- (a) an inventory of emissions, prepared in accordance with rule 4(1) or 5(1) as the case may be, that shows total anthropogenic emissions of a relevant pollutant occurring within the Gibraltar exceed a emission reduction commitment;
- (b) a projection of emissions, prepared in accordance with rule 4(2), that shows total anthropogenic emissions of a relevant pollutant occurring within the Gibraltar are at risk of exceeding a emission reduction commitment.

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(6) Public authorities must have regard to the programme when exercising any functions which significantly affect the level of emissions of a relevant pollutant within the Gibraltar.

(7) In these rules, “public authority” has the same meaning as in section 2 of the Freedom of Access to Information on the Environment Act 2005.

Participation.

11.(1) Before preparing or significantly revising the programme, the Minister must consult the public.

(2) Where sub-rule (1) applies, the Minister must -

- (a) inform the public of the proposed programme and the right of the public to participate in the preparation of the programme;
- (b) specify the means by which the public can participate in the consultation, including an address for responses, and a reasonable timescale for the consultation;
- (c) take account of the results of the consultation in preparing the programme.

(3) Where the Minister considers that it is necessary to consult a country outside of Gibraltar in respect of the programme due to the potential for transboundary pollution, the Minister shall, before finalising the programme-

- (a) consult any relevant administration in that country;
- (b) consider the extent to which anthropogenic emissions from Gibraltar are likely to have an impact on air quality in that country.

PART 5**Monitoring impacts****Monitoring air pollution impacts.**

12.(1) The Minister must, taking a cost-effective and risk-based approach, monitor the negative impacts of air pollution at sites representative of the following habitats and ecosystems -

- (a) fresh water;
- (b) natural and semi-natural;

(c) forest.

(2) The Minister must identify sites to be monitored for the purpose of sub-rule (1) by 1 July 2018 and review the suitability of those sites at least once in every 4 years from that date.

PART 6

Additional information and reports

Disaggregated inventories and informative inventory reports.

13.(1) The Minister must -

- (a) by 1st May 2021 and once every four years from that date prepare or update a spatially disaggregated inventory of emissions occurring in the Gibraltar and an inventory of large point sources for the pollutants specified in Table A of Schedule 4, for the calendar year before the previous year;
- (b) by 15th March every year prepare or update an informative inventory report for the pollutants specified in Table B of Schedule 4, for the calendar year before the previous calendar year.

(2) The inventory and report referred to in sub-rule (1) must be prepared or updated—

- (a) in accordance with the methodologies in the EMEP Reporting Guidelines and EMEP/EEA Guidebook;
- (b) in accordance with Parts 1 and 3 of Annex 4 to the Directive.

(3) The Minister must take appropriate steps to ensure that the inventory and report referred to in paragraph (1) are made available to the public

Repeal.

14. The Public Health (National Emission Ceilings) Rules 2003 are repealed.

1950-07

Public Health

2018/150 Public Health (National Emission Reduction) Rules 2018

SCHEDULE 1

Rule 4

National Emissions Inventory Projections

Table A

Annual emission reporting requirements as referred to in rule 4(1)(a)

To be prepared by total emissions by NFR 2014 source category

<i>Category</i>	<i>Pollutants</i>
Main pollutants	SO ₂ , NO _x , NMVOC, NH ₃ , CO
Heavy Metals	Cd, Hg, Pb
Persistent organic pollutants	total PAHs, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, indeno(1,2,3-cd)pyrene, dioxins/furans, PCB, HCB
Particulate matter	PM _{2.5} , PM ₁₀ and, if available, BC

Table B

Biannual emissions projections from 2019 under rule 4(1)(b)

To be prepared by total emissions by NFR 2014 source category

<i>Category</i>	<i>Pollutant</i>	<i>Projection years</i>
Main pollutants	SO ₂ , NO _x , NMVOC, NH ₃	Biennial, covering projection years 2020, 2025, 2030 and, where available, 2040 and 2050
Particulate matter	PM _{2.5} and, if available, BC	

SCHEDULE 2

Rule 5(3)

Information to be published with an adjusted inventory of emissions

1. Evidence that the relevant emission ceiling or emission reduction commitment is exceeded.
2. Evidence of the extent to which the adjustment to the emission inventory reduces the exceedance and contributes to compliance with the concerned emission ceiling or emission reduction commitment.
3. An estimation of whether and when the concerned emission ceiling or reduction commitment is expected to be attained, based on emission projections without the adjustment.
4. Evidence that the adjustment is consistent with one or more of the following (with reference made, as appropriate, to relevant previous adjustments)—
 - (a) new emission source categories—
 - (i) evidence that the new emission source category is acknowledged in scientific literature or the EMEP/EEA Guidebook;
 - (ii) evidence that the relevant source category was not included in the relevant historic emission inventory at the time when the emission reduction commitment was set (for the purpose of the emission reduction commitment in Rule 7(2) the commitment shall be considered as having been set on 4th May 2012);
 - (iii) evidence that emissions from a new source category contribute to it not being possible to meet a emission ceiling or emission reduction 10 commitment, supported by a detailed description of the methodology, data and emission factors used to support that conclusion;
 - (b) significantly different emission factors used for determining emissions from specific source categories—
 - (i) a description of the original emission factors, including a detailed description of the scientific basis upon which the emission factor was derived;
 - (ii) evidence that the original emission factors were used for determining the emission reductions at the time when they were set;

- (iii) a description of the updated emission factors, including detailed information on the scientific basis upon which the relevant emission factor was derived;
 - (iv) a comparison of emission estimates made using the original and the updated emission factors, demonstrating that the change in emission factors contributes to it not being possible to meet an emission ceiling or emission reduction commitment;
 - (v) the rationale for deciding whether the changes in emission factors are significant;
- (c) significantly different methodologies used for determining emissions from specific source categories—
 - (i) a description of the original methodology used, including detailed information on the scientific basis upon which the relevant emission factor was derived;
 - (ii) evidence that the original methodology was used for determining the emission ceiling or emission reduction commitment at the time when they were set;
 - (iii) a description of the updated methodology used, including a detailed description of the scientific basis or reference upon which it has been derived;
 - (iv) a comparison of emission estimates made using the original and updated methodologies demonstrating that the change in methodology contributes to it not being possible to meet a emission ceiling or emission reduction commitment;
 - (v) the rationale for deciding whether the change in methodology is significant.

SCHEDULE 3

Rule 6 & 7

National emission reduction commitments

Table A

Emission ceilings to be achieved in each of 2018 and 2019

SO ₂ Kilotonnes	NO _x Kilotonnes	NMVOC Kilotonnes	NH ₃ Kilotonnes
585	1167	1200	297

Table B

Reduction commitments in 2020 and in each subsequent year up to and including 2029

The figures show the percentage reductions to be made for the purposes of rule 7(2).

SO ₂	NO _x	NMVOC	NH ₃	PM _{2.5}
59%	55%	32%	8%	30%

Table C**Reduction commitments in 2030 and in each subsequent year**

The figures show the percentage reductions to be made for the purposes of rule 7(3).

SO ₂	NO _x	NMVOC	NH ₃	PM _{2.5}
88%	73%	39%	16%	49%

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SCHEDULE 4

Rule 13

Spatially disaggregated and large point source inventories**Table A****Spatially disaggregated and large point source inventories of emissions required under rule 13(1)(a)**

To be prepared by gridded data of emissions by NFR 2014 source category and large point sources

<i>Category</i>	<i>Pollutants</i>
Main pollutants	SO ₂ , NO _x , NMVOC, NH ₃ , CO
Heavy metals	Cd, Hg, Pb
Persistent organic pollutants	Total PAHs, PCBs, HCB, dioxins/furans
Particulate matter	PM _{2.5} , PM ₁₀ , BC (if available)

Table B**Annual informative inventory report required under rule 13(1)(b)**

<i>Category</i>	<i>Pollutants</i>
Main pollutants	SO ₂ , NO _x , NMVOC, NH ₃ , CO
Heavy metals	Cd, Hg, Pb
Persistent organic pollutants	Total PAHs, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, indeno(1,2,3-cd)pyrene, dioxins/furans, PCBs, HCB
Particulate matter	PM _{2.5} , PM ₁₀ , BC (if available)
Additional (if available)	Arsenic, chromium, copper, nickel, selenium, zinc (and their compounds) and total suspended particles