

AMBIENT AIR QUALITY LEGISLATION

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1.0 Introduction:

Air quality issues are already addressed under the section on integrated pollution control licensing, however, the following addresses aspects such as atmospheric emissions licensing and objectives of the EU air quality framework Directive.

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2.0 Atmospheric Emission Licensing (1987 Air Pollution Act):

Most industrial activities generate emissions to atmosphere, whether directly from the process, through operation of support facilities such as boilers or through fugitive emissions. However only a small proportion of such emissions are significant enough to warrant specific licensing. Certain industrial processes have been identified as having a potential for major emissions and such industries are required under the 1987 Air Pollution Act to obtain a licence (Link to Tables 1 and 2)

It should be noted that most of the processes, which are covered by the Air Pollution Act (1987), are now subject to integrated pollution control licensing under the Environmental Protection Agency Act 1992 ([link to integrated pollution control licensing](#)). However, in situations where IPC is not applicable, a person operating any process or plant to which the Air Pollution Act applies must have an atmospheric emissions licence. This is obtained from the local authority in a manner similar to the procedure for obtaining a planning permission or an effluent discharge licence (to waters) and involves similar timescales. Any person may appeal a decision to An Bord Pleanala.

In practice the number of licences issued under the Air Pollution Act is very small. The Act is now primarily used for the following: -

- Establishment of smokeless zones (Special Control Areas),
- The specification of authorised fuels in such zones,
- Setting emission limit values for asbestos, combustion plant and municipal waste incinerators,
- Controlling the Sulphur Content of Gas Oil (S. I. No. 256 of 1994 limits sulphur content of gas oil to 0.05% by weigh),
- Control of petroleum vapour emissions,

A list of Air Pollution Legislation can be obtained from the ENFO Website (www.enfo.ie)

The Act itself puts a general obligation on the occupier of any premises, other than a private dwelling house, to use the best practicable means to limit and, if possible to prevent an emission from such premises. It empowers the local authorities to serve a notice on the occupier of any premises where complaints of air pollution are received.

Among the criteria that must be satisfied before an atmospheric emissions licence can be issued are compliance with any relevant air quality standards (prescribed in S.I. 244 of 1987 for sulphur dioxide, nitrogen dioxide, suspended particulates and lead and the use of BPM (best practicable means) to prevent or limit emissions. The latter is defined in section 5 of the Act.

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2.1 What is BPM?

The 'best practicable means' concept can be regarded as being well established in environmental legislation and it is widely used in the United Kingdom and Ireland. It is essentially the same (in the case of new plant) as the "best available technology not entailing excessive costs" (BATNEEC) concept of the EC contained in the Combating of Air Pollution from Industrial Plants Directive (84/360/EEC) and the EPA Act 1992. BPM may differ from BATNEEC or Best Available Techniques (BAT) in the case of existing plants. In such instances it is possible to define a less rigorous BPM for the older plant and hence to still consider the plant as satisfying BPM, even though a new plant would have to be significantly better environmentally to satisfy its BPM.

In the Air Pollution Act, the phrase is defined in such a way as to require, for new plant, an appropriate balance between technology, the environment and costs. (For existing plant and other premises this balance can vary from sector to sector depending on the viability of the class of enterprise in question.)

Under the Act criteria to be considered in the case of new plant are:

- The current state of technical knowledge,
- The requirements of the environment,
- The costs that would be incurred in providing, maintaining, using, operating and supervising the facilities concerned,
- The nature, extent and effect of the emission concerned,
- The age of the existing industrial plant or other premises, the nature of the facilities installed therein and its likely remaining lifespan,
- The cost of renovating the industrial plant or premises or the facilities therein in relation to the economic situation of enterprises of the class in question.

As in the case of the Water Pollution Act, the licence is normally valid for at least three years. The licensee may apply for a review of the licence at any time and the licensing authority must review the licence. In certain other situations, such as where the nature of the emission or the ambient air quality has materially changed, the licensing authority must review an existing licence. In the case of proposed significant modifications to an existing plant, the local authority must be notified and a review of the licence may be initiated in a manner analogous to that already outlined for IPC.

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3.0 EU Air Quality Framework Directive:

In 1996, the Environment Council adopted the Framework Directive 96/62/EC on Ambient Air Quality Assessment and Management (AAQ&M). The Directive sets a general policy framework for dealing with air ambient quality. Instead of looking first at the sources of the pollution, the Directive looks at the effects of the air pollution on human health and environments, and then shifts the focus to those sources that contribute the most to the effects.

3.1 Main objectives of the Air Quality Framework Directive

- (1) Sets out an EU-wide system for setting binding air quality objectives for specific pollutants to protect human health and environment.
- (2) Requires Member States to put in place systems for assessing the quality of the ambient air based upon common methods and criteria.
- (3) Requires Member States to maintain ambient air quality where it is good and improve it in other cases, by means of plans and programmes of action.
- (4) Lays down provisions for a system of gathering, reporting and publicizing information. This includes both data to be reported to the European Commission and information to be disseminated to the public.

The Directive was incorporated into the EPA Act, 1992 (AAQ & M) Regulations, 1999 (S.I. No. 33 of 1999) and it covers the revision of previously existing legislation and the introduction of new air quality standards for previously unregulated air pollutants, setting the timetable for the development of daughter directives on a range of pollutants. The first daughter Directive (99/30/EC) introduced a range of new standards for lead, SO₂, Particulate Matter (PM₁₀) and nitrogen oxides. Standards for carbon monoxide and benzene were published in a second Directive (2000/69/EC). These two Directives have now been implemented into national legislation under Air Quality Standards Regulations SI 271 of 2002 ([link to air standard PDF](#)). Additional directives are being drafted to create guidance standards for a range of pollutants including polycyclic aromatic hydrocarbons, cadmium, arsenic, dioxins, ammonia, nitric acid, volatile organic compounds and mercury.

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