

Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe

Consultation Paper on Proposals for Transposition of the Directive in Malta

Summary

- i. The purpose of this public consultation is to seek views and comments on the transposition and implementation of Directive 2008/50/EC on ambient air quality and cleaner air for Europe, in Malta.
- ii. Directive 2008/50/EC on ambient air quality and cleaner air for Europe was introduced in order to consolidate four Directives which had been previously published by the EU on the issue of ambient air quality. These are the Air Quality Framework Directive (1996/62/EC), and three of the four subsequent daughter Directives 1999/30/EC, 2000/69/EC and 2002/3/EC regulating levels of sulphur dioxide, oxides of nitrogen, fine dust or PM₁₀¹ and lead; carbon monoxide and benzene; and ozone respectively. The main additional requirement of this directive is the introduction of obligations related to the ambient concentrations of even finer dust PM_{2.5}².
- iii. The Directive affects all possible sources which could give rise to air pollution, for example power generation, small industry, traffic and the construction industry.
- iv. The Maltese Government is currently evaluating options to transpose this directive and assessing potential measures to effectively implement this directive.
- v. The consultation period runs for 6 weeks up to **4 June 2010**.
- vi. This consultation is being undertaken jointly by the Office of the Prime Minister and the Malta Environment and Planning Authority.

¹ Particulate matter having a diameter equal to or less than 10 micrometers (μm) ($1\mu\text{m} = 1/1000^{\text{th}}$ mm).

² Particulate matter having a diameter equal to or less than 2.5 micrometers (μm) ($1\mu\text{m} = 1/1000^{\text{th}}$ mm).

How to respond

The Office of the Prime Minister and the Malta Environment and Planning Authority welcomes views on their preferred option for transposition set out in this consultation paper, and would also welcome any responses to the specific questions set out at Section 4.

Your response must be received by **4 June 2010** and may be sent by e-mail to contact.unitd@mepa.org.mt or by post to: MEPA, Unit D, St. Francis Ravelin, Floriana, P.O. Box 200, Marsa, MRS 1000.

Your responses will be considered by the Office of the Prime Minister and the Malta Environment Authority, in preparing the regulations that will transpose this Directive.

The Malta Environment and Planning Authority has adopted a code of practice on consultations – see Annex A below for the criteria that apply under this code.

Section 1: Introduction

- 1.1 Directive 2008/50/EC on ambient air quality and cleaner air for Europe was introduced in order to consolidate four Directives which had been previously published by the EU on the issue of ambient air quality. These are the Air Quality Framework Directive (1996/62/EC), and three of the four subsequent daughter Directives 1999/30/EC, 2000/69/EC and 2002/3/EC regulating levels of sulphur dioxide, oxides of nitrogen, PM₁₀ and lead; carbon monoxide and benzene; and ozone respectively.
- 1.2 In accordance with Article 34 of Directive 2008/50/EC on Ambient Air Quality, this Directive entered into force on the publication date in the Official Journal, that is, the 21 May 2008. Malta is required to bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by **11 June 2010**, as laid down in Article 33 of the Directive.

Section 2: Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe

- 2.1** Directive 2008/50/EC or the Ambient Air Quality Directive (AAQ-D) was issued on the 21 May 2008 and should be brought into force by all Member States by the 11 June 2010.
- 2.2** The AAQ-D will replace Directive 1996/62/EC (the Air Quality Framework Directive (AQ-FD)) and its four daughter Directives (1999/30/EC, 2000/69/EC, 2002/3/EC and 2004/107/EC) all of which have been transposed through LN 216 of 2001, LN 224 of 2001 as amended by LN 231 of 2004, LN 163 of 2002, LN 215 of 2001 as amended by LN 11 of 2003 and LN 292 of 2007 respectively.
- 2.3** The AQ-FD and daughter Directives which are already into force lay down measures aimed at:
- 2.3.1 Defining and establishing objectives for ambient air quality designed to avoid, prevent or reduce harmful effects on human health and the environment as a whole.
 - 2.3.2 Assessing the ambient air quality in Member States on the basis of common methods and criteria.
 - 2.3.3 Obtaining information on ambient air quality in order to help combat air pollution and nuisance and to monitor long-term trends and improvements resulting from national and Community measures.
 - 2.3.4 Ensuring that such information on ambient air quality is made available to the public.
 - 2.3.5 Maintaining air quality where it is good and improving it in other cases.
 - 2.3.6 Promoting increased cooperation between the Member States in reducing air pollution.
- 2.4** All the articles and annexes in the AAQ-D with the exception of Articles: 2(6), 2(7), 2(19), 2(20), 2(21), 2(22), 2(23), 3(1)(f), 6(5), 11(2), 15, 16, 21, 22, 28(3), 31, 32 and Annexes IV and XIV, have been transposed through the Legal Notices in 2.2 above.

- 2.5** The new AAQ-D introduced the following concepts:
- 2.5.1 Cooperation with other Member States on issues related to Ambient Air Quality.
 - 2.5.2 In addition to the pollutants regulated by daughter Directives 1999/30/EC, 2000/69/EC and 2002/3/EC (i.e. sulphur dioxide, nitrogen oxides, PM10, lead; benzene, carbon monoxide; and ozone), the AAQ-D introduced assessment criteria, target values and limit values for PM2.5. Malta has already started monitoring for PM2.5 at the Msida, Żejtun and Għarb monitoring stations.
 - 2.5.3 The AAQ-D also introduces the possibility of accounting for re-suspension of PM10 due to re-suspension of these particles following salting and winter sanding. This is however not applicable to Malta.
 - 2.5.4 Member States are allowed to apply with the Commission for the postponement of the deadlines for compliance with PM10 limit values, till 11 June 2010 and till 01 January 2015 for the nitrogen dioxide and benzene limit values.
 - 2.5.5 The Commission has the duty to draw up guidelines for the demonstration and subtraction of exceedances attributable to natural sources and agreements on the setting up of common measuring stations. However this requirement is not transposable (since it deals with the Commission's responsibility).
 - 2.5.6 The provisions related to PM2.5 shall be reviewed by the Commission in 2013 (other pollutants may be included).following information by the WHO, reduction potentials in the Member States, the revision of the Directive on National Emission Ceilings for certain atmospheric pollutants (2001/81/EC) and the progress made by the Community in implementing the Commission's reduction measures. However this requirement is not transposable (since it deals with the Commission's responsibility).
 - 2.5.7 The AAQ-D also includes two technical annexes which were not included in the AQ-FD and corresponding daughter directives. These annexes deal with the measurement of PM2.5 and with national exposure reduction targets, target values and limit values for PM2.5.

2.6 This Directive involves or affects the following stakeholders as follows:

2.6.1 Ministries

Ministry/Authority	Relevance to the contents of the transposition of the Directive
Office of the Prime Minister	Ministry responsible for the Environment
Office of the Prime Minister (Parliamentary Secretary for Consumers, Fair Competition, Local Councils and Public Dialogue)	Certain regulations in the transposition require consultation and cooperation with the Local Councils.
Ministry for Infrastructure, Transport and Communication and Malta Transport	Measures related to traffic.
Ministry for Resources and Rural Affairs and Malta Resources Authority	Lead Ministry responsible for Climate Change, energy management and the implementation of the Construction Site Management Regulations.
Ministry of Finance, the Economy and Investment.	Ministry responsible for Enemalta Corporation (achieving the limit values also depends on the power plants' performance). The implementation of measures will have budgetary implications.
Ministry of Education, Employment and the Family.	Educational campaigns tied to the subject matter of these regulations.
Ministry for Health, the Elderly and Community Care.	Responsible for public health implications.
Malta Enterprise.	Funding of certain measures related to industry.

2.6.2 Non-Governmental Organisations (NGO's) and constituted bodies.

Malta Chamber of Commerce, Enterprise and Industry.	The inclusion of a regulation which requires the permitting of industrial boilers.
Malta Business Bureau	
Chamber of	Measures restricting traffic flow into certain areas.

Small and Medium Enterprises.	
Building Industry Consultative Council.	Measures affecting the construction industry.
Local Councils Association.	Certain regulations in the transposition require consultation and cooperation with the Local Councils.
Environmental-NGO's	Organizations with an interest in the quality of the environment.

Section 3: The Options for Transposition

3.1 The Office of the Prime Minister and the Malta Environment and Planning Authority have considered the following alternative options for transposing the Directive in Malta:

- One can either amend the current legislation (LN 216 of 2001, LN 224 of 2001 as amended by LN 231 of 2004, LN 163 of 2002, LN 215 of 2001 as amended by LN 11 of 2003) to include the changes within the new Directive including transposition of the requirements with respect to PM_{2.5};
- Fully transpose this new Directive (thus having 2 legal notices: one transposing the new Directive and the present LN 292 of 2007);
- Issue one legal notice comprising of consolidated air quality regulations which would encompass all requirements of the present legal notices and include the provisions of the new Directive. This is considered as the preferred option since it follows the guidelines on better regulation due to the fact that it reduces the number of legal instruments.

3.2 The Office of the Prime Minister and the Malta Environment and Planning Authority feel that to effectively implement these requirements, Malta should set up an Air Quality Advisory Board, with the aim of proposing corrective measures as per action under the new Directive.

3.3 Small combustion plants are currently not regulated under European Union Legislation. The Malta Environment and Planning Authority feels that specific provisions in relation to permitting or registration should be included in the Regulations. These regulations include an obligation on MEPA to issue appropriate guidance documents for example, on the performance of boilers.

Section 4: The Consultation Questions

- 4.1 Which of the above Options set out in Section 3.1 is the most effective for accurate and efficient implementation of this new Directive?
- 4.2 How should the obligations of the various stakeholders (as outlined in Section 2.6) feature in the text of the transposition?
- 4.3 What provisions should the text of the transposition contain with respect to the regulation of small combustion plants?
- 4.4 How should the requirement on public information be implemented effectively? How should this be featured in the transposition?

Annex A. Consultation Code of Practice

The Malta Environment and Planning Authority has adopted a Code of Practice for Public Consultation which is intended to be used for consultation on all policy, plan and programme formulation that takes place at the Malta Environment & Planning Authority

The Consultation Criteria

- 1. Consult widely throughout the process, allowing a minimum of 6 weeks and a maximum of 12 weeks for written consultation at least once during the development of the policy.**
- 2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.**
- 3. Ensure that your consultation is clear, concise and widely accessible.**
- 4. Give feedback regarding the responses received and how the consultation process influenced the policy.**
- 5. Monitor your unit's effectiveness at consultation, including through the use of a designated consultation co-ordinator.**

The full consultation code may be viewed at: http://www.mepa.org.mt/public_consultation