



EUROPEAN COMMISSION

Brussels, 25.6.2012
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COMMISSION DECISION

of 25.6.2012

on the notification by the United Kingdom of Great Britain and Northern Ireland of a postponement of the deadline for attaining the limit values for NO₂ in 24 air quality zones

(Only the English text is authentic)

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe¹, and in particular Article 22(4) thereof,

Whereas:

- (1) The air quality limit values for NO₂ have been legally binding since 1 January 2010 in accordance with Council Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air².
- (2) In accordance with Article 22(1) of Directive 2008/50/EC, a Member State may postpone the deadline until 2015 at the latest, by which conformity with the limit values for NO₂ shall be achieved, if the Member State demonstrates that conformity with the limit values cannot be achieved by 1 January 2010 and an air quality plan is established that demonstrates that such compliance will be achieved before the expiry of the new deadline.
- (3) The United Kingdom submitted to the Commission by letter registered on 27 September 2011 a notification of a postponement under Article 22(1) of Directive 2008/50/EC of the deadline for attaining the annual limit value for NO₂ in forty air quality zones as well as the hourly NO₂ limit value in three of those zones. By letter registered on 2 April 2012, the United Kingdom clarified that due to projected compliance in 16 of those zones only by 2020 or even 2025, those zones were not meant to be notified under Article 22(1) of Directive 2008/50/EC. As a consequence the Commission has assessed the notification of a postponement of the deadline for attaining the annual limit value for NO₂ in the 24 air quality zones listed in the Annex to this Decision as well as the hourly NO₂ limit value in one of those zones (North East Scotland).

¹ OJ L 152, 11.6.2008, p.1.

² OJ L 163, 29.6.1999, p.41.

- (4) The notification has been assessed in accordance with the guidance set out in the Commission Communication on notifications of postponements of attainment deadlines and exemptions from the obligation to apply certain limit values pursuant to Article 22 of Directive 2008/50/EC on ambient air quality and cleaner air for Europe³, ("the Communication") and with the Commission Staff Working Paper concerning guidance on preparing a notification of a postponement of the deadline for attaining the limit values for NO₂ under Directive 2008/50/EC⁴. The notification was submitted using the forms set out in the Staff Working Paper⁵ that accompanied the Communication.
- (5) The Commission identified certain relevant information as missing from the original notification and requested the United Kingdom authorities by letter dated 21 November 2011 to complete the notification. Since the United Kingdom authorities submitted essential additional information by letter dated 9 December 2011 the period for the Commission's assessment of the notification starts from the day following the date of official receipt of that information, i.e. 13 December 2011.
- (6) The United Kingdom authorities have provided in the notification data for the year 2008 to be used as reference year and as basis for the assessment of the postponement of the attainment deadline for the NO₂ limit values in the 24 zones. The Commission finds that since the notification was submitted after the initial deadline for attainment, 2010 should be used as reference year. Nevertheless, the Commission acknowledges that in most zones only minor changes in NO₂ levels were observed until 2010. Therefore, the Commission finds that the year 2008 may be used as a basis for the assessment.
- (7) The United Kingdom notification was accompanied by air quality plans for all notified zones. The air quality plans fulfil most of the requirements provided for in Section A of Annex XV to Directive 2008/50/EC. The assessment shows however that no information has been provided for any of the zones on the observed effect of single measures and as regards zones 9 and 23 no information on local measures is given (point 7 of Part A of Annex XV). The Commission notes however that estimated effects are given for some measures and also observed total concentrations are available, as well as information on national measures. Several of the air quality plans list the measure "low emission zone" as an optional measure to be implemented. It should be noted that a plan is considered as an air quality plan for the purposes of a notification pursuant to Article 22 of Directive 2008/50/EC, if it has been formally endorsed by the competent authorities so that it constitutes a formal commitment to take the necessary abatement action with the view of ensuring compliance with the NO₂ limit values before the new deadline. Considering that the competent authorities have indicated the measure "low emission zone" to be only optional, the Commission finds that it does not allow the Commission to assess with enough certainty whether this measure will be implemented or not and hence whether compliance by the extended deadline can be achieved in those zones.
- (8) In order to assess whether the conditions for the NO₂ postponement are satisfied, it is necessary to identify the main sources of pollution contributing to the observed

³ COM(2008)403

⁴ SEC(2011)300

⁵ SEC(2008)2132

concentrations. That source apportionment should be precise enough to allow an understanding of which measures should be taken to address the main sources of pollution.

- (9) The Commission finds that the source apportionment provided by the United Kingdom authorities for all notified zones is complete for all scales. The United Kingdom authorities have identified road traffic as the main source contributing to the high NO₂ concentration levels at the local and urban levels in all zones. The assessment of the Commission confirms that the identification and quantification of the contributions from the different sources provided by the United Kingdom authorities gives a relevant and reasonable basis for the assessment.
- (10) In order to assess if conformity with the limit values for NO₂ could not have been achieved by 1 January 2010, it is necessary to consider when an exceedance triggering abatement action pursuant to Directive 1999/30/EC first occurred in all zones and whether relevant measures have been taken in relation to the identified sources.
- (11) As regards the majority of the zones, according to the information submitted by the United Kingdom authorities, exceedances triggering an obligation to take abatement action with regard to NO₂ concentrations were recorded for the first time already in 2001 (zones 1-5, 7, 18), 2002 (zones 19 and 22) and 2003 (zones 8, 10, 13, 15-17, 20, 21, 23 and 24). In the other zones, first exceedances were recorded respectively in 2004 (zone 6), 2005 (zone 11), 2006 (zones 9 and 12) and 2007 (zone 14). In most of the zones air quality plans were established and reported to the Commission within two years of the first exceedance plus margin of tolerance (zones 6-8, 9-11, 12, 13, 15, 16, 19, 20-24) and measures addressing the main sources were taken in due time on national, regional or local level. As regards zones 7 and 8, the Commission notes that even though off-road mobile machinery appears to be an important source of pollution, no measures seem to specifically address it. As regards zones 1-5, 17 and 18 air quality plans have been reported more than two years after the first exceedance of the limit value plus the margin of tolerance. However the Commission notes that national or local measures addressing the main sources were taken in due time before 2010 in zones 1-5, 17 and 18.
- (12) The United Kingdom authorities have not clearly stated for any of the zones whether compliance with the NO₂ limit values by the initial deadline of 1 January 2010 was expected or not. The United Kingdom authorities indicate that compliance in the zones listed in the Annex could not be achieved in 2010 because the NO_x emissions, mainly the vehicle emissions, did not decrease as planned and expected in line with the relevant literature and because NO₂ primary emissions increased because of the increased use of certain type of vehicle technologies. The Commission notes that those findings have an impact on the projection scenarios. The Commission further notes that the time lapse to adapt the air quality plans to the new findings in order to reach compliance in 2010 was relatively short.
- (13) The Commission finds therefore that it was likely that despite the abatement actions taken by the United Kingdom authorities, conformity with the respective limit value for NO₂ could not be achieved by 1 January 2010 in any of the notified zones.
- (14) In order to assess if compliance with the hourly or annual limit value for NO₂ can be achieved by the new deadline, it is necessary to consider the concentration levels

estimated at that date by the Member State, and the estimated impact of additional measures proposed to ensure compliance in the air quality plan accompanying the notification.

- (15) The United Kingdom has not indicated, for any of the zones, until what date it notifies a postponement of the deadline for attaining the limit values for NO₂. Article 22(1) of Directive 2008/50/EC provides that the deadline to comply with the limit values for NO₂ may be postponed by a maximum of five years. The Commission has therefore assessed the notification with regard to that maximum postponement duration. Given the impacts on public health, the duration of any postponement must however be restricted to what is absolutely necessary. An assessment should therefore be made of whether compliance can be achieved earlier than the maximum extended deadline.
- (16) In order to assess whether the projected compliance by the 2015 deadline is realistic, the Commission requires precise and detailed evidence on the scale and impact of the abatement action planned including a clear implementation timetable for that action.
- (17) Compliance with the annual NO₂ limit value is projected by 1 January 2015 in zones 1-3, 5, 18, 19 and 22. Effective measures addressing the main NO₂ pollution sources are already in place and continue to apply in those zones. A low emission zone is indicated by the United Kingdom authorities as a potential cost effective measure to reduce NO₂ concentration levels in general and is listed concretely as a possible additional measure to be implemented in zones 1-3 and 5. In view of the large compliance gap in zones 1-3, 5, 18, 19 and 22 (up to 22 µg/m³) and the uncertainty on whether other measures will be implemented in addition to the effective ones already in place (including the lack of clear commitment that the low emission zone will be implemented in zones 1-3 and 5), the Commission finds that it cannot fully assess whether compliance with the annual NO₂ limit value can be achieved by 1 January 2015 in zones 1-3, 5, 18, 19 and 22.
- (18) As regards zones 4, 7, 8, 13, 15, 16, 20 and 23, the United Kingdom authorities have provided data on projected NO₂ concentration levels in 2015 that seem reasonable and realistic. No additional measures are planned as compared to the original air quality plan in those zones but as effective measures have already been taken and will continue to apply and considering the decreasing trend and the compliance gap in those zones, the Commission finds that it is likely that compliance with the annual NO₂ limit value can be achieved by 1 January 2015 in zones 4, 7, 8, 13, 15, 16, 20 and 23.
- (19) As regards zones 6, 12, 14 and 17, the United Kingdom authorities have provided projections which show compliance with the annual NO₂ limit value already in 2010. The official annual air quality report for 2010 provided by the United Kingdom however lists those zones as in exceedance of the annual NO₂ limit value. As the exceedance is a modelled exceedance no indication is given about the proportion of exceedance in 2010. Considering the discrepancy between the projected 2010 NO₂ annual concentration levels and the information provided in the annual air quality report on 2010 and the lack of explanation thereof, the Commission finds that it cannot fully assess whether a postponement is needed and if yes whether the proposed abatement action is sufficient for achieving compliance with the annual limit value for NO₂ by 1 January 2015 and if it could not be achieved earlier in zones 6, 12, 14 and 17.

- (20) The United Kingdom authorities have provided projections stating that compliance will be reached after 2010 but before 2015 in the zones 9, 11 and 24. Relevant measures have already been taken in those zones and continue to apply but no additional measures are planned. Projections based on data from EMEP show that the anthropogenic regional background concentrations are decreasing respectively in zone 9 by approximately $0,9 \mu\text{g}/\text{m}^3$ and in zones 11 and 24 by approximately $0,8 \mu\text{g}/\text{m}^3$ per year. It is therefore possible that compliance with the annual limit value could be achieved as of 1 January 2013 in zone 9 and as of 1 January 2014 in zones 11 and 24. In order to ensure that compliance is achieved by those dates and given the obligation to ensure that the period of exceedance shall be kept as short as possible, the Commission finds that the United Kingdom authorities should ensure a more intensive implementation of the measures already in place in zones 9, 11 and 24 as well as the adoption and implementation of additional suitable measures.
- (21) Therefore the Commission finds that the United Kingdom has not demonstrated that the maximum period of postponement until 31 December 2014 is necessary for achieving conformity with the annual limit value in zones 9, 11 and 24. In order to ensure that the postponement is no longer than is necessary to ensure compliance, the United Kingdom should adjust the relevant air quality plans as appropriate to ensure that compliance with the annual limit value for NO_2 in zones 9, 11 and 24 are achieved at the latest by 1 January 2013 in zone 9 and 1 January 2014 in zones 11 and 24. The adjusted plans should be notified to the Commission as soon as possible, taking into account the time-scale necessary to carry out the national procedures to amend the plans without undue delay.
- (22) As regards zone 10, the air quality plan provided by the United Kingdom authorities indicates that compliance may be achieved as soon as 2013. In view of the relatively small compliance gap and the fact that effective measures are already in place and will continue to apply, the Commission finds that it is likely that compliance with the annual NO_2 limit value can be achieved as of 1 January 2013 in zone 10.
- (23) As regards zone 21, the air quality plan provided by the United Kingdom authorities projects compliance with the NO_2 limit values after 2010 and before 2015. However, the figures are based on a projected annual concentration level in 2010 ($47 \mu\text{g}/\text{m}^3$) that is substantially lower than the actual measured level in 2010 ($59 \mu\text{g}/\text{m}^3$). Considering the latter level, therefore a more realistic starting point, the gradual projected reduction of NO_2 concentration levels would result in an annual average in 2015 above the limit value. Relevant measures have already been taken in those zones and continue to apply but no additional measures are planned until 1 January 2015. Therefore, the Commission finds that it cannot fully assess whether the proposed abatement action is sufficient for achieving compliance with the annual limit value for NO_2 by 1 January 2015 in zone 21. As regards the hourly NO_2 limit value, the Commission notes that according to the annual air quality reports submitted by the United Kingdom, zone 21 is already in compliance since 2001. The Commission therefore finds that it is likely that the concentration levels in zone 21 can be maintained below the hourly limit value in accordance with Article 12 of Directive 2008/50/EC and that, in view of the compliance achieved, the hourly NO_2 limit value laid down in Annex XI to Directive 2008/50/EC should continue to apply in zone 21 without a margin of tolerance.
- (24) As regards the implementation by the United Kingdom authorities of the legislation listed in Part 2 of Section B in Annex XV to Directive 2008/50/EC, the Commission

notes that the United Kingdom authorities have provided the required information for all zones.

- (25) The Commission is satisfied that the United Kingdom authorities have taken into consideration all measures listed in Part 3 of Section B in Annex XV to Directive 2008/50/EC.
- (26) Against that background, the Commission finds that objections should be raised to the postponement of the deadline for attaining the annual limit value for NO₂ in zones 1-3, 5, 6, 12, 14, 17-19, 21 and 22 on the grounds that the United Kingdom has not demonstrated that compliance with this limit value can be achieved by 1 January 2015 or earlier. The Commission finds that objections should be raised against the postponement of the deadline for attaining the hourly limit value for NO₂ in zone 21, on the grounds that compliance has already been achieved.
- (27) As regards zones 4, 7, 8, 10, 13, 15, 16, 20 and 23 no objections should be raised to the postponement of the deadline for attaining the annual limit value for NO₂ in zones 4, 7, 8, 13, 15, 16, 20 and 23 until 1 January 2015 and in zone 10 until 1 January 2013.
- (28) As regards zones 9, 11 and 24, the Commission finds that no objections should be raised to the postponement of the deadline for attaining the annual limit value for NO₂ provided that the respective air quality plans are adjusted as appropriate to ensure that compliance with the annual NO₂ limit value in zone 9 is achieved at the latest as of 1 January 2013 and in zones 11 and 24 at the latest as of 1 January 2014.
- (29) During the postponement period the annual limit value for NO₂ continues to apply together with a maximum margin of tolerance in accordance with Article 22(3) of Directive 2008/50/EC. In order to provide the Commission with the means for verifying compliance with that provision, the United Kingdom should provide the Commission, on an annual basis, with data confirming that the concentration levels do not exceed the annual NO₂ limit value plus the maximum margin of tolerance in zones 4, 7-11, 13, 15-16, 20, 23 and 24.
- (30) In order to ensure that the Commission can check the implementation of the air quality plan and the relevant abatement action, the United Kingdom should provide information to the Commission for zones 4, 7-11, 13, 15-16, 20, 23 and 24 on the assessment of air quality as regards the area in exceedance, the length of road in exceedance and the population exposed in the calendar year following the date of expiry of the postponement period.
- (31) The postponement should apply to the air quality zones 4, 7-11, 13, 15-16, 20, 23 and 24 as they were defined in the reference year 2008. In order to ensure that the postponement applies to the territory as defined in this Decision, any changes to the delimitation of those zones during the postponement period should be subject to prior approval by the Commission,

HAS ADOPTED THIS DECISION:

Article 1

1. No objections are raised to the postponement of the deadline for attaining the annual limit value for NO₂ set out in Annex XI to Directive 2008/50/EC in zones 4, 7, 8, 10, 13, 15, 16, 20 and 23 specified in the Annex to this Decision. The postponement shall apply until 1 January 2013 in zone 10 and until 1 January 2015 in zones 4, 7, 8, 13, 15, 16, 20 and 23.
2. No objections are raised to the postponement of the deadline for attaining the annual limit value for NO₂ in zones 9, 11 and 24 specified in the Annex to this Decision, provided that the relevant air quality plans are adjusted with a view to ensuring that compliance with the annual limit value for NO₂ is achieved by 1 January 2013 in zone 9 and 1 January 2014 in zones 11 and 24. The adjusted plans shall be notified to the Commission as soon as possible, taking into account the time-scale necessary to carry out the national procedures to amend the plans or adopt the short-term action plan without undue delay.
3. Objections are raised to the notification by the United Kingdom of Great Britain and Northern Ireland of a postponement of the deadline for attaining the annual limit value for NO₂ set out in Annex XI to Directive 2008/50/EC in zones 1-3, 5, 6, 12, 14, 17-19, 21 and 22 and against the notification of a postponement of the deadline for attaining the hourly limit value for NO₂ in zone 21 as specified in the Annex to this Decision.

Article 2

1. The United Kingdom of Great Britain and Northern Ireland shall, for each calendar year until the date of expiry of the respective postponement period, provide the Commission with data indicating that the concentration levels in zones 4, 7-11, 13, 15-16, 20, 23 and 24 are below the annual limit value for NO₂ plus the maximum margin of tolerance specified in Annex XI to Directive 2008/50/EC. That data may be provided through the annual submission of the questionnaire referred to in Article 1 of Commission Decision of 29 April 2004 laying down a questionnaire to be used for annual reporting on ambient air quality assessment under Council Directives 96/62/EC and 1999/30/EC and under Directives 2000/69/EC and 2002/3/EC of the European Parliament and of the Council⁶.
2. The United Kingdom of Great Britain and Northern Ireland shall for the calendar year following the date of expiry of the respective postponement period provide the Commission with information confirming that compliance with the annual limit value for NO₂ set out in Annex XI to Directive 2008/50/EC has been achieved in zones 4, 7-11, 13, 15-16, 20, 23 and 24.
3. Changes to the delimitation of the air quality zones 4, 7-11, 13, 15-16, 20, 23 and 24 as compared to the delimitation that applied in the reference year 2008 during the

⁶ OJ L 156, 30.4.2004, p.84.

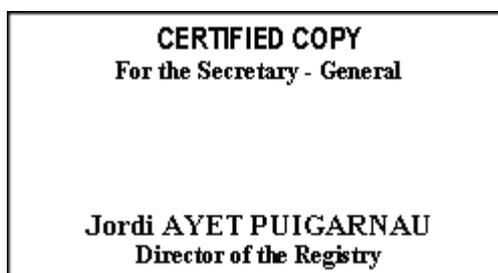
postponement period that may affect the scope of the postponement shall be subject to prior approval of the Commission.

Article 3

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 25.6.2012

For the Commission
Janez POTOČNIK
Member of the Commission



ANNEX

Zones and agglomerations covered by the notification in accordance with the delimitations applicable in the annual air quality report for the reference year 2008

Zone number	Zone code	Zone name	Hourly and/or annual limit value notified
1	UK0005	Tyneside	a
2	UK0006	Liverpool Urban Area	a
3	UK0007	Sheffield Urban Area	a
4	UK0008	Nottingham Urban Area	a
5	UK0009	Bristol Urban Area	a
6	UK0010	Brighton Worthing Littlehampton	a
7	UK0011	Leicester Urban Area	a
8	UK0012	Portsmouth Urban Area	a
9	UK0015	Bournemouth Urban Area	a
10	UK0016	Reading Wokingham Urban Area	a
11	UK0017	Coventry Bedworth	a
12	UK0020	Birkenhead Urban Area	a
13	UK0021	Southend Urban Area	a
14	UK0023	Preston Urban Area	a
15	UK0025	Edinburgh Urban Area	a
16	UK0026	Cardiff Urban Area	a
17	UK0027	Swansea Urban Area	a
18	UK0028	Belfast Metropolitan Urban Area	a
19	UK0030	South West	a
20	UK0037	Central Scotland	a
21	UK0038	North East Scotland	a; h
22	UK0041	South Wales	a

23	UK0042	North Wales	a
24	UK0043	Northern Ireland	a