



Hereafter follows an unofficial translation of the Act of 10 June 1999 on classified establishments. The purpose of the translation is to assist Anglophones. But only the official French text is valid. All documents addressed to the relevant administrations within the scope of the previously named Act must be written in one of the official languages of the State, i.e. Luxembourgish, French or German.

Act of 10 June 1999 on classified establishments¹,

modified by:

- the act of 19 November 2003 modifying the act of 10 June 1999 on classified establishments²,
- the act of 28 May 2004 on the creation of an administration for water management³,
- the act of 23 December 2004,
 1. establishing a scheme for greenhouse gas emission allowance trading;
 2. creating a financing fund of the Kyoto mechanisms;
 3. modifying article 13bis of the act of 10 June 1999 on classified establishments⁴,
- the act of 21 December 2007 modifying and amending the act of 10 June 1999 on classified establishments⁵.
- the Grand-Ducal Regulation of 2 April 2008
 - a) modifying the modified Grand-Ducal Regulation of 16 July 1999 on the nomenclature and classification of the classified establishments
 - b) modifying annex III of the modified Act of 10 June 1999 on classified establishments,
 - c) bearing certain modalities of application of the establishments covered by annex III of the modified Act of 10 June 1999 on classified establishments⁶,
- the Grand-Ducal Regulation of 26 November 2008⁷
 - a) modifying the modified Grand-Ducal Regulation of 16 July 1999 on the nomenclature and classification of the classified establishments
 - b) modifying annex III of the modified Act of 10 June 1999 on classified establishments,
 - c) modifying annex I and II of the modified Grand-Ducal Regulation of 7 March 2003 on the assessment of the effects of certain public and private projects on the environment,
 - d) modifying annexe I of the Grand-Ducal Regulation of 14 September 2000 concerning risk studies and safety reports,
 - e) bearing certain modalities of application on the management of waste from extractive industries,
- the act of 19 December 2008 about water⁸,
- the act of 26 March 2009⁹.
- the act of 13 September 2011¹⁰

¹ See « MEMORIAL, Journal Officiel du Grand-Duché de Luxembourg », A – Nr 100 of 28 July 1999, page 1904

² see «MEMORIAL, Journal Officiel du Grand-Duché de Luxembourg», A - Nr. 169 of 26th November 2003, page 3322. Point L. of the unique article disposes: «The dispositions of the present article apply to the applications for permits, submitted at the moment or after the coming into force of the present act.»

³ see «MEMORIAL, Journal Officiel du Grand-Duché de Luxembourg», A -Nr. 92 of 18 June 2004, page 1555,

⁴ see «MEMORIAL, Journal Officiel du Grand-Duché de Luxembourg», A - Nr. 210 of 30 December 2004, page 3797,

⁵ see «MEMORIAL, Journal Officiel du Grand-Duché de Luxembourg», A -Nr. 238 of 28 December 2007, page 4389.

⁶ see «MEMORIAL, Journal Officiel du Grand-Duché de Luxembourg», A – Nr. 47 of 14 April 2008, page 717,

⁷ see «MEMORIAL, Journal Officiel du Grand-Duché de Luxembourg», A – Nr. 174 of 2 December 2008, page 2412,

⁸ see «MEMORIAL, Journal Officiel du Grand-Duché de Luxembourg», A – Nr. 217 of 30 December 2008, page 3232.

⁹ see «MEMORIAL, Journal Officiel du Grand-Duché de Luxembourg», A – Nr. 53 of 23 March 2009, page 701.

¹⁰ see «MEMORIAL, Journal Officiel du Grand-Duché de Luxembourg», A – Nr. 205 of 3 October 2011, page 3649.

Coordinate text

Art. 1 OBJECT AND SCOPE

1. The object of this Act is to:
 - ensure the integrated prevention and reduction of pollution from establishments;
 - protect the safety, salubrity or comfort of the public, the neighbourhood or the staff of establishments, the occupational health and safety of workers and the human and natural environment;
 - promote sustainable development.
2. Any industrial, commercial or small-scale public or private establishment, any installation, any activity or related activity and any process, hereinafter referred to as "establishment(s)", whose existence, operation or use may endanger or prejudice the interests referred to in paragraph 1 shall be subject to the provisions of the Act.

Art. 2 DEFINITIONS

For the purpose of this Act, we understand by:

1. "*sustainable development*": the policy of ensuring the continuity over time of economic and social development while respecting -the environment and without compromising the natural resources essential to human activity; -the occupational health and safety of workers;
2. "*authorization*": all or part of one or more written decisions granting the right to operate all or part of an establishment under certain conditions, thereby ensuring that the establishment meets the requirements of this Act. An authorisation may be valid for one or more establishments or for parts of an establishment situated on the same site and operated by the same operator;
3. "*pollution*": the direct or indirect introduction, through human activity, of substances, vibrations, heat or noise into the air, water or soil where these may adversely affect human health or the quality of the environment, cause damage to material property or impair or interfere with the amenities or other legitimate uses of this environment;
4. "substance": any chemical element and its compounds;
5. "*emission*": the direct or indirect discharge, from specific or general sources in an establishment, of substances, vibrations, heat or noise into the air, water or soil;
6. "*operating change*": a change in the characteristics or operation or an extension of the establishment which may affect the interests protected by article 1 of this Act;

(act of 19 November 2003)

7. "*substantial change*": a change in the establishment which, in the view of the competent administrations, may negatively and/or significantly affect the interests protected by article 1 of this Act.

(act of 21 December 2007)

Any change to an operation which in itself meets the thresholds set out in Annex III is also deemed to be substantial;

8. "*emission limit value*": the mass, expressed according to certain specific parameter, the concentration and/or the level of a given emission which must not be exceeded during one or more specified periods. The limit values of

emissions into the environment may also be fixed for certain groups, families or categories of substances, particularly those referred to in Annex I to this Act.

The emission limit values of substances generally apply to the point at which the emissions are discharged from the establishment, with any dilution being excluded in their calculation.

With regard to indirect discharges into water, the effect of a treatment plant may be taken into account when calculating the emission limit values of the establishment, provided that an equivalent level of protection of the environment as a whole is guaranteed and that higher pollution loads into the environment are not created, without prejudice to compliance with the provisions of the regulations on discharges of polluting substance into water.

(act of 21 december 2007)

9. "*best available technologies in the domain of the environment*": the most effective and advanced stage of development of activities and their methods of operation, indicating the practical suitability of certain technologies to establish in principle the base emission limit value with the aim of avoiding and, where this is impossible, generally reducing emissions and the impact on the environment as a whole.

By "*technologies*" we understand both the technologies used and the way in which the establishment is designed, constructed, maintained, operated and shut down.

By "*available*" we understand technologies developed on a scale allowing them to be applied in the industrial sector concerned, under economically and technically viable conditions, taking into account the costs and advantages, whether or not these technologies are used or produced in Luxembourg territory, provided that the operator concerned can access these under reasonable conditions.

By "*best*" we understand technologies which are most effective at achieving a generally high level of protection of the environment as a whole.

When determining the best available technologies in the domain of the environment, the points listed in Annex II to this Act should be particularly considered;

(act of 21 December 2007)

10. "*best available technologies in the domain of personal security*": save the best available technologies in the domain of the environment, the most effective and advanced stage of development of activities and their methods of operation, indicating the practical suitability of certain technologies to establish in principle the base for avoiding and, where this is impossible, to generally reduce the risks for the public security and that of the neighbourhood in general as well as for the security, the hygiene and the health at work, for cleanliness and ergonomics.

By "*technologies*" we understand both the used technologies and the way in which the establishment is designed, constructed, maintained, operated and shut down.

By "*available*" we understand technologies developed on a scale allowing them to be applied in the concerned industrial sector, under economically and technically viable conditions, taking into account the costs and advantages, whether or not these technologies are used or produced in Luxembourg territory, provided that the concerned operator can access these under reasonable conditions.

By "best" we understand technologies which are most effective at achieving a generally high level of personal security.

11. "*environmental quality standard*": a series of requirements which must be met at any given moment for a given environment or a specific part thereof.

(act of 19 November 2003; act of 21 December 2007)

12. "*competent administration*": the environment agency, the health and safety inspectorate and the municipal administration(s) of the municipality or municipalities concerned by the implantation or the substantial change of the establishment in question, each as far as it is concerned;
13. "*competent authority*": the authority invested by the power of authorization, of actualisation, of refusal or of withdrawal, in this particular case the ministers respectively having the employment and the environment in their attributions or the mayor following the classification of the establishment.

Art. 3 NOMENCLATURE OF CLASSIFIED ESTABLISHMENTS

Establishments shall be divided into four classes and two sub-classes. Their nomenclature and classification shall be established by grand-ducal regulation.

Art. 4 COMPETENCES IN THE MATTER OF AUTHORIZATION

Class 1 establishments shall be authorised, within their respective competence, by the minister responsible for employment and the minister responsible for the environment, hereinafter referred to as "the ministers."

Class 2 establishments shall be authorised by the burgomaster.

(act of 13 September 2011):

Class 3, 3A and 3B establishments shall be authorised by the ministers without needing to hold the public inquiry specified in articles 10 and 12 or 12*bis*. However, class 3A establishments shall be authorised only by the minister responsible for employment and class 3B establishments shall be authorised only by the minister responsible for the environment.

Class 3, 3A and 3B establishments shall be subject to the general requirements laid down by grand-ducal regulation in the interests of the environment and the safety, salubrity or comfort of the public, the neighbourhood or the staff of the establishment, with the exception of those requirements regarding the health of workers.

Class 4 establishments shall be subject to the requirements established by grand-ducal regulation in order to protect the interests referred to in article 1 of this Act, with the exception of those requirements regarding the health of workers. This regulation shall also determine the competent authority in this respect and shall specify the content of the documents to be submitted to the said authority.

Art. 5 REGIME OF THE COMPOSITE ESTABLISHMENTS AND GRADED AUTHORIZATION PROCEDURES

If several installations of a planned or existing establishment come under different classes, the installation posing the highest risk according to its classification shall determine which rules for authorization referred to in the above article are used.

(act of 19 November 2003 act of 13 September 2011):

By derogation to the foregoing paragraph, when the operation of a new establishment or when a substantial modification of an existing establishment imply two or more of the classes 2 and 3, 3A or 3B, the regime of authorization of class 3 is applied.

The provisions of this article shall not apply to class 4 establishments.

(act of 19 November 2003)

For the construction of administrative and/or commercial buildings, the competent administration, following an express request from the applicant, shall order as applicable, different authorization procedures for:

- the demolition, excavation and earthworks,
- the construction and the main structural works only, including the rational use of energy and the appropriate measures in the event of an accident, and
- the operation according to the end use of the building.

Art. 6 MODIFICATION, SUBSTANTIAL MODIFICATION AND RLOCATION OF THE ESTABLISHMENT

(act of 19 November 2003)

The operator of an establishment shall be obliged to notify the competent administration, by recorded delivery with acknowledgement of receipt, of any planned modification to the operation of an establishment in class 1, 2, 3, 3A or 3B.

(act of 19 November 2003 act of 13 September 2011):

The competent administration must, within twenty-five days following the date of the acknowledgement of receipt, inform the operator whether or not the planned modification constitutes a substantial modification.

If the planned change to the establishment constitutes a substantial change, the applicant shall be invited to submit an application for authorization in accordance with article 7 of this Act.

(act of 13 September 2011)

If the planned change to the establishment does not constitute a substantial modification, the competent authority shall update the authorization or the layout or operating conditions relating to the change within thirty days of the ascertainment of the non substantial change by the competent authorities.

(act of 19 November 2003)

In this case, the communication of the operator is forwarded to the mayor of the municipality where the establishment is situated.

The application for authorization shall be examined and the decision taken in accordance with the requirements of article 9 of this Act.

(act of 13 September 2011)

The decision of the competent authority must focus on the parts of the establishment and the information listed in article 7 which may be affected by the modifications, at the exception of paragraph 8.d) of said article.

Any substantial modification of an application file which occurs during or after the public inquiry and before the competent authority has decided on the application shall be submitted to a new public inquiry.

Any relocation of an establishment in class 1, 2, 3, 3A or 3B shall be subject to reauthorization. A new public inquiry shall be required only for establishments in classes 1 and 2.

Art. 7 APPLICATION FOR AUTHORIZATION

1. The Applications for authorization of class 1 establishments shall be sent in triplicate, by recorded delivery with acknowledgement of receipt, to the environment agency which shall automatically send one copy to the health and safety inspectorate.

The applicant must submit an additional copy for each neighbouring commune which lies within the radius drawn on the cadastral map specified in paragraph 8.b) of this article.

(act of 19 December 2008)

If a class 1 establishment requires an authorization under the legislation of waste prevention and management, the applicant must also provide the environment agency with one additional copy.

If a class 1 establishment requires an authorization under the legislation about water, the applicant must also provide the environment agency with two additional copies.

2. The Applications for authorization of class 2 establishments shall be sent in duplicate, by recorded delivery with acknowledgement of receipt, to the mayor of the municipality where the establishment is planned.
The applicant must submit an additional copy for each neighbouring commune which lies within the radius drawn on the cadastral map specified in paragraph 8.b) of this article.

(act of 19 November 2003)

3. Applications for authorization of class 3 establishments shall be sent in triplicate, by recorded delivery with acknowledgement of receipt, to the environment agency which shall automatically send one copy the health and safety inspectorate and one copy for information and publication to the burgomaster of the commune where the establishment is planned..
4. Applications for authorization of class 3A establishments shall be sent in triplicate , by recorded delivery with acknowledgement of receipt, to the health and safety inspectorate which shall automatically send one copy for information and publication to the mayor of the municipality where the establishment is planned.
5. Applications for authorization of class 3B establishments shall be sent in triplicate, by recorded delivery with acknowledgement of receipt, to the environment agency which shall automatically send one copy for information and publication to the burgomaster of the commune where the establishment is planned.
6. The environment agency, the health and safety inspectorate and the communal authorities shall provide authorization applicants with model application forms appropriate to the nature and extent of the planned establishment.
7. The applications for authorization shall indicate:

(act of 19 November 2003)

- a) the surname, forenames, capacity and domicile of the applicant and the operator. For companies employing salaried staff, the national identity number must be indicated;
- b) the nature and location of the establishment, the status of the site of establishment, the object of the operation, the installations and processes to be used as well as the nature and the extent of the activities, the approximate quantities of raw and auxiliary substances and materials to be used and of products to be manufactured or stored;
- c) the approximate number of staff to be employed and a risk assessment on their health and safety in view of the substances and processes used, together with the planned safety, occupational health, salubrity and ergonomic measures;
- d) the water sampling, the discharges into the water, air and soil, the noise, vibration and radiation emissions from the establishments, the production and management of waste and other operating residues, the production, consumption and use of the different forms of energy by the establishment and a note of the effects on the environment.

(act of 19 November 2003)

- This note contains the necessary details to identify and evaluate the principal effects of the emissions on the environment;
- e) in general the measures planned for preventing or reducing the problems and risks which the establishment could cause, both for people involved in the operation and for neighbours, the public and the environment, and particularly the planned technology and other technologies intended to prevent emissions from the establishment or, if this is impossible, to reduce these, and, as necessary, the measures for preventing and reusing the waste generated by the establishment;
 - f) the measures planned for monitoring emissions into the environment;
 - g) the assessment of effects on the environment and the risk study and safety report for class 1 establishments laid down by grand-ducal regulation in accordance with article 8 of this Act;

(act of 19 November 2003)

- h) a nontechnical summarization of the details mentioned under the points a) to g) of the present article.

(act of 21 December 2007)

- i) For the establishments listed in Annex III, the main substitute solutions, if there are any, studied by the applicant, in the form of a summary.

8. Applications for authorization must be accompanied by the following documents:

- a) a map of the establishment on a scale of 1:200 or more detailed, except where indicated otherwise by the authorities concerned, indicating in particular the layout of the premises and the location of installations;
- b) a recent copy of the cadastral map showing the plots of land or parts thereof situated within a radius of 200 metres of the boundaries of the establishment;

(act of 13 September 2011):

- c) a copy of a topographical map on a scale of 1:20000 or more precise allowing the planned location of the establishment to be identified; »

(act of 19 November 2003 act of 13 September 2011):

- d) The administrative documents from which results that the planned classified establishment is situated in an area designated for these purposes in conformity to the modified act of 19 July 2004 concerning the municipal and urban development and, if needed, the modified act of 21 May 1999 concerning the territorial planning and the modified act of 19 January 2004 concerning de protection of nature and the natural resources.

The administrative documents mentioned under d) of the forgoing paragraph can be replaced by the applicant's initiative by a certificate of the burgomaster of the territorially concerned municipality attesting that the planned establishment is situated in an area designated for these purposes in conformity to the for mentioned modified act of 19 July 2004, if needed, the modified acts of 21 May 1999 and of 19 January 2004. The certificate has to mention the exact location of the planned establishment and contain an excerpt of the graphical and written documents relative to the concerned cadastral parcels.

Neither the administrative documents mentioned under d) nor the certificate of the burgomaster foreseen in the preceding paragraph, have to be part of the applications introduced in virtue of the procedure of article 12*bis*.

9. Applications for authorization of a class 1 establishment shall be sent, if appropriate, for an opinion to authorities other than those indicated in this article. The opinions of these authorities shall be attached to the authorization application file before the expiry of the examination period specified in article 9 of this Act.

(act of 19 November 2003)

If the applications or authorization are not sent to the competent authority within the specified period, the process shall carry on regardless.

(act of 21 December 2007)

For the establishments listed in Annex III and the establishments of class 1 subject to an evaluation of the incidences on the environment in compliance with article 8, paragraph 2, the competent authority also joins to the file of the application for a permit the other reports and surveys it disposes of and which it judges to be essential to its decision making.

(act of 19 November 2003, act of 13 September 2011):

10. At the applicant's request, the competent administration may detach any elements which may disclose trade secrets from the file submitted to the public inquiry specified in Articles 10 and 12 or article 12*bis*.

The competent authority must give the reasons for its refusal to do this.

These elements shall be sent to the competent authority under separate cover.

Emissions resulting from the production and operating process and any information on the health and safety of the establishment's staff or the protection of the environment may not be regarded as trade secrets.

(act of 13 September 2011)

11. A grand-ducal regulation can specify the indications and documents required in virtue of the articles 7 and 8

Art. 8 ASSESSMENT OF THE EFFECTS ON THE ENVIRONMENT, RISK ANALYSIS AND SAFETY REPORT

1. A grand-ducal regulation shall determine the class 1 establishments for which the minister responsible for employment shall be authorised to request from the authorization applicant a risk study and safety report for the establishment, which regard to the workers, the workplace and the safety of the public in the event of a malfunction in the establishment, due to the nature, characteristics or location of these establishments. The grand-ducal regulation shall specify the nature of the information to be provided by the applicant in a study and all the terms relating thereto.
These studies and reports shall appropriately identify, describe and assess, according to each particular case, the direct and indirect effects of the establishment concerned with regard to the neighbourhood its staff and the public to be found within the site of the establishment.
2. A grand-ducal regulation shall determine the class 1 establishments for which the minister responsible for the environment shall be authorised to request from the authorization applicant an assessment of the effects of the establishment on people and the environment due to the nature, characteristics or location of the establishment. The grand-ducal regulation shall specify the nature of the information to be provided by the owner in this assessment and all the terms relating thereto.

This assessment shall appropriately identify, describe and assess, according to each particular case, the direct and indirect effects of the establishment concerned on the environment.

Art. 9 EXAMINATION PROCEDURE OF THE APPLICATIONS FOR AUTHORIZATION AND DECISION PERIOD

(act of 21 December 2007, act of 13 September 2011) :

1. With regard to applications concerning an establishment of the class 1, 3 or 3B or a composite establishment that has to be authorized following the regime of the class 1 or 3, the Environmental Administration has to decide on the admissibility of the application within fifteen days after the reception of said application. The Labour inspectorate is held by the same obligation for the applications concerning an establishment of the class 3A. It is the same for the mayor regarding applications by establishments of the class 2.

A application is declared inadmissible by the competent administration if:

a) the following indications are missing:

- the names of the applicant and the facility manager;
- the location of the establishment;
- the conditions of the implantation site;
- the purpose of the operation;
- a non technical resumé of the data referred to under section h) of article 7, paragraph 7;

b) the documents referred to under sections a) to d) of article 7, paragraph 8 are missing;

c) the application contains indications or documents that contradict each other.

An application which has been declared inadmissible through a motivated decision by the competent administration is immediately returned by its means to the applicant, together with the attached files.

The administration's silence past the deadline specified at the first paragraph is equal to the admissibility of the application.

The objections relative to the inadmissibility decision for an application are instructed following the procedures specified at the points 1.3 to 1.5 of the present passage.

The competent administration has to; each in which it's concerned, within ninety days for the establishments of the class 1 referred to by the grand-ducal regulation taken in virtue of article 8 and within forty-five days for the establishments of the class 1, as well as for the establishments of the classes 2, 3, 3A and 3B following the notice of the receipt relative to the application; inform the applicant that the request is complete and ready, as the case is, for the public inquiry referred to by the articles 10 and 12 or by article 12*bis*.

(act of 19 November 2003 act of 13 September 2011) :

1.1. If the authorization application file is not complete, the competent authority shall invite the application to complete the file once within the specified period.

This written request shall be sent to the applicant and shall precisely indicate all the elements which are missing.

(act of 19 November 2003 act of 13 September 2011) :

1.2.1. The applicant shall send the requested information at once, with the needed precision and according to the rules of the art by registered delivery with acknowledgement of receipt, to the competent administration within one hundred and twenty days.

If the requested information is not sent to the competent authority within the specified period, the application for authorization shall be regarded as null and void.

(act of 13 September 2011)

Following a justified request from the applicant, this period may be extended by sixty days for the establishments referred to under article 13bis or by thirty days for the other establishments.

1.2.2. If the requested information is sent within the specified period, the competent authority shall inform the applicant:

- a) within forty days for class 1 establishments covered by a grand-ducal regulation adopted pursuant to Article 8, and
- b) within twenty-five days for other class 1 establishments and for class 2, 3, 3A and 3B establishments

of the acknowledgement of receipt of the information requested that the file is complete.

(act of 19 November 2003)

1.3. If, at the end of the periods indicated in 1.2.2, the competent administration considers that the authorization application file is still incomplete, the application must be heard in order to give its explanations within seven days of the end of the specified periods.

A report on the state of the file shall be drawn up by the competent administration following this hearing and this shall be notified to the applicant within fifteen days of the hearing, by recorded deliver with acknowledgement of receipt.

The applicant may refer the matter to the presiding judge of the administrative tribunal under an urgent application within thirty days other acknowledgement of receipt of the report on the state of the authorization application file.

The presiding judge of the administrative tribunal may take all steps in order to decide on the final state of the authorization application file.

1.4. The urgent application shall contain the names and domicile of the parties, a summary of the facts and grounds, the pleadings and the list of documents which are to be used and which are attached.

The application, in as many copies as there are parties in the case, and in general all documents produced by the parties, shall be filed with the registry of the administrative tribunal at the latest before the hearing fixed by the presiding judge of the administrative tribunal or by the judge replacing him.

1.5. The decisions shall be delivered in the form of orders. They shall be notified to the applicant and to the competent authority by the registry of the administrative tribunal, by recorded delivery with acknowledgement of receipt.

The decision may be subject to appeal before the administrative court.

2. The environment agency shall send the file for the purposes of the public inquiry to the communes concerned, by recorded delivery with acknowledgement of receipt, within eight days of it having been recorded that the application file for a class 1 establishment is complete.

(act of 21 December 2007)

For the establishments covered by Annex III and the establishments subject to an evaluation of the incidences on the environment in compliance with article 8, paragraph 2, the application for a permit is rendered more precisely concerning the nature of the possible decisions and completed by a draft of a decision if there is one.

(act of 19 November 2003)

3. The applicant shall be entitled to ask the competent administration about the state of progress in the examination of the file and to request a meeting in this respect during the examination and decision taking procedure, except during the period of the public inquiry.

(act of 21 December 2007)

4. The competent authority must take a decision on the applications for authorization:
- a) within forty-days respectively of
 - the sending of the opinion of the concerned municipality to the competent administration for class 1 establishments;
 - b) within thirty days respectively of
 - the end of the posting period for class 2 establishments,
 - the date from which the application file is regarded as complete for class 3, 3A and 3B establishments.

Within the periods specified above, the decision taken by the competent authority must also be notified in accordance with the provisions of article 16.

5. In the absence of a response within the above periods, the interested parties may assume that their application has been rejected and may appeal to the administrative tribunal.

Art. 10 POSTING AND PUBLICATION OF THE APPLICATION FOR AUTHORIZATION

(act of 21 December 2007)

A notice indicating the object of the application for a permit or the proposal of a revision of the authorised emission limit values including the new specifications concerning the establishments listed in annex III shall be posted for fifteen days, in the commune where the establishment is to be located, by the association of burgomasters and deputy burgomasters.

This notice shall be posted for the same period in the neighbouring communes which lie within the radius drawn on the cadastral map specified in Article 7 of this Act.

For class 1 establishments, this notice must be posted at the latest ten days after receipt of the file by the commune(s) concerned.

For class 2 establishments, this notice must be posted at the latest ten days after the file is deemed to be complete and in order.

The notice must be posted simultaneously at the communal offices and, in a clearly visible manner, at the location where the establishment is planned. From the first day of this posting, the complete file shall be deposited at the communal offices of the commune where the establishment is planned and may be consulted there during this period by any interested party.

(act of 21 December 2007)

In addition, in towns with more than 5,000 inhabitants, the applications for a permit of class 1 and class 2 establishments and the proposals of a revision of the authorised emission limit values shall be brought to the public's attention at the same time as the

above posting by the publication of a summary in at least four daily newspapers printed and published in the Grand-Duchy.

The same shall apply for class 1 establishments in other town. The costs of this publication shall be paid by the applicants.

Art. 11 CROSS-BORDER CO-OPERATION

(act of 13 September 2011) :

1. If the plan for a class 1 establishment may have significant effects on the people and/or environment of another State or if a State which may be significantly affected by this plan requests this, the application file consisting of the assessment of the effects and/or the risk study and the safety report shall be sent to this State as soon as possible and at the latest when the application is posted and published as indicated in Article 10. or in article 12bis.
2. Within the bilateral relations of the two States, it shall be ensured:
 - that the authorities and the interested public of the State in question are able to give their opinion if possible during inquiry and before the competent authority under this Act makes its decision,
 - that the decision taken on the application for authorization is notified to the State in question.

Art. 12 PROTOCOL OF THE PUBLIC ENQUIRY AND MUNICIPAL OPINION

At the end of the posting period specified in Article 10 of this Act, the burgomaster or his deputy shall collect the written observations and shall hold, in the commune where the establishment is to be situated, a public inquiry which shall hear all interested parties who may come forward. A report on this inquiry shall be drawn up.

(act of 13 September 2011) :

For class 1 establishments, the application file, including the documents certifying the publication, the minutes of the inquiry and the opinion of the college of the mayor and the aldermen of the concerned municipality(ies), is returned at the latest within twenty-five days after the expiration of the posting period in two copies to the Environmental Administration which will forward without delay one copy to the Labour Inspectorate.

For class 2 establishments, the public inquiry must be completed at the latest one month after the end of the posting period specified in Article 10, paragraph 1 of this Act.

The breach of the procedural periods indicated above shall constitute serious negligence pursuant to Article 63 of the communal act.

(act of 13 September 2011) :

Art. 12bis PARTICULARPROCEDURE TO BE FOLLOWED BY CERTAIN ESTABLISHMENTS

A grand-ducal regulation orders the procedure of the public inquiry, divergent to articles 10 and 12, which is followed for the authorization of the establishments which it determines.

The said procedure has to contain garanties for the citizens which are at least equivalent to those envisioned by the present law.

The applicant for the authorization had the choice between this procedure and the one envisioned by the articles 10 and 12. He has to define in his application which procedure he wants to have applied.

Art. 13 AUTHORIZATIONS, SETUP AND OPERATING CONDITIONS

(act of 21 December 2007)

1. The permits shall establish the layout and operating conditions which are deemed necessary to protect the interests referred to in article 1 of this Act, taking into account the best available technologies in both domains of the environment and of personal security.

(act of 21 December 2007)

[2nd paragraph abrogated]

These authorizations may be limited in time and may determine the period within which the establishment must be brought into operation.

(act of 19 November 2003)

If an environmental quality standard requires more severe conditions than those attainable for the use of the best available technologies, additional conditions are especially required by the authorization, without prejudice to other measures which can be taken to respect the environmental quality standards.

(act of 13 September 2011) :

2. If the establishment is not required to operate for over two years, an authorization may be issued for a term of one year, which may be renewed once, without needing to hold the public inquiry specified in Articles 10 and 12 or in article 12*bis*.

(act of 19 November 2003)

One copy of the application is transmitted to the mayor of the municipality where the establishment is projected.

Authorizations on the point of expiring may be extended by the competent authority at the request of the operators without needing to hold a new public inquiry as specified in Articles 10 and 12 of this Act.

3. The decision relative to the prolongation of an authorization coming to expiration has to be taken within thirty days from the reception of the related application by the competent administration. The prolongation is granted without the need of a new *commodo/incommodo* procedure in accordance with articles 10 and 12 or article 12*bis*.
4. The authorization of the minister responsible for the environment shall determine the layout and operating conditions with regard to the human and natural environment, such as the protection of the air, water and soil and the fauna and flora, the fight against noise and vibrations, the rational use of energy and the prevention and management of waste.
The authorization issued may be amended or supplemented if this is required and duly reasoned.
5. The authorization of the minister responsible for employment shall determine the layout and operating conditions with regard to the safety of the public and the neighbourhood in general and the security, health and safety of the workplace, the salubrity and the ergonomics.
The authorization issued may be amended or supplemented if this is required and duly reasoned.

The minister may, if necessary, require the preparation of an internal emergency plan and an external emergency plan.

6. The authorizations may require the acceptance of establishments before their commissioning and their periodic inspection. These may be carried out, in full or in part and, if necessary, by companies or bodies approved for this purpose by the minister responsible for employment or the minister responsible for environment. The report on the acceptance and inspections shall be sent to the authority which issued the authorization.

The authorizations may require a distance to be respected between the establishment concerned and, in particular, other establishments, housing and watercourses in the event of a contradiction between the provisions contained in the authorization and those of the communal development plan, the stricter provisions shall apply.

The authorizations may specify the obligation for the operator to designate one or more people responsible for safety and environmental issues. A grand-ducal regulation may specify the status and tasks of this person or these people.

7. The authorizations may specify that companies which, given the nature of their activity, pose a risk to the interests protected by Article 1 of this Act must take out civil liability insurance and establish a guarantee for the reclamation of the site in the event of an incident or accident linked to the operation of the establishment or if the activities are terminated.

A grand-ducal regulation may determine the conditions for applying this paragraph.

(act of 19 November 2003)

8. Before the definite shutdown of an establishment, the operator must declare the shutdown by recorded delivery with acknowledgement of receipt, in quadruplicate, to the authority recipient in the area of authorization following the classification of the establishment. As the case may be, one copy of this declaration is transmitted, for information and publication, to the mayor of the municipality of settlement of the establishment.

(act of 13 September 2011) :

Within sixty days after receiving the declaration of the definite shutdown, the ministers and the mayor, following their respective competences in the matter of authorization, fix the conditions for the purpose of the safeguard and the restoration of the site, including the decontamination, the sanitation and, as the case may be, regeneration and all other measures judged necessary for the protection of the interests targeted in Article 1.

The same provisions apply when the shutdown isn't declared while ascertained by the competent authority.

(act of 13 September 2011) :

A grand-ducal regulation may determine the indications and documents that are necessary for declaring a definite shutdown.

(act of 19 November 2003)

Art. 13bis. SPECIFIC MODALITIES OF APPLICATION FOR THE ESTABLISHMENTS TARGETTED BY ANNEX III

1. Without prejudice to the provision of article 13 and to the conditions that can be fixed for each establishment, the authorizations must include, for the establishments targetted by annex III, the emission limit values for the polluting substances, especially those of annex I, which may be emitted in significant

quantity by the installation, considering their nature and their potential of transferring pollution from one environment (water, air, soil) into another. As the case may be, the limit values may be completed or replaced by equivalent parameters or technical measures.

(act of 21 December 2007)

These values, parameters and measures are founded on the best available technologies, without prescribing a specific technique or technology, and taking into account the technical characteristics of the concerned installation, its geographical situation and the local environmental conditions.

(act of 19 November 2003)

2. These authorizations also include conditions foreseeing provisions concerning the minimization of long distance pollution as well as measures concerning operating conditions, others than the normal operating conditions. Thus will be taken into account in an appropriate manner, when the environment risks being affected by them, the start-up, the leaks, the malfunctioning, the momentary stops and the definite stop of the exploitation.
3. These authorizations also fix the appropriate requirements concerning the matter of regular surveillance of the installations' rejections, specifying the methodology of measurements as well as their frequency, the procedure of evaluating the measurements as well as the obligation of deliver to the competent authority the details necessary to the control of the respect of the conditions of the authorization. The results of the surveillance are made public.
4. These authorizations also prescribe to the operator to regularly inform the competent authorities of the results of the surveillance of the rejections of the installation and within the shortest term of all incident or accident affecting the environment in a significant manner.
5. For the establishments targeted by annex III, a re-examination of the authorization is made when:
 - the pollution caused by the installation is such that it requires the existing emission limit values of the authorization to be revised or to include new emission limit values;
 - substantial changes in the best techniques available allow a significant reduction of the emissions without imposing excessive costs;
 - the security of operating the procedure or of the activity require the use of other techniques.

(act of 23 December 2004)

6. Where emissions of a greenhouse gas originate from an installation ruled by the dispositions of the act of 23rd December 2004 establishing a scheme for greenhouse gas emission allowance trading, creating a financing fund of the Kyoto mechanisms and modifying article 13bis of the act of 10th June 1999 on classified establishments, the permit delivered on the basis of the present act shall not include an emission limit value for direct emission of that gas unless it is necessary to ensure that no significant local pollution is caused. As far as necessary, the permit in question is modified accordingly.

Art. 14 MONITORING COMMITTEE

A monitoring committee shall be established which shall:

- discuss and deliver opinions on, at the request respectively of the minister responsible for the environment and the minister responsible for employment or on its own initiative, the general problems which may arise in implementing this Act;

- give its opinion on all issues and plans which the minister responsible for the environment shall consider useful to submit thereto or which it invokes on its own initiative, including, in co-operation with the resource centre for environmental technologies, the determination of the best available technologies.

(act of 13 September 2011) :

- to regularly give their opinion on all the questions concerning the administrative simplification in the context of article 1 and to formulate recommendations thereafter.

This committee shall be composed of representatives of:

- the ministries and authorities concerned;
- the employers' associations;
- employees' associations;
- approved ecological associations;
- Syvicol.

(act of 21 December 2007)

The members of the committee shall be appointed by the Cabinet for a term of three years.

A deputy shall be appointed for each member who shall replace the later in the event of their absence. The deputies shall be appointed in the same way as the full members.

The composition, operation and allowances of the committee shall be determined by grand-ducal regulation.

Art. 15 RESOURCE CENTRE OF ENVIRONMENTAL TECHNOLOGIES

A resource centre for environmental technologies shall be created which shall be responsible for advising companies on environmental technologies, particularly with a view to using the best available technologies.

(act of 19 November 2003, act of 23 March 2009):

The competent administrations keep themselves informed about the evolution of the best available technologies.

Art. 16 NOTIFICATION OF THE DECISIONS

(act of 21 December 2007)

The decisions granting, updating, refusing or withdrawing authorization for the establishments covered by annex III and for the establishments subject to an evaluation of the incidences on the environment in compliance with article 8, paragraph 2, indicate, after an examination of the concerns and the opinions expressed by the public, the reasons and considerations on which the decision is based, including the information concerning the process of the participation of the public.

(act of 19 November 2003)

The decisions granting, updating, refusing or withdrawing authorization for class 1, 3 3A and 3B establishments shall be notified by the environment agency and the health and safety inspectorate, each in their own area, to the applicants for authorization or the operators and to the communal authorities on whose territory the establishment is situated and, as the case may be, to the communal authorities whose territory lies within a radius of less than 200 metres from the boundaries of the establishment.

Any decision by the burgomaster granting, refusing or withdrawing authorization for a class 2 establishment shall be notified to the applicant or operator and shall be copied to the environment agency and the health and safety inspectorate.

(act of 13 September 2011) :

People who submitted observations during the public inquiry specified in Article 10 or 12bis of this Act shall be informed by recorded delivery by the commune concerned that a decision granting or refusing authorization has been taken and that this decision shall be published in accordance with the fourth paragraph. Individual notification may be replaced by the insertion of a notice in at least four daily newspapers printed and published in the Grand Duchy. The costs of this publication shall be paid by the applicant.

In addition, in the communes referred to in the first paragraph, the public shall be informed of decisions regarding classified establishments by the decisions being posted in the communal offices for forty days.

Throughout the operating period of an establishment, a copy of the authorizations issued under this Act shall be held by the communal offices and may be freely consulted there.

Art. 17 BUILDING PERMISSION AND REGIONAL DEVELOPMENT

(act of 19 November 2003)

1. Without prejudice to other required authorizations, the construction of classified establishments may begin only after the authorizations required for this have been issued.

(act of 13 September 2011) :

2. In exception of inherent rights concerning classified establishments, the establishments can only be exploited if located in an area specified for these purposes in accordance with the dispositions of the pre-cited acts of 19 July 2004 and, if the case is, the fore-mentioned acts of 21 May 1999 et of 19 January 2004. »

3. The construction plans for new establishments within a national industrial area may be authorised in principle by the Cabinet and be provisionally agreed by the competent bodies due to the nature of the planned establishment and without prejudice to the required authorization procedures.

To this end, the applicant must lodge a specific application containing the information indicated in Article 7.

Art. 18 WITHDRAWAL OF AN AUTHORIZATION

The authority which issued the authorization may at any time check that the layout and operating conditions which it imposed are being met.

The operating authorization may be withdrawn following a reasoned decision by the authority which issued this if the operator does not observe these conditions or refuses to abide by the new layout and operating conditions which the competent authority may impose.

Art. 19 APPEAL

In the cases specified in Articles 5, 6, 7, 9, 13, 17.2, 18 and 27 of this Act, an appeal may be brought before the administrative tribunal ruling as a trial court.

(act of 21 December 2007)

Associations of national importance having the status of a legal person and accredited in appliance of article 29 may also appeal. For the appeals concerning an establishment covered by annex III and an establishment defined by the grand-ducal regulation taking according to article 8, paragraph 2, the associations mentioned above are deemed having a personal interest.

(act of 13 September 2011) :

This appeal must be lodged within forty days in order to be valid. « This period shall start, for the authorization applicant and the municipalities, from the notification of the decision and, for other interested parties, from the day the decisions posted.

The ministers may also lodge an appeal against a decision of the burgomaster adopted pursuant to Articles 5, 6, 7, 9, 13, 17.2, 18 and 27 whether this grants, refuses or withdraws the authorization for a class 2 establishment. In this case, the period of appeal shall start from the day when the decision was brought to the attention of the authorities in accordance with Article 16 of this Act.

The appeal shall be notified immediately to the interested parties in the manner specified by the rules on contentious proceedings.

Art. 20 LAPSE OF THE AUTHORIZATION

A new authorization shall be necessary:

1. if the establishment has not started operation within the period determined by the authorization decision;

(act of 13 September 2011) :

2. if it has been inactive for three consecutive years;

3. if it has been destroyed or put out of use in full or in part by any accident. If only a part of the establishment has been destroyed or put out of use, the new application of authorization shall be limited to the part in question.

(act of 13 September 2011) :

For class 1 and 2 establishments, the authorities which issued the authorization shall decide, on a case by case basis, if a new public inquiry in accordance with Articles 10 and 12 or article 12bis of this Act is required. »

Art. 21 COSTS

The operator shall pay:

- the costs of experts needed in order to examine the application and inspect the establishments;
- the costs of accepting and reviewing the establishments;
- the cost of remediating and making safe the establishments, including the costs of experts and analyses in the event of an accident or incident linked to the operation.

Art. 22 ASCERTAINMENT OF INFRACTIONS

(act of 28 May 2004)

Senior Law-enforcement officers, police officers, customs and excise officers above the rank of sergeant, permanent civil servants, engineers from the environment agency, the water management agency and senior inspectors and engineers from the health and safety inspectorate shall all be responsible for investigating and recording offences punished by this Act and its implementing regulations.

When carrying out their duties under this Act, officials of the customs and excise agency above the rank of sergeant and the aforementioned officials of the health and safety inspectorate, the environment agency and the water management agency shall have the status of senior law-enforcement officers. They shall record offences in reports which shall be regarded as authentic until proven otherwise. Their jurisdiction shall cover the whole territory of the Grand Duchy.

Before taking up their post, they shall swear the following oath before the district tribunal with jurisdiction over their domicile and ruling on civil matters:

"I swear to carry out my duties with integrity, accuracy and impartiality".

Article 458 of the Penal Code shall apply thereto.

Art. 23 POWERS OF CONTROL

The people referred to in the first paragraph of Article 22 may visit, during the day and even at night and without prior notification, the installations, premises, land, facilities and means of transport subject to this Act and to the regulations to be adopted in implementation of this Act.

This provision shall not apply to housing. However, and without prejudice to the provisions of Article 33(1) of the Code of Criminal Procedure, if there are serious reasons to suspect that the origin of an offence against this Act and the regulations adopted in implementation of this Act is located in premises intended as housing, a visit may be made between the hours of six-thirty in the morning and eight at night by two of these officials acting under a mandate from an examining judge.

These people shall indicate their presence to the operator or holder of the installation, premises, land, facilities or means of transport or, if appropriate, to their replacement or to the owner or occupier of private housing. The latter may accompany the officials during their visit.

Art. 24 PREROGATIVES OF CONTROL

The people referred to in the first paragraph of Article 22 may request the production of documents concerning the establishment, the related activity and the manufacturing process if these documents are relevant to the requirements specified in Article 1 of this Act.

They may also take, for the purposes of examination or analysis, samples, products, materials, substances or objects relating to the establishments concerned.

A receipt shall be issued in return for the samples and/or objects taken. Part of the sample, which shall be sealed, shall be returned to the operator of the establishment or holder on behalf of the latter unless the latter expressly waives this right.

They may also seize and, if necessary, attach those substances and/or objects relating to the activities and processes used by the establishments concerned and the papers and documents relating to these.

The operators responsible for an establishment, installation, equipment or devices and their agents, the owners or holders of materials, substances or products, the owners and lessees of private housing, the owners and lessees of means of transport and anyone responsible for any activity in general who may fall under the provisions of this Act or its implementing regulations must, at the request of the inspection officials, facilitate the operations carried out by the latter under this Act.

In the event of conviction, the costs incurred due to the measures taken under this article shall be paid by the offender.

In all other cases, these costs shall be paid by the State.

Art. 25 PENAL SANCTIONS

1. Any offence against the provisions of Articles 1, 4, 6, 13, 17, 18 and 23 of this Act and the regulations and orders adopted in implementation of This Act shall be punished by imprisonment of eight days to six months and a fine of ten thousand and one francs to five million francs or one of these penalties only.

The same penalties shall apply if an obstacle is created to the inspection of the establishments referred to in Article 1 of this Act respectively by the competent stall of the health and safety inspectorate or the environment agency and by the burgomaster or his deputy.

2. If an establishment is operated without authorization, is illegally converted or extended or is operated in breach of the authorization conditions, any interested person who has sued for damages in criminal proceedings may ask the court hearing the case to order the closure of the establishment.

3. If an establishment is operated without authorization, the court hearing the case shall order the closure of the establishment until the authorization is issued. If an establishment is illegally changed, the court shall only order the closure of the part concerned of the establishment in question until the authorization is issued or until the authorization or authorization conditions are updated.
If an establishment is operated in breach of the authorization conditions, the court may either grant a period during which the operator must comply with the conditions or order the closure of the establishment concerned. If a period for compliance has been granted, the court shall remain competent to rule on any enforcement problems. At the end of the specified period, which may not be more than two years, the court shall order the closure of the establishment concerned at the request of the public prosecutor's office or the party claiming damages.
4. The decision to close an unauthorised establishment or an unauthorised part of an establishment and the closure ordered following operation in breach of the authorization conditions may be accompanied by a penalty payment. The same shall apply if, in the case referred to in paragraph 3, the operator does not comply with the operating conditions within the period granted thereto. The decision shall establish the maximum duration and the amount of the penalty payment. If the recipient of the penalty payment is not the party claiming damages, the amount of this shall be recovered by the registration and land office.
5. Special confiscation is optional.
6. The closure of an establishment ordered by a court decision which has become final shall take effect from the date to be established by the state prosecutor. Any decision ordering the closure of an establishment must be enforced within one year of the date when the court decision became final.

Art. 26 INFRINGEMENT OF THE CLOSING OF THE ESTABLISHMENT

Any failure to comply with a decision to close an establishment order by the court hearing the case shall be liable to the penalties specified in Article 25 of this Act.

Art. 27 ADMINISTRATIVE MEASURES AND SANCTIONS

1. If an offence is committed against the provisions of Articles 4, 6, 13, 17, 18 and 20 of this Act, the ministers or their representatives authorised for this purpose for class 1, 3, 3A, 3B and 4 establishments and the burgomaster of the commune concerned for class 2 establishments may, depending on the case:
 - grant the operator of an establishment a period in which the latter must comply with these provisions. This period may not be more than two years;
 - have, after giving formal notice, all or part of the operation or works suspended through a temporary measure or have the establishment or sit closed in full or in part and sealed.
2. Any interested party may ask for the application of the measures referred to in paragraph 1.
3. The decisions taken by the ministers or the burgomasters following a request for suspension of operation or works or following a request for closure of an operation or site shall be open to appeal before the administrative tribunal ruling as a trial court. This appeal must be lodged within forty days of the notification of the decision order to be valid.
4. The measures indicated in paragraph 1 may be lifted if the offence recorded has ceased.

Art. 28 RIGHTS OF THIRD PARTIES

The authorizations granted under this Act shall not prejudice the right of third parties.

Art. 29 RIGHT OF ACTION OF THE ECOLOGICAL ASSOCIATIONS

The national associations whose articles of association have been published in the Official Gazette and which have been carrying out their statutory activities in the area of environmental protection for at least three years may be approved by the minister responsible for the environment.

The associations thus approved may exercise the right recognised to the party claiming damages for acts constituting an offence under this Act and directly prejudicing the collective interest which they aim to defend in respect of environmental protection, even if they cannot prove a materiel interest and even if the collective interest in which they are acting is covered entirely by the social interest which is defended by the public prosecutor's office.

Art. 30 COMMENCEMENT AND ABROGATING PROVISIONS

This Act shall enter into force on 1 July 1999or, if published at a later date, on the first day of the month following the date of its publication in the Official Gazette, with the exception of the provisions of Article 7.6 and Article 9 whose entry into force is postponed until 1 January 2000.

On the date of entry into force of this Act, the following shall be repealed:

- the Act of 9 May 1990 on dangerous, unhealthy or offensive establishments, as subsequently amended. However, the implementing regulations adopted pursuant to the Act of 1990 shall remain in force until they are repealed by grand-ducal regulations adopted in implementation of this Act;
- the Grand-Ducal Regulation of 18 May 1990 designating the experts and officials responsible for investigating and recording offences against the laws and regulations on classified establishments;
- the Grand-Ducal Regulation of 18 May 1990 establishing the taxes on the authorization of dangerous, unhealthy or offensive establishments;
- the Grand-Ducal Regulation of 4 March 1994 on the assessment of the effects on the environment of certain public and private plans;
- and, in general, all laws applying to the establishments subject to this Act and which are contrary to this Act.

Any reference to the amended Act of 9 May1990 shall be replaced by a reference to this Act in all texts containing such a provision. However, the amended Act of 1990 shall continue to apply to offences committed before the date referred to in the first paragraph.

Art. 31 TRANSITORY PROVISIONS

Authorizations issued before the entry into force of this Act, based on the legislation on dangerous, unhealthy or offensive establishments, shall remain valid for the term established by the authorization, without prejudice to the provisions of the fifth paragraph of this article.

Applications for authorization filed before the entry into force of this Act shall be examined in accordance with this Act if the posting referred to in Article 7 of the amended Act of 9 May 1990 on dangerous, unhealthy or offensive establishments has not yet occurred.

Any application filed before the entry into force of this Act and whose posting has occurred shall be dealt with according to the terms of the amended Act of 9 May 1990.

(act of 19 November 2003)

Authorised establishments changing class in the new nomenclature shall be subject to inspection by the competent authorities according to the provision of this Act.

Class 2 establishments which are transferred into classes 1, 3, 3A or 3B and establishments operated without authorization at a time when this formality was not required may continue to operate. Their operator shall be responsible for sending the competent authority the information referred to in Article 7 of this Act within six months of the entry into force of the regulation changing the class or inserting establishments into the nomenclature of classified establishments.

These documents, after their accuracy is duly recorded, shall be stamped by the competent authorities and shall take the place of an authorization document. A public inquiry shall not need to be held.

However, the competent authorities may specify the measures required to safeguard the interests referred to in Article 1 of this Act. These measures may not lead to major changes to the structural works of the establishment or to considerable changes in its method of operation.

We command an order that this Act be inserted in the Official Gazette in order to be implemented and observed by all those affected thereby.

(act of 19 November 2003)

Article 13bis only applies to the existing installations as of 31st October 2007.

(act of 19 November 2003)

Art. 32 ANNEXES

The following annexes are integrated parts of the present act:

- Annex I: List of the main parameters and polluting substances mandatorily to be taken into account if they are relevant for fixing emission limit values.
- Annex II: Considerations to be taken into account in general or in particular cases when determining the best techniques available, defined at article 2 point 9) of the present act, account taken of the costs and advantages which may result from an action and the principles of precaution and prevention.
- Annex III: List of the establishments concerned by the field of application of Council Directive 96/61/EC of 24th September 1996 concerning integrated pollution prevention and reduction.

The annexes may be modified by a grand-ducal regulation in the view of adapting them to the evolution of the European Union's legislation in that matter. Annex III may refer to the number of the nomenclature established by the grand-ducal regulation targeted by Article 3.

Annex I

List of the main parameters and polluting substances to be taken into account as they are relevant for fixing emission limit values

Air

1. Sulphur oxides and other sulphur compounds
2. Oxides of nitrogen and other nitrogen compounds
3. Carbon monoxide
4. Volatile organic compounds
5. Metals and their compounds
6. Dusts
7. Asbestos (suspended particulates, fibres)
8. Chlorine and its compounds
9. Fluorine and its compounds
10. Arsenic and its compounds
11. Cyanides

12. Substances and preparations which have been proved to possess carcinogenic or mutagenic properties or properties which may affect reproduction via the air
13. Polychlorinated dibenzodioxins and polychlorinated dibenzofurans

Water

1. Organohalogen compounds and substances which may form such compounds in the aquatic environment
2. Organophosphorous compounds
3. Organotin compounds
4. Substances and preparations which have been proved to possess carcinogenic or mutagenic properties or properties which may affect reproduction via the aquatic environment
5. Persistent hydrocarbons and persistent and bioaccumulable organic toxic substances
6. Cyanides
7. Metals and their compounds
8. Arsenic and its compounds
9. Biocides and plant health products
10. Suspended matters
11. Substances which contribute to eutrophication (in particular, nitrates and phosphates)
12. Substances which have an unfavourable influence on the oxygen balance (and can be measured using parameters such as BOD, COD, etc.)

Annex II

Considerations to be taken into account generally or in specific cases when determining the best techniques available, defined in article 2 point 9) of the present act, bearing in mind the costs and benefits of a measure and the principles of precaution and prevention

1. the use of low-waste technology;
2. the use of less hazardous substances;
3. the furthering of recovery and recycling of substances generated and used in the process and of waste, where appropriate;
4. comparable processes, facilities or methods of operation which have been tried with success on an industrial scale;
5. technological advances and changes in scientific knowledge and understanding;
6. the nature, effects and volume of the emissions concerned;
7. the commissioning dates for new or existing installations;
8. the length of time needed to introduce the best available technique;
9. the consumption and nature of raw materials (including water) used in the process and their energy efficiency;
10. the need to prevent or reduce to a minimum the overall impact of the emissions on the environment and the risks to it;
11. the need to prevent accidents and to minimize the consequences for the environment;
12. the information published by the Commission or by international organizations.

(act of 19 November 2003)

Annex III

List of the establishments concerned by the field of application of Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control

The limit values targetted hereafter generally relate to production capacities or outputs. If one same operator is operating several activities of the same rubric in one same installation or on one same site, the capacities of the activities are additionned.

(Grand-Ducal Regulation of 26 November 2008)

Directive 96/61/EC is repealed by codified directive 2008/1/EC. References to the repealed Directive shall be construed as references to the Directive 2008/1/EC.

(Grand-Ducal Regulation of 2 April 2008)

For the establishments targetted by annex III of the modified act of 10 June 1999 on classified establishments, the reconsideration of the permit is periodically undertaken. If necessary, the permit conditions are updated.

(Number of the nomenclature and designation of the establishment)

1. Industries of energetic activities

(Grand-Ducal Regulation of 2 April 2008)

- 144.1.b) Steam plants with a thermal combustion power above 50 MW and/or combustors with a calorific combustion power above 50 MW
- 303.2) Oil and gas refineries as well as coal gasification and liquefaction facilities
- 104 Coke ovens

2. Production and transformation of metals

- 245A. Metallic ores: Roasting, fritting or calcination installations for mineral ore including sulphurous ore
- 240.2) Installations for the production of cast iron or steel (primary and secondary fusion) including the equipments for continuous casting of a capacity of more than 2.5 tonnes per hour
- 240.4) Installations for the processing of ferrous metal:
 - i. by rolling at high temperature with a capacity exceeding 20 tonnes of raw steel per hour;
 - ii. by forging with the means of hammers the hitting energy of which exceeds 50 kilojoules per hammer and when the calorific power exceeds 20 MW;
 - iii. application of protective fused metal coats with a capacity exceeding 2 tonnes of raw steel per hour.
- 168.2) Ferrous metal foundries with a production capacity exceeding 20 tonnes per day
- 239.2) Installations:
 - a) for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes;
 - b) for the fusion of non-ferrous metals, including alloys, including the recovered products (refinement, moulding in smelting works), with a daily fusion capacity exceeding 4 tonnes for lead and cadmium or 20 tonnes for all other metals.
- 239.3) Installations for the surface treatment of metal and plastic material using an electrolytic or chemical process, when the volume of the tubs used for the treatment exceeds 30 m³

3. Mineral industry

- 98.2) Installations destined to the production of clinker (cement) in rotating ovens with a daily production capacity of more than 500 tonnes, or lime in rotating ovens with a daily production capacity of more than 50 tonnes, or in other types of ovens with a daily production capacity of more than 50 tonnes
- 19.1) Asbestos: Production, treatment, processing and use of asbestos or asbestos-products
- 353.2) Installations for manufacturing glass including those destined to the manufacture of glass fibre with a fusion capacity of more than 20 tonnes per day
- 235A. Mineral substances: installations for smelting mineral substances, including those destined to the production of mineral fibres with a smelting capacity exceeding 20 tonnes per day
- 79A.1) Ceramics: Installations destined to the manufacture of ceramic products by burning, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain, with a daily production capacity exceeding 75 tonnes, and/or an oven capacity of more than 4 m³ and of more than 300 kg/ m³ per oven

4. Chemical industry

The production in the sense of the categories of activities of the present rubric means the production of industrial quantities by chemical transformation of the matters or groups of matter targetted by point 4.

- 293.5) Chemical installations destined to the manufacture of organic chemical base products as
 - a) simple hydrocarbons (linear or cyclic, saturated or not, aliphatic or aromatic)
 - b) oxygenated hydrocarbons, especially alcohols, aldehydes, ketones,

- carboxyl acids, esters, acetates, ethers, peroxides, epoxy resins
 - c) sulphurous hydrocarbons
 - d) nitrogenous hydrocarbons, especially amines, nitric, nitrated or nitrated compounds, nitriles, cyanates, isocyanates
 - e) phosphorous hydrocarbons
 - f) halogenous hydrocarbons
 - g) organo-metallic derivatives
 - h) basic plastic materials (polymers, synthetic fibres, cellulose based fibres)
 - i) synthetic caoutchoucs
 - j) synthetic caoutchoucs
 - k) tensioactive and surface agents
- 293.6) Chemical installations destined to the manufacture of basic inorganic chemical products, such as
- a) gases, such as ammonia, chlorine, hydrogen chloride, fluorine or hydrogen fluoride, carbonic oxides, sulphuric compounds, nitrogen oxides, hydrogen, sulphur dioxide, carbonyl dichloride
 - b) acids, such as chromium acid, hydrogen fluoride, phosphoric acid, nitric acid, hydrochloric acid, sulphuric acid, oleum, sulphurous acids
 - c) bases, such as ammonium hydroxide, potassium hydroxide, sodium hydroxide,
 - d) salts, such as ammonium chloride, potassium chlorate, potassium carbonate, sodium carbonate, perborate, silver nitrate,
 - e) non-metals, metallic oxides or other inorganic compounds such as calcium carbonate, silicon, silicon carbonate.
- 145.2) Chemical installations destined to the production of fertilizers based on phosphore, nitrogen or potassium (simple or composed fertilizers)
- 293.7) Chemical installations for the manufacture of phytosanitary base products and base products for biocides
- 296.2) Installations using a biological or chemical process destined to the manufacture of basic pharmaceutical products
- 156.1) Chemical installations destined to the manufacture of explosives

(Grand-Ducal regulation of 26 November 2008)

5. Waste managemant

- 122.2) Dumps receiving more than 10 tonnes per day or of a total capacity of more than 25,000 tonnes, excluding dumps for inert waste
- Installations for the disposal or the valorization of dangerous waste with a capacity of more than 10 tonnes per day
- 122.4) Installations for the incineration of domestic waste, as defined by the Grand-Ducal Regulation concerning the reduction of atmospheric pollution in provenance of domestic waste incineration installations, with a capacity exceeding 3 tonnes per hour
- 122.5) Installations for the disposal or the valorization of dangerous waste with a capacity of more than 10 tonnes per day
Installations for the disposal of harmless waste with a capacity of more than 50 tonnes per day

6. Other activities

- 262.1) Industrial plants for the production of pulp from timber or similar fibrous material

- 262.2) Industrial plants for the production of paper and board with a production capacity exceeding 20 tonnes per day
- 334A. Textiles and fibres: Installations destined to the pretreatment (washing, bleaching, mercerization) or to the dyeing of fibres or textiles the capacity of treatment of which lies above 10 tonnes per day
- 332.2) Tanneries, when the capacity of treatment lies above 12 tonnes of finished product per day
- 1.2) Abattoirs with a carcass production capacity of more than 50 tonnes per day
- 15 Alimentation: treatment and processing destined to the manufacture of alimentary products from:
- 1) animal raw matter (other than milk) with a production capacity of finished products above 75 tonnes per day,
 - 2) vegetable raw matter with a production capacity of finished products above 300 tonnes per day (average value on a trimestrial basis).
- 214.2) Treatment and processing of milk, the quantity of received milk exceeding 200 tonnes per day (average amount on an annual basis)
- (G-D.R of 26-11-2008)
- 124.1) Installations destined to the elimination or the valorization of carcasses and animal waste of a daily treatment capacity exceeding 10 tonnes
- 361.2) Installations for the intensive rearing of poultry with more the 40,000 places for the poultry ¹¹
- 285.8) Installations for the intensive rearing of pigs with more than
- a) 2,000 places for production pigs (over 30 kg) or
 - b) 750 places for sows.
- 321A.4) Organic solvents: Other installations destined to the surface treatment of materials, objects or products and using organic solvents, especially for operations of finishing and priming, of printing, of layering, of removing grease, of impermeabilisation, of glueing, of painting, of cleaning or of impregnation with a consumption capacity of solvent of more than 150 kg per hour and more than 200 tonnes per year
- 85A. Hard coal: Installations destined to the production of carbon (hard coal) or electrographite by combustion or graphitisation

¹¹ The emission limit values established in conformity with article 13bis take into account the practice modalities adapted to these categories of installations.