

Official bulletin n° 5118 – Thursday 19 June 2003

Dahir n° 1-03-61 of 10 Rabii I 1424 (12 May 2003) promulgating law n°13-03 on air pollution

ONLY GOD BE PRAISED!

(The Great Seal of His Majesty Mohammed VI)

Let it be known herewith- May God elevate and strengthen the content!

That our Cherifian Majesty,

in view of the Constitution, and notably articles 26 and 58 thereof,

Has decided the following:

Law no 13-03 on the prevention of air pollution, as adopted by the Chamber of Representatives and the Chamber of Counsellors is promulgated and will be published in the *Official Bulletin* following the present dahir.

Done at Rabat on 10 Rabii I 1424 (12 May 2003).

Countersigned by
The Prime Minister

Driss Jettou

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Chapter I: Definitions

Article 1 : Within the context of this law, the following are understood to mean:

1- Atmosphere: the layer of air that surrounds the earth, excluding the air within built up structures or in underground premises.

2- Air: the gaseous envelope that surrounds the earth and whose physical or chemical characteristics, when modified, can jeopardize living beings, ecosystems and the environment in general. This definition includes air on the work premises and air in closed or semi-open public premises.

3- Environment: a set of natural elements and human settlements as well as economic, social and cultural factors that promote the existence, transformation and development of the natural environment, of living beings and of human activities.

4- Emissions: the spilling into the air, in the form of corrosive or toxic gases, of smoke, steam, heat, dust, smells or other similar forms originating from any human activity and that, by their very nature, may jeopardize human health or the environment in general.

5- **Motor engines:** devices or machines other than vehicles with engines that function with gasoline or diesel.

6- **Vehicles:** motor vehicles fitted with mechanical propulsion devices intended for road traffic or transport of persons or goods. Aircraft, vessels and locomotives are considered as vehicles.

7- **Installations:** any establishment, whether classified or non-classified, that is owned or held by a public or private legal entity or individual and that may be detrimental to the environment.

8- **Emission standards:** maximum permissible levels of emissions that are defined in function of the latest scientific data, the state of the environment, the capacity of self purification of water, air and soil and of the requirements for sustainable national economic, social and cultural development.

9- **Air quality standards:** maximum values that should not be exceeded and that determine the level of concentration of pollutants in the air over a given period of time. These maximum values can either be of a general scope and applicable to the whole national territory or limited to certain areas that are particularly sensitive to air pollution.

10- **Pollutant:** any substance or energy rejected or emitted into the environment in concentrations or quantities that are in excess of the levels allowed by the norms and regulations in force.

11- **Atmospheric pollution:** any modification of the state of the air caused by toxic or corrosive gases, smoke, steam, heat, dust, smells or any other pollutant that may generate difficulties or danger for health, public sanitation, security or well-being or that may jeopardize or damage the natural environment or the environment in general.

12- **Available and advanced techniques:** techniques that have been developed and are used on a large scale and that can be applied in economically viable conditions in the various production sectors concerned. The term «technique» covers both the technologies used and the way in which an installation is designed, built, maintained, exploited or discontinued.

13- **Closed public premises:** public premise intended for receiving the public or a particular category of persons and that has the form of a complete construction where the air only enters through openings dedicated to this effect. Means of public transport are considered as closed public premises.

Chapter II : Scope

Article 2: The objective of the present law aims is the prevention of and fight emissions of atmospheric pollutants that are likely to affect the health of man, the fauna, the soil, the climate, the cultural heritage and the environment in general. The law is applicable to every legal entity or individual that is subject to public or private law and that possesses, holds, uses or exploits real estate or mining, industrial, commercial or agricultural installations or

installations concerning handicraft industries or vehicles, motor engines or devices for combustion, the incineration of waste, heating or refrigeration.

The provisions of the present law and the texts for its implementation are not applicable to installations under military authority or to installations that are subject to law N° 005.71 of 12 October 1971, pertaining to protection against ionizing radiation. However, those installations must be used or exploited in such a manner as to not jeopardize the vicinity or the environment in general.

Chapter III : Fight Against Air Pollution

Article 3 : In coordination with the local communities, the public institutions, the NGO's and the various organizations concerned, the administration must take all the necessary measures to control air pollution and put in place monitoring networks for the control of the air quality and for the detection of fixed and mobile sources of pollution that are likely to affect human health and the environment in general.

Article 4 : It is forbidden to reject, emit or spill or to authorize to reject, emit or spill pollutants into the air such as toxic or corrosive gases, fumes, steam, heat, dust and smells in excess of the quantities or concentrations allowed by the standards fixed in the regulations.

In accordance with the standards referred in the previous paragraph any person referred to in Article 2 above must prevent, reduce and limit the emission into the air of pollutants that are likely to affect the health of man, the fauna, flora, monuments and sites or that may have harmful effects on the environment in general.

In the absence of standards fixed by regulations, the operators of the installations referred to Article 2 (Paragraph 1) must use the techniques available and advanced techniques to prevent or reduce emissions.

Article 5 : When elaborating the documents for town and country planning the requirements for protecting the air against pollution must be taken into consideration, particularly when determining the areas for industrial activities and the areas for building installations that may be a source of air pollution.

Article 6: The owner of the installation undertakes to take the necessary precautionary measures to avoid the infiltration or emission of air pollutants into the work areas and to maintain them below the acceptable levels, whether the pollutants are owing to the nature of the activities of the establishment or resulting from faulty equipment and materials. The owner of the installation must also ensure the necessary protection of the workers in compliance with the conditions for health and safety at work.

Article7: Closed and semi closed public premises must be equipped with adequate means of ventilation that are proportional to the size of the premises, their capacity and the nature of activity therein in order to guarantee the air quality and purity and its maintaining at an adequate temperature.

Article 8: Any person responsible for a serious accident event, due to one of the pollutants referred to in Article 4 above must immediately notify the local authorities and the competent

authorities by providing them with all the relevant information concerning the circumstances of the pollution.

Chapter IV: Means for Prevention and Control

Article 9: In addition to criminal investigation officers, civil servants and officers assigned to this effect by the competent administration as well as officers sworn in accordance with the legislation on oaths applicable to officers reporting offences are also in charge of establishing infringement of the provisions of the present law and its enforcement texts.

The persons referred to in the first paragraph above, within their respective fields of competence and within the limits of the responsibilities and competences given to the administration they belong to, may access the installations that are a source of pollution, carry out controls and measurements therein and collect samples in accordance with the conditions set out in the penal procedure code.

Article 10: Subject to the provisions in the second paragraph of Article 9 above, the administration may, if necessary, create a corps of inspectors in charge of the follow up and of establishing the infringements of the law according to the fixed or mobile sources of air pollution or to create multidisciplinary groups to carry out assignments for the control, detection and the establishment of the infringements.

Article 11: In case an infringement of the present law or of the texts for its implementation is established, the persons mentioned in Article 9 above, must draft a report that notably indicates the circumstances and the nature of the infringement as well as the explanations of the offender. These reports are deemed true until proof to the contrary.

The reports are sent to the competent jurisdiction within ten days from the date they were drafted.

Article 12: Any legal entity or individual whose health or goods have suffered a prejudice through the emission or rejection of pollutants into the air may, within 90 days from the establishment of the damage, request that an inquiry be initiated by the competent authority, provided the request is accompanied by a medical or technical expert's report. The result of the inquiry as well as the measures taken must be notified to the plaintiff within sixty days.

Chapter V : Procedures and Sanctions

Article 13 : When air pollution is caused by an activity or an operation that constitutes a hazard for man and affects the vicinity, safety and the environment and if the hazards and damages were unknown and unforeseeable at the time of delivery of the permit or of submitting the statement of activity, the administration may issue to the person responsible for the source of pollution instructions take additional measures or to introduce the necessary modifications to limit the emission of pollutants and to avoid the aforementioned hazards and damages. The administration orders that the necessary equipment and the available techniques be installed for measuring the concentration level of pollutants and their quantities as well as all the necessary means to maintain the authorized standards.

However, if the administration establishes that the said hazards and damages persist despite the additional measures implemented by the person responsible and despite the necessary

equipment and modification put in place, it can order the discontinuation of the activity or exploitation that is a source of pollution.

Article 14: If serious pollution threatening health of man and the environment in general is established, the administration must give instructions to the person responsible for pollution in order to avoid the hazards of pollution. If the person does not comply with the instructions given, the administration must order the discontinuation of the source of pollution and request the intervention of the competent authorities and requisition the necessary means to execute the necessary emergency measures to contain the possible dangers of air pollution.

Article 15: If the administration establishes that the owner or operator of an installation does not comply with the provisions of the present law and the implementation texts thereof, it issues the order to comply with the conditions and standards, to undertake all necessary measures and to carry out all the necessary work and repairs within a fixed delay. In case the said work or repairs are not carried out, the administration can totally or partly suspend the activities of the installation or proceed automatically with the execution of the said work at the expense of the offender.

In the case of vehicles, motor engines, devices for combustion, incineration or air conditioning, the administration may grant a delay to the offender for proceeding with the necessary repairs. If the repairs are not executed within the granted delay, the offender will be subject to the penalties provided for by Article 18 of the present law. The owner can only use the polluting tool after it has been repaired; the repairs must be established by means of a technical visit by a licensed institution that must issue a certificate to that effect.

Article 16: Any person responsible for pollution and who deliberately omits to notify the relevant authorities of the accidental and serious emission of polluting substances is liable to a fine between one thousand (1,000.00) and twenty thousand (20,000.00) Dirhams.

In the event of a repetition of the offence, the amount of the fine is doubled; in addition the offender may be sentenced to between one day and one month in prison.

Article 17: Whoever obstructs the completion of control or the duties of the agents mentioned in Article 9 of the present law is liable to a fine between one hundred (100.00) and ten thousand (10,000.00) Dirhams.

In the event of a repetition of the offence, the maximum penalty is doubled; in addition a sentence between one day and one month in prison may be decided.

Article 18: Is liable to a fine between two hundred (200.00) and twenty thousand (20,000.00) Dirhams whoever :

- Does not respect a condition, restriction or ban imposed by the administration;
- Refuses to comply with the instructions of the administration;
- Obstructs or prevents, in whatever manner, the execution of the emergency measures decreed by the administration;
- Provides false information or statements.

In the event of a repetition of the offence, the maximum penalty is doubled; in addition a sentence of one to six months in prison may be decided.

Article 19: In case of a sentence as per Article 5 (paragraph 1) above and after the delay determined by the administration for the execution of the necessary work and repairs has expired, the judgment provides for a second delay for undertaking the necessary work and repairs.

In the event of the work or repairs not being carried out within the delay fixed, a fine between two thousand (2,000.00) and two hundred thousand (200,000.00) Dirhams may be decided by the court that may, in addition, order the execution of the works and repairs at the expense of the person sentenced and a ban on the use of the installations that are the origin of the air pollution until such time as the works and repairs have been completed.

Article 20: Whoever has operated an installation in disregard of a judicial ban in accordance with paragraph 2 of Article 19 above, is liable to a fine between two thousand (2,000.00) and two hundred thousand (200,000.00) Dirhams and a sentence of one month to one year in prison.

In the event of a repetition of the offence the maximum penalty is doubled; in addition, the permanent closure may be decided of the installation that is the source of pollution.

Article 21: Is subject to a fine of 100DH to 1400DH Whoever has operated a vehicle, a motor engine, a combustion, incineration or conditioning device that that is the subject of an administrative ban is liable to a fine between one hundred (100.00) and one thousand four hundred (1,400.00) Dirhams; in addition the seizure of the device that causes the pollution may be decided.

Chapter VII: Transitional and Incentive Measures

Article 22: For existing sources of air pollution, the delays for complying with the provisions of the present law will be fixed as a transitional measure.

Article 23: To promote investment in projects and activities aimed at preventing air pollution, the use of renewable energies, the rationalization of the use of energy and pollutants, a system of financial incentives and fiscal exemptions is established in accordance with the conditions fixed by the financial laws by virtue of which financial aid and partial or total exemption from customs duties and taxes is granted during the acquisition process of the devices and equipment required for realizing the planned investments.

Chapter VII: Final Provisions

Article 24: for the implementation of the provisions of Chapter III of the present law, the statutory implementation texts determine the following:

- 1- The area and cases for improving the prescribed quantities of emissions and the standards of air quality to observe as well as the circumstances that require the creation of special protected areas.
- 2- The methods for taking and preserving samples of water, air, soil and waste as well as the methods of analyzing and measuring any emission, deposit or rejection of a substance into the atmosphere and the list of establishments and laboratories mandated to carry out analyses and measurements of emissions.

- 3- The establishments in charge of preventing air pollution and if the conditions for setting up specialized networks for the detection and continuous monitoring of the air quality and mandated to receive and process information and data pertaining to air pollution.
- 4- Air quality norms and limiting values of the emissions concerning certain sectors as well as additional conditions to be observed by the operators of installations that are subject to the system of permits or declaration, including installations for the disposal or incineration of waste, the exploitation of quarries and mines that can affect the air or the quality of the environment in general.
- 5- The list of technical specifications of motor engines and of combustion, heating or refrigeration appliances, modes of incineration and the conditions for the use of the appliances and engines as well as the rules covering their periodic control.
- 6- The standards pertaining to technical and environmental requirements concerning the manufacturing, equipment and use of vehicles and their maintenance and periodic control.
- 7- The measures aimed at directing and reducing road traffic in case of insufficient measures taken to prevent excessive emissions.
- 8- Standards and specifications that are suitable for each type of fuel or lubricant used for transport or domestic heating or for industrial or agricultural purposes or for incineration.
- 9- Those cases and circumstances when administration, prior to a court sentence, can proceed with all urgent executive measures to discontinue or reduce the emission of pollutants.
- 10- The delays granted to ensure compliance with the provisions of the present law of installations and other sources of air pollution that existed prior to its publication

Article 25: All previous legislative and statutory provisions that are contrary to the present law and its implementation texts are abrogated.

Article 26: The present law enters into force on the date of its publication in the *Official Bulletin*.