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STATUTORY INSTRUMENTS

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**2015 No. 310**

**The Fluorinated Greenhouse Gases Regulations 2015**

**PART 5**

**Offences and penalties**

**Offences**

**29.**—(1) It is an offence for a person to do any of the following, or to cause or permit another person to do any of the following—

- (a) breach any of the prohibitions mentioned in the following provisions of the 2014 Regulation—
    - (i) Article 3(1) (prohibition on intentional release of fluorinated greenhouse gas);
    - (ii) Article 11(1) (read in association with Article 11(2) and (3)) (prohibition on placing specified products and equipment on the market);
    - (iii) Article 14(1) (prohibition on placing equipment not accounted for within quota system on the market);
  - (b) breach Article 14(2) of the 2014 Regulation (requirements to document placing on the market and to draw up declaration of conformity);
  - (c) breach the second paragraph of Article 15(1) (read in association with Article 15(2) and (3)) of the 2014 Regulation (requirement to ensure quantities placed on market do not exceed quota);
  - (d) fail to comply with a requirement under regulation [28\(2\)](#), [\(3\)](#) or [\(4\)](#); or
  - (e) fail to comply with an enforcement notice.
- (2) It is an offence to—
- (a) intentionally obstruct any person acting in the execution or enforcement of these Regulations;
  - (b) fail, without reasonable cause, to give to any such person any assistance or information which that person may reasonably require for those purposes;
  - (c) furnish to any such person any information knowing it to be false or misleading; or
  - (d) fail to produce a document or record to any such person when required to do so.

**Offences committed by bodies corporate, partnerships and unincorporated associations**

**30.**—(1) In respect of any offence under these Regulations committed by a body corporate, an officer as well as the body corporate, is guilty of the offence and liable if the offence is proved—

- (a) to have been committed with the consent or connivance of an officer; or
- (b) to be attributable to any neglect on the part of the officer.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as it applies to an officer of a body corporate.

(3) In respect of any offence committed by a partnership or a Scottish partnership, a partner as well as the partnership or Scottish partnership is guilty of the offence and liable if the offence is shown—

- (a) to have been committed with the consent or connivance of a partner; or
- (b) to be attributable to any neglect on the part of that partner.

(4) For the purpose of proceedings for an offence alleged to have been committed by a partnership, section 70 of the Criminal Procedure (Scotland) Act 1995(1) applies as it applies in relation to a body corporate.

(5) Subject to paragraph (8), proceedings for an offence alleged to have been committed by an unincorporated association must be brought in the name of the association and not in the name of any of its members.

(6) For the purpose of proceedings under paragraph (5)—

- (a) rules of court relating to the service of documents have effect as if the association were a body corporate; and
- (b) the following provisions apply as they apply in relation to a body corporate—
  - (i) section 33 of the Criminal Justice Act 1925(2) and Schedule 3 to the Magistrates' Courts Act 1980(3);
  - (ii) section 70 of the Criminal Procedure (Scotland) Act 1995; and
  - (iii) section 18 of the Criminal Justice Act (Northern Ireland) 1945(4) and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981(5).

(7) A fine imposed on an unincorporated association on its conviction for an offence must be paid out of the funds of the association.

(8) An officer of an unincorporated association, other than a partnership or a member of its governing body that is, as well as the association, guilty of the offence is liable to be proceeded against and punished accordingly if an offence committed by the association is shown—

- (a) to have been committed with the consent or connivance of such an officer or member; or
- (b) to be attributable to any neglect on the part of such an officer or member.

(9) In this regulation—

- (a) “officer”, in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity;
- (b) “partner” includes a person purporting to act as a partner.

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(1) 1995 c. 46. Section 70 is amended by section 10(6) of the Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5), section 28 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), section 66(1) and (3) to (12) of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) and section 6(4) of the Partnerships (Prosecution) (Scotland) Act 2013 (c. 21), and by S.I. 2001/1149.

(2) 1925 c. 86. Section 33 is amended by Schedule 6 to the Magistrates' Courts Act 1952 (c. 55), Part 2 of Schedule 8 to the Courts Act 1971 (c. 23) and paragraph 71 of Schedule 8 and Schedule 10, to the Courts Act 2003 (c. 39).

(3) 1980 c. 43. Schedule 3 is amended by section 25(2) of, and Schedule 13 to, the Criminal Justice Act 1991 (c. 53), and paragraph 51(13) of Part 2 of Schedule 3, and Part 4 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44).

(4) 1945 c. 15 (N.I.).

(5) S.I. 1981/1675 (N.I. 26).

## **Penalties**

- 31.** A person who commits an offence under these Regulations is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.