

EXPLANATORY MEMORANDUM TO
CONTROLS ON OZONE-DEPLETING SUBSTANCES REGULATIONS
(NORTHERN IRELAND) 2011

2011 No. 239

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the the Department of the Environment ("the Department") to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972 (paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c51)) and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The principal objective of the Regulations is to transpose into Northern Ireland legislation the requirements of EC Regulations which seek to limit emissions of ozone depleting substances ("ODS") in order to contribute to Montreal Protocol targets. This will be achieved by introducing cost-effective measures to control emissions of ODS.

3. Background

- 3.1. As a result of amendments to European Commission Regulations in respect of ODS all EU Member States are required to introduce legislation to implement provisions relating to offences, fines, and penalties.

4. Consultation

- 4.1. A public consultation exercise took place between April and September 2010. Eight responses were received, three of which were acknowledgements, and five of which were more detailed. All the detailed consultation responses were from public sector organisations. None of the detailed consultation responses necessitated substantial changes to the Controls on Ozone-Depleting Substances Regulations (Northern Ireland) 2011 ("the NI ODS Regulations"). The overall response to the consultation was positive, and no organisation was opposed to the proposed legislation.

5. Equality Impact

- 5.1. The Department has carried out an equality screening exercise on the draft legislation. No adverse impacts for any of the nine section 75 categories were identified. A full Equality Impact Assessment was therefore not required.

6. Regulatory Impact

- 6.1. Although the new NI ODS Regulations will set an equitable and transparent legal framework to help contain emissions, the Regulatory Impact Assessment did identify some financial implications for businesses in Northern Ireland which use ODS. However, as the NI ODS Regulations arise from EC Regulations, all Member States are required to comply and therefore similar controls will be introduced throughout the European Union.

7. Financial Implications

- 7.1. There will be some costs incurred as a result of the NI ODS Regulations for businesses involved in equipment for refrigeration, air conditioning, heat pumps and fire protection. The expected costs incurred however are considered to be proportionate, relatively low and unlikely to cause any serious financial problems for businesses here. There are unlikely to be any business competitiveness issues as all Member States are required to comply and therefore similar controls will introduce similar costs to all businesses throughout the European Union.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Human Rights Impact Assessment carried out concluded that the NI ODS Regulations do not breach any of the rights in the European Convention on Human Rights. The NI ODS Regulations are fully compatible with European Community law. The NI ODS Regulations do not discriminate against any person or class of person on the grounds of religious belief or political opinion. The NI ODS Regulations are not an Act, and therefore section 24(1)(d) of the Northern Ireland Act 1998 does not apply. The NI ODS Regulations also do not modify any enactments in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. The NI ODS Regulations have been compiled as a result of EU Regulations, and not as a result of an EU Directive, so a Transposition Note is not necessary.

10. Parity or Replicatory Measure

- 10.1. The NI ODS Regulations largely replicate the provisions of similar legislation in Great Britain.

11. Additional Information

- 11.1. None.