

**EXPLANATORY MEMORANDUM TO
OZONE-DEPLETING SUBSTANCES (QUALIFICATIONS) REGULATIONS
(NORTHERN IRELAND) 2011**

2011 No. 240

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 partly be achieved by ensuring that employees working with equipment containing ODS are fully qualified to service, maintain, dismantle and decommission the equipment.

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. These include provisions on the required qualifications for employees working with equipment containing ODS.

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 Ozone-Depleting Substances (Qualifications) Regulations (Northern Ireland) 2011 ("the Qualifications 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. The Regulatory Impact Assessment identified some financial implications for businesses in Northern Ireland which use ODS. This is because the Qualifications Regulations require companies to ensure that their employees are appropriately qualified before they can work legally with ODS. This process entails training costs. However, as the Qualifications 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 for NI businesses whose work involves equipment for refrigeration, air conditioning, heat pumps and fire protection, as a result of the Qualifications Regulations. However, the costs 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 Qualifications Regulations do not breach any of the rights in the European Convention on Human Rights. The Qualifications Regulations are fully compatible with European Community law. The Qualifications Regulations do not discriminate against any person or class of person on the grounds of religious belief or political opinion. The Qualifications Regulations are not an Act, and therefore section 24(1)(d) of the Northern Ireland Act 1998 does not apply. The Qualifications Regulations also do not modify any enactments in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. The Qualifications 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 Qualifications Regulations largely replicate the provisions of similar legislation in Great Britain.

11. Additional Information

11.1. None.