

EXPLANATORY MEMORANDUM TO
the Fluorinated Greenhouse Gases (Amendment) Regulations (Northern Ireland)
2012 No. 230

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of the Environment to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under section 2(2) of the European Communities Act 1972 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The Regulations amend the existing Fluorinated Greenhouse Gases Regulations (Northern Ireland) 2009 ("the existing F-gases Regulations") in three ways: 1. The definition of an "offshore installation" is updated. 2. Provisions on prohibition notices are revoked. 3. Qualifications certificates have become legally acceptable for work with F-gases if they are issued by an organisation approved by the DOE as having expertise in the relevant area.

3. Background

- 3.1. Fluorinated Greenhouse Gases ("F-gases") have a high Greenhouse Warming Potential when emitted into the atmosphere. They are used in Northern Ireland ("NI") in the following sectors of business: stationary refrigeration, air conditioning and heat pump equipment, fire protection equipment, F-gas based solvents, high-voltage switchgear, and motor vehicle air conditioning. The existing F-gases Regulations were put into operation in order to control emissions of F-gases.
- 3.2. The existing F-gases Regulations apply to any offshore installations that may in future be constructed in NI waters. The definition of an offshore installation needs to be amended to ensure that the F-gases Regulations apply to any offshore carbon capture and storage facilities which may be developed in NI waters.
- 3.3. The existing F-gases Regulations contained provisions on prohibition notices. Prohibition notices are issued when there is an imminent danger of serious pollution of the environment. The provisions on prohibition notices need to be revoked because it is now thought that they are not applicable to the existing F-gases Regulations, since F-gases are pollutants which contribute to long-term global warming and do not have the potential to lead to imminent local environmental damage.

- 3.4. The existing F-gases Regulations specify certain named qualifications which employees require to work legally with F-gases in the sectors of business named in point 3.1 above. The provisions of the Fluorinated Greenhouse Gases (Amendment) Regulations (Northern Ireland) 2012 ("the F-gas Amendment Regulations") allow for any certificate to become legally acceptable if issued by an organisation approved by the DOE. This enables greater flexibility in enabling certification organisations to develop new, legally permitted, qualifications. This would negate the need for new legislation to be made each time new qualifications are developed.

4. Consultation

- 4.1. No businesses or district councils made any replies to the consultation. The only consultees to offer substantive replies were DEFRA and DECC. DEFRA suggested means to make the provisions in the draft F-gases Amendment Regulations on certification more flexible. This would mean that new legislation on F-gases does not need to be made each time there are new details of relevant qualifications and certification organisations. The Department has complied with DEFRA's suggestions. DECC offered comments in relation to the definition of an 'offshore installation' in the existing F-gases Regulations - some of which the Department was able to address at this time, and some of which will need to be addressed at a later stage in consultation with other government departments. DECC also suggested that the provisions on prohibition notices be retained; however, the Department did not comply with this request, instead making clear its reasoning to DECC as to why prohibition notices are not applicable to F-gases legislation.

5. Equality Impact

- 5.1. Preliminary screening exercises have been undertaken and there is no evidence that the measures would have any impact on any of the groups specified in Section 75. Therefore, the Department does not consider a full Equality Impact Assessment to be necessary.

6. Regulatory Impact

- 6.1. It was decided not to carry out a Regulatory Impact Assessment. It is believed that none of the three amendments made to the existing F-gases Regulations would cause any immediate financial impact on businesses or the voluntary sector. No stakeholders anticipated any financial consequences for any sector during the consultation period. The reasons why each of the three amendments are unlikely to cause any financial impacts are detailed below:
- 6.2. Under the current definition of an "offshore installation", there are currently no known offshore installations in NI territorial waters. We are currently not aware of any individual or organisation planning to construct any offshore installations in NI territorial waters.

- 6.3. The proposed revocation of the provisions on prohibition notices is unlikely to have any significant financial effects on any of the enforcing authorities. At present, no prohibition notices have ever been issued in Northern Ireland. The Department is also not aware of any court cases brought about by the existing F-gases Regulations, either for failure to observe a prohibition notice, or to hear the case for an appeal against a prohibition notice.
- 6.4. As for the new provisions allowing any certificate for work with F-gases to become legally acceptable if issued by an organisation approved by the DOE, it is also considered unlikely that this will have any major financial implications for businesses in Northern Ireland. This is because no organisation in Northern Ireland will be in any way obliged or required to become a certification or evaluation body. Organisations applying to the Department to become certification or evaluation bodies may incur their own administrative charges in doing so. However, it is anticipated that these organisations would recoup their costs when operating the scheme. Furthermore, the provision of additional certification and evaluation bodies for the F-gases Amendment Regulations could have financial benefits for those businesses affected by the Regulations. This is because they would have an increased choice of such organisations to which they can apply for certification and evaluation of their company or employees.

7. Financial Implications

- 7.1. As stated in point 6 above, it is believed that none of the three amendments made to the existing F-gases Regulations would cause any significant financial impacts for any stakeholders in NI. No stakeholders anticipated any financial consequences for any sector during the consultation period.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Regulations comply with section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. At present, there are no equivalent Regulations for Great Britain ("GB"), or for any of the other Devolved Administrations. DEFRA colleagues have stated that they may include similar provisions at a later date in future GB legislation on F-gases.

11. Additional Information

- 11.1. Not applicable.