

**EXPLANATORY MEMORANDUM TO  
FLUORINATED GREENHOUSE GASES REGULATIONS (NORTHERN  
IRELAND) 2009**

**2009 No. 184**

**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 Fluorinated Greenhouse Gases ("F-gases") in order to contribute to Kyoto Protocol targets. This will be achieved by introducing cost-effective measures to prevent accidental emissions of F-gases.

**3. Background**

- 3.1. It is also a requirement for all EU Member States to compile F-gases measures as a result of of 11 recent European Commission Regulations. Each Member State is required to introduce legislation to implement provisions relating to offences, fines, and penalties, as well as certification requirements.

**4. Consultation**

- 4.1. A public consultation exercise took place between October 2008 and January 2009. A total of ten responses were received from businesses, certification organisations for F-gases qualifications, district councils and public sector organisations. The overall response to the consultation was positive, and no organisation expressed any serious misgivings about 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 Fluorinated Gases Regulations (Northern Ireland) 2009 ("the NI F-gases 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 F-gases. However, as an EC Regulation, all Member States are required to comply and therefore similar legislation will be introduced throughout the European Union.

## **7. Financial Implications**

- 7.1. There will be some costs incurred as a result of the NI F-gases Regulations for businesses involved in refrigeration, air conditioning, heat pump equipment, F-gas based solvents, high-voltage switchgear, 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. In terms of competitiveness, as mentioned above, all Member States are required to comply and therefore similar legislation 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 F-gases Regulations do not breach any of the rights in the European Convention on Human Rights. The NI F-gases Regulations are fully compatible with European Community law. The NI F-gases Regulations do not discriminate against any person or class of person on the grounds of religious belief or political opinion. The NI F-gases Regulations are not an Act, and therefore section 24(d) of the 1998 Northern Ireland Act does not apply. The NI F-gases Regulations also do not modify any enactments in breach of section 7 of the 1998 Northern Ireland Act.

## **9. EU Implications**

- 9.1. 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 Regulations largely replicate the Fluorinated Greenhouse Gases Regulations 2009 ("the GB Regulations"), which have already become law for Great Britain. This was because the majority of the provisions apply equally to Northern Ireland as well as Great Britain.

## **11. Additional Information**

- 11.1. The Regulation will come into operation on the day it is laid before the Assembly and this will mean breaching the normal 21 day rule. The reason for this is that the EC Regulations set a deadline of 4th July 2009 for all companies to gain interim certification for their staff to permit them to continue working legally with F-gases in their various capacities. It is considered that if the 21 day rule was applied businesses would struggle to ensure employees were covered by the interim certification within the 4 weeks that would be available before the 4 July 2009 deadline. The breach of the 21 day rule maximises the time available for business to obtain interim certification. The NI F-Gases Regulations could not be drafted any sooner. They were, for the purpose of consistency, following the wording of the GB Regulations which only came into operation in March 2009, following which there were a number of legal issues in relation to the

division of enforcement responsibilities between Councils and NIEA, which were required to be resolved.