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STATUTORY INSTRUMENTS

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**2008 No. 41**

**The Fluorinated Greenhouse Gases Regulations 2008**

**PART 2**

General provisions

**Leakages**

4. The operator of a stationary application commits an offence if he fails to comply with—
- (a) Article 3.1; or
  - (b) Article 3.2, as qualified by Article 3.4.

**Leakage detection systems**

5.—(1) A person commits an offence if he uses a stationary application, other than an existing fire protection system, which contains 300 kilograms or more of fluorinated greenhouse gases in which has not been installed a leakage detection system.

(2) The operator of a stationary application, other than a fire protection system, which contains 300 kilograms or more of fluorinated greenhouse gases commits an offence if he does not ensure that a leakage detection system installed in the stationary application is checked in accordance with Article 3.3.

(3) The operator of an existing fire protection system commits an offence if he does not ensure that a leakage detection system is fitted to that fire protection system before 4th July 2010.

(4) The operator of a fire protection system which contains 300 kilograms or more of fluorinated greenhouse gases commits an offence if he does not ensure that the leakage detection system fitted to the fire protection system is—

- (a) checked at least once every 12 months to ensure that it functions properly, in accordance with Article 3.3; or
- (b) inspected as referred to in Article 3.5.

(5) In this regulation, “existing fire protection system” means a fire protection system which—

- (a) contains 300 kilograms or more of fluorinated greenhouse gases; and
- (b) was fitted before 4th July 2007.

**Records**

6. The operator of a stationary application containing 3 kilograms or more of fluorinated greenhouse gases commits an offence if he fails to comply with Article 3.6.

**Recovery of fluorinated greenhouse gases**

7.—(1) The operator of the equipment referred to in paragraph (2) commits an offence if he fails to comply with Articles 4.1 or 4.4.

- (2) The equipment is—
  - (a) the cooling circuit of—
    - (i) refrigeration equipment,
    - (ii) air-conditioning equipment, or
    - (iii) heat pump equipment;
  - (b) equipment containing fluorinated greenhouse gas-based solvents;
  - (c) a fire protection system;
  - (d) a fire extinguisher; or
  - (e) high-voltage switch gear,

which is normally not in transit during operation.

(3) The user of a refillable or a non-refillable fluorinated greenhouse gas container commits an offence if he fails to comply with Article 4.2 or 4.4.

- (4) Paragraph (5) applies to—
  - (a) the operator of any equipment not referred to in paragraph (2); or
  - (b) the user of any product, other than a gas container referred to in paragraph (3),

which contains a fluorinated greenhouse gas, other than mobile equipment being used for military operations.

(5) Such an operator or user must ensure that any fluorinated greenhouse gas is recovered from the equipment or the product in accordance with Article 4.3.

- (6) A person commits an offence if he fails to comply with paragraph (5).

### **Reporting requirements and the provision of information**

**8.—**(1) A person who produces more than one tonne of fluorinated greenhouse gases in the Community each year commits an offence if he fails to comply with the requirements of Article 6.1(a) within the time limits set out in Article 6.1.

(2) A person who imports more than one tonne of fluorinated greenhouse gases each year commits an offence if he fails to comply with the requirements of Article 6.1(b) within the time limits set out in Article 6.1.

(3) A person who exports more than one tonne of fluorinated greenhouse gases from the Community each year commits an offence if he fails to comply with the requirements of Article 6.1(c) within the time limits set out in Article 6.1.

(4) A person referred to in paragraphs (1) to (3) commits an offence if he fails to send to the Secretary of State a copy of the annual report at the same time as he sends the annual report to the European Commission.

(5) A person commits an offence if he fails within a reasonable time to provide such information as the Secretary of State may reasonably request to enable the Secretary of State to acquire emission data for the purposes of Article 6.4.

- (6) In this regulation—
  - (a) “annual report” means the report which the person in question has to send to the European Commission in accordance with Article 6; and
  - (b) “import” means import into the United Kingdom from outside the customs territory of the Community.

### **Instruction manuals**

**9.**—(1) A person commits an offence if he places on the market a product or equipment referred to in paragraph (2) containing fluorinated greenhouse gas unless the instruction manual provided with the product or equipment contains—

- (a) a statement that the product or equipment contains such gas;
- (b) information about the fluorinated greenhouse gas in the product or equipment, including—
  - (i) the chemical name and quantity of the gas; and
  - (ii) its global warming potential; and
- (c) a statement whether or not the product or equipment is hermetically sealed.

(2) The product or equipment referred to in paragraph (1) is—

- (a) a refrigeration product or equipment which contains—
  - (i) perfluorocarbons, or
  - (ii) preparations containing perfluorocarbons;
- (b) a refrigeration or air conditioning product or equipment, except where such product or equipment is in a motor vehicle, which contains—
  - (i) hydrofluorocarbons, or
  - (ii) preparations containing hydrofluorocarbons;
- (c) a heat pump, fire protection system or fire extinguisher which contains—
  - (i) hydrofluorocarbons, or
  - (ii) preparations containing hydrofluorocarbons;
- (d) switchgear which contains sulphur hexafluoride or preparations containing sulphur hexafluoride; or
- (e) a fluorinated greenhouse gas container.

### **Prohibition on the use of sulphur hexafluoride**

**10.** A person commits an offence if he uses sulphur hexafluoride or preparations of that substance in contravention of Article 8.1 or Article 8.2 on or after the date on which these Regulations come into force.

### **Placing on the market**

**11.**—(1) Subject to paragraph (2), a person commits an offence if he places on the market a product or equipment referred to in Annex II to the 2006 Regulation in contravention of Article 9.1 on or after—

- (a) the date on which these Regulations come into force; or
- (b) the date specified in that Annex referable to the product or equipment in question,

whichever is the later.

(2) It is a defence for the person to prove that the product or equipment in question was manufactured before the date specified in Annex II to the 2006 Regulation referable to the product or equipment.

### **Importation**

**12.** In respect of the importation of any product or equipment referred to in Annex II to the 2006 Regulation into the United Kingdom from outside the customs territory of the Community,

section 170 of the Customs and Excise Management Act 1979<sup>(1)</sup> has effect in relation to the evasion or attempted evasion of the prohibition set out in Article 9.1, as qualified by Article 9.2.

### **Proof of lawful import**

**13.**—(1) Where any product or equipment is being, or has been, imported into the United Kingdom from outside the customs territory of the Community, an officer of Revenue and Customs may require any person possessing or having control of that product or equipment to furnish, within such reasonable time as that officer may specify, evidence that the importation is, or was not, unlawful by virtue of the 2006 Regulation.

(2) Until such evidence is furnished to the satisfaction of the Commissioners for Revenue and Customs, the product or equipment may be detained.

(3) If such evidence is not furnished to the satisfaction of the Commissioners for Revenue and Customs within the period specified under paragraph (1), the product or equipment is liable to forfeiture and the Customs and Excise Management Act 1979 applies in relation to it as if it were liable to forfeiture under that Act.

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(1) 1979 c.2; section 50 is amended by s.114 of the Police and Criminal Evidence Act 1984 (c.60), s.12(1) and (6) of the Finance Act 1988 (c.39) and section 293(1) and (2) of the Criminal Justice act 2003 (c.44) and by S.I. 1996/2686, S.I. 2004/702 and S.I. 2005/1966. Section 170 is amended by s.114 of the Police and Criminal Evidence Act 1984 (c.60), s.12 of the Firearms Act 1988 (c.45), paragraph 7 of Schedule 2 to the Finance (No 2) Act 1992 (c.48) and section 293(1) and (4) of the Criminal Justice act 2003 (c.44) and by S.I. 1996/2686, S.I. 2004/702 and S.I. 2005/1966.