

**EXPLANATORY MEMORANDUM TO**  
**THE OZONE-DEPLETING SUBSTANCES REGULATIONS 2015**

**2015 No. 168**

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 This instrument consolidates two sets of regulations which give effect to provisions of Regulation (EC) No. 1005/2009 on substances that deplete the ozone layer, into one set of regulations. The consolidation forms part of the Government's Better Regulation agenda and is in response to a Red Tape Challenge commitment to simplify and consolidate environmental regulations. The regulations relate to the production, import, export and placing on the market of ozone-depleting substances and to minimum qualifications for those working on the recovery, recycling, reclamation or destruction of ozone-depleting substances. The instrument consolidates, and therefore revokes, the following sets of regulations without changing their substance, provisions or effects, other than to update names:

- The Ozone-Depleting Substances (Qualifications) Regulations 2009 (S.I. 2009/216),
- The Environmental Protection (Controls on Ozone-Depleting Substances) Regulations 2011 (S.I. 2011/1543).

**3. Matters of special interest to the Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments**

3.1 None

**4. Legislative Context**

4.1 The EU legislation to implement the provisions of the Montreal Protocol on Substances that Deplete the Ozone Layer is in the form of Regulation (EC) No. 1005/2009, as amended by Commission Regulations (EU) No. 744/2010, No. 1087/2013 and No. 1088/2013. This Regulation is directly applicable in the UK with no further transposition being necessary. However, Article 29 of this Regulation assigns to Member States responsibility for determining, through national secondary legislation, the necessary penalties applicable to breaches of the Regulation and the rules to ensure they are implemented.

4.2 The two sets of regulations listed in paragraph 2.1 set out minimum qualifications for working with ozone-depleting substances and establishes the enforcement framework

necessary to give full effect to the EU legislation in Great Britain, including setting out offences. This instrument consolidates these regulations into one set of regulations.

## **5. Territorial Extent and Application**

5.1 This instrument applies to Great Britain in its entirety and to Northern Ireland in relation to import and export only.

## **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- What is being done and why

7.1 The ozone layer protects life on earth from harmful ultraviolet (UV) radiation. Following discovery of the ozone hole in the 1980s, swift global action was taken to phase-out ozone-depleting substances under the Montreal Protocol, agreed in 1987. Those substances include chlorofluorocarbons, halons and other chemicals which were widely found in aerosols, refrigeration, fire extinguishers, solvents and some other industrial uses. As part of the European Union's obligations under the Montreal Protocol, the EU has taken action through Regulation (EC) No. 1005/2009, as amended, to control production, use and emissions of ozone-depleting substances. The enforcement framework and other implementation measures for that EC Regulation formed the substance of the two GB Regulations which are the subject of this consolidation.

7.2 The primary policy objective now is to consolidate the existing regulations whilst maintaining existing standards of environmental protection. Consolidation of the regulations forms part of the Government's Better Regulation agenda (Red Tape Challenge) and will improve the accessibility and clarity of the regulations. Consolidation of the regulations will also improve the regulatory landscape by reducing the volume of regulation.

7.3 The 2015 Regulations consolidate the existing regulations with no substantive changes except for minor updates to reflect the change of name for the regulator in Wales and to remove the reference previously in Schedule 1 of the 2009 Regulations to the British Fire Protection Systems Association as this organisation no longer exists having merged with the Fire Industry Association. There will be no increase in burdens on regulators and industries as they will not be required to do anything different under the consolidated 2015 Regulations.

- Consolidation

7.4 The 2015 Regulations revoke and replace the two statutory instruments listed in paragraph 2.1 and consolidates those provisions into a single set of regulations.

## **8. Consultation outcome**

8.1 No separate consultation exercise was conducted as this instrument consolidates two sets of existing regulations and does not change the policy or impacts. The consultation exercises conducted when preparing the original regulations can be found at:

- <http://webarchive.nationalarchives.gov.uk/20130123162956/http://www.defra.gov.uk/corporate/consult/fgas-ozone/summary-responses.pdf>
- <http://archive.defra.gov.uk/environment/quality/air/ozone/documents/ozone-summary-responses110413.pdf>

## **9. Guidance**

9.1 There is no specific guidance issued to ensure compliance with this instrument as there are no substantive changes to the status quo.

## **10. Impact**

10.1 An Impact Assessment has not been prepared for this instrument as there is no substantive change to the impact of the existing Regulations on business, charities or voluntary bodies. Businesses are likely to benefit in terms of improved clarity and ease of access to the regulations.

10.2 Similarly, there is no change in the impact on the public sector.

## **11. Regulating small business**

11.1 The legislation applies to small business. However this instrument consolidates existing legislation into a single set of regulations. It therefore maintains the current legal requirements and does not introduce any new duties on business.

## **12. Monitoring & review**

12.1 The department will continue to monitor and review the impact of consolidating these regulations as part of its standard business as usual policy-making. The Regulations also contain a review provision for the regulations to be reviewed every five years, except in relation to Scotland, with a report to be published setting out the conclusions of the review.

12.2 There is provision for the European Commission regularly to review Regulation (EC) No. 1005/2009 in view of the continuing innovation in the sectors covered and to make proposals on the exemptions and derogations provided for when technically and economically feasible alternatives to the use of controlled substances become available.

## **13. Contact**

Fiona Walters at the Department for Environment, Food and Rural Affairs Tel: 0207 238 6839 or email: [fiona.walters@defra.gsi.gov.uk](mailto:fiona.walters@defra.gsi.gov.uk) can answer any queries regarding the instrument.