
STATUTORY INSTRUMENTS

2015 No. 310

The Fluorinated Greenhouse Gases Regulations 2015

PART 1

Introductory provisions

Citation, commencement, extent and application

1.—(1) These Regulations—

- (a) may be cited as the Fluorinated Greenhouse Gases Regulations 2015; and
- (b) come into force on 19th March 2015.

(2) They extend to Northern Ireland only in so far as they deal with import and export controls and trade with any place outside the United Kingdom, within the meaning of paragraph 20 of Schedule 3 to the Northern Ireland Act 1998⁽¹⁾.

(3) They apply to—

- (a) offshore installations;
- (b) Scottish offshore installations; and
- (c) Northern Ireland offshore installations, insofar as they deal with import and export controls and trade with any place outside the United Kingdom, within the meaning of paragraph 20 of Schedule 3 to the Northern Ireland Act 1998.

Interpretation: general

2.—(1) In these Regulations—

“authorised person” means a person authorised under regulation 21;

“enforcement notice” means an enforcement notice served under regulation 25;

“enforcing authority” means—

- (a) as regards England, the Environment Agency, the local authority, the port health authority or the Secretary of State;
- (b) as regards Wales, the Natural Resources Body for Wales, the local authority, the port health authority or the Welsh Ministers;
- (c) as regards Scotland, the Scottish Environment Protection Agency, the local authority or the Scottish Ministers;
- (d) as regards Northern Ireland, the Department of the Environment or the local authority;
- (e) as regards offshore installations, the Secretary of State;
- (f) as regards Scottish offshore installations, the Scottish Ministers;
- (g) as regards Northern Ireland offshore installations—

(1) 1998 c. 47.

- (i) in relation to installations used in connection with any of the activities described in regulation 4(4)(a) to (g), the Secretary of State;
- (ii) in relation to installations used in connection with any of the activities described in regulation 4(4)(h) and (i), the Department of the Environment;

“premises” includes—

- (a) land;
- (b) a vehicle or trailer;
- (c) an aircraft;
- (d) a ship;
- (e) an offshore installation or part of an offshore installation;
- (f) a Scottish offshore installation or part of a Scottish offshore installation;
- (g) a Northern Ireland offshore installation or part of a Northern Ireland offshore installation;

“ship” includes a hovercraft, submersible craft and any other floating craft but not a vessel which permanently rests on or is permanently attached to the seabed.

(2) In paragraph (1)—

“local authority” means—

- (a) as regards England, a county council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
- (b) as regards Wales, a county council or a county borough council;
- (c) as regards Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(2);
- (d) as regards Northern Ireland, a district council, within the meaning of section 44 of the Interpretation Act (Northern Ireland) 1954(3);

“port health authority” means—

- (a) in relation to the London port health district (within the meaning given by section 7(1) of the Public Health (Control of Disease) Act 1984(4)), the Common Council of the City of London;
- (b) in relation to any port health district constituted by order under section 2(3) of that Act, the port health authority for that district constituted by order under section 2(4) of that Act.

Interpretation: EU Regulations

3.—(1) In these Regulations—

“the 2014 Regulation” means Regulation (EU) No 517/2014 of the European Parliament and of the Council on fluorinated greenhouse gases(5);

“Commission Regulation 1494/2007” means [Commission Regulation \(EC\) No 1494/2007](#) establishing, pursuant to Regulation EC No 842/2006 of the European Parliament and of the Council, the form of labels and additional labelling requirements as regards products and equipment containing certain fluorinated greenhouse gases;

(2) 1994 c. 39. Section 2 is amended by paragraph 232(1) of Schedule 22 to the Environment Act 1995 (c. 25).

(3) 1954 c. 33 (N.I.).

(4) 1984 c. 22.

(5) OJ No L 150, 20.5.2014, p 195.

“Commission Regulation 1497/2007” means [Commission Regulation \(EC\) No 1497/2007](#) establishing, pursuant to Regulation [\(EC\) No 842/2006](#) of the European Parliament and of the Council, standard leakage checking requirements for stationary fire protection systems containing certain fluorinated greenhouse gases⁽⁶⁾;

“Commission Regulation 1516/2007” means [Commission Regulation \(EC\) No 1516/2007](#) establishing, pursuant to Regulation [\(EC\) No 842/2006](#) of the European Parliament and of the Council, standard leakage checking requirements for stationary refrigeration, air conditioning and heat pump equipment containing certain fluorinated greenhouse gases⁽⁷⁾;

“Commission Regulation 303/2008” means [Commission Regulation \(EC\) No 303/2008](#) establishing, pursuant to Regulation [\(EC\) No 842/2006](#) of the European Parliament and of the Council, minimum requirements and the conditions for mutual recognition for the certification of companies and personnel as regards stationary refrigeration, air conditioning and heat pump equipment containing certain fluorinated greenhouse gases⁽⁸⁾;

“Commission Regulation 304/2008” means [Commission Regulation \(EC\) No 304/2008](#) establishing, pursuant to Regulation [\(EC\) No 842/2006](#) of the European Parliament and of the Council, minimum requirements and the conditions for mutual recognition for the certification of companies and personnel as regards stationary fire protection systems and fire extinguishers containing certain fluorinated greenhouse gases⁽⁹⁾;

“Commission Regulation 305/2008” means [Commission Regulation \(EC\) No 305/2008](#) establishing, pursuant to Regulation [\(EC\) No 842/2006](#) of the European Parliament and of the Council, minimum requirements and the conditions for mutual recognition for the certification of personnel recovering certain fluorinated greenhouse gases from high-voltage switchgear⁽¹⁰⁾;

“Commission Regulation 306/2008” means [Commission Regulation \(EC\) No 306/2008](#) establishing, pursuant to Regulation [\(EC\) No 842/2006](#) of the European Parliament and of the Council, minimum requirements and the conditions for mutual recognition for the certification of personnel recovering certain fluorinated greenhouse gas-based solvents from equipment⁽¹¹⁾;

“Commission Regulation 307/2008” means [Commission Regulation \(EC\) No 307/2008](#) establishing, pursuant to Regulation [\(EC\) No 842/2006](#) of the European Parliament and of the Council, minimum requirements for training programmes and the conditions for mutual recognition of training attestations for personnel as regards air-conditioning systems in certain motor vehicles containing certain fluorinated greenhouse gases⁽¹²⁾;

“Commission Regulation 308/2008” means [Commission Regulation \(EC\) No 308/2008](#) establishing, pursuant to Regulation [\(EC\) No 842/2006](#) of the European Parliament and of the Council, the format for notification of the training and certification programmes of the Member States⁽¹³⁾;

“Commission Regulation 1191/2014” means Commission Implementing Regulation (EU) No 1191/2014 determining the format and means for submitting the report referred to in Article 19 of Regulation (EU) No 517/2014 of the European Parliament and of the Council on fluorinated greenhouse gases.

(2) Expressions used but not defined in these Regulations and used in the following legislation have the same meaning as they have in that legislation—

(6) OJ No L 333, 19.12.2007, p 4.

(7) OJ No L 335, 20.12.2007, p 10.

(8) OJ No L 92, 3.4.2008, p 3.

(9) OJ No L 92, 3.4.2008, p 12.

(10) OJ No L 92, 3.4.2008, p 17.

(11) OJ No L 92, 3.4.2008, p 21. There is a relevant corrigendum (OJ No L 280, 23.10.2008, p 38).

(12) OJ No L 92, 3.4.2008, p 25.

(13) OJ No L 92, 3.4.2008, p 28.

- (a) the 2014 Regulation;
- (b) Commission Regulation 1494/2007;
- (c) Commission Regulation 1497/2007;
- (d) Commission Regulation 1516/2007;
- (e) Commission Regulation 303/2008;
- (f) Commission Regulation 304/2008;
- (g) Commission Regulation 305/2008;
- (h) Commission Regulation 306/2008;
- (i) Commission Regulation 307/2008;
- (j) Commission Regulation 308/2008.

(3) A reference in these Regulations to the following is a reference to those Commission Regulations as amended from time to time—

- (a) Commission Regulation 1494/2007;
- (b) Commission Regulation 1191/2014.

Interpretation: offshore installations

4.—(1) In these Regulations, “offshore installation” means an installation or structure, other than a ship, a Scottish offshore installation or a Northern Ireland offshore installation, which is—

- (a) situated in the waters of, or on or under the seabed in—
 - (i) the tidal waters and parts of the sea in or adjacent to the United Kingdom up to the seaward limits of the territorial sea;
 - (ii) in the case of the activities listed in sub-paragraph (b)(i) to (vi), an area designated by an Order in Council under section 1(7) of the Continental Shelf Act 1964(14); or
 - (iii) in the case of the activity listed in sub-paragraph (b)(vii), the sea in any area for the time being designated under section 41(3) of the Marine and Coastal Access Act 2009(15); and
- (b) used in connection with—
 - (i) the exploitation, or the exploration with a view to exploitation, of mineral resources in or under the shore or bed of waters described in sub-paragraph (a)(i) and (ii);
 - (ii) the exploration of a place in, under or over such waters with a view to the storage of gas;
 - (iii) the conversion of a place under the shore or bed of such waters for the purpose of storing gas;
 - (iv) the storage of gas in, under or over such waters or the recovery of gas so stored;
 - (v) the unloading of gas at a place in, under or over such waters;
 - (vi) the conveyance of things by means of a pipe, or system of pipes, constructed or placed on, in or under the shore or bed of such waters; or
 - (vii) the production of energy from water or wind.

(2) In paragraphs (1) and (4)—

(14) 1964 c. 29. Section 1(7) is amended by paragraph 1 of Schedule 3 to the Oil and Gas (Enterprise) Act 1982 (c. 23) and section 103 of the Energy Act 2011 (c. 16). Areas have been designated under section 1(7) by S.I. 1987/1265 (as amended by S.I. 2000/3062) and 2013/3162.

(15) 2009 c. 23. A designation has been made by S.I. 2013/3161.

- (a) references (in whatever form) to storing gas include storing gas with a view to its permanent disposal; and
 - (b) “gas” means—
 - (i) gas within the meaning of section 2(4) of the Energy Act 2008⁽¹⁶⁾; or
 - (ii) carbon dioxide.
- (3) In these Regulations, “Scottish offshore installation” means an installation or a structure, other than a ship, which is—
- (a) situated in the waters of, or on or under the seabed in—
 - (i) the tidal waters and parts of the sea in or adjacent to Scotland up to the seaward limits of the territorial sea; or
 - (ii) the sea in any area for the time being designated under section 41(3) of the Marine and Coastal Access Act 2009 in respect to which the Scottish Ministers have functions designated by an order made under section 41(4) of that Act; and
 - (b) used in connection with the production of energy from water or wind.
- (4) In these Regulations, “Northern Ireland offshore installation” means an installation or a structure, other than a ship, which is situated in the marine area and used in connection with any of the following activities—
- (a) the exploitation, or exploration with a view to exploitation, of mineral resources in the marine area;
 - (b) the exploration of any place in the marine area, with a view to the storage of gas;
 - (c) the conversion of any place in the marine area for the purpose of storing gas;
 - (d) the storage of gas in the marine area or the recovery of gas so stored;
 - (e) the unloading of gas at any place in the marine area;
 - (f) the conveyance of things by means of a pipe, or system of pipes, constructed or placed in the marine area;
 - (g) the provision of access to or accommodation for persons who work on or from an installation which is or has been maintained, or is intended to be established, in connection with any of the activities within sub-paragraphs (a) to (f);
 - (h) the production of energy from water or wind;
 - (i) the provision of access to or accommodation for persons who work on or from an installation which is or has been maintained, or is intended to be established, in connection with the production of energy from water or wind.
- (5) In paragraph (4), “marine area” means the area (together with the places above and below it) comprising the waters of, or on or under the seabed in—
- (a) the tidal waters and parts of the sea in or adjacent to Northern Ireland up to the seaward limits of the territorial sea; or
 - (b) the sea in any area for the time being designated under section 41(3) of the Marine and Coastal Access Act 2009 in respect of which any Northern Ireland department has functions designated by an order made under section 41(4) of that Act.
- (6) For the purposes of paragraphs (1)(b) and (3)(b), each of the activities described in those paragraphs includes the provision of access to or accommodation for persons who work on or from an installation which is or has been maintained, or is intended to be established, in connection with such an activity.

(16) 2008 c. 32.

Competent authority

5.—(1) The Secretary of State is the competent authority for the purposes of the 2014 Regulation in its application to—

- (a) England, Wales and Scotland;
- (b) offshore installations; and
- (c) Northern Ireland and Northern Ireland offshore installations.

(2) The Scottish Ministers are the competent authority for the purposes of the 2014 Regulation in its application to Scottish offshore installations.

PART 2

Importation

Importation

6. In respect of the importation of any product or equipment referred to in Annex III to the 2014 Regulation into the United Kingdom from outside the customs territory of the EU, section 170 of the Customs and Excise Management Act 1979⁽¹⁷⁾ has effect in relation to the fraudulent evasion or attempted evasion of the prohibition set out in Article 11(1) of the 2014 Regulation, as qualified by Article 11(2) of that Regulation.

Proof of lawful import

7.—(1) Where any product or equipment is being, or has been, imported into the United Kingdom from outside the customs territory of the EU, 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, in accordance with the provisions of the 2014 Regulation.

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

(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.

PART 3

Certification, evaluation and attestation

Certification and evaluation bodies: stationary refrigeration, air conditioning and heat pump equipment

8.—(1) The certification and evaluation bodies for the purposes of Article 5 of Commission Regulation 303/2008 (personnel certificates) are—

(17) 1979 c. 2. Section 170 is amended by section 114(1) of the Police and Criminal Evidence Act 1984 (c. 60), section 12(1) and (6) of the Finance Act 1988 (c. 39), paragraph 7 of Schedule 2 to the Finance (No. 2) Act 1992 (c. 48), section 293(4) of the Criminal Justice Act 2003 (c. 44), paragraph 8(5) of Part 2 of Schedule 17 to the Criminal Justice and Immigration Act 2008 (c. 4), and section 111(4) and (5) of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), and by S.I. 1996/2686, 2004/702 and 2005/1966.

- (a) the City and Guilds of London Institute;
 - (b) the Construction Industry Training Board.
- (2) The certification bodies for the purposes of Article 8 of Commission Regulation 303/2008 (company certificates) are—
- (a) Bureau Veritas UK Limited (Company Number: 01758622);
 - (b) Quidos Limited (Company Number: 05665301);
 - (c) Refcom Limited (Company Number: 03712647).

Certificates relating to stationary refrigeration, air conditioning and heat pump equipment issued in EEA States and Northern Ireland

- 9.—(1) A person who holds a valid certificate issued under Article 5 or 8 of Commission Regulation 303/2008 by a certification body in an EEA State other than the United Kingdom in respect of an activity mentioned in Article 2 of that Regulation may not carry out that activity unless—
- (a) the certificate is written in English; or
 - (b) the person holds a translation of the certificate in English.
- (2) A person who holds a valid certificate issued under Article 5 or 8 of Commission Regulation 303/2008 by a certification body appointed in Northern Ireland in respect of an activity mentioned in Article 2 of that Regulation may carry out that activity.

Certification and evaluation bodies: fire protection systems and fire extinguishers

10. The certification and evaluation body for the purposes of Articles 5 and 8 of Commission Regulation 304/2008 (personnel certificates and company certificates) is the Fire Industry Association.

Certificates relating to fire protection systems and fire extinguishers issued in EEA States and Northern Ireland

- 11.—(1) A person who holds a valid certificate issued under Article 5 or 8 of Commission Regulation 304/2008 by a certification body in an EEA State other than the United Kingdom in respect of an activity mentioned in Article 2 of that Regulation may not carry out that activity unless—
- (a) the certificate is written in English; or
 - (b) the person holds a translation of the certificate in English.
- (2) A person who holds a valid certificate issued under Article 5 or 8 of Commission Regulation 304/2008 by a certification body appointed in Northern Ireland in respect of an activity mentioned in Article 2 of that Regulation may carry out that activity.

Certification and evaluation bodies: high-voltage switchgear

12. The persons referred to in Schedule 1 are the certification and evaluation bodies for the purposes of Commission Regulation 305/2008.

Certificates relating to high-voltage switchgear issued in EEA States and Northern Ireland

- 13.—(1) An individual who holds a valid certificate issued under Article 4 of Commission Regulation 305/2008 by a certification body in an EEA State other than the United Kingdom may not carry out the activity mentioned in Article 1 of that Regulation unless—

- (a) the certificate is written in English; or
- (b) the individual holds a translation of the certificate in English.

(2) An individual who holds a valid certificate issued under Article 4 of Commission Regulation 305/2008 by a certification body appointed in Northern Ireland in respect of the activity mentioned in Article 1 of that Regulation may carry out that activity.

Certification and evaluation body: fluorinated greenhouse gas-based solvents

14. The certification and evaluation body for the purposes of Commission Regulation 306/2008 is Fraser Cleaning Technologies Limited (Company Number: SC231307).

Certificates relating to fluorinated greenhouse gas-based solvents issued in EEA States and Northern Ireland

15.—(1) An individual who holds a valid certificate issued under Article 3 of Commission Regulation 306/2008 by a certification body in an EEA State other than the United Kingdom may not carry out the activity mentioned in Article 1 of that Regulation unless—

- (a) the certificate is written in English; or
- (b) the individual holds a translation of the certificate in English.

(2) An individual who holds a valid certificate issued under Article 3 of Commission Regulation 306/2008 by a certification body appointed in Northern Ireland in respect of the activity mentioned in Article 1 of that Regulation may carry out that activity.

Attestation bodies: air conditioning systems in certain motor vehicles

16. The attestation bodies for the purposes of Commission Regulation 307/2008 are—

- (a) the City and Guilds of London Institute;
- (b) the Construction Industry Training Board;
- (c) IMI Awards Limited (Company Number: 06237350);
- (d) the Institute of the Motor Industry;
- (e) the Institute of Road Transport Engineers.

Attestations relating to air conditioning systems in certain motor vehicles issued in EEA States and Northern Ireland

17.—(1) An individual who holds a valid attestation issued under Article 3(2) of Commission Regulation 307/2008 by an attestation body in an EEA State other than the United Kingdom may not carry out the activity mentioned in Article 1 of that Regulation unless—

- (a) the attestation is written in English; or
- (b) the individual holds a translation of the attestation in English.

(2) An individual who holds a valid attestation issued under Article 3(2) of Commission Regulation 307/2008 by an attestation body appointed in Northern Ireland in respect of the activity mentioned in Article 1 of that Regulation may carry out that activity.

Obligation of employers to employ qualified employees

18. The employer of an individual employed to carry out any work or activity referred to in the following provisions must ensure that that individual holds the qualification necessary to enable the individual to carry out the work or activity—

- (a) Article 2(1) of Commission Regulation 303/2008;
- (b) Article 2(1) of Commission Regulation 304/2008;
- (c) Article 1 of Commission Regulation 305/2008;
- (d) Article 1 of Commission Regulation 306/2008;
- (e) Article 1 of Commission Regulation 307/2008.

Obligations on certification bodies, attestation bodies and evaluation bodies to provide information

19.—(1) When requested to do so by any person, a certification body must, within 14 days of the request being made, provide details of any certificate issued by it pursuant to—

- (a) Commission Regulation 303/2008;
- (b) Commission Regulation 304/2008;
- (c) Commission Regulation 305/2008; or
- (d) Commission Regulation 306/2008.

(2) When requested to do so by any person, an attestation body must, within 14 days of the request being made, provide details of an attestation issued by it pursuant to Commission Regulation 307/2008.

(3) In this regulation, “details”, in relation to a certificate or attestation, includes—

- (a) the name of the person to whom the certificate or attestation was issued;
- (b) the date on which the certificate or attestation was issued; and
- (c) in the case of an individual, the examination or training to which the certificate or attestation relates.

(4) When requested to do so by the Secretary of State, a relevant body must provide as soon as reasonably practicable to the Secretary of State such information as the Secretary of State may require to ensure that the obligations of the United Kingdom imposed by the first sentence of Article 10(10) of the 2014 Regulation (training and certification) and by Commission Regulation 308/2008 are complied with.

(5) In paragraph (4), “relevant body” means a certification body, an attestation body or an evaluation body referred to in, or appointed under, these Regulations.

PART 4

Enforcement

Enforcement

20.—(1) The enforcing authority must enforce these Regulations.

(2) In relation to cases of a particular description, or a particular case—

- (a) the Secretary of State may, as regards England, direct that the duty in paragraph (1) is to be discharged by the Secretary of State and not by another enforcing authority;
- (b) the Welsh Ministers may, as regards Wales, direct that the duty in paragraph (1) is to be discharged by the Welsh Ministers and not by another enforcing authority;
- (c) the Scottish Ministers may, as regards Scotland, direct that the duty in paragraph (1) is to be discharged by the Scottish Ministers and not by another enforcing authority;

(d) the Department of the Environment may, as regards Northern Ireland, direct that the duty in paragraph (1) is to be discharged by the Department of the Environment and not by another enforcing authority.

(3) Where the Secretary of State is the enforcing authority or makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations in England.

Appointment of authorised persons

21.—(1) The enforcing authority may authorise in writing such persons (“authorised persons”) as it considers appropriate to act for the purpose of enforcing these Regulations.

(2) An authorisation under any of the following is an authorisation for the purposes of these Regulations—

- (a) section 108 of the Environment Act 1995⁽¹⁸⁾ (powers of enforcing authorities and persons authorised by them);
- (b) Article 19 of the Environment (Northern Ireland) Order 2002⁽¹⁹⁾ (powers of enforcing authorities and persons authorised by them).

(3) An authorisation under any of the following is an authorisation for the purposes of paragraph (1), unless the Secretary of State specifies to the contrary—

- (a) regulation 16 of the Offshore Chemicals Regulations 2002⁽²⁰⁾ (appointment of inspectors);
- (b) regulation 12 of the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005⁽²¹⁾ (inspectors).

Powers of authorised persons

22.—(1) An authorised person may, on production (if so required) of the authority of that person, exercise any of the powers specified in paragraph (2) for the purpose of enforcing these Regulations.

(2) The powers of an authorised person are—

- (a) subject to paragraph (3), to enter premises between the hours of 8 a.m. and 6 p.m. on any working day, other than premises used wholly or mainly for residential purposes, which the authorised person has reason to believe it is necessary for the authorised person to enter;
- (b) on entering any premises by virtue of sub-paragraph (a), to take with the authorised person—

(i) up to four other persons whose presence appears to the authorised person to be required in connection with the exercise by the authorised person of any power under this regulation, including, if the authorised person has reasonable cause to apprehend any serious obstruction in the execution of the duty of the authorised person, a constable; and

(ii) any equipment or materials required for any purpose for which the power of entry is being exercised;

- (c) to make such examination or investigation as may in any circumstances be necessary;

⁽¹⁸⁾ 1995 c. 25. Section 108 is amended by Schedule 3 to the Pollution Prevention and Control Act 1999 (c. 24), section 55(7) to (9) of the Anti-social Behaviour Act 2003 (c. 38), section 53 of the Clean Neighbourhoods and Environment Act 2005 (c. 16), paragraph 3 of Part 1 of Schedule 2 to the Protection of Freedoms Act 2012 (c. 9), section 46(2) of, and paragraph 5(3) of Part 1 of Schedule 3, and paragraph 43(1) and (10)(a) of Part 6 of Schedule 3 to, the Regulatory Reform (Scotland) Act 2014 (asp 3), by S.I. 2000/1973, 2010/675 and 2013/755, and by S.S.I. 2000/323 and 2006/181.

⁽¹⁹⁾ S.I. 2002/3153 (N.I. 7).

⁽²⁰⁾ S.I. 2002/1355, amended by S.I. 2005/2055 and 2011/982. There are other amendments not relevant to this instrument.

⁽²¹⁾ S.I. 2005/2055, amended by S.I. 2011/983. There are other amendments not relevant to this instrument.

- (d) as regards any premises which the authorised person has power to enter, to direct that those premises or any part of them, or anything in them, must be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purposes of any examination or investigation under sub-paragraph (c);
 - (e) to take such measurements and photographs and make such recordings as the authorised person considers necessary for the purpose of any examination or investigation under sub-paragraph (c);
 - (f) to take samples of any articles or substances found in or on any premises which the authorised person has power to enter;
 - (g) in the case of any article or substance found in or on any premises which the authorised person has power to enter, being an article or substance which appears to the authorised person to have caused or to be likely to cause pollution of the environment or harm to human health or to the health of animals or plants, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless that is necessary);
 - (h) in the case of any such article or substance, to take possession of it and detain it for so long as is necessary for all or any of the following purposes—
 - (i) to examine it and do to it anything which the authorised person has power to do under sub-paragraph (g);
 - (ii) to ensure that it is not tampered with before the examination by the authorised person is completed;
 - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under these Regulations;
 - (i) to require any person whom the authorised person has reasonable cause to believe to be able to give any information relevant to any examination or investigation under sub-paragraph (c) to answer (in the absence of anyone, other than someone nominated by that person to be present and anyone whom the authorised person may allow to be present) such questions as the authorised person thinks fit to ask and to sign a declaration of the truth of the answers of that person;
 - (j) to require the production of, or where the information is recorded in computerised form, the furnishing of extracts from, any records which it is necessary for the authorised person to see for the purposes of any examination or investigation under sub-paragraph (c) and to inspect and take copies of, or of any entry in, the records;
 - (k) to require any person to afford the authorised person such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred on the authorised person by this regulation.
- (3) The time limitation specified in paragraph (2)(a) does not apply in relation to offshore installations, Scottish offshore installations or Northern Ireland offshore installations.
- (4) Where an authorised person proposes to exercise the power conferred by paragraph (2)(g) in the case of an article or substance, the authorised person must, if so requested by a person who at the time is present on and has responsibilities in relation to those premises, cause anything which is to be done by virtue of that power to be done in the presence of that person.
- (5) Before exercising the power conferred by paragraph (2)(g) in the case of any article or substance, an authorised person must consult such persons as appear to the authorised person appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which the authorised person proposes to do under the power.
- (6) Where under the power conferred by paragraph (2)(h) an authorised person takes possession of any article or substance found on any premises, the authorised person must—

- (a) leave there, either with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving particulars of that article or substance sufficient to identify it and stating that the authorised person has taken possession of it under that power; and
 - (b) before taking possession of any such article or substance under that power, if it is practical to do so, take a sample of it and give to a responsible person at the premises a portion of the sample marked in a manner sufficient to identify it.
- (7) Nothing in this regulation is taken to compel the production by any person of a document which the person would be entitled to withhold production of on grounds of—
- (a) legal professional privilege on an order for disclosure and inspection in an action in the High Court; or
 - (b) confidentiality in proceedings in the Court of Session in Scotland.
- (8) No person may intentionally prevent any other person from appearing before an authorised person under paragraph (2)(i) or from answering any question to which an authorised person may by virtue of paragraph (2)(i) require an answer.
- (9) No answer given by a person in pursuance of a requirement imposed under paragraph (2)(i) is admissible in evidence in England, Wales, Scotland or Northern Ireland against that person in any proceedings.
- (10) In paragraph (2)(a), “working day” means a day which is not—
- (a) Saturday or Sunday; or
 - (b) Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(22) in the part of the United Kingdom in which the premises are situated.

Warrants

- 23.**—(1) A justice of the peace, in Scotland a stipendiary magistrate or a sheriff, or in Northern Ireland a lay magistrate, may, by signed warrant, permit an authorised person to enter premises, if necessary by reasonable force, if satisfied, on sworn information in writing, that—
- (a) there are reasonable grounds to enter those premises for the purpose of enforcing these Regulations; and
 - (b) any of the conditions in paragraph (2) are met.
- (2) The conditions are—
- (a) entry to the premises has been, or is likely to be, refused, and notice of the intention to apply for a warrant has been given to the occupier;
 - (b) asking for entry to the premises, or giving such a notice, would defeat the object of the entry;
 - (c) entry is required urgently; or
 - (d) the premises are unoccupied or the occupier is temporarily absent.
- (3) A warrant under this regulation is valid for three months.

(22) 1971 c. 80. See section 1 and Schedule 1, which was amended by section 1 of the St. Andrew’s Day Bank Holiday (Scotland) Act 2007 (asp 2).

Information notices

24. An authorised person may, by notice served on any person, require that person to furnish such information as is specified in the notice, in such form and within such period following the service of the notice or at such time as is so specified.

Enforcement notices

- 25.—**(1) An authorised person may serve an enforcement notice on any person who—
- (a) in the opinion of the authorised person, fails to, or is likely to fail to, comply with—
 - (i) a provision of the 2014 Regulation specified in Schedule 2; or
 - (ii) a provision of the Commission Regulations specified in Schedule 3, read in association with Part 3 of these Regulations;
 - (b) submits a report under Article 19 of the 2014 Regulation which is not submitted in accordance with Commission Regulation 1191/2014;
 - (c) fails, where labelling for products and equipment is required under Article 12 of the 2014 Regulation, to comply with any of the following requirements of Commission Regulation 1494/2007—
 - (i) Article 2 (labelling requirements);
 - (ii) Article 3 (form of the label);
 - (iii) Article 4(2) (placing of the label for air conditioning equipment and heat pumps);
 - (d) fails to comply with a requirement under regulation 18;
 - (e) fails to comply with a requirement under regulation 19; or
 - (f) fails to comply with an information notice served under regulation 24.

(2) An authorised person may serve an enforcement notice on a person qualified in relation to fire protection systems who fails to comply with any of the following requirements of Commission Regulation 1497/2007—

- (a) Article 3 (checking system records);
- (b) Article 4(1) (visual checks by certified personnel);
- (c) Article 4(2) (checks in cases of presumed leakage);
- (d) Article 6 (follow-up check).

(3) An authorised person may serve an enforcement notice on an operator of a fire protection system who—

- (a) fails to comply with any of the following requirements of Commission Regulation 1497/2007—
 - (i) Article 2(1) (system records);
 - (ii) Article 2(3) (determination of gas charge by certified personnel);
- (b) fails to ensure that Article 2(2) of Commission Regulation 1497/2007 (indication of gas charge) is complied with; or
- (c) fails to ensure that the following requirements of Commission Regulation 1497/2007 are carried out by a person qualified in relation to fire protection systems—
 - (i) Article 4(4) (checking of pressure gauges and weight-monitoring devices);
 - (ii) Article 5 (repair of leakage);
 - (iii) Article 7 (requirements for newly commissioned systems).

(4) Subject to paragraph (6), an authorised person may serve an enforcement notice on a person qualified in relation to stationary equipment who fails to comply with any of the following requirements of Commission Regulation 1516/2007—

- (a) Article 3 (checking equipment records);
- (b) Article 4 (systematic checks);
- (c) Article 5 (choice of measuring method);
- (d) Article 6 (direct measuring methods);
- (e) Article 7(1) (indirect measuring methods);
- (f) Article 7(2) (examination using a direct method);
- (g) Article 9 (follow-up check).

(5) Subject to paragraph (6), an authorised person may serve an enforcement notice on an operator of stationary equipment who—

- (a) fails to comply with any of the following requirements of Commission Regulation 1516/2007—
 - (i) Article 2(1) (equipment records);
 - (ii) Article 2(3) (determination of gas charge by certified personnel);
- (b) fails to ensure that the following requirements of Commission Regulation 1516/2007 are complied with—
 - (i) Article 2(2) (indication of gas charge);
 - (ii) Article 2(4) (indication of leakage cause); or
- (c) fails to ensure that the following requirements of Commission Regulation 1516/2007 are carried out by a person qualified in relation to stationary equipment—
 - (i) Article 8 (repair of leakage);
 - (ii) Article 10 (requirements for newly commissioned equipment).

(6) Paragraphs (4) and (5) do not apply in respect of equipment with a hermetically sealed system which—

- (a) is labelled as having such a system; and
- (b) contains less than 6 kilograms of fluorinated greenhouse gases.

(7) An enforcement notice must—

- (a) specify the matters constituting the failure to comply or those making a failure to comply likely;
- (b) specify the steps that must be taken to remedy or avert the failure to comply;
- (c) specify the period in which those steps must be taken;
- (d) provide information on the right to appeal under regulation 26; and
- (e) state that it is an offence under regulation 29(1)(e) to fail to comply with the enforcement notice.

(8) An authorised person may at any time withdraw an enforcement notice.

(9) A person on whom an enforcement notice is served must comply with it at their own expense.

(10) If an enforcement notice is not complied with, the enforcing authority may arrange for it to be complied with at the expense of the person on whom it was served.

(11) In this regulation—

- (a) “fire protection system” means a fire protection system, within the meaning given in Article 1 of Commission Regulation 1497/2007, containing 3 kilograms or more of fluorinated greenhouse gases;
- (b) “person qualified in relation to fire protection systems” means an individual who—
 - (i) holds a certificate issued under Article 5 of Commission Regulation 304/2008 which relates to leakage checking of fire protection systems; or
 - (ii) is exempt from holding such a certificate by virtue of Article 4(2) of Commission Regulation 304/2008;
- (c) “person qualified in relation to stationary equipment” means an individual who—
 - (i) holds a valid certificate issued under Article 5 of Commission Regulation 303/2008 which relates to leakage checking of stationary equipment;
 - (ii) is exempt from holding such a certificate by virtue of Article 4(3)(a) or (c) of Commission Regulation 303/2008; or
 - (iii) is exempt from holding such a certificate by virtue of Article 4(3)(b) of Commission Regulation 303/2008 where the person is suitably qualified for the purposes of 3.1.2 of the essential requirements in Schedule 2 to the Pressure Equipment Regulations 1999(23);
- (d) “stationary equipment” means stationary refrigeration, air conditioning or heat pump equipment which contains three kilograms or more of fluorinated greenhouse gases.

Appeals against enforcement notices

- 26.—(1) A person who is aggrieved by an enforcement notice may appeal against it.
- (2) The right of appeal is to a magistrates’ court or, in Scotland, to the sheriff.
 - (3) The procedure on appeal to a magistrates’ court is—
 - (a) in England and Wales, by way of complaint, and the Magistrates’ Courts Act 1980(24) applies to the proceedings;
 - (b) in Northern Ireland, by way of notice, and Part 7 of the Magistrates’ Courts (Northern Ireland) Order 1981(25) applies to the proceedings.
 - (4) An appeal to the sheriff is by summary application.
 - (5) An appeal must be brought by no later than 28 days after the date on which the enforcement notice is served.
 - (6) An enforcement notice is not suspended pending an appeal unless the court or sheriff orders otherwise.

Proceedings before a civil court

- 27.—(1) If the enforcing authority is of the opinion that proceedings against a person for an offence under regulation 29(1)(e) would afford an ineffectual remedy against that person, the enforcing authority may take civil proceedings against that person for the purposes of seeking such remedy as the enforcing authority believes is appropriate in the circumstances.
- (2) Civil proceedings under paragraph (1) may be taken—
 - (a) in the County Court or the High Court; or
 - (b) in Scotland, before the sheriff.

(23) S.I. 1999/2001, to which there are amendments not relevant to this instrument.

(24) 1980 c. 43.

(25) S.I. 1981/1675 (N.I. 26).

Powers of the Secretary of State, the Scottish Ministers and the Department of the Environment

28.—(1) This regulation applies where, in contravention of Article 11 of the 2014 Regulation, a person has imported into the United Kingdom from outside the customs territory of the EU a product or equipment containing, or whose functioning relies upon, fluorinated greenhouse gases.

- (2) The Secretary of State may require the person to, within a reasonable period of time—
- (a) dispose of the product or equipment without causing pollution of the environment or harm to human health or the health of animals or plants;
 - (b) otherwise render it harmless; or
 - (c) remove it from—
 - (i) the United Kingdom;
 - (ii) an offshore installation; or
 - (iii) a Northern Ireland offshore installation.

(3) The Scottish Ministers may require the person to, within a reasonable period of time, remove the product or equipment from a Scottish offshore installation.

(4) The Department of the Environment may require the person to, within a reasonable period of time, remove the product or equipment from a Northern Ireland offshore installation used in connection with any of the activities described in regulation 4(4)(h) and (i).

PART 5

Offences and penalties

Offences

29.—(1) It is an offence for a person to do any of the following, or to cause or permit another person to do any of the following—

- (a) breach any of the prohibitions mentioned in the following provisions of the 2014 Regulation—
 - (i) Article 3(1) (prohibition on intentional release of fluorinated greenhouse gas);
 - (ii) Article 11(1) (read in association with Article 11(2) and (3)) (prohibition on placing specified products and equipment on the market);
 - (iii) Article 14(1) (prohibition on placing equipment not accounted for within quota system on the market);
 - (b) breach Article 14(2) of the 2014 Regulation (requirements to document placing on the market and to draw up declaration of conformity);
 - (c) breach the second paragraph of Article 15(1) (read in association with Article 15(2) and (3)) of the 2014 Regulation (requirement to ensure quantities placed on market do not exceed quota);
 - (d) fail to comply with a requirement under regulation 28(2), (3) or (4); or
 - (e) fail to comply with an enforcement notice.
- (2) It is an offence to—
- (a) intentionally obstruct any person acting in the execution or enforcement of these Regulations;

- (b) fail, without reasonable cause, to give to any such person any assistance or information which that person may reasonably require for those purposes;
- (c) furnish to any such person any information knowing it to be false or misleading; or
- (d) fail to produce a document or record to any such person when required to do so.

Offences committed by bodies corporate, partnerships and unincorporated associations

30.—(1) In respect of any offence under these Regulations committed by a body corporate, an officer as well as the body corporate, is guilty of the offence and liable if the offence is proved—

- (a) to have been committed with the consent or connivance of an officer; or
- (b) to be attributable to any neglect on the part of the officer.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as it applies to an officer of a body corporate.

(3) In respect of any offence committed by a partnership or a Scottish partnership, a partner as well as the partnership or Scottish partnership is guilty of the offence and liable if the offence is shown—

- (a) to have been committed with the consent or connivance of a partner; or
- (b) to be attributable to any neglect on the part of that partner.

(4) For the purpose of proceedings for an offence alleged to have been committed by a partnership, section 70 of the Criminal Procedure (Scotland) Act 1995(26) applies as it applies in relation to a body corporate.

(5) Subject to paragraph (8), proceedings for an offence alleged to have been committed by an unincorporated association must be brought in the name of the association and not in the name of any of its members.

(6) For the purpose of proceedings under paragraph (5)—

- (a) rules of court relating to the service of documents have effect as if the association were a body corporate; and
- (b) the following provisions apply as they apply in relation to a body corporate—
 - (i) section 33 of the Criminal Justice Act 1925(27) and Schedule 3 to the Magistrates' Courts Act 1980(28);
 - (ii) section 70 of the Criminal Procedure (Scotland) Act 1995; and
 - (iii) section 18 of the Criminal Justice Act (Northern Ireland) 1945(29) and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981(30).

(7) A fine imposed on an unincorporated association on its conviction for an offence must be paid out of the funds of the association.

(26) 1995 c. 46. Section 70 is amended by section 10(6) of the Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5), section 28 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), section 66(1) and (3) to (12) of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) and section 6(4) of the Partnerships (Prosecution) (Scotland) Act 2013 (c. 21), and by S.I. 2001/1149.

(27) 1925 c. 86. Section 33 is amended by Schedule 6 to the Magistrates' Courts Act 1952 (c. 55), Part 2 of Schedule 8 to the Courts Act 1971 (c. 23) and paragraph 71 of Schedule 8 and Schedule 10, to the Courts Act 2003 (c. 39).

(28) 1980 c. 43. Schedule 3 is amended by section 25(2) of, and Schedule 13 to, the Criminal Justice Act 1991 (c. 53), and paragraph 51(13) of Part 2 of Schedule 3, and Part 4 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44).

(29) 1945 c. 15 (N.I.).

(30) S.I. 1981/1675 (N.I. 26).

(8) An officer of an unincorporated association, other than a partnership or a member of its governing body that is, as well as the association, guilty of the offence is liable to be proceeded against and punished accordingly if an offence committed by the association is shown—

- (a) to have been committed with the consent or connivance of such an officer or member; or
- (b) to be attributable to any neglect on the part of such an officer or member.

(9) In this regulation—

- (a) “officer”, in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity;
- (b) “partner” includes a person purporting to act as a partner.

Penalties

31. A person who commits an offence under these Regulations is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

PART 6

Review, amendments and revocation

Review

32.—(1) This regulation does not apply in respect of the application of these Regulations in Scotland.

(2) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions in a report; and
- (c) publish the report.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved in a less burdensome way.

(4) The first report under this regulation must be published before the end of the period of five years beginning with the date on which these Regulations come into force.

(5) Reports under this regulation are, after the first report, to be published at intervals not exceeding five years.

Amendments

33.—(1) In the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010(**31**), omit article 11.

(31) [S.I. 2010/1513](#), to which there are amendments not relevant to this instrument.

(2) In the Agriculture, Animals, Environment and Food etc. (Miscellaneous Amendments) Order 2012(32), omit article 29.

(3) In the English and Welsh texts of the Natural Resources Body for Wales (Functions) Order 2013(33), in Schedule 4, omit paragraphs 315 to 317.

Revocation

34. The Fluorinated Greenhouse Gases Regulations 2009(34) are revoked.

Dan Rogerson
Parliamentary Under Secretary of State
Department for Environment, Food and Rural
Affairs

16th February 2015

(32) [S.I. 2012/2897](#).

(33) [S.I. 2013/755 \(W. 90\)](#), to which there are amendments not relevant to this instrument.

(34) [S.I. 2009/261](#), amended by [S.I. 2010/1513](#), [2011/1043](#), [2012/2897](#) and [2013/755](#).