

**2018 No. 206**

**ENVIRONMENTAL PROTECTION**

**The Fluorinated Greenhouse Gases (Amendment) Regulations  
(Northern Ireland) 2018**

*Made* - - - - *10th December 2018*

*Coming into operation* - *17th January 2019*

The Department of Agriculture, Environment and Rural Affairs, being a department designated<sup>(a)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(b)</sup> in relation to the environment, makes these Regulations in exercise of the powers conferred by section 2(2) of that Act.

**Citation, commencement and application**

**1.**—(1) These Regulations may be cited as the Fluorinated Greenhouse Gases (Amendment) Regulations (Northern Ireland) 2018 and come into operation on 17th January 2019.

(2) These Regulations apply to Northern Ireland only in so far as they do not 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<sup>(c)</sup>.

**Amendment of the Fluorinated Greenhouse Gases Regulations (Northern Ireland) 2015**

**2.** The Fluorinated Greenhouse Gases Regulations (Northern Ireland) 2015<sup>(d)</sup> are amended in accordance with regulations 3 to 23.

**Amendment of regulation 1 (citation, commencement and application)**

**3.** In regulation 1(2), the words “and Northern Ireland offshore installations” are omitted.

**Amendment of regulation 2 (interpretation: general)**

**4.**—(1) In regulation 2(1)—

(a) before the definition of “authorised person”, insert the following definition—

““the Interpretation Act” means the Interpretation Act (Northern Ireland) 1954<sup>(e)</sup>”; and

(b) for “Department of the Environment” substitute “Department of Agriculture, Environment and Rural Affairs”.

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(a) S.I. 2008/301

(b) 1972 c. 68. Section 2(2) is amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).

(c) 1998 c. 47.

(d) S.R. 2015 No. 425.

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

(2) For regulation 2(2) substitute—

“(2) The Interpretation Act applies to these Regulations as it applies to an Act of the Assembly.

(3) Section 20A (references to EU instruments) of the Interpretation Act 1978(a) applies to these Regulations as it applies to Acts of Parliament.”.

### **Amendment of regulation 3 (interpretation: EU Regulations)**

**5.**—(1) Regulation 3 is amended in accordance with paragraphs (2) to (4).

(2) In paragraph (1)—

(a) the following definitions are omitted—

(i) “Commission Regulation 1494/2007(b)”;

(ii) “Commission Regulation 303/2008(c)”;

(iii) “Commission Regulation 305/2008(d)”;

(iv) “Commission Regulation 308/2008(e)”;

(b) after the definition of “Commission Regulation 308/2008”, omit “and”;

(c) in the definition of “Commission Regulation 1191/2014”, for “, as amended from time to time.”, substitute “;”;

(d) after the definition of “Commission Regulation 1191/2014”, insert—

““Commission Regulation 2015/2065” means Commission Implementing Regulation (EU) 2015/2065 establishing, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council, the format for notification of the training and certification programmes of the Member States(f);

“Commission Regulation 2015/2066” means Commission Implementing Regulation (EU) 2015/2066 establishing, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council, minimum requirements and the conditions for mutual recognition for the certification of natural persons carrying out installation, servicing, maintenance, repair or decommissioning of electrical switchgear containing fluorinated greenhouse gases or recovery of fluorinated greenhouse gases from stationary electrical switchgear(g);

“Commission Regulation 2015/2067” means Commission Implementing Regulation (EU) 2015/2067 establishing, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council, minimum requirements and the conditions for mutual recognition for the certification of natural persons as regards stationary refrigeration, air conditioning and heat pump equipment, and refrigeration units of refrigerated trucks and trailers, containing fluorinated greenhouse gases and for the certification of companies as regards stationary refrigeration, air conditioning and heat pump equipment, containing fluorinated greenhouse gases(h); and

“Commission Regulation 2015/2068” means Commission Implementing Regulation (EU) 2015/2068 establishing, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council, the format of labels for products and equipment containing fluorinated greenhouse gases(i).”.

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(a) 1978 c. 30

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

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

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

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

(f) OJ No L 332, 18.12.2007, p 25.

(g) OJ No L 301, 18.11.2015, p 22.

(h) OJ No L 301, 18.11.2015, p 28.

(i) OJ No L 301, 18.11.2015, p 39.

(3) For paragraph (2)(b) to (j), substitute—

- “(b) Commission Regulation 1497/2007(a);
- (c) Commission Regulation 1516/2007(b);
- (d) Commission Regulation 304/2008(c);
- (e) Commission Regulation 306/2008(d);
- (f) Commission Regulation 307/2008(e);
- (g) Commission Regulation 1191/2014(f);
- (h) Commission Regulation 2015/2065;
- (i) Commission Regulation 2015/2066;
- (j) Commission Regulation 2015/2067; and
- (k) Commission Regulation 2015/2068.”.

(4) For paragraph (3), substitute—

“(3) A reference in these Regulations to Commission Regulation 1191/2014 is a reference to that Commission Regulation as amended from time to time.”.

#### **Amendment of regulation 4 (interpretation – offshore installations)**

- 6.**—(1) Regulation 4(1) is amended in accordance with paragraphs (2) and (3).
- (2) For “, other than a ship,”, substitute “(other than a ship)”.
- (3) After “used”, insert “, or intended to be used or has been used,”.

#### **Insertion of new regulation 5A (service of notices)**

**7.** After regulation 5 (competent authority), insert—

##### **“Service of notices**

**5A.**—(1) Section 24 (service of documents) of the Interpretation Act applies to the service of notices subject to this regulation and any specific provision made in these Regulations for a particular type of notice.

(2) A notice takes effect when served.

(3) A notice may, subject to paragraph (8) and without prejudice to the application of section 24(2) of the Interpretation Act, be served on a person by sending it to the person by electronic means.

(4) A notice to a partnership may be given to a partner or a person who has the control or management of the partnership business at the address of the principal office of the partnership.

(5) For the purposes of this regulation, the principal office of a company registered outside the United Kingdom, or of a partnership undertaking business outside the United Kingdom, is its principal office within the United Kingdom.

(6) If a person has specified an address in the United Kingdom, other than the person’s address within the meaning of paragraph (4) or section 24 of the Interpretation Act, as the one at which the person or someone on the person’s behalf will accept notices of the same description as a notice, that address is also treated for the purposes of this regulation and

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

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

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

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

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

(f) OJ No L 318, 5.11.2014, p 5

section 24 of the Interpretation Act as the person's address by which service may be effected.

(7) A notice may be sent to a person by electronic means only if—

- (a) the person has indicated that notices of the same description as the notice may be given to the person by being sent to an electronic address and in an electronic form specified for that purpose; and
- (b) the notice is sent to that address in that form.

(8) A notice sent to a person by electronic means is, unless the contrary is proved, to be treated as having been given at 9am on the working day immediately following the day on which it was sent.

(9) In this regulation—

- (a) “electronic address” means any number or address used for the purposes of sending or receiving documents or information by electronic means; and
- (b) “notice” means an information notice served under regulation 22 or an enforcement notice.”.

**Substitution of regulation 6 (certification and evaluation bodies: stationary refrigeration, air conditioning and heat pump equipment)**

8. For regulation 6, substitute—

**“Appointment of certification, attestation and evaluation bodies**

6.—(1) The Department, after consulting the Scottish Ministers, the Welsh Ministers and the Secretary of State, may appoint such person and on such terms as the Department thinks fit to be—

- (a) in relation to Commission Regulation 304/2008—
  - (i) a certification body for the purposes of Article 5 (personnel certificates);
  - (ii) an evaluation body for the purposes of Article 5; and
  - (iii) a certification body for the purposes of Article 8 (company certificates);
- (b) for the purposes of Commission Regulation 306/2008—
  - (i) a certification body; and
  - (ii) an evaluation body;
- (c) for the purposes of Commission Regulation 307/2008, an attestation body;
- (d) for the purposes of Commission Regulation 2015/2066—
  - (i) a certification body; and
  - (ii) an evaluation body;
- (e) in relation to Commission Regulation 2015/2067—
  - (i) a certification body for the purposes of Article 4 (certificates for natural persons);
  - (ii) an evaluation body for the purposes of Article 4; and
  - (iii) a certification body for the purposes of Article 6 (company certificates).

(2) The Department may charge such fees as it considers will enable the recovery of any reasonable expenses incurred in reviewing an application to be appointed as a certification, evaluation and/or attestation body under paragraph (1).

(3) The Department may, after consulting the Scottish Ministers, the Welsh Ministers and the Secretary of State, decide to terminate the appointment of a person appointed under paragraph (1) by giving that person notice of the decision, with reasons, in writing.”.

**Amendment of regulation 7 (certificates relating to stationary refrigeration, air conditioning and heat pump equipment, issued in EEA States and Great Britain)**

9. In regulation 7, for “Article 5 or 8 of Commission Regulation 303/2008”, for each time that it appears, substitute “Article 4 or 6 of Commission Regulation 2015/2067”.

**Omission of regulations 8 and 10**

10. Regulations 8 (certification and evaluation bodies: fire protection systems and fire extinguishers) and 10 (certification and evaluation bodies: high-voltage switchgear) are omitted.

**Amendment of regulation 11 (certificates relating to high-voltage switchgear issued in EEA States and Great Britain)**

11.—(1) Regulation 11 is amended in accordance with paragraphs (2) and (3).

(2) In the heading, for “high-voltage”, substitute “electrical”.

(3) For “Article 4 of Commission Regulation 305/2008”, for each time that it appears, substitute “Article 3 of Commission Regulation 2015/2066”.

**Omission of regulations 12 and 14**

12. Regulations 12 (certification and evaluation body: fluorinated greenhouse gas-based solvents) and 14 (attestation bodies: air conditioning systems in certain motor vehicles) are omitted.

**Amendment of regulation 16 (obligation of employers to employ qualified employees)**

13. In regulation 16—

(a) in sub-paragraph (a), for “303/2008”, substitute “2015/2067”; and

(b) in sub-paragraph (c), for “305/2008”, substitute “2015/2066”.

**Amendment of regulation 17 (obligations on certification bodies, attestation bodies and evaluation bodies to provide information)**

14. In regulation 17—

(a) in paragraph (1)(a), for “303/2008”, substitute “2015/2067”;

(b) in paragraph (1)(c), for “305/2008”, substitute “2015/2066”; and

(c) in paragraph (4), for “308/2008”, substitute “2015/2065”.

**Insertion of new regulation 17A (publication of details of certification bodies, attestation bodies and evaluation bodies)**

15. After regulation 17, insert—

**“Publication of details of certification bodies, attestation bodies and evaluation bodies**

17A.—(1) The Department, after consulting the Scottish Ministers, the Welsh Ministers and the Secretary of State, must publish the following information about any person appointed as a certification body, attestation body or evaluation body under regulation 6—

(a) name;

(b) company number, where relevant;

(c) postal address;

(d) telephone number; and

(e) e-mail address.

(2) Publication under this regulation is to be in such a manner as the Department considers appropriate.”.

#### **Amendment of regulation 18 (enforcement)**

**16.**—(1) Regulation 18 is amended in accordance with paragraphs (2) and (3).

(2) In paragraph (1), for “(5)”, substitute “(8)”.

(3) After paragraph 18(6), insert—

“(7) The district council must comply with a direction given to it under paragraph (2).

(8) A direction given under paragraph (2) may be revoked or modified by a further direction given under that paragraph.”.

#### **Amendment of regulation 22 (information notices)**

**17.** In regulation 22, for “authorised person”, substitute “enforcing authority”.

#### **Amendment of regulation 23 (enforcement notices)**

**18.**—(1) Regulation 23 is amended in accordance with paragraphs (2) to (5).

(2) For “authorised person”, for each time that it appears, substitute “enforcing authority”.

(3) In paragraph (1), for sub-paragraph (c), substitute—

“(c) fails, where labelling for products and equipment is required under Article 12 of the 2014 Regulation, to comply with Article 2 of Commission Regulation 2015/2068 (labelling format);”.

(4) In paragraph (10), for each time that it appears, after “enforcing authority”, insert “which served the notice”.

(5) In paragraph (11)(c)—

(a) in head (i), for “Article 5 of Commission Regulation 303/2008”, substitute “Article 4 of Commission Regulation 2015/2067”;

(b) in head (ii), for “Article 4(3)(a) or (c) of Commission Regulation 303/2008”, substitute “Article 3(3)(b) or (4) of Commission Regulation 2015/2067”; and

(c) for head (iii), substitute—

“(iii) is exempt from holding such a certificate by virtue of Article 3(3)(a) of Commission Regulation 2015/2067 where the person is suitably qualified for the purposes of the essential safety requirements in paragraph 21(3) (permanent joining) of Part 3 of Schedule 2 to the Pressure Equipment (Safety) Regulations 2016(a);”.

#### **Amendment of regulation 24 (appeals against enforcement notices)**

**19.** After regulation 24(5), insert—

“(6) The grounds for an appeal brought under this regulation are that a decision to serve the enforcement notice was—

(a) based on an error of fact;

(b) wrong in law;

(c) wrong for any other reason; or

(d) unreasonable.”.

**Amendment of regulation 27 (offences committed by bodies corporate, partnerships and unincorporated associations)**

20. In regulation 27(1)(a), the words “(Northern Ireland) 1954” are omitted.

**Omission of Schedule 1 (certification and evaluation bodies (high voltage switchgear))**

21. Schedule 1 is omitted.

**Amendment of Schedule 2 (2014 Regulation provisions)**

22. In Schedule 2, in the table, after the entry entitled “Article 8(3)”, insert—

“Article 10(11)	Requirement on undertakings assigning tasks referred to in Article 10(1) to another undertaking to take reasonable steps to ascertain that the latter holds the necessary certificates for the required tasks.”.
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**Amendment of Schedule 3 (Commission Regulation provisions)**

23.—(1) Schedule 3 is amended in accordance with paragraphs (2) and (3).

(2) For Table 1 (certification for stationary refrigeration, air conditioning and heat pump equipment), substitute—

**“Table 1**

**Certification for stationary refrigeration, air conditioning and heat pump equipment**

<i>Provision of Commission Regulation 2015/2067</i>	<i>Summary of subject matter</i>
Article 3(1) (read in association with Articles 2, 3(3) and (4))	Requirement on natural persons carrying out activities referred to in Article 2(1) (scope) to hold a certificate as referred to in Article 4 (certificates for natural persons) for the corresponding category, as set out in Article 3(2) (certification of natural persons).
Article 5	Requirement on companies referred to in Article 2(2) to hold a certificate as referred to in Article 6 (company certificates).”.

(3) For Table 3 (certification for recovery of fluorinated greenhouse gases from high voltage switchgear), substitute—

**“Table 3**

**Certification for electrical switchgear**

<i>Provision of Commission Regulation 2015/2066</i>	<i>Summary of subject matter</i>
Article 2(1) (read in association with Articles 2(2) and (3) and 9)	Requirement on natural persons carrying out the activities referred to in Article 1 (subject matter and scope) to hold a certificate as referred to in Article 3 (issuance of certificates to natural persons).”.

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on  
10th December 2018.



*Dave Foster*

A senior officer of the Department of Agriculture, Environment and Rural Affairs



## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make updates to existing Regulations on fluorinated greenhouse gases (“F-gases”).

F-gases are, in the short term, harmless to humans, animals and plants. However, in the long term, they have a very high Global Warming Potential (“GWP”), much higher than carbon dioxide, contributing to rising global temperatures.

EU legislation therefore requires that the use of F-gases is restricted and monitored. Laws on F-gases have therefore been compiled for Northern Ireland (including on offshore installations in Northern Ireland waters), as F-gases are used in a number of sectors of industry in Northern Ireland.

Some of the features of these amending Regulations are the introduction of new requirements for businesses on labelling of equipment containing F-gases, the inclusion of work with refrigeration units of refrigerated trucks and trailers in several F-gas offences, and a new requirement for businesses transferring F-gas work to another organisation.

The Regulations also contain a new certification requirement for work with F-gases in stationary refrigeration, air conditioning, heat pumps and the refrigeration units of trucks and trailers. There is also a variation in the existing provisions on certification for work with F-gases in electrical switchgear.

An impact assessment of the effect that these Regulations would have upon the costs of business is available from the Department of Agriculture, Environment and Rural Affairs (DAERA), Klondyke Building, 1 Cromac Avenue, Gasworks Business Park, Belfast, BT7 2JA.

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