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STATUTORY INSTRUMENTS

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**1994 No. 199**

**The Environmental Protection (Non-Refillable Refrigerant Containers) Regulations 1994**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Environmental Protection (Non-Refillable Refrigerant Containers) Regulations 1994 and shall come into force on 2nd March 1994.

(2) Subject to paragraph (3), these Regulations shall apply to Great Britain and Northern Ireland.

(3) Regulations 4 and 5 shall apply to Great Britain only.

**Interpretation**

2.—(1) In these Regulations—

“authorised person” means a person authorised by—

(i) the Secretary of State; or

(ii) in Great Britain, any local authority; or

(iii) in Northern Ireland, any district council (within the meaning of that term in section 1 of the Local Government Act (Northern Ireland) 1972<sup>(1)</sup>),

for any purpose of these Regulations;

“non-refillable refrigerant container” means a container which—

(a) is designed not to be refillable;

(b) contains a Schedule 1 substance or a Schedule 2 substance for the purpose of supplying it for filling or refilling air-conditioning or refrigeration machinery; and

(c) contains that substance at a pressure greater than atmospheric pressure, in the case of a container which contains a Schedule 1 substance, or greater than 3 bar at 50°C, in the case of a container which contains a Schedule 2 substance.

(2) In the definition of “non-refillable refrigerant container” in paragraph (1)—

“Schedule 1 substance” means a substance listed in Schedule 1 or a substance consisting of a mixture of substances which includes a substance listed in Schedule 1 but does not include a substance listed in Schedule 2;

“Schedule 2 substance” means a substance listed in Schedule 2 or a substance consisting of a mixture of substances which includes a substance listed in Schedule 2.

**Prohibition of importation, landing and unloading**

3.—(1) No person shall, other than for the purposes of research and development or analysis, or for export, import a non-refillable refrigerant container into the United Kingdom.

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(1) 1972 c. 9 (N.I.).

(2) Subject to paragraph (3), no person shall knowingly land or unload a non-refillable refrigerant container in the United Kingdom which is being imported contrary to paragraph (1).

(3) Paragraph (2) shall not apply to an authorised person who is exercising any of the powers prescribed in regulation 7 for the purpose of carrying these Regulations into effect.

#### **Prohibition of supply**

4. No person shall, other than for the purposes of research and development or analysis, or for export, supply a non-refillable refrigerant container.

#### **Prohibition of storage**

5.—(1) Subject to paragraph (2), no person shall, other than for the purposes of research and development or analysis, or for export, store a non-refillable refrigerant container.

(2) Paragraph (1) shall not apply to an authorised person who is exercising any of the powers prescribed in regulation 7 for the purpose of carrying these Regulations into effect.

#### **Powers of the Secretary of State**

6. The Secretary of State may require a person who has imported, landed or unloaded a non-refillable refrigerant container in contravention of regulation 3—

- (a) to dispose of it without causing pollution of the environment or otherwise to render it harmless, or
- (b) to remove it from the United Kingdom,

and such a person shall comply with that requirement.

#### **Powers of authorised persons**

7.—(1) An authorised person may, on production (if so required) of his authority, exercise any of the powers in paragraph (2) below for the purpose of carrying these Regulations into effect.

(2) The powers of an authorised person are—

- (a) at any reasonable time to enter premises, other than premises used wholly or mainly for residential purposes, which he has reason to believe it is necessary for him to enter;
- (b) on entering any premises by virtue of paragraph (a) above to take with him—
  - (i) if the authorised person has reasonable cause to apprehend any serious obstruction in the execution of his duty, 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 and investigation as may in any circumstances be necessary;
- (d) as regards any premises which he has power to enter, to direct that those premises or any part of them, or anything in them, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under paragraph (c) above;
- (e) to take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (c) above;
- (f) to take samples of any articles or substances found in or on any premises which he has power to enter;

- (g) in the case of any article or substance found in or on any premises which he has power to enter, being an article or substance which appears to him to have caused or to be likely to cause pollution of the environment, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless this is necessary);
  - (h) in the case of any such article or substance as is mentioned in paragraph (g) above, to take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely—
    - (i) to examine it and do to it anything which he has power to do under that paragraph;
    - (ii) to ensure that it is not tampered with before his examination of it is completed;
    - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under regulation 8 below;
  - (i) to require any person whom he has reasonable cause to believe to be able to give any information relevant to any examination or investigation under paragraph (c) above to answer (in the absence of persons other than a person nominated to be present and any persons 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 his answers;
  - (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 him to see for the purposes of any examination or investigation under paragraph (c) above and to inspect and take copies of, or of any entry in, the records;
  - (k) to require any person to afford him 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 him by this regulation.
- (3) No answer given by a person in pursuance of a requirement imposed under paragraph (2) (i) shall be admissible in evidence in England, Wales or Northern Ireland against that person in any proceedings, or in Scotland against that person in any criminal proceedings.

(4) Nothing in this regulation shall be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the High Court or, in relation to Scotland, on an order for the production of documents in an action in the Court of Session.

## **Offences**

**8.—(1)** Any person who contravenes regulation 3, 4, or 5 or causes or permits another person to contravene regulation 3, 4 or 5, or fails to comply with regulation 6, or causes or permits another person to fail to comply with regulation 6, shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding the statutory maximum and, on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.

(2) Any person who—

- (a) without reasonable excuse, fails to comply with any requirement imposed under regulation 7(2),
- (b) prevents any other person from appearing before or from answering any question to which an authorised person may by virtue of regulation 7(2)(i) require an answer,
- (c) intentionally obstructs an authorised person in the exercise or performance of his powers or duties,

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- (d) makes a statement which he knows to be false or misleading in a material particular, where the statement is made in purported compliance with a requirement to furnish information imposed under regulation 7(2)(i), or
- (e) falsely pretends to be an authorised person,

shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

Signed by authority of the Secretary of State for the Environment

19th January 1994

*Robert Atkins*  
Minister of State,  
Department of the Environment

21st January 1994

*John Redwood*  
Secretary of State for Wales

26th January 1994

*Hector Monro*  
Parliamentary Under Secretary of State, Scottish  
Office

31st January 1994

*Patrick Mayhew*  
Secretary of State for Northern Ireland