
STATUTORY INSTRUMENTS

2015 No. 310

The Fluorinated Greenhouse Gases Regulations 2015

PART 4

Enforcement

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(1);
 - (d) “stationary equipment” means stationary refrigeration, air conditioning or heat pump equipment which contains three kilograms or more of fluorinated greenhouse gases.

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