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STATUTORY INSTRUMENTS

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**2009 No. 261**

**ENVIRONMENTAL PROTECTION**

**The Fluorinated Greenhouse Gases Regulations 2009**

*Made - - - - 4th February 2009*

*Laid before Parliament 12th February 2009*

*Coming into force in accordance with regulation 1*

The Secretary of State is a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to the environment.

These Regulations make provision for a purpose mentioned in that section and it appears to the Secretary of State that it is expedient for the references to—

- (a) [Commission Regulation \(EC\) No 1493/2007](#) establishing, pursuant to Regulation (EC) No 842/2006 of the European Parliament and of the Council, the format for the report to be submitted by producers, importers and exporters of certain fluorinated greenhouse gases<sup>(3)</sup>, and
- (b) [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<sup>(4)</sup>,

to be construed as a reference to those Commission Regulations as amended from time to time.

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972<sup>(5)</sup>.

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(1) [S.I. 2008/301](#). The power of the Secretary of State, as a Minister designated in relation to the environment, to make regulations which extend to Scotland remains exercisable by virtue of section 57(1) of the [Scotland Act 1998](#) (c. 46).

(2) [1972 c. 68](#).

(3) OJ No L 332, 18.12.07, p 7.

(4) OJ No L 332, 18.12.07, p 25.

(5) Paragraph 1A of Schedule 2 was inserted by section 28 of the [Legislative and Regulatory Reform Act 2006](#) (c. 51).

## PART 1

### Introductory provisions

#### Citation, commencement, extent and application

- 1.—(1) These Regulations—
- (a) may be cited as the Fluorinated Greenhouse Gases Regulations 2009; and
  - (b) other than regulation 11, come into force on 9th March 2009.
- (2) Regulation 11 comes into force on 4th July 2009.
- (3) These Regulations extend to Northern Ireland only in so far as they relate to importation into the United Kingdom from outside the customs territory of the Community.
- (4) These Regulations apply—
- (a) subject to paragraph (5), to offshore installations; and
  - (b) to Scottish offshore installations.
- (5) Except in relation to importation into the United Kingdom from outside the customs territory of the Community, these Regulations do not apply to offshore installations in the tidal waters or parts of the sea in or adjacent to Northern Ireland up to the seaward limits of the territorial sea.

#### Revocation

2. The Fluorinated Greenhouse Gases Regulations 2008<sup>(6)</sup> are revoked.

#### Interpretation

- 3.—(1) In these Regulations—
- “the 2006 Regulation” means Regulation (EC) No 842/2006 of the European Parliament and of the Council on certain fluorinated greenhouse gases<sup>(7)</sup>;
- “the Agency” means—
- (a) as regards England and Wales, the Environment Agency, and
  - (b) as regards Scotland, the Scottish Environment Protection Agency;
- “authorised person” means a person authorised under regulation 45;
- “Commission Regulation 1493/2007” means Commission Regulation (EC) No 1493/2007 establishing, pursuant to Regulation (EC) No 842/2006 of the European Parliament and of the Council, the format for the report to be submitted by producers, importers and exporters of certain fluorinated greenhouse gases;
- “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<sup>(8)</sup>;
- “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<sup>(9)</sup>;

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<sup>(6)</sup> S.I. 2008/41.

<sup>(7)</sup> OJ No L 161, 14.6.06, p 1.

<sup>(8)</sup> OJ No L 332, 18.12.07, p 25.

<sup>(9)</sup> OJ No L 333, 19.12.07, p 4.

“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<sup>(10)</sup>;

“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<sup>(11)</sup>;

“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<sup>(12)</sup>;

“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<sup>(13)</sup>;

“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<sup>(14)</sup>;

“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<sup>(15)</sup>;

“course of training” includes the training of an employee whilst engaged in work for which the employee is employed;

“employed” means employed under a contract of employment and “employee” and “employer” are construed accordingly;

“enforcement notice” means a notice served under regulation 48(1);

“the enforcing authority” has the meaning given in paragraph (3);

“in-house qualification” means a qualification verified by a certificate of competence or other written confirmation issued by an employer to such of the employees of that employer who have successfully completed a course of training provided by that employer relating to the activity in question;

“the local authority” has the meaning given in paragraph (4);

“offshore installation” has the meaning given in paragraph (5);

“operator” means the person who exercises actual power over the technical functioning of the equipment or systems which are referred to in these Regulations;

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(10) OJ No L 335, 20.12.07, p 10.

(11) OJ No L 92, 3.4.08, p 3.

(12) OJ No L 92, 3.4.08, p 12.

(13) OJ No L 92, 3.4.08, p 17.

(14) OJ No L 92, 3.4.08, p 21, corrected by a corrigendum published in OJ No L 280, 23.10.08, p 38.

(15) OJ No L 92, 3.4.08, p 25.

“placing on the market” has the same meaning as it has in Article 2.7 of the 2006 Regulation except that it does not include import into the customs territory of the Community, and cognate expressions are construed accordingly;

“the 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<sup>(16)</sup>), the Common Council of the City of London; and
- (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;

“premises” includes—

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

and a reference to entering premises includes a reference to boarding an aircraft, a ship, an offshore installation or a Scottish offshore installation;

“prohibition notice” means a notice served under regulation 48(3);

“Scottish offshore installation” has the meaning given in paragraph (6);

“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;

“stationary application” has the meaning given in paragraph (8).

(2) In these Regulations, the following expressions have the meaning given in Article 2 of the 2006 Regulation—

“container”;

“fluorinated greenhouse gases”;

“heat pump”;

“leakage detection system”;

“preparation”.

(3) In these Regulations, “the enforcing authority” means—

- (a) as regards England, the Agency, the local authority, the port health authority or the Secretary of State;
- (b) as regards Wales, the Agency, the local authority, the port health authority or the Welsh Ministers;
- (c) as regards Scotland, the Agency, the local authority or the Scottish Ministers;
- (d) as regards offshore installations, the Secretary of State; and
- (e) as regards Scottish offshore installations, the Scottish Ministers.

(4) In these Regulations, “the local authority” means—

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(16) 1984 c. 22.

- (a) in relation to 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) in relation to Wales—
    - (i) a county council, or
    - (ii) a county borough council;
  - (c) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994<sup>(17)</sup>.
- (5) In these Regulations, “offshore installation” means an installation or structure, other than a ship or a Scottish 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 (iii), the area designated by an Order in Council under section 1(7) of the Continental Shelf Act 1964<sup>(18)</sup>; or
    - (iii) in the case of the activity listed in sub-paragraph (b)(iv), the Renewable Energy Zone designated by the Renewable Energy Zone (Designation of Area) Order 2004<sup>(19)</sup> (“the 2004 Order”) in respect of which the Secretary of State has functions under these Regulations; 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 storage of gas in or under the shore or bed of waters described in sub-paragraph (a)(i) and (ii) or the recovery of gas so stored;
    - (iii) 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 waters described in sub-paragraph (a)(i) and (ii); or
    - (iv) the production of energy from water or wind.
- (6) In these Regulations, “Scottish offshore installation” means an installation or structure 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 Renewable Energy Zone designated by the 2004 Order in respect of which the Scottish Ministers have functions by virtue of the Renewable Energy Zone (Designation of Area) (Scottish Ministers) Order 2005<sup>(20)</sup>; and
  - (b) used in connection with the production of energy from water or wind.
- (7) For the purposes of paragraphs (5)(b) and (6)(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, for the carrying on of such an activity.
- (8) In these Regulations, “stationary application” means—

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<sup>(17)</sup> 1994 c. 39.

<sup>(18)</sup> 1964 c. 29. Section 1(7) is amended by section 37 of, and paragraph 1 of Schedule 3 to, the [Oil and Gas \(Enterprise\) Act 1982](#) (c. 23). Areas have been designated under section 1(7) by [S.I. 1987/1265](#) (as amended by [S.I. 2000/3062](#), [2000/3062](#) (as amended by [S.I. 2001/3670](#)) and [2001/3670](#)).

<sup>(19)</sup> [S.I. 2004/2668](#).

<sup>(20)</sup> [S.I. 2005/3153](#).

- (a) refrigeration equipment and its circuits,
- (b) air conditioning equipment and its circuits,
- (c) heat pump equipment and its circuits, or
- (d) a fire protection system,

which contains a fluorinated greenhouse gas and which is normally not in transit during operation.

(9) Other expressions used but not defined in these Regulations and used in—

- (a) the 2006 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, or
- (i) Commission Regulation 307/2008,

have the same meaning in these Regulations as they have in the 2006 Regulation and in the Commission Regulations referred to in sub-paragraph (b) to (i) (as the case may be).

(10) A reference in these Regulations to—

- (a) Commission Regulation 1493/2007, and
- (b) Commission Regulation 1494/2007,

is a reference to those Commission Regulations as amended from time to time.

### **Competent authority**

4.—(1) The Secretary of State is the competent authority for the purposes of the 2006 Regulation in its application to—

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

(2) The Scottish Ministers are the competent authority for the purposes of the 2006 Regulation in its application to Scottish offshore installations.

## **PART 2**

### **General provisions**

#### **Leakages**

5. It is an offence for the operator of a stationary application to fail to comply with—

- (a) Article 3.1 of the 2006 Regulation (prevention and repair of leakage); or
- (b) Article 3.2 of the 2006 Regulation (checks for leakage), as qualified by Article 3.4 of the 2006 Regulation.

### **Leakage checks of stationary equipment**

6.—(1) It is an offence for a qualified person to fail to comply with Article 3, 4, 5, 6, 7.1, 7.2 or 9 of Commission Regulation 1516/2007 (checks of records and equipment, measuring methods and follow-up checks).

- (2) It is an offence for the operator of stationary equipment to fail to ensure that—
- (a) a repair, a pump-down or recovery referred to in Article 8.1 of Commission Regulation 1516/2007 is carried out,
  - (b) Article 8.2 or 8.3 of Commission Regulation 1516/2007 (leakage tests and identification of cause) is complied with, or
  - (c) a check of newly installed equipment under Article 10 of Commission Regulation 1516/2007 is carried out,

by a qualified person.

- (3) In this regulation—
- (a) “stationary equipment” means stationary refrigeration, air conditioning or heat pump equipment which contains 3 kilograms or more of fluorinated greenhouse gases; and
  - (b) “a qualified person” 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, or
    - (ii) is exempt from holding such a certificate by virtue of regulation 20(3), (4), (6), or (7).

### **Leakage checks of fire protection systems**

7.—(1) It is an offence for a qualified person to fail to comply with Article 3, 4.1, 4.2 or 6 of Commission Regulation 1497/2007 (checks of records, carrying out of checks and follow-up checks).

- (2) It is an offence for the operator of a fire protection system to fail to ensure that—
- (a) a check of pressure gauges or weight-monitoring devices under Article 4.4,
  - (b) a repair, a replacement or a leakage test referred to in Article 5, or
  - (c) a check of newly installed equipment under Article 7,

of Commission Regulation 1497/2007 is carried out by a qualified person.

- (3) 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; and
  - (b) “a qualified person” 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 regulation 27(3) or (4).

### **Leakage detection systems**

8.—(1) It is an offence for a person to use a stationary application, other than an existing fire protection system, which contains 300 kilograms or more of fluorinated greenhouse gases in which is not installed a leakage detection system.

(2) It is an offence for the operator of a stationary application, other than a fire protection system, which contains 300 kilograms or more of fluorinated greenhouse gases to fail to ensure that a leakage

detection system installed in the stationary application is checked in accordance with Article 3.3 of the 2006 Regulation.

(3) It is an offence for the operator of an existing fire protection system to fail to ensure that a leakage detection system is fitted to that fire protection system before 4th July 2010.

(4) It is an offence for the operator of a fire protection system which contains 300 kilograms or more of fluorinated greenhouse gases to fail to ensure that the leakage detection system fitted to the fire protection system is—

- (a) checked at least once every 12 months to ensure that it functions properly, in accordance with Article 3.3 of the 2006 Regulation; or
- (b) inspected as referred to in Article 3.5 of the 2006 Regulation.

(5) In this regulation, “existing fire protection system” means a fire protection system which—

- (a) contains 300 kilograms or more of fluorinated greenhouse gases; and
- (b) was fitted before 4th July 2007.

## **Records**

9.—(1) It is an offence for the operator of a stationary application containing 3 kilograms or more of fluorinated greenhouse gases to fail to comply with Article 3.6 of the 2006 Regulation (maintenance of certain records).

(2) It is an offence for the operator of a fire protection system to fail—

- (a) to comply with Article 2.1 or 2.3 of Commission Regulation 1497/2007 (operator’s details and determination of gas); or
- (b) to ensure that Article 2.2 is complied with (indication of gas in records systems).

(3) Paragraph (4) applies to the operator of stationary refrigeration, air conditioning or heat pump equipment which—

- (a) contains 3 kilograms or more of fluorinated greenhouse gases; and
- (b) is not excepted equipment.

(4) It is an offence for the operator of any such equipment to fail—

- (a) to comply with Article 2.1 or 2.3 of Commission Regulation 1516/2007; or
- (b) to ensure that Article 2.2 or 2.4 of Commission Regulation 1516/2007 are complied with.

(5) In this regulation—

- (a) “excepted equipment” means equipment with a hermetically sealed system which—
  - (i) is labelled as having such a system, and
  - (ii) contains less than 6 kilograms of fluorinated greenhouse gases; and
- (b) “fire protection system” means a fire protection system containing 3 kilograms or more of fluorinated greenhouse gases.

## **Recovery of fluorinated greenhouse gases**

10.—(1) It is an offence for the operator of the equipment referred to in paragraph (2) to fail to comply with Article 4.1 or 4.4 of the 2006 Regulation (arrangements for recovery of gas).

(2) The equipment is—

- (a) the cooling circuit of—
  - (i) refrigeration equipment,
  - (ii) air conditioning equipment, or



- (iii) heat pump equipment,
- (b) equipment containing fluorinated greenhouse gas-based solvents,
- (c) a fire protection system,
- (d) a fire extinguisher, or
- (e) high-voltage switch gear,

which is normally not in transit during operation.

(3) It is an offence for the user of a refillable or a non-refillable fluorinated greenhouse gas container to fail to comply with Article 4.2 or 4.4 of the 2006 Regulation (recovery of gas).

(4) Paragraph (5) applies to—

- (a) the operator of any equipment not referred to in paragraph (2), or
- (b) the user of any product, other than a gas container referred to in paragraph (3),

which contains a fluorinated greenhouse gas, other than mobile equipment being used for military operations.

(5) Such an operator or user must ensure that any fluorinated greenhouse gas is recovered from the equipment or the product in accordance with Article 4.3 of the 2006 Regulation.

(6) It is an offence for a person to fail to comply with paragraph (5).

### **Taking delivery of fluorinated greenhouse gases**

**11.**—(1) Any person who—

- (a) carries out an activity referred to in Article 3 or 4 of the 2006 Regulation, and
- (b) takes delivery of fluorinated greenhouse gases,

commits an offence if an employee of that person employed to carry out work involving fluorinated greenhouse gases is not a qualified person.

(2) In this regulation, “qualified person” means—

- (a) an individual who—
  - (i) holds a valid certificate issued under Article 5 of Commission Regulation 303/2008, or
  - (ii) is exempt from holding such a certificate by virtue of regulation 20(3), (4), (6) or (7);
- (b) an individual who—
  - (i) holds a valid certificate issued under Article 5 of Commission Regulation 304/2008, or
  - (ii) is exempt from holding such a certificate by virtue of regulation 27(3) or (4);
- (c) an individual who—
  - (i) holds a valid certificate issued under Article 4 of Commission Regulation 305/2008, or
  - (ii) is exempt from holding such a certificate by virtue of regulation 34(2);
- (d) an individual who—
  - (i) holds a valid certificate issued under Article 3 of Commission Regulation 306/2008, or
  - (ii) is exempt from holding such a certificate by virtue of regulation 37(2); or
- (e) an individual who—

- (i) holds a valid attestation issued under Article 3 of Commission Regulation 307/2008,  
or
- (ii) is exempt from holding such an attestation by virtue of regulation 40(2) or (3).

### **Reporting requirements and the provision of information**

**12.**—(1) It is an offence for a person producing fluorinated greenhouse gases in Great Britain and who produces more than one tonne of fluorinated greenhouse gases in the Community each calendar year to fail to comply with the requirements of Article 6.1(a) of the 2006 Regulation within the time limits set out in Article 6.1 of the 2006 Regulation.

(2) It is an offence for a person who imports more than one tonne of fluorinated greenhouse gases each calendar year to fail to comply with the requirements of Article 6.1(b) within the time limits set out in Article 6.1 of the 2006 Regulation.

(3) It is an offence for a person who exports more than one tonne of fluorinated greenhouse gases from the Community each calendar year to fail to comply with the requirements of Article 6.1(c) of the 2006 Regulation within the time limits set out in Article 6.1 of the 2006 Regulation.

(4) It is an offence for a person to communicate to the European Commission a defective report.

(5) It is an offence for a person referred to in paragraphs (1), (2) or (3) to fail to send to the Secretary of State a copy of the annual report at the same time as the person sends the annual report to the European Commission.

(6) It is an offence for a person to fail within a reasonable time to provide such information as the Secretary of State may reasonably request to enable the Secretary of State to acquire emission data for the purposes of Article 6.4 of the 2006 Regulation.

(7) In this regulation—

- (a) “annual report” means the report which the person in question must send to the European Commission in accordance with Article 6 of the 2006 Regulation;
- (b) “defective report” means a report under Article 6 of the 2006 Regulation which is not in the format required under Commission Regulation 1493/2007; and
- (c) “import” means import into the United Kingdom from outside the customs territory of the Community.

### **Labelling**

**13.**—(1) It is an offence for a person to place on the market within Great Britain a product or equipment referred to in paragraph (2) containing fluorinated greenhouse gas unless—

(a) a proper label is affixed to the product or equipment in accordance with the provisions of—

- (i) the first paragraph of Article 7.1 of the 2006 Regulation, and
- (ii) Article 4 of Regulation 1494/2007; and

(b) the proper label is in English, whether or not it is in any other language.

(2) The product or equipment referred to in paragraph (1) is—

(a) a refrigeration product or equipment which contains—

- (i) perfluorocarbons, or
- (ii) preparations containing perfluorocarbons;

(b) a refrigeration or air conditioning product or equipment, except where such product or equipment is in a motor vehicle, which contains—

- (i) hydrofluorocarbons, or

- (ii) preparations containing hydrofluorocarbons;
  - (c) a heat pump, a fire protection system or a fire extinguisher which contains—
    - (i) hydrofluorocarbons, or
    - (ii) preparations containing hydrofluorocarbons;
  - (d) switchgear which contains sulphur hexafluoride or preparations containing sulphur hexafluoride; or
  - (e) a fluorinated greenhouse gas container.
- (3) In this regulation, “proper label” means a label which—
- (a) contains the information referred to in Articles 2.1, 2.2 and 2.3, and
  - (b) is in a form which complies with Article 3,
- of Commission Regulation 1494/2007.

#### **Instruction manuals**

**14.** It is an offence for a person to place on the market a product or equipment referred to in regulation 13(2) containing fluorinated greenhouse gas unless the instruction manual provided with the product or equipment contains—

- (a) a statement that the product or equipment contains such gas;
- (b) information about the fluorinated greenhouse gas in the product or equipment, including—
  - (i) the chemical name and quantity of the gas; and
  - (ii) its global warming potential; and
- (c) a statement whether or not the product or equipment is hermetically sealed.

#### **Prohibition on the use of sulphur hexafluoride**

**15.** It is an offence for a person to use sulphur hexafluoride or preparations of that substance in contravention of Article 8.1 or 8.2 of the 2006 Regulation on or after 9th March 2009.

#### **Placing on the market**

**16.—**(1) Subject to paragraph (2), it is an offence for a person to place on the market a product or equipment referred to in Annex II to the 2006 Regulation in contravention of Article 9.1 of the 2006 Regulation on or after—

- (a) 9th March 2009, or
- (b) the date specified in that Annex referable to the product or equipment in question,

whichever is the later.

(2) It is a defence for the person to prove that the product or equipment in question was manufactured before the date specified in Annex II to the 2006 Regulation referable to the product or equipment.

#### **Importation**

**17.** In respect of the importation of any product or equipment referred to in Annex II to the 2006 Regulation into the United Kingdom from outside the customs territory of the Community,

section 170 of the Customs and Excise Management Act 1979(21) has effect in relation to the evasion or attempted evasion of the prohibition set out in Article 9.1 of the 2006 Regulation, as qualified by Article 9.2 of that Regulation.

### **Proof of lawful import**

**18.**—(1) Where any product or equipment is being, or has been, imported into the United Kingdom from outside the customs territory of the Community, 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, not unlawful by virtue of the 2006 Regulation.

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

(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**

### **Qualifications**

#### **CHAPTER 1**

#### **Stationary refrigeration, air conditioning and heat pump equipment**

### **Certification and evaluation bodies**

**19.**—(1) The certification and evaluation bodies for the purposes of Article 5 of Commission Regulation 303/2008 (issue and contents of certificates) are—

- (a) City and Guilds of London Institute(22); and
- (b) the Construction Industry Training Board(23).

(2) The City and Guilds of London Institute and the Construction Industry Training Board must—

- (a) comply with Articles 5.1, 5.2, 10.1, second paragraph, 10.2, 10.3, 11.1, 11.3 and 11.4 (activities and obligations of certification and evaluation bodies) of that Regulation; and
- (b) ensure compliance with Article 11.2 of that Regulation (planning and structure of examinations).

### **Qualification of individuals relating to certain stationary equipment**

**20.**—(1) Subject to paragraphs (3) to (7) and regulation 25, it is an offence if an individual—

- (a) carries out an activity referred to in paragraph (2) relating to stationary refrigeration, air conditioning and heat pump equipment, and
- (b) does not hold a stationary equipment qualification,

(21) 1979 c. 2. Section 170 is amended by section 114 of the [Police and Criminal Evidence Act 1984 \(c. 60\)](#), section 12 of the [Firearms Act 1988 \(c. 45\)](#), paragraph 7 of Schedule 2 to the [Finance \(No 2\) Act 1992 \(c. 48\)](#) and section 293(1) and (4) of the [Criminal Justice Act 2003 \(c. 44\)](#), and by S.I. 1996/2686, 2004/702 and 2005/1966.

(22) Details can be obtained from City & Guilds, 1 Giltspur Street London EC1A 9DD; telephone number: 020 7294 2800; website: [www.cityandguilds.com](http://www.cityandguilds.com).

(23) Details can be obtained from the Construction and Industry Training Board, Bircham Newton, Kings Lynn, Norfolk PE31 6RH; telephone number: 01485 577700; website: [www.cskills.org](http://www.cskills.org); email: [bes.enquiry@skills.org](mailto:bes.enquiry@skills.org).

in contravention of Article 4.1 of Commission Regulation 303/2008.

- (2) The activities are—
- (a) leakage checking of equipment containing—
    - (i) 3 kilograms or more of fluorinated greenhouse gases, or
    - (ii) 6 kilograms or more of fluorinated greenhouse gases with hermetically sealed systems, which are labelled as such,
  - (b) the recovery of fluorinated greenhouse gases,
  - (c) installation, and
  - (d) maintenance or servicing,

but not an exempt activity.

- (3) Paragraph (1) does not apply to an individual who—
- (a) is enrolled on a training course for the purpose of obtaining a stationary equipment qualification in respect of an activity referred to in paragraph (2), and
  - (b) carries out that activity under the supervision of an individual who does hold a stationary equipment qualification in respect of the activity in question,

for a period of two years from the date on which that individual enrolled on the training course referred to in sub-paragraph (a).

(4) Up to and including 3rd July 2009, paragraph (1) does not apply, as regards any of the activities referred to in paragraph (5), to an individual who carried out the activity in question before 4th July 2008 without supervision.

- (5) The activities are—
- (a) the recovery of fluorinated greenhouse gases,
  - (b) installation, and
  - (c) maintenance or servicing,

in relation to refrigeration, air conditioning and heat pump equipment containing less than 3 kilograms of fluorinated greenhouse gases.

- (6) Paragraph (1) does not apply to an individual who—
- (a) holds an interim certificate issued under Article 6.3, or
  - (b) is deemed to hold an interim certificate under Article 6.2,

of Commission Regulation 303/2008 in respect of an activity referred to in paragraph (2) and who carries out the activity in question.

- (7) Paragraph (1) does not apply to an individual who—
- (a) undertakes brazing, soldering or welding in connection with an activity referred to in paragraph (2) under the supervision of an individual qualified to carry out that activity by virtue of being the holder of a relevant qualification or being a deemed holder of an interim certificate under Article 6.2 of Commission Regulation 303/2008; and
  - (b) is suitably qualified for the purposes of paragraph 3.1.2 of Schedule 2 to the Pressure Equipment Regulations 1999<sup>(24)</sup>.

- (8) In this regulation—
- (a) “exempt activity” means a manufacturing or repair activity undertaken at the site of the manufacturer of stationary refrigeration, air conditioning or heat pump equipment containing fluorinated greenhouse gases;

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(24) S.I. 1999/200, to which there are amendments not relevant to these Regulations.

- (b) “stationary equipment qualification” means a valid certificate issued by the City and Guilds of London Institute or by the Construction Industry Training Board under Article 5.1, 5.3 or 5.4 of Commission Regulation 303/2008;
- (c) “installation” and “maintenance or servicing” have the meaning given in Article 3 of Commission Regulation 303/2008; and
- (d) “relevant qualification” means—
  - (i) a stationary equipment qualification; or
  - (ii) an interim certificate issued under Article 6.3 of Commission Regulation 303/2008.

#### **Interim stationary equipment certificates for individuals – stationary equipment**

**21.**—(1) For the purposes of Article 6.1 and 6.2 of Commission Regulation 303/2008, an individual who holds an interim qualification obtained before the date of the coming into force of these Regulations is the holder of an interim certificate as regards the activity referred to in regulation 20(2) to which the interim qualification relates.

(2) The interim qualification for the activities to which a Category I certificate relates is one of the qualifications referred to in Part 1 of Schedule 1.

(3) The interim qualification for the activities to which a Category II certificate relates is—

- (a) one of the qualifications referred to in Part 1 of Schedule 1; or
- (b) an in-house qualification.

(4) The interim qualification for the activities to which a Category III certificate relates is an in-house qualification.

(5) The Secretary of State may appoint such person, and on such terms, as the Secretary of State thinks fit to be the certification body for the purposes of Article 6.3 of Commission Regulation 303/2008 (issue and contents of interim certificates).

(6) A person so appointed must comply with Articles 6.3, 10.1, second paragraph, 10.2 and 10.3 of that Regulation (obligations on a certification body).

#### **Certification bodies for companies – stationary equipment**

**22.**—(1) The Secretary of State may appoint such person, and on such terms, as the Secretary of State thinks fit to be the certification body for the purposes of Article 8 of Commission Regulation 303/2008 (issue and contents of company certificates).

(2) A person so appointed must comply with Articles 8, 10.1, second paragraph, 10.2 and 10.3 of that Regulation (obligations on a certification body).

#### **Certificates for companies – stationary equipment**

**23.**—(1) Subject to paragraph (2) and regulation 25, it is an offence if a person—

- (a) carries out—
  - (i) installation, or
  - (ii) maintenance or servicing,
 in respect of stationary refrigeration, air conditioning and heat pump equipment, and
- (b) does not hold a stationary equipment qualification company certificate or an interim certificate,

in contravention of Article 7.1 of Commission Regulation 303/2008.

(2) Up to and including 3rd July 2009, paragraph (1) does not apply, as regards an activity referred to in paragraph (1)(a), to a person who carried out the activity in question before 4th July 2008.

(3) It is an offence for a person knowingly or recklessly to provide Article 8.1 information which is false or misleading in any material particular for the purposes of obtaining a stationary equipment qualification company certificate.

(4) In this regulation—

- (a) “Article 8.1 information” means information relating to the matters referred to in Article 8.1(a) and (b) of Commission Regulation 303/2008;
- (b) “stationary equipment qualification company certificate” means a valid certificate issued under Article 8 of Commission Regulation 303/2008;
- (c) “installation” has the meaning given in Article 3 of Commission Regulation 303/2008;
- (d) “interim certificate” means a certificate issued under Article 9.3 of Commission Regulation 303/2008; and
- (e) “maintenance or servicing” has the meaning given in Article 3 of Commission Regulation 303/2008.

#### **Interim company certificates – stationary equipment**

**24.**—(1) The Secretary of State may appoint such person, and on such terms, as the Secretary of State thinks fit to be the certification body for the purposes of Article 9.3 of Commission Regulation 303/2008 (issue and contents of interim company certificates).

(2) A person so appointed must comply with Articles 9, 10.1, second paragraph, 10.2 and 10.3 of that Regulation (obligations on a certification body).

#### **Certificates relating to certain stationary equipment issued in EEA States and Northern Ireland**

**25.**—(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 regulation 20(1)(a) may carry out that activity if—

- (a) the certificate is written in English; or
- (b) the person also 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 under legislation in force in Northern Ireland in respect of an activity mentioned in regulation 20(1)(a) may carry out that activity.

### **CHAPTER 2**

#### **Fire protection systems and fire extinguishers**

##### **Certification and evaluation body**

**26.**—(1) The certification and evaluation body for the purposes of Article 5 of Commission Regulation 304/2008 (issue and contents of certificates) is the Fire Industry Association(**25**).

(2) The Fire Industry Association must—

- (a) comply with Articles 5.1, 5.2, 10.1, second paragraph, 10.2 and 10.3, 11.1, 11.3 and 11.4 of that Regulation (activities and obligations of certification and evaluation bodies); and

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(25) Details can be obtained from the Fire Industry Association, Thames House, 29 Thames Street, Kingston Upon Thames, Surrey, KT1 1PH; telephone number: 020 8549 5855; email: [info@fia.uk.com](mailto:info@fia.uk.com); website: [www.fia.uk.com](http://www.fia.uk.com).

- (b) ensure compliance with Article 11.2 of that Regulation (planning and structure of examinations).

### **Qualification of individuals relating to fire protection systems**

**27.**—(1) Subject to paragraphs (3) and (4) and regulation 32, it is an offence if an individual—

- (a) carries out—
  - (i) an activity referred to in paragraph (2) relating to a fire protection system, or
  - (ii) the recovery of fluorinated greenhouse gases from fire extinguishers, and
- (b) does not hold a fire protection systems qualification,

in contravention of Article 4.1 of Commission Regulation 304/2008.

(2) The activities are—

- (a) leakage checking of applications containing 3 kilograms or more of fluorinated greenhouse gases,
- (b) the recovery of fluorinated greenhouse gases,
- (c) installation, and
- (d) maintenance or servicing,

but not an exempt activity.

(3) Paragraph (1) does not apply to an individual who—

- (a) is enrolled on a training course for the purpose of obtaining a fire protection systems qualification, and
- (b) carries out an activity referred to in paragraph (2) under the supervision of an individual who does hold such a qualification,

for a period of one year from the date on which that individual enrolled on the training course referred to in sub-paragraph (a).

(4) Paragraph (1) does not apply to an individual who holds an interim certificate.

(5) In this regulation—

- (a) “exempt activity” means a manufacturing or repair activity undertaken at the site of the manufacturer of containers or associated components of stationary fire protection systems containing fluorinated greenhouse gases;
- (b) “fire protection systems qualification” means a valid certificate issued by the Fire Industry Association under Article 5.1, 5.3 or 5.4 of Commission Regulation 304/2008;
- (c) “installation” has the meaning given in Article 3 of Commission Regulation 304/2008;
- (d) “interim certificate” means a certificate issued under Article 6.3 of Commission Regulation 304/2008; and
- (e) “maintenance or servicing” has the meaning given in Article 3 of Commission Regulation 304/2008.

### **Interim fire protection system certificates for individuals**

**28.** For the purposes of Article 6.1 and 6.2 of Commission Regulation 304/2008, an individual who holds an in-house qualification obtained before the date of the coming into force of these Regulations is the holder of an interim certificate as regards the activity referred to in regulation 27(1) (a)(ii) or (2) to which the in-house qualification relates.



### **Certification bodies for companies – fire protection systems**

**29.**—(1) The Secretary of State may appoint such person, and on such terms, as the Secretary of State thinks fit to be the certification body for the purposes of Article 8 of Commission Regulation 304/2008 (issue and contents of certificate).

(2) A person so appointed must comply with Articles 8, 10.1, second paragraph, 10.2 and 10.3 of that Regulation.

### **Certificates for companies – fire protection systems**

**30.**—(1) Subject to paragraph (2) and regulation 32, it is an offence if a person—

(a) carries out—

(i) installation, or

(ii) maintenance or servicing,

in respect of a fire protection system, and

(b) does not hold a fire protection systems company certificate or an interim certificate,

in contravention of Article 7.1 of Commission Regulation 304/2008.

(2) Up to and including 3rd July 2009, paragraph (1) does not apply, as regards an activity referred to in paragraph (1)(a), to a person who carried out the activity in question before 4th July 2008 without supervision.

(3) It is an offence for a person knowingly or recklessly to provide Article 8.1 information which is false or misleading in any material particular for the purposes of obtaining a fire protection systems company certificate.

(4) In this regulation—

(a) “Article 8.1 information” means information relating to the matters referred to in Article 8.1(a) or (b) of Commission Regulation 304/2008;

(b) “fire protection systems company certificate” means a valid certificate issued under Article 8 of Commission Regulation 304/2008;

(c) “installation” has the meaning given in Article 3 of Commission Regulation 304/2008;

(d) “interim certificate” means a certificate issued under Article 9.3 of Commission Regulation 304/2008; and

(e) “maintenance or servicing” has the meaning given in Article 3 of Commission Regulation 304/2008.

### **Interim company certificates – fire protection systems**

**31.**—(1) The Secretary of State may appoint such person, and on such terms, as the Secretary of State thinks fit to be the certification body for the purposes of Article 9.3 of Commission Regulation 304/2008 (issue and contents of interim certificates).

(2) A person so appointed must comply with Articles 9.3, 10.1, second paragraph, 10.2 and 10.3 of that Regulation.

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

**32.**—(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 may carry out the activities referred to in regulation 27(1)(a) if—

(a) the certificate is written in English; or

(b) the person also 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 under legislation in force in Northern Ireland may carry out the activities referred to in regulation 27(1)(a).

## CHAPTER 3

### High-voltage switchgear

#### **Certification and evaluation bodies**

**33.**—(1) The persons referred to in Schedule 2 are the certification and evaluation bodies for the purposes of Commission Regulation 305/2008.

(2) A person referred to in Schedule 2 must—

- (a) comply with Article 5.1, second paragraph, 5.2, 5.3, 6.1, 6.3 and 6.4 of that Regulation (obligations on certification and evaluation bodies); and
- (b) ensure that Article 4.2 and 6.2 of that Regulation (contents of certificates and planning and structure of examinations) are complied with.

#### **Qualification of individuals relating to high-voltage switchgear**

**34.**—(1) Subject to paragraphs (2) and (3) and regulation 35, it is an offence if an individual—

- (a) recovers fluorinated greenhouse gases from high-voltage switchgear, and
- (b) does not hold a high-voltage switchgear qualification,

in contravention of Article 3.1 of Commission Regulation 305/2008.

(2) Paragraph (1) does not apply to an individual who—

- (a) is enrolled on a training course for the purpose of obtaining a high-voltage switchgear qualification, and
- (b) recovers fluorinated greenhouse gases from high-voltage switchgear under the supervision of an individual who does hold such a qualification,

for a period of one year from the date on which that individual enrolled on the training course referred to in sub-paragraph (a).

(3) Up to and including 3rd July 2009, paragraph (1) does not apply to an individual who carried out work referred to in paragraph (1)(a) before 4th July 2008 without supervision.

(4) In this regulation—

- (a) “high-voltage switchgear” means switching devices and their combination with associated control, measuring, protective and regulating equipment, and assemblies of such devices and equipment, with associated interconnections, accessories, enclosures and supporting structures, intended for use in connection with generation, transmission, distribution and conversion of electric energy at rated voltages above 1000V; and
- (b) “high-voltage switchgear qualification” means a valid certificate issued by a certification body referred to in Schedule 2 under Article 4 of Commission Regulation 305/2008.

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

**35.**—(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 recover fluorinated greenhouse gases from high-voltage switchgear if—

- (a) the certificate is written in English; or

(b) the individual also 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 under legislation in force in Northern Ireland may recover fluorinated greenhouse gases from high-voltage switchgear.

(3) In this regulation, “high-voltage switchgear” has the same meaning as it has in regulation 34.

## CHAPTER 4

### Fluorinated greenhouse gas-based solvents

#### **Fluorinated greenhouse gas-based solvents certification and evaluation bodies**

**36.**—(1) The Secretary of State may appoint such person and on such terms as the Secretary of State thinks fit to be—

(a) the certification body for the purposes of Commission Regulation 306/2008;

(b) the evaluation body for the purposes of that Regulation.

(2) The certification body and the evaluation body may be the same person.

(3) A person appointed as the certification body must comply with Articles 3.1, 3.2, 4.1, second paragraph, 4.2, and 4.3 of that Regulation (issue of certificates and obligations of certification bodies).

(4) A person appointed as the evaluation body must comply with Articles 5.1, 5.2, 5.3 and 5.4 of that Regulation (obligations of evaluation bodies).

#### **Qualification of individuals relating to fluorinated greenhouse gas-based solvents**

**37.**—(1) Subject to paragraphs (2) and (3) and regulation 38, it is an offence if an individual—

(a) recovers fluorinated greenhouse gas-based solvents from equipment, and

(b) does not hold a solvents qualification,

in contravention of Article 2.1 of Commission Regulation 306/2008.

(2) Paragraph (1) does not apply to an individual who—

(a) is enrolled on a training course for the purpose of obtaining a solvents qualification, and

(b) recovers fluorinated greenhouse gas-based solvents from equipment under the supervision of an individual who does hold such a qualification,

for a period of one year from the date on which that individual enrolled on the training course referred to in sub-paragraph (a).

(3) Up to and including 3rd July 2009, paragraph (1) does not apply to an individual who carried out work referred to in paragraph (1)(a) before 4th July 2008 without supervision.

(4) In this regulation, “solvents qualification” means a valid certificate issued by a certification body under Article 3 of Commission Regulation 306/2008.

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

**38.**—(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 recover fluorinated greenhouse gas-based solvents from equipment if—

(a) the certificate is written in English; or

(b) the person also holds a translation of the certificate in English.

(2) A person who holds a valid certificate issued under Article 3 of Commission Regulation 306/2008 by a certification body appointed under legislation in force in Northern Ireland may recover fluorinated greenhouse gas-based solvents from equipment.

## CHAPTER 5

### Air conditioning systems in certain motor vehicles

#### Attestation bodies

**39.**—(1) The persons referred to in paragraph (2) are the attestation bodies for the purposes of Commission Regulation 307/2008.

(2) The persons are—

- (a) the City and Guilds of London Institute<sup>(26)</sup>;
- (b) IMI Awards Limited<sup>(27)</sup>;
- (c) the Institute of the Motor Industry<sup>(28)</sup>; and
- (d) the Institute of Road Transport Engineers<sup>(29)</sup>.

(3) A person referred to in paragraph (2) must comply with Articles 3.2 and 3.3 of that Regulation (issue and contents of training attestations).

#### Qualifications relating to air conditioning systems in motor vehicles

**40.**—(1) Subject to paragraphs (2) and (3) and regulation 41, it is an offence if an individual—

- (a) recovers fluorinated greenhouse gases from an air conditioning system in a motor car or a motor van, and
- (b) does not hold an air conditioning qualification,

in contravention of Article 2.1 of Commission Regulation 307/2008.

(2) Paragraph (1) does not apply to an individual who—

- (a) is enrolled on a training course for the purpose of obtaining an air conditioning qualification, and
- (b) recovers fluorinated greenhouse gases from an air conditioning system in a motor car or a motor van under the supervision of an individual who does hold such a qualification,

for a period of one year from the date on which that individual enrolled on the training course referred to in sub-paragraph (a).

(3) Up to and including 3rd July 2010, paragraph (1) does not apply to an individual who holds a qualification referred to in Schedule 1.

(4) In this regulation—

- (a) “motor car” means a motor vehicle which—
  - (i) has at least four wheels,
  - (ii) is used for the carriage of passengers, and

(26) Details can be obtained from City & Guilds, 1 Giltspur Street, London EC1A 9DD; telephone number: 020 7294 2800; website: [www.cityandguilds.com](http://www.cityandguilds.com).

(27) Details can be obtained from the IMI Awards Limited, Fanshaws, Brickendon, Hertford, SG13 8PQ; telephone number: 01992 511521; email: [info@imiawards.org.uk](mailto:info@imiawards.org.uk).

(28) Details can be obtained from the Institute of the Motor Industry, Fanshaws, Brickendon, Hertford, SG13 8PQ; telephone number: 01992 511521; email: [imi@motor.org.uk](mailto:imi@motor.org.uk); website: [www.motor.org.uk](http://www.motor.org.uk).

(29) Details can be obtained from Irtec, Society of Operation Engineers, 22 Greencoat Place, London SW1P 1PR; telephone number: 0207 6301111; fax: 0207 6306677; email: [irtec@irtec.org.uk](mailto:irtec@irtec.org.uk).

- (iii) has no more than nine seats, including the seat for the driver;
- (b) “motor van” means a motor vehicle which—
  - (i) has at least four wheels,
  - (ii) has a maximum weight not exceeding 1.305 metric tons, and
  - (iii) is used for the carriage of goods;
- (c) “air conditioning qualification” means a valid attestation issued under Article 3.2 of Commission Regulation 307/2008 by an attestation body referred to in regulation 39(2).

### **Attestations issued in EEA States and Northern Ireland**

**41.**—(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 recover fluorinated greenhouse gases from an air conditioning system in a motor car or a motor van if—

- (a) the attestation is written in English; or
- (b) the individual also 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 under legislation in force in Northern Ireland may recover fluorinated greenhouse gases from an air conditioning system in a motor car or a motor van.

(3) In this regulation, “motor car” and “motor van” have the same meaning as in regulation 40.

## **CHAPTER 6**

### **Miscellaneous obligations**

### **Obligation of employers to employ qualified employees**

**42.**—(1) The employer of an individual employed to carry out any work or activity referred to in regulation 20(1)(a), 27(1)(a), 34(1)(a), 37(1)(a) or 40(1)(a) must ensure that that individual holds the qualification necessary to enable the individual to carry out the work or activity in question under these Regulations.

(2) It is an offence for an employer to fail to comply with paragraph (1).

### **Training records**

**43.**—(1) A training employer must provide a copy of any extant record created by that training employer under regulation 19(2) of the Fluorinated Greenhouse Gases Regulations 2008(**30**) to the employee in question when requested to do so by that employee where the employee holds an in-house qualification enabling that employee to carry out work under these Regulations.

(2) A training employer must keep an extant record created by that training employer as mentioned in paragraph (1) for a period of three years from 9th March 2009.

(3) It is an offence for a training employer to fail to comply with paragraph (1) or (2).

(4) In this regulation—

- (a) “extant record” means a record existing immediately before 9th March 2009; and
- (b) “training employer” means an employer who provided a course of training leading to an in-house qualification.

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(30) S.I. 2008/41; revoked by regulation 2.

### **Obligations of certification bodies, attestation bodies and evaluation bodies to provide information**

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

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

(2) When requested to do so, an attestation body must provide details of an attestation issued by the attestation body 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 in order that the Secretary of State may ensure that the obligations of the United Kingdom imposed by the second sentence of Article 5.2 of the 2006 Regulation (recognition of certificates issued in other member States) and by Commission Regulation 308/2008 are complied with.

(5) In this regulation—

- (a) “Commission Regulation 308/2008” means Commission Regulation 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<sup>(31)</sup>; and
- (b) “a relevant body” means a certification body, an attestation body or an evaluation body referred to in, or appointed under, these Regulations.

## **PART 4**

### **Enforcement, offences and penalties**

#### **Appointment of authorised persons**

**45.**—(1) The enforcing authority may authorise in writing such persons (“authorised persons”) as they consider appropriate to act for the purpose of enforcing these Regulations.

(2) An authorisation under section 108 of the Environment Act 1995<sup>(32)</sup> (powers of enforcing authorities and persons authorised by them) is an authorisation for the purposes of these Regulations.

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

**46.**—(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—

<sup>(31)</sup> OJ No L 92, 3.4.08, p 28.

<sup>(32)</sup> 1995 c. 25.

- (a) at any reasonable time, to enter premises, 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) any other person 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;
- (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—
  - (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, or
  - (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) Where an authorised person proposes to exercise the power conferred by paragraph (2)(g) in the case of an article or substance found in or on any premises, 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.

(4) 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.

(5) 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 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 before taking possession of any such article or substance under that power an authorised person must, 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.

(6) 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.

(7) 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.

(8) 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.

### **Information notices**

47. 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 and prohibition notices**

48.—(1) If an authorised person is of the opinion that a person has contravened, is contravening or is likely to contravene—

- (a) Article 3.1 to 3.3, 3.6, 4, 8 or 9, or
- (b) the second paragraph of Article 7.1,

of the 2006 Regulation, the authorised person may serve on that person a notice (“enforcement notice”).

(2) An enforcement notice must—

- (a) state that the authorised person is of that opinion;



- (b) specify the matters constituting the contravention or the matters making it likely that the contravention will arise, as the case may be;
  - (c) specify the steps that must be taken to remedy the contravention or to remedy the matters making it likely that the contravention will arise, as the case may be; and
  - (d) specify the period within which those steps must be taken.
- (3) If an authorised person is of the opinion that the activities of a person in relation to the contravention or likely contravention by that person of Article 3.1, 3.2, 3.3, 3.6, 4, 8 or 9 of the 2006 Regulation are such that they involve an imminent danger of serious pollution of the environment, the authorised person may serve on that person a notice (“prohibition notice”).
- (4) A prohibition notice must—
- (a) state that the authorised person is of that opinion;
  - (b) specify the danger involved in the activity;
  - (c) specify the steps that must be taken to remove the danger; and
  - (d) state—
    - (i) the period within which those steps must be taken, or
    - (ii) that the steps must be taken immediately.
- (5) Subject to regulation 49(6), the bringing of an appeal under regulation 49 does not suspend the operation of the enforcement notice or the prohibition notice in question.
- (6) An authorised person may withdraw at any time an enforcement notice or a prohibition notice.
- (7) A person on whom is served an enforcement notice or a prohibition notice must comply with such notice at the expense of that person.
- (8) If such a notice is not complied with, the relevant enforcing authority may arrange for it to be complied with at the expense of the person on whom it was served.
- (9) In this regulation, “relevant enforcing authority” means the enforcing authority who or which authorised the authorised person who served the enforcement notice or prohibition notice in question.

### **Appeals against enforcement or prohibition notices**

- 49.**—(1) A person who is aggrieved by an enforcement notice or a prohibition notice may appeal to a magistrates’ court or, in Scotland, to the sheriff.
- (2) The procedure on an appeal to a magistrates’ court is by way of complaint, and the Magistrates’ Courts Act 1980(33) applies to the proceedings.
- (3) An appeal to the sheriff is by summary application.
- (4) An appeal may be brought not later than 28 days after the date on which the enforcement notice or the prohibition notice in question is served.
- (5) An enforcement notice or prohibition notice must state—
- (a) that the person on whom the notice in question is served has the right of appeal to a magistrates’ court or the sheriff; and
  - (b) the period in which the appeal may be brought.
- (6) The court may suspend an enforcement notice or prohibition notice pending an appeal.

**Proceedings before a civil court**

**50.**—(1) If the enforcing authority is of the opinion that proceedings against a person for an offence under regulation 51(1)(b) would afford an ineffectual remedy against that person, the enforcing authority may take civil proceedings against that person for the purpose 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.

**Miscellaneous offences**

**51.**—(1) It is an offence for a person to—

- (a) fail to comply with the requirements of a notice served on the person under regulation 47;
- (b) fail to comply with an enforcement notice or a prohibition notice;
- (c) fail to comply with a direction given, or a requirement imposed, under regulation 46(2);
- (d) contravene, or cause or permit another person to contravene, regulation 46(7);
- (e) intentionally obstruct an authorised person in the exercise or performance of the powers or duties of that authorised person;
- (f) furnish to an authorised person any information which the person knows to be false or misleading; or
- (g) pretend to be an authorised person.

(2) It is an offence for a person to—

- (a) fail to comply with regulation 55(4); or
- (b) cause or permit another person to fail to comply with that regulation.

(3) It is an offence for a person knowingly or recklessly to furnish Article 6.4 information which is false or misleading in any material particular.

(4) In paragraph (3), “Article 6.4 information” means such information as the Secretary of State may reasonably request to enable the Secretary of State to acquire emission data for the purposes of Article 6.4 of the 2006 Regulation.

**Bodies corporate, partnerships and unincorporated associations - offences**

**52.**—(1) If an offence committed by a body corporate is shown—

- (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,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(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 functions of management of that member as if the member were a director of the body.

(3) If an offence committed by a partnership 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,

the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(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<sup>(34)</sup> 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 such proceedings—

(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<sup>(35)</sup> and Schedule 3 to the Magistrates' Courts Act 1980<sup>(36)</sup>,

(ii) section 70 of the Criminal Procedure (Scotland) Act 1995, and

(iii) section 18 of the Criminal Justice Act (Northern Ireland) 1945<sup>(37)</sup> and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981<sup>(38)</sup>.

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

(8) If an offence committed by an unincorporated association, other than a partnership, is shown—

(a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body, or

(b) to be attributable to any neglect on the part of such an officer or member,

that officer or member as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.

(9) In this regulation—

(a) “offence” means an offence under these Regulations;

(b) “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; and

(c) “partner” includes a person purporting to act as a partner.

## Penalties

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

(a) on summary conviction, to a fine not exceeding the statutory maximum; or

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<sup>(34)</sup> 1995 c. 46. Section 70 was amended by section 28 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (2007 asp 6).

<sup>(35)</sup> 1925 c. 86. Subsections (1) and (2) of section 33 were repealed by the Magistrates' Courts Act 1952 (c. 55), section 132 and Schedule 6; subsection (3) was amended by the Courts Act 1971 (c. 23), section 56(1) and Schedule 8, part II, paragraph 19; subsection (4) was amended by the Courts Act 2003 (c. 39), section 109(1) and (3), Schedule 8, paragraph 71 and Schedule 10, and by the Magistrates' Courts Act 1980 (c. 43), section 154 and Schedule 7, paragraph 5; subsection (5) was repealed by the Magistrates' Court Act 1952, section 132 and Schedule 6.

<sup>(36)</sup> 1980 c. 43. Sub-paragraph 2(a) was amended by the Criminal Procedure and Investigations Act 1996 (c. 25), section 47, Schedule 1, paragraph 13, and was repealed by the Criminal Justice Act 2003 (c. 44), sections 41 and 332, Schedule 3, part 2, paragraph 51, sub-paragraphs (1), (13)(a), and Schedule 37, part 4 (with effect from a date to be appointed); paragraph 5 was repealed by the Criminal Justice Act 1991 (c. 53), sections 25(2) and 101(2) and Schedule 13; paragraph 6 was amended by the Criminal Justice Act 2003, section 41, Schedule 3, part 2, paragraph 51, sub-paragraphs (1) and (13)(b) (with effect from a date to be appointed).

<sup>(37)</sup> 1945 c. 15 (N.I.).

<sup>(38)</sup> S.I. 1981/1675 (N.I. 26).

- (b) on conviction on indictment, to a fine.

### **Fixed penalties**

**54.**—(1) If an authorised person has reason to believe that a person has committed an offence under regulation 5 in relation to—

- (a) refrigeration equipment,
- (b) air conditioning, or
- (c) heat pump equipment,

kept on premises used only as a private dwelling house, the authorised person may give that person a notice offering that person the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

(2) Where a person is given a fixed penalty notice under this regulation in respect of an offence—

- (a) no proceedings may be instituted for that offence before the expiry of 28 days following the date of the fixed penalty notice; and
- (b) the person may not be convicted of that offence if the person pays the fixed penalty before the expiry of that period.

(3) A fixed penalty notice must contain such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

(4) A fixed penalty notice must state—

- (a) the period during which, by virtue of paragraph (2), proceedings cannot be taken for the offence;
- (b) the amount of the fixed penalty;
- (c) the name of the person to whom and the address at which the fixed penalty may be paid.

(5) Payment of the fixed penalty may be made by pre-paying and posting to that person at that address a letter containing the amount of penalty.

(6) Where a letter is sent in accordance with paragraph 5 payment is deemed to be made at the time at which that letter would be delivered in the ordinary course of post.

(7) A fixed penalty notice must be in the form set out in Schedule 3, or in a substantially similar form.

(8) The amount of fixed penalty payable in pursuance of a fixed penalty notice is £100 which must be paid to the relevant enforcing authority.

(9) In any proceedings, a certificate which—

- (a) purports to be signed by or on behalf of the chief finance officer of the relevant enforcing authority, and
- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(10) In this regulation—

- (a) “fixed penalty notice” means a notice given under paragraph (1);
- (b) “relevant enforcing authority” means the enforcing authority that authorised the authorised person who served the fixed penalty notice in question.

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

**55.**—(1) Paragraphs (2) and (3) apply where, in contravention of Article 9 of the 2006 Regulation, a person has imported into the United Kingdom from outside the customs territory of the Community a product or equipment containing, or whose functioning relies upon, fluorinated greenhouse gases.

(2) The Secretary of State may require the person—

- (a) to 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 to render it harmless; or
- (c) to remove it from—
  - (i) the United Kingdom, or
  - (ii) an offshore installation.

(3) The Scottish Ministers may require the person to remove the product or equipment from a Scottish offshore installation.

(4) The person must comply with a requirement made under paragraph (2) or (3).

### **Enforcement**

**56.**—(1) Subject to paragraphs (2), (3) and (4), the relevant authority must enforce these Regulations.

(2) In relation to cases of a particular description, or a particular case, the Secretary of State as regards England, the Welsh Ministers as regards Wales, and the Scottish Ministers as regards Scotland, may direct that the duty in paragraph (1) imposed on a relevant authority shall be discharged by the Secretary of State or them, as the case may be, and not by the relevant authority.

(3) The Secretary of State must enforce these Regulations in relation to offshore installations.

(4) The Scottish Ministers must enforce these Regulations in relation to Scottish offshore installations.

(5) In this regulation, “relevant authority” means the Agency, the local authority or the port health authority.

4th February 2009

*Phil Hunt*  
Minister of State  
Department for Environment, Food and Rural  
Affairs

## SCHEDULE 1

Regulation 21

### Interim Qualifications

#### PART 1

1. City & Guilds Certificate in Handling Refrigerants Scheme 2078.
2. Construction Industry Training Board Safe Handling of Refrigerants (J01).

#### PART 2

3. An in-house qualification.
4. Automotive Technician Accreditation – Air Conditioning Refrigerant Handler.
5. Automotive Technician Accreditation – Air Conditioning Service Technician.
6. Automotive Technician Accreditation – Air Conditioning Diagnostic Technician.
7. Automotive Technician Accreditation – Senior Mechanical Electrical Trim Technician.
8. City & Guilds 5101–01 Certificate in Refrigerant Handling for Mobile Air Conditioning Systems.
9. City & Guilds 5101–02 Certificate in Servicing Mobile Air Conditioning Systems.
10. City & Guilds 5101–03 Certificate in Advanced Diagnostics for Mobile Air Conditioning Systems.
11. City & Guilds 5101–04 level 3 Certificate in Mobile Air Conditioning Systems.
12. City & Guilds 5101 unit 301 Refrigerant Handling for Mobile Air Conditioning Systems.
13. City & Guilds 4101–55 Certificate in Vehicle Maintenance and Repair (Air Conditioning and Climate Control).
14. City & Guilds 4101 unit V87 Air conditioning and climate control systems.
15. City & Guilds 4100–03 Level 3 Progression Award in Automotive Vehicle Servicing and Repair (Air Conditioning and Climate Control).
16. City & Guilds 4100 Unit 7.
17. Institute of the Motor Industry (IMI) level 3 unit – Refrigerant handling AC1.
18. City & Guilds 3791–10 Automotive Air Conditioning – Part One.
19. City & Guilds 3791–10 Automotive Air Conditioning – Part Two.
20. City & Guilds 3791–10 Automotive Air Conditioning – Part Three.
21. City & Guilds 6048–01 Motor Vehicle Air Conditioning (Service and Repair).
22. City & Guilds 7543–01 Level 3 Award in Basic Mobile Air Conditioning Systems (QCA trial only).
23. City & Guilds 7543–02 Level 3 Award in Diagnosis and Repair of Mobile Air Conditioning/Climate Control Systems (QCA trial only).
24. Institute of the Motor Industry (IMI) level 3 Diploma in Automotive Air Conditioning and Climate Control.

25. Institute of the Motor Industry (IMI) level 2 Vehicle Air Conditioning Technician.
26. Construction Industry Training Board Safe Handling of Refrigerants (Automotive) (J07).

## SCHEDULE 2

Regulation 33

### Certification and Evaluation Bodies (High-Voltage Switchgear)

The persons are—

- (a) ABB Limited**(39)**;
- (b) Areva T&D UK Limited**(40)**;
- (c) E.ON UK plc**(41)**;
- (d) EA Technology Limited**(42)**;
- (e) EDF Energy Networks (EPN) plc**(43)**;
- (f) EDF Energy Networks (SPN) plc**(44)**;
- (g) Electricity Northwest Limited**(45)**;
- (h) Lucy Electric UK Limited**(46)**;
- (i) National Grid Electricity Transmission plc**(47)**;
- (j) Schneider Electric Limited**(48)**;
- (k) Scottish and Southern Energy plc**(49)**;
- (l) Scottish Power Development**(50)**;
- (m) Siemens Transmission and Distribution Limited**(51)**;
- (n) Western Power Distribution (South Wales) plc**(52)**;
- (o) Western Power Distribution (South West) plc**(53)**.

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**(39)** Details can be obtained from ABB Limited, Daresbury Park, Daresbury, Warrington, Cheshire WA4 4BT; telephone number: 01925 741111.

**(40)** Details can be obtained from Areva T&D UK Limited, St Leonards Avenue, Stafford ST 17 4LX; telephone number: 01785 272111 or 07801 776727.

**(41)** Details can be obtained from E.ON UK plc, Westwood Way, Westwood Business Park, Coventry CV4 8LG; telephone 02476 424000.

**(42)** Details can be obtained from EA Technology Limited, Capenhurst Technology Park, Capenhurst, Chester CH1 6ES; telephone number 0151 3394181.

**(43)** Details can be obtained from EDF Energy Networks (EPN) plc, 40 Grosvenor Place, Victoria, London SW1X 7EN; telephone 0207 752 2209.

**(44)** Details can be obtained from EDF Energy Networks (SPN) plc, 40 Grosvenor Place, Victoria, London SW1X 7EN; telephone 0207 752 2209.

**(45)** Details can be obtained from Electricity Northwest Limited, Dalton House, 104 Dalton Avenue, Birchwood Park, Birchwood, Warrington WA3 6YF; telephone 01925 534550.

**(46)** Details can be obtained from Lucy Electric UK Limited, Walton Well Road, Oxford OX2 6EE; telephone number: 01865 311411.

**(47)** Details can be obtained from National Grid Electricity Transmission plc, 1-3 Strand, London WC2N 5EH; telephone 01623 870100.

**(48)** Details can be obtained from Schneider Electric Limited, 123 Jack Lane, Leeds LS10 1BS; telephone number: 0113 290 3500.

**(49)** Details can be obtained from Scottish and Southern Energy plc, Inveralmond House, 200 Dunkeld Road, Perth PH1 3AQ; telephone 01737 456000.

**(50)** Details can be obtained from Scottish Power Development, Dealain House, Napier Road, Wardpark, Cumbernauld G68 0DF; telephone 0141 636 4752.

**(51)** Details can be obtained from Siemens Transmission and Distribution Limited, 2 Koppers Way, Monkton Business Park South, Hebburn, Tyne and Wear NE31 2EZ; telephone number: 0191 495 3449.

**(52)** Details can be obtained from Avonbank, Feeder Road, Bristol BS2 0TB.

**(53)** Details can be obtained from Avonbank, Feeder Road, Bristol BS2 0TB.

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SCHEDULE 3

Regulation 54(7)

Form of Fixed Penalty Notice

The Fluorinated Greenhouse Gases Regulations 2009

Notice number:
Name of alleged offender:
Address:

I, \_\_\_\_\_ (1), an authorised person acting on behalf of \_\_\_\_\_ (2), have reason to believe that on or between \_\_\_\_\_ (3) you contravened \_\_\_\_\_ (4). This notice offers you the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

The circumstances alleged to constitute the offence are as follows:

Four horizontal lines for describing the circumstances of the offence.

No proceedings will be taken for this offence before the expiration of 28 days from the date of this notice. You will not be liable to conviction for the offence if you pay the fixed penalty during that period of 28 days.

The amount of the fixed penalty is £100.

It may be paid to \_\_\_\_\_ (5) at the following address: (6)

Two horizontal lines for the payment address.

Payment may be made by cash or by cheque, postal order or money order payable to \_\_\_\_\_ (5)

If you are sending cash, you are advised to send it by registered post. Payment made in this way will be regarded as having been made at the time at which the letter would be delivered in the ordinary course of post. Alternatively, payment may be made in person or by any other method.

Signature of authorised person: \_\_\_\_\_
Date of notice: \_\_\_\_\_

Notes:

- (1) Insert name of authorised person.
(2) Insert the enforcing authority by whom the person is authorised.
(3) Insert date on or dates between which the offence is alleged to have taken place.
(4) Insert the regulation of the Fluorinated Greenhouse Gases Regulations 2009 that is alleged to have been contravened.
(5) Insert title or name of person to whom the fixed penalty is to be paid.
(6) Insert address at which payment is to be made.



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## EXPLANATORY NOTE

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

The Regulations revoke and remake with amendments the Fluorinated Greenhouse Gases Regulations 2008 (S.I. 2008/41).

These Regulations give effect to Regulation (EC) No 842/2006 of the European Parliament and of the Council on certain fluorinated greenhouse gases (OJ No L 161, 14.6.06, p 1) (“the Council Regulation”). The term “fluorinated greenhouse gases” is defined in Article 2(1) of the Council Regulation. These Regulations also give effect to the following Commission Regulations relating to certain fluorinated greenhouse gases—

- (a) Commission Regulation (EC) No 1493/2007 (OJ No L 332, 18.12.07, p 7);
- (b) Commission Regulation (EC) No 1494/2007 (OJ No L 332, 18.12.07, p 25);
- (c) Commission Regulation (EC) No 1497/2007 (OJ No L 333, 19.12.07, p 4);
- (d) Commission Regulation (EC) No 1516/2007 (OJ No L 335, 20.12.07, p 10);
- (e) Commission Regulation (EC) No 303/2008 (OJ No L 92, 3.4.08, p 3);
- (f) Commission Regulation (EC) No 304/2008 (OJ No L 92, 3.4.08, p 12);
- (g) Commission Regulation (EC) No 305/2008 (OJ No L 92, 3.4.08, p 17);
- (h) Commission Regulation (EC) No 306/2008 (OJ No L 92, 3.4.2008, p 21);
- (i) Commission Regulation (EC) No 307/2008 (OJ No L 92, 3.4.2008, p 25); and
- (j) Commission Regulation 308/2008 (OJ No L 92, 3.4.2008, p 28).

The Regulations provide that references to Commission Regulation 1493/2007 and to Commission Regulation 1494/2007 are references to those Commission Regulations as amended from time to time.

The Regulations extend to England, Wales and Scotland. They also extend to Northern Ireland for the purposes of importation. The Regulations apply to offshore installations and Scottish offshore installations. (The terms “offshore installation” and “Scottish offshore installation” are defined in regulation 3(5) and (6)).

The main provisions of the Regulations are as follows.

Regulation 4 appoints the Secretary of State as the competent authority for the purposes of the Council Regulation, save that the Scottish Ministers are the competent authority for such purposes as regards Scottish offshore installations.

Part 2 of the Regulations (regulations 5 to 18) contains provisions which create offences for breaches of the provisions of the Council Regulation and the Commission Regulations. Regulations 5 to 8 create a number of offences for failure to comply with the provisions of the Council Regulation relating to the operation and leakage checking of certain equipment containing fluorinated greenhouse gases. Regulation 9 creates a number of offences for failure to comply with the provisions of the 2006 Regulation and of certain of the Commission Regulations relating to the keeping of records.

Regulation 10 creates a number of offences for failure to comply with the provisions of the 2006 Regulation relating to the recovery of fluorinated greenhouse gases. Regulation 11 makes it an offence to take delivery of fluorinated greenhouse gases in breach of the provisions of the Council

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Regulation and regulation 12 makes it an offence to fail to comply with the reporting requirements of Article 6 the Council Regulation.

Regulation 13 creates offences relating to the labelling of a product or equipment which contains fluorinated greenhouse gases. Regulation 14 contains provisions about the information concerning fluorinated greenhouse gases which must be included in instruction manuals relating to certain equipment placed on the market. (The term “placing on the market” is defined in regulation 3(1)). Regulation 15 makes it an offence to use sulphur hexafluoride contrary to Article 8 of the Council Regulation. Regulations 16 to 18 are concerned with unlawful placing on the market and importation.

Part 3 of the Regulations (regulations 19 to 44) gives further effect to certain of the Commission Regulations and is concerned with the appointment of certification, attestation and evaluation bodies and the qualifications and certificates to be held by individuals and companies to enable them to carry out various activities relating to certain equipment containing fluorinated greenhouse gases. It is an offence to carry out certain activities without the requisite qualification or certificate. It is also an offence on the part of certification, attestation and evaluation bodies to fail to comply, or ensure compliance with, certain provisions of the Commission Regulations.

Chapter 1 of Part 3 (regulations 19 to 25) relates to stationary refrigeration, air conditioning and heat pump equipment. Chapter 2 (regulations 26 to 32) relates to fire protection systems and fire extinguishers. Chapter 3 (regulations 33 to 35) relates to high-voltage switch gear and Chapter 4 (regulations 36 to 38) relates to fluorinated greenhouse gas-based solvents. Chapter 5 (regulations 39 to 41) is concerned with air conditioning systems in motor vehicles. Chapter 6 (regulations 42 to 44) contains provisions imposing obligations on employers relating to the employment of qualified personnel and transitional provisions relating to training records created under regulation 19(2) of the Fluorinated Greenhouse Gases Regulations 2008. Chapter 6 also imposes obligations on certification, attestation and evaluation bodies.

Part 4 of the Regulations (regulations 45 to 56) contains provisions relating to enforcement, offences and penalties. Regulations 45 and 46 relate to the appointment, and powers, of persons to enforce the Regulations. Such persons are appointed by the enforcing authority. (The term “enforcing authority” is defined in regulation 3(3).)

Regulations 48 and 49 are concerned with enforcement and prohibition notices and appeals against such notices. A number of miscellaneous offences are created by regulation 51. Regulation 53 sets out the penalties to which a person is liable if that person commits an offence.

Regulation 54 contains provisions enabling a penalty notice to be issued in respect of an offence under regulation 5 relating to certain equipment in a dwelling house. The payment of the penalty in accordance with the regulation will discharge the liability to conviction for the offence. The form of the penalty notice is set out in Schedule 3.

Regulation 55 confers a power on the Secretary of State to require the disposal of products or equipment containing fluorinated greenhouse gases unlawfully imported or their removal from the United Kingdom or an offshore installation. A similar power is conferred on the Scottish Ministers as regards Scottish offshore installations.

Regulation 56 provides who is to enforce the Regulations.

A full impact assessment of the effect that this instrument will have on the costs of business is available from the Department for Environment, Food and Rural Affairs, Atmospheric Quality and Industrial Pollution, Area 3F, Ergon House c/o 17, Smith Square, London, SW1P 3JR. A copy has been placed in the library of each House of Parliament.