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STATUTORY INSTRUMENTS

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**2015 No. 168**

**ENVIRONMENTAL PROTECTION**

**The Ozone-Depleting Substances Regulations 2015**

*Made* - - - - *9th February 2015*  
*Laid before Parliament* *11th February 2015*  
*Coming into force* - - *7th March 2015*

The Secretary of State is designated in relation to the environment<sup>M1</sup> for the purposes of section 2 of the European Communities Act 1972<sup>M2</sup>, and makes these Regulations under the powers conferred by that section and paragraph 1A of Schedule 2 to that Act.

The Regulations make provision for a purpose mentioned in section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for references to Annex I to Regulation (EC) No 1005/2009 to be construed as references to that Annex as amended from time to time.

**Marginal Citations**

**M1** S.I. 2008/301.

**M2** 1972 c.68. Section 2(2) was amended, and paragraph 1A of Schedule 2 was inserted, by the [Legislative and Regulatory Reform Act 2006 \(c.51\)](#), [section 27\(1\)\(a\)](#) and section 28 respectively, and were amended by section 3(3) of and Part 1 of the Schedule to the [European Union \(Amendment\) Act 2008 \(c.7\)](#). Under section 57(1) of the [Scotland Act 1998 \(c. 46\)](#), despite the transfer to the Scottish Ministers of functions in relation to the implementing obligations under EU law in relation to devolved matters, the Secretary of State retains power to exercise such functions as regards Scotland. Under paragraph 5 of Schedule 3 to the [Government of Wales Act 2006 \(c. 32\)](#), despite the transfer to the Welsh Ministers of functions in relation to implementing obligations under EU in relation to devolved matters, the Secretary of State retains power to exercise such functions as regards Wales.

**PART 1**

Introduction

**Title, commencement and extent**

- 1.—(1) These Regulations may be cited as the Ozone-Depleting Substances Regulations 2015.
- (2) They come into force on 7th March 2015.

(3) They extend to Northern Ireland only in so far as they relate to import and export under the EU Regulation.

**Interpretation**

2.—(1) In these Regulations—

- “authorised person” means a person authorised under regulation 13;
- “competent” has the meaning given by regulation 4;
- “controlled substances” means the substances in Annex I to the EU Regulation as amended from time to time;
- “course of training” includes the training of an employee while that employee is 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” has the meaning given by regulation 16;
- “enforcing authority” means a person or body enforcing the EU Regulation under regulation 12;
- “the EU Regulation” means Regulation (EC) No 1005/2009 of the European Parliament and of the Council on substances that deplete the ozone layer <sup>M3</sup>;
- “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 relevant work;
- “marine area” has the meaning given by paragraph 2 of Schedule 1;
- “relevant work” has the meaning given by regulation 5;
- “offshore installation” has the meaning given by paragraph 1 of Schedule 1; and
- “work with methyl bromide” means work which involves preventing or minimising the leakage of methyl bromide from fumigation installations and operations in which methyl bromide is used.

(2) Expressions used in these Regulations and in the EU Regulation have the same meaning in these Regulations as they have in the EU Regulation.

**Marginal Citations**

**M3** OJ No L 286, 31.10.2009, p.1, amended by Commission Regulations (EU) No 744/2010 (OJ No L218, 19.8.2010, p.2), (EU) No 1087/2013 (OJ No L293, 5.11.2013, p.28) and (EU) No 1088/2013 (OJ No L293, 5.11.2013, p.29).

**The competent authority**

<sup>F13</sup>. . . . .

**F1** [Reg. 3 omitted \(31.12.2020\) by virtue of The Ozone-Depleting Substances and Fluorinated Greenhouse Gases \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/583\), regs. 1, 2; 2020 c. 1, Sch. 5 para. 1\(1\)](#)

## PART 2

### Qualifications

#### Meaning of “competent” **E+S+N.I.**

4.—<sup>[F2]</sup>(1) For the purposes of this Part of these Regulations—

- (a) a person is competent to carry out relevant work whilst performing a task specified in column 1 of the Table in Schedule 2 in respect of the equipment specified in the corresponding entry in column 2 of that Table if that person has obtained any of the qualifications specified in the corresponding entry in column 3 of that Table <sup>[F3]</sup>, or has obtained the equivalent of those qualifications in a specified state];
- (b) a person is competent to carry out any other relevant work to which paragraph (a) does not apply if that person has obtained an in-house qualification in respect of that other relevant work;

<sup>[F4]</sup>(c) a person is competent to carry out work with methyl bromide if that person has—

- (i) obtained the British Pest Control Association Certificate of Proficiency for Fumigation Operators and successfully completed the British Pest Control Association module referred to in the list in Schedule 3 which relates to the work in question; or
- (ii) obtained an equivalent certificate, and successfully completed an equivalent module, in a specified state.]

<sup>[F5]</sup>(2) For the purposes of this regulation, a “specified state” means one of the states specified in Schedule 1 to the Recognition of Professional Qualifications and Implementation of International Recognition Agreements (Amendment) Regulations 2023.]

#### Extent Information

- E1** This version of this provision extends to England, Scotland and Northern Ireland only; a separate version has been created for Wales only
- F2** Reg. 4 renumbered as reg. 4(1) (E.S.N.I.) (1.12.2023) by [The Recognition of Professional Qualifications and Implementation of International Recognition Agreements \(Amendment\) Regulations 2023 \(S.I. 2023/1286\)](#), reg. 1, **Sch. 3 para. 7(2)** (as amended by S.I. 2023/1294, regs. 1, 14(2))
- F3** Words in reg. 4(1)(a) inserted (E.S.N.I.) (1.12.2023) by [The Recognition of Professional Qualifications and Implementation of International Recognition Agreements \(Amendment\) Regulations 2023 \(S.I. 2023/1286\)](#), reg. 1, **Sch. 3 para. 7(3)(a)** (as amended by S.I. 2023/1294, regs. 1, 14(2))
- F4** Reg. 4(1)(c) substituted (E.S.N.I.) (1.12.2023) by [The Recognition of Professional Qualifications and Implementation of International Recognition Agreements \(Amendment\) Regulations 2023 \(S.I. 2023/1286\)](#), reg. 1, **Sch. 3 para. 7(3)(b)** (as amended by S.I. 2023/1294, regs. 1, 14(2))
- F5** Reg. 4(2) inserted (E.S.N.I.) (1.12.2023) by [The Recognition of Professional Qualifications and Implementation of International Recognition Agreements \(Amendment\) Regulations 2023 \(S.I. 2023/1286\)](#), reg. 1, **Sch. 3 para. 7(4)** (as amended by S.I. 2023/1294, regs. 1, 14(2))

#### Meaning of “competent” **W**

4. For the purposes of this Part of these Regulations—

- (a) a person is competent to carry out relevant work whilst performing a task specified in column 1 of the Table in Schedule 2 in respect of the equipment specified in the

corresponding entry in column 2 of that Table if that person has obtained any of the qualifications specified in the corresponding entry in column 3 of that Table [<sup>F6</sup>, or has obtained the equivalent of those qualifications in an EEA EFTA state];

(b) a person is competent to carry out any other relevant work to which paragraph (a) does not apply if that person has obtained an in-house qualification in respect of that other relevant work;

[<sup>F7</sup>(c) a person is competent to carry out work with methyl bromide if that person has—

(i) obtained the British Pest Control Association Certificate of Proficiency for Fumigation Operators and successfully completed the British Pest Control Association module referred to in the list in Schedule 3 which relates to the work in question; or

(ii) obtained an equivalent certificate, and successfully completed an equivalent module, in an EEA EFTA state.]

[<sup>F8</sup>(d) For the purposes of this regulation, an “EEA EFTA state” means—

(i) Norway,

(ii) Iceland, or

(iii) Liechtenstein.]

#### **Extent Information**

**E2** This version of this provision extends to Wales only; a separate version has been created for England, Scotland and Northern Ireland only

**F6** Words in [reg. 4\(a\)](#) inserted (W.) (1.12.2023) by [The Recognition of Professional Qualifications and Implementation of International Recognition Agreements \(Wales\) \(Amendment etc.\) Regulations 2023 \(S.I. 2023/1294\)](#), [reg. 1](#), [Sch. 3 para. 5\(2\)\(a\)](#)

**F7** [Reg. 4\(c\)](#) substituted (W.) (1.12.2023) by [The Recognition of Professional Qualifications and Implementation of International Recognition Agreements \(Wales\) \(Amendment etc.\) Regulations 2023 \(S.I. 2023/1294\)](#), [reg. 1](#), [Sch. 3 para. 5\(2\)\(b\)](#)

**F8** [Reg. 4\(d\)](#) inserted (W.) (1.12.2023) by [The Recognition of Professional Qualifications and Implementation of International Recognition Agreements \(Wales\) \(Amendment etc.\) Regulations 2023 \(S.I. 2023/1294\)](#), [reg. 1](#), [Sch. 3 para. 5\(2\)\(c\)](#)

#### **Meaning of “relevant work”**

**5.** In this Part, “relevant work” means any work which involves—

(a) recovering, recycling, reclaiming or destroying controlled substances; or

(b) preventing or minimising the leakage of controlled substances other than work with methyl bromide.

#### **Qualifications and supervision**

**6.—(1)** Subject to paragraph (5), no person may carry out any relevant work unless that person is competent to do so.

(2) Subject to paragraph (6), no person may carry out work with methyl bromide unless that person is competent to do so.

(3) The employer of a person employed to carry out relevant work must ensure that paragraph (1) is complied with.

(4) The employer of a person employed to carry out work with methyl bromide must ensure that paragraph (2) is complied with.

(5) A person who is not competent to carry out relevant work may carry out such work if the person does so—

(a) under the supervision of a person who is so competent; and

(b) with a view to obtaining—

(i) a qualification referred to in regulation 4(a); or

(ii) an in-house qualification.

(6) A person who is not competent to carry out work with methyl bromide may carry out such work if the person does so under the supervision of a person who is so competent, and—

(a) with a view to—

(i) obtaining the Certificate of Proficiency referred to in regulation 4(c), and

(ii) completing any of the modules listed in Schedule 3; or

(b) if the person has obtained that Certificate of Proficiency, with a view to completing any of the modules listed in Schedule 3.

## **Training**

7.—(1) A training employer must ensure that the course of training which the training employer provides will enable an employee who has been trained to carry out the relevant job satisfactorily.

(2) In respect of each employee trained, a training employer must keep for the required period a record of—

(a) the name of the employee;

(b) the training provided;

(c) the date of the training; and

(d) the date on which is issued the certificate of competence or other written confirmation that the course of training has been successfully completed.

(3) A training employer must provide a copy of the record referred to in paragraph (2) to the employee in question when requested to do so by that employee during the required period.

(4) In this regulation—

(a) “relevant job” means relevant work not involving a task specified in column 1 of the Table in Schedule 2 in respect of the equipment specified in the corresponding entry in column 2 of that Table;

(b) “the required period” means both—

(i) the period during which the employee in question undergoes training provided by the training employer, and

(ii) the period during which the employee is employed by the training employer to carry out a relevant job; and

(c) “training employer” means an employer who provides training leading to an in-house qualification.

## **PART 3**

### Offences, penalties and enforcement

#### **Offences in relation to Part 2**

**8.**—(1) Any person who fails to comply with paragraph (1), (2), (3) or (4) of regulation 6 commits an offence.

(2) A training employer who fails to comply with paragraph (1), (2) or (3) of regulation 7 commits an offence.

#### **Offences in relation to the EU Regulation**

**9.**—(1) Any person who breaches a provision of the EU Regulation set out in Schedule 4 commits an offence.

(2) Failure to comply with any of the following is an offence—

- (a) an enforcement notice;
- (b) a notice issued by the Secretary of State under regulation 18.

(3) It is an offence—

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

#### **Penalties**

**10.** A person guilty of an offence under these Regulations is liable—

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

#### **Corporate offences**

**11.**—(1) If an offence under these Regulations committed by a body corporate is proved—

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

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

(2) In paragraph (1) “officer”, in relation to a body corporate, means—

- (a) a director, manager, secretary or other similar officer of the body; or
- (b) a person purporting to act in any such capacity.

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

(4) If an offence under these Regulations committed by a partnership is proved—

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

(5) For the purpose of proceedings for an offence alleged to have been committed by a partnership in Scotland, section 70 of the Criminal Procedure (Scotland) Act 1995 <sup>M4</sup> applies as it applies in relation to a body corporate.

(6) In paragraph (4) “partner” includes a person purporting to act as a partner.

(7) Subject to paragraph (10), 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.

(8) For the purposes of such proceedings—

(a) rules of the court relating to service of documents have effect as if the association were a body corporate; and

(b) the following provisions apply as they apply to a body corporate—

(i) section 33 of the Criminal Justice Act 1925 <sup>M5</sup> and Schedule 3 to the Magistrates' Courts Act 1980 <sup>M6</sup>;

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

(iii) section 18 of the Criminal Justice Act (Northern Ireland) 1945 <sup>M7</sup> and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981 <sup>M8</sup>.

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

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

(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 is liable to be proceeded against and punished accordingly.

#### Marginal Citations

**M4** 1995 c. 46. Section 70 was amended by section 28 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (2007 asp 6).

**M5** 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 Courts Act 1952, section 132 and Schedule 6.

**M6** 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).

**M7** 1945 c. 15 (N.I.).

**M8** S.I. 1981/1675 (N.I. 26).

## Enforcement

**12.**—(1) Part 2 of these Regulations is enforced by the appropriate agency, the local authority or the port health authority.

(2) In relation to—

- (a) cases of a particular description; or
- (b) a particular case,

the Secretary of State, as regards England, the Welsh Ministers, as regards Wales, or the Scottish Ministers as regards Scotland may direct that Part 2 of these Regulations is enforced by them instead.

(3) The appropriate agency and the local authority enforce the EU Regulation and are each an enforcing authority for the purpose of these Regulations.

(4) In relation to—

- (a) cases of a particular description; or
- (b) a particular case,

the Secretary of State, as regards England, the Welsh Ministers, as regards Wales, the Scottish Ministers as regards Scotland or the Department of the Environment as regards Northern Ireland may direct that the EU Regulation is enforced by them instead and a person or body making such a direction is to that extent an enforcing authority for the purposes of these Regulations.

(5) Where the Secretary of State makes a direction under paragraph (2) or (4), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of offences under these Regulations.

(6) The Secretary of State enforces the EU Regulation in relation to offshore installations and to that extent is an enforcing authority for the purposes of these Regulations.

(7) Nothing in these Regulations authorises an enforcing authority to bring proceedings in Scotland for an offence.

(8) In this Regulation—

(a) “the appropriate agency” means—

- (i) as regards England, the Environment Agency;
- (ii) as regards Wales, the Natural Resources Body for Wales; and
- (iii) as regards Scotland, the Scottish Environment Protection Agency;

(b) “local authority” means—

- (i) in England, where there is, within the meaning of the Local Government Changes for England Regulations 1994<sup>M9</sup>, a unitary authority, that authority;
- (ii) otherwise in England—
  - (aa) a district Council,
  - (bb) a London borough Council,
  - (cc) the Common Council of the City of London, or
  - (dd) the Council of the Isles of Scilly;
- (iii) in relation to Wales—

- (aa) a county council, or
- (bb) a county borough council;



- (iv) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 <sup>M10</sup>;
- (v) in relation to Northern Ireland, a district council;
- (c) “port health authority” means—
  - (i) in relation to London port health district (within the meaning given by section 7(1) of the Public Health (Control of Disease) Act 1984 <sup>M11</sup>), the Common Council of the City of London; and
  - (ii) 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.

#### Marginal Citations

**M9** S.I. 1994/867.

**M10** 1994 c. 39.

**M11** 1984 c. 22.

#### Authorised persons

**13.**—(1) The authorities specified in regulation 12(1) and (2) may authorise a person in writing for the purposes of enforcing Part 2 of these Regulations pursuant to section 108 of the Environment Act 1995.

(2) An enforcing authority may authorise a person in writing for the purposes of enforcing the EU Regulation—

- (a) in England, Scotland and Wales, pursuant to section 108 of the Environment Act 1995 <sup>M12</sup> (powers of enforcing authorities and persons authorised by them); or
- (b) in Northern Ireland, pursuant to Article 72 of the Waste and Contaminated Land (Northern Ireland) Order 1997 <sup>M13</sup>.

(3) The powers in section 108 of the Environment Act 1995 are extended to the marine area for the purpose of enforcing the EU Regulation.

#### Marginal Citations

**M12** 1995 c.25.

**M13** S.I. 1997/2778 (N.I.19).

#### Powers of an authorised person in relation to Part 2

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

(2) The powers are—

- (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 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;

- (c) to carry out such inquiries and to make such examination as may be necessary;
  - (d) to require any person whom the authorised person reasonably believes can give any information relevant to any examination or investigation under sub-paragraph (c)—
    - (i) 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
    - (ii) to sign a declaration of the truth of the answers of that person;
  - (e) 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 any entry in, the records; and
  - (f) 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) No answer given by a person in pursuance of a requirement imposed under paragraph (2)(d) is admissible in evidence against the person in any proceedings.
- (4) Nothing in this regulation is to be taken to compel the production by any person of a document of which that person would be entitled to withhold production on the 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.

#### **Offences in relation to regulation 14**

**15.** A person who—

- (a) intentionally prevents another person from—
  - (i) appearing before an authorised person under regulation 14; or
  - (ii) answering any questions to which an authorised person, may by virtue of that regulation require an answer;
- (b) intentionally obstructs an authorised person in the exercise or performance of the powers of that authorised person;
- (c) furnishes to an authorised person any information which the person knows to be false or misleading;
- (d) fails to produce a record when required to do so by an authorised person; or
- (e) pretends to be an authorised person

commits an offence.

#### **Enforcement notices**

**16.—(1)** An enforcement notice is a notice requiring a person to take specified steps to remedy or avert a contravention.

(2) An authorised person who is of the opinion that a person has contravened, is contravening or is likely to contravene a provision of the EU Regulation may serve an enforcement notice on that person.

(3) 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 or avert the contravention;
- (d) specify the period within which those steps must be taken;
- (e) state—
  - (i) that the person on whom the notice is served has the right of appeal to a magistrates' court or the sheriff; and
  - (ii) the period within which the appeal may be brought.

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

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

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

### Appeals against enforcement notices

17.—(1) A person who is aggrieved by an enforcement notice may appeal against it.

(2) The right of appeal is to a magistrates' court or, in Scotland, to the sheriff.

(3) The procedure on an appeal to a magistrates' court is by way of complaint, and the Magistrates' Courts Act 1980<sup>M14</sup> applies to the proceedings.

(4) An appeal to the sheriff is by summary application.

(5) An appeal may be brought not later than 28 days after the date on which the enforcement notice is served.

(6) An enforcement notice is not suspended pending an appeal unless the court or sheriff orders otherwise.

(7) On an appeal the court or the sheriff may either cancel the notice or confirm it, with or without modification.

#### Marginal Citations

M14 1980 c. 43.

### Powers of the Secretary of State

18. The Secretary of State may by notice require a person in possession of a controlled substance, or a product or equipment containing or relying on a controlled substance, that has been produced, placed on the market or imported or is intended to be or is being exported, in contravention of the EU Regulation, to dispose of it or otherwise render it harmless in accordance with the notice.

### Power to seize and detain

19.—(1) A customs official may seize and detain any controlled substance or product or equipment containing or relying on a controlled substance which the official believes is being—

- (a) imported in contravention of Article 15 of the EU Regulation; or
  - (b) exported in contravention of Article 17 of the EU Regulation.
- (2) Anything seized and detained under paragraph (1) may be detained for no longer than 5 working days and must be dealt with during the period of its detention in such manner as the Secretary of State may direct under section 5 of the 2009 Act.
- (3) In this regulation—
- “the 2009 Act” means the Borders, Citizenship and Immigration Act 2009 <sup>M15</sup>;
  - “customs official” means a general customs official designated under section 3(1) of the 2009 Act, or a customs revenue official designated under section 11(1) of that Act;
  - “working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 <sup>M16</sup> in any part of the United Kingdom.

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**Marginal Citations**

**M15** 2009 c. 11.

**M16** 1971 c. 80.

## PART 4

### Review and revocations

#### Review

- 20.**—(1) This regulation does not apply in respect of the application of these Regulations in Scotland.
- (2) Before the end of each review period, the Secretary of State must—
- (a) carry out a review of these Regulations;
  - (b) set out the conclusions of the review in a report; and
  - (c) publish the report.
- (3) The report must in particular—
- (a) set out the objectives intended to be achieved by these Regulations;
  - (b) assess the extent to which objectives have been achieved;
  - (c) assess whether the objectives remain appropriate and, if so, the extent to which they could be achieved in a less burdensome way.
- (4) The first review period is the period of five years beginning with the day on which these Regulations come into force.
- (5) Each subsequent review period is a period of five years beginning with the date on which the report of the preceding review was published.

#### Revocations

- 21.**—(1) The following Regulations are revoked—
- (a) the Ozone-Depleting Substances (Qualifications) Regulations 2009 <sup>M17</sup>;

- (b) the Environmental Protection (Controls on Ozone-Depleting Substances) Regulations 2011 <sup>M18</sup>.
- (2) The following provisions are revoked—
  - (a) articles 27 and 43 of the Agriculture, Animals, Environment and Food, etc. (Miscellaneous Amendments) Order 2012 <sup>M19</sup>;
  - (b) paragraph 314 of Schedule 4 to the Natural Resources Body for Wales (Functions) Order 2013 <sup>M20</sup>.

**Marginal Citations**

**M17** [S.I. 2009/216](#). Instruments revoked by the Regulations were [S.I. 2006/1510](#), as amended by [S.I. 2008/97](#) and [S.I. 2008/97](#).

**M18** [S.I. 2011/1543](#). Instruments revoked by the Regulations were [S.I. 2002/528](#) and S.I 2008/91.

**M19** [S.I. 2012/2897](#).

**M20** [S.I. 2013/755](#).

Department for Environment, Food and Rural  
Affairs

*Dan Rogerson*  
Parliamentary Under Secretary of State

## SCHEDULE 1

Regulations 2(1), 12(6) and 13(3)

## Meaning of “offshore installation” and “marine area”

1. “Offshore installation” means an installation or structure, other than a ship, used for carrying on an activity in paragraph 3 which is situated in the waters of, or on or under the seabed in the marine area.

2. “Marine area” means—

- (a) the tidal waters and parts of the sea in or adjacent to the United Kingdom up to the seaward limits of the territorial sea; and
- (b) the area designated by an Order in Council under section 1(7) of the Continental Shelf Act 1964 <sup>M21</sup>.

**Marginal Citations**

**M21** 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.2013/3162](#).

3. The activities are—

- (a) the exploitation, or the exploration with a view to exploitation, of mineral resources in or under the shore or bed of waters in the marine area;
- (b) the exploration of a place in, under or over such waters with a view to storage of gas;
- (c) the conversion of a place under the shore or bed of such waters for the purpose of storing gas;
- (d) the storage of gas in, under or over such waters or the recovery of gas so stored;
- (e) the unloading of gas at a place in, under or over such waters;
- (f) the conveyance of things by means of a pipe, or system of pipes, constructed or placed on, in or under the shore or bed of such waters;
- (g) in the provision of 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 an activity in this paragraph.

4. In paragraph 3—

- (a) references (in whatever form) to storing gas include storing gas with a view to its permanent disposal;
- (b) “gas” means—
  - (i) gas within the meaning of the Energy Act 2008 <sup>M22</sup>; or
  - (ii) carbon dioxide.

**Marginal Citations**

**M22** 2008 c. 32.

SCHEDULE 2

Regulations 4(a) and 7(4)

Table of Minimum Qualifications

<b>Tasks</b>	<b>Equipment</b>	<b>Minimum Qualification</b>
Servicing and maintenance of equipment	Refrigeration, air conditioning and heat pump equipment which is stationary at all times when in operation.	(a) City & Guilds Certificate in Handling Refrigerants Scheme 2078 M23
		(b) Construction Industry Training Board Safe Handling of Refrigerants (JOI) M24
		(c) City and Guilds level 2 Award in F Gas and ODS Regulations Scheme 2079-11: Category I or 2079-12: Category II.
		(d) Construction Industry Training Board Safe Handling of Refrigerants J11: Category I or J12: Category II.
Dismantling of equipment	Refrigeration, air conditioning and heat pump equipment—	(a) City & Guilds Certificate in Handling Refrigerants Scheme 2078.
		(a) which is stationary at all times when in operation; and (b) Construction Industry Training Board Safe Handling of Refrigerants (JOI).
		(b) which can only be dismantled at the place at which the equipment is used (c) City and Guilds Level 2 Award in F Gas and ODS Regulations Scheme 2079-11: Category I, 2079-12: Category II or 2079-13: Category III.
		(d) Construction Industry Training Board Safe Handling of Refrigerants J11: Category I, J12: Category II or J13: Category III.
Maintenance or decommissioning of equipment	Fire protection systems and fire extinguishers.	Fire Industry Competence Certificate Course Class 1 M25

**Marginal Citations**

**M23** Details can be obtained from City & Guilds, 1 Giltspur Street, London, EC1A 9DD; telephone number: 0844 543 000; email: centresupport@cityandguilds.com; website: www.cityandguilds.com.

**Changes to legislation:** There are currently no known outstanding effects for the The Ozone-Depleting Substances Regulations 2015. (See end of Document for details)

- M24** Details can be obtained from CITB, PO Box 114 Bircham Newton, King's Lynn, Norfolk, PE 31 6XD; telephone number 0844 847 4409; website: [eskillsawards@citb.co.uk](mailto:eskillsawards@citb.co.uk).
- M25** Details can be obtained from Fire Industry Association, Tudor House, Kingsway Business Park, Oldfield Road, Hampton, Middlesex, TW12 2HD; telephone number 020 3166 50002; email: [info@fia.uk.com](mailto:info@fia.uk.com); website: [fia.uk.com](http://fia.uk.com).

### SCHEDULE 3

Regulation 4(c) and 6(6)

#### British Pest Control Association Modules

- Module 1: Soil.
- Module 2: Space fumigation, buildings, warehouses, silos and mills.
- Module 3: Commodities under sheet, grain stores and timber.
- Module 4: Containers and lighters.
- Module 5: Ships.
- Module 6: Aircraft.
- Module 7: Bubble.
- Module 8: Chambers and permanently sited containers.

### SCHEDULE 4

Regulation 9(1)

#### Offences for breach of the EU Regulation

<i>Provision of the EU Regulation</i>	<i>Subject matter</i>
Article 4	Production of controlled substances.
Article 5(1)	Placing on the market and use of controlled substances.
Article 5(2)	Placing on the market and use of controlled substances in non-refillable containers.
Article 6(1)	Placing on the market of products and equipment containing or relying on controlled substances.
Article 6(2)	Prohibition and decommissioning of fire protection systems and fire extinguishers containing halons.
Article 13(3)	Decommissioning of fire protection systems and fire extinguishers containing halons.
Article 15(1)	Imports of controlled substances and products and equipment containing or relying on controlled substances.



Article 17(1)	Exports of controlled substances or products and equipment containing or relying on controlled substances.
Article 20	Trade with a State not party to the Montreal Protocol on substances that deplete the ozone layer or a territory not covered by that Protocol.
Article 22(1), (2) and (4)	Recovery and destruction, recycling and reclamation of controlled substances.
Article 23(1)	Precautionary measures to prevent and minimise leakages and emissions of controlled substances.
Article 23(2)	Requirements for specified stationary equipment or systems.
Article 23(3)	Record keeping by undertakings.
Article 23(5)	Precautionary measures to prevent and minimise leakages and emissions of controlled substances used as feedstock or process agents.
Article 23(6)	Precautionary measures to prevent and minimise leakages and emissions of controlled substances inadvertently produced in the manufacture of other chemicals.
Article 24(1)	Production, import, placing on the market, use or export of new substances.

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## EXPLANATORY NOTE

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

These Regulations replace and consolidate the Ozone-Depleting Substances (Qualifications) Regulations 2009 (S.I. 2009/216) and the Environmental Protection (Controls on Ozone-Depleting Substances) Regulations 2011 (S.I. 2011/1543).

These Regulations provide for the execution and enforcement of Regulation (EC) No 1005/2009 of the European Parliament and of the Council on substances that deplete the ozone layer (OJ No L 286, 31.10.2009, p.1), as amended by Commission Regulations (EU) No 744/2010 (OJ No L218, 19.8.2010, p.2), (EU) No 1087/2013 (OJ No L293, 5.11.2013, p.28) and (EU) No 1088/2013 (OJ No L293, 5.11.2013, p.29), (“the EU Regulation”).

The EU Regulation controls the production, placing on the market and use of substances that deplete the ozone layer and require that those who work on the recovery, recycling, reclamation or destruction of controlled substances and the prevention and minimising of leakages of controlled substances have minimum qualifications. The terms “controlled substances”, “recovery”, “recycling” and “reclamation” are defined in Article 3 of the EU Regulation.

Regulations 4 to 7 deal with the qualifications required to be “competent” to undertake “relevant work” in relation to controlled substances. “Competent” is defined in regulation 4 and “relevant work” in regulation 5. Provisions about training are contained in regulation 6. Details of the

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qualifications which a person needs in order to carry out certain types of relevant work are contained in the Table in Schedule 2.

Under regulation 8, it is an offence for a person to carry out relevant work involving controlled substances or work with methyl bromide unless that person is competent to do so. The term “work with methyl bromide” is defined in regulation 2.

Regulation 9 provides for offences in relation to failure to comply with the EU Regulation.

Regulation 10 provides for penalties in relation to the offences created by the Regulations.

Regulations 12 and 13 deal with the enforcement of these Regulations by authorised persons.

Regulations 14 to 19 deal with enforcement powers, notices, offences and rights of appeal.

Regulation 21 contains revocations.

These Regulations extend to Great Britain and extend to Northern Ireland only in so far as they relate to import and export controlled by the EU Regulation.

An impact assessment has not been produced for this instrument as no impact is foreseen on the private, voluntary or public sectors. The Explanatory Memorandum is available at [www.legislation.gov.uk](http://www.legislation.gov.uk).

**Changes to legislation:**

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