STATUTORY INSTRUMENTS

2018 No. 98

ENVIRONMENTAL PROTECTION

The Fluorinated Greenhouse Gases (Amendment) Regulations 2018

Made - - - -	*26th January 2018*
Laid before Parliament	*30th January 2018*
Coming into force in accordance with regulation 1(2)	

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**1**).

The Secretary of State is a Minister designated for the purposes of section 2(2) of that Act in relation to the environment(**2**).

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Fluorinated Greenhouse Gases (Amendment) Regulations 2018.

(2) They come into force on 22nd February 2018 except for regulations 4(a) and (c), 20(4), 21(2) to (5), 22, 24, 27 and 31 which come into force on 1st April 2018.

(3) These Regulations extend to Northern Ireland only insofar as they deal with import and export controls and trade with any place outside the United Kingdom, within the meaning of paragraph 20 of Schedule 3 to the Northern Ireland Act 1998(**3**).

(4) But regulations 4(a) and (c), 8, 20(4), 21(2) to (5), 22, 24 to 27 and 31 do not extend to Northern Ireland.

(5) Regulations 4(a) and (c), 20(4), 21(2) to (5), 22, 24, 27 and 31 do not apply in Wales.

(**1**) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) 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 Scottish Ministers of functions in relation to 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 law in relation to devolved matters, the Secretary of State retains power to exercise such functions as regards Wales.

(**2**) S.I. 2008/301.

(**3**) 1998 c. 47.

Amendment of the Fluorinated Greenhouse Gases Regulations 2015

2. The Fluorinated Greenhouse Gases Regulations 2015(**4**) are amended as follows.

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

3.—(1) Regulation 1 is amended as follows.

(2) In the heading, for ", extent and application" substitute "and extent".

(3) Omit paragraph (3).

Amendment of regulation 2 (interpretation: general)

4. In regulation 2(1)—

(a) after the definition of "authorised person" insert—

""civil penalty notice" means a notice served under paragraph 1 (as read with paragraphs 4 and 5) of Schedule 4;

"enforcement cost recovery notice" means a notice served under paragraph 6 of Schedule 4;";

(b) in the definition of "enforcing authority"—

(i) for paragraph (c) substitute—

"(c) as regards Scotland, subject to paragraphs (e) and (f)—

(i) each local authority;

(ii) SEPA;

(iii) the Scottish Ministers;";

(ii) in paragraphs (d) and (g)(ii), for "the Department of the Environment" substitute "the Department of Agriculture, Environment and Rural Affairs";

(c) after the definition of "premises" insert—

""relevant enforcing authority" means—

(a) as regards England—

(i) the Environment Agency;

(ii) the Secretary of State;

(b) as regards Scotland, and subject to sub-paragraphs (c) and (d)—

(i) SEPA;

(ii) the Scottish Ministers;

(c) as regards offshore installations, the Secretary of State;

(d) as regards Scottish offshore installations, the Scottish Ministers;";

(d) before the definition of "ship" insert—

""Scotland" is to be construed in accordance with section 126(1) and (2) of the Scotland Act 1998(**5**);

"SEPA" means the Scottish Environment Protection Agency;".

(**4**) S.I. 2015/310, amended by S.I. 2016/1105.
(**5**) 1998 c. 46.

Amendment of regulation 3 (interpretation: EU Regulations)

5.—(1) Regulation 3 is amended as follows.

(2) In paragraph (1)—

(a) omit the following definitions—

(i) "Commission Regulation 1494/2007(**6**)";

(ii) "Commission Regulation 303/2008(**7**)";

(iii) "Commission Regulation 305/2008(**8**)";

(iv) "Commission Regulation 308/2008(**9**)";

(b) at the end insert—

> ""Commission Regulation 2015/2065" means Commission Implementing Regulation (EU) 2015/2065 establishing, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council, the format for notification of the training and certification programmes of the Member States(**10**);
>
> "Commission Regulation 2015/2066" means Commission Implementing Regulation (EU) 2015/2066 establishing, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council, minimum requirements and the conditions for mutual recognition for the certification of natural persons carrying out installation, servicing, maintenance, repair or decommissioning of electrical switchgear containing fluorinated greenhouse gases or recovery of fluorinated greenhouse gases from stationary electrical switchgear(**11**);
>
> "Commission Regulation 2015/2067" means Commission Implementing Regulation (EU) 2015/2067 establishing, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council, minimum requirements and the conditions for mutual recognition for the certification of natural persons as regards stationary refrigeration, air conditioning and heat pump equipment, and refrigeration units of refrigerated trucks and trailers, containing fluorinated greenhouse gases and for the certification of companies as regards stationary refrigeration, air conditioning and heat pump equipment, containing fluorinated greenhouse gases(**12**);
>
> "Commission Regulation 2015/2068" means Commission Implementing Regulation (EU) 2015/2068 establishing, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council, the format of labels for products and equipment containing fluorinated greenhouse gases(**13**);
>
> "Commission Regulation 2016/879" means Commission Implementing Regulation (EU) 2016/879 establishing, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council, detailed arrangements relating to the declaration of conformity when placing refrigeration, air conditioning and heat pump equipment charged with hydrofluorocarbons on the market and its verification by an independent auditor(**14**)

(**6**) OJ No L 332, 18.12.2007, p 25.
(**7**) OJ No L 92, 3.4.2008, p 3.
(**8**) OJ No L 92, 3.4.2008, p 17.
(**9**) OJ No L 92, 3.4.2008, p 28.
(**10**) OJ No L 301, 18.11.2015, p 14.
(**11**) OJ No L 301, 18.11.2015, p 22.
(**12**) OJ No L 301, 18.11.2015, p 28.
(**13**) OJ No L 301, 18.11.2015, p 39.
(**14**) OJ No L 146, 3.6.2016, p 1.

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

"(b) Commission Regulation 1497/2007(**15**);

(c) Commission Regulation 1516/2007(**16**);

(d) Commission Regulation 304/2008(**17**);

(e) Commission Regulation 306/2008(**18**);

(f) Commission Regulation 307/2008(**19**);

(g) Commission Regulation 1191/2014(**20**);

(h) Commission Regulation 2015/2065;

(i) Commission Regulation 2015/2066;

(j) Commission Regulation 2015/2067;

(k) Commission Regulation 2015/2068;

(l) Commission Regulation 2016/879.".

(4) Omit paragraph (3)(a).

Amendment of regulation 4 (interpretation: offshore installations)

6.—(1) Regulation 4 is amended as follows.

(2) In paragraph (1)—

(a) in the words before sub-paragraph (a), for the words from ", other than" to "Northern Ireland offshore installation," substitute "(other than a Scottish offshore installation, a Northern Ireland offshore installation or a ship)";

(b) in sub-paragraph (b), in the words before paragraph (i), after "used" insert ", intended to be used or has been used,".

(3) For paragraph (5)(a) substitute—

"(a) the Northern Ireland inshore region;".

(4) After paragraph (6) insert—

"(7) In paragraph (5), "Northern Ireland inshore region" has the meaning given in section 322(1) of the Marine and Coastal Access Act 2009 (interpretation)(**21**).".

Insertion of new regulation 5A (service of notices)

7. After regulation 5 insert—

"**Service of notices**

5A.—(1) This regulation applies to the service of notices under these Regulations, subject to any specific provision made in these Regulations for a particular type of notice.

(2) A notice takes effect when served.

(3) A notice may be served on a person by—

(**15**) OJ No L 333, 19.12.2007, p 4.
(**16**) OJ No L 335, 20.12.2007, p 10.
(**17**) OJ No L 92, 3.4.2008, p 12.
(**18**) OJ No L 92, 3.4.2008, p 21, as corrected by a corrigendum (OJ No L 280, 23.10.2008, p 38).
(**19**) OJ No L 92, 3.4.2008, p 25.
(**20**) OJ No L 318, 5.11.2014, p 5, as amended by Commission Implementing Regulation (EU) No 2017/1375 (OJ No L 194, 26.7.2017, p 4).
(**21**) 2009 c. 23.

(a) handing it to the person;

(b) leaving it at the person's proper address;

(c) sending it by post to the person at that address;

(d) subject to paragraph (9), sending it to the person by electronic means.

(4) A notice to a body corporate may be given to an officer of that body.

(5) A notice to a partnership may be given to a partner or a person who has the control or management of the partnership business.

(6) For the purposes of this regulation, and section 7 of the Interpretation Act 1978 (references to service by post)(**22**) in its application to this regulation, the proper address of a person is—

(a) in the case of a body corporate or one of its officers, the address of the body's registered or principal office;

(b) in the case of a partnership, a partner or person having the control or management of the partnership business, the address of the principal office of the partnership;

(c) in any other case, the person's last known address.

(7) For the purposes of paragraph (6), the principal office of a company registered outside the United Kingdom, or of a partnership carrying on business outside the United Kingdom, is its principal office within the United Kingdom.

(8) If a person has specified an address in the United Kingdom, other than the person's proper address within the meaning of paragraph (6), as the one at which the person or someone on the person's behalf will accept notices of the same description as a notice under these Regulations, that address is also treated for the purposes of this regulation and section 7 of the Interpretation Act 1978 as the person's proper address.

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

(a) the person has indicated that notices of the same description as a notice under these Regulations may be given to the person by being sent to an electronic address and in an electronic form specified for that purpose, and

(b) the notice is sent to that address in that form.

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

(11) In this regulation—

"electronic address" means any number or address used for the purposes of sending or receiving documents or information by electronic means;

"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.".

Insertion of new regulation 7A (disclosure of information held by Revenue and Customs)

8. After regulation 7 insert—

(**22**) 1978 c. 30.