STATUTORY RULES OF NORTHERN IRELAND

2009 No. 184

ENVIRONMENTAL PROTECTION

The Fluorinated Greenhouse Gases Regulations (Northern Ireland) 2009

Made - - - - 6th May 2009

Coming into operation in accordance with regulation 1.

The Department of the Environment is a department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to measures relating to the environment.

These Regulations make provision for a purpose mentioned in that section and it appears to the Department 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(**3**), 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(**4**),

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

The Department makes Regulations in the exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(**5**).

PART 1

Introductory provisions

Citation, commencement and application

1.—(1) These Regulations—

(**1**) S.I. 2008/301
(**2**) S.I.1972 c. 68
(**3**) OJ No L332, 18.12.07, p7
(**4**) OJ No L332, 18.12.07, p25
(**5**) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c51)

(a) may be cited as the Fluorinated Greenhouse Gases Regulations (Northern Ireland) 2009; and

(b) other than regulations 7(2) and 10, come into operation on 12th May 2009.

(2) Regulation 7(2) comes into operation on 4th July 2010.

(3) Regulation 10 comes into operation on 4th July 2009.

(4) These Regulations apply to offshore installations.

Interpretation

2.—(1) In these Regulations—

(a) "the 2006 Regulation" means Regulation (EC) 842/2006 of the European Parliament and of the Council on certain fluorinated greenhouse gases(**6**);

(b) "authorised person" means a person authorised by the enforcing authority for the purposes of these Regulations;

(c) "Commission Regulation 1493/2007" means Commission Regulation (EC) No 1493/2007 establishing, pursuant to Regulation EC N 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(**7**);

(d) "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(**8**);

(e) "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(**9**);

(f) "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(**10**);

(g) "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(**11**);

(h) "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(**12**);

(**6**) OJ No L 161, 14.6.06, p 1.
(**7**) OJ No L 332, 18.12.07, p 7.
(**8**) OJ No L 332, 18.12.07, p 25.
(**9**) OJ No L 333, 19.12.07, p 4.
(**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.

(i) "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(**13**);

(j) "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(**14**);

(k) "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(**15**);

(l) "course of training" includes the training of an employee while that employee is engaged in work for which the employee is employed;

(m) "the Department" means the Department of the Environment;

(n) "employed" means employed under a contract of employment and "employee" and "employer" are construed accordingly;

(o) "enforcement notice" means a notice served under regulation 44(1);

(p) "the enforcing authority" has the meaning given in paragraph (3);

(q) "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;

(r) "offshore installation" has the meaning given in paragraph (4);

(s) "operator" means the person who exercises actual power over the technical functioning of the equipment or systems which are referred to in these Regulations;

(t) "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 Northern Ireland, and cognate expressions are construed accordingly;

(u) "premises" includes—

(i) land;

(ii) a vehicle or trailer;

(iii) an aircraft;

(iv) a ship; and

(v) an offshore installation or a part of an offshore installation,

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

(v) "prohibition notice" means a notice served under regulation 44(3);

(w) "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; and

(**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.

(x) "stationary application" has the meaning given in paragraph (5).

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

(a) "container";

(b) "fluorinated greenhouse gases";

(c) "heat pump";

(d) "leakage detection system"; and

(e) "preparation".

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

(a) the district council, or in a case which the Department makes a direction under regulation 51(2), the Department;

(b) in relation to offshore installations, the Secretary of State.

(4) In these Regulations, "offshore installation" has the same meaning as in the Off-shore Installations and Pipeline Works (Management and Administration) Regulations (Northern Ireland) 1995(**16**).

(5) In these Regulations, "stationary application" means—

(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.

(6) Other expressions used in these Regulations and in—

(a) the 2006 Regulation;

(b) Commission Regulation 1493/2007;

(c) Commission Regulation 1494/2007;

(d) Commission Regulation 1497/2007;

(e) Commission Regulation 1516/2007;

(f) Commission Regulation 303/2008;

(g) Commission Regulation 304/2008;

(h) Commission Regulation 305/2008;

(i) Commission Regulation 306/2008; and

(j) Commission Regulation 307/2008,

which are not defined in these Regulations have the same meaning in these Regulations as they have in the 2006 Regulation and in the Commission Regulations referred to in sub-paragraphs (b) to (j).

(7) A reference in these Regulations to a numbered Article is a reference to the Article so numbered in the 2006 Regulation.

(8) A reference in these Regulations to—

(a) Commission Regulation (EC) No 1493/2007; and

(b) Commission Regulation (EC) No 1494/2007,

(**16**) S.R. 1995 No. 340

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

(9) The Interpretation Act (Northern Ireland) 1954(**17**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Competent authority

3. The Department is the competent authority for the purposes of the 2006 Regulation, other than as that Regulation applies to importation into Northern Ireland from outside the customs territory of the Community.

PART 2

General provisions

Leakages

4. The operator of a stationary application commits an offence if the operator fails 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

5.—(1) A qualified person commits an offence if the qualified person fails 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) The operator of stationary equipment commits an offence if the operator fails 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) Articles 8.2 and 8.3 of Commission Regulation 1516/2007 (leakage tests and identification of cause) are 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) "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 17(4), (5), (7) or (8).

(**17**) 1954 c.33 (N.I.)