STATUTORY RULES OF NORTHERN IRELAND

2006 No. 321

ENVIRONMENTAL PROTECTION

The Ozone Depleting Substances (Qualifications) Regulations (Northern Ireland) 2006

Made - - - -	*28th July 2006*
Coming into operation	*31st August 2006*

The Department of the Environment, being 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 protection of the ozone layer and measures relating to substances that deplete the ozone layer, in exercise of the powers conferred on it by that section, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Ozone Depleting Substances (Qualifications) Regulations (Northern Ireland) 2006 and shall come into operation on 31st August 2006.

Interpretation

2.—(1) In these Regulations—

"authorised person" means a person authorised by the Department of the Environment for the purposes of these Regulations;

"competent" has the meaning given in regulation 3;

"the Council Regulation" means Regulation (EC) No. 2037/2000 of the European Parliament and of the Council on substances that deplete the ozone layer(**3**)

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

"employed" means employed under a contract of employment and "employee" and "employer" shall be construed accordingly;

"experienced person" means a person who carried out relevant work before 31st August 2006;

(**1**) S.I.1995/262.
(**2**) 1972 c. 68.
(**3**) As amended by Regulation (EC) No 2038/2000, Regulation (EC) No 2039/2000, Commission Decision 2003/160/EC, Regulation (EC) No 1804/2003, Commission Decision 2004/232/EC, Regulation (EC) No 2077/2004 and Commission Decision 2005/625/EC.

"in-house qualification" means a qualification verified by a certificate of competence or other written confirmation issued by an employer to such of his employees who have successfully completed a course of training provided by that employer relating to relevant work;

"relevant work" has the meaning given in regulation 4;

"work with methyl bromide" means work which involves preventing and minimising the leakage of methyl bromide from fumigation installations and operations in which methyl bromide is used.

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

(3) The Interpretation Act (Northern Ireland) 1954(**4**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Meaning of "competent"

3. For the purposes 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 1 in respect of the equipment specified in the corresponding entry in column 2 of that Table if that person has obtained the qualification, or, where appropriate, one of the qualifications, specified in the corresponding entry in column 3 of that Table;

(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;

(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(**5**); and

(ii) successfully completed the British Pest Control Association module listed in Schedule 2 which is appropriate for the work in question.

Meaning of "relevant work"

4. In these Regulations, "relevant work" means any work which involves—

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

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

Qualification and supervision

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

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

(3) An employer shall not cause an employee to carry out relevant work unless that employee is competent to do so.

(**4**) 1954 c. 33 (N.I.).

(**5**) Details can be obtained from the British Pest Control Association, Ground Floor, Gleneagles House, Vernongate, Derby DE1 1UP; tel 0870 6092687; email enquiry@bcpa.org uk; website: www.bpca.org.uk

(4) An employer shall not cause an employee to carry out work with methyl bromide unless that employee is competent to do so.

(5) Subject to paragraph (8), a person who is not competent to carry out relevant work may carry out such work if he 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 3(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 he 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 3(c)(i); and

(ii) completing the module listed in Schedule 2 which is appropriate for the work in question; or

(b) if the person has obtained the Certificate of Proficiency, with a view to completing the module listed in Schedule 2 which is appropriate for the work in question.

(7) A person who fails to comply with paragraph (1), (2), (3) or (4) is guilty of an offence.

(8) Paragraph (5) does not apply to an experienced person who is not competent to carry out relevant work.

Transitional provision

6. An experienced person who is not competent to carry out relevant work may continue to carry out such work until 30th May 2007.

Training

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

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

(a) the name of the employee trained;

(b) the training he provides;

(c) the date he provides such 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 shall 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 period required.

(4) A training employer commits an offence if he fails to comply with paragraph (1), (2) or (3).

(5) In this regulation —

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

(b) "the required period" means both—