

The Fluorinated Greenhouse Gases (Amendment) Regulations (Northern Ireland) 2012

A consultation Paper

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December 2011



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1. Introduction

1.1 Titles of Regulations

The existing *Fluorinated Greenhouse Gases Regulations (Northern Ireland) 2009* (“the F-gases Regulations”) can be found at:

<http://www.legislation.gov.uk/nisr/2009/184/contents/made>

The Department of the Environment (“the Department”) is consulting on draft Regulations which would amend the F-gases Regulations.

The new draft Regulations are to be called the *Fluorinated Greenhouse Gases (Amendment) Regulations (Northern Ireland) 2012* (“the draft F-gases Amendment Regulations”). The F-gases Amendment Regulations can be found at Annex I on page 16 of this document.

1.2 Need for amendment Regulations

The draft F-gases Amendment Regulations serve three purposes:

- a) to amend the definition of an offshore installation in regulation 2 of the F-gases Regulations;
- b) to revoke provisions on prohibition notices, as described in regulation 44 of the F-gases Regulations; and
- c) to enable certificates to become legally acceptable for work with F-gases if they are issued by an organisation approved by the DOE as having expertise in the relevant area. This would also allow certificates to remain valid if issued by previously appointed organisations which have subsequently undergone name changes.

2. Provisions of the draft F-gases Amendment Regulations

2.1 Amendments to definition of an offshore installation

The definition of an “offshore installation” needs to be changed in regulation 2 of the F-gases Regulations. This is because the current definition does not include Carbon Capture and Storage (“CCS”) installations, or Gas Unloading and Storage (“GUS”) installations.

As a result of EU requirements, a legal framework for carbon dioxide storage was established in sections 17 to 35 of the Energy Act 2008, which can be found at:

<http://www.legislation.gov.uk/ukpga/2008/32/part/1/chapter/3>

In addition, a legal framework for other gases to be stored underground was also compiled in sections 2 to 16 of the Energy Act 2008, which can be found at:

<http://www.legislation.gov.uk/ukpga/2008/32/part/1/chapter/2>

(sections 2 to 35 of the Energy Act 2008 apply to Northern Ireland)

At present, there are no offshore installations of any kind, including CCS or GUS installations, in NI territorial waters. Nonetheless, because of the abovementioned EU requirements, the provisions of the F-gases Regulations need to apply to any offshore installations that may be built in the future in NI territorial waters.

A UK-wide definition of “offshore installation” is now being used for all relevant UK legislation – which in this case includes the NI F-gases regulations. This will ensure that enforcing authorities can consistently carry out their duties on all types of offshore installation.

2.2 Revocation of provisions on prohibition notices

It is proposed to revoke all provisions on prohibition notices from the F-gases Regulations, as well as all instances in the F-gases Regulations where prohibition notices are mentioned.

All provisions on information notices and enforcement notices will remain unaffected, and will remain extant in the F-gases Regulations.

2.3 Current details of provisions on prohibition notices

Provisions on prohibition notices are currently contained in regulations 44 and 45 of the F-gases Regulations, which can be found at:

<http://www.legislation.gov.uk/nisr/2009/184/regulation/44/made>

and

<http://www.legislation.gov.uk/nisr/2009/184/regulation/45/made>

Prohibition notices are issued when there is an imminent danger of serious pollution of the environment.

The person receiving the prohibition notice is given three days to comply with the directions of the notice. Failure to obey the terms of the notice can result in the enforcing authority entering the relevant premises, and taking the steps specified in the notice. The expenses incurred could then be taken from the owner of the premises.

Prohibition notices can currently be issued for the following breaches of the F-gases Regulations:

- a) failure to prevent or repair leakage of fluorinated greenhouse gases ("F-gases") from equipment;
- b) failure to conduct leakage checks on some types of equipment containing F-gases;
- c) failure to install leakage detection systems on some larger types of equipment containing F-gases;
- d) failure to maintain records on some types of equipment containing F-gases (records would concern the quantity and type of F-gas, details of leakage checks and servicing, etc.);

- e) failure to ensure that F-gases from some types of spent equipment are recycled, reclaimed or destroyed;
- f) failure to observe the restrictions on the use of sulphur hexafluoride; and
- g) failure to observe the restrictions on the placement on the market of products and equipment containing F-gases.

Specific details of these breaches can be found in Articles 3.1 to 3.3, 3.6, 4, 8, and 9, of *Regulation (EC) No 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases*, which can be found at:

http://eur-lex.europa.eu/smartapi/cgi/sqa_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=Regulation&an_doc=2006&nu_doc=842

(this can also be found by typing the abovementioned full title of the EC Regulation No 842/2006 into an internet search engine)

2.4 Reason for revocation of provisions on prohibition notices

F-gases, being pollutants which can contribute long-term to climate change, do not pose an “imminent danger of serious pollution to the environment”. There has not yet been any requirement to issue prohibition notices in relation to F-gases in Northern Ireland.

On consideration, the Department now believes that prohibition notices are unenforceable when applied to F-gases, given the long-term nature of the adverse environmental impacts associated with these pollutants.

2.5 Removal of the offence of failure to comply with a prohibition notice

Draft regulation 5(13) of the draft F-gases Amendment Regulations revokes the offence of failure to comply with a prohibition notice.

However, offences in relation to failure to comply with enforcement or information notices would remain in place.

2.6 Provision to allow for greater flexibility on legally permitted certification, evaluation and attestation bodies

At present, for four sectors of industry involved in the use of F-gases, only certain nominated organisations are permitted to act as certification, evaluation and attestation bodies.

The four sectors are:

- stationary refrigeration and air-conditioning (certificates for individuals);
- fire protection (certificates for individuals);
- high-voltage switchgear, and;
- motor vehicle air-conditioning.

Draft regulation 4 of the draft F-gases Amendment Regulations allows this situation to continue. However, it also allows the Department to appoint any new additional organisation also deemed appropriate to act as a certification, evaluation and attestation body.

Under the current Regulations, new legislation would need to be introduced to allow for any new certification, evaluation and attestation body to legally issue certificates or carry out training for work with F-gases. This would involve the commitment of time and resources from the Department, and it would also mean that new individuals or companies would not be able to operate legally for until such times as the legislation was updated.

The proposed regulation 4 would greatly simplify this process and allow the Department greater flexibility in assessing whether any organisation would be able to become a certification, evaluation and attestation body in the future.

Draft regulation 4 would therefore remove the provisions of the F-gases Regulations which only allow for specific certification organisations' qualifications to be valid for work with F-gases.

In addition, if any of the certification organisations nominated in the F-gases Regulations underwent a name change, or another similar change of circumstances, a technicality would arise where the certificates would no longer be valid.

Draft regulation 4 of the draft F-gases Amendment Regulations also ensures that, if a certification body changes its name, the Department can act to ensure that the said certification body can continue to work within its existing capacity.

Draft regulation 6 also revokes provisions of the F-gases Regulations naming specific qualifications. Again, this is so that the Department can designate new certificates as being suitable for legal work with F-gases, as changing circumstances may require.

3. Equality/Human Rights/Rural Proofing Issues

3.1 Equality Impact Assessment

Under Section 75 of the Northern Ireland Act 1998, public authorities have a statutory duty to promote equality of opportunity.

Preliminary screening exercises have been undertaken and there is no evidence that the proposed measures will have any impact on any of the groups specified in Section 75. Therefore, the Department does not consider a full Equality Impact Assessment to be necessary. Copies of all screened policies are available from the website at:

http://www.doeni.gov.uk/index/information/equality_unit.htm

The Screening Analysis Form for Equality Impact Assessment can be found at Annex III to this consultation paper.

The Equality Commission will receive copies of this consultation document as part of the consultation exercise. Any comments that the Commission might have will be taken into account.

3.2 Human Rights Issues

The Human Rights Act 1998 implements the European Convention on Human Rights (“ECHR”) which makes it unlawful for any public authority to act in a way that is incompatible with these rights. All proposed legislation must be assessed to ensure compliance.

Since the implementation of the Human Rights Act 1998, all legislation must be checked to ensure compliance with the rights set out in the ECHR.

Screening exercises have been completed which concluded that the draft F-gases Amendment Regulations are compatible with the Human Rights Act. However, the Department welcomes any views you may have. A copy of the screening paper is attached as Annex IV.

3.3 Rural Proofing

Rural proofing is a process to ensure that all relevant Government policies are examined carefully and objectively to determine whether they have a different impact in rural areas from that elsewhere.

The Department considers that the measures contained within the proposed legislation are unlikely to have any different impact in rural areas to that within any other sector of the community.

4. Regulatory Impact Statement

The Department has not carried out a Regulatory Impact Assessment on the policy implications for the proposed legislation to amend the NI F-gases Regulations. The reasons for this are detailed in the following sections:

4.1 CCS, GUS and Offshore Installations

We are currently not aware of any individual or organisation planning to undertake CCS or GUS in Northern Ireland. There is therefore no immediate impact on businesses or the voluntary sector.

The changes introduced by the F-gases Amendment Regulations to prepare for CCS and GUS are simply adjustments to the F-gases Regulations to maintain a standard definition of an “offshore installation” across UK legislation.

4.2 Prohibition Notices

The proposed revocation of the provisions on prohibition notices is unlikely to have any significant financial effects on any of the enforcing authorities.

The enforcing authorities for the NI F-gases Regulations are the district councils, the Department (specifically the Northern Ireland Environment Agency), and, in relation to offshore installations, the Secretary of State (specifically the Department of Energy and Climate Change).

At present, no prohibition notices have ever been issued in Northern Ireland.

The Department is also not aware of any court cases brought about by the F-gases Regulations, either for failure to observe a prohibition notice, or to hear the case for an appeal against a prohibition notice.

For these reasons, it is anticipated that the financial effects of the revocation of the provisions on prohibition notices will be negligible for all enforcing authorities.

4.3 Certification and Evaluation Bodies

As for the new provisions on certification and evaluation bodies, which will allow these bodies to be appointed by the Department, rather than named specifically in the F-gases Regulations, it is also considered unlikely that this will have any major financial implications for businesses in Northern Ireland.

This is because no organisation in Northern Ireland will be in any way obliged or required to become a certification or evaluation body.

Organisations which apply to the Department to become certification or evaluation bodies may incur their own administrative charges in drawing up any service level agreements with the Department. However, it is anticipated that these organisations would recoup their costs when operating the scheme.

Furthermore, the provision of additional certification and evaluation bodies for the F-gases Amendment Regulations could have a beneficial financial impact on those businesses affected by the Regulations. This is because they would have an increased choice of such organisations to which they can apply for certification and evaluation of their company or employees.

However, should any stakeholders disagree with any of the above assessments, or be aware of any business planning to undertake any CCS or GUS activities in Northern Ireland, or in its territorial waters, the Department would be willing to be informed of this (preferably backed by evidence). Details of how to reply to this consultation can be found at section 6 on page 14.

If you are submitting information about any potential costs, please be as specific as possible, and estimate to the Department as closely as you can, the exact extent of any sums that may be incurred.

5. Freedom of Information

Confidentiality of Consultation Responses

The Department will publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request.

The Department can only refuse to disclose information in exceptional circumstances. **Before** you submit your response, please read the paragraphs below on the confidentiality of consultations as they will give you guidance on the legal position about any information given by you in response to this consultation.

The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation.

The Freedom of Information Act can be found at:
<http://www.legislation.gov.uk/ukpga/2000/36/contents>

The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or treated as confidential.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:-

- the Department should only accept information from third parties in confidence if it is necessary to obtain information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
- the Department should not agree to hold information received from third parties "in confidence" which is not confidential in nature; and

- acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified by the Information Commissioner.

For further information about confidentiality of responses, please contact the Information Commissioner's Office, or see the web-site at:-

<http://www.ico.gov.uk>

6 How to respond to this consultation

Responses are invited to this consultation paper by **Thursday 23rd February 2012** and should be sent to the address below. Early responses would be most welcome and a summary of the responses will be published on the Department's website. All comments and representations received during the consultation will be considered in finalising the draft Regulations.

Before you submit your response, please read the notes regarding the confidentiality of consultations, which provides guidance on the legal position of any information given by you in response to this consultation. If you are responding on behalf of a group or organisation, please indicate this on your response. Please reply using one of the following options:

By post:

Roger Irwin
Environmental Policy Division
Department of the Environment
Goodwood House
44-58 May Street
Belfast BT1 4NN

By e-mail: roger.irwin@doeni.gov.uk

By fax: (028) 90 254 732

Enquiries regarding the content of this consultation document should be made to Roger Irwin.

Requests for further copies should also be made to Roger Irwin on (028) 90 254 758, or at the above address.

Should you require a copy of this document in an alternative format, it can be made available on request in large print, disc, Braille and in audiocassette or telephone for the hearing impaired.

The document may be available on request in minority languages for those who are not proficient in English. The Department will translate executive summaries of key publications into Irish or

Ulster-Scots upon request. Information and additional copies of the document can be requested by textphone on (029) 90540642.

Hard copies of the consultation document are available from the address above. The consultation document is available to view at: <http://www.doeni.gov.uk/> (click on “Environmental Issues”, then on “Air and Environmental Quality”, and then on “F-gases”)

Alternatively, you can type the full web-site address of the relevant page into your browser:

http://www.doeni.gov.uk/index/protect_the_environment/local_environmental_issues/air_and_environmental_quality/f_gases2.htm

A list of consultees that have been contacted directly in relation to this consultation is attached at Annex II on page 20. However, views from anyone interested in these proposals are very welcome.

7. ANNEXES

ANNEX I – The Fluorinated Greenhouse Gases (Amendment) Regulations (Northern Ireland) 2012

[D R A F T] S T A T U T O R Y R U L E S O F N O R T H E R N
I R E L A N D

2012 No. ***

ENVIRONMENTAL PROTECTION

The Fluorinated Greenhouse Gases (Amendment) Regulations (Northern Ireland) 2012

Made - - - - - ***

Coming into operation - - - - - ***

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 matters relating to the environment.

The Department makes these 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(3).

Citation, commencement and application

1.—(1) These Regulations may be cited as the Fluorinated Greenhouse Gases (Amendment) Regulations (Northern Ireland) 2012, and shall come into operation on [].

(2) These Regulations apply to offshore installations.

Interpretation

2.—(1) In these Regulations—

“the Principal Regulations” means the Fluorinated Greenhouse Gases Regulations (Northern Ireland) 2009(4).

(2) The Interpretation Act (Northern Ireland) 1954(5) applies to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(1) S.I. 2008/301

(2) 1972 c.68

(3) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c 51)

(4) S.R. 2009 No. 184

(5) 1954 c.33 (N.I.)

Amendment of the Principal Regulations concerning offshore installations

3.—(1) In regulation 2, for paragraph (4), substitute—

“(4) In these Regulations, “offshore installation” means an installation or a structure, other than a ship, which is situated in the marine area, used for carrying on any of the following activities—

- (a) the exploitation, or exploration with a view to exploitation, of mineral resources in the marine area;
- (b) the exploration of any place in the marine area, with a view to the storage of gas;
- (c) the conversion of any place in the marine area for the purpose of storing gas;
- (d) the storage of gas in the marine area or the recovery of gas so stored;
- (e) the unloading of gas at any place in the marine area;
- (f) the conveyance of things by means of a pipe, or system of pipes, constructed or placed in the marine area; and
- (g) 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 within any of the sub-paragraphs (a) to (f) above.”

(2) For regulation 2(1)(w), substitute—

“(w) “ship” includes a hovercraft, submersible craft and any other floating craft, but not a vessel which—

- (i) permanently rests on or is permanently attached to the seabed; and
- (ii) is an installation within section 16 of the Energy Act 2008(6).”

(3) After regulation 2(9), add—

“(10) In these Regulations—

- (a) “gas” means—
 - (i) gas within the meaning of section 2(4) of the Energy Act 2008; or
 - (ii) carbon dioxide; and
- (b) “marine area” means the area (together with the places above and below it) comprising the tidal waters and parts of the sea in or adjacent to Northern Ireland, up to the seaward limits of the territorial sea.

(11) References to storing gas include storing gas with a view to its permanent disposal.”

(4) In regulation 2(1), insert the following definition at the appropriate place—

““installation” includes an installation within the meaning of section 16 of the Energy Act 2008.”

Amendments to the Principal Regulations on certification bodies and attestation bodies

4.—(1) Regulation 16 is amended in accordance with paragraphs (2) and (3).

(2) In paragraph (1)—

- (a) at the end of sub-paragraph (a), delete the word “and”; and
- (b) at the end of sub-paragraph (b), add—

“; and

- (c) such other body as the Department may from time to time designate.”

(3) In paragraph (2), for the words “the City and Guilds of London Institute and the Construction Industry Training Board”, substitute the words “the certification or evaluation body”.

(4) Regulation 23 is amended in accordance with paragraphs 5 and 6.

(6) 2008 c.32

(5) For paragraph (1), substitute the following paragraph—

“(1) The certification and evaluation bodies for the purposes of Article 5 of Commission Regulation 304/2008 (issue and contents of certificates) are—

- (a) the Fire Industry Association; or
- (b) such other body as the Department may from time to time designate.”

(6) In paragraph (2), for the words “the Fire Industry Association”, substitute the words “the certification or evaluation body”.

(7) In regulation 30, in paragraph (2), after sub-paragraph (f), add the following sub-paragraph—

“(g) such other body as the Department may from time to time designate.”

(8) In regulation 36, in paragraph (2), after sub-paragraph (d), add the following sub-paragraph—

“(e) such other body as the Department may from time to time designate.”

Amendments to the Principal Regulations concerning prohibition notices

5.—(1) Regulation 2(1)(v) is revoked.

(2) Regulation 44 is amended in accordance with paragraphs 3 to 6.

(3) In the title, the words “and prohibition” are deleted.

(4) Paragraphs (3) and (4) are deleted.

(5) In paragraph (6), the words “or a prohibition notice” are deleted.

(6) In paragraph (7)—

- (a) the words “or a prohibition notice” are deleted; and
- (b) for “such”, substitute “that”.

(7) Regulation 45 is amended in accordance with paragraphs (8) to (12).

(8) In the title, the words “or prohibition” are deleted.

(9) In paragraph (1), the words “or a prohibition” are deleted.

(10) For paragraph (3), substitute the following paragraph—

“(3) The period within which an appeal may be brought is 28 days from the date upon which the notice was issued.”

(11) In paragraph (4), the words “or prohibition notice” are deleted.

(12) Paragraphs (6) and (7) are deleted.

(13) In regulation 47(b), the words “or a prohibition notice” are deleted.

Amendments to the Principal Regulations on qualifications of individuals relating to certain stationary equipment

6. Regulation 17(3) and Schedule 1 are revoked.

Sealed with the Official Seal of the Department of the Environment on [].



Wesley Shannon
A senior officer of the
Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 3 of these Regulations amends the definition of an “offshore installation” within the Fluorinated Greenhouse Gases Regulations (Northern Ireland) 2009 (“the Principal Regulations”).

Regulation 4 of these Regulations allows the Department to designate new certification and attestation bodies from time to time.

Regulation 5 of these Regulations revokes all provisions on prohibition notices in the Principal Regulations.

Further information on these Regulations is available from the Environmental Policy Division, Department of the Environment, Goodwood House, 44-58 May Street, Belfast BT1 4NN.

ANNEX II List of Consultees

Political

Executive Ministers and Junior Ministers
Leaders of Parties in the Assembly
Other Northern Ireland Parties not in the Assembly
MPs/MEPs who are not Party Leaders or MLAs
Members of the NI Assembly
Speaker of the NI Assembly
Assembly Business Office
NI Assembly Library
Environment Committee of the Northern Ireland Assembly
OFMDFM Central Management Unit (CMU)
Office of the Attorney General NI
NSMC – NI Secretariat
Alliance Party of NI
British National Party
Democratic Unionist Party
Green Party of NI
People before Profit Alliance
Progressive Unionist Party
Social Democratic and Labour Party (SDLP)
Sinn Fein
Socialist Party
Traditional Unionist Voice
Ulster Unionist Party
United Kingdom Independence Party (UKIP)
Workers Party

Business/Trade Unions

Amalgamated Transport & General Workers' Union
British Electro-Technical and Allied Manufacturers' Association
Business in the Community NI / ARENA Network
City Bridges
Confederation of British Industry
Dairy UK (NI)
Consumer Council
GMB - Britain's General Union
Invest NI
Irish Congress of Trade Unions/NI Committee

NI Association of Citizens' Advice Bureaux
NI Chamber of Commerce and Industry
NI Chamber of Trade
NI Committee of the Irish Congress of Trade Unions
NI Council for Voluntary Action
NI Federation of Small Businesses
NI Food and Drink Association
NI Independent Retail Trade Association
NI Trading Standards Service
Services Industrial Professional Technical Union
Union of Shop, Distributive & Allied Workers

Enforcement

District Councils' Environmental Health Departments
Chief Environmental Health Officers' Group (CEHOG)
Eastern Group Environmental Health Committee
Northern Group Environmental Health Systems
Southern Group Environmental Health Committee
Western Group Environmental Health Committee
NI Local Government Association
NI Court Service
Courts and Tribunal Service
Department of Energy and Climate Change
NI Environment Agency
Society of Local Authority Chief Executives

Certification organisations

City and Guilds of London Institute
Construction Industry Training Board
Fire Industry Association
Schneider Electric Ltd
Lucy Electric UK Ltd
Siemens Transmission and Distribution Ltd
Alstom Grid UK Ltd
ABB Ltd
Northern Ireland Electricity
Institute of the Motor Industry
IMI Awards Ltd
Institute of Road Transport Engineers
Fraser Technologies Ltd
Refcom Certification Ltd

Environmental Groups/ Pressure Groups

Friends of the Earth
Greenpeace NI
NI Environment Link
SNIFFER
Sustainable NI

Other

Equality Commission for NI
NI Human Rights Commission
Department for Environment, Food and Rural Affairs (DEFRA)
NI Government Departments
NI Office
An Munia Tober
NI Association for the Care and Resettlement of Offenders
Belfast Solicitors Association
Carers NI
Catholic Bishops of NI
Civil Law Reform Division
Coalition on Sexual Orientation
NI Commissioner for Children and Young People (NICCY)
Community Relations Council
Council for the Homeless NI
Countryside Alliance (NI)
Cruse Bereavement Centre (NI)
Disability Action
Executive Council of the Inn of Court of NI
Food Standards Agency
General Consumer Council for NI
Gingerbread NI
Help the Aged NI
HM Revenue and Customs
Information Commissioner's Office
Judicial Appointments Commission NI
Laganside Courts
Law Commission NI
Law Centre NI
Law Society of NI
Legal Deposit Libraries
Local Government Staff Commission for NI

Lord Chief Justice Office
MENCAP
Methodist Church in Ireland
Ministry of Defence
NI Assembly Library
NI Council for Ethnic Minorities
NI Ombudsman
Participation and the Practice of Rights Project
POBAL
Presbyterian Church in Ireland
Queen's University of Belfast School of Law
Royal National Institute for Deaf People NI
Royal National Institute of Blind People NI
Rural Community Network
Ulster Scots Agency
University of Ulster School of Law
Women's Support Network
Youthnet

ANNEX III - SCREENING ANALYSIS FORM FOR EQUALITY IMPACT ASSESSMENT

SCREENING FOR EQUALITY IMPACT ASSESSMENT

Northern Ireland Act 1998 (Section 75) – Statutory Equality Obligations
Fluorinated Greenhouse Gases (Amendment) Regulations (Northern Ireland) 2012 (“the draft F-gases Amendment Regulations”)

1. Introduction

Section 75 of the Northern Ireland Act 1998 requires all public authorities in carrying out their functions relating to Northern Ireland to have due regard to the need to promote equality of opportunity between:

- Persons of different religious beliefs.
- Persons of different political opinions.
- Persons of different racial groups.
- Persons of different ages.
- Persons of different marital status.
- Persons of different sexual orientation.
- Men and women generally.
- Persons with a disability and persons without.
- Persons with dependants and persons without.

To satisfy this requirement, government departments carry out Equality Impact Assessments of policies and legislation to test whether they could have an adverse impact on equality of opportunity between any of the nine groups listed above. While it is acknowledged that Section 75 puts a duty on public authorities to look at all its policy areas and not just those relating to equality issues, it is accepted that not all policies need to be assessed to the same extent. Screening aims to identify those policies that are likely to have the greatest impact on equality of opportunity and therefore should be subject to a full Equality Impact Assessment.

2. Brief Summary of the draft Regulations

The draft F-gases Amendment Regulations would amend two parts of the existing *Fluorinated Greenhouse Gases Regulations (Northern Ireland) 2009* (“the F-gases Regulations”).

3. Aims of the draft Regulations

The F-gases Amendment Regulations serve three main purposes:

- a) to amend the definition of an offshore installation in regulation 2 of the F-gases Regulations.
- b) to revoke provisions on prohibition notices, contained mostly in regulations 44 and 45 of the F-gases Regulations, and
- c) to enable certificates to become legally acceptable for work with F-gases if they are issued by an organisation approved by the DOE as having expertise in the relevant area.

The definition of an offshore installation needs to be amended to harmonise the said definition with that included in other pieces of legislation throughout the UK.

The provisions on prohibition notices need to be revoked because prohibition notices are now thought to be inapplicable to the F-gases Regulations.

The provisions allowing any certificate to become legally acceptable if issued by an organisation approved by the DOE is included to allow for greater flexibility in enabling certification organisations to develop new, legally permitted, qualifications.

This would negate the need for new legislation to enable new qualifications to become legally endorsed.

4. Screening Analysis

- 4.1 Is there any evidence of higher or lower participation or uptake by different groups within any of the nine categories?

YES	<input type="checkbox"/>
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NO	<input checked="" type="checkbox"/>
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- 4.2 Is there any evidence that particular groups have different needs, experiences, issues and priorities in relation to the particular main policy area?

YES	<input type="checkbox"/>
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NO	<input checked="" type="checkbox"/>
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- 4.3 Is there an opportunity to better promote equality of opportunity or good relations by altering policy or working with others in Government or the community at large?

YES	
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NO	✓
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- 4.4 Have consultations in the past with relevant groups, organisations or individuals indicated that particular policies create problems which are specific to them?

YES	
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NO	✓
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5. Equality Impact Assessment Decision

- 5.1 Full Equality Impact Assessment procedure is confined to those policies considered likely to have significant implications for equality of opportunity.

As a result of the screening analysis in Section 4, it is considered that there will be no significant implications for equality of opportunity arising from the introduction of the charges contained in the draft F-gases Amendment Regulations. The scheme does not, therefore, need to be submitted for a full Equality Impact Assessment.

ANNEX IV – HUMAN RIGHTS IMPACT ASSESSMENT

HUMAN RIGHTS ACT 1998

Fluorinated Greenhouse Gases (Amendment) Regulations (Northern Ireland) 2012 (“the draft F-gases Amendment Regulations”)

1. Introduction:

1.1 The purpose of this paper is to review the human rights implications of the draft F-gases Amendment Regulations.

2. Proposals:

2.1 The draft F-gases Amendment Regulations serve three main objectives:

- a) to amend the definition of an offshore installation in the F-gases Regulations.
- b) to revoke provisions on prohibition notices in the F-gases Regulations, and
- c) to enable certificates to become legally acceptable for work with F-gases if they are issued by an organisation approved by the DOE as having expertise in the relevant area.

2.2 The definition of an offshore installation needs to be amended to harmonise the said definition with that included in other pieces of legislation throughout the UK.

2.3 The provisions on prohibition notices need to be revoked because they are now thought to be inapplicable to the F-gases Regulations.

2.4 The provisions allowing any certificate to become legally acceptable if issued by an organisation approved by the DOE is included to allow for greater flexibility in enabling certification organisations to develop new, legally permitted, qualifications.

2.5 This would negate the need for new legislation to enable new qualifications to become legally endorsed.

3. Human Rights Assessment

3.1 The Department considers that the proposed measures in the draft F-gases Amendment Regulations are fully compliant with the European Convention on Human Rights.