

Report on	Draft Consultation on 'The Fluorinated Greenhouse Gases (Amendment) Regulations (Northern Ireland) 2017'.
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Is this report restricted for confidential business?	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	X

1.0	Purpose of Report
1.1	This Report relates to draft proposed amendments to The Fluorinated Greenhouse Gases Regulations (Northern Ireland) 2015. These will take the form of Amendment Regulations to be known as 'The Fluorinated Greenhouse Gases (Amendment) Regulations (Northern Ireland) 2017'. The purpose of this report is to update members on the proposed changes to the existing legislation and its likely effect on Mid Ulster District Council.
2.0	Background
2.1	<p>Legislation on fluorinated greenhouse gases ("F-gases") helps to limit Northern Ireland's gaseous emissions and minimises the effects of global warming and ozone layer eradication. Fluorinated Greenhouse Gases ("F-gases") include:</p> <ul style="list-style-type: none"> • hydrofluorocarbons ("HFCs") • perfluorocarbons ("PFCs") • sulphur hexafluoride ("SF6") <p>F-gases are used in several sectors of industry in Northern Ireland, including:</p> <ul style="list-style-type: none"> • Refrigeration (both stationary and mobile) • Air conditioning (both stationary and mobile) • Fire equipment • Aerosols • Heat pumps • High-voltage switchgear
3.0	Main Report
3.1	<p>Effects of F-gas emissions</p> <p>F-gases are, in the short term, harmless to humans, animals and plants. However, in the long term, they have a very high Greenhouse Warming Potential ("GWP"), much higher than carbon dioxide, contributing to rising global temperatures.</p>
3.2	EU legislation therefore requires that the use of F-gases is restricted and monitored. Laws on F-gases have therefore been compiled for Northern Ireland.
3.3	A number of provisions were introduced by the 2015 Northern Ireland Regulations on F-gases to ensure that stakeholders working with F-gases in industry carry out their roles with only limited leakage of F-gases into the atmosphere. Provisions of the 2015 Northern Ireland Regulations on F-gases included requirements for:

	<ul style="list-style-type: none"> • All users to ensure that F-gases are not intentionally released in to the atmosphere • Individuals and companies to be qualified for work with F-gases • Companies to record and report to the EU on their use of F-gases (large scale use only) • The labelling of products containing F-gases • Leakage checks and repairs for large products containing F-gases, including during production and transportation of products • Placing F-gases on the market • Using F-gases within quantities laid out in quotas • Recovery of F-gases after use of the product • Restrictions on the use of F-gases for some types of industrial processes • all users of F-gases to co-operate with regulators during inspections • Warning notices and fines can be imposed for failure to comply with these 2015 Northern Ireland Regulations on F-gases
3.4	<p>The Fluorinated Greenhouse Gases (Amendment) Regulations (NI) 2017</p> <p>The proposed new regulations above will make a number of amendments to the 2015 F-Gas regulations.</p> <ul style="list-style-type: none"> • Update a series of references to EU Regulations to their newest versions. • Remove specific references to certification bodies and now allows general provisions for the Department to appoint same. • Require Department to publish any such appointments. • Detail new requirements related to the service of notices (in particular electronic service and companies operating in different countries). • Place a duty on Councils to comply with a direction from the Department in relation to enforcement. • Introduce new labelling requirements for products containing F-gases, which you may need to enforce. For example, the weight of F-gases will need to be expressed in kilograms and the CO2 equivalent to be expressed in tonnes (on a label). Also, when a product containing F-gases or pre-blended polyols is also to be labelled, further information needs to be displayed on the label. • An additional matter (to do with assigning bodies having done reasonable checks on undertaking assigned by them) now enforceable in NI by the use of an enforcement notice. • A requirement upon importers of certain equipment to complete an on-line recording tool, the failure to do so would be enforceable by Council or NIEA.
4.0	Other Considerations
4.1	<p><u>Financial & Human Resources Implications</u></p> <p>Financial: None Human: No additional Human Resource.</p>
4.2	<p><u>Equality and Good Relations Implications</u></p> <p>N/A</p>

4.3	<u>Risk Management Implications</u> N/A
5.0	Recommendation(s)
5.1	That Members note the content of this report.
6.0	Documents Attached & References
6.1	Appendix 1 (Draft) The Fluorinated Greenhouse Gases (Amendment) Regulations (Northern Ireland) 2017

ENVIRONMENTAL PROTECTION

<i>Made</i>	-	-	-	-	***
<i>Coming into operation</i>	-				***

Citation and commencement

- ## Amendment of the Fluorinated Greenhouse Gases Regulations (Northern Ireland) 2015

Amendment of regulation 1 (citation, commencement and application)

- ## Amendment of regulation 2 (interpretation: general)

- (1) S.I. 2008/301
- (2) 1972 c. 68. Section 2(2) is amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).
- (3) Paragraph 1A is inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51). The relevant amendments are section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).
- (4) S.R. 2015 No. 425.

- (a) for “Department of the Environment”, substitute “Department of Agriculture, Environment and Rural Affairs”; and
 - (b) insert the following definition at the appropriate place—
 ““the Interpretation Act” means the Interpretation Act (Northern Ireland) 1954⁽⁵⁾.”.
- (2) In regulations 2(2) and 27(1)(a), the words “(Northern Ireland) 1954” shall be omitted.

Amendment of regulation 3 (Interpretation: EU Regulations)

5.—(1) Regulation 3 is amended in accordance with paragraphs (2) to (4).

(2) In paragraph (1)—

- (a) the following definitions are omitted—
 - (i) “Commission Regulation 1494/2007⁽⁶⁾”;
 - (ii) “Commission Regulation 303/2008⁽⁷⁾”;
 - (iii) “Commission Regulation 305/2008⁽⁸⁾”;
 - (iv) “Commission Regulation 308/2008⁽⁹⁾”; and
- (b) after the definition of “Commission Regulation 308/2008”, omit “and”;
- (c) in the definition of “Commission Regulation 1191/2014”, for “, as amended from time to time.”, substitute “,”;
- (d) after the definition of “Commission Regulation 1191/2014”, 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⁾; and
 - “Commission Regulation 2016/879” means Commission Implementing Regulation (EU) 2016/879 establishing, pursuant to Regulation (EU) No 517/2014 of the European Parliament

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

(6) OJ No L 150, 20.5.2014, p 195.

(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 332, 18.12.2007, p 25.

(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.

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⁾.”.

(3) For paragraph (2), substitute—

“(2) Expressions used but not defined in these Regulations and used in the following legislation have the same meaning as they have in that legislation—

- (a) the 2014 Regulation;
- (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 2015/2065;
- (h) Commission Regulation 2015/2066;
- (i) Commission Regulation 2015/2067;
- (j) Commission Regulation 2015/2068; and
- (k) Commission Regulation 2016/879.”.

(4) For paragraph (3), substitute—

“(3) A reference in these Regulations to Commission Regulation 1191/2014 is a reference to Commission Regulations 1191/2014 as amended from time to time.”

Amendment of regulation 4 (interpretation – offshore installations)

6. In regulation 4(1), after “used”, insert “, or intended to be used,”.

Insertion of new regulation 5A (service of notices)

7. After regulation 5(competent authority), 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—

- (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, or;
- (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 of section 24 of the Interpretation Act (service of documents) in its application to this regulation, the proper address of a person is—

⁽¹⁴⁾ OJ No L 146, 3.6.2016, p 1.

⁽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. There is a relevant corrigendum (OJ No L 280, 23.10.2008, p 38).

⁽¹⁹⁾ OJ No L 92, 3.4.2008, p 25.

- (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 Northern Ireland, or of a partnership undertaking business outside Northern Ireland, is its principal office within Northern Ireland.
- (8) If a person has specified an address in Northern Ireland, 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 24 of the Interpretation Act 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 9am on the working day immediately following the day on which it was sent.
- (11) In this regulation—
- (a) "electronic address" means any number or address used for the purposes of sending or receiving documents or information by electronic means;
 - (b) "notice" means an information notice or an enforcement notice; and
 - (c) "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."

Replacement of regulation 6 (certification and evaluation bodies: stationary refrigeration, air conditioning and heat pump equipment)

8. For regulation 6, substitute—

"Appointment of certification, attestation and evaluation bodies

6.—(1) The Department, after consulting the Scottish Ministers, the Welsh Ministers and the Department for Environment, Food and Rural Affairs, may appoint such person and on such terms as the Department thinks fit to be—

- (a) in relation to Commission Regulation 2015/2067—
 - (i) a certification body for the purposes of Article 4 (certificates for natural persons);
 - (ii) an evaluation body for the purposes of Article 4; and
 - (iii) a certification body for the purposes of Article 6 (company certificates);
- (b) in relation to Commission Regulation 304/2008—
 - (i) a certification body for the purposes of Article 5 (personnel certificates);
 - (ii) an evaluation body for the purposes of Article 5; and
 - (iii) a certification body for the purposes of Article 8 (company certificates);
- (c) for the purposes of Commission Regulation 2015/2066—
 - (i) a certification body; and
 - (ii) an evaluation body;
- (d) for the purposes of Commission Regulation 306/2008—

- (i) a certification body; and
 - (ii) an evaluation body; and
 - (e) for the purposes of Commission Regulation 308/2008, an attestation body.⁽²⁰⁾
- (2) The Department may charge such fees as the Department considers will enable the recovery of any reasonable expenses incurred in reviewing an application to be appointed as a certification, evaluation and/or attestation body under paragraph (1)."

Amendment of regulation 7 (certificates relating to stationary refrigeration, air conditioning and heat pump equipment, issued in EEA States and Great Britain)

9. For regulation 7, substitute—

"Certificates, relating to stationary refrigeration, air conditioning and heat pump equipment, issued in EEA States and Great Britain

7.—(1) A person who holds a valid certificate issued under Article 4 or 6 of Commission Regulation 2015/2067 by a certification body in an EEA State other than the United Kingdom in respect of an activity mentioned in Article 2 of that Regulation may not carry out that activity unless—

- (a) the certificate is written in English; or
- (b) the person holds a translation of the certificate in English.

(2) A person who holds a valid certificate issued under Article 4 or 6 of Commission Regulation 2015/2067 by a certification body appointed in Great Britain in respect of an activity mentioned in Article 2 of that Regulation may carry out that activity."

Omission of regulations 8 and 10

10. Regulations 8 (certification and evaluation bodies: fire protection systems and fire extinguishers) and 10 (certification and evaluation bodies: high-voltage switchgear) shall be omitted.

Amendment of regulation 11 (certificates relating to high-voltage switchgear issued in EEA States and Great Britain)

11.—(1) Regulation 11 is amended in accordance with paragraphs (2) to (3).

(2) In the heading, for "high-voltage", substitute "electrical".

(3) For "Article 4 of Commission Regulation 305/2008", for each time that it appears, substitute "Article 3 of Commission Regulation 2015/2066".

Omission of regulations 12 and 14

12. Regulations 12 (certification and evaluation body: fluorinated greenhouse gas-based solvents) and 14 (attestation bodies: air conditioning systems in certain motor vehicles) shall be omitted.

Amendment of regulation 16 (obligation of employers to employ qualified employees)

13. In regulation 16—

- (a) for sub-paragraph (a), substitute—
"(a) Article 2(1) of Commission Regulation 2015/2067;" and
- (b) for sub-paragraph (c), substitute—
"(c) Article 1 of Commission Regulation 2015/2066;"

⁽²⁰⁾ Details of appointed persons are available at: (insert web-site address where list of NI appointed certification, evaluation and attestation bodies are stored.

Amendment of regulation 17 (obligations on certification bodies, attestation bodies and evaluation bodies to provide information)

14. In regulation 17—

- (a) in paragraph (1)—
 - (i) for sub-paragraph (a), substitute—
“(a) Commission Regulation 2015/2067;” and
 - (ii) for sub-paragraph (c), substitute—
“(c) Commission Regulation 2015/2066;” and
- (b) in paragraph (4), for “Commission Regulation 308/2008”, substitute “Commission Regulation 2015/2065”.

Insertion of new regulation 17A (publication of details of certification bodies, attestation bodies and evaluation bodies)

15. After regulation 17, insert—

“Publication of details of certification bodies, attestation bodies and evaluation bodies

17A.—(1) The Department, after consulting the Scottish Ministers, the Welsh Ministers and the Department for Environment, Food and Rural Affairs, must publish the following information about any person appointed as a certification body, attestation body or evaluation body under regulation 6—

- (a) name;
 - (b) company number, where relevant;
 - (c) postal address;
 - (d) telephone number; and
 - (e) e-mail address.
- (2) Publication under this regulation is to be in such a manner as the Department considers appropriate.”.

Amendment of regulation 18 (enforcement)

16.—(1) Regulation 18 is amended in accordance with paragraphs (2) to (4).

(2) In paragraph (1), for “(5)”, substitute “(8)”.

(3) After paragraph 18(6), insert—

“(7) The district council must comply with a direction given to it under paragraph (2).

(8) A direction given under paragraph (2) may be revoked or modified by a further direction given under that paragraph.”

Amendment of regulation 23 (enforcement notices)

17.—(1) Regulation 23 is amended in accordance with paragraphs (2) to (4).

(2) In paragraph (1), for sub-paragraph (c), substitute—

“(c) fails, where labelling for products and equipment is required under Article 12 of the 2014 Regulation, to comply with

Article 2 of Commission Regulation 2015/2068 (labelling format);”;

(3) In paragraph (11)(c)—

- (a) in head (i), for “Article 5 of Commission Regulation 303/2008”, substitute “Article 4 of Commission Regulation 2015/2067”;
- (b) in head (ii), for “Article 4(3)(a) or (c) of Commission Regulation 303/2008”, substitute “Article 3(3)(b) or (4) of Commission Regulation 2015/2067”;

- (c) in head (iii), for “Article 4(3)(b) of Commission Regulation 303/2008”, substitute “Article 3(3)(a) of Commission Regulation 2015/2067”; and
 - (d) in head (iii), for “3.1.2 of the essential requirements in Schedule 2 (Manufacturing – permanent joining) to the Pressure Equipment (Safety) Regulations 2016(21); and”, substitute “paragraph 21 (permanent joining) of Schedule 2 to the Pressure Equipment (Safety) Regulations 2016(22);”
- (4) At the end of paragraph 11(d), for “gases”, substitute “gases; and”.

Omission of Schedule 1 (certification and evaluation bodies (high-voltage switchgear))

18. Schedule 1 (certification and evaluation bodies (high voltage switchgear) shall be omitted.

Amendment of Schedule 2 (2014 Regulation provisions)

19. In Schedule 2, in the table, after the entry entitled “Article 8(3)”, insert—

“Article 10(11)	Requirement on undertakings assigning tasks referred to in Article 10(1) to another undertaking to take reasonable steps to ascertain that the latter holds the necessary certificates for the required tasks.”
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Amendment of Schedule 3 (Commission Regulation provisions)

20.—(1) Schedule 3 is amended in accordance with paragraphs (2) to (3).

(2) For table 1 (Certification for stationary refrigeration, air conditioning and heat pump equipment), substitute—

“Table 1

Certification for stationary refrigeration, air conditioning and heat pump equipment

<i>Provision of Commission Regulation 2015/2067</i>	<i>Summary of subject matter</i>
Article 3(1) (read in association with Articles 2, 3(3) and (4))	Requirement on natural persons carrying out activities referred to in Article 2(1) (scope) to hold a certificate as referred to in Article 4 (certificates for natural persons) for the corresponding category, as set out in Article 3(2) (certification of natural persons).
Article 5.	Requirement on companies referred to in Article 2(2) to hold a certificate as referred to in Article 6 (company certificates).”.

(3) For Table 3 (certification for recovery of fluorinated greenhouse gases from high voltage switchgear), substitute—

“Table 3

Certification for electrical switchgear

<i>Provision of Commission Regulation 2015/2066</i>	<i>Summary of subject matter</i>
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(21) S.I. 1999/2001, to which there are amendments not relevant to this instrument.

(22) S.I. 2016/1105.

Article 2(1) (read in association with Articles 2(2) and (3) and 9)	Requirement, on natural persons carrying out the activities referred to in Article 1 (subject matter and scope) to hold a certificate as referred to in Article 3 (issuance of certificates to natural persons).”
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(4) After Table 5 (attestation for air conditioning systems in motor vehicles), insert—

“Table 6

Declaration of conformity and verification document for equipment charged with hydrofluorocarbons

<i>Provision of Commission Regulation 2016/879</i>	<i>Summary of subject matter</i>
Article 1(2)	Requirement for importers of equipment charged with hydrofluorocarbons to ensure that a copy of the declaration of conformity is available to the customs authorities when the customs declaration is submitted.
Article 4	Requirement, from 1 st January 2018, for importers of equipment to submit the verification document using the reporting tool made available under Article 1 of Commission Regulation 1191/2014 by 31st March every year for the preceding calendar year.

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on [].



Dave Foster

A senior officer of the Department of Agriculture, Environment and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make updates to existing Regulations on fluorinated greenhouse gases (“F-gases”), to ensure that related new European Union legislation is correctly referenced. In addition, some new requirements on labelling of equipment containing F-gases are introduced.

F-gases are, in the short term, harmless to humans, animals and plants. However, in the long term, they have a very high Greenhouse Warming Potential (“GWP”), much higher than carbon dioxide, contributing to rising global temperatures.

EU legislation therefore requires that the use of F-gases is restricted and monitored. Laws on F-gases have therefore been compiled for Northern Ireland, as F-gases are used in a number of sectors of industry in Northern Ireland.