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# Consultation on proposed Regulations – further implementation measures – fluorinated greenhouse gases and ozone- depleting substances

A consultation document issued jointly by the Department for Environment, Food and Rural Affairs, the Department for Business, Enterprise and Regulatory Reform, the National Assembly for Wales and the Scottish Executive

July 2008



Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

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- A. Draft F gas Regulations
- B. Draft Ozone-depleting substances Regulations
- C. Partial Impact Assessment

## Executive Summary

### Introduction

1. This consultation paper sets out proposals for Regulations prescribing offences and penalties applicable to infringements of EC Regulation 842/2006 on certain fluorinated greenhouse gases (F gases), and ten Commission Regulations adopted at the F Gas Regulatory Committee meetings in October and December 2007 which establish fleshed out legal requirements for companies and qualifications for personnel working in five industry sectors covered by EC Regulation 842/2006 as well as dealing with other requirements relating to leakage checking, reporting and labelling, together with proposed powers for authorised persons to enforce these Regulations. The ten European Commission Regulations are intended to support the objective of the 2006 Regulation to contain, prevent and thereby reduce emissions of fluorinated greenhouse gases covered by the Kyoto Protocol, so as to help combat climate change.
2. It is proposed that the most effective way to do this would be to take the Fluorinated Greenhouse Gases Regulations 2008 (S.I No 41) and build upon them so that all the domestic legislation needed to give effect to Regulation (EC) 842/2006 and the ten new Commission Regulations (outlined above) is in one place. Ultimately this will mean that the Fluorinated Greenhouse Gases Regulations 2008 (the FGG Regulations 2008) will be revoked and replaced by the new proposed revised Regulations when they come into force.
3. Given this approach, many of the provisions in the proposed 2009 Regulations are identical to those in the FGG 2008 Regulations which were the subject of a previous consultation and have therefore not been explained in any detail in this consultation document. Only those regulations and provisions which are new, or that have changed as a result of the new Commission Regulations are dealt with in this document.
4. The principal objective of the EC Regulation is to contain, prevent and thereby reduce emissions of F gases covered by the Kyoto Protocol.
5. The proposed Regulations will be of particular interest to trade associations and their members dealing with manufacturing, installation, servicing and recovery of F gases from commercial and domestic refrigeration and air-conditioning, heat pump and fire protection equipment, those dealing with recovery of F gases from such equipment, as well as equipment containing fluorinated gas-based solvents and high voltage switchgear. In addition, the Regulations will be of interest to F gas producers, importers and exporters, those responsible for offshore oil and gas platforms, the DIY sector, consumer organisations, charities, enforcement authorities, Government Departments and non-Governmental organisations.

6. The proposed Regulations provide the enforcement powers for enforcement bodies in line with those set out in the FGG 2008 Regulations and apply the proposed Regulations to offshore renewable energy generating installations as well as to oil and gas installations that use F gases in equipment.
7. The consultation paper also sets out proposals for consequential changes needed to existing Regulations dealing with qualifications for working with ozone-depleting substances.
8. Views and comments are invited by 3 October 2008 on both of the proposed Regulations and the associated Partial Impact Assessment.

## **Introduction**

9. This consultation paper sets out proposals for Regulations prescribing offences and penalties applicable to infringements of EC Regulation No 842/2006 on certain fluorinated greenhouse gases in accordance with the requirements of Article 13 of the 2006 Regulation, and ten Commission Regulations adopted at the F Gas Regulatory Committee meetings in October and December 2007. The Commission Regulations establish fleshed out legal requirements for companies and qualifications for personnel working in five industry sectors covered by EC Regulation 842/2006 as well as dealing with other requirements relating to leakage checking, reporting and labelling, together with proposed powers for authorised persons to enforce these Regulations.
10. The principal objective of the EC Regulation is to contain, prevent and thereby reduce emissions of F gases covered by the Kyoto Protocol. This Regulation will make a significant contribution towards the European Community's Kyoto Protocol target by introducing cost-effective mitigation measures.
11. References in this consultation paper to "the 2006 Regulation" means EC Regulation No 842/2006 on certain fluorinated greenhouse gases.
12. The proposed F gas Regulations need to be read alongside the 2006 Regulation and the ten Commission Regulations which establish fleshed out legal requirements for companies and qualifications for personnel working in five industry sectors covered by EC Regulation 842/2006 as well as dealing with other requirements relating to leakage checking, reporting and labelling. For convenience, the text of the 2006 Regulation can be found at: [http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l\\_161/l\\_16120060614en00010011.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_161/l_16120060614en00010011.pdf).
13. The texts of the ten Commission Regulations can be found at:  
  
Leakage checking - Stationary refrigeration, air conditioning and heat pump equipment

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:335:0010:0012:EN:PDF>

Leakage checking – Fire protection systems

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:333:0004:0005:EN:PDF>

Format of label

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:332:0025:0026:EN:PDF>

Format of report

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:332:0007:0024:EN:PDF>

Minimum qualification and certification requirements - Stationary refrigeration, air conditioning and heat pump equipment

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:092:0003:0011:EN:PDF>

Minimum qualification and certification requirements – Fire protection systems

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:092:0012:0016:EN:PDF>

Minimum qualification and certification requirements – High voltage switchgear

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:092:0017:0020:EN:PDF>

Minimum qualification and certification requirements - Solvents

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:092:0021:0024:EN:PDF>

Minimum qualification and certification requirements – Mobile air conditioning certain motor vehicles

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:092:0025:0027:EN:PDF>

Format for notification

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:092:0028:0034:EN:PDF>

14. Further information on the 2006 Regulation can be found at <http://www.defra.gov.uk/environment/climatechange/uk/fgas/index.htm>

15. The new F gas qualifications (see Part Three) also cover working with ozone-depleting substances. Hydrochlorofluorocarbons (HCFCs) are still used as refrigerants in some existing commercial refrigeration and air-conditioning equipment but the use of virgin HCFCs in the maintenance of such equipment will be prohibited from 1 January 2010. The use of all HCFCs for maintenance purposes will be prohibited from 1 January 2015. The Ozone Depleting Substances (Qualifications) Regulations (SI 2006/1510), as amended, need to be revoked and remade to take these new qualifications into account so that holders of these qualifications can continue to work with ozone-depleting substances.

This consultation therefore also invites views on the necessary proposed Regulations (The Ozone-Depleting Substances (Qualifications) Regulations 2009).

## **Devolution**

16. This paper is being issued jointly by Defra, the National Assembly for Wales and the Scottish Executive. In this paper “the Government” should be taken to read the UK Government and the National Assembly of Wales and the Scottish Executive.
17. Regulations covering Northern Ireland will be issued by the Department of the Environment in Northern Ireland. For information regarding Northern Ireland, please contact [Roger.Irwin@doeni.gov.uk](mailto:Roger.Irwin@doeni.gov.uk)

## **How to respond**

18. The consultation period began on 11 July 2008 and will run until 3 October 2008. Please ensure that your response reaches us by that date.
19. Additional copies of this document may be made without seeking permission. Electronic versions can be found on the Department’s website at:  
  
<http://www.defra.gov.uk/corporate/consult/fgas-ozone/>
20. If you would like further paper copies of this consultation document please contact Stephen Cowperthwaite – details below. Please send your consultation responses to:

Stephen Cowperthwaite  
Defra  
Climate, Energy and Ozone, Science and Analysis Division  
3F Ergon House  
17 Smith Square  
London SW1P 3JR

Tel 0207 238 3179  
Fax 0207 238 3341

[fgas@defra.gsi.gov.uk](mailto:fgas@defra.gsi.gov.uk)

21. Those with interests in Wales are requested to copy their responses to:

Ruth Gow  
Welsh and Assembly Government, Environment Protection and Quality  
1<sup>st</sup> Floor  
Cathays Park  
Cardiff CF10 3NQ



E-mail: [ruth.gow@wales.gsi.gov.uk](mailto:ruth.gow@wales.gsi.gov.uk)

22. Respondents with interests in Scotland are requested to copy their responses to:

Brian Winning

Scottish Executive, Environment Group, Air, Climate and Engineering Division, Area 1G (North), Victoria Quay, Edinburgh, EH6 6QQ.

Tel: +44 (0) 131 244 1496

Fax: +44 (0) 131 244 0211

E-mail: [climate.change@scotland.gsi.gov.uk](mailto:climate.change@scotland.gsi.gov.uk)

23. When responding please state whether you are responding as an individual or are representing the views of an organisation. If responding on behalf of a larger organisation please make it clear who the organisation represents and, if applicable, how the views of members were collected.

### **Who will be affected?**

24. A list of those organisations and individuals to whom this consultation document has been sent is at Annex C and includes, amongst others, trade associations and their members dealing with manufacturing, installation, servicing and recovery of F gases from commercial and domestic refrigeration and air-conditioning, heat pump and fire protection equipment, end users of such equipment, those dealing with recovery of F gases from equipment containing F gas-based solvents and high voltage switchgear, F gas producers, importers and exporters, those responsible for offshore oil/gas and renewable energy generating installations, the DIY sector, consumer organisations, charities, enforcement authorities, Government Departments and non-Governmental organisations. Trade associations dealing with the servicing and maintenance and dismantling of equipment containing ozone-depleting substances (hydrochlorofluorocarbons) are also being consulted.

25. Please inform us at [fgas@defra.gsi.gov.uk](mailto:fgas@defra.gsi.gov.uk) if you know of others who may wish to be involved in this consultation process and should receive a copy of this document.

### **Stakeholder consultation**

26. In developing the proposed Regulations, the Government has canvassed a range of stakeholders and also drew on the expertise of representatives of trade bodies affected by the Regulation.

### **Data Protection Act 1998**

27. The Secretary of State for Environment, Food and Rural Affairs is the data controller, as defined in Section 1 of the Data Protection Act 1998 (DPA), in respect of any "personal data" that you provide in response to this

consultation exercise. "Personal data" is information about an individual such as their name, contact details and opinions.

28. **In line with Defra's policy of openness, at the end of the consultation period, copies of the responses we receive may be made publicly available through the Defra Information Resource Centre, Lower Ground Floor, Ergon House, 17 Smith Square, London SW1P 3JR. The information they contain may also be published in a summary of responses.**
29. **If you do not consent to this, you must clearly request that your response be treated confidentially. Any confidentiality disclaimer generated by your IT system in e-mail responses will not be treated as such a request.** You should also be aware that there might be circumstances in which Defra will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations.
30. The Information Resource Centre will supply copies of consultation responses to personal callers or in response to telephone or e-mail requests (tel: 020 7238 6575, e-mail: [defra.library@defra.gsi.gov.uk](mailto:defra.library@defra.gsi.gov.uk)). Wherever possible, personal callers should give the library at least 24 hours notice of their requirements. An administrative charge will be made to cover photocopying and postage costs.
31. If you wish to make a complaint, or query the consultation process (as opposed to comments about the issues which are the subject of the consultation), please write to David Warrilow, Head of Division, Climate, Energy and Ozone, Science and Analysis Division, at:

David Warrilow  
Defra  
CEOSA Division  
Room 3E Ergon House  
17 Smith Square  
London SW1P 3JR

[fgas@defra.gsi.gov.uk](mailto:fgas@defra.gsi.gov.uk)

32. If your concern remains unresolved following this, please write to:

Marjorie Addo  
Defra  
Room Area 7C  
Nobel House, 17 Smith Square,  
London SW1P 3JR

## **Consultation questions**

33. Consultees may wish to consider the following questions and provide any additional information considered relevant. Views are invited on all aspects of the proposals, including the partial impact assessment. We would be particularly interested in your views on any impact these proposals would have on consumers, industry and the environment. If you still have questions after you have read this section please contact:

Stephen Cowperthwaite  
Defra  
Climate, Energy and Ozone, Science and Analysis Division  
3F Ergon House  
17 Smith Square  
London SW1P 3JR

Tel 0207 238 3179  
Fax 0207 238 3341

[fgas@defra.gsi.gov.uk](mailto:fgas@defra.gsi.gov.uk)

34. All interested parties are invited to submit their views on any of the matters addressed in this paper, particularly in relation to the following questions:

### **Offences**

**Question one. Do you agree with the offences proposed in these draft Regulations? In commenting, please specify the regulation and sector to which your comment applies.**

### **Introductory provisions**

**Question two: Do you see any difficulties in the application of the proposed Regulations to offshore installations concerned with the production of energy from water or wind?**

### **Personnel qualifications relating to stationary refrigeration, air conditioning and heat pump equipment**

**Question three: Do you have any comments on regulations 19 (certification bodies for personnel) or 21 (interim certificates for personnel)?**

**Question four; Do you agree with the proposed qualification categories set out in regulation 20(3) and Schedule 1?**

**Question five: Do you agree with the proposed interim and transitional arrangements?**

**Question six: Do you have any comments on regulation 21(5) (certification body to issue interim certificates)?**

### **Personnel qualifications relating to fire protection systems**

**Question seven: Do you have any comments on regulations 26 (certification bodies for personnel) or 28 (interim certificates for personnel)?**

**Question eight: Do you agree with the proposed interim and transitional arrangements?**

### **Personnel qualifications relating to high voltage switchgear**

**Question nine: Do you have any comments on regulations 33(2) (certification bodies for personnel), or 33(3) (further provisions for certification bodies)?**

**Question ten: Do you agree with the proposed interim and transitional arrangements?**

### **Personnel qualifications relating to F gas based solvents**

**Question eleven: Views are invited on whether there is scope to develop a common approach for a F gas based solvents qualification to meet the minimum requirements set out in Commission Regulation 306/2008, or whether individual companies should be identified as certification and evaluation bodies.**

### **Personnel qualifications relating to certain motor vehicles**

**Question twelve: Do you have any comments on regulations 39(2) (attestation bodies for personnel), or regulation 39(3) (further provisions for attestation bodies)?**

**Question thirteen: Do you agree with the proposed interim and transitional arrangements as set out in regulation 40?**

### **Company certification for stationary refrigeration, air conditioning and heat pump equipment and fire protection systems**

**Question fourteen: Views are invited on what body or bodies might be designated by the Secretary of State as certification bodies and on what type of certification scheme is preferred?**

**Question fifteen: Do you have any comments on regulations 22 (certification bodies for companies), 23 (certificates for companies) or 24 (interim company certificates) or 25 (mutual recognition)?**

**Question sixteen: Do you have any comments on how the company certification schemes should be operated (i.e. renewal or non-renewal?)**

**Question seventeen: Do you have any comments on regulations 29 (certification bodies for companies), 30 (certificates for companies) or 31 (interim company certificates) or 32 (mutual recognition)?**

**Question eighteen: Do you have any comments on how the company certification schemes should be operated (i.e. renewal or non-renewal?)**

### **Personnel registration**

**Question nineteen: Would you like the Government to propose regulations to require mandatory personnel registration in a future consultation?**

**Question twenty: What reasons do you have for supporting or not supporting mandatory personnel registration?**

### **Ozone-depleting substances (qualifications) Regulations**

**Question twenty one: Do you have any comments on the proposed Ozone-Depleting Substances (Qualifications) Regulations 2009?**

### **Partial Impact Assessment**

**Question twenty two: Could the assessment of costs and benefits in the Partial Impact Assessment be improved. If so, how?**

## **The proposals for offences and penalties and enforcement in relation to EC Regulation 842/2006 on certain fluorinated greenhouse gases and the ten associated European Commission Regulations**

### **Introduction**

35. The ten European Commission Regulations are intended to support the objective of the 2006 Regulation to contain, prevent and thereby reduce emissions of fluorinated greenhouse gases covered by the Kyoto Protocol, so as to help combat climate change. The Commission Regulations were adopted at the F Gas Regulatory Committee meetings in October and December 2007. They establish fleshed out legal requirements for companies and qualifications for personnel working in five industry sectors covered by EC Regulation 842/2006 as well as dealing with other requirements relating to leakage checking, reporting and labelling. The Commission Regulations have direct effect in all Member States, but some national regulatory measures are also needed in order to fully implement them.
36. It is proposed that the most effective way to do this would be to take the Fluorinated Greenhouse Gases Regulations 2008 (S.I no 41) and build upon them so that all the domestic legislation needed to give effect to Regulation (EC) 842/2006 and the ten new Commission Regulations (outlined above) is in one place. Ultimately this will mean that the Fluorinated Greenhouse Gases Regulations 2008 (the FGG Regulations 2008) will be revoked and replaced by the new proposed revised Regulations when they come into force.
37. Given this approach, many of the provisions in the proposed 2009 Regulations are identical to those in the FGG 2008 Regulations which were the subject of a previous consultation and have therefore not been explained in any detail in this consultation document. Only those regulations and provisions which are new, or that have changed as a result of the new Commission Regulations are dealt with in this document. The key changes can be summarised as follows:

### **Part 1 – Introductory provisions**

38. Most of the provisions in Part 1 relating to citation, commencement, extent and application, interpretation and designation are as set out in the FGG 2008 Regulations. However, please note that the draft 2009 Regulations now also apply to offshore installations concerned with the production of energy from water or wind (regulations 3(1)(e) and (f), 3(5) and 3(6) refer). Further details are set out in paragraphs 50 and 51 below.

## **Part 2 – General provisions**

39. The various new Commission Regulations require changes to certain regulations currently provided for in the FGG Regulations 2008. The corresponding updated regulations are in Part 2 of the proposed Regulations relating to leakage checks of stationary equipment and fire protection systems (regulations 6 and 7), records (regulation 9), reporting requirements and the provision of information (regulation 12) and labelling provisions (regulation 13). In addition to this, regulation 11 (taking delivery of F gases), is new. Further details are set out in Part Two below.
40. All other regulations and provisions in Part 2 remain unchanged and replicate those set out in the FGG Regulations 2008 that are being revoked.

## **Part 3 - Qualifications**

41. All the provisions set out in Part 3 are new and deal with the minimum requirements relating to certification and qualification under the EC F gas Regulation and associated Commission Regulations. Further details are set out in Part Three below.

## **Part 4 – Enforcement, offences and penalties**

42. The enforcing authorities will be the same as those specified in regulation 2(3) of the FGG 2008 Regulations. The sanctions and penalties for failing to comply with the various provisions of the European legislation will also be the same as those set out in regulation 29 of the FGG 2008 Regulations.

## **Schedule 1**

43. This is new and sets out the new categories of certificates for stationary equipment. Further details are set out in Part Five below.

## **Schedule 2**

44. This is also new and sets out the interim qualifications that will apply for the various sectors. The qualifications in this schedule are the same as those set out in Schedule 1, Parts 1 and 2 in the FGG 2008 Regulations.

## **Schedule 3**

45. Despite new numbering for this schedule, the form of the fixed penalty notice remains unchanged.

## **The Proposed Regulations**

46. The proposed Regulations in Annex A prescribe offences and penalties applicable to infringements of EC Regulation No 842/2006 on certain fluorinated greenhouse gases in accordance with Article 13 of the 2006 Regulation and also for the ten Commission Regulations which flesh out the legal requirements in the 2006 Regulation. The Regulations also contain proposed powers for authorised persons to enforce these Regulations.
47. Article 13 of the 2006 Regulation and related provisions took effect in the EU from 4 July 2007. Initial guidance on the scope of the 2006 Regulation and individual articles can be found at:
48. <http://www.defra.gov.uk/environment/climatechange/uk/fgas/>

**Question one. Do you agree with the offences proposed in these draft Regulations? In commenting, please specify the Regulation and sector to which your comment applies.**

## **Part One: Introductory Provisions**

### **Extent/Application**

49. The Regulations will apply to Great Britain only, including “offshore installations” and “Scottish offshore installations” as defined in Regulation 2, except in relation to importation, where the Regulations will also apply to Northern Ireland.

### **Offshore installations and Scottish offshore installations**

50. The definition of “offshore installation” in regulation 3(5), has now been amended to cover all offshore installations, including those concerned with the production of energy from water or wind, not just those used in oil and gas industries. Accordingly, the definition of “marine area” has now been removed and regulation 3(5) details the area covered by these provisions.
51. In addition to this, there is a new definition of a “Scottish offshore installation” in regulation 3(6). The reason for this is that enforcement functions as regards offshore installations which are concerned with the production of renewable energy are to be split between the Secretary of State and the Scottish Ministers. The result of this is that the Secretary of State enforces the Regulations in respect of offshore installations as defined in regulation 3(5) and the Scottish Ministers enforce in respect of Scottish offshore installations as defined in regulation 3(6).

**Question two: Do you see any difficulties in the application of the proposed Regulations to offshore installations concerned with the production of energy from water or wind?**



## **Part Two: General Provisions**

### **Regulation 5: Leakages**

52. Paragraph 1 of Article 3 of the 2006 Regulation contains requirements for operators of stationary applications of refrigeration, air-conditioning and heat pump equipment, including their circuits, as well as fire protection systems to take action to prevent leakage of F gases and as soon as possible repair any detected leakage. Such action should use all measures which are technically feasible and do not entail excessive costs.
53. Article 3.2 of the 2006 Regulation requires the above applications to be checked for leakage according to the timetable set out in the Article. Article 3.4 allows for the frequency of checks for some applications to be halved where a properly functioning appropriate leakage detection system is in place.
54. Under regulation 5 of the proposed Regulations an operator of a stationary application commits an offence if he or she fails to comply with Article 3.1 or Article 3.2, as qualified by Article 3.4.

### **Regulation 6: Leakage checks of stationary refrigeration, air conditioning and heat pump equipment**

55. In addition to this, Commission Regulation 1516/2007 covers standard leakage checking requirements established under Article 3(7) of the 2006 Regulation. This Commission Regulation sets out the detailed practical requirements for carrying out leakage checks and repairs.
56. Under regulation 6(1) of the proposed Regulations, a qualified person commits an offence if they fail to comply with Articles 3 to 6, 7.1, 7.2 or 9 of Commission Regulation 1516/2007 which contain the practical requirements for leakage checks.
57. Under regulation 6(2) an operator commits an offence if they fail to comply with Articles 8.1, 8.2, 8.3 and 10 of Commission Regulation 1516/2007 which deal with the need to make sure repairs are properly carried out and that newly installed equipment is checked for leakage immediately after having been put into service.

### **Regulation 7: Leakage checks of stationary fire protection systems**

58. Commission Regulation 1497/2007 sets out the detailed practical requirements for carrying out leakage checks and repairs.
59. Under regulation 7(1) of the proposed Fluorinated Greenhouse Gases Regulations 2009, a qualified person commits an offence if they fail to comply with Articles 3, 4.1, 4.2 or 6 of Commission Regulation 1497/2007 which contain the practical requirements for leakage checks.

60. Regulation 7(2) makes it an offence for an operator if they fail to comply with Articles 4.4, 5 or 7 of Commission Regulation 1497/2007 which deal with checks of pressure gauges or weight monitoring devices, the need to make sure repairs are properly carried out and that newly installed equipment is checked for leakage immediately after having been put into service.

### **Regulation 8: Leakage Detection systems**

61. Article 3.3 of the 2006 Regulation requires operators of stationary equipment referred to in 3(1) (refrigeration, air conditioning and heat pump equipment and fire protection systems), containing 300kg or more of F gases, to install leakage detection systems. These systems must be checked at least once every 12 months to ensure their proper functioning.

62. Regulation 8(1) and (2) makes it an offence to fail to comply with the above obligations, from the date that the proposed Regulations apply, other than in respect of fire protection systems.

63. Article 3(3) (last sentence) provides a derogation in the case of fire protection systems containing 300kg or more of F gases and installed before 4 July 2007 and requires a leakage detection system to be installed before 4 July 2010. Regulation 8(3) makes it an offence to fail to do this.

64. Operators of fire protection systems containing 300kg or more of F gases must also ensure that leakage detection systems are checked at least every 12 months to ensure their proper functioning according to Article 3(3). However, under Article 3(5), in the case of fire protection systems where there is an existing inspection regime in place to meet the ISO14520 standard, these inspections may also fulfil the obligations of the 2006 Regulation as long as these inspections are at least as frequent. Regulation 8(4) makes it an offence to fail to comply with these provisions.

### **Regulation 9: Records**

65. According to Article 3.6 of the 2006 Regulation, operators of the stationary applications referred to in Article 3.1 containing 3kg or more of F gases will also have to maintain records on the quantity and type of F gases installed, any quantities added and the quantity recovered during maintenance, servicing and final disposal. They will also need to maintain records of other relevant information, including the identification of the company or technician who performed the servicing or maintenance, as well as the dates and results of the leakage checks and relevant information specifically identifying the separate stationary equipment with more than 30kg of F gases. These records will have to be made available on request to the competent authority and the European Commission.

66. Under proposed regulation 9(1), an operator commits an offence if he fails to comply with Article 3.6.

## **Systems records in respect of a fire protection system**

67. Article 2 of Commission Regulation 1497/2007 covers systems records in respect of fire protection systems. Under regulation 9(2)(a) of the proposed GB Regulations, an operator commits an offence if they fail to comply with Article 2.1 (operator name, address and contact details), or Article 2.3 (determining F gas charge for a fire protection system), of Commission Regulation 1497/2007.
68. Regulation 9(2)(b) makes it an offence for an operator if they fail to comply with Article 2.3 (determining F gas charge for a fire protection system using certified personnel), of Commission Regulation 1497/2007.

## **Systems records in respect of stationary refrigeration, air conditioning and heat pump equipment**

69. Article 2 of Commission Regulation 1516/2007 covers systems records in respect of stationary refrigeration, air conditioning and heat pump equipment. Under regulation 9(4)(a) of the proposed GB Regulations, an operator commits an offence if they fail to comply with Article 2.1 (operator name, address and contact details), or 2.3 (determining F gas charge for refrigeration, air conditioning or heat pump equipment using certified personnel), of Commission Regulation 1516/2007.
70. Regulation 9(4)(b) makes it an offence for an operator if they fail to comply with Article 2.2 (indicating F gas charge for refrigeration, air conditioning or heat pump equipment in the equipment records), and Article 2.4 (indicating leakages in equipment records), of Commission Regulation 1516/2007.

## **Regulation 11: Taking delivery of F gases**

### **Introduction**

71. Article 5(4) of the 2006 Regulation states:

“By 4 July 2009 Member States shall ensure that the companies involved in carrying out the activities provided for in Articles 3 and 4 shall only take delivery of fluorinated greenhouse gases where their relevant personnel hold the certificates mentioned in paragraph 2 of this Article.”

72. Regulation(s) are therefore needed to create offences/penalties for failing to comply with Article 5(4).
73. In GB there are no current controls on “taking delivery” of F gases. “Taking delivery” is not defined in either 2006 Regulation or the proposed GB Regulations but is taken to refer to a company involved in carrying out the activities provided for in Articles 3 (containment provisions) and 4 (recovery) of 2006 Regulation, permitting deliveries to be made of F gases in cylinders to its premises and accepting them into its premises for use by

personnel employed by it who hold the certificates mentioned in paragraph 2 of Article 5 of 2006 Regulation.

74. Under the FGG 2008 Regulations, it is an offence for personnel to carry out activities on equipment specified in Articles 3 and 4 of 2006 Regulation without having a relevant qualification specified in the FGG 2008 Regulations. It is an offence for an employer to fail to ensure that a person employed to carry out work has the necessary qualification. These existing provisions already ensure that no unqualified person or company should be allowed to work or provide work with F gases and they are carried forward into the proposed Regulations. However, Article 5(4) of 2006 Regulation adds a further obligation as regards “taking delivery”.

75. Once F gases are manufactured, they are sold on through wholesalers and distributor networks. These businesses are not undertaking activities covered by Articles 3 and 4 of 2006 Regulation and so these businesses are not covered by the Article 5(4) provision. However, the scope of the obligation remains quite broad and covers all the sectors subject to qualification requirements that are specified in the proposed GB Regulations.

### **Taking delivery**

76. Regulation 11(1) makes it an offence for any person who carries out an activity referred to in Article 3 (containment) or Article 4 (recovery) of the 2006 Regulation unless an employee of that company is a qualified person.

77. Regulation 11(2) defines a “qualified person” as follows:

11(2) In this regulation, “qualified person” means—

- i. an individual who —
  1. holds a valid certificate issued under Article 5 of Commission Regulation 303/2008, or
  2. is exempt from holding such a certificate by virtue of regulation 20(5) or (7)
- ii. an individual who —
  1. holds a valid certificate issued under Article 5 of Commission Regulation 304/2008, or
  2. is exempt from holding such a certificate by virtue of regulation 27(4) or (5);
- iii. an individual who—
  1. holds a valid certificate issued under Article 4 of Commission Regulation 305/2008, or
  2. is exempt from holding such a certificate by virtue of regulation 34(3); or
- iv. an individual who—
  1. holds a valid attestation issued under Article 3 of Commission Regulation 307/2008, or

2. is exempt from holding such an attestation by virtue of regulation 40(3).

## **Timing**

78. Whilst this provision does not apply until 4 July 2009, a provision has been included in the proposed Regulations dealing with this issue. This avoids the need for consultees to deal with a further public consultation just on this issue later in 2008 or early 2009. It should be emphasised that the “taking delivery” obligation is not being implemented earlier than required by the 2006 Regulation. This is because, under proposed regulation 1(2), the obligation comes into force on 4 July 2009.

## **Regulation 12: Reporting requirements and the provision of information**

79. Article 1 of Commission Regulation 1493/2007 regarding reporting specifies the format of the report referred to in Article 6(1) of the 2006 Regulation. Regulation 8 of the FGG 2008 Regulations sets out offences and penalties applicable to reporting requirements and the provision of information and these are retained/taken these forward into the proposed Regulations

80. The provisions in proposed regulation 12 relating to reporting are identical to those in regulation 8 of the FGG 2008 Regulations, which sets out offences and penalties applicable to reporting requirements and the provision of information. However, in addition to this, Article 1 of Commission Regulation 1493/2007 establishes the format for the report to be submitted by producers, importers and exporters of certain fluorinated greenhouse gases.

81. Regulation 12(7)(b) defines a “defective report” as follows:

“defective report” means a report under Article 6 of the 2006 Regulation which is not in the format required under 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;

82. Under regulation 12(4) a person commits an offence if the person communicates to the Commission a defective report.

## **Regulation 13: Labelling**

83. Article 7(1) of the 2006 Regulation requires a range of products to have a label adjacent to the service point stating that the product or equipment contains F gases and their quantity. Such products could not be placed on the market without a label. The form of the label has to be proposed by the European Commission and agreed by Member States according to Article 7(3).
84. Commission Regulation 1494/2007 establishes the form of the label and additional labelling requirements as regards products and equipment that contain F gases.
85. Regulation 13(1)(a) of the proposed GB Regulations makes it an offence if a person places a product or equipment on the market within the GB unless a proper label is affixed to the product or equipment in accordance with Article 7.1, first paragraph, of the 2006 Regulation and Article 4 (placing of the label), of Commission Regulation 1494/2007.
86. Regulation 13(1)(b) makes it an offence if a person places a product or equipment on the market within the GB if the proper label is not in English. Therefore, the language of the label on goods placed on the market for the first time in GB should be in English, whether or not it is in another language as well.
87. Regulation 13(3) defines “proper label” as a label which contains the information referred to in Articles 2.1 (text to be included on the label), Article 2.2 (text to be included on foam blown products), Article 2.3 (quantity of F gases) and Article 3 (form of the label), of Commission Regulation 1494/2007.
88. Regulation 13(2) of the proposed GB Regulations identifies the product or equipment referred to in regulation 13(1) as follows:
- a. The product or equipment referred to in paragraph (1) is—
    - i. a refrigeration product or equipment which contains—
      1. perfluorocarbons, or
      2. preparations containing perfluorocarbons;
    - ii. a refrigeration or air conditioning product or equipment, except where such product or equipment is in a motor vehicle, which contains—
      1. hydrofluorocarbons, or
      2. preparations containing hydrofluorocarbons;
    - iii. a heat pump, a fire protection system or a fire extinguisher which contains—
      1. hydrofluorocarbons, or
      2. preparations containing hydrofluorocarbons;
    - iv. switchgear which contains sulphur hexafluoride or preparations containing sulphur hexafluoride; or
    - v. a fluorinated greenhouse gas container.

## **Part Three: Qualifications under the F gas Regulation**

### **Introduction**

89. The Commission has a duty to establish minimum qualification and company certification requirements under Article 5 of the 2006 Regulation. These requirements mean that only appropriately qualified personnel should carry out skilled tasks involving F gases in order to avoid unnecessary emissions and ensure proper recovery of F gases and only certified companies should provide work with F gases that involves breaking into circuits.
90. Under Articles 3 and 4 of the 2006 Regulation, operators must ensure that work relating to containment and recovery for specified stationary equipment is carried out by certified personnel who comply with the requirements of Article 5. Article 5 requires the European Commission to establish minimum training and certification requirements for relevant personnel and companies by 4 July 2007. Member States then have until 4 July 2008 to establish or adapt their own training/certification requirements.
91. However, the Commission had difficulty progressing all this work and was consequently behind schedule. The minimum requirements were finally adopted and published in the Official Journal on the 2 April 2008 and entered into force twenty days after that date. They have direct effect in the UK and across all Member States of the EU.
92. The requirements for operators to use certified personnel under Article 5 have applied from 4 July 2007 as do the requirements to use appropriately qualified personnel under Article 4(3). The European Commission have advised that pending the establishment or adaptation of existing domestic qualifications, operators should ensure that personnel carrying out work on equipment should have an “existing” qualification. Part 3 of the FGG Regulations 2008 and Parts 1 and 2 of Schedule 1 provide clarity for those carrying out work on equipment containing F gases and their employers as to what is an existing qualification, including in-house qualifications in some cases.

### **Certificates issued in EEA (European Economic Area) States and Northern Ireland**

93. The EC F gas Regulation requires that Member States give mutual recognition to certification of suitable qualifications from other EU and European Economic Area (EEA) countries. This will only apply to new qualifications that meet the minimum requirements specified in relevant Commission Regulation. The regulations that deal with these provisions in each sector are set out in the appropriate sections below. The proposed Regulations also include Northern Ireland in the mutual recognition requirements.
94. The reason why Northern Ireland is included in addition to EEA States is that, although it is not a Member State, it is part of the UK but not covered by the proposed 2009 Regulations. The Department of the Environment of Northern Ireland will be proposing separate Regulations for Northern Ireland. Therefore a reference to Northern Ireland is required in these proposed Regulations in order to make the mutual recognition provisions complete.
95. In some EU countries the existing qualifications already meet or go beyond these minimum requirements. The European Commission will be compiling a list of qualifications that meet the new minimum requirements.
96. Interim personnel certificates issued by other EU Member States will not be valid in the UK and vice versa.

## **Personnel qualifications relating to stationary refrigeration, air conditioning and heat pump equipment**

### **Current qualification requirements for personnel**

97. The current minimum qualifications that apply in Great Britain are specified in Part 3 of the FGG Regulations 2008 (Statutory Instrument No 41) (referred to from now on as the 2008 Regulations), which came into force on 15<sup>th</sup> February 2008. The 2008 Regulations specify the qualifications that are required for handling F gases. The Regulations specify that no person may work on stationary refrigeration and air conditioning (RAC) systems which contain 3 kilograms or more of F gases unless they have either:
- City & Guilds Certificate in Handling Refrigerants Scheme 2078  
Construction Industry Training Board (CITB) Safe Handling of Refrigerants Reference 206710.
98. For stationary RAC equipment which contains less than 3 kilograms of F gases, no person may work on this equipment unless they have obtained one of the qualifications referred to above, or they hold an in-house qualification, or that person has carried out such work on such equipment without supervision before the 15 February 2008.
99. The 2008 Regulations define an in-house qualification as follows:



”in-house qualification” means a qualification verified by a certificate of competence or other written confirmation issued by an employer to such of its employees who have successfully completed a course of training provided by that employer relating to the work in question”

100. A course of training is defined as follows:

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

### **Future requirements from 4 July 2011**

101. The minimum requirements for certification of personnel handling F gases are set out in Commission Regulation EC 303/2008. These requirements go beyond the content of City & Guilds Certificate in Handling Refrigerants Scheme 2078 and Construction Industry Training Board (CITB) Safe Handling of Refrigerants Reference 206710. The main new requirement is to show, through practical assessments, knowledge of key components of equipment, including compressors and condensers. This means that the current qualifications will not meet the long term minimum requirements specified in Commission Regulation 303/2008. Therefore, new RAC qualifications will need to be introduced and all GB personnel will ultimately have to obtain a new qualification.

### **New categories of personnel certification**

102. For RAC personnel, Article 4(2) of Commission Regulation 303/2008 refers to four different levels of certification, which allow personnel to carry out different activities. Note that Category I covers all activities whereas the other 3 categories are more restrictive:

103. **Category I** certificate holders may carry out **all refrigerant handling activities for any size of RAC systems** containing F gases. This includes leakage checking, refrigerant recovery, installation, maintenance and servicing.

104. **Category II** certificate holders may carry out refrigerant recovery, installation, maintenance and servicing, in relation to RAC **systems containing less than 3 kg** of F gases (or less than 6 kg for systems that are hermetically sealed). Category II certificate holders may also carry out leak checks on any plant provided that it does not entail breaking into the refrigeration circuit containing F gases.

105. **Category III** certificate holders may carry out **refrigerant recovery** in relation to RAC systems **containing less than 3 kg** of F gases (or less than 6 kg for systems that are hermetically sealed).

106. **Category IV** certificate holders may carry out **leak checks** on any size equipment provided that it does not entail breaking into the refrigeration circuit containing F gases.

## **The new certificates**

107. Schedule 1 of the proposed Regulations sets out the GB Category I, Category II, Category III and Category IV certificates for the purposes of Article 4.2 of the Commission Regulation 303/2008.
108. There are further certificates being proposed by Summit Skills for qualifications relating to Category I activities. This qualification will be offered as a National / Scottish Vocational Qualification. The proposed names and syllabuses of future qualifications from Summit Skills are still being developed. At the time of writing, our information is that these qualifications will not be available in time for inclusion in the finalised 2009 Regulations.
109. Regulation 20(1) makes it an offence if an individual who recovers F gases, installs, maintains or services equipment of any size, does not have a “stationary equipment qualification”. In addition, an individual would commit an offence if they carried out leakage checks on equipment which contains 3 kilograms or more of F gases if they did not have a stationary equipment qualification.
110. A “stationary equipment qualification” is defined in regulation 20(9)(b) as a “valid certificate issued by the City and Guilds of London Institute or by the Construction Industry Training Board under Article 5.1, 5.3 or 5.4 of Commission Regulation 303/2008;”. However, there are certain exemptions from these requirements for personnel qualifications (as set out below).

## **Exemptions from Personnel Qualifications**

111. Article 4(1) of Commission Regulation 303/2008 states that personnel carrying out activities referred to in Article 2(1) (leak checking, recovery, installation and maintenance or servicing) need to hold a certificate as referred to in Article 5 or Article 6. However, Article 4.3 states that the Article 1 provisions shall not apply to the following categories of personnel.

Trainees are exempt for up to 2 years, but they must work under the supervision of a person with the requisite qualification (including an interim certificate) and must be enrolled on a relevant training course.

Personnel only undertaking brazing, soldering or welding on a piece of RAC equipment would be exempt if they hold a nationally recognised qualification to undertake such activities and if they are supervised by a person holding the requisite F gas certificate covering the relevant activity.

Personnel undertaking recovery of F gases from “waste equipment” under the WEEE Directive (Waste Electrical and Electronic Equipment) EC 96/2002 with an F gas charge less than 3 kg, in premises covered by a suitable permit, are exempt provided that they are employed by the company holding the permit and have completed a training course on the minimum skills and knowledge corresponding to Category III that is verified by an attestation of competence issued by the permit holder.

112. Regulation 20(4) and (8) of the draft Regulations provides for exemptions for these three categories of personnel.
113. In addition to these exemptions, Article 2(3) of Commission Regulation 303/2008 states that the provisions in this Commission Regulation shall not apply to any RAC manufacturing and repairing activity undertaken at a manufacturer’s sites. Regulation 20(9)(a) provides for this exemption in relation to personnel certification requirements.

**Regulation 20: Transitional qualification provisions for personnel through to 4 July 2011 who already have an existing qualification**

114. Commission Regulation 303/2008 applies from July 2008 but the European Commission were late in establishing minimum requirements and time needs to be allowed for national qualifications to be modified, training centres to prepare and offer courses, personnel to get the new qualifications and for companies to be certified. Therefore, Commission Regulation 303/2008 permits the UK to introduce a system for personnel that do not hold a certificate that meets the future minimum qualifications to continue working if they hold an “interim certificate”. Interim certificates can be valid up to 3 July 2011
115. Article 6(2) of Commission Regulation 303/2008 specifies that Member States may apply a system of interim certification for personnel holding an attestation issued under existing qualification schemes or personnel with professional experience acquired before a certain date.
116. The proposed GB Regulations will have the following effect. Regulation 20(7)(b) and regulation 21 provide that, personnel already holding the City and Guilds 2078, CITB 206170 or holding an in house qualification would be deemed holders of an interim certificate and benefit from the transitional period set out in Article 6(2) of Commission Regulation 303/2008. The interim certificate will be valid until 3 July 2011. In practice, the only personnel that may have obtained an in-house qualification are personnel working on equipment with a charge of less than 3 kilograms up to the time the proposed Regulations come into force.
117. Regulation 20(5) provides that personnel who can prove they already have professional experience in the relevant refrigeration handling activities and have carried out such work on equipment containing less than 3kg of F gases without supervision before 4 July 2008, can continue

to work up to 3 July 2009. However, they will need to apply for and obtain an interim certificate, issued under Article 6.3 of Commission Regulation 303/2008 (which states that personnel with such experience shall be issued with an interim certificate by an entity designated by the Member State), before 4 July 2009 in order to qualify for the full transitional period and therefore have the time to obtain a new qualification. These certificates cannot be issued until the proposed Regulations are in force which may be by February 2009.

### **Regulation 21: Interim stationary equipment certificates relating to equipment containing less than 3 kilograms**

118. It is understood some service engineers dealing with domestic and small commercial equipment containing F gases have learned on the job some time ago but have no pre-existing qualification and so would not be eligible to benefit from the transitional arrangements proposed under regulation 20.
119. It is understood that there are approximately 5,000 personnel working on domestic (large American style refrigerators) and small commercial equipment (e.g. bottle coolers in pubs/shops, small food chiller units, small air-conditioning systems in offices) that may need to be issued with an interim certificate.
120. Given the relatively small and specialised workforce affected, discussions have taken place with the Domestic Appliance Service Association (DASA), to act as the body designated in the proposed Regulations to issue these interim certificates. This will be a one-off piece of work that will need to be started and completed in the period February 2009 (assuming this is when the Regulations come into force) and July 2009. However, the identification of DASA to perform this function is without prejudice to further bodies being identified if they felt they could or should also offer an interim certification function. No final decisions will be taken on what body or bodies might issue interim certificates for personnel until after the public consultation.
121. Regulation 21(5) identifies DASA as the certification body for the purposes of Article 6.3 of Commission Regulation 303/2008 and specifies that DASA must comply with the obligations set out in Article 6 of that Regulation (obligation to issue certificates and certificate to show category of qualification and expiry date).

### **Regulation 19: Certification and evaluation bodies**

122. Regulation 19(1) identifies City and Guilds of London and the Construction and Industry Training Board as the certification and evaluation bodies for the purposes of Article 5 of Commission Regulation 303/2008 (Article 5 relates to a certification body as referred to in Article

10, which specifies that a certification body shall be provided for by a national law or regulation).

123. Article 5 of Commission Regulation 303/2008 also states that a certification body, as referred to in Article 10, shall issue certificates to personnel who have passed a theoretical and practical examination organised by an evaluation body as referred to in Article 11. Regulation 19(2) identifies City and Guilds of London and the Construction and Industry Training Board as an evaluation body for the purposes of Article 11.1 (an evaluation body designated by the competent authority of a Member State) of Commission Regulation 303/2008.

124. Regulation 19(2)(a) specifies that the City and Guilds of London Institute and the Construction Industry Training Board must comply with Articles 5.1 (issue a certificate), 5.2 (details to be included on the certificate), the certification body requirements in Article 10.1, second paragraph (be independent and impartial), 10.2 (have procedures for issuing, suspending, withdrawing certificates), 10.3 (maintain records so status of certified person can be verified) and the evaluation body requirements in Article 11 of Commission Regulation 303/2008 (be independent and impartial, the reporting/documentation requirements and ensuring adequacy of examiners and that necessary tools, equipment available for practical tests).

125. Regulation 19(2)(b) specifies that the City and Guilds of London Institute and the Construction Industry Training Board must comply with Article 11.2 (requirements for evaluation body to plan and structure examinations) of Commission Regulation 303/2008.

### **Regulation 25: Certificates relating to certain stationary equipment issued in EEA States and Northern Ireland**

126. Regulation 25 deals with these certificates for certain stationary equipment. Further details relating to mutual recognition of certificates are set out in paragraphs 93 - 96 above.

**Question three: Do you have any comments on regulations 19 (certification bodies for personnel) or 21 (interim certificates for personnel)?**

**Question four; Do you agree with the proposed qualification categories set out in regulation 20(3) and Schedule 2?**

**Question five: Do you agree with the proposed interim and transitional arrangements?**

**Question six: Do you have any comments on regulation 21(5) (certification body to issue interim certificates)?**

## **Personnel qualifications relating to stationary fire protection systems and fire extinguishers**

### **Current qualification requirements for personnel**

127. The 2008 Regulations specify that no person may work on fire protection systems which contain F gases unless they have obtained an in-house qualification. The definition of in-house training in the 2008 Regulations is set out in paragraph 99 above.

### **Future requirements from 4 July 2010**

128. The minimum requirements for certification of personnel handling F gases are contained in Commission Regulation 304/2008 and the minimum skills and knowledge required are set out in the Annex to the Commission Regulation. Personnel who have passed a theoretical and practical examination covering these minimum skills and knowledge will be issued with a certificate. In-house qualifications will not meet the long term minimum requirements specified in Commission Regulation 304/2008. Therefore, a new fire protection qualification will need to be introduced and all personnel will ultimately have to obtain a new qualification.

### **The new certificate**

129. Regulation 27(1) makes it an offence if any person who recovers F gases, installs, maintains or services equipment of any size, does not have a fire protection systems qualification. In addition, an individual would commit an offence if they carried out leakage checks on equipment which contains 3 kilograms or more of F gases if they did not have a fire protection systems qualification.

130. A "fire protection systems qualification" is defined in regulation 27(5)(b) as a "valid certificate issued by the Fire Industry Association under Article 5.1, 5.3 or 5.4 of Commission Regulation 304/2008;". However, there is an exemption from these requirements for personnel qualification (as set out below).

### **Exemption from Personnel Qualifications**

131. Article 4(2) of Commission Regulation 304/2008 sets out an exemption for trainees for up to 1 year, but they must work under the supervision of a person with the requisite qualification (including an interim certificate) and must be enrolled on a relevant training course. Regulation 27(3) gives effect to the exemption for this category of personnel.

132. In addition to this exemption, Article 2(3) of Commission Regulation 304/2008 states that this Regulation shall not apply to any manufacturing and repairing activity undertaken at a manufacturer's sites for containers or associated components of stationary fire protection systems containing F gases. Regulation 27(5)(a) provides the definition of "exempt activity" in this context.

### **Regulation 28: Transitional provisions for personnel through to 4 July 2010**

133. Commission Regulation 304/2008 applies from July 2008 but the European Commission were late in establishing minimum requirements and time needs to be allowed for national qualifications to be modified, training centres to prepare and offer courses, personnel to get the new qualifications and for companies to be certified. Therefore, Article 6(2) of Commission Regulation 304/2008 permits the UK to introduce a system for personnel that do not hold a certificate that meets the future minimum qualifications to continue working if they hold an "attestation" issued under an existing qualification scheme.

134. Regulation 28 of the proposed GB Regulations provides that, for the purposes of Article 6(1) and 6(2) of Commission Regulation 304/2008, an individual who holds an in-house qualification obtained before the date of coming into force of these proposed Regulations, is deemed to be the holder of an interim certificate and can benefit from the transitional period set out in Article 6(2) of Commission Regulation 304/2008. The interim certificate will be valid until 3 July 2010.

### **Regulation 26: Certification and evaluation bodies**

135. Regulation 26(1) identifies the Fire Industry Association as the certification body for the purposes of Article 5 of Commission Regulation 304/2008 (Article 5 relates to a certification body as referred to in Article 10, which specifies that a certification body shall be provided for by a national law or regulation).

136. Article 5 of Commission Regulation 304/2008 also states that a certification body, as referred to in Article 10, shall issue certificates to personnel who have passed a theoretical and practical examination organised by an evaluation body as referred to in Article 11. Regulation 26(1) identifies the Fire Industry Association as an evaluation body for the purposes of Article 5 (an evaluation body designated by the competent authority of a Member State) of Commission Regulation 304/2008.

137. Regulation 26(2) specifies that the Fire Industry Association must comply with Articles 5.1 (issue a certificate), 5.2 (details to be included on the certificate), the certification body requirements in Article 10.1, second paragraph (be independent and impartial), 10.2 (have procedures for

issuing, suspending, withdrawing certificates), 10.3 (maintain records so status of certified person can be verified), the evaluation body requirements in Article 11 (be independent and impartial, the reporting/documentation requirements and ensuring adequacy of examiners and that necessary tools, equipment available for practical tests) and Article 11.2 (requirements for evaluation body to plan and structure examinations) of Commission Regulation 304/2008.

### **Regulation 32: Certificates relating to fire protection systems issued in EEA States and Northern Ireland**

138. Regulation 32 deals with these certificates in relation to fire protection systems. Further details relating to mutual recognition of certificates are set out in paragraphs 93 - 96 above.

**Question seven: Do you have any comments on regulations 26 (certification bodies for personnel) or 28 (interim certificates for personnel)?**

**Question eight: Do you agree with the proposed interim and transitional arrangements?**

### **Personnel qualifications relating to high-voltage switchgear**

#### **Current qualification requirements for personnel**

139. The 2008 Regulations specify that no person may recover F gases (only sulphur hexafluoride in practice) from high-voltage switchgear unless they have obtained an in-house qualification. The definition of in-house training in the Regulations is set out in paragraph 99 above.

#### **Future requirements from 4 July 2009**

140. The minimum requirements for certification of personnel handling F gases are contained in Commission Regulation 305/2008 and the minimum skills and knowledge required are set out in the Annex to the Commission Regulation. Personnel who have passed a theoretical and practical examination covering these minimum skills and knowledge will be issued with a certificate.

#### **The new certificate**

141. Regulation 34(1) makes it an offence for any person who recovers F gases from high-voltage switchgear, to do so without a high-voltage switchgear qualification in accordance with Article 3(1) of Commission Regulation 305/2008.



142. A "high-voltage switchgear qualification" is defined in regulation 34(4)(b) as a "valid certificate issued by a certification body referred to in regulation 33(2) under Article 4 of Commission Regulation 305/2008". However, there is an exemption from these requirements for personnel qualification (as set out below).

### **Exemption from Personnel Qualifications**

143. Article 3(2) of Commission Regulation 305/2008 sets out an exemption for trainees for up to one year, but they must work under the supervision of a person with the requisite qualification (including an interim certificate) and must be enrolled on a relevant training course. Regulation 34(2) gives effect to the exemption for this category of personnel.

144. Regulation 34(3) provides that personnel who can prove they have already carried out recovery of F gases from high-voltage switchgear without supervision before 4 July 2008, can continue to work up to 3 July 2009. The basis for this derogation is Article 3(3) of Commission Regulation 305/2008. Such personnel shall be deemed to be certified as regards these activities for the purposes of the requirements of the 2006 Regulation.

### **Regulation 33: Certification and evaluation bodies**

145. Regulation 33(1) identifies the following persons as the certification and evaluation bodies for the purposes of Articles 5 and 6 of Commission Regulation 305/2008:

Schneider Electric Limited  
Lucy Electric UK Limited  
Siemens Transmission and Distribution Limited  
Areva T&D UK Limited  
ABB Limited

146. Articles 5 and 6 specify that a certification body (Article 5) and an evaluation body (Article 6) shall be provided for by a national law or regulation.

147. Regulation 33(3)(a) specifies that a certification and evaluation body (listed above) must comply with Articles 5.1 second paragraph (be independent and impartial), 5.2 (have procedures for issuing, suspending, withdrawing certificates), 5.3 (maintain records so status of certified person can be verified), 6.1 (be impartial), 6.3 (reporting/documentation requirements) and 6.4 (ensure adequacy of examiners and that necessary tools, equipment available for practical tests) of Commission Regulation 305/2008.

148. Regulation 33(3)(b) specifies that a certification body and evaluation body (listed above) must comply with Article 4.2, (details to be included on the certificate) and Article 6.2 (examinations to be planned and structured in a manner which ensures that the minimum skills and knowledge set out in the Annex are covered) of Commission Regulation 305/2008.

### **Regulation 35: Certificates relating to high-voltage switchgear issued in EEA States and Northern Ireland**

149. Regulation 35 deals with these certificates in relation to high voltage switchgear. Further details relating to mutual recognition of certificates are set out in paragraphs 93 - 96 above.

**Question nine: Do you have any comments on regulations 33(2) (certification bodies for personnel), or 33(3) (further provisions for certification bodies)?**

**Question ten: Do you agree with the proposed interim and transitional arrangements?**

## **Personnel qualifications relating to F gas based solvents**

### **Introduction**

150. Until recently it was thought that there was little or no use of F Gas solvents in the UK. However, work carried out for the Partial Impact Assessment (see Annex B to this consultation) has identified a small market which could grow. Growth may be influenced by other regulatory issues that affect alternative solvents.

151. The Partial Impact Assessment estimates that there are between 50 and 100 companies currently using F gas solvents with most of these companies having a single small cleaning process. A few companies are larger users with a number of solvent cleaning lines.

### **Current qualification requirements for personnel**

152. The 2008 Regulations specify that no person may recover F gas based solvents unless they have obtained an in-house qualification. The definition of in-house training in the Regulations is set out in paragraph 99 above.

### **Future requirements from 4 July 2009**

153. There are no current suitable external industry qualifications that meet the requirements specified in Commission Regulation 306/2008. In-house qualifications will not meet the requirements set out in the Annex to

Commission Regulation 306/2008. Therefore, a new solvents qualification will need to be introduced and all UK personnel working with F gas based solvents will ultimately have to obtain a new qualification.

154. There is no data available on number of staff requiring training. It is estimated that between 50 and 100 companies use F Gas solvents. It is reasonable to assume that between 100 and 400 personnel could require a certificate.

### **Regulation 36: Fluorinated greenhouse gas-based solvents certification and evaluation bodies**

155. Regulation 36 provides a power for the Secretary of State to appoint a certification or evaluation body for the purposes of Commission Regulation 306/2008. This power would enable such a body to be identified in the future. However, there is currently no coordinating body in the F Gas solvent sector and the Government is not aware of any current plans for a body to provide external training and certification to meet the F Gas Regulation requirements. Another option would be for individual companies using F Gas solvents to be identified as certification and evaluation bodies.

156. Regulation 36(3) and (4) specifies that a certification and evaluation body appointed by the Secretary of State must comply with Articles 3.1 (issue a certificate), 3.2 (details to be included on the certificate), the certification body requirements in 4.1, second paragraph (be independent and impartial), 4.2 (have procedures for issuing, suspending, withdrawing certificates), 4.3 (maintain records so status of certified person can be verified) and the evaluation body requirements in 5.1 (be impartial), 5.2 (examinations to be planned and structured), 5.3 (reporting/documentation requirements) and 5.4 (ensure adequacy of examiners and that necessary tools, equipment available for practical tests) of Commission Regulation 306/2008.

### **Regulation 37: the new certificate**

157. Regulation 37(1) makes it an offence for any person who recovers F gas based solvents from equipment, to do so without a solvents qualification in accordance with Article 2.1 of Commission Regulation 306/2008.

158. A “solvents qualification” is defined in regulation 37(4) as a “valid certificate issued by a certification body under Article 3 of Commission Regulation 306/2008”.

### **Exemption from Personnel Qualifications**

159. Article 1.2 of Commission Regulation 306/2008 sets out an exemption for trainees for up to 1 year, but they must work under the supervision of a person with the requisite qualification (including an interim certificate) and must be enrolled on a relevant training course. Regulation 37(2) gives effect to the exemption for this category of personnel.

160. Regulation 37(3) provides that personnel who can prove they have already carried out recovery of F gas based solvents from equipment without supervision before 4 July 2008, can continue to work up to 3 July 2009. The basis for this derogation is Article 1.3 of Commission Regulation 306/2008. Such personnel shall be deemed to be certified as regards these activities for the purposes of the requirements of the 2006 Regulation.

### **Regulation 38: Certificates relating to F gas based solvents issued in EEA States and Northern Ireland**

161. Regulation 38 deals with these certificates in relation to F gas based solvents. Further details relating to mutual recognition of certificates are set out in paragraphs 93 - 96 above.

**Question eleven: Views are invited on whether there is scope to develop a common approach for a F gas based solvents qualification to meet the minimum requirements set out in Commission Regulation 306/2008, or whether individual companies should be identified as certification and evaluation bodies.**

### **Personnel qualifications relating to certain motor vehicles**

#### **Current qualification requirements for personnel**

162. The 2008 Regulations specify that no person may recover F gases from the air conditioning system in a motor car or motor van during the servicing or maintenance of that system, unless they have obtained at least one of the qualifications set referred to in Schedule 1, Part 2 of the Regulations (which includes an in-house qualification).

#### **Future requirements from 4 July 2010**

163. The minimum requirements for certification of personnel handling F gases are contained in Commission Regulation 307/2008 and the minimum skills and knowledge required are set out in the Annex to the Commission Regulation. Personnel who have passed a theoretical and practical examination covering these minimum skills and knowledge will be issued with an attestation. These requirements go beyond the content of the qualifications set out in Schedule 1, Part 2. This means that the current qualifications will not meet the long term minimum requirements specified in Commission Regulation 307/2008. Therefore, new air-conditioning attestations will need to be introduced and all GB personnel will ultimately have to obtain a new qualification/attestation.

#### **Regulation 40: The new certificate/attestation**

164. Regulation 40(1) makes it an offence for any person who recovers F gases from an air-conditioning system in a motor car or motor van, to do so without an “air-conditioning qualification” in accordance with Article 2(1) of Commission Regulation 307/2008.

165. An “air-conditioning qualification” is defined in regulation 40(4)(c) as a “valid attestation issued by an attestation body referred to in regulation 41(2) under Article 3.2 of Commission Regulation 307/2008”. However, there is an exemption from these requirements for personnel qualification (as set out below).

166. “motor car” and “motor van” (proposed regulation 40(4) (a) and (b)) have the same meaning as defined in the 2008 GB Regulations.

#### **Exemption from Personnel Qualifications**

167. Article 2(2) of Commission Regulation 307/2008 sets out an exemption for trainees for up to 1 year, but they must work under the supervision of a person with the requisite qualification (including an interim certificate) and must be enrolled on a relevant training course. Regulation 40(2) gives effect to the exemption for this category of personnel.

#### **Transitional provisions for personnel through to 4 July 2010**

168. Commission Regulation 307/2008 applies from July 2008 but the European Commission were late in establishing minimum requirements and time needs to be allowed for national qualifications to be modified, training centres to prepare and offer courses and for personnel to get the new qualifications/attestations. Therefore, Article 3(3)(a) of Commission Regulation 307/2008 permits the UK to introduce a system for personnel that do not hold a certificate/attestation that meets the future minimum qualifications to continue working if they hold an “attestation” issued under existing qualification schemes. Regulation 40(3) provides this exemption and specifies that personnel must hold a qualification referred to in Schedule 2.

### **Regulation 39: Attestation bodies**

169. Regulation 39(2) identifies the attestation bodies for the purposes of Article 3 of Commission Regulation 307/2008 (Article 3(1) specifies that a certification body shall be provided for by a national law or regulation).
170. Article 3 of Commission Regulation 307/2008 also states that an attestation body shall issue a training attestation to personnel who have passed a theoretical and practical examination covering the minimum skills and knowledge set out in the Annex. Regulation 39(3) specifies that an attestation body as referred to in regulation 39(2) must comply with Articles 3(2) (issue an attestation) and 3(3) (details to be included on the certificate) of Commission Regulation 307/2008.

### **Regulation 41: Attestations issued in EEA States and Northern Ireland**

171. Regulation 41 deals with these certificates in relation to certain motor vehicles. Further details relating to mutual recognition of certificates are set out in paragraphs 93 - 96 above.

**Question twelve: Do you have any comments on regulations 39(2) (attestation bodies for personnel), or regulation 39(3) (further provisions for attestation bodies)?**

**Question thirteen: Do you agree with the proposed interim and transitional arrangements as set out in regulation 40?**

## **Company certification for installation, maintenance or servicing of stationary refrigeration, air- conditioning and heat pump equipment**

### **Introduction**

172. Article 7 of Commission Regulation 303/2008 requires companies carrying out installation or maintenance or servicing to hold a certificate to confirm that it has the skilled personnel and equipment to carry out work with adequate expertise so that emissions are avoided/minimised.
173. The European Commission and a majority of Member States agreed that a very light touch company certification requirement was needed, as the 2006 Regulation has only one reference to certification programmes for companies in Article 5.1. A small voluntary company certification scheme operates in GB with about 250 certified companies, but at present, there is no legal requirement in GB for companies to be certified. Overall some 8,000 companies may need to be certified. The Government therefore intends to provide for transitional arrangements in the proposed Regulations involving a certification body issuing "interim" certificates to

companies. Companies would then have until July 2011 to obtain a certificate.

### **Company certificates**

174. Under Article 8 of Commission Regulation 303/2008, a company is entitled to be issued with a certificate by a certification body if it fulfils requirements related to the need to have properly certified personnel employed in sufficient numbers to cover the expected volume of activities and proof that necessary tools and procedures are available to personnel. Under regulation 23(1) it will be an offence if a company does not hold a “stationary equipment qualification company certificate” or an interim certificate and under regulation 23(3), it will be an offence if a company knowingly or recklessly provides false or misleading material for the purposes of obtaining a company certificate. Because of the definitions of “installation” and “maintenance and servicing” in Article 3 of Commission Regulation 303/2008, company certification requirements do not apply to companies only carrying out leak checking or to those companies only collecting or storing F gases.

### **Certification bodies**

175. Article 10 of the Commission Regulation 303/2008 requires a certification body (or bodies) to be provided for in national law or regulation or designated by the competent authority. Under proposed regulations 22 and 24, the Secretary of State would have a power to designate certification bodies that can issue stationary equipment qualification company and interim certificates to companies in GB. Under regulations 22(2) and 24(2), certification bodies must comply with Article 8 (issue of a certificate), Article 9 (issue of interim certificates) and certification body requirements in Article 10.1, second paragraph (be independent and impartial), 10.2 (have procedures for issuing, suspending, withdrawing certificates), 10.3 (maintain records so status of certified person can be verified) of Commission Regulation 303/2008.

### **Interim certificates**

176. Under Article 9, Member States can introduce transitional arrangements if they wish to. The Government proposes to make use of this option and draft regulation 23(2) allows a company to have until 3 July 2009 to obtain an interim certificate, provided it was carrying out installation or maintenance or servicing before 4 July 2008. Interim certificates cannot be issued in GB until the proposed Regulations are in force and a certification body or bodies have been designated by the Secretary of State. **If the Regulations come into force by February 2009, a certification body will need to have issued interim certificates to applicant companies by 3 July 2009.** Otherwise, the company will be committing an offence under regulation 23(1).

## Designation of Certification bodies for interim and company certificates and costs to applicants

177. Refcom, a company currently operating a voluntary company certification scheme (details at <http://www.refcom.org.uk/>), has expressed interest in performing the functions of a certification body. At least one body is needed so that companies can obtain certificates but the Government is interested to know of any other bodies that would be interested in operating such a scheme.

178. The Partial Impact Assessment (section 4.5.5) identifies two approaches to operating a company certification scheme. Both would follow the minimum information requirements of the Commission Regulation, using a web-based system with self-certification of information, subject to random audit, but costs would increase if company certificates had to be renewed. The Partial Impact Assessment suggests that application fees could be of the following order:-

	Initial Application Fee, £		Annual cost for recertification, £ (averaged across re-certification period)	
	Minimum	Maximum	Minimum	Maximum
Option 1 (one-off certification)	£70	£110	£0	£0
Option 2 (3 yearly re-certification)	£95	£140	£50	£70
Option 3 (5 yearly re-certification)	£95	£140	£40	£60

179. Section 4.5.6 of the Partial Impact Assessment suggests that costs of interim company certificates would be similar to option 1 above.

180. It would be for the certification body to decide upon the level of fees that it intended to charge for interim and company certificates.

181. The Government does not have powers to insist that a certification body offers a certification scheme requiring renewal of a certificate or not requiring renewal. This is because Article 8 of the Commission Regulation leaves it to the certification body to make this decision. Nevertheless, the Government would be interested in consultees' views on whether a scheme or schemes operating on a no-renewal or renewal basis would be welcomed.



**Question fourteen: Views are invited on what body or bodies might be designated by the Secretary of State as certification bodies and on what type of certification scheme is preferred?**

**Question fifteen: Do you have any comments on regulations 22 (certification bodies for companies), 23 (certificates for companies) or 24 (interim company certificates) or 25 (mutual recognition)?**

**Question sixteen: Do you have any comments on how the company certification schemes should be operated (i.e. renewal or non-renewal)?**

## **Company certification for installation, maintenance or servicing of stationary fire protections systems**

### **Introduction**

182. Article 7 of Commission Regulation 304/2008 requires companies carrying out installation or maintenance or servicing to hold a certificate to confirm that it has the skilled personnel and equipment to carry out work with adequate expertise so that emissions are avoided/minimised.

183. The certification requirement for fire protection companies under Article 7 is the same as for stationary equipment (outlined in paragraphs 172 - 181 above). The only exception is that the transitional period set out in Article 9 of Commission Regulation 304/2008 is for two years, not three as per stationary equipment. In addition to this, the bodies likely to be identified by the Secretary of State for the purposes of Article 9 of Commission Regulation 304/2008 are different.

184. There is no company certification scheme in GB at present. The Government therefore intends to provide for transitional arrangements in the proposed Regulations involving a certification body issuing "interim" certificates to companies. Companies would then have until July 2010 to obtain a certificate.

### **Interim certificates**

185. Under Article 9, Member States can introduce transitional arrangements if they wish to. The Government proposes to make use of this option and draft regulation 30(2) allows a company to have until 3 July 2009 to obtain an interim certificate, provided it was carrying out installation or maintenance or servicing before 4 July 2008. Interim certificates cannot be issued in GB until the proposed Regulations are in force and a certification body or bodies have been designated by the Secretary of State. **If the Regulations come into force by February**

**2009, a certification body will need to have issued interim certificates to applicant companies by 3 July 2009.** Otherwise, the company will be committing an offence under regulation 30(1).

### **Certification bodies**

186. Article 10 of the Commission Regulation 303/2008 requires a certification body (or bodies) to be provided for in national law or regulation or designated by the competent authority. Under proposed regulations 29 and 31, the Secretary of State would have a power to designate certification bodies that can issue stationary equipment qualification company and interim certificates to companies in GB. Under these Regulations and regulations 29(2) and 31(2), certification bodies must comply with Article 8 (issue of a certificate), Article 9 (issue of interim certificates) and certification body requirements in Article 10.1, second paragraph (be independent and impartial), 10.2 (have procedures for issuing, suspending, withdrawing certificates), 10.3 (maintain records so status of certified person can be verified) of Commission Regulation 304/2008.

### **Designation of Certification bodies for interim and company certificates and costs to applicants**

187. The Fire Industry Association and BAFE have both expressed interest in performing the functions of a certification body. The Government would be interested to know of any other bodies that feel they would be well placed also to operate such a scheme.

188. The Partial Impact Assessment (section 3.5.4) identifies two approaches to operating a company certification scheme. Both would follow the minimum information requirements of the Commission Regulation, using a web-based system with self-certification of information, subject to random audit, but costs would increase if company certificates had to be renewed. The Partial Impact Assessment suggests that application fees could be of the following order:-

	Initial Application Fee, £		Annual cost for recertification, £ (averaged across re-certification period)	
	Minimum	Maximum	Minimum	Maximum
Option 1 (no re-certification)	£145	£240	£0	£0

Option 2 (3 yearly re-certification)	£195	£290	£100	£150
Option 3 (5 yearly re-certification)	£195	£290	£90	£140

189. Section 3.5.5 of the Partial Impact Assessment suggests that costs of interim company certificates would be similar to option 1 above.

190. It would be for the certification body to decide upon the level of fees that it intended to charge for interim and company certificates.

191. The Government does not have powers to insist that a certification body offers a certification scheme requiring renewal of a certificate or not requiring renewal. This is because Article 8 of the Commission Regulation leaves it to the certification body to make this decision. Nevertheless, the Government would be interested in consultees' views on whether a scheme or schemes operating on a no-renewal or renewal basis would be welcomed.

**Question seventeen: Do you have any comments on regulations 29 (certification bodies for companies), 30 (certificates for companies) or 31 (interim company certificates) or 32 (mutual recognition)?**

**Question eighteen: Do you have any comments on how the company certification schemes should be operated (i.e. renewal or non-renewal?)**

## **Company certification for the remaining sectors**

192. There are no company certification requirements for high voltage switchgear, F gas based solvents or requirements relating to certain motor vehicles.

## **Part Four: Registration of personnel**

### **Introduction**

193. "Registration of personnel" in this context is intended to mean a system whereby a body keeps a central register of certified personnel and qualified personnel are required to apply for registration. The Air Conditioning and Refrigeration Industry Board runs such a voluntary registration scheme at present and has suggested that the scheme should be made compulsory.

194. No proposals are made in the draft Regulations on this issue because the Government is not persuaded that a strong enough case has been

made so far and it would be helpful to obtain a wider range of views from those likely to be affected. Views are invited therefore on whether such a measure might be the subject of a future consultation on proposed regulations that would require mandatory registration. Section 4.5.4 of the Partial Impact Assessment contains information on the costs and benefits of personnel registration.

195. Commission Regulation 303/2008 does not require a central register, but Article 13 of the EC F Gas Regulation 842/2006 does require Member States to “lay down rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that such rules are implemented.” A central register could be seen as a “measure” to ensure personnel qualification requirements are complied with as enforcement officers could check that personnel are qualified by contacting the holder of the register.

## **Register**

196. Personnel in the refrigeration and air-conditioning sector will in future hold a range of qualifications in order to carry out different types of work on equipment. These qualifications will be provided by two certification bodies. A central register could provide a single point of reference for an employer, customer or enforcement officer but an employer, customer or enforcement officer could equally contact the relevant certification body, bearing in mind there will only be two of them. In addition, the company certification requirements will require a company providing installation/maintenance services to ensure that it only employs qualified personnel, so customers of such companies can reasonably expect only qualified personnel to be working on their equipment.
197. Section 4.5.4 of the Partial Impact Assessment provides more detail of how such a scheme might operate. The assessment notes that one-off costs for industry of £400,000 to £700,000 could be involved assuming a registration fee in the range of £15 to £20. Costs would be higher if registration had to be renewed every few years. Renewal of registrations could have the benefit of keeping the register up to date and enable checks to be carried out that personnel had taken on board any new qualification requirements. On the other hand, renewal costs may not be welcomed by those who have to pay them. Re-registration costs might be under £0,2 million. The Partial Impact Assessment notes that it is impossible to quantify with any reliability at this stage the benefits related to personnel registration.

**Question nineteen: Would you like the Government to propose regulations to require mandatory personnel registration in a future consultation?**

**Question twenty: What reasons do you have for supporting or not supporting mandatory personnel registration?**

## **Part Five: Schedules**

### **Schedule 1**

198. This is new and sets out the new Category I, II, III and IV certificates as required by Commission Regulation 303/2008.

### **Schedule 2**

199. This is also new and sets out the interim qualifications that will apply for the operation of the transitional qualification arrangements for two sectors based on existing qualifications. Part 1 specifies interim qualifications for stationary refrigeration, air-conditioning and heat pump equipment personnel; parts 1 and 2 specify the qualifications for personnel servicing mobile air conditioners in cars.

## **Part Six: The proposed Ozone-Depleting Substances (Qualifications) Regulations 2009**

200. The new F gas qualifications (see Part Three above) also cover working with ozone-depleting substances. Hydrochlorofluorocarbons (HCFCs) are still used as refrigerants in some existing commercial refrigeration and air-conditioning equipment but the use of virgin HCFCs in the maintenance of such equipment will be prohibited from 1 January 2010. The use of all HCFCs for maintenance purposes will be prohibited from 1 January 2015. The Ozone Depleting Substances (Qualifications) Regulations (SI 2006/1510), as amended, need to be revoked and remade to take these new qualifications into account so that holders of these qualifications can continue to work with ozone-depleting substances. It is highly unlikely that new personnel will work only with ozone-depleting substances, so they will always need a qualification that permits them to work with F gases.

201. The proposed Regulations revoke the Ozone Depleting Substances (Qualifications) Regulations 2006 (SI 2006/1510) and the Ozone Depleting Substances (Qualifications)(Amendment) Regulations 2008 (SI 2008/97). The Regulations being revoked give effect to the provisions in Articles 16.5 and 17.1, first paragraph, of Regulation (EC) 2037/2000 on substances that deplete the ozone layer and relate to minimum qualifications for those working on the recovery, recycling, reclamation or destruction of controlled substances and the prevention and minimising of leakages of controlled substances. The proposed Regulations serve the same purpose but have a revised Table of Minimum Qualifications at Schedule 1 which includes the new qualifications covering ozone-depleting substances (ODS) and fluorinated greenhouse gases (F Gas), for example the City and Guilds Level 2 Award in F Gas and ODS Regulations – Scheme 2079-11: Category I or 2079-12: Category II.

202. Regulation 7 provides for enforcement of the Regulations by “relevant authorities”. These are now defined in regulation 2(1) to include “the local authority” and the “port health authority” which are in turn defined in regulation 2(1). The Environment Agency and the Scottish Environment Protection Agency are the other “relevant authorities”. This brings the types of relevant authorities dealing with ozone-depleting substances qualifications into line with those already in place for work with fluorinated gases in GB.

203. The Partial Impact Assessment on the F gas Qualifications Regulations also covers the impact of the proposed ODS (Qualifications) Regulations. The conclusion, on page 37 of the F Gas Impact Assessment Report, is that the costs to industry and benefits to the environment should be zero.

**Question twenty one: Do you have any comments on the proposed Ozone-Depleting Substances (Qualifications) Regulations 2009?**

## **Part Seven: Partial Impact Assessment**

204. The Partial Impact Assessment can be found at Annex B. When responding to the consultation please comment on the analysis of costs and benefits, giving supporting evidence wherever possible.

205. Please also suggest any alternative methods for reaching the objective and highlight any possible unintended consequences of the policy, and practical enforcement or implementation issues.

**Question twenty two: Could the assessment of costs and benefits in the Partial Impact Assessment be improved. If so, how?**

## **What will happen next?**

206. Consultees have 12 weeks to send in their comments. All responses to the consultation will be considered carefully. A summary of responses, including the next steps will be published as soon as possible after the closure of the consultation. Paper copies as well as a large print version will be available on request. The summary of responses will be published on <http://www.defra.gov.uk/environment/climatechange/uk/fgas/index.htm>

## **The Consultation Code of Practice**

207. 111. A copy of the Government Code on Consultations has been published by the Cabinet Office. A copy can be obtained from <http://www.cabinetoffice.gov.uk/regulation/consultation/code/index.asp>

