



STATUTORY INSTRUMENTS.

S.I. No. 404 of 2022



EUROPEAN UNION (FLUORINATED GREENHOUSE GASES)
REGULATIONS 2022

S.I. No. 404 of 2022

EUROPEAN UNION (FLUORINATED GREENHOUSE GASES)
REGULATIONS 2022

I, EAMON RYAN, Minister for the Environment, Climate and Communications, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) for the purpose of giving full effect to Regulation (EU) No. 517/2014 of the European Council and of the Council of 16 April 2014¹ and the Commission delegated acts thereto adopted under Article 22 of that Regulation mentioned in the following regulations, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union (Fluorinated Greenhouse Gases) Regulations 2022.

Interpretation

2. (1) In these Regulations -

“Agency” means Environmental Protection Agency;

“Authorised officer” means a person appointed as an authorised officer under Regulation 21(2);

“Article” unless otherwise indicated, means an Article of the EU Regulation;

“Company” means a company formed and registered under the Companies Act 2014 (No. 38 of 2014) or an existing company within the meaning of that Act;

“Commission Implementing Regulation” means Regulation (EC) No. 1497/2007, Regulation (EC) No. 1516/2007, Regulation (EC) No. 304/2008, Regulation (EC) No. 306/2008, Regulation (EC) No. 307/2008, Regulation (EU) No. 1191/2014, Regulation (EU) 2015/2065, Regulation (EU) 2015/2066, Regulation (EU) 2015/2067, Regulation (EU) 2015/2068 or Regulation (EU) 2017/1375;

“EU Regulation” means Regulation (EU) No. 517/2014 of the European Council and of the Council of 16 April 2014¹;

“Minister” means Minister for the Environment, Climate and Communications;

“Regulation (EC) No. 1497/2007” means Commission Regulation (EC) No. 1497/2007 of 18 December 2007²;

“Regulation (EC) No. 1516/2007” means Commission Regulation (EC) No. 1516/2007 of 19 December 2007³;

¹ OJ No. L 150, 20.5.2014, p. 195

² OJ No. L 333, 19.12.2007, p. 4

³ OJ No. L 335, 20. 12.2007, p. 10

“Regulation (EC) No. 304/2008” means Commission Regulation (EC) No. 304/2008 of 2 April 2008⁴;

“Regulation (EC) No. 306/2008” means Commission Regulation (EC) No. 306/2008 of 2 April 2008⁵;

“Regulation (EC) No. 307/2008” means Commission Regulation (EC) No. 307/2008 of 2 April 2008⁶;

“Regulation (EU) No. 1191/2014” means Commission Implementing Regulation (EU) No. 1191/2014 of 30 October 2014⁷;

“Regulation (EU) 2015/2065” means Commission Implementing Regulation (EU) 2015/2065 of 17 November 2015⁸;

“Regulation (EU) 2015/2066” means Commission Implementing Regulation (EU) 2015/2066 of 17 November 2015⁹;

“Regulation (EU) 2015/2067” means Commission Implementing Regulation (EU) 2015/2067 of 17 November 2015¹⁰;

“Regulation (EU) 2015/2068” means Commission Implementing Regulation (EU) 2015/2068 of 17 November 2015¹¹;

“Regulation (EU) 2017/1375” means Commission Implementing Regulation (EU) 2017/1375 of 25 July 2017¹².

(2) A word or expression that is used in these Regulations and is also used in the EU Regulation or a Commission Implementing Regulation has, unless the contrary intention appears, the same meaning in these Regulations as it has in the EU Regulation or the Commission Implementing Regulation.

Prevention of emission of fluorinated greenhouse gases, leak checks and leakage detection systems

3. (1) A person who intentionally releases fluorinated greenhouse gases into the atmosphere where its release is not technically necessary for its intended use contrary to Article 3(1) commits an offence.

(2) An operator of equipment that contains fluorinated greenhouse gases who fails to comply with Article 3(2) or (3) commits an offence.

(3) A natural person carrying out the tasks referred to in Article 3(4) who is not certified as specified in that paragraph or who fails to take precautionary measures to prevent leakage of fluorinated greenhouse gases in compliance with that paragraph commits an offence.

⁴ OJ No. L 92, 3.4.2008, p. 12

⁵ OJ No. L 92, 3.4.2008, p. 21

⁶ OJ No. L 92, 3.4.2008, p. 25

⁷ OJ No. L 318, 5.11.2014, p. 5

⁸ OJ No. L 301, 18.11.2015, p. 14

⁹ OJ No. L 301, 18.11.2015, p. 22

¹⁰ OJ No. L 301, 18.11.2015, p. 28

¹¹ OJ No. L 301, 18.11.2015, p. 39

¹² OJ No. L 194, 26.7.2017, p. 4

(4) An undertaking carrying out the tasks referred to in Article 3(4) who is not certified as specified in that paragraph or who fails to take precautionary measures to prevent leakage of fluorinated greenhouse gases in compliance with that paragraph commits an offence.

(5) An operator of equipment that contains fluorinated greenhouse gases referred to in Article 4 or 5 who fails to comply with a requirement of that Article in relation to the operator commits an offence.

Regulation (EC) 1497/2007 and Regulation (EC) 1516/2007

(6) An operator who fails to comply with Article 2, 5 or 7 of Regulation (EC) 1497/2007 commits an offence.

(7) Certified personnel who fail to comply with Article 3, 4, 6 or 7 of Regulation (EC) 1497/2007 commit an offence.

(8) Certified personnel who fail to comply with Article 3, 4, 5, 6, 7, 9 or 10 of Regulation (EC) 1516/2007 commit an offence.

(9) An operator who fails to comply with Article 2, 8 or 10 of Regulation (EC) 1516/2007 commits an offence.

Penalties

(10) A person who commits an offence under paragraph (1) is liable –

- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment, to a fine not exceeding €250,000,

(11) A person who commits an offence under –

- (a) paragraph (2), (4), (5), (6) or (9) is liable on summary conviction to a class B fine, or
- (b) paragraph (3), (7) or (8) is liable on summary conviction to a class C fine.

Record keeping requirements

4. (1) An operator of equipment who fails to establish and maintain records in accordance with paragraph (1) or make available to the Agency or the European Commission those records in accordance with paragraph (2), of Article 6 commits an offence.

(2) An undertaking who fails to establish or make available to the Agency records in accordance with Article 6 (2) or (3) commits an offence.

(3) An operator who fails to comply with Article 2 of Regulation (EC) 1497/2007 commits an offence.

(4) An operator who fails to comply with Article 2 of Regulation (EC) 1516/2007 commits an offence.

(5) A person who commits an offence under this Regulation is liable on summary conviction to a class B fine.

Emissions of fluorinated greenhouse gases in relation to production

5. (1) A producer who fails to comply with Article 7(1) commits an offence and is liable –

- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment, to a fine not exceeding €150,000.

(2) A person who places on the market fluorinated greenhouse gases and gases listed in Annex II to the EU Regulation in contravention of Article 7(2) commits an offence and is liable –

- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment, to a fine not exceeding €150,000.

Recovery obligations

6. (1) An operator referred to in Article 8(1) who fails to comply with that paragraph commits an offence.

(2) An undertaking referred to in Article 8(2) who fails to comply with that paragraph commits an offence.

(3) An operator referred to in Article 8(3) who fails to comply with that paragraph commits an offence.

(4) A person who commits an offence under this Regulation is liable on summary conviction to a class A fine.

Restrictions on placing on the market

7. (1) A person who places on the market a product or equipment listed in Annex III to the EU Regulation, with the exception of military equipment, in contravention of Article 11(1) commits an offence and is liable –

- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment, to a fine not exceeding €250,000

(2) A person who sells—

- (a) fluorinated greenhouse gases in contravention of Article 11(4), or
- (b) equipment containing fluorinated greenhouse gases in contravention of Article 11(5), commits an offence and is liable—
 - (i) on summary conviction, to a class A fine, or
 - (ii) on conviction on indictment, to a fine not exceeding €50,000.

Labelling and product and equipment information

8. (1) A person who places on the market a product or equipment referred to in Article 12(1) that contains, or whose functioning relies upon, fluorinated greenhouse gases unless the product or equipment is labelled in accordance with Article 12 (1) to (4) and (13) commits an offence.

(2) A person who places on the market foams or pre-blended polyols that contain fluorinated greenhouse gases unless those gases are identified with a label in accordance with Article 12(5) and (13) commits an offence.

(3) An undertaking who fails to label reclaimed or recycled fluorinated greenhouse gases in accordance with Article 12(6) commits an offence.

(4) A person who places on the market fluorinated greenhouse gases for destruction, unless those gases are labelled in accordance with Article 12(7), commits an offence.

(5) A person who places on the market fluorinated greenhouse gases for direct export unless those gases are labelled in accordance with Article 12(8) commits an offence.

(6) A person who places on the market fluorinated greenhouse gases for the use in military equipment unless those gases are labelled in accordance with Article 12(9) commits an offence.

(7) A person who places on the market fluorinated greenhouse gases for the etching of semiconductor material or the cleaning of chemicals vapour deposition chambers within the semiconductor sector unless those gases are labelled in accordance with Article 12(10) commits an offence.

(8) A person who places on the market fluorinated greenhouse gases for feedstock unless those gases are labelled in accordance with Article 12(11) commits an offence.

(9) A person who places on the market fluorinated greenhouse gases for producing metered dose inhalers for the delivery of pharmaceutical ingredients unless those gases are labelled in accordance with Article 12(12) commits an offence.

(10) An undertaking who fails to comply with the labelling format contained in Article 2 of Regulation (EU) 2015/2068 commits an offence.

(11) A person who commits an offence under this Regulation is liable on summary conviction to a class A fine.

Control of use

9. (1) A person who uses sulphur hexafluoride in magnesium die-casting or in the recycling of magnesium die-casting alloys in contravention of Article 13(1) commits an offence.

(2) A person who uses sulphur hexafluoride to fill a vehicle tyre in contravention of Article 13(2) commits an offence.

(3) A person who uses fluorinated greenhouse gases to service or maintain refrigeration equipment in contravention of Article 13(3) commits an offence.

(4) A person who commits an offence under this Regulation is liable –

(a) on summary conviction, to a class A fine, or

(b) on conviction on indictment, to a fine not exceeding €50,000.

Pre-charging of equipment with hydrofluorocarbons restrictions

10. (1) A person who places on the market refrigeration, air conditioning or heat pump equipment charged with hydrofluorocarbons in contravention with Article 14(1) commits an offence.

(2) A manufacturer or an importer of equipment who fails to—

- (a) keep documentation to demonstrate compliance with Article 14(1) or draw up a declaration of conformity in accordance with Article 14(2), or
- (b) keep the documentation or declaration of conformity in accordance with Article 14(2), commits an offence.

(3) An importer of equipment who is not registered in accordance with Article 14(2) commits an offence.

(4) A person who commits an offence under this Regulation is liable on summary conviction to a class A fine.

Certification

11. (1) The Minister shall –

- (a) establish or adapt under Article 10 (1) certification programmes, including evaluation processes in the State, and
- (b) ensure that training programmes for natural persons referred to in Article 10(2) are made available under that paragraph, in accordance with Article 10.

The Minister shall publish details of certification programmes it establishes or adapts or training programmes it makes available on its website and in such other manner it decides.

(2) A natural person shall not –

- (a) install, service, maintain, repair or decommission equipment listed in points (a) to (f) of Article 4(2),
- (b) carry out leak checks of the equipment referred to in points (a) to (e) of Article 4(2), as provided for in Article 4(1), or
- (c) recover fluorinated greenhouse gases as provided for in Article 8,

unless the person holds a certificate for that task granted by the certification body, and which is for the time being in force.

(3) An undertaking shall not carry out installation, servicing, maintenance, repair or decommissioning for equipment listed in points (a) to (d) of Article 4(2) unless the undertaking holds a certificate for that task granted by the certification body and which is for the time being in force.

(4) A person who contravenes paragraph (2) or (3) commits an offence and is liable on summary conviction to a class B fine.

Regulation (EC) No. 304/2008, Regulation (EC) No. 306/2008 and Regulation (EC) No. 307/2008 -certification

Regulation (EC) No. 304/2008 – certification in relation to stationary fire protection systems and fire extinguishers containing fluorinated greenhouse gases

12. (1) Personnel carrying out the activities referred to in Article 2(1) of Regulation (EC) No. 304/2008 who do not hold a certificate as referred to in Article 5 or 6 in contravention of Article 4(1), of that Regulation commit an offence.

(2) A company referred to in Article 2(2) of Regulation (EC) No. 304/2008 who does not hold a certificate as required under Article 7 of that Regulation commits an offence.

(3) The Minister may designate for the purposes of –

- (a) Article 10(1), another person as a certification body to issue certificates to personnel or companies involved in one or more of the activities referred to in Article 2, and
- (b) Article 11(1), a person as an evaluation body to organise examinations for natural persons referred to in Article 2(1),
of Regulation (EC) No. 304/2008.

(4) The Minister shall make notifications to the European Commission for the purposes of Article 12 of Regulation (EC) No. 304/2008.

(5) The Minister may withdraw designation under —

- (a) paragraph (3)(a), from a certification body, if he or she considers that the body is not complying with Article 5, 8 or 10, or
- (b) paragraph (3)(b), from an evaluation body, if he or she considers that the body is not complying with Article 11, of Regulation (EC) No. 304/2008.

Regulation (EC) No. 306/2008 – certification for recovering certain fluorinated greenhouse gas-based solvents from equipment

(6) Personnel carrying out the activity referred to in Article 1 of Regulation (EC) No. 306/2008 who do not hold a certificate as referred to in Article 4 in contravention of Article 2(1), of that Regulation commit an offence.

(7) The Minister may designate for the purposes of –

- (a) Article 4(1), another person as a certification body to issue certificates to personnel involved in the activity referred to in Article 1, and
- (b) Article 5(1), another person as an evaluation body to organise examinations for personnel referred to in Article 1,
of Regulation (EC) No. 306/2008.

(8) The Minister may withdraw designation under—

- (a) paragraph (7)(a), from a certification body if he or she considers that the body is not complying with Article 3 or 4, or

- (b) paragraph (7)(b), from an evaluation body, if he or she considers that the body is not complying with Article 5, of Regulation (EC) No. 306/2008.

(9) The Minister shall notify the European Commission in relation to the matters mentioned in Article 6 of Regulation (EC) No. 306/2008.

Regulation (EC) No. 307/2008 –training programmes and attestations for persons recovering fluorinated greenhouse gases from air conditioning in motor vehicles

(10) Personnel who do not hold a training attestation as referred to in Article 3 of Regulation (EC) No. 307/2008 who carry out an activity referred to in Article 1 in contravention of Article 2(1), of that Regulation commit an offence.

(11) The Minister may designate, for the purposes of Article 3(1) of Regulation (EC) No. 307/2008, another person as an attestation body to issue training attestation to personnel referred to in Article 3(2) of that Regulation.

(12) The Minister may withdraw designation under paragraph (11) from an attestation body if it considers the body is not complying with Article 3 of Regulation (EC) No. 307/2008.

(13) The Minister shall notify the European Commission in relation to the matters mentioned in Article 4 of Regulation (EC) No. 307/2008.

Translation of certificate, etc.

(14) The Agency may require the holder of a certificate or training attestations referred to in this Regulation issued in another Member State to provide a translation of the attestation he or she holds into English.

Penalty

(15) A person who commits an offence under this Regulation is liable on summary conviction to a class B fine.

Regulation (EU) 2015/2066 and Regulation (EU) 2015/2067 – certification

Regulation (EU) 2015/2066 – certification of natural persons carrying activities in relation to electrical switchgear containing fluorinated greenhouse gases

13. (1) A natural person carrying out the activities referred to in Article 1 of Regulation (EU) 2015/2066 who does not hold a certificate as referred to in Article 3 in contravention of Article 2(1) of that Regulation commits an offence.

(2) The Minister may designate for the purposes of-

- (a) Article 4(1), a person as a certification body to issue certificates to natural persons involved in activities referred to in Article 1, and
- (b) Article 5(1), a person as an evaluation body to organise examinations for such persons, of Regulation (EU) 2015/2066.

(3) The Minister shall notify the European Commission of the names and details of persons designated under paragraph (5) in accordance with Article 6 of Regulation (EU) 2015/2066.

- (4) The Minister may withdraw designation under—
- (a) paragraph (2)(a), from a certification body, if he or she considers that the body is not complying with Article 3 or 4, or
 - (b) paragraph (2)(b), from an evaluation body, if he or she considers that the body is not complying with Article 5, of Regulation (EU) 2015/2066.

Regulation (EU) 2015/2067 – *certification of natural persons and companies in relation to stationary refrigeration, air conditioning and heat pump equipment and refrigeration units of refrigerated trucks and trailers containing fluorinated greenhouse gases*

(5) A natural person carrying out the activities referred to in Article 2(1) of Regulation (EU) 2015/2067 who does not hold a certificate as referred to in Article 4 for the corresponding category as set out in Article 3(2) in contravention of Article 3(1), of that Regulation commits an offence.

(6) A company referred to in Article 2(2) who does not hold a certificate as referred to in Article 6 and who carries out any of the activities referred to in Article 2(2) in contravention of Article 5, of Regulation (EU) 2015/2067 commits an offence.

- (7) The Minister may designate for the purposes of —
- (a) Article 7(1), a person as a certification body to issue certificates to natural persons or companies involved in one or more of the activities referred to in Article 2, and
 - (b) Article 8(1), a person as an evaluation body to organise examinations for natural persons referred to in Article 2(1), of Regulation (EU) 2015/2067.

(8) The Minister shall notify the European Commission in relation to the matters mentioned in Article 9 of Regulation (EU) 2015/2067.

- (9) The Minister may withdraw designation under—
- (a) paragraph (7)(a), from a certification body, if he or she considers that the body is not complying with Article 6 or 7, or
 - (b) paragraph (7)(b), from an evaluation body, if he or she considers that the body is not complying with Article 8, of Regulation (EU) 2015/2067.

Translation of certificate, etc.

(10) The Agency may require the holder of a certificate referred to in this Regulation issued in another Member State to provide a translation of the certificate held into English.

Penalty

(11) A person who commits an offence under this Regulation is liable on summary conviction to a class B fine.

Certification procedure

14. (1) The Minister shall notify the European Commission of the names and details of certification bodies designated in accordance with the relevant Commission Implementing Regulation referred to in Regulations 12 and 13.

(2) Designations made by the Minister under Regulations 12 and 13 and any withdrawal or cessation of them shall be published on the website of the Department of the Environment, Climate and Communications.

(3) Designations under Regulations 12 and 13 and any withdrawal or cessation of them shall be published in *Iris Oifigiúil*.

(4) Designations made for the purposes of the Commission Implementing Regulations under the Regulations revoked under Regulation 25 which are in force upon the making of these Regulations shall continue as if made under these Regulations.

Appeal against refusal or withdrawal of designation and prohibition on acting without designation

15. (1) Where the Minister is proposing to refuse or withdraw designation under Regulation 12(5), (8), or (13) or 13(4) or (9), it shall notify the applicant or holder of the proposal and allow the applicant or holder, within 14 days of the proposal, to make representations to the Minister. The Minister may, if the applicant or holder has not within that period made any representations, or, if representations are made within that period, having considered them, confirm the proposal and by notice served on the applicant or holder refuse or withdraw the designation.

(2) Notification of a proposal given, or a notice of its confirmation served under paragraph (1) shall be given or served by delivering it, posting it or sending it by e-mail to the applicant or holder at the address he or she carries on business or in the case of a company at its principal office.

(3) Where a designation has been refused, the applicant or holder may, within 14 days of being served notice of the refusal or withdrawal of designation, appeal to the judge of the Circuit Court in which the applicant or the holder carries on business. On hearing the appeal, the judge may confirm the refusal or withdrawal of designation or allow the appeal. The decision of the judge is final, save on a point of law which lies with the High Court.

(4) A person, other than the Minister, who carries out the activities of a certified body, evaluation body or attestation body without holding a designation in that regard commits an offence and is liable —

- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment, to a fine not exceeding €50,000.

Reduction of quantity of hydrofluorocarbons placed on the market

16. A producer or an importer who fails to comply with Article 15(1) commits an offence and is liable —

- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment, to a fine not exceeding €250,000.

Registration

17. A person to whom Article 17 applies who fails to register in the registry set up under that Article commits an offence and is liable on summary conviction to a class C fine.

Reporting

18. A person who fails to comply with reporting requirements under Article 19 of the EU Regulation or submit a report electronically as required in Article 1 of Regulation (EU) No. 1191/2014 (as amended by Regulation (EU) 2017/1375) commits an offence and is liable on summary conviction to a class C fine.

Compliance notice

19. (1) Where the Agency considers that –

- (a) an operator of equipment that contains fluorinated greenhouse gasses is failing to take precautions to prevent the unintentional release of those gases in contravention of Article 3(2), or
- (b) a producer of fluorinated compounds is failing to take all necessary precautions to limit emissions of fluorinated greenhouse gases in contravention of Article 7(1),

the Agency may serve on the operator or producer, as the case may be, a notice in writing stating the necessary precautions to be taken, the timeframe to take them, when the notice takes effect and the appeal procedure. The operator or producer may make representations to the Agency within 14 days of service of the notice. The notice takes effect, where representations are made within that period, upon its confirmation, or, if not made within that period, upon the expiration of that period. The Agency shall consider any representations and by notice in writing confirm, with or without modification, or withdraw the notice. A notice or its confirmation shall be served by delivering it, posting it or sending it by e-mail to the operator or producer at the address he or she carries on business or, in the case of a company, at its principal office. Where the notice has taken effect, the operator or producer may appeal the decision, within 14 days of service of it taking effect, to the judge of the Circuit Court in whose circuit the operator or producer carries on business and he or she may also apply to court to suspend the decision until the conclusion of the appeal or its withdrawal. The judge of the Circuit Court may confirm the decision of the Agency, with or without modification, or allow the appeal. The decision of the Court is final, other than on a point of law which lies with the High Court.

(2) An operator or producer who fails to comply with a notice under paragraph (1) commits an offence and is liable –

- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment, to a fine not exceeding €100,000.

(3) Paragraph (2) does not apply where an appeal is pending and has not been determined under paragraph (1) or withdrawn.

Prohibition notice

20. (1) Where the Agency or an authorised officer considers a person is placing on the market fluorinated greenhouse gases or any product or equipment containing such gases or whose functioning relies on such gases in contravention of the EU Regulation, the Agency or the officer may serve on the person a notice prohibiting the placing on the market of the gas, product or equipment. The notice shall be served by delivering it, posting it or sending it by e-mail to the person at the address he or she carries on business or, in the case of a company, at its principal office. The notice takes effect upon its service. The person concerned may appeal the notice, within 14 days of its service, to the judge of the Circuit Court in whose circuit the person carries on business and the judge may either confirm the notice or allow the appeal. The decision of the Court is final, other than on a point of law which lies with the High Court.

(2) A person who fails to comply with a notice under paragraph (1) commits an offence and is liable –

- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment, to a fine not exceeding €100,000.

(3) Paragraph (2) does not apply where an appeal is pending and has not been determined under paragraph (1) or withdrawn.

Agency to monitor and ensure compliance - enforcement by authorised officers

21. (1) The Agency is the market surveillance authority in the State for the purposes of the EU Regulation.

(2) The Agency may appoint persons to be authorised officers for the purpose of ensuring compliance with the EU Regulation or a Commission Implementing Regulation.

(3) An authorised officer shall be furnished with a warrant of his or her appointment as an authorised officer and when exercising a power conferred on him or her under this Regulation, shall, if requested by a person thereby affected, produce the warrant of his or her appointment, or a copy of it, to that person or a form of personal identification.

(4) An authorised officer may, for the purpose of ensuring that the EU Regulation or a Commission Implementing Regulation is being complied with, do any of the following:

- (a) require a person to produce a certificate granted under Article 10 to the authorised officer for inspection;
- (b) enter at any reasonable time any premises or place, at which there are reasonable grounds to believe that fluorinated greenhouse gases or any product or equipment containing such gases or whose functioning relies on such gases are or are likely to be found, and

search and inspect the premises or place or product or equipment containing or likely to contain such gases found there and any certificates, books, documents or records relating to such gases, product or equipment or the placing of them on the market;

- (c) secure for later inspection any premises or place or part of it or any product or equipment in which any such gases are contained or whose functioning relies on such gases or certificates, books, documents or records relating to such are kept or there are reasonable grounds for believing that such are contained or kept;
- (d) require any person in charge of the premises or place or product or equipment in which any such gases are contained or whose functioning relies on such gases to produce to him or her any books, documents or records relating to such which are in the person's power or control (and in the case of such information in a non-legible form to reproduce it in a legible form) and to give to him or her such information as the authorised officer may reasonably require in relation to any entries in such books, documents or records;
- (e) inspect and take extracts from or make copies of any such books, documents or records (including, in the case of information in a non-legible form, a copy of or extract from such information in a legible form);
- (f) remove and retain such books, documents or records for such period as may be reasonable for further examination;
- (g) require any person in charge of the premises or place to maintain such books, documents or records for such period of time, as may be reasonable, as he or she directs;
- (h) require any person in charge of the premises or place or such product or equipment to give him or her any information which he or she may reasonably require relating to fluorinated greenhouse gases found there;
- (i) take without payment of compensation any necessary samples of any fluorinated greenhouse gases or product or equipment containing such gases or whose functioning relies on such gases;
- (j) carry out or have carried out on the sample so taken such analyses, examinations, tests and inspections as he or she considers necessary or expedient;
- (k) take photographic or video evidence of fluorinated greenhouse gases or product or equipment containing such gases or whose functioning relies on such gases found there.

(5) Where an authorised officer in exercise of his or her powers under this Regulation is prevented from entering any premises or place, an application may be made under paragraph (7) for a warrant to authorise such entry.

(6) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling, unless he or she has obtained a warrant under paragraph (7) to authorise such entry.

(7) If, on the sworn information of an authorised officer, a judge of the District Court is satisfied that there are reasonable grounds for suspecting that information or any item required by an authorised officer for the purpose of the EU Regulation is held at any premises or any place, the judge may issue a warrant authorising an authorised officer, accompanied, if appropriate, by other authorised officers and members of the Garda Síochána, at any time or times within one month from the date of issue of the warrant, on production of the warrant, if so requested, to enter those premises or that place, if need be by reasonable force, and exercise all or any of the powers conferred on an authorised officer under this Regulation.

(8) Where an authorised officer in the exercise of his or her powers under this Regulation finds any fluorinated greenhouse gases or gases listed in Annex II to the EU Regulation which are prohibited under Article 7(2), or a product or equipment listed in Annex III to the EU Regulation which is prohibited under Article 11(1), from being placed on the market, the officer may serve on the person in charge of the premises or place or the equipment where it is found a notice in writing addressed to the operator concerned prohibiting the placing on the market of the product or equipment and requiring its disposal as set out in the notice. If the product is not disposed of in accordance with the notice, an authorised officer may cause the product or equipment to be seized for disposal, the cost of which shall be borne by the operator.

(9) An operator who fails to comply with a notice under paragraph (8) commits an offence and is liable –

- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment, to a fine not exceeding €50,000.

(10) A person who –

- (a) without reasonable excuse, fails or refuses to comply with any request or requirement made by an authorised officer under this Regulation (other than under paragraph (8)),
- (b) obstructs, impedes or interferes with an authorised officer in the exercise by that officer of a power under this Regulation,
- (c) gives to an authorised officer information that is false or misleading in a material respect, or
- (d) alters, suppresses or destroys –
 - (i) any certificate, book, document or record which the person concerned has been required to produce, or reasonably expected to be required to produce, or
 - (ii) any notice served under paragraph (8),
 commits an offence and is liable on summary conviction to a class A fine.

(11) A person appointed as an authorised officer under Regulation 10 of the European Union (Fluorinated Greenhouse Gases) Regulations 2016 (S. I. No. 658 of 2016) who holds his or her warrant as such on the making of these Regulations is deemed to be appointed as an authorised officer under this Regulation.

Offence body corporate

22. (1) Where an offence under these Regulations has been committed by a body corporate and it is proved to have been so committed with the consent or connivance of or to be attributable to any wilful neglect on the part of any person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she had committed the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to the acts and defaults of a member in connection with the functions of management as if he or she were a director or manager of the body corporate.

Summary prosecutions

23. Proceedings for an offence under these Regulations may be brought and prosecuted summarily by the Agency.

Fixed payment notice

24. (1) If an authorised officer has reasonable grounds for suspecting that a person is committing or has committed an offence under Regulation 3 (other than paragraph (1)), 4, 6, 8, 10, 11(4), 12, 13, 17 or 18, the authorised officer may serve a notice in writing on that person stating that—

- (a) the person is alleged to have committed the offence,
- (b) the person may during the period of 21 days from the date of the notice make a payment of –
 - (i) if the alleged offence is under Regulation 6, 8 or 10, the amount of €1,000,
 - (ii) if the alleged offence is under Regulation 3(2), (4), (5), (6) or (9), 4, 11(4), 12 or 13, the amount of €500, or
 - (iii) if the alleged offence is under Regulation 3(3), (7) or (8), 17 or 18, the amount of €250,to the Agency and if required in the notice, accompanied by the notice, and
- (c) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) If notice is given under paragraph (1) –

- (a) a person to whom the notice applies, or a person his or her behalf, may, during the period specified in the notice, make to the Agency at the address specified in the notice the payment specified in the notice accompanied, if require in the notice, by the notice,
- (b) the Agency may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable by the person who made it, and
- (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In a prosecution for an offence under these Regulations, the onus of proving that a payment pursuant to a notice under this Regulation has been made lies on the defendant.

(4) A notice under paragraph (1) may be served by delivering it or posting it to the person at the place where he or she carries on business or, in the case of a company, at its principal office.

Revocation

25. The following are revoked:

- (a) the European Union (Fluorinated Greenhouse Gases) Regulations 2016 (S. I. No. 658 of 2016),
- (b) the European Union (Fluorinated Greenhouse Gases) (Amendment) Regulations 2019 (S. I. No. 367 of 2019),
- (c) the European Union (Fluorinated Greenhouse Gases) (Amendment) (No. 2) Regulations 2019 (S. I. No. 534 of 2019), and
- (d) the European Union (Fluorinated Greenhouse Gases) (Amendment) Regulations 2020 (S. I. No. 32 of 2020).



GIVEN under my Official Seal,
28 July, 2022.

EAMON RYAN,
Minister for the Environment,
Climate and Communications.

EXPLANATORY NOTE

(This note is not part of the Regulations and does not purport to be a legal interpretation)

These Regulations make provisions necessary for the purposes of full and effective implementation in Ireland of Regulation (EU) No. 517/2014 on fluorinated greenhouse gases and repealing Regulation (EC) No. 842/2006. The regulations revoke previous national regulations and provide one single piece of legislation providing further clarification regarding obligations, offences and penalties.

The main provisions of these Regulations are:

- All undertakings must comply with these Regulations and Regulation 517/2014
- To provide for the designation of a number of competent bodies to administer specific provisions of Regulation (EU) No. 517/2014 in Ireland
- To provide for various responsibilities of competent bodies designated for the purpose of giving effect to Regulation (EU) No. 517/2014
- To designate and assign duties to the EPA as competent authority
- To provide for the appointment of, and assignment of the duties of, and various functions of, an Authorised Officer

To outline a number of offences under these Regulations (Regulation 13) and to make provision for the introduction of certain fixed payment notices for the following offences:

- Carrying out certain activities without the required certification
- Employing uncertified persons to carry out activities requiring certification
- Collecting or transporting gases without holding the appropriate permits
- Failing to establish records of waste gas movements
- Failing to conduct leak checks as required
- Failure to maintain required records of leak checks
- Placing fluorinated greenhouse gases on the market without the required labels
- Placing equipment charged with fluorinated greenhouse gases on the market without declaration of conformity
- Selling fluorinated greenhouse gases to an undertaking for the purposes of carrying out the installation, servicing, maintenance or repair of equipment that contains fluorinated greenhouse gases or whose functioning relies upon those gases who do not hold the relevant certificates or attestations
- Buying fluorinated greenhouse gases for the purposes of carrying out the installation, servicing, maintenance or repair of equipment that contains fluorinated greenhouse gases or whose functioning relies upon those gases without holding the relevant certificates or attestations. To outline prosecutions and penalties

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN,
CILL MHAIGHNEANN,
BAILE ÁTHA CLIATH 8,
D08 XAO6

Tel: 046 942 3100
r-phost: publications@opw.ie

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
MOUNTSHANNON ROAD,
KILMAINHAM, DUBLIN 8,
D08 XAO6

Tel: 046 942 3100
E-mail: publications@opw.ie

€ 4.50

