



Llywodraeth Cymru  
Welsh Government

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## **WRITTEN STATEMENT BY THE WELSH GOVERNMENT**

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**TITLE**            **The Ozone-Depleting Substances and Fluorinated Greenhouse Gases (Amendments etc) (EU Exit) Regulations 2018**

**DATE**            **21 December 2018**

**BY**                **Lesley Griffiths AM, Minister for Environment, Energy and Rural Affairs**

### **The Ozone-Depleting Substances and Fluorinated Greenhouse Gases (Amendments etc) (EU Exit) Regulations 2018**

The 2018 Regulations contain provisions which fall within devolved competence. They amends the following legislation:-

#### **Domestic Legislation**

- The Ozone-Depleting Substances Regulations 2015
- The Fluorinated Greenhouse Gases Regulations 2015

#### **EU Regulations**

- Regulation (EC) No 1005/2009 of the European Parliament and of the Council on substances that deplete the ozone layer.
- Regulation EU) No 517/2014 of the European Parliament and of the Council on fluorinated greenhouse gases.
- Commission Regulation (EU) No 291/2011 on essential uses of controlled substances other than hydrochlorofluorocarbons for laboratory and analytical purposes in the Union under Regulation (EC) No 1005/2009 of the European Parliament and of the Council on substances that deplete the ozone layer.
- Commission Regulation (EU) No 537/2011 on the mechanism for the allocation of quantities of controlled substances allowed for laboratory and analytical uses in the Union under Regulation (EC) No 1005/2009 of the European Parliament and of the Council on substances that deplete the ozone layer.
- Commission Regulation (EC) No 1497/2007 establishing, pursuant to Regulation (EC) No 842/2006 of the European Parliament and of the Council, standard leakage checking requirements for stationary fire protection systems containing certain fluorinated greenhouse gases.
- Commission Regulation (EC) No 1516/2007 establishing, pursuant to Regulation (EC)

No 842/2006 of the European Parliament and of the Council, standard leakage checking requirements for stationary fire protection systems containing certain fluorinated greenhouse gases.

- Commission Regulation (EC) No 304/2008 establishing, pursuant to Regulation (EC) No 842/2006 of the European Parliament and of the Council, minimum requirements and the conditions for mutual recognition for the certification of companies and personnel as regards stationary fire protection systems and fire extinguishers containing certain fluorinated greenhouse gases.
- Commission Regulation (EC) No 306/2008 establishing, pursuant to Regulation (EC) No 842/2006 of the European Parliament and of the Council, minimum requirements and the conditions for mutual recognition for the certification of personnel recovering certain fluorinated greenhouse gas-based solvents from equipment.
- Commission Regulation (EC) No 307/2008 establishing, pursuant to Regulation (EC) No 842/2006 of the European Parliament and of the Council, minimum requirements for training programmes and the conditions for mutual recognition of training attestations for personnel as regards air-conditioning systems in certain motor vehicles containing certain fluorinated greenhouse gases.
- Commission Implementing Regulation (EU) No 1191/2014 determining the format and means for submitting the report referred to in Article 19 of Regulation (EU) No 517/2014 of the European Parliament and of the Council on fluorinated greenhouse gases.
- Commission Implementing Regulation (EU) 2015/2065 establishing, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council, the format for notification of the training and certification programmes of the Member States.
- Commission Implementing Regulation (EU) 2015/2066 establishing, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council, minimum requirements and the conditions for mutual recognition for the certification of natural persons carrying out installation, servicing, maintenance, repair or decommissioning of electrical switchgear containing fluorinated greenhouse gases or recovery of fluorinated greenhouse gases from stationary electrical switchgear
- Commission Implementing Regulation (EU) 2015/2067 establishing, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council, minimum requirements and the conditions for mutual recognition for the certification of natural persons as regards stationary refrigeration, air conditioning and heat pump equipment, and refrigeration units of refrigerated trucks and trailers, containing fluorinated greenhouse gases and for the certification of companies as regards stationary refrigeration, air conditioning and heat pump equipment, containing fluorinated greenhouse gases.
- Commission Implementing Regulation (EU) 2015/2068 establishing, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council, the format of labels for products and equipment containing fluorinated greenhouse gases
- Commission Implementing Regulation (EU) 2016/879 establishing, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council, detailed arrangements relating to the declaration of conformity when placing refrigeration, air conditioning and heat pump equipment charged with hydrofluorocarbons on the market and its verification by an independent auditor.

## **EU Decisions**

- Commission Implementing Decision (EU) 2017/1984 determining, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council on fluorinated greenhouse gases, reference values for the period 1 January 2018 to 31 December 2020 for each producer or importer which has lawfully placed on the market hydrofluorocarbons from 1 January 2015 as reported under that Regulation.

## European legislation to be revoked

The 2018 Regulations also revoke the following:-

- Commission Decision 2010/372/EU on the use of controlled substances as process agents under Article 8(4) of Regulation (EC) No 1005/2009 of the European Parliament and of the Council is revoked.
- Commission Implementing Regulation (EU) 2015/2065 establishing, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council, the format for notification of the training and certification programmes of the Member States is revoked.
- Commission Implementing Decision (EU) 2017/1984 determining, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council on fluorinated greenhouse gases, reference values for the period 1 January 2018 to 31 December 2020 for each producer or importer which has lawfully placed on the market hydrofluorocarbons from 1 January 2015 as reported under that Regulation is revoked.

## **Any impact the SI may have on the Assembly's legislative competence and/or the Welsh Ministers' executive competence**

The Regulations transfer functions falling within devolved competence to the Welsh Ministers and Natural Resources Wales.

The Regulations also provides the Welsh Ministers with a power to consent to the SoS exercising those Welsh Ministerial functions, in relation to Wales.

Functions transferred to the Secretary of State constitute functions of the Minister of the Crown for the purposes of paragraph 11 of Schedule 7B to GoWA 2006. Paragraph 11 of Schedule 7B restricts the Assembly's competence to remove or modify Minister of the Crown functions without consent from the relevant UKG Minister, where the function is a qualified devolved function which includes a function which is to any extent exercisable jointly/concurrently. This means that any future Assembly Bill seeking to modify (remove or change) these functions could trigger a requirement for UKG consent to the modification.

## **The purpose of the amendments**

This instrument amends the relevant legislation to ensure that existing protections and regulatory frameworks are maintained and continue to work once the UK has left the EU.

This instrument makes minor and technical amendments to the existing legislation described above to ensure the legislation is operable after EU Exit. The changes in this instrument include necessary fixes such as: amending cross references to EU legislation; amending references to the EU, EU institutions and EU administrative processes to

domestic equivalents; updating legal references to refer to relevant domestic legislation; and adjusting the requirements for government reporting as is appropriate

The SIs and accompanying Explanatory Memorandums, setting out the effect of each amendment is available here: <https://beta.parliament.uk/work-packages/w1y5C4tN>

### **Why consent was given**

Consent has been given for the UK Government to make these corrections in relation to, and on behalf of, Wales for reasons of efficiency, expediency and due to the technical nature of the amendments. The amendments have been considered fully; and there is no divergence in policy. These amendments are to ensure that the statute book remains functional following the UK's exit from the EU. This is in line with the principles for correcting agreed by the Cabinet Sub-Committee on European Transition in May.