

**The Ozone Depleting Substances (Qualifications) Regulations 2009
(Report by the Head of Environmental & Community Health Services)**

1. INTRODUCTION

- 1.1 The purpose of this report is to inform members about the introduction of the above regulations which are designed to prevent climate change through the regulation of ozone depleting substances known as hydrochlorofluorocarbons (HCFCs) and to seek delegated authority to appoint suitably qualified officers to enforce the provisions of the regulations on behalf of the Council.
- 1.2 These Regulations give effect to the provisions of Regulation (EC) No 2037/2000. They revoke and replace, with amendments, the Ozone Depleting Substances (Qualifications) Regulations 2006 (S.I. 2006/1510) and the Ozone Depleting Substances (Qualifications) (Amendment) Regulations 2008 (S.I. 2008/97). They are made by the Secretary of State under powers conferred by section 2 (2) of the European Communities Act 1972.

2. Supporting/Background Information

- 2.1 Some Ozone depleting substances such as chlorofluorocarbons (CFCs) and Halons have already been phased out in the UK and the new regulations are directed at the residual use and control of HCFCs in refrigeration and air conditioning equipment that was installed before a total ban was introduced on the use of HCFCs between 2000 and 2004.
- 2.2 The Ozone Depleting Substances (Qualifications) Regulations 2009 relate to minimum qualifications for those working on the recovery, recycling, reclamation or destruction of controlled substances (defined in the EC Regulations) and the prevention and minimising of leakages of controlled substances.
- 2.3 The new regulations came into force on 9 March 2009 and the main changes are to extend the range of bodies responsible for enforcing the regulations to include local authorities for the first time and to amend the list of qualifications contained in schedule 1.
- 2.4 The regulations make it an offence for a person to carry out relevant work involving controlled substances or work with methyl bromide unless that person is competent to do so. Details of the qualifications which a person needs in order to carry out certain types of relevant work are contained in Schedule 1 to the regulations.
- 2.5 Regulation 5 also contains provisions making it an offence for an employer to employ a person to carry out relevant work or work with methyl bromide unless he is satisfied that person is competent to do so and regulation 6 sets out provisions about training requirements, certification and recording.

- 2.6 Provision is made in regulation 7 for the appointment of persons (“authorised persons”) to enforce these Regulations. The regulations are now enforced by the Environment Agency, **local authorities** and Port Health Authorities.
- 2.7 Provisions setting out the powers of authorised persons are contained in regulation 8 and regulations 9 to 11 contain provisions relating to offences and penalties.
- 2.8 Ozone depleting substances have been generally replaced by F gases, the most common of which belong to a class of chemicals known as hydrofluorocarbons (HFCs). These are man-made gases that are used in a number of different sectors. Other F gases are perfluorocarbons (PFCs), which are used in the fire fighting and electronics sectors, and sulphur hexafluoride (SF6), which has been used in diverse applications such as training shoes and as cover-gas in magnesium casting operations.

3. Implications

- 3.1 There is no additional funding attached to the regulations and no staffing implications. The duties will be absorbed by existing staff.
- 3.2 Local authorities will regulate premises that we already have cause to visit under other legislation where Ozone depleting substances are in use, mainly in large scale refrigeration plant and air conditioning systems.
- 3.3 Defra have arranged access to an online training resource for local authority enforcement officers.
- 3.4 In addition to powers of entry, appointed officers will have a range of additional powers including power to request information or records and to make examination or investigation as necessary.
- 3.5 The regulations establish various offences for individuals and for corporate bodies.

4. CONCLUSION

- 4.1 These new duties are statutory requirements and are consistent with the Council’s vision statement on climate change.

5. RECOMMENDATIONS

It is recommended that members:

- a. Note the content of this report and the new duties established under the Ozone Depleting Substances (Qualifications) 2009.
- b. Authorise the Director of Environmental & Community Services to appoint Environmental Health Officers and Environmental Protection Officers as “authorised persons” to enforce the provisions of the Ozone Depleting Substances (Qualifications) Regulations 2009.
- c. Authorise the Head of Environmental & Community Health Services to initiate prosecutions under the Ozone Depleting Substances (Qualifications) Regulations 2009 with the prior agreement of the Chairman of the Licensing & Protection Panel.

BACKGROUND INFORMATION

The Ozone Depleting Substances (Qualifications) Regulations 2006

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