

THE ENVIRONMENTAL PROTECTION (CONTROLS ON OZONE-DEPLETING SUBSTANCES) REGULATIONS 2011**(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 control the production, import, export, placing on the market, recovery, recycling, reclamation, destruction and use of substances that deplete the ozone layer 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 1005/2009. They revoke and replace the Environmental Protection (Control on Ozone-Depleting Substances) Regulations 2002 and the Environmental Protection (Control on Ozone-Depleting Substances) (Amendment) Regulations 2008. 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 The ozone layer protects life on earth from harmful UV radiation. Following discovery of the ozone hole in the 1980's global action was taken to phase out ozone-depleting substances under the Montreal protocol. This international agreement addresses the negative health and environmental impacts of UV radiation by a regulated phase out of ozone-depleting substances.
- 2.2 As part of the European Union's obligations under the Montreal Protocol, the Community has taken action through Regulation (EC) 1005/2009 to control the production, use and emissions of ozone-depleting substances. Some ozone-depleting substances such as chlorofluorocarbons (CFCs) and halons have already been phased out in the UK and recent regulations have been directed at the residual use and control of hydrochlorofluorocarbons (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.
- 2.3 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.
- 2.4 The Environmental Protection (Controls on Ozone-Depleting Substances) Regulations 2011 identify offences, assign penalties applicable for breaches

of the Regulations and provide powers for local authorities to appoint authorised persons to enforce these regulations.

- 2.5 The new regulations came into force on 20 July 2011 and make it an offence for any person or a body corporate to breach a provision of EU Regulation 1005/2009 as set out in Schedule 2 of the regulations which relates to the production, import, export, placing on the market, recovery, recycling, reclamation, destruction and use of substances that deplete the ozone layer.
- 2.6 Provision is made in regulation 8 for the appointment of persons (“authorised persons”) to enforce these regulations. The regulations are now enforced by the Environment Agency, **local authorities**, Port Health Authorities and Her Majesty’s Revenue and Customs.
- 2.7 Provisions setting out the powers of authorised persons are contained in Regulation 9 and Regulations 4 and 5 contain provisions relating to offences and penalties. In addition to powers of entry, appointed officers will have a range of additional powers including power to request information or records, serve enforcement notices, and to make examination or investigation as necessary.

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 Trade associations and small firms in the sectors likely to be affected by the proposals have been contacted by the Department for Business, Innovation and Skill (BIS) on behalf of the Department for Environment, Food and Rural Affairs (DEFRA) who led on the production of an Impact Assessment on the implementation of these regulations. It is anticipated that the impact of these regulations will be minor.
- 3.4 Their analysis suggests that micro and very small businesses are unlikely to be impacted by the regulations given that their systems are usually below the 3kg threshold for leak checks and record keeping. It is therefore considered that the impact on micro business will be minimal.

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 Environmental Protection (Controls on Ozone-Depleting Substances) Regulations 2011;
- b. Authorise the Head of Environmental & Community Health Services to appoint Environmental Health Officers and Environmental Protection Officers as “authorised persons” to enforce the provisions of The Environmental Protection (Controls on Ozone-Depleting Substances) Regulations 2011; and
- c. Authorise the Head of Environmental & Community Health Services to initiate prosecutions under The Environmental Protection (Controls on Ozone-Depleting Substances) Regulations 2011 after consultation with the Chairman and Deputy Chairman of the Licensing & Protection Panel.

BACKGROUND INFORMATION

The Environmental Protection (Controls on Ozone-Depleting Substances) Regulations 2011

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