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OZONE-DEPLETING SUBSTANCES AND FLUORINATED GREENHOUSE GASES REGULATIONS 2020

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Statutory Document No. 20XX/XXXX

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European Communities (Isle of Man) Act 1973

OZONE-DEPLETING SUBSTANCES AND FLUORINATED GREENHOUSE GASES REGULATIONS 2020

Laid before Tynwald:

Coming into Operation: in accordance with regulation 2

The Council of Ministers makes the following Regulations under sections 2B and 2C of the European Communities (Isle of Man) Act 1973.

PART 1 – INTRODUCTORY PROVISIONS

1 Title

These Regulations are the Ozone-Depleting Substances and Fluorinated Greenhouse Gases Regulations 2020.

2 Commencement

These Regulations come into operation on the day after they are made¹.

3 Interpretation

(1) In these Regulations —

“**authorised officer**” means an officer of the Department authorised under regulation 11;

“**Commission Regulation 1497/2007**” means Commission Regulation (EC) No 1497/2007 of 18 December 2007 establishing, pursuant to Regulation (EC) No 842/2006 of the European Parliament and of the Council, standard

¹ Section 2B(9) of the European Communities (Isle of Man) Act 1973 specifies that regulations shall be laid before Tynwald and if Tynwald at the sitting before which such instrument is so laid or at the next following sitting resolves that the instrument shall be annulled, the regulations shall thereupon cease to have effect.

leakage checking requirements for stationary fire protection systems containing certain fluorinated greenhouse gases²;

“**Commission Regulation 1516/2007**” means Commission Regulation (EC) No 1516/2007 of 19 December 2007 establishing, pursuant to Regulation (EC) No 842/2006 of the European Parliament and of the Council, standard leakage checking requirements for stationary refrigeration, air conditioning and heat pump equipment containing certain fluorinated greenhouse gases³;

“**controlled substances**” means the ozone depleting substances listed in Annex I to EU Regulation 1005/2009;

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

“**Department**” means the Department of Environment, Food and Agriculture;

“**employed**” means employed under a contract of employment and “**employee**” and “**employer**” are construed accordingly;

“**enforcement notice**” has the meaning given by regulation 14;

“**EU Regulation 517/2014**” means Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006⁴.

“**EU Regulation 1005/2009**” means Regulation (EC) No 1005/2009 of the European Parliament and of the Council on substances that deplete the ozone layer⁵;

“**fluorinated greenhouse gases**” has the meaning given in EU Regulation 517/2014;

(2) Any reference to a United Kingdom instrument in these Regulations is a reference to that instrument as amended from time to time.

PART 2 – CONTROL MEASURES

4 Production

- (1) A person must not produce or place on the market in the Isle of Man any controlled substance or fluorinated greenhouse gas or any product containing any controlled substance or fluorinated greenhouse gas.
- (2) Paragraph (1) does not apply to any controlled substance, fluorinated greenhouse gas or product containing such a substance or gas which has

² OJ L 333, 19.12.2007, p. 4.

³ OJ L 335, 20.12.2007, p. 10.

⁴ OJ L 150, 20.5.2014, p. 195.

⁵ OJ L 286, 31.10.2009, p. 1.

been placed on the market in the United Kingdom before being imported in to the Isle of Man in accordance with regulation 9.

- (3) For the purposes of this regulation a product is “placed on the market” when it is first supplied for distribution, consumption or use on the market in the course of a commercial activity, whether in return for payment or free of charge.

5 Recycling, reclaiming and destruction in the Isle of Man

- (1) A person must not recycle, reclaim or destroy any controlled substance or fluorinated greenhouse gas or any product containing any controlled substance or fluorinated greenhouse gas in the Isle of Man.
- (2) A person must not export a controlled substance or a fluorinated greenhouse gas or any product containing any controlled substance or fluorinated greenhouse gas otherwise than in accordance with paragraph (3 and 4).
- (3) Controlled substances and products containing such substances that require recycling, reclaiming or destroying must only be exported to an undertaking capable of such recycling, reclaiming or destroying, as the case may be, in accordance with Article 22 of EU Regulation 1005/2009.
- (4) Fluorinated greenhouse gases and products containing such gases that require recycling, reclaiming or destroying must only be exported to an undertaking located in the United Kingdom capable of such recycling, reclaiming or destroying, as the case may be, as defined in Article 2 of EU Regulation 517/2014.
- (5) The exportation of controlled substances and products containing such substances under paragraph (3) and of fluorinated greenhouses gases and products containing such gases under paragraph (4) are subject to the reporting requirements set out in regulation 9.
- (6) In this regulation the terms “recycle”, “reclaim” and “destroy” have the same meanings as those terms —
 - (a) in relation to controlled substances, in EU Regulation 1005/2009; and
 - (b) in relation to fluorinated greenhouse gases, in EU Regulation 517/2014.

6 Working with controlled substances or methyl bromide

- (1) Subject to paragraph (3) a person must not carry out work with a controlled substance or with methyl bromide unless that person is competent to do so.
- (2) The employer of a person employed to carry out work with a controlled substance or with methyl bromide must ensure that paragraph (1) is complied with.

- (3) A person who is not competent to carry out work with a controlled substance or with methyl bromide may only carry out such work if the person does so —
- (a) under the supervision of a person who is so competent; and
 - (b) with a view to obtaining a qualification necessary to become competent.
- (4) In this regulation —
- (a) a reference to carrying out work with a controlled substance is a reference to carrying out work which involves —
 - (i) preventing or minimising the leakage of controlled substances (other than work with methyl bromide); or
 - (ii) the recovery of controlled substances.
 - (b) a reference to carrying out work with methyl bromide is a reference to carrying out work which involves preventing or minimising the leakage of methyl bromide from fumigation installations and operations in which methyl bromide is used;
 - (c) “competent” has meaning given in regulation 4 of the Ozone-Depleting Substances Regulations 2015⁶; and
 - (d) “recovery” means the collection and the storage of controlled substances from products and equipment or containers during maintenance or servicing or before disposal.

7 Training for work with controlled substances

- (1) A training employer must ensure that the course of training which the training employer provides will enable an employee who has been trained to carry out the relevant job satisfactorily.
- (2) In respect of each employee trained, a training employer must keep for the required period a record of —
- (a) the name of the employee;
 - (b) the training provided;
 - (c) the date of the training; and
 - (d) the date on which is issued the certificate of competence or other written confirmation that the course of training has been successfully completed.
- (3) A training employer must provide a copy of the record referred to in paragraph (2) to the employee in question when requested to do so by that employee during the required period.
- (4) In this regulation —

⁶ SI 2015/168

- (a) “relevant job” has the meaning assigned to it in the Ozone-Depleting Substances Regulations 2015;
- (b) “required period” means both —
 - (i) the period during which the employee undergoes training provided by the training employer; and
 - (ii) the period during which the employee is employed by the training employer to carry out a relevant job; and
- (c) “training employer” means an employer who provides training leading to an in-house qualification recognised under the Ozone-Depleting Substances Regulations 2015.

8 Working with fluorinated greenhouse gases

- (1) A person must not carry out any work which involves —
 - (a) preventing or minimising the leakage of fluorinated greenhouse gases; or
 - (b) the recovery of fluorinate greenhouse gases,
unless that person holds the qualifications and certifications required under the Fluorinated Greenhouse Gases Regulations 2015⁷ for the task being undertaken.
- (2) The employer of a person employed to carry out the work described in paragraph (1) must ensure that paragraph (1) is complied with.
- (3) In this regulation “recovery” means the collection and storage of fluorinated greenhouse gases from products, including containers, and equipment during maintenance or servicing or prior to the disposal of the products or equipment.

9 Import, export and reporting

- (1) Subject to regulation 10 a person must not import any controlled substances or products containing such substances into the Isle of Man.
- (2) A person must not import or export any fluorinated greenhouse gases or products containing such gases between the Isle of Man and any country other than the United Kingdom.
- (3) A person who —
 - (a) exports a controlled substance for the purpose of disposal; or
 - (b) imports or exports a fluorinated greenhouse gas for any purpose,must report any such importation or exportation to the Department.
- (4) A report made under paragraph (3) must —

⁷ SI 2015/310

- (a) be made in such form and contain such information as the Department may require from time to time; and
 - (b) be submitted to the Department annually [TBC].
- (5) The Department must make available to the public the form by which it requires reports made under paragraph (3) to be made.
- (6) The Department may share the information collected as a result of reports made under paragraph (3) with the United Kingdom's Department of Environment, Food and Rural Affairs or such other body as the Department deems appropriate for the purposes of –
- (a) enforcing these Regulations; or
 - (b) monitoring or reporting the Isle of Man's consumption and trade in controlled substances and fluorinated greenhouse gases.

10 Exceptions

- (1) The Department may grant an authorisation in writing for the importation of a controlled substance for the purposes of –
- (a) essential laboratory and analytical uses in accordance with Article 10 of EU Regulation 1005/2009;
 - (b) emergency uses of methyl bromide in accordance with Article 12 of EU Regulation 1005/2009; or
 - (c) critical uses of halons in accordance with Article 13 of EU Regulation 1005/2009.
- (2) Regulation 9(1) does not apply to the import and export of products and equipment containing or relying on halons for critical uses in aircraft set out in points 4.1 to 4.6 of the table in Annex VI of EU Regulation 1005/2009 where such products and equipment are not removed from the aircraft while it is in the Isle of Man.

PART 3 – ENFORCEMENT

11 Enforcement

- (1) The Department is the competent authority for the purposes of –
- (a) the provisions of EU Regulation 1005/2009 listed in Schedule 1; and
 - (b) the provisions of EU Regulation 517/2014 listed in Schedule 2.
- (2) The Department may authorise officers to carry out functions for the purpose of enforcing these Regulations and the provisions for which it is designated the competent authority in paragraph (1).

12 Powers of authorised officers

- (1) An authorised officer may at all reasonable hours –
 - (a) enter any premises for the purpose of ascertaining whether there is or has been on the premises any contravention of these Regulations; and
 - (b) enter any business premises for the purpose of ascertaining whether there is on the premises any evidence of any contravention of these Regulations; and
 - (c) in the case of an authorised officer, enter any premises for the purpose of the performance by the Department of its functions under these Regulations.
- (2) An authorised officer may not enter any premises used only as a private dwelling-house for a purpose described in paragraph (1) unless 24 hours' notice of the intended entry has been given to the occupier.
- (3) The authorised officer must upon the request of any person present on premises produce that officer's authority to enter the premises.
- (4) If a justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground for entry into any premises for any such purpose as is mentioned in paragraph (1) and either –
 - (a) that admission to the premises has been refused, or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier;
 - (b) that an application for admission, or the giving of such a notice, would defeat the object of the entry;
 - (c) or that the case is one of urgency; or
 - (d) that the premises are unoccupied or the occupier temporarily absent,the justice may by signing a warrant authorise the authorised officer to enter the premises, if need be by reasonable force.
- (5) Every warrant issued under paragraph (4) shall continue in force for a period of one month.
- (6) An authorised officer entering any premises under paragraph (1) or under a warrant issued under paragraph (4), may be accompanied by such other persons that officer considers necessary, and on leaving any unoccupied premises which that officer has entered must leave them as effectively secured against unauthorised entry as that officer found them.
- (7) An authorised officer entering premises under paragraph (1), or of a warrant issued under paragraph (4), may inspect any records (in whatever form they are held) relating to the import, export, storage of, or work undertaken involving, controlled substances and, where any such records are kept by means of a computer –

- (a) may have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records; and
 - (b) may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford such assistance as that officer may reasonably require.
- (8) An authorised officer exercising any power conferred by paragraph (7) may –
- (a) seize and detain any records which that officer has reason to believe may be required as evidence in proceedings under any of the provisions of these Regulations; and
 - (b) where the records are kept by means of a computer, may require the records to be produced in a form in which they may be taken away.
- (9) Nothing in this regulation is to be taken to compel the production by any person of a document of which that person would be entitled to refuse to produce on the grounds of legal professional privilege on an order for disclosure in proceedings in the High Court.

13 Information notices

- (1) The Department may, by notice served on any person, require that person to furnish such information as is specified in the notice, in such form and within such period following the service of the notice or at such time as is so specified.
- (2) A person on whom a notice is served under paragraph (1) must comply with the requirement of the notice.

14 Enforcement notices

- (1) The Department may serve an enforcement notice on any person who in the opinion of an authorised officer, fails to, or is likely to fail to, comply with –
 - (a) a requirement under –
 - (i) regulation 4;
 - (ii) regulation 5;
 - (iii) regulation 6;
 - (iv) regulation 7;
 - (v) regulation 8; or
 - (vi) regulation 9;
 - (b) a provision of –
 - (i) EU Regulation 1005/2009 specified in Schedule 1; or

- (ii) EU Regulation 517/2014 specified in Schedule 2; or
 - (c) an information notice served under regulation 13.
 - (2) The Department may serve an enforcement notice on a person in possession of a controlled substance, or product or equipment containing or relying on a controlled substance, that has been imported or is intended to be or is being exported, in contravention of these Regulations, requiring that person to –
 - (a) cause the substance, product or equipment to be exported for disposal in accordance with regulation 5; or
 - (b) otherwise render it harmless in accordance with the notice.
 - (3) The Department may serve an enforcement notice on a person qualified in relation to fire protection systems who fails to comply with any of the following requirements of Commission Regulation 1497/2007 –
 - (a) Article 3 (checking system records);
 - (b) Article 4(1) (visual checks by certified personnel);
 - (c) Article 4(2) (checks in cases of presumed leakage); or
 - (d) Article 6 (follow-up check).
 - (4) The Department may serve an enforcement notice on an operator of a fire protection system who –
 - (a) fails to comply with any of the following requirements of Commission Regulation 1497/2007 –
 - (i) Article 2(1) (system records); or
 - (ii) Article 2(3) (determination of gas charge by certified personnel);
 - (b) fails to ensure that Article 2(2) (indication of gas charge) of Commission Regulation 1497/2007 is complied with; or
 - (c) fails to ensure that the following requirements of Commission Regulation 1497/2007 are carried out by a person qualified in relation to fire protection systems –
 - (i) Article 4(4) (checking of pressure gauges and weight-monitoring devices);
 - (ii) Article 5 (repair of leakage); or
 - (iii) Article 7 (requirements for newly commissioned systems).
 - (5) Subject to paragraph (7), the Department may serve an enforcement notice on a person qualified in relation to stationary equipment who fails to comply with any of the following requirements of Commission Regulation 1516/2007 –
 - (a) Article 3 (checking equipment records);
 - (b) Article 4 (systematic checks);
 - (c) Article 5 (choice of measuring method);

- (d) Article 6 (direct measuring methods);
 - (e) Article 7(1) (indirect measuring methods);
 - (f) Article 7(2) (examination using a direct method); or
 - (g) Article 9 (follow-up check).
- (6) Subject to paragraph (7), the Department may serve an enforcement notice on an operator of stationary equipment who –
- (a) fails to comply with any of the following requirements of Commission Regulation 1516/2007 –
 - (i) Article 2(1) (equipment records);
 - (ii) Article 2(3) (determination of gas charge by certified personnel);
 - (b) fails to ensure that the following requirements of Commission Regulation 1516/2007 are complied with –
 - (i) Article 2(2) (indication of gas charge); or
 - (ii) Article 2(4) (indication of leakage cause); or
 - (c) fails to ensure that the following requirements of Commission Regulation 1516/2007 are carried out by a person qualified in relation to stationary equipment –
 - (i) Article 8 (repair of leakage); or
 - (ii) Article 10 (requirements for newly commissioned equipment).
- (7) Paragraphs (5) and (6) do not apply in respect of equipment with a hermetically sealed system which –
- (a) is labelled as having such a system; and
 - (b) contains less than 6 kilograms of fluorinated greenhouse gases.
- (8) An enforcement notice must –
- (a) specify the matters constituting the failure to comply or those making a failure to comply likely;
 - (b) specify the steps that must be taken to remedy or avert the failure to comply;
 - (c) specify the period within which those steps must be taken; and
 - (d) provide information on the right to appeal under regulation 15.
- (9) The Department may at any time withdraw an enforcement notice.
- (10) A person on whom an enforcement notice is served must comply with it at the person's own expense.
- (11) If an enforcement notice is not complied with, the Department may, so far as is practicable, arrange for it to be complied with at the expense of the person on whom it was served.
- (12) In this regulation –

- (a) “fire protection system” means a fire protection system, within the meaning given in Article 1 of Commission Regulation 1497/2007, containing 3 kilograms or more of fluorinated greenhouse gases;
- (b) “person qualified in relation to fire protection systems” means an individual who —
 - (i) holds a certificate issued under Article 5 of Commission Regulation 304/2008 which relates to leakage checking of fire protection systems; or
 - (ii) is exempt from holding such a certificate by virtue of Article 4(2) of Commission Regulation 304/2008;
- (c) “person qualified in relation to stationary equipment” means an individual who —
 - (i) holds a valid certificate issued under Article 4 of Commission Regulation 2015/2067 which relates to leakage checking of stationary equipment;
 - (ii) is exempt from holding such a certificate by virtue of Article 3(3)(b) or (4) of Commission Regulation 2015/2067; or
 - (iii) is exempt from holding such a certificate by virtue of Article 3(3)(a) of Commission Regulation 2015/2067 where the person is suitably qualified for the purposes of the essential safety requirements in paragraph 21(3) in Part 3 of Schedule 2 to the Pressure Equipment (Safety) Regulations 2016⁸ (permanent joining);
- (d) “stationary equipment” means stationary refrigeration, air conditioning or heat pump equipment which contains three kilograms or more of fluorinated greenhouse gases.

15 Appeals against enforcement notices

- (1) A person who is aggrieved by a decision of the Department to serve an enforcement notice may appeal against it.
- (2) The right of appeal is to a court of summary jurisdiction.
- (3) An enforcement notice is not suspended pending an appeal unless the court of summary jurisdiction orders otherwise.
- (4) On appeal the court of summary jurisdiction may either cancel or confirm the enforcement notice, with or without modification.

16 Offences

- (1) A person who contravenes —

⁸ SI 2016/1105

- (a) paragraph (1) of regulation 4;
 - (b) paragraphs (1), (2) or (3) of regulation 5;
 - (c) paragraph (1), (2) or (3) of regulation 6;
 - (d) paragraph (1), (2) or (3) of regulation 7;
 - (e) paragraph (1) or (2) of regulation 8;
 - (f) paragraph (1), (2), (3), (4) or (5) of regulation 9;
 - (g) an information notice issued under regulation 13; or
 - (h) an enforcement notice issued under regulation 14,
commits an offence.
- (2) A person who contravenes a provision set out in paragraph (3), (4), (5) or (6) of regulation 11 commits an offence.
- (3) A person who contravenes a provision of EU Regulation 1005/2009 set out in Schedule 1 commits an offence.
- (4) A person who contravenes a provision of EU Regulation 517/2014 set out in Schedule 2 commits an offence.
- (5) A person commits an offence if the person, in relation to any authorised officer acting in the enforcement of these Regulations –
- (a) intentionally obstructs that officer;
 - (b) without reasonable cause, fails to –
 - (i) give any assistance or information; or
 - (ii) produce any document or record,
which that officer may reasonably require;
 - (c) furnishes that officer with any information knowing it to be false or misleading in a material particular; or
 - (d) recklessly furnishes that officer with information which is false or misleading in a material particular.
- (6) Despite paragraph (1), a person who contravenes paragraph (1), (2) or (3) of regulation 6 or paragraph (1) or (2) of regulation (8) is not guilty of an offence if the contravention occurred within a year of the coming into force of these Regulations.
- (7) Despite paragraph (2), a person who contravenes a provision set out in paragraph (3), (4), (5) or (6) of regulation 11 is not guilty of an offence if the contravention occurred within a year of the coming into force of these Regulations.
- (8) Despite paragraphs (3) and (4), a person who contravenes a provision of –
- (a) EU Regulation 1005/2009 set out in Schedule 1; or
 - (b) EU Regulation 517/2014 set out in Schedule 2,

is not guilty of an offence if the contravention occurred within a year of the coming into force of these Regulations.

17 Offences by partnerships and unincorporated associations

- (1) Proceedings for an offence under these Regulations alleged to have been committed by a partnership or an unincorporated association may be brought in the name of the partnership or association.
- (2) For the purposes of such proceedings —
 - (a) rules of court relating to the service of documents are to have effect as if the partnership or association were a body corporate; and
 - (b) section 16 (offences by bodies corporate) of the Criminal Justice Act 2001 and section 32 (corporations) of the Summary Jurisdiction Act 1989 apply in relation to the partnership or association as they apply in relation to a body corporate.
- (3) A fine imposed on a partnership or association on its conviction for an offence under these Regulations is to be paid out of the funds of the partnership or association.
- (4) Where a partnership is guilty of an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner (as well as the partnership) is also guilty of the offence.
- (5) For these purposes, "partner" includes a person purporting to act as a partner.
- (6) Where an unincorporated association is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the association, that officer (as well as the association) is also guilty of the offence.
- (7) For these purposes, "officer" means an officer of the association or a member of its governing body, or a person purporting to act in such capacity.

18 Penalties

A person guilty of an offence under these Regulations is liable —

- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale; or
- (b) on conviction on information, to a fine.

MADE

W GREENHOW
Chief Secretary

SCHEDULE 1

[Regulations 11, 14 and 16]

PROVISIONS OF EU REGULATION 1005/2009

Provision	Subject matter
Article 6(2)	Prohibition and decommissioning of fire protection systems and fire extinguishers containing halons.
Article 13(3)	Decommissioning of fire protection systems and fire extinguishers containing halons.
Article 23(1)	Precautionary measures to prevent and minimise leakages and emissions of controlled substances.
Article 23(2)	Requirements for specified stationary equipment or systems.
Article 23(3)	Record keeping by undertakings.
Article 23(5)	Precautionary measures to prevent and minimise leakages and emissions of controlled substances used as feedstock or process agents.
Article 23(6)	Precautionary measures to prevent and minimise leakages and emissions of controlled substances inadvertently produced in the manufacture of other chemicals.
Article 24(1)	Production, import, placing on the market, use or export of new substances.

SCHEDULE 2

[Regulations 11, 14 and 16]

PROVISIONS OF EU REGULATION 517/2014

Provision	Summary of subject matter
Article 3(1)	Prohibition on the intentional release of fluorinated greenhouse gases into the atmosphere where not technically necessary for intended use.
Article 3(2)	Requirement on operators of equipment to take — (a) precautions to prevent; and (b) measures to minimise, the leakage of fluorinated greenhouse gases.
Article 3(3)	Requirement on operators of equipment to ensure equipment is — (a) repaired without undue delay where a leakage of fluorinated greenhouse gases is detected; and (b) checked where the equipment is subject to leak checks under Article 4(1) (leak checks) and has been repaired.
Article 3(4)	Requirements on — (a) natural persons carrying out tasks referred to in Article 10(1)(a) to (c) (training and certification); and (b) undertakings carrying out the installation, servicing, maintenance, repair or decommissioning of equipment referred to in Article 4(2)(a) to (d) to be certified and to take precautionary measures to prevent leakage of fluorinated greenhouse gases.
Article 4(1)	Requirement on operators of equipment to ensure that specified types of equipment are checked for leaks. (to be read in association with Article 4(2) to (4))
Article 5(1)	Requirement on operators of equipment listed in Article 4(2)(a) to (d) containing fluorinated greenhouse gases in quantities of 500 tonnes of CO ₂ equivalent or more to ensure that the equipment is provided with a leakage detection system.
Article 5(2)	Requirement on operators of equipment listed in Article 4(2)(f) and (g) containing fluorinated greenhouse gases in quantities of 500 tonnes of CO ₂ equivalent or more and installed from 1st January 2017 to ensure that the equipment is provided with a leakage detection system.
Article 5(3)	Requirement on operators of equipment listed in Article 4(2)(a) to (d) and (g) to ensure that leakage detection systems are checked at least once every 12 months.
Article 5(4)	Requirement on operators of equipment listed in Article 4(2)(f) (electrical switchgear) to ensure that leakage detection systems are

checked at least once every six years.

Article 6(1) Requirement on operators of equipment required to be checked for leaks under Article 4(1) to establish and maintain records for each piece of equipment specifying prescribed information.

Article 6(2) Requirement on operators required to keep records under Article 6(1) to retain those records for at least five years or, in the case of undertakings carrying out activities under Article 1(e) to retain copies of such records for at least 5 years) and to make the records available on request to the competent authority.

Article 6(3) Requirement on undertakings supplying fluorinated greenhouse gases to —

- (a) establish records of relevant information on the purchasers including prescribed details;
- (b) maintain the records for at least five years; and
- (c) to make the records available on request to a competent authority.

(to be read in association with Article 11(4))

Article 8(1) Requirement on operators of specified stationary equipment or refrigeration units of refrigerated trucks and trailers that contain fluorinated greenhouse gases not contained in foams to ensure that the recovery of the gases is carried out by natural persons certified under Article 10.

Article 8(2) Requirement on undertakings that use a fluorinated greenhouse gases container immediately prior to disposal to arrange for the recovery of any residual gases to make sure they are recycled, reclaimed or destroyed.

Article 8(3) Requirement on operators of products and equipment not listed in Article 8(1) that contain fluorinated greenhouse gases to arrange for the recovery of the gases by appropriately qualified natural persons or to arrange for their destruction.

Article 10(11) Requirement on undertakings assigning tasks referred to in Article 10(1) to another undertaking to take reasonable steps to ascertain that the latter holds the necessary certificates for the required tasks.

Article 11(4) Prohibition on the sale and purchase of 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, except by undertakings who hold relevant certifications or attestations in accordance with Article 10.

Article 11(5) Prohibition on the sale of non-hermetically sealed equipment charged with fluorinated greenhouse gases to the end user without the provision of evidence that the installation is to be carried out by an undertaking certified in accordance with Article 10.

- Article 13(1) Prohibition on the use of sulphur hexafluoride in magnesium die-casting and in the recycling of magnesium die-casting alloys including in relation to installations using a quantity of sulphur hexafluoride below 850kg per year.
- Article 13(2) Prohibition on the use of sulphur hexafluoride to fill vehicle tyres.
- Article 13(3) Prohibition (from 1 January 2030 in relation to specified categories of fluorinated greenhouse gases), on the use of fluorinated greenhouse gases with a global warming potential of 2,500 or more, to service or maintain refrigeration equipment with a charge size of 40 tonnes of CO₂ equivalent or more, except for military equipment or equipment intended for applications designed to cool products to temperatures below -50°C.

*EXPLANATORY NOTE**(This note is not part of the Regulations)*

These Regulations control the use, production, import and export of “controlled substances” that are known to deplete the ozone layer and of fluorinated greenhouse gases, which are often used as a substitute for ozone depleting substances but which contribute to global warming.

The Montreal Protocol is a global agreement to protect the Earth’s ozone layer by phasing out the chemicals that deplete it. These Regulations empower the Department to enforce certain provisions of the relevant EU legislation and provide regulatory alignment with the United Kingdom in order for ratification of the Montreal Protocol to be extended to the Island.

Regulation 4 prohibits the production and placing on the market of controlled substances and fluorinated greenhouse gases in the Island. Placing on the market is defined so as not to prohibit trade in substances and products obtained from the United Kingdom market.

Regulation 5 prohibits the disposal on the Isle of Man of controlled substances and fluorinated greenhouse gases, which must be exported to an appropriate facility in the United Kingdom in order to be recycled, reclaimed or destroyed.

Regulation 6 sets out the duties of employers to ensure that employees working with controlled ozone-depleting substances are suitably qualified and Regulation 7 sets out the responsibilities of training employers.

Regulation 8 sets out the duties of employers to ensure that employees working with fluorinated greenhouse gases are suitably qualified.

Regulation 9(1) and (2) prohibit the import and export of controlled substances and products containing those substances other than export for the purpose of disposal. Paragraph (3) permits the import and export of fluorinated greenhouse gases between the Isle of Man and the United Kingdom only. Paragraphs (4) and (5) set out reporting requirements for permitted imports and exports and paragraphs (6) and (7) set out the Departments annual reporting requirements of the Island’s totals.

Regulation 10 provides for certain exceptions for the import and export of controlled substances not otherwise permitted, in particular an exception in relation to substances contained within the systems of aircraft.

Regulation 11 designates the Department of Environment, Food and Agriculture as the competent authority for the purposes of the relevant EU provisions set out in Schedules 1 and 2 and empowers the Department to authorise officers for the purpose of enforcement.

Regulation 12 provides powers to officers authorised by the Department including the power of entry and of inspection. This Regulation also sets out provisions relating to warrants.

Regulation 13 empowers the Department to require, by way of a notice, the provision of information.

Regulation 14 empowers the Department to serve enforcement notices where the requirements of the Regulations or specified provisions of relevant EU legislation are not being met or a likely not to be met.

Regulations 15 provides for appeals in relation to enforcement notices.

Regulations 16 makes it an offence to contravene the requirements of these Regulations including the provisions of EU legislation set out in Schedule 1 and 2. Regulation 16 also makes it an offence to fail to comply with an information notice or an enforcement notice served under these Regulations and to obstruct an officer enforcing these Regulations.

Regulation 17 sets out how offences committed by partnerships and unincorporated associations are to be treated.

Regulation 18 provides that a person who is guilty of an offence under these regulations is liable, on conviction to a fine not exceeding level 5 on the standard scale.

Schedule 1 sets out the provisions of Regulation (EC) No 1005/2009 of the European Parliament and of the Council on substances that deplete the ozone layer) for which failure to comply is an offence under these Regulations.

Schedule 2 sets out the relevant provisions of Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006) for which the Department is empowered to serve an enforcement notice.