

# Information Request

## **Who commits an offence if an unqualified company buys HFC refrigerants?**

Whilst we understand the points you have made, the new GB F Gas Regulations make it the responsibility of the buyer of refrigerants to ensure that they have appropriate qualifications and certification. The buyer is the person who commits an offence if they are not certificated. The seller does not commit an offence in these circumstances.

We think that many sellers will check the certification of buyers, as a matter of good business practice, but this is not an obligation under the Regulations.

## **Regulation and enforcement:**

For garages and others carrying out MAC servicing the Regulator will be the relevant Local Authority.

Please see attached document GB F gas Regulations SI 261. In Part 4 of this document, there are specific sections on 'miscellaneous' and 'corporate offences' as defined in the Regulation.

Regulators have a range of options at their disposal to protect the environment and will use the option or options it believes will best ensure compliance with these Regulations. If an organization does not comply with these Regulations, the action taken by the regulator may include:

- Providing targeted advice and guidance to an organization to secure compliance.
- Serving an "enforcement notice". An authorized person may serve an enforcement notice if they are of the opinion that a person has contravened, is contravening or is likely to contravene relevant requirements of the Regulations. The contents of an enforcement notice must include a description of the contravention, specification of steps that would be a suitable remedy and a date by which time the remedies must be in effect.
- Serving a "prohibition notice". A regulator will use this type of notice where specific requirements are contravened or there is a risk that they will be contravened and such contravention will involve "an imminent danger of serious pollution of the environment". Prohibition notices allow the Regulator to insist on a piece of equipment or even a whole site being shut down.

If the regulators actions did not lead to the required improvements then they may decide to prosecute the company or individual concerned. This would be a criminal prosecution.

The penalties depend on where an offence is tried. In a Magistrates Court the penalty would be a fine not exceeding £5,000, the statutory maximum, on summary conviction. There could be an unlimited fine on conviction in the Crown Court.

## **Non-refillable containers:**

1) It is quite clear in the EC F gas Regulation that the placing on the market of non-refillable containers filled from the 4 July 2007 for transporting or storing F gas fluids is banned. Hence the placing on the market of any container that only contains an F Gas (e.g. R134a) that is non-refillable and was filled after this date is illegal. In this situation it is the seller that is committing an offence under the F Gas Regulations.

2) It is possible that there are still limited supplies of such non-refillable containers that were filled prior to July 2007. These would not be illegal. However, we are now more than 20 months

past the ban date, so this is quite unlikely.

**3) There are certain products on the market that contain a mixture of refrigerant and active ingredients such as lubricant and/or leak sealants. These are sold in the car after market for servicing mobile air-conditioning systems. These products serve a dual purpose: (a) they provide extra refrigerant that stays within the MAC system and (b) they deliver a small amount of lubricant or sealant into the MAC. Some product manufacturers have claimed that these products are technical aerosols and do not fall under the non-refillable container ban.**

**Defra has consulted the European Commission about this potentially ambiguous area. The European Commission has confirmed that in their opinion these automotive aftercare products are, inter alia, topping-up the MAC and they should therefore be considered as non-refillable containers covered by the ban. Hence products of this sort filled into non-refillable containers after 4th July 2007 should not be placed on the market.**

### **Qualifications**

Our Information Sheet MAC 5 contains a list of possible external qualifications plus the option of an in-house qualification for personnel working on mobile air-conditioning. Sheet MAC 5 also contains a definition of an in-house qualification.

The list of interim qualifications for those working on mobile air-conditioning applies until 4th July 2010. The interim period is to allow organisations in Great Britain time to train personnel to the improved standard required by the F Gas Regulation..

No in-house qualifications for MAC will be valid after July 2010.

By the end of the interim period those working in the MAC sector will need a new MAC qualification that meets the needs of EC/307/2008. (copy attached). Please see the attached document (EHS F-GAS AWARDS) which details the qualifications and the evaluation and certification bodies offering those qualifications. These qualifications are available now and it is not advisable to wait until the end of the interim period to gain one of these qualifications as demand is expected to increase.

There are no plans to change the date by which full MAC qualifications will be required. The details of 4th July 2010 are set out in the GB F gas Regulations 2009, EC Regulations 307/2008 and the EC F gas Regulation (copies attached)

We hope that the information provided answers your query. If not, and you require further information, please do not hesitate to contact us again (details are at the bottom of this email).

Kind Regards,

Lucinda

### **Lucinda Peart**

#### **F-Gas Support Help Desk**

Tel: 0161 874 3663

Fax: 0161 848 0181

Email: [fgas-support@enviros.com](mailto:fgas-support@enviros.com)

Web: [www.defra.gov.uk/fgas](http://www.defra.gov.uk/fgas)

### **F-Gas Support – Promoting Compliance with F Gas and Ozone Regulations**

This message and any attachments have been prepared by F-Gas Support; the information provided is intended as guidance and must not be taken as formal legal advice nor as a definitive statement of the law. Ultimately only the courts can decide on legal questions and matters of legal interpretation. If you have continuing concerns you should seek legal advice from your own lawyers.

F-Gas Support is a Government funded team set up to help organisations understand their obligations under the

**EU Fluorinated Greenhouse Gases and Ozone Regulations. F-Gas Support is also working with Regulators to promote compliance. It is being run on behalf of Defra and the devolved administrations by the Local Authorities Coordinators of Regulatory Services (LACORS) and Enviro.**