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Edward Mountain MSP
Convener, Net Zero, Energy and Transport
Committee
Scottish Parliament, Edinburgh
EH99 1SP (by email)
Email: netzero.committee@parliament.scot

26 November 2025

Dear Edward,

Re: Scottish Ministers' consent for the UK Secretary of State for the Department Environment, Food and Rural Affairs (DEFRA) to exercise powers in The Ozone-Depleting Substances (Grant of Halon Derogations) Regulations 2025

I am writing to inform you of the upcoming Statutory Instrument "Ozone-Depleting Substances (Grant of Halon Derogations) Regulations 2025", to be laid by the UK Government in the Scottish Parliament on 08 December 2025 under negative procedure. This instrument grants derogations to Loganair and the Ministry of Defence, extending the statutory end date of 31 December 2025 for the use of halon 1211 in portable fire extinguishers for the protection of cabins and crew compartments within certain aircraft, as no technically and economically feasible alternatives are currently available.

In January 2021, following the EU Transition Period, the Scottish Government consented to the DEFRA's Secretary of State and the Environment Agency to carry certain functions on behalf of the Scottish Ministers (the relevant letter from 2021 is annexed below for your reference). Scottish Ministers retain the right to withdraw this consent at any time. This consent forms part of the Ozone-Depleting Substances and Fluorinated Greenhouse Gases Common Framework, which enables practical administration of the ODS and F gases regime on a GB-wide basis and maintains continuity with the EU regimes, minimising disruption for stakeholders. The upcoming Statutory Instrument falls within these delegated functions. Scottish Ministers and SEPA continue to play an active role where the consented functions are exercised on our behalf through the governance arrangements through of the Common Framework. This ensures accountability to Ministers in Scotland and the Scottish Parliament.

I hope this information is useful to Parliament during scrutiny of the above instrument.

Yours sincerely,

GILLIAN MARTIN

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Annex – Letter of January 2021 providing consent to exercise of powers

Cabinet Secretary for Environment, Climate Change and
Land Reform

Roseanna Cunningham MSP



Scottish Government
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Rebecca Pow MP
Parliamentary Under Secretary of State for the
Environment
Seacole Building
2 Marsham Street
London
SW1P 4DF

08 January 2021

Dear Rebecca,

Re: Consent and direction of functions to the Defra Secretary of State and the Environment Agency under Regulation (EC) 1005/2009 on substances that deplete the ozone layer and Regulation (EU) 517/2014 on fluorinated greenhouse gases as the regulations apply in Great Britain as retained EU law

Thank you for your letter of 17 December regarding the GB-wide system for ODS and F-gas that will take effect on 1 January after the end of the EU Transition Period. The Scottish Government has consented to both UK SIs, which amend the retained EU Regulations, on the basis that they respect the devolution settlement, with functions conferred on the Scottish Ministers and on the Scottish Environment Protection Agency (SEPA).

Following the end of the EU Transition Period, in order to implement a GB-wide system that maintains the approach previously achieved under the EU regimes that will minimise disruption for stakeholders, I give my consent to the Secretary of State to carry out certain functions on behalf of the Scottish Ministers. The functions that I am consenting to are listed in the Annex to this letter. I retain the right to withdraw this consent at any time.

I am also issuing a direction to the Environment Agency to carry out certain functions on behalf of SEPA, and which your letter indicates you are in agreement with. I will copy you into my letter of direction to Mr James Bevan, Chief Executive of the Environment Agency, which lists the directed functions.

Scottish Ministers and SEPA will continue to play an active role where functions are exercised on our behalf by the Secretary of State or the Environment Agency through the governance arrangements for the F-gas and ODS Common Framework as set out in the Framework Outline Agreement and concordat.

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I look forward to working with you through the EFRA Inter-ministerial Group, to take collective decisions on the implementation and evolution of this Framework.

Yours sincerely

ROSEANNA CUNNINGHAM

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Annex containing functions for consent

In accordance with paragraph 1 of Article 25A of Regulation (EC) No 1005/2009 on substances that deplete the ozone layer and paragraph 1 of Article 24A of Regulation (EU) No 517/2014 on fluorinated greenhouse gases, the Scottish Ministers consent to the Secretary of State exercising, in or as regards Scotland, the functions of the appropriate authority corresponding to the provisions listed below.

The consent is effective until it is withdrawn by the Scottish Ministers.

Regulation (EU) No 517/2014 on fluorinated greenhouse gases⁽¹⁾	
<i>Provision</i>	<i>Description of function</i>
Article 4, paragraph 5	The appropriate authority may, by regulations, specify requirements for the leak checks to be carried out in accordance with paragraph 1 of Article 4.
Article 6, paragraph 4	The appropriate authority may, by regulations, determine the format of the records referred to in paragraphs 1 to 3 of Article 6 and may specify how the records should be established and maintained.
Article 9	The appropriate authority must encourage the development of producer responsibility schemes for the recovery of fluorinated greenhouse gases and their recycling, reclamation or destruction.
Article 10, paragraph 1	The appropriate authority must enable the establishment or adaptation of certification programmes, including evaluation processes. The appropriate authority must ensure that training is available for persons carrying out the tasks specified at points (a) to (c) of paragraph 1 of Article 10.
Article 10, paragraph 2	The appropriate authority must ensure that training programmes are available for persons recovering fluorinated greenhouse gases from air-conditioning equipment in motor vehicles.
Article 10, paragraph 6	The appropriate authority must enable the establishment or adaptation of certification programmes for undertakings carrying out installation, servicing, maintenance, repair or decommissioning of equipment.
Article 10, paragraph 8	The appropriate authority must ensure that persons holding certificates under certification programmes have access to information on certain matters including existing regulatory requirements for working with equipment containing alternative refrigerants to fluorinated greenhouse gases.
Article 10, paragraph 9	The appropriate authority must ensure the availability of training for persons who wish to update their knowledge in relation to the matters mentioned at paragraph 3 of Article 10.

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Article 10, paragraph 12	The appropriate authority must, by regulations, adapt and update the minimum required skills and knowledge to be covered, specify the mode of certification or attestation and conditions for mutual recognition. When doing so, the appropriate authority must take into account relevant existing qualification or certification schemes.
Article 11, paragraph 3	The appropriate authority may, exceptionally, by regulations, authorise an exemption for up to four years to allow the placing on the market of products and equipment listed in Annex III containing, or where functioning relies upon, fluorinated greenhouse gases.

(1) Regulation (EU) No 517/2014 is retained direct EU legislation, amended by regulations 37 to 58 of the Ozone-Depleting Substances and Fluorinated Greenhouse Gases (Amendment etc.) (EU Exit) Regulations 2019 (“the 2019 Regulations”).

Article 12, paragraph 14	The appropriate authority may, by regulations, determine the format of labels referred to in paragraphs 1 and 4 to 12 of Article 12.
Article 12, paragraph 15	The appropriate authority may, by regulations, amend the labelling requirements set out in paragraphs 4 to 12 of Article 12 where appropriate in the view of commercial or technological development.
Article 15, paragraph 4	The appropriate authority may, exceptionally, by regulations authorise an exemption for up to four years to exclude from the quota requirements laid down in paragraph 1 of Article 15 in the circumstances mentioned in paragraph 4 of that Article.
Article 17, paragraph 1, first subparagraph	The appropriate authority must set up and ensure the operation of an electronic registry (“the registry”) for quotas for placing hydrofluorocarbons on the market.
Article 17, paragraph 2	The appropriate authority may, by regulations, ensure the smooth functioning of the registry.
Article 19, paragraph 7	The appropriate authority may determine the format and means of submitting the reports referred to in Article 19 and publish the determination.
Article 21, paragraph 1	The appropriate authority may, by regulations, amend Annexes I, II and IV on the basis of new Assessment Reports adopted by the Intergovernmental Panel on Climate Change or new reports of the Scientific Assessment Panel of the Montreal Protocol on the global warming potential of the listed substances.
Article 23	The appropriate authority must ensure a balanced participation of representatives of civil society and establish a consultation forum for those parties to meet and provide advice to the appropriate authority. The appropriate authority must establish and publish rules of procedure for the consultation forum.

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Regulation (EC) No 1005/2009 on substances that deplete the ozone layer⁽²⁾	
<i>Provision</i>	<i>Description of function</i>
Article 7, paragraph 2, second subparagraph	The appropriate authority may, by regulations, determine the form and content of the label to be used (in relation to feedstock).
Article 8, paragraph 3, second subparagraph	The appropriate authority may, by regulations, determine the form and content of the label to be used (in relation to process agents).
Article 8, paragraph 4	The appropriate authority must, if appropriate, establish a list of undertakings in which the use of controlled substances as process agents shall be permitted, laying down maximum quantities that may be used for make-up or for consumption as process agents and emission levels for each of the undertakings concerned.
Article 10, paragraph 2	The appropriate authority must, if appropriate, determine any essential laboratory and analytical uses for which the production and import of controlled substances other than hydrochlorofluorocarbons may be permitted, including the respective quantities, the period for which the exemption is valid and the uses which may take advantage of those essential laboratory and analytical uses.
Article 10, paragraph 3, second subparagraph	The appropriate authority may, by regulations, determine the form and content of the label to be used (in relation to laboratory and analytical uses).
Article 10, paragraph 3, third subparagraph	The appropriate authority may, by regulations, amend Annex V.
Article 10, paragraph 6, third subparagraph	The appropriate authority must determine a mechanism for the allocation of quotas and publish the determination.
Article 10, paragraph 7	The appropriate authority may authorise a producer to produce the controlled substances referred to in paragraph 1 of Article 10.

(2) Regulation (EC) No 1005/2009 on substances that deplete the ozone layer is retained direct EU legislation, amended by regulations 4 to 30 of the 2019 Regulations.

Article 10, paragraph 8	The appropriate authority may authorise a producer to produce or to exceed the calculated levels of production laid down in paragraph 6 of Article 10 in order to satisfy essential laboratory or analytical uses.
Article 12, paragraph 3	The appropriate authority may authorise the temporary production, placing on the market and use of methyl bromide provided that the placing on the market and use are allowed respectively under Regulation (EC) 1107/2009 and Regulation (EU) 528/2012.
Article 13, paragraph 2	The appropriate authority must review Annex VI and, if appropriate make regulations to amend Annex VI and set time-frames for the phasing out of the critical uses by defining cut-off dates for new applications and end dates for existing applications.
Article 13, paragraph 4	The appropriate authority may, by regulations, grant derogations from end dates for existing applications or cut-off dates for new applications, provided those dates have been specified in Annex VI.
Article 14, paragraph 2	The appropriate authority may authorise a producer to exceed the calculated levels of production for the purpose of industrial rationalisation within the United Kingdom.
Article 19	The appropriate authority may, by regulations, provide additional measures for the monitoring of controlled substances or relying on new substances and of products and equipment containing or relying on controlled substances placed under temporary storage, customs warehousing or free zone procedure or in transit throughout the United Kingdom and subsequently re-exported.
Article 20, paragraph 2	The appropriate authority may make regulations in relation to the release for free circulation of products and equipment imported from any state not party to the Montreal Protocol.
Article 22, paragraph 3	The appropriate authority may, by regulations, amend Annex VII in order to take new technological developments into account.
Article 22, paragraph 4, second subparagraph	The appropriate authority must, by regulations, establish an Annex to the Regulations with a list of products and equipment for which the recovery of controlled substances or destruction of products and equipment without prior recovery of controlled substances is to be considered technically and economically feasible.
Article 22, paragraph 5, first subparagraph	The appropriate authority must take steps to promote the recovery, recycling, reclamation and destruction of controlled substances and must define minimum qualifications for the personnel involved.

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Article 22, paragraph 5, second subparagraph	The appropriate authority must evaluate the measures taken in accordance with paragraph 5 of Article 22 and may make regulations regarding minimum qualification requirements.
Article 23, paragraph 4, first subparagraph	The appropriate authority must define the minimum qualifications for the personnel carrying out the activities in paragraph 2 of Article 23. The appropriate authority may make regulations regarding the harmonisation of those minimum qualification requirements.
Article 23, paragraph 7	The appropriate authority may, by regulations, establish a list of technologies or practices to be used by undertakings to prevent or minimise any leakage and emissions of controlled substances.
Article 24, paragraph 2	The appropriate authority must, by regulations, if appropriate, include in Part A of Annex II substances that are included in Part B of that Annex and must, if appropriate, determine possible exemptions from paragraph 1 of Article 24.
Article 24, paragraph 3	The appropriate authority may, by regulations, if appropriate, include in Part B of Annex II substances that are not controlled substances but are found to have significant ozone-depleting potential.
Article 26, paragraph 1	The appropriate authority must report the information mentioned in paragraph 1 of Article 26 by 30 June 2022 and 30 June each year thereafter.
Article 26, paragraph 2	The appropriate authority must publish the report under paragraph 1 of Article 26 in any manner they consider appropriate.
Article 27, paragraph 10, first subparagraph	The appropriate authority may, by regulations, amend the reporting requirements laid down in paragraphs 1 to 7 of Article 27.

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