

SUMMARY OF PROPOSED COMMON FRAMEWORK FOR OZONE-DEPLETING SUBSTANCES (ODS) AND FLUORINATED GREENHOUSE GASES (F-GASES)

Background

The four UK administrations have agreed to work together to establish common approaches, known as Common Frameworks, in some policy areas which are currently governed by EU law that are within areas of competence of devolved administrations (DAs). These common frameworks are designed to manage divergence and are expected to play a significant role in shaping public policy making and intergovernmental relations across the UK for years to come.

ODS and F-gas policy is one of those areas.

The jointly developed ODS and F-gas Common Framework (“the Framework”) will set out the governance arrangements and basis for managing and maintaining standards and commonality in approach, as well as enabling the four administrations to discuss and manage any policy divergence.

Some of the arrangements described in the Framework will not apply to Northern Ireland (NI) in the same way as they do to Great Britain (GB). This is due to the separate legislation and systems under which NI and GB will operate, in accordance with the Protocol on Ireland / Northern Ireland. However, to facilitate information sharing and ongoing cooperation at a UK level, the Framework will be UK wide in its scope.

The Framework will respect the devolution settlements, as well as all established constitutional conventions and practices where relevant, to ensure that the decision-making powers of devolved Ministers are protected. The Framework also adheres to the common frameworks [principles](#) agreed at Joint Ministerial Committee (EU Negotiations) (JMC(EN)) on 16 October 2017.

This summary note does not cover operational processes due to be in place from 1 January 2021. For further information on this please see the Environment Agency website [here](#).

Proposed approach

The Framework will be implemented by a non-legislative arrangement in the form of a concordat.

The concordat will set out agreements including principles for working together, the decision-making fora, the decision-making and dispute resolution process, and the relevant international obligations.

GB ODS and F-gas legislation in the form of retained EU law will provide the legislative basis for regulating ODS and F-gas in Great Britain from 1 January 2021. This includes the principle ODS and F-gas Regulations (Regulation (EC) No 1005/2009 on substances that deplete the ozone layer (the ODS Regulation) and Regulation (EU) No 517/2014 on fluorinated greenhouse gases (the F-gas Regulation)) and related implementing legislation. Secondary legislation will correct the retained EU law and ensure its operability in Great Britain.

The retained and amended legislation, as set out above, enables the requirements of the principle ODS and F-gas Regulations and related implementing legislation to continue to apply in Great Britain from 1 January 2021.

Additional primary legislation is not required to implement the Framework.

In developing the Framework, the UK Government, Scottish Ministers and Welsh Ministers have agreed to establish and operate single GB-wide F-gas and ODS registration, quota, licensing and reporting systems, which will be administered by the Environment Agency from 1 January 2021. To practically administer the systems on a GB-wide basis, Scottish and Welsh Ministers may consent to certain functions being administered on their behalf by the Secretary of State and direct the Environment Agency to administer functions on behalf of the Scottish Environment Protection Agency (SEPA) and Natural Resources Wales (NRW).

Compliance with the other aspects of the retained EU law outside of the GB system, such as requirements for leak checking, record keeping and the use of certified personnel, will continue to be enforced by regulators in the respective administrations.

All areas of ODS and F-gas policy, including the GB-wide system administered by the Environment Agency and the wider aspects of the GB legislation (retained EU law) such as those outlined above, will be subject to the principles and governance arrangements set out in the Framework.

Governance arrangements and ways of working

Under the Framework a Working Group and Governance Group will be established.

The Working Group and Governance Group will be the fora through which the four governments collectively develop policy recommendations, exchange information and seek to resolve any potential difference of views.

The Working Group will be formed of policy representatives of the four governments and the Environment Agency. The Working Group will hold regular discussions on the policy covered by the Framework and put advice to their respective ministers with the rationale for the approach taken including why potential divergent policies may be preferable. The Working Group will convene to discuss policy issues as appropriate and to keep colleagues regularly informed of any ramifications that policy will have across administrations. If there are disagreements at Working Group level, such issues can be escalated to senior officials in line with the dispute avoidance and resolution mechanism.

The Governance Group will be formed of senior policy representatives of the four governments and a senior representative of the Environment Agency. The Governance Group will provide strategic direction on the policy area and take key decisions. The Governance Group will review any issues escalated to them by the Working Group as set out in the dispute avoidance and resolution mechanism.

Whilst they will be members of the Working Group and Governance Group, DAERA(NI) and the Environment Agency will have a different status in the decision-making and dispute resolution processes for matters relating to the GB systems or the provisions of the GB ODS and F-gas legislation.

The Working Group will ensure that stakeholders who have a key interest and role in delivering ODS and F-gas policy, are considered and consulted where appropriate, including

but not limited to environmental regulators, third sector organisations and relevant trades associations and businesses. Views and evidence gathered from such stakeholders by the Working Group will inform policy recommendations to the Governance Group and ultimately to Ministers.

All action available will be taken to avoid disagreement where possible. However, should it be needed, a dispute resolution process based on agreed principles such as, evidence-based decision making, transparency and timely resolution, will be included in the Framework. This process would only be used if resolution at policy official level has not been possible.

You can feedback any comments or queries relating to these arrangements to the F-gas and ODS Team at Defra (fgas@defra.gov.uk). Feedback may be shared with policy teams from the other three governments.