Ozone Protection and Synthetic 

No. 126, 1995

Compilation No. 9

Compilation date: 1 January 2018
Includes amendments up to: Act No. 67, 2017
Registered: 18 January 2018

Prepared by the Office of Parliamentary Counsel, Canberra
About this compilation

This compilation

This is a compilation of the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995* that shows the text of the law as amended and in force on 1 January 2018 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.
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An Act to impose levies on the import of HCFCs, methyl bromide, SGGs, ODS equipment and SGG equipment under licences granted under the Ozone Protection and Synthetic Greenhouse Gas Management Act 1989

1 Short title

This Act may be cited as the Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995.

2 Commencement

This Act commences on 1 January 1996.

2A Definition

In this Act:

*medical equipment* includes pharmaceutical equipment.

3 Interpretation

Expressions used in this Act have the same meanings as in the Ozone Protection and Synthetic Greenhouse Gas Management Act 1989.

3A Import levy—SGGs

(1) If:

(a) a controlled substances licence allows the licensee to import SGGs; and

(b) the licensee imports an SGG during a reporting period during which the licence is in force;

levy is imposed on the licensee in respect of that import.
Section 3A

(2) Subsection (1) does not apply to the import of an SGG in circumstances that are prescribed for the purposes of subsection 13(3) of the Ozone Protection and Synthetic Greenhouse Gas Management Act 1989.

(3) Subsection (1) does not apply to the import of an SGG that is to be used for a purpose prescribed by the regulations.

(4) Subsection (1) does not apply to the import of an SGG if:
   (a) the SGG is imported for the purpose of the destruction of the SGG; and
   (b) the conditions specified in the regulations are satisfied.

(5) Subsection (1) does not apply to the import of an SGG contained in ODS equipment or SGG equipment.

(6) For the purposes of this section, if a licence is in force for only part of a particular reporting period, that part is taken to be a reporting period.

(6A) Subsection (6B) applies for the purposes of:
   (a) this section and any other section of this or any other Act that relates to this section; and
   (b) any regulations made under this or any other Act that relate to this section.

(6B) The quantity of an SGG that is taken to be imported is the quantity actually imported reduced by the heel allowance percentage for the SGG.

(7) The amount of levy imposed by subsection (1) on a licensee in respect of the import of an SGG in a reporting period is the amount worked out using the following formula:

\[
\text{Number of tonnes of the SGG} \times \text{Prescribed rate}
\]

where:

**prescribed rate** means:

(a) $165; or
Section 3A

(b) if a lower amount is prescribed by the regulations—that lower amount.

(9) If:

(a) levy is imposed by subsection (1) on a licensee in respect of an import of an SGG; and

(b) the Minister is satisfied that the SGG:

(i) is to be used in medical equipment; or

(ii) is to be used in the manufacture of medical equipment; or

(iii) is to be used in equipment prescribed for the purposes of paragraph 8D(1)(c) of the Ozone Protection and Synthetic Greenhouse Gas Management Act 1989; or

(iv) is to be used in the manufacture of equipment specified in an instrument in force under paragraph 8D(1)(d) of that Act; or

(v) is to be used for a purpose prescribed by the regulations;

the Minister may, by written notice given to the licensee, determine that the licensee is exempt from the levy.

(11) In making a determination under subsection (9), the Minister must have regard to such matters as are specified in the regulations.

(12) The Minister must not make a recommendation to the Governor-General about regulations to be made for the purposes of subsection (3) unless the Minister is satisfied that:

(a) it would be impracticable to impose levy on the import of an SGG that is to be used for a purpose to be prescribed by those regulations; or

(b) a purpose to be prescribed by those regulations is a medical, veterinary, health or safety purpose.

(13) The Minister must not make a recommendation to the Governor-General about regulations to be made for the purposes of subparagraph (9)(b)(v) unless the Minister is satisfied that:

(a) it would be impracticable to require payment of levy imposed on the import of an SGG that is to be used for a purpose to be
prescribed by those regulations; or
(b) a purpose to be prescribed by those regulations is a medical, veterinary, health or safety purpose.

4 Import levy—substances other than SGGs

(1) If:
   (a) a controlled substances licence allows the licensee to import a substance or substances (other than an SGG); and
   (b) the licensee imports any such substance during a reporting period during which the licence is in force;
then levy is imposed on the licensee in respect of that import at the rate prescribed by the regulations.

(2) Subsection (1) does not apply to the import of a substance contained in ODS equipment or SGG equipment.

(4) For the purposes of this section, if a licence is in force for only part of a particular reporting period, that part is taken to be a reporting period.

(4A) For the purposes of this section, the quantity of a substance that is taken to be imported is the quantity of the substance that is actually imported reduced by the heel allowance percentage for the substance.

(5) The rate of levy prescribed by the regulations cannot exceed:
   (a) for HCFCs—$3,000 per ODP tonne; and
   (c) for methyl bromide—$135 per tonne.

Note: For the purposes of paragraph (a), the method of calculating ODP tonnes is set out in section 10 of the Ozone Protection and Synthetic Greenhouse Gas Management Act 1989.

4A Import levy—SGG equipment

(1) If:
   (a) an equipment licence allows the licensee to import SGG equipment; and
Section 4A

(b) the licensee imports SGG equipment during a reporting period during which the licence is in force; levy is imposed on the licensee in respect of that import.

(2) Subsection (1) does not apply to the import of:
   (a) SGG equipment prescribed by the regulations; or
   (b) SGG equipment specified in a legislative instrument made by the Minister.

(3) Subsection (1) does not apply to the import of SGG equipment if the import is covered by subsection 13(5) or (6) of the Ozone Protection and Synthetic Greenhouse Gas Management Act 1989.

(4) For the purposes of this section, if a licence is in force for only part of a particular reporting period, that part is taken to be a reporting period.

(5) The amount of levy imposed by subsection (1) on a licensee in respect of the import of SGG equipment during a reporting period is the amount worked out using the following formula:

\[
\text{Number of tonnes of the SGG contained in the equipment} \times \text{Prescribed rate}
\]

where:

**prescribed rate** means:

(a) $165; or

(b) if a lower amount is prescribed by the regulations—that lower amount.

(7) For the purposes of subsection (5), disregard an SGG that is used, or for use, for a purpose prescribed by the regulations.

(8) Unless sooner revoked, a legislative instrument made under paragraph (2)(b) ceases to be in force 12 months after it is registered under the Legislation Act 2003.

(9) The Minister must not make a recommendation to the
Section 4B

Governor-General about regulations to be made for the purposes of subsection (7) unless the Minister is satisfied that:

(a) it would be impracticable to work out an amount of levy by reference to an SGG that is used, or for use, for a purpose to be prescribed by the regulations; or

(b) a purpose to be prescribed by those regulations is a medical, veterinary, health or safety purpose.

4B Import levy—ODS equipment

(1) If:

(a) an equipment licence allows the licensee to import ODS equipment; and

(b) the licensee imports ODS equipment during a reporting period during which the licence is in force;

levy is imposed on the licensee in respect of that import at the rate prescribed by the regulations.

(2) Subsection (1) does not apply to the import of ODS equipment if the import is covered by subsection 13(5) or (6) of the Ozone Protection and Synthetic Greenhouse Gas Management Act 1989.

(3) For the purposes of this section, if a licence is in force for only part of a particular reporting period, that part is taken to be a reporting period.

(4) The rate of levy prescribed by the regulations must not exceed $3,000 per ODP tonne.

Note: For the purposes of subsection (4), the method of calculating ODP tonnes is set out in section 10 of the Ozone Protection and Synthetic Greenhouse Gas Management Act 1989.

5 Regulations

The Governor-General may make regulations for the purposes of section 3A, 4, 4A or 4B.
Endnotes

Endnote 1—About the endnotes
The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:
Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Abbreviation key—Endnote 2
The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes
The Legislation Act 2003 authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can
Endnote 1—About the endnotes

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.
Endnote 2—Abbreviation key

ad = added or inserted
am = amended
amdt = amendment
c = clause(s)
C[x] = Compilation No. x
Ch = Chapter(s)
def = definition(s)
Dict = Dictionary
disallowed = disallowed by Parliament
Div = Division(s)
ed = editorial change
exp = expires/expired or ceases/ceased to have effect
F = Federal Register of Legislation
gaz = gazette
LA = Legislation Act 2003
LIA = Legislative Instruments Act 2003
(md) = misdescribed amendment can be given effect
(md not incorp) = misdescribed amendment cannot be given effect
mod = modified/modification
No. = Number(s)
o = order(s)
Ord = Ordinance
orig = original
par = paragraph(s)/subparagraph(s)/sub-subparagraph(s)
pres = present
prev = previous
(prev…) = previously
Pt = Part(s)
r = regulation(s)/rule(s)
reloc = relocated
renum = renumbered
rep = repealed
rs = repealed and substituted
s = section(s)/subsection(s)
Sch = Schedule(s)
Sdiv = Subdivision(s)
SLI = Select Legislative Instrument
SR = Statutory Rules
Sub-Ch = Sub-Chapter(s)
SubPt = Subpart(s)
underlining = whole or part not commenced or to be commenced


Compilation No. 9
Compilation date: 1/1/18
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### Endnote 3—Legislation history

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<thead>
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<th>Act</th>
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<th>Assent</th>
<th>Commencement</th>
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<td>Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment Act 2011</td>
<td>164, 2011</td>
<td>4 Dec 2011</td>
<td>Sch 1: 1 July 2012 (s 2(1) item 2)</td>
<td>Sch 1 (item 10)</td>
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<td>Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment (Carbon Tax Repeal) Act 2014</td>
<td>88, 2014</td>
<td>17 July 2014</td>
<td>Sch 1: 1 July 2014 (s 2(1) item 2)</td>
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<td>Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015</td>
<td>126, 2015</td>
<td>10 Sept 2015</td>
<td>Sch 1 (item 463): 5 Mar 2016 (s 2(1) item 2)</td>
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<td>23 June 2017</td>
<td>Sch 1 (items 1, 2, 58–61): 1 Aug 2017 (s 2(1) item 2) Sch 2 (items 14, 15, 51–58, 75, 76): 1 Jan 2018 (s 2(1) item 3) Sch 3 (items 3, 19): 1 Jan 2020 (s 2(1) item 4)</td>
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### Endnote 4—Amendment history

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