

1992

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY**

OZONE PROTECTION REGULATIONS

EXPLANATORY MEMORANDUM

**Circulated by Authority of the Minister for the Environment,
Land and Planning**

Bill Wood MLA

OZONE PROTECTION REGULATIONS

These regulations are made under section 48 of the *Ozone Protection Act 1991* ('the Act').

The Act provides for measures to protect atmospheric ozone through controls on ozone depleting substances. The ozone depleting substances that the Act deals with are chlorofluorocarbons (CFC's) and halons. In particular, the Act provides for a licensing system for certain applications of ozone depleting substances and section 5 of the Act prohibits the discharge of an ozone depleting substance into the atmosphere. Section 12 of the Act provides that the regulations may exempt a person from compliance with any of the provisions of the Act and specify the circumstances in which the exemption applies.

These regulations exempt certain persons from compliance with the prohibition against discharge of an ozone depleting substance. These exemptions allow for the continued use of ozone depleting substances in certain applications in accordance with recommendations of the Australian and New Zealand Environment and Conservation Council's Strategy for Ozone Protection.

The regulations also provide an exemption from the licensing requirements of the Act for the period up to, and including, 31 August 1992. This exemption only applies to persons who are, in the ordinary course of business, engaged in the activities for which they would require a licence under the Act. This exemption is to allow those persons time to make applications for, and receive, licences.

In addition to exempting certain persons from compliance with certain provisions of the Act, the regulations specify particulars to be included on licences, requirements in relation to labelling of ozone depleting substances and articles that contain ozone depleting substances, requirements in relation to maintenance of records by licensees and requirements in relation to containers that are used for the reclamation of ozone depleting substances.

Details of the regulations are included in the Attachment.

ATTACHMENT

OZONE PROTECTION REGULATIONS

Regulations 1, and 2 are formal regulations dealing with citation and interpretation of the regulations.

Regulation 3 lists the circumstances in which a person will be exempt from compliance with section 5 of the Act. Section 5 of the Act provides that it is an offence to discharge an ozone depleting substance into the atmosphere.

Subregulation 3(1) exempts a person who discharges an ozone depleting substance to control a fire from compliance with section 5 of the Act. This exemption applies to the discharge of halon (an ozone depleting substance) from both portable fire extinguishers (commonly referred to as BCF extinguishers) and fixed flooding fire fighting systems in certain circumstances. **Paragraph 3(1)(a)** provides that a person who discharges an ozone depleting substance from a fire fighting system that was installed and operable or, in the case of a portable fire extinguisher, acquired and charged with the ozone depleting substance before the commencement of these regulations will be exempt provided that the discharge was to control a fire. If a person discharges a fixed flooding fire fighting system that was installed, or a portable fire extinguisher that was acquired or charged, after the commencement of these regulations then the additional criteria listed in **paragraph 3(1)(b)** of the regulations will have to be met in order for the exemption to apply. This subregulation effectively limits the installation of new fire fighting systems and the recharging of portable fire extinguishers that use ozone depleting substances to essential situations.

Subregulation 3(2) exempts persons who discharge an ozone depleting substance in certain circumstances other than during fire fighting from compliance with section 5 of the Act.

The exemption related to the discharge of aerosol products that contain ozone depleting substances is tied to aerosol products that are exempt under the *Ozone Protection Act 1989* of the Commonwealth. It is an offence under the Commonwealth Act to manufacture or import an aerosol product that contains an ozone depleting substance unless the Minister has granted an exemption in respect of that product. The exemption for the discharge of aerosol products under the Territory legislation is tied to this exemption from the Commonwealth Minister. There is a specific provision for aerosol products that contain methyl chloroform which will allow existing stocks only (as at the time of commencement of the *Ozone Protection Amendment Act 1992* of the Commonwealth) to be discharged.

The exemptions for discharge of ozone depleting substances during a sterilising process (**paragraph 3(2)(c)**) and in the course of cleaning or degreasing (**paragraph 3(2)(e)**) are only applicable where there is no acceptable

alternative to the use of the ozone depleting substance in those processes and where all reasonable steps are taken to keep the discharge to a minimum. The exemption for persons who discharge an ozone depleting substance that is being used as a solvent for cleaning or degreasing only applies if the person is able to demonstrate that the use of the ozone depleting substance is necessary for the continued operation of the person's business. Subparagraph 3(2)(c)(i) provides that the exemption for discharge of an ozone depleting substance in a sterilisation process only applies if the equipment was installed and in operation before 1 January 1993. This proviso effectively prohibits the installation of new sterilisers which use ozone depleting substances from that date.

The exemption for discharge of an ozone depleting substance in the operation of dry cleaning equipment is only subject to a requirement that all reasonable steps are taken to keep discharge to a minimum. This would mean, for example, that the operator of the equipment must observe proper drying times before the equipment is opened to remove garments and that the equipment is kept in good repair to prevent leakages.

Regulation 4 provides for a temporary exemption from sections 6, 7 and 8 of the Act for a person who was, before the commencement of the Act, engaged in an activity for which he or she is now required to be licensed. Sections 6, 7 and 8 of the Act are the offence provisions relating to manufacturing, dealing with or using an ozone depleting substance, or servicing an article containing an ozone depleting substance, without an appropriate licence. Under the Act "deal" means to sell, supply, transport or store and "use" means to dispose of, recycle or re-process an ozone depleting substance. The exemption in regulation 5 is to allow time for potential licensees to make applications to the Pollution Control Authority under the Act.

Regulation 5 lists the particulars that are to be included on a licence.

Regulation 6 prescribes labelling requirements for the purposes of the Act. The requirement to affix labels is contained in section 10 of the Act. This requirement is designed to ensure the purchasers of these products are aware that they contain ozone depleting substances and, particularly in relation to items such as refrigerators, are aware that they may only be serviced by an appropriately licensed person.

Regulation 7 lists the record keeping requirements for licensees. These records are necessary to track the movement of ozone depleting substances that are in the Territory and the amount of those substances that are being reclaimed for re-processing and recycling.

Regulation 8 prescribes certain requirements for containers used for the purposes of reclamation of ozone depleting substances. These requirements are designed to ensure that containers are suitable for reclamation and that different ozone depleting substances are not inadvertently mixed.