
THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

OZONE PROTECTION (AMENDMENT) BILL 1995

EXPLANATORY MEMORANDUM

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Gary Humphries MLA
Minister for the Environment,
Land and Planning

Ozone Protection (Amendment) Bill 1995

Outline

This is an amending Bill. It amends the Ozone Protection Act 1991, referred to in the amending Bill as the Principal Act. The Commonwealth is responsible for the regulation of manufacture, import and export of ozone depleting substances (ODS) and through the Ozone Protection Act 1989 (Commonwealth) puts specific controls on the manufacture, import, export, distribution and use of manufactured goods that contain ODS or use ODS in their operation. The ACT regulates activities that present a significant risk of emission of ODS through a licensing system. This controls the manufacture, dealing with and use of ODS and the service of an appliance containing ODS.

Australia has an international obligation under the Montreal Protocol on *Substances that Deplete the Ozone Layer* to control and eventually phase out the use of ODS. The Montreal Protocol has been amended to incorporate accelerated phase-out of chlorofluorocarbons (CFCs) and halons. The Commonwealth legislation has been amended to reflect this accelerated timetable for phase-out, and to introduce controls over the manufacture, import and export of partially halogenated hydrocarbons (HCFCs) which would be used as an interim replacement for CFCs and, at present, are due to be phased out by 2030.

This amending Bill introduces provisions for the total phase-out of halons by 31 December 1995, except in applications granted essential use status, and that of CFCs by 31 December 1996.

Revenue/Cost Implications

At present, it is a condition of licences issued under the Act to wholesalers of ODS, that a fee of 18 cents is applied to each kilogram of CFC substance sold. The revenue raised through this fee was \$5,000 in 1992/93 and \$4,500 in 1993/94. With the introduction of CFC alternatives this revenue was reducing at an accelerated rate in 1994/95 and is expected to fall to zero during 1995/96. It is proposed to introduce an annual wholesale licence fee for HCFCs at a similar rate to other jurisdictions instead of a fee per kilogram, with a

requirement to report on the quantities of HCFCs sold. This would simplify the administration of wholesale licensing for HCFCs. Revenue per annum from this fee is expected to be \$600 (four wholesalers in the ACT at a fee of \$150 per wholesale licence). Section 47 of the Act provides for power for the Minister to determine fees.

Formal Clauses

Clauses 1, 2 and 3 are formal requirements. They refer to the short title of the Bill, commencement and definition of the Principal Act.

Clause 4 amends Section 3 of the Principal Act by inserting two definitions. The first amendment specifies that the term '*equipment*' includes a hand held extinguisher. The aim of the second amendment is to update the definition of *ozone depleting substance* by including a definition of halon so that all substances which have this classification in the Commonwealth Act are covered.

Prohibition on servicing of article containing ozone depleting substance

Clause 5 amends Section 7 of the Principal Act by inserting a new subsection. An amended Section 7 will prohibit a person from servicing an installation that utilises chlorofluorocarbons and, subject to the prohibition in respect of chlorofluorocarbons, will require a person servicing an article containing an ozone depleting substance to do so in accordance with a licence.

The aim of this amendment is to gradually phase-out use of CFCs.

Insertion

Clause 6 amends the Principal Act by inserting new Sections 9A and 9B.

Prohibition on operation of equipment etc. utilising halons

The new Section 9A prohibits operation of installations or equipment that utilises halons. The aim of this amendment is to provide for the phase-out by a prescribed date of the operation of all installations or equipment that utilise halon, except where:

- an exemption has been issued to allow operation of an installation or equipment for a limited period of time after the prescribed date, where circumstances prescribed by the Minister exist;

or

- essential use classification has been granted to allow operation of an installation or equipment to continue after the prescribed date, such as in certain hospital systems and for military purposes.

Disposal of Halons

The new Section 9B specifies a mandatory requirement to deposit halon extracted from an installation at the place specified by the Pollution Control Authority (PCA). The aim of this amendment is to ensure that all halon from decommissioned systems is deposited with the National Halon Bank which would enable supply to essential use installations and environmentally safe destruction of the surplus stock. The place at which halons are to be deposited is specified by the PCA by instrument that is published in the Gazette and in a daily newspaper (published and circulated in the Territory).

Exemptions

Clause 7 amends Section 12 of the Principal Act by specifying new sections added under clause 6 to which exemptions may apply under regulations.

Control of Halons

Clause 8 amends the Principal Act by inserting Division 3. Division 3 consists of Sections 23A to 23H (inclusive) that specify a set of procedures and criteria related to the grant and revocation of an exemption or essential use classification, including conditions imposed on a grant, by the Pollution Control Authority. Criteria for granting an exemption or essential use classification would be declared by the Minister in an instrument. Such an instrument would be a disallowable instrument for the purposes of Section 10 of the *Subordinate Laws Act 1989*.

The aim of this amendment is to provide administrative procedures for application for and granting of exemption or essential use classification, and for revocation or variation of essential use classification.

Review of Decisions

Clause 9 amends Section 42 of the Principal Act by including new sections inserted under clause 8 in a list of decisions by the Pollution Control Authority which may be subject to review by the Administrative Appeals Tribunal.

Consequential amendment

Clause 10 will make a consequential amendment to Section 43 to recognise a notice made by the Pollution Control Authority pursuant to new Subsection 23F (5).

Repeal

Clause 11 repeals Section 44 of the Principal Act. Section 44 dealt with penalties applicable to corporations.

Further amendments

Clause 12 provides for the amendment of sections specified in a schedule. The amendments convert penalties into penalty units.