



Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995

Act No. 126 of 1995 as amended

This compilation was prepared on 1 July 2012
taking into account amendments up to Act No. 164 of 2011

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

Prepared by the Office of Legislative Drafting and Publishing,
Attorney-General's Department, Canberra

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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 [see Note 1]

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 Definitions

In this Act:

benchmark average auction charge has the same meaning as in the *Clean Energy Act 2011*.

carbon unit has the same meaning as in the *Clean Energy Act 2011*.

fixed charge year has the same meaning as in the *Clean Energy Act 2011*.

flexible charge year has the same meaning as in the *Clean Energy Act 2011*.

issue, in relation to a carbon unit, has the same meaning as in the *Clean Energy Act 2011*.

medical equipment includes a pharmaceutical product.

vintage year has the same meaning as in the *Clean Energy Act 2011*.

2B Carbon dioxide equivalence of an amount of an SGG

- (1) For the purposes of this Act, the carbon dioxide equivalence of an amount of an SGG that is a greenhouse gas is the amount of the SGG multiplied by a value specified in the regulations in relation to that kind of SGG.
- (2) For the purposes of this Act, the carbon dioxide equivalence of an amount of an SGG that is not a greenhouse gas is zero.
- (3) For the purposes of this section, *greenhouse gas* has the same meaning as in the *National Greenhouse and Energy Reporting Act 2007*.

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 quarter 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 an SGG in circumstances that are prescribed for the purposes of paragraph 13(1A)(b) 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 quarter, that part is taken to be a quarter.
- (7) The amount of levy imposed by subsection (1) on a licensee in respect of the import of an SGG in a quarter is the amount worked out using the following formula:

$$\left(\begin{array}{c} \text{Number of tonnes} \\ \text{of the carbon} \\ \text{dioxide equivalence} \\ \text{of the SGG} \end{array} \times \begin{array}{c} \text{Applicable} \\ \text{charge} \end{array} \right) + \left(\begin{array}{c} \text{Number of} \\ \text{tonnes} \\ \text{of the SGG} \end{array} \times \begin{array}{c} \text{Prescribed} \\ \text{rate} \end{array} \right)$$

where:

applicable charge means:

- (a) if the quarter is in a fixed charge year—the per unit charge applicable under subsection 100(1) of the *Clean Energy Act 2011* for the issue of a carbon unit with a vintage year of that fixed charge year; or
- (b) if the quarter is in a flexible charge year—the benchmark average auction charge for the previous financial year.

prescribed rate means the rate prescribed by the regulations.

- (8) The prescribed rate must not exceed \$165 per tonne.
- (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 a product, or 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 a product, or 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 carbon charge component of the amount of the levy.

- (10) For the purposes of subsection (9), the **carbon charge component** of the amount of the levy is so much of that amount as is equal to the amount worked out using the following formula:

$$\begin{array}{l} \text{Number of tonnes} \\ \text{of the carbon} \\ \text{dioxide equivalence} \\ \text{of the SGG} \end{array} \times \begin{array}{l} \text{Applicable} \\ \text{charge} \end{array}$$

where:

applicable charge means the charge that is the applicable charge for the purposes of the application of subsection (7) to 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 the carbon charge component of the amount 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 quarter 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 quarter, that part is taken to be a quarter.
- (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 ODS/SGG equipment licence allows the licensee to import SGG equipment; and
 - (b) the licensee imports SGG equipment during a quarter 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 paragraph 13(6A)(b) 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 quarter, that part is taken to be a quarter.
- (5) The amount of levy imposed by subsection (1) on a licensee in respect of the import of SGG equipment during a quarter is the amount worked out using the following formula:

$$\left(\begin{array}{l} \text{Number of tonnes} \\ \text{of the carbon} \\ \text{dioxide equivalence} \\ \text{of the SGG} \\ \text{contained in the} \\ \text{equipment} \end{array} \times \text{Applicable} \right. \\ \left. \text{charge} \right) + \left(\begin{array}{l} \text{Number of} \\ \text{tonnes} \\ \text{of the SGG} \\ \text{contained in the} \\ \text{equipment} \end{array} \times \text{Prescribed} \right. \\ \left. \text{rate} \right)$$

where:

applicable charge means:

- (a) if the quarter is in a fixed charge year—the per unit charge applicable under subsection 100(1) of the *Clean Energy Act 2011* for the issue of a carbon unit with a vintage year of that fixed charge year; or
- (b) if the quarter is in a flexible charge year—the benchmark average auction charge for the previous financial year.

prescribed rate means the rate prescribed by the regulations.

- (6) The prescribed rate must not exceed \$165 per tonne.
- (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 *Legislative Instruments Act 2003*.
- (9) The Minister must not make a recommendation to the 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 ODS/SGG equipment licence allows the licensee to import ODS equipment; and
 - (b) the licensee imports ODS equipment during a quarter 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 paragraph 13(6A)(b) 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 quarter, that part is taken to be a quarter.
- (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) Section 9 of the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* does not apply for the purposes of this section.

5 Regulations

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

Table of Acts

Notes to the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995*

Note 1

The *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995* as shown in this compilation comprises Act No. 126, 1995 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions see Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Ozone Protection (Licence Fees—Imports) Act 1995</i>	126, 1995	2 Nov 1995	1 Jan 1996	—
<i>Ozone Protection (Licence Fees—Imports) Amendment Act 2003</i>	124, 2003	5 Dec 2003	5 Dec 2003	—
<i>Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment Act 2011</i>	164, 2011	4 Dec 2011	Schedule 1: 1 July 2012 Remainder: Royal Assent	Sch. 1 (item 10)

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Title	rs. No. 124, 2003 am. No. 164, 2011
S. 1.....	am. No. 124, 2003
S. 2A	ad. No. 164, 2011
S. 2B	ad. No. 164, 2011
S. 3.....	am. No. 124, 2003
S. 3A	ad. No. 164, 2011
Heading to s. 4	rs. No. 164, 2011
S. 4.....	rs. No. 124, 2003 am. No. 164, 2011
S. 4A	ad. No. 164, 2011
S. 4B	ad. No. 164, 2011
S. 5.....	am. No. 124, 2003; No. 164, 2011

Table A

Table A

Application, saving or transitional provisions

Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment Act 2011 (No. 164, 2011)

Schedule 1

10 Application of amendments

- (1) Section 3A of the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995* as amended by this Act applies in relation to the import of an SGG during:
 - (a) the quarter beginning on 1 July 2012; or
 - (b) a later quarter.
- (2) The amendments of section 4 of the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995* made by this Act apply in relation to the import of a substance during:
 - (a) the quarter beginning on 1 July 2012; or
 - (b) a later quarter.
- (3) Section 4A of the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995* as amended by this Act applies in relation to the import of SGG equipment during:
 - (a) the quarter beginning on 1 July 2012; or
 - (b) a later quarter.
- (4) Section 4B of the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995* as amended by this Act applies in relation to the import of ODS equipment during:
 - (a) the quarter beginning on 1 July 2012; or
 - (b) a later quarter.