



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

No. 126, 1995

Compilation No. 11

Compilation date:	13 June 2023
Includes amendments up to:	Act No. 93, 2022
Registered:	27 June 2023

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 13 June 2023 (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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

1	Short title.....	1
2	Commencement.....	1
2A	Definitions.....	1
3	Interpretation.....	1
3A	Import levy—SGGs.....	2
4	Import levy—substances other than SGGs.....	5
4A	Import levy—SGG equipment.....	6
5	Regulations.....	7

Endnotes	8
Endnote 1—About the endnotes	8
Endnote 2—Abbreviation key	10
Endnote 3—Legislation history	11
Endnote 4—Amendment history	13

An Act to impose levies on the import of HCFCs, methyl bromide, SGGs 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 Definitions

In this Act:

amount includes a nil amount.

Management Act means the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.

Manufacture Levy Act means the *Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995*.

medical equipment includes pharmaceutical equipment.

3 Interpretation

- (1) An expression used in this Act has the same meaning in this Act as it has in the Management Act.
- (2) Without limiting subsection (1), section 9 (references to scheduled substances and equipment) of the Management Act applies in relation to this Act in the same way as that section applies in relation to the Management Act.

Section 3A

- (3) In determining for the purposes of this Act whether a licence allows the licensee to carry out an activity, disregard any suspension of the licence.

Note: For the effect of a licence suspension, see subsection 19D(4) of the Management Act.

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.

Note: This subsection applies only in relation to the import of SGGs that are bulk scheduled substances (see subsection 3(2) of this Act and subsection 9(1) of the Management Act). For SGG equipment imported under an equipment licence, see section 4A of this Act.

- (2) Subsection (1) does not apply to the import of an SGG in circumstances, or for a purpose, prescribed for the purposes of subsection 13AA(2) of the Management Act.
- (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.
- (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 the amount prescribed by the regulations for the purposes of this definition.

- (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 of a kind prescribed for the purposes of paragraph 13(4)(a) or (6)(a) of the Management 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 may, by writing, delegate the Minister's power under subsection (9) to:
- (a) the Secretary; or

Section 3A

- (b) an SES employee or acting SES employee in the Department;
or
- (c) an APS employee who holds, or is acting in, an Executive Level 2, or equivalent, position in the Department.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (13) In exercising a delegated power, the delegate must comply with any written directions of the Minister.
- (14) Before the Governor-General makes regulations for the purposes of a provision mentioned in column 1 of an item in the following table, the Minister must be satisfied of the matter, or one or more of the matters, mentioned in column 2 of that item.

Matters the Minister must be satisfied of before regulations are made		
Item	Column 1 Provision	Column 2 Matters
1	subsection (3)	(a) that 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) that a purpose to be prescribed by those regulations is a medical, veterinary, health or safety purpose
2	the definition of <i>prescribed rate</i> in subsection (7)	that the effect of this Act and the Manufacture Levy Act will be to recover no more than the Commonwealth's likely costs of the kind mentioned in paragraph 65D(a), (b), (c) or (ca) of the Management Act, being costs that are unlikely to be offset by fees charged under the Management Act or regulations made under it
3	subparagraph (9)(b)(v)	(a) that 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) that a purpose to be prescribed by those

Matters the Minister must be satisfied of before regulations are made

	Column 1	Column 2
Item	Provision	Matters
		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.

Note: This subsection applies only in relation to the import of scheduled substances (other than SGGs) that are bulk scheduled substances (see subsection 3(2) of this Act and subsection 9(1) of the Management Act).

- (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 amount of levy imposed by subsection (1) on a licensee in respect of the import of a substance other than an SGG in a reporting period is the amount prescribed, or worked out in accordance with a method prescribed, by the regulations for the purposes of this subsection.
- (6) Before the Governor-General makes regulations for the purposes of subsection (5), the Minister must be satisfied that the effect of this Act and the Manufacture Levy Act will be to recover no more than

Section 4A

the Commonwealth's likely costs of the kind mentioned in paragraph 65D(a), (b), (c) or (ca) of the Management Act.

- (7) For the purposes of subsection (6), disregard any costs that are likely to be offset by fees charged under the Management Act or regulations made under it.

4A Import levy—SGG equipment

- (1) If:
- (a) an equipment licence allows the licensee to import SGG equipment; and
 - (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 SGG equipment prescribed by the regulations.
- (3) Subsection (1) does not apply to the import of SGG equipment if:
- (a) the equipment contains an SGG and the import is covered by the low volume imports exemption under subsection 13AA(4) of the Management Act; or
 - (b) the import is covered by any of subsections 13AA(6) to (9) of that Act (which provide exceptions in certain circumstances from the prohibitions in that Act that apply to importing 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.
- (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:

$$\begin{array}{l} \text{Number of tonnes} \\ \text{of the SGG} \\ \text{contained in} \\ \text{the equipment} \end{array} \times \text{Prescribed rate}$$

where:

prescribed rate means the amount prescribed by the regulations for the purposes of this definition.

- (7) For the purposes of subsection (5), disregard an SGG that is used, or for use, for a purpose prescribed by the regulations.
- (8) Before the Governor-General makes regulations for the purposes of a provision mentioned in column 1 of an item in the following table, the Minister must be satisfied of the matter, or one or more of the matters, mentioned in column 2 of that item:

Matters the Minister must be satisfied of before regulations are made

Item	Column 1 Provision	Column 2 Matters
1	definition of <i>prescribed rate</i> in subsection (5)	that the effect of this Act and the Manufacture Levy Act will be to recover no more than the Commonwealth's likely costs of the kind mentioned in paragraph 65D(a), (b), (c) or (ca) of the Management Act, being costs that are unlikely to be offset by fees charged under the Management Act or regulations made under it
2	subsection (7)	(a) that 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 those regulations; or (b) that a purpose to be prescribed by those regulations is a medical, veterinary, health or safety purpose

5 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed by the regulations; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Endnotes

Endnote 1—About the endnotes

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 how an amendment is to be made. If, despite the misdescription, the amendment

Endnote 1—About the endnotes

can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

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

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Ozone Protection (Licence Fees—Imports) Act 1995	126, 1995	2 Nov 1995	1 Jan 1996 (s 2)	
Ozone Protection (Licence Fees—Imports) Amendment Act 2003	124, 2003	5 Dec 2003	5 Dec 2003 (s 2)	—
Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment Act 2011	164, 2011	4 Dec 2011	Sch 1: 1 July 2012 (s 2(1) item 2)	Sch 1 (item 10)
Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment (Per-tonne Carbon Price Equivalent) Act 2012	202, 2012	12 Dec 2012	Sch 1: 14 Dec 2012 (s 2(1) item 2)	—
Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment (Carbon Tax Repeal) Act 2014	88, 2014	17 July 2014	Sch 1: 1 July 2014 (s 2(1) item 2)	Sch 1 (item 14)
Omnibus Repeal Day (Autumn 2014) Act 2014	109, 2014	16 Oct 2014	Sch 5 (items 60, 61, 66–68): 17 Oct 2014 (s 2(1) item 2)	Sch 5 (item 66)
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 463): 5 Mar 2016 (s 2(1) item 2)	—

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

11

Compilation No. 11

Compilation date: 13/06/2023

Registered: 27/06/2023

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Ozone Protection and Synthetic Greenhouse Gas Management Legislation Amendment Act 2017	67, 2017	23 June 2017	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)	Sch 2 (items 75, 76) and Sch 3 (item 19)
Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment Act 2022	93, 2022	13 Dec 2022	Sch 1: 13 June 2023 (s 2(1) item 2)	Sch 1 (item 20)

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Title	rs No 124, 2003 am No 164, 2011; No 93, 2022
s 1	am No 124, 2003
s 2A.....	ad No 164, 2011 am No 202, 2012; No 88, 2014; No 67, 2017; No 93, 2022
s 2B.....	ad No 164, 2011 rep No 88, 2014
s 3	am No 124, 2003 rs No 93, 2022
s 3A.....	ad No 164, 2011 am No 202, 2012; No 88, 2014; No 109, 2014; No 67, 2017; No 93, 2022
s 4	rs No 124, 2003 am No 164, 2011; No 109, 2014; No 67, 2017; No 93, 2022
s 4A.....	ad No 164, 2011 am No 202, 2012; No 88, 2014; No 109, 2014; No 126, 2015; No 67, 2017; No 93, 2022
s 4B.....	ad No 164, 2011 am No 109, 2014; No 67, 2017 (amdt never applied (Sch 3 item 3)) rep No 93, 2022
s 5	am No 124, 2003; No 164, 2011 rs No 93, 2022