

Ozone Protection (HCFC, HBFC and Methyl Bromide) Regulations (Repeal) 1995 No. 392

EXPLANATORY STATEMENT

STATUTORY RULES 1995 No. 392

ISSUED BY AUTHORITY OF THE MINISTER FOR THE ENVIRONMENT, SPORT AND TERRITORIES

Ozone Protection Act 1989

Ozone Protection (HCFC, HBFC and Methyl Bromide) Regulations (Repeal)

Outline

Section 70 of the *Ozone Protection Act 1989* provides that the Governor-General may make regulations for the purposes of the Act.

The *Ozone Protection Amendment Act 1995* has recently amended the *Ozone Protection Act* in line with 1992 amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer. The amendments include the following measures.

- Introduction of controls on hydrochlorofluorocarbons (HCFCs) and on methyl bromide by way of a licensing system. The import, export and manufacture of these substances will require a controlled substances licence.
- Banning of the import, export and manufacture of chlorofluorocarbons (CFCs), halons, carbon tetrachloride and methyl chloroform from 1 January 1996, other than in the limited circumstances allowed under the Montreal Protocol. Essential uses licences and used substances licences will cover these circumstances.
- Considerable legislative consolidation and administrative improvements.

The Commonwealth's ozone protection legislation includes three Acts: the *Ozone Protection Act 1989*, the *Ozone Protection (Licence Fees - Imports) Act 1995* and the *Ozone Protection (Licence Fees - Manufacture) Act 1995*. The two latter Acts have replaced the *Ozone Protection (Licence Fees - Imports) Act 1989* and the *Ozone Protection (Licence Fees - Manufacture) Act 1989*. Details of the regulations made under the new Licence Fees Acts are dealt with in separate explanatory statements.

Previously, the following regulations existed under the *Ozone Protection Act 1989*:

- Ozone Protection Regulations 1989 No. 70 (and subsequent amending regulations).
- Ozone Protection (Product Control) Regulations 1990 No. 283 (and subsequent amending regulations).
- Ozone Protection (HCFC, HBFC and Methyl Bromide) Regulations 1993 No. 359 (and subsequent amending regulations).

Ozone Protection Regulations 1995

As noted above, under the amended *Ozone Protection Act 1989*, various types of licences are required for the import, export and manufacture of ozone depleting substances. The proposed Ozone Protection Regulations will allow for the implementation of this licensing system, in particular by: setting the level of the fee payable prior to the grant of a licence; allowing for a waiver of that fee in specified circumstances; detailing the record-keeping requirements to which

the licences are subject; and providing the format of the form for exemption applications under section 40 of the Act.

Details of the Ozone Protection Regulations are as follows:

Regulation 1 Provides that the Regulations may be cited as the "Ozone Protection Regulation".

Regulation 2 Provides that in the Regulations, "Act" means the Ozone Protection Act 1989.

Regulation 3(1) Sets the fees which must be paid prior to the grant of a licence under paragraph 16(2)(a) of the Act. The fees are set at \$10,000 for controlled substances licences and used substances licences and at \$2,000 for essential uses licences.

Regulation 3(2) Provides that the Minister may waive the fee for grant of a controlled substances licence or a used substances licence where the licence will allow the manufacture, import or export of less than half a tonne of scheduled substances and where the Minister is satisfied that the scheduled substances will be used for test purposes.

Regulation 4 Prescribes Form 1 for an application under subsection 40(2) of the Act for an exemption to allow the import, export or manufacture of a product essential for medical, veterinary, defence, industrial safety or public safety purposes.

Regulation 5 Details those records which must be kept in writing by licensees, and requires that the records must be kept for at least 5 years.

Regulation 6 Requires that records kept by licensees must have page numbering and show the licence number of the licensee on each page.

Regulation 7 Repeals Statutory Rules 1999 No. 70 and 1992 No. 348, which are replaced by the proposed Ozone Protection Regulations 1995.

Form 1 This is the prescribed form for an application for an exemption under section 40 of the *Ozone Protection Act 1989*, in accordance with Regulation 4.

Ozone Protection (HCFC, HBFC and Methyl Bromide) Regulations (Repeal)

These regulations are being repealed because their provisions have now been incorporated in the Ozone Protection Act 1989. Details of the proposed Ozone Protection (HCFC, HBFC and Methyl Bromide) Regulations (Repeal) are as follows:

Regulation 1 Repeals the Ozone Protection (HCFC, HBFC and Methyl Bromide) Regulations, Statutory Rules 1993 No- 359, and subsequent amending regulations, 1994 No. 136.

Ozone Protection (Product Control) Regulations (Repeal)

These regulations are being repealed because their provisions have now been incorporated in the *Ozone Protection Act 1989*. Details of the proposed Ozone Protection (Product Control) Regulations (Repeal) are as follows:

Regulation 1 Repeals the Ozone Protection (Product Control) Regulations. Statutory Rules 1990 No. 283, and subsequent amending regulations, 1993 No. 49 and 1994 No. 155.