



# **Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995**

**No. 125, 1995 as amended**

**Compilation start date:** 17 October 2014

**Includes amendments up to:** Act No. 109, 2014

Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### **This compilation**

This is a compilation of the *Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995* as in force on 17 October 2014. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 28 October 2014.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of each amended provision.

### **Uncommenced amendments**

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

### **Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### **Modifications**

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

### **Provisions ceasing to have effect**

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details are included in the endnotes.

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# **An Act to impose levies on the manufacture of HCFCs, methyl bromide and SGGs 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 (Manufacture Levy) Act 1995*.

## **2 Commencement**

This Act commences on 1 January 1996.

## **2A Definition**

In this Act:

*medical equipment* includes a pharmaceutical product.

## **3 Interpretation**

Expressions used in this Act have the same meanings as in the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.

## **3A Manufacture levy—SGGs**

- (1) If:
  - (a) a controlled substances licence allows the licensee to manufacture SGGs; and
  - (b) the licensee manufactures an SGG during a quarter during which the licence is in force;levy is imposed on the licensee in respect of that manufacture.
- (2) Subsection (1) does not apply to the manufacture 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 manufacture of an SGG that is to be used for a purpose prescribed by the regulations.
- (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.
- (4A) Subsection (4B) 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.
- (4B) The quantity of an SGG that is taken to be manufactured is the quantity actually manufactured reduced by the heel allowance percentage for the SGG.
- (5) The amount of levy imposed by subsection (1) on a licensee in respect of the manufacture of an SGG in a quarter is the amount worked out using the following formula:

Number of tonnes  
of the SGG × Prescribed rate

where:

***prescribed rate*** means:

- (a) \$165; or
  - (b) if a lower amount is prescribed by the regulations—that lower amount.
- (7) If:
- (a) levy is imposed by subsection (1) on a licensee in respect of the manufacture 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

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- (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 levy.
- (9) In making a determination under subsection (7), the Minister must have regard to such matters as are specified in the regulations.
- (10) 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 manufacture 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.
- (11) The Minister must not make a recommendation to the Governor-General about regulations to be made for the purposes of subparagraph (7)(b)(v) unless the Minister is satisfied that:
- (a) it would be impracticable to require payment of the amount of levy imposed on the manufacture 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 Manufacture levy—substances other than SGGs**

- (1) If:
- (a) a controlled substances licence allows the licensee to manufacture a substance or substances (other than an SGG); and

- (b) the licensee manufactures any such substance during a quarter during which the licence is in force; then levy is imposed on the licensee in respect of that manufacture at the rate prescribed by the regulations.
- (3) For the purposes of subsection (1), if a licence is in force for only part of a particular quarter, that part is taken to be a quarter.
- (3A) For the purposes of this section, the quantity of a substance that is taken to be manufactured is the quantity of the substance that is actually manufactured reduced by the heel allowance percentage for the substance.
- (4) 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*.

## 5 Regulations

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



## Endnotes

### Endnote 1—About the endnotes

The endnotes provide details of the history of this legislation and its provisions. The following endnotes are included in each compilation:

- Endnote 1—About the endnotes
- Endnote 2—Abbreviation key
- Endnote 3—Legislation history
- Endnote 4—Amendment history
- Endnote 5—Uncommenced amendments
- Endnote 6—Modifications
- Endnote 7—Misdescribed amendments
- Endnote 8—Miscellaneous

If there is no information under a particular endnote, the word “none” will appear in square brackets after the endnote heading.

### Abbreviation key—Endnote 2

The abbreviation key in this endnote 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 the compiled law. The information includes commencement information for amending laws and details of 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 level. It also includes information about any provisions that have expired or otherwise ceased to have effect in accordance with a provision of the compiled law.

### Uncommenced amendments—Endnote 5

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in endnote 5.

## Endnotes

Endnote 1—About the endnotes

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### **Modifications—Endnote 6**

If the compiled law is affected by a modification that is in force, details of the modification are included in endnote 6.

### **Misdescribed amendments—Endnote 7**

An amendment is a misdescribed amendment if the effect of the amendment cannot be incorporated into the text of the compilation. Any misdescribed amendment is included in endnote 7.

### **Miscellaneous—Endnote 8**

Endnote 8 includes any additional information that may be helpful for a reader of the compilation.

**Endnote 2—Abbreviation key**

ad = added or inserted	pres = present
am = amended	prev = previous
c = clause(s)	(prev) = previously
Ch = Chapter(s)	Pt = Part(s)
def = definition(s)	r = regulation(s)/rule(s)
Dict = Dictionary	Reg = Regulation/Regulations
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
exp = expired or ceased to have effect	rep = repealed
hdg = heading(s)	rs = repealed and substituted
LI = Legislative Instrument	s = section(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sch = Schedule(s)
mod = modified/modification	Sdiv = Subdivision(s)
No = Number(s)	SLI = Select Legislative Instrument
o = order(s)	SR = Statutory Rules
Ord = Ordinance	Sub-Ch = Sub-Chapter(s)
orig = original	SubPt = Subpart(s)
par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)	

## Endnotes

### Endnote 3—Legislation history

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### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Ozone Protection (Licence Fees—Manufacture) Act 1995	125, 1995	2 Nov 1995	1 Jan 1996 (s 2)	
Ozone Protection (Licence Fees—Manufacture) Amendment Act 2003	125, 2003	5 Dec 2003	5 Dec 2003 (s 2)	—
Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment Act 2011	165, 2011	4 Dec 2011	Sch 1: 1 July 2012 (s 2(1) item 2) Remainder: 4 Dec 2011 (s 2(1) item 1)	Sch 1 (item 8)
Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment (Per-tonne Carbon Price Equivalent) Act 2012	201, 2012	12 Dec 2012	Sch 1: 14 Dec 2012 (s 2(1) item 2) Remainder: 12 Dec 2012 (s 2(1) item 1)	—
Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment (Carbon Tax Repeal) Act 2014	89, 2014	17 July 2014	Sch 1: 1 July 2014 (s 2(1) item 2) Remainder: 17 July 2014 (s 2(1) item 1)	Sch 1 (item 13)
Omnibus Repeal Day (Autumn 2014) Act 2014	109, 2014	16 Oct 2014	Sch 5 (items 64–66): 17 Oct 2014 (s 2(1) item 2)	Sch 5 (item 66)

## Endnote 4—Amendment history

**Endnote 4—Amendment history**

<b>Provision affected</b>	<b>How affected</b>
Title .....	rs. No. 125, 2003 am. No. 165, 2011
s. 1 .....	am. No. 125, 2003
hdg to s 2A.....	rs No 89, 2014
s. 2A.....	ad. No. 165, 2011 am. No. 201, 2012; No 89, 2014
s. 2B.....	ad. No. 165, 2011 rep No 89, 2014
s. 3 .....	am. No. 125, 2003
s. 3A.....	ad. No. 165, 2011 am. No. 201, 2012; No 89, 2014; No 109, 2014
Heading to s. 4 .....	rs. No. 165, 2011
s. 4 .....	rs. No. 125, 2003 am. No. 165, 2011; No 109, 2014
s. 5 .....	am. No. 125, 2003; No. 165, 2011

**Endnotes**

Endnote 5—Uncommenced amendments [none]

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**Endnote 5—Uncommenced amendments [none]**

**Endnote 6—Modifications [none]**

**Endnote 7—Misdescribed amendments [none]**

**Endnote 8—Miscellaneous [none]**