

# THE LAW CONCERNING THE PROTECTION OF THE OZONE LAYER THROUGH THE CONTROL OF SPECIFIED SUBSTANCES AND OTHER MEASURES

\* Ministry of the Environment Government of Japan

(Law No. 53 of May 20, 1988)

Amended by Law No. 8 of 1991, No. 89 of 1993, No. 54 of 1994

## Chapter 1: General Provisions

### Article 1: Purposes

The purpose of this Law is, with a view to protecting the ozone layer through international cooperation, to implement measures including production control, emission restraint and use rationalization of specified substances for ensuring assured and smooth implementation of the Vienna Convention for the Protection of the Ozone Layer (referred to as "Convention" hereafter) and the Montreal Protocol on Substances that Deplete the Ozone Layer (referred to as "Protocol" hereafter), with the ultimate objective of contributing to the protection of human health and the preservation of the living environment.

### Article 2 : Definition

1. For the purposes of this Law, "specified substance" means a substance that depletes the ozone layer and is specified in the government ordinance concerned.
2. For the purpose of this Law, types of specified substances shall be specified in the government ordinance concerned (\*).
3. For the purposes of this Law, any amount of a specified substance means the gained value by multiplying the original amount of the substance by its ozone depleting potential specified in the government ordinance concerned.
4. The government ordinance set out in paragraphs 1-3 shall be established in accordance with the provisions of the Protocol. \*: Article 1 of the Enforcement Ordinance

### Article 3 : Announcement of basic matters

1. In order to enable assured and smooth implementation of the Convention and Protocol, the Director General of the Environment Agency and the Minister of International Trade and Industry shall determine and announce the following matters

(\*1). They shall also announce any amendments to these matters.

(i) The limits of production and consumption (the calculated levels of production and consumption determined in accordance with the Protocol. The same shall apply hereafter) per type of specified substance, that Japan should observe under the Protocol

(ii) Important matters concerning the implementation of measures to gain public awareness and cooperation in the ozone layer protection, including the dissemination of the knowledge about the importance of the ozone layer protection or

(iii) Other important matters concerning the implementation of measures to protect the ozone layer

2. The Minister of International Trade and Industry shall announce actual production, consumption of specified substances and other amounts specified in the ordinance of Ministry of International Trade and Industry concerned (\*2), per type of substance and per control year defined in Article 4-1.

\*1: Notification No. 1 of Environment Agency and Ministry of International Trade and Industry of 1989

\*2: Article 2 of the Enforcement Regulations

## **Chapter 2: Controls over the Production and Other Aspects of Specified Substances**

### **Article 4 : Permission of production volume**

1. Any person who intends to produce specified substances should get permission of projected production volume from the Minister of International Trade and Industry, per type of substance and per "control year" (the period specified in the ordinance of Ministry of International Trade and Industry (\*1) in accordance with the Protocol for each type of specified substance. The same shall apply hereafter), within a control year, except in the following cases.

(i) Where any person who got the permission under Article 5.2-1 produces a smaller volume of the permitted specified substance than the permitted volume

(ii) Where any person who got the confirmation under Article 11-1 or 12-1 produces a smaller volume of specified substance than the confirmed volume in the confirmed group

(iii) Where any person who got the confirmation under Article 13-1 produces a smaller volume of specified substance than the confirmed volume

(iv) Where any person produces a smaller volume of any specified substance than the volume specified in the government ordinance concerned (\*2)

2. To get the permission in paragraph 1, the applicant should submit a request that set forth the following to the Minister of International Trade and Industry within the period announced by the Minister.

(i) The name and address of the applicant. Where the applicant is a legal entity, the name of its representative as well

(ii) The projected production volume of the specified substance

(iii) The production and storage site

(iv) The structure and capacity of the production facility

(v) The volume of the specified substance expected to be exported among the projected production volume within the control year (referred to as "expected export" in Article 8-2) and its place of destination

(vi) Other matters specified in the ordinance of Ministry of International Trade and Industry concerned (\*3)

3. Any person who intends to produce a smaller volume of any specified substance than the volume specified in the government ordinance set out in accordance with

Article 1(úE) should notify the Minister of International Trade and Industry of the production volume, in accordance with the ordinance of Ministry of International Trade and Industry concerned (\*4).

\*1: Article 3 of the Enforcement Regulations

\*2: Article 2 of the Enforcement Ordinance

\*3: Article 4 of the Enforcement Regulations

\*4: Article 5 of the Enforcement Regulations Penalties: Article 30, 32 and 33 of this Law

#### **Article 5 : Designation of production for export**

1. The Minister of International Trade and Industry may designate all or part of the production volume to be permitted as the production volume for export when the Minister give the permission in accordance with Article 4-1.

2. The designation under paragraph 1 shall be made specifying the place of destination.

3. The Minister of International Trade and Industry may change the designation production volume in response to a request from the person whose production is permitted under paragraph 1.

4. In the event that the designation in accordance with paragraph 1 was made, the person should ensure, when the person produces the specified substance, whose production volume for export is designated, that actual production volume of substances among the designated production volume for export does not exceed the settled exports volume (the production volume of the substance confirmed by the Minister of International Trade and Industry under the ordinance of Ministry of International Trade and Industry concerned, as that was surely exported or will surely be exported to the place of destination specified by the designation within the control year) by the time of the production.

5. The procedure of the application in paragraph 3 shall be provided for by the ordinance of Ministry of International Trade and Industry concerned (\*).

\*: Article 7 of the Enforcement Regulations Penalties: Article 30 and 32 of this Law

#### **Article 5.2: Permission for production volume per specified substance**

1. For the purpose of ensuring assured implementation of the Protocol, in addition to the production volume permission under Article 4-1, the Minister of International Trade and Industry may give production volume permission per specified substance and per control year for the production of a specified substance within a control year.

2. In the event that the Minister of International Trade and Industry is going to give production volume permission per specified substance in accordance with paragraph 1, the Minister shall announce so.

3. The provisions of Article 4-2 shall apply to the permission in paragraph 1.

#### **Article 6: Approval for import**

Any person who intends to import a specified substance shall have the obligation to get the approval for import in accordance with Article 52 of the Foreign Exchange and Foreign Trade Control Law (Law No. 228 of 1949).

#### **Article 7: Standards for permission and other decisions**

In the event that the Minister of International Trade and Industry gives the permission in accordance with Article 4-1 or 5.2-1, makes the designation in accordance with Article 5-1, changes the designation in accordance with Article 5-3 or gives the approval in accordance with Article 6, the Minister shall ensure that the production and consumption volume in Japan per type of specified substance should not exceed the limits Japan should observe under the Protocol, and shall take into account the circumstances, including the production, import and export of specified substances.

### **Article 8: Permission for increase in permitted production volume**

1. Any person who got the permission of production volume under Article 4-1 or 5.2-1 (referred to as "permitted producer" hereafter) can apply for the permission for the increase in the permitted production volume within the permitted control year, within a period announced by the Minister of International Trade and Industry.

2. To make the above application, the applicant should submit a application that set forth the following matters to the Minister of International Trade and Industry.

(i) The name and address of the applicant. Where the applicant is a legal entity, the name of its representative as well

(ii) The projected increase in production volume

(iii) The projected export volume and place of destination

(iv) Other matters specified in the ordinance of Ministry of International Trade and Industry concerned (\*)

3. Article 5 and 7 shall apply to the permission for increase in paragraph 1.

\*: Article 8-2 of the Enforcement Regulations

### **Article 9: Notification of changes in the permitted producer and other matters**

1. In the event that there is any change in the matters set out in Article 4-2(i), (iii) or (iv) (including the cases in which these provisions apply to Article 5.2-3), the permitted producer should notify the Minister of International Trade and Industry of the change in accordance with the ordinance of Ministry of International Trade and Industry concerned (\*1) without delay.

2. In the event that it becomes clear that the production volume of a specified substance within a control year (referred to as "expected production volume" hereafter) will be below the permitted production volume (where the permission for increase in accordance with Article 8-1, the reduction in accordance with Article 16-1 or 16-2 was made, the production volume changed according to increase or reduction), the permitted producer should notify the Minister of International Trade and Industry of the projected production in accordance with the ordinance of Ministry of International Trade and Industry concerned (\*2) without delay.

3. In the event that the notification in accordance with paragraph 2 was made, the permitted production for the notifier shall be changed to the notified projected production.

\*1: Article 9 of the Enforcement Regulations

\*2: Article 10 of the Enforcement Regulations

Penalties: Article 33 of this Law

### **Article 10 :Conditions for permission**

1. The Minister of International Trade and Industry may attach conditions to the permission under Article 4-1 or 5.2-1 or the permission for increase under Article 8-1. The Minister may also change these conditions.

2. The above conditions should be the minimum conditions necessary for ensuring assured and smooth implementation of the Protocol or for ensuring the implementation of permitted activities. The above conditions should not impose unreasonable obligations on the permitted producer.

### **Article 11: Conditions for production volume**

1. Any person who intends to produce a specified substance may get the confirmation per type of substance and per control year by the Minister of International Trade and Industry concerned, proving in accordance with the ordinance of Ministry of International Trade and Industry concerned that the specified substance was surely destroyed or will surely be destroyed within the control year in accordance with the standards specified in the ordinance of Prime Minister's Office and the ordinance of Ministry of International Trade and Industry concerned, that the person may produce the proved volume of the specified substance in the same type of specified substances proved.

2. To get the above confirmation, the applicant should submit an application that set forth the following matters per type of specified substances to the Minister of International Trade and Industry, together with a document proving the destruction set out in paragraph 1.

(i) The name and address of the applicant. Where the applicant is a legal entity, the name of its representative as well

(ii) The name and address of the person who destroyed or will surely destroy the substance. Where the person is a legal entity, the name of its representative as well

(iii) The volume of the substance that was destroyed or will surely be destroyed, and the site and date of its destruction

(iv) The site of production and storage of the specified substance to be produced

(v) Other matters specified in the ordinance of Ministry of International Trade and Industry concerned

### **Article 12**

1. Any person who intends to produce a specified substance may get the confirmation per type of substance and per control year by the Minister of International Trade and Industry, proving in accordance with the ordinance of Ministry of International Trade and Industry concerned (\*) that the specified substance was used or will surely be used as a feedstock in the producing process of another substance (excluding the mixture of the specified substance and another substance) within the control year, that the person may produce the proved volume of the specified substance in the same type of specified substances proved.

2. To get the above confirmation, the applicant should submit an application that set forth the following matters per type of specified substances to the Minister of International Trade and Industry, together with a document proving the use as a feedstock set out in paragraph 1.

(i) The name and address of the applicant. Where the applicant is a legal entity, the name of its representative as well

(ii) The name and address of the person who used or will surely use the substance as a feedstock. Where the person is a legal entity, the name of its representative as well

(iii) The amount of the substance that was used or will surely be used as a feedstock, and the site and date of its use as a feedstock

(iv) The site of production and storage of the specified substance to be produced

(v) Other matters specified in the ordinance of Ministry of International Trade and Industry concerned

\*: Article 10.2 of the Enforcement Regulations

### **Article 13**

1. Any person who intends to produce any specified substance specified in the government ordinance concerned (\*1) (referred to as "designated specified substance" hereafter) may get the confirmation per control year by the Minister of International Trade and Industry, proving in accordance with the ordinance of Ministry of International Trade and Industry concerned (\*2) that the specified substance was used or will surely be used in the usage specified in the government ordinance concerned (referred to as "designated usage" hereafter) within the control year, that the person may produce the proved volume of the specified substance.

2. To get the above confirmation, the applicant should submit an application that set forth the following matters to the Minister of International Trade and Industry, together with a document proving the use set out in paragraph 1, in accordance with the ordinance of Ministry of International Trade and Industry concerned.

(i) The name and address of the applicant. Where the applicant is a legal entity, the name of its representative as well

(ii) The volume of the substance that was used or will surely be used in the designated usage

(iii) The site of production and storage of the specified substance to be produced

(iv) Other matters specified in the ordinance of Ministry of International Trade and Industry concerned

3. In the event that the producer of a designated specified substance takes measures to prevent the use of the designated substance produced by the producer in other usage than the designated usage and transfers the substance to somebody under conditions specified in the government ordinance concerned (\*3), the production of the designated specified substance to be transferred shall be regarded to be done by the person who got the confirmation under paragraph 1 within the confirmed range of volume, as long as Article 4-1 is concerned.

\*1: Article 3 of the Enforcement Ordinance

\*2: Article 10.3 of the Enforcement Regulations

\*3: Article 4 of the Enforcement Ordinance

### **Article 14 :Notification of changes in the confirmed producer and other matters**

Any person who got the confirmation under Article 11-1, 12-1 or 13-1 (referred to as "confirmed producer" hereafter) should notify the Minister of International Trade and Industry without delay of changes in the matters provided for in Article 11-2(i) or (iv), 12-2(i) or (iv), or 13-2(i) or (iii). \*

Penalties: Article 33 of this Law

### **Article 15: Succession**

1. In the event that the permitted or confirmed producer transferred all the business of producing the permitted or confirmed type of specified substance or in the event that the position of the permitted or confirmed producer was inherited or merged, the assigns of all the business, heir (where more than one heirs elected unanimously one of them as the successor to the business, the elected one), remaining legal entity after the merger, or legal entity established by the merger shall succeed to the permitted or confirmed producer.

2. Any person who succeeded to the permitted or confirmed producer should notify the Minister of International Trade and Industry of the succession together with a document proving the succession without delay.

\* Penalties: Article 33 of this Law

#### Article 16 :Revocation, etc. of permission

1. In the events of the following cases, the Minister of International Trade and Industry may revoke the permission under Article 4-1 or 5.2-1 or reduce the permitted production volume.

(i) Where the permitted producer got the permission under Article 4-1 or 5.2-1, the change under Article 5-3 or the permission for increase under Article 8-1 by unfair means

(ii) Where the permitted producer produced a specified substance against the provision of Article 5-4

(iii) Where the permitted producer violated the conditions specified in Article 10-1

2. The Minister of International Trade and Industry may reduce the permitted production volume in the event that it becomes clear, in light of conditions specified in the ordinance of Ministry of International Trade and Industry concerned, that the expected production volume of a permitted producer will be below the permitted production volume (where the permission for increase under Article 8-1, the notification under Article 9-2 or the reduction in paragraph 1 was made, the changed volume) and in the event that the Minister believes in the need for the reduction, taking into account the circumstances set out under Article 7.

3. Where the confirmed producer got the confirmation under Article 11-1, 12-1 or 13-1 by unfair means, the Minister of International Trade and Industry may revoke the confirmation or reduce the confirmed production volume. Chapter 3: Notifications concerning Specified Substances

#### **Article 17 :Notification concerning the export of specified substances**

Any person who exported a specified substance should notify the Minister of International Trade and Industry of the exports in the previous year and other matters specified in the ordinance of Ministry of International Trade and Industry concerned (\*) every year in accordance with the ordinance.

\*: Article 12.2 of the Enforcement Regulations Penalties: Article 31(i) and 32 of this Law

#### **Article 18:Delegation to government ordinances**

In addition to the provision of Article 17, government ordinances may provide necessary provisions concerning the notification of production volume, import volume, export volume and other data of the ozone layer depleting substances, as far as required in order to collect information that Japan should report under the Protocol including the volume based on which the limit of production and consumption volume per type of specified substance is determined. Penalties: Article 34 of this law

### **Chapter 4: Emission Control and Rational Use of Specified Substances**

#### **Article 19:Efforts of the industrial user**

The industrial user of specified substances (including the other substances than specified substances specified in the government ordinance concerned. The same shall apply in Article 20 to 23) should make efforts for emission control and rational use of specified substances (including the use of alternative substances to specified substances. The same shall apply in Article 20).

#### **Article 20 :Publication of the guidelines for emission control and rational use**

1. The Director General of the Environment Agency and the Minister of International Trade and Industry shall establish the guidelines for industrial users of specified substances to control the emission and to rationalize the use of these substances (\*) (referred to as "guidelines for emission control and rational use" hereafter) and publish these guidelines, in case they believe in the need for their establishment in order to ensure smooth implementation of the Convention and the Protocol.

2. Competent ministers may give industrial users of specified substances guidance and advice concerning the emission control and rational use of them, based on the guidelines for emission control and rational use.

3. The Director General of the Environment Agency may submit opinions to Ministers concerned on their guidance or advice concerning emission control in accordance with paragraph 2.

4. The Minister of International Trade and Industry may submit opinions to competent ministers concerned on their guidance or advice concerning rational use in accordance with paragraph 2.

5. Competent ministers set out in paragraph 2 shall be the ministers having control over the business of the person who is to receive guidance or advice in accordance with paragraph 2. \*: Notification of Environment Agency and Ministry of International Trade and Industry No. 2 of 1989 (The Guidelines for Emission Control and Rational Use of Specified Substances) Chapter 5: Miscellaneous Provisions

#### **Article 21: Governmental supports**

The national government shall provide supportive measures including securing necessary funds to enhance the development and use of alternative substances to specified substances and the development and use of facilities that contribute to the emission control and rational use of specified substances .

#### **Article 22: Observation and monitoring**

1. The Director General of the Meteorological Agency shall observe the state of the ozone layer and the atmospheric concentrations of specified substances and publish the obtained results.

2. Utilizing the obtained results in paragraph 1, the Director General of the Environment Agency shall monitor the depletion state of the ozone layer by specified substances and changing atmospheric concentrations of specified substances and publish the obtained results.

#### **Article 23: Promotion of research**

The national government shall promote research on the effects of specified substances on the ozone layer and on other issues concerning the ozone layer protection, and shall make efforts to disseminate the obtained results.

#### **Article 24: Recordkeeping**

1. The permitted producer should maintain the record keeping, in which the production and export volume of the specified substance per type within the permitted control year and other matters provided for in the ordinance of Ministry of International Trade and Industry concerned (\*1) should be recorded.

2. The record keeping in paragraph 1 should be stored in accordance with the ordinance of Ministry of International Trade and Industry concerned (\*2).

\*1: Article 13-1~3 of the Enforcement Regulations

\*2: Article 13-4 and 13.2 of the Enforcement Regulations Penalties: Article 31(i) and 32 of this Law

#### **Article 25: Receipt of reports**

For the purpose of implementing this Law, the Minister of International Trade and Industry may order the permitted or confirmed producer to report on the producer's business.

\* Penalties: Article 31(úB) and 32 of this Law



**Article 26 :Entry for inspection**

1. For the purpose of implementing this Law, the Minister of International Trade and Industry may order his staffs to enter into the office, factory or other establishments of the permitted or confirmed producer, to inspect books, documents and other things, to ask questions to people concerned or to take away without compensation the minimum necessary amount of specified substances for inspection.
2. Where the staffs enter into any establishment in accordance with 1, they should carry their identifications and show them to the people concerned.
3. The authority to enter into establishments for inspection, to ask questions and to take away specified substances in accordance with paragraph 1 should not be deemed to be given for the purpose of criminal investigation.

\* Penalties: Article 31(W) and 32 of this Law

**Article 27:Special hearings**

1. Where the Minister of International Trade and Industry intends to make the reduction in Article 16-1, 16-2 or 16-3, the Minister should hold a hearing without regards to the provision for conducting a hearing in Article 13-1 of the Administrative Procedural Law (Law No. 88 of 1993).
2. The hearing concerning the decisions provided for in Article 16 should be open to public.
3. Where any party concerned in the decision in paragraph 1 made a request to participate in the hearing procedure in accordance with Article 17-1 of the Administrative Procedural Law, the organizer of the hearing should allow the request.

**Article 28:The hearing during the objection procedure**

1. The decision (excluding the dismissal) on the objection against any decision under this Law should not be made before notifying the parties concerned, an adequate period in advance, of holding a hearing and holding an open hearing.
2. The above notification should specify the date and location of the hearing as well as the details about the case.
3. At the hearing provided for in paragraph 1, the objector and the parties concerned should be given the opportunity to submit proofs and state opinions about the case.

**Article 28.2 :Discussion with the Minister of Agriculture, Forestry and Fisheries**

1. Where the Minister of International Trade and Industry intends to make any of the following decisions, the Minister should discuss with the Minister of Agriculture, Forestry and Fisheries.
  - (i) The permission to produce specified substances (including the substance provided for in the government ordinance concerned (\*)) in accordance with Article 4-1
  - (ii) The designation of amount in accordance with Article 5-1 or the change of the designation in accordance with Article 5-3
  - (iii) The permission to produce the specified substances provided for in the government ordinance set out in (ú@) in accordance with Article 5.2-1
  - (iv) The permission for increase in accordance with Article 8-1 or the reduction in accordance with Article 16-1 or 16-2

(v) The attachment or change of conditions in accordance with Article 10-1 or the revocation of conditions in accordance with Article 16-1

2. Where the Director General of the Environment Agency and the Minister of International Trade and Industry intend to establish the guidelines for emission control and rational use, they should discuss with the Minister of Agriculture, Forestry and Fisheries concerning the specified substances provided for in the government ordinance set out in 1(i).

\*: Article 5 of the Enforcement Ordinance

#### **Article 29: Interim measures**

Where any order is established, amended or abolished in accordance with this Law, the order can provide interim measures (including those concerning the penal provisions) as are considered to be reasonably necessary.

### **Chapter 6: Penal Provisions**

#### **Article 30**

Any person who produces a specified substance against Article 4-1 or 5-4 shall be punished by imprisonment not exceeding three years or a fine not exceeding one million yen, or by both said punishments.

#### **Article 31**

The following persons shall be punished by a fine not exceeding two hundred thousand yen. (i) Any person who fails to make the notification in Article 17 or makes a false notification (i) Any person who fails to keep the book or to fill in the book against Article 24-1 or makes a false record in the book, or any person who fails to keep the book against Article 24-2 (ii) Any person who fails to make the report in Article 25 or makes a false report (iii) Any person who rejects, prevents or avoids the inspection or taking away of substances in accordance with Article 26-1, or does not answer questions in accordance with the Article or makes a false answer

#### **Article 32**

Where the representative of a legal entity, or the agent, staff or other employee of a legal entity or a natural person commits any breach provided for in Article 30 and 31 in relation to the business of the legal entity or natural person, the legal entity or natural person shall be punished by the fine provided for in the Article concerned, in addition to the punishment on the person who commits the breach.

#### **Article 33**

Any person who fails to make the notification in Article 4-3, 9-1, 14 or 15-2 or makes a false notification shall be punished by a fine not exceeding one hundred thousand yen.

#### **Article 34**

The government ordinance in accordance with Article 18 may provide the provision to punish any person who commits any breach of the ordinance by a fine not exceeding two hundred thousand yen, and the provision that where the representative of a legal entity or the agent, staff or other employee of a legal entity or natural person commits any breach of the provision concerning the business of the legal entity or natural person, the legal entity or natural person shall be punished by the punishments in the Article concerned in addition to the punishment on the person who commits the breach.

### **Supplementary Provisions (extracts)**

**Article 1 Effective date**

1. This Law shall come into effect on and after the day of promulgation (May 20, 1988) except the following provisions, which shall come into effect on and after the days provided below respectively.

(i) Chapter 3 and Article 3 of Supplementary Provisions: The day on which the Convention comes into effect for Japan (December 29, 1988)

(ii) Article 3, Section 1 of Chapter 2, Article 27-30, 32, 33, 34 (excluding (ii)), 35 (excluding (iv), (W) and (Y)), 36 and 37 (excluding (vi)): The day on which the Protocol comes into effect for Japan (January 1, 1989)

(iii) Section 2 of Chapter 2, 31, 34(ii), 35(iv), (W) and (Y), and 37(vi): The day two years and six months following the day on which the Protocol comes into effect for Japan (January 1, 1989)

2. Without regards to the provisions of paragraph 1, where the Protocol comes into effect for Japan after its effective date or on or after January 1 1993, the provisions set out in paragraph 1(úA) and (úB) shall come into effect on and after the day provided for in the government ordinance concerned.

**Article 2 Reports**

In order to calculate the production and consumption in Article 3-1(i), the Minister of International Trade and Industry may request any person who produced, imported or exported any substance listed in Annex A of the Protocol within 1986 to report the person's production, imports or exports.

Supplementary Provisions (Law No. 59 of May 23, 1996) (extracts)

**Article 1 Effective date**

This Law shall come into effect on and after April 1, 1998.