



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

**No. 126, 1995**

## **Compilation No. 9**

<b>Compilation date:</b>	1 January 2018
<b>Includes amendments up to:</b>	Act No. 67, 2017
<b>Registered:</b>	18 January 2018

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## 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 1 January 2018 (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](http://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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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## Section 1

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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**

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 Definition**

In this Act:

*medical equipment* includes pharmaceutical equipment.

## **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 reporting period during which the licence is in force;

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### Section 3A

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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 subsection 13(3) 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 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:

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

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## Section 3A

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where:

***prescribed rate*** means:

- (a) \$165; or
  - (b) if a lower amount is prescribed by the regulations—that lower amount.
- (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 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 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.
- (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.

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## Section 4

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- (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 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 reporting period 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 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 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.

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## Section 4A

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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 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:
  - (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 subsection 13(5) or (6) 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 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:

Number of tonnes  
of the SGG  
contained in  
the equipment      × Prescribed rate

where:

***prescribed rate*** means:

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## Section 4B

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- (a) \$165; or
  - (b) if a lower amount is prescribed by the regulations—that lower amount.
- (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 *Legislation 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 equipment licence allows the licensee to import ODS equipment; and
  - (b) the licensee imports ODS equipment during a reporting period 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 subsection 13(5) or (6) of the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.

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## Section 5

- (3) 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.
- (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 Regulations

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

## Endnotes

Endnote 1—About the endnotes

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## 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 the amendment to be made. If, despite the misdescription, the amendment can

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Endnote 1—About the endnotes

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be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

## Endnotes

### Endnote 2—Abbreviation key

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#### 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**

<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—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)	—

## Endnotes

### Endnote 3—Legislation history

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
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): <u>1 Jan 2020 (s 2(1) item 4)</u>	Sch 2 (items 75, 76) and <u>Sch 3 (item 19)</u>

## Endnote 4—Amendment history

**Endnote 4—Amendment history**

<b>Provision affected</b>	<b>How affected</b>
Title .....	rs No 124, 2003 am No 164, 2011
s 1 .....	am No 124, 2003
s 2A.....	ad No 164, 2011 am No 202, 2012; No 88, 2014; No 67, 2017
s 2B.....	ad No 164, 2011 rep No 88, 2014
s 3 .....	am No 124, 2003
s 3A.....	ad No 164, 2011 am No 202, 2012; No 88, 2014; No 109, 2014; No 67, 2017
s 4 .....	rs No 124, 2003 am No 164, 2011; No 109, 2014; No 67, 2017
s 4A.....	ad No 164, 2011 am No 202, 2012; No 88, 2014; No 109, 2014; No 126, 2015; No 67, 2017
s 4B.....	ad No 164, 2011 am No 109, 2014; No 67, 2017 ( <u>Sch 3 item 3</u> )
s 5 .....	am No 124, 2003; No 164, 2011