

**ACT ON THE CONTROL, ETC. OF MANUFACTURE OF SPECIFIC SUBSTANCES FOR
THE PROTECTION OF THE OZONE LAYER**

Wholly Amended by Act No. 8359, Apr. 11, 2007

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is, in order to enforce the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer, to control the production and use of the specific substances, etc., to promote effectively the development and use of alternative substances, and to control emission and to promote rationalization in use of the specific substances, etc.

Article 2 (Definitions)

The definitions of the terms used in this Act shall be as follows:

1. The term "specific substance" means the substance specified in the Presidential Decree among the substances that deplete the ozone layer under the Montreal Protocol on Substances that Deplete the Ozone Layer (hereafter referred to as the "Protocol");
2. The term "alternative substance" means a single substance or a compound which substitutes the specific substance;
3. The term "production volume" means the volume of specific substances produced, deducting the destroyed volume confirmed under Article 12 below;
4. The term "consumption volume" means the volume of specific substances produced plus the volume of imported, deducting the volume of specific substances exported;
5. The term "calculated level" means the respective numbers, deriving by multiplying the ozone-depleting potential index for specific substance under the Protocol to the volume of each kind of substance; and
6. The term "rationalization in use of specific substance" means enhancing the efficiency in use through the reuse by collecting the used substances, cutting down the use of such substances or the use of alternative substance.

Article 3 (Publication of Limitations, etc.)

(1) The Minister of Commerce, Industry and Energy and the Minister of Environment shall determine and publicly announce the limitations on calculated levels of production and consumption

of specific substances with which the Republic of Korea should comply, for the implementation of the Protocol. The same shall apply in the case of alteration of such limitations.

(2) The Minister of Commerce, Industry and Energy shall publicly announce annually the actual results of calculated levels of production, consumption, exports and imports of specific substances during the previous year.

CHAPTER II CONTROL ON MANUFACTURE, ETC. OF SPECIFIC SUBSTANCES

SECTION 1 License for Specific Substance Manufacturing Business

Article 4 (Permission for Manufacturing Business)

(1) The person who intends to operate the business of manufacturing specific substances shall obtain a license from the Minister of Commerce, Industry and Energy. The same shall apply in the case of altering the contents of the licensed matters: *Provided*, That in case of alteration of the trifling matters prescribed in the Ordinance of the Ministry of Commerce, Industry and Energy, it shall be reported to the Minister of Commerce, Industry and Energy.

(2) The details with respect to the criteria and procedures of the license under paragraph (1) shall be prescribed by the Presidential Decree.

(3) The Minister of Commerce, Industry and Energy shall issue a certificate of license to the person who is licensed in accordance with paragraph (1) (hereinafter referred to as the "manufacturer") pursuant to the Ordinance of the Ministry of Commerce, Industry and Energy.

Article 5 (Disqualification for License)

Any person who falls under any of the following subparagraphs shall not be granted a license for manufacturing specific substances:

1. Any person of incompetency or quasi-incompetency;
2. Any person who was declared bankrupt and not yet reinstated;
3. Any person who was sentenced to punishment of imprisonment without prison labor or a heavier punishment for contravention of the provisions of this Act and for whom two years have not elapsed after the execution has terminated or the decision not to execute such punishment has been finalized, or any person who was sentenced to suspension of execution of punishment and for whom the period of the suspension has not expired;
4. A juristic person anyone of whose officers falls under any of subparagraphs 1 through 3.

Article 6 (Succession of Manufacturer's Status)

(1) When a manufacturer died or assigned his/her business to another person or a merger of

corporations of manufacturers took place, his/her successor, assignee or an existing corporation after such merger or newly founded corporation by such merger succeeds the manufacturer's status concerned:*Provided*, That this shall not apply in cases where an assignee or an existing corporation after such merger or newly founded corporation by such merger falls under any of the subparagraphs of Article 5.

(2) Where a successor under paragraph (1) falls under any of subparagraph 1 through 3 of Article 5, he/she shall assign his/her status to another person within 6 months after the date of the succession.

(3) A successor under paragraph (1) shall report it to the Minister of Commerce, Industry and Energy as prescribed the Ordinance of the Ministry of Commerce, Industry and Energy, within 30 days after the date of succession.

Article 7 (Revocation, etc. of License for Manufacturing Business)

The Minister of Commerce, Industry and Energy may revoke the license for the manufacturing business or make an order to suspend the whole or part of the manufacturing business for a period not exceeding 6 months where a manufacturer falls under any one of the following subparagraphs:*Provided*, That where a manufacturer who falls under subparagraph 1 below assigns his/her business to another person or changes officer (only in case of a corporation) within 6 months after the day on which the cause occurred, this shall not apply:

1. Where he/she falls under any of the subparagraph of Article 5;
2. Where he/she obtains the license by a fraud or another wrongful means; or
3. Where he/she fails to initiate the business within 6 months from the licensee or continues to suspend the business for not less than 6 months, without any justifiable reason.

Article 8 (Report on Suspension, Resumption or Closure of Manufacturing Business)

When a manufacturer comes to fall under any of the following subparagraphs, he/she shall report it to the Minister of Commerce, Industry and Energy as stipulated in the Ordinance of the Ministry of Commerce, Industry and Energy:

1. Where he/she intends to suspend the manufacturing business for a definite period of time;
2. Where he/she intends to quit the manufacturing business; or
3. Where he/she intends to resume the manufacturing business that has been suspended for a definite period of time.

SECTION 2 Control on Output, etc. of Specific Substances

Article 9 (Permission for Manufacturing Quantity)

(1) Any person who desires to manufacture specific substances shall, on a periodical basis as prescribed by the Ordinance of the Ministry of Commerce, Industry and Energy, determine the

manufacturing quantity of each substance which he/she intends to manufacture during each period and shall obtain permission from the Minister of Commerce, Industry and Energy, in accordance with the Ordinance of the Ministry of Commerce, Industry and Energy: *Provided*, That this shall not apply to the following cases:

1. Where he/she intends to manufacture specific substances within the extent of the destroyed volume which is confirmed pursuant to Article 12; and
2. Where he/she intends to manufacture specific substances within the extent of the volume prescribed in the Ordinance of the Ministry of Commerce, Industry and Energy.

(2) Any person who intends to manufacture specific substances in accordance with paragraph (1) 2 shall report the manufacturing quantity to the Minister of Commerce, Industry and Energy pursuant to the Ordinance of the Ministry of Commerce, Industry and Energy.

Article 10 (Permission for Increase in Permitted Manufacturing Quantity)

Any manufacturer who intends to manufacture specific substances in excess of the manufacturing quantity permitted pursuant to Article 9 (1) (hereinafter referred to as the "permitted manufacturing quantity"), shall obtain another permission for increasing the manufacturing quantity from the Minister of Commerce, Industry and Energy pursuant to the Ordinance of the Ministry of Commerce, Industry and Energy.

Article 11 (Import Permission, etc.)

(1) Any person who intends to import specific substances shall obtain permission from the Minister of Commerce, Industry and Energy pursuant to the Ordinance of the Ministry of Commerce, Industry and Energy. The same shall apply in the case of altering the permitted matters.

(2) The Minister of Commerce, Industry and Energy, for the implementation of the Protocol, may restrict the import of products containing specific substances (hereinafter referred to as the "products containing specific substances").

(3) Products containing specific substances shall be determined and publicly announced by the Minister of Commerce, Industry and Energy.

Article 12 (Confirmation of Destruction)

(1) Any manufacturer who has made a report on the destruction of specific substances under the Ordinance of the Ministry of Commerce, Industry and Energy may manufacture such substances within the extent of the destroyed volume, upon confirmation on such destruction by the Minister of Commerce, Industry and Energy.

(2) The criteria and methods of destruction of specific substances under paragraph (1) shall be determined by the Ordinance of the Ministry of Commerce, Industry and Energy.

Article 13 (Approval for Sales Plan)

If a manufacturer or a person who has obtained import permission for specific substances intends to

sell the substances manufactured or imported, he/she shall establish the sales plan according to the types, purposes and industrial requirements of such substances (hereinafter referred to as the "sales plan"), and then obtain approval from the Minister of Commerce, Industry and Energy as prescribed by the Ordinance of the Ministry of Commerce, Industry and Energy. The same shall apply to the case of altering the contents of the approved matters.

Article 14 (Adjustment of Demand and Supply, etc.)

(1) Where the Minister of Commerce, Industry and Energy deems that the harmonious management of national economy is impeded or likely to be impeded as a result of changes in the domestic or foreign circumstances for supply and demand of the specific substances or of disorder in distribution flow of such substances, etc., he/she may order the manufacturer or the person who has obtained import permission for specific substance to adjust the following matters:

1. Matters on the permitted manufacturing quantity of such substances;
2. Matters on the import of such substances;
3. Matters on the sales plans for such substances; and
4. Matters on the sales prices of such substances.

(2) The matters necessary for adjustments under paragraph (1) shall be prescribed by the Presidential Decree.

Article 15 (Revocation, etc. of Permission for Manufacturing Quantity)

(1) Where a manufacturer has obtained permission for the manufacturing quantity under Article 9 (1) or for the increase in the manufacturing quantity under Article 10 by a fraud or another wrongful means, the Minister of Commerce, Industry and Energy may revoke such permission or reduce the permitted manufacturing quantity.

(2) Where a manufacturer has obtained the confirmation of destruction under Article 12 by a fraud or another wrongful means, the Minister of Commerce, Industry and Energy may reduce the volume confirmed.

**CHAPTER III CONTROL ON EMISSION AND RATIONALIZATION
OF USE OF SPECIFIC SUBSTANCES**

Article 16 (Efforts of User of Specific Substances)

Any person who makes the use of specific substances as his/her business (hereinafter referred to as the "user") shall make efforts to control the emissions of such substances and to rationalize the use of such substances.

Article 17 (Publication of Guidelines for Control on Emissions and Rationalization in Use)

Where the Minister of Commerce, Industry and Energy and the Minister of Environment deem it necessary for the implementation of Vienna Convention for the Protection of the Ozone Layer and

the Protocol, they shall determine and publicly announce guidelines for control on the emissions and rationalization in use of specific substances.

Article 18 (Observations of Ozone Layer, etc.)

(1) The Minister of Science and Technology shall make observations on the state of the ozone layer and atmospheric state of important greenhouse gases which bring on the global warming effects, and publicly announce the results.

(2) The Minister of Environment shall make observations on the state of changes in the concentration of specific substances in the atmosphere and publicly announce the results.

Article 19 (Research and Study)

The Government shall research and study the effects of specific substances on the ozone layer and the climatic effects of its modifications, and publicize the results.

Article 20 (Assistance from Government)

The Government may give financial, administrative, or taxational assistance necessary to develop alternative substances, to develop and use the facilities which are helpful to the control of emissions and the rationalization in use of specific substances, and to promote the implementation of guidelines under Article 17, etc.

CHAPTER IV FUND FOR RATIONALIZATION IN USE OF SPECIFIC SUBSTANCES

Article 21 (Establishment of Fund)

In order to effectively promote the development of alternative substances, control on emissions and rationalization in use of specific substances, the Fund for Rationalization in Use of Specific Substances (hereinafter referred to as the "Fund") shall be established.

Article 22 (Raising of Fund)

(1) The Fund shall be made from the following financial resources:

1. Revenues collected from the manufacturers of specific substances;
2. Revenues collected from the importers of specific substances or products containing specific substances;
3. Contributions from corporations or individuals;
4. Profits earned from the operation of the Fund; and
5. Other revenues.

(2) The matters necessary for the object, amount and method, etc. of collection under paragraph (1) 1 and 2 shall be prescribed by the Presidential Decree.

(3) Where the person subject to the collection of revenues under paragraph (2) fails to pay the revenues within the period for payment as determined by the Presidential Decree, the Minister of

Commerce, Industry and Energy may collect the additional dues equivalent to 5/100 of the revenues unpaid.

(4) With respect to the person fails to pay the additional dues under paragraph (3), the unpaid amount may be collected in accordance with the collection procedures for the national taxes in arrears.

Article 23 (Operation and Management of Fund)

(1) The person who is appointed by the Presidential Decree shall operate and manage the Fund.

(2) The matters necessary for the operation and management of the Fund shall be determined by the Presidential Decree.

Article 24 (Use of Fund)

The Fund shall be used for the project falling under each of the following subparagraphs:

1. Project for the development of alternative substances;
2. Project for the development of technologies for the use of alternative substances;
3. Project for the development or utilization of equipments to control the emissions and to facilitate rationalization in use of specific substances;
4. International cooperation project for the implementation of international agreements for the protection of the ozone layer; and
5. Other projects incidental to those under the provisions of subparagraphs 1 through 4 as specified in the Presidential Decree.

CHAPTER V SUPPLEMENTARY PROVISIONS

Article 25 (Report and Inspection)

(1) The Minister of Commerce, Industry and Energy may, if he/she deems it necessary for the enforcement of this Act, order the manufacturers, users or any person who has obtained import permission for specific substances to report pursuant to the Presidential Decree.

(2) In the case falling under each of the following subparagraphs, the Minister of Commerce, Industry and Energy may make the public officials under his/her control inspect recording books, documents or other things in the offices, factories or other premises of the manufacturers, users or persons who have obtained import permission for specific substances under the provisions of Article 11. In such case, the relevant public officials may collect specific substances within the minimum extent necessary for inspection, without compensation therefor:

1. Where he/she deems admitted that there exists a falsity in an application for or report on permission or approval under Article 4, 9, 10, 11 or 13, and in a report under Article 12 or paragraph (1) of this Article;
2. Where he/she suspects that specific substances are manufactured, imported or sold without

obtaining permission or approval or without making a report thereon under Article 4, 9, 10, 11 or 13; or

3. Where he/she deems that specific substances are manufactured, imported or sold in excess of the manufacturing quantity, import volume or sales volume that is permitted, approved or reported under Articles 9, 10, 11 or 13.

(3) In conducting the inspection pursuant to paragraph (2), the scheduled date and time, reasons, details, etc. of the inspection shall be notified to the persons subject to such inspection not later than seven days before the inspection: *Provided*, That in case of an emergency or in a case where deemed that any prior notification might cause the destruction of any evidence to make it impossible to attain the purposes of such inspection, such notification shall not be required.

(4) The Minister of Commerce, Industry and Energy shall notify persons subject to inspection of the results of inspection under paragraph (2). (5) The public official to inspect under paragraph (2) shall carry and show a certificate on his/her authority to the parties concerned.

Article 26 (Hearing)

Where the Minister of Commerce, Industry and Energy intends to make a disposition falling under any of the following subparagraphs, he/she shall hold a hearing:

1. Revocation of license for the manufacturing business under Article 7; or
2. Revocation of permission under Article 15 (1).

Article 27 (Delegation and Entrustment of Authority)

As prescribed by Presidential Decree, the Minister of Commerce, Industry and Energy may delegate part of his/her authority under the provisions of this Act to the Special Metropolitan City Mayor, Metropolitan City Mayor, *Do* governor, or Special Autonomous *Do* governor, or entrust part of his/her authority to the head of the relevant administrative agencies, corporations or entities designated by the Presidential Decree.

CHAPTER VI PENAL PROVISIONS

Article 28 (Penal Provisions)

Any person who falls under any one of the following subparagraphs shall be punished by a fine not exceeding ten million Won or imprisonment for not more than 3 years. In this case, the imprisonment and the fine may be imposed concurrently:

1. A person who has run the manufacturing business, or obtained the license or alteration license by a fraud or other wrongful means in contravention of the text of Article 4 (1);
2. A person who has manufactured specific substances in contravention of the text of Article 9 (1);
3. A person who has manufactured specific substances in excess of the permitted manufacturing quantity in contravention of Article 10; or

4. A person who has imported specific substances in contravention of Article 11 (1).

Article 29 (Penal Provisions)

Any person who falls under any one of the following subparagraphs shall be punished by a fine not exceeding five million Won or imprisonment for not more than 2 years. In this case, imprisonment and fine may be imposed concurrently:

1. A person who has sold specific substances without approval for the salesplan under Article 13 or in a way not stated in the approved sales plan; or
2. A person who has violated the order for adjustments under Article 14.

Article 30 (Penal Provisions)

Any person who falls under any one of the following subparagraphs shall be punished by a fine not exceeding five million Won:

1. A person who has obtained confirmation of destruction under Article 12 by a fraud or another wrongful means;
2. A person who has not made a report in accordance with Article 25 (1) or has made a false report; or
3. A person who has refused, impeded or evaded inspection or collection under Article 25 (2).

Article 31 (Joint Penal Provisions)

(1) Where the representative, agent, employee, or other worker of a corporation violates the provisions of Articles 28 through 30 concerning the businesses of such juristic person, not only the violator shall be punished but also the corporation shall be punished by a fine pursuant to the respective Articles.

(2) Where the agent, employee, or other worker of an individual violates the provisions of Articles 28 through 30 concerning the businesses of such individual, not only the violator shall be punished but also the individual shall be punished by a fine pursuant to the respective Articles.

Article 32 (Fine for Negligence)

(1) Any person who falls under any one of the following subparagraphs shall be punished by a fine for negligence not exceeding one million Won:

1. A person who has failed to make a report under the proviso of Article 4 (1) or made a false report;
2. A person who has failed to make a report under Article 6 (3) or made a false report;
3. A person who has failed to make a report under Article 8 or made a false report; or
4. A person who has failed to make a report under Article 9 (2) or made a false report.

(2) The fine for negligence under paragraph (1) shall be imposed and collected by the Minister of Commerce, Industry and Energy as prescribed in the Presidential Decree.

(3) Any person who is dissatisfied with a disposition of the fine for negligence under paragraph (2)

may raise an objection to the Minister of Commerce, Industry and Energy within thirty days after the date on which he/she is given notice of that disposition.

(4) When a person who is subject to the disposition of the fine for negligence under paragraph (2) has raised an objection under paragraph (3), the Minister of Commerce, Industry and Energy shall without delay inform the competent court, which shall decide on the case of the fine for negligence under the Non-Contentious Case Litigation Procedure Act.

(5) When no fine for negligence is paid without raising any objection within the designated period under paragraph (3), the fine for negligence shall be collected according to the collection procedures for national taxes in arrears.

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force on the date its promulgation.

Article 2 (General Transitional Measures concerning Disposition, etc.)

Acts by administrative agencies or acts towards administrative agencies pursuant to the former provisions at the time when this Act enters into force shall be deemed as the acts by administrative agencies or acts towards administrative agencies pursuant this Act corresponding thereto.

Article 3 (Transitional Measures concerning Penal Provisions or Fine for Negligence)

When penal provisions or provisions of a fine for negligence are applied to an act committed before this Act enters into force, the former provisions shall apply.

Article 4 *Omitted.*

Article 5 (Relationship with Other Acts and Subordinate Statutes)

Where the former Act on the Control, etc. of Manufacture of Specific Substances for the Protection of Ozone Layer or a provision thereof was cited in other Acts and subordinate statutes at the time when this Act enters into force, this Act or the corresponding provision in this Act shall be deemed to have been cited in place of the former provision if there is a corresponding provision in this Act.