

No. 10] *Montreal Protocol (Substances That Deplete  
The Ozone Layer) Act* [ 2011.

I ASSENT

PEARLETTE LOUISY,  
*Governor-General.*

*April 6, 2011.*

## **SAINT LUCIA**

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**No. 10 of 2011**

**AN ACT** to amend the Montreal Protocol (Substances That  
Deplete The Ozone Layer) Act, Cap. 6.09.

[ 3rd May, 2011 ]

**BE IT ENACTED** by the Queen's Most Excellent Majesty, by and  
with the advice and consent of the House of Assembly and the Senate of  
Saint Lucia, and by the authority of the same, as follows :

No. 10] *Montreal Protocol (Substances That Deplete The Ozone Layer) Act* [ 2011.

**Short title**

1. This Act may be cited as the Montreal Protocol (Substances That Deplete The Ozone Layer (Amendment) Act 2011.

**Interpretation**

2. In this Act “principal Act” means the Montreal Protocol (Substances That Deplete The Ozone Layer) Act, Cap. 6.09.

**Amendment of section 2**

3. Section 2 of the principal Act is amended by inserting the following definitions in their proper alphabetical sequence:

“approved medical purposes” means the medical purposes approved by the Conference of Parties pursuant to the Protocol;

“ASHRAE number” means the American Society of Heating, Refrigeration and Air-Conditioning Engineers number;

“CAS Registry number” means the Chemical Abstract Services number;

“Commissioner of Police” means the Commissioner of Police appointed under section 7 of the Police Act, Cap. 14.01;

“Comptroller” means the office of the Comptroller of Customs created under section 4 of the Customs (Control and Management) Act, Cap. 15.05;

“licensed registered exporter” means a registered exporter who holds a valid ozone depleting substance licence under sections 3B and 3C;

“licensed registered importer” means a registered importer who holds a valid ozone depleting substance licence under sections 3B and 3C;

“licensed retrofitter” means a person who is the holder of a valid Retrofitter licence under section 3F;

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“Minister” means the Minister responsible for the Environment;

“National Ozone Unit” means the National Ozone Unit established by the Minister responsible for the Environment;

“Ozone Fund” means the Ozone Fund established under section 3L;

“ozone depleting substance” means a substance prescribed by Regulations under section 4;

“ozone depleting substance licence” means a licence issued under section 3C;

“ozone depleting potential units” means the relative ozone depleting potential of a substance as determined by the Conference of Parties to the Protocol;

“registered exporter” means a registered exporter under section 3B;

“registered importer” means a registered importer under section 3B;

“retrofitter licence” means a retrofitter licence issued under section 3F;

“UN number” means numbers assigned by relevant United Nations organizations for the purpose of identifying items.”

**Insertion of new sections 3A-3M**

4. The principal Act is amended by inserting after section 3 the following new sections as sections 3A-3M:

**“Restrictions on import or export**

3A. (1) A person shall not import or export an ozone depleting substance unless that person is a registered importer or exporter who holds a valid ozone depleting substance licence.

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- (2) A person who contravenes subsection (1) commits an offence and is liable to a fine of not less than five thousand dollars and not exceeding twenty-five thousand dollars.
- (3) Section 31 applies to ozone depleting substances imported contrary to subsection (1).

**Application for and grant of registration**

- 3B.**
- (1) A person wishing to import or export an ozone depleting substance shall, under subsection (2), apply to the National Ozone Unit for registration for that purpose.
  - (2) An application pursuant to subsection (1) must -
    - (a) be in the prescribed form; and
    - (b) be accompanied by the prescribed fee; and
    - (c) state the purpose of the registration.
  - (3) The National Ozone Unit, if satisfied that a person making an application pursuant to this section complies with the prescribed conditions of registration, shall under subsection (4), register the applicant and issue a certificate of registration to the person.
  - (4) The National Ozone Unit may refuse to grant registration.
  - (5) Where the National Ozone Unit refuses to grant registration pursuant to this section, he or she shall so inform the applicant in writing stating the reasons for refusal.
  - (6) A certificate of registration must be in the prescribed form.
  - (7) The National Ozone Unit may revoke the registration of any person who fails to comply with the conditions for registration.

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- (8) A person who is aggrieved by the decision of the National Ozone Unit to refuse to grant registration or revoke registration may appeal to the Minister who shall give the person the opportunity to be heard.

**Application for and grant of licence**

- 3C. (1) A person who is registered pursuant to section 3B and who wishes to import or export an ozone depleting substance shall, under subsection (2), apply to the Minister responsible for Commerce for an ozone depleting substance licence for that purpose.
- (2) An application pursuant to subsection (1) must-
- (a) in the case of import, be made prior to any order being placed with a supplier by the registered importer;
  - (b) be in the prescribed form;
  - (c) be accompanied by the prescribed fee;
  - (d) state the purpose of the licence.
- (3) An importer shall apply to the Minister responsible for Commerce for an ozone depleting substance licence each time he or she intends to import a consignment of ozone depleting substances within his or her approved quota.
- (4) The Minister responsible for Commerce may refuse to grant a licence.
- (5) Where the Minister responsible for Commerce refuses to grant a licence pursuant to this section, he or she shall so inform the applicant in writing stating the reasons for refusal.

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- (6) Subject to sections 3D and 3E, the Minister responsible for Commerce may grant an ozone depleting substance licence to a registered importer or exporter and may issue an ozone depleting substance licence to the person for the purpose for which the application was made.
- (7) A licence must be -
  - (a) in the prescribed form;
  - (b) in the case of import, for a limited quantity of the ozone depleting substance as determined by the Minister responsible for commerce in accordance with a quota issued by the National Ozone Unit under section 3D;
  - (c) in the case of import, valid for the quota specified in paragraph (b); and
  - (d) for specific ozone depleting substances.
  - (e) the signature of the drawer.
- (8) The Minister responsible for Commerce shall submit a copy of the ozone depleting substance licence to the National Ozone Unit and the Comptroller.
- (9) The Minister responsible for Commerce may revoke a licence issued under this section.
- (10) A person who is aggrieved by the decision of the Minister responsible for Commerce to refuse to grant a licence or revoke a licence may appeal to the National Ozone Unit which shall give the person the opportunity to be heard.

### **Quota**

- 3D.** (1) Subject to subsections (2) and (3), the National Ozone Unit shall on or before the 15<sup>th</sup> day of January of each year, publish in

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the *Gazette*, a quota for the total amount of ozone depleting substances in ozone depleting potential units which may be imported into Saint Lucia together with the upper limit of the quantity of ozone depleting substances that each registered importer is allowed to import for that year.

- (2) The quota pursuant to subsection (1) must be pro-rated on the basis of historical quantity imported by each registered importer and the total quantity allowed under the Protocol.
- (3) The National Ozone Unit shall submit a copy of the quota together with the upper limit for each registered importer as published pursuant to subsection (1) to the Minister responsible for Commerce and the Comptroller.
- (4) The Minister responsible for Commerce shall not issue an ozone depleting substance licence to a registered importer if the registered importer has already been issued an ozone depleting substance licence in which the total quantity has reached the upper limit of his or her quota for the year in which the ozone depleting substance licence is required to be issued.
- (5) Where a registered importer has been assigned a quota pursuant to this section and is unable to use that quota within the time specified the National Ozone Unit may by notice published in the *Gazette* re-assign the quota or the balance of the quota to another registered importer.

#### **Prohibition on import**

- 3E. (1) A person shall not on or after 1<sup>st</sup> January 2002 import any equipment requiring a

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supply of ozone depleting substances prescribed in Regulations for its continued operation except if the equipment is to be used for approved medical purposes.

- (2) The Comptroller shall detain equipment which is imported contrary to subsection (1) and shall, in the prescribed form, order the person who imported that equipment to have the equipment retrofitted by a licensed retrofitter, at the expense of the person who imported it.
- (3) A person shall comply with an order made under subsection (2) within twenty-eight days of the making of the order by the Comptroller.
- (4) Section 3J applies to equipment imported contrary to subsection (1) where the person importing the equipment fails to comply with subsections (2) and (3).
- (5) The retrofitting of equipment pursuant to subsection (2) shall take place in the premises approved by the Comptroller for that purpose.
- (6) A licensed retrofitter who retrofits equipment pursuant to this section shall label the equipment in accordance with standards set out in section 3G and shall attach his or her licence number, name and signature to the label.

#### **Retrofitter licence**

- 3F.**
- (1) A person may, under subsection (2), apply to the National Ozone Unit for a retrofitter licence.
  - (2) An application for a retrofitter licence must be in the prescribed form and accompanied by the prescribed fee.

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- (3) The National Ozone Unit may, subject to subsection (4), grant the retrofitter licence applied for pursuant to subsection (1) if the National Ozone Unit is satisfied that the person is a qualified retrofitter for the purposes of this Act.
- (4) The National Ozone Unit may refuse to grant a licence.
- (5) Where the National Ozone Unit refuses to grant a licence pursuant to this section, he or she shall so inform the applicant in writing stating the reasons for refusal.
- (6) A retrofitter licence shall be in the prescribed form and shall be valid for one year after which a new application may be made pursuant to this Act.
- (7) The National Ozone Unit shall on or before the 15<sup>th</sup> day of January in each year -
  - (a) submit to the Comptroller; and
  - (b) publish in the *Gazette*;
 

a list of all licensed retrofitters.
  - (8) A person who is aggrieved by the decision of the National Ozone Unit to refuse to grant a licence or revoke a licence may appeal to the Minister who shall give the person the opportunity to be heard.

#### **Standards for import**

- 3G.** (1) Where an ozone depleting substance is imported in accordance with any other provision of this Act, the importer shall ensure that the ozone depleting substance or the equipment containing the ozone depleting substance is labeled so as to identify the -

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- (a) active chemical;
  - (b) ozone depleting substance; and
  - (c) proper method of disposal in accordance with the Waste Management Act.
- (2) A label pursuant to subsection (1) must include the trade name, chemical name and one or more of the following -
- (a) ASHRAE number;
  - (b) CAS number; or
  - (c) UN number assigned to the ozone depleting substance.
- (3) Where an ozone depleting substance or equipment containing an ozone depleting substance is imported into Saint Lucia contrary to subsections (1) and (2) the Comptroller shall -
- (a) detain the ozone depleting substance or equipment containing an ozone depleting substance; and
  - (b) request that the person who imported the ozone depleting substance or equipment containing the ozone depleting substance label the ozone depleting substance or equipment containing the ozone depleting substance in accordance with subsections (1) and (2) within twenty-eight days of the request being made.

#### **Equipment for local sale**

- 3H.** (1) A person who sells or who intends to sell equipment containing ozone depleting substances on the local market shall ensure that the equipment has a label which is conspicuous and displayed on the exterior

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of the equipment identifying the ozone depleting substance.

- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars.
- (3) A Magistrate may in accordance with the Criminal Code issue to a police officer a warrant -
  - (a) to enter premises; and
  - (b) to search the premises and seize equipment containing an ozone depleting substance;

belonging to or in the possession or control of a person where the Magistrate is satisfied by evidence given on oath that there are reasonable grounds to believe that the person is committing, has committed or is about to commit an offence under this Act in relation to the equipment to be seized.

- (4) A police officer issued with a warrant pursuant to subsection (3) may execute that warrant.
- (5) Where a person is convicted of an offence pursuant to this section, the equipment seized pursuant to subsections (3) and (4) shall be forfeited to the Crown.
- (6) The National Ozone Unit may in accordance with subsection (1), label equipment forfeited pursuant to subsection (5) and the Commissioner of Police may sell the labeled equipment.

**Forfeiture of goods imported contrary to section 3A**

- 3I.** (1) Where an ozone depleting substance is imported into Saint Lucia contrary to section 3A -

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- (a) the Comptroller shall seize the ozone depleting substance; and
- (b) the ozone depleting substance shall be liable to be forfeited to the Crown;

in accordance with the procedures for prohibited goods provided for pursuant to the Customs (Control and Management) Act.

- (2) Notwithstanding subsection (1), where an importer imports a quantity of ozone depleting substances that is within the quota allocated to that importer but is in excess of the amount stated on the licence for that consignment, the Comptroller of Customs shall detain the excess of the ozone depleting substances pending submission of a valid ozone depleting substance licence by the importer for the extra amount.
- (3) Notwithstanding subsection (1), where an importer imports a quantity of ozone depleting substances that exceeds the allotted quota, the Comptroller of Customs may seize the excess amount of the ozone depleting substance but shall release the amount that is within the quota allocated and for which the importer holds a valid ozone depleting substance licence.
- (4) Where an ozone depleting substance is seized and forfeited pursuant to subsection (1) the Comptroller shall inform the Minister responsible for Commerce and the National Ozone Unit.
- (5) The ozone depleting substance seized pursuant to subsection (1), shall, subject to subsection (6), be held in bond by the Comptroller and the Comptroller may, in accordance with the Customs (Control and

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Management) Act, sell the ozone depleting substance to licensed registered importers in the same or subsequent years in quantities consistent with the upper limit of the import quotas as determined under section 3D.

- (6) Where an ozone depleting substance which has been seized and forfeited pursuant to subsection (1) has expired or has remained in bond for more than two years the ozone depleting substance shall be disposed of in accordance with the directions of the Minister on the advice of the National Ozone Unit.

**Forfeiture of equipment imported and not retrofitted in accordance with section 3E**

- 3J. (1) Where a person fails to comply with an order of the Comptroller pursuant to section 3E (2), the equipment shall be seized and held in bond by the Comptroller and shall be forfeited to the Crown.
- (2) The Comptroller may in accordance with the Customs (Control and Management) Act sell equipment which has been forfeited to the Crown pursuant to subsection (1) but shall not do so unless the goods are retrofitted by a licensed retrofitter.
- (3) The expense incurred in retrofitting equipment pursuant to subsection (2) shall be a charge on the Ozone Fund.
- (4) Where equipment seized and forfeited pursuant to subsection (1) has expired or has remained in bond for more than two years, the equipment shall be disposed of in accordance with the direction of the Minister on the advice of the National Ozone Unit.

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**Forfeiture of substance or equipment not labeled**

**3K.** (1) Where an ozone depleting substance or equipment containing an ozone depleting substance is imported into Saint Lucia contrary to subsections (1) and (2) of section 3G and the person importing fails to comply with a request made pursuant to section 3G (3) (b) -

(a) the Comptroller shall seize the ozone depleting substance or the equipment containing an ozone depleting substance; and

(b) the ozone depleting substance or equipment containing an ozone depleting substance shall be forfeited to the Crown;

in accordance with the procedures for seizure and forfeiture of prohibited goods provided for pursuant to the Customs (Control and Management) Act.

(2) Where an ozone depleting substance or equipment containing an ozone depleting substance is seized and forfeited pursuant to subsection (1), the Comptroller shall inform the Minister responsible for Commerce and the National Ozone Unit.

(3) Where an ozone depleting substance or equipment containing an ozone depleting substance has been seized and forfeited pursuant to subsection (1), the ozone depleting substance or the equipment shall be disposed of in accordance with the directions of the Minister on the advice of the National Ozone Unit.

**Registrants for local sale**

**3L.** (1) A person shall not sell a refrigerant to a person who is not a certified technician.

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- (2) In this section “certified technician” means a person who has completed a training programme with the National Ozone Unit and has obtained a certificate from the National Ozone Unit.

**Ozone Fund**

**3M.** (1) A fund to be known as the Ozone Fund shall be established under the administration and control of the Accountant General.

- (2) The Fund shall consist of -
- (a) proceeds of sale from any -
    - (i) ozone depleting substance;
    - (ii) equipment containing an ozone depleting substance;
  - (b) fees collected under this Act;

which shall be allocated to the National Ozone Unit to be used for the advancement of its work.”.

Passed in the House of Assembly this 22nd day of March, 2011.

ROSEMARIE HUSBANDS-MATHURIN,  
*Speaker of the House.*

Passed in the Senate this 24th day of March, 2011.

LEONNE THEODORE-JOHN  
*President of the Senate.*