



New South Wales

Ozone Protection Regulation 1997

under the

Ozone Protection Act 1989

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Ozone Protection Act 1989*.

PAM ALLAN, M.P.,

Minister for the Environment

Explanatory note

The object of this Regulation is to repeal and remake, with various changes in substance, the provisions of the *Ozone Protection Regulation 1991*. The new Regulation deals with the following matters:

- (a) authorisations for the sale, distribution and possession of CFCs, HCFCs and halons and for the conduct of certain activities involving their use (Part 2),
- (b) the use of CFCs and HCFCs generally (Part 3),
- (c) the use of HCFCs and halons for fire protection (Part 4),
- (d) the safe keeping, reclamation and disposal of CFCs, HCFCs, halons and other controlled substances (Part 5),
- (e) other minor, consequential and ancillary matters (Parts 1 and 6 and Schedules 1 and 2).

This Regulation is made under the *Ozone Protection Act 1989*, including section 30 (the general regulation making power) and sections 4, 6 and 19.

This Regulation is made in connection with the staged repeal of subordinate legislation under the *Subordinate Legislation Act 1989*.

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Clause 1 Ozone Protection Regulation 1997

Part 1 Preliminary

Ozone Protection Regulation 1997

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Ozone Protection Regulation 1997*.

2 Commencement

This Regulation commences on 1 August 1997.

3 Definitions

In this Regulation:

authorisation means an authorisation in force under Division 4 of Part 2.

authorised purchaser, in relation to a controlled substance, means a person who holds an authorisation to obtain possession of that substance, and includes a person who holds an authorisation to supply that substance.

authorised supplier, in relation to a controlled substance, means a person who holds an authorisation to sell or distribute that substance.

Authority means the Environment Protection Authority.

CFC means a substance (technically known as a chlorofluorocarbon) described in Part 1 of Schedule 1, and includes all isomers of that substance other than those (if any) specifically excluded from the description of the substance.

code of practice means a code of practice referred to in clause 46, as in force for the time being.

colour code, in relation to a CFC or HCFC, means the colour code (if any) ascribed to the CFC or HCFC by the document entitled Australian Standard Refrigerant Gas Cylinder Identification, and numbered AS 1942–1987, published by Standards Australia, as in force for the time being.

common name, in relation to a controlled substance, means the name by which the substance is described in Column 2 of Schedule 1.

decommission, in relation to equipment, means carry out any activity for the purpose of dismantling the equipment or rendering the equipment inoperable, being an activity that risks release to the atmosphere of a controlled substance, prior to the equipment's being scrapped, relocated or used for some other purpose.

fixed HCFC system means a fire protection system that is installed in premises and that uses an HCFC in its operation.

fixed halon system means a fire protection system that is installed in premises and that uses a halon in its operation.

HCFC means a substance (technically known as a hydrochlorofluorocarbon) described in Part 2 of Schedule 1, and includes all isomers of that substance other than those (if any) specifically excluded from the description of the substance.

halon means a substance (technically known as a bromofluorocarbon or bromochlorofluorocarbon) described in Part 3 of Schedule 1, and includes all isomers of that substance other than those (if any) specifically excluded from the description of the substance.

issuing body, in relation to an authorisation, means:

- (a) the Authority, or
- (b) a person, body or association that is approved for the time being under clause 16 as an issuing body for the particular type of authorisation concerned.

miscellaneous controlled substance means a substance described in Part 4 of Schedule 1, and includes all isomers of that substance other than those (if any) specifically excluded from the description of the substance.

portable HCFC fire extinguisher means a portable fire extinguisher that uses an HCFC in its operation.

portable halon fire extinguisher means a portable fire extinguisher that uses a halon in its operation.

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Clause 3 Ozone Protection Regulation 1997

Part 1 Preliminary

reclaim, in relation to a controlled substance, means collect or contain the substance.

restricted activity means an activity to which Division 3 of Part 2 applies, as referred to in clause 13.

service, in relation to a controlled article, means carry out any activity for the purpose of repairing, maintaining or adjusting the article, being an activity that risks release to the atmosphere of a controlled substance.

the Act means the *Ozone Protection Act 1989*.

4 Notes

The explanatory note and table of contents do not form part of this Regulation.

5 Controlled substances

Each substance referred to in Part 1, 2, 3 or 4 of Schedule 1 is prescribed as an ozone depleting substance for the purposes of paragraph (b) of the definition of *controlled substance* in section 4 (1) of the Act.

6 Application of Regulation

This Regulation:

- (a) does not apply to the sale, distribution, possession or use of a substance, or of an article containing a substance, merely because the substance includes an insignificant quantity or proportion of a controlled substance, and
- (b) does not apply to the sale, distribution, possession or use of a controlled substance as part of a transaction or activity that is merely ancillary to the servicing of a controlled article.

Part 2 Authorisations

Division 1 Restrictions on sale and distribution of CFCs, HCFCs and halons

7 Requirement for authorisation to sell or distribute

A person must not sell or distribute a CFC, HCFC or halon to another person unless:

- (a) the first person is an authorised supplier for the CFC, HCFC or halon, and sells or distributes it in accordance with any conditions to which his or her authorisation is subject, and
- (b) the second person is an authorised purchaser for the CFC, HCFC or halon.

Maximum penalty: 200 penalty units in the case of a corporation or 100 penalty units in any other case.

8 Duties of authorised suppliers concerning emissions

An authorised supplier of a CFC, HCFC or halon must ensure that any CFC, HCFC or halon that is in his or her possession or under his or her control is handled in a manner that prevents, or at least minimises, its release to the atmosphere.

Maximum penalty: 100 penalty units in the case of a corporation or 50 penalty units in any other case.

9 Record keeping by authorised suppliers

- (1) An authorised supplier of a CFC, HCFC or halon must make and retain records as required by this clause.

Maximum penalty: 100 penalty units in the case of a corporation or 50 penalty units in any other case.

- (2) A record is to be made of each sale or distribution of a CFC, HCFC or halon under the authorisation, specifying the following:
 - (a) the name, address and authorisation number (if any) of the person to whom the CFC, HCFC or halon was sold or distributed,
 - (b) the common name of the CFC, HCFC or halon sold and the quantity sold.

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Clause 9 Ozone Protection Regulation 1997

Part 2 Authorisations

Division 1

- (3) A record is also to be made showing the common name and quantity of each CFC, HCFC or halon:
 - (a) that is acquired by the authorised supplier as a result of accepting delivery of reclaimed CFCs, HCFCs and halons, and
 - (b) that leaves the control of the authorised supplier otherwise than by a sale or distribution recorded under subclause (2), and
 - (c) that is held in stock by the authorised supplier as at 30 September in each year.
- (4) Records are to be in writing and are to be retained for a minimum period of 2 years after they are made.
- (5) An authorised supplier must, at the request of an authorised officer, make available for inspection by the authorised officer any records required under this clause.

Maximum penalty: 100 penalty units in the case of a corporation or 50 penalty units in any other case.

10 Records and returns to be forwarded to Authority

- (1) Before 1 November in each year, an authorised supplier of a CFC, HCFC or halon must forward to the Authority a return showing:
 - (a) the total quantity of each CFC, HCFC or halon (identified by its common name) sold by the supplier during the previous reporting year, and
 - (b) the total quantity of each CFC, HCFC or halon (identified by its common name) acquired by the supplier as a result of accepting delivery of reclaimed CFCs, HCFCs and halons during the previous reporting year, and
 - (c) the total quantity of each CFC, HCFC or halon (identified by its common name) held in stock by the supplier at the end of the previous reporting year.

Maximum penalty: 100 penalty units in the case of a corporation or 50 penalty units in any other case.

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- (2) Within one month after an authorised supplier is served with a written request from the Authority to do so, the supplier must forward to the Authority copies of any other records made and retained by the supplier under clause 9.

Maximum penalty: 100 penalty units in the case of a corporation or 50 penalty units in any other case.

- (3) In this clause, *previous reporting year* means the period of 12 months ending on the previous 30 September.

Division 2 Restrictions on obtaining possession of CFCs, HCFCs and halons

11 Requirement for authorisation to obtain possession

A person must not obtain possession of a CFC, HCFC or halon from another person unless:

- (a) the first person is an authorised purchaser for the CFC, HCFC or halon, and obtains possession of it in accordance with any conditions to which his or her authorisation is subject, and
- (b) the second person is an authorised supplier for the CFC, HCFC or halon.

Maximum penalty: 200 penalty units in the case of a corporation or 100 penalty units in any other case.

12 Record keeping by authorised purchasers

- (1) An authorised purchaser of a CFC, HCFC or halon must make and retain records as required by this clause.

Maximum penalty: 100 penalty units in the case of a corporation or 50 penalty units in any other case.

- (2) A record is to be made of each occasion on which a CFC, HCFC or halon is obtained, specifying the following:
- (a) the name, address and authorisation number (if any) of the person from whom the CFC, HCFC or halon was obtained,
 - (b) the common name of the CFC, HCFC or halon obtained and the quantity obtained.

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Clause 12 Ozone Protection Regulation 1997

Part 2 Authorisations
Division 2

- (3) A record is also to be made that contains the following information:
- (a) the common name and quantity of any reclaimed CFC, HCFC or halon that is returned by the authorised purchaser to an authorised supplier,
 - (b) the common name and quantity of any CFC, HCFC or halon that leaves the control of the authorised purchaser otherwise than by way of:
 - (i) its sale or distribution, or
 - (ii) its use in the course of servicing a controlled article, or
 - (iii) its return to an authorised supplier, as referred to in paragraph(a),
 - (c) the name and address of each person to whom possession of any CFC, HCFC or halon passes as referred to in paragraph (a) or (b),
 - (d) the common name and quantity of each CFC, HCFC or halon that is held in stock by the authorised purchaser as at 30 June in each year.
- (4) Records are to be in writing and are to be retained for a minimum period of 2 years after they are made.
- (5) An authorised purchaser must, at the request of an authorised officer, make available for inspection by the authorised officer any records required under this clause.

Maximum penalty: 100 penalty units in the case of a corporation or 50 penalty units in any other case.

Division 3 Restrictions on other activities

13 Application of Division

- (1) This Division applies to the following activities (*restricted activities*):

- (a) the manufacture, installation, servicing or decommissioning of
 - (i) any refrigeration equipment, or
 - (ii) any air conditioning equipment (including motor vehicle air conditioning equipment), or
 - (iii) any aerosol, or
 - (iv) any fire protection system, or
 - (v) any portable fire extinguisher,
 - (vi) any other controlled article (other than a mere container),
that uses a CFC, HCFC or halon in its operation,
 - (b) the use of a CFC or HCFC for the purposes of dry cleaning,
 - (c) the reprocessing or upgrading of any reclaimed CFC or HCFC.
- (2) An activity does not constitute the installation of a controlled article unless it involves charging the article with a CFC, HCFC or halon.

14 Requirement for authorisation to engage in restricted activity

A person must not engage in a restricted activity unless:

- (a) the person holds an authorisation for that activity, or is acting under the direct supervision of a person who holds such an authorisation, and
- (b) the person does so in accordance with any conditions to which his or her authorisation or that of his or her supervisor is subject.

Maximum penalty: 200 penalty units in the case of a corporation or 100 penalty units in any other case.

15 Restrictions on who may be granted authorisations

A person is not to be granted an authorisation to engage in a restricted activity unless the issuing body is satisfied that the person:

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Part 2 Authorisations
Division 3

- (a) has an adequate awareness of the health and environmental effects of stratospheric ozone depletion and the need to minimise emissions of CFCs, HCFCs and halons to protect the stratospheric ozone layer, and
- (b) has an adequate knowledge of the provisions of this Regulation and any relevant code of practice.

Division 4 Procedure for granting and cancelling authorisations

16 Authority may issuing bodies

- (1) The Authority may from time to time approve of a person, body or association as an issuing body for particular types of authorisations to be granted for the purposes of this Regulation.
- (2) The Authority may revoke an approval under this clause at any time by notice in writing served on the person, body or association concerned.

17 Granting of authorisations

- (1) An issuing body is empowered to grant and cancel authorisations in accordance with this Regulation and to receive and retain fees payable under this Regulation in respect of those authorisations.
- (2) An issuing body:
 - (a) may grant an authorisation on application in a form approved by the issuing body and payment of such fee (if any) as may be approved by the Authority, and
 - (b) may impose conditions on an authorisation (including a condition as to the period for which it is to remain in force), and
 - (c) may vary or revoke any condition to which an authorisation is subject.
- (3) A condition may be imposed either when the issuing body grants the authorisation or at any time while the authorisation is in force.

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- (4) The imposition, variation or revocation of a condition of an authorisation takes effect when written notice of it is given to the holder of the authorisation or on a later date specified in the notice.

18 Periodic authorisation fee

- (1) The holder of an authorisation under which a person is authorised to sell or distribute a CFC, or to obtain possession of a CFC, must pay the appropriate periodic authorisation fee to the issuing body within one month after the end of the appropriate authorisation period for the authorisation.
- (2) The appropriate periodic authorisation fee and authorisation period (being a period of at least one year) are to be as determined from time to time by the issuing body and notified in writing to the holder of the authorisation.

19 Term of authorisation

An authorisation remains in force:

- (a) until it expires in accordance with its conditions, or
(b) until it is cancelled or surrendered.

20 Cancellation of authorisations

- (1) An issuing body may cancel an authorisation if satisfied that the holder of the authorisation:
- (a) has contravened a condition of the authorisation, or
(b) has been convicted of an offence under the Act, this Regulation or section 6A of the *Environmental Offences and Penalties Act 1989*, or
(c) has ceased to carry on the activity to which the authorisation relates, or
(d) has failed to pay any fee payable under this Regulation for the authorisation within one month after a written demand for payment has been served on the holder of the authorisation by the issuing body.
- (2) The cancellation of an authorisation takes effect when notice of it is given in writing to the holder of the authorisation.

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Clause 21 Ozone Protection Regulation 1997

Part 3 Use of CFCs and HCFCs generally
Division 1

Part 3 Use of CFCs and HCFCs generally

Division 1 Labelling of refrigeration equipment

21 Labelling of refrigeration equipment for sale

A person who manufactures, sells or distributes any refrigeration equipment that uses a CFC or HCFC in its operation is guilty of an offence unless the equipment bears a label that:

- (a) clearly identifies the CFC or HCFC used, and
- (b) is displayed in such a position on the equipment that it will be easily found by a person servicing the equipment, and
- (c) is of such a size that the information on the label is easy to read, and
- (d) will endure for the likely service life of the equipment.

Maximum penalty: 100 penalty units in the case of a corporation or 50 penalty units in any other case.

22 Labelling of refrigeration equipment during servicing

A person who services any refrigeration equipment by charging it with a CFC or HCFC, or by replacing its existing CFC or HCFC with some other refrigerant, must attach a label (in a prominent position on or near the equipment) that records the following information in a legible manner:

- (a) the name of the organisation carrying out the service,
- (b) the authorisation number (if any) of the purchaser of the CFC or HCFC or other refrigerant used to charge the equipment,
- (c) the date of the service,
- (d) the type of refrigerant used in the service,
- (e) the type of lubricant used in the service.

Maximum penalty: 100 penalty units in the case of a corporation or 50 penalty units in any other case.

Division 2 Labelling of air Conditioning equipment**23 Labelling of air conditioning equipment for sale**

A person who manufactures, sells or distributes any air conditioning equipment that uses a CFC or HCFC in its operation is guilty of an offence unless the equipment bears a label that:

- (a) clearly identifies the CFC or HCFC used, and
- (b) is displayed in such a position on the equipment that it will be easily found by a person servicing the equipment, and
- (c) is of such a size that the information on the label is easy to read, and
- (d) will endure for the likely service life of the equipment.

Maximum penalty: 100 penalty units in the case of a corporation or 50 penalty units in any other case.

24 Labelling of air conditioning equipment during servicing

- (1) A person who services any air conditioning equipment by charging it with a CFC or HCFC, or by replacing its existing CFC or HCFC with some other refrigerant, must attach a label (in a prominent position on or near the equipment) that records the following information in a legible manner:
 - (a) the name of the organisation carrying out the service,
 - (b) the authorisation number (if any) of the purchaser of the CFC or HCFC or other refrigerant used to charge the equipment,
 - (c) the date of the service,
 - (d) the type of refrigerant used in the service,
 - (e) the type of lubricant used in the service.

Maximum penalty: 100 penalty units in the case of a corporation or 50 penalty units in any other case.

- (2) This clause does not apply to motor vehicle air conditioning equipment.

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Clause 25 Ozone Protection Regulation 1997

Part 3 Use of CFCs and HCFCs generally
Division 2

25 Motor vehicle air conditioning equipment

- (1) A person who services any motor vehicle air conditioning equipment by charging the equipment with a CFC or HCFC, or by replacing its existing CFC or HCFC with some other refrigerant, must attach a label (in a prominent position on or near the equipment) that records the following information in a legible manner:
- (a) the name of the organisation carrying out the service,
 - (b) the authorisation number (if any) of the purchaser of the CFC or HCFC or other refrigerant used to charge the equipment,
 - (c) the date of filter/drier replacement,
 - (d) the date of the service,
 - (e) the type of refrigerant used in the service,
 - (f) the type of lubricant used in the service.

Maximum penalty: 100 penalty units in the case of a corporation or 50 penalty units in any other case.

- (2) A person who dismantles any motor vehicle that contains motor vehicle air conditioning equipment that uses a CFC or HCFC in its operation must ensure that the equipment is decommissioned by a person who is authorised to do so.

Maximum penalty: 100 penalty units in the case of a corporation or 50 penalty units in any other case.

Division 3 Aerosols

26 Aerosols not to contain CFCs

A person must not manufacture, sell or distribute any aerosol product that contains a CFC unless the manufacturer or importer of the product has been granted an exemption in relation to that product under section 40 of the *Ozone Protection Act 1989* of the Commonwealth.

Maximum penalty: 100 penalty units in the case of a corporation or 50 penalty units in any other case.

Part 4 Use of HCFCs and halons for fire protection

Division 1 Fixed HCFC systems

27 Use and testing of fixed HCFC systems

- (1) A person must not test a fixed HCFC system, in a manner that results in, or is likely to result in, the release to the atmosphere of any HCFC, otherwise than with the written approval of the Authority and in accordance with any conditions to which that approval is subject.
- (2) A person must not discharge a fixed HCFC system except for the purpose of extinguishing a fire in an emergency.

Maximum penalty: 200 penalty units in the case of a corporation or 100 penalty units in any other case.

Division 2 Portable HCFC fire extinguishers

28 Discharge of portable HCFC fire extinguishers prohibited except to extinguish fire

A person must not discharge a portable HCFC fire extinguisher otherwise than:

- (a) for the purpose of extinguishing a fire in an emergency, or
- (b) with the written approval of the Authority and in accordance with any conditions to which that approval is subject.

Maximum penalty: 100 penalty units in the case of a corporation or 50 penalty units in any other case.

Division 3 Fixed halon systems

29 Installation and continued possession of fixed halon system requires approval

- (1) A person:
 - (a) must not install a fixed halon system in any premises, or
 - (b) being the owner of premises, must not allow a fixed halon system to remain in the premises,

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Clause 29 Ozone Protection Regulation 1997

Part 4 Use of HCFCs and halons for fire protection
Division 3

otherwise than with the written approval of the Authority and in accordance with any conditions to which that approval is subject.

Maximum penalty: 200 penalty units in the case of a corporation or 100 penalty units in any other case.

- (2) The Authority is not to give its approval to the installation of a fixed halon system unless satisfied that there is no acceptable alternative means of fire protection available and that the system is necessary:
 - (a) to protect persons in a situation where human occupancy is essential and timely evacuation not possible, or
 - (b) to facilitate the continued operation of equipment the operation of which is necessary to protect human life, or
 - (c) to protect equipment the operation of which is critical to the community and the failure of which may have far reaching consequences.

30 Use and testing of fixed halon systems

- (1) A person must not test a fixed halon system in a manner that results in, or is likely to result in, the release of a halon to the atmosphere.
- (2) A person must not discharge a fixed halon system except for the purpose of extinguishing a fire in an emergency.

Maximum penalty: 200 penalty units in the case of a corporation or 100 penalty units in any other case.

31 Discharges of halon to be notified

- (1) Within 30 days after any halon is discharged from a fixed halon system, the occupier of premises on which the system is installed must give notice of the discharge to the Authority in accordance with this clause.

Maximum penalty: 50 penalty units in the case of a corporation or 25 penalty units in any other case.

- (2) The notice:
- (a) must be in writing, and
 - (b) must specify the date on which the discharge occurred, and
 - (c) must identify the nature and quantity of the halon discharged, and
 - (d) must explain how and why the discharge occurred, and
 - (e) must describe the measures that have been taken, or that are proposed to be taken, to prevent similar discharges occurring in the future.

Division 4 Portable halon fire extinguishers

32 Possession of portable halon fire extinguishers requires approval

- (1) A person must not possess a portable halon fire extinguisher otherwise than with the written approval of the Authority and in accordance with any conditions to which that approval is subject.

Maximum penalty: 200 penalty units in the case of a corporation or 100 penalty units in any other case.

- (2) The Authority is not to give its approval to a person's possession of a portable halon fire extinguisher unless it is satisfied that, in the circumstances in which the extinguisher is to be available for use, there is no acceptable alternative means of fire protection available and that the availability of the extinguisher in those circumstances is necessary:
- (a) to protect persons in a situation where human occupancy is essential and timely evacuation not possible, or
 - (b) to facilitate the continued operation of equipment the operation of which is necessary to protect human life, or
 - (c) to protect equipment the operation of which is critical to the community and the failure of which may have far reaching consequences.

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Clause 33 Ozone Protection Regulation 1997

Part 4 Use of HCFCs and halons for fire protection
Division 4

33 Restriction on sale and distribution of portable halon fire extinguishers

- (1) A person must not, in the course of a business involving the sale or distribution of fire extinguishers, sell or distribute a portable halon fire extinguisher to any other person otherwise than with the written approval of the Authority and in accordance with the conditions to which that approval is subject.

Maximum penalty: 200 penalty units in the case of a corporation or 100 penalty units in any other case.

- (2) An approval may apply to any one or more of the following:
- (a) the sale or distribution of any specified extinguisher or class of extinguishers,
 - (b) the sale or distribution of extinguishers by any specified person or class of persons,
 - (c) the sale or distribution of extinguishers to any specified person or class of persons.
- (3) The Authority is not to give its approval to the sale or distribution of a particular extinguisher or class of extinguishers unless it is satisfied that, in the circumstances in which the extinguisher is to be available for use, there is no acceptable alternative means of fire protection available and that the availability of the extinguisher in those circumstances is necessary:
- (a) to protect persons in a situation where human occupancy is essential and timely evacuation not possible, or
 - (b) to facilitate the continued operation of equipment the operation of which is necessary to protect human life, or
 - (c) to protect equipment the operation of which is critical to the community and the failure of which may have far reaching consequences.

34 Discharge of portable halon fire extinguishers prohibited except to extinguish fire

A person must not discharge a portable halon fire extinguisher except for the purpose of extinguishing a fire in an emergency.

Maximum penalty: 100 penalty units in the case of a corporation or 50 penalty units in any other case.

Part 5 Safe keeping and disposal of controlled substances

Division 1 Safe keeping and disposal of controlled substances

35 Safe keeping and disposal of CFCs and HCFCs

- (1) A person who has possession of a CFC or HCFC:
- (a) must keep it in an airtight container at all times, and
 - (b) must not cause or permit it to be released to the atmosphere.

Maximum penalty: 200 penalty units in the case of a corporation or 100 penalty units in any other case.

- (2) A person must not dispose of a CFC or HCFC otherwise than:
- (a) by delivering it to an authorised supplier, or
 - (b) by delivering it to an authorised purchaser, but only if the person is an authorised supplier, or
 - (c) by destroying it in a manner approved by the Authority.

Maximum penalty: 200 penalty units in the case of a corporation or 100 penalty units in any other case.

- (3) This clause:
- (a) does not prevent a person from engaging in a restricted activity in accordance with the provisions of this Regulation, and
 - (b) does not prevent a person from using an article containing a CFC or HCFC, in accordance with the provisions of this Regulation, for the purposes for which the article is designed to be used, and
 - (c) does not apply to any residual CFC or HCFC contained in a discarded domestic article (such as a domestic aerosol, a domestic refrigerator or domestic air conditioning equipment).

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Clause 35 Ozone Protection Regulation 1997

Part 5 Safe keeping and disposal of controlled substances
Division 1

- (4) Despite subclause (3) (c), this clause does apply to:
- (a) any residual CFC or HCFC contained in motor vehicle air conditioning equipment that is decommissioned by an authorised person referred to in clause 25 (2), and
 - (b) any residual CFC or HCFC arising from a person's engagement in a restricted activity,
- but only so as to impose obligations on that person.

36 Safe keeping and disposal of halons

- (1) A person who has possession of a halon:
- (a) must keep it in an airtight container at all times, and
 - (b) must not cause or permit it to be released to the atmosphere.

Maximum penalty: 200 penalty units in the case of a corporation or 100 penalty units in any other case.

- (2) A person must not dispose of a halon otherwise than in a manner approved by the Authority.

Maximum penalty: 200 penalty units in the case of a corporation or 100 penalty units in any other case.

- (3) This clause:

- (a) does not prevent a person from engaging in a restricted activity in accordance with the provisions of this Regulation, and
- (b) does not prevent a person from using an article containing a halon, in accordance with the provisions of this Regulation, for the purposes for which the article is designed to be used.

37 Safe keeping and disposal of miscellaneous controlled substances

- (1) A person who has possession of a miscellaneous controlled substance:
- (a) must keep it in an airtight container at all times, and
 - (b) must not cause or permit it to be released to the atmosphere.

Maximum penalty: 200 penalty units in the case of a corporation or 100 penalty units in any other case.

- (2) A person must not dispose of a miscellaneous controlled substance otherwise than in a manner approved by the Authority.

Maximum penalty: 200 penalty units in the case of a corporation or 100 penalty units in any other case.

- (3) This clause does not prevent a person from using a miscellaneous controlled substance or an article containing a miscellaneous controlled substance, in accordance with the provisions of this Regulation, for the purposes for which the substance or article is designed to be used.

Division 2 Reclamation of CFCs, HCFCs and halons

38 Duty to prevent release of and to reclaim CFCs, HCFCs and halons

A person who engages in a restricted activity:

- (a) must do so in accordance with the provisions of any relevant code of practice, and
 - (b) except to the extent to which any relevant code of practice otherwise permits:
 - (i) must not cause or permit any CFC, HCFC or halon to be released to the atmosphere, and
 - (ii) must reclaim any CFC, HCFC or halon that would otherwise be released to the atmosphere,
- in the course of or as a result of that activity.

Maximum penalty: 200 penalty units in the case of a corporation or 100 penalty units in any other case.

39 Supplier to supply and accept delivery of containers for reclaiming

- (1) On the request of an authorised purchaser of a CFC or HCFC, an authorised supplier of a CFC or HCFC of the same kind (whether or not the original supplier of the particular CFC or HCFC):

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Part 5 Safe keeping and disposal of controlled substances
Division 2

- (a) must supply the applicant with a container that is suitable for use for holding the CFC or HCFC when it is reclaimed, and
- (b) must accept delivery by the applicant of any such container (together with any reclaimed CFC or HCFC held in it).

Maximum penalty: 100 penalty units in the case of a corporation or 50 penalty units in any other case.

- (2) A container supplied by an authorised supplier in accordance with this clause must be clearly marked with the following:
 - (a) the word “RECLAIMED”,
 - (b) the name of the authorised supplier,
 - (c) a statement that the container is to be used only for the storage and return of the substance indicated,
 - (d) the common name and colour code (if any) of the CFC or HCFC for which the container is intended to be used.
- (3) A person must not deliver to an authorised supplier any container holding a CFC or HCFC unless the container is clearly marked with:
 - (a) the common name and colour code (if any) of the CFC or HCFC, and
 - (b) if the CFC or HCFC is adulterated or suspected of being adulterated, a statement to that effect.

Maximum penalty: 100 penalty units in the case of a corporation or 50 penalty units in any other case.

- (4) This clause does not prevent an authorised supplier:
 - (a) from imposing a charge for supplying or accepting delivery of a container under this clause, or
 - (b) from accepting delivery of any CFC or HCFC in any container from any person.
- (5) This clause does not apply to CFC-113.

40 Special containers to be used for reclaiming

- (1) A person who reclaims a CFC or HCFC in the course of carrying out a restricted activity must do so by means of a container that complies with clause 39 (2) and that is intended for use for the CFC or HCFC concerned.

Maximum penalty: 100 penalty units in the case of a corporation or 50 penalty units in any other case.

- (2) This clause does not apply to CFC-113.

Division 3 Possession of halons

41 Possession of halons

- (1) A person who has possession of any halon is guilty of an offence unless it is contained in or is intended to be used to charge:
- (a) a fixed halon system the subject of an approval under clause 29, or
 - (b) a portable halon fire extinguisher the subject of an approval under clause 32.

Maximum penalty: 100 penalty units in the case of a corporation or 50 penalty units in any other case.

- (2) This clause does not apply to a person who merely has possession of a halon:
- (a) for the purpose of disposing of the halon in a manner approved by the Authority, or
 - (b) for the purpose of conveying or storing the halon immediately prior to the halon's being disposed of in a manner approved by the Authority.

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Clause 42 Ozone Protection Regulation 1997

Part 6 Miscellaneous

Part 6 Miscellaneous

42 Penalty notice offences

For the purposes of section 20 of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 2 is prescribed as a penalty notice offence, and
- (b) the prescribed penalty for such an offence is the amount specified in Column 3 of Schedule 2.

43 Short descriptions

- (1) For the purposes of section 145B of the Justices Act 1902, the prescribed expression for an offence created by a provision specified in Column 1 of Schedule 2 is:
 - (a) the expression specified opposite that provision in Column 2 of that Schedule, or
 - (b) if a choice of words is indicated in that expression, the words remaining after the omission of the words irrelevant to the offence.
- (2) For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 2, the prescribed expression for the offence is taken to relate to the offence created by the provision, as the provision was in force when the offence is alleged to have been committed.
- (3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used, and any such document continues to have effect as if that expression had not been amended or repealed.
- (4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.

44 Approvals

- (1) The Authority may grant approvals for the purposes of this Regulation.

- (2) An approval may be granted in respect of
 - (a) any specified person or class of persons, and
 - (b) any specified controlled substance or class of controlled substances, and
 - (c) any specified controlled article or class of controlled articles.
- (3) The Authority may require a fee to be paid for its consideration of an application for an approval.
- (4) An approval may be granted unconditionally or subject to such conditions as the Authority may determine.
- (5) The Authority may at any time, by notice in writing served on a person to whom an approval applies, vary or revoke the approval to the extent to which it applies to that person.

45 Exemptions

- (1) The Authority may, by order in writing, exempt any specified person or class of persons from the requirements of any specified provision of this Regulation.
- (2) An application for an exemption must be accompanied by such fee (if any) as the Authority may determine.
- (3) An exemption:
 - (a) must specify the period (not exceeding 12 months) for which it is to have effect, and
 - (b) may be given unconditionally or subject to such conditions as the Authority may determine, and
 - (c) may apply to particular controlled substances or controlled articles or to particular classes of controlled substances or controlled articles, and
 - (d) must not permit conduct that would otherwise contravene a provision of this Regulation except in circumstances in which the Authority is satisfied that there is no practicable alternative to that conduct, and
 - (e) may be renewed from time to time.

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Clause 45 Ozone Protection Regulation 1997

Pari 6 Miscellaneous

- (4) The Authority may at any time, by order in writing served on a person to whom an exemption applies, vary or revoke the exemption to the extent to which it applies to that person.

46 Codes of practice

- (1) The Authority may from time to time approve of codes of practice that make provision for or with respect to regulating the carrying on of any activity to which this Regulation applies.
- (2) The Authority may approve of alterations to or the rescission of any such code of practice.
- (3) An approved code of practice and any approved alteration to it or rescission of it takes effect for the purposes of this Regulation when a copy of the code of practice, alteration or rescission is published in the Gazette.
- (4) A copy of a code of practice (as in force for the time being) is to be available for inspection by any person during normal business hours free of charge at the head office of the Authority.
- (5) A code of practice is a *relevant code of practice* in relation to a particular activity if it makes provision for or with respect to the manner in which the activity is to be carried on.

47 Repeal

- (1) The *Ozone Protection Regulation 1991* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Ozone Protection Regulation 1991*, had effect under that Regulation continues to have effect under this Regulation.

48 Transitional provision

- (1) The provisions of clauses 7, 11 and 13 do not apply to HCFCs, or restricted activities involving the use of HCFCs, until the date that is 6 months after the commencement of this Regulation.
- (2) Any authorisation that, immediately before the date that is 6 months after the commencement of this Regulation, is in force under Part 2 with respect to a CFC or halon (whether in relation to its sale or distribution, its possession or its use in connection with a restricted activity) is taken to have effect, on and from that date, with respect to any HCFC in relation to the same activity.

Schedule 1 Controlled substances

(Clause 5)

Part 1 CFCs

| Substance | Common Name | Chemical formula |
|-------------------------------|--------------------|-----------------------------------|
| Trichlorofluoromethane | CFC-11 | CFCl_3 |
| Dichlorodifluoromethane | CFC-12 | CF_2Cl_2 |
| Trichlorotrifluoroethane | CFC-113 | $\text{C}_2\text{F}_3\text{Cl}_3$ |
| Dichlorotetrafluoroethane | CFC-114 | $\text{C}_2\text{F}_4\text{Cl}_2$ |
| Monochloropentafluoroethane | CFC-115 | $\text{C}_2\text{F}_5\text{Cl}$ |
| Chlorotrifluoromethane | CFC-13 | CF_3Cl |
| Pentachlorofluoroethane | CFC-111 | C_2FCl_5 |
| Tetrachlorodifluoroethane | CFC-112 | $\text{C}_2\text{F}_2\text{Cl}_4$ |
| Heptachlorofluoropropane | CFC-211 | C_3FCl_7 |
| Hexachlorodifluoropropane | CFC-212 | $\text{C}_3\text{F}_2\text{Cl}_6$ |
| Pentachlorotrifluoropropane | CFC-213 | $\text{C}_3\text{F}_3\text{Cl}_5$ |
| Tetrachlorotetrafluoropropane | CFC-214 | $\text{C}_3\text{F}_4\text{Cl}_4$ |
| Trichloropentafluoropropane | CFC-215 | $\text{C}_3\text{F}_5\text{Cl}_3$ |
| Dichlorohexafluoropropane | CFC-216 | $\text{C}_3\text{F}_6\text{Cl}_2$ |
| Monochloroheptafluoropropane | CFC-217 | $\text{C}_3\text{F}_7\text{Cl}$ |

Part 2 HCFCs

| Substance | Common Name | Chemical formula |
|---------------------------|--------------------|------------------------------------|
| Dichlorofluoromethane | HCFC-21 | CHFCl_2 |
| Monochlorodifluoromethane | HCFC-22 | CHF_2Cl |
| Monochlorofluoromethane | HCFC-31 | CH_2FCl |
| Tetrachlorofluoroethane | HCFC-121 | C_2HFCl_4 |
| Trichlorodifluoroethane | HCFC-122 | $\text{C}_2\text{HF}_2\text{Cl}_3$ |

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Schedule 1 Controlled substances

| Substance | Common Name | Chemical formula |
|------------------------------|--------------------|-------------------------|
| Dichlorotrifluoroethane | HCFC-123 | $C_2HF_3Cl_2$ |
| Monochlorotetrafluoroethane | HCFC-124 | C_2HF_4Cl |
| Trichlorofluoroethane | HCFC-131 | $C_2H_2FCl_3$ |
| Dichlorodifluoroethane | HCFC-132 | $C_2H_2F_2Cl_2$ |
| Monochlorotrifluoroethane | HCFC-133 | $C_2H_2F_3Cl$ |
| Dichlorofluoroethane | HCFC-141 | $C_2H_3FCl_2$ |
| Monochlorodifluoroethane | HCFC-142 | $C_2H_3F_2Cl$ |
| Chlorofluoroethane | HCFC-151 | C_2H_4FCl |
| Hexachlorofluoropropane | HCFC-221 | C_3HFCl_6 |
| Pentachlorodifluoropropane | HCFC-222 | $C_3HF_2Cl_5$ |
| Tetrachlorotrifluoropropane | HCFC-223 | $C_3HF_3Cl_4$ |
| Trichlorotetrafluoropropane | HCFC-224 | $C_3HF_4Cl_3$ |
| Dichloropentafluoropropane | HCFC-225 | $C_3HF_5Cl_2$ |
| Monochlorohexafluoropropane | HCFC-226 | C_3HF_6Cl |
| Pentachlorofluoropropane | HCFC-231 | $C_3H_2FCl_5$ |
| Tetrachlorodifluoropropane | HCFC-232 | $C_3H_2F_2Cl_4$ |
| Trichlorotrifluoropropane | HCFC-233 | $C_3H_2F_3Cl_3$ |
| Dichlorotetrafluoropropane | HCFC-234 | $C_3H_2F_4Cl_2$ |
| Monochloropentafluoropropane | HCFC-235 | $C_3H_2F_5Cl$ |
| Tetrachlorofluoropropane | HCFC-241 | $C_3H_3FCl_4$ |
| Trichlorodifluoropropane | HCFC-242 | $C_3H_3F_2Cl_3$ |
| Dichlorotrifluoropropane | HCFC-243 | $C_3H_3F_3Cl_2$ |
| Monochlorotetrafluoropropane | HCFC-244 | $C_3H_3F_4Cl$ |
| Trichlorofluoropropane | HCFC-251 | $C_3H_4FCl_3$ |
| Dichlorodifluoropropane | HCFC-252 | $C_3H_4F_2Cl_2$ |
| Monochlorotrifluoropropane | HCFC-253 | $C_3H_4F_3Cl$ |
| Dichlorofluoropropane | HCFC-261 | $C_3H_5FCl_2$ |
| Monochlorodifluoropropane | HCFC-262 | $C_3H_5F_2Cl$ |
| Monochlorofluoropropane | HCFC-271 | C_3H_6FCl |

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Controlled substances

Schedule 1

Part 3 Halons

| Substance | Common Name | Chemical formula |
|----------------------------|--------------------|---|
| Bromochlorodifluoromethane | halon 1211 | CF ₂ BrCl |
| Bromotrifluoromethane | halon 1301 | CF ₃ Br |
| Dibromotetrafluoroethane | halon 2402 | C ₂ F ₄ Br ₂ |

Part 4 Miscellaneous controlled substances

| Substance | Common Name | Chemical formula |
|-----------------------|----------------------|---|
| Tetrachloromethane | carbon tetrachloride | CCl ₄ |
| 1,1,1-trichloroethane | methyl chloroform | C ₂ H ₃ Cl ₃ |

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Schedule 2 Penalty notice offences

Schedule 2 Penalty notice offences

(Clauses 42, 43)

| Column 1 | Column 2 | Column 3 |
|---------------------------------------|--|-----------------|
| Offences under the Act | | |
| Section 14 (3) | not provide information/confer with EPA | \$300 |
| Offences under this Regulation | | |
| Clause 9 (1) | not make/retain authorised supplier's records | \$300 |
| Clause 9 (5) | not make supplier's records available to authorised officer | \$300 |
| Clause 10 (1) | not forward authorised supplier's return to EPA | \$300 |
| Clause 10 (2) | not forward authorised supplier's records to EPA | \$300 |
| Clause 12 (1) | not make/retain authorised purchaser's records | \$300 |
| Clause 12 (5) | not make purchaser's records available to authorised officer | \$300 |
| Clause 22 | not attach label to refrigeration equipment | \$300 |
| Clause 24 (1) | not attach label to air conditioning equipment | \$300 |
| Clause 25 (1) | not attach label to motor vehicle air conditioning equipment | \$300 |
| Clause 31 (1) | not notify EPA of halon discharge | \$300 |
| Clause 39 (1) (a) | not supply container for reclaiming CFC/HCFC | \$300 |
| Clause 39 (1) (b) | not accept delivery of container of CFC/HCFC | \$300 |
| Clause 40 (1) | not use appropriate container for reclaiming CFC/HCFC | \$300 |