



# **Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment Act 2022**

**No. 93, 2022**

**An Act to amend the *Ozone Protection and Synthetic  
Greenhouse Gas (Import Levy) Act 1995*, and for  
related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



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**An Act to amend the *Ozone Protection and Synthetic  
Greenhouse Gas (Import Levy) Act 1995*, and for  
related purposes**

*[Assented to 13 December 2022]*

The Parliament of Australia enacts:

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*No. 93, 2022*

*Ozone Protection and Synthetic Greenhouse Gas (Import Levy)  
Amendment Act 2022*

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## 1 Short title

This Act is the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment Act 2022*.

## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

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Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	13 December 2022
2. Schedule 1	At the same time as Schedule 1 to the <i>Ozone Protection and Synthetic Greenhouse Gas Management Reform (Closing the Hole in the Ozone Layer) Act 2022</i> commences.  However, the provisions do not commence at all if that Schedule does not commence.	13 June 2023

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Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

## 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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## Schedule 1—Amendments

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

#### 1 Title

Omit “, ODS equipment”.

#### 2 Section 2A (heading)

Omit “Definition”, substitute “Definitions”.

#### 3 Section 2A

Insert:

*amount* includes a nil amount.

*Management Act* means the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.

*Manufacture Levy Act* means the *Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995*.

#### 4 Section 3

Repeal the section, substitute:

#### 3 Interpretation

- (1) An expression used in this Act has the same meaning in this Act as it has in the Management Act.
- (2) Without limiting subsection (1), section 9 (references to scheduled substances and equipment) of the Management Act applies in relation to this Act in the same way as that section applies in relation to the Management Act.
- (3) In determining for the purposes of this Act whether a licence allows the licensee to carry out an activity, disregard any suspension of the licence.

Note: For the effect of a licence suspension, see subsection 19D(4) of the Management Act.

## 5 At the end of subsection 3A(1)

Add:

Note: This subsection applies only in relation to the import of SGGs that are bulk scheduled substances (see subsection 3(2) of this Act and subsection 9(1) of the Management Act). For SGG equipment imported under an equipment licence, see section 4A of this Act.

## 6 Subsection 3A(2)

Omit “circumstances that are prescribed for the purposes of subsection 13(3) of the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*”, substitute “circumstances, or for a purpose, prescribed for the purposes of subsection 13AA(2) of the Management Act”.

## 7 Subsection 3A(5)

Repeal the subsection.

## 8 Subsection 3A(7) (definition of *prescribed rate*)

Repeal the definition, substitute:

*prescribed rate* means the amount prescribed by the regulations for the purposes of this definition.

## 9 Subparagraph 3A(9)(b)(iii)

Omit “equipment prescribed for the purposes of paragraph 8D(1)(c) of the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*”, substitute “equipment of a kind prescribed for the purposes of paragraph 13(4)(a) or (6)(a) of the Management Act”.

## 10 Subparagraph 3A(9)(b)(iv)

Repeal the subparagraph.

## 11 Subsections 3A(12) and (13)

Repeal the subsections, substitute:

(12) The Minister may, by writing, delegate the Minister’s power under subsection (9) to:

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- (a) the Secretary; or
- (b) an SES employee or acting SES employee in the Department;  
or
- (c) an APS employee who holds, or is acting in, an Executive Level 2, or equivalent, position in the Department.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (13) In exercising a delegated power, the delegate must comply with any written directions of the Minister.
- (14) Before the Governor-General makes regulations for the purposes of a provision mentioned in column 1 of an item in the following table, the Minister must be satisfied of the matter, or one or more of the matters, mentioned in column 2 of that item.

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**Matters the Minister must be satisfied of before regulations are made**

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<b>Item</b>	<b>Column 1 Provision</b>	<b>Column 2 Matters</b>
1	subsection (3)	(a) that 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) that a purpose to be prescribed by those regulations is a medical, veterinary, health or safety purpose
2	the definition of <i>prescribed rate</i> in subsection (7)	that the effect of this Act and the Manufacture Levy Act will be to recover no more than the Commonwealth's likely costs of the kind mentioned in paragraph 65D(a), (b), (c) or (ca) of the Management Act, being costs that are unlikely to be offset by fees charged under the Management Act or regulations made under it
3	subparagraph (9)(b)(v)	(a) that 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) that a purpose to be prescribed by those regulations is a medical, veterinary, health or safety purpose

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**12 Subsection 4(1)**

Omit “at the rate prescribed by the regulations”.

**13 At the end of subsection 4(1)**

Add:

Note: This subsection applies only in relation to the import of scheduled substances (other than SGGs) that are bulk scheduled substances (see subsection 3(2) of this Act and subsection 9(1) of the Management Act).

**14 Subsection 4(2)**

Repeal the subsection.

**15 Subsection 4(5)**

Repeal the subsection (including the note), substitute:

- (5) The amount of levy imposed by subsection (1) on a licensee in respect of the import of a substance other than an SGG in a reporting period is the amount prescribed, or worked out in accordance with a method prescribed, by the regulations for the purposes of this subsection.
- (6) Before the Governor-General makes regulations for the purposes of subsection (5), the Minister must be satisfied that the effect of this Act and the Manufacture Levy Act will be to recover no more than the Commonwealth’s likely costs of the kind mentioned in paragraph 65D(a), (b), (c) or (ca) of the Management Act.
- (7) For the purposes of subsection (6), disregard any costs that are likely to be offset by fees charged under the Management Act or regulations made under it.

**16 Subsections 4A(2) and (3)**

Repeal the subsections, substitute:

- (2) Subsection (1) does not apply to the import of SGG equipment prescribed by the regulations.
- (3) Subsection (1) does not apply to the import of SGG equipment if:

- (a) the equipment contains an SGG and the import is covered by the low volume imports exemption under subsection 13AA(4) of the Management Act; or
- (b) the import is covered by any of subsections 13AA(6) to (9) of that Act (which provide exceptions in certain circumstances from the prohibitions in that Act that apply to importing equipment).

### **17 Subsection 4A(5) (definition of *prescribed rate*)**

Repeal the definition, substitute:

*prescribed rate* means the amount prescribed by the regulations for the purposes of this definition.

### **18 Subsections 4A(8) and (9)**

Repeal the subsection, substitute:

- (8) Before the Governor-General makes regulations for the purposes of a provision mentioned in column 1 of an item in the following table, the Minister must be satisfied of the matter, or one or more of the matters, mentioned in column 2 of that item:

<b>Matters the Minister must be satisfied of before regulations are made</b>		
<b>Item</b>	<b>Column 1 Provision</b>	<b>Column 2 Matters</b>
1	definition of <i>prescribed rate</i> in subsection (5)	that the effect of this Act and the Manufacture Levy Act will be to recover no more than the Commonwealth's likely costs of the kind mentioned in paragraph 65D(a), (b), (c) or (ca) of the Management Act, being costs that are unlikely to be offset by fees charged under the Management Act or regulations made under it
2	subsection (7)	(a) that 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 those regulations; or (b) that a purpose to be prescribed by those regulations is a medical, veterinary, health or safety purpose

**19 Sections 4B and 5**

Repeal the sections, substitute:

**5 Regulations**

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed by the regulations; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

**20 Application and saving provisions**

- (1) The amendments made by this Schedule apply in relation to reporting periods that start on or after the commencement of this item.
- (2) The *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995*, as in force immediately before the commencement of this item, continues to apply in relation to reporting periods starting before that commencement.
- (3) Regulations made under section 5 of the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995*, that were in force immediately before the commencement of this item, continue in force (subject to subitem (4)), and may be dealt with, as if they had been made under section 5 of that Act, as amended by this Schedule.
- (4) Regulations made for the purposes of a provision of the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995* mentioned in column 1 of an item in the following table, that were in force immediately before the commencement of this item, continue in force (and may be dealt with) as if they had been made for the purposes of the provision of that Act mentioned in column 2 of that item, as amended by this Schedule.

**Saving of regulations**

	<b>Column 1</b>	<b>Column 2</b>
<b>Item</b>	<b>Old provision</b>	<b>New provision</b>
1	paragraph (b) of the definition of <i>prescribed rate</i> in subsection 3A(7)	the definition of <i>prescribed rate</i> in subsection 3A(7)

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<b>Saving of regulations</b>		
	<b>Column 1</b>	<b>Column 2</b>
<b>Item</b>	<b>Old provision</b>	<b>New provision</b>
2	subsection 4(1)	subsection 4(5)
3	paragraph 4A(2)(b)	subsection 4A(2)
4	paragraph (b) of the definition of <i>prescribed rate</i> in subsection 4A(5)	the definition of <i>prescribed rate</i> in subsection 4A(5)

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[Minister's second reading speech made in—  
House of Representatives on 28 September 2022  
Senate on 30 November 2022]

(100/22)

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