

Ozone Protection Amendment Regulations 2003 (No. 1) 2003 No. 279

EXPLANATORY STATEMENT

STATUTORY RULES 2003 No. 279

ISSUED BY AUTHORITY OF THE MINISTER FOR THE ENVIRONMENT AND HERITAGE

Ozone Protection Amendment Regulations 2003 (No. 1)

Ozone Protection (Licence Fees - Imports) Amendment Regulations 2003 (No. 1)

Ozone Protection (Licence Fees - Manufacture) Amendment Regulations 2003 (No. 1)

Section 70 of the *Ozone Protection Act 1989* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act. Paragraph 16 (2)(a) of the Act provides that the Minister must not grant a licence to a person unless that person has paid the prescribed fee for the grant of the licence. These fees are currently prescribed in the *Ozone Protection Regulations 1995* (the Principal Regulations).

Section 5 of the *Ozone Protection (Licence Fees - Imports) Act 1995* and section 5 of the *Ozone Protection (Licence Fees - Manufacture) Act 1995* provide that the Governor-General may make regulations fixing the rate for the purpose of calculating fees for the import and manufacture of hydrochlorofluorocarbons (HCFCs) and methyl bromide - two commonly used ozone-depleting substances that are scheduled to be phased-out under Australia's commitment to the Montreal Protocol on Substances that Deplete the Ozone Layer (the Protocol). The rates for licence fees applying to the import and manufacture of these substances are currently prescribed in the *Ozone Protection (Licence Fees - Imports) Regulations* and the *Ozone Protection (Licence Fees - Manufacture) Regulations* respectively.

The purpose of the *Ozone Protection Amendment Regulations 2003 (No. 1)* is to increase the prescribed fees under Regulation 3 of the Principal Regulations, which sets the fees for an application to obtain a controlled substance licence, an essential uses licence and a used substance licence. A controlled substance licence allows the licensee to manufacture, import or export HCFCs or methyl bromide. An essential uses licence allows the licensee to manufacture, import or export specific ozone-depleting substances for essential uses as identified under the Protocol. A used substance licence allows the licensee to import or export specific recycled or used ozone-depleting substances. These licences are a key mechanism for controlling Australia's consumption of ozone-depleting substances and control the import, export or manufacture of specified ozone-depleting substances.

The *Ozone Protection Amendment Regulations 2003 (No. 1)* also omitted a spent regulation, which repealed the former *Ozone Protection Regulations* and an amending regulation.

The purpose of the *Ozone Protection (Licence Fees - Imports) Amendment Regulations 2003 (No. 1)* is to increase the rates under Regulation 4 of the *Ozone Protection (Licence Fees - Imports) Regulations*. The purpose of the *Ozone Protection (Licence Fees - Manufacture) Amendment Regulations 2003 (No. 1)* is to increase the rates under Regulation 4 of the *Ozone Protection (Licence Fees - Manufacture) Regulations*. These regulations set the rates for licence fees applying to the import and manufacture, respectively, of HCFCs and methyl bromide.

Both Licence Fees Regulations also updated the citation of those Regulations to add the year and italicise the title.

Part VIIIA of the Act provides that amounts equal to the licence fees collected under the Act and fees collected under the *Ozone Protection (Licence Fees - Imports) Act 1995* and the *Ozone Protection (Licence Fees - Manufacture) Act 1995* are deposited into the Ozone Protection Reserve and are used for reimbursing the Commonwealth for costs associated with furthering the HCFC and methyl bromide phaseout programs, providing information about those programs, administering of the licensing and quota systems established by the Act, and refunding any amounts paid into the Ozone Protection Reserve in error. Section 5 of the *Financial Management Legislation Amendment Act 1999* converted the Ozone Protection Reserve into a Special Account for the purposes of the *Financial Management and Accountability Act 1997*.

The increases in licence fees and rates reflect the Government's intention that the Commonwealth's implementation of the Special Account's purposes should be revenue neutral. The previous licence fees and rates have been in place since the mid 1990's and no longer provide sufficient revenue to meet this requirement.

Details of the regulations are in the [Attachment](#).

The Act, the *Ozone Protection (Licence Fees - Imports) Act 1995* and the *Ozone Protection (Licence Fees - Manufacture) Act 1995* specify no conditions that need to be met before the power to make the Regulations may be exercised.

Each of the Regulations commenced on gazettal.

Attachment

Details of the *Ozone Protection Amendment Regulations 2003 (No. 1)*

Regulation 1 States the regulations are to be known as the *Ozone Protection Amendment Regulations 2003 (No. 1)*.

Regulation 2 Provides that the Regulations commence upon gazettal.

Regulation 3 Provides that the regulations are amended as set out in Schedule 1. Item 1 of Schedule 1 provides that the following fees for the application for a licence are prescribed:

- For a controlled substance licence - \$15 000;
- For a used substance licence - \$15 000; and
- For an essential uses licence - \$3 000.

Item 2 of Schedule 1 omits Regulation 7, which repealed Statutory Rules 1989 No. 70 and 1992 No. 348.

Details of the *Ozone Protection (Licence Fees - Imports) Amendment Regulations 2003 (No. 1)*

Regulation 1 States the regulations are to be known as the *Ozone Protection (Licence Fees - Imports) Amendment Regulations 2003 (No. 1)*.

Regulation 2 Provides that the Regulations commence upon gazettal.

Regulation 3 Provides that these regulations are amended as set out in Schedule 1. Item 1 of Schedule 1 updates the citation of the principal regulation in line with current drafting practice so as to italicise the title and to include the date.

Item 2 of Schedule 1 provides that the following fees are prescribed:

- In the case of HCFCs - \$3.00 for each ozone-depleting potential kilogram imported; and
- In the case of methyl bromide -13.5 cents per kilogram imported.

Details of the *Ozone Protection (Licence Fees - Manufacture) Amendment Regulations 2003 (No. 1)*

Regulation 1 States the regulations are to be known as the *Ozone Protection (Licence Fees - Manufacture) Amendment Regulations 2003 (No. 1)*.

Regulation 2 Provides that the Regulations commence upon gazettal.

Regulation 3 Provides that these regulations are amended as set out in Schedule 1. Item 1 of Schedule 1 updates the citation of the principal regulation in line with current drafting practice so as to italicise the title and to include the date.

Item 2 of Schedule 1 provides that the following fees are prescribed:

- In the case of HCFCs - \$3.00 for each ozone-depleting potential kilogram manufactured; and
- In the case of methyl bromide - 13.5 cents per kilogram manufactured.

