



Ozone Protection and Synthetic Greenhouse Gas Management Act 1989

No. 7, 1989

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About this compilation

This compilation

This is a compilation of the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* that shows the text of the law as amended and in force on 14 October 2024 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act to provide for measures to protect the ozone layer and to minimise emissions of SGGs

Part I—Preliminary

1 Short title

This Act may be cited as the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Objectives

The objectives of this Act are:

- (a) to institute, for the purpose of giving effect to Australia’s obligations under the Vienna Convention and the Montreal Protocol, a system of controls on the manufacture, import and export of ozone depleting substances and SGGs; and
- (b) to institute, and to provide for the institution of, specific controls on the manufacture, import, export, distribution and use of equipment that contains such substances or uses such substances in its operation; and
- (c) to use the best endeavours to encourage Australian industry to:
 - (i) replace ozone depleting substances and SGGs; and
 - (ii) achieve a faster and greater reduction in the levels of production and use of ozone depleting substances and SGGs than are provided for in the Vienna Convention and the Montreal Protocol;

to the extent that such replacements and achievements are reasonably possible within the limits imposed by the

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availability of suitable alternate substances, and appropriate technology and devices; and

- (d) to provide controls on the manufacture, import, export and use of SGGs, for the purposes of giving effect to Australia's obligations under the Framework Convention on Climate Change, the Kyoto Protocol and the Paris Agreement; and
- (e) to promote the responsible management of scheduled substances so as to minimise their impact on the atmosphere.

3A Simplified outline of this Act

This Act provides for controls on activities involving certain ozone depleting substances and synthetic greenhouse gases (SGGs), collectively referred to as scheduled substances.

A person must not carry out any of the following activities unless the person holds a licence that allows the activity (subject to certain exceptions):

- (a) manufacturing, importing or exporting a scheduled substance;
- (b) manufacturing, importing or exporting equipment that contains a scheduled substance, or uses a scheduled substance in its operation.

In certain cases, the manufacture, import or export of equipment that contains a scheduled substance, or uses a scheduled substance in its operation, is prohibited only if the equipment or substance (or both) is prescribed by regulations made under this Act.

There are 5 kinds of licence, as follows:

- (a) controlled substances licences, that allow the manufacture, import or export of HCFCs, methyl bromide or SGGs;
- (b) essential uses licences, that allow the manufacture, import or export of scheduled substances (other than methyl bromide and SGGs other than HFCs) for essential uses;

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- (c) used substances licences, that allow the import or export of used substances;
- (d) feedstock licences, that allow the manufacture or import of scheduled substances exclusively for use as a feedstock;
- (e) equipment licences, that allow the manufacture, import or export of equipment that contains a scheduled substance, or that uses a scheduled substance in its operation.

There are certain mandatory licence conditions, including conditions relating to quotas for manufacturing or importing HCFCs or HFCs under controlled substances licences. The Minister may also impose licence conditions.

Regulations made under this Act may make provision for the following:

- (a) prohibiting or regulating the distribution, purchase, acquisition or disposal of scheduled substances;
- (b) prohibiting or regulating the storage, use or handling of scheduled substances (other than certain uses of HCFCs);
- (c) prohibiting or regulating the recovery, recycling or destruction of scheduled substances;
- (d) labelling requirements for scheduled substances and for equipment that contains or uses scheduled substances.

A person must not, except in limited circumstances:

- (a) discharge a scheduled substance if it is likely to enter the atmosphere; or
- (b) use an HCFC that was manufactured or imported on or after 1 January 2020.

A person may have reporting obligations if the person:

- (a) manufactures, imports or exports a scheduled substance; or

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- (b) manufactures, imports or exports equipment under an equipment licence.

Record-keeping obligations relating to the manufacture, import or export of scheduled substances by licensees are provided for by the regulations.

This Act and the regulations are enforced by triggering certain provisions of the Regulatory Powers Act. Provision is also made for:

- (a) the use and disclosure of information obtained under this Act or the Regulatory Powers Act as it applies in relation to this Act; and
- (b) applicants and licensees to seek review of certain decisions made under this Act.

4 Saving of certain State and Territory laws

It is the intention of the Parliament that this Act is not to affect the operation of a law of a State or of a Territory that makes provision with respect to the protection of ozone in the atmosphere and is capable of operating concurrently with this Act.

5 Act to bind the Crown

- (1) This Act binds the Crown in right of the Commonwealth, of each of the States and of an internal Territory that has been established as a body politic.
- (2) Nothing in this Act renders the Crown in right of the Commonwealth, of a State or of an internal Territory liable to be prosecuted for an offence.

6 Extension to external Territories

This Act extends to all the external Territories.

Section 6A

6A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act or the regulations.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

6B Contravening an offence provision or a civil penalty provision

- (1) This section applies if a provision of this Act provides that a person contravening another provision of this Act (the ***conduct provision***) commits an offence or is liable to a civil penalty.
- (2) For the purposes of this Act, and the Regulatory Powers Act to the extent that it relates to this Act, a reference to a contravention of an offence provision or a civil penalty provision includes a reference to a contravention of the conduct provision.
- (3) For the purposes of applying Chapter 2 of the *Criminal Code* to the offence, the physical elements of the offence are set out in the conduct provision.

Note: Chapter 2 of the *Criminal Code* sets out general principles of criminal responsibility.

Section 7AA

Part II—Explanation of terms used in the Act

7AA Simplified outline of this Part

This Part is about terms used in this Act.

Section 7 is like a dictionary and contains a list of most terms that are defined in the Act. A term will either be defined in section 7 or in another provision of this Act. If another provision defines the term, section 7 will usually have a signpost to that definition.

The remaining provisions of this Part either define particular terms that are used elsewhere in the Act or affect the meaning of references to particular expressions.

7 Definitions

In this Act, unless the contrary intention appears:

100-year global warming potential of a scheduled substance means the 100-year global warming potential (if any) specified for that substance by the clause in Schedule 1 that covers that substance.

approved form means a form approved under section 66A.

Australia includes all the external Territories.

bulk scheduled substance has the meaning given by section 9.

CFC (short for chlorofluorocarbon) means a substance covered by clause 1 of Schedule 1, whether existing alone or in a mixture.

civil penalty order has the same meaning as in the Regulatory Powers Act.

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civil penalty provision has the same meaning as in the Regulatory Powers Act.

CO₂e megatonnes has the meaning given by section 9A.

Commonwealth entity has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

containing: equipment **containing** a scheduled substance has a meaning affected by section 9.

contravene an offence or civil penalty provision has a meaning affected by section 6B.

Note: The meaning of **contravention** is correspondingly affected (see section 18A of the *Acts Interpretation Act 1901*).

controlled substances licence means a licence referred to in subsection 13A(2).

critical uses, of methyl bromide, has the meaning given by subsection 18(10).

designated court means:

- (a) the Federal Court of Australia; or
- (b) the Federal Circuit and Family Court of Australia (Division 2); or
- (c) a court of a State or Territory that has jurisdiction in relation to matters arising under this Act or the regulations.

Note: For jurisdiction of State and Territory courts, see sections 69C and 69D.

distribution includes sale and supply, whether for consideration or not.

emergency use, of methyl bromide, has the meaning given by subsection 18(10).

engage in conduct has the same meaning as in the *Criminal Code*.

entrusted person means:

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- (a) the Minister; or
- (b) the Secretary; or
- (c) an APS employee in the Department; or
- (d) any other person employed in, or engaged by, the Department.

equipment includes products.

equipment licence means a licence referred to in subsection 13A(6).

essential use has the meaning given by subsection 13A(3B).

essential uses licence means a licence referred to in subsection 13A(3).

executive officer of a body corporate means:

- (a) a director of the body corporate; or
- (b) the chief executive officer (however described) of the body corporate; or
- (c) the chief financial officer (however described) of the body corporate; or
- (d) the secretary of the body corporate.

export, in relation to goods or a substance, means do an act that constitutes exportation of the goods or substance from Australia within the meaning of section 112 of the *Customs Act 1901*, or would constitute such exportation if the external Territories were part of Australia for the purposes of that Act.

feedstock means an intermediate substance which is used to manufacture other chemicals.

feedstock licence means a licence referred to in subsection 13A(5).

forfeitable goods has the meaning given by section 57.

forfeiture notice means a notice under subsection 60A(1).

Framework Convention on Climate Change means the United Nations Framework Convention on Climate Change done at New York on 9 May 1992, as in force for Australia from time to time.

Note: The Framework Convention, as originally in force for Australia, is in Australian Treaty Series 1994 No. 2 ([1994] ATS 2) and could in 2017 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

halon means any substance covered by clause 2 of Schedule 1, whether existing alone or in a mixture.

HBFC (short for hydrobromofluorocarbon) means a substance covered by clause 6 of Schedule 1, whether existing alone or in a mixture.

HCFC (short for hydrochlorofluorocarbon) means a substance covered by clause 5 of Schedule 1, whether existing alone or in a mixture.

HCFC industry limit, in relation to a particular year, means the quantity of HCFCs for that year worked out in accordance with section 24.

HCFC licence means a controlled substances licence that relates to HCFCs.

HCFC quota means an HCFC quota allocated for a quota period under section 28.

Note: A reserve HCFC quota is not an **HCFC quota**.

heel allowance percentage for a substance means the percentage prescribed by the regulations for the substance for the purposes of this definition.

HFC (short for hydrofluorocarbon) means a substance covered by clause 9 of Schedule 1, whether existing alone or in a mixture.

HFC industry limit has the meaning given by section 36A.

HFC quota means an HFC quota allocated for a calendar year under regulations made for the purposes of section 36C.

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Note: A reserve HFC quota is not an *HFC quota*.

import, in relation to goods or a substance, means do an act that constitutes importation of the goods or substance into Australia within the meaning of section 50 of the *Customs Act 1901*, or would constitute such importation if the external Territories were part of Australia for the purposes of that Act.

inspector means:

- (a) a member or special member of the Australian Federal Police; or
- (b) an officer of Customs; or
- (c) a person appointed by the Secretary as an inspector under section 49.

Kigali Amendment means the Amendment to the Montreal Protocol adopted by Decision XXVIII/1 of the Twenty-Eighth Meeting of the Parties to the Montreal Protocol at Kigali on 15 October 2016.

Note: In 2017, the Kigali Amendment could be viewed at the United Nations website (www.un.org).

Kyoto Protocol means the Kyoto Protocol to the United Nations Framework Convention on Climate Change, done at Kyoto on 11 December 1997, as in force for Australia from time to time.

Note: The Kyoto Protocol, as originally in force for Australia, is in Australian Treaty Series 2008 No. 2 ([2008] ATS 2), and could in 2017 be viewed in the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

laboratory and analytical uses, of methyl bromide, has the meaning given by subsection 18(10).

licence (except when used in Part IV) means a controlled substances licence, an essential uses licence, a used substances licence, an equipment licence or a feedstock licence.

licence period means a period referred to in section 8A.

licensee means a person who holds a licence under section 16.

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methyl bromide means the substance covered by clause 7 of Schedule 1, whether existing alone or in a mixture.

Montreal Protocol means the Montreal Protocol on Substances that Deplete the Ozone Layer done at Montreal on 16 September 1987, as in force for Australia from time to time.

Note: The Montreal Protocol, as originally in force for Australia, is in Australian Treaty Series 1989 No. 18 ([1989] ATS 18) and could in 2017 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

nitrogen trifluoride means the substance covered by clause 12 of Schedule 1, whether existing alone or in a mixture.

ODP tonnes has the meaning given in section 10.

ODS equipment means equipment that:

- (a) contains a scheduled substance other than an SGG; or
- (b) uses a scheduled substance other than an SGG in its operation.

Note: Equipment may be covered by this definition even if the equipment also contains a scheduled substance that is an SGG.

offence against this Act or the regulations includes an offence against the *Crimes Act 1914* or the *Criminal Code* that relates to this Act or the regulations.

Note: See also section 11.6 of the *Criminal Code*.

officer of Customs has the same meaning as in the *Customs Act 1901*.

official has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

ozone depleting potential of a scheduled substance means the ozone depleting potential (if any) specified for that substance by the clause in Schedule 1 that covers that substance.

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Paris Agreement means the Paris Agreement, done at Paris on 12 December 2015, as amended and in force for Australia from time to time.

Note: The Agreement, as originally in force for Australia, is in Australian Treaty Series 2016 No. 24 ([2016] ATS 24) and could in 2022 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

PFC (short for perfluorocarbon) means a substance covered by clause 10 of Schedule 1, whether existing alone or in a mixture.

protected information means information of any of the following kinds obtained by an entrusted person:

- (a) information the disclosure of which by the entrusted person could reasonably be expected to found an action by a person (other than the Commonwealth) for breach of a duty of confidence;
- (b) information the disclosure of which could reasonably be expected to prejudice the effective working of government;
- (c) information the disclosure of which could reasonably be expected to prejudice the prevention, detection, investigation, prosecution or punishment of one or more offences;
- (d) information the disclosure of which could reasonably be expected to endanger a person's life or physical safety;
- (e) information the disclosure of which could reasonably be expected to prejudice the protection of public safety or the environment.

QPS use, of methyl bromide, has the meaning given by subsection 18(11).

quota means an HCFC quota or a reserve HCFC quota.

quota period has the meaning given by section 23A.

Note: Quota periods relate to HCFC quotas. There are also HFC quotas, which are allocated for calendar years.

reconsideration decision has the meaning given by subsection 65ZB(2).

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refrigeration and air conditioning equipment has the meaning given by subsection 12B(2).

regulated HCFC activity has the meaning given by section 25A.

regulated HFC activity has the meaning given by section 36B.

Regulatory Powers Act means the *Regulatory Powers (Standard Provisions) Act 2014*.

relevant information means information obtained by an entrusted person under, or in accordance with, this Act or the Regulatory Powers Act as it applies in relation to this Act.

reporting period means a period of 6 months starting on 1 January or 1 July.

reserve HCFC quota means a reserve HCFC quota allocated under section 28.

Note: A reserve HCFC quota is not an **HCFC quota**.

reserve HCFC quota limit, in relation to a particular year, means the quantity of HCFCs for that year worked out in accordance with section 25.

reserve HFC quota means a reserve HFC quota allocated under regulations made for the purposes of section 36G.

Note: A reserve HFC quota is not an **HFC quota**.

reserve HFC quota limit has the meaning given by subsection 36G(3).

reviewable decision has the meaning given by section 65X.

scheduled substance means a substance covered by a clause in Schedule 1, whether existing alone or in a mixture.

Secretary means the Secretary of the Department.

SGG or **synthetic greenhouse gas** means any of the following:

- (a) an HFC;

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- (b) nitrogen trifluoride;
- (c) a PFC;
- (d) sulfur hexafluoride.

SGG equipment means equipment that:

- (a) contains an SGG and does not contain any scheduled substance that is not an SGG; or
- (b) uses an SGG in its operation and does not use any scheduled substance that is not an SGG in its operation.

Note: Equipment that contains a scheduled substance other than an SGG, or that uses a scheduled substance other than an SGG in its operation, is ODS equipment.

SGG licence means a controlled substances licence that relates to SGGs.

SGG licensee means the holder of an SGG licence.

State or Territory government body means:

- (a) a Department of State of a State or Territory; or
- (b) an agency of a State or Territory; or
- (c) an authority of a State or Territory.

sulfur hexafluoride means the substance covered by clause 11 of Schedule 1, whether existing alone or in a mixture.

suspended: a licence is **suspended** if it is suspended under subsection 19D(1).

used substance has the meaning given by section 9AA.

used substances licence means a licence referred to in subsection 13A(4).

using a scheduled substance in the operation of equipment has a meaning affected by section 9.

Vienna Convention means the Vienna Convention for the Protection of the Ozone Layer done at Vienna on 22 March 1985, as in force for Australia from time to time.

Section 8A

Note: The Vienna Convention, as originally in force for Australia, is in Australian Treaty Series 1988 No. 26 ([1988] ATS 26) and could in 2017 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

8A Licence periods

- (1) For the purposes of this Act, each licence period is 2 years.
- (2) The first licence period starts on 1 January 1996.
- (3) Each licence period, except the first, starts at the end of the last preceding one.

9 References to scheduled substances and equipment*Scheduled substances*

- (1) A reference in this Act to a scheduled substance (or type of scheduled substance) is a reference to a bulk scheduled substance (or a bulk scheduled substance of that type), except if the reference is in relation to equipment that:
 - (a) contains a scheduled substance (or type of scheduled substance); or
 - (b) uses a scheduled substance (or type of scheduled substance) in its operation.
- (2) A scheduled substance is a **bulk scheduled substance** unless the substance is:
 - (a) contained in equipment; or
 - (b) used in the operation of equipment.

Example: Paragraph (b)—a scheduled substance that is used as a propellant in an aerosol spray or fire extinguisher is not a bulk scheduled substance.

Note 1: Subsection (3) affects whether a scheduled substance is contained in, or used in the operation of, equipment for the purposes of this subsection.

Note 2: Subsection (4) and regulations made for the purposes of paragraph (5)(a) may also affect whether a substance is a bulk scheduled substance.

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Equipment used only for storing or transporting a scheduled substance

- (3) A reference in this Act to:
- (a) equipment **containing** a scheduled substance (or type of scheduled substance); or
 - (b) equipment **using** a scheduled substance (or type of scheduled substance) in its operation;
- does not cover equipment that contains a scheduled substance, or is being used, for the sole purpose of storing or transporting the substance.

Note: Subsection (4) and regulations made for the purposes of paragraph (5)(b) or (c) may also affect whether a substance is contained in, or used in the operation of, equipment.

Substances used in the process of manufacturing equipment

- (4) A scheduled substance that is contained in equipment only because the substance was used in the process of manufacturing the equipment is neither:
- (a) a **bulk scheduled substance**; nor
 - (b) **contained** in, or **used** in the operation of, the equipment.

Example: A scheduled substance that remains in minute quantities in open cell foam after being used in the production of the foam.

Regulations

- (5) The regulations may provide that, in prescribed circumstances, a scheduled substance:
- (a) is taken to be, or not to be, a **bulk scheduled substance**; or
 - (b) is taken to be, or not to be, **contained** in equipment; or
 - (c) is taken to be, or not to be, **used** in the operation of equipment; or
 - (d) is taken to be, or not to be, contained in equipment for the sole purpose of storing or transporting the substance;

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- (e) is taken to be, or not to be, contained in equipment only because the substance was used in the process of manufacturing the equipment.
- (6) Regulations made for the purposes of subsection (5) have effect despite subsections (2) to (4).

9AA Used substances

- (1) Subject to subsection (2), a scheduled substance is a ***used substance*** for the purposes of this Act if it is:
 - (a) collected from a container or other equipment during servicing, or in connection with the disposal, of the container or other equipment; or
 - (b) collected after an emissive use of the substance.
- (2) The regulations may provide that, in prescribed circumstances, a scheduled substance:
 - (a) is taken to be a ***used substance***; or
 - (b) is taken not to be a ***used substance***.

9A Quantities expressed in CO₂e megatonnes

- (1) A reference in this Act to ***CO₂e megatonnes***, in relation to an HFC, is a reference to the quantity of the HFC that results from multiplying its mass in megatonnes by its 100-year global warming potential.
- (2) If a substance is or contains a mixture of 2 or more HFCs, the quantity of the substance, expressed in CO₂e megatonnes, is the quantity that results from adding together the quantities of each of those HFCs, expressed in CO₂e megatonnes.

10 Quantities expressed in ODP tonnes

- (1) A reference in this Act to ODP tonnes, in relation to an HCFC, is a reference to the quantity of the HCFC that results from multiplying its mass in tonnes by its ozone depleting potential.

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- (2) If a substance is or contains a mixture of 2 or more HCFCs, the quantity of the substance, expressed in ODP tonnes, is the quantity that results from adding together the quantities of each of those HCFCs, expressed in ODP tonnes.

12 Recycling of scheduled substances

- (1) In this Act a reference to the manufacture of scheduled substances does not include a reference to a process by which a quantity of scheduled substances is produced by the recycling of substances containing scheduled substances of that quantity.
- (2) For the purposes of this Act, where a process for the manufacture of a quantity of scheduled substances involves, in part, the recycling of substances containing scheduled substances of a lesser quantity, the quantity of scheduled substances manufactured in the process shall be taken to be reduced by the quantity of scheduled substances in the substances recycled in the process.

Part III—Licences

Division 1—Preliminary

12A Simplified outline of this Part

A person must not carry out any of the following activities unless the person holds a licence that allows the activity (subject to certain exceptions):

- (a) manufacturing, importing or exporting a scheduled substance;
- (b) manufacturing, importing or exporting equipment that contains a scheduled substance, or uses a scheduled substance in its operation.

In certain cases, the manufacture, import or export of equipment that contains a scheduled substance, or uses a scheduled substance in its operation, is prohibited only if the equipment or substance (or both) is prescribed by regulations made under this Act.

There are 5 kinds of licence, as follows:

- (a) controlled substances licences, that allow the manufacture, import or export of HCFCs, methyl bromide or SGGs;
- (b) essential uses licences, that allow the manufacture, import or export of scheduled substances (other than methyl bromide and SGGs other than HFCs) for essential uses;
- (c) used substances licences, that allow the import or export of used substances;
- (d) feedstock licences, that allow the manufacture or import of scheduled substances exclusively for use as a feedstock;

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- (e) equipment licences, that allow the manufacture, import or export of equipment that contains a scheduled substance, or that uses a scheduled substance in its operation.

There are certain mandatory licence conditions, including conditions relating to quotas for manufacturing or importing HCFCs or HFCs under controlled substances licences (see Parts IV and IVA). The Minister may also impose licence conditions.

The Minister may renew a licence, subject to certain conditions. The Minister may also:

- (a) terminate a licence if necessary for the purposes of giving effect to relevant international agreements; or
- (b) transfer a licence, on application; or
- (c) amend a licence at the request of the licensee; or
- (d) suspend or cancel a licence if the licensee contravenes a licence condition, is no longer a fit and proper person to hold a licence or, for a suspension, is uncontactable.

The regulations may provide for certain details relating to licences to be published.

12B Import or export of CFCs, halons, HCFCs, HFCs and PFCs for use on board ships or aircraft

- (1) This Part and Parts IV and IVA do not apply to the import or export of a CFC, halon, HCFC, HFC or PFC if all of the following conditions are satisfied:
 - (a) the CFC, halon, HCFC, HFC or PFC is on board a ship or aircraft;
 - (b) the ship or aircraft has either or both of the following:
 - (i) refrigeration and air conditioning equipment;
 - (ii) fire protection equipment;
 - (c) the CFC, halon, HCFC, HFC or PFC is exclusively for use in meeting the reasonable servicing requirements of that

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equipment during, or in connection with, one or more periods when the ship or aircraft is or will be engaged in a journey between:

- (i) a place in Australia and a place outside Australia; or
- (ii) 2 places outside Australia.

(2) ***Refrigeration and air conditioning equipment*** means equipment, used for the cooling or heating of anything, that uses one or more of the following:

- (a) a CFC;
- (b) a halon;
- (c) an HCFC;
- (d) an HFC;
- (e) a PFC.

Division 2—Requirement to have licence

13 Prohibition—unlicensed manufacture of scheduled substance or equipment

Unlicensed manufacture of a scheduled substance

- (1) A person contravenes this subsection if:
- (a) the person manufactures a substance; and
 - (b) the substance is a scheduled substance; and
 - (c) the person does not hold a licence that allows the manufacture.

Note 1: See section 13A for the activities allowed by each type of licence.

Note 2: While suspended, a licence does not allow the licensee to carry out any activity that the licence would otherwise allow: see subsection 19D(4).

- (2) Subsection (1) does not apply to a person manufacturing an SGG in circumstances, or for a purpose, prescribed by the regulations for the purposes of this subsection. Any such regulations must be consistent with Australia's international obligations.

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matter in this subsection. See subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act.

Unlicensed manufacture of equipment containing a scheduled substance

- (3) A person contravenes this subsection if:
- (a) the person manufactures equipment; and
 - (b) the equipment contains a substance; and
 - (c) the substance is a scheduled substance; and
 - (d) if the equipment is SGG equipment—the equipment or the substance (or both) is prescribed by the regulations for the purposes of this paragraph; and

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- (e) the person does not hold a licence that allows the manufacture.

Note 1: See section 13A for the activities allowed by each type of licence.

Note 2: While suspended, a licence does not allow the licensee to carry out any activity that the licence would otherwise allow: see subsection 19D(4).

- (4) Subsection (3) does not apply to a person manufacturing equipment:

- (a) of a kind prescribed by the regulations for the purposes of this paragraph; or
(b) in circumstances, or for a purpose, prescribed by the regulations for the purposes of this paragraph.

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matter in this subsection. See subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act.

Unlicensed manufacture of equipment that uses a scheduled substance in its operation

- (5) A person contravenes this subsection if:
- (a) the person manufactures equipment; and
(b) the equipment uses a substance in its operation; and
(c) the substance is a scheduled substance; and
(d) the equipment or the substance (or both) is prescribed by the regulations for the purposes of this paragraph; and
(e) the person does not hold a licence that allows the manufacture.

Note 1: See section 13A for the activities allowed by each type of licence.

Note 2: While suspended, a licence does not allow the licensee to carry out any activity that the licence would otherwise allow: see subsection 19D(4).

- (6) Subsection (5) does not apply to a person manufacturing equipment:

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- (a) of a kind prescribed by the regulations for the purposes of this paragraph; or
- (b) in circumstances, or for a purpose, prescribed by the regulations for the purposes of this paragraph.

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matter in this subsection. See subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act.

13AA Prohibition—unlicensed import of scheduled substance or equipment

Unlicensed import of a scheduled substance

- (1) A person contravenes this subsection if:
 - (a) the person imports a substance; and
 - (b) the substance is a scheduled substance; and
 - (c) the person does not hold a licence that allows the importation.

Note 1: See section 13A for the activities allowed by each type of licence.

Note 2: While suspended, a licence does not allow the licensee to carry out any activity that the licence would otherwise allow: see subsection 19D(4).

- (2) Subsection (1) does not apply to a person importing an SGG (other than an SGG that is a used substance) in circumstances, or for a purpose, prescribed by the regulations for the purposes of this subsection. Any such regulations must be consistent with Australia's international obligations.

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matter in this subsection. See subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act.

Unlicensed import of equipment containing a scheduled substance

- (3) A person contravenes this subsection if:
 - (a) the person imports equipment; and

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- (b) the equipment contains a substance; and
- (c) the substance is a scheduled substance; and
- (d) the person does not hold a licence that allows the importation; and
- (e) if the equipment contains an SGG—the person’s importation of the equipment is not covered by the low volume imports exemption under subsection (4).

Note 1: See section 13A for the activities allowed by each type of licence.

Note 2: While suspended, a licence does not allow the licensee to carry out any activity that the licence would otherwise allow: see subsection 19D(4).

Note 3: For exceptions to this subsection, see subsections (6) to (9).

- (4) For the purposes of paragraph (3)(e), a person’s importation of equipment is covered by the low volume imports exemption under this subsection if:
 - (a) the total amount of SGGs contained in the equipment is not greater than an amount prescribed by the regulations for the purposes of this paragraph; and
 - (b) any other conditions prescribed by the regulations for the purposes of this paragraph in relation to the person, the equipment or the importation are satisfied.

Unlicensed import of equipment that uses a scheduled substance in its operation

- (5) A person contravenes this subsection if:
 - (a) the person imports equipment; and
 - (b) the equipment uses a substance in its operation; and
 - (c) the substance is a scheduled substance; and
 - (d) the equipment or the substance (or both) is prescribed by the regulations for the purposes of this paragraph; and
 - (e) the person does not hold a licence that allows the importation.

Note 1: See section 13A for the activities allowed by each type of licence.

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Note 2: While suspended, a licence does not allow the licensee to carry out any activity that the licence would otherwise allow: see subsection 19D(4).

Note 3: For exceptions to this subsection, see subsections (6) to (9).

Equipment exceptions—prescribed equipment, circumstances or purposes

- (6) Subsection (3) or (5) does not apply to a person importing equipment:
- (a) of a kind prescribed by the regulations for the purposes of this paragraph; or
 - (b) in circumstances, or for a purpose, prescribed by the regulations for the purposes of this paragraph.

Equipment exceptions—private or domestic use

- (7) Subsection (3) or (5) does not apply to a person importing equipment if:
- (a) the equipment is kept by the person, or by a member of the person's household, wholly or principally for private or domestic use; and
 - (b) the equipment is prescribed by the regulations for the purposes of this paragraph; and
 - (c) any other conditions prescribed by the regulations for the purposes of this paragraph are satisfied.

Equipment exceptions—temporary imports

- (8) Subsection (3) or (5) does not apply to a person importing equipment if:
- (a) the equipment is imported:
 - (i) for a purpose, or in circumstances, (if any) prescribed by the regulations for the purposes of this subparagraph; and
 - (ii) with the intention of later exporting the equipment within a period not exceeding 12 months, or a longer

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period prescribed by the regulations for the purposes of this subparagraph; and

- (b) any other conditions prescribed by the regulations for the purposes of this paragraph in relation to the person, the equipment or the importation are satisfied.

Equipment exceptions—returning Australian equipment

- (9) Subsection (3) or (5) does not apply to a person importing equipment if:

- (a) the equipment is of a kind prescribed by the regulations for the purposes of this paragraph; and
- (b) the person had previously exported the equipment for a purpose, or in circumstances, (if any) prescribed by the regulations for the purposes of this paragraph; and
- (c) while the equipment was outside Australia, no change was made to the type and quantity of scheduled substances contained in or used in the operation of the equipment, except in circumstances, or for purposes, (if any) prescribed by the regulations for the purposes of this paragraph; and
- (d) title to the equipment remains unchanged between the time of export and time of import of the equipment.

Note: A person who wishes to rely on subsection (6), (7), (8) or (9) bears an evidential burden in relation to the matter in that subsection. See subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act.

13AB Prohibition—unlicensed export of scheduled substance or equipment

Unlicensed export of a scheduled substance

- (1) A person contravenes this subsection if:
- (a) the person exports a substance; and
 - (b) the substance is a scheduled substance; and
 - (c) the person does not hold a licence that allows the export.

Note 1: See section 13A for the activities allowed by each type of licence.

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Note 2: While suspended, a licence does not allow the licensee to carry out any activity that the licence would otherwise allow: see subsection 19D(4).

- (2) Subsection (1) does not apply to a person exporting a substance if:
- (a) the substance is an HCFC and the substance is exported in accordance with a direction given to the person by the Minister under section 35A; or
 - (b) the substance is an HFC and the substance is exported in accordance with a direction given to the person by the Minister under section 36H; or
 - (c) the substance is an SGG (other than an SGG that is a used substance) and the substance is exported in circumstances, or for a purpose, prescribed by the regulations for the purposes of this paragraph.

Any regulations made for the purposes of paragraph (c) must be consistent with Australia's international obligations.

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matter in this subsection. See subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act.

Unlicensed export of equipment containing a scheduled substance

- (3) A person contravenes this subsection if:
- (a) the person exports equipment; and
 - (b) the equipment contains a substance; and
 - (c) the substance is a scheduled substance; and
 - (d) the equipment or the substance (or both) is prescribed by the regulations for the purposes of this paragraph; and
 - (e) the person does not hold a licence that allows the export.

Note 1: See section 13A for the activities allowed by each type of licence.

Note 2: While suspended, a licence does not allow the licensee to carry out any activity that the licence would otherwise allow: see subsection 19D(4).

- (4) Subsection (3) does not apply to a person exporting equipment:

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- (a) of a kind prescribed by the regulations for the purposes of this paragraph; or
- (b) in circumstances, or for a purpose, prescribed by the regulations for the purposes of this paragraph.

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matter in this subsection. See subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act.

Unlicensed export of equipment that uses a scheduled substance in its operation

- (5) A person contravenes this subsection if:
- (a) the person exports equipment; and
 - (b) the equipment uses a substance in its operation; and
 - (c) the substance is a scheduled substance; and
 - (d) the equipment or the substance (or both) is prescribed by the regulations for the purposes of this paragraph; and
 - (e) the person does not hold a licence that allows the export.

Note 1: See section 13A for the activities allowed by each type of licence.

Note 2: While suspended, a licence does not allow the licensee to carry out any activity that the licence would otherwise allow: see subsection 19D(4).

- (6) Subsection (5) does not apply to a person exporting equipment:
- (a) of a kind prescribed by the regulations for the purposes of this paragraph; or
 - (b) in circumstances, or for a purpose, prescribed by the regulations for the purposes of this paragraph.

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matter in this subsection. See subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act.

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13AC Penalties for unlicensed manufacture, import or export of scheduled substances or equipment

Fault-based offence

- (1) A person commits an offence if the person contravenes subsection 13(1), (3) or (5), 13AA(1), (3) or (5) or 13AB(1), (3) or (5).

Note: The physical elements of an offence against this subsection are set out in the subsection contravened (see subsection 6B(3)).

Penalty: 500 penalty units.

Strict liability offence

- (2) A person commits an offence of strict liability if the person contravenes subsection 13(1), (3) or (5), 13AA(1), (3) or (5) or 13AB(1), (3) or (5).

Penalty: 60 penalty units.

Civil penalty provision

- (3) A person is liable to a civil penalty if the person contravenes subsection 13(1), (3) or (5), 13AA(1), (3) or (5) or 13AB(1), (3) or (5).

Civil penalty: 600 penalty units.

13A Licences and what they allow

Controlled substances licence

- (2) A controlled substances licence allows (subject to subsection (2A)) the licensee to do one of the following:
- (a) to carry out whichever one or more of the following activities is specified in it:
 - (i) manufacture HCFCs;
 - (ii) import HCFCs;

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- (iii) export HCFCs;
 - (b) to carry out whichever one or more of the following activities is specified in it:
 - (i) manufacture methyl bromide;
 - (ii) import methyl bromide;
 - (iii) export methyl bromide;
 - (c) to carry out whichever one or more of the following activities is specified in it:
 - (i) manufacture SGGs;
 - (ii) import SGGs;
 - (iii) export SGGs.
- (2A) A controlled substances licence does not apply to:
- (a) scheduled substances that are used substances; or
 - (b) the import or manufacture of scheduled substances that are used exclusively as a feedstock.

Essential uses licence

- (3) An essential uses licence allows (subject to subsection (3A)) the licensee to carry out whichever one or more of the following activities is specified in it:
- (a) manufacture specified scheduled substances for essential uses;
 - (b) import specified scheduled substances for essential uses;
 - (c) export specified scheduled substances for essential uses.
- (3A) An essential uses licence does not apply to:
- (a) scheduled substances that are used substances; or
 - (b) scheduled substances that are used exclusively as a feedstock; or
 - (c) methyl bromide; or
 - (d) SGGs other than HFCs.

Note: For paragraph (a), see subsection (4) (about used substances licences).
For paragraph (b), see subsection (5) (about feedstock licences).

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- (3B) An *essential use* of a scheduled substance is an essential use identified in relation to the substance by a decision made by the parties to the Montreal Protocol that applies to Australia.

Used substances licence

- (4) A used substances licence allows (subject to subsection (4A)) the licensee to carry out whichever of the following activities is specified in it:
- (a) import specified substances that are used substances;
 - (b) export specified substances that are used substances.
- (4A) A used substances licence does not apply to the import of used substances that are used exclusively as a feedstock.

Feedstock licence

- (5) A feedstock licence allows the licensee to carry out whichever one or more of the following activities is specified in it:
- (a) manufacture specified scheduled substances exclusively for use as a feedstock;
 - (b) import specified scheduled substances exclusively for use as a feedstock.

Equipment licence

- (6) An equipment licence allows the licensee to carry out whichever one or more of the following activities is specified in it:
- (a) manufacture specified ODS equipment;
 - (b) import specified ODS equipment;
 - (c) export specified ODS equipment;
 - (d) manufacture specified SGG equipment;
 - (e) import specified SGG equipment;
 - (f) export specified SGG equipment.

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13B Fit and proper person considerations

Mandatory considerations

- (1) Without limiting the matters that the Minister may take into account in determining whether a person is a fit and proper person for the purposes of this Part, in the exercise of a power listed in column 1 of an item of the following table, the Minister must have regard to the considerations in column 2 of the item.

Fit and proper person considerations		
Item	Column 1 Power	Column 2 Mandatory considerations
1	A power to grant, transfer, suspend or cancel a licence	The following: (a) the person's history in relation to environmental matters; (b) whether the person is bankrupt, has applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, has compounded with creditors or has made an assignment of remuneration for their benefit; (c) if a statement made by the person in an application or report under this Act or the regulations was false or misleading in a material particular: (i) that fact; and (ii) whether the person knew that the statement was false or misleading; (d) whether the person has complied with a requirement to pay levy under either of the following: (i) the <i>Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995</i>; (ii) the <i>Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995</i>; (e) whether the person has complied with a requirement to give a report under this Act or the regulations

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Fit and proper person considerations		
Item	Column 1	Column 2
	Power	Mandatory considerations
2	A power to grant or transfer a licence	The following: (a) whether the person has contravened a condition of a licence; (b) whether a licence held by the person has been: (i) suspended; or (ii) cancelled under section 20
3	A power to cancel a licence	Whether a licence held by the person has been suspended

Mandatory considerations—bodies corporate

- (2) If the person is a body corporate, the Minister:
- (a) must also have regard to each consideration in column 2 of the table in subsection (1) in relation to each person who is an executive officer of the body (whether or not the person was an executive officer of the body corporate at the time a matter occurs that relates to the consideration); and
 - (b) may also have regard to whether the body is a Chapter 5 body corporate within the meaning of the *Corporations Act 2001*.

Spent conviction scheme not affected

- (3) This section does not affect the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them).

Division 3—Grant of licence

14 Application for licence

- (1) A person may apply to the Minister for all or any of the following licences:
 - (a) a controlled substances licence;
 - (b) an essential uses licence;
 - (c) a used substances licence;
 - (d) an equipment licence;
 - (e) a feedstock licence.
- (2) An application for a licence must:
 - (a) be in the approved form; and
 - (aa) be accompanied by the fee prescribed by the regulations (if any), unless the fee has been waived in accordance with the regulations; and
 - (b) be given to the Minister.

15 Request for further information

The Minister may, within 60 days after an application for a licence is made, give an applicant for a licence written notice requiring the applicant to give the Minister such further information relating to the application as is specified in the notice.

16 Grant of licence

Minister may grant licence

- (1) Subject to subsections (3A) to (6A), the Minister may grant a licence to a person who has applied for it in accordance with section 14.

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Content and form of licence

- (3) A licence (other than an HCFC licence, an SGG licence or an equipment licence):
 - (a) must specify:
 - (i) the substance or substances to which it relates; and
 - (ii) the activities it allows; and
 - (b) may specify the maximum quantities of any or all of those substances allowed for any or all of those activities.
- (3AA) An SGG licence must state that it relates to SGGs, and must specify the activities it allows.
- (3AB) An equipment licence must specify whichever one or more of the following activities that the licence allows:
 - (a) manufacture specified ODS equipment;
 - (b) import specified ODS equipment;
 - (c) export specified ODS equipment;
 - (d) manufacture specified SGG equipment;
 - (e) import specified SGG equipment;
 - (f) export specified SGG equipment.
- (3AC) Two or more licences granted to the same person may be set out in the same document.

Criteria for granting licence

- (3A) In deciding whether or not to grant a licence, the Minister:
 - (a) must have regard to Australia's international obligations, and the policies of the Commonwealth Government, in relation to the manufacture, importation or consumption of scheduled substances; and
 - (b) may have regard to any other matters he or she thinks relevant.
- (4) The Minister must not grant a licence to a person unless the Minister is satisfied that the person is a fit and proper person to be granted a licence.

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Note: The mandatory fit and proper person considerations are set out in section 13B.

- (4A) The Minister must not grant a controlled substances licence, or a used substances licence, that allows the manufacture, import or export of a scheduled substance unless the requirements (if any) prescribed by the regulations for the purposes of this subsection in relation to the kind of licence, the activity and the relevant type of scheduled substance are satisfied.
- (5) The Minister must not grant an equipment licence that allows the manufacture, import or export of SGG equipment unless the requirements (if any) prescribed by the regulations for the purposes of this subsection in relation to the activity, the equipment and the relevant type of scheduled substance are satisfied.
- (6) The Minister must not grant an equipment licence that allows the manufacture, import or export of ODS equipment unless:
 - (a) for equipment that contains a scheduled substance—subsection (6A) applies in relation to the equipment; and
 - (b) in any case—the requirements (if any) prescribed by the regulations for the purposes of this paragraph in relation to the activity, the equipment and the relevant type of scheduled substance are satisfied.
- (6A) For the purposes of paragraph (6)(a), this subsection applies if the Minister is satisfied that:
 - (a) both:
 - (i) the equipment is essential for medical, veterinary, defence, industrial safety, public safety, scientific, testing or monitoring purposes or laboratory and analytical uses; and
 - (ii) no practical alternative exists to the use of scheduled substances in the operation or manufacture, as the case requires, of the equipment if it is to continue to be effective for such a purpose; or
 - (b) because of the requirements of a law concerning the manufacture or use of the equipment, there is no practical

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- alternative to the use of scheduled substances in the operation or manufacture, as the case requires, of the equipment; or
- (c) in the case of the import or export of equipment—it would be impracticable to remove or retrofit the equipment because it is incidental to other equipment that is being imported or exported; or
 - (d) in any case—the equipment is for use in conjunction with the calibration of scientific, measuring or safety equipment; or
 - (e) in any case—both:
 - (i) exceptional circumstances justify granting the licence; and
 - (ii) granting the licence would not be inconsistent with Australia's international obligations under the Montreal Protocol; or
 - (f) in any case—the manufacture, import or export would occur in circumstances prescribed by the regulations for the purposes of this paragraph.

Refusal of application

- (7) An application is refused by giving the applicant written notice of the refusal and of the reasons for the refusal.

17 Deemed refusal of licence

- (1) If, at the end of 60 days after an application for a licence is made, the Minister has not:
 - (a) granted a licence; or
 - (b) refused the application; or
 - (c) made a request under section 15;the Minister is taken, subject to subsection (4), to have refused the application on the last of the 60 days.
- (2) If:
 - (a) the Minister gives an applicant notice under section 15 requiring the applicant to give the Minister further information relating to the application; and

- (b) at the end of 60 days after the information is given to the Minister, the Minister has not:
- (i) granted a licence; or
 - (ii) refused the application; or
 - (iii) made a further request under section 15;
- the Minister is taken, subject to subsection (4), to have refused the application on the last of those 60 days.
- (3) If:
- (a) Subdivision A of Division 4 of Part 11 of the *Environment Protection and Biodiversity Conservation Act 1999* applies in relation to the granting of a licence; and
 - (b) the Minister has not granted the licence at the end of 30 days after he or she received advice under that Subdivision on the proposed grant;
- he or she is taken to have refused the application for the licence on the last of those days.
- Note: Under Subdivision A of Division 4 of Part 11 of the *Environment Protection and Biodiversity Conservation Act 1999*, persons considering whether to authorise certain actions must get advice on environmental matters from the Minister administering that Subdivision.
- (4) Subsections (1) and (2) do not apply in relation to an application for a licence if Subdivision A of Division 4 of Part 11 of the *Environment Protection and Biodiversity Conservation Act 1999* applies in relation to the granting of the licence.

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Division 4—Conditions on, and duration of, licence

18 Conditions of licences

- (1) A licence is subject to the conditions specified in the applicable item or items (if any) of the following table:

Licence conditions		
Item	Column 1 Licence	Column 2 Conditions
1	A controlled substances licence that allows the licensee to manufacture, import or export HCFCs	(a) the licensee must not engage in a regulated HCFC activity in a quota period unless the licensee has been allocated: (i) an HCFC quota for that period; or (ii) a reserve HCFC quota; that is in force when the licensee engages in the activity; and (b) if the licensee has been allocated an HCFC quota for a quota period—the licensee must ensure that the total quantity of HCFCs, expressed in ODP tonnes, involved in regulated HCFC activities engaged in by the licensee in the quota period is not more than the total of: (i) that quota; and (ii) any reserve HCFC quotas allocated to the licensee that are in force at any time in the quota period; and (c) if the licensee has been allocated a reserve HCFC quota that is in force for a period (the reserve period) in a quota period, but has not been allocated an HCFC quota for that quota period—the licensee must ensure that the total quantity of HCFCs, expressed in ODP tonnes, involved in regulated HCFC activities engaged in by the licensee in the reserve period is not more than that reserve HCFC quota; and (d) the licensee must comply with any directions

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Licence conditions		
Item	Column 1 Licence	Column 2 Conditions
		the Minister gives to the licensee under section 35A (directions to export HCFCs if quota exceeded).
1A	A controlled substances licence that allows the licensee to manufacture, import or export methyl bromide	The licensee may manufacture, import or export methyl bromide only for one or more of the following purposes, as set out in the licence: (a) critical uses (including laboratory and analytical uses); (b) an emergency use; (c) a QPS use; (d) in the case of export—use as a feedstock.
2	A licence (other than an SGG licence) that allows the licensee to import a scheduled substance	The licensee must only import the substance from a country that is a party to the Montreal Protocol.
3	A licence (other than an SGG licence) that allows the licensee to export a scheduled substance	The licensee must only export the substance to a country that is a party to the Montreal Protocol.
4	An SGG licence	(a) the SGG licensee must not engage in a regulated HFC activity in a calendar year unless the licensee has been allocated: (i) an HFC quota for the year; or (ii) a reserve HFC quota; that is in force when the licensee engages in the activity; and (b) if the SGG licensee has been allocated an HFC quota for a calendar year—the licensee must ensure that the total quantity of HFCs, expressed in CO ₂ e megatonnes, involved in regulated HFC activities engaged in by the licensee in the year is not more than the total of:

Part III Licences

Division 4 Conditions on, and duration of, licence

Section 18

Licence conditions		
Item	Column 1 Licence	Column 2 Conditions
		(i) that quota; and (ii) any reserve HFC quotas allocated to the licensee that are in force at any time in the year; and (c) if the SGG licensee has been allocated a reserve HFC quota that is in force for a period (the reserve period) in a calendar year, but has not been allocated an HFC quota for the year—the licensee must ensure that the total quantity of HFCs, expressed in CO ₂ e megatonnes, involved in regulated HFC activities engaged in by the licensee in the reserve period is not more than that reserve HFC quota; and (d) the SGG licensee must comply with any directions the Minister gives to the licensee under section 36H (directions to export HFCs if quota exceeded).
5	An SGG licence that allows the SGG licensee to import HFCs	The SGG licensee must only import HFCs from a country that is a party to the Montreal Protocol.
6	An SGG licence that allows the SGG licensee to export HFCs	The SGG licensee must only export HFCs to a country that is a party to the Montreal Protocol.
7	A licence (other than an equipment licence) that allows the licensee to import a scheduled substance	The licensee must not import the substance in a non-refillable container, unless the conditions (if any) prescribed by the regulations for the purposes of this item in relation to the container and the import are satisfied.
8	A suspended licence	The licensee must comply with any directions the Minister gives to the licensee under either of the following sections: (a) section 35A (directions to export HCFCs if

Section 18

Licence conditions

Item	Column 1 Licence	Column 2 Conditions
		quota exceeded); (b) section 36H (directions to export HFCs if quota exceeded).

Note 1: For the quantity of HCFCs that is taken to be involved in regulated HCFC activities, see subsection 25A(2).

Note 2: For the quantity of HFCs that is taken to be involved in regulated HFC activities, see subsection 36B(2).

- (2) The conditions mentioned in items 5 and 6 of the table in subsection (1) do not apply to importing or exporting SGGs before the day the changes to Article 4 of the Montreal Protocol set out in Article I of the Kigali Amendment enter into force for Australia.
- (3) The Minister must announce, by notifiable instrument, the day the changes come into force for Australia.

Note: The changes cannot come into force before 1 January 2033.

Other conditions

- (4) The Minister may, when granting a licence or at any time afterwards, impose other conditions on the licence.
 - (5) A condition imposed under subsection (4) has no effect unless it is set out in the licence, or in a written notice given to the licensee.
 - (6) The following are examples of the kinds of conditions the Minister may impose under subsection (4):
 - (a) conditions about the quantity of particular scheduled substances that the licensee may manufacture, import or export, as the case may be, during any period while the licence is in force;
 - (b) conditions prohibiting the licensee from doing anything otherwise covered by the licence unless the licensee also holds another type of licence;
-

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- (c) conditions about the purpose or purposes for which particular scheduled substances may be manufactured, imported or exported, as the case may be, under the licence;
- (ca) conditions requiring the licensee to enter into an arrangement for the recovery, recycling or destruction of scheduled substances with a person approved by the Minister under regulations made for the purposes of paragraph 45A(1)(ba);
- (d) conditions requiring the licensee to give written reports to the Minister.

Fault-based offence

- (7) A licensee commits an offence if:
- (a) the licensee engages in conduct; and
 - (b) the conduct contravenes a condition of the licensee's licence.

Penalty: 500 penalty units.

Strict liability offence

- (7A) A licensee commits an offence of strict liability if the licensee contravenes a condition of the licensee's licence.

Penalty: 60 penalty units.

Civil penalty provision

- (7B) A licensee is liable to a civil penalty if the licensee contravenes a condition of the licensee's licence.

Civil penalty: 600 penalty units.

Varying or revoking conditions

- (8) The Minister may, on his or her own initiative or on written application by the licensee, vary or revoke a condition imposed under subsection (4).
- (9) A variation or revocation of a condition must be by written notice given to the licensee.

Methyl bromide definitions

- (10) For the purposes of this Act, methyl bromide is used:
- (a) for **critical uses**; or
 - (b) for an **emergency use**; or
 - (c) for **laboratory and analytical uses**;
- if the use is:
- (d) exempt from a provision of the Montreal Protocol, under any decision made by the parties to the Montreal Protocol that applies to Australia, on account of being critical uses, an emergency use or laboratory and analytical uses (as the case requires); and
 - (e) in compliance with the conditions of any such decision.
- Note: Under the Montreal Protocol, critical uses includes laboratory and analytical uses.
- (11) For the purposes of this Act, methyl bromide is used for a **QPS use** if:
- (a) it is applied by, or with the authorisation of, a Commonwealth, State or Territory authority to prevent the introduction, establishment or spread of a pest or disease in Australia, a State or a Territory; or
 - (b) it is applied to a commodity, before it is exported, to meet the requirements of the importing country or a law of the Commonwealth.

Note: QPS is short for quarantine and pre-shipment.

19 Duration of licences

When a licence comes into force

- (1) A licence comes into force on the day specified in it.

When a licence stops being in force

- (2) A licence, other than an equipment licence, stays in force until the earlier of:

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(a) the end of:

- (i) if the licence is not renewed under section 19AC—the licence period in which the licence comes into force under subsection (1) of this section; or
- (ii) if the licence is renewed one or more times under section 19AC—the licence period starting immediately after the time the licence would have ended apart from the last renewal; and

(b) if the licence is an essential uses licence, or a used substances licence, that specifies a period that ends before the time that applies under paragraph (a)—the end of that specified period; unless the licence is cancelled, or stops being in force for any other reason, before then.

Note: An essential uses licence, or a used substances licence, that specifies a period under paragraph (b) cannot be renewed: see subsection 19AC(4).

(3) An equipment licence stays in force until the earlier of:

(a) the end of:

- (i) if the licence is not renewed under section 19AC—2 years starting on the day the licence comes into force under subsection (1) of this section; or
- (ii) if the licence is renewed one or more times under section 19AC—2 years starting immediately after the time the licence would have ended apart from the last renewal; and

(b) if the licence specifies a period, or a method for ascertaining a period, that ends before the time that applies under paragraph (a)—the end of that period;

unless the licence is cancelled, or stops being in force for any other reason, before then.

Note: A licence does not stop being in force only because it is suspended: see subsection 19D(4).

Division 5—Renewing licences

19AA Application for renewal of licence

- (1) The holder of a licence may apply to the Minister for a renewal of the licence, subject to subsection (4).
- (2) The application must be made no later than 60 days before the licence ceases to be in force.
- (3) The application must:
 - (a) be in the approved form; and
 - (b) be accompanied by the fee prescribed by the regulations (if any), unless the fee has been waived in accordance with the regulations; and
 - (c) be given to the Minister.
- (4) The holder of a suspended licence may not apply to the Minister for a renewal of any licence held by the person until the period of suspension ends or the suspension is revoked by the Minister.

19AB Request for further information

The Minister may, within 60 days after an application for a renewal of a licence is made under section 19AA, give the applicant written notice requiring the applicant to give to the Minister such further information relating to the application as is specified in the notice.

19AC Decision on application

- (1) If a person applies under section 19AA for a renewal of a licence, the Minister must:
 - (a) subject to subsections (2) and (4), renew the licence by:
 - (i) giving the applicant written notice of the renewal; and
 - (ii) amending the licence as mentioned in subsection (5), if applicable; or

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(b) refuse to renew the licence, by giving the applicant written notice of:

- (i) the refusal; and
- (ii) the reasons for the refusal.

Note: The effect of a renewal of a licence is to extend the period for which the licence is in force: see subparagraphs 19(2)(a)(ii) and (3)(a)(ii).

- (2) Subsections 16(3A) to (6A) (about criteria) apply in relation to renewing the licence in the same way as those subsections apply in relation to granting a licence.
- (3) In applying subsection (2), the Minister may take into account the Minister's previous consideration of the matters mentioned in subsections 16(3A) to (6A) in relation to granting or renewing the licence.

Licences in force for a specified period

- (4) The Minister must not renew an essential uses licence, or a used substances licence, that specifies a period for the purposes of paragraph 19(2)(b).

Note 1: Paragraph 19(2)(b) allows a licence to specify a period, shorter than a licence period, during which the licence stays in force.

Note 2: The Minister may amend the specified period under section 19C at the request of the licensee.

- (5) If the Minister renews an equipment licence that specifies a period or method for the purposes of paragraph 19(3)(b), the Minister must amend the licence to:
 - (a) remove the specification; or
 - (b) specify a period, or a method for ascertaining a period, that ends within 2 years after the time the licence would have ended apart from the renewal.

Note: Paragraph 19(3)(b) allows a licence to specify a period, or a method for ascertaining a period, shorter than 2 years, during which the licence stays in force.

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19AD Deemed refusal of renewal

- (1) If, at the end of 60 days after an application for a renewal of a licence is made under section 19AA, the Minister has not:
- (a) renewed the licence under section 19AC; or
 - (b) refused the application under section 19AC; or
 - (c) made a request under section 19AB;
- the Minister is taken to have refused the application under section 19AC on the last of the 60 days.
- (2) If:
- (a) the Minister gives an applicant notice under section 19AB requiring the applicant to give to the Minister further information relating to the application; and
 - (b) at the end of 60 days after the information is given to the Minister, the Minister has not:
 - (i) renewed the licence under section 19AC; or
 - (ii) refused the application under section 19AC; or
 - (iii) made a further request under section 19AB;
- the Minister is taken to have refused the application under section 19AC on the last of the 60 days.

19AE Deemed application for new licence

- If:
- (a) a person applies under section 19AA for a renewal of a licence; and
 - (b) the licence ceases to be in force (other than because it is cancelled or terminated) before the Minister:
 - (i) renews the licence under section 19AC; or
 - (ii) refuses the application under section 19AC;
- the person is taken to have applied in accordance with section 14 for a licence of the same type on the day after the licence ceased to be in force.

Division 6—Other changes to licences

19A Termination of licences

- (1) The Minister may, by written notice given to a licensee, terminate all licences (including suspended licences) of the kind specified in the notice that are held by the licensee.
- (2) The Minister must not terminate a licence unless satisfied that it is necessary to do so for the purpose of giving effect to an adjustment or amendment of:
 - (a) the Montreal Protocol; or
 - (b) the Framework Convention on Climate Change; or
 - (c) the Kyoto Protocol; or
 - (d) the Paris Agreement.
- (3) A notice terminating a specified kind of licence takes effect on the day specified in the notice.
- (4) A notice given on the basis of an adjustment or amendment of the Montreal Protocol that has not entered into force for Australia must not specify a day earlier than the day when the adjustment or amendment enters into force for Australia.
- (5) When a notice given to a licensee takes effect, all licences of the kind specified in it that are held by the licensee stop being in force.

19B Transfer of licences

- (1) The Minister may transfer a licence, other than a suspended licence, from the licensee to another person (the *transferee*) on a joint application by the licensee and the transferee.
- (2) An application must:
 - (a) be in the approved form; and
 - (b) be signed by both applicants; and
 - (c) be given to the Minister.

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- (4) The Minister must not grant an application unless satisfied that the transferee is a fit and proper person to be granted a licence.

Note: The mandatory fit and proper person considerations are set out in section 13B.

- (6) A decision by the Minister transferring a licence, or refusing to transfer a licence, must be by written notice given to the applicants.
- (7) A notice of a decision refusing to transfer a licence must state the reasons for the decision.
- (8) If the Minister transfers a licence, the transferee is taken to be the licensee on and after the date of the transfer.

19C Amendment of licence at request of licensee

- (1) The Minister may amend a licence (including a suspended licence) at the written request of the licensee.

Note: For example, if there is a change in the name of the licensee, the licence could be amended to specify the new name.

- (2) Subsection (1) does not allow amendment of a condition of a licence.

Note: Section 18 deals with variation of the conditions of a licence.

19D Suspension of licence

Circumstances that may lead to suspension

- (1) The Minister may suspend a licence if satisfied that the licensee:
- (a) is no longer a fit and proper person to hold a licence; or
 - (b) has contravened a condition of the licence; or
 - (c) is uncontactable.

Note: The mandatory fit and proper person considerations are set out in section 13B.

- (2) A licensee is **uncontactable** if, and only if, the Minister has made 2 or more reasonable attempts to contact the licensee during a period

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of 6 months ending immediately before the decision to suspend the licence, but has not been able to contact the licensee.

Suspension notices

- (3) The Minister must give the licensee written notice of the suspension (the **suspension notice**) specifying:
- (a) the reasons for the suspension; and
 - (b) the day the suspension takes effect; and
 - (c) either or both of the following:
 - (i) the actions the licensee must take for the suspension to end;
 - (ii) a fixed period for the suspension.

Effect of suspension

- (4) While suspended, the licence does not allow the licensee to carry out any activity that the licence would otherwise allow. However, the licence remains in force despite the suspension.

Suspension notices specifying required actions

- (5) If the suspension notice specifies actions the licensee must take for the suspension to end, the Minister must give written notice to the licensee when satisfied that the licensee has taken the specified actions.

When a suspension ends

- (6) The suspension ends in accordance with the following table:

When the suspension of a licence ends		
Item	Column 1	Column 2
	If the suspension notice specifies ...	the suspension ends ...
1	actions the licensee must take for the suspension to end	at the start of the day the Minister gives notice under subsection (5), subject to item 3

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When the suspension of a licence ends		
Item	Column 1	Column 2
	If the suspension notice specifies ...	the suspension ends ...
2	a fixed period for the suspension	immediately after the end of the fixed period, subject to item 3
3	both: (a) actions the licensee must take for the suspension to end; and (b) a fixed period for the suspension	at the later of the following times: (a) the start of the day the Minister gives a notice under subsection (5); (b) immediately after the end of the fixed period

Variation and revocation

- (7) The Minister may, by written notice given to the licensee, do either of the following if the Minister considers it appropriate to do so:
- (a) vary the suspension notice;
 - (b) revoke the suspension.

20 Cancellation of licence

- (1) The Minister may cancel a licence (including a suspended licence) if satisfied that the licensee:
- (a) is no longer a fit and proper person to hold a licence; or
 - (b) has contravened a condition of the licence.

Note: The mandatory fit and proper person considerations are set out in section 13B.

- (4) The Minister shall cancel a licence by giving to the licensee a written notice stating that the licence has been cancelled and setting out the reasons for the cancellation.
- (5) The cancellation of a licence takes effect 60 days after the notice is given to the licensee under subsection (4).

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21 Surrender of licence

- (1) A licensee may, at any time, surrender a licence (including a suspended licence) by giving the Minister written notice that the licence is surrendered.
- (2) The surrender of a licence takes effect (unless the licence is sooner cancelled):
 - (a) if a date of effect is stated in the notice of surrender, at the end of that day; or
 - (b) in any other case, on the day on which the notice is given.

Division 7—Other provisions

22 Publication of information regarding licences etc.

The regulations may make provision for the periodic publication of details of:

- (a) licences granted; and
- (b) applications for licences refused; and
- (c) licences suspended, cancelled or surrendered.

Part IV—HCFC quotas

22A Simplified outline of this Part

The Minister may allocate to a licensee:

- (a) an HCFC quota for a quota period; or
- (b) in exceptional circumstances, a reserve HCFC quota for a specified period (which need not be a quota period).

Under section 18, it is a condition of a controlled substances licence that:

- (a) the licensee must not engage in a regulated HCFC activity unless the licensee has been allocated a quota; and
- (b) the total quantity of HCFCs involved in regulated HCFC activities engaged in by the licensee is not more than the licensee's quotas.

Sections 24 and 25 limit how much quota the Minister may allocate.

23 Meaning of *licence* and *licensee*

In this Part:

licence means a controlled substances licence allowing the licensee to manufacture, import or export HCFCs.

licensee means the holder of a controlled substances licence allowing the licensee to manufacture, import or export HCFCs.

23A HCFC quota periods

- (1) A ***quota period*** is 2 years, or such longer or shorter period (if any) as is determined under subsection (2).

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- (2) The Minister may, by legislative instrument, determine a period for the purposes of subsection (1).
- (3) The first quota period starts on the 1 January specified by the Minister under section 26.
- (4) Each quota period, except the first, starts immediately after the end of the last preceding one.

24 How to work out HCFC industry limits

For the purposes of this Part, the HCFC industry limit for a calendar year specified in column 2 of an item in the following table is the quantity of HCFCs specified in column 3 of that item.

Table of HCFC industry limits		
Column 1 Item No.	Column 2 Calendar year	Column 3 HCFC industry limit Quantity of HCFCs in ODP tonnes per year
1	1996, 1997, 1998, 1999	250
2	2000, 2001	220
3	2002, 2003	190
4	2004, 2005	160
5	2006, 2007	130
6	2008, 2009	100
7	2010, 2011	70
8	2012, 2013	40
9	2014, 2015	10
10	2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029	2.5
11	2030	0

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25 How to work out reserve HCFC quota limits

For the purposes of this Part, the reserve HCFC quota limit for a calendar year specified in column 2 of an item in the following table is the quantity of HCFCs specified in column 3 of that item.

Table of reserve HCFC quota limits		
Column 1 Item No.	Column 2 Calendar year	Column 3 HCFC quota limit Quantity of HCFCs in ODP tonnes per year
1	1996, 1997, 1998, 1999, 2000, 2001	50
2	2002, 2003	40
3	2004, 2005	35
4	2006, 2007	30
5	2008, 2009	20
6	2010, 2011	15
7	2012, 2013	10
8	2014, 2015	2
9	2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029	0.24
10	2030	0

25A Regulated HCFC activities

- (1) A **regulated HCFC activity** is the manufacture or import of HCFCs under a controlled substances licence.

Note: This Part does not apply to the import of HCFCs for use on board ships or aircraft in certain circumstances: see section 12B.

- (2) For the purposes of this Act, the quantity of HCFCs that is taken to be involved in regulated HCFC activities engaged in by a licensee in a period is the greater of the quantity worked out using the following formula and nil:

Section 26

$$\left(\begin{array}{l} \text{Quantity of HCFCs} \\ \text{actually involved in} \\ \text{regulated HFC} \\ \text{activities engaged in} \\ \text{by the licensee} \\ \text{in the period,} \\ \text{expressed in} \\ \text{ODP tonnes} \end{array} - \begin{array}{l} \text{Quantity of} \\ \text{HCFCs exported} \\ \text{by the licensee} \\ \text{in the period,} \\ \text{expressed in} \\ \text{ODP tonnes} \end{array} \right) \times \left(100\% - \begin{array}{l} \text{Heel} \\ \text{allowance} \\ \text{percentage} \\ \text{for HCFCs} \end{array} \right)$$

- (3) For the purposes of subsection (2), the quantity of HCFCs exported by a licensee in a period is taken not to include any quantity exported under a direction given to the licensee under section 35A (direction to export HCFCs if quota exceeded).

26 Start of first HCFC quota period

- (1) If the Minister becomes aware that in any year (the *excess year*) the total quantity of HCFCs, expressed in ODP tonnes, involved in regulated HCFC activities engaged in by licensees is more than 90% of the HCFC industry limit for that year, the Minister must publish a notice in the *Gazette*.
- (2) A notice must:
- (a) specify the 1 January next following the date of the notice as the start of the first HCFC quota period; and
 - (c) specify the base year to be used in allocating HCFC quotas to licensees during the first HCFC quota period.
- (3) The base year to be specified in a notice is the last calendar year before the excess year.
- (4) A notice under this section is not a legislative instrument.

27 Application for quota

- (1) An application for a quota must:
- (a) be in the approved form; and

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- (b) be given to the Minister.
- (3) An application may only be made by a licensee.

28 Allocation of quota

- (1) Subject to this section and section 29, the Minister may, on an application made in accordance with section 27, allocate a quota to the applicant.
- (2) The Minister must determine the size of each quota in accordance with section 31 or 32, as the case requires.
- (3) In deciding whether or not to allocate a quota, the Minister:
 - (a) must have regard to Australia's international obligations, and the policies of the Commonwealth Government, in relation to the manufacture, importation or consumption of scheduled substances; and
 - (b) may have regard to any other matters he or she thinks relevant.
- (4) A quota is allocated by written notice given to the applicant.
- (5) The notice must:
 - (a) specify the size of the quota; and
 - (b) state whether it is an HCFC quota or a reserve HCFC quota; and
 - (c) in the case of an HCFC quota—specify the quota period for which it is allocated; and
 - (d) in the case of a reserve HCFC quota—specify the period (not longer than 12 months) for which it is allocated.
- (6) If the Minister refuses to allocate a quota, the Minister must notify the applicant in writing of the refusal and of the reasons for it.

29 Limits on power to allocate reserve HCFC quotas

- (1) The Minister must not allocate a reserve HCFC quota unless satisfied that exceptional circumstances exist.

- (2) For the purposes of subsection (1), exceptional circumstances exist if, and only if:
- (a) the use of the relevant HCFC is essential for medical, veterinary, defence or public safety purposes; and
 - (b) there is no practicable alternative to that use; and
 - (c) without the allocation, the HCFC will not be available, in the quantities required for that use, within a reasonable period.
- (3) The Minister must not allocate a reserve HCFC quota for a year, or part of a year, if the sum of the amounts of all other reserve HCFC quotas allocated for that year, or any part of that year, equals the reserve HCFC quota limit for that year.

30 Duration of quotas

- (1) An HCFC quota stays in force until the end of the quota period for which it is allocated, unless it stops being in force for any other reason before then.
- (2) A reserve HCFC quota stays in force until the end of the period specified in it under paragraph 28(5)(d), unless it stops being in force for any other reason before then.

31 HCFC quota sizes

- (1) The size of an HCFC quota allocated to a licensee for a quota period is to be worked out using the formula:

$$\frac{ALA}{AIA} \times IL$$

where:

ALA (amount of licensee's activities) means the sum of the quantities of HCFCs, expressed in ODP tonnes, involved in regulated HCFC activities carried out under the licence during the base year by:

- (a) the licensee; or

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- (b) if the licence was transferred to the licensee—the licensee and the transferor.

AIA (amount of industry activities) means the sum of the quantities of HCFCs, expressed in ODP tonnes, involved in regulated HCFC activities carried out by all licensees during the base year.

IL (industry limit) means the sum of the HCFC industry limits for each year of the quota period.

- (2) In this section:

base year means:

- (a) in relation to an allocation for the first HCFC quota period—the base year specified in the notice under section 26; and
- (b) in relation to an allocation for any other HCFC quota period—the penultimate calendar year before the start of that quota period.

32 Reserve HCFC quota sizes

In determining the amount of each reserve HCFC quota allocated for a year, or part of a year, the Minister must ensure that the sum of that amount and the amounts of all other reserve HCFC quotas allocated for that year, or any part of that year, is not more than the reserve HCFC quota limit for that year.

33 Reserve HCFC quotas: variation or revocation

- (1) The Minister may vary or revoke a reserve HCFC quota if satisfied that the exceptional circumstances on which its allocation was based have changed or no longer exist.
- (2) A variation or revocation takes effect when a written notice of it is given to the licensee to whom the quota was allocated.
- (3) The Minister must not vary a reserve HCFC quota allocated to a licensee by increasing the amount of the quota if the increased amount could not have been allocated to the licensee under section 29.

34 Quotas cease when licences cease

A quota allocated to a licensee stops being in force when the licensee's licence is cancelled, or stops being in force for any other reason.

Note: A licence does not stop being in force only because it is suspended: see subsection 19D(4).

35 Transfer of quotas

- (1) If:
 - (a) a licensee is allocated an HCFC quota; and
 - (b) the Minister transfers the licence under section 19B;the unused part of the quota is taken to have been allocated to the transferee on the date of the transfer.
- (2) A licensee (including the licensee for a suspended licence) may, without transferring the licensee's licence, transfer to another licensee the unused part of:
 - (a) an HCFC quota allocated to the first licensee for a quota period; and
 - (b) each HCFC quota (if any) allocated to the first licensee for later quota periods.
- (2A) A licensee (including the licensee for a suspended licence) may, instead of transferring the whole of the unused parts of the quotas mentioned in subsection (2):
 - (a) choose a particular percentage; and
 - (b) without transferring the licensee's licence, transfer to another licensee the lesser of the following percentages of each of those quotas:
 - (i) the chosen percentage;
 - (ii) the percentage of the quota that is unused.
- (3) A transfer mentioned in subsection (2) has no effect until the transferor notifies the Minister of the transfer.
- (4) A notice must:

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- (a) state the transferee's name, address and licence number; and
 - (b) specify the amount of quota transferred.
- (5) After a transfer mentioned in subsection (2) takes effect:
 - (a) the transferred quota, or part of a quota, is taken to have been allocated to the transferee; and
 - (b) if part of a quota is transferred—the transferor is taken to have been allocated the untransferred part of the quota.

35A Direction to export HCFCs if quota exceeded

- (1) The Minister may, by written notice given to a licensee (including the licensee for a suspended licence), direct the licensee to export a specified quantity of HCFCs by a specified time if:
 - (a) both:
 - (i) the licensee has been allocated an HCFC quota for a quota period; and
 - (ii) the total quantity of HCFCs, expressed in ODP tonnes, involved in regulated HCFC activities engaged in by the licensee in the year exceeds the total of that quota and any reserve HCFC quotas allocated to the licensee that are in force at any time in the period; or
 - (b) both:
 - (i) the licensee has been allocated a reserve HCFC quota that is in force for a period (the *reserve period*) in a quota period, but has not been allocated an HCFC quota for the quota period; and
 - (ii) the total quantity of HCFCs, expressed in ODP tonnes, involved in regulated HCFC activities engaged in by the licensee in the reserve period exceeds the reserve HCFC quota.

Note: It is a condition of the licence that the licensee comply with the direction: see subsection 18(1).

- (1A) Before the time specified in the direction (or a later time specified in a notice under this subsection), the Minister may specify a later time by written notice given to the licensee.

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- (2) The amount specified in the direction must not be greater than the amount of the excess.

Part IVA—HFC quotas

Division 1—Outline of this Part

36 Simplified outline of this Part

The Minister may allocate to an SGG licensee:

- (a) an HFC quota for a calendar year; or
- (b) in prescribed circumstances, a reserve HFC quota for a specified period (which need not be a calendar year).

Under section 18, it is a condition of an SGG licence that:

- (a) the licensee must not engage in a regulated HFC activity unless the licensee has been allocated a quota; and
- (b) the total quantity of HFCs involved in regulated HFC activities engaged in by the licensee is not more than the licensee's quotas.

Sections 36A and 36G limit how much quota the Minister may allocate.

Division 2—HFC quotas

36A HFC industry limit

- (1) The **HFC industry limit** for a calendar year is the quantity of HFCs, expressed in CO₂e megatonnes:
 - (a) prescribed by the regulations in relation to the year for the purposes of this subsection; or
 - (b) worked out in accordance with a method prescribed by the regulations in relation to the year for the purposes of this subsection.
- (2) The sum of the amounts of all HFC quotas allocated for a calendar year must not exceed the HFC industry limit for the year.
- (3) Regulations made for the purposes of subsection (1) must be consistent with Australia's international obligations.

36B Regulated HFC activities

- (1) A **regulated HFC activity** is the manufacture or import of HFCs under an SGG licence.

Note 1: A licence is not required for the manufacture or import of HFCs and other SGGs in certain circumstances, or for certain purposes, prescribed by the regulations: see subsections 13(2) and 13AA(2).

Note 2: This Part does not apply to the import or export of HFCs for use on board ships or aircraft in certain circumstances: see section 12B.
- (2) For the purposes of this Act, the quantity of HFCs that is taken to be involved in regulated HFC activities engaged in by an SGG licensee in a period is the greater of the amount worked out using the following formula and nil:

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$$\left(\begin{array}{l} \text{Quantity of HFCs} \\ \text{actually involved in} \\ \text{regulated HFC} \\ \text{activities engaged in} \\ \text{by the licensee} \\ \text{in the period,} \\ \text{expressed in} \\ \text{CO}_2\text{e megatonnes} \end{array} - \begin{array}{l} \text{Quantity of} \\ \text{HFCs exported} \\ \text{by the licensee} \\ \text{in the period,} \\ \text{expressed in} \\ \text{CO}_2\text{e megatonnes} \end{array} \right) \times \left(100\% - \begin{array}{l} \text{Heel} \\ \text{allowance} \\ \text{percentage} \\ \text{for HFCs} \end{array} \right)$$

- (3) For the purposes of subsection (2), the quantity of HFCs exported by an SGG licensee in a period is taken not to include any quantity exported under a direction given to the licensee under section 36H (direction to export HFCs if quota exceeded).

36C Applications, allocation and size of HFC quotas

- (1) The regulations may provide in relation to any of the following:
- (a) processes for applying for HFC quotas, including who may apply;
 - (b) processes for the Minister to:
 - (i) allocate HFC quotas for calendar years to SGG licensees; or
 - (ii) vary the size of HFC quotas; or
 - (iii) stop allocated HFC quotas being in force; or
 - (iv) cancel allocated HFC quotas, with the effect that the quotas are taken never to have been in force;
 - (c) the effect on HFC industry limits of the processes mentioned in paragraph (b);
 - (d) the size of HFC quotas, or the method for working out the size of HFC quotas;
 - (e) review of decisions made under regulations made for the purposes of this section.
- (2) Regulations made for the purposes of subsection (1) may provide in relation to a matter mentioned in that subsection by providing

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for the matter, or for anything relating to it, to be determined by the Minister, including by legislative instrument.

36D Duration of HFC quotas

An HFC quota stays in force until the end of the calendar year for which it is allocated, unless it stops being in force for any other reason before then.

36E Quotas cease when licences cease

An HFC quota allocated to an SGG licensee stops being in force when the licensee's SGG licence is cancelled, or stops being in force for any other reason.

Note: An SGG licence does not stop being in force only because it is suspended: see subsection 19D(4).

36F Transfer of quotas

Transfer of HFC quota if SGG licence transferred

- (1) If the Minister transfers an SGG licensee's SGG licence under section 19B, the unused part of each HFC quota (if any) allocated to the first licensee for calendar years ending on or after the date of the transfer is taken to have been allocated to the transferee on that date.

Transfer of HFC quota without transferring SGG licence

- (2) An SGG licensee (including the licensee for a suspended SGG licence) may, without transferring the licensee's SGG licence, transfer to another SGG licensee the unused part of:
 - (a) an HFC quota allocated to the first licensee for a calendar year; and
 - (b) each HFC quota (if any) allocated to the first licensee for later calendar years.

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- (3) An SGG licensee (including the licensee for a suspended SGG licence) may, instead of transferring the whole of the unused parts of the HFC quotas mentioned in subsection (2):
 - (a) choose a particular percentage; and
 - (b) without transferring the licensee's SGG licence, transfer to another SGG licensee the lesser of the following percentages of each of those quotas:
 - (i) the chosen percentage;
 - (ii) the percentage of the quota that is unused.
- (4) A transfer under subsection (2) or (3) has no effect until the transferor notifies the Minister of the transfer.
- (5) A notice must:
 - (a) state the transferee's name, address and licence number; and
 - (b) specify the amount of each HFC quota transferred.
- (6) After a transfer under subsection (2) or (3) takes effect:
 - (a) each transferred HFC quota, or each transferred part of an HFC quota, is taken to have been allocated to the transferee; and
 - (b) if only part of an HFC quota is transferred—the transferor is taken to have been allocated the untransferred part of the quota.

Division 3—Reserve HFC quotas

36G Reserve HFC quotas

Reserve HFC quotas

- (1) The Minister must not allocate a reserve HFC quota unless satisfied that circumstances prescribed by the regulations for the purposes of this subsection exist.
- (2) The regulations may provide in relation to any of the following:
 - (a) processes for applying for reserve HFC quotas, including who may apply;
 - (b) processes for the Minister to:
 - (i) allocate reserve HFC quotas; or
 - (ii) vary the size or period of reserve HFC quotas; or
 - (iii) stop allocated reserve HFC quotas being in force; or
 - (iv) cancel allocated reserve HFC quotas, with the effect that the quotas are taken never to have been in force;
 - (c) processes for transferring reserve HFC quotas between SGG licensees;
 - (d) the size of reserve HFC quotas, or the method for working out the size of reserve HFC quotas;
 - (e) the period (not longer than 12 months) during which each reserve HFC quota is in force;
 - (f) review of decisions made under regulations made for the purposes of this subsection.

Reserve HFC quota limit

- (3) The ***reserve HFC quota limit*** for a calendar year is the quantity of HFCs, expressed in CO₂e megatonnes:
 - (a) prescribed by the regulations in relation to the year for the purposes of this subsection; or

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- (b) worked out in accordance with a method prescribed by the regulations in relation to the year for the purposes of this subsection.
- (4) The sum of the amounts of all reserve HFC quotas allocated for a calendar year (including any part of that year) must not be more than the reserve HFC quota limit for that year.
- (5) Regulations made for the purposes of subsection (3) must be consistent with Australia's international obligations.

Division 4—Other provisions

36H Direction to export HFCs if quota exceeded

- (1) The Minister may, by written notice given to an SGG licensee (including the licensee for a suspended SGG licence), direct the licensee to export a specified quantity of HFCs by a specified time if:
- (a) both:
 - (i) the SGG licensee has been allocated an HFC quota for a calendar year; and
 - (ii) the total quantity of HFCs, expressed in CO₂e megatonnes, involved in regulated HFC activities engaged in by the licensee in the year exceeds the total of that quota and any reserve HFC quotas allocated to the licensee that are in force at any time in the year; or
 - (b) both:
 - (i) the SGG licensee has been allocated a reserve HFC quota that is in force for a period (the ***reserve period***) in a calendar year, but has not been allocated an HFC quota for the year; and
 - (ii) the total quantity of HFCs, expressed in CO₂e megatonnes, involved in regulated HFC activities engaged in by the licensee in the reserve period exceeds the reserve HFC quota.
- Note: It is a condition of the SGG licence that the licensee comply with the direction: see subsection 18(1).
- (1A) Before the time specified in the direction (or a later time specified in a notice under this subsection), the Minister may specify a later time by written notice given to the licensee.
- (2) The amount specified in the direction must not be greater than the amount of the excess.

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36J Basis on which quotas are allocated

An HFC quota or reserve HFC quota is allocated on the basis that:

- (a) the quota may be varied under regulations made for the purposes of subsection 36C(1) or 36G(2); and
- (b) the quota may stop being in force under section 36F or under regulations made for the purposes of subsection 36C(1) or 36G(2); and
- (c) the quota may be cancelled under regulations made for the purposes of subsection 36C(1) or 36G(2); and
- (d) the quota may be varied, stop being in force or be cancelled by or under later legislation; and
- (e) no compensation is payable if the quota is varied, stops being in force or is cancelled as mentioned in any of the above paragraphs.

Part VIA—Controls on disposal, use etc. of scheduled substances

45AA Simplified outline of this Part

The regulations may make provision for the following:

- (a) prohibiting or regulating the distribution, purchase, acquisition or disposal of scheduled substances;
- (b) prohibiting or regulating the storage, use or handling of scheduled substances (other than certain uses of HCFCs);
- (c) prohibiting or regulating the recovery, recycling or destruction of scheduled substances;
- (d) labelling requirements for scheduled substances and for equipment that contains or uses scheduled substances.

A person must not, except in limited circumstances:

- (a) discharge a scheduled substance if it is likely to enter the atmosphere; or
- (b) use an HCFC that was manufactured or imported on or after 1 January 2020.

45A Regulation of disposal, use etc. of scheduled substances

- (1) The regulations may make provision for the following:
 - (a) prohibiting or regulating the distribution, purchase, acquisition or disposal of scheduled substances;
 - (b) prohibiting or regulating the storage, use or handling of scheduled substances (other than a use of HCFCs that is prohibited under section 45C);
 - (ba) prohibiting or regulating the recovery, recycling or destruction of scheduled substances;

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- (c) labelling requirements for scheduled substances and for equipment that contains or uses scheduled substances;
 - (d) conferring functions on persons or bodies (including non-government bodies) in relation to matters covered by paragraph (a), (b), (ba) or (c);
 - (e) matters incidental to matters covered by paragraph (a), (b), (ba), (c) or (d).
- (2) For the avoidance of doubt, the regulations may make provision for regulating something by providing that it must not be done unless specified conditions are met.
- (3) The regulations may make provision for regulating something by providing for it, or anything relating to it, to be determined by the Minister, including by legislative instrument.
- (4) Despite subsection 14(2) of the *Legislation Act 2003*, regulations made for the purposes of this section may make provision in relation to a matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time.
- (5) Regulations made for the purposes of this section must be consistent with Australia's international obligations.

45B Discharge of scheduled substances

Prohibition

- (1) A person contravenes this subsection if:
 - (a) the person engages in conduct; and
 - (b) the conduct results in the discharge of a scheduled substance; and
 - (c) the discharge occurs in circumstances where it is likely that the scheduled substance will enter the atmosphere; and
 - (d) the discharge is not in accordance with regulations made for the purposes of this paragraph.

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Exception

- (2) Subsection (1) does not apply if the discharge occurs as a result of using equipment, that contains a scheduled substance, for the purpose for which the equipment was designed.

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matter in this subsection. See subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act.

- (3) For the purposes of subsection (2), the use of a halon fire extinguisher during, or in connection with, a training exercise is taken not to be a use of the extinguisher for the purpose for which it was designed.

Fault-based offence

- (4) A person commits an offence if the person contravenes subsection (1).

Note: The physical elements of an offence against this subsection are set out in subsection (1) (see subsection 6B(3)).

Penalty: 300 penalty units.

Strict liability offence

- (5) A person commits an offence of strict liability if the person contravenes subsection (1).

Penalty: 60 penalty units.

Civil penalty provision

- (6) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty: 400 penalty units.

45C Use of HCFC

- (1) A person contravenes this subsection if:
-

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- (a) the person uses an HCFC; and
- (b) the HCFC was manufactured or imported on or after 1 January 2020; and
- (c) the use is not for a purpose prescribed by the regulations for the purposes of this paragraph.

Fault-based offence

- (2) A person commits an offence if the person contravenes subsection (1).

Note: The physical elements of an offence against this subsection are set out in subsection (1) (see subsection 6B(3)).

Penalty: 300 penalty units.

Strict liability offence

- (3) A person commits an offence of strict liability if the person contravenes subsection (1).

Penalty: 60 penalty units.

Civil penalty provision

- (4) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty: 400 penalty units.

Part VII—Reports and records

46AA Simplified outline of this Part

A person may have reporting obligations if the person:

- (a) manufactures, imports or exports a scheduled substance;
or
- (b) manufactures, imports or exports equipment under an
equipment licence.

Record-keeping obligations relating to the manufacture, import or export of scheduled substances by licensees are provided for by the regulations.

46 Periodic reports in relation to scheduled substances

Requirement to report

- (1) A person who carries out any of the following activities during a reporting period must give the Minister a report in relation to the activity, in accordance with subsection (1A) of this section and the regulations:
- (a) manufacturing, importing or exporting a scheduled substance;
 - (b) manufacturing, importing or exporting equipment under an equipment licence.

Note: For paragraph (b)—an equipment licence is not always required for the manufacture, import or export of equipment that contains a scheduled substance, or uses a scheduled substance in its operation: see (for example) subsections 13(4) and (6), 13AA(4) and (6) to (9), and 13AB(4) and (6).

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When report must be given

- (1A) The report must be given to the Minister before the 31st day after the end of the reporting period.

Quarterly reporting

- (1B) Without limiting subsection (1), a person may comply with that section by giving separate reports in relation to each half of the reporting period.

Strict liability offence

- (2) A person commits an offence of strict liability if the person contravenes subsection (1).

Penalty: 40 penalty units.

Civil penalty provision

- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty: 60 penalty units.

48 Records to be kept by licensees

- (1) The regulations may make provision as to the keeping by a licensee (including the licensee for a suspended licence) of records relating to the manufacture, import or export of scheduled substances by the licensee.
- (2) Regulations made for the purpose of this section may include provisions relating to the production of records to the Minister on request.

Note: A licensee may also have obligations in relation to the keeping and production of records, in relation to activities covered by section 45A, under regulations made for the purposes of that section.

Part VIII—Enforcement

Division 1—Preliminary

48A Simplified outline of this Part

The Secretary and inspectors have monitoring, inspection and enforcement powers under the Regulatory Powers Act to ensure this Act and the regulations are being complied with.

The Regulatory Powers Act creates a framework for monitoring and investigating compliance with this Act and the regulations, as well as providing for the enforcement of civil penalty provisions and the use of infringement notices, enforceable undertakings and injunctions.

This Part provides certain monitoring and investigation powers in addition to those provided by the Regulatory Powers Act.

Goods relating to contraventions of certain provisions of this Act or the regulations may be forfeited to the Commonwealth if:

- (a) a person is convicted of an offence, or a civil penalty order is made, in relation to the relevant contravention; or
- (b) the goods are seized under the Regulatory Powers Act.

The Secretary may require a person to give information or produce documents that are relevant for the purposes of investigating or preventing:

- (a) an offence against this Act or the regulations; or
- (b) a contravention of a civil penalty provision of this Act or the regulations.

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49 Appointment of inspectors

- (1) The Secretary may, by instrument in writing, appoint as an inspector a person who is:
 - (a) an officer or employee of an authority of the Commonwealth; or
 - (b) a person engaged under the *Public Service Act 1999*; or
 - (c) an officer or employee of the Public Service of a State or Territory; or
 - (d) a member of the Police Force of a State or Territory.
- (2) The Secretary must not appoint an officer or employee of the Public Service of a State or Territory, or a member of the Police Force of a State or Territory, as an inspector unless the appointment is in accordance with an arrangement made by the Minister with a Minister of that State or Territory.
- (3) The Secretary must not appoint a person as an inspector unless the Secretary is satisfied that the person has suitable qualifications and experience to properly exercise the powers of an inspector.

49A Directions to inspectors

- (1) An inspector must, in exercising powers as an inspector, comply with any directions of the Secretary.
- (2) If a direction is given under subsection (1) in writing, the direction is not a legislative instrument.

Division 2—Monitoring powers

50 Monitoring powers

Provisions subject to monitoring

- (1) The following provisions are subject to monitoring under Part 2 of the Regulatory Powers Act:
- (a) each provision of this Act and the regulations;
 - (b) an offence provision of the *Crimes Act 1914* or the *Criminal Code*, to the extent that it relates to one or more of the provisions mentioned in paragraph (a).

Note: Part 2 of the Regulatory Powers Act creates a framework for monitoring whether the provisions mentioned in this subsection have been complied with. It includes powers of entry and inspection.

Information subject to monitoring

- (2) Information given in compliance or purported compliance with a provision of this Act or the regulations is subject to monitoring under Part 2 of the Regulatory Powers Act.

Note: Part 2 of the Regulatory Powers Act creates a framework for monitoring whether the information is correct. It includes powers of entry and inspection.

Related provisions, authorised applicant, authorised person, issuing officer, relevant chief executive and relevant court

- (3) For the purposes of Part 2 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2):
- (a) the following provisions of the *Customs Act 1901* are related to the provisions and the information:
 - (i) subsections 50(4) and (7) (prohibited imports);
 - (ii) subsections 112(2B) and (2BC) (prohibited exports);
 - (b) an inspector is an authorised applicant; and
 - (c) an inspector is an authorised person; and

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- (d) a magistrate is an issuing officer; and
- (e) the Secretary is the relevant chief executive; and
- (f) a designated court is a relevant court.

Person assisting

- (4) An authorised person may be assisted by other persons in exercising powers or performing functions or duties under Part 2 of the Regulatory Powers Act in relation to the provisions mentioned in subsection (1), and the information mentioned in subsection (2).

Extension to external Territories

- (5) Part 2 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2), extends to every external Territory.

51 Modifications of Part 2 of the Regulatory Powers Act

Additional monitoring power

- (1) For the purposes of determining:
 - (a) whether a provision mentioned in subsection 50(1) has been, or is being, complied with; or
 - (b) the correctness of information mentioned in subsection 50(2);the additional powers mentioned in subsection (2) are taken to be included in the monitoring powers under Part 2 of the Regulatory Powers Act.
- (2) The additional monitoring powers are:
 - (a) the power to take samples of any thing on premises entered under Part 2 of the Regulatory Powers Act; and
 - (b) the power to remove, test and analyse such samples; and
 - (c) the power to secure premises entered under Part 2 of the Regulatory Powers Act; and
 - (d) the power to secure things on premises entered under Part 2 of the Regulatory Powers Act for the purpose of sampling, testing or analysing those things; and

- (e) the power to secure a container on premises entered under Part 2 of the Regulatory Powers Act that contains a thing if the inspector reasonably believes that it is not reasonably practicable to secure the thing without also securing the container (whether or not the container contains any other thing).

Use of force in executing a monitoring warrant

- (3) In executing a monitoring warrant under Part 2 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection 50(1) and the information mentioned in subsection 50(2) of this Act:
 - (a) an authorised person may use such force against things as is necessary and reasonable in the circumstances; and
 - (b) a person assisting the authorised person may use such force against things as is necessary and reasonable in the circumstances.

Identity cards

- (4) A reference to an identity card in sections 25 and 26 and subsection 35(6) of the Regulatory Powers Act, as those provisions apply in relation to the provisions mentioned in subsection 50(1) and information mentioned in subsection 50(2) of this Act, is taken to include a reference to written evidence identifying the authorised person as a member or special member of the Australian Federal Police or an officer of Customs, as the case may be.
- (5) Subsection 35(1) of the Regulatory Powers Act, as that subsection applies in relation to the provisions mentioned in subsection 50(1) and information mentioned in subsection 50(2) of this Act, does not require the relevant chief executive to issue an identity card to an authorised person who is a member or special member of the Australian Federal Police, or an officer of Customs.

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Period during which monitoring warrant may be in force

- (6) Paragraph 32(4)(f) of the Regulatory Powers Act applies in relation to the provisions mentioned in subsection 50(1) and information mentioned in subsection 50(2) of this Act as if the reference in that paragraph to 3 months were a reference to 6 months.

Division 2A—Investigation powers

52 Investigation powers

Provisions subject to investigation

- (1) A provision is subject to investigation under Part 3 of the Regulatory Powers Act if it is:
- (a) a provision that creates an offence against this Act or the regulations; or
 - (b) a civil penalty provision of this Act or the regulations.

Note 1: Part 3 of the Regulatory Powers Act creates a framework for investigating whether a provision has been contravened. It includes powers of entry, search and seizure.

Note 2: For paragraph (a), see the definition of *offence against this Act or the regulations* in section 7.

Related provisions, authorised applicant, authorised person, issuing officer, relevant chief executive and relevant court

- (2) For the purposes of Part 3 of the Regulatory Powers Act, as that Part applies in relation to evidential material that relates to a provision mentioned in subsection (1):
- (a) the following provisions of the *Customs Act 1901* are related to that evidential material:
 - (i) subsections 50(4) and (7) (prohibited imports);
 - (ii) subsections 112(2B) and (2BC) (prohibited exports);and
 - (b) an inspector is an authorised applicant; and
 - (c) an inspector is an authorised person; and
 - (d) a magistrate is an issuing officer; and
 - (e) the Secretary is the relevant chief executive; and
 - (f) a designated court is a relevant court.

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Person assisting

- (3) An authorised person may be assisted by other persons in exercising powers or performing functions or duties under Part 3 of the Regulatory Powers Act in relation to evidential material that relates to a provision mentioned in subsection (1).

Extension to external Territories

- (4) Part 3 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1), extends to every external Territory.

53 Modifications of Part 3 of the Regulatory Powers Act

Additional investigative powers

- (1) The additional powers mentioned in subsection (2) are taken to be included in the investigation powers under Part 3 of the Regulatory Powers Act, as that Part applies in relation to evidential material that relates to a provision mentioned in subsection 52(1).
- (2) The additional investigation powers are:
- (a) the power to take samples of any thing on premises entered under Part 3 of the Regulatory Powers Act; and
 - (b) the power to remove, test and analyse such samples; and
 - (c) the power to secure premises entered under Part 3 of the Regulatory Powers Act; and
 - (d) the power to secure things on premises entered under Part 3 of the Regulatory Powers Act for the purpose of sampling, testing or analysing those things; and
 - (e) the power to secure a container on premises entered under Part 3 of the Regulatory Powers Act that contains a thing if the inspector reasonably believes that it is not reasonably practicable to secure the thing without also securing the container (whether or not the container contains any other thing); and

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- (f) if the authorised person has the power to seize a thing (the ***seizable thing***) under Part 3 of the Regulatory Powers Act—the power to seize a container that contains the seizable thing, and any other thing contained in the container, if the inspector reasonably believes that it is not reasonably practicable to seize the seizable thing without also seizing the container.

Return of containers

- (3) Despite subsection 66(1) of the Regulatory Powers Act, the requirement under that subsection for the relevant chief executive to take reasonable steps to return a container or other thing, seized under the additional power mentioned in paragraph (2)(f) of this section, applies only from the following time:
 - (a) subject to paragraph (b) of this subsection—the time that requirement applies in relation to the seizable thing;
 - (b) if the seizable thing is the subject of a forfeiture notice under section 60A of this Act—the time:
 - (i) the seizable thing is returned under subsection 60B(5) of this Act; or
 - (ii) the seizable thing is forfeited to the Commonwealth under section 60C of this Act.

Note: Section 66 of the Regulatory Powers Act may not apply at all in relation to the container or other thing if the container or other thing is the subject of a forfeiture notice under section 60A of this Act: see subsection (4) of this section.

Goods subject to forfeiture notice

- (4) Sections 66 to 69 of the Regulatory Powers Act do not apply to a thing seized under Part 3 of that Act if the thing is the subject of a forfeiture notice under section 60A of this Act.

Operating equipment etc. that may contain evidential material

- (5) Subsection 50(1) of the Regulatory Powers Act is taken to include the power (subject to subsections 50(3) and (4) of that Act) to:

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- (a) operate electronic equipment on premises entered under Part 3 of that Act, as that Part applies to evidential material that relates to a provision mentioned in subsection 52(1) of this Act; and
- (b) use a disk, tape or other storage device that:
 - (i) is on those premises; and
 - (ii) can be used with the equipment or is associated with it;to find out whether the equipment, disk, tape or other storage device contains such evidential material.

When investigation warrant need not be announced

- (6) An additional circumstance in which subsection 56(2) of the Regulatory Powers Act is taken to authorise an authorised person not to comply with subsection 56(1) of that Act, in relation to an entry to premises under an investigation warrant to search for evidential material that relates to a provision mentioned in subsection 52(1) of this Act, is that the authorised person believes on reasonable grounds that immediate entry to the premises is required to prevent serious damage to the environment.

Note: Subsection 56(3) of the Regulatory Powers Act requires the authorised person's identity card to be shown as soon as practicable after entering the premises if the authorised person does not comply with subsection 56(1) of that Act because of subsection 56(2) of that Act.

Use of force in executing an investigation warrant

- (7) In executing an investigation warrant under Part 3 of the Regulatory Powers Act, as that Part applies in relation to evidential material that relates to a provision mentioned in subsection 52(1) of this Act:
 - (a) an authorised person may use such force against things as is necessary and reasonable in the circumstances; and
 - (b) a person assisting the authorised person may use such force against things as is necessary and reasonable in the circumstances.

Identity cards

- (8) A reference to an identity card in sections 55 and 56 and subsection 76(6) of the Regulatory Powers Act, as those provisions apply in relation to evidential material that relates to a provision mentioned in subsection 52(1) of this Act, is taken to include a reference to written evidence identifying the authorised person as a member or special member of the Australian Federal Police or an officer of Customs, as the case may be.
- (9) Subsection 76(1) of the Regulatory Powers Act, as that subsection applies in relation to evidential material that relates to a provision mentioned in subsection 52(1) of this Act, does not require the relevant chief executive to issue an identity card to an authorised person who is a member or special member of the Australian Federal Police, or an officer of Customs.

54 Directions about dealing with pressurised containers

Directions

- (1) The Secretary may, by writing, direct an inspector to deal with a pressurised container seized under Part 3 of the Regulatory Powers Act (as that Part operates because of this Part), and its contents, in a manner specified in the direction. The inspector must comply with the direction.
- (2) A direction under subsection (1) may require the pressurised container and its contents to be destroyed.
- (3) A direction under subsection (1) may be given only:
 - (a) on application by an inspector; and
 - (b) if the Secretary is satisfied that the pressurised container:
 - (i) constitutes a danger to public health and safety; or
 - (ii) may cause damage to the environment.
- (4) If the Secretary gives a direction under subsection (1), then sections 66 to 69 of the Regulatory Powers Act do not apply to the container or its contents.

Section 54

- (5) A direction under subsection (1) is not a legislative instrument.

Compensation

- (6) If a pressurised container and its contents are destroyed under this section, the owner of the container may apply to a designated court for compensation.
- (7) On application under subsection (6), the designated court must order the Commonwealth to pay compensation if the court is satisfied that the pressurised container is not, or did not contain, forfeitable goods.
- (8) The amount of compensation ordered must be the market value of the pressurised container and its contents at the time they were destroyed.

Division 3—Forfeiture of goods

Subdivision A—Forfeitable goods

57 Forfeitable goods

- (1) For the purposes of this Act, the following are *forfeitable goods*:
- (a) scheduled substances in respect of the manufacture of which person has contravened subsection 13(1);
 - (b) scheduled substances in respect of the import of which a person has contravened subsection 13AA(1);
 - (c) scheduled substances in respect of the export of which a person has contravened subsection 13AB(1);
 - (d) equipment that contains a scheduled substance, and the scheduled substance itself, if a person has contravened subsection 13(3), 13AA(3) or 13AB(3) in respect of the manufacture, import or export of the equipment;
 - (e) equipment that uses a scheduled substance in its operation, if a person has contravened subsection 13(5), 13AA(5) or 13AB(5) in respect of the manufacture, import or export of the equipment;
 - (f) a non-refillable container, and any scheduled substance it contains, if a person has contravened the licence condition specified in item 7 of the table in subsection 18(1) in respect of the import of the scheduled substance in the container;
 - (g) prescribed goods in respect of which a person has contravened a prescribed provision of the regulations.
- (1A) Without limiting subsection (1), a person is taken to have contravened a provision for the purposes of that subsection if:
- (a) the person is convicted of an offence against this Act or the regulations for a contravention of the provision; or
 - (b) a civil penalty order is made against the person for a contravention of the provision.
- (2) For the purposes of this Act, goods are also *forfeitable goods* if:
-

Section 58

- (a) the goods are a quantity of scheduled substances or equipment; and
- (b) the goods are mixed with another quantity of scheduled substances or equipment (the *other quantity*) of the same kind or a similar kind; and
- (c) the other quantity is forfeitable goods.

Subdivision B—Forfeiture following conviction or making of civil penalty order

58 Goods forfeited to Commonwealth

- (1) If a person is convicted of an offence against this Act or the regulations for a contravention of a provision referred to in subsection 57(1), all forfeitable goods to which the offence relates are, by force of the conviction, forfeited to the Commonwealth.
- (2) If a civil penalty order is made against a person for a contravention of a provision referred to in subsection 57(1), all forfeitable goods to which the contravention relates are, by force of the order, forfeited to the Commonwealth.

59 Power to seize forfeited goods

- (1) An inspector may seize goods that are forfeited under section 58.
- (2) Without prejudice to any other method of seizing goods, goods may be seized under subsection (1) by an inspector attaching, or causing to be attached, to the goods, or to the container in which the goods are held, a notice in writing signed by the inspector and:
 - (a) identifying the goods;
 - (b) stating that the goods have been seized under this subsection; and
 - (c) specifying the reason for the seizure.
- (3) An inspector who seizes goods in the manner referred to in subsection (2) shall, as soon as practicable, serve on the owner of the goods or the person who had possession, custody or control of

the goods immediately before they were seized a copy of the notice under subsection (2).

60 Persons not to move etc. seized goods

Causing seized goods to be moved etc.

- (1) A person contravenes this subsection if:
- (a) the person engages in conduct; and
 - (b) the conduct causes goods to be moved, altered or interfered with; and
 - (c) the goods are the subject of a notice under subsection 59(2).
- (2) Subsection (1) does not apply if the person engages in the conduct in accordance with a direction given to the person by the Secretary.

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matter in this subsection. See subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act.

Failing to take precautions to prevent moving etc. of seized goods

- (3) A person contravenes this subsection if:
- (a) the person is given under subsection 59(3) a copy of a notice under subsection 59(2); and
 - (b) the person fails to take all reasonable precautions, or to exercise all due diligence, to prevent the moving, alteration or interference with the goods to which the notice relates except in accordance with a direction given by the Secretary.

Penalties

- (4) A person commits an offence if the person contravenes subsection (1) or (3).

Note: The physical elements of an offence against this subsection are set out in the subsection contravened (see subsection 6B(3)).

Penalty: 500 penalty units.

Section 60A

- (5) A person commits an offence of strict liability if the person contravenes subsection (1) or (3).

Penalty: 60 penalty units.

- (6) A person is liable to a civil penalty if the person contravenes subsection (1) or (3).

Civil penalty: 600 penalty units.

Subdivision C—Forfeiture of seized goods

60A Forfeiture notices

- (1) If:
- (a) an inspector seizes goods under section 49 or 52 of the Regulatory Powers Act; and
 - (b) the inspector suspects, on reasonable grounds, that the goods are forfeitable goods;
- the inspector may, within 7 days after the seizure, give a written notice (a *forfeiture notice*) to:
- (c) the owner of the goods; or
 - (d) if the owner of the goods cannot be identified after reasonable inquiry—the person from whom the goods were seized.
- (2) The forfeiture notice must:
- (a) identify the goods; and
 - (b) state that the goods have been seized; and
 - (c) specify the reason for the seizure; and
 - (d) state that the goods will be forfeited to the Commonwealth unless:
 - (i) the owner of the thing, or the person from whom the thing was seized, applies to a designated court under section 60B within 60 days after the forfeiture notice is given; and

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- (ii) the court makes an order that the goods are not forfeitable goods; and
- (e) specify the address of the Secretary.

60B Claims that seized goods are not forfeitable goods

- (1) If a forfeiture notice is given under section 60A in relation to goods (the *identified goods*), either of the following persons:
 - (a) the owner of the goods;
 - (b) the person from whom the goods were seized;may apply to a designated court for:
 - (c) an order that all of the identified goods are not forfeitable goods; or
 - (d) an order that specified identified goods are not forfeitable goods.
- (2) The application must be made within 60 days after forfeiture notice is given.
- (3) If a person applies for an order under paragraph (1)(c), the court must:
 - (a) make the order if it is satisfied that the identified goods are not forfeitable goods; or
 - (b) refuse to make the order if it is not satisfied that the identified goods are not forfeitable goods.
- (4) If a person applies for an order under paragraph (1)(d), the court must:
 - (a) make the order if it is satisfied that the goods specified in the application are not forfeitable goods; or
 - (b) refuse to make the order if it is not satisfied that the goods specified in the application are not forfeitable goods.
- (5) If the court makes an order under paragraph (3)(a) or (4)(a) in relation to goods, the inspector must take reasonable steps to return the goods to the applicant, unless:
 - (a) proceedings in respect of which the goods may afford evidence were instituted before the order was made and have

Section 60C

- not been completed (including an appeal to a court in relation to those proceedings); or
- (b) to return the goods could cause an imminent risk of death, serious illness, serious injury or serious damage to the environment; or
- (c) an inspector is otherwise authorised (by a law, or an order of a court, of the Commonwealth or of a State or Territory) to retain, destroy or dispose of the goods.

60C Forfeiture of seized goods to the Commonwealth

- (1) If:
 - (a) a forfeiture notice has been given in relation to seized goods; and
 - (b) 60 days pass after the notice is given, and an application under section 60B has not been made in relation to the goods;the goods are forfeited to the Commonwealth at the end of the 60th day after the day the forfeiture notice was given.
- (2) If:
 - (a) a forfeiture notice has been given in relation to seized goods; and
 - (b) within 60 days after the notice is given, an application under section 60B is made to a designated court for an order that the goods are not forfeitable goods; and
 - (c) the court refuses to make the order;the goods are forfeited to the Commonwealth when the court refuses to make the order.

60D Right of compensation in certain circumstances

- (1) If:
 - (a) goods are seized under section 49 or 52 of the Regulatory Powers Act; and
 - (b) the goods are forfeited to the Commonwealth under section 60C of this Act;

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the owner of the goods may apply to a designated court for compensation.

- (2) On application under subsection (1), the court must order that the Commonwealth pay compensation to the owner of the goods if the court is satisfied that:
 - (a) the applicant is the owner of the goods; and
 - (b) either:
 - (i) Part 3 of the Regulatory Powers Act, as that Part applies in relation to evidential material that relates to a provision mentioned in subsection 52(1) of this Act, was not complied with in relation to the seizure of the goods; or
 - (ii) the goods were not forfeitable goods.
- (3) The amount of compensation ordered must be the market value of the goods at the time the goods were forfeited.

Subdivision D—General provisions

60E Forfeited goods become the property of the Commonwealth

Goods that are forfeited to the Commonwealth under this Division become the property of the Commonwealth.

61 Disposal of forfeited goods

- (1) Goods that are forfeited under section 58 or section 60C shall be dealt with and disposed of in accordance with the directions of the Minister.
- (2) The forfeited goods must not be sold.

Note: Sections 66 to 69 of the Regulatory Powers Act do not apply to goods that are the subject of a forfeiture notice under section 60A of this Act: see subsection 53(4) of this Act.

Division 4—Civil penalties

62 Civil penalty provisions

Enforceable civil penalty provisions

- (1) Each civil penalty provision of this Act or the regulations is enforceable under Part 4 of the Regulatory Powers Act.

Note: Part 4 of the Regulatory Powers Act allows a civil penalty provision to be enforced by obtaining an order for a person to pay a pecuniary penalty for the contravention of the provision.

Authorised applicant

- (2) For the purposes of Part 4 of the Regulatory Powers Act, the Secretary is an authorised applicant in relation to the civil penalty provisions mentioned in subsection (1).

Relevant court

- (3) For the purposes of Part 4 of the Regulatory Powers Act, a designated court is a relevant court in relation to the civil penalty provisions mentioned in subsection (1).

Extension to external Territories

- (4) Part 4 of the Regulatory Powers Act, as that Part applies in relation to the civil penalty provisions mentioned in subsection (1), extends to every external Territory.

Liability of Crown

- (5) To avoid doubt, subsection 5(2) of this Act does not prevent the Crown from being liable to pay a pecuniary penalty under a civil penalty order under Part 4 of the Regulatory Powers Act, as that Part applies in relation to this Act.

Division 5—Infringement notices

63 Infringement notices

Provisions subject to an infringement notice

- (1) The following provisions are subject to an infringement notice under Part 5 of the Regulatory Powers Act:
 - (a) each provision of this Act or the regulations, contravention of which constitutes an offence of strict liability;
 - (b) each civil penalty provision of this Act or the regulations.

Note: Part 5 of the Regulatory Powers Act creates a framework for using infringement notices in relation to provisions.

Infringement officer

- (2) For the purposes of Part 5 of the Regulatory Powers Act, an inspector is an infringement officer in relation to the provisions mentioned in subsection (1).

Relevant chief executive

- (3) For the purposes of Part 5 of the Regulatory Powers Act, the Secretary is the relevant chief executive in relation to the provisions mentioned in subsection (1).

Extension to external Territories

- (4) Part 5 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1), extends to every external Territory.

Division 6—Enforceable undertakings

64 Enforceable undertakings

Enforceable provisions

- (1) The provisions of this Act and the regulations are enforceable under Part 6 of the Regulatory Powers Act.

Note: Part 6 of the Regulatory Powers Act creates a framework for accepting and enforcing undertakings relating to compliance with provisions.

Authorised person

- (2) For the purposes of Part 6 of the Regulatory Powers Act, the Secretary is an authorised person in relation to the provisions mentioned in subsection (1).

Relevant court

- (3) For the purposes of Part 6 of the Regulatory Powers Act, a designated court is a relevant court in relation to the provisions mentioned in subsection (1).

Enforceable undertaking may be published on Department's website

- (4) The Secretary may cause an undertaking given under Part 6 of the Regulatory Powers Act in relation to a provision mentioned in subsection (1) to be published on the Department's website.

Extension to external Territories

- (5) Part 6 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1), extends to every external Territory.

Division 7—Injunctions

64A Injunctions

Enforceable provisions

- (1) The provisions of this Act and the regulations are enforceable under Part 7 of the Regulatory Powers Act.

Note: Part 7 of the Regulatory Powers Act creates a framework for using injunctions to enforce provisions.

Authorised person

- (2) For the purposes of Part 7 of the Regulatory Powers Act, the Secretary is an authorised person in relation to the provisions mentioned in subsection (1).

Relevant court

- (3) For the purposes of Part 7 of the Regulatory Powers Act, a designated court is a relevant court in relation to the provisions mentioned in subsection (1).

Extension to external Territories

- (4) Part 7 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1), extends to every external Territory.

Section 64B

Division 8—Notices to produce

64B Secretary may require person to provide information etc.

Scope

- (1) This section applies if the Secretary believes, on reasonable grounds, that a person is capable of giving information, or producing any document, that is relevant for the purposes of investigating or preventing:
 - (a) an offence against this Act or the regulations; or
 - (b) a contravention of a civil penalty provision of this Act or the regulations.

Note: For paragraph (a), see the definition of *offence against this Act or the regulations* in section 7.

Notice to produce

- (2) The Secretary may, by written notice, require the person to give the information, or produce the document, to an inspector.
- (3) The notice must specify the following:
 - (a) how the person is to give the information or produce the document;
 - (b) the period (which must be at least 14 days after the day the notice is given) within which the person is to give the information or produce the document;
 - (c) the effect of subsection (4) and sections 137.1 and 137.2 of the *Criminal Code*.
- (4) A person contravenes this subsection if:
 - (a) the person is given a notice under subsection (2); and
 - (b) the person fails to comply with the notice within the period specified in the notice.

Section 64B

Strict liability offence

- (5) A person commits an offence of strict liability if the person contravenes subsection (4).

Penalty: 30 penalty units.

Civil penalty

- (6) A person is liable to a civil penalty if the person contravenes subsection (4).

Civil penalty: 30 penalty units.

Individuals not excused from giving information or producing documents in certain circumstances

- (7) An individual is not excused from giving information or producing a document under this section on the ground that giving the information or producing the document might tend to incriminate the individual in relation to an offence.

Note: A body corporate is not entitled to claim the privilege against self-incrimination.

- (8) However:

- (a) the information given or document produced; and
- (b) the giving of the information or the production of the document; and
- (c) any information, document or thing obtained as a direct or indirect consequence of the giving of the information or the production of the document;

are not admissible in evidence against the individual in criminal proceedings other than proceedings for an offence against:

- (d) this section; or
- (e) section 137.1 or 137.2 of the *Criminal Code* that relates to this section.

- (9) If, at general law, an individual would otherwise be able to claim the privilege against self-exposure to a penalty (other than a

Section 64B

penalty for an offence) in relation to giving information or producing a document under this section, the individual is not excused from giving the information or producing the document under this section on that ground.

Note: A body corporate is not entitled to claim the privilege against self-exposure to a penalty.

Part VIIIA—Ozone Protection and SGG Account

65 Simplified outline of this Part

This Part continues in existence the Ozone Protection and SGG Account, which is a special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

Amounts are credited to the Account from the following sources:

- (a) application fees received by the Commonwealth under this Act or the regulations;
- (b) levy amounts received by the Commonwealth under the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995* or the *Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995*;
- (c) income received by the Commonwealth from the operation of the National Halon Bank;
- (d) interest received by the Commonwealth from the investment of money standing to the credit of the Account.

The purposes of the Account include paying or reimbursing the Commonwealth's costs associated with the following:

- (a) administering this Act and the regulations;
- (b) furthering certain programs to phase out or phase down, or minimise emissions of, scheduled substances;
- (c) managing the National Halon Bank;
- (d) research relating to ozone depleting substances or SGGs.

65A Definitions

In this Part:

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Account means the Ozone Protection and SGG Account that is continued in existence by subsection 65B(1).

National Halon Bank means the Commonwealth facility known as the National Halon Bank.

65B Ozone Protection and SGG Account

- (1) The old account is continued in existence as the Ozone Protection and SGG Account.
- (2) The Account is a special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*.
- (3) In this section:

old account means the account that was in existence immediately before the commencement of this section under the Part VIIIA of this Act that was repealed by the *Ozone Protection and Synthetic Greenhouse Gas Legislation Amendment Act 2003*.

65C Amounts to be credited to the Account

- (1) Amounts equal to the following amounts must be credited to the Account:
 - (a) amounts received by the Commonwealth under the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995* or the *Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995*;
 - (b) amounts received by the Commonwealth as fees for applications under this Act or the regulations;
 - (c) income received by the Commonwealth from the operation of the National Halon Bank;
 - (f) interest received by the Commonwealth from the investment of money standing to the credit of the Account.

Section 65D

Notional payments and receipts by non-corporate Commonwealth entities

- (2) If:
- (a) either:
 - (i) a non-corporate Commonwealth entity makes a notional payment to another non-corporate Commonwealth entity; or
 - (ii) one part of a non-corporate Commonwealth entity makes a notional payment to another part of that entity; and
 - (b) the transaction would involve the debiting of an appropriation if the notional payment were a real payment;
- then:
- (c) this section applies in relation to the notional payment as if it were a real payment; and
 - (d) this section applies in relation to the notional receipt of the notional payment as if it were a real receipt.

Note: This subsection applies to transactions that do not actually involve payments or receipts, because the parties to the transaction (non-corporate Commonwealth entities) are merely parts of the Commonwealth.

- (3) In subsection (2):

non-corporate Commonwealth entity has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

65D Purposes of the Account

The following are the purposes of the Account:

- (a) paying or reimbursing the Commonwealth's costs associated with the administration of this Act and the regulations;
- (b) paying or reimbursing the Commonwealth's costs associated with furthering the following programs (including providing information about those programs):
 - (i) programs to phase out or phase down scheduled substances;

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- (ii) emission minimisation programs for scheduled substances;
- (c) paying or reimbursing the Commonwealth's costs associated with management of the National Halon Bank;
- (ca) paying or reimbursing the Commonwealth's costs associated with research relating to:
 - (i) substances that deplete ozone in the atmosphere; or
 - (ii) synthetic greenhouse gases;
- (d) refunding any amounts credited to the Account in error;
- (e) refunding or remitting, in accordance with regulations made for the purposes of subsection 70(4), amounts received by the Commonwealth as fees for applications under this Act or the regulations.

Part VIIIB—Information sharing

Division 1—Outline of this Part

65E Simplified outline of this Part

This Part regulates the disclosure and use of information (referred to as relevant information) obtained under this Act (or the Regulatory Powers Act as it applies in relation to this Act) by any of the following persons (referred to as entrusted persons):

- (a) the Minister;
- (b) the Secretary;
- (c) an APS employee in the Department;
- (d) any other person employed in, or engaged by, the Department.

The Minister may disclose relevant information to Commonwealth entities, State or Territory government bodies, and certain enforcement bodies, subject to certain conditions. In addition, the Minister may use or disclose relevant information to prevent or lessen a serious risk to human health or the environment.

An entrusted person may use or disclose relevant information for certain other purposes, including for the purposes of this and certain other Acts.

A person may commit an offence or be liable to a civil penalty if the person uses or discloses certain kinds of relevant information other than in accordance with this Part.

Division 2—Authorised uses and disclosures by Minister

65F Disclosure of relevant information to Commonwealth entities

The Minister may disclose relevant information to a Commonwealth entity if the Minister is satisfied the disclosure is for the purposes of assisting the entity to perform its functions or exercise its powers.

65G Disclosure of relevant information to State or Territory government body

The Minister may disclose relevant information to a State or Territory government body if:

- (a) the Minister reasonably believes that the disclosure of the information is necessary for the purposes of:
 - (i) the Minister performing functions, or exercising powers, under this Act; or
 - (ii) the administration of a State or Territory law; and
- (b) the State or Territory government body has undertaken not to use or further disclose the information except in accordance with an agreement that:
 - (i) is in force between the Commonwealth and the State or Territory; and
 - (ii) applies in relation to the information; and
- (c) the Minister is satisfied that the information will be used and further disclosed only in accordance with the agreement.

65H Disclosure for the purposes of law enforcement

- (1) The Minister may disclose relevant information to an enforcement body if:
 - (a) the Minister reasonably believes that the disclosure of the information is necessary for:
 - (i) the enforcement of the criminal law; or

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- (ii) the enforcement of a law imposing a pecuniary penalty;
or
 - (iii) the protection of public revenue; and
 - (b) the functions of that body include that enforcement or protection.
- (2) Each of the following is an ***enforcement body***:
- (a) a Commonwealth entity;
 - (b) a State or Territory government body;
 - (c) the Australian Federal Police;
 - (d) the police force or police service of a State or Territory.

65J Use or disclosure to reduce serious risk to human health

The Minister may use or disclose relevant information if the Minister reasonably believes that the disclosure is necessary to prevent or lessen a serious risk to human health.

65K Use or disclosure to reduce serious risk to the environment

The Minister may use or disclose relevant information if the Minister reasonably believes that the disclosure is necessary to prevent or lessen a serious risk to the environment.

Division 3—Authorised uses and disclosures by entrusted persons

65L Use or disclosure for the purposes of an Act

An entrusted person may use or disclose relevant information if the use or disclosure is for the purposes of this Act or another Act administered by the Minister.

65M Publicly available information

An entrusted person may use or disclose relevant information if the information has already been lawfully made available to the public.

65N Person to whom information relates

An entrusted person may disclose relevant information to the person to whom the information relates.

65P Use or disclosure with consent

An entrusted person may use or disclose relevant information that relates to a person if:

- (a) the person has consented to the use or disclosure; and
- (b) the use or disclosure is in accordance with that consent.

65Q Person who provided information

An entrusted person may disclose relevant information to the person who provided the information.

65R Summaries or statistics

An entrusted person may use or disclose:

- (a) summaries of relevant information; or
- (b) statistics derived from relevant information;

Section 65S

if those summaries or statistics do not enable the identification of a person.

65S Disclosure to a court, tribunal etc.

An entrusted person may disclose relevant information, or a document containing relevant information:

- (a) for the purposes of proceedings before:
 - (i) a court; or
 - (ii) a tribunal, authority or person that has the power to require the answering of questions or the production of documents; or
- (b) in accordance with an order of a court or such a tribunal, authority or person.

65T Use for the purposes of disclosure

An entrusted person may use relevant information for the purpose of disclosing the relevant information under this Division.

Division 4—Offences

65U Unauthorised use or disclosure of protected information— entrusted person

Unauthorised use or disclosure

- (1) A person contravenes this subsection if:
- (a) the person is, or has been, an entrusted person; and
 - (b) the person has obtained relevant information in the person's capacity as an entrusted person; and
 - (c) the information is protected information; and
 - (d) the person uses or discloses the information.

Exceptions

- (2) However, subsection (1) does not apply if the use or disclosure is authorised or required by:
- (a) this Act; or
 - (b) any other law of the Commonwealth; or
 - (c) a prescribed law of a State or a Territory.

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matter in this subsection. See subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act.

Fault-based offence

- (3) A person commits an offence if the person contravenes subsection (1).

Note: The physical elements of an offence against this subsection are set out in subsection (1) (see subsection 6B(3)).

Penalty: Imprisonment for 2 years or 180 penalty units, or both.

Section 65V

Strict liability offence

- (4) A person commits an offence of strict liability if the person contravenes subsection (1).

Penalty: 60 penalty units.

Civil penalty provision

- (5) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty: 300 penalty units.

**65V Unauthorised use or disclosure of protected information—
official of Commonwealth entity**

- (1) A person contravenes this subsection if:
- (a) the person is, or has been, an official of a Commonwealth entity; and
 - (b) the person has obtained relevant information in the person's capacity as an official of the entity; and
 - (c) the information is protected information that was disclosed to the entity under section 65F; and
 - (d) the person uses or discloses the information other than for the purpose for which it was disclosed to the entity.

Fault-based offence

- (2) A person commits an offence if the person contravenes subsection (1).

Note: The physical elements of an offence against this subsection are set out in subsection (1) (see subsection 6B(3)).

Penalty: Imprisonment for 2 years or 180 penalty units, or both.

Section 65V

Strict liability offence

- (3) A person commits an offence of strict liability if the person contravenes subsection (1).

Penalty: 60 penalty units.

Civil penalty provision

- (4) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty: 300 penalty units.

Part VIIC—Review of decisions

65W Simplified outline of this Part

Certain decisions made under this Act are reviewable under this Part.

The applicant or licensee in relation to a reviewable decision made by a delegate may apply to the Minister for the decision to be reconsidered. If the decision is to be reconsidered by a delegate, the delegate must not have been involved in making the original decision. After reconsidering the original decision, the Minister or delegate must affirm, vary or set aside the original decision.

Applications may be made to the Administrative Review Tribunal for review of:

- (a) a reviewable decision made by the Minister personally; or
- (b) a decision made on a reconsideration of a reviewable decision.

65X Reviewable decisions

Each of the following decisions of the Minister is a ***reviewable decision***:

- (a) a decision under section 16 to refuse to grant a licence (including a decision that is taken to have been made under section 17);
- (b) a decision under section 18 to impose, revoke or vary a licence condition;
- (c) a decision under section 19AC to refuse to renew a licence (including a decision that is taken to have been made under section 19AD);
- (d) a decision under section 19A to terminate a licence;

Section 65Y

- (e) a decision under section 19B to refuse to transfer a licence;
- (f) a decision under section 19C to refuse to amend a licence;
- (g) a decision under subsection 19D(1) to suspend a licence;
- (h) a decision under subsection 19D(3) to specify either or both of the following in a suspension notice given under that subsection:
 - (i) actions the licensee must take for the suspension to end;
 - (ii) a fixed period for the suspension;
- (i) a decision under paragraph 19D(7)(a) to vary a suspension notice;
- (j) a decision under section 20 to cancel a licence;
- (k) a decision under section 28 to allocate, or refuse to allocate, a quota;
- (l) a decision under section 33 to vary or revoke a reserve HCFC quota;
- (m) a decision under section 35A to direct a licensee to export a quantity of HCFCs;
- (n) a decision under section 36H to direct an SGG licensee to export a quantity of HFCs.

65Y Notification of reviewable decisions etc.

- (1) As soon as practicable after a reviewable decision is made, the Minister must give the applicant or licensee concerned a written notice of the decision containing:
 - (a) the reasons for the decision; and
 - (b) details of the applicant's or licensee's right to have the decision reconsidered under section 65ZA or to apply for review of the decision under section 65ZC (as the case requires).
- (2) A notice is taken to have been given under subsection (1) if the reasons, and details mentioned in paragraph (1)(b), are contained in a written notice of the reviewable decision under another provision of this Act.

Section 65Z

- (3) Failure to give a notice under subsection (1) (including as mentioned in subsection (2)) in relation to a reviewable decision does not affect the validity of the reviewable decision.

65Z Reconsideration of reviewable decisions—application for reconsideration

- (1) An applicant or licensee may apply to the Minister to reconsider a reviewable decision (the *original decision*) made in relation to the applicant or licensee, other than:
 - (a) a reviewable decision made by the Minister personally; or
 - (b) a reconsideration decision.
- (2) The application must:
 - (a) be in writing; and
 - (b) be made within:
 - (i) 21 days after the day on which the original decision is made (or taken to have been made); or
 - (ii) if, either before or after the end of that 21-day period, the Minister extends the period within which the application may be made—the extended period; and
 - (c) set out the reasons why the applicant or licensee wants the original decision reconsidered.

65ZA Reconsideration of reviewable decisions—conducting the reconsideration*Conducting reconsideration*

- (1) On receiving an application under section 65Z, the Minister must reconsider the original decision.
- (2) If a delegate of the Minister is to reconsider the original decision, the delegate must:
 - (a) not have been involved in making the original decision; and
 - (b) except in the case of a decision taken to have been made under section 17 or 19AD—occupy a position that is at least

Section 65ZB

as senior as that occupied by the person who made the original decision.

Seeking further information

- (3) The Minister may, by written notice, require the applicant or licensee to give the Minister further information about the application for reconsideration.
- (4) If further information is sought, the applicant or licensee must provide the requested information within 30 days after the day notice is given under subsection (3).

65ZB Reconsideration of reviewable decisions—reconsideration decision

Decision on reconsideration

- (1) After reconsidering the original decision, the Minister:
 - (a) must affirm, vary or set aside the original decision; and
 - (b) if the original decision is set aside—may make such other decision as the Minister thinks appropriate.

Notice of reconsideration decision

- (2) As soon as practicable after making a decision under subsection (1) (the **reconsideration decision**), the Minister must give the applicant or licensee written notice of the reconsideration decision containing:
 - (a) reasons for the reconsideration decision; and
 - (b) details of the applicant's or licensee's right to apply for review of the reconsideration decision under section 65ZC.
- (3) Failure to give a notice under subsection (2) in relation to the reconsideration decision does not affect the validity of the reconsideration decision.

Section 65ZC

When reconsideration decision takes effect

- (4) The reconsideration decision takes effect:
- (a) on the day specified in the notice of the reconsideration decision given under subsection (2); or
 - (b) if a day is not specified—on the day the reconsideration decision is made, or taken to have been made (see subsection (5)).

Original decision taken to be affirmed if no decision made

- (5) The Minister is taken to have made a reconsideration decision affirming the original decision if the Minister does not make a reconsideration decision on the application before the end of whichever of the following periods is applicable:
- (a) the period of 60 days starting on the day after the application for reconsideration was made, unless paragraph (b) or (c) applies;
 - (b) if the Minister has requested further information by a notice given under subsection 65ZA(3) and such information is provided—the period of 60 days starting on the day after the information is provided;
 - (c) if the Minister has requested further information by a notice given under subsection 65ZA(3) and such information is not provided—the period of 90 days starting on the day after the notice was given under that subsection.

65ZC Review of decisions by Administrative Review Tribunal

Applications may be made to the Administrative Review Tribunal for review of the following decisions:

- (a) a reviewable decision made by the Minister personally;
- (b) a reconsideration decision.

Section 66

Part IX—Miscellaneous

66 Simplified outline of this Part

This Part deals with miscellaneous matters, such as approved forms, delegations, annual reports, collection of levies, constitutional matters and regulations.

66A Approved forms

- (1) The Minister may, in writing, approve a form for the purposes of a provision of this Act.
- (2) An approved form of an application may provide for verification by statutory declaration of statements made in the application.

67A Delegation by the Minister

- (1) The Minister may, by writing, delegate all or any of his or her powers and functions under this Act or the regulations to:
 - (aa) the Secretary; or
 - (a) an SES employee or acting SES employee in the Department; or
 - (b) an APS employee who holds, or is acting in, an Executive Level 2, or equivalent, position in the Department.
- (2) Subsection (1) does not apply to the Minister's powers under section 19A or 20.
- (3) In exercising powers or functions under a delegation, the delegate must comply with any directions of the Minister.

Section 67AA**67AA Delegation by the Secretary**

- (1) The Secretary may, by writing, delegate all or any of the Secretary's powers and functions under this Act or the regulations, or under any of Parts 2 to 7 of the Regulatory Powers Act (as those Parts apply in relation to this Act), to:
 - (a) an SES employee or acting SES employee in the Department;
or
 - (b) for a power or function under section 66 or 67 of the Regulatory Powers Act—an inspector.
- (2) In exercising powers or functions under a delegation, the delegate must comply with any directions of the Secretary.

67B Disclosure of information to the Clean Energy Regulator*Scope*

- (1) This section applies to information obtained under this Act or the regulations.

Disclosure

- (2) The Minister may disclose the information to the Clean Energy Regulator for the purposes of, or in connection with, the performance of the functions, or the exercise of the powers, of the Clean Energy Regulator.

Other powers of disclosure not limited

- (3) This section does not, by implication, limit the Minister's powers to disclose the information to a person other than the Clean Energy Regulator.

68 Annual report

- (1) The Minister shall:

Section 69

- (a) as soon as practicable after the end of each financial year, prepare a report on the operation of this Act during that year; and
 - (b) cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the preparation of the report is completed.
- (2) If this Act does not commence at the beginning of a financial year, this section has effect in relation to the period beginning at the commencement of this Act and ending on the next 30 June as if:
 - (a) if the period is less than 6 months—the period were included in the next financial year; or
 - (b) in any other case—the period were a financial year.

69 Collection of licence levies

- (1) A licence levy is due and payable:
 - (a) at the end of 90 days after the end of the reporting period to which the levy relates; or
 - (b) if the Minister allows the licensee concerned a longer period—at the end of that longer period.
- (2) A licence levy is:
 - (a) a debt due to the Commonwealth by the licensee concerned; and
 - (b) may be recovered by the Minister, on behalf of the Commonwealth, by action in a designated court.
- (3) A licence levy in relation to a reporting period is not payable by a licensee if the total of the licence levies that would be payable by the licensee in relation to the reporting period, apart from this subsection, is less than or equal to the amount (if any) prescribed by the regulations for the purposes of this subsection.
- (4) In this section:

licence levy means levy payable under:

Section 69A

(a) the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995*; or

(b) the *Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995*;

and includes any amount payable under either of those Acts as in force before the commencement of the *Ozone Protection and Synthetic Greenhouse Gas Legislation Amendment Act 2003*.

69A Implementation of Montreal Protocol—supplementary regulations

- (1) The regulations may make provision for and in relation to giving effect to an adjustment or amendment of the Montreal Protocol, in so far as the adjustment or amendment relates to a substance other than a scheduled substance (whether that substance exists alone or in a mixture).
- (2) Regulations made by virtue of subsection (1) in relation to an adjustment or amendment of the Montreal Protocol that has not entered into force for Australia must not come into operation on a date earlier than the date on which the adjustment or amendment entered into force for Australia.

69B Constitutional basis of this Act

This Act (other than Part VIIIB) relies on the Commonwealth's legislative powers under paragraph 51(xxix) (external affairs) of the Constitution as it relates to giving effect to Australia's obligations under relevant international agreements, in particular:

- (a) the Vienna Convention; and
- (b) the Montreal Protocol; and
- (c) the Framework Convention on Climate Change; and
- (d) the Kyoto Protocol; and
- (e) the Paris Agreement.

Note: Part VIIIB is about information sharing. That Part relies on a range of legislative powers of the Commonwealth.

Section 69BA

69BA Additional operation of this Act

Additional operation of this Act in relation to particular activities

- (1) In addition to section 69B, this Act also has effect as provided by this section in relation to the following activities:
 - (a) manufacturing, importing or exporting a substance, scheduled substance or type of scheduled substance;
 - (b) distributing, disposing of, purchasing or acquiring a substance, scheduled substance or type of scheduled substance;
 - (c) storing, using or handling a substance, scheduled substance or type of scheduled substance;
 - (d) engaging in conduct that results in the discharge of a substance, scheduled substance or type of scheduled substance;
 - (e) recovering, recycling or destroying a substance, scheduled substance or type of scheduled substance.
- (2) In addition to section 69B, this Act also has effect as provided by this section in relation to the manufacture, import or export of equipment, or a kind of equipment, that:
 - (a) uses a scheduled substance in its operation; or
 - (b) contains a scheduled substance.

Corporations

- (3) This Act also has the effect it would have if a reference to an activity mentioned in subsection (1) or (2) was expressly confined to such an activity carried out by a corporation to which paragraph 51(xx) of the Constitution applies.

Territories

- (4) This Act also has the effect it would have if a reference to an activity mentioned in subsection (1) or (2) was expressly confined to:

Section 69BA

- (a) such an activity carried out by a body corporate that is incorporated in a Territory; or
- (b) such an activity carried out in a Territory.

Trade and commerce

- (5) This Act also has the effect it would have if a reference to an activity mentioned in subsection (1) or (2) was expressly confined to such an activity carried out in the course of:
 - (a) trade and commerce between Australia and places outside Australia; or
 - (b) trade and commerce among the States; or
 - (c) trade and commerce between a State and a Territory.

Agencies of the Commonwealth

- (6) This Act also has the effect it would have if a reference to an activity mentioned in subsection (1) or (2) was expressly confined to:
 - (a) such an activity carried out in the supply of goods or services to the Commonwealth, or a corporate Commonwealth entity or a Commonwealth company (both within the meaning of the *Public Governance, Performance and Accountability Act 2013*); or
 - (b) such an activity carried out by the Commonwealth, or a corporate Commonwealth entity or a Commonwealth company (both within the meaning of that Act).

Communications

- (7) This Act also has the effect it would have if a reference to an activity mentioned in subsection (1) or (2) was expressly confined to such an activity undertaken using a service to which paragraph 51(v) of the Constitution applies.

Section 69C

69C Jurisdiction of State courts

- (1) The courts of the States are invested with federal jurisdiction in relation to matters arising under:
 - (a) this Act; and
 - (b) the regulations.
- (2) Jurisdiction is invested under subsection (1) within the limits (other than limits of locality) of the jurisdiction of the court (whether those limits are limits as to subject matter or otherwise).

69D Jurisdiction of Territory courts

- (1) Jurisdiction is conferred on the courts of the Territories in relation to matters arising under:
 - (a) this Act; and
 - (b) the regulations.
- (2) Jurisdiction is conferred under subsection (1):
 - (a) only so far as the Constitution permits; and
 - (b) within the limits (other than limits of locality) of the jurisdiction of the court (whether those limits are limits as to subject matter or otherwise).

69E Compensation for acquisition of property

- (1) If the operation of this Act or the regulations, or the Regulatory Powers Act as that Act operates because of this Act, would result in an acquisition of property from a person otherwise than on just terms, the Commonwealth is liable to pay a reasonable amount of compensation to the person.
 - (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in a court of competent jurisdiction for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.
 - (3) In this section:
-

Section 70

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

70 Regulations

- (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Offences

- (2) The regulations may prescribe penalties, not exceeding a fine of 50 penalty units, for offences against the regulations.

Civil penalty provisions

- (3) The regulations may prescribe pecuniary penalties, not exceeding 60 penalty units, for contravening civil penalty provisions in the regulations.

Fees

- (4) The regulations may provide for:
 - (a) the charging and recovery of fees for applications under this Act or the regulations (including by non-government bodies); and
 - (b) the remission, refund or waiver of those fees, or the exemption of persons from payment of those fees.
- (5) A fee must not be such as to amount to taxation.

Section 70

Incorporation etc. of international agreements etc.

- (6) Despite subsection 14(2) of the *Legislation Act 2003*, the regulations may make provision in relation to a matter by applying, adopting or incorporating any matter contained in the following as in force or existing from time to time:
- (a) the Vienna Convention;
 - (b) the Montreal Protocol;
 - (c) the Framework Convention on Climate Change;
 - (d) the Kyoto Protocol;
 - (e) the Paris Agreement;
 - (f) a decision adopted or made under an international agreement covered by any of paragraphs (a) to (e).

Schedule 1—Scheduled substances

Note: See section 7.

1 CFCs

For the purposes of the definitions of *CFC* and *scheduled substance* in section 7, this clause covers a substance mentioned in an item of the following table. The *ozone depleting potential* for the substance is specified in column 2 of the item.

CFCs		
Item	Column 1 Substance	Column 2 Ozone depleting potential
1	Trichlorofluoromethane (CFC-11)	1.0
2	Dichlorodifluoromethane (CFC-12)	1.0
3	CF ₃ Cl (CFC-13)	1.0
4	C ₂ FCl ₅ (CFC-111)	1.0
5	C ₂ F ₂ Cl ₄ (CFC-112)	1.0
6	Trichlorotrifluoroethane (CFC-113)	0.8
7	Dichlorotetrafluoroethane (CFC-114)	1.0
8	(Mono) chloropentafluoroethane (CFC-115)	0.6
9	C ₃ FCl ₇ (CFC-211)	1.0
10	C ₃ F ₂ Cl ₆ (CFC-212)	1.0
11	C ₃ F ₃ Cl ₅ (CFC-213)	1.0
12	C ₃ F ₄ Cl ₄ (CFC-214)	1.0
13	C ₃ F ₅ Cl ₃ (CFC-215)	1.0
14	C ₃ F ₆ Cl ₂ (CFC-216)	1.0
15	C ₃ F ₇ Cl (CFC-217)	1.0

Clause 2

2 Halons

For the purposes of the definitions of *halon* and *scheduled substance* in section 7, this clause covers a substance mentioned in an item of the following table. The *ozone depleting potential* for the substance is specified in column 2 of the item.

Halone		
Item	Column 1 Substance	Column 2 Ozone depleting potential
1	Bromochlorodifluoromethane (Halon-1211)	3.0
2	Bromotrifluoromethane (Halon-1301)	10.0
3	Dibromotetrafluoroethane (Halon-2402)	6.0

3 Carbon tetrachloride

For the purposes of the definition of *scheduled substance* in section 7, this clause covers a substance mentioned in an item of the following table. The *ozone depleting potential* for the substance is specified in column 2 of the item.

Carbon tetrachloride		
Item	Column 1 Substance	Column 2 Ozone depleting potential
1	Carbon tetrachloride (CCl ₄)	1.1

4 Methyl chloroform

For the purposes of the definition of *scheduled substance* in section 7, this clause covers a substance mentioned in an item of the following table. The *ozone depleting potential* for the substance is specified in column 2 of the item.

Methyl chloroform

Item	Column 1 Substance	Column 2 Ozone depleting potential
1	1,1,1-trichloroethane (C ₂ H ₃ Cl ₃)	0.1

Note: The formula C₂H₃Cl₃ does not refer to 1,1,2-trichloroethane.

5 HCFCs

For the purposes of the definitions of *HCFC* and *scheduled substance* in section 7, this clause covers a substance mentioned in an item of the following table. The *ozone depleting potential* for the substance is specified in column 2 of the item and the *100-year global warming potential* for the substance (if any) is specified in column 3 of the item.

HCFCs

Item	Column 1 Substance	Column 2 Ozone depleting potential	Column 3 100-year global warming potential
1	CHFC1 ₂ (HCFC-21)	0.04	151
2	CHF ₂ Cl (HCFC-22)	0.055	1,810
3	CH ₂ FC1 (HCFC-31)	0.02	
4	C ₂ HFCl ₄ (HCFC-121)	0.04	
5	C ₂ HF ₂ Cl ₃ (HCFC-122)	0.08	
6	C ₂ HF ₃ Cl ₂ (HCFC-123)	0.06	
7	CHCl ₂ CF ₃ (HCFC-123)	0.02	77
8	C ₂ HF ₄ Cl (HCFC-124)	0.04	
9	CHFC1CF ₃ (HCFC-124)	0.022	609
10	C ₂ H ₂ FC1 ₃ (HCFC-131)	0.05	
11	C ₂ H ₂ F ₂ Cl ₂ (HCFC-132)	0.05	
12	C ₂ H ₂ F ₃ Cl (HCFC-133)	0.06	
13	C ₂ H ₃ FC1 ₂ (HCFC-141)	0.07	

Schedule 1 Scheduled substances

Clause 5

HCFCs			
Item	Column 1 Substance	Column 2 Ozone depleting potential	Column 3 100-year global warming potential
14	CH ₃ CFCl ₂ (HCFC-141b)	0.11	725
15	C ₂ H ₃ F ₂ Cl (HCFC-142)	0.07	
16	CH ₃ CF ₂ Cl (HCFC-142b)	0.065	2,310
17	C ₂ H ₄ FCI (HCFC-151)	0.005	
18	C ₃ HFCl ₆ (HCFC-221)	0.07	
19	C ₃ HF ₂ Cl ₅ (HCFC-222)	0.09	
20	C ₃ HF ₃ Cl ₄ (HCFC-223)	0.08	
21	C ₃ HF ₄ Cl ₃ (HCFC-224)	0.09	
22	C ₃ HF ₅ Cl ₂ (HCFC-225)	0.07	
23	CF ₃ CF ₂ CHCl ₂ (HCFC-225ca)	0.025	122
24	CF ₂ ClCF ₂ CHClF (HCFC-225cb)	0.033	595
25	C ₃ HF ₆ Cl (HCFC-226)	0.1	
26	C ₃ H ₂ FCI ₅ (HCFC-231)	0.09	
27	C ₃ H ₂ F ₂ Cl ₄ (HCFC-232)	0.1	
28	C ₃ H ₂ F ₃ Cl ₃ (HCFC-233)	0.23	
29	C ₃ H ₂ F ₄ Cl ₂ (HCFC-234)	0.28	
30	C ₃ H ₂ F ₅ Cl (HCFC-235)	0.52	
31	C ₃ H ₃ FCI ₄ (HCFC-241)	0.09	
32	C ₃ H ₃ F ₂ Cl ₃ (HCFC-242)	0.13	
33	C ₃ H ₃ F ₃ Cl ₂ (HCFC-243)	0.12	
34	C ₃ H ₃ F ₄ Cl (HCFC-244)	0.14	
35	C ₃ H ₄ FCI ₃ (HCFC-251)	0.01	
36	C ₃ H ₄ F ₂ Cl ₂ (HCFC-252)	0.04	
37	C ₃ H ₄ F ₃ Cl (HCFC-253)	0.03	
38	C ₃ H ₅ FCI ₂ (HCFC-261)	0.02	
39	C ₃ H ₅ F ₂ Cl (HCFC-262)	0.02	
40	C ₃ H ₆ FCI (HCFC-271)	0.03	

6 HBFCs

For the purposes of the definitions of *HBFC* and *scheduled substance* in section 7, this clause covers a substance mentioned in an item of the following table. The *ozone depleting potential* for the substance is specified in column 2 of the item.

HBFCs		
Item	Column 1 Substance	Column 2 Ozone depleting potential
1	CH ₂ Br ₂	1.0
2	CH ₂ Br ₂ (HBFC-22B1)	0.74
3	CH ₂ Br	0.73
4	C ₂ H ₂ Br ₄	0.8
5	C ₂ H ₂ F ₂ Br ₃	1.8
6	C ₂ H ₂ F ₃ Br ₂	1.6
7	C ₂ H ₂ F ₄ Br	1.2
8	C ₂ H ₂ F ₂ Br ₃	1.1
9	C ₂ H ₂ F ₂ Br ₂	1.5
10	C ₂ H ₂ F ₃ Br	1.6
11	C ₂ H ₃ FBr ₂	1.7
12	C ₂ H ₃ F ₂ Br	1.1
13	C ₂ H ₄ FBr	0.1
14	C ₃ H ₂ Br ₆	1.5
15	C ₃ H ₂ F ₂ Br ₅	1.9
16	C ₃ H ₂ F ₃ Br ₄	1.8
17	C ₃ H ₂ F ₄ Br ₃	2.2
18	C ₃ H ₂ F ₅ Br ₂	2.0
19	C ₃ H ₂ F ₆ Br	3.3
20	C ₃ H ₂ F ₂ Br ₅	1.9
21	C ₃ H ₂ F ₂ Br ₄	2.1
22	C ₃ H ₂ F ₃ Br ₃	5.6

Clause 7

HBFCs		
Item	Column 1 Substance	Column 2 Ozone depleting potential
23	C ₃ H ₂ F ₄ Br ₂	7.5
24	C ₃ H ₂ F ₅ Br	1.4
25	C ₃ H ₃ FBr ₄	1.9
26	C ₃ H ₃ F ₂ Br ₃	3.1
27	C ₃ H ₃ F ₃ Br ₂	2.5
28	C ₃ H ₃ F ₄ Br	4.4
29	C ₃ H ₄ FBr ₃	0.3
30	C ₃ H ₄ F ₂ Br ₂	1.0
31	C ₃ H ₄ F ₃ Br	0.8
32	C ₃ H ₅ FBr ₂	0.4
33	C ₃ H ₅ F ₂ Br	0.8
34	C ₃ H ₆ FBr	0.7

7 Methyl bromide

For the purposes of the definitions of *methyl bromide* and *scheduled substance* in section 7, this clause covers a substance mentioned in an item of the following table. The *ozone depleting potential* for the substance is specified in column 2 of the item.

Methyl bromide		
Item	Column 1 Substance	Column 2 Ozone depleting potential
1	CH ₃ Br	0.6

8 Bromochloromethane

For the purposes of the definition of *scheduled substance* in section 7, this clause covers a substance mentioned in an item of

the following table. The *ozone depleting potential* for the substance is specified in column 2 of the item.

Bromochloromethane		
Item	Column 1 Substance	Column 2 Ozone depleting potential
1	CH ₂ BrCl	0.12

9 HFCs

For the purposes of the definitions of *HFC* and *scheduled substance* in section 7, this clause covers a substance mentioned in an item of the following table. The *100-year global warming potential* for the substance is specified in column 2 of the item.

HFCs		
Item	Column 1 Substance	Column 2 100-year global warming potential
1	CHF ₃ (HFC-23)	14,800
2	CH ₂ F ₂ (HFC-32)	675
3	CH ₃ F (HFC-41)	92
4	CHF ₂ CF ₃ (HFC-125)	3,500
5	CHF ₂ CHF ₂ (HFC-134)	1,100
6	CH ₂ FCF ₃ (HFC-134a)	1,430
7	CHF ₂ CH ₂ F (HFC-143)	353
8	CF ₃ CH ₃ (HFC-143a)	4,470
9	CH ₂ FCH ₂ F (HFC-152)	53
10	CH ₃ CHF ₂ (HFC-152a)	124
11	CF ₃ CHFCF ₃ (HFC-227ea)	3,220
12	CH ₂ FCF ₂ CF ₃ (HFC-236cb)	1,340

Clause 10

HFCs		
Item	Column 1 Substance	Column 2 100-year global warming potential
13	CHF2CHF2CF3 (HFC-236ea)	1,370
14	CF3CH2CF3 (HFC-236fa)	9,810
15	CH2FCF2CHF2 (HFC-245ca)	693
16	CHF2CH2CF3 (HFC-245fa)	1,030
17	CF3CH2CF2CH3 (HFC-365mfc)	794
18	CF3CHFCHF2CF3 (HFC-43-10mee)	1,640

10 PFCs

For the purposes of the definitions of *PFC* and *scheduled substance* in section 7, this clause covers a substance mentioned in an item of the following table.

PFCs	
Item	Substance
1	CF4 (PFC-14)
2	C2F6 (PFC-116)
3	C3F8 (PFC-218)
4	C4F10 (PFC-3-1-10)
5	c-C4F8 (PFC-318)
6	C5F12 (PFC-4-1-12)
7	C6F14 (PFC-5-1-14)
8	C10F18 (PFC-9-1-18)

11 Sulfur hexafluoride

For the purposes of the definitions of *sulfur hexafluoride* and *scheduled substance* in section 7, this clause covers sulfur hexafluoride (SF₆).

12 Nitrogen trifluoride

For the purposes of the definitions of *nitrogen trifluoride* and *scheduled substance* in section 7, this clause covers nitrogen trifluoride (NF₃).

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment

Endnote 1—About the endnotes

can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Ozone Protection Act 1989	7, 1989	16 Mar 1989	16 Mar 1989 (s 2)	
Ozone Protection Amendment Act 1992	46, 1992	11 June 1992	9 Nov 1992 (gaz 1992, No S321)	s 11(2), 26(2), 27(2), 33(2), 34(2) and 37(2)
Ozone Protection Amendment Act 1995	124, 1995	2 Nov 1995	s 3 and Sch 1 (items 1–17, 19–66 (s 2(2))): 1 Jan 1996 Remainder: 2 Nov 1995 (s 2(1))	s 3(2)–(5), Sch 1 (item 61) and Sch 2
as amended by				
Audit (Transitional and Miscellaneous) Amendment Act 1997	152, 1997	24 Oct 1997	Sch 3 (items 11–18): 2 Nov 1995 (s 2(3)(f))	—
Environment, Sport and Territories Legislation Amendment Act 1997	118, 1997	7 July 1997	Sch 1 (items 50–57): 7 July 1997 (s 2 (1))	—
Ozone Protection Amendment Act 1999	36, 1999	31 May 1999	31 May 1999 (s 2)	—
Environmental Reform (Consequential Provisions) Act 1999	92, 1999	16 July 1999	Sch 7 (items 17, 18): 16 July 2000 (s 2(1))	Sch 7 (item 18)
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (items 721–723): 5 Dec 1999 (gaz 1999, No S584) (s 2(1), (2))	—

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Environment and Heritage Legislation Amendment (Application of Criminal Code) Act 2001	15, 2001	22 Mar 2001	s 4 and Sch 1 (items 106–128): 24 May 2001 (s 2(1)(c))	s 4
Environmental Legislation Amendment Act 2001	118, 2001	18 Sept 2001	Sch 2 (item 14): 18 Sept 2001 (s 2(1))	—
Ozone Protection and Synthetic Greenhouse Gas Legislation Amendment Act 2003	126, 2003	5 Dec 2003	Sch 1 (items 2–84): 5 Dec 2003 (s 2)	s 4
Environment and Heritage Legislation Amendment Act 2005	97, 2005	6 July 2005	Sch 1: 3 Aug 2005 (s 2(1) item 2) Remainder: 6 July 2005 (s 2(1) items 1, 3)	—
Crimes Legislation Amendment (Serious and Organised Crime) Act (No. 2) 2010	4, 2010	19 Feb 2010	Sch 11 (item 14): 20 Feb 2010 (s 2(1) item 13)	—
Statute Law Revision Act 2010	8, 2010	1 Mar 2010	Sch 5 (item 137(a)): 1 Mar 2010 (s 2(1) items 31, 38)	—
Ozone Protection and Synthetic Greenhouse Gas Management Amendment Act 2010	125, 2010	18 Nov 2010	Sch 1 and 2: 18 May 2011 (s 2(1) items 1, 2) Remainder: 18 Nov 2010 (s 2(1) item 1)	Sch 1 (items 109–118)
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Sch 1 (items 87–91): 22 Mar 2011 (s 2(1) item 2)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Clean Energy (Consequential Amendments) Act 2011	132, 2011	18 Nov 2011	Sch 1 (item 194): 2 Apr 2012 (s 2(1) item 2) Sch 1 (items 415B–451, 456–460): 1 July 2012 (s 2(1) item 3)	Sch 1 (items 456–460)
Financial Framework Legislation Amendment Act (No. 1) 2013	8, 2013	14 Mar 2013	Sch 1 (item 5): 15 Mar 2013 (s 2)	—
Federal Circuit Court of Australia (Consequential Amendments) Act 2013	13, 2013	14 Mar 2013	Sch 1 (items 461, 462): 12 Apr 2013 (s 2(1) item 2)	—
Statute Law Revision Act (No. 1) 2014	31, 2014	27 May 2014	Sch 8 (item 34): 24 June 2014 (s 2(1) item 9)	—
Clean Energy Legislation (Carbon Tax Repeal) Act 2014	83, 2014	17 July 2014	Sch 1 (items 313–315, 338): 1 July 2014 (s 2(1) items 2, 3)	Sch 1 (item 338)
Omnibus Repeal Day (Autumn 2014) Act 2014	109, 2014	16 Oct 2014	Sch 5 (items 62, 63, 66, 69–82): 17 Oct 2014 (s 2(1) item 2)	Sch 5 (items 66, 79)
Statute Law Revision Act (No. 1) 2015	5, 2015	25 Feb 2015	Sch 3 (items 137–141): 25 Mar 2015 (s 2(1) item 10)	—
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 5 (items 51, 52, 74–77) and Sch 7: 14 Apr 2015 (s 2)	Sch 5 (items 74–77) and Sch 7
as amended by				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Norfolk Island Legislation Amendment Act 2015	59, 2015	26 May 2015	Sch 2 (items 293, 294): 1 July 2016 (s 2(1) item 5) Sch 2 (items 356–396): 18 June 2015 (s 2(1) item 6)	Sch 2 (items 356–396)
as amended by				
Territories Legislation Amendment Act 2016	33, 2016	23 Mar 2016	Sch 2: 24 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (items 464–467): 5 Mar 2016 (s 2(1) item 2)	—
Statute Law Revision Act (No. 1) 2016	4, 2016	11 Feb 2016	Sch 4 (items 1, 226): 10 Mar 2016 (s 2(1) item 6)	—
Ozone Protection and Synthetic Greenhouse Gas Management Legislation Amendment Act 2017	67, 2017	23 June 2017	Sch 1 (items 3–56, 62–108, 112–119): 1 Aug 2017 (s 2(1) item 2) Sch 2 (items 1–13, 16–49, 59–70, 75–87): 1 Jan 2018 (s 2(1) item 3) Sch 3 (items 1, 2, 4–19): 1 Jan 2020 (s 2(1) item 4)	Sch 1 (items 21, 31, 46, 48, 54, 82, 119), Sch 2 (items 48, 49, 75, 76, 85, 87) and Sch 3 (item 19)
Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Act 2021	13, 2021	1 Mar 2021	Sch 2 (items 659, 660): 1 Sept 2021 (s 2(1) item 5)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Ozone Protection and Synthetic Greenhouse Gas Management Reform (Closing the Hole in the Ozone Layer) Act 2022	92, 2022	13 Dec 2022	Sch 1: 13 June 2023 (s 2(1) item 2)	Sch 1 (items 164–186)
Administrative Review Tribunal (Consequential and Transitional Provisions No. 1) Act 2024	38, 2024	31 May 2024	Sch 7 (item 15): 14 Oct 2024 (s 2(1) item 2)	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Title.....	am. No. 126, 2003
Part I	
s. 1.....	am. No. 126, 2003
s 3.....	am No 124, 1995; No 126, 2003; No 132, 2011; No 67, 2017; No 92, 2022
s 3A.....	ad No 92, 2022
s 5.....	am No 59, 2015
s 6A.....	ad No 15, 2001
	am No 125, 2010; No 92, 2022
s 6B.....	ad No 92, 2022
Part II	
s 7AA.....	ad No 92, 2022
s 7.....	am No 46, 1992; No 124, 1995; No 118, 1997; No 36, 1999; No 126, 2003; No 125, 2010; No 132, 2011; No 13, 2013; No 31, 2014; No 109, 2014; No 67, 2017; No 92, 2022
	ed C30
	am No 13, 2021
s 8.....	am No 46, 1992
	rs No 124, 1995
	am No 125, 2010
	rep No 67, 2017
s 8A.....	ad No 124, 1995
s 8B.....	ad No 124, 1995
	rep No 67, 2017
s 8C.....	ad No132, 2011
	am No 67, 2017
	rep No 92, 2022
s 8D.....	ad No 132, 2011
	am No 126, 2015; No 67, 2017

Endnote 4—Amendment history

Provision affected	How affected
	rep No 92, 2022
s 9.....	am No 46, 1992; No 124, 1995
	rs No 126, 2003
	am No 132, 2011
	rs No 67, 2017
	am No 67, 2017 (amdt never applied (Sch 2 item 81))
	rs No 92, 2022
s 9AA.....	ad No 92, 2022
s 9A.....	ad No 67, 2017
	am No 92, 2022
s. 10.....	rs. No. 124, 1995
s. 10A.....	ad. No. 46, 1992
	rep. No. 124, 1995
s. 11.....	rep. No. 124, 1995
s 12.....	am No 46, 1992; No 124, 1995
Part III	
Division 1	
Division 1 heading.....	ad No 67, 2017
Division 1	rs No 92, 2022
s 12A.....	ad No 46, 1992
	rs No 92, 2022
s 12B	ad No 46, 1992
	am No 124, 1995; No 126, 2003; No 67, 2017
	rs No 92, 2022
Division 2	
Division 2 heading.....	ad No 67, 2017
s 13.....	am No 46, 1992
	rs No 124, 1995
	am No 15, 2001; No 126, 2003; No 97, 2005; No 125, 2010;
	No 132, 2011; No 109, 2014; No 126, 2015; No 4, 2016
	rs No 67, 2017

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	am No 67, 2017
	rs No 92, 2022
s 13AA	ad No 92, 2022
s 13AB	ad No 92, 2022
s 13AC	ad No 92, 2022
s 13A	ad No 124, 1995
	am No 36, 1999; No 126, 2003; No 132, 2011; No 67, 2017; No 92, 2022
s 13B	ad No 92, 2022
Division 3	
Division 3 heading.....	ad No 67, 2017
s 14.....	rs No 124, 1995
	am No 126, 2003; No 67, 2017; No 92, 2022
s 16.....	am No 46, 1992; No 124, 1995; No 126, 2003; No 125, 2010; No 132, 2011; No 67, 2017; No 92, 2022
s 17.....	am No 92, 1999; No 67, 2017; No 92, 2022
s. 17A.....	ad. No. 46, 1992
	rep. No. 124, 1995
Division 4	
Division 4 heading.....	ad No 67, 2017
s 18.....	am No 46, 1992
	rs No 124, 1995
	am No 36, 1999; No 15, 2001; No 126, 2003; No 125, 2010; No 109, 2014; No 67, 2017; No 92, 2022
s. 18A.....	ad. No. 46, 1992
	rep. No. 124, 1995
s 19.....	rs No 124, 1995
	am No 125, 2010; No 132, 2011
	rs No 67, 2017
	ed C31
	am No 92, 2022

Endnote 4—Amendment history

Provision affected	How affected
Division 5	
Division 5	ad No 67, 2017
s 19AA	ad No 67, 2017
	am No 92, 2022
s 19AB	ad No 67, 2017
s 19AC	ad No 67, 2017
	am No 92, 2022
s 19AD	ad No 67, 2017
	am No 92, 2022
s 19AE	ad No 67, 2017
Division 6	
Division 6 heading.....	ad No 67, 2017
s 19A	ad No 124, 1995
	am No 126, 2003; No 132, 2011; No 67, 2017; No 92, 2022
s 19B	ad No 124, 1995
	am No 67, 2017; No 92, 2022
s 19C	ad No 126, 2003
	am No 92, 2022
s 19D	ad No 92, 2022
s 20	am No 46, 1992; No 124, 1995; No 125, 2010; No 92, 2022
s 21	am No 109, 2014; No 92, 2022
Division 7	
Division 7 heading.....	ad No 67, 2017
s 22	am No 92, 2022
Part IV	
Part IV	rs. No. 124, 1995
s 22A	ad No 46, 1992
	rep No 124, 1995
	ad No 67, 2017
s 22B	ad No 46, 1992
	rep No 124, 1995

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 22C	ad No 46, 1992 rep No 124, 1995
s. 23.....	am. No. 46, 1992 rs. No. 124, 1995 am. No. 36, 1999
s 23A.....	ad No 67, 2017
s. 24.....	am. No. 46, 1992 rs. No. 124, 1995
s. 25.....	am. No. 46, 1992 rs. No. 124, 1995 am. No. 125, 2010
s 25A.....	ad No 67, 2017 am No 67, 2017; No 92, 2022
s 26.....	am No 46, 1992 rs No 124, 1995 am No 118, 1997; No 125, 2010; No 67, 2017
s 27.....	am No 46, 1992 rs No 124, 1995 am No 67, 2017
s 28.....	am No 46, 1992 rs No 124, 1995
s 29.....	am No 46, 1992 rs No 124, 1995
s 30.....	am No 46, 1992 rs No 124, 1995
s 31.....	am No 46, 1992 rs No 124, 1995
s 32.....	am No 46, 1992 rs No 124, 1995
s 33.....	am No 46, 1992 rs No 124, 1995

Endnote 4—Amendment history

Provision affected	How affected
s 34.....	rs No 124, 1995 am No 92, 2022
s 35.....	rs No 124, 1995 am No 67, 2017; No 92, 2022
s 35A.....	ad No 67, 2017 am No 92, 2022
s. 36.....	am. No. 46, 1992 rep. No. 124, 1995
Part IVA	
Part IVA.....	ad No 67, 2017
Division 1	
s 36.....	ad No 67, 2017
Division 2	
s 36A.....	ad No 67, 2017
s 36B.....	ad No 67, 2017 am No 92, 2022
s 36C.....	ad No 67, 2017
s 36D.....	ad No 67, 2017
s 36E.....	ad No 67, 2017 am No 92, 2022
s 36F.....	ad No 67, 2017 am No 92, 2022
Division 3	
s 36G.....	ad No 67, 2017
Division 4	
s 36H.....	ad No 67, 2017 am No 92, 2022
s 36J.....	ad No 67, 2017
Part V heading.....	rs No 67, 2017 rep No 67, 2017
Part V.....	rep No 67, 2017

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 37.....	rep No 67, 2017
s 38.....	am No 46, 1992; No 124, 1995; No 15, 2001; No 125, 2010; No 67, 2017 rep No 67, 2017
s 39.....	am No 67, 2017 rep No 67, 2017
s 40.....	am No 46, 1992; No 126, 2003; No 67, 2017 rep No 67, 2017
Part VI.....	rep No 92, 2022
s 41.....	am No 46, 1992; No 118, 2001 rs No 126, 2003 am No 8, 2010; No 125, 2010; No 67, 2017 rep No 92, 2022
ss. 42, 43	am. No. 46, 1992; No. 124, 1995 rep. No. 36, 1999
s 44.....	am No 46, 1992; No 124, 1995; No 15, 2001; No 126, 2003; No 125, 2010; No 67, 2017 rep No 92, 2022
s 45.....	am No 46, 1992; No 124, 1995; No 15, 2001; No 126, 2003; No 125, 2010; No 126, 2015; No 67, 2017 rep No 92, 2022
Part VIA	
Part VIA.....	ad. No. 126, 2003
s 45AA.....	ad No 92, 2022
s 45A.....	ad No 126, 2003 am No 67, 2017; No 92, 2022
s 45B.....	ad No 126, 2003 am No 125, 2010; No 4, 2016; No 67, 2017 rs No 92, 2022
s 45C.....	ad No 67, 2017 rs No 92, 2022

Endnote 4—Amendment history

Provision affected	How affected
Part VII	
s 46AA	ad No 92, 2022
s 46	am No 46, 1992
	rs No 124, 1995
	am No 15, 2001; No 126, 2003; No 97, 2005; No 125, 2010; No 132, 2011; No 109, 2014; No 67, 2017; No 92, 2022
s 46A	ad No 46, 1992
	rep No 124, 1995
	ad No 132, 2011
	am No 109, 2014
	rep No 67, 2017
s. 47	rs. No. 46, 1992
	rep. No. 124, 1995
s 47A	ad No 46, 1992
	rep No 124, 1995
s 48	am No 92, 2022
Part VIII	
Division 1	
Division 1 heading	rs No 125, 2010; No 92, 2022
Subdivision A heading	ad No 125, 2010
	rep No 92, 2022
s 48A	ad No 46, 1992
	rs No 124, 1995; No 92, 2022
s 49	am No 124, 1995; No 146, 1999; No 125, 2010; No 92, 2022
s 49A	ad No 125, 2010
	am No 92, 2022
Division 2	
Division 2	rs No 92, 2022
s 50	am No 124, 1995; No 15, 2001; No 4, 2016; No 67, 2017
	rs No 92, 2022
Subdivision B	rep No 92, 2022

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
Subdivision B heading.....	ad No 125, 2010 rep No 92, 2022
s 51.....	am No 124, 1995; No 125, 2010 rs No 92, 2022
ss 51A, 51B.....	ad No 125, 2010 rep No 92, 2022
Subdivision C	ad No 125, 2010 rep No 92, 2022
Division 2A	
s 52.....	am No 126, 2003 rs No 125, 2010; No 92, 2022
s 53.....	rs No 125, 2010; No 92, 2022
ss 53A–53C.....	ad No 125, 2010 rep No 92, 2022
Subdivision D	ad No 125, 2010 rep No 92, 2022
ss 53D–53H	ad No 125, 2010 rep No 92, 2022
ss 53J–53L	ad No 125, 2010 rep No 92, 2022
Subdivision E.....	rep No 92, 2022
Subdivision E heading.....	ad No 125, 2010 rep No 92, 2022
s 53M.....	ad No 125, 2010 rep No 92, 2022
s 54.....	am No 124, 1995 rs No 92, 2022
s 55.....	rs No 125, 2010 rep No 92, 2022
ss 55A–55D	ad No 125, 2010 rep No 92, 2022

Endnote 4—Amendment history

Provision affected	How affected
Subdivision F	ad No 125, 2010 rep No 92, 2022
ss 55E–55G.....	ad No 125, 2010 rep No 92, 2022
Subdivision G	ad No 125, 2010 rep No 92, 2022
s 55H.....	ad No 125, 2010 rep No 92, 2022
s 56.....	rep No 92, 2022
Division 3	
Division 3	am No 92, 2022
Subdivision A	
Subdivision A	ad No 125, 2010
s 57.....	am No 46, 1992; No 118, 1997 rs No 125, 2010 am No 67, 2017; No 92, 2022
Subdivision B	
Subdivision B heading.....	ad No 125, 2010
s 58.....	am No 125, 2010; No 92, 2022
s 60.....	am No 46, 1992; No 15, 2001; No 4, 2016 rs No 92, 2022
Subdivision C	
Subdivision C	ad No 125, 2010
s 60A.....	ad No 125, 2010 am No 92, 2022
s 60B.....	ad No 125, 2010
s 60C.....	ad No 125, 2010
s 60D.....	ad No 125, 2010 am No 92, 2022
Subdivision D	
Subdivision D heading.....	ad No 125, 2010

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s. 60E	ad. No. 125, 2010
s. 61.....	am. No. 125, 2010
Division 4	
Division 4	rs No 92, 2022
s 62.....	am No. 46, 1992; No 124, 1995; No 15, 2001; No 125, 2010 rs No 92, 2022
Division 5	
Division 5	ad No 125, 2010 rs No 92, 2022
s 63.....	am No 46, 1992; No 15, 2001; No 125, 2010 rs No 92, 2022
Division 6	
Division 6	ad No 125, 2010 rs No 92, 2022
s 64.....	am No 46, 1992; No 15, 2001 rs No 92, 2022
Division 7	
Division 7	ad No 125, 2010 rs No 92, 2022
s 64A.....	ad No 92, 2022
Division 8	
Division 8	ad No 92, 2022
s 64B	ad No 92, 2022
s 65AA	ad No 125, 2010 am No 132, 2011; No 67, 2017 rep No 92, 2022
s 65AB	ad No 125, 2010 rep No 92, 2022
s 65AC	ad No 125, 2010 am No132, 2011; No 67, 2017 rep No 92, 2022

Endnote 4—Amendment history

Provision affected	How affected
s 65AD	ad No 125, 2010 rep No 92, 2022
s 65AE	ad No 125, 2010 rep No 92, 2022
s 65AF	ad No 125, 2010 rep No 92, 2022
s 65AG	ad No 125, 2010 rep No 92, 2022
s 65AH	ad No 125, 2010 rep No 92, 2022
s 65AI	ad No 125, 2010 rep No 92, 2022
s 65AJ	ad No 125, 2010 rep No 92, 2022
s 65AK	ad No 125, 2010 rep No 92, 2022
s 65AL	ad No 125, 2010 rep No 92, 2022
s 65AM	ad No 125, 2010 rep No 92, 2022
Part VIIIA	
Part VIIIA heading	ad No 124, 1995 (as am by No 152, 1997) rs No 126, 2003
Part VIIIA	ad. No. 124, 1995 rs. No. 126, 2003
s 65	am No 4, 2010; No 5, 2015 rs No 92, 2022
s 65A	ad No 124, 1995 rs No 124, 1995 (as am by No 152, 1997); No 126, 2003 am No 92, 2022
s 65B	ad No 124, 1995

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	rs No 124, 1995 (as am by No 152, 1997); No 126, 2003; No 36, 2015
s 65C	ad No 124, 1995
	am No 124, 1995
	rs No 126, 2003
	am No 125, 2010; No 132, 2011; No 83, 2014; No 67, 2017; No 92, 2022
s 65D	ad No 124, 1995
	am No 124, 1995
	rs No 126, 2003
	am No 125, 2010; No 92, 2022
Part VIIIB	
Part VIIIB	ad No 92, 2022
Division 1	
s 65E	ad No 92, 2022
Division 2	
s 65F	ad No 92, 2022
s 65G	ad No 92, 2022
s 65H	ad No 92, 2022
s 65J	ad No 92, 2022
s 65K	ad No 92, 2022
Division 3	
s 65L	ad No 92, 2022
s 65M	ad No 92, 2022
s 65N	ad No 92, 2022
s 65P	ad No 92, 2022
s 65Q	ad No 92, 2022
s 65R	ad No 92, 2022
s 65S	ad No 92, 2022
s 65T	ad No 92, 2022

Endnote 4—Amendment history

Provision affected	How affected
Division 4	
s 65U.....	ad No 92, 2022
s 65V.....	ad No 92, 2022
Part VIIIC	
s 65W.....	ad No 92, 2022
	am No 38, 2024
s 65X.....	ad No 92, 2022
s 65Y.....	ad No 92, 2022
s 65Z.....	ad No 92, 2022
s 65ZA.....	ad No 92, 2022
s 65ZB.....	ad No 92, 2022
s 65ZC.....	ad No 92, 2022
	am No 38, 2024
Part IX	
s 66.....	am No 46, 1992; No 124, 1995; No 126, 2003; No 67, 2017
	rs No 92, 2022
s 66A.....	ad No 67, 2017
s 67.....	rep No 92, 2022
s 67A.....	ad No 46, 1992
	am No 124, 1995; No 36, 1999; No 146, 1999
	rs No 126, 2003
	am No 125, 2010; No 67, 2017; No 92, 2022
s 67AA.....	ad No 92, 2022
s. 67B.....	ad. No. 132, 2011
s 69.....	am No 124, 1995; No 126, 2003; No 132, 2011; No 67, 2017
	ed C31
	am No 92, 2022
s. 69AA.....	ad. No. 132, 2011
	rep No 83, 2014
s. 69AB.....	ad. No. 132, 2011
	rep No 83, 2014

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s. 69AC	ad. No. 132, 2011 rep No 83, 2014
s. 69AD	ad. No. 8, 2013 rep No 83, 2014
s. 69A	ad. No. 46, 1992 am. No. 126, 2003
s 69B	ad No 46, 1992 am No 126, 2003; No 132, 2011; No 67, 2017 rs No 92, 2022
s 69BA	ad No 92, 2022
s 69C	ad No 125, 2010
s 69D	ad No 125, 2010
s 69E	ad No 125, 2010 am No 92, 2022
s 69F	ad No 125, 2010 am No 126, 2015 rep No 92, 2022
s 69G	ad No 67, 2017 am No 67, 2017 rep No 92, 2022
s 70	am No 125, 2010 rs No 92, 2022
Schedule 1	
Schedule 1	am No 46, 1992; No 124, 1995; No 118, 1997; No 126, 2003; No 132, 2011; No 109, 2014; No 67, 2017; No 92, 2022
Schedule 2	am No 5, 2011 rep No 67, 2017
Schedule 3	rs No 46, 1992; No 124, 1995 am No 118, 1997 rep No 67, 2017
Schedule 3A	ad No 36, 1999

Endnote 4—Amendment history

Provision affected	How affected
	am No 126, 2003
	rep No 67, 2017
Schedule 3B.....	ad No 36, 1999
	am No 126, 2003
	rep No 67, 2017
Schedule 3C.....	ad No 36, 1999
	am No 126, 2003
	rep No 67, 2017
Schedule 3D.....	ad No 126, 2003
	rep No 67, 2017
Schedule 3E.....	ad No 126, 2003
	rep No 67, 2017
Schedule 4 heading.....	rs No 67, 2017
Schedule 4.....	am No 46, 1992; No 124, 1995; No 118, 1997; No 36, 1999; No 125, 2010; No 109, 2014; No 126, 2015; No 67, 2017
	rep No 92, 2022