

1991 - No. 134

OZONE PROTECTION ACT 1989 - REGULATION

(Ozone Protection Regulation 1991)

NEW SOUTH WALES



[Published in Gazette No. 45 of 15 March 1991]

HIS Excellency the Governor, with the advice of the Executive Council, and on the recommendation of the Minister for the Environment, and in pursuance of the Ozone Protection Act 1989, has been pleased to make the Regulation set forth hereunder.

TIM MOORE
Minister for Environment.

PART 1 - PRELIMINARY

Citation

1. This Regulation may be cited as the Ozone Protection Regulation 1991.

Commencement

2. (1) This Regulation commences on 31 March 1991, except as provided by subclause (2).

(2) Part 2 (General restrictions on sale, purchase and use of controlled substances) commences on 30 September 1991.

Definitions

3. In this Regulation:

"**aerosol**" means a container which contains a controlled substance either as a propellant for the expulsion of its contents or as the product to be expelled;

"**authorised**" means authorised by an authorisation in force under Part 4;

"**authorised office**" , in relation to a function under this Regulation, means a person authorised in writing by the Commission, either generally or in a particular case, to exercise that function;

"**CFC**" means a substance listed in Schedule 1;

"**code of practice**" means a code of practice approved by the Commission under clause 54, as amended and in force for the time being;

"**controlled article**" means an article or thing (including plant and equipment) that uses, or is designed or intended to use, a controlled substance in its operation;

"**controlled substance**" means a CFC or halon, whether existing alone or mixed with any other substance or substances;

"**decommission**", in relation to equipment, means dismantle the equipment, or render the equipment inoperable, prior to its being scrapped, relocated or used for some other purpose;

"**halon**" means a substance listed in Schedule 2;

"**number designation**" , in relation to a controlled substance, means:

(a) except in relation to a halon, the number designation of the substance as specified in Australian Standard AS1942-1987 published by the Standards Association of Australia and titled "Refrigerant Gas Cylinder Identification"; or

(b) in relation to a halon, the common name of the halon, as specified in Schedule 2;

"**reclaim**", in relation to a controlled substance, means to collect and contain the substance;

"**service**", in relation to a controlled article, means any repair, maintenance or adjustment of the article which involves a risk of the release of a controlled substance from the article;

"the Act" means the Ozone Protection Act 1989.

Certain purchases and sales of controlled substances to be disregarded

4. (1) For the purposes of this Regulation, a person is not to be regarded as purchasing or selling a controlled substance merely because the person purchases or sells:

- (a) a controlled article; or
- (b) anything that contains a controlled substance in minute or residual quantities only.

(2) For the purposes of this Regulation, a sale or purchase of a controlled substance that is merely ancillary to the servicing of a controlled article is not to be regarded as a sale or purchase of the controlled substance.

**PART 2 - GENERAL RESTRICTIONS ON SALE, PURCHASE
AND USE OF CONTROLLED SUBSTANCES
(FROM 30 SEPTEMBER 1991)**

Division 1 - Restrictions on sellers

Authorisation required to sell controlled substances

5. A person must not sell a controlled substance unless the person is authorised under this Regulation to do so and does so in accordance with any conditions to which the authorisation is subject.

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

Sale to unauthorised purchaser prohibited

6. (1) A person must not sell a controlled substance to another person unless that other person is authorised under this Regulation to purchase it.

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

(2) This clause does not apply to a sale of CFC-113 until 1 January 1992 unless the circumstances of the sale are such as to indicate that it is purchased to be used in dry cleaning (in which case this clause applies to the sale from 30 September 1991).

Exemption for return sale of reclaimed controlled substances

7. A sale of a reclaimed controlled substance is to be disregarded for the purposes of clauses 5 and 6 if the sale is to a person who is authorised to sell the controlled substance.

Duties of authorised sellers concerning emissions

8. A person authorised under this Regulation to sell a controlled substance must ensure that the handling of the substance in the course of or incidental to sales of the substance by or on behalf of the person is effected in a manner which prevents, or (if that is not practicable) limits to the maximum extent practicable, any release of the substance to the atmosphere.

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

Seller to supply and accept return of containers for reclaiming

9. (1) A person ("the supplier") who is authorised under this Regulation to sell a controlled substance must, on request by a person ("the purchaser") who is authorised under this Regulation to purchase the substance:

- (a) supply to the purchaser a container that complies with subclause (2) and is suitable to be used for returning the substance to the supplier when it is reclaimed; and
 - (b) accept the substance when it is returned to the supplier in the container.
- (2) The container must be clearly marked with the following:
- (a) the word "RECLAIMED";
 - (b) the number designation of the substance and its colour code (as specified in the Australian Standard referred to in the definition of "number designation" in clause 3);
 - (c) the name of the supplier;
 - (d) a statement that the container is to be used only for the storage and return of the substance indicated.

(3) A person must not return to a supplier a container that is marked as described in subclause (2) if it contains any substance other than the substance indicated on the container, unless the container is clearly marked so as to indicate that it contains a mixture of substances or that the contents are adulterated or suspected of being adulterated.

(4) This clause does not prevent a supplier imposing a charge for supplying or accepting return of a container under this clause.

(5) This clause does not apply in respect of a halon or CFC-113.

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

Record keeping by authorised sellers

10. (1) A person authorised under this Regulation to sell a controlled substance must make and retain records as required by this clause.

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

(2) A record is to be made of each sale of a controlled substance pursuant to the authorisation, specifying the following:

- (a) the name, address and authorisation number (if any) of the purchaser;
- (b) the number designation of the substance sold and the quantity sold;
- (c) the particular use to which (in the seller's opinion) the substance sold will ultimately be put, described in terms of the appropriate "end use" category listed in Schedule 3 or (if there is no such appropriate category) described as the seller thinks appropriate.

(3) A record is also to be made showing the number designation and quantity of each Controlled substance:

- (a) that is acquired by the holder of the authorisation as a result of the holder accepting the return of reclaimed controlled substances; and
- (b) that leaves the control of the holder of the authorisation otherwise than by a sale recorded under subclause (2); and
- (c) that is held in stock by the holder of the authorisation as at 31 March, 30 June, 30 September and 31 December in each year.

Records are to be in writing and are to be retained for a minimum period of 2 years after they are made.

Records and returns to be forwarded to Commission etc.

11. (1) Within 1 month after the end of the each 3 month period ending on 31 March, 30 June, 30 September or 31 December in each year, a

person authorised under this Regulation to sell a controlled substance must forward to the Commission a return showing:

- (a) the total quantity of each controlled substance (specified by its number designation) sold by the person during that period, listed by reference to the ultimate use attributed under clause 10 (2) (c) to sales; and
- (b) the total quantity of each controlled substance (specified by its number designation) acquired by the person as a result of the person accepting the return of reclaimed controlled substances during that period; and
- (c) the total quantity of each controlled substance (specified by its number designation) held in stock by the person at the end of that period.

(2) Within 1 month after a person is served with a written request from the Commission to do so, the person must forward to the Commission copies of any other records made and retained by the person under clause 10.

(3) A person must, at the request of an authorised officer, make any record retained by the person under clause 10 available to the authorised officer for inspection.

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

Division 2 - Restrictions on purchasers

Authorisation required to purchase controlled substances

12. (1) A person must not purchase a controlled substance unless the person is authorised under this Regulation to do so and does so in accordance with any conditions to which the authorisation is subject.

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

(2) This clause does not apply to the purchase of CFC-113 until 1 January 1992 unless it is purchased to be used in dry cleaning (in which case this clause applies to the purchase from 30 September 1991).

Record keeping by holders of authorisations

13. (1) A person authorised under this Regulation to purchase a controlled substance must:

- (a) make and retain records as required by this clause; and
- (b) at the request of an authorised officer, make any record so retained available to the authorised officer for inspection.

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

(2) A record is to be made of each purchase of a controlled substance specifying:

- (a) the name and address of the person from whom the substance was purchased; and
- (b) the number designation of the substance purchased and the quantity purchased.

(3) A record is also to be made that contains the following information:

- (a) the number designation and quantity of a reclaimed controlled substance that is returned by the holder of the authorisation to a person authorised to sell it;
- (b) the number designation and quantity of a controlled substance that leaves the control of the holder of the authorisation otherwise than by sale and otherwise than as already recorded under paragraph (a);
- (c) the name and address of the person to whom possession of a controlled substance passes as referred to in paragraph (a) or (b);
- (d) the number designation and quantity of each controlled substance that is held in stock by the holder of the authorisation as at 30 June in each year.

(4) Records are to be in writing and are to be retained for a minimum period of 2 years after they are made.

Division 3 - Restrictions on activities involving controlled substances

Definition of "restricted activity"

14. (1) In this Division:

"restricted activity" means any of the following activities:

- (a) any manufacturing (other than foam manufacturing) or industrial activity that involves the use of a controlled substance other than CFC-113;

(b) the manufacture, installation, servicing or decommissioning of a controlled article other than a controlled article that uses, or is designed or intended to use, CFC-113 (and no other controlled substance) in its operation;

(c) dry cleaning involving the use of a controlled substance.

(2) An activity is not to be considered to constitute the installation of a controlled article unless it involves charging the article with a controlled substance.

Authorisation required to engage in restricted activity

15. A person must not engage in a restricted activity unless:

- (a) the person is authorised under this Regulation to do so or is acting under the direct and immediate supervision of a person who is so authorised; and
- (b) the person does so in accordance with any conditions to which his or her authorisation or that of his or her supervisor is subject.

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

Restrictions on who can be granted authorisations

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

- (a) has an adequate awareness of the health and environmental effects of stratospheric ozone depletion and the need to minimise emissions of controlled substances to protect the stratospheric ozone layer; and
- (b) has an adequate knowledge of the provisions of this Regulation and any code of practice relevant to the activity to be authorised.

Duty to prevent release of and to reclaim controlled substances

17. A person authorised under this Regulation to engage in a restricted activity

- (a) must not in the course of engaging in that activity release or permit the release of a controlled substance to the atmosphere except as permitted by any relevant code of practice; and
- (b) must reclaim any controlled substance that would otherwise be released in the course of engaging in that activity if it is not permitted to be released under paragraph (a).

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

PART 3 - ADDITIONAL RESTRICTIONS ON PARTICULAR ACTIVITIES INVOLVING CONTROLLED SUBSTANCES

Division 1 - Reclaiming of controlled substances

Special containers to be used for reclaiming

18. A person who pursuant to this Regulation reclaims a controlled substance must use a container that complies with clause 9 (2) and is suitable for the controlled substance concerned, unless the controlled substance is a halon or CFC-113.

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

What can be done with reclaimed controlled substances

19. A person who pursuant to this Regulation reclaims a controlled substance or who accepts the return of a reclaimed controlled substance must do one of the following things with the substance:

- (a) destroy it in a manner approved by the Commission;
- (b) re-use, reprocess, recycle or securely store it;
- (c) return it to a person who is authorised to sell it;
- (d) resell it (if authorised to do so),

and must not release it or permit its release to the atmosphere.

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

Division 2 - Foams

Rigid polyurethane foam

20. (1) A person who manufactures rigid polyurethane foam for use as packaging material must not use any controlled substance in that manufacture.

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

(2) From 30 September 1991, a person must not sell rigid polyurethane foam for use as packaging material if any controlled substance was used in its manufacture.

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

Extruded polystyrene packaging and insulation

21. A person who manufactures any extruded polystyrene product for use as packaging or insulation material:

- (a) must not use any controlled substance in that manufacture; and
- (b) must not sell the product if any controlled substance was used in its manufacture.

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

Phenolic foams

22. A person must not use a controlled substance in the manufacture of a phenolic foam unless the person was engaged in the manufacture of phenolic foams using a controlled substance before 31 March 1991.

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

Moulded flexible polyurethane foams

23. From 1 January 1992, a person must not use any controlled substance in the manufacture of moulded flexible polyurethane foam.

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

Division 3 - Solvents and cleaning agents

Dry cleaning

24. A person who operates or services dry cleaning equipment which uses a CFC in its operation must do so in accordance with the provisions of any relevant code of practice.

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

Solvents

25. (1) A person who operates or services equipment that uses a controlled substance as a solvent for cleaning or degreasing must do so in accordance with the provisions of any relevant code of practice.

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

(2) A person who operates equipment that uses a controlled substance as a solvent for cleaning or degreasing must ensure that the substance used is not released to the atmosphere and that any that would otherwise be released is reclaimed.

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

Division 4 - Fixed halon flooding systems

Definition of "existing fixed halon flooding system"

26. In this Division:

"existing fixed halon flooding system" means a fixed halon flooding system installed on premises before 31 March 1991.

Use and testing of fixed halon flooding systems

27. (1) A person must not test a fixed halon flooding system in a manner which will result in the release of a halon to the atmosphere.

(2) A person must not discharge a fixed halon flooding system for any reason other than to extinguish a fire in an emergency

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

Installation of fixed halon flooding systems

28. (1) A person must not install or cause to be installed a fixed halon flooding system except with the written approval of the Commission and in accordance with any conditions to which that approval is subject.

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

(2) The Commission is not to give its approval to the installation of a fixed halon flooding system unless satisfied that there is no acceptable alternative means of fire protection available and that the system is necessary

- (a) to protect persons in a situation where human occupancy is essential and timely evacuation not possible; or
 - (b) to facilitate the continued operation of equipment the operation of which is necessary to protect human life; or
 - (c) to protect equipment the operation of which is critical to the community and the failure of which may have far reaching consequences.
- (3) The Commission can give its consent subject to conditions.

Occupier of premises to notify details of existing fixed halon flooding system

29. (1) The occupier of premises on which an existing fixed halon flooding system is installed must notify the appropriate agency of the location and capacity of the system.

(2) The appropriate agency is the Commission or such other person or body as the Commission may by notice published in the Gazette direct is the appropriate agency for the purposes of a notification under this clause.

(3) A notification under this clause must be in writing and must be given before 30 June 1991.

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

Discharges of halon to be notified

30. An occupier of premises on which a fixed halon flooding system is installed must notify the appropriate agency under clause 29 in writing within 30 days after any discharge of halon from the system, stating the reason for the discharge.

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

Halon systems to be manufactured etc. in accordance with code of practice

31. A person who manufactures, installs or services a fixed halon flooding system must do so in accordance with the provisions of any relevant code of practice.

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

Halon to be reclaimed when system serviced or decommissioned

32. The occupier of premises on which a fixed halon flooding system is installed must ensure that when the system is serviced or decommissioned any halon that would otherwise be released is reclaimed.

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

Division 5 - Portable halon fire extinguishers

Definition of "portable fire extinguisher"

33. In this Division:

"portable halon fire extinguisher" means a portable fire extinguisher that uses a halon in its operation, other than an aerosol or non-rechargeable fire extinguisher.

Prohibition on sale of aerosol and non -rechargeable fire extinguishers using halons

34. A person must not sell an aerosol or non-rechargeable fire extinguisher that uses a halon.

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

Restriction on sale of portable halon fire extinguishers

35. (1) A person must not, in the course of a business involving sales of such articles, sell a portable halon fire extinguisher unless:

- (a) the person is authorised under this Regulation to sell portable halon fire extinguishers; and
- (b) the particular sale has been approved by the Commission in writing; and
- (c) the extinguisher is sold with any conditions to which the Commission's approval is subject displayed on a label affixed or attached to the extinguisher.

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

(2) The Commission is not to give its approval to the sale of an extinguisher unless satisfied that in the circumstances in which the extinguisher is to be available for use there is no acceptable alternative

means of fire protection available and that the availability of the extinguisher in those circumstances is necessary

- (a) to protect persons in a situation where human occupancy is essential and timely evacuation not possible; or
- (b) to facilitate the continued operation of equipment the operation of which is necessary to protect human life; or
- (c) to protect equipment the operation of which is critical to the community and the failure of which may have far reaching consequences.

(3) The Commission can impose conditions on its consent including conditions as to the place and manner in which the extinguisher can be kept and used.

(4) A person must not deface or remove a label affixed or attached to a portable halon fire extinguisher for the purposes of this clause.

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

Person in possession of portable extinguisher must comply with conditions

36. A person who has possession of a portable halon fire extinguisher must ensure that any conditions displayed on a label affixed or attached to the extinguisher (apparently for the purposes of this Regulation) are complied with.

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

Special restrictions on existing extinguishers

37. (1) A person who has possession of a portable halon fire extinguisher which was in existence immediately before 31 March 1991 must ensure that it is decommissioned, and that any halon it contains is reclaimed, when it becomes due for hydrostatic testing or is wholly or partly discharged, and in any case before 1 January 1996.

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

(2) Subclause (1) does not apply in a case where the Commission has approved in writing of the continued possession of the extinguisher by the person and the person complies with any conditions to which the approval is subject.

(3) The Commission is not to give its approval to the continued possession of a portable halon fire extinguisher by a person unless satisfied that it would give its consent to the sale of the extinguisher to the person under clause 35.

(4) The Commission can impose conditions on its approval including conditions as to the place and manner in which the extinguisher can be kept and used.

Discharge prohibited except to extinguish fire

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

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

Division 6 - Refridgeration and air conditioning

Penalty

39. The maximum penalty for an offence under this Division is 100 penalty units in the case of a corporation or, in any other case, 50 penalty units.

Labelling

40. A person who after 30 September 1991 manufactures or sells refrigeration or air conditioning equipment that uses a controlled substance in its operation is guilty of an offence unless the equipment bears a label that:

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

Motor vehicle air conditioners

41. A person who manufactures, installs or services motor vehicle air conditioning equipment that uses a controlled substance in its operation must do so in accordance with any relevant code of practice.

Commercial/industrial air conditioning and refrigeration

42. (1) A person who manufactures, installs or services commercial/industrial air conditioning or refrigeration equipment that uses a controlled substance in its operation must do so in accordance with any relevant code of practice.

(2) Commercial/industrial air conditioning equipment is any air conditioning equipment that is not designed for use in domestic premises and is not motor vehicle air conditioning equipment.

(3) Commercial/industrial refrigeration equipment is any refrigeration equipment that is not domestic refrigeration equipment as described in clause 43.

Domestic refrigeration

43. (1) A person who manufactures or services domestic refrigeration equipment that uses a controlled substance in its operation must do so in accordance with any relevant code of practice.

(2) Domestic refrigeration equipment is refrigeration equipment that is designed for use in domestic premises and designed to operate with a charge of less than 500 grams of refrigerant.

Division 7 - Aerosols

Aerosols not to contain controlled substances

44. (1) A person must not manufacture or sell an aerosol product containing a controlled substance unless the manufacturer or importer of the product has been granted an exemption in relation to that product under section 40 of the Ozone Protection Act 1989 of the Commonwealth.

(2) This clause does not affect clause 34 (which prohibits the sale of aerosol halon fire extinguishers).

PART 4 - AUTHORISATIONS UNDER THIS REGULATION

Definition of "issuing body"

45. In this Part:

"issuing body", in relation to an authorisation, means:

- (a) the Commission; or
- (b) a person, body or association that is approved for the time being by the Commission as an issuing body for the particular type of authorisation concerned.

Commission can approve issuing bodies

46. (1) The Commission may from time to time approve of a person, body or association as an issuing body for particular types of authorisations to be granted for the purposes of this Regulation.

(2) The Commission can revoke such an approval at any time by notice in writing served on the person, body or association concerned.

Issuing bodies empowered to grant and cancel authorisations

47. An issuing body is empowered to grant and cancel authorisations in accordance with this Regulation and to receive and retain fees payable under this Regulation in respect of those authorisations.

Grant of authorisation on application and payment of fee

48. (1) An issuing body may grant an authorisation on application in a form approved by the issuing body and payment of such fee (if any) as may be approved by the Commission.

(2) An authorisation is to be in writing.

Authorisations can be subject to conditions

49. (1) An issuing body may impose conditions on an authorisation when it grants the authorisation and at any time after granting it and may vary or revoke any such condition.

(2) The imposition, variation or revocation of a condition of an authorisation takes effect when notice of it is given in writing to the holder of the authorisation.

Periodic authorisation fee

50. (1) The holder of an authorisation must pay the appropriate periodic authorisation fee to the issuing body within 1 month after the end of the appropriate authorisation period for the authorisation.

(2) The appropriate periodic authorisation fee and the appropriate authorisation period are as determined by the Commission in respect

of the authorisation from time to time and notified in writing to the holder of the authorisation.

Authorisation remains in force until cancelled or surrendered

51. An authorisation remains in force until it is cancelled or surrendered.

Cancellation

52. (1) An issuing body may cancel an authorisation if satisfied that the holder of the authorisation:

- (a) has contravened a condition of the authorisation; or
- (b) has been convicted of an offence under the Act, this Regulation or section 6A (Emission of ozone depleting substances) of the Environmental Offences and Penalties Act 1989; or
- (c) has ceased to carry on the activity to which the authorisation relates; or
- (d) has failed to pay any fee payable under this Regulation in respect of the authorisation within 1 month after a written demand for payment has been served on the holder by the issuing body.

(2) The cancellation of an authorisation takes effect when notice of it is given in writing to the holder of the authorisation.

PART 5 - MISCELLANEOUS

Exemptions

53. (1) The Commission may grant exemptions from compliance with specified provisions of this Regulation and may require a fee to be paid for the grant of an exemption.

(2) Such an exemption may be granted so as to apply to particular persons or classes of persons, in respect of particular controlled substances or controlled articles or classes of controlled substances or controlled articles.

(3) Exemptions are to be in writing.

(4) Any particular exemption is not to be granted or renewed so as to have effect for longer than 12 months.

(5) The Commission is not to grant an exemption that permits conduct that would otherwise contravene a provision of this Regulation unless satisfied that there is no practicable alternative to that conduct.

Codes of practice

54. (1) The Commission may from time to time approve of codes of practice that make provision for or with respect to regulating the carrying on of any activity to which this Regulation applies.

(2) The Commission may approve of alterations to or the rescission of any such code of practice.

(3) An approved code of practice and any approved alteration to it or rescission of it takes effect for the purposes of this Regulation when a copy of the code of practice, alteration or rescission is published in the Gazette.

(4) A copy of a code of practice (as in force for the time being) is to be available:

- (a) for inspection by any person during normal business hours free of charge at the office of the Commission; and
- (b) for purchase at the office of the Commission, or at such other place as the Commission considers appropriate, during normal business hours.

(5) A code of practice is a "**relevant code of practice**" in relation to a particular activity if it makes provision for or with respect to the manner in which the activity is to be carried on.

SCHEDULE 1 - CFCs

<i>Substance</i>	<i>Common name</i>	<i>Chemical formula</i>
Trichlorofluoromethane	(CFC-11)	CCl ₃ F
Dichlorodifluoromethane	(CFC-12)	CCl ₂ F ₂
Trichlorotrifluoroethane	(CFC-113)	C ₂ Cl ₃ F ₃

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Dichlorotetrafluoroethane	(CFC-114)	C ₂ Cl ₂ F ₄
(Mono)chloropentafluoroethane	(CFC-115)	C ₂ ClF ₅

SCHEDULE 2 - HALONS

<i>Substance</i>	<i>Common name</i>	<i>Chemical formula</i>
		(Cl. 3)
Bromochlorodifluoromethane	(Halon-1211)	CBrClF ₂
Bromotrifluoromethane	(Halon-1301)	CBrF ₃
Dibromotetrafluoroethane	(Halon-2402)	C ₂ Br ₂ F ₄

SCHEDULE 3 - END USE CATEGORIES

(Cl. 10)

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Solvents usage
Dry cleaning
A rosols
Motor vehicle air conditioning
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EXPLANATORY NOTE

The object of this Regulation is to impose controls on the sale, purchase and use of certain ozone depleting substances, namely chlorofluorocarbons ("CFCs") and halons. These substances are referred to in the Regulation as "controlled substances"

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(the term includes mixtures containing those substances, such as the substance known as R-502).

The controls are as follows:

Buying and selling controlled substances

From 30 September 1991 a person will not be permitted to buy or sell controlled substances unless the person is the holder of an authorisation issued under the Regulation. This will not apply to CFC-113 until 1 January 1992 unless it is for use in dry cleaning. Authorised sellers will be under a duty to limit to the maximum extent practicable emissions of controlled substances and to provide containers suitable for, and accept the return of, reclaimed controlled substances. Authorised sellers and buyers will have to keep various records concerning controlled substances which will either be sent to or be available for inspection by the State Pollution Control Commission ("the Commission").

Using Controlled substances

From 30 September 1991 a person will not be permitted to engage in certain "restricted activities" involving the use of controlled substances unless the person is the holder of an authorisation issued under the Regulation. Restricted activities are any manufacturing or industrial activity (other than foam blowing), and the manufacture, installation, servicing or decommissioning of equipment etc., that uses a controlled substance (other than CFC-113), and dry cleaning that uses any controlled substance.

Persons authorised to engage in a restricted activity will be under a duty to prevent emissions of controlled substances and to reclaim controlled substances that would otherwise be released. Special containers will have to be used for reclaiming controlled substances and reclaimed controlled substances will have to be re-used, reprocessed, recycled, securely stored, resold or returned to a supplier, or destroyed in a manner approved by the Commission.

Foam manufacture

From 31 March 1991 the manufacture of rigid polyurethane foam products as a packaging material using a controlled substance will be prohibited. From 30 September 1991 the sale of those products will be prohibited.

From 31 March 1991 the use of a controlled substance in the manufacture of an extruded polystyrene product for packaging or insulation will be prohibited and the sale of such a product will be prohibited.

From 31 March 1991 the manufacture of phenolic foams using a controlled substance will be prohibited unless the particular manufacturing operation concerned already existed at that date.

From 1 January 1992 the use of controlled substances in the manufacture of moulded flexible polyurethane foam will be prohibited.

Solvents and dry cleaning

From 31 March 1991 the operation and servicing of dry cleaning equipment that uses a controlled substance must be done in accordance with a code of practice (codes of practice are formulated by the Commission and published in the Gazette).

From 1 February, 1991 the operation and servicing of solvent cleaning or degreasing equipment that uses a controlled substance must be done in accordance with the relevant code of practice. Controlled substances must not be released and must be reclaimed.

Halon fire protection systems

From 1 February, 1991, fixed fire protection systems that use a halon must not be tested by releasing the halon and must not be discharged except to extinguish a fire. The installation of new fixed halon systems will be prohibited except with the Commission's approval which is not to be given except in special cases. The occupier of premises at which an existing fixed halon system is installed will have to notify the Commission of the system's existence and capacity. The discharge of a fixed halon system will have to be notified to the Commission. Fixed halon systems will have to be manufactured, installed and serviced in accordance with the relevant code of practice. When a fixed halon system is serviced or decommissioned the halon it contains will have to be reclaimed.

Portable halon fire extinguishers

From 1 February, 1991, the sale of aerosol and non-rechargeable halon fire extinguishers will be prohibited. The sale of other portable halon fire extinguishers will be prohibited except where the seller is authorised under the Regulation to sell them and the particular sale is approved by the Commission. Approval can only be given in special cases. The Commission will be able to attach conditions to the possession of a portable halon fire extinguisher. Portable halon fire extinguishers in existence before 1 February, 1991, will have to be decommissioned and the halon reclaimed by 1 January, 1996 (or when it is due for testing or is discharged before then) unless the Commission approves of its continued use. The discharge of a portable halon fire extinguisher will be prohibited except to extinguish a fire.

Refrigeration and air conditioning equipment

From 1 February, 1991, refrigeration and air conditioning equipment that uses a controlled substance will have to be labelled so as to allow the substance to be readily identified. The manufacture, installation and servicing of motor vehicle air conditioning equipment will be required to be in accordance with the relevant code of practice. The manufacture, installation and servicing of commercial/industrial air conditioning or refrigeration equipment will be required to be in accordance with the relevant code of practice. Domestic refrigeration equipment will have to be manufactured and serviced in accordance with the relevant code of practice.

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Aerosols

From 1 February, 1991, the manufacture and sale of aerosols containing a controlled substance will be prohibited unless there is an exemption for the product under the Ozone Protection Act 1989, of the Commonwealth.

Miscellaneous

An authorisation required under the Regulation will be issued by the Commission or by a body authorised by the Commission to grant it (such as the Motor Vehicle Repair Industry Council in the case of an authorisation to install motor vehicle air conditioners).

The Commission can grant exemptions of up to 12 months from provisions of the Regulation.

Penalties of up to 200 penalty units (\$20,000) for a corporation and 100 penalty units (\$10,000) in other cases are provided for breaches of the Regulation.