
**CHLOROFLUOROCARBONS AND OTHER OZONE
DEPLETING SUBSTANCES CONTROL ACT 1988**

No. 13 of 1988

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**CHLOROFLUOROCARBONS AND OTHER OZONE
DEPLETING SUBSTANCES CONTROL ACT 1988**

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No. 13 of 1988
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AN ACT to control the manufacture, sale, distribution, use, re-cycling, and disposal of chlorofluorocarbons or other ozone depleting substances.

[Royal Assent 8 September 1988]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Chlorofluorocarbons and other Ozone Depleting Substances Control Act 1988*. Short title.

2—(1) This section and section 1 shall commence on the day on which this Act receives the Royal assent. Commencement.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be fixed by proclamation.

3—In this Act, unless the contrary intention appears— Interpretation.

“alternative substance” means a substance which is used or may be used in place of a controlled substance;

“controlled substance” means any substance, whether existing alone or in a mixture, prescribed by the regulations;

“Director” means the Director of Environmental Control appointed under the *Environment Protection Act 1973*;

“exempt substance” means any substance exempted by the Director under section 6;

“licence” means a licence issued and in force under section 8;

“regulations” means regulations made under this Act.

“sell” includes—

(a) offer, display, or expose for sale;

(b) keep or have in possession for sale;

(c) barter or exchange;

(d) agree to sell;

(e) supply, send, forward, or deliver for sale; and

(f) authorize, direct, cause, attempt, or permit any act referred to in paragraphs (a), (b), (c), (d), or (e).

Functions and powers of Director.

4—(1) For the purposes of protecting the health and welfare of the community and protecting the environment, the Director shall—

(a) ensure that the use of controlled substances as propellants in aerosols be eliminated except where used in medical or emergency situations where alternative substances are not available;

(b) enquire into the use of alternative substances to replace the use of controlled substances;

(c) ensure that such replacement is implemented as soon as such alternative substances are available commercially;

(d) enquire into the availability of alternative substances to replace controlled substances for use other than as propellants;

- (e) regulate and control the release into the environment of controlled substances;
- (f) investigate methods of re-cycling and disposal of controlled substances; and
- (g) ensure that any substance which, in his opinion, may damage or deplete ozone is prescribed as a controlled substance.

(2) For the purpose of carrying out the functions referred to in subsection (1) the Director may—

- (a) make such investigations; and
- (b) issue such directions,

as he thinks necessary.

(3) The Director shall review and assess the measures undertaken for the purpose of subsection (1) at least once in every 3 years or when directed to do so by the Minister.

5—A person shall not manufacture, distribute, or sell any controlled substance.

Prohibition on
manufacture,
&c., of
controlled
substances.

Penalty: Fine not exceeding 1 000 penalty units.

6—(1) The Director may, by notice published in the *Gazette*, exempt any substance from the provisions of this Act—

Exempt
substances.

- (a) for such period;
- (b) for such purpose or application; or
- (c) subject to such terms and conditions,

as he thinks fit.

(2) The Minister may, by notice published in the *Gazette*, revoke any exemption made under subsection (1).

7—(1) A person shall not manufacture or distribute an exempt substance unless he is the holder of a licence issued and in force under this section.

Applications for
licence to
manufacture,
&c., exempt
substances.

Penalty: Fine not exceeding 1 000 penalty units.

(2) A person who wishes to manufacture or distribute an exempt substance may make an application to the Director for a licence to do so.

(3) An application for a licence under subsection (2) shall be in a form approved by the Director and shall—

- (a) set out particulars identifying the substance for which the licence is sought;
- (b) specify the details of the arrangements proposed in connection with the manufacture or distribution of the substance;

(c) specify such other requirements as may be prescribed;
and

(d) be accompanied by the prescribed fee.

(4) On receipt of an application for a licence made under subsection (2), the Director may require the applicant to furnish such other information as he considers necessary in order to consider the application.

Grant or refusal
of application
for licence.

8—(1) The Director may—

(a) grant an application for a licence made under section 7; or

(b) refuse to grant such an application.

(2) Where the Director grants an application under subsection (1) (a), he may issue a licence for such purpose and for such period and subject to such terms, conditions, and restrictions, as he thinks fit.

(3) Where the Director refuses to grant an application under subsection (1) (b) he shall, by notice in writing served on the applicant, inform him of the refusal and of the grounds on which the refusal is based.

(4) A licence issued under subsection (2) remains in force for such period as is specified in the licence.

(5) The holder of a licence who fails to comply with or contravenes any term, condition, or restriction to which the licence is subject, is guilty of an offence and is liable on summary conviction to a fine not exceeding 1 000 penalty units.

Renewal of
licence.

9—(1) The holder of a licence may, within 3 months before the licence ceases to be in force, apply to the Director for the renewal of the licence.

(2) An application for the renewal of a licence shall—

(a) be in a form approved by the Director;

(b) contain such particulars as the Director may require;
and

(c) be accompanied by the prescribed fee.

(3) On receipt of an application for a renewal made under subsection (2), the Director may—

(a) grant the application; or

(b) refuse to grant the application.

(4) Where the Director grants an application under subsection (3) (a), he may renew the licence for such period, for such purpose and subject to such terms, conditions, and restrictions, as he thinks fit.

(5) Where the Director refuses to grant an application under subsection (3) (b), he shall, by notice in writing served on the applicant, inform him of the refusal and of the grounds on which the refusal is based.

(6) A licence renewed under this section shall be in force for such period as is specified in the renewal.

(7) Where an application for the renewal of a licence is made before the date on which the licence ceases to be in force and—

(a) where the application is granted before that date, the licence shall be in force for the period for which it is renewed commencing on that date; or

(b) where the application is refused or not refused before that date and the application is not withdrawn before that date—

(i) the licence continues in force on and from that date until the application is granted or withdrawn, or, where the Director refuses to grant the application, the date on which that refusal takes effect, whichever first occurs; and

(ii) on the grant of the renewal, the licence shall be taken to have taken effect on and from that date.

10—(1) The holder of a licence may surrender the licence by delivering it to the Director together with a notice in writing to the effect that the licence is being surrendered. Surrender of licence.

(2) On receipt of a licence and notice under subsection (1), the Director shall cancel the licence.

11—Where an application for a licence or an application for renewal of a licence is refused or withdrawn, the Director may refund to the applicant the whole or any part of the fee which has been paid by the applicant. Refund of fees.

12—(1) The Director may make any alterations or addition to, or variation or omission of, any terms, conditions, or restrictions to which a licence is subject. Alteration, &, of licence.

(2) Where the Director makes any alteration, addition, variation, or omission as referred to in subsection (1), he shall, by notice in writing served on the holder of the licence, inform him accordingly.

(3) Any alteration, addition, variation, or omission made by the Director under subsection (1) shall take effect on such date as is specified in the notice referred to in subsection (2), being a date not earlier than 14 days after the service of the notice.

Cancellation of
licence.

13—(1) The Director may cancel a licence where the holder of the licence is convicted of an offence under this Act or regulations.

(2) When the Director cancels a licence under subsection (1) he shall, by notice in writing served on the holder of the licence, inform him of the cancellation.

(3) The cancellation of a licence shall take effect on such date as is specified in the notice referred to in subsection (2), being a date not earlier than 14 days after the service of the notice.

Appeals.

14—(1) A person aggrieved by—

- (a) the refusal of the Director to grant to that person an application for a licence;
 - (b) the refusal of the Director to grant to that person an application for the renewal of a licence;
 - (c) the terms, conditions, or restrictions to which a licence issued to that person is subject;
 - (d) the alteration or addition to, or the variation or omission of, any such term, condition or restriction;
or
 - (e) the cancellation of a licence held by that person,
- may appeal to a magistrate.

(2) An appeal under this section shall be instituted within 14 days after—

- (a) the service of a notice under section 8 (3), in the case of an appeal made under subsection (1) (a);
- (b) the service of a notice under section 9 (5), in the case of an appeal made under subsection (1) (b);
- (c) the receipt of a licence, in the case of an appeal made under subsection (1) (c);

(d) the service of a notice under section 12 (2), in the case of an appeal made under subsection (1) (d); and

(e) the service of a notice under section 13 (2), in the case of an appeal made under subsection (1) (e).

(3) At the hearing of an appeal under this section, the magistrate, unless he dismisses the appeal, may—

(a) in the case of an appeal under subsection (1) (a), confirm the refusal to grant an application for a licence or order the Director to grant the application and issue the licence for such purpose, for such period, and subject to such terms, conditions, and restrictions, as the magistrate thinks fit;

(b) in the case of an appeal under subsection (1) (b), confirm the refusal to grant an application for the renewal of a licence or order the Director to renew the licence for such period, for such purpose, and subject to such terms, conditions, and restrictions, as the magistrate thinks fit;

(c) in the case of an appeal under subsection (1) (c), confirm the terms, conditions, or restrictions to which a licence is subject or order the Director to alter, add to, vary, or omit, any of such terms, conditions, or restrictions;

(d) in the case of an appeal under subsection (1) (d), confirm the alteration or addition to, or the variation or omission of, any term, condition, or restriction to which a licence is subject;

(e) in the case of an appeal under subsection (1) (e), confirm the cancellation of a licence or order the Director to revoke the cancellation.

(4) Where an appeal is instituted under this section—

(a) any refusal to grant a licence or renewal of a licence;

(b) any term, condition, or restriction to which a licence is subject;

(c) any alteration or addition to, or variation or omission of, any such terms, conditions, or restrictions; and

(d) any cancellation of a licence,

shall not have effect until the determination or abandonment of the appeal or until such later date as the magistrate may determine.

Delivery of
licence to
Director.

15—(1) Where—

- (a) a licence has been cancelled; or
- (b) any of the terms, conditions, or restrictions of a licence have been varied, altered, added to, or omitted,

the Director may by, notice in writing, served on the holder of the licence, require that holder to deliver the licence within the period specified in the notice.

(2) On receipt of a licence delivered pursuant to subsection (1), the Director shall endorse on the licence a note of the alteration, addition, variation, or omission and shall return the licence to the holder of the licence.

(3) The holder of a licence who fails to comply with a notice served on him under subsection (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding 1 000 penalty units.

False or
misleading
information.

16—(1) A person who makes a statement or representation that to his knowledge is false or misleading—

- (a) in or in relation to any application under this Act;
or
- (b) in any document or statement provided in connection with such an application,

is guilty of an offence and is liable on summary conviction to a fine not exceeding 100 penalty units.

(2) It is a defence to a charge under subsection (1) if it is proved that, at the time when the statement or representation was made, the defendant believed on reasonable grounds that it was neither false nor misleading.

Service of
documents, &c.

17—(1) Where a document or a notice is required under this Act to be served on a person, the document or notice may be served—

- (a) in the case of a person who is neither a body corporate nor a firm—
 - (i) by delivering it to him personally;

- (ii) by leaving it at that person's place of residence last known to the person required to serve the document or notice with someone who apparently resides there, or at that person's place of business or employment last known to the person required to serve the document or notice with someone who is apparently employed there, being in either case a person who has or apparently has attained the age of 16 years; or
 - (iii) by sending it by post to that person's place of residence, business, or employment last known to the person required to serve the document or notice;
- (b) in the case of a body corporate—
- (i) by delivering it to the secretary of the body corporate personally;
 - (ii) by leaving it at the registered office of the body corporate or at the place or principal place of business of the body corporate in Tasmania with a person apparently employed there, being a person who has or apparently has attained the age of 16 years; or
 - (iii) by sending it by post to the registered office of the body corporate or to the place or principal place of business of the body corporate;
- (c) in the case of a firm—
- (i) by delivering it to a member of the firm personally;
 - (ii) by leaving it at the place or principal place of business of the firm in Tasmania last known to the person required to serve the document or notice with a person apparently employed there, being a person who has or apparently has attained the age of 16 years; or
 - (iii) by sending it by post to the place or principal place of business of the firm in Tasmania last known to the person required to serve the document or notice.

(2) A reference in subsection (1) to the registered office of a body corporate includes a reference to a registered office that is outside Tasmania.

(3) The provisions of this section are in addition to the provisions of section 528 of the *Companies (Tasmania) Code*.

Regulations.

18—(1) The Governor may make regulations for the purposes of this Act.

(2) Without limiting subsection (1), the regulations may make provision in respect of—

(a) the manufacture, sale, re-cycling, or disposal of exempt substances; and

(b) the labelling of products which contain controlled substances or use controlled substances in their manufacture.

(3) Regulations made under this section may be made subject to such conditions, or be made so as to apply differently according to such factors as may be specified in the regulations or according to such limitations or restrictions, whether as to time or circumstance or otherwise, as may be so specified.

(4) Regulations under this section may provide that it is an offence, punishable on summary conviction, for a person to contravene or fail to comply with any of the regulations and may provide in respect of any such offence for the imposition of a penalty not exceeding 100 penalty units and, in the case of a continuing offence, a further penalty not exceeding 10 penalty units for each day during which the offence continues.