

**Reprint
as at 1 October 2012**



Ozone Layer Protection Act 1996

Public Act 1996 No 40
Date of assent 24 June 1996
Commencement see section 1(2)

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This Act is administered by the Ministry for the Environment.

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An Act to help protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer and to implement in New Zealand the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer

1 Short Title and commencement

- (1) This Act may be cited as the Ozone Layer Protection Act 1996.
- (2) This Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

Section 1(2): Ozone Layer Protection Act 1996 brought into force, on 16 September 1996, by the Ozone Layer Protection Act Commencement Order 1996 (SR 1996/221).

Part 1 Preliminary

2 Interpretation

(1) In this Act, unless the context otherwise requires,—

approved form means a form approved under section 12A

code of practice means any code that has been approved by the Minister under section 10

controlled substance means any substance defined as such in any regulations made under this Act

Convention means the Vienna Convention for the Protection of the Ozone Layer (a copy of the English text of which is set out in Schedule 1), and includes any amendments to, or substitutions of, that Convention that are, or will become, binding on New Zealand from time to time

Environmental Protection Authority means the Environmental Protection Authority established by section 7 of the Environmental Protection Authority Act 2011

Minister means the Minister of the Crown who, under authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

offence against this Act includes any offence against any regulations made under this Act

officer means—

(a) any person employed in the service of the Environmental Protection Authority and designated as an officer for the purpose of this Act; and

(b) any Customs officer

ozone depleting substance and **substance** means—

(a) any controlled substance; or

(b) any other substance that has an ozone depletion potential of 0.01 or greater

prescribed means prescribed by regulations made under this Act

Protocol means the Montreal Protocol on Substances that Deplete the Ozone Layer, and includes any amendments to, or substitutions of, that Protocol that are, or will become, binding on New Zealand from time to time

register means the Ozone Layer Protection Register required by section 12B.

- (2) Terms and expressions used and not defined in this Act or in regulations made under this Act but defined in the Convention or the Protocol shall, unless the context otherwise requires, have the same meaning as in the Convention or the Protocol.

Section 2(1) **approved form**: inserted, on 1 July 2011, by section 4(1) of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

Section 2(1) **code of practice**: amended, on 1 July 2011, by section 4(2) of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

Section 2(1) **Environmental Protection Authority**: inserted, on 1 July 2011, by section 4(1) of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

Section 2(1) **Minister**: inserted, on 1 July 2011, by section 4(1) of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

Section 2(1) **officer** paragraph (a): amended, on 1 July 2011, by section 4(3) of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

Section 2(1) **register**: added, on 1 July 2011, by section 4(1) of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

3 Act to bind the Crown

This Act binds the Crown.

4 Purpose of Act

- (1) The purpose of this Act is to—
- (a) help protect human health and the environment from adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer:
 - (b) phase out ozone depleting substances as soon as possible except for essential uses:
 - (c) give effect to New Zealand's obligations under the Convention and the Protocol.
- (2) Every person exercising any power or discretion under this Act shall act in a manner consistent with that purpose.

Compare: 1990 No 50 s 4

5 Application of Act

This Act applies to—

- (a) ozone depleting substances; and
- (b) goods that contain any ozone depleting substance; and
- (c) goods that are designed to use any ozone depleting substance; and
- (d) goods that are manufactured, processed, or grown using any ozone depleting substance,—

as those terms are defined in this Act or in regulations made under Part 3.

Part 2

Controls in respect of ozone depleting substances

Prohibitions

6 Prohibitions in respect of ozone depleting substances

- (1) It is unlawful to import into New Zealand substances or goods the importation of which is prohibited by regulations made under Part 3.
- (2) It is unlawful to export substances or goods the exportation of which is prohibited by regulations made under Part 3.
- (3) It is unlawful to manufacture in New Zealand substances or goods the manufacture of which is prohibited by regulations made under Part 3.
- (4) It is unlawful to sell in New Zealand substances or goods the sale of which is prohibited by regulations made under Part 3.
- (5) It is unlawful to use any substances or goods in New Zealand if that use is prohibited by regulations made under Part 3.

7 Customs and Excise Act 1996 to apply to prohibited exports

All the provisions of the Customs and Excise Act 1996 that apply with respect to prohibited exports (except the penalty for an offence against section 209(1)(b) of that Act) shall apply with respect to the export of any substances and goods in contravention of this Act, in all respects as if the export of

those substances and goods were prohibited under Part 5 of the Customs and Excise Act 1996.

Compare: 1990 No 50 s 17B

Exemptions

8 Exemptions

- (1) The Environmental Protection Authority may grant an exemption from any prohibition on the importation, exportation, manufacture, sale, or use of any substance or goods, or other obligation, imposed by this Act or any regulations made under this Act.
- (2) An exemption may be granted only in accordance with regulations made under Part 3.

Section 8(1): amended, on 1 July 2011, by section 5 of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

8A Application for exemption

An application for an exemption must be made in the approved form.

Section 8A: inserted, on 1 July 2011, by section 6 of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

9 Consideration of application for exemption

The Environmental Protection Authority must, in considering any application for an exemption under this Part, have regard to—

- (a) the need to protect human health and the environment from adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer; and
- (b) the need to phase out ozone depleting substances as soon as possible except for essential uses; and
- (c) New Zealand's obligations under the Convention and the Protocol; and
- (d) the technology available and whether any alternative products have been developed that may be used instead of the ozone depleting substance concerned; and
- (e) whether the applicant has complied with any code of practice that applies to the business of the applicant; and

- (f) whether the applicant has committed an offence against this Act.

Compare: 1990 No 50 s 30

Section 9: amended, on 1 July 2011, by section 7 of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

Permits

Heading: inserted, on 1 July 2011, by section 8 of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

9A General requirements for permits

- (1) This section applies if regulations made under section 16 allow the importation or exportation of substances or goods under the authority of a permit granted by the Environmental Protection Authority.
- (2) Any person may apply to the Environmental Protection Authority for a permit.
- (3) An application for a permit must be in the approved form.
- (4) The regulations may specify the process and requirements for applying for a permit.

Section 9A: inserted, on 1 July 2011, by section 8 of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

9B Refusal of permit to import substance

- (1) This section and sections 9C and 9D apply if regulations made under section 16 allow the importation of substances or goods under the authority of a permit granted by the Environmental Protection Authority.
- (2) The Environmental Protection Authority may refuse to grant a permit if the Authority considers—
 - (a) after considering the matters set out in section 9C, that granting the permit would be inconsistent with the scheme of the regulations; or
 - (b) that the person who applied for the permit has been convicted of an offence against this Act or an offence that involves an ozone-depleting substance; or
 - (c) that the information in the application is incorrect.

Section 9B: inserted, on 1 July 2011, by section 8 of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

9C Consideration of application for permit to import substance

The Environmental Protection Authority must, in considering an application for a permit, have regard to the following matters to the extent that they are relevant:

- (a) the amount of the substance that is available for allocation:
- (b) the total amount of the substance for which applications have been received:
- (c) the importance of the use to which the substance will be put:
- (d) whether there is a viable alternative to the use of the substance that would be less harmful to the environment.

Section 9C: inserted, on 1 July 2011, by section 8 of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

9D Conditions on permits to import substance

If the regulations authorise the Environmental Protection Authority to impose conditions on the grant of a permit, the conditions may address the following matters:

- (a) the use to which the substance will be put in New Zealand:
- (b) restriction or prohibition on transfer of an entitlement arising from a permit:
- (c) the provision of information (including photographs) to the Environmental Protection Authority concerning the identification, movement, and location of the substance and compliance with conditions:
- (d) the insurance requirements relating to the importation of the substance and its presence in New Zealand:
- (e) control and ownership of the substance:
- (f) restriction or prohibition on the grant of a security interest in the substance:
- (g) the labelling, packaging, handling, storage, transport, processing, or disposal of the substance:
- (h) liability for the substance if it cannot be used for the purpose for which it was imported.

Section 9D: inserted, on 1 July 2011, by section 8 of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

*Codes of practice***10 Codes of practice**

- (1) The Minister may, by notice in writing, require any person whose business is or includes—
- (a) the manufacture or use of any goods containing or designed to use, or manufactured using, controlled substances; or
 - (b) the installing, operating, servicing, modifying, or dismantling of any equipment containing or designed to use, or manufactured using, controlled substances; or
 - (c) the supply or use of any controlled substance,—
- or any representative of such persons, to submit for approval a code of practice to be observed in the course of carrying on that business.
- (2) Any such notice—
- (a) shall require that the code of practice incorporate appropriate training programmes for persons in the business; and
 - (b) shall set out any other matters to be incorporated in the code of practice, and any matters incidental thereto; and
 - (c) shall advise the recipient of the offences prescribed by subsection (3) and section 13.
- (3) Any person or representative who fails, within 6 months after the date on which any such notice is sent to the person, to submit for approval a code of practice complying with the notice, commits an offence, and is liable on summary conviction to a fine not exceeding \$1,000.

Compare: 1990 No 50 s 33

Section 10(1): amended, on 1 July 2011, by section 9 of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

*Accreditation***11 Accreditation of persons handling ozone depleting substances**

- (1) Any person whose business is or includes—
- (a) the installation, servicing, modifying, or dismantling of any equipment containing or designed to use, or manufactured using, any ozone depleting substance; or

- (b) the direct handling of ozone depleting substances involving a possible risk of release of those substances into the atmosphere,—
may be required, by regulations made under section 16, to be accredited.
- (2) The purpose of accreditation shall be to ensure that persons handling ozone depleting substances are aware of their obligations under this Act and have sufficient knowledge to comply with those obligations.
- (3) Any person who is required to be accredited under this section commits an offence who, without being accredited,—
 - (a) installs, services, modifies, or dismantles any equipment containing or designed to use, or manufactured using, any ozone depleting substance; or
 - (b) otherwise directly handles ozone depleting substances in a way that involves a possible risk of release of those substances into the atmosphere,—
and is liable on summary conviction to a fine not exceeding \$10,000.

12 Industry may be required to prepare draft accreditation schemes

- (1) For the purpose of assisting with accreditation, the Minister may, by notice in writing, require any business, or representative of any business, to submit a draft accreditation scheme incorporating—
 - (a) the class of persons that should be accredited; and
 - (b) the conditions for accreditation; and
 - (c) the system for granting accreditation; and
 - (d) such other matters as the notice may specify.
- (2) Any person who fails without reasonable excuse, within 6 months after the date on which any such notice is sent to the person, to submit a draft accreditation scheme, commits an offence, and is liable on summary conviction to a fine not exceeding \$1,000.

Section 12(1): amended, on 1 July 2011, by section 10 of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

Forms

Heading: inserted, on 1 July 2011, by section 11 of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

12A Environmental Protection Authority may approve forms
The Environmental Protection Authority may approve forms for the purposes of this Act.

Section 12A: inserted, on 1 July 2011, by section 11 of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

Register

Heading: inserted, on 1 July 2011, by section 11 of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

12B Register

- (1) The Environmental Protection Authority, on behalf of the Crown, must keep a register called the Ozone Layer Protection Register.
- (2) The register may be kept in the form of information stored electronically.
- (3) The Crown owns all information contained in the register.

Section 12B: inserted, on 1 July 2011, by section 11 of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

12C Information to be included in register

- (1) The register must record—
 - (a) the details of permits granted under regulations; and
 - (b) the details of exemptions granted under section 8; and
 - (c) any other information required to comply with New Zealand's international obligations and that is prescribed by regulations.
- (2) In relation to a permit, the register must specify—
 - (a) the name and address of the person to whom the permit was granted; and
 - (b) the substance or goods to which the permit relates; and
 - (c) the amount of the substance or goods that the permit allows to be imported, exported, manufactured, or sold; and

- (d) the terms and conditions on which the permit was granted; and
 - (e) any other information required by regulations.
- (3) In relation to an exemption, the register must specify—
- (a) the name and address of the person to whom the exemption was granted; and
 - (b) the substance or goods to which the exemption relates; and
 - (c) the amount of the substance or goods that the exemption allows to be imported, exported, manufactured, or sold; and
 - (d) the reason for granting the exemption; and
 - (e) the terms and conditions on which the exemption was granted; and
 - (f) any other information required by regulations.
- (4) The register may record any other information that the Environmental Protection Authority considers appropriate.

Section 12C: inserted, on 1 July 2011, by section 11 of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

12D Environmental Protection Authority to allow New Zealand Customs Service access to register

The Environmental Protection Authority must allow the New Zealand Customs Service to have access to the register.

Section 12D: inserted, on 1 July 2011, by section 11 of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

Offences and penalties

13 Offences

Subject to any regulations made under this Act, every person commits an offence against this Act who—

- (a) imports or exports any substances or goods in contravention of this Act; or
- (b) manufactures or uses any substances, or manufactures any goods, in contravention of this Act; or
- (c) knowingly, recklessly, or negligently sells any goods in contravention of this Act; or

- (d) fails without lawful justification or excuse to comply with any term or condition of any import permit or exemption; or
- (e) makes a statement or produces a document knowing that it is false or misleading in a material particular for the purpose of—
 - (i) obtaining a permit or an exemption; or
 - (ii) importing or exporting any substances or goods in contravention of this Act; or
- (f) knowingly or without lawful justification or excuse releases a controlled substance into the atmosphere while—
 - (i) installing, operating, servicing, modifying, or dismantling any refrigeration or air-conditioning equipment or other heat-transfer medium; or
 - (ii) installing, servicing, modifying, or dismantling any fire extinguisher.

Compare: 1990 No 50 s 34

14 Defence for release of ozone depleting substance

Without limiting the circumstances in which a person may have a lawful justification or excuse, a person is justified or excused in releasing a controlled substance into the atmosphere in circumstances where—

- (a) the person is carrying out an action referred to in subparagraph (i) or subparagraph (ii) of section 13(f); and
- (b) the release occurred during the connection or disconnection of equipment used to transfer controlled substances from one container to another container; and
- (c) the release could not reasonably have been avoided.

Compare: 1990 No 50 s 34(5)

15 Penalties

- (1) Every person who commits an offence against paragraph (a) or paragraph (b) or paragraph (c) of section 13 is liable on summary conviction to a fine not exceeding \$200,000.
- (2) Every person who commits an offence against paragraph (d) or paragraph (e) of section 13 is liable on summary conviction to a fine not exceeding \$100,000.

- (3) Every person who commits an offence against paragraph (f) of section 13 is liable on summary conviction to a fine not exceeding \$10,000.

Compare: 1990 No 50 s 35

Part 3

Regulations

16 Regulations

- (1) Subject to sections 17 to 19, the Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, make regulations for the purpose of—
- (a) protecting human health and the environment from adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer:
 - (b) phasing out ozone depleting substances as soon as possible except for essential uses:
 - (c) giving effect to New Zealand's obligations under the Convention and the Protocol:
 - (d) giving effect to the terms of any other international agreement relating to the protection of the ozone layer to which New Zealand is a party:
 - (da) prescribing the particulars of permits and exemptions to be shown in the Ozone Layer Protection Register:
 - (e) prescribing offences in respect of the contravention of or non-compliance with any provision of any regulations made under this Act, and prescribing fines, not exceeding \$5,000, that may, on summary conviction, be imposed in respect of any such offence:
 - (f) providing for such other matters as are contemplated by or are necessary for giving full effect to this Act and its due administration.
- (2) A prohibition imposed under this section—
- (a) may be general; or
 - (b) may be limited to substances or goods from a specified place or by or from a specified person or class of persons; or

- (c) may, whether general or limited, be absolute or conditional.
- (3) A conditional prohibition may allow for anything to be done—
 - (a) under the authority of a permit:
 - (b) on or subject to any terms and conditions as may be imposed by the person granting the permit or as may be prescribed.

Compare: 1988 No 157 s 3(2), (3)

Section 16(1): amended, on 1 July 2011, by section 12(a) of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

Section 16(1)(da): inserted, on 1 July 2011, by section 12(b) of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

17 Consultation requirements before regulations made

- (1) The Minister shall not recommend the making of any regulations under section 16 unless the Minister has taken all reasonably practical steps to consult with such persons, or representatives of such persons, who or which, in his or her opinion, may be affected by or may have an interest in the proposed subject matter of the regulations.
- (2) The Minister may also publicise the proposal via the daily public newspapers in the main centres or any other publications, or in any other manner, that the Minister considers appropriate.
- (3) The Minister shall give persons notified of any such proposal under subsection (1) or subsection (2) such time and opportunity as the Minister considers adequate to comment on the proposed subject matter of the regulations.
- (4) Any notification of any proposal under subsection (1) or subsection (2) shall—
 - (a) specify the proposed subject matter of the regulations and any relevant supporting documentation, or advice on where this may be obtained; and
 - (b) invite submissions from any person on the proposed regulations; and
 - (c) specify the address to which submissions must be made, and the closing date for the receipt of submissions.

- (5) The Minister shall have regard to all submissions and other matters the Minister thinks fit before making a recommendation to the Governor-General.
- (6) A failure to comply with this section shall not affect the validity of any regulations made under this Act.

Section 17(1): amended, on 1 July 2011, by section 13 of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

Section 17(5): amended, on 1 July 2011, by section 13 of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

18 Additional requirement before regulations made

The Minister must not recommend the making of any regulations under section 16 unless the Minister is satisfied that, after making the proposed regulations, New Zealand will be able to give effect to its obligations under the Convention and the Protocol.

Compare: 1990 No 50 s 53(2)(b)

Section 18: amended, on 1 July 2011, by section 14 of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

19 Manufacture of goods not to be prohibited unless importation also prohibited

No regulations shall be made under this Act prohibiting the manufacture in New Zealand of any goods unless, at the same time, regulations are made under this Act prohibiting the importation of those goods.

Compare: 1990 No 50 s 24(3)

20 Updating text of Convention, etc

The Governor-General may from time to time, by Order in Council, make regulations—

- (a) amending Schedule 1 by making such amendments to the text of the Convention as are required to bring that text up-to-date:
- (b) revoking Schedule 1, and substituting a new schedule setting out in an up-to-date form the text of the Convention:

- (c) setting out from time to time the up-to-date text of the Protocol.

Compare: 1990 No 50 s 53(1)

Part 4

Enforcement

21 Purpose for which powers may be exercised

The powers conferred by this Part may be exercised to the extent reasonably necessary for the purpose of ensuring compliance with this Act and any regulations made under this Act.

Compare: 1990 No 50 s 36

22 Power of inspection

- (1) If, in the opinion of any officer, there are reasonable grounds for believing that any person has committed, or is committing, any offence against this Act, that officer may require that person to produce for inspection any substances or goods, or any books, documents, or other records, relating to the offence.
- (2) Any officer may inspect, and may make or cause to be made copies of, or extracts from, any books, documents, or other records produced in accordance with subsection (1).
- (3) Any officer may inspect any substances or goods produced in accordance with subsection (1) and, where the officer has reasonable grounds to believe that the substances or goods may be evidence of an offence against this Act, may take or obtain samples of any such substances or goods.
- (4) Every officer exercising any of the powers conferred under this section shall, at the time of exercising that power, and thereafter on request, produce—
- (a) evidence of that person's appointment as an officer; and
 - (b) evidence of that person's identity.
- (5) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 who refuses or fails to comply with any requirement of an officer under this section.
- (6) Nothing in this section shall limit or affect the privilege against self-incrimination.

Compare: 1990 No 50 s 37

23 Search warrants

- (1) Any issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) who is satisfied, on an application made in the manner provided in subpart 3 of Part 4 of that Act, that there are reasonable grounds for believing that there is in or on any premises any substances or goods, or any books, documents, or other records, which there are reasonable grounds to believe may be evidence of the commission of any offence against this Act, may issue a search warrant in the prescribed form.
- (2) Every search warrant shall be directed either to a constable by name or to every constable or to any officer by name, but in any of those cases, the warrant may be executed by any constable.
- (3) The provisions of Part 4 of the Search and Surveillance Act 2012 (except sections 118 and 119) apply.
- (4) *[Repealed]*
- (5) *[Repealed]*
- (6) *[Repealed]*
- (7) *[Repealed]*
- (8) *[Repealed]*
- (9) For the purposes of this section, **premises** means any premises, building, aircraft, ship, carriage, vehicle, box, receptacle, or place.
- (10) No warrant issued under this section shall authorise any person executing it to enter or search any restricted area within a defence area unless that person has a security clearance approved by the person in charge of the area.

Compare: 1990 No 50 s 38

Section 23(1): amended, on 1 October 2012, by section 288(1) of the Search and Surveillance Act 2012 (2012 No 24).

Section 23(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 23(3): replaced, on 1 October 2012, by section 288(2) of the Search and Surveillance Act 2012 (2012 No 24).

Section 23(4): repealed, on 1 October 2012, by section 288(2) of the Search and Surveillance Act 2012 (2012 No 24).

Section 23(5): repealed, on 1 October 2012, by section 288(2) of the Search and Surveillance Act 2012 (2012 No 24).

Section 23(6): repealed, on 1 October 2012, by section 288(2) of the Search and Surveillance Act 2012 (2012 No 24).

Section 23(7): repealed, on 1 October 2012, by section 288(2) of the Search and Surveillance Act 2012 (2012 No 24).

Section 23(8): repealed, on 1 October 2012, by section 288(2) of the Search and Surveillance Act 2012 (2012 No 24).

24 Seizure by Customs officers

Any Customs officer who, in the course of exercising a power conferred on that officer under the Customs and Excise Act 1996, finds any substance or goods that he or she believes on reasonable grounds have been imported in contravention of this Act, may seize that substance or goods.

Compare: 1990 No 50 s 40

25 Retention of property seized

If any constable or officer seizes any substance or goods under this Act, subparts 1, 6, 7, 9, and 10 of Part 4 of the Search and Surveillance Act 2012 apply in respect of the seizure of that substance or those goods.

Section 25: replaced, on 1 October 2012, by section 289 of the Search and Surveillance Act 2012 (2012 No 24).

26 Forfeiture of property seized

(1) *[Repealed]*

(2) *[Repealed]*

(3) Where any person has been convicted of an offence against paragraph (a) or paragraph (b) or paragraph (c) or paragraph (d) of section 13, the court may, if it thinks fit, order that any substance or goods in relation to which the offence was committed shall be forfeited to the Crown and disposed of as the Minister directs.

Compare: 1990 No 50 s 42

Section 26 heading: amended, on 1 October 2012, by section 290(1) of the Search and Surveillance Act 2012 (2012 No 24).

Section 26(1): repealed, on 1 October 2012, by section 290(2) of the Search and Surveillance Act 2012 (2012 No 24).

Section 26(2): repealed, on 1 October 2012, by section 290(2) of the Search and Surveillance Act 2012 (2012 No 24).

Section 26(3): amended, on 1 July 2011, by section 16 of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

Part 5

Miscellaneous provisions

27 Review of reduction timetables

The Minister must undertake a review at least every 2 years to consider whether the prescribed reduction timetables are appropriate given the technology available.

Compare: 1990 No 50 s 48

Section 27: amended, on 1 July 2011, by section 17 of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

28 Other Acts not affected

The provisions of this Act are in addition to, and not in substitution for, the provisions of any other enactment relating to the importation, exportation, manufacture, sale, or use of any substances or goods, and nothing in this Act shall limit or otherwise affect any such provisions.

Compare: 1990 No 50 s 50

29 Protection of officers and others

A person who does any act in pursuance or intended pursuance of any of the functions conferred on that person under this Act shall not be under any civil or criminal liability in respect thereof, whether on the ground of want of jurisdiction, or mistake of law or fact, or on any other ground, unless the person has acted, or omitted to act, in bad faith or without reasonable cause.

Compare: 1990 No 50 s 51

30 Annual report

- (1) The Minister must, as soon as practicable after the end of each year, prepare a report on the operation of this Act during that year.
- (2) The Minister must lay a copy of the report before the House of Representatives as soon as practicable thereafter.
- (3) Every such report shall, among other things, specify—

- (a) the details of any exemptions granted during the year under this Act; and
- (b) such other matters as may be prescribed.

Compare: 1990 No 50 s 52

Section 30(1): amended, on 1 July 2011, by section 18(1) of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

Section 30(2): amended, on 1 July 2011, by section 18(2) of the Ozone Layer Protection Amendment Act 2011 (2011 No 18).

31 Repeals and revocations

- (1) The enactments specified in Schedule 2 are hereby repealed.
- (2) The regulation and orders specified in Schedule 3 are hereby revoked.
- (3) *Amendment(s) incorporated in the Act(s).*

32 Transitional provision relating to consultation on first regulations

Any consultation carried out before the commencement of this Act relating to the first regulations to be made under this Act shall be deemed to have been carried out under this Act.

33 Savings

Every permit granted under the Import Control (Methyl Bromide) Conditional Prohibition Order 1994 or the Import Control (Hydrochlorofluorocarbons) Conditional Prohibition Order 1995 and in force at the commencement of this Act shall, notwithstanding the revocation of those orders, continue in full force and effect until the date on which it expires or is sooner revoked, and shall be deemed to have been granted under regulations made under this Act.

Schedule 1

s 2(1)

Vienna Convention for the Protection of the Ozone Layer

Preamble

The Parties to this Convention,
Aware of the potentially harmful impact on human health and the environment through modification of the ozone layer,
Recalling the pertinent provisions of the Declaration of the United Nations Conference on the Human Environment, and in particular principle 21, which provides that “States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction”,
Taking into account the circumstances and particular requirements of developing countries,
Mindful of the work and studies proceeding within both international and national organizations and, in particular, of the World Plan of Action on the Ozone Layer of the United Nations Environment Programme,
Mindful also of the precautionary measures for the protection of the ozone layer which have already been taken at the national and international levels,
Aware that measures to protect the ozone layer from modifications due to human activities require international co-operation and action, and should be based on relevant scientific and technical considerations,
Aware also of the need for further research and systematic observations to further develop scientific knowledge of the ozone layer and possible adverse effects resulting from its modifications,
Determined to protect human health and the environment against adverse effects resulting from modifications of the ozone layer,
HAVE AGREED AS FOLLOWS:

Article 1 Definitions

For the purposes of this Convention:

1. “The ozone layer” means the layer of atmospheric ozone above the planetary boundary layer.
2. “Adverse effects” means changes in the physical environment or biota, including changes in climate, which have significant deleterious effects on human health or on the composition, resilience and productivity of natural and managed ecosystems, or on materials useful to mankind.
3. “Alternative technologies or equipment” means technologies or equipment the use of which makes it possible to reduce or effectively eliminate emissions of substances which have or are likely to have adverse effects on the ozone layer.
4. “Alternative substances” means substances which reduce, eliminate or avoid adverse effects on the ozone layer.
5. “Parties” means, unless the text otherwise indicates, Parties to this Convention.
6. “Regional economic integration organization” means an organization constituted by sovereign States of a given region which has competence in respect of matters governed by this Convention or its protocols and has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to the instruments concerned.
7. “Protocols” means protocols to this Convention.

Article 2 General obligations

1. The Parties shall take appropriate measures in accordance with the provisions of this Convention and of those protocols in force to which they are party to protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer.
2. To this end the Parties shall, in accordance with the means at their disposal and their capabilities:

Article 2—*continued*

- (a) Co-operate by means of systematic observations, research and information exchange in order to better understand and assess the effects of human activities on the ozone layer and the effects on human health and the environment from modification of the ozone layer;
 - (b) Adopt appropriate legislative or administrative measures and co-operate in harmonizing appropriate policies to control, limit, reduce or prevent human activities under their jurisdiction or control should it be found that these activities have or are likely to have adverse effects resulting from modification or likely modification of the ozone layer;
 - (c) Co-operate in the formulation of agreed measures, procedures and standards for the implementation of this Convention, with a view to the adoption of protocols and annexes;
 - (d) Co-operate with competent international bodies to implement effectively this Convention and protocols to which they are party.
3. The provisions of this Convention shall in no way affect the right of Parties to adopt, in accordance with international law, domestic measures additional to those referred to in paragraphs 1 and 2 above, nor shall they affect additional domestic measures already taken by a Party, provided that these measures are not incompatible with their obligations under this Convention.
4. The application of this article shall be based on relevant scientific and technical considerations.

Article 3

Research and systematic observations

1. The Parties undertake, as appropriate, to initiate and co-operate in, directly or through competent international bodies, the conduct of research and scientific assessments on:
 - (a) The physical and chemical processes that may affect the ozone layer;

Article 3—*continued*

- (b) The human health and other biological effects deriving from any modifications of the ozone layer, particularly those resulting from changes in ultra-violet solar radiation having biological effects (UV-B);
 - (c) Climatic effects deriving from any modifications of the ozone layer;
 - (d) Effects deriving from any modifications of the ozone layer and any consequent change in UV-B radiation on natural and synthetic materials useful to mankind;
 - (e) Substances, practices, processes and activities that may affect the ozone layer, and their cumulative effects;
 - (f) Alternative substances and technologies;
 - (g) Related socio-economic matters;
- and as further elaborated in annexes I and II.
2. The Parties undertake to promote or establish, as appropriate, directly or through competent international bodies and taking fully into account national legislation and relevant ongoing activities at both the national and international levels, joint or complementary programmes for systematic observation of the state of the ozone layer and other relevant parameters, as elaborated in annex I.
 3. The Parties undertake to co-operate, directly or through competent international bodies, in ensuring the collection, validation and transmission of research and observational data through appropriate world data centres in a regular and timely fashion.

Article 4

Co-operation in the legal, scientific and
technical fields

1. The Parties shall facilitate and encourage the exchange of scientific, technical, socio-economic, commercial and legal information relevant to this Convention as further elaborated in annex II. Such information shall be supplied to bodies agreed upon by the Parties. Any such body receiving information regarded as confidential by the supplying Party shall ensure that

Article 4—*continued*

such information is not disclosed and shall aggregate it to protect its confidentiality before it is made available to all Parties.

2. The Parties shall co-operate, consistent with their national laws, regulations and practices and taking into account in particular the needs of the developing countries, in promoting, directly or through competent international bodies, the development and transfer of technology and knowledge. Such co-operation shall be carried out particularly through:
 - (a) Facilitation of the acquisition of alternative technologies by other Parties;
 - (b) Provision of information on alternative technologies and equipment, and supply of special manuals or guides to them;
 - (c) The supply of necessary equipment and facilities for research and systematic observations;
 - (d) Appropriate training of scientific and technical personnel.

Article 5

Transmission of information

The Parties shall transmit, through the secretariat, to the Conference of the Parties established under article 6 information on the measures adopted by them in implementation of this Convention and of protocols to which they are party in such form and at such intervals as the meetings of the parties to the relevant instruments may determine.

Article 6

Conference of the Parties

1. A Conference of the Parties is hereby established. The first meeting of the Conference of the Parties shall be convened by the secretariat designated on an interim basis under article 7 not later than one year after entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference at its first meeting.

Article 6—*continued*

2. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the secretariat, it is supported by at least one third of the Parties.
3. The Conference of the Parties shall by consensus agree upon and adopt rules of procedure and financial rules for itself and for any subsidiary bodies it may establish, as well as financial provisions governing the functioning of the secretariat.
4. The Conference of the Parties shall keep under continuous review the implementation of this Convention, and, in addition, shall:
 - (a) Establish the form and the intervals for transmitting the information to be submitted in accordance with article 5 and consider such information as well as reports submitted by any subsidiary body;
 - (b) Review the scientific information on the ozone layer, on its possible modification and on possible effects of any such modification;
 - (c) Promote, in accordance with article 2, the harmonization of appropriate policies, strategies and measures for minimizing the release of substances causing or likely to cause modification of the ozone layer, and make recommendations on any other measures relating to this Convention;
 - (d) Adopt, in accordance with articles 3 and 4, programmes for research, systematic observations, scientific and technological co-operation, the exchange of information and the transfer of technology and knowledge;
 - (e) Consider and adopt, as required, in accordance with articles 9 and 10, amendments to this Convention and its annexes;
 - (f) Consider amendments to any protocol, as well as to any annexes thereto, and, if so decided, recommend their adoption to the parties to the protocol concerned;

Article 6—*continued*

- (g) Consider and adopt, as required, in accordance with article 10, additional annexes to this Convention;
 - (h) Consider and adopt, as required, protocols in accordance with article 8;
 - (i) Establish such subsidiary bodies as are deemed necessary for the implementation of this Convention;
 - (j) Seek, where appropriate, the services of competent international bodies and scientific committees, in particular the World Meteorological Organization and the World Health Organization, as well as the Co-ordinating Committee on the Ozone Layer, in scientific research, systematic observations and other activities pertinent to the objectives of this Convention, and make use as appropriate of information from these bodies and committees;
 - (k) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention.
5. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not party to this Convention, may be represented at meetings of the Conference of the Parties by observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to the protection of the ozone layer which has informed the secretariat of its wish to be represented at a meeting of the Conference of the Parties as an observer may be admitted unless at least one-third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

Article 7

Secretariat

1. The functions of the secretariat shall be:
- (a) To arrange for and service meetings provided for in articles 6, 8, 9 and 10;

Article 7—continued

- (b) To prepare and transmit reports based upon information received in accordance with articles 4 and 5, as well as upon information derived from meetings of subsidiary bodies established under article 6;
 - (c) To perform the functions assigned to it by any protocol;
 - (d) To prepare reports on its activities carried out in implementation of its functions under this Convention and present them to the Conference of the Parties;
 - (e) To ensure the necessary co-ordination with other relevant international bodies, and in particular to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions;
 - (f) To perform such other functions as may be determined by the Conference of the Parties.
2. The secretariat functions will be carried out on an interim basis by the United Nations Environment Programme until the completion of the first ordinary meeting of the Conference of the Parties held pursuant to article 6. At its first ordinary meeting, the Conference of the Parties shall designate the secretariat from amongst those existing competent international organizations which have signified their willingness to carry out the secretariat functions under this Convention.

Article 8**Adoption of protocols**

1. The Conference of the Parties may at a meeting adopt protocols pursuant to article 2.
2. The text of any proposed protocol shall be communicated to the Parties by the secretariat at least six months before such a meeting.

Article 9

Amendment of the Convention or protocols

1. Any Party may propose amendments to this Convention or to any protocol. Such amendments shall take due account, *inter alia*, of relevant scientific and technical considerations.
2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any protocol shall be adopted at a meeting of the Parties to the protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate proposed amendments to the signatories to this Convention for information.
3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting, and shall be submitted by the Depositary to all Parties for ratification, approval or acceptance.
4. The procedure mentioned in paragraph 3 above shall apply to amendments to any protocol, except that a two-thirds majority of the parties to that protocol present and voting at the meeting shall suffice for their adoption.
5. Ratification, approval or acceptance of amendments shall be notified to the Depositary in writing. Amendments adopted in accordance with paragraphs 3 or 4 above shall enter into force between parties having accepted them on the ninetieth day after the receipt by the Depositary of notification of their ratification, approval or acceptance by at least three-fourths of the Parties to this Convention or by at least two-thirds of the parties to the protocol concerned, except as may otherwise be provided in such protocol. Thereafter the amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, approval or acceptance of the amendments.

Article 9—*continued*

6. For the purposes of this article, “Parties present and voting” means Parties present and casting an affirmative or negative vote.

Article 10

Adoption and amendment of annexes

1. The annexes to this Convention or to any protocol shall form an integral part of this Convention or of such protocol, as the case may be, and, unless expressly provided otherwise, a reference to this Convention or its protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to scientific, technical and administrative matters.
2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedures shall apply to the proposal, adoption and entry into force of additional annexes to this Convention or of annexes to a protocol:
 - (a) Annexes to this Convention shall be proposed and adopted according to the procedure laid down in article 9, paragraphs 2 and 3, while annexes to any protocol shall be proposed and adopted according to the procedure laid down in article 9, paragraphs 2 and 4;
 - (b) Any party that is unable to approve an additional annex to this Convention or an annex to any protocol to which it is party shall so notify the Depositary, in writing, within six months from the date of the communication of the adoption by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for a previous declaration of objection and the annexes shall thereupon enter into force for that Party;
 - (c) On the expiry of six months from the date of the circulation of the communication by the Depositary, the annex shall become effective for all Parties to this Convention or to any protocol concerned which have not submitted

Article 10—*continued*

a notification in accordance with the provision of subparagraph (b) above.

3. The proposal, adoption and entry into force of amendments to annexes to this Convention or to any protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes to the Convention or annexes to a protocol. Annexes and amendments thereto shall take due account, *inter alia*, of relevant scientific and technical considerations.
4. If an additional annex or an amendment to an annex involves an amendment to this Convention or to any protocol, the additional annex or amended annex shall not enter into force until such time as the amendment to this Convention or to the protocol concerned enters into force.

Article 11

Settlement of disputes

1. In the event of a dispute between Parties concerning the interpretation or application of this Convention, the parties concerned shall seek solution by negotiation.
2. If the parties concerned cannot reach agreement by negotiation, they may jointly seek the good offices of, or request mediation by, a third party.
3. When ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a State or regional economic integration organization may declare in writing to the Depositary that for a dispute not resolved in accordance with paragraph 1 or paragraph 2 above, it accepts one or both of the following means of dispute settlement as compulsory:
 - (a) Arbitration in accordance with procedures to be adopted by the Conference of the Parties at its first ordinary meeting;
 - (b) Submission of the dispute to the International Court of Justice.
4. If the parties have not, in accordance with paragraph 3 above, accepted the same or any procedure, the dispute shall be sub-

Article 11—*continued*

mitted to conciliation in accordance with paragraph 5 below unless the parties otherwise agree.

5. A conciliation commission shall be created upon the request of one of the parties to the dispute. The commission shall be composed of an equal number of members appointed by each party concerned and a chairman chosen jointly by the members appointed by each party. The commission shall render a final and recommendatory award, which the parties shall consider in good faith.
6. The provisions of this article shall apply with respect to any protocol except as otherwise provided in the protocol concerned.

Article 12
Signature

This Convention shall be open for signature by States and by regional economic integration organizations at the Federal Ministry for Foreign Affairs of the Republic of Austria in Vienna from 22 March 1985 to 21 September 1985, and at United Nations Headquarters in New York from 22 September 1985 to 21 March 1986.

Article 13

Ratification, acceptance or approval

1. This Convention and any protocol shall be subject to ratification, acceptance or approval by States and by regional economic integration organizations. Instruments of ratification, acceptance or approval shall be deposited with the Depositary.
2. Any organization referred to in paragraph 1 above which becomes a Party to this Convention or any protocol without any of its member States being a Party shall be bound by all the obligations under the Convention or the protocol, as the case may be. In the case of such organizations, one or more of whose member States is a Party to the Convention or relevant protocol, the organization and its member States shall decide on their respective responsibilities for the performance of their

Article 13—*continued*

obligation under the Convention or protocol, as the case may be. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention or relevant protocol concurrently.

3. In their instruments of ratification, acceptance or approval, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention or the relevant protocol. These organizations shall also inform the Depositary of any substantial modification in the extent of their competence.

Article 14

Accession

1. This Convention and any protocol shall be open for accession by States and by regional economic integration organizations from the date on which the Convention or the protocol concerned is closed for signature. The instruments of accession shall be deposited with the Depositary.
2. In their instruments of accession, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention or the relevant protocol. These organizations shall also inform the Depositary of any substantial modification in the extent of their competence.
3. The provisions of article 13, paragraph 2, shall apply to regional economic integration organizations which accede to this Convention or any protocol.

Article 15

Right to vote

1. Each Party to this Convention or to any protocol shall have one vote.
2. Except as provided for in paragraph 1 above, regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are

Article 15—*continued*

Parties to the Convention or the relevant protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

Article 16

Relationship between the Convention and
its protocols

1. A State or a regional economic integration organization may not become party to a protocol unless it is, or becomes at the same time, a Party to the Convention.
2. Decisions concerning any protocol shall be taken only by the parties to the protocol concerned.

Article 17

Entry into force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the twentieth instrument of ratification, acceptance, approval or accession.
2. Any protocol, except as otherwise provided in such protocol, shall enter into force on the ninetieth day after the date of deposit of the eleventh instrument of ratification, acceptance or approval of such protocol or accession thereto.
3. For each Party which ratifies, accepts or approves this Convention or accedes thereto after the deposit of the twentieth instrument of ratification, acceptance, approval or accession, it shall enter into force on the ninetieth day after the date of deposit by such Party of its instrument of ratification, acceptance, approval or accession.
4. Any protocol, except as otherwise provided in such protocol, shall enter into force for a party that ratifies, accepts or approves that protocol or accedes thereto after its entry into force pursuant to paragraph 2 above, on the ninetieth day after the date on which that party deposits its instrument of ratification, acceptance, approval or accession, or on the date on which the Convention enters into force for that Party, whichever shall be the later.

Article 17—*continued*

5. For the purposes of paragraphs 1 and 2 above, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

Article 18
Reservations

No reservations may be made to this Convention.

Article 19
Withdrawal

1. At any time after four years from the date on which this Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the Depositary.
2. Except as may be provided in any protocol, at any time after four years from the date on which such protocol has entered into force for a party, that party may withdraw from the protocol by giving written notification to the Depositary.
3. Any such withdrawal shall take effect upon expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.
4. Any Party which withdraws from this Convention shall be considered as also having withdrawn from any protocol to which it is party.

Article 20
Depositary

1. The Secretary-General of the United Nations shall assume the functions of depositary of this Convention and any protocols.
2. The Depositary shall inform the Parties, in particular, of:
 - (a) The signature of this Convention and of any protocol, and the deposit of instruments of ratification, acceptance, approval or accession in accordance with articles 13 and 14;

Article 20—*continued*

- (b) The date on which the Convention and any protocol will come into force in accordance with article 17;
- (c) Notifications of withdrawal made in accordance with article 19;
- (d) Amendments adopted with respect to the Convention and any protocol, their acceptance by the parties and their date of entry into force in accordance with article 9;
- (e) All communications relating to the adoption and approval of annexes and to the amendment of annexes in accordance with article 10;
- (f) Notifications by regional economic integration organizations of the extent of their competence with respect to matters governed by this Convention and any protocols, and of any modifications thereof;
- (g) Declarations made in accordance with article 11, paragraph 3.

Article 21
Authentic texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

Done at Vienna

on the 22nd day of March 1985.

Annex I

Research and Systematic Observations

1. The Parties to the Convention recognize that the major scientific issues are:
 - (a) Modification of the ozone layer which would result in a change in the amount of solar ultra-violet radiation having biological effects (UV-B) that reaches the Earth's surface and the potential consequences for human health, for organisms, ecosystems and materials useful to mankind;
 - (b) Modification of the vertical distribution of ozone, which could change the temperature structure of the atmosphere and the potential consequences for weather and climate.
2. The Parties to the Convention, in accordance with article 3, shall co-operate in conducting research and systematic observations and in formulating recommendations for future research and observation in such areas as:
 - (a) *Research into the physics and chemistry of the atmosphere*
 - (i) Comprehensive theoretical models: further development of models which consider the interaction between radiative, dynamic and chemical processes; studies of the simultaneous effects of various man-made and naturally occurring species upon atmospheric ozone; interpretation of satellite and non-satellite measurement data sets; evaluation of trends in atmospheric and geophysical parameters, and the development of methods for attributing changes in these parameters to specific causes;
 - (ii) Laboratory studies of: rate coefficients, absorption cross-sections and mechanisms of tropospheric and stratospheric chemical and photochemical processes; spectroscopic data to support field measurements in all relevant spectral regions;
 - (iii) Field measurements: the concentration and fluxes of key source gases of both natural and

- anthropogenic origin; atmospheric dynamics studies; simultaneous measurements of photochemically-related species down to the planetary boundary layer, using *in situ* and remote sensing instruments; intercomparison of different sensors, including co-ordinated correlative measurements for satellite instrumentation; three-dimensional fields of key atmospheric trace constituents, solar spectral flux and meteorological parameters;
- (iv) Instrument development, including satellite and non-satellite sensors for atmospheric trace constituents, solar flux and meteorological parameters;
- (b) *Research into health, biological and photodegradation effects*
- (i) The relationship between human exposure to visible and ultra-violet solar radiation and (a) the development of both non-melanoma and melanoma skin cancer and (b) the effects on the immunological system;
- (ii) Effects of UV-B radiation, including the wavelength dependence, upon (a) agricultural crops, forests and other terrestrial ecosystems and (b) the aquatic food web and fisheries, as well as possible inhibition of oxygen production by marine phytoplankton;
- (iii) The mechanisms by which UV-B radiation acts on biological materials, species and ecosystems, including: the relationship between dose, dose rate, and response; photorepair, adaptation, and protection;
- (iv) Studies of biological action spectra and the spectral response using polychromatic radiation in order to include possible interactions of the various wavelength regions;
- (v) The influence of UV-B radiation on: the sensitivities and activities of biological species important

- to the biospheric balance; primary processes such as photosynthesis and biosynthesis;
- (vi) The influence of UV-B radiation on the photodegradation of pollutants, agricultural chemicals and other materials;
- (c) *Research on effects on climate*
- (i) Theoretical and observational studies of the radiative effects of ozone and other trace species and the impact on climate parameters, such as land and ocean surface temperatures, precipitation patterns, the exchange between the troposphere and stratosphere;
 - (ii) The investigation of the effects of such climate impacts on various aspects of human activity;
- (d) *Systematic observations on*
- (i) The status of the ozone layer (i.e. the spatial and temporal variability of the total column content and vertical distribution) by making the Global Ozone Observing System, based on the integration of satellite and ground-based systems, fully operational;
 - (ii) The tropospheric and stratospheric concentrations of source gases for the HO_x, NO_x, C10_x and carbon families;
 - (iii) The temperature from the ground to the mesosphere, utilizing both ground-based and satellite systems;
 - (iv) Wavelength-resolved solar flux reaching, and thermal radiation leaving, the Earth's atmosphere, utilizing satellite measurements;
 - (v) Wavelength-resolved solar flux reaching the Earth's surface in the ultra-violet range having biological effects (UV-B);
 - (vi) Aerosol properties and distribution from the ground to the mesosphere, utilizing ground-based, airborne and satellite systems;
 - (vii) Climatically important variables by the maintenance of programmes of high-quality meteorological surface measurements;

- (viii) Trace species, temperatures, solar flux and aerosols utilizing improved methods for analyzing global data.
3. The Parties to the Convention shall co-operate, taking into account the particular needs of the developing countries, in promoting the appropriate scientific and technical training required to participate in the research and systematic observations outlined in this annex. Particular emphasis should be given to the intercalibration of observational instrumentation and methods with a view to generating comparable or standardized scientific data sets.
4. The following chemical substances of natural and anthropogenic origin, not listed in order of priority, are thought to have the potential to modify the chemical and physical properties of the ozone layer.
- (a) Carbon substances
- (i) *Carbon monoxide (CO)*
Carbon monoxide has significant natural and anthropogenic sources, and is thought to play a major direct role in tropospheric photochemistry, and an indirect role in stratospheric photochemistry.
- (ii) *Carbon dioxide (CO₂)*
Carbon dioxide has significant natural and anthropogenic sources, and affects stratospheric ozone by influencing the thermal structure of the atmosphere.
- (iii) *Methane (CH₄)*
Methane has both natural and anthropogenic sources, and affects both tropospheric and stratospheric ozone.
- (iv) *Non-methane hydrocarbon species*
Non-methane hydrocarbon species, which consist of a large number of chemical substances, have both natural and anthropogenic sources, and play a direct role in tropospheric photochemistry and an indirect role in stratospheric photochemistry.

- (b) Nitrogen substances
- (i) *Nitrous oxide (N₂O)*
The dominant sources of N₂O are natural, but anthropogenic contributions are becoming increasingly important. Nitrous oxide is the primary source of stratospheric NO_x, which play a vital role in controlling the abundance of stratospheric ozone.
- (ii) *Nitrogen oxides (NO_x)*
Ground-level sources of NO_x play a major direct role only in tropospheric photochemical processes and an indirect role in stratosphere photochemistry, whereas injection of NO_x close to the tropopause may lead directly to a change in upper tropospheric and stratospheric ozone.
- (c) Chlorine substances
- (i) *Fully halogenated alkanes, e.g. CCl₄, CFC1₃, (CFC-11), CF₂Cl₂ (CFC-12), C₂F₃Cl₃ (CFC-113), C₂F₄Cl₂ (CFC-114)*
Fully halogenated alkanes are anthropogenic and act as a source of ClO_x, which plays a vital role in ozone photochemistry, especially in the 30-50 km altitude region.
- (ii) *Partially halogenated alkanes, e.g. CH₃Cl, CHF₂Cl (CFC-22), CH₃CCl₃, CHFCl₂ (CFC-21)*
The sources of CH₃Cl are natural, whereas the other partially halogenated alkanes mentioned above are anthropogenic in origin. These gases also act as a source of stratospheric ClO_x.
- (d) Bromine substances
Fully halogenated alkanes, e.g. CF₃Br
These gases are anthropogenic and act as a source of BrO_x, which behaves in a manner similar to ClO_x.
- (e) Hydrogen substances
- (i) *Hydrogen (H₂)*

Hydrogen, the source of which is natural and anthropogenic, plays a minor role in stratospheric photochemistry.

(ii) *Water (H₂O)*

Water, the source of which is natural, plays a vital role in both tropospheric and stratospheric photochemistry. Local sources of water vapour in the stratosphere include the oxidation of methane and, to a lesser extent, of hydrogen.

Annex II

Information exchange

1. The Parties to the Convention recognize that the collection and sharing of information is an important means of implementing the objectives of this Convention and of assuring that any actions that may be taken are appropriate and equitable. Therefore, Parties shall exchange scientific, technical, socio-economic, business, commercial and legal information.
2. The Parties to the Convention, in deciding what information is to be collected and exchanged, should take into account the usefulness of the information and the costs of obtaining it. The Parties further recognize that co-operation under this annex has to be consistent with national laws, regulations and practices regarding patents, trade secrets, and protection of confidential and proprietary information.
3. *Scientific information*
This includes information on:
 - (a) Planned and ongoing research, both governmental and private, to facilitate the co-ordination of research programmes so as to make the most effective use of available national and international resources;
 - (b) The emission data needed for research;
 - (c) Scientific results published in peer-reviewed literature on the understanding of the physics and chemistry of the Earth's atmosphere and of its susceptibility to change, in particular on the state of the ozone layer and effects on human health, environment and climate which would result from changes on all time-scales in either the total column content or the vertical distribution of ozone;
 - (d) The assessment of research results and the recommendations for future research.
4. *Technical information*
This includes information on:
 - (a) The availability and cost of chemical substitutes and of alternative technologies to reduce the emissions of ozone-modifying substances and related planned and ongoing research;

- (b) The limitations and any risks involved in using chemical or other substitutes and alternative technologies.
5. *Socio-economic and commercial information on the substances referred to in annex I*
- This includes information on:
- (a) Production and production capacity;
 - (b) Use and use patterns;
 - (c) Imports/exports;
 - (d) The costs, risks and benefits of human activities which may indirectly modify the ozone layer and of the impacts of regulatory actions taken or being considered to control these activities.
6. *Legal information*
- This includes information on:
- (a) National laws, administrative measures and legal research relevant to the protection of the ozone layer;
 - (b) International agreements, including bilateral agreements, relevant to the protection of the ozone layer;
 - (c) Methods and terms of licensing and availability of patents relevant to the protection of the ozone layer.
-

Schedule 2

s 31(1)

Enactments repealed

Ozone Layer Protection Act 1990 (1990 No 50)

Ozone Layer Protection Amendment Act 1993 (1993 No 3)

Ozone Layer Protection Amendment Act 1994 (1994 No 1)

Schedule 3

s 31(2)

Regulation and orders revoked

Import Control (Hydrochlorofluorocarbons) Conditional Prohibition Order 1995 (SR 1995/283)

Import Control (Methyl Bromide) Conditional Prohibition Order 1994 (SR 1994/267)

Ozone Layer Protection (Import Prohibition) Order 1993 (SR 1993/117)

Ozone Layer Protection Order 1991 (SR 1991/109)

Ozone Layer Protection Order 1992 (SR 1992/59)

Ozone Layer Protection Order 1993 (SR 1993/116)

Ozone Layer Protection (Prescribed Form) Regulations 1990 (SR 1990/306)

Ozone Layer Protection Amendment Act 2011

Public Act 2011 No 18
Date of assent 17 May 2011
Commencement see section 2

1 Title

This Act is the Ozone Layer Protection Amendment Act 2011.

2 Commencement

- (1) This Act comes into force on a date appointed by the Governor-General by Order in Council; and 1 or more orders may be made bringing different provisions into force on different dates.
- (2) Any provision that has not earlier been brought into force comes into force on 1 December 2012.

Section 2(1): this Act brought into force, on 1 July 2011, by the Ozone Layer Protection Amendment Act 2011 Commencement Order 2011 (SR 2011/196).

19 Transitional provision

Despite this Act and section 54 of the Environmental Protection Authority Act 2011, an application for a permit or exemption made before the commencement of this section must be determined by the Minister responsible for the administration of the Ozone Layer Protection Act 1996 as if this Act and the Environmental Protection Authority Act 2011 had not been passed.

Search and Surveillance Act 2012

Public Act 2012 No 24
Date of assent 5 April 2012
Commencement see section 2

1 Title

This Act is the Search and Surveillance Act 2012.

2 Commencement

- (1) Part 1 and subpart 1 of Part 3 (other than section 49(3) and (4)), and sections 136, 140, 141, 148, 162, 165, 166, 167, 168, 169, 170, 171, 172, 175, 179, 180, 181, 247, 248, 251(3), 325 (other than section 325(4) and (6)), 334(1) and (7), 337(4), 342, 343, 346, 347, 349, 350, 352, 353, 354, 355, and 356 come into force on 18 April 2012.
- (2) The rest of this Act comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more Orders in Council may be made bringing different provisions into force on different dates.
- (3) To the extent that it is not previously brought into force under subsection (2), the rest of this Act comes into force on 1 April 2014.
- (4) In this section, **provision** includes any item, or any part of an item, in the Schedule.

Section 2(2): Part 2, section 49(3), (4), subparts 2–4 of Part 3, Part 4 (except sections 136, 140, 141, 148, 162, 165–172, 175, 179–181), Part 5 (except sections 201(3)–(9), 247, 248, 251(3), 302, 325(1)–(3), (5), (7)–(13), 334(1), (7), 337(4), 342, 343, 346, 347, 349, 350, 352–356) and the Schedule (except the items relating to the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 and the Tax Administration Act 1994) brought into force, on 1 October 2012, by clause 3 of the Search and Surveillance Act Commencement Order 2012 (SR 2012/229).

Part 1 General provisions

5 Purpose

The purpose of this Act is to facilitate the monitoring of compliance with the law and the investigation and prosecution

of offences in a manner that is consistent with human rights values by—

- (a) modernising the law of search, seizure, and surveillance to take into account advances in technologies and to regulate the use of those technologies; and
- (b) providing rules that recognise the importance of the rights and entitlements affirmed in other enactments, including the New Zealand Bill of Rights Act 1990, the Privacy Act 1993, and the Evidence Act 2006; and
- (c) ensuring investigative tools are effective and adequate for law enforcement needs.

Part 5

Amendments, repeals, and miscellaneous provisions

Subpart 4—Regulation-making powers, transitional provisions, and review provision

Transitional provisions

351 Transitional provision relating to provisions brought into force under section 2

- (1) Despite any amendment in Part 5 of this Act,—
 - (a) where an application has been made under an authorising Act before the relevant commencement, and the application is not finally determined before that date, the provisions of that Act continue to apply to the application and to any matter or obligation relating to the application in all respects as if this Act (other than this section and any provisions in force immediately before the relevant commencement) had not been enacted; and
 - (b) those provisions continue to apply to a continuing warrant and to any matter relating to the warrant in all respects as if this Act (other than this section and any provisions in force immediately before the relevant commencement) had not been enacted; and
 - (c) those provisions continue to apply to any other proceeding, matter, or thing commenced and not completed before the relevant commencement as if this Act (other than this section and any provisions in force immedi-

ately before the relevant commencement) had not been enacted.

(2) Subsection (1)(c) does not limit the provisions of the Interpretation Act 1999.

(3) In this section,—

authorising Act means an Act amended by Part 5

continuing warrant means a warrant or other authority issued under an authorising Act—

(a) before the relevant commencement; or

(b) on or after that date on an application made before that date

relevant commencement, in relation to an authorising Act, means the commencement of a provision in Part 5 that amends an authorising Act.

Contents

- 1 General
 - 2 Status of reprints
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 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
 - 5 List of amendments incorporated in this reprint (most recent first)
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Notes

1 *General*

This is a reprint of the Ozone Layer Protection Act 1996. The reprint incorporates all the amendments to the Act as at 1 October 2012, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 *Changes made under section 17C of the Acts and Regulations Publication Act 1989*

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*

Search and Surveillance Act 2012 (2012 No 24): sections 288–290

Ozone Layer Protection Amendment Act 2011 (2011 No 18)

Policing Act 2008 (2008 No 72): section 116(a)(ii)

Ministry of Economic Development Act 2000 (2000 No 28): section 8(1)

District Courts Amendment Act 1998 (1998 No 76): section 7

Ozone Layer Protection Act Commencement Order 1996 (SR 1996/221)