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## Ozone Protection (Licence Fees – Manufacture) Amendment Bill 2003



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Amendment Bill 2003

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# Ozone Protection (Licence Fees - Manufacture) Amendment Bill 2003

**Date Introduced:** 5 June 2003

**House:** House of Representatives

**Portfolio:** Environment and Heritage

**Commencement:** On Royal Assent

## Purpose

To extend the current payments applying to the manufacture of prescribed ozone-depleting substances to certain synthetic greenhouse gases. The Bill also allows for an increase in these payments.

## Background

The Ozone Protection (Licence Fees - Manufacture) Amendment Bill 2003 (the Bill) is one of a package of three Bills dealing with ozone protection. The policy background to this package is contained in the Digest for the Ozone Protection and Synthetic Greenhouse Gas Legislation Amendment Bill 2003.

Existing Section 4 of the *Ozone Protection (Licence Fees— Manufacture) Act 1995* provides that the holder of a controlled substances<sup>1</sup> licence must pay a ‘fee’ to the Commonwealth for any HCFC or methyl bromide manufactured by them during a quarter. The fee is calculated by clause 4 of the Ozone Protection (Licence Fees— Manufacture) Regulations.

## Main Provisions

**Items 1-3** all make minor consequential changes as a result of regulation of synthetic greenhouse gas being introduced under the Ozone Protection and Synthetic Greenhouse Gas Legislation Amendment Bill 2003.

**Item 4** substitutes a **new section 4** that provides that the holder of a controlled substances licence is liable to pay a ‘levy’ to the Commonwealth for the manufacture of any

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substance allowed by that licence. As for existing section 4, the amount is payable on how much is manufactured during a quarter and is to be calculated under regulations.<sup>2</sup> Where the manufacture of a SGG is permitted by regulations made under section 13(1A) of the Ozone Protection and Synthetic Greenhouse Gas Legislation Amendment Bill 2003, no levy is payable: **new subsection 4(2)**. **New subsection 4(4)** sets an upper limit on the levy. The upper limits are 50% above the current fees.<sup>3</sup> According the *Explanatory Memorandum* to the Bill:<sup>4</sup>

The original aim of the [*Ozone Protection Act 1989*] was that meeting Environment Australia's administrative and industry support activities be financed through fees paid by industry. However, commencing in 2010, Environment Australia's costs are expected to exceed the combined revenue available from accumulated financial reserves and future revenue from payments under existing fee structures. In order to meet obligations extending through to 2020 when ODS will no longer be needed for most applications, Environment Australia is seeking increases of 50 percent in selected licence application fees, increases of 50 percent in activity fees and the introduction of fees for certain administrative functions now performed free of charge.

Licence application fees have not risen since 1995. In the ensuing period, normal parameter adjustments in the average cost to Environment Australia of employing staff to process licence applications have been experienced. Second, in the next 10-15 years the revenue which Environment Australia obtains from activity fees will decline sharply as legislative limits covering industry access to imports of two prominent ODS - hydrochlorofluorocarbons (HCFCs) and methyl bromide used for horticultural purposes - progressively restrict imports. A decline in revenue from activity fees will occur at the same time [Environment Australia] faces the greatest demand on its resources to assist industry in adjusting to ozone benign alternatives.

Note that **new section 4** uses the term 'levy' as opposed to the existing 'fee'. A levy is a form of taxation. The change of wording from fee to levy is consistent with Office of Parliamentary Drafting Directions that state that taxation should 'be imposed by express words'.<sup>5</sup>

## Endnotes

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- 1 These are hydrochlorofluorocarbons (HCFCs) and methyl bromide.
- 2 Note that this quarterly 'activity' levy is *additional* to the costs of holding a controlled substances licence. A controlled substances licence, which is valid for two years, costs \$10 000. See *Explanatory Memorandum*, p. 5.
- 3 There is no current fee for SGGs as these are not covered by current legislation.
- 4 P. 4.
- 5 Drafting Direction 4/1993. See also Drafting Direction 6/1982.

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