

Ozone Layer Protection Amendment Bill

Government Bill

As reported from the committee of the whole
House

This bill was formerly part of the Environmental Protection Authority Bill as reported from the Local Government and Environment Committee. The committee of the whole House has further amended the bill and divided it into the following bills:

- the Environmental Protection Authority Bill comprising clauses 1 and 2, Parts 1 to 3 and 7, and Schedules 3 to 7
- the Climate Change Response Amendment Bill comprising Part 4 and Schedule 1
- the Hazardous Substances and New Organisms Amendment Bill (No 2) comprising Part 5 and Schedule 2
- the Imports and Exports (Restrictions) Amendment Bill comprising Part 5A
- this bill comprising Part 5B
- the Resource Management Amendment Bill comprising Part 6.

Ozone Layer Protection Amendment Bill

Key to symbols used in reprinted bill

**As reported from the committee of the whole
House**

text inserted

~~text deleted~~

Hon Dr Nick Smith

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The Parliament of New Zealand enacts as follows:

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. 5
- (2) Any provision that has not earlier been brought into force comes into force on 1 December 2012.

3 Principal Act amended

This Act amends the Ozone Layer Protection Act 1996. 10

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74K Interpretation

- (1) Section 2(1) is amended by inserting the following definitions in their appropriate alphabetical order:

“**approved form** means a form approved under **section 12A** 15

“**Environmental Protection Authority** means the Environmental Protection Authority established by **section 6 of the Environmental Protection Authority Act 2010**

“**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 5

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

- (2) The definition of **code of practice** in section 2(1) is amended by omitting “for the Environment”. 10
- (3) Paragraph (a) of the definition of **officer** in section 2(1) is amended by omitting “Ministry of Economic Development” and substituting “Environmental Protection Authority”. 10

74L Exemptions

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Section 8(1) is amended by omitting “The Minister of Commerce may, at his or her discretion,” and substituting “The Environmental Protection Authority may”.

74M New section 8A inserted

The following section is inserted after section 8:

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“8A Application for exemption

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

74N Consideration of application for exemption

Section 9 is amended by omitting “The Minister of Commerce shall,” and substituting “The Environmental Protection Authority must,”. 25

74O New heading and sections 9A to 9D inserted

The following heading and sections are inserted after section 9:

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*“Permits***“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. 5
- “(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. 10

“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. 15
- “(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 20
- “(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. 25

“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: 30
- “(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: 35

“(d) whether there is a viable alternative to the use of the substance that would be less harmful to the environment.

“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: 5

“(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: 10

“(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: 15

“(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: 20

“(h) liability for the substance if it cannot be used for the purpose for which it was imported.”

74P Codes of practice

Section 10(1) is amended by omitting “for the Environment”. 25

74Q Industry may be required to prepare draft accreditation schemes

Section 12(1) is amended by omitting “for the Environment”.

74R New headings and sections 12A to 12D inserted

The following headings and sections are inserted after section 12: 30

“Forms

“12A EPA may approve forms

The EPA may approve forms for the purposes of this Act.

*“Register***“12B Register**

- “(1) The Environmental Protection Authority, on behalf of the Crown, must keep a register called the Ozone Layer Protection Register. 5
- “(2) The register may be kept in the form of information stored electronically.
- “(3) The Crown owns all information contained in the register.

“12C Information to be included in register

- “(1) The register must record— 10
- “~~(a)~~ the details of permits granted under regulations; and
- “~~(b)~~ the details of exemptions granted under section 8; and
- “~~(c)~~ ~~the terms and conditions on which the permit was granted; and~~
- “(d) any other information required to comply with New Zealand’s international obligations and that is prescribed by regulations. 15
- “~~(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 20
- “~~(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
- “~~(ca)~~ the terms and conditions on which the permit was granted; and 25
- “~~(d)~~ 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 30
- “~~(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 35
- “~~(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. 5
- “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.”
- 74S Regulations** 10
Section 16(1) is amended by—
(a) omitting “for the Environment”; and
(b) inserting the following paragraph after paragraph (d):
“(da) prescribing the particulars of permits and exemptions to be shown in the Ozone Layer Protection Register.”. 15
- 74T Consultation requirements before regulations made**
Section 17(1) and (5) are amended by omitting “for the Environment”.
- 74U Additional requirement before regulations made** 20
Section 18 is amended by omitting “for the Environment shall” and substituting “must”.
- 74V Retention of property seized**
Section 25(2) is amended by omitting “Ministry of Economic Development,” and substituting “Environmental Protection Authority”. 25
- 74W Return or forfeiture of property seized**
Section 26(3) is amended by omitting “for the Environment”.
- 74X Review of reduction timetables**
Section 27 is amended by omitting “The Minister of Commerce and the Minister for the Environment shall” and substituting “The Minister must”. 30

74Y Annual report

- (1) Section 30(1) is amended by omitting “The Minister of Commerce and the Minister for the Environment shall,” and substituting “The Minister must,”.
- (2) Section 30(2) is amended by omitting “The Minister of Commerce shall” and substituting “The Minister must”.

74Z Transitional provision

Despite **this Part** and **section 87 of the Environmental Protection Authority Act 2010**, 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 Part** and the **Environmental Protection Authority Act 2010** had not been passed.

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Legislative history

10 May 2011

Divided from Environmental Protection Authority Bill (Bill 246–2) by committee of the whole House as Bill 246–3D
