

SOUTH AUSTRALIA

CLEAN AIR (OZONE PROTECTION) REGULATIONS 1990

REGULATIONS UNDER THE CLEAN AIR ACT, 1984

Clean Air (Ozone Protection) Regulations, 1990

being

No. 9 of 1990: *Gaz.* 1 February 1990, p. 261¹

as varied by

No. 47 of 1992: *Gaz.* 7 May 1992, p. 1331

No. 260 of 1993: *Gaz.* 11 November 1993, p. 2455²

¹ Came into operation (except regs. 4 - 9) 1 February 1990: reg. 2(1); regs. 4 - 9 came into operation 1 June 1990: reg. 2(2).

² Came into operation 11 November 1993: reg. 2.

Citation

1. These regulations may be cited as the *Clean Air (Ozone Protection) Regulations, 1990*.

Commencement

2. (1) These regulations (except for regulations 4 to 9) will come into operation on 1 February, 1990.

(2) Regulations 4 to 9 will come into operation on 1 June, 1990.

Interpretation

3. In these regulations—

"accredited person" means a person accredited by the Minister as a person qualified to commission, service or repair plant or equipment containing a prescribed substance, or to decommission plant or equipment:

"the Act" means the *Clean Air Act, 1984*:

"BCF fire extinguisher" means a fire extinguisher containing Halon 1211:

"commencement date" means 1 June, 1990, the day on which section 30b of the Act comes into operation:

"commercial refrigerator" means any refrigerator that is not a domestic refrigerator:

"commission" means to put a prescribed substance into plant or equipment, and "decommission" has the reverse meaning:

"domestic refrigerator" means a free-standing refrigerator designed for use in domestic premises:

"exempt person" means a person who is the subject of an exemption to manufacture or import products, being an exemption granted under section 30c of the Act or Part V of the *Ozone Protection Act 1984* of the Commonwealth:

"halon flooding fire control system" means a fixed fire extinguishing system containing Halon 1301:

"imported" means imported into South Australia:

"manufactured" means manufactured within South Australia:

"refrigerator" includes a freezer:

"sell" includes offer for sale, and "sold" has a corresponding meaning:

"to use", in relation to a product containing a prescribed substance, does not include to commission, decommission, service or repair the product.

Note: For definition of divisional penalties see Appendix 2.

3.

Continued use, etc., of certain products containing a prescribed substance

4. (1) Subject to this regulation, a person may use, store, sell or dispose of a product containing a prescribed substance if the product—

(a) was manufactured or imported before the commencement date;

or

(b) was manufactured or imported after the commencement date by an exempt person.

(2) Subregulation (1) does not apply in relation to—

(a) a BCF fire extinguisher;

(b) a refrigerator, air conditioner or halon flooding fire control system that contains three kilograms or more of a prescribed substance;

(c) the disposal of a refrigerator (other than a domestic refrigerator), air conditioner or halon flooding fire control system containing less than three kilograms of a prescribed substance;

or

(d) the disposal of a motor vehicle air conditioner.

BCF fire extinguishers

5. (1) A person may use or store a BCF fire extinguisher if—

(a) it—

(i) was manufactured or imported before the commencement date;

or

(ii) was manufactured or imported after that date by an exempt person;

and

(b) it is used only for the purposes of extinguishing a fire (not being a fire deliberately lit for the purposes of firefighting training).

(2) The exemption in subregulation (1) ceases to apply in relation to a BCF fire extinguisher on the day on which it is next liable to be subjected to a hydrostatic test or 31 December, 1995, whichever is the earlier.

(3) A person who stores a BCF fire extinguisher pursuant to the exemption in subregulation (1) must, prior to the expiry of the exemption pursuant to subregulation (2), deliver the extinguisher to an office or station of the South Australian Metropolitan Fire Service or the Country Fire Service for disposal.

Penalty: Division 9 fine.

(4) The South Australian Metropolitan Fire Service, or an employee of that body, may decommission a BCF fire extinguisher.

Exemptions under s. 64(2)(i) of the Act

5a. (1) A person—

(a) who owns or has possession of a refrigerator, air conditioner or halon flooding fire control system that contains three kilograms or more of a prescribed substance;

and

(b) who has been granted an exemption by the Minister from the operation of section 30b of the Act in respect of the use of that refrigerator, air conditioner or fire control system,

is, subject to the conditions prescribed by subregulation (2), further so exempted from that section—

(c) in the case of a person who was exempted by the Minister prior to the commencement of this regulation—as from the day of that commencement;

(d) in the case of a person exempted by the Minister on or after that commencement—as from the day on which the exemption granted by the Minister expires.

(2) The conditions to which an exemption under subregulation (1) is subject are as follows:

(a) the person must cause the unit to which the exemption relates to be serviced at intervals of not more than six months;

(b) the person must not engage any person other than an accredited person to commission, decommission, service or repair the unit;

(c) the person must keep a log book in respect of the unit, containing the dates on which the unit was commissioned, decommissioned, serviced or repaired, details of the work performed and the accreditation number of the accredited person who performed the work;

(d) the person must make the log book referred to in paragraph (c) available for inspection by an authorized officer;

(e) the person must not remove or deface the label that has been fixed to the unit by the manufacturer in accordance with these regulations.

(3) The exemption under subregulation (1) of a person who owns or has possession of a halon flooding fire control system is subject to the following further conditions:

(a) the person must not cause, suffer or permit any test to be carried out on the unit that would release halon into the atmosphere;

(b) the person must not cause, suffer or permit the unit to be discharged except for the purposes of extinguishing a fire;

5.

- (c) if any halon is released from the unit other than for the purposes of extinguishing a fire, the person must give written notice of the release to the Minister and of the reason for the release;
- (d) if the unit is decommissioned, the person—
 - (i) must cause the halon to be stored pending its disposal;
 - (ii) must give written notice of the decommissioning to the Minister;and
 - (iii) must not dispose of the halon except in accordance with the approval of the Minister.

(4) A notice required to be given to the Minister under this regulation must be addressed to the Minister at the principal office of the Department of Environment and Planning.

(5) This regulation expires on 30 June 1996.

Employees of exempt persons are also exempt

6. An employee (including an apprentice) of an exempt person or of any other person exempted from the operation of section 30b of the Act is, to the extent that he or she is engaged in an activity undertaken pursuant to and in compliance with the employer's exemption, exempt from the operation of that section.

Students at exempt educational institutions are also exempt

7. A student attending an educational institution that is exempt from the operation of section 30b of the Act is, to the extent that he or she participates in an activity undertaken pursuant to and in compliance with the institutions's exemption, exempt from the operation of that section.

Owner of certain products must engage accredited person for service, repair, etc.

8. A person who owns or has possession of a refrigerator, air conditioner or halon flooding fire control system that contains less than three kilograms of a prescribed substance must not engage any person other than an accredited person to commission, decommission, service or repair the unit.

Penalty: Division 9 fine.

Labelling

9. The manufacturer of a product that contains a prescribed substance and that can only be commissioned, decommissioned, serviced or repaired by an accredited person must affix to the product, in a position visible to a person about to carry out any such work on the product, a label—

- (a) that conforms with the third schedule;
- (b) that is of such dimensions as renders the wording of the label easily legible;
- (c) that is printed in black on a yellow background;

6.

and

(d) that will endure for the life of the product.

Penalty: Division 9 fine.

Fees

10. (1) The fee for the accreditation of a person by the Minister for a period of two years is as set out in Part A of the first schedule.

(2) The fees payable in respect of an application for exemption under section 30c of the Act are as set out in Part B of the first schedule.

(3) Where the fee payable by an applicant for exemption exceeds \$50 the applicant is exempt from the requirement to pay the fee at the time of lodgment of the application, provided that the fee is paid in four equal quarterly instalments in advance of each quarter.

Form of exemption

11. An exemption under section 30c of the Act will be in the form set out in the second schedule.

FIRST SCHEDULE

A. ACCREDITATION FEE

Fee for accreditation by the Minister for a period of two years \$50

B. EXEMPTION FEES

Fee for exemption by the Minister—

- (a) in the case of a person who imports any of the following prescribed substances for sale or use by that person:

CFC-11, CFC-12, CFC-13, CFC-111,
CFC-112, CFC-113, CFC-114,
CFC-115, CFC-211, CFC-212,
CFC-213, CFC-214, CFC-215,
CFC-216, CFC-217, Halon-1211,
Halon-1301, Halon-2402, Carbon
Tetrachloride

10 cents for each kilogram of those imported prescribed substances sold or used during the year ending 31 December preceding the date of the application.

- (b) in the case of any other applicant \$50.00.

8.

SECOND SCHEDULE

CLEAN AIR (OZONE PROTECTION) REGULATIONS, 1990

EXEMPTION

PURSUANT to section 30c of the *Clean Air Act, 1984*, I, SUSAN MARY LENEHAN, Minister for Environment and Planning, HEREBY EXEMPT
(name)

of
(address)

from the prohibition against
.....
.....
(exempted activity/ies)

for a period of
(exemption period)

subject to the following conditions:

CONDITIONS OF EXEMPTION

(Not valid unless signed below)

.....
MINISTER FOR ENVIRONMENT
AND PLANNING

9.

THIRD SCHEDULE

[Label appears in
Gaz. 1.2.90, p. 261]

APPENDIX 1

LEGISLATIVE HISTORY

Regulation 3:	definition of "BCF fire extinguisher" varied by 47, 1992, reg. 2(a)
	definition of "halon flooding fire control system" inserted by 47, 1992, reg. 2(b)
Regulation 5a:	inserted by 47, 1992, reg. 3
Regulation 10(2):	varied by 47, 1992, reg. 4
First schedule	
Part B:	substituted by 47, 1992, reg. 5; varied by 260, 1993, reg. 3

APPENDIX 2

Divisional Penalties

At the date of publication of this reprint divisional penalties are, as provided by section 28a of the *Acts Interpretation Act, 1915*, as follows:

Division	Maximum imprisonment	Maximum fine
1	15 years	\$60 000
2	10 years	\$40 000
3	7 years	\$30 000
4	4 years	\$15 000
5	2 years	\$8 000
6	1 year	\$4 000
7	6 months	\$2 000
8	3 months	\$1 000
9	-	\$500
10	-	\$200
11	-	\$100
12	-	\$50