



REPUBLIC OF NAURU

OZONE LAYER PROTECTION ACT 2017

No. 25 of 2017

An Act to give effect to the Vienna Convention for the Protection of the Ozone Layer, the Montreal Protocol on Substances that Deplete the Ozone Layer and for related purposes

Certified: 24th November 2017

Table of Contents

PART 1 – PRELIMINARY	1
1 SHORT TITLE.....	1
2 COMMENCEMENT.....	1
3 GENERAL OBJECTIVES OF THE ACT.....	1
4 DEFINITIONS.....	1
5 APPLICATION OF THE PRECAUTIONARY PRINCIPLE.....	3
PART 2 – ADMINISTRATION	3
6 FUNCTIONS OF THE DEPARTMENT.....	3
7 POWERS OF THE SECRETARY.....	4
8 DELEGATION OF POWERS OF THE SECRETARY.....	5
PART 3 – QUOTA AND LICENCES	5
9 LICENCE APPLICATION.....	5
10 CRITERIA FOR LICENCE APPLICATION.....	5
11 LICENCE CONDITIONS.....	7
12 DURATION OF LICENCE.....	7

13	RENEWAL OR DENIAL OF LICENCES.....	7
14	APPEALS.....	8
	PART 4 - REGISTER OF LICENCES.....	8
15	REGISTER OF LICENCES.....	8
	PART 5 – PROHIBITIONS.....	8
16	IMPORTING OR EXPORTING WITHOUT LICENCE.....	8
17	NO MANUFACTURE OF CONTROLLED SUBSTANCE, PRESCRIBED GOOD OR REFRIGERATION OR AIR CONDITIONING EQUIPMENT.....	9
18	SALE OR PURCHASE OF CONTROLLED SUBSTANCE IN BULK OR REFRIGERANT.....	9
19	HANDLING WITHOUT A LICENCE.....	9
20	PREMISES WITHOUT A LICENCE.....	10
	PART 6 - AUTHORISED OFFICERS.....	10
21	MINISTER MAY AUTHORISE OFFICERS.....	10
22	IDENTIFICATION OF AUTHORISED OFFICER.....	10
23	POWERS OF AUTHORISED OFFICERS.....	10
24	CUSTOMS VERIFICATION.....	11
25	POWER TO SEIZE AND DETAIN.....	12
26	NOTICE OF SEIZURE.....	12
27	RETURN OR FORFEITURE OF PROPERTY SEIZED.....	12
28	NOTICE OF RE-EXPORT OF ITEMS SEIZED BY AUTHORISED OFFICERS.....	13
	PART 7 – DISPOSAL AND HANDLING.....	13
29	DISPOSAL OF CONTROLLED SUBSTANCES, PRESCRIBED GOODS, REFRIGERATION OR AIR-CONDITIONING EQUIPMENT.....	13
30	HANDLING OF CONTROLLED SUBSTANCE, PRESCRIBED GOOD, REFRIGERATION OR AIR-CONDITIONING EQUIPMENT.....	14
	PART 8 – TESTING OF PRESCRIBED GOODS, REFRIGERATION OR AIR-CONDITIONING EQUIPMENT.....	14
31	TESTING OF PRESCRIBED GOODS, REFRIGERATION OR AIR-CONDITIONING EQUIPMENT.....	14
	PART 9 – RECORD KEEPING.....	15
32	RECORD KEEPING.....	15
	PART 10 – OFFENCES.....	16
33	LICENCE TERMS AND CONDITIONS.....	16
34	OBSTRUCTION OF AUTHORISED OFFICERS.....	16
35	FALSE OR MISLEADING INFORMATION.....	16
	PART 11 – MISCELLANEOUS.....	16
36	PROTECTION FROM LIABILITY.....	16
37	APPLICATION OF AMENDMENTS TO CONVENTION OR MONTREAL PROTOCOL.....	16
38	JURISDICTION OF THE COURT.....	16
39	REGULATIONS.....	17
	SCHEDULE 1.....	18
	SCHEDULE 2.....	23

Enacted by the Parliament of Nauru as follows:

PART 1 – PRELIMINARY

1 Short title

This Act may be cited as the *Ozone Layer Protection Act 2017*.

2 Commencement

This Act commences upon certification by the Speaker.

3 General objectives of the Act

The primary objectives of the Act are to:

- (a) prevent and minimise the release of ozone depleting substances into the environment;
- (b) control and reduce the importation, exportation, use, sale and storage of ozone depleting substances;
- (c) manage and control the phasing out of ozone depleting substances except for essential uses pursuant to the Republic's obligations under the Vienna Convention for the Protection of Ozone Layer and Montreal Protocol on Substances that Deplete the Ozone Layer; and
- (d) fulfil the obligations of the Republic under the Vienna Convention for the Protection of Ozone Layer and Montreal Protocol on Substances that Deplete the Ozone Layer.

4 Definitions

(1) In this Act:

'bulk' in relation to a controlled substance, means a controlled substance that is in a non-processed form, whether alone or in a mixture and includes a controlled substance that has been recovered, recycled, cleaned or reclaimed but does not include any controlled substances contained within a manufactured product;

'controlled substance' means a substance whether existing alone or in a mixture that is:

- (a) listed in Schedule 1; or
- (b) prescribed by Regulations made under this Act;

'Convention' means the Vienna Convention for the Protection of the Ozone Layer and includes all amendments to the Convention that are binding on the Republic from time to time;

'Customs officer' is as defined under the Customs Act 2014;

'Department' means the Department of Commerce, Industry and Environment;

'handle' and 'handling' means the recovery, recycling, refilling, recharging, capturing or transporting of a controlled substance and includes:

- (a) the installation, transportation, servicing or decommissioning of:
 - (i) any air conditioning equipment (including motor vehicle air conditioning equipment);
 - (ii) any aerosol product;
 - (iii) any fire protection system;
 - (iv) any portable fire extinguisher;
 - (v) any other equipment or apparatus that uses or contains a controlled substance;
- (b) the use of controlled substances for dry cleaning; and
- (c) the repossessing and reclaiming of controlled substances;

'Minister' means the Minister for Commerce, Industry and Environment;

'Montreal Protocol' means the Montreal Protocol on Substances that Deplete the Ozone Layer and includes all amendments to the Protocol that are binding on the Republic from time to time;

'ozone depleting substances' means any substance whether in pure form or contained in a mixture, with ozone depleting potential and includes a controlled substance;

'prescribed goods'

- (a) means any item which is designed to contain or use a controlled substance; and
- (b) are listed in Schedule 2;

'refrigeration equipment' includes:

- (a) refrigerators;

- (b) freezers;
- (c) dehumidifiers;
- (d) water coolers;
- (e) ice machines;
- (f) reefer container used for transporting perishable cargo; and
- (g) other equipment that is used directly and indirectly with refrigerants.

'refrigerant' means any liquid or gas used in refrigeration equipment and contains any substance listed in Schedule 1;

'Secretary' means the Secretary for Commerce, Industry and Environment; and

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

5 Application of the precautionary principle

- (1) A person who has responsibilities, functions and powers under this Act involving the importation, exportation, use, sale, handling, movement and storage of refrigerants within the Republic, shall apply the precautionary principle in the discharge of his or her responsibilities, functions and exercise of powers.
- (2) For the purposes of this Act, the precautionary principle is applied where:
 - (a) there is potential for damage to the environment; and
 - (b) endanger to health, -

lack of scientific certainty regarding the extent of any adverse effects is not used to prevent or avoid a decision being made.

PART 2 – ADMINISTRATION

6 Functions of the Department

For the purposes of this Act, the functions of the Department are to:

- (a) advise the Minister and Cabinet on policies for the reduction in emission of ozone depleting substances;

- (b) formulate and implement strategies and action plans for the Republic in relation to the phasing out of any controlled substances or refrigerants;
- (c) survey, access and analyse the consumption and use of any controlled substances or refrigerants;
- (d) analyse any future demands for any controlled substances or refrigerants;
- (e) impose a quota scheme on the importation of controlled substances in accordance with the obligations of the Republic under the Montreal Protocol and any other matter relating to the application of a quota scheme to such imports as prescribed by Regulations;
- (f) establish a monitoring process and data collection which relates to the use of controlled substances or refrigerants;
- (g) promote and implement public and industry awareness and training programmes in relation to the management of any controlled substances or refrigerants;
- (h) establish codes of practices, standards, guidelines or procedures for the management of the use of controlled substances or refrigerants;
- (i) administer the licence requirements or conditions under the provisions of the Act; and
- (j) implement and review the Republic's programme and action plan formulated under the Convention and the Montreal Protocol.

7 Powers of the Secretary

The Secretary has, in addition to the powers conferred on him or her by this Act or any other law, the power to:

- (a) grant licences in accordance with this Act and the regulations;
- (b) monitor and enforce compliance by licensees of the terms and conditions of their licences;
- (c) approve guidelines and codes of good practice;
- (d) vary the conditions of the licences granted; and
- (e) revoke licences.

8 Delegation of powers of the Secretary

The Secretary may delegate with or without conditions to any person or class of persons any or all of the Secretary's powers under this Act.

PART 3 – QUOTA AND LICENCES

9 Licence application

- (1) An application for a licence under this Act shall be:
 - (a) made to the Secretary;
 - (b) in the prescribed form; and
 - (c) with the payment of the prescribed fees.
- (2) An application shall state whether the applicant is seeking:
 - (a) an import licence;
 - (b) an export licence;
 - (c) a premises licence;
 - (d) a sale or purchase of controlled substance in bulk or refrigerants licence; or
 - (e) a handling licence.
- (3) The Secretary may in considering an application, require the applicant to supply any further information that the Secretary may reasonably require to make a decision on the application.
- (4) The Secretary may grant licences subject to any restrictions and conditions the Secretary deems necessary.
- (5) The Secretary shall give reasons for any decision not to grant a licence in a particular case.

10 Criteria for licence application

- (1) The Secretary in considering an application shall take into account:
 - (a) whether the applicant meets the criteria of the relevant licence specified under subsection (2);
 - (b) that the activity to which the licence relates may be conducted in accordance with the obligations of the Republic under the Montreal Protocol;

- (c) the application of any import quota indicating the maximum quantity of controlled substances that an import licensee is allowed to import into the Republic within any calendar year in accordance with any regulations made under this Act;
 - (d) the need to phase out ozone depleting substances except for essential use; and
 - (e) any amount of controlled substances in bulk, prescribed goods, refrigeration or air conditioning equipment that uses refrigerants shall only be stored and used at the approved ozone depleting substances premises and be transported in a safe manner.
- (2) The applicant for any of the licences under this Act shall meet the following criteria:
- (a) for a handling licence, the applicant shall have:
 - (i) more than 2 years of practical experience in servicing and maintenance of refrigeration and air conditioning equipment;
 - (ii) adequate knowledge of the environmental implications of controlled substances or refrigeration or air conditioning equipment that uses refrigerants;
 - (iii) adequate knowledge of this Act and applicable codes of practice;
 - (iv) adequate resources, equipment, systems and mechanisms to comply with this Act and any applicable codes of practice.
 - (b) for a premises licence, the applicant shall have:
 - (i) adequate knowledge of the environmental implications of controlled substances or refrigeration or air conditioning equipment that uses refrigerants;
 - (ii) adequate knowledge of this Act and applicable codes of practice;
 - (iii) adequate resources, equipment, systems and mechanisms to comply with this Act and any applicable codes of practice.
 - (c) for an import or export licence, the applicant shall have:
 - (i) a current premises licence;

- (ii) sufficient approved HCFC quota.
- (d) for a sale or purchase of refrigerant licence, the applicant shall have:
 - (i) a current premises licence;
 - (ii) relevant knowledge on the environmental implications of refrigerants.

11 Licence conditions

A licence granted under this Act shall be:

- (a) for the specified activity; and
- (b) subject to special or general conditions.

12 Duration of licence

The duration of:

- (a) an import or export licence for any controlled substances in bulk on a shipment basis shall be:
 - (i) 2 months from the date the licence was granted; and
 - (ii) not later than 31st December of the same year;
- (b) other licences shall be for 12 months from the date the licence was granted.

13 Renewal or denial of licences

- (1) A licensee who is granted a licence under section 9 may apply to the Secretary for a renewal of the licence in the prescribed form and payment of the prescribed fees.
- (2) The Secretary may renew a licence on new conditions or deny the renewal of a licence if:
 - (a) the licensee has been in breach of:
 - (i) one or more licence conditions; or
 - (ii) any provision of this Act or any regulation, rule or order made under this Act;
 - (b) it requires a renewal on new conditions or denial of a renewal as the case may be where there are changes to any of the following

whether taking effect before or after the commencement of the licence:

- (i) any international treaty to which the Republic is a party;
 - (ii) any international standards applicable to the Republic; or
 - (c) the Secretary decides that a renewal on new conditions or the denial of a renewal is required to implement this Act in a manner consistent with regulations and rules relating to licensing.
- (3) The Secretary shall provide written reasons for the new conditions or denial of a licence if requested by the licensee.

14 Appeals

- (1) Any person who is dissatisfied with a decision of the Secretary on the grant, renewal or cancellation of a licence, may appeal to the Minister within 21 days of the decision being made.
- (2) The appeal shall be lodged with the office of the Minister:
- (a) in writing; and
 - (b) within 21 days from the date of the decision.
- (3) The Minister shall provide his or her decision on the appeal in writing, within 14 days of the appeal being lodged under subsection (2).

PART 4 - REGISTER OF LICENCES

15 Register of licences

- (1) The Secretary shall be responsible for establishing and maintaining a register of licences in accordance with this Act.
- (2) The licence register is available for inspection by the public during business hours and copies of entries shall be provided, upon payment of the prescribed fee.
- (3) The Secretary shall within seven days record in the register any variations or changes made under section 13.

PART 5 – PROHIBITIONS

16 Importing or exporting without licence

- (1) A person granted a licence under section 9 may import or export the following:
- (a) a controlled substance;

- (b) a prescribed good; or
 - (c) refrigeration or air-conditioning equipment that uses refrigerants.
- (2) Any person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 24 months or to both.

17 No manufacture of controlled substance, prescribed good or refrigeration or air conditioning equipment

- (1) Any person shall not manufacture in the Republic:
- (a) a controlled substance;
 - (b) a prescribed good; or
 - (c) refrigeration or air-conditioning equipment that uses a refrigerant.
- (2) Any person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 24 months or to both.

18 Sale or purchase of controlled substance in bulk or refrigerant

- (1) A person shall not knowingly, recklessly or negligently sell or purchase a controlled substance in bulk or refrigerant in contravention of this Act.
- (2) Any person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 24 months to both.

19 Handling without a licence

- (1) A person shall not without a licence granted under section 9 handle:
- (a) a controlled substance;
 - (b) a prescribed good; or
 - (c) refrigeration or air-conditioning equipment that uses refrigerants.

- (2) Any person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 24 months or to both.

20 Premises without a licence

- (1) An owner or occupier of any premises shall not sell, store, manufacture or purchase for resale any controlled substance, prescribed good or refrigeration or air conditioning equipment that uses a refrigerant on any premises unless a licence was granted by the Secretary for such premises under section 9.
- (2) Any person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 24 months or to both.

PART 6 - AUTHORISED OFFICERS

21 Minister may authorise officers

The Minister may by notice in the Gazette authorise an officer of the Department, a Police officer or a Customs officer to be an authorised officer for the purposes of this Act.

22 Identification of authorised officer

- (1) An authorised officer, other than a Police officer, shall be issued with an identification card which:
- (a) contains his or her name and a recent photograph;
 - (b) states that he or she is an authorised officer for the purposes of this Act;
 - (c) provides the period of validity of the identification card;
 - (d) states any conditions in his or her instrument of appointment that limits his or her powers as an authorised officer; and
 - (e) shall be produced for the purposes of inspection or performance of any duties under the Act.
- (2) Where an authorised officer is a Police officer, he or she shall, produce for inspection his or her Police identification card.

23 Powers of authorised officers

- (1) An authorised officer may, on reasonable grounds believing that a person has committed or is committing any offence against this Act:

- (a) enter and inspect any aircraft, vessel or premises or other place where the officer reasonably suspects that:
 - (i) controlled substances are or have been stored in bulk;
 - (ii) refrigerants are or have been stored, sold or supplied; or
 - (iii) the handling of any controlled substances or prescribed goods are or have been carried out; and
 - (b) confiscate any controlled substances, prescribed goods, refrigeration or air-conditioning equipment that uses a refrigerant suspected of being handled in contravention of this Act;
 - (c) require a person to provide any document reasonably required as proof in relation to the enforcement of this Act;
 - (d) examine, copy or take extracts of a document produced under paragraph (c) or require a person to provide a copy of any such document; and
 - (e) take photographs, films, audio, video or other recordings reasonably required in relation to the enforcement of this Act.
- (2) A person who refuses or fails to comply with any requirement of an authorised officer under subsection (1) commits an offence and upon conviction is liable to a fine not exceeding \$10,000.

24 Customs verification

- (1) Any person who imports or exports or intends to import or export any goods shall upon the request by the Customs officer produce such goods for verification and whether such goods:
 - (a) contain or are made with or designed for controlled substances; or
 - (b) is a prescribed good, refrigeration or air-conditioning equipment that contains refrigerants.
- (2) Subject to subsection (1), an authorised officer may seize and detain such goods or refrigeration equipment that has not been granted approval by the Secretary.
- (3) For the purpose of this section, “*goods*” has the same meaning provided in the Customs Act 2014.

25 Power to seize and detain

- (1) An authorised officer may seize and detain any controlled substances or prescribed goods, refrigeration or air-conditioning equipment that uses refrigerants which he or she has reasonable cause to believe is being:
 - (a) imported or exported in contravention of section 16;
 - (b) manufactured in contravention of section 17;
 - (c) for sale or purchase in contravention of section 18;
 - (d) handled in contravention of section 19; and
 - (e) kept in a premises in contravention of section 20.
- (2) Any controlled substances, prescribed goods, refrigeration or air-conditioning equipment that uses a refrigerant seized and detained under subsection (1) may be detained in such manner as the Minister may prescribe by regulations.
- (3) The Minister may prescribe by regulations the:
 - (a) procedure for seizure and detention; and
 - (b) form for seizure and detention notices.

26 Notice of seizure

An authorised officer shall provide a notice of seizure and reasons to the owner, where any controlled substances, prescribed goods, refrigeration or air-conditioning equipment that uses refrigerants have been:

- (a) seized; and
- (b) are liable for forfeiture under the Act.

27 Return or forfeiture of property seized

- (1) The seized controlled substance, prescribed good, refrigeration or air-conditioning equipment that uses refrigerants shall be returned to the owner where:
 - (a) no proceedings are taken in respect of an offence within 6 months after the notice of seizure has been issued; or
 - (b) proceedings are taken and no order of forfeiture is made under subsection (3).

- (2) Where any person has been convicted of an offence under this Act, the Court may, if it thinks fit, order that any controlled substance, prescribed good or refrigeration equipment that uses a refrigerant in relation to which the offence was committed be forfeited to the Republic and disposed of as the Secretary thinks fit.
- (3) The Court in granting the forfeiture order under subsection (2) may on the application of the prosecution grant an order for:
 - (a) the disposal of controlled substances, prescribed goods or refrigeration equipment that uses refrigerants;
 - (b) the expenses incurred for such disposal to be paid by the person convicted of the offence.

28 Notice of re-export of items seized by authorised officers

- (1) An authorised officer may request the Secretary to prevent the importation of any goods that the authorised officer believes on reasonable grounds are in contravention of the Act.
- (2) Any goods imported shall not be prevented from importation, if the importer or the owner can prove to the satisfaction of the Secretary that there has been no contravention to the Act.
- (3) Where the importer or owner is found to have contravened the Act, the importer or owner shall bear all costs of re-export to the country of origin for any seized controlled substances, prescribed goods, refrigeration or air conditioning equipment that uses refrigerants.

PART 7 – DISPOSAL AND HANDLING

29 Disposal of controlled substances, prescribed goods, refrigeration or air-conditioning equipment

- (1) The Minister may prescribe by regulations the procedure for the disposal of controlled substances, prescribed goods, refrigeration or air-conditioning equipment that uses refrigerants that have been imported or are being exported in contravention of this Act.
- (2) The cost of the disposal of controlled substances in bulk, prescribed goods, refrigeration or air-conditioning equipment that uses refrigerants shall be borne by the responsible person.
- (3) No person shall knowingly, negligently or recklessly dispose or caused to be disposed into the atmosphere any ozone depleting substance from any prescribed goods, refrigeration or air-conditioning equipment except for minimal releases that occur as a result of efforts to recover, reclaim or recycle ozone depleting substances that are removed.

- (4) A person who knowingly, negligently or recklessly disposes or caused to be disposed into the atmosphere an ozone depleting substance to which subsection (3) applies commits an offence and upon conviction is liable to a fine not exceeding \$100,000.

30 Handling of controlled substance, prescribed good, refrigeration or air-conditioning equipment

- (1) Any person handling a controlled substance, prescribed good, refrigeration or air-conditioning equipment that uses refrigerants shall:
- (a) have available at the job site an operational equipment or apparatus capable of recovering and containing any ozone depleting substances; and
 - (b) handling any ozone depleting substance to which the Act applies either alone or in a mixture that would otherwise be released into the atmosphere.
- (2) Any equipment required for the purposes of subsection (1) shall meet the standards prescribed by the Department.
- (3) A person who handles such prescribed goods, refrigeration or air-conditioning equipment that uses refrigerants shall successfully complete any environmental awareness training on ozone depleting substances which has been approved by the Secretary in consultation with the Minister.
- (4) A person who successfully completes the environmental training under subsection (3) shall be awarded a certificate of completion signifying that the person is a duly licensed person.
- (5) A certificate issued under this section shall be numbered and the names of all licensed persons and their certificate numbers shall be recorded in a database approved by the Minister.
- (6) A certificate issued under this section is non-transferable.

PART 8 – TESTING OF PRESCRIBED GOODS, REFRIGERATION OR AIR-CONDITIONING EQUIPMENT

31 Testing of prescribed goods, refrigeration or air-conditioning equipment

- (1) No person shall service or test any refrigeration or air-conditioning equipment or a prescribed good that uses a refrigerant unless:
- (a) the person is properly certified as prescribed by this Act or regulations; or

- (b) the person has access to a refrigerant identifier equipment that is capable of collecting and capturing the refrigerant.
- (2) For the purpose of subsection (1)(b), a person has access to testing equipment if such person or his or her employer owns the equipment.
- (3) The testing equipment used for the purpose of this Part shall be internationally accredited or in accordance with international standards.

PART 9 – RECORD KEEPING

32 Record keeping

- (1) Any person licensed under this Act to import, export, sell or purchase any controlled substance, prescribed good, refrigeration or air-conditioning equipment that uses a refrigerant shall keep written records:
 - (a) of the quantity and identity of all controlled substances, prescribed goods, refrigeration or air-conditioning equipment that uses refrigerants;
 - (b) of the date of import, export, sale or purchase; and
 - (c) where applicable, the certificate number of the licensed ozone depleting substance handler, -for a period of 5 years and shall, upon request make these records available to the Department.
- (2) Any person who handles any refrigeration or air-conditioning equipment or prescribed goods that uses refrigerants that contains an ozone depleting substance to which this Act applies shall:
 - (a) maintain a record of the work performed indicating:
 - (i) the date and type of work provided;
 - (ii) the quantity of refrigerant recovered from or loaded into the system or equipment, including recycled refrigerant;
 - (b) leave a copy of the record prepared under subsection (2)(a) with the owner or operator of the refrigeration or air-conditioning equipment or the prescribed good that uses a refrigerant;
 - (c) provide to the Department on request records of a period of 5 years from the date of the performance of the work.

PART 10 – OFFENCES

33 Licence terms and conditions

Any person who fails to comply with any material term or condition of any licence granted under Part 3 commits an offence and upon conviction is liable to a fine not exceeding \$50,000.

34 Obstruction of authorised officers

A person who obstructs, hinders or in any way interferes with an authorised officer in the performance of his or her duties commits an offence and upon conviction is liable to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 12 months or to both.

35 False or misleading information

- (1) Any person who, without reasonable cause for believing such statement to be true, makes, or aids and abets the making of any false statement in any application made under this section commits an offence.
- (2) A person who commits an offence under this section shall be liable upon conviction to a fine not exceeding \$50,000.

PART 11 – MISCELLANEOUS

36 Protection from liability

An authorised officer is not liable for an act done or deemed to be done or omitted to be done in good faith in the exercise of a power or the performance or purported performance of a function under this Act.

37 Application of amendments to Convention or Montreal Protocol

- (1) Subject to this Act, any amendments to the Convention or Montreal Protocol to which the Republic is a signatory shall have the force of law in the Republic from or on the date the amendments enters into force in the Republic.
- (2) The amendments under subsection (1) shall apply to any licence requirements and shall be enforced by authorised officers under the Act.

38 Jurisdiction of the court

The District Court shall have jurisdiction to hear and determine all offences under this Act and, shall have power to impose the penalty or punishment in respect of the offences under this Act.

Regulations

- (1) The Cabinet may make regulations prescribing all matters which are necessary or convenient to be prescribed for giving effect to this Act.
- (2) Without limiting subsection (1), the regulations may provide for:
 - (a) any forms that are required under this Act;
 - (b) the fees for any applications or services that are required to be paid under this Act; and
 - (c) any other matters.

**SCHEDULE 1
OZONE DEPLETING SUBSTANCES**

Annex A: Controlled substances

Group	Substance	Ozone depleting potential	100 Year Global warming potential
Group 1			
CFCl ₃	(CFC-11)	1.0	4,750
CF ₂ Cl ₂	(CFC-12)	1.0	10,900
C ₂ F ₃ Cl ₃	(CFC-113)	0.8	6,130
C ₂ F ₄ Cl ₂	(CFC-114)	1.0	10,000
C ₂ F ₅ Cl	(CFC-115)	0.6	7,370
Group II			
CF ₂ BrCl	(halon-1211)	3.0	
CF ₃ Br	(halon-1301)	10.0	
C ₂ F ₄ Br ₂	(halon-2402)	6.0	
* These ozone depleting potentials are estimates based on existing knowledge and will be reviewed and revised periodically.			

Annex B: Controlled substances

Group	Substance	Ozone depleting potential
<i>Group I</i>		
CF ₃ Cl	(CFC-13)	1.0
C ₂ FCl ₅	(CFC-111)	1.0
C ₂ F ₂ Cl ₄	(CFC-112)	1.0
C ₃ FCl ₇	(CFC-211)	1.0
C ₃ F ₂ Cl ₆	(CFC-212)	1.0
C ₃ F ₃ Cl ₅	(CFC-213)	1.0
C ₃ F ₄ Cl ₄	(CFC-214)	1.0
C ₃ F ₅ Cl ₃	(CFC-215)	1.0
C ₃ F ₆ Cl ₂	(CFC-216)	1.0
C ₃ F ₇ Cl	(CFC-217)	1.0
<i>Group II</i>		
CCl ₄	carbon tetrachloride	1.1
<i>Group III</i>		
C ₂ H ₃ Cl ₃	* 1,1,1-trichloroethane* (methyl chloroform)	0.1
* This formula does not refer to 1,1,2-trichloroethane.		

Annex C: Controlled substances

Group	Substance	Number of Isomers	Ozone-Depleting	100 Year Global
--------------	------------------	--------------------------	------------------------	------------------------

			Potential	Warming Potential
<i>Group I</i>				
CHFCl ₂	(HCFC-21) **	1	0.04	151
CHF ₂ Cl	(HCFC-22)**	1	0.055	1810
CH ₂ FCl	(HCFC-31)	1	0.02	
C ₂ HFCI ₄	(HCFC-121)	2	0.01–0.04	
C ₂ H ₂ FCI ₃	(HCFC-122)	3	0.02–0.08	
C ₂ H ₂ F ₃ CI ₂	(HCFC-123)	3	0.02–0.06	77
CHCl ₂ CF ₃	(HCFC-123)**	-	0.02	
C ₂ H ₂ F ₄ CI	(HCFC-124)	2	0.02–0.04	609
CHFClCF ₃	(HCFC-124)**	–	0.022	
C ₂ H ₂ F ₃ CI ₃	(HCFC-131)	3	0.007–0.05	
C ₂ H ₂ F ₂ CI ₂	(HCFC-132)	4	0.008–0.05	
C ₂ H ₂ F ₃ CI	(HCFC-133)	3	0.02–0.06	
C ₂ H ₃ FCI ₂	(HCFC-141)	3	0.005–0.07	
CH ₃ CFCl ₂	(HCFC-141b)**	–	0.11	725
C ₂ H ₃ F ₂ CI	(HCFC-142)	3	0.008–0.07	
CH ₃ CF ₂ CI	(HCFC-142b)**	–	0.065	2310
C ₂ H ₄ FCI	(HCFC-151)	2	0.003–0.005	
C ₃ HFCI ₆	(HCFC-221)	5	0.015–0.07	
C ₃ H ₂ FCI ₅	(HCFC-222)	9	0.01–0.09	
C ₃ H ₂ F ₃ CI ₄	(HCFC-223)	12	0.01–0.08	
C ₃ H ₂ F ₄ CI ₃	(HCFC-224)	12	0.01–0.09	
C ₃ H ₂ F ₅ CI ₂	(HCFC-225)	9	0.02–0.07	
CF ₃ CF ₂ CHCl ₂	(HCFC-225ca)**	–	0.025	122
CF ₂ ClCF ₂ CHClF	(HCFC-225cb)**	–	0.033	595
C ₃ H ₂ F ₆ CI	(HCFC-226)	5	0.02–0.10	
C ₃ H ₂ F ₃ CI ₅	(HCFC-231)	9	0.05–0.09	
C ₃ H ₂ F ₂ CI ₄	(HCFC-232)	16	0.008–0.10	
C ₃ H ₂ F ₃ CI ₃	(HCFC-233)	18	0.007–0.23	
C ₃ H ₂ F ₄ CI ₂	(HCFC-234)	16	0.01–0.28	
C ₃ H ₂ F ₅ CI	(HCFC-235)	9	0.03–0.52	
C ₃ H ₃ FCI ₄	(HCFC-241)	12	0.004–0.09	
C ₃ H ₃ F ₂ CI ₃	(HCFC-242)	18	0.005–0.13	
C ₃ H ₃ F ₃ CI ₂	(HCFC-243)	18	0.007–0.12	
C ₃ H ₃ F ₄ CI	(HCFC-244)	12	0.009–0.14	
C ₃ H ₄ FCI ₃	(HCFC-251)	12	0.001–0.01	
C ₃ H ₄ F ₂ CI ₂	(HCFC-252)	16	0.005–0.04	
C ₃ H ₄ F ₃ CI	(HCFC-253)	12	0.003–0.03	
C ₃ H ₅ FCI ₂	(HCFC-261)	9	0.002–0.02	
C ₃ H ₅ F ₂ CI	(HCFC-262)	9	0.002–0.02	
C ₃ H ₆ FCI	(HCFC-271)	5	0.001–0.03	
<i>Group II</i>				
CH ₂ Br ₂	(HBFC-22B1)	1	1.00	
CHF ₂ Br		1	0.74	
CH ₂ FBr		1	0.73	
C ₂ H ₂ FBr ₄		2	0.3–0.8	
C ₂ H ₂ F ₂ Br ₃		3	0.5–1.8	
C ₂ H ₂ F ₃ Br ₂		3	0.4–1.6	

C2HF4Br		2	0.7–1.2	
C2H2FBr3		3	0.1–1.1	
C2H2F2Br2		4	0.2–1.5	
C2H2F3Br		3	0.7–1.6	
C2H3FBr2		3	0.1–1.7	
C2H3F2Br		3	0.2–1.1	
C2H4FBr		2	0.07–0.1	
C3HFBr6		5	0.3–1.5	
C3HF2Br5		9	0.2–1.9	
C3HF3Br4		12	0.3–1.8	
C3HF4Br3		12	0.5–2.2	
C3HF5Br2		9	0.9–2.0	
C3HF6Br		5	0.7–3.3	
C3H2FBr5		9	0.1–1.9	
C3H2F2Br4		16	0.2–2.1	
C3H2F3Br3		18	0.2–5.6	
C3H2F4Br2		16	0.3–7.5	
C3H2F5Br		8	0.9–1.4	
C3H3FBr4		12	0.08–1.9	
C3H3F2Br3		18	0.1–3.1	
C3H3F3Br2		18	0.1–2.5	
C3H3F4Br		12	0.3–4.4	
C3H4FBr3		12	0.03–0.3	
C3H4F2Br2		16	0.1–1.0	
C3H4F3Br		12	0.07–0.8	
C3H5FBr2		9	0.04–0.4	
C3H5F2Br		9	0.07–0.8	
C3H6FBr		5	0.02–0.7	
<i>Group III</i>				
CH2BrCl	bromochloromethane	1	0.12	

* Where a range of ODPs is indicated, the highest value in that range shall be used for the purposes of the Protocol. The ODPs listed as a single value have been determined from calculations based on laboratory measurements. Those listed as a range are based on estimates and are less certain. The range pertains to an isomeric group. The upper value is the estimate of the ODP of the isomer with the highest ODP, and the lower value is the estimate of the ODP of the isomer with the lowest ODP.

** Identifies the most commercially viable substances with ODP values listed against them to be used for the purposes of the Protocol.

*** For substances for which no GWP is indicated, the default value 0 applies until GWP value is included by means of the process foreseen in paragraph 9 (a)(ii) of Article 2.

Annex D:* A list of products containing controlled substances specified in Annex A**

	Products	Customs code number
1	Automobile and truck air conditioning units (whether	.....

2	incorporated in vehicles or not)	
	Domestic and commercial refrigeration and air conditioning/heat pump equipment***	.....
	e.g. Refrigerators	.....
	Freezers	.....
	Dehumidifiers	.....
	Water coolers	.....
3	Ice machines	.....
4	Air conditioning and heat	
5	pump units	.....
6	Aerosol products, except medical aerosols	.....
	Portable fire extinguisher	.....
	Insulation boards, panels and pipe covers	
	Pre-polymers	

* This Annex was adopted by the Third Meeting of the Parties in Nairobi, 21 June 1991 as required by paragraph 3 of Article 4 of the Protocol.

** Though not when transported in consignments of personal or household effects or in similar non-commercial situations normally exempted from customs attention.*** When containing controlled substances in Annex A as a refrigerant and/or in insulating material of the product.

Annex E: Controlled substance

Group I	Substance	Ozone depleting potential
Group 1 CH ₃ Br	methyl bromide	0.6

Annex F: controlled substances

Group	Substance	100 Year Global Warming Potential
CHF ₂ CHF ₂	HFC-134	1,100
CH ₂ FCF ₃	HFC-134a	1,430
CH ₂ FCHF ₂	HFC-143	353
CHF ₂ CH ₂ CF ₃	HFC-254fa	1,030
CF ₃ CH ₂ CF ₂ CH ₃	HFC-365mfc	794
CF ₃ CHF ₂ CF ₃	HFC-227ea	3,220
CH ₂ FCF ₂ CF ₃	HFC-236cb	1,340
CHF ₂ CHF ₂ CF	HFC – 236ea	1,370
CF ₃ CH ₂ CF ₃	HFC-236fa	9,810
CH ₂ FCF ₂ CHF ₂	HFC-245ca	683
CF ₃ CH ₂ CHF ₂ CF ₃	HFC-43-10mee	1,640
CH ₂ F ₂	HFC-32	675

CHF ₂ CF ₃	HFC-125	3,500
CH ₃ CF ₃	HFC-143a	4,470
CH ₃ F	HFC - 41	92
CH ₂ FCH ₂ F	HFC-152	53
CH ₃ CHF ₂	HFC-152a	124
<i>Group II</i>		
CHF ₃	HFC-23	14,800

SCHEDULE 2

PRESCRIBED GOODS

1. Domestic and commercial refrigeration equipment;
2. Air conditioning equipment, including for a vehicle whether installed or not;
3. Heat pump equipment;
4. A dry cleaning machine;
5. An aerosol product other than an aerosol for medical purposes;
6. A fire extinguisher, an insulation board, panel or pipe cover;
7. A pre-polymer.