



# **Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment Act 2011**

**No. 165, 2011**

**An Act to amend the *Ozone Protection and Synthetic  
Greenhouse Gas (Manufacture Levy) Act 1995*, and  
for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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**An Act to amend the *Ozone Protection and Synthetic  
Greenhouse Gas (Manufacture Levy) Act 1995*, and  
for related purposes**

[Assented to 4 December 2011]

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Ozone Protection and Synthetic  
Greenhouse Gas (Manufacture Levy) Amendment Act 2011*.

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*Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment Act 2011*

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	4 December 2011
2. Schedule 1	1 July 2012. However, if section 3 of the <i>Clean Energy Act 2011</i> does not commence before 1 July 2012, the provision(s) do not commence at all.	1 July 2012

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

## 3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Amendments**

### ***Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995***

#### **1 Title**

Omit “a levy”, substitute “levies”.

#### **2 After section 2**

Insert:

##### **2A Definitions**

In this Act:

*benchmark average auction charge* has the same meaning as in the *Clean Energy Act 2011*.

*carbon unit* has the same meaning as in the *Clean Energy Act 2011*.

*fixed charge year* has the same meaning as in the *Clean Energy Act 2011*.

*flexible charge year* has the same meaning as in the *Clean Energy Act 2011*.

*issue*, in relation to a carbon unit, has the same meaning as in the *Clean Energy Act 2011*.

*medical equipment* includes a pharmaceutical product.

*vintage year* has the same meaning as in the *Clean Energy Act 2011*.

##### **2B Carbon dioxide equivalence of an amount of an SGG**

- (1) For the purposes of this Act, the carbon dioxide equivalence of an amount of an SGG that is a greenhouse gas is the amount of the SGG multiplied by a value specified in the regulations in relation to that kind of SGG.

- (2) For the purposes of this Act, the carbon dioxide equivalence of an amount of an SGG that is not a greenhouse gas is zero.
- (3) For the purposes of this section, **greenhouse gas** has the same meaning as in the *National Greenhouse and Energy Reporting Act 2007*.

### 3 After section 3

Insert:

#### 3A Manufacture levy—SGGs

- (1) If:
  - (a) a controlled substances licence allows the licensee to manufacture SGGs; and
  - (b) the licensee manufactures an SGG during a quarter during which the licence is in force;levy is imposed on the licensee in respect of that manufacture.
- (2) Subsection (1) does not apply to the manufacture of an SGG in circumstances that are prescribed for the purposes of paragraph 13(1A)(b) of the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.
- (3) Subsection (1) does not apply to the manufacture of an SGG that is to be used for a purpose prescribed by the regulations.
- (4) For the purposes of this section, if a licence is in force for only part of a particular quarter, that part is taken to be a quarter.
- (5) The amount of levy imposed by subsection (1) on a licensee in respect of the manufacture of an SGG in a quarter is the amount worked out using the following formula:

$$\left( \begin{array}{c} \text{Number of tonnes} \\ \text{of the carbon} \\ \text{dioxide equivalence} \\ \text{of the SGG} \end{array} \times \begin{array}{c} \text{Applicable} \\ \text{charge} \end{array} \right) + \left( \begin{array}{c} \text{Number of} \\ \text{tonnes} \\ \text{of the SGG} \end{array} \times \begin{array}{c} \text{Prescribed} \\ \text{rate} \end{array} \right)$$

where:

**applicable charge** means:



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- (a) if the quarter is in a fixed charge year—the per unit charge applicable under subsection 100(1) of the *Clean Energy Act 2011* for the issue of a carbon unit with a vintage year of that fixed charge year; or
  - (b) if the quarter is in a flexible charge year—the benchmark average auction charge for the previous financial year.

**prescribed rate** means the rate prescribed by the regulations.

(6) The prescribed rate must not exceed \$165 per tonne.

(7) If:

(a) levy is imposed by subsection (1) on a licensee in respect of the manufacture of an SGG; and

(b) the Minister is satisfied that the SGG:

(i) is to be used in medical equipment; or

(ii) is to be used in the manufacture of medical equipment; or

(iii) is to be used in a product, or in equipment, prescribed for the purposes of paragraph 8D(1)(c) of the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*; or

(iv) is to be used in the manufacture of a product, or of equipment, specified in an instrument in force under paragraph 8D(1)(d) of that Act; or

(v) is to be used for a purpose prescribed by the regulations; the Minister may, by written notice given to the licensee, determine that the licensee is exempt from the carbon charge component of the amount of the levy.

(8) For the purposes of subsection (7), the **carbon charge component** of the amount of the levy is so much of that amount as is equal to the amount worked out using the following formula:

$$\frac{\text{Number of tonnes of the carbon dioxide equivalence of the SGG}}{\text{of the carbon dioxide equivalence of the SGG}} \times \text{Applicable charge}$$

where:

**applicable charge** means the charge that is the applicable charge for the purposes of the application of subsection (5) to the levy.

- (9) In making a determination under subsection (7), the Minister must have regard to such matters as are specified in the regulations.
- (10) The Minister must not make a recommendation to the Governor-General about regulations to be made for the purposes of subsection (3) unless the Minister is satisfied that:
  - (a) it would be impracticable to impose levy on the manufacture of an SGG that is to be used for a purpose to be prescribed by those regulations; or
  - (b) a purpose to be prescribed by those regulations is a medical, veterinary, health or safety purpose.
- (11) The Minister must not make a recommendation to the Governor-General about regulations to be made for the purposes of subparagraph (7)(b)(v) unless the Minister is satisfied that:
  - (a) it would be impracticable to require payment of the carbon charge component of the amount of levy imposed on the manufacture of an SGG that is to be used for a purpose to be prescribed by those regulations; or
  - (b) a purpose to be prescribed by those regulations is a medical, veterinary, health or safety purpose.

### **3A Section 4 (heading)**

Repeal the heading, substitute:

### **4 Manufacture levy—substances other than SGGs**

#### **4 Paragraph 4(1)(a)**

After “or substances”, insert “(other than an SGG)”.

#### **5 Subsection 4(2)**

Repeal the subsection.

#### **6 Paragraph 4(4)(b)**

Repeal the paragraph.

### **7 Section 5**

After “section”, insert “3A or”.

### **8 Application of amendments**

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- (1) Section 3A of the *Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995* as amended by this Act applies in relation to the manufacture of an SGG during:
    - (a) the quarter beginning on 1 July 2012; or
    - (b) a later quarter.
  
  - (2) The amendments of section 4 of the *Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995* made by this Act apply in relation to the manufacture of a substance during:
    - (a) the quarter beginning on 1 July 2012; or
    - (b) a later quarter.
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[Minister's second reading speech made in—  
*House of Representatives on 13 September 2011*  
*Senate on 12 October 2011*]

(185/11)

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