

GUYANA

No. 19 of 2007

ORDER

Made Under

THE TRADE ACT

(Cap: 91:01)

IN EXERCISE OF THE POWERS CONFERRED UPON ME BY SECTION 5 OF THE TRADE ACT, CAP. 91:01, I HEREBY MAKE THE FOLLOWING ORDER:-

Citation.

1. This Order may be cited as the Trade (Restrictions on Import of Ozone Depleting Substances) Order 2007.

CHAPTER I

Interpretation.

2. (1) In this Order -

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(a) "Act" means the Trade Act;

(b) "approved medical purposes" means the medical purposes approved by the Conference of Parties pursuant to the Protocol;

(c) "ASHRAE number" means American Society for Heating, Refrigeration and Air conditioning Engineers number;

(d) "CAS Registry number" means Chemical Abstract Services number;

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(e) "Commissioner-General" means the Commissioner General appointed under the Revenue Authority Act;

(f) "Fund" means the Ozone Fund established pursuant to clause 10;

(g) "Guyana Standard GYS 9-10: 2002" means the Guyana Standard GYS9-10: 2002 prepared by the Guyana National Bureau of Standards;

(h) "HS Code" means the Harmonised Commodity Description and Coding System or the Harmonised System;

(i) "Minister" means the Minister for the time being responsible for Trade;

(j) "National Ozone Action Unit" means the National Ozone Action Unit attached to the Ministry of Agriculture.

First Schedule

(k) "ozone depleting substance" means a substance listed in the First Schedule and includes any equipment containing ozone depleting substance for the purposes of this Order;

(l) "ozone depleting potential units" means the relative ozone depleting potential of a substance as determined by the Conference of Parties to the Protocol;

(m) "permit" means a permit for importing ozone depleting substance issued by the National Ozone Action Unit;

(n) "Protocol" means the Montreal Protocol On Substances That Deplete The Ozone Layer;

(o) "retrofitter licence" means a retrofitter licence issued pursuant to clause 6;

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(2) Words and expressions not defined in this Order but defined in the Trade Act and the the Protocol shall have the respective meanings assigned to them in that Act and in the Protocol.

CHAPTER II

Restrictions on Import of Ozone Depleting Substances

No importation
of ozone depleting
substance without
permit
First Schedule
Second Schedule

3. (1) Notwithstanding anything contained in clause 2 of the Trade (Control of Import and Export) Order, on and after the commencement of this Order, no ozone depleting substance listed in the First Schedule shall be imported by an importer unless otherwise registered with the National Ozone Action Unit and that importer obtained a permit from it in respect of that substance in the form as per the Second Schedule on payment a fee of one thousand dollars.

(2) An importer who contravenes paragraph (1) shall be punished in accordance with sub-section (4) of section 5 of the Act.

Quota

4. (1) Subject to paragraphs (3) and (4), the National Ozone Action Unit shall on or before 15th January each year, fix the total quota for import of ozone depleting substances in ozone depleting potential units which may be imported.

(2) The total quota referred to in paragraph (1) shall be fixed with the approval of the Minister responsible for Agriculture and shall also be published in the Gazette stating the details regarding-

(a) the upper limit of the quantity of ozone depleting substances that each registered importer shall be assigned to import for that year; and

(b) a certain quantity to be reserved by the National Ozone Action Unit for special use.

(3) The quota referred to in paragraph (1) shall be pro-rated on the basis of historical quantity imported by each registered importer and the total quantity allowed under the Protocol.

(4) The National Ozone Action Unit shall submit to the Commissioner-General, a copy of the quota fixed under paragraph (1) together with the upper limit for each registered importer as published pursuant to paragraph (2).

(5) The National Ozone Action Unit shall not issue a permit to an importer in respect of a particular year, if the total quantity fixed for imports in respect of that year has reached the maximum limit.

(6) Where a registered importer had been assigned a quota pursuant to this clause and is unable to use that quota within the time allotted, the National Ozone Action Unit may by notice published in the Gazette re-assign the quota or the balance to another registered importer and also submit a copy of the reassigned quota to the Commissioner-General.

(7) In this clause, "special use" means such use as determined by the National Ozone Action Unit to be special use.

Importation of equipment
containing ozone
depleting substance
Part A
First Schedule

5. (1) On and after the commencement of this Order, no importer shall import any equipment containing ozone depleting substance or that require ozone depleting substance for its continued operation, listed in Part A of the First Schedule, except the equipment is intended to be used for approved medical purposes.

(2) The Commissioner-General shall -

(a) impound the equipment which is imported contrary to paragraph (1); or

(b) order that the importer shall have the equipment retrofitted by a licensed retrofitter, at his expense and in the form prescribed in Third Schedule within thirty days of such order.

Third Schedule

(3) An importer who contravenes paragraph (2) shall be punished in accordance with sub-section (4) of section 5 of the Act.

(4) Retrofitting of the equipment pursuant to clause (b) of paragraph (2) shall be done at the premises approved by the National Ozone Action Unit.

(5) A licensed retrofitter who retrofits the equipment pursuant to this clause shall label the equipment in accordance with the standards set out in clause 7 and shall attach his licence number, name and signature to the label.

Retrofitter
licence.

6. (1) A person may, subject to paragraph (2), apply to the National Ozone Action Unit for a retrofitter licence.

Form I
Fourth Schedule

(2) An application for a retrofitter licence shall be in the form prescribed in Form I of the Fourth Schedule.

Form II
Fourth Schedule

(3) The National Ozone Action Unit may, if it is satisfied that a person is qualified to be a retrofitter for the purposes of this Order, grant a licence renewable on yearly basis in Form II of the Fourth Schedule on payment of a fee of one thousand dollars.

(4) The National Ozone Action Unit shall on or before the 15th of January in each year -

(a) submit to the Commissioner-General; and

(b) publish in the Gazette,

a list of all licensed retrofitters for the purposes of this Order.

Standards.

7. (1) whenever an ozone depleting substance is imported, the importer shall ensure that the ozone depleting substance is labelled in such a way as to distinctively identify the active chemical substance contained in the ozone depleting substance.

(2) A label pursuant to paragraph (1) shall include the trade name, chemical name and confirm to the Guyana Standard GYS 9-10: 2002 and shall include one or more of the following:-

(a) ASHRAE number;

(b) CAS Registry number; or

(c) UN number assigned to an ozone depleting substance.

(3) Where an ozone depleting substance is imported contrary to paragraphs (1), the Commissioner-General shall -

- (a) seize the ozone depleting substance; and
- (b) direct the importer to label it in accordance with paragraphs (2) and (3) within thirty days of such order.

(4) An importer who contravenes paragraph (1) shall be guilty of an offence and punishable in accordance with sub-section (4) of section 5 of the Act.

Equipment
for sale.

8. (1) A person who sells or intends to sell an equipment containing ozone depleting substance shall ensure that the equipment bears a label that -

- (a) is conspicuously displayed on the exterior of the equipment; and
- (b) identifies the specific ozone depleting substance contained in the equipment.

(2) Any person who contravenes paragraph (1) shall be guilty of an offence and punishable in accordance with sub-section (4) of section 5 of the Act.

Seizure,
forfeiture, etc.

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9. (1) Where an ozone depleting substance or equipment containing an ozone depleting substance is imported contrary to any of the provisions of this Order, every such substance or equipment shall be seized, sold, forfeited, disposed of or otherwise dealt with in accordance with the Customs Act or any rules, regulations or other subsidiary legislation made under that Act or cause such substance or equipment to be retrofitted under this Order and every person accused of any offence relating to the import of such substance or equipment shall also be guilty of an offence and punishable in accordance with the Customs Act in addition to any penalty under the Act.

(2) Where any ozone depleting substance or equipment containing an ozone depleting substance is seized pursuant to paragraph (1), the Commissioner-General shall forthwith notify the Minister and the National Ozone Action Unit.

(3) Where any ozone depleting substance or equipment containing any ozone depleting substance has been seized pursuant to paragraph (1), the ozone depleting substance or the equipment shall be sold, forfeited, disposed of or otherwise dealt with by the Commissioner-General only after notifying the Minister and on the recommendations of the National Ozone Action Unit.

(4) No ozone depleting substance or equipment containing any ozone depleting substance shall be sold or otherwise disposed of by the Commissioner-General without such substance

or such equipment being retrofitted by a licensed retrofitter and on the recommendations of the National Ozone Action Unit.

(5) The expense incurred in getting the equipment retrofitted pursuant to paragraph (4) shall be charged on the Ozone Fund.

(6) Where an equipment containing ozone depleting substance seized and forfeited pursuant to this clause and has become inoperable due to leakage of the substance or due to any other reason or if the equipment has remained in bond for more than six months, the equipment shall be disposed of in accordance with the directions of the Minister and on the recommendations of the National Ozone Action Unit.

Ozone Fund.

(1) A Fund to be known as the Ozone Fund shall be established under the administration and control of the National Ozone Action Unit to which shall be credited the proceeds of sale from any -

- (a) ozone depleting substance; or
- (c) equipment containing an ozone depleting substance forfeited to pursuant to this Order; or
- (d) grant, contribution or allocation by the Government.

(2) The Fund shall be utilised by the National Ozone Action Unit for the advancement of its objectives.

(3) The National Ozone Action Unit shall follow the accounting principles for the time being in force in the day to day administration of the Fund and have it audited as per law.

Order of forfeiture.

11. When a person is convicted of an offence pursuant to this Order, the court trying the accused may order the forfeiture of any ozone depleting substance or equipment containing such substance or to have the equipment containing ozone depleting substance retrofitted by a licensed retrofitter at the expense of that person.

FIRST SCHEDULE

[Clause 3 (1)]

GUYANA
MINISTRY OF AGRICULTURE
(NATIONAL OZONE ACTION UNIT)

LIST OF OZONE DEPLETING SUBSTANCES

Controlled Substances

Group	Substances	Ozone Depleting Potential*
Group I		
	CFC ₁₃	(CFC-11) 1.0
	CF ₂ Cl ₂	(CFC-12) 1.0
	C ₂ F ₃ Cl ₃	(CFC-113) 0.8
	C ₂ F ₄ Cl ₂	(CFC-114) 1.0
	C ₂ F ₃ Cl	(CFC-115) 0.6
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
	CCl ₄	Carbon tetrachloride 1.1
	C ₂ H ₃ Cl ₃	1, 1, 1-trichloroethane* (Methyl chloroform) 1.1
	CH ₂ BrCl	Bromochloromethane 10.12
	CH ₃ Br	Methyl bromide 0.6

*These ozone-depleting potentials are estimates based on existing knowledge and will be reviewed and revised periodically.

SECOND SCHEDULE

[Class 3 (1)]

**GUYANA
MINISTRY OF AGRICULTURE
(NATIONAL OZONE ACTION UNIT)**

Part I

APPLICATION FOR PERMIT TO IMPORT OZONE DEPLETING SUBSTANCE

Name of Importer:

Name of Enterprise:

Street Address of Enterprise:

Mailing Address of Enterprise:

Telephone No:

Fax No:

Email:

..... of

(Applicant's name)

hereby applies for registration
(Enterprise name)

as an importer of the following types of Ozone Depleting Substance/Equipment:

ITEM. NO.	GROUP	SUBSTANCE	HS CODE	QUANTITY

Signature of Applicant: Date:

Part II

PERMIT TO IMPORT OZONE DEPLETING SUBSTANCE

Importer No:

This is to certify that
(Importer's name)

of operating in
(Enterprise's Name) (Street Address)

is a registered importer of the following ozone depleting substances and is permitted to import the following :

ITEM. NO.	GROUP	SUBSTANCE	HS CODE	QUANTITY

Name of Authorised Officer:

Title of Authorised Officer:

Date:

THIRD SCHEDULE

[Clause 5 (2) (b)]

**GUYANA
MINISTRY OF AGRICULTURE
(NATIONAL OZONE ACTION UNIT)**

ORDER FOR RETROFIT

Name of importer:

Street:

Mailing address:

Telephone number:

Description of goods:

Country of Export:

Date of entry into Guyana:

..... is hereby ordered to retrofit the equipment/goods
(Name of importer)

described above, by an licensed retrofitter as guided by the National Ozone Unit, no later
than

(Date)

Authorised Officer: