

The National Environment (Management Of Ozone Depleting Substances And Products) Regulations 2001

STATUTORY INSTRUMENTS.

2001 No. 63.

The National Environment (Management of Ozone Depleting Substances and Products) Regulations 2001.

(Under section 107 of the National Environment Act Cap 153

1. Citation.

These Regulations may be cited as the National Environment (Management of ozone Depleting Substances and Products) Regulations 2001.

2. Interpretation.

In these Regulations, unless the context otherwise requires -

"Act" means National Environment Act;

"Authority" means the National Environment Management Authority established under section 4 of the Act;

"chlorofluorocarbon (CFC)" means a fully halogenated chlorofluorocarbon each molecule of which contains one, two or three carbon atoms;

"control period" means the period beginning on January 1 in a given year and ending on December 31 in the same year;

"controlled product" means a product that contains, is made with or is dependent on, or designed to contain a controlled substance and includes the products in the First Schedule;

"controlled substance" means a substance specified in the second Schedule, whether existing alone or in a mixture, and includes that substance when reclaimed, recycled or recovered unless otherwise indicated;

"end-user" means any person who purchases, receives or manages a controlled substance or product;

"Executive Director" means the Executive Director of the Authority appointed under section 12 of the Act;

"license" means a license to import or export a controlled substance or product issued under regulation 6;

"mass media" means publicly exhibited posters, newspapers, radio, television or other

electronic media used for public communication;

"Minister" means the Minister for the time being assigned responsibility for the National Environment Act Cap 153;

"Ozone" means the natural gas, O₃ that is found in the stratosphere;

"Ozone" Layer" means the layer of the atmospheric zone above the plenary boundary as defined in the Vienna Convention for the Protection of the Ozone Layer;

"party" means a party to the Protocol, or any state not party to the Protocol if the state is determined, by a Meeting of the Parties, to be in full compliance with Article 2, 2A to 2E and 4 of the Protocol and has submitted data to that effect in accordance with Article 7 of the Protocol;

"Protocol" means the Montreal Protocol on Substances that Deplete the Ozone Layer adopted in 1987, as amended from time to time;

"reclaimed" in respect of a controlled substance, means recovered, re-processed and up-graded through a process such as filtering, drying, distillation and chemical treatment in order to restore the controlled substance to industry-accepted reuse standards;

"recovered" in respect of a controlled substance means—

(a) collected after has been used; or

(b) collected from machinery, equipment or a container during servicing or before the disposal of the machinery equipment or container;

"recycle" in respect of a controlled substance, means recovered, claimed by a process such as filtering, drying and reused, including reused to recharge equipment;

"Statute" means the National Environment Statute, 1995.

3. Object of Regulations.

The object of these Regulations is to—

(a) regulate the production, trade and use of controlled substances and products;

(b) provide a system of data collection that will facilitate compliance with relevant reporting requirements under the Protocol;

(c) promote the use of ozone friendly substances, products, equipment and technology;
and

(d) ensure the elimination of substances and products that deplete the ozone layer.

4. Restrictions on trade.

(1) No person shall import or export a controlled substance or product listed in the First and Second Schedules, without a license issued by the Executive Director.

(2) No person shall import or export a controlled substance or product from or to a country that is not a party to the Protocol.

(3) No person shall import or export a controlled substance on or after the date specified in the Second Schedule.

(4) A person who imports or exports a controlled substance or product in contravention of this regulation commits an offence.

5. Application for a license.

(1) A person intending to import or export a controlled substance or product shall apply to the Executive Director for a license in the application set out in Form A and B respectively in the Third Schedule.

(2) An application for a license under sub-regulation (1) shall be signed—

(a) in the case of a corporation, by an officer of the corporation authorised to do so; and

(b) in any other case, by the person making the application or by a person authorised to act on behalf of that person.

(3) A person who imports or exports a controlled substance or product without a license commits an offence.

(4) This regulation does not apply to imports or exports of controlled substances or products that are intended to be used for such essential medical purposes as the Executive Director may, by statutory order, prescribe.

6. License to import or export.

(1) The Executive Director shall issue a license to import or export a controlled substance or product where he or she is satisfied that the applicant has adequate and appropriate facilities and equipment to handle the controlled substance or product without causing damage to the environment.

(2) A license shall be as set out Form C in the Third Schedule.

(3) A license may be issued subject to conditions which the Executive Director may determine.

(4) The following conditions apply to a license—

(a) the license is transferable; and

(b) the license only entitles the license holder to import or export a controlled substance or product through the customs ports of entry and exit designated in the Fourth Schedule.

(5) A license shall remain in force for one year beginning on the day when it comes into force and may be renewed from time to time.

(6) The Executive Director may, when renewing a license, vary the conditions attached to the license and impose additional conditions.

(7) The Executive Director may, by notice in writing vary or revoke at any time, any condition for the time being attached to the license.

(8) A person who, import or exports a controlled substance or product shall provide a copy of the license to a Customs Officer at the port of entry.

7. Register of licenses.

The Executive Director shall keep a register of all holders of licenses issued under these Regulations.

8. Reporting procedures.

(1) The holder of a license under these Regulations shall submit to the executive Director an annual report containing the information specified in the Fifth Schedule.

(2) Where special reporting procedures are made the condition of a license issued under these Regulations, those procedures shall take precedence over the submission of annual reports as required by sub-regulation (1).

(3) Where a person who submits a report requests that the information contained in the report be treated as confidential, the person shall include the reasons for that request in the report.

9. End-user declaration.

(1) A person who buys or receives a controlled substance or product shall sign the end-user declaration Form set out in the Fifth Schedule.

(2) An end user who sells or otherwise supplies or uses a controlled substance or product for a purpose other than the purpose declared in the end-user declaration, or sells or otherwise supplies a controlled substance or product to any other person commits an offence.

10. Duty to maintain records.

A person who imports, exports distributes or sells a controlled substance or product shall—

(a) maintain records containing the applicable information in the Sixth Schedule; and

(b) submit the records referred to in paragraph (a) to the Executive Director, every six months from the commencement of the licensed activity.

11. Customs verification and labeling.

(1) A person who imports or exports any goods into or from Uganda, shall, on request by a Customs Officer, tender the goods to the officer for verification as to whether they contain or are made with or designed for controlled substances.

(2) A person importing or selling any controlled substance or product shall cause the container to have a conspicuous labile bearing—

(a) the name of the controlled substance or product;

(b) the name and address of the manufacturer, and the country of origin of the controlled substance or product;

(c) the following statement in clearly legible letters—

"THIS SUBSTANCE/PRODUCT IS HARMFUL TO THE OZONE LAYER"; and

(d) a symbol indicating that the substance or product is harmful to the ozone layer.

12. Public awareness and training.

(1) The Authority shall carry out public awareness activities and programs relating to the elimination of ozone depleting substances and products.

(2) The Authority shall ensure training of technicians engaged in maintaining, servicing or disposing of equipment containing ozone-depleting substances.

(3) The Executive Director shall, once in each year, publish in the mass media and at the offices of the Authority, a list of controlled substances and products.

13. Taxation.

(1) The Minister may recommend to the Minister responsible for finance, that tax exemptions be granted to importers of ozone friendly substances and products specified by the Minister.

(2) The Minister may recommend to the Minister responsible for finance that a pollution tax be levied on importers of controlled substances and products specified by the Minister.

14. Offences and penalties.

(1) Any person who—

(a) imports or exports any controlled substance or product without a valid license issued under these Regulations;

(b) engages in the production or manufacture of goods containing, or made with, dependent on, or designed for a controlled substance;

(c) fails or neglects to report data to the Executive Director as required under these Regulations;

(d) provided false or misleading information or neglects to keep records in accordance with these Regulations,

commits an offence and is liable, on conviction, to a fine of not less than thirty thousand shillings and not more than three million shillings or to imprisonment for a term not less than three months, or both.

(2) A court convicting a person for an offence under these Regulations may in addition to the penalty prescribed in sub-regulation (1)—

(a) order that the license be suspended for a time specified in the order or that it be cancelled;

(b) order that the controlled substance or product, which is the subject of the offence, be confiscated, and direct the manner in which it should be disposed of.

15. Powers of Environmental Inspector.

An Environmental Inspector appointed under the Statute may, in the course of his or her duties, seize any plant equipment or other thing which he or she believes is a controlled product or contains a controlled substance.

16. Delegation of powers and functions.

The Executive Director may delegate in writing, any of the functions and powers conferred on him or her by these Regulations to any officer of the Authority, or to a lead agency.

17. Appeals.

A person aggrieved by a decision of the Executive Director under these Regulations may, within thirty days of the decision, appeal to the High Court.

SCHEDULES.

Regulations 2 and 4

FIRST SCHEDULE

CONTROLLED PRODUCTS*

1. Automobile and truck conditioning units (whither incorporated in vehicles or not).
2. Domestic and commercial refrigeration and air conditioning/heat pump equipment when containing controlled substances as a refrigerant and/or in insulating material of the product. These include—
 - Refrigerators
 - Freezers
 - Dehumidifiers
 - Water coolers
 - Ice machines
 - Air conditioning and heat pump units
3. Aerosol products, except medical aerosols.
4. Fire extinguishers.
5. Insulation boards, panels and pipe covers.
6. Pre-polymers.

* This does not include products when transported in consignments of personal or household effects or in similar non-commercial situations normally exempted from customs attention.

Regulations 2 and 4

SECOND SCHEDULE.

Controlled Substances And Prohibition Dates.

Item	Controlled Substance	Date of Prohibition of Import/Export
1. Hydrobromofluorocarbons	(HBFCs)	Jan 1, 2002
2. Chlorofluorocarbons	(CFCs)	Jan 1, 2010
CFC-11	CFC-113	
CFC-12	CFC-114 CFC-115	
3. Halons		Jan 1, 2010
halon 1211	halon 1301 halon 2402	
4. Other fully halogenated Chlorofluorocarbons (CFCs)		Jan 1, 2010
CFC-13	CFC-122 CFC-212	
CFC-111	CFC-213 CFC-214	
CFC-112	CFC-215 CFC-216	
5. Carbon tetrachloride		Jan 1, 2010
6. 1,1, 1 - trichloroethane (methyl chloroform)		Jan 1, 2015
7. Hydrochlorofluorocarbons (HCFCs)		Jan 1, 2040
8. Methyl bromide		Jan 1, 2015

Regulation 5 (1)

THIRD SCHEDULE

FORM A

**THE NATIONAL ENVIRONMENT (MANAGEMENT OF OZONE DEPLETING
SUBSTANCES AND PRODUCTS) REGULATIONS 2001.**

Application for a License to Import a Controlled Substance/Product

A: Information concerning the importer

1. Name or trade name of importer:

2. (a) Address:

(b) Telephone No

(c) Fax No:

(d) E-mail address

.....

3. Number of import trade license and date obtained

4. Name of person authorized to act on behalf of importer (where applicable)

.....

(a)

Address:

.....

(b) Telephone No

(c) Fax No:

(d) E-mail address

5. Controlled substance/product to be imported:

.....

6. Customs tariff number and trade name of controlled substance/product:

.....

.....

.....

7. Condition of controlled substance/product (tick whichever is applicable)

(a) new/virgin (b) already use/reconditioned (c) recycled/reclaimed

8. Quantity to be imported:Kgs

9. Request for confidentiality of information (tick)

Yes . No .

Reasons:

10. Purpose and use of controlled substance/plans including safety precautions to be observed by the importer:

11. Handling procedures and storage plans including safety precaution to be observed by the importer:

12. Port of entry:

13. Mode of transport and intended carrier:

B: Information concerning the supplier

1. Name or trade name of the supplier:

2. Country of origin:

3. Country from which substance/product is consigned:

4. Holder of the product trademark:

5. Name and address of manufacturer

I declare that the information stated in this application is correct.

I undertake to observe the conditions under which this license is issued.

.....

Date Signature

C: FOR OFFICIAL USE ONLY

1. Application received on

2. Application approved / rejected

3. Conditions of approval / reasons for rejection

.....

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Date Executive Director

Regulation 5 (1)

THIRD SCHEDULE

FORM B

**THE NATIONAL ENVIRONMENT (MANAGEMENT OF OZONE DEPLETING
SUBSTANCES AND PRODUCTS) REGULATIONS 2001.**

Application for a License to Export a Controlled Substance/ Product

A: Information concerning the exporter

1. Name or trade name of exporter:

2. (a) Address:

(b) Telephone No.

(c) Fax No.:

(d) E-mail address:

.....

3. Number of person authorized to act on behalf of exporter:

4. Designation:

(a) Telephone No:

(b) Fax No:

(c) E-mail address:

5. Controlled substance/product to be exported:

..

6. Customs tariff number and trade of controlled substance/product:

.....

7. Country of origin of controlled substance/product:

8. Name and address of manufacture:

8. Condition of controlled substance/product (tick whichever is applicable)

(a) new/virgin (b) already used/reconditioned (c) recycled/reclaimed

9. Quantify to be exported:Kgs

10. Request for confidentiality of information (tick)

Yes No

Reasons:

11. Purpose and use of controlled substances/products to be exported:

12. Handling procedures and type of packaging including safety precautions to be observed by the exporter: .. .

14. Port of exit:

15. Mode of transport and intended carrier:

B: Information concerning the recipient

1. Name or trade name of the recipient:

2. Full address of recipient: . . .

3. Country to which substance/product/product is to be exported:

4. Country(ies) of transit (if applicable):

5. Facilities where controlled substance/product is to be used/recycled/ destroyed:
.....

I declare that, the information stated in this application is correct. I undertake to observe the conditions under which this license is issued.

... .

Date Signature

C: FOR OFFICIAL USE ONLY

1. Application received on

2. Application approved/rejected

3. Conditions of approval/reason for rejection

.....

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Date Executive Director

Regulation 6 (2).

THIRD SCHEDULE

FORM C

THE NATIONAL ENVIRONMENT (MANAGEMENT OF OZONE DEPLETING SUBSTANCES AND PRODUCTS) REGULATIONS 2001.

License to Export or Import a Controlled Substance/ Product

License No. MEMA/OZ/

Name

Address

You are hereby licensed to export from/import to

(country)

to/from

(country)

the following controlled substances/ products—

1.

2.

3.

This license is valid from20 to.....20...

This license is granted subject to the following conditions—

1.

2.

3.

4.

Date:

Executive Director,

National Environment Management Authority.

To be filled in triplicate.

Regulation 6(4)

FOURTH SCHEDULE

DESIGNATED PORTS OF ENTRY AND EXIT

1. Malaba
2. Bwera
3. Katuna
4. Entebbe International Airport

Regulation 9

FIRST SCHEDULE

DECLARATION BY END-USED OF CONTROLLED SUBSTANCES/PRODUCTS

I. Information concerning the vendor/supplier:

Name of vendor/supplier:

Address:

II. Information concerning the end-user

Name of end-user:

Address:

Name of controlled substance/product

End-use category/purpose: ..

III. Declaration

I undertake not to sell or otherwise supply any quantity of the controlled substance/product received by me to any person.

I further undertake not to use any quantity of the controlled substance/product received for a purpose not set out in this declaration.

I declare that the information stated in this declaration form is correct.

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Date Signature

Regulation 8 and 10

SIXTH SCHEDULE

RECORDS TO BE MAINTAINED FOR CONTROLLED SUBSTANCES AND PRODUCTS.

1. Information relating to distribution, sale and use.

Dated records of—

(a) the actual quantity of each controlled substance/product purchased from a Uganda supplier, wholesaler or distributor,

(b) the actual quantity of each controlled substance/product used and the end use category or purpose;

(c) the actual quantity of each controlled substance/product sold and the names and addresses of the end-users as set out in the declaration form in the Sixth Schedule and duly signed by the end-user.

II. Information relating to imports

1. Dated cords of—

(a) the actual quantity of each controlled substance/product imported in each shipment;

(b) the port through which the controlled substance/product was imported;

(c) the part from which the controlled substance/product was imported and the name and address of the supplier; and

(d) the import number for the consignment of the controlled substance/ product imported.

2. Copies of the bill of lading, the invoice and documents submitted to the Uganda Revenue authority for each consignment.

III. Information relating to exports

Dated records of—

- (a) the actual quantity of each controlled substance/product exported in each shipment;
- (b) the port through which the controlled substance/ product was exported;
- (c) the party through which the controlled substance/product was exported and the name and address of the recipient;
- (d) the purpose for which the controlled substance/product was exported.

RUHAKANA RUGUNDA, *Minister responsible for the National Environment Statute, 1995.*