

Ozone Layer Protection (Amendment) Bill 2024

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A BILL

To

Amend the Ozone Layer Protection Ordinance to implement the Kigali Amendment to the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer and to better implement the Protocol; to provide for controls on hydrofluorocarbons with high global warming potential and on products and equipment containing, made with or designed to operate on those hydrofluorocarbons; to provide for the safe handling of hazardous refrigerants that may be used as substitutes for those hydrofluorocarbons; to empower the Secretary for Environment and Ecology to make regulations for the above purposes; and to provide for related matters.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Ozone Layer Protection (Amendment) Ordinance 2024.

- (2) Subject to subsection (3), this Ordinance comes into operation on the day on which it is published in the Gazette.
- (3) Sections 5(2), 6(2) and 22(2) come into operation on 1 December 2025.

2. Enactments amended

The enactments specified in Parts 2 and 3 are amended as set out in those Parts.

Part 2

Amendments to Ozone Layer Protection Ordinance and its Subsidiary Legislation

Division 1—Ozone Layer Protection Ordinance (Cap. 403)

3. Long title substituted

The long title—

Repeal the long title

Substitute

“An Ordinance to implement the 1985 Vienna Convention for the Protection of the Ozone Layer and the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer; to provide for controls on substances that deplete the ozone layer and on hydrofluorocarbons with high global warming potential; to provide for controls on products and equipment containing, made with or designed to operate on those substances or those hydrofluorocarbons; to provide for the safe handling of hazardous refrigerants that may be used as substitutes for those hydrofluorocarbons; and to provide for related matters.”.

4. Section 2 amended (interpretation)

(1) Section 2, English text, definition of *Secretary*—

Repeal the full stop

Substitute a semicolon.

- (2) Section 2, Chinese text, definition of 住宅—

Repeal

“房產”

Substitute

“處所”.

- (3) Section 2, Chinese text, definition of 輸入、進口—

Repeal

“轉運”

Substitute

“過境”.

- (4) Section 2, Chinese text, definition of 輸出、出口—

Repeal

“轉運”

Substitute

“過境”.

- (5) Section 2—

Repeal the definition of *Director*.

- (6) Section 2—

Add in alphabetical order

“*Director of EMS* (機電署署長) means the Director of Electrical and Mechanical Services;

Director of EP (環保署署長) means the Director of Environmental Protection;

hazardous refrigerant (具危害性製冷劑) means a refrigerant prescribed by regulations made under section 16(1) to be a refrigerant that constitutes a safety hazard;

hydrofluorocarbon, HFC (氫氟碳化物) means a substance listed in Part 10 of the Schedule, whether existing alone or in a mixture;

Montreal Protocol (《蒙特利爾議定書》) means the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer adopted at Montreal on 16 September 1987, as amended from time to time and as applied to Hong Kong;

specified fire suppressant (指明滅火劑) means a fire suppressant that contains one or more scheduled substances;

specified refrigerant (指明製冷劑) means a refrigerant that contains one or more scheduled substances, but does not include a controlled refrigerant as defined by section 2 of the Ozone Layer Protection (Controlled Refrigerants) Regulation (Cap. 403 sub. leg. B).”.

5. Section 3 amended (offence to manufacture scheduled substances)

(1) Section 3(1), after “substance”—

Add

“(other than a scheduled substance listed in Part 10 of the Schedule)”.

(2) Section 3(1)—

Repeal

“(other than a scheduled substance listed in Part 10 of the Schedule)”.

(3) After section 3(2)—

Add

- “(3) In any proceedings for an offence under subsection (1), the burden of establishing that subsection (1) does not apply because of subsection (2) lies on the person charged with the offence.
- (4) For the purposes of subsection (3), a person is taken to have established that subsection (1) does not apply because of subsection (2) if—
- (a) there is sufficient evidence to raise an issue that the scheduled substance meets the description in subsection (2); and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.
- (5) For the purposes of subsection (1), a scheduled substance is not to be regarded as being manufactured if—
- (a) the substance is collected from any equipment, product or container during the servicing of the equipment, product or container or before the equipment, product or container is scrapped; and
 - (b) the substance is subsequently recycled by way of purification or distillation, or by any other way, so as to make it suitable for reuse.”.

6. Section 4 amended (offence to import or export scheduled substances without a licence)

(1) Section 4, after “substance”—

Add

“(other than a scheduled substance listed in Part 10 of the Schedule)”.

- (2) Section 4—

Repeal

“(other than a scheduled substance listed in Part 10 of the Schedule)”.

7. Section 5 amended (registration)

- (1) Section 5(1)—

Repeal

“Where the Director”

Substitute

“If the Director of EP”.

- (2) Section 5(1)(a)—

Repeal

“; or”

Substitute

“listed in Parts 1 to 9 of the Schedule;”.

- (3) After section 5(1)(a)—

Add

“(ab) was, before 1 December 2025, an importer or exporter of scheduled substances listed in Part 10 of the Schedule; or”.

- (4) Section 5(1)—

Repeal

“in a form specified by him”

Substitute

“or her in a form specified by him or her”.

(5) Section 5—

Repeal subsection (3)

Substitute

“(3) The Director of EP may, at the time of registration or at any time after giving written notice to a registrant, impose conditions of registration that are reasonably related to—

(a) Hong Kong’s compliance of the 1985 Vienna Convention for the Protection of the Ozone Layer, the Montreal Protocol and any other protocols under the Convention that apply to Hong Kong; or

(b) the measures referred to in section 6(4)(b).”.

(6) Section 5—

Repeal subsection (5)

Substitute

“(5) The Director of EP is to issue a certificate of registration in a form specified by him or her to a person who is registered under this section and the condition of registration under subsection (2) and any conditions of registration imposed under subsection (3) are to be set out in the certificate.”.

(7) Section 5(6)—

Repeal

“Where the Director”

Substitute

“If the Director of EP”.

(8) Section 5—

Repeal subsection (7)

Substitute

“(7) If the Director of EP refuses to register an applicant, the Director is to serve on the applicant, either by post or by electronic mail, a notice stating the reasons for refusal.”.

8. Section 6 amended (licence to import or export scheduled substances)

(1) Section 6(1)—

Repeal

“The Director”

Substitute

“The Director of EP”.

(2) Section 6(2)—

Repeal

“may, on application to him”

Substitute

“of EP may, on application to him or her”.

(3) Section 6(3), after “Director”—

Add

“of EP”.

(4) Section 6(4), after “Director”—

Add

“of EP”.

(5) Section 6(4)—

Repeal paragraph (a)

Substitute

“(a) must ensure that the 1985 Vienna Convention for the Protection of the Ozone Layer, the Montreal Protocol and any other protocols under the Convention that apply to Hong Kong are complied with; and”.

(6) Section 6—

Repeal subsection (5)

Substitute

“(5) If the Director of EP refuses to issue a licence or vary the conditions of a licence as requested by the applicant in the application, the Director is to serve on the applicant, either by post or by electronic mail, a notice stating the reasons for refusal.”.

9. Section 7 amended (cancellation of registration or licence)

(1) Section 7(1)—

Repeal

“may at any time cancel a registration or licence where he”

Substitute

“of EP may at any time cancel a registration or licence if he or she”.

(2) Section 7(1), English text—

Repeal

“him”

Substitute

“the applicant”.

(3) Section 7(2)—

Repeal

“shall, by personal service or by post”

Substitute

“of EP is to, either by post or by electronic mail”.

- (4) Section 7(3)—

Repeal

everything after “person served”

Substitute

“must deliver the relevant certificate of registration or licence to the Director of EP.”.

- (5) Section 7(4)—

Repeal

everything after “before”

Substitute

“his or her registration or licence is cancelled, the person may apply to the Director of EP to review the Director’s decision and the Director may, after hearing the applicant, reinstate the registration or licence, subject to any conditions the Director may impose.”.

10. Section 8 amended (appeal to Administrative Appeals Board)

- (1) Section 8—

Repeal subsection (1)

Substitute

- “(1) A person who is aggrieved by any of the following decisions made in respect of the person may, within 28 days after receiving notice of the decision, appeal to the Administrative Appeals Board—

- (a) a decision made by the Director of EP under section 5, 6 or 7;
- (b) a decision made by the Director of EP or the Director of EMS that is specified in the regulations made under section 16 to be subject to an appeal to the Administrative Appeals Board.”.

(2) Section 8(2)—

Repeal

“Director shall”

Substitute

“Director of EP or the Director of EMS (as may be appropriate) is to”.

11. Section 9 amended (appointment of authorized officers)

Section 9, after “Director”—

Add

“of EP or the Director of EMS”.

12. Section 10 amended (general powers of authorized officers)

(1) Section 10, heading, after “officers”—

Add

“in routine inspection”.

(2) Section 10(1)—

Repeal everything before paragraph (a)

Substitute

“(1) For the purposes of carrying out a routine inspection to ascertain whether this Ordinance has been or is being complied with, an authorized officer may without warrant—”.

(3) Section 10(1)(a)—

Repeal

“search”

Substitute

“inspect”.

(4) Section 10(1)(a)(i), Chinese text—

Repeal

“房產”

Substitute

“處所”.

(5) Section 10(1)(a)(ii)—

Repeal

“a machine or machinery designed to cool or freeze”

Substitute

“any equipment designed to cool, freeze or dehumidify”.

(6) After section 10(1)(a)(ii)—

Add

“(iia) any premises (other than domestic premises) in which there is any equipment designed to extinguish fire;”.

(7) Section 10(1)(a)(iii), Chinese text—

Repeal

“房產” (wherever appearing)

Substitute

“處所”.

- (8) Section 10(1)(a)(iv), Chinese text—

Repeal

“房產” (wherever appearing)

Substitute

“處所”.

- (9) Section 10(1)(d), after “Director”—

Add

“of EP or the Director of EMS (as may be appropriate)”.

- (10) Section 10(1)(f), Chinese text—

Repeal

“房產” (wherever appearing)

Substitute

“處所”.

- (11) Section 10(2)(d), Chinese text—

Repeal

“有權進入的房產”

Substitute

“獲授權進入的處所”.

- (12) Section 10—

Repeal subsection (3)

Substitute

“(3) If a sample of anything is taken by an authorized officer under subsection (1)(d), the Director of EP or the Director of EMS (as may be appropriate) may, after examination and investigation, direct that the sample be returned to the place from which it was taken, or destroyed or disposed of, as the Director thinks fit.”.

13. Section 11 amended (special powers of authorized officers)

(1) Section 11, heading, after “**officers**”—

Add

“to investigate suspected offence”.

(2) Section 11—

Repeal subsections (1), (2) and (3)

Substitute

“(1) If a warrant has been issued under subsection (2) in respect of any premises, or if subsection (5) applies in respect of any premises, an authorized officer may—

(a) enter and search the premises; and

(b) seize anything, other than an aircraft, vessel or vehicle—

(i) in respect of which the officer reasonably suspects that an offence has been committed under this Ordinance; or

(ii) which the officer reasonably suspects to be specified evidence.

- (2) A magistrate may issue a warrant authorizing an authorized officer to enter and search any premises if satisfied by information on oath that there are reasonable grounds to suspect that—
 - (a) an offence under this Ordinance has been, is being or is about to be committed in the premises; or
 - (b) there is in the premises any specified evidence.
- (3) Unless otherwise specified in it, a warrant continues in force until the earlier of the following—
 - (a) the expiry of 1 month after the date of its issue; or
 - (b) the purposes for which the entry and search are conducted have been achieved.”.
- (3) After section 11(4)—

Add

- “(5) The Director of EP or the Director of EMS may authorize an authorized officer to exercise the power under subsection (1) without a warrant issued under subsection (2) if—
 - (a) there are reasonable grounds to suspect that any specified evidence is in any premises (other than domestic premises); and
 - (b) the delay caused by obtaining a warrant is likely to result in the loss or destruction of the evidence or for any other reason it would not be reasonably practicable to obtain a warrant.

(6) In subsection (5), the Director of EP includes any Deputy Director of Environmental Protection and Assistant Director of Environmental Protection, and the Director of EMS includes any Deputy Director of Electrical and Mechanical Services and Assistant Director of Electrical and Mechanical Services.

(7) In this section—

specified evidence (指明證據) means anything that is or that contains, or that is likely to be, or to contain, evidence of an offence under this Ordinance.”.

14. Section 12 amended (ancillary powers of investigation of suspected offence)

(1) Section 12, Chinese text, heading—

Repeal

“犯罪”

Substitute

“罪行”.

(2) Section 12, before “may”—

Add

“conferred with any power under section 11”.

(3) Section 12(a)—

Repeal

“he is empowered by section 10 or 11 to enter and search”

Substitute

“the officer is empowered under section 11 to enter”.

(4) Section 12(b)—

Repeal

everything after “obstructing”

Substitute

“the officer in the exercise of the power;”.

- (5) Section 12(c)—

Repeal

everything after “which”

Substitute

“the officer is empowered under section 11 to search until the search is completed;”.

- (6) Section 12(d), English text—

Repeal

everything after “whom”

Substitute

“the officer reasonably suspects of being guilty of an offence under this Ordinance, but a person is not to be searched except by an authorized officer of the same sex and is not to be searched in a public place if the person objects to being so searched; and”.

- (7) Section 12(e)—

Repeal

everything after “purpose of”

Substitute

“performing the officer’s duties or for effectively enforcing this Ordinance, require a person found in any place or premises which the officer is empowered under section 11 to enter to give details of the person’s identity, name and address and produce evidence of the person’s identity.”.

15. Section 13 amended (offences in relation to enforcement)

- (1) Section 13, heading—

Repeal

“Offences in relation to enforcement”

Substitute

“Prohibition of certain acts that impede operation of Ordinance”.

- (2) Section 13—

Renumber the section as section 13(1).

- (3) After section 13(1)—

Add

“(2) For the purposes of subsection (1)(b), a person is taken to have established that the person had a reasonable excuse if—

- (a) there is sufficient evidence to raise an issue that the person had a reasonable excuse; and
- (b) the contrary is not proved by the prosecution beyond reasonable doubt.”.

16. Section 14 amended (forfeiture)

- (1) Section 14(1)—

Repeal

“11(2)”

Substitute

“11(1)(b)”.

- (2) Section 14(2)—

Repeal

everything after “section”

Substitute

“11(1)(b), the Director may at any time release the thing seized, on payment of reasonable storage charges, to the person who appears to the Director to be the owner of the thing seized or the owner’s authorized agent, subject to any conditions that the Director may specify in writing.”.

- (3) Section 14(2A)—

Repeal

everything after “section” and before “in”

Substitute

“11(1)(b) is without an apparent owner, the Director must, within 7 days from the date of its seizure, cause a notice to be exhibited at the Environmental Protection Department or the Electrical and Mechanical Services Department (as may be appropriate)”.

- (4) Section 14(5)—

Repeal

everything after “prosecuted, the Director” and before “has indicated”

Substitute

“must, as soon as reasonably practicable, notify in writing the person who appears to the Director to be the owner of the thing seized or the owner’s authorized agent unless the person”.

- (5) After section 14(8)—

Add

- “(9) In this section, a reference to the Director in relation to a thing seized under section 11(1)(b) is a reference to—

- (a) if the thing was seized by an authorized officer authorized by the Director of EP—the Director of EP; or
- (b) if the thing was seized by an authorized officer authorized by the Director of EMS—the Director of EMS.”.

17. Section 14A amended (claims for the return of thing forfeited under section 14(4A))

After section 14A(5)—

Add

- “(6) In this section, a reference to the Director in relation to a thing forfeited under section 14(4A) is a reference to—
- (a) if the thing was seized by an authorized officer authorized by the Director of EP—the Director of EP; or
 - (b) if the thing was seized by an authorized officer authorized by the Director of EMS—the Director of EMS.”.

18. Section 15 amended (prosecutions)

Section 15(1) and (2), after “Director”—

Add

“of EP, the Director of EMS”.

19. Section 16 amended (regulations)

(1) Section 16(1)(a)—

Repeal

everything after “use,”

Substitute

“supply, sale, distribution, storage, recycling and disposal of products—

- (i) containing a scheduled substance; or
- (ii) designed to operate on a scheduled substance;”.

- (2) Section 16(1)(f)—

Repeal

everything after “marking”

Substitute

“(including the manner of labelling or marking) of—

- (i) any equipment containing or using a scheduled substance; or
- (ii) any product containing, made with or designed to operate on a scheduled substance;”.

- (3) Section 16(1)—

Repeal paragraph (h)

Substitute

“(h) empowering the Director of EP to determine whether a country or place is in full compliance with the requirements of the Montreal Protocol;”.

- (4) Section 16(1)(i), after “Director”—

Add

“of EP”.

- (5) Section 16(1)(j), after “Director”—

Add

“of EP”.

- (6) Section 16(1)(j)—

Repeal

“approval by notice in the Gazette; and”

Substitute

“or her approval by notice in the Gazette;”.

- (7) Section 16(1)(k), after “Director”—

Add

“of EP”.

- (8) Section 16(1)(k)—

Repeal the full stop

Substitute a semicolon.

- (9) After section 16(1)(k)—

Add

“(l) providing for—

- (i) the types of products that are subject to prohibition and control (including prohibition and control in respect of their manufacture, import, supply and sale), in order to reduce the production and consumption of HFC (*regulated HFC product*);
- (ii) the global warming potential value of an HFC, a mixture containing HFC and other substances that exist in the mixture;

- (iii) a maximum limit on the global warming potential value of an HFC or a mixture containing HFC that a regulated HFC product is allowed to contain or operate on, and the prohibition and control that a regulated HFC product is subject to if the limit is exceeded; and
 - (iv) the dates by which the prohibition and control are to take effect (which may be different for different types of regulated HFC product);
- (m) providing for the criteria to determine whether a refrigerant is a hazardous refrigerant;
- (n) providing for the duties and obligations of persons who own, manage or control certain types of equipment—
 - (i) that are installed in premises other than domestic premises;
 - (ii) that are designed to cool, freeze or dehumidify anything or to function as a heat pump; and
 - (iii) that contain or use a specified refrigerant to perform their function;
- (o) providing for the registration of those types of equipment mentioned in paragraph (n) and any matter in relation to their registration, the cancellation of registration and the establishment and maintenance of a register;
- (p) providing for the duties and obligations of persons who own, manage or control certain types of equipment—
 - (i) that are installed in premises other than domestic premises;

- (ii) that are designed to cool, freeze or dehumidify anything or to function as a heat pump; and
 - (iii) that contain or use a hazardous refrigerant to perform their function;
- (q) providing for the duties and obligations of persons who own, manage or control certain types of equipment—
 - (i) that are installed in premises other than domestic premises;
 - (ii) that are designed to extinguish fire; and
 - (iii) that contain or use a specified fire suppressant to perform their function;
- (r) providing for the registration of those types of equipment mentioned in paragraph (q) and any matter in relation to their registration, the cancellation of registration and the establishment and maintenance of a register;
- (s) requiring any persons who undertake to carry out any work that involves a specified refrigerant, a hazardous refrigerant or a specified fire suppressant in relation to any equipment mentioned in paragraph (n), (p) or (q) be registered in accordance with the regulations made under this section, and providing for the duties and obligations of those persons;
- (t) providing for any matter in relation to the registration, the cancellation and reinstatement of registration of those persons mentioned in paragraph (s) and the establishment and maintenance of a register;

- (u) requiring any persons mentioned in paragraph (s) to ensure that a technician certified in accordance with the regulations made under this section (***certified technician***) be present on site when any work mentioned in that paragraph is carried out, and providing for the duties and obligations of certified technicians, and matters relating to the training and certification of persons who wish to be certified technicians;
- (v) the establishment of a Refrigerant Technical Advisory Committee to advise the Director of EMS on matters relating to—
 - (i) the use, management and handling of refrigerants when the refrigerants are contained or used in those types of equipment mentioned in paragraph (n) or (p); and
 - (ii) the training of persons who wish to be certified technicians;
- (w) empowering the Director of EMS to issue codes of practice to provide practical guidance in respect of—
 - (i) the use, management and handling of refrigerants when the refrigerants are contained or used in those types of equipment mentioned in paragraph (n) or (p); and
 - (ii) any ancillary work that is required to be carried out in relation to the above equipment for the purposes of subparagraph (i); and
- (x) empowering the Director of EP or the Director of EMS to grant exemptions from any requirement imposed under the regulations made under this section, either generally or in a particular case, and either conditionally or unconditionally.”.

(10) After section 16(3)—

Add

“(4) A code of practice issued under subsection (1)(w) is not subsidiary legislation.”.

20. Section 17 amended (Secretary may amend Schedule)

Section 17, English text—

Repeal

“order”

Substitute

“notice”.

21. Section 17A added

After section 17—

Add

“17A. Date of giving or service of documents

For the purposes of this Ordinance, a notice or other document given or served is taken, in the absence of evidence to the contrary, to have been given or served—

- (a) if sent by post to an address—at the time when it would in the ordinary course of post be delivered to that address; or
- (b) if sent by electronic mail to an electronic address—at the time when it would in the ordinary course of transmission by electronic mail be received at that address.”.

22. Schedule amended (scheduled substances)

(1) The Schedule—

Repeal

“[ss. 2”

Substitute

“[ss. 2, 3, 4, 5”.

(2) The Schedule—

Repeal

“[ss. 2, 3, 4,”

Substitute

“[ss. 2,”.

(3) The Schedule, after Part 9—

Add

“Part 10

Hydrofluorocarbons (HFCs)

Column 1	Column 2	Column 3
Item	Chemical Name	Chemical Formula
1.	1,1,2,2-Tetrafluoroethane	CHF_2CHF_2
2.	1,1,1,2-Tetrafluoroethane	CH_2FCF_3
3.	1,1,2-Trifluoroethane	CH_2FCHF_2
4.	1,1,1,3,3-Pentafluoropropane	$\text{CHF}_2\text{CH}_2\text{CF}_3$
5.	1,1,1,3,3-Pentafluorobutane	$\text{CF}_3\text{CH}_2\text{CF}_2\text{CH}_3$
6.	1,1,1,2,3,3,3-Heptafluoropropane	$\text{CF}_3\text{CHFCF}_3$

Column 1	Column 2	Column 3
Item	Chemical Name	Chemical Formula
7.	1,1,1,2,2,3-Hexafluoropropane	$\text{CH}_2\text{FCF}_2\text{CF}_3$
8.	1,1,1,2,3,3-Hexafluoropropane	$\text{CHF}_2\text{CHF}\text{CF}_3$
9.	1,1,1,3,3,3-Hexafluoropropane	$\text{CF}_3\text{CH}_2\text{CF}_3$
10.	1,1,2,2,3-pentafluoropropane	$\text{CH}_2\text{FCF}_2\text{CHF}_2$
11.	1,1,1,2,2,3,4,5,5,5-decafluoropentane	$\text{CF}_3\text{CHFCHFCF}_2\text{CF}_3$
12.	Difluoromethane	CH_2F_2
13.	Pentafluoroethane	CHF_2CF_3
14.	1,1,1-Trifluoroethane	CH_3CF_3
15.	Fluoromethane	CH_3F
16.	1,2-Difluoroethane	$\text{CH}_2\text{FCH}_2\text{F}$
17.	1,1-Difluoroethane	CH_3CHF_2
18.	Trifluoromethane	CHF_3 .

Division 2—Ozone Layer Protection (Controlled Refrigerants) Regulation (Cap. 403 sub. leg. B)

23. Section 2 amended (interpretation)

(1) Section 2, definition of *controlled refrigerant*, after “Director”—

Add

“of EP”.

- (2) Section 2, Chinese text, definition of 冷凍設備, paragraph (c)—

Repeal

“房產”

Substitute

“處所”.

24. Section 3 amended (Director to declare controlled refrigerant)

- (1) Section 3, heading, after “**Director**”—

Add

“of EP”.

- (2) Section 3, after “Director”—

Add

“of EP”.

25. Section 4 amended (approval of refrigerant recycling equipment)

- (1) Section 4, after “Director”—

Add

“of EP”.

- (2) Section 4—

Repeal

“his”

Substitute

“his or her”.

26. Section 5 amended (prohibition on releasing controlled refrigerant)

(1) Section 5(1)—

Repeal

“to a fine at level 6.”

Substitute

“on conviction—

(a) to a fine of \$200,000 and imprisonment for 6 months; and

(b) in the case of a continuing offence—to a further fine of \$10,000 for each day during which the offence continues.”.

(2) Section 5(2)(a)(iv), after “Director”—

Add

“of EP”.

(3) Section 5(2)(a)—

Repeal

“he”

Substitute

“he or she”.

(4) Section 5(2)(b)—

Repeal

“his control and that he”

Substitute

“his or her control and that he or she”.

27. Section 6 amended (control of recycling of controlled refrigerant)

- (1) Section 6(1)(a) and (b)(ii), after “Director”—

Add

“of EP”.

- (2) Section 6(2)—

Repeal

“to a fine at level 6.”

Substitute

“on conviction—

- (a) to a fine of \$200,000 and imprisonment for 6 months; and
- (b) in the case of a continuing offence—to a further fine of \$10,000 for each day during which the offence continues.”.

28. Section 7 amended (records to be kept in relation to refrigeration equipment)

- (1) Section 7(1), Chinese text—

Repeal

“房產” (wherever appearing)

Substitute

“處所”.

- (2) Section 7(3)—

Repeal

“to a fine at level 6.”

Substitute

“on conviction—

- (a) to a fine of \$200,000 and imprisonment for 6 months; and
- (b) in the case of a continuing offence—to a further fine of \$10,000 for each day during which the offence continues.”.

29. Section 8 amended (records to be kept in relation to motor vehicle air-conditioners)

Section 8(2)—

Repeal

“to a fine at level 6.”

Substitute

“on conviction—

- (a) to a fine of \$200,000 and imprisonment for 6 months; and
- (b) in the case of a continuing offence—to a further fine of \$10,000 for each day during which the offence continues.”.

**Division 3—Ozone Layer Protection (Products Containing Scheduled Substances) (Import Banning) Regulation
(Cap. 403 sub. leg. C)**

30. Section 2 amended (interpretation)

- (1) Section 2, Chinese text, definition of 轉運, paragraph (b)(ii)—

Repeal

“儲存；”

Substitute

“儲存”。

(2) Section 2—

Repeal the definition of *Protocol*.

31. Section 3 amended (offence to import certain products)

(1) Section 3(1), before “Protocol”—

Add

“Montreal”.

(2) Section 3(1A)—

Repeal

“Protocol, unless the Director”

Substitute

“Montreal Protocol, unless the Director of EP”.

Part 3

Related Amendments

**Division 1—Amendment to Specification of Public Offices
Notice (Cap. 1 sub. leg. C)**

32. Schedule amended (specification of public offices)

The Schedule, after the entry relating to the Director of Electrical and Mechanical Services specified for the purposes of the Peak Tramway Ordinance (Cap. 265)—

Add

“Director of Electrical and Mechanical Services	Ozone Layer Protection Ordinance (Cap. 403).”.
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**Division 2—Amendment to Administrative Appeals Board
Ordinance (Cap. 442)**

33. Schedule amended

The Schedule, item 36, column 3, after “7 or”—

Add

“a decision of the Director of Environmental Protection
or the Director of Electrical and Mechanical Services”.

Explanatory Memorandum

This Bill amends the Ozone Layer Protection Ordinance (Cap. 403) (***Ordinance***) and its subsidiary legislation mainly to—

- (a) implement the Kigali Amendment to the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer and to better implement the Protocol;
- (b) provide for controls on hydrofluorocarbons with high global warming potential and on products and equipment containing, made with or designed to operate on those hydrofluorocarbons;
- (c) provide for the safe handling of hazardous refrigerants that may be used as substitutes for those hydrofluorocarbons;
- (d) empower the Director of Electrical and Mechanical Services (***Director of EMS***) to exercise various powers and to perform various functions under the Ordinance; and
- (e) empower the Secretary for Environment and Ecology to make regulations for the above purposes.

2. The Bill is divided into 3 Parts.

Part 1—Preliminary

3. Clause 1 sets out the short title and provides for commencement.

Part 2—Amendments to the Ordinance and its Subsidiary Legislation

4. Clause 3 amends the long title of the Ordinance to extend the scope of the Ordinance.

5. Clause 4 adds a new definition of ***Director of EMS*** to section 2 of the Ordinance and the existing defined term of ***Director*** (meaning the Director of Environmental Protection (***Director of EP***)) is amended to ***Director of EP*** under the same clause.
6. Clause 5 amends section 3 of the Ordinance mainly to set out that the burden of establishing the exception to the offence provided under that section lies on the person charged with the offence, and the burden is an evidential burden. Clause 5 also adds a new provision in section 3 of the Ordinance to clarify that if a scheduled substance is recycled for reuse, it is not regarded as being manufactured.
7. Clause 10 amends section 8 of the Ordinance to provide that a decision of the Director of EP or the Director of EMS may be subject to appeal to the Administrative Appeals Board if so provided in the regulations made under the Ordinance.
8. Clause 11 amends section 9 of the Ordinance to give a power to the Director of EMS to appoint authorized officers.
9. Clauses 12, 13 and 14 amend sections 10, 11 and 12 of the Ordinance respectively to refine the powers of entry and search, etc. for authorized officers and to provide greater safeguards in the exercise of such powers.
10. Clause 15 amends section 13 of the Ordinance to place an evidential burden of proof on a person charged with an offence under section 13(1)(b), if that person wishes to plead that he or she had a reasonable excuse for failing to comply with any requirement made by an authorized officer under section 10, 11 or 12 of the Ordinance.

11. Clauses 16, 17 and 18 amend sections 14, 14A and 15 of the Ordinance respectively mainly to provide for the role of the Director of EMS under the Ordinance.
12. Clause 19 amends section 16 of the Ordinance to give further powers to the Secretary for Environment and Ecology to make regulations to implement the Ordinance.
13. Clause 22 adds a new Part 10 to the Schedule to the Ordinance to set out the hydrofluorocarbons that are subject to control under the Ordinance.
14. Clauses 26 to 29 amend the Ozone Layer Protection (Controlled Refrigerants) Regulation (Cap. 403 sub. leg. B) mainly to increase the penalty for the offences under the Regulation.
15. Clauses 30 and 31 amend the Ozone Layer Protection (Products Containing Scheduled Substances) (Import Banning) Regulation (Cap. 403 sub. leg. C) to adopt certain defined terms in the Ordinance.

Part 3—Related Amendments

16. Clauses 32 and 33 make related amendments to the Specification of Public Offices Notice (Cap. 1 sub. leg. C) and the Administrative Appeals Board Ordinance (Cap. 442).