

SCHEDULE

OFFENCES RELATING TO CONTRAVENTIONS OF THE PRINCIPAL REGULATION

PART II

OFFENCES RELATING TO CONTRAVENTIONS OF ARTICLE 4

- 8.** A person who, on or after the commencement date—
- (a) subject to Article 4(4)(i)(a) and (b) and (5), places, or causes or permits another person to place, chlorofluorocarbons on the market; or
 - (b) subject to Article 4(4)(i)(b) and (5), uses, or causes or permits another person to use, chlorofluorocarbons otherwise than—
 - (i) in the maintenance or servicing of refrigeration and air-conditioning equipment or in finger-printing processes;
 - (ii) in delivery mechanisms for hermetically sealed devices designed for implantation in the human body for delivery of measured doses of medication, or
 - (iii) in existing military applications, or
 - (c) uses, or causes or permits another person to use, chlorofluorocarbons in an application referred to in sub-paragraphs (b)(ii) or (iii) otherwise than in accordance with the terms of an authorisation issued by the Commission under Article 4(1),

commits an offence.

9. A person who, on or after the commencement date, uses, or causes or permits another person to use, chlorofluorocarbons in an application referred to in paragraph 8(b)(i), commits an offence.

10. A person who, on or after 31st December 2004, uses, or causes or permits another person to use, chlorofluorocarbons in an application referred to in paragraph 8(b)(ii), commits an offence.

11. A person who, on or after 31st December 2008, uses, or causes or permits another person to use, chlorofluorocarbons in any military application, commits an offence.

12. A person who, on or after the commencement date, subject to Article 4(4)(i)(a) and (b) and (5)—

- (a) places, or causes or permits another person to place, on the market—
 - (i) other fully halogenated chlorofluorocarbons,
 - (ii) carbon tetrachloride,
 - (iii) 1,1,1-trichloroethane, or
 - (iv) hydrochlorofluorocarbons; or
- (b) subject to Article 4(4)(i)(b) and (5), uses any of those substances otherwise than in the maintenance or servicing of refrigeration and air-conditioning equipment or in finger-printing processes,

commits an offence.

13. A person who, on or after the commencement date uses, or causes or permits another person to use, any of the substances mentioned in paragraph 12 in the maintenance or servicing of refrigeration and air-conditioning equipment or in finger-printing processes, commits an offence.

Status: This is the original version (as it was originally made).

14. A person who, on or after the commencement date, places, or causes or permits another person to place, on the market halons that have not been recovered, recycled or reclaimed in an existing fire protection system, commits an offence unless—

- (a) the placing on the market is authorised by virtue of Article 4(4)(i)(a) or (b) or (5); or
- (b) the halon—
 - (i) is halon 1301 or halon 1211, and
 - (ii) its placing on the market is for a critical use for the time being specified in relation to that substance in Annex VII to the principal Regulation.

15. A person who, on or after 31st December 2002, places, or causes or permits another person to place, on the market halons that have been recovered, recycled or reclaimed in existing fire protection systems, commits an offence unless—

- (a) the placing on the market is authorised by virtue of Article 4(4)(i)(a) or (b) or (5); or
- (b) the halon—
 - (i) is halon 1301 or halon 1211, and
 - (ii) its placing on the market is for a critical use for the time being specified in relation to that substance in Annex VII to the principal Regulation.

16. A person who, on or after the commencement date, uses, or causes or permits another person to use, halons that have not been recovered, recycled or reclaimed in an existing fire protection system, commits an offence unless—

- (a) the use is authorised by virtue of Article 4(4)(i)(b) or (5);
- (b) the halons are used for the maintenance or servicing of refrigeration and air-conditioning equipment or in a finger-printing process; or
- (c) the halon—
 - (i) is halon 1301 or halon 1211; and
 - (ii) its use is a critical use for the time being specified in relation to that substance in Annex VII to the principal Regulation.

17. A person who, on or after 31st December 2002, uses, or causes or permits another person to use, halons that have been recovered, recycled or reclaimed in existing fire protection systems, commits an offence unless—

- (a) the use is authorised by virtue of Article 4(4)(i)(b) or (5); or
- (b) the halon—
 - (i) is halon 1301 or halon 1211; and
 - (ii) its use is a critical use for the time being specified in relation to that substance in Annex VII to the principal Regulation.

18. A person who maintains a fire protection system or fire extinguisher containing halons after 30th December 2003 commits an offence unless—

- (a) the halon is halon 1301 or halon 1211; and
- (b) its use in that system or extinguisher is a critical use for the time being specified in relation to that substance in Annex VII to the principal Regulation.

19. A person who fails to recover halons from a fire protection system or fire extinguisher whose decommissioning is required by Article 4(4)(v) commits an offence.

20.—(1) A producer or importer of methyl bromide which places on the market or uses for its own account a calculated level of methyl bromide which—

- (a) in the period from the commencement date until 31st December 2002 exceeds 40% of $\frac{\text{its calculated 1991 level}}{365} \times \text{the number of days beginning with the commencement date to 31st December 2002}$; or
- ; or
- (b) subject to sub-paragraph (2), in either of the periods of 12 months ending on 31st December 2003 and 31st December 2004 exceeds 25% of its calculated 1991 level,

commits an offence unless—

- (i) where he places it on the market, its placing on the market is authorised by Article 4(4)(i) or (5); or
- (ii) where he uses it for his own account, its use is authorised by Article 4(4)(i)(b) or (5).

(2) Paragraph (b) of sub-paragraph (1) shall apply in a case where an adjustment has been made by the Commission pursuant to Article 4(2) as if, for the maximum calculated level ascertained in accordance with that paragraph, there were substituted the maximum calculated level specified by the Commission.

(3) In sub-paragraph (1) “calculated 1991 level”, in relation to a producer or importer of methyl bromide, means the calculated level of methyl bromide which it placed on the market or used for its own account in 1991, other than any methyl bromide placed on the market or used on its own account for quarantine or preshipment applications.

(4) Any reference in sub-paragraphs (1) and (2) to a calculated level, other than a calculated 1991 level, excludes a reference to amounts of methyl bromide placed on the market or used for the producer’s or importer’s own account for quarantine or preshipment applications.

21.—(1) A producer or importer which places on the market or uses for its own account for quarantine and preshipment applications a calculated level of methyl bromide which—

- (a) in the period from the commencement date until 31st December 2002 exceeds $\frac{\text{the average of the calculated level of methyl bromide}}{365} \times \text{the number of days beginning with the commencement date to 31st December 2002}$; or
- (b) in any period of twelve months ending on 31st December in any later year exceeds the average of the calculated level of methyl bromide,

commits an offence.

22. A producer or importer which places methyl bromide on the market after 31st December 2004 or uses methyl bromide for its own account after that date commits an offence unless—

- (a) it is placed on the market or used for a purpose mentioned in Article 4(4)(i)(b) or pursuant to such a transfer as it mentioned in Article 4(5); or
- (b) it is placed on the market for destruction within the Community by technologies approved by the Parties.

23. An undertaking, other than a producer or importer, which after 31st December 2005—

- (a) places methyl bromide on the market otherwise than for a purpose mentioned in Article 4(4)(i); or
- (b) uses methyl bromide otherwise than for a purpose mentioned in Article 4(4)(i)(b),

commits an offence.

24.—(1) A producer or importer of controlled substances who places on the market or uses for its own account a calculated level of hydrochlorofluorocarbons which—

- (a) in the period from the commencement date until 31st December 2002, exceeds, as a percentage of the calculated levels set out in Article 4(3)(i)(a) to (c)

Status: This is the original version (as it was originally made).

$\frac{\text{its percentage market share in 1996}}{365} \times \text{the number of days beginning with the commencement date to 31st December 2002; or}$

- (b) in any of the periods of 12 months ending on 31st December 2003 or on any subsequent 31st December until (and including) 31st December 2009, exceeds the quota allocated to it for that year pursuant to the mechanism determined by the Commission under Article 4(3)(ii);

commits an offence unless sub-paragraph (2) applies to their placing on the market or use.

(2) This sub-paragraph applies—

- (a) to the placing on the market or use of hydrochlorofluorocarbons—
- (i) for a purpose mentioned in Article 4(4)(i)(b),
 - (ii) pursuant to such a transfer as is mentioned in Article 4(5), and
 - (iii) in accordance with an authorisation of the Commission pursuant to Article 5(7); and
- (b) to the placing of hydrochlorofluorocarbons on the market for destruction within the Community by technologies approved by the Parties.

25. A producer or importer which, after 31st December 2009, places hydrochlorofluorocarbons on the market or uses them for its own account, commits an offence unless—

- (a) they are placed on the market or used—
- (i) for a purpose mentioned in Article 4(4)(i)(b),
 - (ii) pursuant to such a transfer as is mentioned in Article 4(5), or
 - (iii) in accordance with an authorisation of the Commission pursuant to Article 5(7); or
- (b) they are placed on the market for destruction within the Community by technologies approved by the Parties.

26. A person who, on or after the commencement date, places, or causes or permits another person to place, on the market any product or equipment containing—

- (a) chlorofluorocarbons,
- (b) other fully halogenated chlorofluorocarbons,
- (c) halons,
- (d) carbon tetrachloride,
- (e) 1,1,1-trichloroethane, or
- (f) hydrobromofluorocarbons,

commits an offence unless—

- (i) the product or equipment was manufactured before 1st October 2000;
- (ii) the use of the substance in that product or equipment is authorised in accordance with the second sub-paragraph of Article 3(1); or
- (iii) the product or equipment contains halons and is for a critical use for the time being specified in relation to that substance in Annex VII to the principal Regulation.