



Greenhouse and Energy Minimum Standards Regulation 2012¹

Select Legislative Instrument 2012 No. 239

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Greenhouse and Energy Minimum Standards Act 2012*.

Dated 11 October 2012

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

MARK DREYFUS
Parliamentary Secretary for Climate Change and Energy
Efficiency

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Part 1 Preliminary

1.1 Name of regulation

This regulation is the *Greenhouse and Energy Minimum Standards Regulation 2012*.

1.2 Commencement

This regulation commences on the day after it is registered.

1.3 Definitions

In this regulation:

ABN has the meaning given by section 41 of the *A New Tax System (Australian Business Number) Act 1999*.

ACN has the meaning given by section 9 of the *Corporations Act 2001*.

Act means the *Greenhouse and Energy Minimum Standards Act 2012*.

Section 4.1.1

Part 4 GEMS determinations

Division 4.1 Exempting models of GEMS products from GEMS determinations

4.1.1 Purpose of Division

For section 37 of the Act, the purpose of this Division is to set out the circumstances in which the GEMS Regulator may exempt a model of a GEMS product from the requirements of a GEMS determination.

4.1.2 GEMS Regulator may exempt model of GEMS product from requirements of GEMS determination

The GEMS Regulator may exempt a model of a GEMS product from one or more requirements of a GEMS determination:

- (a) on the GEMS Regulator's own initiative; or
- (b) on application by a supplier or commercial user of the GEMS product.

4.1.3 Application for exemption

- (1) An application for an exemption must:
 - (a) be in a form approved by the GEMS Regulator; and
 - (b) set out the contact details mentioned in subsection (2); and
 - (c) set out the reasons for seeking the exemption including addressing the matters mentioned in section 4.1.5; and
 - (d) be accompanied by documentation supporting the applicant's reasons for seeking the exemption.
- (2) For paragraph (1) (b), the contact details for an applicant are the following:
 - (a) if the applicant is an individual—the name of the individual;

- (b) if the applicant is a business:
 - (i) the name of the business; and
 - (ii) the trading name of the business (if any); and
 - (iii) the ABN or ACN for the business;
- (c) the applicant's address, phone number, fax number and email address.

4.1.4 GEMS Regulator may request further information or documentation

- (1) The GEMS Regulator may request, by written notice, that the applicant provide further information or documentation to support the application, by the time specified in the notice.
- (2) If the GEMS Regulator requests the applicant to provide further information or documentation, the GEMS Regulator may refuse to consider the application until the applicant provides the information or documentation.

4.1.5 Matters to which GEMS Regulator must have regard

In deciding whether to exempt a model of a GEMS product, or to specify a condition to which an exemption is subject, the GEMS Regulator must have regard to the following matters:

- (a) the impact on Australia's greenhouse gas emissions if the exemption is granted;
- (b) any grounds relied upon, or matters considered, in the making of the GEMS determination for the GEMS product under section 23 of the Act, including the matters considered in determining the efficiency and labelling requirements.

4.1.6 Matters to which GEMS Regulator may have regard

In deciding whether to exempt a model of a GEMS product, or specify a condition to which an exemption is subject, the GEMS Regulator may have regard to the following matters:

- (a) the cost to the applicant of complying with the GEMS determination if the exemption is not granted;

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- (b) whether imposing a condition on the exemption under subsection 37 (2) of the Act could:
 - (i) minimise or prevent a negative impact on Australia's greenhouse gas emissions that may result from granting the exemption; and
 - (ii) deliver a reasonable outcome for the applicant;
- (c) any other matter the GEMS Regulator considers relevant.

4.1.7 GEMS Regulator to provide notice of decision on application for exemption

- (1) The GEMS Regulator must give the applicant written notice of the GEMS Regulator's decision on an application for an exemption as soon as practicable after the decision is made.
- (2) If the notice is given to the contact person for the applicant, it is taken to have been given to the applicant.

Part 5 Registering models of GEMS products

5.1 Application requirements—contact persons and contact details

- (1) This section is made for section 42 of the Act.

Contact persons

- (2) The contact person for the applicant must be an officer or employee of the applicant.

Contact details

- (3) The contact details for the applicant are the following:
- (a) if the applicant is an individual—the name of the individual;
 - (b) if the applicant is a business:
 - (i) the name of the business; and
 - (ii) the trading name of the business (if any); and
 - (iii) the ABN or ACN for the business;
 - (c) the applicant's address, phone number, fax number and email address.
- (4) The contact details for the contact person are the following:
- (a) the contact person's name;
 - (b) the position of the contact person with the applicant;
 - (c) the contact person's address, phone number, fax number and email address.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.comlaw.gov.au.