

# **EXPLANATORY STATEMENT**

Issued by the Authority of the Minister for Energy and Emissions Reduction

*Greenhouse and Energy Minimum Standards Act 2012*

*Greenhouse and Energy Minimum Standards (Refrigerated Cabinets Revocation) Instrument  
2020*

## **Purpose and Operation**

The *Greenhouse and Energy Minimum Standards (Refrigerated Cabinets) Determination 2019* (the Determination) was made on 7 August 2019 to establish minimum energy efficiency requirements, and associated requirements for conducting tests, for refrigerated display cabinets, refrigerated storage cabinets, ice cream freezers and refrigerated display scooping cabinets for gelato. It was due to commence on 15 August 2020.

Following representations from a significant number of commercial refrigeration stakeholders regarding the impact of COVID-19 on supply chains and testing facilities (both in-house and third party), and consequently the stakeholders' ability to have all of their products, particularly in the newly regulated product categories, registered against the Determination by the commencement date, the Government agreed to delay the commencement of the requirements to allow time for these issues to be overcome.

Subsection 35(5) of the *Greenhouse and Energy Minimum Standards Act 2012* (the Act) provides that Subsection 33(3) of the *Acts Interpretation Act 1901* (which deals with the variation and revocation of instruments) does not apply in relation to a GEMS determination. As a result, a GEMS determination may not be amended or varied to change the commencement date. Instead, it must be revoked and a new GEMS determination made with the revised commencement date.

Accordingly, the *Greenhouse and Energy Minimum Standards (Refrigerated Cabinets Revocation) Instrument 2020* (the Instrument) is necessary to revoke the Determination for the purpose identified above.

## **Authority**

Subsection 35(4) of the Act provides that the Minister may, by legislative instrument, revoke a GEMS determination without making a replacement determination.

## **Consultation**

This Instrument was prepared in response to representations from industry stakeholders regarding the impact of COVID-19 on their circumstances. Further consultation was undertaken with a number of those stakeholders to seek additional information about the range and severity of the impacts, in order to develop a response appropriate for the industry as a whole.

## **Regulatory Impact**

There will be no additional regulatory burden arising from the Instrument. As noted above, the purpose of the Instrument is simply to facilitate a delay in the commencement of new minimum energy efficiency requirements for refrigerated cabinets, which were covered by a comprehensive Council of Australian Governments (COAG) Decision RIS related to the 2019 Determination. This RIS process was assessed by the Office of Best Practice Regulation as meeting COAG's best practice regulation requirements.

## **Detailed description of provisions in the Instrument**

### **Part 1—Preliminary**

#### **1 Name**

Section 1 sets out the title of the Instrument as the *Greenhouse and Energy Minimum Standards (Refrigerated Cabinets Revocation) Instrument 2020*.

#### **2 Commencement**

Section 2 sets out the commencement arrangements for the Instrument, which commences on the day that it is made.

#### **3 Authority**

Section 3 provides that the Instrument is made under section 35 of the Act.

#### **4 Definitions**

Section 4 provides definitions for the terms:

- *commencement day*, which is defined to mean the day on which the Instrument comes into force; and
- *refrigerated cabinets determination*, which is defined to mean the *Greenhouse and Energy Minimum Standards (Refrigerated Cabinets) Determination 2019*.

### **Part 2—Revocation**

#### **5 Revocation**

Section 5 provides that the Instrument revokes the refrigerated cabinets determination, which ceases to be in force on the commencement day. It further provides that if the refrigerated cabinets determination is yet to come into force on the commencement day the Instrument, Section 5 has the effect that it never comes into force.

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

*Greenhouse and Energy Minimum Standards (Refrigerated Cabinets Revocation) Instrument  
2020*

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Overview of the Legislative Instrument**

The *Greenhouse and Energy Minimum Standards (Refrigerated Cabinets Revocation) Instrument 2020* revokes the *Greenhouse and Energy Minimum Standards (Refrigerated Cabinets) Determination 2019*. The revocation does not materially alter the obligations imposed under the Act or engage any of the relevant rights or freedoms.

### **Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

### **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**The Hon Angus Taylor MP  
Minister for Energy and Emissions Reduction**