

EXPLANATORY STATEMENT

Issued by the authority of the Greenhouse and Energy Minimum Standards Regulator

Greenhouse and Energy Minimum Standards Act 2012

Greenhouse and Energy Minimum Standards (Exemption) Instrument (No. 4) 2021

Purpose and operation

Section 37 of the *Greenhouse and Energy Minimum Standards (GEMS) Act 2012* (**Act**) enables the GEMS Regulator, by legislative instrument, to exempt models of GEMS products from one or more requirements of a GEMS determination in relation to all or specified supplies or uses of products of that model and enables the GEMS Regulator to specify conditions to which the exemption is subject. GEMS determinations are defined in section 11 of the Act.

Section 37 also provides that regulations may be made in order to provide a framework for administrative processes around the submission and assessment of applications for exemption. Division 4.1 of the *Greenhouse and Energy Minimum Standards Regulation 2012* (**Regulation**) sets out the circumstances in which the GEMS Regulator may exempt a model of a GEMS product from the requirements of a GEMS determination.

The purpose of the *Greenhouse and Energy Minimum Standards (Exemption) Instrument (No.4) 2021* (**Instrument**) is to exempt supplies of Gram Commercial Refrigeration's products specified in Schedule 1, Section 1 of the Instrument from the GEMS Level Requirements contained in Section 23 and the Other GEMS requirements in Section 32 of the *Greenhouse and Energy Minimum Standards (Refrigerated Cabinets) Determination 2020* (**Determination**).

Skanos Pty Ltd (Skanos) sells Gram Commercial Refrigeration branded refrigerated cabinets in Australia. These refrigerated cabinet models sold by Skanos have been tested to ISO 22041:2019. The current GEMS Determination requires this class of product to be tested to EN 16825:2016, a standard that has been superseded in the European Union by ISO 22041:2019. Skanos have therefore sought an exemption for a selection of refrigerated cabinet models until such time as the GEMS Determination is updated to incorporate ISO 22041:2019.

The GEMS Regulator considered all the matters set out in the Regulation and has decided to grant an exemption from the testing requirements of the Determination on the basis there will be no negative impact on Australia's greenhouse gas emissions as a result of the exemption. This view is formed due to test reports having been supplied demonstrating a high level of energy efficiency and expert comparative analysis of ISO 22041:2019 and EN 16825:2016.

Models covered by exemptions must still be registered under the Act.

Authority

Section 37 of the *Greenhouse and Energy Minimum Standards Act 2012* enables the Greenhouse and Energy Minimum Standards (GEMS) Regulator to exempt models of GEMS products from one or more requirements of a GEMS determination. An exemption can be in relation to all supplies or uses of products of that model or limited to specified supplies and uses. The GEMS Regulator can specify conditions to which the exemption is subject.

Division 4.1 of the Regulation sets out the circumstances in which the GEMS Regulator may exempt a model of a GEMS product from the requirements of a GEMS determination.

Consultation

The exemption set out in the Instrument was considered on application from the applicant. Consultation was undertaken with the applicant for the purpose of clarifying the exemption application.

Regulatory Impact

There will be no regulatory burden arising from the Instrument. The Office of Best Practice Regulation has advised that such proposals are not likely to have a regulatory impact on business, community organisations or organisations. A Regulatory Impact Statement (**RIS**) is therefore not required for this proposal. OBPR has advised a RIS is not required for this proposal (OBPR Ref. 44576).

Detailed description of provisions in the Instrument

1. Name

Section 1 sets out the name of the Instrument.

2. Commencement

Section 2 sets out the commencement arrangements for the Instrument.

3. Authority

Section 3 sets out the provision of the Act under which the Instrument is made.

4. Definitions

Section 4 sets out definitions of terms used in the Instrument. The term '*exempt model*' is defined in section 5 of the Instrument.

5. Exemption

Section 5 exempts the models specified in clause 1 of Schedule 1 to the Instrument (the *exempt models*) from the requirements specified in clause 2 of Schedule 1.

6. Conditions of exemption

Section 6 provides that the conditions specified for the purposes of subsection 37(2) of the Act are set out at clause 4.

Schedule 1 – Exemption

Schedule 1 to the Instrument sets out the following terms:

- the specified *exempt models*, including model numbers and product descriptions covered by the Instrument (clause 1);
- the requirements of the Determination from which the models are exempt (clause 2);
- the supplies to which the exemption applies (clause 3); and
- the conditions specified for the exemption (clause 4)

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 (Exemption) Instrument (No. 4) 2021

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 (Exemption) Instrument (No. 4) 2021* specifies models of Greenhouse and Energy Minimum Standards (GEMS) products that the GEMS Regulator has exempted from the requirements of sections 23 and 32 of the *Greenhouse and Energy Minimum Standards (Refrigerated Cabinets) Determination 2020*.

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.