

# **EXPLANATORY STATEMENT**

Issued by authority of the Minister for Climate Change and Energy

*National Greenhouse and Energy Reporting Act 2007*

*National Greenhouse and Energy Reporting Amendment (2024 Measures No. 1) Regulations 2024*

## **Background**

The *National Greenhouse and Energy Reporting Act 2007* (NGER Act) provides a national framework for reporting and disseminating company information about greenhouse gas emissions, energy production, energy consumption and other information. Section 77 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act. The *National Greenhouse and Energy Reporting Regulations 2008* (the NGER Regulations) are made under this provision.

The National Greenhouse and Energy (NGER) scheme as established under the Act is a key data source which supports Australia's international and domestic reporting obligations and informs domestic climate and energy policies. Emissions reported under the NGER Act underpin the operation of the Safeguard Mechanism, which places emissions limits on Australia's largest greenhouse gas emitters.

The *National Greenhouse and Energy Reporting (Measurement) Determination 2008* (the Measurement Determination), made under subsection 10(3) of the NGER Act, specifies the methods by which the amounts of emissions and energy production and consumption are to be measured for the purposes of the Act.

## **Purpose and Operation**

The purpose of the *National Greenhouse and Energy Reporting Amendment (2024 Measures No. 1) Regulations 2024* (the amending Regulations) is to create provisions requiring reporting of:

- The methods used to estimate emissions from fuel combustion, and other information relevant to the use of those methods specified by Schedule 4 to the Measurement Determination; and
- The methods used to estimate 'scope 2' emissions, other information relating to the use of those methods specified by Schedule 4 to the Measurement Determination, and the amount of scope 2 emissions estimated.

Details of the amending Regulations are outlined in [Attachment A](#).

The amending Regulations commence on the day after registration to complement amendments to the Measurement Determination, made by the *National Greenhouse and Energy Reporting (Measurement) Amendment (2024 Update) Determination 2024* which apply for the reporting year starting 1 July 2024. One of the purposes of these amendments is to set out the information that entities are required to report under Schedule 4.

The NGER Regulations are exempt from sunseting under *Legislation (Exemptions and Other Matters) Regulation 2015* section 12, item 42A. This exemption is justified because the legislative instrument implements international reporting obligations under the United Nations Framework Convention on Climate Change and is scientific and technical in application. There would be limited benefit in sunseting of this instrument because it is required on an ongoing basis for relevant persons to determine their emissions reporting obligations and for Australia to comply with its international reporting obligations.

### **Consultation**

The proposals to require reporting of information relevant to the use of those methods specified by Schedule 4 to the Measurement Determination relating to methods used to estimate emissions from fuel combustion and scope 2 emissions, together with proposed transparency measures which the amending Regulations would enable, were subject to public consultation (*National Greenhouse and Energy Reporting (NGER) scheme – 2024 proposed updates*) from Monday 29 April to Friday 24 May 2024. Two submissions were received in support of proposed transparency measures relating to fuel combustion; nine submissions were received in support of proposed transparency measures relating to scope 2 emissions. No submission opposed the proposed reporting requirements.

### **Regulatory Impact**

The regulatory impacts of the amending Regulations have been assessed as minor by the Office of Impact Assessment (ref OIA24-06759).

A statement of the amending Regulations' compatibility with human rights is set out in Attachment B.

The amending Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

**Details of the *National Greenhouse and Energy Reporting Amendment (2024 Measures No. 1) Regulations 2024***

**Section 1—Name**

This section provides that the title of the Regulations is the *National Greenhouse and Energy Reporting Amendment (2024 Measures No. 1) Regulations 2024*.

**Section 2—Commencement**

This section provides that the amending Regulations commence the day after it is registered.

**Section 3—Authority**

This section provides that the amending Regulations are made under the Act. The power to make regulations under section 77 of the Act includes the power to amend or revoke regulations that have already been made, with any doubt about this resolved by subsection 33(3) of the *Acts Interpretation Act 1901*.

**Section 4—Schedules**

This section provides that each instrument that is specified in a Schedule to the amending Regulations is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the amending Regulations has effect according to its terms.

**Schedule 1—Amendments**

**Item 1 – After paragraph 4.07(2)(c)**

This item inserts a new paragraph 4.07(2)(ca) requiring the reporting of methods used to estimate emissions from fuel combustion and a new paragraph (cb) requiring reporting of matters set out in Part 1A of Schedule 4 to the Measurement Determination relating to the use of those methods.

Paragraph (ca) brings regulation 4.07 of the NGER Regulations into alignment with other provisions of Division 4.4 and confirm the currently applied interpretation of the NGER Regulations.

Paragraph (cb) brings regulation 4.07 of the NGER Regulations into alignment with other provisions of Division 4.4. Its inclusion would enable provision of information to increase the transparency and usefulness of data reported and published under the NGER scheme.

The new Part 1A to Schedule 4 of the Measurement Determination is introduced in the *National Greenhouse and Energy Reporting (Measurement) Amendment (2024 Update) Determination 2024*, which applies with the amending Regulations to the 2024-25 reporting year.

**Item 2 – Subdivision 4.4.3A**

This item repeals and replaces Subdivision 4.4.3A of the NGER Regulations.

The item relevantly inserts three new paragraphs 4.17B(2)(a), (2)(b) and (2)(c), respectively requiring reporting of (a) the methods in the Measurement Determination used to estimate scope 2 emissions emitted from the operation of a facility, (b) matters set out in Part 7 of Schedule 4 to the Measurement Determination relating to the use of those methods, and (c) the amount of scope 2 emissions estimated.

Paragraphs (2)(a) and (2)(c) bring regulation 4.17B of the NGER Regulations into alignment with other provisions of Division 4.4 and confirm the currently applied interpretation of the NGER Regulations.

Paragraph (2)(b) brings regulation 4.17B of the NGER Regulations into alignment with other provisions of Division 4.4. Its inclusion enables provision of information to increase the transparency and usefulness of data reported and published under the NGER scheme. This reporting obligation applies with the *National Greenhouse and Energy Reporting (Measurement) Amendment (2024 Update) Determination 2024*, which sets out the relevant reportable items in Part 7 of Schedule 4.

### **Item 3 - In the appropriate position in Part 7**

This item inserts a transitional provision to provide that the amendments made by Schedule 1 of the amending Regulations apply in relation to reports under Part 3, 3E, 3F or 3G of the NGER Act for the 2024-25 and subsequent financial years. This ensures that reports for the 2023-24 financial year to be submitted by 31 October 2024 are not impacted by the changes.

## **ATTACHMENT B**

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

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

#### ***National Greenhouse and Energy Reporting Amendment (2024 Measures No. 1) Regulations 2024***

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 National Greenhouse and Energy Reporting (NGER) scheme provides a framework for the reporting of greenhouse gas emissions, energy production and consumption and other information in Australia.

The purpose of the *National Greenhouse and Energy Reporting Amendment (2024 Measures No. 1) Regulations 2024* is to:

- Create a provision to require the reporting of information associated with estimates of scope 1 emissions from fuel combustion using the blended fuel provisions in Part 2.6 of the Measurement Determination; and
- Enable the inclusion of reportable items within Part 7 of Schedule 4 of the Measurement Determination to scope 2 emissions made using the location-based methods in sections 7.2 and 7.3 of the Measurement Determination.

#### **Human rights implications**

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

#### **Conclusion**

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

**The Hon Chris Bowen MP  
Minister for Climate Change and Energy**