

## **EXPLANATORY STATEMENT**

Issued by authority of the Minister for the Environment and Water

*Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*

*Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995*

*Ozone Protection and Synthetic Greenhouse Gas Management (Refrigerant Handling Licences—Qualifications and Standards) Determination 2024*

### **Purpose**

The purpose of the *Ozone Protection and Synthetic Greenhouse Gas Management (Refrigerant Handling Licences—Qualifications and Standards) Determination 2024* (the Determination) is to determine:

- the qualifications a person must have to be granted a refrigerant handling licence; and
- the standards with which the holder of a refrigerant handling licence must comply (as a condition of the licence).

### **Legislative authority**

The Determination is made under subregulations 131(3) and 135(5) of the *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995* (OPSGGM Regulations).

Subregulation 131(3) of the OPSGGM Regulations provides that the Minister may, by legislative instrument, determine qualifications required for a licence mentioned in column 1 of an item in Table 131 (covering the different kinds of refrigerant handling licences).

Subregulation 135(5) of the OPSGGM Regulations provides that the Minister may, by legislative instrument, determine standards that apply in relation to work carried out under a refrigerant handling licence.

### **Background**

The *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* (OPSGGM Act) and the OPSGGM Regulations implement Australia's international obligations under the *Vienna Convention for the Protection of the Ozone Layer*, its *Montreal Protocol on Substances that Deplete the Ozone Layer* and the *United Nations Framework Convention on Climate Change*. It does so through the control of the import, export, manufacture and use of substances covered by the OPSGGM Act.

Section 45A of the Act provides that the regulations may make provision for the regulation of scheduled substances, including the sale, purchase and disposal of scheduled substances; storage, use and handling of scheduled substances; labelling requirements for scheduled substances and for equipment containing or using such substances; conferring certain functions on persons or bodies; and other incidental matters.

Under regulation 111 of the OPSGGM Regulations, a person or organisation must, except in very limited circumstances, hold a refrigerant handling licence to carry out work in relation to handling refrigeration and air conditioning (RAC) equipment that uses a controlled refrigerant.

Regulation 131 has the effect that a relevant authority can only grant a refrigerant handling licence to a person if satisfied that that the person holds a qualification that:

- is mentioned for the licence in a determination made by the Minister under subregulation 131(3); and
- is entered on the National Register (within the meaning of the *National Vocational Education and Training Regulator Act 2011*) when the requirements of the qualification are first satisfied by the applicant.

Regulation 135 sets out the mandatory conditions to which a refrigerant handling licence is subject.

Paragraph 135(1)(a) has the effect that a refrigerant handling licence is subject to the condition that the licensee carries out the work to which the licence relates in accordance with any standard determined by the Minister under subregulation 135(5) that relates to the work.

Paragraph 135(1)(aa) has the effect that for licensees that are supervising a refrigeration and air conditioning trainee licensee – the licensee is subject to the condition that they must ensure that any work carried out by the trainee licensee is in accordance with the standard determined by the Minister under subregulation 135(5) that relates to the work.

### **Impact and effect**

The effect of the Determination is to determine:

- the qualifications a person must have to be granted a refrigerant handling licence; and
- the standards with which the holder of a refrigerant handling licence must comply (as a condition of the licence).

The lists of qualifications and standards set out in the Determination were previously included in the OPSGGM Regulations. Following amendments to the OPSGGM Regulations, these qualifications and standards have been moved to a separate legislative instrument to ensure the qualifications and standards can be more easily and quickly updated, as appropriate, to align with changing technologies. There is no substantive change to the content of the qualifications and standards that were previously included in the OPSGGM Regulations, though the lists have been updated to reflect the most current versions of these documents.

### **Pre-conditions to making the Determination**

The OPSGGM Regulations specify no further conditions that need to be satisfied before the power to make the Determination may be exercised.

### **Consultation**

The Australian Refrigeration Council, which operates the refrigeration and air conditioning permitting scheme on behalf of the Australian Government was consulted on the lists of current

equivalent qualifications and standards. No broader consultation on the Determination was undertaken because the Determination is minor and machinery in nature. This is because the lists of qualifications and standards set out in the Determination are equivalent to the list previously included in the OPSGGM Regulations for the same purposes and there is no substantive change to the content of the qualifications and standards, or their effect on persons applying for, or holding a refrigerant handling licence.

### **Details and operation**

Details of the Determination are set out in Attachment A.

The Determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Determination commences the later of 1 August 2024 or the day after it is registered.

The Determination is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in Attachment B.

Details of the *Ozone Protection and Synthetic Greenhouse Gas Management (Refrigerant Handling Licences—Qualifications and Standards) Determination 2024*

Section 1 – Name

1. This section provides that the title of the instrument is the *Ozone Protection and Synthetic Greenhouse Gas Management (Refrigerant Handling Licences—Qualifications and Standards) Determination 2024* (the Determination).

Section 2 – Commencement

2. This section provides that the Determination commences on the later of 1 August 2024 and the day after it is registered.

Section 3 – Authority

3. This section provides that the Determination is made under subregulations 131(3) and 135(5) of the *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995* (the OPSGGM Regulations).

Section 4 – Definitions

4. This section defines the term *Regulations*, as used in the Determination. The term *Regulations* refers to the OPSGGM Regulations.

Section 5 – Refrigerant handling licences—qualifications

5. Regulation 111 of the OPSGGM Regulations has the effect that a person or organisation must, except in very limited circumstances, hold a refrigerant handling licence to carry out work in relation to handle refrigeration and air conditioning (RAC) equipment that uses a controlled refrigerant.
6. Regulation 131 has the effect that a relevant authority can only grant a refrigerant handling licence to a person if satisfied that that the person holds a qualification that:
  - a. is mentioned for the licence in a determination made by the Minister under subregulation 131(3); and
  - b. is entered on the National Register (*within the meaning of the National Vocational Education and Training Regulator Act 2011*) when the requirements of the qualification are first satisfied by the applicant.
7. Section 5 of the Determination is made for the purposes of subregulation 131(3) of the OPSGGM Regulations and determines the qualifications that are relevant to the granting of a refrigerant handling licence to a person. The list of qualifications in section 5 relate to each kind of refrigerant handling licence and are substantively the same as the list of qualifications that were previously included in the Table in regulation 131 of the OPSGGM Regulations, though updated to reflect the most current version of these documents.

Section 6 – Licence conditions—standards

8. Regulation 135 of the OPSGGM Act sets out the mandatory conditions to a refrigerant handling licence is subject.
9. Paragraph 135(1)(a) has the effect that a refrigerant handling licence is subject to the condition that the licensee carries out the work to which the licence relates in accordance with any standard determined by the Minister under subregulation 135(5) that relates to the work.
10. Paragraph 135(1)(aa) has the effect that for licensees that are supervising a refrigeration and air conditioning trainee licensee – the licensee is subject to the condition that they must ensure that any work carried out by the trainee licensee is in accordance with the standard determined by the Minister under subregulation 135(5) that relates to the work.
11. Section 6 of the Determination is made for the purposes of subregulation 135(5) of the OPSGGM Regulations and determines the mandatory standards to which a refrigerant handling licence is subject. The list of standards in section 6 is substantively the same as the list of standards that was previously included in the Table in regulation 135 of the OPSGGM Regulations, though updated to reflect the most current version of these documents.
12. Subsection 6(2) of the Determination makes it clear that references to a ‘standard’ in items 1 to 24 of the table in section 6 refer to that standard as published by Standards Australia; and as in force when the item commenced.

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

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

*Ozone Protection and Synthetic Greenhouse Gas Management (Refrigerant Handling Licences—Qualifications and Standards) Determination 2024*

This Determination 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 *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* (OPSGGM Act) and the *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995* (OPSGGM Regulations) implement Australia's international obligations under the *Vienna Convention for the Protection of the Ozone Layer*, its *Montreal Protocol on Substances that Deplete the Ozone Layer* and the *United Nations Framework Convention on Climate Change*. It does so through the control of the import, export, manufacture and use of substances covered by the OPSGGM Act.

Under regulation 111 of the OPSGGM Regulations, a person or organisation must, except in very limited circumstances, hold a refrigerant handling licence to carry out work in relation to handle refrigeration and air conditioning (RAC) equipment that uses a controlled refrigerant.

Regulation 131 has the effect that a relevant authority can only grant a refrigerant handling licence to a person if satisfied that that the person holds a qualification that:

- is mentioned for the licence in a determination made by the Minister under subregulation 131(3); and
- is entered on the National Register (within the meaning of the *National Vocational Education and Training Regulator Act 2011*) when the requirements of the qualification are first satisfied by the applicant.

Regulation 135 sets out the mandatory conditions to which a refrigerant handling licence is subject.

Paragraph 135(1)(a) has the effect that a refrigerant handling licence is subject to the condition that the licensee carries out the work to which the licence relates in accordance with any standard determined by the Minister under subregulation 135(5) that relates to the work. Paragraph 135(1)(aa) has the effect that for licensees that are supervising a refrigeration and air conditioning trainee licensee – the licensee is subject to the condition that they must ensure that any work carried out by the trainee licensee is in accordance with the standard determined by the Minister under subregulation 135(5) that relates to the work.

The *Ozone Protection and Synthetic Greenhouse Gas Management (Refrigerant Handling Licences—Qualifications and Standards) Determination 2024* (the Determination) is to determine:

- the qualifications a person must have to be granted a refrigerant handling licence; and
- the standards with which the holder of a refrigerant handling licence must comply (as a condition of the licence).

The list of qualifications and standards in the Determination are substantively the same as the list of qualifications and standards that were previously included in the OPSGGM Regulations, though updated to reflect the most current version of these documents.

### **Human rights implications**

The Determination does not engage with any of the applicable rights or freedoms.

### **Conclusion**

The Determination is compatible with human rights as it does not raise any human rights issues.