

## **SUPPLEMENTARY EXPLANATORY STATEMENT**

Issued by the 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*

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*, through the control of the import, export, manufacture and use of substances covered by the OPSGGM Act.

Section 45A of the OPSGGM 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.

The *Ozone Protection and Synthetic Greenhouse Gas Management (Refrigerant Handling Licences—Qualifications and Standards) Determination 2024* (the Determination) is made under subregulations 131(3) and 135(5) of the 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.

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.

The details of the Determination are set out in the initial Explanatory Statement.

The purpose of this Supplementary Explanatory Statement is to provide additional information relating to the application of sunseting and disallowance requirements to the Determination.

The Determination is exempt from sunseting in accordance with item 1 under section 11 of the *Legislation (Exemptions and Other Matters) Regulation 2015* on the basis that the primary purpose of the Amendment Regulations is to give effect to an international obligation in force for Australia. This is an automatic exemption that applies by force of law for instruments that are in the class of legislative instruments as described. The Explanatory Statement to the *Legislation (Exemptions and Other Matters) Regulation 2015* explains that it is appropriate to exempt legislative instruments, whose sole or primary purpose is to give effect to an international obligation, from sunseting. This is because Australia's international obligations do not cease upon a unilateral sunseting process.

The Determination is not exempt from the disallowance process and, therefore, is still subject to parliamentary scrutiny.