Ozone Protection and Synthetic Greenhouse Gas Management Amendment Regulations 2010 (No. 1)

Select Legislative Instrument 2010 No. 64

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the Ozone Protection and Synthetic Greenhouse Gas Management Act 1989.

Dated 14 April 2010

QUENTIN BRYCE
Governor-General

By Her Excellency’s Command

PETER ROBERT GARRETT
Minister for Environment Protection, Heritage and the Arts
1 Name of Regulations
These Regulations are the Ozone Protection and Synthetic Greenhouse Gas Management Amendment Regulations 2010 (No. 1).

2 Commencement
These Regulations commence on the day after they are registered.

3 Amendment of Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995

4 Transitional
(1) The provisions mentioned in subregulation (2) apply to an application for reconsideration of a decision mentioned in those provisions that is received by the relevant authority, Board or Minister before the day these Regulations commence if:
   (a) the authority, Board or Minister has not confirmed, varied or reversed the decision; and
   (b) it is not more than 30 days after the day the application is received.

(2) For subregulation (1), the provisions are the following provisions of the Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995:
   (a) regulation 124 as amended by these Regulations, other than the amendment of paragraph 124 (1) (b);
   (b) regulation 316 as amended by these Regulations, other than the amendment of paragraph 316 (1) (b).
Schedule 1 Amendments
(regulation 3)

[1] Regulation 110, after definition of AMSA vessel

insert

commercial stand-alone refrigeration equipment means refrigeration equipment that:
(a) is designed primarily for commercial use; and
(b) is designed not to be permanently connected to the power supply of the premises where it is installed; and
(c) does not require the installation of pipework to enable the movement of refrigerant.

[2] Regulation 111

substitute

111 Offence — carrying out work in relation to RAC equipment

(1) A person commits an offence if the person carries out work in relation to RAC equipment and the person is not:
(a) both:
   (i) the holder of a refrigerant handling licence; and
   (ii) entitled under the licence to carry out the work; or
(b) both:
   (i) engaged in a phase of the manufacture of RAC equipment; and
   (ii) supervised by the holder of a licence granted under regulation 131 or 133 that entitles the holder to manufacture RAC equipment; or
(c) both:
   (i) decommissioning RAC equipment; and
   (ii) supervised by the holder of a licence granted under
        regulation 131 or 133 that entitles the holder to
        decommission RAC equipment; or

(d) both:
   (i) the holder of an AMSA certificate; and
   (ii) required to carry out the work on an AMSA vessel
        as part of his or her duties on the vessel.

Penalty: 10 penalty units.

(2) For subregulation (1), carries out work in relation to RAC
equipment means doing anything with a refrigerant, or a
component of RAC equipment, that involves a risk of
refrigerant being emitted, including:
   (a) decanting the refrigerant; and
   (b) manufacturing, installing, commissioning, servicing and
       maintaining RAC equipment, whether or not refrigerant is
       present; and
   (c) decommissioning RAC equipment in which refrigerant is
       present.

(3) An offence against subregulation (1) is an offence of strict
liability.

[3] Paragraph 113A (1) (c)

omit
   employ

insert
   employ, or has not engaged,
[4] **After subregulation 113A (1)**

*insert*

(1A) Subregulation (1) does not apply to a person if:

(a) at the time of making the representation, the person has entered into an agreement (however described) with someone else to provide the service; and

(b) the agreement contains a provision to the effect that the service must be provided by the holder of an RAC industry permit that entitles the holder to provide the service.

*Note* A defendant bears an evidential burden in relation to the matters in subregulation (1A) — see subsection 13.3 (3) of the *Criminal Code*.

[5] **Subparagraph 121 (1) (d) (iii)**

*omit* permit.

*insert* permit; and

[6] **After subparagraph 121 (1) (d) (iii)**

*insert*

(iv) for an application for an authorisation mentioned in subregulation 140 (1) — evidence that the applicant will meet the requirements mentioned in subregulation 140 (3); and

(v) for an application for a halon special permit — evidence that the applicant will meet the requirements mentioned in subregulation 150 (3).

[7] **After subregulation 123 (1)**

*insert*

(1A) The Minister may suspend an RAC industry permit:

(a) for a fixed period; or
(b) until the Minister is satisfied on reasonable grounds that:
   (i) a thing that contributes to the grounds for the suspension is remedied; and
   (ii) if the thing is required to be remedied in a stated way — the thing is remedied in that way or in a way that is equally effective.

[8] **Paragraph 123 (2) (c)**

*substitute*

(c) stating:
   (i) for a suspension for a fixed period — the period of the suspension; or
   (ii) for a suspension mentioned in paragraph (1A) (b) — the date the suspension begins and that the permit is suspended until a stated thing is remedied.

[9] **After subregulation 123 (2)**

*insert*

(2A) A notice that contains a statement mentioned in subparagraph (2) (c) (ii) may also state how the thing is to be remedied.

(2B) For a permit that is suspended until a stated thing is remedied, the holder must tell the Minister in writing when, and how, the thing is remedied.

(2C) If the Minister decides that the thing is remedied:
   (a) the Minister must give the holder a notice stating that the Minister is satisfied that the thing is remedied; and
   (b) the suspension ends on the day after the day the holder is given the notice.

(2D) If the Minister decides that the thing is not remedied, the Minister must give the holder a notice stating that the Minister is not satisfied that the thing is remedied.
[10] **Paragraph 124 (1) (b)**

*substitute*

(b) to the Minister for reconsideration of a decision:

(i) to suspend or cancel a permit; or

(ii) that a thing that contributes to the grounds for a suspension of a permit is not remedied.

[11] **Subregulations 124 (3) and (4)**

*substitute*

(3) If the relevant authority or Minister receives an application, the authority or Minister may:

(a) confirm the decision; or

(b) vary or reverse the decision.

(4) Before making a decision under subregulation (3), the relevant authority or Minister may ask the applicant in writing to give the authority or Minister further information that the authority or Minister reasonably needs to make the decision.

(5) If the relevant authority or Minister asks for further information under subregulation (4), the period starting on the day the written request is made and ending on the day the applicant gives the information is not to be counted for subregulation (7).

(6) However, if the applicant does not give the relevant authority or Minister the information before the thirtieth day after the day the written request is made, that day and each day after that is to be counted for subregulation (7).

(7) If the relevant authority or Minister does not confirm, vary or reverse a decision within 60 days after the day the authority or Minister receives an application for reconsideration of the decision, the authority or Minister is taken to have confirmed the decision.
[12] **Regulation 125**

*omit*

Board

*insert*

authority

[13] **Subparagraph 130 (3) (b) (ii)**

*omit*

132 or

[14] **Subregulation 130 (3), note**

*omit*

[15] **Table 131, items 3 and 4**

*substitute*

<table>
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<tr>
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<th>Restricted heat pump installation and decommissioning licence</th>
<th>To handle a refrigerant for the installation and decommissioning of any of the following:</th>
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<td></td>
<td>(a) a single-head split system air conditioner of less than 18 kW;</td>
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<tr>
<td></td>
<td></td>
<td>(b) a 2-part hot water heat pump of less than 18 kW;</td>
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<tr>
<td></td>
<td></td>
<td>(c) a 2-part swimming pool heat pump of less than 18 kW</td>
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Any of the following:

(a) MEM 20105 Certificate II in Engineering — Production;
(b) 40488SA Certificate II in Split Systems Air Conditioning;
(c) UEE20107 Certificate II in Air Conditioning Split Systems

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<table>
<thead>
<tr>
<th></th>
<th>Restricted domestic refrigeration and air conditioning appliances licence</th>
<th>To handle a refrigerant for either or both of the following:</th>
<th>Any of the following:</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td>(a) any work on domestic refrigeration or air conditioning equipment;</td>
<td>(a) MEM 20105 Certificate II in Engineering — Production;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) any work on commercial stand-alone refrigeration equipment</td>
<td>(b) UTE 20599 Certificate II in Electrotechnology Servicing (Appliances — Refrigeration);</td>
</tr>
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<td>[16]</td>
<td>Regulation 132</td>
<td>omit</td>
<td>(c) UTE 20504 Certificate II in Electrotechnology Servicing (Appliances — Refrigeration);</td>
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<tr>
<td>[17]</td>
<td>Paragraph 140 (4) (b)</td>
<td>substitute</td>
<td>(d) UEE21807 Certificate II in Appliance Servicing — Refrigerants;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) for not more than 24 months, stated by the authority in writing.</td>
<td>(e) UEE30507 Certificate III in Appliance Servicing</td>
</tr>
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</table>
[18] Regulation 200, definition of *Non-QPS Exemption List*, paragraph (f)

*omit*

2010.

*insert*

2010; and

[19] Regulation 200, definition of *Non-QPS Exemption List*, after paragraph (f)

*insert*

(g) for the year 2011 — the document called Exemption List for Non-QPS Applications of Methyl Bromide in 2011, published by the Department, as in force on 1 January 2011.

[20] Regulation 200, definition of *Non-QPS Exemption List*, note

*substitute*

*Note* The Non-QPS exemption lists can be viewed at the Department’s website at [http://www.environment.gov.au](http://www.environment.gov.au).

[21] Subregulation 213 (6), definition of *Non-QPS Intermediate Supplier List*, paragraph (f)

*omit*

2010.

*insert*

2010; and
[22] Subregulation 213 (6), definition of Non-QPS Intermediate Supplier List, after paragraph (f)

insert

(g) for the year 2011 — the document called Intermediate Supplier List for Non-QPS Applications of Methyl Bromide in 2011, published by the Department, as in force on 1 January 2011.

[23] Subregulation 213 (6), definition of Non-QPS Intermediate Supplier List, note

substitute

Note The Non-QPS intermediate supplier lists can be viewed at the Department’s website at http://www.environment.gov.au.

[24] After subregulation 302 (1)

insert

(1A) Subregulation (1) does not apply to a person if:

(a) the fire protection equipment is or will be installed in an aircraft; and

(b) the person handles the equipment for the purpose of installing or removing the equipment; and

(c) the person:

(i) holds an aircraft maintenance engineer licence under regulation 31 of the Civil Aviation Regulations 1988; and

(ii) has achieved the unit of competency PRMPFES43A Prevent ozone depleting substance and synthetic greenhouse gas emissions.

Note A defendant bears an evidential burden in relation to the matters in subregulation (1A) — see subsection 13.3 (3) of the Criminal Code.
[25] **Subparagraph 313 (1) (c) (iv)**

*omit*

(if any).

*insert*

(if any); and

[26] **After subparagraph 313 (1) (c) (iv)**

*insert*

(v) for an application for an extinguishing agent trading authorisation — evidence that the applicant will meet the requirements mentioned in subregulation 331 (3); and

(vi) for an application for a halon special permit — evidence that the applicant will meet the requirements mentioned in subregulation 341 (3).

[27] **Paragraph 315 (1) (b)**

*omit*

subject.

*insert*

subject; or

[28] **After paragraph 315 (1) (b)**

*insert*

(c) for an extinguishing agent trading authorisation — does not meet the requirements mentioned in subregulation 331 (3); or

(d) for a halon special permit — does not meet the requirements mentioned in subregulation 341 (3).
[29] **After subregulation 315 (1)**

*insert*

(1A) The Minister may suspend a fire protection industry permit:
   (a) for a fixed period; or
   (b) until the Minister is satisfied on reasonable grounds that:
      (i) a thing that contributes to the grounds for the suspension is remedied; and
      (ii) if the thing is required to be remedied in a stated way — the thing is remedied in that way or in a way that is equally effective.

[30] **Paragraph 315 (2) (c)**

*substitute*

(c) stating:
   (i) for a suspension for a fixed period — the period of the suspension; or
   (ii) for a suspension mentioned in paragraph (1A) (b) — the date the suspension begins and that the permit is suspended until a stated thing is remedied.

[31] **After subregulation 315 (2)**

*insert*

(2A) A notice that contains a statement mentioned in subparagraph (2) (c) (ii) may also state how the thing is to be remedied.

(2B) For a permit that is suspended until a stated thing is remedied, the holder must tell the Minister in writing when, and how, the thing is remedied.

(2C) If the Minister decides that the thing is remedied:
   (a) the Minister must give the holder a notice stating that the Minister is satisfied that the thing is remedied; and
   (b) the suspension ends on the day after the day the holder is given the notice.
(2D) If the Minister decides that the thing is not remedied, the
Minister must give the holder a notice stating that the Minister
is not satisfied that the thing is remedied.

[32] **Paragraph 316 (1) (b)**

*substitute*

(b) to the Minister for reconsideration of a decision:

(i) to suspend or cancel a permit; or

(ii) that a thing that contributes to the grounds for a
suspension of a permit is not remedied.

[33] **Subregulation 316 (4)**

*substitute*

(4) Before making a decision under subregulation (3), the Board or
Minister may ask the applicant in writing to give the Board or
Minister further information that the Board or Minister
reasonably needs to make the decision.

(5) If the Board or Minister asks for further information under
subregulation (4), the period starting on the day the written
request is made and ending on the day the applicant gives the
information is not to be counted for subregulation (7).

(6) However, if the applicant does not give the Board or Minister
the information before the thirtieth day after the day the written
request is made, that day and each day after that is to be
counted for subregulation (7).

(7) If the Board or Minister does not confirm, vary or reverse a
decision within 60 days after the day the Board or Minister
receives an application for reconsideration of the decision, the
Board or Minister is taken to have confirmed the decision.

[34] **Subregulation 321 (3), note**

*omit*
[35] **Regulation 327 and Table 327**

*omit*

[36] **Subregulation 331 (4)**

*omit*

[37] **Regulation 333 and Table 333**

*omit*

[38] **After subregulation 341 (4)**

*insert*

(5) The Board may put a condition on a halon special permit.

*Examples*

1. A condition about the purpose for which the halon is to be used.
2. A condition about the people who are allowed to deal with the halon when it is in the permit-holder’s possession.

[39] **Table 901, after item 16**

*insert*

17 Scientific or medical equipment
18 Pre-charged parts (including compressors) for use in equipment that is or was pre-charged equipment
19 Ice machines, ice-makers and ice-cream making machines
20 Post-mix drink machines, water cooler machines (for drinking water) and frozen carbonated drink machines
21 Heat pumps (other than split system air conditioning mentioned in items 8 and 9)
22 Aircraft

**Note**