

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.2) 2017

Purpose and Operation

Section 37 of the *Greenhouse and Energy Minimum Standards Act 2012* (**the 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* 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.2) 2017* (**Instrument**) is to exempt the specified three phase electric motors from the GEMS level requirements contained in section 6 of the *Greenhouse and Energy Minimum Standards (Three Phase Cage Induction Motors) Determination 2012* (**Determination**).

Australian Submarine Corporation Pty Ltd (**ASC**) provides maintenance and sustainment services in relation to the Royal Australian Navy's fleet of Collins Class Submarines. ASC will undertake a motor replacement programme and has identified six models of SEW-Eurodrive Pty Ltd motors that will meet the size and technical specifications required to ensure compatibility with the submarines' existing constraints. These motors do not meet the energy efficiency requirements specified in the Determination.

On 16 June 2017, SEW-Eurodrive Pty Ltd (**the applicant**) submitted an application for exemption of the models specified in the Schedule of the Instrument from the requirements of the Determination.

The GEMS Regulator has considered all the matters set out in regulations 4.1.5 and 4.1.6 of the *Greenhouse and Energy Minimum Standards Regulation 2012* and has decided to grant an exemption from the Determination due to the minimal negative impact on Australia's greenhouse gas emissions anticipated as a result of the non-compliance, and the significant costs and practical difficulties that would arise if an exemption is not granted. The exemption is limited to use on the Royal Australian Navy's Collins Class Submarine fleet.

Consultation

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

Detailed description of provisions in the Instrument

1. Name of Instrument

Section 1 sets out the name of the Instrument.

2. Authority

Section 2 sets out the provision of the Act under which the Instrument is made.

3. Commencement

Section 3 sets out the commencement arrangements for the Instrument.

4. Definitions

Section 4 sets out the definition of terms used in the Instrument. The term 'Exempt Model' is defined in section 5 of the Instrument.

5. Exemption

Section 5 exempts the motor model specified in clause 1 of the Schedule to the Instrument (**Exempt Model**) from the energy use and testing requirements of section 6 of the Determination, subject to the conditions specified in section 6 of the Instrument.

6. Conditions of Exemption

Section 6 specifies that the exemption is subject to the conditions specified in clause 4 of the Schedule to the Instrument.

7. Schedule – Exemption and conditions of exemption

The Schedule to the Instrument sets out the following terms:

- specifications of the Exempt Model (clause 1);
- the requirements of the Determination from which the model is exempt (clause 2);
- the supply and use to which the exemption applies (clause 3); and
- conditions of 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.2) 2017

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.2) 2017* specifies models of GEMS products that the GEMS Regulator has exempted from the requirements of section 6 of the *Greenhouse and Energy Minimum Standards (Three Phase Cage Induction Motors) Determination 2012*, and the conditions to which the exemption is subject.

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.