

## **EXPLANATORY STATEMENT**

Issued by the authority of the Assistant Minister for Climate Change and Energy

*Greenhouse and Energy Minimum Standards Act 2012*

*Greenhouse and Energy Minimum Standards (Commercial Ice-makers)  
Determination 2025*

### **Purpose and Operation**

The *Greenhouse and Energy Minimum Standards (Commercial Ice-makers) Determination 2025* (the determination) establishes for commercial ice-makers:

- GEMS level requirements in the form of tested energy consumption rate requirements;
- GEMS labelling requirements in the form of a registration number display requirement;
- other product efficiency and performance requirements; and
- product classes and associated requirements for conducting tests.

Each commercial ice-maker model supplied or offered for supply must meet the requirements of the determination. Commercial ice-makers are defined in the determination as automatic ice-makers that have a tested ice production capacity of up to and including 1000 kg in 24 hours when tested at a rating point of 32 degrees Celsius (ambient), 21 degrees Celsius (inlet potable water) with electricity supplied at 230V and 50 Hz and have provision for both water supply and drainage connections.

Domestic ice-makers are not covered by the determination, and are defined as automatic ice-makers that are integrated into a household refrigerating appliance or are designed to be manually filled and drained and do not otherwise have water supply and drainage connections.

Energy consumption rate requirements require the tested energy consumption rate to be less than or equal to the maximum energy consumption rate, which is calculated with reference to the product class and capacity.

### **Background**

The *Greenhouse and Energy Minimum Standards Act 2012* (the Act) establishes a national framework for regulating the energy efficiency of products supplied or used within Australia, replacing individual state and territory legislative frameworks.

The Act implemented the former Council of Australian Governments' (COAG) commitment to establish national legislation to regulate energy efficiency and labelling standards for appliances and other products.

The Act permits the Australian Government to set mandatory minimum efficiency requirements to improve the energy efficiency of regulated products. The Act also allows the Australian Government to set nationally-consistent labelling requirements,

to increase Australian consumers' awareness of options to improve energy efficiency and reduce energy consumption, costs, and greenhouse gas emissions.

The minimum allowable energy efficiency of products is referred in the determination as greenhouse and energy minimum standards (GEMS) level requirements.

Other regulatory requirements possible under the Act include requirements relating to energy labelling, product performance, and the impact of the product on the environment or the health of human beings. Apart from GEMS level requirements, this determination also covers energy labelling requirements (not necessarily affixed to the products) and voluntary declaration of the model's water consumption.

It is intended that the requirements in the determination are the first stage in a two-stage process to enable the market to transition to more efficient commercial ice-makers, while ensuring the availability of products. In the second stage, it is intended to increase the requirements to match the levels mandated in the United States.

### **Legislative Authority**

Section 23 of the Act provides that the Minister may, by legislative instrument, make a determination (a GEMS determination) that specifies one or more classes of products that it covers, if the products in those classes use energy or affect the amount of energy used by other products.

A GEMS determination is the vehicle by which energy efficiency requirements (GEMS level requirements), energy labelling requirements (GEMS labelling requirements), and other requirements for a product class are established.

Under section 25 of the Act, the GEMS level requirements specified in a GEMS determination may be:

- requirements relating to one or more of the following:
  - the amount of energy used by operating products in the relevant product classes;
  - the amount of greenhouse gases resulting from operating products in the relevant product class;
  - the effect of those products on the amount of energy used by operating other products; and
- requirements for conducting tests of products in the relevant product class to determine whether the products meet the requirements specified above.

Under section 26 of the Act, the GEMS labelling requirements for a product class specified in a GEMS determination may be:

- requirements relating to the information that must be communicated in connection with supplying or offering to supply products in the relevant product class;
- requirements relating to the way that information must be communicated; and
- requirements for conducting tests of products in the relevant product class in order to rate them against the criteria specified in the information that must be communicated.

Under section 27 of the Act, other requirements that may be specified in a GEMS determination are:

- requirements for products in the relevant product class to meet a specified level (the high efficiency level) at a particular time;
- requirements relating to the performance of products in the relevant product class;
- requirements relating to the impact of products in that product class on the environment or on the health of human beings;
- requirements of a kind specified in the regulations; and
- requirements for conducting tests in relation to products in the relevant product class in order to determine whether the products meet the requirements specified above.

### **Incorporated material**

The determination incorporates by reference the following test and performance standards, as in force on the day the determination commenced:

- Australia/New Zealand Standard (AS/NZS) 4865.1:2008;
  - International Standards Organization (ISO) 6369:2023;
  - American National Standards Institute (ANSI)/American Society of Heating, Refrigeration and Air-Conditioning Engineers (ASHRAE) Standard 29-2009 and ANSI/ASHRAE Standard 29-2015 (collectively, the ASHRAE Standards); and
- Air-Conditioning, Heating and Refrigeration Institute (AHRI) Standard 810-2016 and AHRI Standard 810-2023 (collectively, the AHRI Standards).

These standards are incorporated in accordance with subparagraph 14(1)(b)(i) of the *Legislation Act 2003* (Legislation Act).

Commercial users who have ascertained that they are likely to be covered by the determination (which is possible from reading the determination in isolation) would be expected to purchase these standards to comply with the determination.

AS/NZS 4865.1:2008 can be purchased from Standards Australia Ltd, SAI Global and Techstreet.

Non-commercial users can access AS/NZS 4865.1:2008 on a limited, no-fee basis through Standards Australia's on-line Reader Room facility. The Reader Room provides non-commercial access to Australian Standards for personal, domestic or household use and is freely accessible at <https://readerroom.standards.org.au/>.

Other interested parties may be able to access the Australian/New Zealand standards without cost through the National Library of Australia, including by interlibrary loans. Standards Australia Ltd is working on improving access to Australian/New Zealand Standards, and the Skills National Cabinet Reform Committee is working to ensure greater access to standards generally.

ISO 6369:2023 can be purchased from Standards Australia. It cannot be accessed for free.

The ASHRAE Standards can be purchased from the American National Standards Institute. They cannot be accessed for free.

The AHRI Standards can be purchased from AHRI. They cannot be accessed for free.

## **Consultation**

The Equipment Energy Efficiency Program has worked with industry on the new requirements for commercial ice-makers since 2021. In 2021, extensive market research was conducted, including a survey of commercial ice-maker industry stakeholders in Australia and New Zealand. A Consultation Regulation Impact Statement (RIS) was published and a public consultation session was held in 2023. Subsequently, a Decision RIS was prepared. That statement takes into account issues raised by industry stakeholders during the consultation.

## **Regulatory Impact**

A Consultation RIS and a Decision RIS were prepared. The consultation RIS was found to be compliant by the Office of Impact Analysis.

## **Details**

The determination is a legislative instrument for the purposes of the Legislation Act.

Further details on the Determination are provided at **Attachment A**.

## **Exemption from sunseting and disallowance**

Subsections 44(1) and 54(1) of the Legislation Act provide that instruments are not subject to disallowance and sunseting where the enabling legislation:

- (a) facilitates the establishment or operation of an intergovernmental body or scheme involving the Commonwealth and one or more States or Territories; and
- (b) authorises the instrument to be made by the body or for the purposes of the body or scheme.

The Act underpins and facilitates the operation of an intergovernmental scheme for product energy efficiency, giving effect to the Inter-governmental Agreement for the GEMS Legislative Scheme. The Act also expressly provides for the participation of multiple governments. Given this, and the fact that the Act authorises the determination to be made under subsection 23(1), the determination is not subject to disallowance or sunseting under the Legislation Act. Further details are provided at **Attachment B**.

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

In accordance with subsection 15J(2) of the Legislation Act, as the determination is not a disallowable instrument, a statement of compatibility prepared under subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* is not required.

**Details of the Greenhouse and Energy Minimum Standards (Commercial Ice-makers) Determination 2025**

**Part 1 – Preliminary**

**Section 1 – Name**

This section provides that the name of the determination is the *Greenhouse and Energy Minimum Standards (Commercial Ice-makers) Determination 2025* (the determination).

**Section 2 – Commencement**

This section provides that the determination commences on the day specified in column 2 of the table.

**Section 3 – Authority**

This section provides that the determination is made under section 23 of the *Greenhouse and Energy Minimum Standards Act 2012* (the Act).

**Section 4 – Definitions**

This section sets out definitions for key terms used in the determination. The definitions include:

- definitions relating to the standards by which the requirements of the determination are specified. The applicable version of each standard referenced in the determination is the version that existed on the day this instrument is made;
- a definition of AHRI 810-2016;
- a definition of AHRI 810-2023;
- a definition of ANSI/ASHRAE 29-2009;
- a definition of ANSI/ASHRAE 29-2015;
- a definition of AS/NZS 4865.1:2008;
- a definition of ISO 6369:2023;
- a definition of ‘automatic ice-maker’, which is given the same meaning as in Australian/New Zealand standard AS/NZS 4865.1:2008;
- a definition of ‘commercial ice-maker’, which is defined in the determination as an automatic ice-maker with the capacity to produce up to 1,000 kg/24hr under standard test conditions;
- a definition of ‘domestic ice-maker’ which includes the same meaning as in the *Greenhouse and Energy Minimum Standards (Household Refrigerating Appliances) Determination 2019*.

**Section 5 – Interpretation**

This section provides guidance for interpreting certain aspects of the determination.

**Subsection 5(1)**

This subsection sets out the order in which priority should be taken in the interpretation of relevant provisions if there are any inconsistencies between the Act, the determination and the standards referenced in section 4. Subsection 5(1) provides

that if there is an inconsistency between definitions of terms and phrases in the Act, the determination, AS/NZS 4865.1:2008 and a standard referred to in the determination, the Act or the determination (as the case may be) will prevail over AS/NZS 4865.1:2008, which in turn will prevail over the other relevant standards.

#### Subsection 5(2)

The purpose of this subsection is to make clear that the applicable version of any standard referenced in the determination, or other relevant document that is referred to in a standard, is the version that is in force or that exists on the day the determination was made.

### **Section 6 – Families of models**

Section 28 of the Act provides that a GEMS determination must specify, for each product class covered by the determination, the circumstances in which two or more models in that product class are in the same family of models. The conditions specified here are that for models to be in the same family they must have the same tested capacity, tested energy consumption rate, product class and rely on a single test report.

### **Section 7 – Product categories**

This section specifies that, for the purposes of section 29 of the Act, products covered by this determination are category A products. Category A products have a lower impact on energy use or greenhouse gas production than category B products, and have a lower penalty level.

## **Part 2 - Products covered by this instrument**

### **Section 8 - Purpose of this Part**

This section sets out the purpose of Part 2 – Products covered by determination.

### **Section 9 – Classes of products that are covered by this instrument**

This section sets out the scope of the determination. The determination covers 12 product classes grouped according to configuration, cooling mode and ice production mode.

### **Section 10 – Classes of products that are not covered by this instrument**

This section sets out what classes of products are not covered by the determination. These are domestic ice-makers (as defined in section 4).

## **Part 3 – GEMS level requirements**

### **Section 11 – Purpose of this Part**

This section sets out the GEMS level requirements of Part 3 – GEMS level requirements.

### **Section 12 – GEMS level requirements**

This subsection specifies GEMS level requirements for energy use for products covered by the determination as a maximum energy consumption rate.

### **Section 13 – Calculation of maximum energy consumption rate**

This section specifies the general formula to be used to calculate the maximum energy consumption rate for the defined classes of commercial ice-makers. The values to be used in the calculations for each product class are listed in Schedule 2.

#### **Section 14 – Testing requirements - general**

This section requires all testing to be conducted in accordance with an approved test standard.

#### **Section 15 – Approved test standards**

This section lists the approved test standards.

#### **Section 16 – Specified modifications for testing for products with automatic dispenser**

This section lists specific procedures to be incorporated in the test procedure when testing products with automatic dispensers.

### **Part 4 – GEMS labelling requirements**

#### **Section 17 – Purpose of this Part**

For the purposes of paragraph 24(1)(b) of the Act, this Part specifies GEMS labelling requirements in accordance with section 26 of the Act for the product classes covered by the determination.

#### **Section 18 – GEMS registration number**

This subsection requires that the GEMS registration number for a product covered by the determination be written and displayed when the product is advertised or offered for supply.

This requirement is to allow:

- consumers to check and verify that the product is registered for Australia and can confirm and compare against other products on the GEMS Register;
- suppliers wishing to offer this product for supply to meet their obligations by receiving the registration number from the registrant to ensure they comply;
- compliance officers to efficiently check the registration status of a product to ensure that it is correctly registered; and
- compliance officers undertaking check testing procedures to ensure they have the correct registration for a product selected for check testing when purchasing the product required.

The GEMS Registration number is to be present with any offer to supply by:

- making it clearly visible in advertisements, whether in print, in store or online;
- making it clearly visible in any display for sale; and
- affixing a label with the GEMS registration number to the product (or making it otherwise clearly visible on inspection of the product).

### **Part 5 – Other GEMS requirements**

#### **Section 19 – Other GEMS requirements**



This section specifies the relationship between declared and tested values for energy consumption rate, capacity, potable water use rate and condenser water user rate.

#### **Schedule 1 – Product classes**

This Schedule defines and lists product classes as commercial ice-makers of a specific configuration, cooling mode and production mode. The different configurations, production mode and cooling mode are defined.

#### **Schedule 2 – GEMS level calculations**

This Schedule lists the constant and variable values to be used in the formula that determines the maximum energy consumption rate for each numbered product class.

**Details of the exemptions from disallowance and sunseting in the *Legislation Act 2003***

***Source of exemptions***

Legislative instruments made under the *Greenhouse and Energy Minimum Standards Act 2012* (the GEMS Act) (excluding regulations) are exempt from disallowance under subsection 44(1) of the *Legislation Act 2003* (the Legislation Act), and from sunseting under subsection 54(1) of the Legislation Act.

Subsections 44(1) and 54(1) of the Legislation Act relevantly provide that instruments are not subject to disallowance and sunseting where the enabling legislation (not being the *Corporations Act 2001*) facilitates the establishment or operation of an intergovernmental scheme involving the Commonwealth and one or more States and Territories, and authorises the instrument to be made for the purposes of that scheme.

The GEMS Act creates a national framework for product energy efficiency in Australia (the GEMS Scheme) and underpins the Equipment Energy Efficiency (E3) Program. The E3 program is an initiative of the Australian, state, self-governing territory, and New Zealand Governments.

The GEMS Scheme is an intergovernmental scheme, given that:

- it was enacted and is operated to implement the Inter-Governmental Agreement;
- its activities are jointly funded by the Commonwealth and States and Territories under the Inter-Governmental Agreement; and
- key legislative instruments under the GEMS Scheme require consent from participating jurisdictions before they can be made or revoked (see sections 33 and 35 of the Act).

Legislative instruments made under the GEMS Act are made for the purposes of this intergovernmental scheme. Therefore, such legislative instruments are exempt from sunseting and disallowance.

***Justification for exemptions***

Through the E3 program, the Australian Government works with states and self governing territories and the New Zealand Government:

- to identify appliances and other products which are appropriate for regulation;
- to consult with industry stakeholders and agree requirements based on technical and product-specific considerations; and
- to set mandatory minimum energy efficiency requirements for these products, as well as consistent labelling and other requirements.

In this context, the exemptions from disallowance and sunseting have the effect that, where the intergovernmental scheme has agreed to introduce specific regulatory requirements (including with participating jurisdictions' consent to the key requirements of GEMS determinations), the Commonwealth Parliament cannot then

override that agreement. The exemptions therefore promote confidence in the E3 program and encourage ongoing, cooperative participation from jurisdictions.

As well as implementing an intergovernmental scheme, these exemptions are justified on the basis that:

- instruments made under the GEMS Act:
  - are based on technical and scientific evidence about products' energy use and appropriate test standards; and
  - affect commercial certainty where manufacturers and importers need to adapt to new regulatory requirements; and
- an object of the GEMS Act is to give effect to certain obligations that Australia has under particular international conventions.

In view of their detailed scientific and technical content, GEMS determinations and associated legislative instruments are confined in the matters that they deal with, and so do not deal with broad matters of policy or with politically contentious issues. The exemptions ensure that the Commonwealth Parliament cannot override the consideration given to these matters through expert and stakeholder consultation, and the collaborative E3 program.