



COVERSHEET

Minister	Hon Iain Lees-Galloway	Portfolio	Workplace Relations and Safety
Title of Cabinet paper	<i>Ensuring effective regulation of health and safety risks associated with work on commercial and industrial refrigeration, heat pump and air conditioning systems</i>	Date to be published	25 June 2019

List of documents that have been proactively released

Date	Title	Author
25 June 2019	<i>Ensuring effective regulation of health and safety risks associated with work on commercial and industrial refrigeration, heat pump and air conditioning systems</i>	<i>Office of the Minister for Workplace Relations and Safety</i>
25 June 2019	<i>DEV-19-MIN-0105</i>	<i>Cabinet Office</i>
25 June 2019	<i>Regulatory Impact Summary – Ensuring effective regulation of health and safety risks associated with work on commercial and industrial refrigeration, heat pump and air conditioning systems</i>	<i>MBIE</i>

Information redacted

YES / NO

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Cabinet Economic Development Committee

Minute of Decision

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Ensuring Effective Regulation of Health and Safety Risks Associated with Work on Commercial and Industrial Refrigeration, Heat Pump and Air Conditioning Systems

Portfolio **Workplace Relations and Safety**

On 8 May 2019, the Cabinet Economic Development Committee (DEV):

Background

1 **noted** that on 15 August 2018, DEV:

- 1.1 noted that the global phase down of hydrofluorocarbons (HFCs) will commence on 1 January 2019, in accordance with the *Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer*;
- 1.2 the phase down will accelerate the use of alternative refrigerants, which are less harmful to the environment but present increased risks to health and safety because of their hazardous properties;
- 1.3 agreed to the release of a discussion document on proposed regulatory changes, for targeted consultation with the heating, ventilation, air conditioning, and refrigeration industry;
- 1.4 invited the Minister for Workplace Relations and Safety to report back to DEV by May 2019 on the outcome of the consultation and with recommendations on any proposed regulatory changes;

[DEV-18-MIN-0161]

Introduction of a licensing regime

2 **agreed** that regulations for work involving commercial and industrial refrigeration, heat pump or air conditioning systems should:

- 2.1 specify that a person must not carry out a class of work on a commercial or industrial refrigeration, heat pump, or air conditioning system – which uses a flammable, toxic, or very high operating pressure refrigerant – unless the person holds a licence for that class of work;

- 2.2 exempt the following types of work or workers from the requirement to be licenced:
- 2.2.1 trainees or apprentices who are working towards trade certification in order to be licensed, and are under the supervision of a technician who holds a current licence;
 - 2.2.2 plant operators responsible for the day-to-day operation of a commercial or industrial refrigeration system;
 - 2.2.3 work on domestic or light commercial refrigeration, heat pump, or air conditioning appliances;
 - 2.2.4 work on automotive air conditioning systems;
 - 2.2.5 work on commercial or industrial refrigeration, heat pump, or air conditioning systems that use non-hazardous refrigerant gases;
 - 2.2.6 work on refrigeration, heat pump, and air conditioning systems on ships or aircraft;
- 2.3 specify that a heating and air conditioning licence would enable the licence holder to work on any commercial or industrial heat pump or air conditioning system that uses a flammable, toxic, or very high operating pressure refrigerant;
- 2.4 specify that a refrigeration, heating, and air conditioning licence (excluding ammonia) would enable the licence holder to work on any commercial or industrial refrigeration, heat pump, or air conditioning system that uses a flammable, toxic, or very high operating pressure refrigerant, including transport refrigeration systems, but excluding systems using ammonia refrigerant;
- 2.5 specify that a refrigeration, heating, and air conditioning licence (including ammonia) would enable the licence holder to work on any commercial or industrial refrigeration, heat pump, or air conditioning system that uses a flammable, toxic, or very high operating pressure refrigerant, including transport refrigeration systems and systems using ammonia refrigerant;
- 2.6 specify licensing processes based on those in Chapter 4, Part 4.5, Division 1, Subdivision 2 of the Australian Model Work Health and Safety Regulations;
- 2.7 specify that an applicant would have to meet the following general competency requirements:
- 2.7.1 have knowledge of the installation, commissioning, servicing, and maintenance of refrigeration, and/or heat pump, and/or air conditioning plant and equipment relevant to the class of work for which the applicant seeks a licence;
 - 2.7.2 have knowledge of the hazardous properties for the classes of refrigerants they are likely to use; and
 - 2.7.3 have had suitable training and experience;
- 2.8 specify that the more specific competency requirements to be met by an applicant can be set in a Safe Work Instrument;

- 2.9 specify that a licence takes effect on the day it is issued by WorkSafe and, unless cancelled earlier, expires five years after that day;
- 2.10 specify amendment of licence document processes based on those in Chapter 4, Part 4.5, Division 1, Subdivision 3 of the Australian Model Work Health and Safety Regulations;
- 2.11 specify licence renewal processes based on those in Chapter 4, Part 4.5, Division 1, Subdivision 4 of the Australian Model Work Health and Safety Regulations;
- 2.12 specify licence suspension and cancellation processes based on those in Chapter 4, Part 4.5, Division 1, Subdivision 5 of the Australian Model Work Health and Safety Regulations;
- 2.13 specify review and appeal processes based on those in Subpart 6 of the Health and Safety at Work (Asbestos) Regulations 2016;
- 2.14 specify that WorkSafe shall keep a register of the individuals who have been issued a licence based on the requirement in regulation 43 of the Health and Safety in Employment Regulations 1995;
- 2.15 specify that the duty on a person to not carry out a class of work on a commercial or industrial refrigeration, heat pump, or air conditioning system – which uses a flammable, toxic, or very high operating pressure refrigerant – unless the person holds a licence for that class of work would not commence until four years after the proposed regulations have been made;
- 2.16 specify that the licensing processes, amendment of licence document processes, and register provisions would not commence until three years after the proposed regulations have been made;
- 3 **agreed** to amend the Health and Safety at Work (Hazardous Substances) Regulations 2017 so that the requirement to hold an approved filler certificate does not apply to a person who already holds a refrigeration and air conditioning licence or an ammonia plant service technician licence;
- 4 **noted** that consultation has identified that there may be a need to introduce a licence class for technicians who would only be carrying out work on transport refrigeration systems;
- 5 **noted** that consultation has identified that there may be a need to exempt work involving on-farm milk vat refrigeration systems from the requirement to be licenced;
- 6 **noted** that administrative fees will need to be set in regulations in order to implement the proposed licensing regime;
- 7 **noted** that on 28 September 2015, the previous government approved a framework for offences and penalties for regulations made under the Health and Safety at Work Act 2015 [CAB-15-MIN-0118];
- 8 **noted** that offences and penalties for the proposed licensing regime will be identified and set in accordance with the framework referred to above;
- 9 **noted** that on 28 September 2015, the previous government approved the approach to identifying infringement offences for regulations made under the Health and Safety at Work Act [CAB-15-MIN-0118];

- 10 **noted** that:
- 10.1 in February 2016, the former Minister for Workplace Relations and Safety and Minister of Justice agreed to the infringement fee framework to apply regulations made under the Health and Safety at Work Act;
 - 10.2 this framework will be applied to setting the infringement fees that will apply to infringement offences for the proposed licensing regime;
- 11 **agreed** that further targeted consultation be carried out with impacted stakeholders before final policy decisions are made on the following matters:
- 11.1 a possible transport refrigeration licence class;
 - 11.2 a possible exemption for work involving on-farm milk vat refrigeration systems;
 - 11.3 administrative fees, offences and penalties;
 - 11.4 infringement offences and fees;
 - 11.5 a transitional period for ammonia refrigeration plant compliance with signage requirements;
 - 11.6 the details of the proposed licensing regime processes;
- 12 **authorised** the Minister for Workplace Relations and Safety to undertake a targeted consultation with impacted stakeholders on the matters referred to in paragraph 11 above;
- 13 **invited** the Minister for Workplace Relations and Safety to issue drafting instructions to the Parliamentary Counsel Office to draft regulations to give effect to the above paragraphs;
- 14 **authorised** the Minister for Workplace Relations and Safety to further clarify and develop policy matters relating to the proposals in the paper under DEV-19-SUB-0105 in a manner not inconsistent with Cabinet's decisions;
- 15 **noted** that any remaining policy decisions will be sought from Cabinet by August 2019 following the consultation process;

Requirement to comply with joint AS/NZ standard

- 16 **agreed** to amend the Health and Safety at Work (Hazardous Substances) Regulations 2017 so that a person conducting a business or undertaking (PCBU) with management or control of a commercial or industrial refrigeration system that uses anhydrous ammonia as a refrigerant complies with the joint AS/NZ Standard for commercial refrigeration systems;
- 17 **agreed** that the scope of the above requirement be clarified to ensure that it only applies to new refrigeration systems, extensions or modifications of existing systems, the conversion of a system for another refrigerant, and for used systems being transferred to and operated on another site;
- 18 **agreed** to amend the Health and Safety at Work (Hazardous Substances) Regulations 2017 so that a PCBU with management or control of a commercial or industrial refrigeration system, in which more than 100kg of anhydrous ammonia is used as a refrigerant, places signage displaying the correct hazard pictogram and statement for ammonia at the entrance to the building and the entrance to the land on which the building is located;

Legislative implications

- 19 **invited** the Minister for Workplace Relations and Safety to issue drafting instructions to the Parliamentary Counsel Office to draft regulations to give effect to the above paragraphs;
- 20 **authorised** the Minister for Workplace Relations and Safety to make decisions on detail, and to make changes consistent with the policy intent, on any issues that arise during the drafting processes in order to finalise the amendments to the Health and Safety at Work (Hazardous Substances) Regulations 2017.

Janine Harvey
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Kelvin Davis
Hon Phil Twyford
Hon Dr Megan Woods (Chair)
Hon Chris Hipkins
Hon David Parker
Hon Stuart Nash
Hon Iain Lees-Galloway
Hon Jenny Salesa
Hon Damien O'Connor
Hon Shane Jones
Hon Kris Faafoi
Hon Willie Jackson
Hon James Shaw
Hon Eugenie Sage

Officials present from:

Office of the Prime Minister
Officials Committee for DEV

Hard-copy distribution:

Minister for Workplace Relations and Safety