

EXPLANATORY STATEMENT

Select Legislative Instrument No. 83, 2014

Energy Efficiency Opportunities Act 2006

Energy Efficiency Opportunities Repeal Regulation 2014

Authority

Section 41 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 33(3) of the *Acts Interpretation Act 1901* provides that where an act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

The *Energy Efficiency Opportunities Repeal Regulation 2014* (the Regulation) is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Background

The Act establishes the Energy Efficiency Opportunities programme (the programme) and sets out its legislative framework.

The programme requires large energy-using businesses to assess their energy use and identify cost effective energy saving opportunities. The programme is mandatory for corporations that use over 0.5 petajoules of energy annually and may be undertaken voluntarily by medium energy-users. The Act imposes mandatory compliance and reporting obligations for corporations required to register under that Act.

Purpose and operation

The Regulation repeals the *Energy Efficiency Opportunities Regulations 2006* (EEO Regulations). The EEO Regulations provide detail that allows effective compliance with and administration of the Act. The repeal of the EEO Regulations means that any obligation to comply with the EEO Regulations ceases.

Since the EEO Regulations took effect, the programme along with rising energy prices has contributed to an improvement of energy efficiency and productivity gain in Australian industry. The repeal of the EEO Regulations is an appropriate response to these changing factors and is in line with the Government's commitment to remove regulation where the desired outcomes can be achieved through measures alternative to regulation such as market forces.

Detailed explanation of the Regulation's provisions

Section 1 – Name of Regulation

This section provides that the title of the Regulation is the *Energy Efficiency Opportunities Repeal Regulation 2014*.

Section 2 – Commencement

This regulation commences on the day after registration.

Section 3 – Authority

This regulation is made under the *Energy Efficiency Opportunities Act 2006*.

Section 4 – Schedule(s)

This section provides that each instrument specified in a Schedule to the Regulation is amended or repealed as provided for in the applicable Schedule and that any other item in a Schedule will have effect according to its terms.

Schedule 1—Repeals

Item 1 – The whole of the Regulations

This item provides that the *Energy Efficiency Opportunities Regulations 2006* are repealed in their entirety.

Consultation

The Government has undertaken extensive stakeholder consultation in considering the termination of the programme, including repeal of the EEO Regulations. However, due to the nature of budgetary processes, direct consultation has not been undertaken.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Energy Efficiency Opportunities Repeal Regulation 2014

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 Regulation

The purpose of the *Energy Efficiency Opportunities Repeal Regulation 2014* (Regulation) is to repeal the *Energy Efficiency Opportunities Regulations 2006* (EEO Regulations). The EEO Regulations provide details that allow effective compliance with and administration of the *Energy Efficiency Opportunities Act 2006* (Act).

The Act sets out the legislative framework for the establishment of the Energy Efficiency Opportunities programme. The programme requires large energy using businesses to assess their energy use and identify cost effective energy savings opportunities. The programme is mandatory for organisations that use over 0.5 petajoules of energy annually and may be undertaken voluntarily by medium energy-users. For those organisations falling within the programme, the Act imposes mandatory compliance and reporting obligations.

Human rights implications

There are no human rights implications of the Regulation. The Energy Efficiency Opportunities programme does not engage any of the applicable human rights and freedoms. The repeal of the EEO Regulations will not affect any of the applicable human rights and freedoms.

Conclusion

This Bill is compatible with human rights as it does not raise any human rights issues.

The Minister for Industry, the Honourable Ian Macfarlane MP