

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Industry

Greenhouse and Energy Minimum Standards Act 2012

*Greenhouse and Energy Minimum Standards (Computer Monitors) Determination
2014*

Purpose

The *Greenhouse and Energy Minimum Standards (Computer Monitors) Determination 2014* (**Determination**) sets minimum energy efficiency and energy labelling requirements, and associated requirements for conducting tests, for computer monitors. The Determination calls up the Minimum Energy Performance Standards (**MEPS**) and energy labelling requirements from the current Australian/New Zealand standard (AS/NZS 5815.2:2013).

This Determination revokes and replaces the *Greenhouse and Energy Minimum Standards (Computer Monitors) Determination 2013* (F2013L00733) (**revoked Determination**).

Background

The *Greenhouse and Energy Minimum Standards Act 2012* (**Act**) established a national framework for regulating the energy efficiency of products supplied or used within Australia, implementing Australian Government and COAG commitments to establish national legislation to regulate energy efficiency and labelling standards for appliances and other products. The national legislation permits the Australian Government to set mandatory minimum efficiency requirements for products, to drive greater energy efficiency for regulated products. The Act also allows the Australian Government to set nationally-consistent labelling requirements, to increase Australians' awareness of options to improve energy efficiency and reduce energy consumption, energy costs and greenhouse gas emissions. The national framework replaced seven state and territory legislative frameworks, harmonising the regulation of equipment energy efficiency.

Historically, MEPS and energy labelling requirements were set out in Australian or Australian/New Zealand Standards and incorporated by reference in regulations, which were usually made under the relevant state or territory electrical safety legislation. Over time the COAG Equipment Energy Efficiency Program (**E3 Program**) developed the practice of setting the requirements by reference to the relevant Australian or Australian/New Zealand Standards. The revoked Determination departed from that practice, setting out the requirements in full in its own terms instead, as the standard was not yet published when the revoked Determination was drafted. However, this Determination reverts to the more regular practice of setting requirements by reference to the relevant product standard.

MEPS requirements, or energy use requirements, relate to requirements for the minimum allowable energy efficiency of a product. They provide an energy efficiency 'floor' for that product type, below which individual models of that product type

cannot be sold. The level of the floor can be raised over time, providing a means of raising the average energy efficiency of the product type.

Energy labelling requirements primarily relate to requirements for the display of energy rating labels, such as those commonly seen on products including refrigerators, dishwashers and televisions. Energy rating labels allow consumers to compare the energy consumption of similar products, and factor potential cost savings into their purchasing decision.

Other regulatory requirements possible under the Act include requirements relating to high efficiency levels, product performance, and the impact of the product on the environment or the health of human beings. There are no requirements of these types set in this Determination.

Under the Act, the Minister has limited powers to vary existing GEMS determinations. For example, section 35 of the Act prevents the Minister from varying an existing determination, by providing that section 33(3) of the *Acts Interpretation Act 1901* does not apply in relation to a GEMS determination.

In order for the Minister to revise any of the GEMS requirements specified in an existing determination, the Minister must first revoke the existing GEMS determination (see section 35 of the Act) and then make a replacement determination that specifies the new requirements and any relevant existing requirements from the revoked determination.

This Determination is a replacement determination, which amends the GEMS level and GEMS labelling requirements in the revoked Determination so that the requirements are set by reference to those in AS/NZS 5815.2:2013 (the revoked Determination set out the requirements in full in its own terms). The other components of this replacement Determination, including the definitions and testing requirements, remain the same as in the revoked Determination, and so are reproduced in the same form in this Determination.

Legislative basis

Under subsection 23(1) of the Act the Minister may, by legislative instrument, make a determination (a GEMS determination) that specifies one or more classes of products 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) for classes of products 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 in operating products in 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 in relation to products in the relevant product class in order to determine whether the products meet the specified requirements.

Under section 26 of the Act the GEMS labelling requirements 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 manner in which that information must be communicated; and
- requirements for conducting tests in relation to products in the relevant product class in order to determine whether the products meet the specified requirements.

Consultation

The revised requirements in the Determination are set by reference to those in the Australian/New Zealand Standard, AS/NZS 5815.2:2013. Industry stated a preference for the requirements to be set by reference to the Australian/New Zealand Standard, rather than set out in full in the Determination, an approach to which the Australian Government agreed. That approach had not been possible under the revoked Determination,

The change to the preferred approach also addressed a small number of minor technical inconsistencies between some of the requirements in the revoked Determination and AS/NZS 5815.2:2013, relating to the formula for calculating energy consumption and requirements for values that must be displayed on the energy rating label. This had been raised by industry through engagement with the E3 Program's product registration IT systems.

Regulatory Impact

The requirements that had been set by the revoked Determination were the subject of a comprehensive Council Of Australian Governments (COAG) regulatory impact analysis process in 2010 and 2011. As the regulatory proposals encapsulated by this Determination made no changes to the substance of those requirements, no further regulatory impact analysis was considered necessary.

Detailed description of the Determination

Details of the Determination are set out at Attachment A.

Statement of compatibility with human rights

A statement of compatibility with human rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out at Attachment B.

Details of the Determination

Section 1 – Name of Determination

This section sets out the title of the Determination.

Section 2 – Commencement, Revocation and Replacement

This section provides that the Determination commences the day after it is registered. It also provides that this Determination revokes and replaces the *Greenhouse and Energy Minimum Standards (Computer Monitors) Determination 2013* (F2013L00733).

Section 3 – Definitions

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

- definitions relating to the various Australian/New Zealand, European Committee for Standardization (CEN) and International Electrotechnical Commission (IEC) Standards referenced in the Determination; and
- a definition of “computer monitor”, which is given the same meaning as in Australian/New Zealand Standard AS/NZS 5815.1:2012.

Section 4 – Interpretation

Section 4 provides guidance for interpreting certain aspects of the Determination.

Subsection 4(1)

The purpose of this subsection is to avoid any inconsistency in terminology between the Determination (and other elements of the GEMS legislation) and the standards referenced in section 3 of the Determination. It indicates that where a term used in the Determination is not defined in any part of the GEMS legislation, but is defined in a standard referenced in section 3, for the purposes of the Determination the term has the meaning set out in the applicable standard.

Subsection 4(2)

Unless otherwise specified, the applicable version of a document incorporated by reference in a legislative instrument is the version that existed on the date the instrument came into force. This is made clear for standards specifically referenced in section 3 of the Determination. However, often these standards refer to other standards or documents which also contain requirements that must be applied to give effect to the Determination or a standard referred to in the Determination. The purpose of this subsection is to make clear that the applicable version of these further documents is also the version that existed on the day the Determination came into force.

Section 5 – Specified product classes covered by the Determination

Section 5 sets out the scope of the Determination with respect to the class of products that it covers.

Subsection 5(1)

This subsection provides that the Determination covers computer monitors (as defined in section 3 and in the product classes specified in the table) that are designed to be connected to a mains voltage electricity supply. Three product classes are specified, based on the screen size and resolution of the monitor.

Subsection 5(2)

This subsection sets out product classes that are not covered by the Determination. These are largely electronic displays that are:

- used for public display of advertising or other content; or
- used for other specialised applications, such as in engineering or medicine; or
- of a larger size than a standard computer monitor; or
- marketed or sold as a television.

Section 6 – GEMS level requirements

Section 6 specifies GEMS level requirements for energy use for computer monitors covered by the Determination, including requirements for conducting tests in order to demonstrate compliance with the energy use requirements, under section 25 of the Act.

Subsection 6(1)

This subsection specifies that the energy use requirements for products covered by the Determination are those mentioned in section 2 of AS/NZS 5815.2:2013.

Subsection 6(2)

This subsection specifies that the requirements for conducting tests are those set out in sections 2 and 3 of AS/NZS 5815.1:2012.

Subsection 6(3)

This subsection specifies, for subsection (2), that for computer monitors which are powered by an external power supply that can be disconnected from the computer monitor, all energy measurements are to include the energy consumption of the external power supply. The subsection establishes requirements for doing so depending on whether or not an external power supply is supplied with the computer monitor. If the external power supply is supplied with the computer monitor, the computer monitor is to be tested with that external power supply. Otherwise, the computer monitor is to be tested with an external power supply of Energy Performance Mark III (as defined in AS/NZS 4665.1:2005).

Section 7 – GEMS labelling requirements

Section 7 specifies GEMS labelling requirements for computer monitors covered by the Determination, including requirements for conducting tests in order to demonstrate compliance with the energy labelling requirements, under section 26 of the Act.

Subsection 7(1)

This subsection specifies that the labelling and communication requirements for products covered by the Determination are those mentioned in sections 3 and 4 of AS/NZS 5815.2:2013, but excluding certain text in clauses 4.2 and 4.3 of AS/NZS 5815.2:2013 relating to electronic labels. This text was excluded because requirements for electronic labels had not been settled at the time the Determination was made, and the text had the effect of leaving such requirements to the GEMS Regulator's discretion, which is beyond the powers of the GEMS Regulator specified in the Act.

Subsection 7(2)

This subsection specifies that the requirements for conducting tests are those set out in sections 2 and 3 of AS/NZS 5815.1:2012.

Subsection 7(3)

This subsection specifies, for subsection (2), that for computer monitors which are powered by an external power supply that can be disconnected from the computer monitor, all energy measurements are to include the energy consumption of the external power supply. The requirements established by this subsection are the same as those in subsection 6(3).

Section 8 – Other GEMS requirements

There are no other GEMS requirements for computer monitors covered by this Determination.

Section 9 – Family 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.

Subsection 9(1)

This subsection specifies the circumstances in which two or more models of computer monitors covered by this Determination may be in the same family of models. This subsection operates subject to subsection 9(2).

The specified circumstances are when the models (a) are marketed in the same category or class of products, (b) have the same energy performance characteristics, (c) have identical physical characteristics relevant to complying with sections 6 and 7 of the Determination, and (d) are included on a single test report prepared prior to applying for registration under the Act. The effect of these specified circumstances is to limit the physical differences that are allowed between models which may be registered in the same family of models to cosmetic differences only.

Subsection 9(2)

This subsection has the effect that for the purposes of subsection (1) a family of models may consist of no more than 10 models.

Section 10 – Product categories

Section 29 of the Act requires that a GEMS determination specify whether the products it covers are category A or category B products. Category B products are subject to higher penalties than category A products for certain offences under the Act, on the basis that category B products have a high impact on energy use or greenhouse gas production.

Section 10 specifies that computer monitors covered by the Determination are category A products.

Section 11 – Registrations affected by this Determination

Section 36 of the Act provides that if a replacement determination does not specify that it affects a model's registration, the model is taken to be registered against the replacement determination.

This section specifies that the Determination does not affect the registration of any model registered against the revoked determination, the *Greenhouse and Energy Minimum Standards (Computer Monitor) Determination 2013*. Consequently, all models registered under the revoked determination are considered to be registered against the replacement determination.

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 (Computer Monitors) Determination 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 Legislative Instrument

The *Greenhouse and Energy Minimum Standards (Computer Monitors) Determination 2014* prescribes matters relating to minimum energy efficiency and energy labelling requirements for computer monitors under the *Greenhouse and Energy Minimum Standards Act 2012*. The Determination establishes requirements for energy use and energy labelling, including requirements for conducting tests in order to demonstrate compliance with those requirements. The Determination also sets out the circumstances in which two or more models in a product class may be a family of models, and establishes the applicable product category for the purposes of calculating certain penalties under the Act.

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.

**The Hon Ian Macfarlane MP
Minister for Industry**