

## EXPLANATORY STATEMENT

Issued by the authority of the Minister for Resources, Energy and Northern Australia

*Greenhouse and Energy Minimum Standards Act 2012*

*Greenhouse and Energy Minimum Standards (Dishwashers) Determination 2015*

### **Purpose and Operation**

The *Greenhouse and Energy Minimum Standards (Dishwashers) Determination 2015* (**Determination**) establishes energy labelling requirements, and associated requirements for conducting tests, for dishwashers.

The Determination revokes and replaces the previous *Greenhouse and Energy Minimum Standards (Dishwashers) Determination 2012* (**revoked Determination**). This replacement Determination extends the energy rating label to ten stars, and provides additional label placement options. These amendments have been introduced as a result of technological advancement in the marketplace outpacing the current Australian standard for the product class.

### **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 the Council of Australian Governments (**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.

Selected definitions and text are extracted in the GEMS Determinations from the relevant Australian or Australian/New Zealand Standards. This is done with the intention of making it possible to determine if a product is covered (or excluded) by the GEMS Determination without having to refer to the relevant standard. The standards referenced in the Determination (AS/NZS 2007.1:2005 and AS/NZS 2007.2:2005) are available for from Standards Australia and SAI Global. The IEC standard (IEC 60436 ed.3) is available from the International Electrotechnical Commission.

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, amongst others. Energy rating labels allow consumers to compare the energy consumption of similar products, and factor

potential cost savings into their purchasing decision. For some products, labelling requirements also relate to specific information that must be marked on the product itself or the box in which it is supplied.

Other regulatory requirements include requirements relating to high efficiency levels, product performance, and the impact of the product on the environment or the health of human beings:

- *High efficiency level* requirements allow suppliers or manufacturers to differentiate more efficient products in the market, where the product does not carry an energy rating label, provided they meet a specified efficiency benchmark over and above the nominated GEMS level requirements.
- *Product performance* requirements are intended to ensure that minimum efficiency requirements, or a higher number of stars on an energy rating label, are not achieved by reducing the effectiveness of the product in its primary function. An example of this is the setting of minimum requirements for soil removal for clothes washers.
- Requirements in relation to the *impact of a product on the environment or the health of human beings* are intended to ensure that greater energy efficiency does not come at the expense of the environment or human health. An example of this is the setting of a maximum limit for the amount of mercury that may be contained in a compact fluorescent or linear fluorescent lamp. Some level of mercury is necessary for these energy efficient lamps to operate, so limits are set to keep mercury content within safe levels for human health and the environment.

### **Authority**

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.

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);
- 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 for conducting tests in relation to products in the relevant product class in order to determine whether the products meet the specified requirements; and
- requirements of a kind specified in the regulations for the purposes of this paragraph.

Under section 35 of the GEMS Act the Minister may:

- revoke a GEMS determination that covers one or more product classes; and
- make another GEMS determination that specifies that it replaces the revoked determination.

The revoked determination will cease to be in force immediately before the replacement Determination comes into force.

### **Consultation**

The Australian Government consulted with industry stakeholders throughout the development of the replacement Determination. During the development of the Determination, industry stakeholders were further consulted on the specific aspects of the amendments included with the replacement Determination, including the extended

test load table, the increased star rating for appliances, and additional label placement options.

Industry stakeholders representing businesses affected by the proposed regulation were first consulted on the proposed changes in November 2014. Further consultation was undertaken in March 2015, and again in August 2015. Throughout this process general issues were raised, and subsequently resolved, around the proposed extended test load table to the satisfaction of industry attendees. Stakeholder input was taken into account in drafting the replacement Determination.

### **Regulatory Impact**

The Office of Best Practice advised a Regulatory Impact Statement was not required for the replacement Determination. Consequently, no further regulatory impact analysis was considered necessary in relation to the proposal.

## Details of the Determination

### Section 1 – Name of Determination

This section sets out the title of the Determination.

### Section 2 – Commencement

This section provides that the Determination commences the day after it is registered on the Federal Register of Legislative Instruments. It also provides that the Determination revokes and replaces the *Greenhouse and Energy Minimum Standards (Dishwashers) Determination 2012* (F2012L02119).

### Section 3 – Definitions

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

- definitions relating to the various Australian Standards by which the requirements of the Determination are specified;
- a definition of “dishwasher”, which is given the same meaning as in Australian/New Zealand Standard AS/NZS 2007.1:2005;
- definitions of “energy efficiency label” which means the label described in section 5 of Australian/New Zealand Standard AS/NZS 2007.2:2005 (the six star label), and “super-efficiency label” which means the label described in Schedule 2 of the Determination (the ten star label);
- a definition of “IEC Standard”, which is a standard published by, or on behalf of, the International Electrotechnical Commission; and
- a definition of “standard”, which means an Australian Standard, an Australian/New Zealand Standard, an IEC Standard or any other equivalent document.

### 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)

Subsection 5(1) provides that the Determination covers dishwashers, as defined in section 3, which are ordinarily supplied and used for personal, domestic or household purposes. This reflects the scope of the in the revoked Determination, and that of the Australian/New Zealand Standards AS/NZS 2007.1:2005 (*Performance of household electrical appliances – Dishwashers – Part 1: Methods for measuring performance, energy and water consumption*) and AS/NZS 2007.2:2005 (*Performance of household electrical appliances – Dishwashers – Part 2: Energy efficiency labelling requirements*).

#### Subsection 5(2)

Subsection 5(2) specifies the product classes that are covered by the Determination. This subsection specifies that dishwashers covered by the Determination form a single product class.

### **Section 6 – GEMS level requirements**

There are no GEMS level requirements for dishwashers covered by the Determination.

### **Section 7 – GEMS labelling requirements**

Section 7 specifies GEMS labelling requirements for dishwashers 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 provides that the GEMS labelling requirements are those set out in sections 2, 5, and Appendix B of AS/NZS 2007.2:2005, except that:

- Part 1 of Schedule 2 of the Determination applies instead of subclause 1.5.8 and clause 2.7 of AS/NZS 2007.2:2005; and
- Part 3 of Schedule 2 of the Determination applies instead of clause 5.1 of AS/NZS 2007.2:2005.

These modifications provide an expanded table for working out a product's star rating, allowing up to 10 stars, and revised requirements for label placement.

### Subsection 7(2)

This subsection provides that, where a star rating of seven stars or greater is achieved, the labelling requirements are either those specified in sections 2, 5, and Appendix B of AS/NZS 2007.2:2005, or the Super-Efficient Label in accordance with the Part 2 of Schedule 2 of the Determination.

This allows suppliers to choose which version of the label they wish to display on their product in such circumstances.

Section 2 of AS/NZS 2007.2:2005 sets out how to undertake tests in order to calculate the star rating. In order to meet the test criteria specified in section 2 of AS/NZS 2007.2:2005, the supplier must nominate a program for energy efficiency labelling which meets the product performance requirements specified in section 3 of AS/NZS 2007.2:2005.

### Subsection 7(3)

This subsection specifies that the requirements for conducting tests are those set out in section 2 of AS/NZS 2007.2:2005, subject to the modification of those requirements set out in paragraphs 7(3) (a) - (d). The modifications are established to account for circumstances not covered by the testing requirements set out in AS/NZS 2007.1:2005.

Paragraph 7(3)(a) specifies that the text in Part 1 of Schedule 1 of the Determination, relating to the composition of infant cereal to be used as a soiling agent during testing, applies instead of clause A10(e) of Appendix A of AS/NZS 2007.1:2005. The cereal on which the values specified in the standard were based is no longer available.

Paragraph 7(3)(b) provides that the frozen spinach specified in Part 2 of Schedule 1 to the Determination may be used as an alternative to the spinach soiling agent specified in clause A10(f) of Appendix A of AS/NZS 2007.1:2005, which is no longer readily available.

Paragraph 7(3)(c) allows the alternative spinach soiling agent specified in Part 2 of Schedule 1 to the Determination to be prepared in accordance with Part 3 of Schedule 1 of the Determination.

Paragraph 7(3)(d) specifies that the cutlery specified in Part 4 of Schedule 1 of the Determination may be used as an alternative to some of the cutlery items specified in table A3 of AS/NZS 2007.1:2005 that are to form a test load. The relevant cutlery items specified by the standard are no longer available.

## **Section 8 – Other GEMS requirements**

There are no other GEMS requirements for products 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.

This section specifies that the family of models circumstances for dishwashers covered by this Determination are those set out in subclause 1.5.4 of AS/NZS 2007.2:2005.

## **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 dishwashers 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. Consequently, all models registered under the revoked Determination are considered to be registered against this Determination.

## **Schedule 1 - Variations to operation of AS/NZS 2007.1:2005 – alternative soiling agents and preparation methods**

Schedule 1 specifies, for the purposes of paragraphs 7 (3) (a) to (d) of the Determination, variations to the operation of AS/NZS 2007.1:2005 in relation to the requirements set out in subsection 7(3) of the Determination.

### **Part 1 – Infant cereal composition**

This part specifies requirements for the composition of the infant cereal to be used as a soiling agent for the purposes of testing according to the requirements set out in subsection 7(3), in place of the composition set out in the standard. The cereal on which the values specified in the standard were based is no longer available.

### **Part 2 – Alternative spinach soiling agent**

This part specifies an alternative spinach soiling agent to that specified in the standard, for the purposes of testing according to the requirements set out in subsection 7(3). The spinach soiling agent specified in the standard is no longer readily available.

### **Part 3 – Alternative spinach preparation method**

This part specifies how to prepare the alternative spinach soiling agent specified in part 2 for use in testing.

### **Part 4 - Permitted alternative cutlery used in compiling a place setting**

This part specifies cutlery items that may be used as an alternative to some of those specified in the standard that are to form a test load. The relevant cutlery items specified by the standard are no longer available.

### **Schedule 2 - Variation to AS/NZS 2007.2:2005 – GEMS star rating and labelling requirements**

Schedule 2 provides the necessary information for dishwashers that fall within the scope of the Determination to be labelled up to ten stars, along with associated labelling requirements.

### **Part 1 - Modifications to the Australian Standards to provide for Energy Efficiency and Super-Efficient Star Ratings**

Part 1 of Schedule 2 of the Determination provides an extended Star Rating Index table to allow for a dishwasher star rating between a minimum of one and a maximum of ten stars.

### **Part 2 – Labelling Requirements**

Part 2 of Schedule 2 of the Determination sets out the labelling requirements for the Super-Efficiency Label for paragraph 7(2)(b) of the Determination, in relation to dimensions and colours.

### **Part 3 – Label Placement**

Part 3 of Schedule 2 of the Determination sets out the requirements for the placement of the Energy Efficiency Label and Super-Efficiency Label on clothes washing machines, for paragraph 7(1)(b) of the Determination. The preferred placement is the upper-front part of the product, however additional placement options are provided if that is not feasible or practical (for instance, if the label is too large to fit on the upper-front part, or if more than one type of label is required to be displayed on the product and there is not enough room for all of them on the upper-front part).

## **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 (Dishwashers) Determination 2015*

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 (Dishwashers) Determination 2015* prescribes matters relating to energy labelling requirements for dishwashers under the *Greenhouse and Energy Minimum Standards Act 2012*. The Determination establishes requirements for 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 Josh Frydenberg MP**  
**Minister for Resources, Energy and Northern Australia**