

EXPLANATORY STATEMENT

Issued by the Deputy Prime Minister and Minister for Agriculture and Water Resources

Water Efficiency Labelling and Standards Act 2005

Water Efficiency Labelling and Standards Declaration 2016

The *Water Efficiency Labelling and Standards Act 2005* ('the Act') established the Water Efficiency Labelling and Standards ('WELS') scheme, which is implemented cooperatively by Commonwealth, State and Territory governments. The Act and its subordinate instruments draw on powers under section 51 of the Constitution including in relation to corporations and trade and commerce to underpin the scheme. As there are small gaps in the Constitutional coverage of the Act, State and Territory governments have enacted complementary legislation to cover these gaps.

Section 18 of the Act enables the Minister to determine the kinds of products covered by the WELS scheme. Section 12 of the Act provides that the Minister may declare that certain complementary laws of a State or Territory, whose operation involves the use of determinations made under Section 18 of the Act, correspond to the Act.

This Declaration recognises complementary laws enacted by New South Wales, Victoria, Queensland, Western Australia, South Australia, Tasmania, the Australian Capital Territory and the Northern Territory, which have the effect of capturing small gaps in the Commonwealth's coverage relating to the operation of determinations made under section 18 of the Act.

The Declaration being made is a machinery change and therefore does not require a Regulation Impact Statement.

The WELS Officials Group, consisting of all state and territory governments, were consulted and agreed to this Declaration being made.

In accordance with subsection 12(2) of the Act, this Declaration is a legislative instrument for the purposes of the *Legislation Act 2003* (previously *Legislative Instruments Act 2003*), but is not subject to disallowance (section 42 of the *Legislation Act 2003*) or sunseting (Part 4 *Legislation Act 2003* (previously Part 6 of the *Legislative Instruments Act 2003*)).

This Declaration replaces the *Water Efficiency Labelling and Standards Declaration 2005* with up-to-date references to the complementary State and Territory legislation.

The Declaration commences on the day after it was registered on the Federal Register of Legislation.

Details of the Declaration are set out in the [Attachment](#).

Details of the *Water Efficiency Labelling and Standards Declaration 2016*

Section 1 – Name of Declaration

This section provides that the title of the Declaration is the *Water Efficiency Labelling and Standards Declaration 2016* (the Declaration).

Section 2 – Commencement

This section provides that the Declaration takes effect from the day after it is registered on the Federal Register of Legislation.

Section 3 – Revocation

This section provides that the Declaration revokes the *Water Efficiency Labelling and Standards Declaration 2005*.

Section 4 – Laws to be *corresponding State-Territory laws*

This section provides that for paragraph 12(1)(b) of the *Water Efficiency Labelling and Standards Act 2005*, the following laws have been made to correspond to the Act:

- New South Wales: *Water Efficiency Labelling and Standards (New South Wales) Act 2005*;
- Victoria: *Water Efficiency Labelling and Standards Act 2005*;
- Queensland: *Water Efficiency Labelling and Standards (Queensland) Act 2005*;
- Western Australia: *Water Efficiency Labelling and Standards Act 2006*;
- South Australia: *Water Efficiency Labelling and Standards (South Australia) Act 2013*;
- Tasmania: *Water Efficiency Labelling and Standards Act 2013*;
- Australian Capital Territory: *Water Efficiency Labelling and Standards (ACT) Act 2015*;
- Northern Territory: *Water Efficiency Labelling and Standards (National Uniform Legislation) Act 2014*.