

EXPLANATORY STATEMENT

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

Water Efficiency Labelling and Standards Act 2005

Water Efficiency Labelling and Standards Amendment (WELS Standard) Determination 2016

The *Water Efficiency Labelling and Standards Act 2005* (the WELS Act) establishes the Water Efficiency Labelling and Standards (WELS) scheme, which applies national water efficiency labelling and minimum performance standards for prescribed water-use products or water-saving products. This delivers water conservation benefits by enabling consumers to choose between products based on their water efficiency.

The WELS scheme is a national regulatory scheme administered by the Australian Government on behalf of participating States and Territories. It is a cooperative arrangement with supporting State and Territory legislation.

Section 18(1) of the WELS Act provides that the Commonwealth Minister (the Minister) may determine, in writing, that water-use products or water-saving products of a specified kind are 'WELS products'. A determination made under section 18(1) must set out, or incorporate by reference, the WELS standard for those products (see section 18(2) of the WELS Act). Before making a determination under section 18(1), the Minister must have agreement to the terms of the determination from a majority of the participating States and Territories (see section 18(4) of the WELS Act).

Section 19(1) of the WELS Act provides that the WELS standard must set out criteria for rating WELS products in relation to either their water efficiency or general performance, or both. It must also set out criteria in relation to labelling WELS products. The WELS standard must require WELS products to be registered for specified supplies of the product (see section 19(2) of the WELS Act).

The *Water Efficiency Labelling and Standards Determination 2013 (No. 2)* (the Principal Determination) formulates the WELS scheme by setting out the water-use or water-saving products that are WELS products, the WELS standard and WELS standard requirements, the application processes for registering new WELS products or renewing registration for currently registered WELS products, the waiver and refund of application fees, and the requirements for registration of WELS products and the administration of the register of WELS products.

The *Water Efficiency Labelling and Standards Amendment (WELS Standard) Determination 2016* (the Determination) is made under sections 18, 19 and 26 of the WELS Act. The Determination amends the Principal Determination by:

- incorporating by reference a new standard: *AS/NZS 6400:2016*;
- modifying *AS/NZS 6400:2016*, for the purposes of the WELS scheme, by approving nominal spray force and spray coverage tests, as described in *AS 3662*, for specified high pressure showers;

- modifying *AS 3662*, for the purposes of the WELS scheme, by specifying that its provisions are applicable to showers with a flow rate of more than 4.5 litres/minute but not more than 7.5 litres/minute; and
- providing transitional arrangements for the performance, testing and labelling requirements of registered low flow showers.

The new standard provides for the registration of high pressure showers with four star ratings and toilets with six star ratings. In the case of high pressure showers, the modification to *AS/NZS 6400:2016* enables the nominal spray force and spray coverage tests set out in *AS 3662* to be applied to products with a flow rate of more than 4.5 litres/minute but not more than 7.5 litres/minute. The modification to *AS 3662* enables its provisions, including the nominal spray force and spray coverage tests it contains, to be applied to high pressure showers with a minimum flow rate exceeding 4.5 litres/minute (but not more than 7.5 litres/minute), rather than 6 litres/minute. The provision of transitional arrangements for registered low flow showers allows registrants to either maintain existing registrations for products meeting the performance, testing and labelling requirements of *AS/NZS 6400* (the previous standard) until 2020, or, elect to register their products in accordance with the new standard.

In accordance with sections 18(4) and 26(4) of the WELS Act, the Commonwealth sought, and obtained, the agreement of all States and Territories to the Determination and the new standard. In addition, consultation on the new standard was undertaken with industry and the public through the Australian Standards Committee.

The Office of Best Practice Regulation was consulted in the preparation of the Determination and advised that a Regulatory Impact Statement was not required (ID 17815).

The Determination is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in the [Attachment](#).

The Determination is a Legislative Instrument for the purposes of the *Legislation Act 2003* (Cth).

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

ATTACHMENT

Details of the *Water Efficiency Labelling and Standards Amendment (WELS Standard) Determination 2016*

Section 1 – Name

This section provides that the name of the Determination is the *Water Efficiency Labelling and Standards Amendment (WELS Standard) Determination 2016* (the Determination).

Section 2 – Commencement

This section provides that the Determination takes effect on the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

This section provides that the Determination is made under sections 18, 19 and 26 of the *Water Efficiency Labelling and Standards Act 2005*.

Section 4 – Schedules

This section provides that each instrument that is specified in a Schedule to the instrument will be amended or repealed as set out in the applicable terms in the Schedule concerned, and any other item in a Schedule to this instrument will have effect according to its terms.

Schedule 1 – Amendments

Schedule 1 sets out the specific amendments that will be applied to the Principal Determination to give effect to the Determination.

Item 1 – Section 5

This item inserts text that defines *AS 3662*, *AS/NZS 6400:2016* and *registered low flow shower*.

Item 2 – At the end of Part 1

This item inserts text that modifies *AS/NZS 6400:2016* and *AS 3662* for the purposes of the WELS scheme.

Section 5B(1) modifies *AS/NZS 6400:2016* by approving nominal spray force and spray coverage tests, as described in *AS 3662*, for use with specified high pressure showers.

Section 5B(2) modifies *AS 3662* by specifying that its provisions are applicable to showers with a flow rate of more than 4.5 litres/minute but not more than 7.5 litres/minute.

Item 3 – Section 7

This item repeals and replaces section 7 of the Principal Determination, setting out the WELS standard for products determined to be WELS products in section 6 of the Principal Determination.

Subsection 2 provides that the WELS standard is comprised of *AS/NZ 6400:2016* and the requirements of section 8 of the Principal Determination.

Taken together, subsections 3, 4, 5 and 6 provide transitional arrangements for the performance, testing and labelling requirements of registered low flow showers (which are defined by subsection 6).

Subsection 7 provides that the transitional arrangements described in subsections 3, 4, 5 and 6 cease to be in force on 1 July 2020.

Statement of Compatibility with Human Rights

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

Water Efficiency Labelling and Standards Amendment (WELS Standard) Determination 2016

Overview of the Legislative Instrument

This Legislative Instrument amends the *Water Efficiency Labelling and Standards Determination 2013 (No. 2)* to recognise a new WELS standard (AS/NZS 6400:2016) and set out transitional arrangements as part of the implementation of the new WELS standard.

This Legislative Instrument aims to improve the Water Efficiency Labelling and Standards (WELS) scheme (the WELS scheme), which is established under the *Water Efficiency Labelling and Standards Act 2005*. Under the WELS scheme, products must be registered and labelled to show their water efficiency when supplied.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with Australia's human rights obligations as it does not raise any human rights issues.

The Hon. Barnaby Joyce MP
Deputy Prime Minister and Minister for Agriculture and Water Resources