

EXPLANATORY STATEMENT

Product Emissions Standards Act 2017

Product Emissions Standards Amendment (Supply Date) Rules 2019

(Issued by authority of the Minister for the Environment)

The *Product Emissions Standards Act 2017* (the PES Act) establishes a national framework to address the adverse impacts of air pollution from certain products on human and environmental health. The *Product Emissions Standards Rules 2017* (the PES Rules) prescribe certain propulsion marine engines and non-road engines as ‘emissions-controlled products’ which must be certified as meeting the Australian emissions standard, or a recognised foreign standard, in order to be imported or supplied in Australia.

Under the transitional provisions in Part 11 of the PES Rules, the offences relating to importing an emissions-controlled product (or first supplying a product manufactured in Australia) commenced on 1 July 2018. The offences relating to supplying an emissions-controlled product (other than the first supply after manufacture of a product manufactured in Australia) were due to commence on 1 July 2019. The staged commencement of the import and supply offences was intended to provide sufficient time for suppliers and retailers to sell uncertified stock that was imported prior to the commencement of the import offence.

The purpose of the *Product Emissions Standards Amendment (Supply Date) Rules 2019* (the Rule Amendments) is to delay the commencement of the offences relating to supply for 12 months until 1 July 2020.

The delay is being introduced because of the effect of the drought across large areas of Australia and the resulting widespread reduction in the volume of sales of emissions-controlled products over 2018 and 2019. The delay will allow an additional 12 months for suppliers and retailers to sell uncertified stock that was imported before the commencement of the import offence.

The Department of the Environment and Energy (the Department) consulted broadly with industry who are supportive of a delay to the commencement of supply offence.

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

The Rule Amendments are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The whole of this instrument commences the day after the instrument is registered.

Statement of Compatibility with Human Rights

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

Product Emissions Standards Amendment (Supply Date) Rules 2019

The *Product Emissions Standards Amendment (Supply Date) Rules 2019* are 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 Product Emissions Standards Amendment (Supply Date) Rules 2019

The *Product Emissions Standards Act 2017* (the PES Act) establishes a national framework to address the adverse impacts of air pollution from certain products on human and environmental health. The *Product Emissions Standards Rules 2017* (the PES Rules) prescribe certain propulsion marine engines and non-road engines as ‘emissions-controlled products’ which must be certified as meeting the Australian emissions standard, or a recognised foreign standard, in order to be imported or supplied in Australia.

The offences relating to importing emissions-controlled products commenced on 1 July 2018 and the offences relating to supplying emissions-controlled products (other than the first supply after manufacture of a product manufactured in Australia) were due to commence on 1 July 2019. The staged commencement of the import and supply offences was intended to provide sufficient time for suppliers and retailers to sell uncertified stock that was imported prior to the commencement of the import offence.

The *Product Emissions Standards Amendment (Supply Date) Rules 2019* (the Rule Amendments) amends the PES Rules to delay the commencement of the offences relating to supply for 12 months until 1 July 2020.

Human rights implications

The Rule Amendments do not engage with any of the applicable rights or freedoms. The human rights implications associated with the PES Rules and PES Act were considered and outlined in the relevant Statement of Compatibility with Human Rights included with both the Explanatory Memorandum for the PES Act and the Explanatory Statement for the PES Rules. The measures affect the transitional provisions of the PES Rules but do not change the operation of the PES Act or PES Rules in a way which would affect the previous analysis of human rights implications.

Conclusion

The Rule Amendments are compatible with human rights as they do not raise any human rights issues.

The Hon Melissa Price MP, Minister for the Environment

Details of the *Product Emissions Standards Amendment (Supply Date) Rules 2019*

Section 1 – Name

1. This section provides that the title of the Rules is the *Product Emissions Standards Amendments (Supply Date) Rules 2019* (the Rule Amendments).

Section 2 – Commencement

2. The table in this section provides for the commencement of the Rule Amendments.
3. The whole instrument commences the day after the instrument is registered.

Section 3 – Authority

4. This section provides that the Rule Amendments are made under the *Product Emissions Standards Act 2017* (the PES Act).

Section 4 – Schedules

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

Schedule 1 – Amendments

6. Schedule 1 sets out the amendments to the *Product Emissions Standards Rules 2017* (the PES Rules).
7. Item 1 omits “2019” and substitutes “2020” in paragraph 30(6)(b). Paragraph 30(6) defines the term ‘uncertified, unserviceable engine’ for the purposes of the exemption category in subsection 30(1)(f). The amendment to this paragraph will have the effect that the relevant exemption category will not apply until the supply offence commences.
8. Item 2 omits “2019” and substitutes “2020” in Section 51 (table item 3, column 2). Section 51 of the PES Rules sets out when the import and supply offences commence for emissions-controlled products. The amendment made by item 2 will mean that supplying a propulsion marine engine or a non-road engine that is not Australian or foreign certified will be an offence on or after 1 July 2020 (except where it is the first supply of an uncertified product manufactured in Australia, which became an offence on 1 July 2018).
9. Item 3 omits “2019” and substitutes “2020” in Paragraphs 53(b) and (c). This amendment will have the effect that a person who supplies an emissions-controlled product prior to the supply offence commencing on 1 July 2020 will not need to meet the record keeping requirements in section 40 of the PES Rules.