

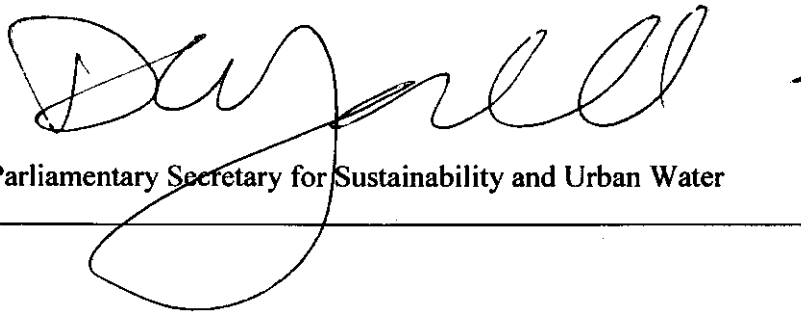


Water Efficiency Labelling and Standards Determination 2013¹

Water Efficiency Labelling and Standards Act 2005

I, Don Farrell, Parliamentary Secretary for Sustainability and Urban Water, make the following determination under sections 18, 19 and 26 of the *Water Efficiency Labelling and Standards Act 2005*.

Dated 15 Jan 2013



Parliamentary Secretary for Sustainability and Urban Water

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1 Name of determination

This determination is the *Water Efficiency Labelling and Standards Determination 2013*.

2 Commencement

This determination commences on 22 January 2013.

3 Repeal

The *Water Efficiency Labelling and Standards Determination 2011* is repealed.

4 Definitions

In this Determination:

Act means the *Water Efficiency Labelling and Standards Act 2005*.

AS/NZS 3500 means Australian/New Zealand Standard AS/NZS 3500:2003 Plumbing and drainage, as in force from time to time.

AS/NZS 6400 means Australian/New Zealand Standard AS/NZS 6400:2005 Water efficient products—Rating and labelling, as in force immediately before the commencement of this determination.

Note AS/NZS 6400, as in force at that time, incorporates amendments Nos. 1 to 5.

charging year means a period of 12 months starting on 15 September.

clothes washing machine includes a clothes washing machine that has a clothes drying function.

conformity assessment body has the meaning given by AS/NZS 6400.

Plumbing Code means the document titled *National Construction Code Series, Volume Three, Plumbing Code of Australia 2011*, published by the Australian Building Codes Board, as in force from time to time.

registrant, for a registered WELS product, means the person in relation to whom the product is registered.

WELS standard has the meaning given by section 6.

5 Determination of WELS products

A water-use or water-saving product of any of the following kinds is a WELS product if the WELS standard applies to it:

- (a) showers;
- (b) dishwashers;
- (c) clothes washing machines;
- (d) lavatory equipment;
- (e) urinal equipment;
- (f) tap equipment;
- (g) flow controllers.

6 WELS standard

The **WELS standard** for the products mentioned in section 5 consists of:

- (a) AS/NZS 6400, apart from:
 - (i) section 4; and
 - (ii) clauses C.3 to C.6 in Appendix C; and
- (b) the requirements mentioned in section 7.

7 WELS standard requirements

- (1) A product mentioned in paragraphs 5 (a) to (f) must be registered for supply as a new product for any purpose.
- (2) A product mentioned in paragraph 5 (a), (d), (e), (f) or (g) that may be used or installed in a plumbing installation must comply with either:
 - (a) section G of the Plumbing Code; or
 - (b) section 2.2 of Part 1 of AS/NZS 3500.

Section 8

- (3) A product mentioned in section 5 that is registered must be WELS-labelled for supply as a new product for any purpose.

8 Application for registration of new product

- (1) Any of the following may apply in writing to the Regulator to register a WELS product that is not registered:
 - (a) the manufacturer of the product;
 - (b) the importer of the product, if the importer has the agreement of the manufacturer in writing that the importer will make the application;
 - (c) another person, if:
 - (i) either:
 - (A) the person has the agreement of the manufacturer in writing that the person will make the application; or
 - (B) the Regulator is satisfied that the person has an appropriate connection with the product; and
 - (ii) the Regulator is satisfied that registering the product in relation to the person would allow the proper administration of the Act in relation to the product.

- (2) The application must be made in a form approved by the Regulator.

Note Application forms are available at www.waterrating.gov.au.

- (3) The application must be accompanied by:

- (a) test reports from a laboratory approved by the Regulator that evaluate the compliance of the product with the water efficiency requirements in the WELS standard for the product; and
- (b) test reports from a laboratory approved by the Regulator, or conformity assessment body's certification reports, that evaluate the compliance of the product with the performance requirements in the WELS standard for the product; and
- (c) a sample of the proposed water efficiency label for the product.

Note The WELS standard sets out requirements for water efficiency labels, in Appendix B of AS/NZS 6400.

- (4) The application may be accompanied by any other document that is relevant to whether the product complies with the water efficiency requirements or performance requirements in the WELS standard for the product.

9 Application for renewal of registration

- (1) The registrant for a registered WELS product may apply in writing to the Regulator to register the product for a further period.
- (2) The application must be made in a form approved by the Regulator.

Note Application forms are available at www.waterrating.gov.au.

- (3) The application must be made before 5 December in the charging year that the registration is due to end under subsection 12 (1).
- (4) The registrant may either:
 - (a) identify documents previously submitted to the Regulator that the registrant wishes to rely on to show that the product complies with the water efficiency requirements or performance requirements in the WELS standard for the product; or
 - (b) if the registrant does not wish to rely on a previous document—submit a new document to the Regulator.

Note Reasons a new document, such as a new test report, might be required include a change in the product or a change in the WELS standard since the product was registered.

10 Application fee

- (1) The fee payable for an application to register a WELS product, whether a new registration or a registration for a further period, is:
 - (a) for the first application by a person in a charging year—the fee set out in Schedule 1 for the number of products that the person is applying to register; and
 - (b) for subsequent applications by the person in the same charging year—the difference between:
 - (i) the fee set out in Schedule 1 for the total number of products the person has applied to register during the charging year including the current application; and
 - (ii) the fee set out in Schedule 1 for the total number of products the person has applied to register in previous applications during the charging year.

Minor products

- (2) For this section, 2 or more products are taken to be a single product if:
 - (a) the same person applies to register each product; and
 - (b) each product has the same brand name; and
 - (c) for an application to register a product under section 8—the person satisfies the Regulator that fewer than 100 units of the product are expected to be sold in Australia in a period of 12 months; and
 - (d) for an application to register a product under section 9—the person either:
 - (i) gives the Regulator evidence that fewer than 100 units of the product were sold in Australia in a period of 12 months; or
 - (ii) satisfies the Regulator that fewer than 100 units of the product are expected to be sold in Australia in the next period of 12 months.
- (3) For paragraphs (2) (c) and (d), the Regulator may specify the period of 12 months that is to be used.

Waiver and refund

- (4) The Regulator may waive or refund the fee payable for an application, or part of the fee, if:
 - (a) the application is refused; or
 - (b) the fee was calculated incorrectly; or
 - (c) the application was made as a result of the cancellation or suspension of a registration and the Regulator considers that the cancellation or suspension should not have occurred; or
 - (d) the Regulator otherwise thinks that a waiver or refund is appropriate in the circumstances.
- (5) If the Regulator waives or refunds the whole of the fee for an application under subsection (4), the application is taken not to have been made for the purpose of working out the fees for subsequent applications by the same person in the same charging year.

11 Registration of products

- (1) If an application is made for registration of a WELS product, the Regulator must register the product in relation to the person who made the application unless the Regulator refuses to register the product under subsection (2).
- (2) The Regulator may refuse to register a WELS product if:
 - (a) the application is not made in accordance with section 8 or 9; or
 - (b) the fee payable for the application under section 10 is not paid and has not been waived; or
 - (c) the Regulator is not satisfied that all of the information provided in the application is accurate; or
 - (d) the product:
 - (i) does not satisfy a minimum water efficiency or minimum performance requirement in the WELS standard for the product; or
 - (ii) does not satisfy the requirements of subsection 7 (2).

Note A decision to refuse to register a WELS product is a reviewable decision under section 69 of the Act.

12 Period of registration

- (1) A registered WELS product is registered until 21 January in the next charging year after the charging year in which the application was made to register the product.
- (2) However:
 - (a) if the registration of a WELS product is cancelled, the registration ends on the date of cancellation; and
 - (b) if the registration of a WELS product is suspended, the product is taken to not be registered while the suspension is in force.

13 Requirements for product to remain registered

- (1) This section sets out the requirements that must be complied with in order for a WELS product to remain registered.
- (2) The registrant must:
 - (a) retain copies of all documents included in the application for registration until 2 years after the registration has ended; and
 - (b) make the documents available for inspection by the Regulator on the Regulator's request.
- (3) The registrant must notify the Regulator as soon as practicable in writing if the product is altered in a way that affects:
 - (a) the performance of the product, including water consumption; or
 - (b) the compliance of the product with the WELS standard for the product.

14 Cancelling or suspending registration

- (1) The Regulator may cancel or suspend the registration of a WELS product if:
 - (a) the requirements in section 13 are not complied with; or
 - (b) the Regulator is satisfied that the information provided in the application for registration of the product:
 - (i) was not accurate at the time of the application; or
 - (ii) is no longer accurate.

Note A decision to cancel or suspend the registration of a WELS product is a reviewable decision under section 69 of the Act.

- (2) The Regulator must cancel the registration of a WELS product if:
 - (a) the current WELS standard for that kind of product does not require the product to be registered; and
 - (b) the registrant makes a written request to the Regulator for the registration to be cancelled.

15 Register of WELS products

- (1) The Regulator must keep a register of WELS products.
- (2) The Register must be maintained by electronic means.
- (3) The Register must be made available for inspection on the Regulator's website.

16 Correction of Register

The Regulator may alter the Register to correct a clerical error or obvious defect in the Register.

17 Reviewable decisions

- (1) If the person making an application for registration requests the waiver or refund of the application fee under subsection 10 (4), a decision by the Regulator to refuse to waive or refund the fee is a reviewable decision for the purposes of Part 11 of the Act.
- (2) The applicant is the affected person for the purposes of Part 11 of the Act.

18 Change of registrant

Request by current registrant

- (1) The registrant for a registered WELS product may make a written request to the Regulator for another person (the *transferee*) to become the registrant.
- (2) The Regulator may accept the transferee as the registrant for the product if the Regulator is satisfied that the transferee has agreed to become the registrant.

Request by transferee

- (3) A person (the *transferee*) may make a written request to the Regulator to become the registrant for a registered WELS product.
- (4) The Regulator may accept the transferee as the registrant for the product if:
 - (a) the Regulator is satisfied that the current registrant for the product has agreed to the transferee becoming the registrant; or
 - (b) the Regulator is satisfied that accepting the transferee as the registrant would allow the proper administration of the Act in relation to the product.

19 Transitioning registrations

- (1) For subitem 7 (3) of Schedule 1 to the amendment Act, the fee payable to continue the registration of WELS products, by the registrant for the products, is the fee set out in Schedule 1 for the total number of products that are taken to be registered in relation to the person under paragraph 7 (2) (b) of Schedule 1 to the amendment Act.
- (2) Continued registration of a product under this section is not an application for registration for the purpose of section 10.
- (3) In this section:
amendment Act means the *Water Efficiency Labelling and Standards Amendment (Scheme Enhancements) Act 2012*.

Schedule 1 Application fees and transitional fees

(sections 10 and 19)

Item	Number of products	Fee (\$)
1	1 to 10	1,000
2	11 to 20	1,500
3	21 to 30	1,900
4	31 to 40	2,300
5	41 to 50	2,700
6	51 to 75	3,300
7	76 to 100	3,900
8	101 to 150	4,700
9	151 to 200	5,500
10	201 to 250	6,300
11	251 to 300	7,100
12	301 to 350	7,900
13	351 to 400	8,700
14	401 to 450	9,500
15	451 to 500	10,300
16	501 to 750	11,300
17	751 to 1 000	12,300
18	1 001 to 1 500	13,800
19	1 501 to 2 000	15,300
20	2 001 to 4 000	16,800

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.comlaw.gov.au.