EXPLANATORY STATEMENT

Issued by the Minister for the Environment and Water Resources

Water Efficiency Labelling and Standards Act 2005

Water Efficiency Labelling and Standards Determination 2007

The Water Efficiency Labelling and Standards Act 2005 (the Act) and the Water Efficiency Labelling and Standards Regulations 2005 establish a framework for mandating water efficiency labelling and standards (WELS) for a range of prescribed products. This legislation delivers a number of important water conservation benefits by enabling consumers to choose between products on the basis of water efficiency. The WELS Scheme became mandatory on 1 July 2006.

Subsection 18(1) of the Act provides that the Commonwealth Minister may, by writing and in accordance with subsection 18(4), determine that water-use or water-saving products of a specified kind are WELS products. Subsection 18(2) of the Act provides that a determination must set out, or incorporate by reference, the WELS standard for the products. Subsection 19(1) of the Act provides that the WELS standard must set out criteria for rating the products in relation to either (or both) water efficiency and general performance, and must also set out requirements in relation to communicating such ratings on product labels.

Subsection 33(3) of the Acts Interpretation Act 1901 provides that where an Act confers a power to make, grant or issue any instrument (including rules, regulations or by-laws) the power shall, unless the contrary intention appears, be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.


The Water Efficiency Labelling and Standards Determination 2007 amends the Determination to incorporate by reference the Australian and New Zealand Standard AS/NZS 6400:2005 (Incorporating Amendment Nos 1 and 2) Water efficient products—Rating and labelling Reissued incorporating Amendment No. 3 (AS/NZS 6400:2005). This has recently been updated primarily with technical and editorial changes. The changes were made by Standards Australia under Amendment No. 3 to AS/NZS 6400—2005 Water efficient products—Rating and labelling. In particular the changes clarify in Section 2 of AS/NZS 6400:2005 which specific elements of certain Australian Standards are applicable water efficiency performance requirements for WELS products for registration and compliance purposes.

Section 1 of this Determination provides that the name of the Determination is the Water Efficiency Labelling and Standards Determination 2007.
Section 2 of this Determination provides that the Determination takes effect from the day after it is registered on the Federal Register of Legislative Instruments.

Section 3 repeals the *Water Efficiency Labelling and Standards Determination 2005*.

Section 4 provides definitions for the Act, "set of minor products", and "WELS standard".

Section 5 defines the products as WELS products if the WELS standard applies to them.

Section 6 incorporates by reference the Australian and New Zealand Standard *AS/NZS 6400:2005 (Incorporating Amendment Nos 1 and 2) Water efficient products—Rating and labelling Reissued incorporating Amendment No. 3* as the WELS Standard for the purposes of subsection 18 (2) of the Act.

Section 7 provides that for subsection 27 (1) of the Act, section 4 of, and Annex A to, the WELS standard sets out the manner and form in which application may be made for the registration of a WELS product.

Section 8 provides that for subsection 27 (2) of the Act, clauses 4.5, 4.6 and 4.7 of the WELS standard specify conditions that must be complied with in order for a WELS product to remain registered.

Section 9 provides the requirements for registration fees being the same requirements for fees that were provided for under the repealed *Water Efficiency Labelling and Standards Determination 2005*.

Section 10 provides the requirements including for registration fees for a set of minor products being the same requirements that were provided for under the repealed *Water Efficiency Labelling and Standards Determination 2005*.

Pursuant to the Act and subsection 33(3) of the *Acts Interpretation Act 1901*, certain conditions need to be met before the power to make determinations concerning WELS products may be exercised. Subsection 18(4) of the Act requires that the Commonwealth Minister must have agreement to the terms of a determination from a majority of the participating States and Territories. Pursuant to subsection 18(5) of the Act, a participating State or Territory has corresponding State-Territory law for the State or Territory when it has been declared by the Commonwealth Minister.

This consultation process was undertaken and majority agreement reached. Broader consultation was not required as this instrument implements changes that are minor or machinery in nature that do not substantially change the law. Nevertheless, the amendments were made under Standards Australia consensus arrangements incorporating participation by industry organisations, community groups and Australian, state and territory government representatives. This process also involves public comment and member balloting processes.

The *Water Efficiency Labelling and Standards Amendment Determination 2007* is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* and commenced on the day after registration on the Federal Register of Legislative Instruments.