

EXPLANATORY STATEMENT

Select Legislative Instrument 2013 No. 200

Issued by the Authority of the Parliamentary Secretary for the Environment and Urban Water

Subject - *Product Stewardship Act 2011*

Product Stewardship (Televisions and Computers) Amendment (Import or Manufacture Share) Regulation 2013

The *Product Stewardship Act 2011* (the Act) establishes a framework for mandatory, co-regulatory and voluntary product stewardship and seeks to address the environmental, health and safety impacts of products and materials across their full lifecycles, from manufacture to disposal.

Section 111 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Product Stewardship (Televisions and Computers) Regulations 2011* (the Principal Regulations) commenced on 8 November 2011 and gave effect to the National Television and Computer Recycling Scheme (the Scheme). The objectives of the Scheme are to minimise the amount of television and computer materials (particularly hazardous materials) that are disposed of to landfill and maximise the recovery of resources from televisions and computers. Thresholds setting out minimum numbers of products imported or manufactured by a person (or, in some cases, a related body corporate) in the previous financial year are used to determine whether a person is a liable party and so is covered by the Scheme.

The *Product Stewardship (Televisions and Computers) Amendment (Single Product Class) Regulation 2013* (the 2013 Regulations) amended the Principal Regulations to replace the separate computer product class and television product class with a single television or computer products class. The intention of this amendment was to address the potential for misalignment between recycling targets, and public demand for recycling, and allows co-regulatory arrangements operating under the Scheme to recycle products in the proportions in which the community delivers unwanted products, reducing the risk that recycling targets may not be met.

Prior to the commencement of the 2013 Regulations, all computers and computer parts were counted together for the purpose of calculating the import or manufacture share for a co-regulatory arrangement in circumstances where the threshold for one, but not the other, had been satisfied. This is because computers and computer parts were all part of the computer class.

With the change to a single product class, the intention was to ensure that the approach to thresholds and calculating liability were not changed. However, due to a technical oversight in the 2013 amendments, computers, printers, computer parts and peripherals can no longer be counted together. The purpose of the *Product Stewardship (Televisions and Computers) Amendment (Import or Manufacture Share) Regulation 2013* (the Regulation) is to correct this technical oversight.

In particular, the Regulation clarifies that where the threshold for either ‘computers or printers’ or ‘computer parts and peripherals’ has been satisfied, then any products described in the other

threshold must also be counted when calculating the import or manufacture share of a co-regulatory arrangement.

No consultation has been undertaken on the Regulation. This is because the amendments fall within the scope of consultation undertaken on the 2013 Regulations and the Regulation is necessary to ensure the original policy intention of the Principal Regulations continues to be given effect.

Details of the Regulation are outlined in the Attachment.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulation commences on the day after the date on which it is registered on the Federal Register of Legislative Instruments.

Statement of Compatibility with Human Rights

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

Product Stewardship (Televisions and Computers) Amendment (Import or Manufacture Share) Regulation 2013

Overview of the Legislative Instrument

The *Product Stewardship (Televisions and Computers) Amendment (Import or Manufacture Share) Regulation 2013* amends the *Product Stewardship (Televisions and Computers) Regulations 2011* (the Principal Regulations) to correct a technical oversight in the *Product Stewardship (Televisions and Computers) Amendment (Single Product Class) Regulation 2013*. It does so by amending the Principal Regulations to give effect to the original policy intention that they reflected prior to the *Product Stewardship (Televisions and Computers) Amendment (Single Product Class) Regulation 2013*.

Human rights implications

This legislative instrument has been assessed against the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. This legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

The Hon Amanda Rishworth MP, Parliamentary Secretary for the Environment and Urban Water

Details of the *Product Stewardship (Televisions and Computers) Amendment (Import or Manufacture Share) Regulation 2013*

Section 1 – Name of Regulations

This section provides that the title of the regulation is the *Product Stewardship (Televisions and Computers) Amendment (Import or Manufacture Share) Regulation 2013* (the Regulation).

Section 2 – Commencement

This section provides for the Regulation to commence on the day after the Regulation is registered on the Federal Register of Legislative Instruments.

Section 3 – Authority

This section provides that the Regulation is made under the *Product Stewardship Act 2011* (the Act).

Section 4 – Schedule(s)

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

Schedule 1 – Amendments

Product Stewardship (Televisions and Computers) Regulations 2011

Item 1 – Subregulation 3.04(5)

This item repeals subregulation 3.04(5) of the *Product Stewardship (Televisions and Computers) Regulations 2011* (the Principal Regulations) and substitutes it with a new subregulation 3.04(5).

Paragraph 3.04(5)(a) repeats the wording contained in the *Product Stewardship (Televisions and Computers) Amendment (Single Product Class) Regulation 2013* (the 2013 Regulations), and clarifies that when a co-regulatory arrangement is calculating the import or manufacture share, it must use the same conversion factor for steps 1B and 2B as set out in subregulation 3.04(4).

Paragraphs 3.04(5)(b), (c) and (d) provide that where a threshold in subregulations 2.02(1), (2) or (3) is satisfied, all of the products which satisfy an individual threshold must be taken into account for the purposes of calculating import or manufacture share of a co-regulatory arrangement under subregulation 3.04(4).

Paragraphs 3.04(5)(e) and 3.04(5)(f) correct the technical oversight created by the 2013 Regulations, and operate to clarify that where either threshold specified in subregulations 2.02(2) or 2.02(3) is satisfied, any products of the kind described in the other threshold must also be counted when calculating the import or manufacture share of a co-regulatory

arrangement, regardless of whether the threshold for those products has been satisfied. For example, if a person (or a related body corporate) imported 6,000 printers and the same person imported 9,000 computer parts in a financial year, all of the printers imported by the person (or a related body corporate) and all of the computer parts imported by the person would need to be taken into account for the purposes of calculating import or manufacture share of a co-regulatory arrangement under subregulation 3.04(4). This is regardless of the fact that the threshold for liability for computer parts or peripherals set out in subregulation 2.02(3) has not been satisfied (the threshold for computer parts or peripherals set out in subregulation 2.02(3) is more than 15,000). This amendment ensures that the policy intent of the Principal Regulations is maintained.