



Water Efficiency Labelling and Standards Determination 2013 (No. 2)

made under sections 18, 19 and 26 of the

Water Efficiency Labelling and Standards Act 2005

Compilation No. 2

Compilation date: 18 August 2016

Includes amendments up to: F2016L01293

Registered: 23 August 2016

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Water Efficiency Labelling and Standards Determination 2013* (No. 2) that shows the text of the law as amended and in force on 18 August 2016 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

1 Name of determination

This determination is the *Water Efficiency Labelling and Standards Determination 2013 (No. 2)*.

3 Authority

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

5 Definitions

In this determination:

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

application fee means a fee payable under the *Water Efficiency Labelling and Standards (Registration Fees) Determination 2013* for an application under section 9 or 10 of this determination.

AS 3662 means Australian Standard AS 3662:2013 Performance of showers for bathing, as in force on 1 July 2016 and as modified by subsection 5B(2).

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 6.

AS/NZS 6400:2016 means Australian/New Zealand Standard AS/NZS 6400:2016 Water efficient products—Rating and labelling published jointly by, or on behalf of, Standards Australia and Standards New Zealand, as in force on 1 July 2016 and as modified by subsection 5B(1).

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.

minor product has the meaning given by subsections 5A(1) and (2).

Plumbing Code means the document titled *National Construction Code Series, Volume Three, Plumbing Code of Australia 2013*, published by the Australian Building Codes Board, as in force from time to time.

Section 5A

registered low flow shower has the meaning given by subsection 7(6).

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 7.

5A Meaning of *minor product*

For section 9 applications

- (1) A WELS product is a **minor product** for the purposes of an application by a person to register the product under section 9 if 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 specified by the Regulator.

For section 10 applications

- (2) A WELS product is a **minor product** for the purposes of an application by a person to register the product under section 10 if the product was a minor product under subsection (1) and either:
 - (a) the Regulator has not given the person a notice under subsection (3) in relation to the product; or
 - (b) the Regulator has given the person a notice under subsection (3) in relation to the product and the information provided in response to the notice satisfies the Regulator of a matter mentioned in paragraph (3)(a) or (b).

Regulator may ask for information

- (3) If a person applies to register a product under section 10 and the product was a minor product under subsection (1), the Regulator may, by notice in writing given to the person, ask the person to provide information to satisfy the Regulator that:
 - (a) fewer than 100 units of the product were sold in Australia in the period of 12 months specified in the notice; or
 - (b) fewer than 100 units of the product are expected to be sold in Australia in the next period of 12 months.

5B Modifications of AS/NZS 6400:2016 and AS 3662

- (1) For the purposes of this determination, AS/NZS 6400:2016 applies as if the following were added at the end of Note 1 to Table 3.1:

The tests in Appendix H (Determination of Nominal Spray Force) and Appendix I (Determination of Spray Coverage) to AS 3662 are approved tests for high pressure showers in flow rate Range F.
- (2) For the purposes of this determination, AS 3662 applies as if:
 - (a) in the Foreword the words “more than 6 L/min and less than 7.5 L/min” (wherever occurring) were replaced with “more than 4.5 L/min and less than 7.5 L/min”; and

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- (b) in Table A2 in Appendix A the words “more than 6.0 but not more than 7.5 L/min” were replaced with “more than 4.5 but not more than 7.5 L/min”.

Section 6

Part 2—WELS products and WELS standards

6 Determination of WELS products

A water-use product or water-saving product of any of the following kinds is a WELS product:

- (a) tap equipment that is for use over a fixed basin, sink or laundry tub, other than:
 - (i) tap equipment that is for use exclusively over a bath or spa; and
 - (ii) thermostatic taps; and
 - (iii) bidet taps; and
 - (iv) taps that are part of an appliance (such as a chilled or boiling water dispenser);
- (b) fixed showers that are for use exclusively for personal bathing, other than:
 - (i) emergency deluge showers; and
 - (ii) safety showers;
- (c) electric dishwashers that are intended for household use;
- (d) electric clothes washing machines that are intended for household use, including such machines that are:
 - (i) cold wash only; or
 - (ii) combination clothes washing machine dryers;
- (e) lavatory equipment that uses water, including toilets, cisterns, pans and associated flushing devices;
- (f) urinal equipment that uses water, including associated flushing devices;
- (g) flow controllers that are:
 - (i) for use in a product that is a WELS product under any of paragraphs (a) to (d); and
 - (ii) offered for supply separately from the product (whether or not they are also offered for supply as a component of the product).

7 WELS standard

- (1) This section sets out the WELS standard for the products mentioned in section 6.
- (2) The WELS standard for a product consists of:
 - (a) the performance, testing and labelling requirements set out in AS/NZS 6400:2016; and
 - (b) the requirements mentioned in section 8.
- (3) Despite subsection (2), if:
 - (a) a product is a registered low flow shower; and
 - (b) an election has not been made under subsection (4) in relation to the product;the WELS standard for the product consists of:

Section 8

- (c) the performance, testing and labelling requirements set out in AS/NZS 6400; and
 - (d) the requirements mentioned in section 8.
- (4) The registrant for a registered low flow shower may elect by notice in writing to the Regulator that the WELS standard set out in subsection (2) apply to the product.
- (5) The election must be made in a form approved by the Regulator.
- (6) A **registered low flow shower** is a WELS product that:
 - (a) is a high pressure shower with a nominal flow rate of more than 4.5 L/min and not more than 7.5 L/min, determined in accordance with AS 3662; and
 - (b) on 13 September 2016, was registered; and
 - (c) has not ceased to be registered since that date.
- (7) Subsections (3), (4), (5) and (6) cease to be in force on 1 July 2020.

8 WELS standard requirements

- (1) A product mentioned in paragraphs 6(a) to (g) must be registered for supply as a new product for any purpose.
- (2) A product mentioned in paragraph 6(a), (b), (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.
- (3) A product mentioned in section 6 that is registered must be WELS-labelled for supply as a new product for any purpose.

Section 9

Part 2A—Registration of WELS products

9 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) the person has the agreement of the manufacturer in writing that the person will make the application; 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;
 - (d) another person, if the Regulator is satisfied that:
 - (i) the person has an appropriate connection with the product; and
 - (ii) 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: In 2013, the application forms were available at <http://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) an application fee.
- (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.
- (5) An application under this section may relate to a WELS product that is a minor product.

10 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: In 2013, application forms were available at <http://www.waterrating.gov.au>.

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- (3) The application may be made only during the period beginning on 15 September and ending on 5 December in the charging year in which the registration is due to end under subsection 13(1).
- (4) The registrant may:
 - (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.
- (5) The application must be accompanied by an application fee.
- (6) An application under this section may relate to a WELS product that is a minor product.

11 Waiver and refund of fees

- (1) The Regulator may waive or refund an application fee, or part of an application fee, if:
 - (a) the application is refused; or
 - (b) the application fee was calculated incorrectly; or
 - (c) the application fee should not have been charged; or
 - (d) 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
 - (e) the application relates to the performance of a product at a particular water pressure, and a fee has already been received for an earlier application in relation to the performance of the product at another water pressure; or
 - (f) the product to which the application relates is not registered; or
 - (g) the Regulator considers that a waiver or refund of the application fee is appropriate in the circumstances.
- (2) If the Regulator waives or refunds the whole of the application fee, the application is taken not to have been made for the purpose of working out the application fees for subsequent applications by the same person in the same charging year.

12 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 9 or 10; or

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- (b) the application fee 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 requirement or a minimum performance requirement in the WELS standard for the product; or
 - (ii) does not satisfy the requirements of subsection 8(2).

Note: For the review of a decision to refuse to register a WELS product, see section 69 of the Act.

13 Period of registration

- (1) Subject to subsection (1A), 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.
- (1A) If, in the charging year in which the registration of a WELS product would otherwise end under subsection (1), an application to register the product for a further period is not made in accordance with subsection 10(3), the product is registered until 21 July in that charging year.
- (2) Despite subsections (1) and (1A):
 - (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.

14 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 for 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.

15 Cancelling or suspending registration

The Regulator may cancel or suspend the registration of a WELS product if:

- (a) the requirements in section 14 are not complied with; or

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- (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: For the review of a decision to cancel or suspend the registration of a WELS product, see section 69 of the Act.

16 Reviewable decisions

- (1) If a person making an application for registration requests the waiver or refund of the application fee under subsection 11(1), a decision by the Regulator to refuse to waive or refund the application 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.

Part 3—Register of WELS products

17 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.

18 Correction of Register

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

19 Change of registrant

Request by current registrant

- (1) The registrant for a registered WELS product may make a request in writing to the Regulator for another person (the **transferee**) to become the registrant.
- (2) The Regulator may accept the transferee as the registrant 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 request in writing to the Regulator to become the registrant for a registered WELS product.
- (4) The Regulator may accept the transferee as the registrant if:
 - (a) the Regulator is satisfied that the current registrant 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.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Water Efficiency Labelling and Standards Determination 2013 (No. 2)	15 Aug 2013 (F2013L01574)	15 Sept 2013 (s 2)	
Water Efficiency Labelling and Standards (No. 2) Amendment Determination 2015 (No. 1)	21 Jan 2015 (F2015L00064)	22 Jan 2015 (s 2)	—
Water Efficiency Labelling and Standards Amendment (WELS Standard) Determination 2016	17 Aug 2016 (F2016L01293)	18 Aug 2016 (s 2(1) item 1)	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 2	rep LA s 48D
s 4	rep LA s 48C
s 5	am F2015L00064; F2016L01293
s 5A	ad F2015L00064
s 5B	ad F2016L01293
Part 2	
Part 2 heading	rs F2015L00064
s 6	rs F2015L00064
s 7	am F2015L00064 rs F2016L01293 (3), (4), (5) and (6) exp <u>1 July 2020 (s 7(6)(c))</u>
s 8	am F2015L00064
Part 2A	
Part 2A heading	ad F2015L00064
s 9	am F2015L00064
s 10	am F2015L00064
s 13	am F2015L00064