

EXPLANATORY STATEMENT

Product Stewardship Act 2011

Product Stewardship (Televisions and Computers) Amendment (Miscellaneous Measures) Regulations 2018

(Issued by authority of the Assistant Minister for the Environment
Parliamentary Secretary to the Minister for the Environment and Energy)

The *Product Stewardship Act 2011* (the Act) establishes a legislative framework for product stewardship and seeks to reduce the impacts on the environment and health and safety of humans, of products 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) set out the regulatory framework for the National Television and Computer Recycling Scheme (the Scheme). The objectives of the Scheme include: reducing waste to landfill, especially the hazardous materials found in e-waste; increasing recovery of reusable materials in a safe, scientific and environmentally sound manner; and providing access for households and small business to an industry-funded recycling service. Products covered by the Scheme include televisions, computers, printers and computer parts and peripherals.

The Principal Regulations provide that a party is a liable party if it manufactures or imports over a threshold number of products covered by the Scheme in the previous financial year. Liable parties are required to join an approved co-regulatory arrangement in relation to the collection and recycling of e-waste. Each co-regulatory arrangement has a recycling target it must meet in a given financial year. These recycling targets, as well as other key calculations required for the Scheme to function, rely on scaling factors to ensure their accuracy.

In the absence of scaling factors, the Scheme would operate on the assumption that when a product is imported, it replaces an existing product which then becomes waste. Scaling factors reflect the reality that some imported products are subsequently exported (and therefore do not become waste in Australia) and that not all imported products replace existing products.

The Principal Regulations rely on product codes applicable to the products that are imported or manufactured. In addition, conversion factors are used to convert the number of products imported or manufactured to a total weight for those products. The products and their corresponding product codes and conversion factors are listed in the schedules to the Principal Regulations.

The Department of the Environment and Energy (the Department) engaged stakeholders in December 2017 seeking updated import data on the actual weights of all television and computer products. Data collected from stakeholders identified a number of adjustments that could be made to product codes and corresponding conversion factors to improve the operation of the Scheme and more accurately reflect market realities and technological advancements.

The Department obtained data from the Australian Bureau of Statistics (ABS) on the weight of products that are imported then subsequently exported. This data was used to calculate the proposed scaling factor by which the recycling target should be reduced to reflect exported products and therefore the weight of products entering the waste stream every year.

The purpose of the *Product Stewardship (Televisions and Computers) Amendment (Miscellaneous Measures) Regulations 2018* (the Regulations) is to amend the Principal Regulations to reflect the data collected in the survey and data supplied from the ABS. In particular, the Regulations:

- (a) amend the scaling factors to ensure that they continue to accurately reflect the weight of products entering the waste stream each year; and
- (b) update the product codes and conversion factors for television or computer products imported or manufactured during the period between 1 July 2018 and 30 June 2019, and on or after 1 July 2019.

The Department conducted extensive consultation with industry targeted at improving the operation and effectiveness of the Principal Regulations. In addition to the December 2017 survey, meetings were held with major industry stakeholders including industry peak bodies, co-regulatory arrangement administrators, television and computer importers, and state, territory and local governments throughout August, September and November of 2017.

Further meetings with stakeholders in 2018 indicate strong support for the proposed Regulations to ensure the Scheme does not impose undue costs on industry. The Department of Home Affairs and the ABS were also consulted in the development of the proposed scaling factors, product codes and conversion factors.

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

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence on 1 July 2018.

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 (Miscellaneous Measures) Regulations 2018

The Regulations 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 Legislative Instrument

The *Product Stewardship Act 2011* establishes a legislative framework for product stewardship and seeks to reduce the environmental, human and safety impacts of products across their full lifecycles from manufacture to disposal.

The *Product Stewardship (Televisions and Computers) Regulations 2011* (the Principal Regulations) set out the regulatory framework for the National Television and Computer Recycling Scheme (the Scheme). The objectives of the Scheme include: reducing waste to landfill, especially the hazardous materials found in e-waste; increasing recovery of reusable materials in a safe, scientific and environmentally sound manner; and providing access for households and small business to an industry-funded recycling service. Products covered by the Scheme include televisions, computers, printers and computer parts and peripherals.

The Principal Regulations provide that a party is a liable party if it manufactures or imports over a threshold number of products covered by the Scheme in the previous financial year. Liable parties are required to join an approved co-regulatory arrangement in relation to the collection and recycling of e-waste. Each co-regulatory arrangement has a recycling target it must meet in a given financial year. These recycling targets, as well as other key calculations required for the Scheme to function, rely on scaling factors to ensure their accuracy.

The Principal Regulations rely on product codes applicable to the products that are imported or manufactured. In addition, conversion factors are used to convert the number of products imported or manufactured to a total weight for those products.

The *Product Stewardship (Televisions and Computers) Amendment (Miscellaneous Measures) Regulations 2018* (the Regulations) amend the Principal Regulations to:

- (a) revise the scaling factors to ensure that they continue to accurately reflect the amount of products entering the waste stream each year; and
- (b) update the product codes and conversion factors for television or computer products imported or manufactured during the period between 1 July 2018 and 30 June 2019, and on or after 1 July 2019.

Human rights implications

The Regulations do not engage any of the applicable rights or freedoms. The amendments contained in the Regulations also do not change the operation of the Principal Regulations in a way which affects any of these rights or freedoms.

Conclusion

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

The Hon Melissa Price MP
Assistant Minister for the Environment
Parliamentary Secretary to the Minister for the Environment and Energy

Details of the *Product Stewardship (Televisions and Computers) Amendment (Miscellaneous Measures) Regulations 2018*

Section 1 – Name

This section provides that the title of the Regulations is the *Product Stewardship (Televisions and Computers) Amendment (Miscellaneous Measures) Regulations 2018*.

Section 2 – Commencement

This section provides for the Regulations to commence on 1 July 2018.

Section 3 – Authority

This section provides that the Regulations are made under the *Product Stewardship Act 2011* (the Act).

Section 4 – Schedules

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

Schedule 1 – Amendments

Item 1 – Regulation 1.03 (paragraph (e) of the definition of *relevant schedule*)

Regulation 1.03 defines the term *relevant Schedule* to mean the Schedule to the *Product Stewardship (Televisions and Computers) Regulations 2011* (the Principal Regulations) that applies to a television or computer product and is determined based on the period during which the television or computer product is manufactured or imported.

This amendment clarifies that Schedule 1D applies to television or computer products imported or manufactured during the period on or after 1 July 2015 and before 1 July 2018. This amendment reflects updates to the *Combined Customs Tariff Nomenclature and Statistical Classification* (the Working Tariff) that are due to take effect from 1 July 2018.

The Working Tariff is used by the Department of Home Affairs and the Australian Bureau of Statistics to identify imported products under the *Customs Tariff Act 1995*.

Item 2 – Regulation 1.03 (at the end of the definition of *relevant Schedule*)

Item 2 is required as a consequence of Item 6 (which inserts Schedules 1E and 1F into the Principal Regulations) and inserts new paragraphs (f) and (g) into the definition of *relevant Schedule*. These new paragraphs clarify what the relevant Schedule is for a television or computer product imported or manufactured on or after 1 July 2018 and before 1 July 2019 (Schedule 1E) and for a television or computer product imported or manufactured on or after 1 July 2019 (Schedule 1F).

Item 3 – Subregulation 3.04(3) (method statement, step 2, paragraph (c)) and Item 4 – Subregulation 3.04(3) (method statement, step 3, paragraph (c))

Under the National Television and Computer Recycling Scheme (the Scheme), waste arising refers to the total weight of products expected to enter the waste stream in any financial year and is derived from the average of the total converted weight of all television and computer products imported or manufactured in Australia over the last three financial years multiplied by a scaling factor. This calculation is necessary in calculating the overall Scheme target and individual recycling targets for each member of the co-regulatory arrangement in any given financial year.

The waste arising formula is based on the assumption that when a product is imported, it usually replaces another product which becomes waste. Scaling factors operate to take into account that some imported products are subsequently exported and therefore do not enter the waste stream in Australia, and that not all imported products replace existing products. When the Scheme was implemented in 2011, a scaling factor of 0.9 was applied to all television and computer products imported or manufactured. Over time, the scaling factors have been amended to reflect new data on the weight of television and computer products entering the waste stream in Australia each year.

Recent data received from the Australian Bureau of Statistics has identified that while the 0.9 scaling factor remains appropriate for televisions, and the 0.88 scaling factor remains appropriate for computer parts and peripherals, the scaling factors for computers and printers require amendment. The amendments are necessary to reflect the fact that a lower weight of computers and printers enter the waste stream each year than televisions and computer parts and peripherals.

Item 3 amends the method statement set out in subregulation 3.04(3) at step 2, paragraph (c) in relation to computers, by repealing the current scaling factor of 0.8 and replacing it with a lower scaling factor of 0.72.

Item 4 amends the method statement set out in subregulation 3.04(3) at step 3, paragraph (c) in relation to printers, by repealing the current scaling factor of 0.88 and replacing it with a lower scaling factor of 0.71.

Item 5 – Schedule 1D (heading)

This amendment is a consequence of Item 6 and amends the heading to Schedule 1D to clarify that the product codes and conversion factors listed only apply to television or computer products imported or manufactured during the period on or after 1 July 2015 to 30 June 2018.

Item 6 – After Schedule 1D

For the purposes of the Scheme, television and computer products have a corresponding descriptor and product code listed in Schedules 1A to 1D of the Principal Regulations. The product codes align with the tariff and statistical codes in the Working Tariff and are used by the Department of Home Affairs and the Australian Bureau of Statistics to identify imported products. This import data is provided to the Department of the Environment and Energy by the

Department of Home Affairs and is used to determine if importers are covered by the Scheme and for compliance purposes under the Act.

Each product code has a corresponding conversion factor which is an estimated weighted average weight of products imported under that product code. The purpose of the conversion factor is to enable the data collected by the Department of Home Affairs, which records the number of units imported, to be converted into an estimated weight of these products. This is necessary as the Scheme works in weights rather than units of products.

Changes in technology have resulted in products becoming lighter which currently is not reflected in the large weight variance within a single product code. This has resulted in some inequity in the Scheme where recycling targets for co-regulatory arrangements remain unchanged despite decreasing weights of products being imported or manufactured. In turn, undue costs have been imposed on industry as a result.

These amendments aim to reduce the weight variation of products within a single product code by adding or removing descriptors and corresponding product codes and by amending conversion factors. The reduced weight range in the amended product codes enables the conversion factors to reflect the actual types and weights of computer products imported more accurately and provide greater equity in how Scheme recycling targets are calculated.

Item 6 inserts updated product codes and conversion factors applying to television or computer products imported or manufactured during the period 1 July 2018 and 30 June 2019 (see new Schedule 1E) and updated product codes and conversion factors applying to television or computer products imported or manufactured on or after 1 July 2019 (see new Schedule 1F). These amendments align the product codes and descriptions with those included in the Working Tariff.