

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for the Environment and Water

Water Efficiency Labelling and Standards Act 2005

Water Efficiency Labelling and Standards Amendment (2025 Measures No. 1) Determination 2025

Legislative Authority

The *Water Efficiency Labelling and Standards Act 2005* (the Act) establishes the Water Efficiency Labelling and Standards (WELS) scheme, which applies national water efficiency labelling and minimum performance standards for prescribed water-use products or water-saving products. This delivers water conservation benefits by enabling consumers to choose between products based on their water efficiency and establishes the minimum water efficiency for certain products.

The WELS scheme is a national regulatory scheme administered by the Australian Government on behalf of participating States and Territories. It is a co-operative arrangement with supporting State and Territory legislation.

Section 18(1) of the Act provides that the Commonwealth Minister (the Minister) may determine, in writing, that water-use products or water-saving products of a specified kind are ‘WELS products’. A determination made under section 18(1) must set out, or incorporate by reference, the WELS standard for those products (see section 18(2) of the Act). Before making a determination under section 18(1), the Minister must have agreement to the terms of the determination from a majority of the participating States and Territories, except for variations to remove an ambiguity or uncertainty, or to correct an error (see section 18(4)-(5) of the Act).

Section 19(1) of the Act provides that the WELS standard must set out criteria for rating WELS products in relation to either their water efficiency or general performance, or both. It must also set out criteria in relation to labelling WELS products. The WELS standard must require WELS products to be registered for specified supplies of the product (see section 19(2) of the Act).

Section 26(1) of the Act provides that the Minister must, by legislative instrument, formulate a scheme relating to the registration of WELS products. Subsection 26(2) sets out that the scheme may make provision for various matters including (but not limited to) applications for registration of WELS products (including renewal of registration), registration fees and the period of registration.

The *Water Efficiency Labelling and Standards Determination 2013 (No. 2)* (the Principal Determination) is made under sections 18, 19 and 26 of the Act.

Purpose

The *Water Efficiency Labelling and Standards Amendment (2025 Measures No. 1) Determination 2025* (the Determination) amends the Principal Determination to:

- update the definitions so that the latest version of the relevant standards and codes are incorporated and enforceable through the WELS scheme;
- update the different categories of WELS products;
- clarify registration requirements and grounds for cancelling or suspending registration; and
- make other minor updates.

Impact and Effect

The proposed changes to the Principal Determination are expected to provide clarity to regulated businesses and reduce administrative burden through the deregulation of a limited number of WELS products.

Amending references to standards and codes will make the standards enforceable within the Determination and will assist in providing clearer and more consistent regulation for industry. All current standards and codes have been codesigned with industry through standards setting committees, with industry operating under these revised standards for several years.

The impact on industry of deregulating several miscellaneous products will not change the products that can be supplied to the Australian market. These products will no longer require registration under the WELS scheme or attract a registration charge. Regulated businesses will experience a reduced administrative burden and an associated cost saving from not having to submit registration applications, and not having to make or apply a WELS label to products.

Consultation

Consultation with stakeholders occurred between 10 July and 5 August 2024. Stakeholders were provided with a consultation paper detailing proposed amendments to the Principal Determination, a link to the Principal Determination on the Federal Register of Legislation and an online survey. Stakeholders were able to provide their views anonymously or by providing a submission. Consultation primarily occurred with regulated businesses, industry representative groups and government stakeholders. After completion of the online survey several stakeholders were engaged directly to discuss comments and views provided. Following stakeholder consultation, the Minister consulted with State and Territory Water Ministers on the proposed legislative amendments to the Principal Determination.

Consistent with subsections 18(4) and 26(4) of the Act, the Minister has received agreement to the terms of the Determination from a majority of the participating States and Territories.

The Office of Impact Analysis advised that an Impact Analysis was not required for the Determination (OIA ID: OIA24-07536).

Details/Operation

The Determination incorporates a technical specification, a code and several standards by reference. A description of the documents incorporated by reference are shown in Table 1.

Table 1. Documents incorporated by reference in the Determination

Title	Description
AS/NZS 3500.0:2021 Plumbing and drainage	<p>This Standard specifies the common plumbing and drainage terms and associated definitions that are used in areas of the plumbing and drainage sector including product manufacturing specifications, design and installation standards and regulatory documents.</p> <p>The Standard is incorporated as in force on 26 February 2021, in line with subsection 14(1)(b) of the <i>Legislation Act 2003</i>.</p> <p>At the time of the Determination's commencement, the Standard can be purchased from: https://store.standards.org.au/, https://www.intertekinform.com/en-au/, or https://store accuristech.com/pages/home.</p>
AS/NZS 3662:2013 Performance of showers for bathing	<p>The Standard specifies requirements for the performance of showers for bathing.</p> <p>The Standard is incorporated as in force on 1 July 2023, in line with subsection 14(1)(b) of the <i>Legislation Act 2003</i>.</p> <p>At the time of the Determination's commencement, the Standard can be purchased from: https://store.standards.org.au/, https://www.intertekinform.com/en-au/, or https://store accuristech.com/pages/home.</p>
AS 3718:2021 Water supply – Tap ware	<p>The Standard specifies requirements for metallic taps, plastics taps, mixing taps, sensor taps, lever taps, timed flow taps, mixing taps mechanical (non-thermostatic), and tap sets in nominal sizes ranging from DN 6 to DN 50 that are designed to be used generally for continuous operating temperatures not exceeding 80 degrees and maximum dynamic operating pressure 500 kPa.</p> <p>The Standard is incorporated as in force on 17 September 2021, in line with subsection 14(1)(b) of the <i>Legislation Act 2003</i>.</p> <p>At the time of the Determination's commencement, the Standard can be purchased from: https://store.standards.org.au/, https://www.intertekinform.com/en-au/, or https://store accuristech.com/pages/home.</p>
AS/NZS 6400:2016 Water efficient products – Rating and labelling	<p>The Standard specifies requirements for the rating and labelling of products for water efficiency, and, where applicable, specifies minimum water efficiency standards.</p>

	<p>The Standard is incorporated as in force on 4 November 2022, in line with subsection 14(1)(b) of the <i>Legislation Act 2003</i>.</p> <p>At the time of the Determination's commencement, the web reader version of the Standard is funded by the Department of Climate Change, Energy, the Environment and Water, and can be downloaded free of charge from the Standards Australia store (https://store.standards.org.au). The hardcopy format is available for purchase from: https://store.standards.org.au/, https://www.intertekinform.com/en-au/, or https://store accuristech.com/pages/home.</p>
WMTS-105:2016 Appliances – beverage dispensers and icemakers	<p>The Technical Specification sets out minimum product requirements for the connection of appliances to the water service or sanitary plumbing piping.</p> <p>This Technical Specification was published in 2016 and was the same version as adopted by the Australian Building Codes Board on 1 August 2017. This Technical Specification is incorporated as in force when it was published in 2016 and as adopted on 1 August 2017, in line with subsection 14(1)(b) of the <i>Legislation Act 2003</i>.</p> <p>At the time of the Determination's commencement, the Technical Specification is available free of charge from the Australian Building Codes Board website (https://www.abcb.gov.au).</p>
National Construction Code Series, Volume Three, Plumbing Code of Australia 2022	<p>This volume contains technical requirements for the design and construction for plumbing and drainage systems in new and existing buildings.</p> <p>Volume Three of the National Construction Code was published in 2022 and is incorporated as in force from time to time, in line with subsection 14(2) of the <i>Legislation Act 2003</i>.</p> <p>At the time of the Determination's commencement, Volume Three of the National Construction Code was available free of charge from the Australian Building Codes Board website (https://ncc.abcb.gov.au).</p>

While access to some of the standards is not free of charge, it is expected that obtaining copies of the standards that are referenced in the Determination is a long-standing business practice for the affected members of industry. Therefore, it can be reasonably expected that those who must comply with the standards outlined in the Determination would already have access to those standards to carry out their business or meet their professional obligations.

The Department will make the incorporated standards available to be viewed free of charge at its offices throughout Australia on request.

The Determination commences on the day after registration.

The Determination is a legislative instrument for the purposes of the *Legislation Act 2003* and is exempt from sunseting in accordance with subsection 54(1) of the *Legislation Act 2003*.

Details of the Determination are set out in Attachment A.

Other

The Determination is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in Attachment B.

Details of the *Water Efficiency Labelling and Standards Amendment (2025 Measures No. 1) Determination 2025*

Section 1 – Name

This section provides that the name of the instrument is the *Water Efficiency Labelling and Standards Amendment (2025 Measures No. 1) Determination 2025* (the Determination).

Section 2 – Commencement

This section provides that the Determination commences on the day after registration.

Section 3 – Authority

This section provides that the Determination is made under sections 18, 19 and 26 of the *Water Efficiency Labelling and Standards Act 2005* (the Act).

Section 4 – Schedules

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

Schedule 1 – Amendments

Item 1 – Section 5

This item removes definitions of *AS 3662*, *AS/NZS 3500* and *AS/NZS 6400*.

AS 3662 was updated in 2017 to the now joint Australian and New Zealand standard of *AS/NZS 3662:2013 Performance of showers for bathing*. The definition of *AS 3662* is therefore removed and replaced by the definition of *AS/NZS 3662:2013* in item 2 below.

AS/NZS 3500 has been superseded by *AS/NZS 3500.1:2021*. It is now more appropriate to refer to the *Plumbing Code*, defined in item 7 below.

AS/NZS 6400 is removed as it is no longer referenced in the Determination when subsections 7(3)-(6) ceased to be in force on 1 July 2020 and are repealed in item 12.

Item 2 – Section 5

This item inserts definitions for *AS/NZS 3500.0:2021*, *AS/NZS 3662:2013* and *AS 3718:2021*.

AS/NZS 3500.0:2021 is inserted to allow terms to be defined in line with the definitions contained in this standard.

Item 3 – Section 5 (definition of *AS/NZS 6400:2016*)

This item amends the definition of *AS/NZS 6400:2016* to refer to the version as in force on 4 November 2022.

Item 4 – Section 5

This item provides the definitions for *basin* and *bath* as having the same meaning given by AS/NZS 3500.0:2021.

Item 5 – Section 5 (definition of *conformity assessment body*)

This item removes the definition of *conformity assessment body*. Item 9 below replaces this with a new definition of *WaterMark conformity assessment body*.

Item 6 – Section 5

This item provides the definitions for *drench shower*, *flow controller* and *laundry trough* as having the same meaning given by AS/NZS 3500.0:2021.

Item 7 – Section 5 (definition of *Plumbing Code*)

This item amends the definition of *Plumbing Code* to refer to the updated National Construction Code Series, Volume Three, Plumbing Code of Australia 2022, published by the Australian Building Codes Board, as in force from time to time.

Item 8 – Section 5 (definition of *registered low flow shower*)

This item removes the definition of *registered low flow shower*, which is a term no longer referenced in the Determination when subsections 7(3)-(6) ceased to be in force on 1 July 2020 and are repealed in item 12.

Item 9 – Section 5

This item inserts definitions for *WaterMark*, *WMTS-105:2016* and *WaterMark conformity assessment body*.

This item also provides the definitions for a range of common plumbing and drainage terms as having the same meaning given by AS/NZS 3500.0:2021.

Item 10 – Section 5B

This item removes section 5B and replaces it with an amended section 5B. The reference to Note 1 to Table 3.1 in subsection 5B(1) is amended to indicate that there are two flow rate ranges in relation to the determination of nominal spray force and spray coverage.

Since AS 3662 has been updated to AS/NZS 3662:2013 (refer to items 1 and 2 above), the modifications contained in subsection 5B(2) are no longer necessary. The content removed is included in AS/NZS 3662:2013.

Item 11 – Section 6

This item removes section 6 and replaces it with an amended section 6. Amendments relate to narrowing the different categories of WELS products, to effect deregulation of miscellaneous products including portable electric dishwashers and electric clothes washing machines that have no connection to a potable water supply, bottle fillers, bottle filler outlets, drinking fountains and drinking fountain outlets.

The amendments relating to the exclusion of taps used to exclusively deliver filtered, chilled or boiled water serve to add clarification. If a tap of this type also delivers ambient or heated mains water, it is considered a WELS product and is not excluded. An example of this is a 4-in-1 tap which provides ambient/heated mains water and filtered, chilled and boiled water through the same outlet.

Bottle fillers, bottle filler outlets, drinking fountains and drinking fountain outlets which deliver a low flow and low volume are excluded as they do not support the objectives of the Act. Exclusion of these products is based on the products being WaterMark certified against relevant Technical Specification or standard. For a drinking fountain or bottle filler to be excluded from the WELS scheme, it would need to be certified in accordance with WMTS-105:2016. For a drinking fountain outlet or a bottle filler outlet to be excluded from the WELS scheme, it would need to be certified in accordance with AS 3718:2021, and additionally be categorised by a WaterMark conformity assessment body as ‘drinking fountains and bottle fillers’.

The types of electric dishwashers and electric clothes washing machines that are considered WELS products in section 6 have been clarified to only include those that can have a connection to a potable water supply and that are intended for household use. This means that electric dishwashers and electric clothes washing machines that have a built-in water tank but can also be connected to a potable water supply would still be considered WELS products. A product that relies solely on a manual filling of water (i.e. has no connection to a mains water supply) is not considered a WELS product.

Item 12 – Subsections 7(3) to (7)

This item removes subsections 7(3) to (7). This removes the grandfathering provisions applicable to shower registrations, which were used to manage the transition from AS/NZS 6400:2005 to AS/NZS 6400:2016.

Item 13 – Subsection 8(2)

This item removes subsection 8(2) and replaces it with an amended subsection 8(2) to clarify the applicable clause of the Plumbing Code.

Item 14 – Paragraph 9(3)(b)

This item is a consequential amendment to items 5 and 9, reflecting the replacement of the term *conformity assessment body* with the term *WaterMark conformity assessment body*.

Item 15 – Subsection 14(2)

This item repeals subsection 14(2). This subsection is reproduced in item 16 below as the new section 14A.

Item 16 – After section 14

This item inserts a new section 14A to replace subsection 14(2) removed by item 15 above. Section 14A relates to registrant requirements for record keeping and retaining documents for inspection by the Regulator for 2 years after the registration has ended.

Item 17 – Section 15

This item removes section 15 and replaces it with an amended section 15. Amendments relate to registration requirements and grounds for cancelling or suspending registration. The Regulator may cancel or suspend a registration under three circumstances. These circumstances are: (1) if notification requirements specified in section 14 are not met; or (2) the information provided in either the original registration application or subsequent notification under section 14 was not accurate or is no longer accurate; or (3) the WELS product no longer meets the requirements of the WELS standard for that product set out in section 7.

The note under section 15 clarifies that a decision of the Regulator to cancel or suspend the registration of a WELS product is a reviewable decision under Section 69 of the Act.

Statement of Compatibility with Human Rights

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

***Water Efficiency Labelling and Standards Amendment (2025 Measures No. 1)
Determination 2025***

This Legislative Instrument is 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 *Water Efficiency Labelling and Standards Amendment (2025 Measures No. 1) Determination 2025* (the Determination) amends the *Water Efficiency Labelling and Standards Determination 2013 (No. 2)* to:

- update definitions so that the latest version of the relevant standards and codes are incorporated and enforceable through the WELS scheme;
- update the different categories of WELS products;
- clarify registration requirements and grounds for cancelling or suspending registration; and
- make other minor updates.

Human rights implications

This Legislative Instrument does not engage any of the applicable human rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

The Hon. Tanya Plibersek MP
Minister for the Environment and Water