



Australian Government

Department of Climate Change, Energy,
the Environment and Water

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

Consultation paper

Department of Climate Change, Energy, the Environment and Water



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Acknowledgement of Country

We acknowledge the Traditional Owners of Country throughout Australia and recognise their continuing connection to land, waters and culture. We pay our respects to their Elders past and present.

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Summary

The Department of Climate Change, Energy, the Environment and Water is seeking stakeholder views on proposed amendments to the *Water Efficiency Labelling and Standards Determination 2013 (No.2)* (WELS Determination). We are seeking stakeholder views on amending the WELS Determination to provide clearer regulation for industry, ensure enforceability of requirements and to further clarify the regulatory scope of the Water Efficiency Labelling and Standards (WELS) scheme.

Introduction

The WELS scheme is Australia's urban water saving scheme. Its aims to reduce demand for drinking water by informing consumers about water efficiency at the point of sale. This provides a national approach to applying a mandatory water efficiency star rating to plumbing products and appliances.

Products within scope of the scheme are dishwashers, washing machines, washer-dryers and most taps, showers, toilets, urinals and flow controllers.

The WELS scheme is enabled under a framework of primary legislation - the *Water Efficiency Labelling and Standards Act 2005* (WELS Act) and delegated legislation including instruments. A key instrument under the WELS Act is the *Water Efficiency Labelling and Standards Determination 2013 (No. 2)* (WELS Determination). The WELS Determination is available on the Federal Register of Legislation at www.legislation.gov.au/F2013L01574/latest/text.

The WELS Determination outlines the scheme specifics relating to the registration of WELS products including product determination, registration application requirements, application of fees, and designation of registration and registration renewal periods.

Ensuring that legislation is current and fit for purpose is an important part of our regulatory stewardship and acts to provide certainty and clarity for regulated industries and the WELS Regulator.

Since the WELS Determination was last amended in 2016, the standards referenced in the document have been amended or revised through standards and code setting committees and their references are not up to date.

In addition, there is opportunity to deregulate certain miscellaneous products that fall within the current definition of WELS products, and which do not serve the objects of the WELS Act. These miscellaneous products primarily use a fixed volume of water. The products are drinking fountains, bottle fillers, taps over a pot sink, and small portable washing machines and dishwashers.

To ensure the WELS Determination remains fit for purpose, several amendments are being proposed. The key amendments relate to:

- updating and clarifying definitions and references
- deregulating miscellaneous products.

Government impacts

The WELS scheme is a cooperative legislative scheme, with some jurisdictions having mirrored primary legislation (Vic and WA) and others having applied primary legislation (NSW, Qld, SA, Tas, ACT and NT). Amendment to the WELS Determination will not cause the WELS legislation in a state or territory to become inconsistent. The WELS Determination is made under sections 18, 19 and 26 of the *Water Efficiency Labelling and Standards Act 2005* (Cth).

The impact on the Australian Government will be to enable the WELS Regulator to enforce compliance with contemporary standards and codes, to support strong governance and sound regulatory stewardship. There will also be a very small reduction in administration associated with the products that would no longer require registration.

Industry impacts

The proposed changes to the WELS Determination are expected to provide clarity to regulated businesses (i.e. organisations that register WELS products) and reduce administrative burden through the deregulation of a limited number of products.

In amending references to standards and codes, all current standards and codes have been codesigned with industry through standards setting committees, with industry operating under these revised standards for several years. Making the standards enforceable within the WELS Determination will assist in providing clearer and consistent regulation for industry.

Amending the reference to the current WELS standard (AS/NZS 6400:2016) will serve to make enforceable changes to product labelling for the benefit of consumers and industry. For example, changes in the current WELS standard included introducing a new upper band of 5-stars for showers. This supports both consumers who are looking for more water efficient products and industry who are looking to promote their water efficient product ranges to customers.

Additionally, the current amended WELS standard also sets minimum water efficiencies for certain regulated product categories, resulting in the removal of inefficient products from the market. This saves consumers water, energy and money off their utility bills. Industry codesigned and supported these changes through participation in relevant standards and codes setting committees, and had requested for many years that the WELS standard be amended to not allow inefficient products to be registered with WELS, which under the National Construction Code (NCC) could not be installed. For example, showers with a flow rate exceeding 9 litres per minute are not able to be installed under the NCC, and now under the current WELS standard are not allowed to be registered and supplied to the market. The current WELS standard assists with aligning regulation and clarifying requirements for industry.

The impact on industry of deregulating several miscellaneous products will not change the products that can be supplied to the market – these products will simply no longer require registration under the WELS scheme or attract a registration charge. The WELS scheme operates under a tiered charging structure for product registrations, which means that an amount is charged to register up to

a particular number of WELS products. The deregulatory measures may result in some businesses having a reduced tier charge for their range of products. Irrespective of whether a business saves on registration charges, they will have a reduced administrative burden and an associated cost saving from not having to submit registration applications, and not having to make or apply a label on the products.

Feedback

We are seeking public feedback on the proposed amendments to the WELS Determination.

Stakeholders who will be directly invited to provide feedback include:

- all WELS organisations (registrants) who currently have products registered with the WELS scheme
- Plumbing Products Industry Group
- Australian Plumbing Manufacturers Association
- Australian Industry Group
- Consumer Electronics Suppliers Association
- Water Services Association of Australia
- Plumbing Industry Climate Action Centre
- Australian Building Codes Board
- CHOICE
- Greenhouse and Energy Minimum Standards Regulator
- state and territory government representatives.

You can provide feedback through the department's online consultation platform – [Have Your Say](#).

This consultation paper is available there and a link to the current WELS Determination for reference.

You can provide your feedback by completing the online survey (Have Your Say) and/or uploading a written submission.

Targeted feedback on the proposed amendments is being sought to identify any unintended impacts or implementation issues. The survey questions have been tailored to assist participants in providing targeted feedback. If you chose to provide a written submission, please ensure that commentary only relates to the proposed amendments listed in this consultation paper.

You can provide feedback from 10 July 2024 until **5pm AEST on 31 July 2024**, when the online survey will close.

You can access Have Your Say at the following link – <https://consult.dcceew.gov.au/proposed-legislative-changes-to-the-wels-determination-2013>.

Proposed changes

The amendments should be read in conjunction with the current [WELS Determination](#). The amendments are to the following parts of the Determination:

- Definitions and references
- Section 5B
- Section 6
- Section 7
- Section 8
- Section 14
- Section 15.

1.1 Amendments to definitions and references

Section 5 of the WELS Determination contains definitions for several Australian Standards, the Plumbing Code and terms that are referred to in the WELS Determination.

Amendments to certain terms, the Plumbing Code and Australian Standard definitions are proposed to bring into effect the currently applied publication of these documents. This enables the removal or amendment of several subsections that simplify the WELS Determination.

Addition of new definitions are required to support changes proposed in Section 6 of the WELS Determination that determines what is a WELS product.

Table 1. Definition and reference amendments

Amendment	Description	Legislative reference
Amend definition of 'AS 3662'	This amendment is to bring the updated standard into effect in the WELS Determination. This amendment involves updating the definition and references of AS 3662 to the correct designation of AS/NZS 3662. AS 3662 was updated in 2017 to the now joint Australian and New Zealand standard: <i>AS/NZS 3662: 2013 Performance of showers for bathing</i>. Amending the definition will also enable the removal of section 5B(2) (see 1.2 Amendments to Section 5B), which is included in the 2017 amended standard.	Section 5 Definitions
Remove definition of 'AS/NZS 3500'	This amendment is to remove an out-of-date reference.	Section 5 Definitions

Amendment	Description	Legislative reference
	AS/NZS 3500:2003 has been superseded by AS/NZS 3500:2021, within which there has been a material change to the content. It is now more appropriate and simpler to instead refer to the Plumbing Code of Australia for the WaterMark Certification requirement in section 8 of the WELS Determination (<i>see 1.5 Amendment relating to Section 8</i>). Based on this proposed change there is no need to keep the definition 'AS/NZS 3500' in section 5.	
Remove definition of 'AS/NZS 6400'	This amendment is intended to remove an out-of-date reference to a standard. References to AS/NZS 6400: 2005 <i>Water efficient products – Rating</i> in subsections of section 7 'WELS standard' ceased to be in force on 1 July 2020 and are proposed to be removed from the WELS Determination (<i>see 1.4 Amendments to Section 7</i>). The only further reference to AS/NZS 6400 in the WELS Determination, is in the definition of 'conformity assessment body'. A change is proposed to this definition, removing the reference to AS/NZS 6400 and replacing it with the Plumbing Code of Australia (<i>see Amend definition and references to conformity assessment body</i> in this table). Based on these proposed changes there will be no need to keep the definition of 'AS/NZS 6400' in section 5.	Section 5 Definitions
Amend definition for 'AS/NZS 6400:2016'	This amendment to the definition of AS/NZS 6400: 2016 <i>Water efficient products – Rating and labelling</i> is proposed to allow amendments to the standard made in 2022 to be incorporated into the WELS Determination.	Section 5 Definitions
Amend definition and references to 'conformity assessment body'	This amendment is intended to update the reference to 'conformity assessment body'. It is more appropriate to reference the definition of 'WaterMark conformity assessment body' used in the Plumbing Code of Australia. This publication is current and maintained by the Australian Building Codes Board who administer the	Section 5 Definitions and Section 9 Application for

Amendment	Description	Legislative reference
	WaterMark Certification Scheme on behalf of the Australian Government. The intended outcome of this amendment is to update the existing definition to 'conformity assessment body' in the WELS Determination to reflect its current usage as the 'WaterMark conformity assessment body' in the Plumbing Code of Australia. The reference in s9(3)(b) to 'conformity assessment body's' would be replaced with 'WaterMark conformity assessment body's'.	registration of new product
Amend definition of 'Plumbing Code'	This amendment is intended to update the definition that refers to the 2013 Plumbing Code, so that the WELS Determination refers to the current published and applicable document. The Plumbing Code of Australia was updated in 2022. The change proposed would refer to the 'National Construction Code Series, Volume 3, Plumbing Code of Australia 2022.'	Section 5 Definitions
Remove definition for 'registered low flow shower'	This amendment is intended to remove the definition of 'registered low flow shower'. The term is used in section 7 'WELS standard' of the WELS Determination. Removal of sections 7(3) to 7(7), of the WELS Determination is proposed (see <i>1.4 Amendments to Section 7</i>). Because of these amendments, there will be no need to keep the definition of 'registered low flow shower' in section 5.	Section 5 Definitions
Include definition of 'WaterMark'	This amendment is intended to include a definition of WaterMark. A definition of WaterMark is needed to clarify its use in the WELS Determination to support the amendment to the definition of 'conformity assessment body' changing to 'WaterMark conformity assessment body'.	Section 5 Definitions

Amendment	Description	Legislative reference
	The plumbing products regulated under the WELS Determination are required to be WaterMark certified. WaterMark is a mandatory certification scheme for certain plumbing and drainage products, to ensure they are fit for purpose and installation.	
Include definition of 'WMTS-105:2016'	This amendment is to include a definition of 'WMTS-105:2016', which is the WaterMark Technical Specification 105:2016 Appliances – Beverage dispensers and icemakers. A proposed amendment to the section 6 determination of WELS products includes a reference to this WMTS specification, in relation to drinking fountain and bottle filler products that are to be excluded from being WELS products (see <i>1.3 Amendments to Section 6</i>). The intended outcome of this amendment is to support the clarification of product exclusions contained in section 6 of the WELS Determination.	Section 5 Definitions

1.2 Amendments to Section 5B

Section 5B of the WELS Determination details modifications that are to be read in conjunction with the relevant standard, AS/NZS 6400:2016 or AS 3662.

Amendments are required to correct subsection 5B(1) and to propose removal of subsection 5B(2) subsequent to a definition change for AS 3662 (see *1.1 Amendments to definitions and references*).

Table 2. Amendments to Section 5B Modifications of AS/NZS 6400: 2016 and AS 3662

Amendment	Description	Legislative reference
Updates to subsection 5B(1) of Section 5B Modifications of AS/NZS 6400: 2016	References to flow rate ranges in section 5B(1) need to be corrected to reflect that there are two flow rate ranges E (>6-7.5L/min) and F (>4.5-6L/min) in Table 3.1 of AS/NZS 6400:2016 for the approved tests for high pressure showers.	Section 5B Modifications of AS/NZS 6400: 2016 and AS 3662
Removal of subsection 5B(2) and update to the title of Section 5B Modifications of AS/NZS 6400: 2016 and AS 3662	The proposed update of the definition for AS 3662 makes section 5B(2) unnecessary as it does not modify the current standard AS/NZS 3662:2013 published in 2017 (see <i>1.1 Amendments to definitions and references</i>). Based on this there is no need to keep Section 5B(2). Based on the proposed removal of subsection 5B(2) there will be no need to keep AS 3662 in the title 'Modifications of AS/NZS 6400: 2016 and AS 3662'.	Section 5B Modifications of AS/NZS 6400: 2016 and AS 3662

1.3 Amendments relating to Section 6

Section 6 of the WELS Determinations identifies water-use or water-saving products which have been determined by the Commonwealth Minister as being WELS products.

Amendments are required to remove certain products from the WELS scheme which do not contribute towards the objects of the *Water Efficiency Labelling and Standards Act 2005*.

1.3.1 Tap equipment

It is proposed that additional types of tap equipment are excluded from the WELS scheme. These exclusions are included in Tables 3 to 6 below:

Table 3. Tap equipment - taps used exclusively over a pot sink

Amendment	Description	Legislative reference
Exclusion of tap equipment that is for use exclusively over a pot sink.	The intention of this amendment is to remove taps used over large sinks in a commercial environment from the WELS scheme. A pot sink is defined in AS/NZS 3500 as a <i>large sink designed for use in commercial kitchens for the washing of cooking equipment or containers</i>. These types of taps are designed to fill large commercial sinks quickly with water. Note that this exclusion would only apply to taps that are for use exclusively over a pot sink. If a tap could operate or is marketed/supplied to operate over either a pot sink or another type of sink (e.g. in a residential setting), it would not be excluded from the WELS scheme and would need to be registered. The WELS scheme currently has 75 taps identified as being 'pot fillers' or 'commercial'. These taps are registered to 10 WELS organisations. If these taps were being used exclusively over a pot sink (including spray taps), they would no longer need to be registered or have a mandatory WELS label applied. Table 1a shows the WELS organisations with these types of taps registered. These taps have been identified as the term 'pot filler' or 'commercial' is used in the model name. They have not been confirmed as being used exclusively over a pot sink.	Section 6 of the WELS Determination 2013.

Table 3a. Registered taps that may be used exclusively over a pot sink

WELS Organisation	'Pot fillers'	'Commercial'
WELS organisation A	5	
WELS organisation B		4
WELS organisation C		2
WELS organisation D	1	
WELS organisation E	12	
WELS organisation F		7
WELS organisation G	1	
WELS organisation H		1
WELS organisation I		6
WELS organisation J	36	
Total	55	20

Source: Department of Climate Change, Energy, the Environment and Water

Tabel 4. Tap equipment – drinking fountains

Amendment	Description	Legislative reference
Exclusion of drinking fountains	The intention of this amendment is to remove drinking fountains that are designed to satisfy a user's thirst from the WELS scheme. A drinking fountain is defined in AS/NZS 3500 as a <i>fixture that provides a low flow jet of water from which the user may drink directly</i>. Importantly, only drinking fountains WaterMark certified in accordance with WMTS-105:2016 or drinking fountain outlets WaterMark certified in accordance with AS 3718:2021 would be excluded from the WELS scheme. The WELS scheme currently has 56 taps identified as being drinking fountain outlets and 3 taps identified as being dual drinking fountain/bottle fillers. These taps are registered to 5 WELS organisations. These drinking fountains would no longer need to be registered or have a mandatory WELS label applied. In relation to the 3 taps identified as dual drinking fountain/bottle fillers please see bottle filler exclusion conditions in Table 5. Table 4a shows WELS organisations with these types of taps registered. These taps have been identified from the registration image and/or the model name.	Section 6 of the WELS Determination 2013.

Table 4a. Registered taps that are likely to be drinking fountains or drinking fountain/bottle filler combinations

WELS Organisation	Drinking fountain	Dual (drinking fountain/bottle filler)
WELS organisation A	2	
WELS organisation B	1	
WELS organisation C	11	
WELS organisation D	40	3
WELS organisation E	2	
Total	56	3

Source: Department of Climate Change, Energy, the Environment and Water

Table 5. Tap equipment - bottle fillers

Amendment	Description	Legislative reference
Exclusion of bottle fillers	The intention of this amendment is to remove bottle filling taps designed to fill drinking bottles with a fixed volume of water from the WELS scheme. A bottle filler is not defined in existing standards, however is referenced as a product within scope of the WaterMark Schedule of Products – Appliances. Importantly, only bottle fillers WaterMark certified in accordance with WMTS-105:2016 would be excluded from the WELS scheme. The WELS scheme currently has 6 taps identified as being bottle fillers and 3 taps identified as being drinking fountain/bottle fillers. These taps are registered to 2 WELS organisations. Importantly, these products are all WaterMark certified against either AS 3718:2021 or AS/NZS 3718:2005. For these products to be excluded from the WELS scheme and no longer be registered or have a mandatory WELS label applied, they would need to be certified against the WaterMark specification – WMTS-105:2016. Table 5a shows WELS organisations with these types of taps registered. These taps have been identified from the model name.	Section 6 of the WELS Determination 2013.

Table 5a. Registered taps that are likely to be bottle fillers or drinking fountain/bottle filler combinations

WELS Organisation	Bottle filler	Dual (bottle filler/drinking fountain)
WELS organisation A	1	
WELS organisation B	5	3
Total	6	3

Source: Department of Climate Change, Energy, the Environment and Water

Table 6. Tap equipment – taps delivering filtered, chilled or boiled water

Amendment	Description	Legislative reference
Clarifying the current exclusion of taps used to deliver filtered, chilled or boiled water	The intention of this amendment is to remove taps that are used <u>exclusively</u> to deliver filtered, chilled or boiled water from the WELS scheme.	Section 6 of the WELS Determination 2013.

1.3.2 Dish washing machines and clothes washing machines

It is proposed that existing references in relation to dishwashing machines and clothes washing machines be clarified to ensure that particular product types are excluded from the WELS scheme. These clarifications are included in Tables 7 to 8 below:

Table 7. Dishwashers

Amendment	Description	Legislative reference
Clarify the specification of included electric dishwashers	The intention of this amendment is to remove particular types of electric dishwashes from the WELS scheme. This will be achieved by clarifying the types of electric dishwashes which are included in the scheme. It is proposed that electric dishwashers included in the WELS scheme must be able to have a fixed connection to a potable water supply and be intended for household use. The intention is to exclude portable appliances from the scope of the scheme which exclusively rely on a user manually filling the appliance with a fixed volume of water to operate.	Section 6 of the WELS Determination 2013.

Table 8. Clothes washing machines

Amendment	Description	Legislative reference
Clarify the specification of included electric clothes washing machines	The intention of this amendment is to remove particular types of electric clothes washing machines from the WELS scheme. This will be achieved by clarifying the types of electric clothes washing machines which are included in the scheme. It is proposed that electric clothes washing machines included in the WELS scheme must be able to have a fixed connection to a potable water supply and be intended for household use. The intention is to exclude portable appliances from the scope of the scheme which exclusively rely on a user manually filling the appliance with a fixed volume of water to operate.	Section 6 of the WELS Determination 2013.

1.4 Amendments to Section 7

The proposed amendment to Section 7 of the WELS Determination is to remove grandfathering provisions applicable to shower registrations. These grandfathering provisions were used to manage the transition from AS/NZS 6400:2005 to AS/NZS 6400:2016.

Table 9. Removal of grandfathering provisions

Amendment	Description	Legislative reference
Removing grandfathered provisions relating to showers	Various provisions were put in place as temporary grandfathering provisions following the publication of the AS/NZS 6400:2016. Showers registered on or before 13 September 2016 and which had not ceased to be registered since that date, could still apply the performance, testing and labelling requirements set out in the previous version of the standard (AS/NZS 6400:2005). These provisions ceased to be in force on 1 July 2020. These provisions are now redundant and should be removed.	Section 7 WELS Standard

1.5 Amendments relating to Section 8

Section 8 of the WELS Determination details requirements that must be met by WELS products (plumbing products only) in relation to the WaterMark certification.

Table 10. Amendments to Section 8 WELS standard requirements

Amendment	Description	Legislative reference
Updating WELS standard compliance requirements for WELS products (plumbing products only)	WELS products (plumbing products only) are currently required to comply with section G of the Plumbing Code or section 2.2 of Part 1 of AS/NZS 3500. These references are specific to publications of the Plumbing Code and AS/NZS 3500 that have been superseded. An amendment is proposed to the Plumbing Code definition to align it to the current publication of the Plumbing Code and to remove the AS/NZS 3500 definition (see 1.1 Amendment to definitions and references). Based on the proposed change to the Plumbing Code definition, subsection 8(2)(a) is to be amended to section A, Part A5 (A5G4) of the Plumbing Code to maintain the requirement for a WELS product (plumbing product only) to be WaterMark certified. As the requirement of WaterMark certification is established with the reference to the relevant section of the Plumbing Code there is no need to keep subsection 8(2)(b) and it can be removed.	Section 8 WELS standard requirements

1.6 Amendments relating to Section 14

Section 14 of the WELS Determination details requirements that must be met for a product to remain registered. The section also contains record keeping requirements.

Table 11. Amendment to Section 14 recordkeeping requirements

Amendment	Description	Legislative reference
Creation of a new Section 14A Requirements for recordkeeping	To improve the clarity of Section 14, it is proposed that the existing requirement relating to record keeping be removed and a new section be created – that is, Section 14A Requirement for recordkeeping. The current recordkeeping requirement (contained within Section 14) relates to document retention <u>after</u> a product registration has ended. However, this requirement is situated within a broader section that outlines the necessary criteria for maintaining a product's registered status. Where documents are being retained after a registration has ended, the product is no longer registered (i.e. it is expired). This document retention requirement does not logically sit within a section describing the requirements for a product to remain registered. For clarity, recordkeeping requirements after a registration has ended should be in a standalone section.	Section 14 Requirements for product to remain registered

1.7 Amendments relating to Section 15

Section 15 of the WELS Determination details the circumstances in which the Regulator may cancel or suspend the registration of a WELS product.

Table 12. Amendments to registration cancellation and suspension

Amendment	Description	Legislative reference
Amendment to section 15 Cancelling or suspending registration, including the grounds for cancelling or suspending a registration	The intention of amendments to Section 15 is to clarify the circumstances in which the Regulator may cancel or suspend a WELS product registration. It is proposed that the Regulator may cancel or suspend a product registration when they are satisfied that information provided in either the original registration application <u>or by notification (under Section 14)</u> was not accurate at the time the information was provided; or the information is no longer accurate or is no longer accurate as a result of the product being altered (where altering of the product affects the performance of the product or compliance of the product with the WELS standard). Currently, the Regulator can only cancel or suspend a WELS product registration when considering the information provided in the application for registration (not any subsequent notification under Section 14).	Section 15 Cancelling or suspending registration