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## **WATER EFFICIENCY LABELLING AND STANDARDS (SOUTH AUSTRALIA) BILL**

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (19:46): Obtained leave and introduced a bill for an act to apply the Water Efficiency Labelling and Standards Act 2005 of the commonwealth as a law of this state; to repeal the Water Efficiency Labelling and Standards Act 2006; and for other purposes. Read a first time.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (19:47): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

This bill applies the *Water Efficiency Labelling and Standards Act 2005* (Cwlth) (as amended) as a law of the State and repeals the existing *Water Efficiency Labelling and Standards Act 2006* (SA).

As required by the *Water Efficiency Labelling and Standards Act 2005* (Cwlth), an independent review of the Water Efficiency Labelling and Standards scheme, or WELS scheme, was conducted in 2010. The Standing Council on Environment and Water, comprising environment ministers from the Commonwealth, State and Territory governments subsequently agreed to most of the recommendations relating to improvements to the scheme and the Commonwealth Act.

The WELS scheme was established by the *Water Efficiency Labelling and Standards Act 2005* (Cwlth) as part of the Council of Australian Governments' National Water Initiative.

The WELS scheme is supported by complementary State and Territory legislation to ensure comprehensive national coverage.

Products currently in the scheme include clothes washing machines, dishwashers, showers, toilets and tap equipment. All of these products must be registered and labelled with a water efficiency rating. The scheme currently also sets minimum water efficiency standards for toilets and clothes washing machines.

WELS labelling plays an important role in consumer purchasing decisions and has received widespread support from the industries affected by it. Furthermore, the WELS scheme has improved information for consumers about the performance of water- using products and the link between water saving and cost saving, increased registration and sales of products with an efficiency star rating of 4 or above, introduced minimum water efficiency standards for washing machines and reduced urban water consumption across Australia. Information from the WELS scheme is also used in State and Territory building and planning arrangements and to support product rebate schemes.

Changes to registration and fee arrangements will deliver improvements not only for the scheme's administration, but also for industry. The improvements include simplifying and streamlining product registration processes so that these are easier for registrants, and providing a common expiry date for all registrations so that retailers will know when the registrations of products they supply are due to expire.

By repealing the *Water Efficiency Labelling and Standards Act 2006* (SA) and applying the *Water Efficiency Labelling and Standards Act 2005* (Cwlth) (as amended) as a law of the State, this Bill will reduce the need to amend the State legislation should further amendments occur in future.

New South Wales and Tasmania have taken this approach with their corresponding Bills and Victoria and Western Australia are considering this approach as well.

The Bill will also enable the Commonwealth Minister, through a disallowable ministerial determination, to determine more of the detailed arrangements for the scheme than previously. This will make it easier for the scheme to be modified from time to time to improve its efficiency and effectiveness, particularly in relation to the registration of products without the need to amend supporting State and Territory legislation. Previously, any minor change to legislation (even a typographical error) required agreement from all jurisdictions. This reduced the effectiveness of the Act and created a significant amount of unnecessary work. All States and Territories will still need to agree to the terms of the scheme, or to any variation of the scheme (other than a

variation to remove an ambiguity or uncertainty, or to correct an error) before the legislative instrument is made.

This Bill will ensure that the State legislation consistently applies the Commonwealth's definition of supply to include the wider range of ways in which WELS products are supplied, such as the supply of WELS products in or as part of new dwellings such as display homes, renovated kitchens, laundries or bathrooms, or through service provision such as plumbing service contracts. This is intended to provide a regulatory environment which has more equal application to the various suppliers of WELS products (as previously only those in the retail supply chain were explicitly covered by the Act). It is also intended to ensure that consumers who are buying WELS products as part of another item are made aware of the water efficiency of those products at the time of purchase. This change is intended to make the WELS scheme more efficient, effective, fair to all registrants and informative to consumers.

By aligning this Bill with the Commonwealth Act, the roles and function of the Regulator are made nationally consistent. Furthermore, civil penalties and corresponding criminal offences provide alternative enforcement options to criminal offences, ensuring that responses can more closely reflect the nature and circumstances of the breaches.

This Bill will ensure that the evidential burden of proof for civil contraventions aligns with the Commonwealth Act and improve the regulation of the Act. Without this, it could be a long and difficult process for the Regulator to prove that the product is or is not registered, impacting the ability for the Regulator to efficiently implement the Act. This is considered reasonable as registrants and suppliers are required to keep records under the WELS standard.

This Bill addresses industry's concerns about compliance and enforcement activities, cost effectiveness and people's free riding off of the WELS scheme as well as contributing to the efficient and effective operation of the WELS scheme.

Furthermore, the Bill will create a consistent national approach and achieve positive environmental impacts such as:

- conservation of water supplies by reducing water consumption;
- provision of information for purchasers of water-use and water-saving products; and
- promotion of the adoption of efficient and effective water-use and water-saving technologies.

I commend the Bill to Members.

#### Explanation of Clauses

##### Part 1 — Preliminary

###### 1 — Short title

###### 2 — Commencement

These clauses are formal.

###### 3 — Interpretation

This clause defines certain terms used in the measure. In particular, the *applied provisions* are defined as being the Commonwealth water efficiency laws that apply as a law of the State because of the measure.

###### 4 — Object of Act

This clause sets out the object of the measure which is to adopt in this State a uniform Australian approach to the regulation of water efficiency labelling and standards.

##### Part 2 — The applied provisions

###### 5 — Application of Commonwealth water efficiency laws to this State

This clause provides for the application of the Commonwealth water efficiency laws as a law of the State.

###### 6 — Modification of Commonwealth water efficiency laws

This clause allows the regulations to make modifications.

###### 7 — Interpretation of Commonwealth water efficiency laws

The *Acts Interpretation Act 1901* of the Commonwealth is to be the applicable interpretation law.

##### Part 3 — Functions and powers under applied provisions

###### 8 — Functions and powers of Commonwealth Regulator and other authorities and officers

The Commonwealth Regulator and other authorities and officers referred to in the applied provisions have the same functions and powers under the applied provisions as they have under the Commonwealth laws.

###### 9 — Delegations by the Commonwealth Regulator

This clause gives effect to delegations by the Commonwealth Regulator for the purposes of the applied provisions.

#### Part 4 — Offences

##### 10 — Object of this Part

The object of the proposed Part is to treat offences against the applied provisions as if they were offences against the Commonwealth laws. The clause also outlines examples of the purposes for which an offence can be treated as a Commonwealth offence.

##### 11 — Application of Commonwealth criminal laws to offences against applied provisions

This clause provides that the relevant Commonwealth laws apply as a law of this State in relation to the applied provisions. The clause also provides that an offence against the applied provisions is not to be taken to be an offence against the laws of this State.

##### 12 — Functions and powers conferred on Commonwealth officers and authorities relating to offences

Commonwealth officers and authorities have the same functions and powers in relation to offences under the applied provisions as they have under the relevant Commonwealth law.

##### 13 — No double jeopardy for offences against applied provisions

This clause ensures that if a person is punished for an offence against the Commonwealth laws, they are not punished for the same act or omission under the applied provisions.

#### Part 5 — Administrative laws

##### 14 — Application of Commonwealth administrative laws to applied provisions

Commonwealth administrative laws apply to any matter arising out of the applied provisions, except where the administrative law purports to confer jurisdiction on a federal court, or as stipulated by the regulations.

##### 15 — Functions and powers conferred on Commonwealth officers and authorities

Commonwealth officers and authorities have the same functions and powers under the applied provisions as they have under the Commonwealth administrative laws.

#### Part 6 — Miscellaneous

##### 16 — Act to bind Crown

The measure binds the Crown.

##### 17 — Things done for multiple purposes

This clause provides that the validity of an act, licence, certificate or other thing issued, given or done is not affected only because it was issued, given or done also for the purpose of the Commonwealth laws.

##### 18 — Reference in Commonwealth law to a provision of another law

This clause deals with references in a Commonwealth applied law to other Commonwealth laws.

##### 19 — Fees and other money

This clause provides that all fees, penalties, fines or other monetary sums imposed on a person in connection with the applied provisions are payable to the Commonwealth.

##### 20 — Regulations

This clause provides the regulation making power.

#### Schedule 1 — Repeal

##### 1 — Repeal of *Water Efficiency Labelling and Standards Act 2006*

The Schedule repeals the current *Water Efficiency Labelling and Standards Act 2006*.

Debate adjourned on motion of Hon. T.J. Stephens.