Water Efficiency Labelling and Standards scheme

The Water Efficiency Labelling and Standards Act 2005 (WELS Act) aims to:

- conserve water supplies by reducing water consumption
- provide information for purchasers of water-use and water-saving products
- promote adoption of efficient and effective water-use and water-saving technologies.

The WELS Act and corresponding state and territory legislation provide for the operation of the Water Efficiency Labelling and Standards scheme (WELS). The Australian Government administers the scheme on behalf of state and territory governments.

The scheme applies to dishwashers, washing machines, taps, showers, lavatories, urinals and flow controllers. To be legally supplied, these products must meet the performance and testing requirements of the WELS standard and must be registered and labelled correctly.

The scheme is delivering annual domestic water savings estimated at 112 gigalitres in 2017, and water efficiency improvements have resulted in consumer savings of $1 billion per annum in household utility bills (water, electricity and gas). Annual savings are expected to increase to 230 gigalitres and $2.6 billion by 2036. As at 30 June 2018, there were 24,981 registrations (21,152 products and 3,829 variants).

Figure 1 WELS regulatory activities

Source: Department of Agriculture and Water Resources

The approach to compliance with the WELS Act is outlined in the WELS Compliance and Enforcement Policy. It encourages suppliers of regulated products to meet their legislated obligations through cooperation and collaboration, targeted communication and education activities, and timely provision of information and advice. The policy details the compliance model we use to address individual supplier compliance. Overall compliance with WELS obligations is high and continues to
improve, with a growing group of suppliers integrating WELS requirements into their business processes to ensure compliance.

The WELS Compliance and Enforcement Strategy was developed in consultation with industry and was published in December 2017. It identifies six key areas of focus for compliance and enforcement activities from 2018 to 2020, including a strong focus on online sellers and the building industry.

An ISO standard based on the WELS standard was championed by the Department in 2017–18 and on 19 February 2018 the ISO Technical Management Board agreed to establish a new committee to develop a standard for water efficiency labelling. The ISO standard is expected to reduce costs for Australian businesses, improve access to overseas markets for Australian manufacturers and increase compliance with the WELS scheme in Australia. It will also provide a tool that can be used by other countries to save water through similar consumer labelling schemes.
WELS

KPI 1—We do not unnecessarily impede the efficient operations of regulated entities

Objective: We understand the operating environment of our regulated entities and stakeholders.

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| Our regulatory practices minimise the impact of regulation on stakeholders and regulated entities. | New and amended regulations are supported by regulatory impact analysis. | Rating: not applicable in 2017-18
- We did not make any changes to the WELS regulatory framework in 2017–18. Where we make changes we assess regulatory burden for individuals, businesses and community organisations before we amend or make new regulations. This work is overseen by the external regulator, the Office of Best Practice Regulation (OBPR) and supported by regulatory impact assessment (RIS).
- We routinely consult stakeholders and regulated entities on a range of regulatory and related matters, even where a Regulatory Impact Statement (RIS) is not required. This takes account of the impact of regulations on our regulated entities. |
| ✓ We engage with our stakeholders on implementation and compliance approaches. | | Rating: Optimal
- We routinely consult stakeholders and regulated entities on compliance approaches, such as in developing our Compliance and Enforcement Strategy for 2018-2020. We have a WELS industry advisory group, WELSAG, which meets as needed to discuss WELS matters, including compliance approaches. We recognize regulated entity behaviours and adjust our compliance posture accordingly. The principles underpinning our approach are set out in our compliance plans. Stakeholders are engaged in the development of the standards that set out water efficiency testing and labelling requirements. |

KPI 2 & 5—Our communication with regulated entities is clear, concise and targeted, we are effective, accountable and transparent.

Objective: Our communication with regulated entities and stakeholders is effective.

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| Our guidance and information is tailored to the needs of regulated entities and accessible. | Risk-based frameworks, strategies and service standards are available on our website and the information is regularly reviewed to ensure currency. | Rating: Optimal
- The WELS website was updated in November 2017. The re-developed website is based on user feedback and testing to better assist supply chain participants in meeting registration and labelling requirements. The website includes compliance and enforcement policies and strategies and is reviewed regularly. The WELS scheme newsletter (InkWELS) is published quarterly.
- WELS has two Freecall (1800) numbers and two email addresses that stakeholders can use to provide us with feedback or ask questions. |
We engage with regulated entities on potential changes to regulatory policies, practices or services.

- Advice notices and guidance material are up to date, accurate, accessible and in plain English. **Rating: Optimal**

  - Our legislation is publicly available on the Federal Register of Legislation. Stakeholders can access legislation, guidance, standards industry advice notices and compliance advice notices and our compliance strategy is available on the water rating website and/or departmental web pages. We pay a fee to make the standard that underpins WELS available free of charge to the public.

- We routinely consult with stakeholders on administration of regulation, and seek their advice on significant changes and explain our decisions. **Rating: Optimal**

  - We maintain close contact with industry stakeholders and regulated entities. Increasing communication with the building, construction and development industry is improving industry awareness of responsibilities under the WELS Act.

  - We regularly participate in industry forums and maintain industry consultative forums across our regulatory responsibilities. We also conduct targeted consultations and engaged with experts and industry representatives as appropriate, often through our WELSAG. We also meet with key stakeholders on changes to regulation and delivery arrangements and on significant regulatory changes.

  - We consulted with industry in developing our Compliance and Enforcement Strategy for 2018–2020 and sought endorsement from WELSAG before finalising the document.

  - WELS has two free call (1800) numbers and two email addresses that stakeholders can use to provide us with feedback or ask questions.

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**Objective:** We make decisions in a manner that is timely, consistent and supports predictable outcomes.

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| When we make decisions we provide reasons and our advice is timely and consistent. | Our advice to regulated entities explains the reasons for decisions and provides information about avenues for review or complaint (as provided for in relevant legislation). | **Rating: Managed**

  - WELS has internal documents that set out processes and rationales for making compliance and enforcement decisions, and templates for providing advice to regulated entities. These templates require advice to entities to include the reasons for decisions and avenues for review or complaint.

  - Occasionally resourcing constraints mean there is a time lag between identifying non-compliance and taking action or providing advice to help the entity correct the non-compliance.
### Performance Measures

**Objective:** Our performance measurement results are published in a timely manner to ensure accountability to the public.

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| Reports on regulator performance are published in the required timeframes. | We publish an annual self-assessment of our performance by the required timeframes. | Rating: Optimal  
- Our regulator performance report provides a high level assessment of our performance as a regulator. The department’s annual report also provide significant performance information on WELS and related activities. |
| - Our regulators publish performance information specific to their regulatory frameworks. | | |

### KPI 3—Our actions are proportionate to the regulatory risk being managed.

**Objective:** We apply a risk-based, proportionate approach to compliance, engagement and enforcement activities.

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| Our regulatory frameworks are supported by best practice compliance strategies that are risk based. | We employ intelligence-based approaches to determine risk, and consider the circumstances of regulated entities. | Rating: Managed  
- We adopt a regulatory approach that takes into account compliance history and overall risk of regulated entities activities. This is set out in our regulatory compliance plans and operating procedures. This includes measures that provide flexibility to assist entities to fix inadvertent non-compliance and to reward compliant entities.  
- We use compliance and enforcement tools tailored to the identified risks and behaviour of our regulated entities. These include inspections, audits, warrants and investigations. Enforcement tools such as compliance audits, infringement notices or court action are only employed when a cooperative approach has been unsuccessful. This is set out in our compliance and enforcement policy.  
- Consultation with industry was undertaken in May to July 2017 to identify industry views on risks to the WELS scheme and where compliance and enforcement efforts should be applied to address those risks. Thirteen organisations provided submissions, and their input was used to shape the Compliance and Enforcement Strategy 2018–2020, which sets out areas of focus for WELS compliance and enforcement activities. In 2017–18, compliance activities focused on internet-based sales and on the building and property development industry. Decision |
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<td>processes and escalation pathways were formally documented internally, and used in addressing non-compliance identified by WELS inspectors.</td>
<td>- The joint compliance program with eBay continued to work effectively, with eBay removing more than 3,000 non-compliant listings of WELS products in the second half of 2017. In late 2017, WELS commenced work towards a similar joint program with Amazon.</td>
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<td>More than 100 new property display units were inspected and found to have almost no WELS information available for prospective purchasers. Since the inspections 78 of these have since become compliant, with another 19 in progress and working with WELS inspectors. Communication materials were provided to building and property industry groups, and WELS inspectors shared information and discussed linkages with state and territory building and plumbing regulators.</td>
<td>- All inspections and follow-up enforcement actions were undertaken in accordance with the WELS Compliance and Enforcement Policy.</td>
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<td>Our regulators appropriately employ a range of graduated compliance and enforcement tools.</td>
<td>- Our staff are provided with appropriate training and guidance materials to support their compliance roles.</td>
<td>Rating: Managed</td>
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<td>- We offer a range of relevant online training courses to staff, including introduction to risk management and specific training on various legislation and regulations. Detailed work instructions and guidelines are available to all staff and these are reviewed periodically to ensure relevance. We seek to recruit staff with relevant expertise and ensure training needs are identified. Staff involved primarily in compliance and enforcement are required to have or obtain a Certificate IV in investigations or equivalent.</td>
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<td>Eligible regulated entities receive tailored approaches based on an understanding of their operating environment and risk profile.</td>
<td>- We apply a graduated approach to compliance activities that provides for earned autonomy, within legislative parameters.</td>
<td>Rating: Managed</td>
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<td>- We adopt a risk-based approach to regulation where feasible and supported by evidence. This means that our inspection regimes may vary with the risk of a regulated activity. The broad principles are set out in our compliance plans and relevant statements published on our website.</td>
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<td>- We use compliance and enforcement tools tailored to the identified risks and behaviour of our regulated entities. These include inspections, audits, fit and proper person tests, warrants and investigations. Enforcement tools such as compliance audits, infringement notices or court action are only employed when a cooperative approach has been unsuccessful.</td>
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<td>- We adopt a regulatory approach that takes into account compliance history and overall risk of the activities. This is set out in our regulatory compliance plans and operating procedures. This includes measures that provide flexibility to assist in addressing inadvertent non-compliance.</td>
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### KPI 4- Our compliance and monitoring approaches are streamlined and coordinated

**Objective:** We base our monitoring and inspection approaches on assessed risk and where possible, we take into account the operating context.

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| Demonstrated benefits to regulated entities from our efforts to streamline and coordinate our regulatory activities. | ✔️ We regularly review our business processes with a view to streamlining where possible. | Rating: Managed

- We are progressively modernising the delivery of the WELS. This includes progressive upgrade in the capability of our online systems. Significant changes in infrastructure and service delivery are subject to internal assessment regarding benefits and costs for business and there is external consultation on impacts. We are also working with related programs (WaterMark and the Equipment Energy Efficiency program) on streamlined approaches to product registrations. |

- Our published service standards are met or exceeded. |

Rating: Managed

- We seek to respond in a timely manner consistent with service standards for the department. We provide direct assistance to product manufacturers and suppliers, including frequent guidance on product registrations through telephone and online enquiries. We are progressively improving and publishing information documenting our assessment process to better inform and enable product manufacturers to meet the requirements of WELS. |

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**Objective:** We share information and coordinate our compliance activities within the department and with other regulators as appropriate, to minimise duplication and increase efficiency.

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| Business processes and services are improved through the better use of modern technology, and agreed service standards. | ✔️ We analyse complaints information and other feedback from our regulated entities to understand trends and make improvements where possible. | Rating: Managed

- We respond to complaints and feedback and use provided information to make improvements where possible. We consider suggested changes in terms of whether they support the objectives of the WELS Act, with an aim to meet the objectives at the least regulated cost to industry. We provide direct assistance to product manufacturers and suppliers, including frequent guidance on product registrations through telephone and online enquiries. |

- Our ability to analyse trends would be enhanced by better automation of case tracking. |

- We collaborate with other relevant regulators to reduce compliance costs and improve efficiency where possible. |

Rating: Optimal

- We seek to apply international standards and risk assessments where they meet regulatory requirements. In collaboration with Standards Australia and several interested countries, WELS staff began work on an ISO International Standard for water-efficient product testing, rating and labelling. |

- WELS held workshops with the WaterMark Conformity Assessment Bodies (WMCABs) on streamlined application processes for WELS registration and WaterMark certification. The WMCABs undertake WaterMark certification for plumbing products and can also submit applications for WELS registration on behalf of their clients. By doing so, the WMCABs can provide a ‘one-stop-shop’ application process for WELS and WaterMark. |
KPI 6—We actively contribute to the continuous improvement of our regulatory frameworks.

**Objective:** We establish cooperative and collaborative relationships with regulated entities and stakeholders to promote trust and improve the efficiency and effectiveness of our regulatory frameworks.

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<td>We take into account feedback from our regulated entities and performance information to improve operations of our regulatory frameworks.</td>
<td>We routinely consult with stakeholders on administration of regulation, and seek their advice on significant changes and explain our decisions (this target also applies for KPIs 2&amp;5).</td>
<td>Rating: Optimal</td>
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<td>We have a program of review for our regulatory frameworks and we suggest legislative change / implement operational change as appropriate, as a result of these reviews.</td>
<td>As noted above, we maintain a range of consultative arrangements, this includes our WELS industry advisory group, our website and our quarterly newsletter. We also have two Freecall phone lines and two email addresses for stakeholders.</td>
<td>Rating: Optimal</td>
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<td>Our RPF self-assessment reports identify areas for improvement in our systems and processes.</td>
<td>The WELS Act requires a five-yearly independent review of the scheme. Following the second independent review of the WELS Scheme in June 2015, a joint government response to the review’s recommendations and the 2016–2019 WELS Scheme Strategic Plan was prepared in consultation with all governments. All states and territories have agreed to the strategic plan. The review included administrative streamlining measures which we have implemented. This included measures to streamline administration. It did not recommend regulatory changes. We expect another review in 2019, for completion in 2020.</td>
<td>Rating: Optimal</td>
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<td>We provide a rating of our performance and this is reported in this report.</td>
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We have cooperative arrangements with the Equipment Energy Efficiency (E3) program, which shares results of its product check testing program when a washing machine or dishwasher fail the water consumption component of testing.
WELS

CASE STUDY
WELS risk based compliance and enforcement—a responsive approach to regulation

WELS is an industry-government partnership that encourages advances in and adoption of water-saving technologies. WELS helps business and consumers to make decisions that reduce household water use and save money on water and energy bills.

The WELS compliance and enforcement policy establishes a responsive approach to regulation. The policy requires that compliance and enforcement actions are undertaken in a manner that is proportionate to the risks, cost effective, maximises compliance and achieves the objectives of the WELS Act. Enforcement tools such as compliance audits, infringement notices or court action are only employed when a cooperative approach has been unsuccessful.

The aim of the policy is to combine a responsive approach to non-compliant entities with a risk-based approach to application of resources and enforcement tools, and to engage our regulated entities and stakeholders in implementation. This ensures:

- compliance and enforcement resources are directed to the types of businesses and types of non-compliance that pose the greatest risk to the scheme
- decisions about applying specific compliance and enforcement tools are made in a manner that takes into account the risk posed to the scheme by the non-compliance.

In consultation with industry, we have developed a series of strategies to ensure the best outcomes from our programs. These are:

- continue inspections and follow-up activities with a range of businesses, with a stronger focus on online sellers
- address widespread non-compliance in the building industry and expand the building industry project to include modular units
- continue to communicate WELS requirements to industry, improve products and tools for communication, education and industry support, ensure tools are effective for a range of suppliers of WELS products, and participate in industry seminars, workshops and conferences
- apply WELS compliance and enforcement tools in a risk-based, responsive, consistent manner to effectively address non-compliance and increase visibility of WELS regulation in the Australian market
- streamline activities and increase cooperation with other regulators
- consider developing and implementing a product check-testing program.