

**WATER EFFICIENCY LABELLING AND STANDARDS (NATIONAL UNIFORM
LEGISLATION) BILL 2014**

SERIAL NO. 70

LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

MINISTER FOR LANDS, PLANNING AND THE ENVIRONMENT

EXPLANATORY STATEMENT

GENERAL OUTLINE

The Bill repeals and replaces the Northern Territory's *Water Efficiency Labelling and Standards Act* (the WELS Act).

The Northern Territory WELS Act commenced in 2005 as part of a national commitment to the introduction of the water efficiency labelling and standards scheme. The scheme places obligations on manufacturers and retailers to provide advice about the water efficiency of different products.

The original Northern Territory WELS Act took the form of mirror legislation. Since 2005, the Commonwealth has made a number of amendments to the Commonwealth WELS Act, resulting in inconsistencies between the Acts.

This Bill adopts the Commonwealth WELS Act as an Act of the Northern Territory. Amendments to the Commonwealth WELS Act will automatically apply in the Northern Territory, unless the Northern Territory takes action to prevent the amendments applying.

NOTES ON CLAUSES

Part 1 Preliminary matters

Clause 1 Short Title

This is the formal Clause which provides for the citation of the Bill. The Bill when passed will be cited as the *Water Efficiency Labelling and Standards (National Uniform Legislation) Act 2014*.

Clause 2 Commencement

This clause sets the commencement date for the Act as being the date fixed by the Administrator by Gazette notice.

Clause 3 Purpose of Act

This clause outlines the purpose of the Act which is to provide the Territory with nationally consistent legislation for the regulation of water efficiency labelling and standards.

Clause 4 Interpretation

This clause provides the definitions for key terms and phrases used throughout the legislation. The Act defines *applied provisions* as being the Commonwealth water efficiency laws that apply as a law in the Northern Territory because of this Act.

Clause 5 Act binds Crown

This clause provides that the Act binds the Crown.

Part 2 Applied provisions

Clause 6 Application of Commonwealth laws as a law of the Territory

This clause adopts the Commonwealth water efficiency laws as a law of the Territory.

The Commonwealth water efficiency laws are the *Water Efficiency Labelling and Standards Act 2005*, the *Water Efficiency Labelling and Standards Regulations 2005* and any other legislative instrument in force under the Commonwealth Act.

Clause 7 Modification of Commonwealth water efficiency laws

This clause provides that regulations made under the Territory Act may modify the Commonwealth water efficiency laws as they apply as a law of the Northern Territory. The regulations may also provide that the Commonwealth water efficiency laws apply under clause 6(1) as if amendments made to the laws had not taken effect. This enables the Northern Territory to disallow amendments made by the Commonwealth, for example because those amendments are not in the interest of the Northern Territory.

Clause 8 Interpretation of applied provisions

This clause provides that the Commonwealth *Interpretation Act 1901* applies to the Commonwealth water efficiency laws adopted by this Act.

The clause also provides that the Northern Territory's *Interpretation Act* does not apply to the Commonwealth water efficiency laws adopted by this Act.

The Northern Territory's *Interpretation Act* applies to this Act and to instruments made under the Act, such as regulations.

Part 3 Functions and powers under applied provisions

Clause 9 Functions and powers of Commonwealth Regulator and other authorities and officers

This clause provides that the WELS Regulator appointed under the Commonwealth *Water Efficiency Labelling and Standards Act 2005* (the Commonwealth Regulator) has the same functions and powers under the Territory laws as they have under the Commonwealth water efficiency laws. In addition, any other authorities and officers have the same functions and powers under the Territory laws as they have under the Commonwealth water efficiency laws.

Clause 10 Delegations by the Commonwealth Regulator

This clause provides that any delegation by the Commonwealth Regulator under the Commonwealth *Water Efficiency Labelling and Standards Act 2005* is taken to also be a delegation for the purposes of the corresponding provision of the Territory laws.

Part 4 Offences

This Part ensures the Commonwealth can undertake enforcement actions consistently across the two jurisdictions, and that no Territory resources are required for enforcement actions.

The object of this Part is to treat offences against the applied provisions as if they were offences against the Commonwealth laws.

Clause 11 Purpose of Part

This clause states that the object of Part 4 of the Act is to further the objective of the Act by providing that an offence against Territory laws is to be treated as if it were an offence against a law of the Commonwealth.

The clause provides examples of the purposes for which an offence can be treated as a Commonwealth offence.

Clause 12 Application of Commonwealth criminal laws to offences against applied provisions

This clause applies the relevant Commonwealth laws as laws of the Northern Territory in relation to an offence against the applied provisions as if those provisions were a law of the Commonwealth. The clause provides that Commonwealth criminal laws apply in relation to an offence against this Act.

In addition, the clause provides that, except as provided by the regulations under the Act, an offence against Territory laws is taken to be an offence against the laws of the Commonwealth and not an offence against the laws of the Northern Territory.

Clause 13 Functions and powers conferred on Commonwealth officers and authorities

relating to offences

This clause provides that a function or power in relation to an offence against the Commonwealth water efficiency laws conferred on a Commonwealth officer or authority by Commonwealth criminal laws is conferred on the officer or authority in relation to an offence against the corresponding provision of the applied provisions.

Clause 14 No double jeopardy for offences against applied provisions

This clause provides that a person is not liable to be punished for an offence under the applied provisions if the person has been punished for the same offence under the Commonwealth water efficiency laws.

Part 5 Administrative laws

Clause 15 Application of Commonwealth administrative laws to applied provisions

This clause applies the Commonwealth administrative laws (which are defined in clause 4) as laws of the Northern Territory to any matter arising in relation to the applied provisions, except as provided by the regulations under the Act. The clause further provides that a matter arising in relation to the applied provisions is taken to be a matter arising in relation to the laws of the Commonwealth.

In addition, the clause provides that any provision of a Commonwealth administrative law applying because of this clause that purports to confer jurisdiction on a federal court is taken not to have that effect. This is consistent with the High Court decision in *Wakim's case (Re Wakim; Ex parte McNally)* (1999) 198 CLR 511) that a State law cannot confer jurisdiction on the Federal Court.

Clause 16 Functions and powers conferred on Commonwealth officers and authorities

This clause provides that a function or power conferred on a Commonwealth officer or authority by a Commonwealth administrative law applying because of clause 15 is also conferred on the officer or authority in relation to a matter arising in relation to the Commonwealth water efficiency laws.

Part 6 Miscellaneous matters

Clause 17 Things done for multiple purposes

This clause provides that a license, certificate or other instrument issued by the Northern Territory does not rely on the Commonwealth laws for its powers. It ensures that the validity of an act, licence, certificate or other thing is not affected only because it was issued, given or done also for the purpose of the Commonwealth laws.

Clause 18 Reference in Commonwealth law to a provision of another law

This clause provides that relevant supporting legislation also applies as a law of the Northern Territory by virtue of its reference in a law of this Territory.

Clause 19 Fees and other money

This clause requires all monies payable under the Act and the applied provisions are to be paid to the Commonwealth. This is in accordance with the Water Efficiency Labelling and Standards Intergovernmental Agreement.

Clause 20 Regulations of Territory

This clause provides the Administrator with the power to make regulations to assist, or provide direction in, the operation of this legislation.

Part 7 Repeal and Transitional matters

Clause 21 Act repealed

This clause repeals the *Water Efficiency Labelling and Standards Act 2006* (Act No 30 of 2006).

Clause 22 Transitional matters for *Water Efficiency Labelling and Standards (National Uniform Legislation) Act 2014*

This formal clause ensures that anything that was in effect under the repealed Act continues in to be in effect under the new Act.