

Water Efficiency Labelling and Standards Bill 2013

Clause Notes

Part 1 – Preliminary	
Clause 1	<p>Short title</p> <p>This clause specifies the title of the Act.</p>
Clause 2	<p>Commencement</p> <p>The Act commences upon Royal Assent.</p>
Clause 3	<p>Object of Act</p> <p>Clause 3 outlines the objectives of the Act, namely to provide the State with nationally consistent legislation for the regulation of water efficiency labelling and standards.</p>
Clause 4	<p>Interpretation</p> <p>This clause provides the definitions for key terms and phrases used throughout the legislation.</p>
Clause 5	<p>Act to bind the Crown</p> <p>This clause provides that the Act binds the Crown.</p>
Part 2 – The Applied Provisions	
Clause 6	<p>Application of Commonwealth water efficiency laws to this State</p> <p>Clause 6 adopts the Commonwealth water efficiency laws as a law of this State.</p> <p>The Commonwealth water efficiency laws are the <i>Water Efficiency Labelling and Standards Act 2005</i>, the <i>Water Efficiency Labelling and Standards Regulations 2005</i> and any other legislative instrument in force under the Commonwealth Act.</p>
Clause 7	<p>Modification of Commonwealth water efficiency laws</p> <p>This clause provides that regulations made under the State Act may modify the Commonwealth water efficiency laws as they apply as a law of Tasmania. 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.</p>
Clause 8	<p>Interpretation of Commonwealth water efficiency laws</p> <p>This clause provides that the Commonwealth <i>Acts Interpretation Act 1901</i> applies to this Act, as if the State Act were a Commonwealth Act.</p> <p>In addition, the clause provides that the <i>Acts Interpretation Act 1931</i> of Tasmania does not apply to the Commonwealth Act.</p>
Part 3 – Functions and Powers Under Applied Provision	

<p>Clause 9</p>	<p>Functions and powers of Commonwealth Regulator and other authorities and officers</p> <p>This clause provides that the WELS Regulator appointed under the Commonwealth <i>Water Efficiency Labelling and Standards Act 2005</i> (the Commonwealth Regulator) has the same functions and powers under the State 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 State laws as they have under the Commonwealth water efficiency laws.</p>
<p>Clause 10</p>	<p>Delegations by the Commonwealth Regulator</p> <p>This clause provides that any delegation by the Commonwealth Regulator under the Commonwealth <i>Water Efficiency Labelling and Standards Act 2005</i> is taken to also be a delegation for the purposes of the corresponding provision of the State laws.</p>
<p>Part 4 – Offences</p> <p>This Part ensures the Commonwealth can undertake enforcement actions consistently across the two jurisdictions, and that no State resources are required for enforcement actions.</p>	
<p>Clause 11</p>	<p>Objectives of this Part</p> <p>Clause 11 states that the object of Part 4 of the proposed Act is to further the Act's objective by providing that an offence against State laws is to be treated as if it were an offence against a law of the Commonwealth.</p> <p>In addition, the clause gives examples of the purposes for which an offence is to be so treated.</p>
<p>Clause 12</p>	<p>Application of Commonwealth criminal laws to offences against applied provisions</p> <p>Clause 12 applies the relevant Commonwealth laws as laws of Tasmania 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.</p> <p>In addition, the clause provides that, except as provided by the regulations under the proposed Act, an offence against State laws is taken to be an offence against the laws of the Commonwealth and not an offence against the laws of Tasmania.</p>
<p>Clause 13</p>	<p>Functions and powers conferred on Commonwealth officers and authorities relating to offences</p> <p>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.</p>
<p>Clause 14</p>	<p>No double jeopardy for offences against applied provisions</p>

	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 – Administration Laws	
Clause 15	<p>Application of Commonwealth Administrative Laws to Applied Provisions</p> <p>Clause 15 applies the Commonwealth administrative laws (which are defined in clause 4) as laws of Tasmania to any matter arising in relation to the applied provisions, except as provided by the regulations under the proposed 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.</p> <p>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 (<i>Re Wakim; Ex parte McNally</i> (1999) 198 CLR 511) that a State law cannot confer jurisdiction on the Federal Court.</p>
Clause 16	<p>Functions and powers conferred on Commonwealth officers and authorities</p> <p>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 applied provisions.</p>
Part 6 - Miscellaneous	
Clause 17	<p>Things done for multiple purposes</p> <p>This clause provides that a Tasmanian license, certificate or other instrument does not rely on the Commonwealth laws for its powers.</p>
Clause 18	<p>Reference in Commonwealth law to a provision of another law</p> <p>This clause provides that relevant supporting legislation also applies as a law of Tasmania, by virtue of its reference in a law of this State.</p>
Clause 19	<p>Fees and other monies</p> <p>This clause requires all monies payable under the Act and the applied provisions are to be paid to the Commonwealth.</p>
Clause 20	<p>Regulations</p> <p>This clause provides the Governor with the power to make regulations to assist, or provide direction in, the operation of this legislation.</p>
Clause 21	<p>Administration of Act</p> <p>Clause 21 defines that the Minister for Primary Industries and Water and the Department of Primary Industries, Parks, Water and Environment are responsible for the administration of this Act.</p>

Clause 22	Legislation repealed This clause provides that legislation listed in Schedule 1 is to be repealed when the Act comes into force.
Clause 23	Legislation revoked This clause provides that legislation listed in Schedule 2 is to be revoked when this Act comes into force.
Schedule 1	Legislation repealed This schedule lists that the previous WELS legislation, the <i>Water Efficiency Labelling and Standards Act 2005</i> is to be repealed and replaced with the current Act.
Schedule 2	Legislation revoked This schedule lists that the proclamation for the previous WELS legislation, is to be revoked.