



Australian Government

WATER  
RATING

# Compliance and Enforcement Consultation

## Summary of submissions

Water Efficiency Labelling and Standards Regulator

December 2017

The Water Efficiency Labelling and Standards (WELS) scheme is an Australian Government initiative in partnership with state and territory governments.



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Water Efficiency Labelling and Standards Regulator  
Water Efficiency Labelling and Standards Scheme  
Department of Agriculture and Water Resources  
Postal address GPO Box 858 Canberra ACT 2601  
Telephone 1800 372 746 (local calls) +61 2 6272 5232 (international)  
Email [welscompliance@agriculture.gov.au](mailto:welscompliance@agriculture.gov.au)  
Web [agriculture.gov.au](http://agriculture.gov.au)

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# Introduction

The Water Efficiency Labelling and Standards (WELS) scheme provides water efficiency information about water-saving and water-using products to consumers, enabling them to make informed choices in the purchase of these products. The WELS scheme helps businesses and consumers to make decisions that reduce household water use and save money on water and energy bills. Ensuring all regulated products are correctly registered and labelled is vital to maintaining consumer confidence in the credibility and reliability of the WELS scheme.

Additionally, product registration fees are set so as to recover 80% of the scheme costs, so compliance is important in ensuring a level playing field across all industry participants. Compliant businesses should not be at a cost disadvantage compared to non-compliant businesses.

Although broad compliance has been achieved across industry, continued compliance and enforcement activity is important for the integrity of the WELS scheme and to ensure industry expectations are met. As part of an approach to develop a WELS compliance and enforcement strategy for 2018 to 2020, the WELS Regulator consulted with industry to identify the areas where it considered compliance and enforcement effort will achieve the greatest scheme benefit. The strategy is intended guide and focus our compliance and enforcement activity from 2018 to 2020.

Industry was asked to provide their views on:

- the level and breadth of compliance with the requirements of the WELS Act (Question 9)
- existing risks of non-compliance to the WELS scheme (Question 10)
- emerging or potential future risks to the WELS scheme (Question 11)
- other relevant information or comments (Question 12).

A copy of the cover sheet for submissions is available from the Water Rating website. Note that this summary focuses on the responses to questions 9–12. Questions 1–4 related to the details of the person or organisation making the submission, with responses summarised in Table 1. Questions 5–8 related to privacy matters and the type of submission.

**Table 1 Organisations that provided submissions**

Organisation	Type of organisation
Enware Australia Pty Limited	Australian business manufacturing, importing and supplying plumbing products
Plumbing Products Industry Group Inc	Peak industry body for the plumbing products industry
Vacuum Toilets Australia	Importer and supplier of plumbing products
Australian Small Business and Family Enterprise Ombudsman	Government or government agency
PROVE Standards & Engineering Pty Ltd	Test Laboratory
Master Plumbers Australia	Peak industry body for the plumbing industry
NSW Fair Trading	Government or government agency
Office of the Technical Regulator	Government or government agency involved in plumbing regulation
Consumer Electronics Suppliers Association	Peak industry body for the white goods industry
Housing Industry Australia	Peak industry body for building professionals
Confidential	Australian business supplying plumbing products
Confidential	Australian business manufacturing, importing and supplying plumbing products
Confidential	Australian business importing and supplying plumbing products

# Summary of submissions

## Overall

Most respondents (9) thought that compliance was high, particularly for larger businesses. Eleven respondents identified at least one aspect of internet sales as a significant area of risk. A subset of this related to builders sourcing products directly from overseas (7 respondents) and the emerging building trend of installing prefabricated bathroom pods (3 respondents).

Most respondents (10) identified changes to the supply chain as an emerging risk, and noted concerns relating to a lack of knowledge of Australian legislative requirements, or unwillingness to comply with these requirements, by overseas suppliers (7 submissions).

Other important issues raised were:

- a need for good cooperation across different regulators and jurisdictions, including the different requirements of the Plumbing Code of Australia, WaterMark and WELS
- the costs associated with compliance, particularly for small businesses
- the risks of product substitution and the benefits of check testing to verify performance claims.

The benefits of WELS legislation applying at the point of sale was also raised by four respondents, likely because of recent discussions about whether WaterMark certification should be required at the point of sale in future.

## Responses to Question 9—Provide your views on the level and breadth of compliance with the requirements of the WELS Act

Nine submissions stated that compliance was high for larger business and seven of these specified that larger suppliers of plumbing products, and/or suppliers of white goods, have high rates of compliance.

A number of submissions noted areas of concern. These were:

- Compliance monitoring in the domestic and DIY market (1 submission)
- Small overseas manufactures and importers (1 submission)
- Potential for false performance claims (1 submission)
- Online businesses and Point of Sale (POS) information (1 submission)
- Changing supply chain (1 submission)
- Effective communication is required between regulators (Commonwealth, State and Territories) (2 submissions).

Two submissions either did not provide a comment or did not have a view.

## Responses to Question 10—Provide your views on existing risks of non-compliance to the WELS scheme

Key areas of risk identified in submissions were:

- Builders sourcing products directly from overseas (changes to traditional supply chain) (5 submissions)
- Prefabricated modules or pods (3 submissions)
- Online trading in general (5 submissions)
- The role of the plumber and the installation of compliant WELS products (2 submissions)
- Costs associated with compliance (3 submissions)
- ‘Do-it-yourself’ and smaller businesses (3 submissions)
- Check testing required to ensure validity of WELS information (1 submission)
- Risks outside the scope of the scheme (2 submissions)

Seven respondents highlighted the existing risk of changes in the supply chain due to the internet enabling consumers, builders and/or developers to buy directly from manufacturers. These respondents made the following points:

- Three respondents referred to issues regarding prefabricated bathroom modules or bathroom pods. Each WELS product in these pods should be tested, registered and labelled but in many cases the products are non-compliant.
- Five respondents suggested a stronger enforcement position with respect to online sellers, noting new players are constantly entering the market. Of these:
  - Some noted that online sellers may not have a physical store which adds complexity to enforcement activities
  - One suggested more education for online sellers, with information distributed through multiple mediums to reach all players
  - Three recognised that WELS has progressed in addressing this avenue of non-compliance but there is more to be done.
- Two respondents highlighted the implications for plumbers who are asked to install non-compliant products usually purchased online by consumers, developers or builders. When these products are found to have no WaterMark certification they cannot be legally installed by the plumber. This puts plumbers in a difficult situation. While this issue relates more to WaterMark, there is also confusion amongst plumbers regarding their responsibilities under WELS legislation.
- Three respondents stated that costs associated with WELS affect consumer decisions when regulated products are purchased. They believe that if WELS compliance increases the cost of a product then consumers will purchase online where participants in the supply chain avoid complying with legislation.

Small businesses were raised as having a higher compliance risk (2 respondents). The cost of compliance for small businesses was also raised, noting that the scale of the impact on the scheme should be considered before enforcement action is taken.

Another submission stated that false performance claims made on products were a risk and suggested introducing check testing to confirm the validity of information on products.

Two respondents mentioned risks which are outside of the scope of the scheme. WaterMark Certification applied at point of sale would improve compliance with WELS. 'Conforming Assessment Body (CAB) shopping' was mentioned as an opportunity for manufactures to find an accredited WaterMark CAB willing to certify products based on minimal testing.

## **Responses to Question 11—Provide your views on emerging or potential future risks to the WELS scheme**

Ten submissions stated that the online marketplace has changed the traditional supply chain in Australia. In particular, builders are now sourcing products directly from many overseas suppliers rather than from fewer and limited local suppliers.

A number of submissions noted concerns resulting from these changes to the supply chain. These were:

- Avoidance or lack of knowledge of Australian legislative requirements by overseas suppliers (7 submissions)
- Substitution of non-compliant products with visually similar registered products (1 submission)
- The emergence of Pod manufacturing (4 submissions). Pods are prefabricated bathroom, toilet and kitchen modules and are also sourced directly from online sellers. Therefore, developers/builders are no longer supplying many single regulated products but a single module or Pod containing multiple regulated products
- Small mobile entrepreneurs who import directly and sell from 'pop up' shops (1 submission)
- If inspections focus on retail showrooms alone, they will not pick up builders who directly import and then install non-compliant products.

Additional concerns identified in submissions were:

- Ability of regulators to investigate non-compliance is limited (2 submission)
- Increasing compliance costs become a disincentive (3 submissions)
- Point of Sale (POS) regulation could be used more effectively (3 submissions)
- Water efficiency of products may not be a concern for consumers relative to other decision factors (2 submissions)
- Inconsistencies in requirements for product registration (1 submission)
- Challenges in understanding and applying the legislation (1 submission)
- The ease of counterfeiting WELS labels (1 submission)



- A need to update some underpinning standards to increase consistency of performance ratings (1 submission).

Not all submissions provided a response to this question.

## **Responses to Question 12—Provide other relevant information or comments**

Ten respondents provided additional information or comments. Points raised were:

- WELS has been successful in reducing water consumption due to high consumer recognition of the WELS label and strong industry collaboration.
- Point of sale legislation has been critical to the long term success of the scheme and its expansion to WaterMark would ensure products meet standards and are fit for purpose prior to sale.
- Education is critical, especially for plumbers.
- Overseas companies selling directly to builders and shop owners in Australia do not see the need to comply with WELS or WaterMark and this is a threat to the scheme.
- Market intelligence is crucial and building and plumbing approvals can help identify areas of housing growth and where home renovations are popular.
- Compliance and enforcement should use a risk based approach.
- A structured product check testing program would deter manufacturers from interchanging products or components.
- Interactions between the Plumbing Code of Australia, WaterMark and WELS requirements are confusing for the plumbing and building industry and their clients. This would be assisted by better interactions and common terms across legislation; the use of new mediums such as infographics and videos for presenting information; and a coordinated approach to education.

Standards underpinning WELS should be updated to keep abreast of advances in technology and ensure consistent product testing.