GREENHOUSE AND ENERGY MINIMUM STANDARDS REGULATOR:

*GEMS Fee Review*

*Supplementary Paper*

**2017**

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## 1.0 Introduction

The Department of the Environment and Energy (the Department) is currently undertaking a review of the fees associated with the delivery of registration and compliance services under the *Greenhouse and Minimum Standards Act 2012* (GEMS Act). This supplementary paper responds to issues raised by stakeholders after consideration of the GEMS Fee Review 2016-2017 consultation paper and should be read in conjunction with that paper.

The Australian Government’s approval for the program in 2012 was on the basis of full recovery of the costs of the registration service, and phased-in cost recovery of the compliance monitoring and enforcement activities, with the clear expectation that it would move over time to full cost recovery. The Government has not shifted from this policy position. As there has been no increase to fees since the inception of the program in 2012, it is timely to provide a way forward for the program to be fully cost recovered by 2020-2021.

## 1.1 Stakeholder Feedback

On 13 February 2017, the Department invited stakeholders to comment on the proposed recommendations in the GEMS Fee Review 2016-2017 consultation paper. Ten submissions were received. Stakeholders included industry associations and manufacturers.

In general, stakeholders considered that full cost recovery for GEMS was contingent on improved transparency and cost effectiveness. Some stakeholders commented that the proposed increase in the fees would have detrimental impacts on industry. Several stakeholders noted improving efficiency and reducing costs was critically important to reduce any potential fee increase.

Industry stakeholders wanted to ensure any cross-subsidisation across GEMS products was minimised - i.e. some products’ check testing activity and costs were greater compared to other products with higher fees. Some suggested the number of fee bands be increased and that each product category has its own fees.

## 1.2 Approach taken

Following comments from stakeholders, it was agreed that an additional paper be developed to look more closely at the costs of the registration and compliance activities, including efficiency gains.

As part of the development of the supplementary paper, the Department has carried out the following activities:

* a detailed time allocation survey and analysis of GEMS staff to clearly distinguish time spent on cost-recoverable and non-cost recoverable activities
* analysis of check-testing costs to ensure they are accurate and reflective of the current check-testing practices
* re-visiting the fee band allocation to reduce any significant cross-subsidisation
* recognition of increasing efficiencies in staffing allocation
* clearly explain the key registration and compliance activities.

## 1.3 What activities are cost-recoverable?

The *Greenhouse and Energy Minimum Standards (Registration Fees) Act 2012* sets out what matters can be considered by the GEMS Regulator when setting registration fees – essentially the activities which costs can be recovered.

These are the cost of:

1. processing registration applications
2. compliance monitoring (including testing) in relation to models of GEMS products, for the purposes of the *GEMS Act*.

Non-cost recoverable activities such as reporting functions, new determination development, communications, and planning and resource management have not been included in the calculations.

##  2.0 The Fee Model

The fee payable at registration is valid for five years and has two main components.

1. Registration and compliance activities and management. These include:

* registration database hosting and maintenance
* enhancements to the registration database
* technical assessments of registrations, variations and renewals by departmental staff and state-based service providers
* responding to registration enquiries through the customer relationship management system
* managing exemption requests
* development of guidance notes and other documentation to assist registrants
* engagement and education
* market surveillance such as site visits to ensure products are labelled appropriately
* management of check testing processes including engagement of the laboratory services
* review and analysis check test results.

2. Check testing costs:

* the purchase of the product
* laboratory check test fee.

The Department engages with external providers to assist it to deliver a number of services. These include the hosting and maintenance of the registration database and the technical assessment of approximately two thirds of the registrations by the Victorian and Queensland governments under a service provider contract.

The current fee schedule is set out in Attachment A.

## 2.1 Determining costs of the registration and compliance activities

Following the first round of consultation stakeholders requested the GEMS Regulator articulate how GEMS costs were determined. To provide greater accuracy in measuring staff costs, over a period of eight weeks, staff in the compliance and service delivery teams undertook a detailed time allocation survey. This survey clearly delineated staff time on GEMS cost recoverable activities and other activities that they undertook.

The survey resulted in a change to the staffing costs for GEMS registration and compliance from $1,926,858 to $1,416,226 in 2016-17. The new costs have been fed into the revised model.

The average base cost for registration and compliance activities (excluding check test costs) is $539, this includes $375 for registration related services and $164 for compliance activities. The proposed fee band that a GEMS product falls under is dependent on its check testing costs which are different for each product.

***Registration Activities and Outputs***

The process for registration follows a high level process shown in Attachment B. The outputs delivered are:

1. assessment of GEMS registrations
2. assessment of GEMS renewals
3. processing of GEMS variations
4. processing applications for exemption from GEMS requirements
5. responding to enquiries of varying complexity
6. development and updates to GEMS documentation for external and internal use
7. management of the support and hosting of the GEMS registration database
8. management of enhancements to the registration database to improve the database and incorporate new products and/or new determinations
9. management of the registration assessment services.

In 2016-2017, 5,780 registrations were assessed and 998 enquiries were received and resolved. There are currently 6.17 Commonwealth full- time equivalent staff associated with these activities.

***Streamlining registration processes and improving efficiency***

During consultation stakeholders commented on the need to improve efficiencies to reduce red tape and registration costs. The GEMS Regulator looks to continuously improve the service provided to registrants and to further streamline the management of registrations and enquiries.

Improvements to date in the registration system and supporting documentation have seen a reduction in the number of enquiries received from 1,186 in 2015-2016 to 998 in 2016-2017 while the number of registrations increase.

There has been a reduction in the average time to process an application from 4.5 days in
2015-2016 to 3.8 days in 2016-2017. To date, in 2017-2018 the average processing time is 1.5 days.

Recent improvements to the registration process include:

* improvement in enquiry response times. Registration and general enquiries are responded to on the same or the next business day.
* Registration forms now auto fill information using the applicant ID information
* User guide help pages now appear where you need them
* removal of non-mandatory information in the motors registration pages and progressing this across other GEMS product.
* Registration suppliers’ pages, compliance pages, supplier user guides and legislation pages are translated into Mandarin to assist our overseas stakeholder base.
* The registration database now abides by the web content accessibility guidelines (WCAG). This involved a range of usability and accessibility changes to enable greater access to the site content, particularly for people with disabilities.
* PDF forms of the registration pages are available so registrants know what information they require upfront to reduce online application times.
* Enquiry and contact forms improved to assist registrants provide the right information first time to avoid follow-up if not necessary.
* AMEX and low surcharge debit cards introduced as card payment options.

The registration system feeds data into the Energy Rating Calculator and app, via data.gov.au that allows consumers the opportunity to compare products and energy consumption at point of purchase. Work on the calculator and app is not cost-recoverable.

The registration system is also used for managing and monitoring compliance records and information.

## 2.2 Compliance activities and outputs

The GEMS Regulator uses an intelligence led, risk based, approach to make strategic decisions about the allocation of resources to maximise voluntary compliance and deal appropriately with contraventions under the GEMS Act.

Compliance activities include:

* engagement with, and education of, regulated entities
* monitoring compliance
	+ check testing for minimum energy performance standards (MEPS)
	+ market surveillance for registration and labelling requirements
* investigating non-compliance
* responding to non-compliance.

Check testing all GEMS products in a given year is neither possible nor practical due to the nature and cost of the work involved in planning, selecting models, procuring test laboratories, processing test results, and responding to non-compliance in a fair, transparent, and equitable manner with limited resources. Rather, GEMS products are selected for check testing using criteria outlined in the “GEMS Check Testing Selection Criteria” which notes:

* GEMS products with a check test history of non-compliance may be prioritised over products with a history of compliance
* GEMS products that consume more energy and produce more greenhouse gas than other products may be prioritised for check testing.

Whilst the selection of GEMS products is intelligence led and risk based, the GEMS Regulator aims to ensure all products are check tested over a given period.

In 2016-2017 the GEMS Compliance undertook market surveillance on 3,929 products and check tests on 86 models of products.

There are the equivalent of 3.73 full-time equivalent staff associated with managing these processes.

## 2.3 Revenue and Cost of Activities

Table 1 below includes all revenue for new registrations, renewals and variations.

***Table 1: Revenue***

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **ACTUAL** | **2012-2013** | **2013-2014** | **2014-2015** | **2015-2016** | **2016-17** |
| Registrations | 3024 | 5,390 | 4,658 | 5,151 | 5,780 |
| Total revenue | $1,230,974 | $2,424,399 | $2,194,800 | $2,347,609 | $2,324,995 |

Table 2 below outlines the compliance and registration costs since 2012.

***Table 2: Summary of Costs – Actual***

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **GEMS Activities**  | **2012-13**[[1]](#footnote-1) | **2013-14** | **2014-15** | **2015-16** | **2016-17** |
|  | $’000 | $’000 | $’000 | $’000 | $’000 |
| Compliance non-staff costs | 644 | 499 | 557 | 609 | 828 |
| Compliance staff costs  | 221 | 380 | 426 | 506 | 555 |
| **Sub-total $** | **865** | **879** | **983** | **1,115** | **1,383** |
| Registration non-staff costs | 1,427 | 1,586 | 1,414 | 1,446 | 1,205 |
| Registration staff  costs  | 1,115 | 1,317 | 1,242 | 1,049 | 834 |
| **Sub-total $**  | **2,542** | **2,903** | **2,656** | **2,495** | **2039** |
| GEMS Regulator  | 25 | 25 | 26 | 26 | 27 |
| **Total $** | **3,432** | **3,807** | **3,665** | **3,636** | **3,449** |

Table 3 below outlines the cost estimates for the 2017-18 period.

***Table 3: Cost breakdown estimates for the 2017-18***

|  |  |  |  |
| --- | --- | --- | --- |
|  | Direct costs | Indirect costs  | Capital costs |
| Registration  |  |  |  |
| Staff costs  | $684,272 | $166,611 |  |
| Non-staff costs  | $1,280,734 |  |  |
| Compliance  |  |  |  |
| Staff costs  | $575,606 | $127,726 |  |
| Non-staff costs  | $907,740 |  |  |
| Regulator  | $24,655 | $2,700 |  |
| TOTAL | **$3,473,007** | **$297,037** |  |

## 3.0 Design of Cost Recovery Charges

In 2012, the registration fee for each GEMS product was calculated using historical trends, the number of estimated registrations, registration costs, and compliance monitoring costs. There has been no increase to fees since inception of the program in 2012. The current fee bands for regulated products are at Attachment A.

The *GEMS Fee Review 2016-17* found the original registration fee for some GEMS products no longer reflected actual costs and there was cross-subsidisation occurring across products.

To correct this, we proposed to move some GEMS products into different fee bands based on the check testing costs for each product and check test activity based on an intelligence led, risk based check testing program. The current model is maintained using the revised figures following completion of the time allocation survey and an annualised check test cost for each product. The annualised check test cost is determined by using the average number of check tests for each GEMS product divided by the average annual number of registrations

Each year, the GEMS Regulator publishes a GEMS Compliance Monitoring Program which outlines the compliance monitoring focus for the coming year and identifies the GEMS products the GEMS Regulator intends to check test. GEMS products and models of GEMS products are selected using the GEMS Check Testing Selection Criteria and consideration of previous check testing activities and outcomes.

The numbers of check tests able to be completed in a given year are dependent upon many factors including the:

* availability of GEMS product models in the market
* availability of suitable check test laboratories
* ability of check test laboratories to fit the anticipated number of check tests into their schedule
* ability of check test laboratories to complete the anticipated number of check tests in a given financial year

Annual GEMS Compliance Monitoring Programs and the results of check tests finalised in previous years are published by the GEMS Regulator on [www.energyrating.gov.au](http://www.energyrating.gov.au).

Due to the intelligence led, risk-based approach it is not practical to outline proposed check-resting activity by the number of models in future years.

## 3.1 New fee schedule

As GEMS registration and compliance activities move to full cost recovery fees will need to increase, as current fees only cover around 67 percent of the cost of GEMS. To limit any cross-subsidisation across products some products will move to a different fee band.

Some industry stakeholders raised concerns that the current set of four fee bands was too narrow and considered that individual fees for each product type would be more cost-reflective. Individual fees are more administratively complex and may lead to higher overall fees.

Table 5 below outlines the cost of check testing borne by each GEMS product registration. It is this amount in addition to base registration and compliance cost that is used to determine the fee band per product. The coloured boxes outline the fee band groupings.

***Table 5: Average check test cost per GEMS product registration***



🞏 Band 1 🞏 Band 2

 🞏 Band 3 🞏 Band 4

The new fee schedule (table 6) impacts differently on each GEMS product. The aim is to have each fee band be cost-reflective of the cost of the registration and compliance activities for each product. Table 7 outlines fees by GEMS product.

While some products have a check-test cost and base cost that is greater than the maximum $890 registration fee. We are cognisant that an extremely high fee may have an adverse effect on achievement of the policy objectives and may result a reduction in registrations as product suppliers choose to risk non-compliance rather than pay a high fee. The fees for these products have been capped at $890 in 2018-19. These products have a relatively low number of registrations so the overall impact on cost recovery is minor.

***Table 6: Proposed new fees***

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Fee** | **2017-18** | **2018-19** | **2019-20** | **2020-21****(3% increase)** |
| Band 1 ($) | 440 | 530 | 530 | 546 |
| Band 2 ($) | 540 | 670 | 670 | 690 |
| Band 3 ($) | 670 | 790 | 790 | 814 |
| Band 4 ($) | 780 | 890 | 890 | 917 |

***Table 7: Changes in Fees by Product***

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Product Type**  | **current fee band** | **current fee** | **new fee band** | **new fee**  |
| Close Control Air Conditioners | 4 | $780 | 4 | $890 |
| Electric Water Heaters | 2 | $540 | 4 | $890 |
| Clothes Dryers | 1 | $440 | 4 | $890 |
| Gas Water Heaters | 3 | $670 | 4 | $890 |
|  |  |  |  |  |
| Chillers | 4 | $780 | 3 | $790 |
| Dishwashers | 1 | $440 | 3 | $790 |
| Air conditioners  | 3 | $670 | 3 | $790 |
|  |  |  |  |  |
| Refrigerators and Freezers  | 3 | $670 | 2 | $670 |
| Electric Motors | 3 | $670 | 2 | $670 |
| Clothes Washers | 1 | $440 | 2 | $670 |
| All lighting products (5) | 1 | $440 | 2 | $670 |
| Refrigerated Display Cabinets | 4 | $780 | 2 | $670 |
| Set-top Boxes | 1 | $440 | 2 | $670 |
|  |  |  |  |  |
| Computers | 1 | $440 | 1 | $530 |
| Computer Monitors | 1 | $440 | 1 | $530 |
| Televisions | 1 | $440 | 1 | $530 |
| External Power Supplies | 1 | $440 | 1 | $530 |
| Distribution Transformers | 4 | $780 | 1 | $530 |

## 3.2 Modelled GEMS revenue and cost recovery

Under the proposed new fee structure GEMS will be fully cost-recovered by 2020-2021. Efficiencies in service delivery will lead to a reduction in full-time equivalent staff from 6.17 in 2017-2018 to 4.48 in 2020-21. Current compliance staffing levels are maintained.

Table 8 below contains the forward estimates.

***Table 8: Estimates into future years***

|  |
| --- |
| **GEMS revenue and costs** |
| **Year** | **2016-17 (actual)** | **2017-18 (projected)** | **2018-19 (projected)** | **2019-20 (projected)** | **2020-21 (projected)** |
| **Total Fee Revenue $**  | $2,324,995 | $2,588,660 | $3,046,910 | $3,385,960 | $3,740,218 |
| **Total Costs $** | $3,449,439 | $3,670,045 | $3,701,669 | $3,478,990 | $3,744,738 |
| **Cost Recovery rate %** | 67.4 | 70.5 | 82.3 | 97.3 | 99.9 |
| **Registrations**  | 5780 | 6453 | 4921 | 5516 | 5912  |

## 3.3 Future regulated products

There are a number of new products that may be regulated in forthcoming years. In 2016-2017 consultation regulatory impact statements were released for lighting products, swimming pool pumps, commercial refrigerated cabinets, household refrigerators and freezers and non-domestic fans. If new regulations are approved by the Council of Australian Governments (COAG) Energy Ministers it is likely that there will be a significant increase in the number of products regulated. If this is the case, fees will be reviewed to ensure they align appropriately with the costs of delivering registration and compliance services. Fees and fee bands for new products will be determined as part of the determination process.

The inclusion of new products may lead to further efficiencies due to economies of scale. The impact of any further efficiency gains will be incorporated in later fee reviews once the products have been regulated.

## 3.4. CRIS Process and Ongoing Engagement

Under the Australian Governments Cost Recover Guidelines and Charging Framework the GEMS Regulator is required to publish and monitor a Cost Recovery Implementation Statement (CRIS).

The CRIS process will ensure close monitoring of the rate of cost recovery going forward, provide industry with transparency and allow consideration of efficiency gains as we move towards full cost recovery. The CRIS is made public at the commencement of every budget year and forward estimates period. Depending on approval of the CRIS, it is expected the new fee structure and fee bands will commence on 1 July 2018.

The CRIS will be updated to reflect the decision of COAG on new products once final decisions have been made. This is expected within the next 18 months.

The GEMS Regulator will continue to pursue efficiencies, engaging with and reporting to industry on a regular basis.

## 3.5 Stakeholder engagement and response

Stakeholders are invited to submit any responses to this supplementary paper to energyrating@environment.gov.au by Friday 2 February 2018.

## Attachment A: Current Fee Structure

Current Fee structure

|  |  |
| --- | --- |
| **Activity**  | **Fee** |
| Registration  | $440-$780 (dependent on product check test costs)  |
| Variation  | $250 |
| Renewal  | $440-$780 (registration fee) |
| Exemption | No application fee – products still required to register and pay the appropriate fee.  |

Current fee bands

|  |  |
| --- | --- |
| Band 1 $440 | All types of Lighting Products (5)Clothes WashersDishwashersClothes DryersComputers Computer MonitorsTelevisionsSet Top BoxesExternal Power Supplies |
| Band 2 $540 | Electric Water Heaters |
| Band 3 $670 | Air Conditioners & Heat PumpsRefrigeratorsGas Water HeatersElectric Motors |
| Band 4 $780 | Commercial Refrigerators/Display CabinetsChiller TowersDistribution TransformersClose Control Air Conditioners |

## Attachment B: GEMS registration process map

Makes Payment through Portal

Applicant prints registration certificate and is able to use the Energy Rating Label (if applicable)

Applicant selects appliance type, completes application and submits

Create Applicant ID

Application is submitted and assigned for assessment

Technical Assessment Officer (TAO) assesses application

Application meets GEMS scheme requirements?

Enough information to make decision?

Delegate accepts recommendation & changes status to **Refused**

TAO recommends to refuse

Delegate rejects recommendation & returns application to TAO for reassessment

GEMS Delegate approves assessment?

Delegate approves registration and System Generated Email (SGE) is sent to applicant

TAO recommends approval

Request to Applicant for additional information and corrections via Notes/History Tab

Yes

No

No

No

Yes

Yes

1. Note: GEMS formally began in October 2012. Figures are for only part of the year. [↑](#footnote-ref-1)