



Australian Government
Department of the Environment and Energy

Greenhouse and Energy
Minimum Standards Regulator



GEMS Fees Review 2016-17 Consultation

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1.0 Executive Summary

On 1 October 2012 the *Greenhouse and Energy Minimum Standards (GEMS) Act 2012* came into effect, creating a national framework for appliance energy efficiency in Australia. The GEMS Act is the underpinning legislation for the Equipment Energy Efficiency program. The GEMS Regulator, based in the Commonwealth Department of the Environment and Energy, replaced previous state regulators and is responsible for administering the legislation in Australia.

Under the GEMS Act, a product that uses energy or affects the amount of energy used by another product, and is in a product class covered by a GEMS determination, is known as a GEMS product. GEMS products can only be supplied or offered for supply, or used for commercial purposes, if they are registered with the GEMS Regulator.

When a model of a GEMS product is registered, registrants are charged a registration fee to recover the costs of providing the registration and compliance monitoring services under the GEMS Act. 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. The Australian Government's policy approval for GEMS included an expectation that registration fees would be reviewed every three years to facilitate a move towards full cost recovery over time. The GEMS Fee Review (the review) fulfils those expectations. The purpose of the review is to:

- compare the actual fee revenue and costs in delivering the scheme to date
- test the model used to establish the registration fees and fee bands and consider whether it is still appropriate and
- determine the appropriate level of cost recovery going forward.

1.1 Cost recovery rate

In 2015-16, the rate of cost recovery was 63 per cent. Fee revenue was \$2,347,609 and costs were \$3,677,164. 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 an expectation that it would move over time to the full recovery. To move to full cost recovery, increases to registration fees will need to be considered. The GEMS registration fees are in the context of sales of GEMS-related products of nearly \$8 billion annually.

1.2 Allocation of products to fee bands

In the current fee model, the allocation of products to specific fee bands is not equitable with some degree of cross-subsidisation occurring across product types. The review is considering the current fee bands and reallocation of products according to the overall registration service and compliance monitoring costs including check testing. The proposed new allocation of products into new fee bands is outlined in Table 6.

1.3 The fee model

In testing the current model, the Regulator considered a fee and levy model in which registrants would pay a five year registration fee and an annual compliance levy. While there could be some benefits, the fee and levy model would be more costly to administer for both government and registrants and would require a legislation change.

The benefits of the current model include having one interaction per product every five years and a process that industry knows and understands.

The Regulator has identified two options for consideration in order to move to full cost recovery by 2020-2021 using the current fee model with a new allocation of products to fee bands. These options are outlined in Section 5.0.

1.4 Greater transparency

The requirement to publish a Cost Recovery Implementation Statement (CRIS) for the GEMS program will ensure close monitoring of the actual rate of cost recovery going forward and improve transparency between the GEMS Regulator and stakeholders.

1.5 Other issues

The fee structure aims to be practical and easy to understand, and minimise volatility. The Regulator proposes to retain the five year registration period. The five year period for registrations attempts to strike a middle ground, balancing flexibility and the need to minimise volatility. Offering American Express (AMEX) as an alternative payment option would be feasible without adding significant costs.

1.6 Proposed recommendations and areas for stakeholder comment

Proposed Recommendations:

1. Increase fees to move towards full cost recovery by 2020-2021.
2. GEMS products are allocated in new product bands according to their registration and compliance monitoring costs including proposed check test activity over a seven year compliance cycle.
3. The current fee model is maintained.
4. Do not impose an administrative charge on applications for an exemption.
5. Add AMEX as an additional payment option and require those registrants using AMEX to pay the relevant surcharge.
6. Retain the standard five year period for all registrations.

Stakeholders are also invited to also comment on:

- the preferred method to reach full cost recovery
- the level of fee increase; and
- the notice period for a fee increase or changes.

2.0 Introduction

2.1 Purpose of the review

This review provides information on how the Department of the Environment and Energy implements cost recovery for the *Greenhouse and Energy Minimum Standards (GEMS) Act 2012* and considers if the current model used to set the registration fees under GEMS remains appropriate. The review will also report on the financial and non-financial performance information for GEMS and contains financial forecasts for 2016-17 and three forward years. Following consultation, a final review document and CRIS will be developed and released publicly. The Department of the Environment and Energy will maintain a CRIS until the activity or cost recovery for the activity has been discontinued.

Consistent with the Australian Government's Cost Recovery Guidelines, there is no scope within this review to consider:

- whether or not the program should operate on a cost recovery basis or
- reducing the level of cost recovery from the current level.

The review also considers the case for longer or shorter registration periods, charging for other processes and alternative payment methods.

The review is being undertaken with reference to the Australian Government Charging Framework, introduced from July 2015 to support government entities to design, implement and review government charging. The framework incorporates the Cost Recovery Guidelines, which continue to apply to regulatory charging activities.

According to the framework, there must be alignment between the expenses of the activity (the costs involved in providing it) and the revenue (the income generated through charges for it). Cost recovery charges should be:

- clear and easy to understand
- closely linked to the specific activity
- set to recover the full efficient costs of the specific activity
- efficient to determine, collect and enforce and
- set to avoid volatility, while still being flexible enough to allow for changes based on fluctuations in demand or costs.

2.2 Description of the regulatory charging activity

2.2.1 Background

The objective of the GEMS Act is to promote the development and adoption of products that use less energy, produce fewer greenhouse gas emissions, or contribute to reducing the amount of energy used, or greenhouse gases produced, by other products.

Under the GEMS Act, a product that uses energy or affects the amount of energy used by another product, and, is in a product class covered by a GEMS determination, is known as a GEMS product. GEMS products can only be supplied or offered for supply, or used for a commercial purpose, if:

- the model of the product is registered under the GEMS Act against the relevant determination
- the product complies with the determination and
- the supply, offer, or use complies with the determination.

2.2.2 Activities that are cost recovered

When a model of a GEMS product is registered, registrants are charged a registration fee to recover the costs of providing the registration and compliance monitoring services under the GEMS Act.

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 whose costs can be recovered. These are the cost of:

- a) processing registration applications
- b) compliance monitoring (including testing) in relation to models of GEMS products, for the purposes of the *Greenhouse and Energy Minimum Standards Act 2012*.

The *GEMS (Registration Fees) Act 2012* Supplementary Explanatory Memorandum provided additional clarification on what fees could be used for:

‘Registration fees may only recover the costs incurred processing applications to register products under the *Greenhouse and Energy Minimum Standards Act 2012*, and costs incurred monitoring compliance with the Act. Costs incurred processing registration applications may include costs such as the staff required to process and approve applications, the costs of establishing and maintaining the registration portal and database for registration applications, the cost of procuring specialist advice to identify whether niche products comply with relevant standards, or the cost of communicating with existing and prospective applicants.

‘Costs incurred in compliance monitoring may include testing products for compliance with relevant standards, training inspectors and conducting store audits or online monitoring to identify whether products comply with standards, and the cost of communicating with persons who are required to comply with the Act.’

No portion of any policy work that is carried out related to GEMS such as labelling design and trademarking, Regulation Impact Statement (RIS) development, retailer training and product consultation with industry, is recovered through registration fees.

2.2.3 Appropriateness of cost recovery and who pays

The program is a national program with Commonwealth legislation supported under an intergovernmental agreement (IGA). The implementation of GEMS created a nationally-consistent framework for regulating equipment energy efficiency, replacing and improving on the previously inconsistent state and territory legislation. Prior to the GEMS Act being introduced, equipment energy efficiency was nationally coordinated with regulations implemented via individual state and territory legislation.

Individual consumers and industry benefit through lower energy costs by the introduction of minimum energy performance standards and mandatory labelling for specified products. As it is difficult to charge the consumer as the primary beneficiary, the costs of complying with the GEMS legislation are charged to the suppliers, importers or manufacturers who may then pass them on to consumers.

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 the full recovery of these costs. There has been no increase to fees since the inception of the program in 2012. It is now timely to provide a way forward for the program to be fully cost-recovered within the forward estimates (2020-2021).

Recommendation 1: Increase fees to move towards full cost recovery by 2020-2021.

3.0 Authority to Cost Recover

3.1 Government policy approval to cost recover the regulatory activity

The *Greenhouse and Energy Minimum Standards (GEMS) Act 2012* and the *Greenhouse and Energy Minimum Standards (Registration Fees) Act 2012* commenced on 1 October 2012.

Policy authority for GEMS was provided for in the 2012-13 Budget, under 'National Greenhouse and Energy Minimum Standards Program – establishment'. The Budget papers outlined that:

‘...the costs of product registration will be fully recovered, while recovery of the costs of compliance monitoring will be phased in from 2012-13, in accordance with the Australian Government Cost Recovery Guidelines. The fees will be reviewed every three years.’

3.2 Statutory authority to charge

The legislation and authority relied on to charge fees and cost recover are:

- the *Greenhouse and Energy Minimum Standards Act 2012 (GEMS Act)*
- the *GEMS (Registration Fees) Act 2012*
- the *GEMS Regulation 2012 (GEMS Regulations)*
- the *GEMS Registration Fees Instrument*
- the *GEMS Variation of a Model's Registration – Application Fees 2014*.

Section 41 of the GEMS Act allows a person to apply to the GEMS Regulator to register models of GEMS products. Section 64(1) of the GEMS Act requires that applications be made in the approved form, and that applications under s41 to register models of GEMS products be accompanied by the relevant fee imposed under the GEMS Registration Fees Act.

4.0 Cost Recovery Model

4.1 Outputs and business processes of the regulatory charging activity

The outputs of the regulatory charging activity are the processing of registration applications and the cost of compliance monitoring including testing.

4.1.1 Registration

The key outputs and business processes for registration are listed below:

- manage over 5000 product registrations per year
- receive and respond to over 1000 enquiries per year
- process registration variations
- process registration renewals
- process applications for exemption.

The GEMS Regulator has several operational targets which are published performance measures:

- Applications for registration are processed within 28 days (Statement of Service).
- Applicants are notified if items remain under consideration after 42 days (GEMS Act).
- Receipt of queries is acknowledged on the same day (Statement of Service).
- Responses to queries are provided within 10 days (Statement of Service).
- Concerns with service or performance are responded to in writing within 28 days (Statement of Service).

4.1.2 Compliance

The key outputs and business processes for registration and compliance are listed below:

- engagement and education
- monitoring compliance
 - check testing - to verify through laboratory testing, whether models of GEMS products meet relevant GEMS-level requirements and the energy efficiency claims of manufacturers and suppliers
 - market surveillance—to ensure GEMS products meet GEMS registration and labelling requirements
- investigating non-compliance
- responding to non-compliance
- reviewing all activities.

In 2015-16, over 2,768 models of GEMS products requiring energy rating labels were surveyed, in addition to specialised and targeted surveys of numerous other GEMS products.

There were 104 models of GEMS products check tested in 2015-16 across a range of product types. Compliance activities are expected to increase in forward years.

4.2 Costs of the regulatory charging activity

The main cost drivers for GEMS arise from the costs related to the delivery of registration services, compliance monitoring and enforcement activities. These include staff and non-staff costs.

Staff costs

Average staffing level costs were derived by conducting an internal assessment of the work across teams. A percentage of each staff member's direct time allocated to the GEMS registration and compliance related activities as outlined in the *GEMS (Registration Fees) Act 2012* and the Supplementary Explanatory Memorandum was obtained. Skills and attributes were determined to ensure staff at the appropriate level were properly accounted for.

4.2.1 Registration

Handling registration-related enquiries, the main cost drivers are:

- the number of enquiries
- the complexity of the enquiries.

Assessment for registrations, liaison, decision making and monitoring, the cost drivers include:

- the number of registration applications, renewals or exemption
- the complexity of the registration
- the type of registration
- the number of individual models that sit within the registration application
- the quality/completeness of the application
- whether the registration is varied, either at application point or throughout the registration period
- whether legal advice is required on the interpretation of the GEMS Act and associated Determinations.

The review has identified the average cost to process an individual registration application is approximately \$420.

Ongoing improvements to internal and external processes such as:

- development and maintenance of guidance notes, standard operating procedures and ongoing enhancements to the registration system
- stakeholder management including mail outs and conducting satisfaction surveys.

Two key activities for GEMS registration are outsourced to service providers.

GEMS Registration System

The GEMS registration system is an IT platform which sits on a subsite of the energyrating.gov.au website. The registration system is used to manage registrations and compliance. The system has been in place since the inception of GEMS in 2012 and houses over 23,000 approved product registrations and 75,000 individual product records. Throughout 2013-2015, extensive IT programming was carried out to ensure compliance with the GEMS Act and to aid the usability for both suppliers and the administration of the program.

In 2016, the Department conducted an open tender for IT support and hosting of the registration system in an effort to get the best value for money solution.

Assessment Services

The Queensland and Victorian governments are contracted to assist the Commonwealth with assessment of applications. With the introduction of GEMS, state and territory governments participating in the Intergovernmental Agreement were invited to provide registration services under the Act, including processing and approval of applications for registration, to leverage the experience their staff had built up under their jurisdictions' schemes. The Commonwealth processes motor applications, product renewal and product variations, and the state government providers process applications for all other products.

4.2.2 Compliance

The GEMS Regulator is responsible for monitoring and enforcing compliance with the GEMS Act. The cost drivers are:

- education and engagement
- market surveillance
- product check testing
- the length of time to select, engage, and procure a check test laboratory to purchase and check test a product
- the length of time to receive, review and analyse check test results
- managing check test processes to ensure the fairness and integrity of the results
- while not directly linked to the cost drivers, the resources allocated to compliance and enforcement activities are also highly dependent on the ability to recruit and engage compliance staff and GEMS inspectors.

Engagement and Education

The GEMS Regulator and GEMS inspectors engage, educate, and support persons regulated by the GEMS Act to voluntarily comply with the requirements of the Act.

Market Surveillance

Market surveillance refers to activities undertaken by GEMS inspectors to ensure that models of GEMS products meet GEMS registration and labelling requirements once in the marketplace. It is focused on retailers, suppliers, importers, and where applicable, manufacturers. Market surveillance is also conducted to ensure that GEMS products offered for supply on-line meet GEMS registration requirements.

Check Testing

This includes the purchase of GEMS products, procuring of check test laboratory services and the review and analysis of check test results. Check testing, conducted on behalf of the GEMS Regulator by National Association of Testing Authorities accredited or affiliated laboratories based either in Australia or overseas, refers to activities undertaken to ensure that GEMS products meet the relevant determination's GEMS level (MEPS), labelling, and other requirements.

GEMS Inspectors

There are currently 17 GEMS inspectors. Eight work for the Department of the Environment and Energy (DEE) and nine work for state government agencies.

Receipt of Allegations

The GEMS Regulator receives allegations of suspected non-compliance with the GEMS Act from a variety of sources. Since 2012, the GEMS Regulator has received more than 200 allegations of non-compliance with some relating to multiple contraventions of the GEMS Act.

Investigating and Responding to Non-compliance

The GEMS Regulator, via GEMS inspectors, assesses each instance of suspected (via check testing or market surveillance) or alleged (receipt of allegations) non-compliance and, where appropriate, conducts an investigation. Investigations incorporate the views of subject matter experts and provide transparent and defensible conclusions and recommendations for the GEMS Regulator to consider.

4.3 Revenue

Revenue under GEMS comes from the fees that importers, manufacturers or suppliers of products that are regulated for energy efficiency under the GEMS Act are required to pay to register their products. Fees are charged for renewal of products after the five year registration period has expired, and to add models to an approved registration, allowing for a 'family of models' known as a variation. The cost to 'add a model' variation is \$250 per registration. Table 1 outlines the revenue and the number of registrations from 2012 to 2016.

Table 1: Revenue

ACTUAL	2012-2013	2013-2014	2014-2015	2015-2016	Total
No. of registrations	2,917	5,259	4,650	5,027	17,853
Total Revenue	\$1,230,974	\$2,424,399	\$2,194,800	\$2,347,609	\$8,197,782

It is important to note that the number of registrations is not the same as the number of products registered. Each registration can cover a number of models due to the family of model definitions. For example, in 2015-16 the 5027 registrations covered 8777 models across all product types.

4.4 Cost of activities

The Australian Government Charging Framework requires cost recovery charges for fee-for-service charging activities be based on the efficient cost of providing the service. In general terms, this requirement is intended to provide an incentive for service delivery agencies to regularly look for opportunities to reduce the costs of providing the service.

Funding associated with the recovery of registration fees is appropriated back to the Department up front with all receipts from this recovery activity being returned to the consolidated revenue fund during the financial year.

From the scheme's commencement in October 2012 to 30 June 2016:

- the expected rate of cost recovery, based on forecast revenues of \$10.7m and forecast costs of \$20.7m, was 52 per cent
- the actual rate of cost recovery that has been achieved, based on revenue of \$8.2m and costs of \$14.8m, is 56 per cent.

For 2015-16, the rate of cost recovery was 63 per cent.

Table 2 below outlines compliance and registration costs since 2012.

Table 2: Summary of Costs – Actual

GEMS Activities	2012-13	2013-14	2014-15	2015-16
	Actual \$'000	Actual \$'000	Actual \$'000	Actual \$'000
Compliance non-staff costs	644	499	557	609
Compliance staff costs	221	380	426	506
Sub-total \$	865	879	983	1,115
Registration non-staff costs	1,427	1,586	1,414	1,446
Registration staff costs	1,115	1,317	1,242	1,049
Sub-total \$	2,542	2,903	2,656	2,495
GEMS Regulator	61	63	65	67
Total \$	3,468	3,845	3,704	3,677

Note: GEMS formally began in October 2012. Figures are for only part of the year.

4.5 Model used to set the registration fees

The original methodology used to set the registration fees was calculated for each product type based on historical trends, the number of estimated registrations, registration costs and compliance and monitoring costs. It was then based on recovery of all of the costs of the registration service and part of the costs of compliance monitoring and enforcement. Other considerations that were taken into account in the model used to set the fees were:

- average time to process registration applications

- average need for technical help to assess registration applications
- IT Infrastructure
- risk of non-compliance
- impact of non-compliance
- average cost of market surveillance
- average cost to purchase and check test products.

The GEMS Regulator's current Compliance Monitoring Program uses an intelligence led, risk based approach. This means, for example, that not all GEMS products are check tested each year. Instead, models are selected using a range of criteria (GEMS Check Testing Selection Criteria) which identifies GEMS products and models with a higher than average risk of non-compliance. This ensures those persons complying with the GEMS Act requirements are not unnecessarily targeted. With a limited budget, it is also the best use of financial resources. The initial model did not recognise the intelligence-led, risk based approach to compliance.

Table 3 below outlines the current fee schedule. Upon commencement of the scheme in October 2012, the fees ranged from \$440 (for 13 of 22 product types) to \$780 (for 4 of 22 product types). The fees cover a five year registration period and GST does not apply.

Neither the fees, the length of registrations, nor the placement of products within bands have changed since then. However, the scope of GEMS has broadened to include computers and computer monitors and now covers 22 products.

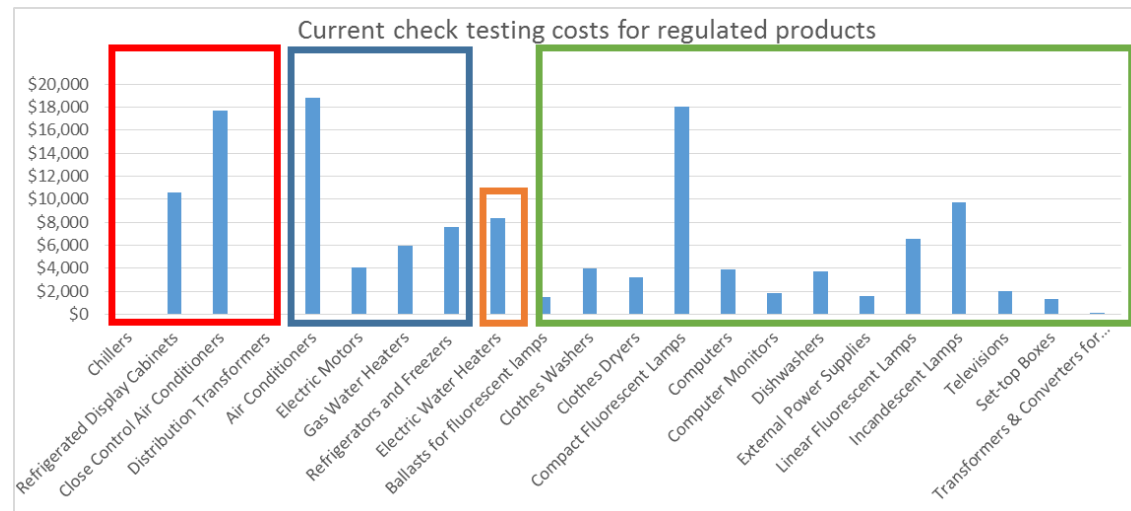
Table 3: Current Fee Schedule

Band 1 \$440	All types of Lighting Products (5) Clothes Washers Dishwashers Clothes Dryers Computers Computer Monitors Televisions Set Top Boxes External Power Supplies
Band 2 \$540	Electric Water Heaters
Band 3 \$670	Air Conditioners & Heat Pumps Refrigerators Gas Water Heaters Electric Motors
Band 4 \$780	Commercial Refrigerators/Display Cabinets Chiller Towers Distribution Transformers Close Control Air Conditioners

Figure 1 below outlines the cost of check-testing individual products by current fee band. Red denotes the \$780 band, blue the \$670 band, orange the \$540 band and green the \$440 band.

The allocation of products to specific fee bands is not equitable and there is some degree of cross-subsidisation of check testing costs across product types. For example lighting products are in the lowest fee band, but have some of the highest check-testing costs.

Figure 1: Current average check-testing costs per product type



Recommendation 2 GEMS products are allocated in new product bands according to their registration and compliance monitoring including proposed check test activity over a seven year compliance cycle.

4.6 Historical and projected cost recovery rates

The tables below outlines the cost recovery rates to date and the projected cost recovery rates in future from a business as usual approach. This provides the basis to determine the impact of changes to the current model.

The projections assume:

- product registrations increase at the same rate as they have historically¹
- small increase in compliance activity
- no staff increase
- services maintained at current levels.

¹ With the exception of traditional lighting products, see 4.7 below.

Table 4(a): Current Fee Model - historical data

Historical				
Year	2012-13	2013-14	2014-15	2015-16
Total Fee Revenue \$	1,230,974	2,424,399	2,194,800	2,347,609
Total Costs \$	3,467,347	3,845,334	3,704,043	3,677,164
Registrations per year	2917	5259	4650	5027

Table 4(b): Current Fee Model with projections assuming a BAU approach

Projections					
Year	2016-17	2017-18	2018-19	2019-20	2020-21
Total Fee Revenue \$	2,320,480	2,597,280	2,767,520	2,768,280	2,793,740
Total Costs \$	4,119,988	4,352,930	4,243,218	4,408,008	4,468,056
Registrations per year	5234	4967	5262	5280	5332

4.7 Projections with new products regulated

Table 5 below shows the projection of fees revenue and expenses if products on the E3 Prioritisation Plan were to be regulated. In modelling future revenue it is important to recognise the E3 Prioritisation Plan includes work streams to introduce Minimum Energy Performance Standards (MEPS) to LED lighting, non-integrated commercial luminaires, non-domestic fans and swimming pool pumps as well as revised MEPS for refrigerated display cabinets, air conditioning, fridges and freezers and incandescent lamps. It is expected that these will start to be regulated from the 2018-19 financial year and significantly increase the number of registrations per year.

The projections assume:

- product registrations increase at the same rate as they have historically for currently regulated products²
- compliance activity increases commensurate with the number of new products increasing
- increase in staffing to manage increased compliance and registration load
- no fee increase.

² With the exception of traditional lighting products

Table 5: Projection of GEMS fees under the current fee model with new products regulated

Projections					
Year	2016-17	2017-18	2018-19	2019-20	2020-21
Total Fee Revenue \$	2,320,480	2,801,850	5,136,750	5,216,250	5,300,700
Total Costs \$	4,119,988	4,511,896	5,613,399	5,769,323	5,865,659
Cost Recovery Rate	56.3%	62.1%	91.5%	90.4%	90.4%
Registrations per year	5234	5027	8097	8010	8157

NOTE: Proposed regulation is subject to consultation. Estimated number of new products potentially subject to MEPS is estimated based on current information available. Forecasts will be reviewed following the Decision RIS for products.

5.0 Options for a new model

5.1 Principles for the development of a new fee model

In considering the case for the refinement of the current model or the development of a new model for consideration, the following principles are proposed:

- that GEMS moves to full cost-recovery over time by 2020-21
- cross-subsidisation across fee bands is minimised
- fee bands are developed according to an activity based check testing cost model
- registration costs are the same across all product types (\$420).

In testing the current model, the Regulator explored a fee and levy model in which registrants would pay a five year registration fee and an annual compliance levy. While having some benefits, the fee and levy model would be more costly to administer due to the registration system changes required and additional staff to manage the yearly invoicing and maintenance of around 25,000 - 30,000 registrations. A movement to a fee and levy model would also require legislative change. The current model has an established registration process with one interaction per product every five years and it is well understood by industry. The Regulator considers that the current fee model it is still appropriate.

Recommendation 3: The current fee model is maintained.

5.2 Fee band allocation

The Regulator considers it prudent to look at the allocation of products across all fee bands to minimise cross subsidisation across product types.

The proposed new fee bands, represented by coloured boxes, are outlined below in Figure 2 and Table 6 below. The revised fee band allocation assumes that the cost of processing an application is the same for all registrations and compliance costs such as market surveillance, engagement and education are similar and shared across product types. The placement of products into specific fee bands is due to their check testing costs and check testing activity based on an intelligence led risk based approach to compliance.

Products that are proposed to be regulated in coming years are included in the list and have been incorporated into the modelling, this includes LEDs, non-integrated commercial luminaires, pool pumps and non-domestic fans. There is uncertainty on the numbers of LED products that will be regulated. The review has used the estimated number of LED and non-integrated commercial luminaire products identified in the Lighting Consultation RIS. Fee band allocation will be confirmed following finalisation of the Decision RIS for each product.

There is some proposed movement of products between bands. Lighting products have moved up two bands, while other products such as refrigerated display cabinets have gone down two fee bands.

With the proposed new allocation, no products fall into fee band four. Lighting products have been incorporated within the one fee band. Check testing costs and compliance activity for compact fluorescent, incandescent and linear fluorescent lamps are significantly higher than other products. Due to the high number of LEDs expected to be registered, the high cost of compliance is spread across more products, reducing the activity based average check testing costs for lighting overall.

In Figure 2 below, blue represents fee band three, orange fee band two and green fee band one.

Figure 2: Proposed new GEMS fee bands - based on an activity based check test costs per year

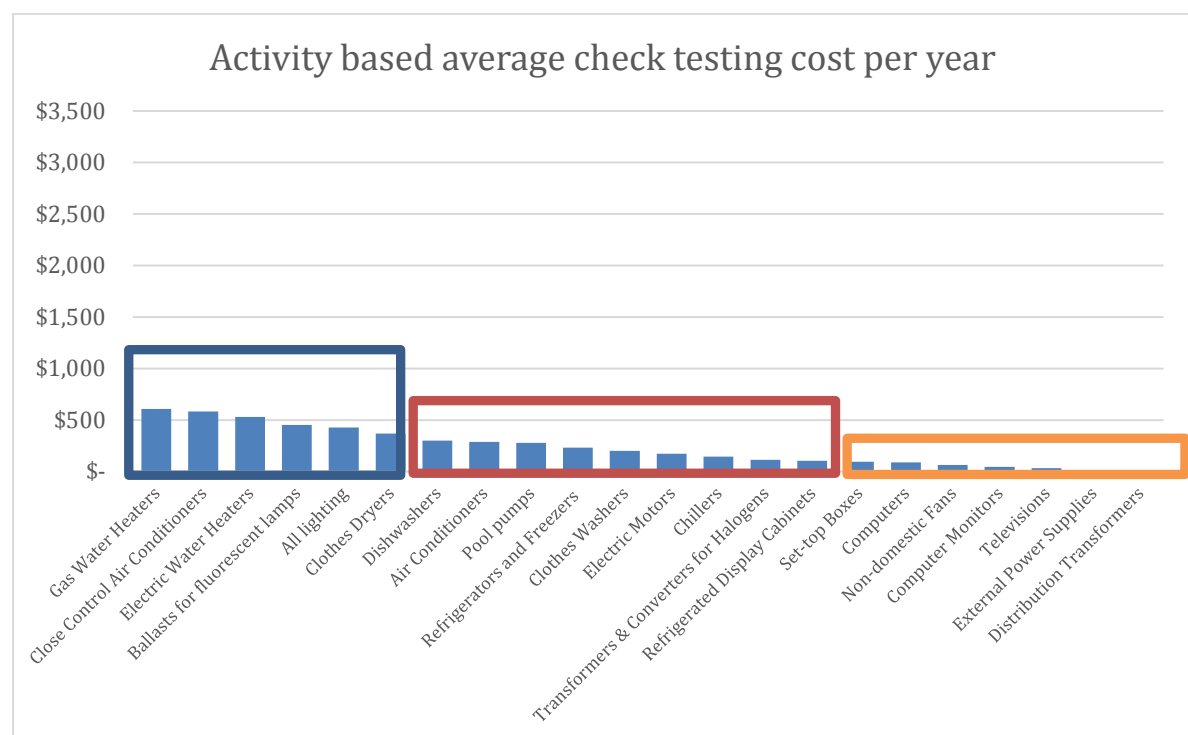


Table 6: Proposed new GEMS fee bands - based on activity based check test costs per year

Fee band	Products
Band 1	Computers Computer monitors Non-domestic fans Televisions External power supplies Distribution transformers Set Top Boxes
Band 2	Clothes washers Pool pumps Refrigerators and freezers Electric motors Air conditioners Dishwashers Refrigerated display cabinets. Transformers and converters for halogens Chillers
Band 3	Gas Water Heaters Electric water heaters Ballasts for fluorescent lamps Close control air conditioners Clothes dryers All lighting
Band 4	No products at present proposed

The Regulator is currently considering three methods to reach full cost-recovery by 2020-2021. They all involve an increase in fees, but at different rates over the four year period.

5.3 Fee increases to reach full cost recovery

The options outlined below all show a movement to full cost recovery in 2020-21, but in two different ways. The Regulator recognises that there is some uncertainty in the projections in forward years, such as product registration numbers and when new products will be regulated.

The Government's Cost Recovery Guidelines stipulate that cost recovered activities must have alignment between expenses and revenue over a reasonable period such as the business cycle of the activity. With all three options, if revenue exceeds costs over a business cycle then the government may suspend a rise in fees until revenue and costs balance out.

In 2018-19 a large number of registrations are expected as new products are regulated and there is a commensurate increase in fee revenue. It is possible that the cost recovery rate will

be over 100 per cent in 2018-19, but this is expected to balance out across the business cycle.

Option 1. Increase fees initially and then by seven per cent per year and reallocate products to new fee bands

The current structure of the model is maintained. To minimise cross-subsidisation products are reallocated to fee bands according to their check testing costs and proposed check testing activity over a seven year cycle. There is an initial increase to registration fees and to continue with the move to full cost recovery fees will be increased by seven per cent each year for three years. The initial increase is to recalibrate the bands according to compliance activity costs in forward years. This would be expected to start on 1 July 2017. This option provides a steady and even increase to the fees. The projections and new fee structure are outlined in Table 7 (a) and (b).

Table 7(a): GEMS Projections with a fee increase and reallocation of products to new fee bands; and new products regulated from 2018-19 as per the E3 Prioritisation Plan

Projections					
Year	2016-17	2017-18	2018-19	2019-20	2020-21
Total Fee Revenue \$	2,320,480	2,627,550	4,819,013	5,278,619	5,731,731
Total Costs \$	4,119,988	4,511,896	5,613,399	5,769,323	5,865,659
Cost Recovery rate	56.3%	58.2%	85.8%	91.5%	97.7%
Registrations per year	5234	5027	8097	8010	8157

Table 7(b): Proposed new fee option

Fee	2017/18	2018/19	2019/20	2020/21
Band 1	\$450	\$482	\$515	\$551
Band 2	\$600	\$642	\$687	\$735
Band 3	\$750	\$803	\$859	\$919

Option 2. Increase fees initially and then an annual increase increasing over time, with products reallocated to new fee bands

The current structure of the model is maintained. To minimise cross-subsidisation products are reallocated to fee bands according to their check testing costs and proposed check testing activity over seven year cycle. To continue the move to full cost recovery, there will be an initial fee increase (as indicated below) followed by a five per cent, seven per cent and nine per cent increase in subsequent years. The initial increase is to recalibrate the bands according to compliance activity costs in forward years. This would be expected to start on

1 July 2017. By increasing the percentage rise over time, there is a lower fee increase in earlier years.

Table 8(a): GEMS projections with a fee increase and reallocation of products to new fee bands, with new products regulated from 2018-19 as per the E3 Prioritisation Plan

Projections					
Year	2016-17	2017-18	2018-19	2019-20	2020-21
Total Fee Revenue \$	2,320,480	2,627,550	4,728,938	5,179,953	5,729,729
Total Costs \$	4,119,988	4,511,896	5,613,399	5,769,323	5,865,659
Cost Recovery rate	56.3%	58.2%	84.2%	89.8%	97.7%
Registrations per year	5234	5027	8097	8010	8157

Table 8(b): Proposed new fee option

Fee	2017/18	2018/19	2019/20	2020/21
Band 1	\$450	\$473	\$506	\$551
Band 2	\$600	\$630	\$674	\$735
Band 3	\$750	\$788	\$843	\$918

6.0 Other Charges and Registration Period

6.1 Charging for other processes

Currently, the only fees payable under GEMS are for new registrations and variations to existing registrations to add an additional model. The review considered whether charges should also be payable for other registration-related processes. Requests for exemption are the only process which warrants consideration, as they are relatively simple for an applicant to lodge yet take considerable time for the Regulator to determine.

The time taken to process an application for exemption depends on its complexity. On average, it takes around 12 hours to complete the process, spread over a period of between two weeks to three months. It is estimated that the cost of processing each application is approximately \$950.

Currently, no fee is specified for processing such an instrument, although paragraph 37(4)(c) of the GEMS Act allows for the Regulator to specify a fee to accompany an application for exemption.

At the end of 2015, 21 exemption requests were received and closed. Of these requests, 18 exemptions were granted, one was refused and two were closed without proceeding to a decision. To date in 2016-17 we have received eight applications for exemption. Imposing an exemption application fee could have a number of benefits for the schemes. However, a cost recovery charge needs to be linked to the cost of providing the service. It could potentially be an unreasonable expense and in most cases the cost to submit an exemption would be higher than a registration fee. This may be a barrier for applicants to seek an exemption or contact the Regulator as required.

Depending on the product type and the determination definition for a family of models, registrants are able to add a model to a registration via a variation. The current change is \$250. Due to the low number of add a model variations processed by the Regulator throughout the year, it is not feasible to increase these fees.

Recommendation 4: Do not impose an administrative charge on applications for an exemption.

6.2 Providing alternative payment mechanisms

Currently, the only payment options available to registrants are Visa and MasterCard. The decision to offer only limited payment options was taken at the outset of GEMS to maximise efficiency and minimise the time taken to approve payments and process applications. However, industry stakeholders have requested further options, including American Express (AMEX), Diners and EFTPOS, as not all businesses operate using Visa and MasterCard. Currently, payments are made through the GEMS registration system via the Government IP Payment Systems, which is managed by the Reserve Bank of Australia (RBA). This process is immediate and confirms to the applicant that the application has been submitted – or that it has not. Only once the payment is confirmed will the application proceed to the queuing system to be assessed by a Technical Assessment Officer.

Electronic funds transfer (EFT) and American Express (AMEX)

Offering AMEX would be feasible without adding significant costs. There are a number of issues in regards to the introduction of EFT facilities. The introduction of EFT payments would mean that registrations would not be submitted to the Regulator immediately. This will cause delays to a registration being processed and approval certificate being correctly provided to an applicant. An EFT system would require additional resources to manually check the EFT transfers every day and confirm before processing. This would be resource intensive and would require an additional staff member to manage on a daily basis. It was also noted that the system enhancement to have EFT introduced would add significant costs and potential upward pressure to the registration fees.

While the addition of AMEX would require some programming changes to the registration system, these are feasible without significantly adding to the scheme's cost base.

Recommendation 5: Add AMEX as an additional payment option and require those registrants using AMEX to pay the relevant surcharge.

6.3 Registration period

Currently, all GEMS registrations are for a standard five year term. Registrations of a standard length were implemented because they were considered simple to administer, straightforward for registrants, and economical in terms of the ongoing monitoring for both registrants and the Regulator.

Through the 2015 GEMS Review, stakeholders asked the Regulator to consider the potential for registration periods shorter or longer than the standard five year period, based on the expected shelf life of a product type. This issue has also been raised by other industry groups at various times since the commencement of the GEMS Act.

The length of a registration period, and the level of the registration fee, has a bearing on the ability of a cost recovery system to be responsive to fluctuations in demand or the costs of administering the system. Longer registration periods are likely to make it more difficult to maintain alignment between revenue and expenses over time, and be responsive to fluctuations in registration numbers or administration costs. Any change from a standard registration period that applies to all products will add complexity to both scheme administration and the management of cost recovery going forward.

The current fee structure, and options provided for future fee structures with the same registration period for all products, and fee band groupings based on products with similar costs, aim to be practical and easy to understand, and minimise volatility. The five year period attempts to strike a middle ground, balancing flexibility and the need to minimise volatility.

With 22 product types currently regulated, a cost recovery model based on registration periods of varying lengths would be more complex to administer. On balance, the five year registration period appears to be the appropriate balance between these conflicting considerations from both parties' perspective.

Recommendation 6

Retain the standard five year period for all registrations.

7.0 Consultation

The Department of Environment and Energy invites stakeholders to take part in consultation on the proposed fees to recover the costs associated with the delivery of services under the *Greenhouse and Energy Minimum Standards (GEMS) Act 2012*.

Stakeholders are specifically invited to comment on:

- the proposed recommendations
- their preferred method to reach full cost recovery
- the level of fee increase and
- the notice period for a fee increase or changes.

Stakeholders may also provide comment on other fee and cost recovery related issues.

We invite stakeholders invited to submit written submissions to this consultation paper by 5pm 14 March 2017 via energyrating@environment.gov.au.

If you have a question about this review please send an email to energyrating@environment.gov.au.

Note: Submissions will be published on the Energy Rating website, as will the names of all stakeholders who have made submissions. If you do not want your submission to be published, please advise in the covering email that the submission is to be treated as confidential.