

Terms of Reference for the Independent Review of the GEMS Act

Introduction

The *Greenhouse and Energy Minimum Standards Act 2012* (GEMS Act) implements the commitments of the Australian Government and the Council of Australian Governments (COAG) to establish national legislation to regulate energy efficiency and labelling standards for appliances and other products. The national legislation permits the Australian Government to set mandatory minimum efficiency requirements for products to drive greater energy efficiency. The Act also allows the Australian Government to set nationally-consistent labelling requirements, to increase Australians' awareness of options to improve energy efficiency and reduce energy consumption, energy costs and greenhouse gas emissions.

Clause 176 of the GEMS Act requires a review of the operation of the Act as soon as possible after the fifth anniversary of its commencement date (1 October 2012). As a program that is expected to continue well into the future, and face changing requirements necessary to meet the significant challenge of reducing Australia's energy consumption and greenhouse gas emissions, the operation of the Act also must be reviewed every ten years after the first review.

Scope

The independent review will fulfil the requirements of Clause 176 of the GEMS Act. The review will evaluate, advise and report on the items listed below:

1. The extent to which the framework (including systems and procedures) established by the GEMS Act is achieving its purpose.
2. Improvements that could be made to the operation of the GEMS Act, including any costs and impacts on stakeholders.
 - a. Particular attention should be given to improvements that will lead to an increased reduction in greenhouse gas emissions.
3. Implementation and transition actions to facilitate improvements to the Act identified at point 2.
4. Any other matters including environmental, cost, technical and regulatory issues relevant to the operation of the Act.

The reviewer will be assisted by considering the following issues in relation to the GEMS Act:

- The level of actual and required agility of the Act to respond to changing dynamics (for example, technological changes, increasing proportion of online sales, integrated products, less specific product categories).
- The ability of the GEMS Act to provide for adequate compliance arrangements for new and bespoke products.
- Administrative challenges (current and anticipated) faced by businesses and the GEMS Regulator.
- Whether there is a role for guidance about when mandatory standards are more useful and when other approaches might be more suitable.

As far as possible, the review will meet the requirements of a RIS-like process and as such, will answer the questions as per the guidance note on Independent Reviews, RIS-like Processes and the Regulation Impact Statement requirements: <http://www.dpmc.gov.au/resource-centre/regulation/independent-reviews-and-ris-process-guidance-note>.

Governance and Deliverables

The review will be undertaken by an independent reviewer contracted by the Department of the Environment and Energy. The independent reviewer will be supported by a secretariat in the Department and will provide regular updates to the COAG Energy Council's Energy Efficiency Advisory Team.

A written report of the review will be given to the Minister.

Timeframe and Methodology

The independent review will commence as soon as possible after 1 October 2017, and provide a written report to the Minister by mid-2018.

The independent review will, as relevant, consider:

- submissions from, and consultations with, business, consumer groups, the community and relevant Commonwealth, New Zealand, state and territory agencies;
- the reports and outcomes of recent reviews in relation to GEMS, such as the *2014-15 Review of the Inter-Governmental Agreement for the GEMS Legislative Scheme* and the *2016-17 GEMS Fees Review*.

The independent review will meet the requirements of the COAG Best Practice Regulation Guidelines and Australian Government Guide to Regulation.