



# Energy Efficiency Compliance & Enforcement Market Surveillance Report

July 2022 to June 2023

## Purpose

This report presents the market surveillance results of the products regulated under the *Greenhouse and Energy Minimum Standards (GEMS) Act 2012* that are required to meet GEMS registration requirements when offered for sale or supply and display an Energy Rating Label (ERL) on the product when supplied in store. The report covers the period 1 July 2022 to 30 June 2023.

## 1. Background

The GEMS Regulator is responsible for monitoring and enforcing compliance with the GEMS Act. It does this through an intelligence-led, risk-based program that:

- engages with and educates the regulated community, including:
  - a. store personnel and management
  - b. retailers' compliance personnel
  - c. suppliers' representatives and managers
- monitors compliance through:
  - d. GEMS inspections online and instore and supplier market surveillance to ensure compliance with product registration and labelling requirements.
  - e. check testing to verify through NATA accredited laboratory testing whether registered product models meet determination requirements.
- responds to deliberate non-compliance by regulated entities who fail to comply in a manner that is appropriate and proportionate to the risk posed by the non-compliance.

## 2. Market Surveillance

GEMS instore market surveillance inspections were a key monitoring focus this financial year, increasing following the previous year's COVID restrictions. However, some planned activities were impacted by extreme weather events during the latter half of 2022. Return to instore monitoring across Australia allowed for in-person engagement and education with the regulated entities within major national retail chains, independent retail outlets and specialised product suppliers. Engagement, education, and support is a key component of the GEMS Regulator's compliance framework to help regulated entities understand their obligations.

## 3. Market Surveillance Activities

Of the 160 stores visited during 2022-2023 financial year compliance with GEMS product registration and labelling requirements revealed:

- 97% of GEMS household products were correctly registered under GEMS, and
- 84% correctly displayed an ERL.

Online store monitoring of retailer, supplier and third-party online shopping websites revealed:

- 92% of GEMS household products were correctly registered under GEMS.



The following tables provide an overview of the results found per product checked during online and in store monitoring activities. The results presented are at the time of the inspection with case officers working with all stakeholders to return them to voluntary compliance.

Where voluntary compliance could not be achieved, further actions were taken with the enforcement team; those cases are ongoing.

*3.1 Table represents registration checks on selected GEMS products.*

GEMS Product	Number of products monitored for registration	Products correctly registered	Products found unregistered at time of monitoring	Other status for registrations – expired, variation, cancelled, superseded
Air Conditioners	651	509	86	56
Clothes Dryers	742	725	1	16
Clothes Washers	1293	1259	6	28
Dishwashers	290	266	6	18
Gas Water Heater	173	170	3	0
Electric Hot Water	181	181	0	0
Household Refrigerators/Freezers	2572	2447	56	69
Televisions	1861	1817	35	9
Refrigerated Cabinets	35	30	5	0
Computers	131	74	34	23
Computer monitors	290	266	19	5
Electric Motors	84	55	28	1
<b>TOTAL</b>	<b>8303</b>	<b>7799</b>		

*3.2 Table represents ERL checks\* on selected GEMS products.*

GEMS Product	Number of products monitored for labelling	Products Correctly labelled	Products found missing label at time of monitoring	Other status such as obscured label, damaged label, or wrong label
Air Conditioners	209	153	36	20
Clothes Dryers	631	573	18	40
Clothes Washers	1019	979	8	32
Dishwashers	794	631	75	88
Household Refrigerators/Freezers	1821	1670	64	87
Televisions	1654	1194	165	295
Refrigerated Cabinets	6	2	0	4
Computer monitors	318	195	98	25
<b>TOTAL</b>	<b>6452</b>	<b>5397</b>		

\*Display of the ERL is exempt for online product sales or offers to supply

Educational material was still sent out to all stakeholders including the requirements for correct labelling of GEMS products.



## 4. Enforcement Responses

At the conclusion of each market surveillance activity, GEMS inspectors discuss the nature and extent of any potential issues with the relevant manager and ensure immediate actions are taken to address any non-compliance. Following an assessment of the data collected during the market surveillance activity, GEMS inspectors may undertake further engagement with registrants and suppliers to ensure compliance with GEMS registration and labelling requirements.

Engagement, education and support will remain a key component of the GEMS Regulator's compliance framework; however, enforcement action, in accordance with the [GEMS Compliance Policy](#), may be taken where contraventions of the GEMS Act are found.

## 5. What You Need to Know to Comply

The following information may assist registrants and suppliers to comply with the GEMS Act's registration and labelling requirements.

### 5.1 Registration Compliance

Under the GEMS Act, 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; and
- the product complies with the determination; and
- the supply, offer, or use complies with the determination.

A supply includes supply by way of sale, exchange, gift, lease, loan, hire, or hire-purchase; while offer to supply includes make available, expose, display, or advertise the product for supply. Therefore, all persons in the supply chain, whether they be retailers, importers, or manufacturers have an obligation under the GEMS Act not to supply an unregistered model of a GEMS product. Manufacturers and importers are more likely to be responsible for initial supply of a model in Australia and therefore more likely to be the registrant. However, any person in the supply chain may be the registrant. Visit the Energy Rating website to read more about the [registration process](#).

#### How do I know if a model is registered?

To ensure models of GEMS products being supplied are registered as compliant with the relevant determination, suppliers can view the public [registration database](#). If suppliers are unsure a model is registered, they should ask their supplier for the 'Approval Certificate', also known as the 'Notice of Registration under the GEMS Act', or the GEMS registration number.

### 5.2 Labelling Compliance

Section 16 of the GEMS Act states that a person must not supply, or offer to supply, a GEMS product if 'a requirement of the GEMS determination is not complied with in supplying, or offering to supply, the product.' A requirement to display an ERL, if applicable to that GEMS product, is covered by the relevant determination's GEMS labelling requirements.

Manufacturers and importers provide ERLs with each product supplied to retail stores. If an ERL is not provided, it is the retailer's responsibility to obtain one from the manufacturer or importer and attach it in accordance with the relevant determination, prior to offering the product for



supply. Similarly, if an ERL is removed, the retailer must obtain another from the manufacturer or importer and attach it prior to continuing to offer the product for supply.

## 6. Further Information

The [GEMS Inspection FAQ](#) page has additional information to assist stakeholders with complying with their requirements and continuing to achieve voluntary compliance. This page covers a variety of topics to assist with labelling and registration requirements.

If you would like to contact the GEMS Regulator with information about suspected non-compliance or you would like further information, please contact the Energy Efficiency Compliance team at [compliance@gems.gov.au](mailto:compliance@gems.gov.au) or visit [energyrating.gov.au](http://energyrating.gov.au).

Additionally, you can visit [Contact Us](#) page on the Energy Rating website ask questions or provide information to the GEMS Regulator.