



Energy Efficiency Compliance & Enforcement Market Surveillance Report

July 2023 to June 2024

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) or Zoned Energy Rating Label (ZERL) on the product when supplied in store. The report covers the period 1 July 2023 to 30 June 2024.

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:
 - store personnel and management
 - retailers' compliance personnel
 - suppliers' representatives and managers
- monitors compliance through:
 - GEMS inspector online and instore supplier market surveillance to ensure compliance with product registration and labelling requirements
 - 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 in-store market surveillance inspections were a key monitoring focus this financial year. Monitoring across Australia allowed for in person and online engagement and education with the regulated entities of national 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

From the 159 physical store visits during 2023-24 we found:

- 97% of GEMS household products were correctly registered under GEMS
- 91% correctly displayed an ERL, while 9% presented with an obscured or missing ERL or displayed an incorrect ERL.

Online store monitoring of 77 various retailers, suppliers and third-party online shopping websites revealed:

- 84% of GEMS products were correctly registered under GEMS, industrial products returned the higher non-compliance online during this period.

Note that display of the ERL is currently exempt for online product sales or offers to supply.

Products monitored

A total of 12,487 GEMS products were monitored during this period. Non-compliance was recorded at the time of the inspection, and in most cases stakeholders returned to voluntary compliance following engagement with the GEMS Compliance team.

The following tables provide an overview of the results found per product checked during online and in store monitoring activities.

Where voluntary compliance could not be achieved, further actions is being considered, those cases are ongoing.

3.1 Table represents Registration checks on selected GEMS products (in-store & online)

| 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 | 1,137 | 1,036 | 28 | 73 |
| Clothes Dryers | 1,041 | 1,026 | 7 | 8 |
| Clothes Washers | 1,544 | 1,534 | 1 | 9 |
| Dishwashers | 1,354 | 1,338 | 5 | 11 |
| Gas Water Heater | 123 | 63 | 60 | 0 |
| Electric Hot Water | 142 | 94 | 40 | 8 |
| Household Refrigerators/Freezers | 3,309 | 3,255 | 18 | 36 |
| Pool Pumps | 278 | 209 | 63 | 6 |
| Televisions | 1,960 | 1,945 | 8 | 7 |
| Refrigerated Cabinets | 791 | 429 | 319 | 43 |
| Computers | 33 | 9 | 24 | 0 |
| Computer monitors | 342 | 286 | 36 | 20 |
| Electric Motors | 433 | 1 | 366 | 66 |
| TOTAL | 12,487 | 11,225 | 975 | 287 |

3.2 Table represents Energy Rating Labelling checks on selected GEMS products (in-store)

| 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 | 397 | 345 | 114 | 38 |
| Clothes Dryers | 642 | 588 | 17 | 37 |
| Clothes Washers | 1,031 | 998 | 9 | 24 |
| Dishwashers | 685 | 533 | 65 | 87 |
| Household Refrigerators/Freezers | 1,779 | 1,556 | 84 | 139 |
| Pool Pumps | 120 | 62 | 44 | 14 |
| Televisions | 1622 | 1101 | 169 | 352 |
| Computer monitors | 338 | 193 | 129 | 16 |
| TOTAL | 6,614 | 5,376 | 631 | |

*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 2012 are found.

During the period from July 2023 to June 2024, the GEMS Regulator has cancelled the registrations of:

- Four air conditioners and 14 refrigerated cabinets at the request of the registrants, after they were offered a chance to provide products for check testing under section 57 of the GEMS Act and
- One additional air conditioner at the request of the registrant after they received a section 49 notice of intention to suspend. This notice of intention was sent to the registrant based on suspicion that the information provided in connection with the air conditioner's registration was inaccurate.

These cancelled products can no longer be offered for sale or supply in Australia.

5. What you need to know to comply

The following information may assist registrants and suppliers to comply with the GEMS Act 2012's registration and labelling requirements.

5.1 Registration Compliance

Under the GEMS Act 2012, 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 2012 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 2012 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. Information about the registration process can be found [here](#).

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 2012 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 or ZERL, if applicable to that GEMS product, is covered by the relevant determination's GEMS labelling requirements.

Manufacturers and importers provide ERLs or ZERLs with each product supplied to retail stores. If an ERL or ZERL 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 or ZERL 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.

Additional publication options are available to assist in understanding the requirements to display the ERL correctly. These publications are available on the Energy rating website at [Displaying the Energy Rating Label](#).

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 or visit energyrating.gov.au.

Additionally, you can use the [Contact Us](#) to ask questions or provide information to the GEMS Regulator.

The Energy Rating website continues to update news and stories relating to the program and compliance activities, these can be found at [News and stories](#).