



Submission on the Amendments to the GEMS Act

17 July 2023

About AREMA

Established in 1967, AREMA (the Air-Conditioning & Refrigeration Equipment Manufacturers Association of Australia) represents the interests of air-conditioning, heat pump and refrigeration equipment manufacturers and importers active in the Australian market. Our members include leading companies involved in supplying over 80% of air conditioners to the Australian market. We work with government and industry on policy formulation and regulation to achieve the best outcomes for our members and the wider community.

Our aim is to:

- Help reduce the environmental footprint of air conditioning and refrigeration in Australia
- Encourage members to design and manufacture energy efficient equipment
- Encourage our members to deliver real energy savings to consumers
- Reduce emissions of ozone depleting substances and greenhouse gases safely
- Work closely with government to ensure the safe implementation of standards that will benefit end users and product designers
- Work with other local and global associations to ensure we adopt world's best practice
- Provide a unified voice for representation to government and industry on key issues
- Represent the air conditioning and refrigeration industry on key standards committees and, where possible, assist members to interpret these standards.

Overarching Comments on the GEMS Act

Overall, AREMA supports MEPS and labelling as delivered through the GEMS Act as an effective means to deliver energy efficiency savings to Australia. Additionally, we believe that MEPS should be applied as comprehensively as practicable to have both the most impact and minimize the risk of free riders. In the broad, the proposed amendments to the bill meets this test and AREMA is supportive.

At the same time, we believe there are - and should be – common sense limits to the Government in terms of what issues can be covered. AREMA notes that a creative application of changes to product classes and other requirements (Parts 4 and 5 respectively) could grant the Government the chance to cover a broad range of issues far outside the stated scope of the current legislation. We would encourage the Committee to focus on these clauses and ensure they are tightly written to prevent any future wilful or careless misuse of the Act.

Specific Comments on the Amendments

Schedule 1, Part 1 - Customised Products

AREMA supports enabling broader definitions of “sale” to better meet the need of bespoke products. We made this argument both prior to and during the GEMs Act review and are very pleased to see it included. We would be happy to provide our detailed thinking on this issue, again, if needed (and this could be done very quickly as it is in previous submissions).

Schedule 1, Part 2 - Deemed Compliance

AREMA is broadly supportive of the amendment. We recognise there is on occasion there is a need for changes in the GEMs Act because standards have been updated or there is an error resulting in a perverse outcome. Giving the GEMs regulator the capacity to use common sense and respond in these circumstances is sensible. AREMA remains concerned that this could, potentially, open a loophole for more substantive change than is described in the explanatory memorandum. We would support decisions being made reviewable/appealable if they resulted in a shift in regulatory intent.

Schedule 1, Part 3 – Enabling timely and more targeted exemptions

AREMA has no comment and no issues with this proposed amendment.

Schedule 1, Part 4 – Product Classes

AREMA understands that the purpose of this amendment relates, fundamentally, to fine tuning product classes to ensure standards and legislative requirements line up. We support this aim. We are concerned, however, that by enabling the definition of product class there is the potential for misuse and adding new requirements outside the natural scope of the GEMS Act. It would be worth ensuring that the language does not permit this sort of scope creep.

Schedule 1, Part 5 – Other Requirements

AREMA has a concern that the GEMS Regulator can impose requirements related to human and environmental health unilaterally and without appropriate approval by Parliament. For example, this provision might allow, for example, the GEMs regulator to make requirements relating to high GWP refrigerants, even though this is covered by the *Ozone and Greenhouse Gas Management Act*. Without further clarification, we do not support inclusion of this provision. We would be happy to engage further on this topic.

Schedule 1, Part 6 of the amendment bill.

AREMA has no comment and no issues with this proposed amendment.

Schedule 1, Part 7 of the amendment bill.

AREMA has no comment and no issues with this proposed amendment.

Schedule 1, Part 8 of the amendment bill.

AREMA has no comment and no issues with this proposed amendment.

Schedule 1, Part 9 of the amendment bill.

AREMA has no comment and no issues with this proposed amendment.

Answers to questions from Senator Hollie Hughes:

1. Does this legislation open the door for further changes to any Greenhouse and Energy Minimum Standards themselves? And does this risk creating a situation where standards are more easily altered with less oversight?

AREMA is concerned that the proposed amendments – particularly in relating to product classes and other requirements (see comments above) might allow a massive increased capacity for regulation outside of the current arrangements and outside the scope of the GEMs Act. We could be incorrect in our understanding, but we would be keen to see checks and balances on the areas of further expansion of the GEMs ACT.

2. Do any of the proposed amendments allow interpretation that would require appliances to be ready for demand response operation from the electricity network operator? Or does this open the door to technologies such as this being required in the future?

AREMA is not certain. We are concerned about demand response as the consultation from interested government bodies has been insufficient and not focused adequately of the limits and capacities of different equipment types.

That said, we think demand response will certainly be needed in Australia and AREMA would prefer this to be coordinated nationally and through a process that was focused on the requirements and capacity by equipment type rather than a broad-brush approach which seems far more likely if this issue is pursued by AEMO or State Governments.

If the GEMS Act was amended to include demand response, we would hope that this was made explicit and not managed through some mechanism where the intent was obscured.

3. Within these changes, the burden of proof now falls on the prosecution. Does this amendment inhibit the regulator's ability to prosecute products that will need to comply with the GEMS Act after this amendment goes through?

AREMA's interpretation of the bill, is that it does not change the burden of proof required, but of course we could be mistaken in our understanding. AREMA would not support changes to the GEMS Act that would further weaken compliance activities and responses. In our view, unscrupulous companies already are taking advantage of the legislation. And would encourage action to increase the efficacy and efficiency of compliance and enforcement activities.

4. Will there be any impact on consumers by way of higher prices due to these changes?

AREMA does not believe there will be any material change to consumer costs because of these amendments.