

# **Trans-Tasman Mutual Recognition (Queensland) (Emissions-Controlled Products) Notice 2018**

Explanatory notes for SL 2018 No. 202

made under the

*Trans-Tasman Mutual Recognition (Queensland) Act 2003*

## **General Outline**

### **Short title**

*Trans-Tasman Mutual Recognition (Queensland) (Emissions-Controlled Products) Notice 2018*

### **Authorising law**

Sections 43 and 45 of the *Trans-Tasman Mutual Recognition Act 1997 (Cth)* (the Commonwealth Act)

Section 7 of the *Trans-Tasman Mutual Recognition (Queensland) Act 2003*

### **Policy objectives and the reasons for them**

The Commonwealth Act provides for the recognition within Australia of regulatory standards adopted in New Zealand regarding certain goods and occupations. The *Trans-Tasman Mutual Recognition (Queensland) Act 2003* (Queensland Act) adopted the Commonwealth Act as a law of Queensland.

The Commonwealth Act provides that goods that may lawfully be sold in New Zealand may lawfully be sold in an Australian jurisdiction without the necessity for compliance with further requirements imposed under Australian legislation.

On 15 December 2015, the Meeting of the Environment Ministers (MEM) endorsed the National Clean Air Agreement to deliver actions to reduce air pollution and establish a process for jurisdictions to work cooperatively to address emerging air quality issues. MEM is comprised of the environment ministers of each state and territory and the Commonwealth.

As part of the National Clean Air Agreement, ministers agreed to introduce emissions standards for new non-road spark ignition engines and equipment (NRSIEE) (marine engines and outdoor powered equipment such as leaf blowers, chain saws, generators,

etc) to set limits on emissions such as particulate matter, which is associated with causing breathing problems. NRSIEE are a significant contributor to air pollution.

The decision to introduce emissions standards was informed by a National Regulatory Impact Statement (RIS), assessed by the Commonwealth Office of Best Practice Regulation as meeting the Council of Australian Government's best practice regulation requirements. The RIS examined options for reducing emissions from new NRSIEE and concluded that establishing emission standards for new products in line with accepted international standards would provide the greatest benefit. Australian industry and consumer groups were supportive of this approach.

The Commonwealth subsequently established the *Product Emissions Standards Rules 2017* (the Rules) which commenced in January 2018. Under the Rules, from 1 July 2018 only products that meet the emissions standards are to be imported or supplied in Australia.

Regulations were made in 2018 under the *Trans-Tasman Mutual Recognition Act 1997 (Cth)* to provide a 12-month temporary exemption for the Rules from the operation of the Commonwealth Act while agreement to a permanent exemption was progressed.

Unless the Rules are permanently exempted from the operation of the Commonwealth Act, upon expiry of the temporary exemption, NRSIEE sold in Australia will not need to comply with the Rules where those NRSIEE were produced in, or imported into, New Zealand and could lawfully be sold in New Zealand.

The Commonwealth Act requires all the participating jurisdictions (including New Zealand) endorse the regulation providing for the permanent exemption to authorise the Governor-General to make the regulation.

The Premier and Minister for Trade agreed to a request from the Prime Minister to permanently exempt the Rules from the operation of the Commonwealth Act.

Section 45 of the Commonwealth Act provides that laws listed in Schedule 2 of the Act are permanently exempt from the Trans-Tasman mutual recognition principle. Section 45(3) of the Commonwealth Act provides that the Governor-General may amend Schedule 2 of the Act by way of regulation.

The Governor-General may make regulations for the purposes of section 45 but only if all of the then participating jurisdictions have endorsed the regulation under section 45(4). Section 43(1) of the Commonwealth Act provides that a jurisdiction endorses a regulation if the designated person for the jurisdiction publishes a notice in the official gazette of the jurisdiction setting out and endorsing the terms of the regulation before it is made. Section 4 of the Commonwealth Act provides that the Governor is the designated person for Queensland, which is affirmed by section 7(1) of the Queensland Act.

Section 7(2) of the Queensland Act provides that the gazette notice made by the Governor endorsing the Commonwealth regulations is subordinate legislation. The Office of Queensland Parliamentary Counsel has prepared the gazette notice.

## **Achievement of policy objectives**

The policy objectives are achieved by the notice setting out and endorsing the proposed Commonwealth regulation, as required under section 7 of the Queensland Act and section 43(1) of the Commonwealth Act.

## **Consistency with policy objectives of authorising law**

The notice is consistent with the main objectives of the *Trans-Tasman Mutual Recognition (Queensland) Act 2003*.

## **Inconsistency with policy objectives of other legislation**

The notice is not inconsistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

The RIS that informed the introduction of the Rules noted that there will be some costs for industry in complying with the standards and that consumers will pay more for compliant NRSIEE. These costs were considered to be offset by the benefits that would accrue to the broader community through reduced adverse health impacts from ambient air pollution.

## **Consistency with fundamental legislative principles**

The notice does not conflict with fundamental legislative principles.

## **Consultation**

The Office of Best Practice Regulation was consulted regarding the regulatory impact analysis requirements of The Queensland Government Guide to Better Regulation and advised that no further assessment was required on the basis that the proposal likely impacts of the introduction of emission standards for NRSIEE were considered through the RIS that informed the introduction of the Rules.

Community consultation on the introduction of emissions standards for NRSIEE was undertaken through the RIS. The introduction of emission standards was supported by industry and community groups. No further consultation has been carried out on the notice.