**EXPLANATORY MEMORANDUM TO**

# THE ECODESIGN FOR ENERGY-RELATED PRODUCTS AND ENERGY INFORMATION REGULATIONS 2021

**2021 No. [XXXX]**

## 1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Command of Her Majesty.

## 2. Purpose of the instrument

2.1 This statutory instrument provides new Ecodesign and Energy Labelling requirements for certain energy-related products that are placed on the market in Great Britain. The Regulations will:

- Update existing Ecodesign requirements to increase the minimum energy performance and set material efficiency of electric motors, household washing machines/washer-dryers, household dishwashers, household refrigeration and electronic displays.
- Introduce Ecodesign requirements which set minimum energy performance and material efficiency standards for welding equipment and commercial refrigeration for the first time.
- Introduce Energy Labelling requirements for commercial refrigeration to enable consumers to discern the most energy efficient products on the market.

2.2 These requirements are intended to mirror the technical requirements in the equivalent EU regulations. These are:

- Welding equipment: Commission Regulation (EU) 2019/1784;
- Electric motors: Commission Regulation (EU) 2019/1781;
- Household dishwashers: Commission Regulation (EU) 2019/2022;
- Household washing machines and washer-dryers: Commission Regulation (EU) 2019/2023;
- Household refrigeration: Commission Regulation (EU) 2019/2019;
- Refrigerating appliances with a direct sales function (commercial refrigeration): Commission Regulation (EU) 2019/2024 with respect to Ecodesign and Commission Delegated Regulation (EU) 2019/2018 with respect to Energy Labelling; and
- Electronic displays: Commission Regulation (EU) 2019/2021.

2.3 Manufacturers, retailers and consumers will be impacted by this SI.

***Explanations***

*Explanatory statements for instruments amending or revoking regulations etc. made under section 2(2) of the European Communities Act 1972, as required under paragraph 15 of Schedule 8 to the European Union (Withdrawal) Act 2018*

2.4 The Minister for Climate Change and Corporate Responsibility, Lord Callanan, has made the following statement regarding regulations made under the European Communities Act 1972:

"In my opinion there are good reasons for The Ecodesign for Energy-Related Products and Energy Information Regulations 2021 to amend The Ecodesign for Energy-Related Products Regulations 2010 (the 2010 Regulations) and The Energy Information Regulations 2011 (the 2011 Regulations). This is because it is necessary to ensure that the product-specific measures introduced by this SI are reflected in those Regulations, in order that they can be enforced properly by the market surveillance authority."

2.5 The functions of the 2010 Regulations and the 2011 Regulations are explained in paragraphs 6.4 and 6.5.

2.6 The amendments made to the 2010 Regulations are to update Schedule 1 - which lists the ecodesign measures for which a declaration of conformity is required and which must be complied with - to ensure that the market surveillance authority can enforce compliance with the new Regulations (in Great Britain, the Office for Products Safety and Standards (OPSS) is responsible for market surveillance and enforcement). In addition, a new entry for commercial refrigeration is added. The effect of the amendments is that when these products are placed on the GB market, they must comply with the provisions in the Regulations. The amendments to the 2011 Regulations similarly update the list of energy labelling measures which apply in GB and can be enforced by OPSS to include the new requirements for commercial refrigeration.

## 3. Matters of special interest to Parliament

***Matters of special interest to the Joint Committee on Statutory Instruments***

3.1 None.

***Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)***

3.2 The territorial application of this instrument includes Scotland.

3.3 The powers under which this instrument is made are limited to England and Wales and Scotland, in accordance with the Northern Ireland Protocol. EU Ecodesign and Energy Labelling regulations are included in the Northern Ireland Protocol and therefore continue to apply in Northern Ireland.

## 4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales, and Scotland.

4.2 The territorial application of this instrument is England and Wales, and Scotland.

## 5. European Convention on Human Rights

5.1 Lord Callanan has made the following statement regarding Human Rights:

"In my view the provisions of the Ecodesign for Energy-Related Products and Energy Information Regulations 2021 are compatible with the Convention rights."

## 6. Legislative Context

6.1 The powers formerly vested in the European Commission to introduce product-specific Ecodesign and Energy Labelling measures for energy-related products in the UK were transferred to the Secretary of State, via The Ecodesign for Energy-Related Products and Energy Information (Amendment) (EU Exit) Regulations 2019 (the 2019 Regulations) which came into force on 1 January 2021. This SI is made using these powers.

6.2 Specifically:

- the new regulations 22 and 24 in The Ecodesign for Energy-Related Products Regulations 2010 (the 2010 Regulations) were inserted by the 2019 Regulations, which give the Secretary of State powers to introduce new Ecodesign measures for energy-related products; and
- the powers in Article 11 of Regulation 2017/1369 (the Energy Labelling Framework Regulation) were amended by the 2019 Regulations, and a new Article 11A was added, which enable the Secretary of State to introduce new Energy Labelling measures.

6.3 A second SI, The Ecodesign for Energy-Related Products and Energy Information (Amendment) (EU Exit) Regulations 2020 (the 2020 Regulations), limited the scope of the new ecodesign powers in the 2010 Regulations to Great Britain only as part of the implementation of the Northern Ireland Protocol; also by virtue of the operation of the Protocol, the amended labelling powers do not apply in Northern Ireland (because the Energy Labelling Framework Regulation as it has effect in the EU continues to apply in Northern Ireland).

6.4 The 2010 Regulations transposed the provisions of the EU Ecodesign Directive and created domestic obligations and a related enforcement regime to ensure that UK market surveillance authorities (MSAs) have powers to enforce these obligations. OPSS exercises the Secretary of State's function as MSA for Ecodesign.

6.5 The Energy Information Regulations 2011 outline the UK's enforcement regime to ensure that UK MSAs have the powers to enforce energy labelling obligations. In England, Wales and Scotland, the MSAs are the Secretary of State and the local weights and measures authority (Trading Standards). The functions of the Secretary of State are carried out by OPSS.

6.6 The enabling powers in the 2010 Regulations and the Energy Labelling Framework Regulation require the Secretary of State to consult on new product-specific regulations and to carry out Impact Assessments before bringing them into force. The 2010 Regulations also require the Secretary of State to provide a transitional period before the Ecodesign requirements apply. This is not necessary for Energy Labelling requirements.

## 7. Policy background

***What is being done and why?***

7.1 Ecodesign measures regulate energy-using products to ensure they meet generic or specific measures relating to their use of energy. This can be done through setting minimum energy performance standards (MEPS) along with other requirements such as resource efficiency for energy-related products. MEPS mandate the energy efficiency requirements of a product within certain timeframes and have the effect of pushing the least energy efficient products out of the market, which over time, raises the average energy efficiency of all products within a product category. Resource efficiency requirements set requirements relating to products' durability, repairability, and recyclability at end-of-life to improve resource productivity.

7.2 Energy Labelling regulations ensure clear and consistent information on products' energy usage is readily available. This helps consumers make informed purchase decisions, encouraging the uptake of the most energy efficient products and encourages competition between manufacturers in relation to improving energy efficiency. Suppliers are obliged to provide accurate energy labels to dealers who are required to make them clearly visible to consumers at the point of sale.

7.3 Together, Ecodesign and Energy Labelling policies aim to reduce the energy-use, carbon footprint and wider environmental impacts of energy-related products and to save consumers money on their energy bills.

7.4 The UK Government, as a Member State, supported a package of new product specific Ecodesign and Energy Labelling measures at EU level in 2018/19. The requirements for some of these products took effect before the end of the transition period and so were retained on 1 January 2021, however the new requirements for the products included in this SI (as listed in Section 2.1) do not apply until 2021. Therefore, this SI is required in order to bring these requirements into force in GB.

7.5 Most of the products included in this SI are already regulated under Ecodesign legislation so the existing Regulations are revoked and replaced by this SI. The Ecodesign requirements for welding equipment and the Ecodesign and Energy Labelling requirements for commercial refrigeration are being introduced for the first time.

7.6 The Government is implementing these requirements in GB to secure the associated energy and carbon savings. Legislation is needed to effectively push the market towards higher levels of energy efficiency and to increase the rate of innovation; without legislation there would be no statutory MEPS that manufacturers must make their products meet and only weak incentives for manufacturers to do this voluntarily. Additionally, this legislation will protect the Great British market from the risk of 'dumping' of less efficient products which do not meet the minimum standards in the EU and in Northern Ireland.

7.7 For some products, without this SI suppliers may need to have two product lines – one for the GB market and one for the EU and Northern Ireland market – as the requirements that would apply in GB would be divergent from Northern Ireland and the EU. Suppliers may also have to undertake dual conformity assessment procedures to ensure compliance with both sets of requirements. This legislation avoids this outcome and the associated costs to business.

7.8 In order to demonstrate or measure conformity with the new Ecodesign and Energy Labelling requirements introduced by these Regulations, designated standards must be used. Designated standards are standards which have been devised by a recognised standardisation body - such as the British Standards Institute or one of the European Standardisation Organisations - and then designated by the Secretary of State (SoS) and published by the Office for Product Safety and Standards (OPSS). However, none of the standards for the requirements in these Regulations is available to be designated yet due to their ongoing development.

7.9 In the absence of designated standards, the Regulations allow for alternative measurement methods to be used, so long as they are reliable, accurate and reproducible. In practice, where there are existing Ecodesign and Energy Labelling Regulations that are being repealed and replaced by this SI, we expect product suppliers will continue to use the existing standards designated for use under those predecessor Regulations to support compliance with the new Regulations. For electronic displays, a transitional method of measurement will be provided on the OPSS website for use with the new Regulations, which suppliers can use. For commercial refrigeration and welding equipment, for which there are no existing Regulations nor a transitional method of measurement, we expect suppliers to use the best available standards. We will communicate with product suppliers to provide guidance as to what standards should be used until designated standards are available. Once available and designated by the SoS, the Regulations will require these designated standards to be used when demonstrating or measuring conformity with the requirements. We will provide guidance to product suppliers to ensure they are aware of the designated standards and the requirement to use them.

7.10 There is a delay between some of the equivalent requirements applying in the EU and Northern Ireland (from 1 January 2021 for welding equipment; and from 1 March 2021 for household washing machines/washer-dryers, household refrigeration, commercial refrigeration and electronic displays) and when they begin to apply in Great Britain. However, we do not expect significant impacts because of this delay, which is supported by stakeholder feedback.

7.11 Subject to Parliamentary time, we do not anticipate that there will be a delay between the equivalent requirements for electric motors applying in the EU and Northern Ireland (from 1 July 2021) and when they begin to apply in Great Britain.

7.12 This SI does differ slightly from the EU provisions. For example, there is no ‘product database’; rather, a ‘publicly accessible website’ should be used as reference. Therefore, the two regimes will not be the same word-for-word.

7.13 The measures in this SI are expected to save around 21.5 TWh of electricity savings by 2050 in the domestic sector resulting in around 1.7 Mega-tonnes of $CO_2$ over the same period.

## 8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## 9. Consolidation

9.1 These Regulations are not being consolidated with any other legislation because they are predominantly new provisions.

## 10. Consultation outcome

10.1 The Government ran a six-week public consultation on its proposal to implement the requirements between September and November 2020; a copy of the draft SI and consultation-stage Impact Assessments were annexed to the consultation document.[1] The Department concluded that six weeks was an adequate consultation period since UK stakeholders had previously been consulted on the detailed, technical proposals at the time the EU regulations were developed in 2018/19. In comparison, the premise of the consultation held in 2020 was relatively simple: the Government proposed to adopt the requirements as they were agreed previously, and we did not seek to propose to change the technical requirements aside from drafting fixes. Further, the Department was concerned that a longer consultation period would increase the implementation gap between the EU and GB, which would create a risk of inefficient products being dumped on the GB market and delay certainty for businesses who need to prepare for the new requirements.

10.2 The consultation received 22 responses, with feedback from trade associations, manufacturers, environmental NGOs, waste management organisations, a consumer body, a retailer and local authority. Roundtable stakeholder meetings were also held during the consultation period, with attendance from product manufacturers, trade associations representing manufacturers and other groups representing UK industry, as the Department chose to focus its engagement on these stakeholders as they are the most heavily impacted by, and will be the main end-users of, the legislation. The primary aims of these roundtable meetings were to gather evidence in relation to the costs of implementing the Regulations and to take feedback on the draft SI.

10.3 Consultation feedback showed overwhelming support for the Government's proposal to implement the Regulations in GB. Some respondents criticised the proposed statutory review periods for being too long and not aligned with the EU's review periods. Despite this, the Government has decided to set the length of the statutory review periods in the Regulations as proposed, as it believes these are reflective of the technological progress of the respective products and the Regulations can be reviewed earlier if necessary.

10.4 Two material changes were required and have been made as a result of the consultation. Firstly, feedback highlighted the need to incorporate amendments to the GB Regulations to mirror the amendments that the EU proposes to make to its equivalent regulations. These amendments 'fix' a range of technical issues to ensure the measures can be implemented effectively and to avoid a two-tiered system being created between GB on the one hand and Northern Ireland and the EU on the other. Secondly, we have altered some assumptions made in the supporting Impact Assessments. We increased the assumed size of transitional costs faced by product suppliers as a result of the new requirements – this was in response to feedback which suggested that additional time would be required to study both EU and GB Regulations in order to familiarise with the requirements, particularly if the GB

[1] The consultation document and the Government's response can be found here: https://www.gov.uk/government/consultations/draft-ecodesign-and-energy-labelling-regulations-2021

drafting style is different. We also reduced the additionality assumption (the proportion of the benefits which would not be realised without the GB Regulations) for all products except electronic displays as this product initially had a lower additionality assumption. This was in response to feedback which suggested that the majority of manufacturers would comply with EU requirements in the absence of GB Regulations.

10.5 The consultation proposal was discussed with the Devolved Administrations.

## 11. Guidance

11.1 No guidance has been produced for this SI.

## 12. Impact

12.1 There is no, or no significant, impact on charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 The impact on business is a net present value of:

- £425 million for Industrial Goods (welding equipment and electric motors)
- £86 million for White Goods (household washing machines/washer-dryers, household dishwashers, household refrigeration and commercial refrigeration)
- £4 million for Electronic Displays.

12.4 Three Impact Assessments (Industrial Goods, White Goods and Electronic Displays) are submitted with this memorandum and published alongside the explanatory memorandum on the legislation.gov.uk website.

## 13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses. No specific action is proposed to minimise regulatory burdens on small businesses.

## 14. Monitoring & review

14.1 The approach to monitoring of this legislation is ongoing. This will ensure these Regulations are effective and working as intended.

14.2 A statutory review clause is included in the Regulations. Post-implementation reviews of the Regulations are shown in Table 1.

**Table 1**

| Product | Regulations | Review Date |
|---|---|---|
| Electronic displays | 39-44 | 25 December 2024 |
| Electric motors | 33-38 | 14 November 2025 |
| Commercial refrigeration | 9-14 | 25 December 2025 |
| Welding equipment | 3-8 | 14 November 2026 |
| Household washing machines/washer-dryers; household dishwashers; and household refrigeration | 15-32 | 25 December 2027 |

## 15. Contact

15.1 Lucy Birt at the Department for Business, Energy and Industrial Strategy. Telephone: 020 7215 3070 or email: Lucy.Birt@beis.gov.uk can be contacted with any queries regarding the instrument.

15.2 Sam Balch, Deputy Director for Home Retrofit and Energy-Using Products at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.

15.3 Lords Parliamentary Under Secretary of State, Lord Callanan at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.