EXPLANATORY MEMORANDUM TO

THE ECODESIGN FOR ENERGY-RELATED PRODUCTS (AMENDMENT) REGULATIONS 2020

2020 No. 485

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 Ecodesign requirements set minimum energy efficiency requirements for energy using products. New and updated EU ecodesign requirements for external power supplies (e.g. laptop chargers) which the UK agreed and voted in favour of in January 2019 have applied in the UK since 1 April 2020, repealing and replacing the previous external power supplies requirements. The purpose of the Ecodesign for Energy-Related Products (Amendment) Regulations 2020 ("the 2020 Regulations") is to amend the Ecodesign for Energy-Related Products Regulations 2010 ("the 2010 Regulations) so that the UK Market Surveillance Authority can enforce the new ecodesign requirements for external power supplies in the UK.

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 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 Directive 2009/125/EC of the European Parliament and of the Council establishing a framework for the setting of ecodesign requirements for energy-related products ("the Ecodesign Directive") is the legal framework within which the European Commission ("the Commission") brings forward implementing measures in relation to specific

energy-related products or product groups to require improved environmental performance including improved energy efficiency. It revoked and replaced the earlier Directive 2005/32/EC of the European Parliament and of the Council establishing a framework for the setting of ecodesign requirements for energy-using products.

6.2 The 2010 Regulations implement the Ecodesign Directive by creating domestic obligations and a related enforcement regime for ecodesign requirements for energy-related products. The 2010 Regulations give control and enforcement powers to the Market Surveillance Authority (the Secretary of State), whose functions are carried out by the Office of Product Safety and Standards (OPSS).

6.3 Under the 2010 Regulations, a manufacturer must not place on the market or put into service an energy-related product unless the manufacturer has assessed that the product complies with the applicable EU implementing measure, made a declaration of conformity and affixed the CE marking. Energy-related products are specified in Schedule 1 to the 2010 Regulations, alongside the Commission Regulations which are the applicable implementing measures setting the ecodesign requirements for those products. These product-specific Commission Regulations are directly applicable in the UK.

6.4 On 21 November 2019 Commission Regulation No 2019/1782, that sets out ecodesign requirements for external power supplies and repeals Commission Regulation No 278/2009, entered into force. The ecodesign requirements in this Regulation have applied since 1 April 2020, during the transition period, and have direct effect in the UK. The 2020 Regulations are needed to allow the domestic enforcement regime to enforce these new ecodesign requirements for external power supplies set out in Commission Regulation No 2019/1782. The 2020 Regulations use section 2(2) of the European Communities Act 1972 to substitute the implementing measure Commission Regulation No 2019/1782 for external power supplies into paragraph 4 of Schedule 1 to the 2010 Regulations in place of the existing implementing measure for external power supplies, Commission Regulation No 278/2009.

6.5 Manufacturers and others need to conform with the substantive ecodesign requirements in Commission Regulation No 2019/1782 from 1 April 2020. However, as the 2020 Regulations will not come into force until 26 May 2020, there will be a short period of non-enforcement between 1 April 2020 and 26 May 2020.

7. Policy background

What is being done and why?

7.1 EU Ecodesign measures introduced under the Ecodesign Directive set minimum environmental performance standards for energy-related products in order to remove the worst environmentally performing products from the market. This pushes the market towards more energy efficient and resource efficient products, reducing carbon emissions and energy bills. These standards also provide a level playing field for business.

7.2 These standards are set through product-specific EU Ecodesign Regulations which are brought forward by the Commission and agreed by Member States. Once passed and in force these Regulations are directly applicable in all Member States including the UK and do not require transposition through domestic legislation. The new ecodesign requirements for external power supplies have applied since 1 April 2020, during the

transition period, and therefore apply directly in the UK. The UK agreed and voted in favour of the EU Regulation in January 2019.

7.3 Enforcement of these standards is the responsibility of each Member State. The enforcement regime in the UK for Ecodesign is set out through domestic secondary legislation (the 2010 Regulations). To comply with EU law, this legislation must be updated when new EU Ecodesign Regulations are agreed to extend the enforcement regime to these Regulations.

7.4 The new and updated Ecodesign Regulation for external power supplies, Commission Regulation No 2019/1782, came into force on 21 November 2019 and sets minimum energy performance requirements which external power supplies must meet before they can be placed on the market from 1 April 2020. It also repeals the existing Ecodesign Regulation for external power supplies, Commission Regulation No 278/2009, from 1 April 2020. The new EU Ecodesign Regulation sets more ambitious energy efficiency requirements for external power supplies than were in place and are expected to save an estimated 0.2 million tonnes CO2e between 2020/21 and 2029/2030 in the UK. The purpose of the 2020 Regulations is to update 2010 Regulations so that the Market Surveillance Authority can enforce these new ecodesign requirements.

7.5 Effective enforcement by the designated Market Surveillance Authority is essential in ensuring delivery of the desired economic and environmental benefits of ecodesign standards. It protects businesses that are compliant from unfair competition from non-compliant goods and helps to ensure that the consumer benefits of lower energy bills and reduced carbon emissions are realised. As the 2020 Regulations come into force on 26 May 2020, a short period of non-enforcement from 1 April 2020 will occur. A loss in carbon savings and higher energy bills for consumers during this period of non-enforcement should be minimal.

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.

10. Consultation outcome

10.1 As the 2020 Regulations make minor amendments to domestic legislation to comply with and reflect changes in EU law that have already occurred, no consultation has been undertaken. The Department for Business, Energy and Industrial Strategy consulted extensively with industry on the draft Commission Ecodesign Regulation for external power supplies prior to voting in favour of it at an EU Regulatory Committee. The consultation raised no issues with the EU Ecodesign Regulation for external power supplies.

11. Guidance

11.1 Guidance is available on the GOV.UK single government website to assist those who are placing on the market products that are covered by product-specific EU

Regulations made pursuant to the Ecodesign Directive. It is available at https://www.gov.uk/guidance/placing-energy-related-products-on-the-uk-market

12. Impact

12.1 The impact on business, charities or voluntary bodies is minimal and limited to manufacturers of external power supplies. These Regulations allow the UK to enforce a new EU Ecodesign Regulation that is already in force and manufacturers will only be impacted if it is proven that their product does not comply with this EU Ecodesign Regulation.

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

12.3 An Impact Assessment has not been prepared for this instrument because these Regulations simply allow enforcement of EU requirements that already apply in the UK. The Commission carried out an Impact Assessment for the EU Ecodesign Regulation for external power supplies and prior to voting in favour of the Regulation, the Department for Business, Energy and Industrial Strategy carried out a Cost Benefit Analysis which showed a net benefit to the UK. Additionally, in 2019, in case the new and updated EU Ecodesign Regulation for external power supplies did not apply directly in the UK, draft regulations (which were never laid) were prepared to reflect what the UK agreed at EU level as a Member State in January 2019. An Impact Assessment was prepared to accompany these draft regulations. This Impact Assessment showed that updating ecodesign requirements for external power supplies to reflect what the UK agreed at EU level as a Member State in January 2019 would produce a net benefit in the UK. This Impact Assessment is available at: https://www.gov.uk/government/consultations/ecodesign-requirements-for-external-power-supplies-draft-regulation.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

13.3 The basis for the final decision on what action to take to assist small businesses was taken because these Regulations do not directly place requirements on businesses but ensure the Market Surveillance Authority can enforce EU requirements. Small businesses will only be impacted if it is proven that their product does not comply with the relevant EU Ecodesign Regulation. The 2010 Regulations give the Market Surveillance Authority a suite of various enforcement tools including stop notices, civil sanctions and criminal sanctions. This allows the Market Surveillance Authority the flexibility to deal proportionately with non-compliance on a case by case basis.

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 The Regulations do not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 the Rt. Hon. Kwasi Kwarteng MP has made the following statement: “A statutory review is not necessary for this instrument as it amends legislation that is already subject to a statutory review”.

15. Contact

15.1 Samip Naik at the Department for Business, Energy and Industrial Strategy Telephone: 020 7215 4707 or email: samip.naik@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 The Minister of State for Business, Energy and Clean Growth, the Rt Hon. Kwasi Kwarteng MP, at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.