EXPLANATORY MEMORANDUM TO

THE ECODESIGN FOR ENERGY-RELATED PRODUCTS AND ENERGY INFORMATION (AMENDMENT) REGULATIONS 2016

2016 No. 838

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 The Ecodesign for Energy-Related Products and Energy Information (Amendment) Regulations 2016 ("the 2016 Regulations") amend the Ecodesign for Energy-Related Products Regulations 2010 ("the 2010 Regulations") and the Energy Information Regulations 2011 ("the 2011 Regulations"). The purpose of the amendments is to comply with changes to European Union ("EU") law which affect:

a) restrictions on the placing on the market or putting into service by manufacturers, authorised representatives or importers certain energy-related products unless they comply with ecodesign requirements, which are imposed by the 2010 Regulations, and

b) the requirements placed on suppliers, dealers and certain others for labelling and standard product information of the consumption of energy and other resources in relation to certain energy-related products, which are required under the 2011 Regulations, and

c) the scope of the enforcement powers of the authorities responsible for market surveillance to cover these changes.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

The 2010 Regulations:

4.1 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 brings forward implementing measures in relation to specific energy-related products or product groups to require improved environmental performance. 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.

4.2 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 authorities. Under the 2010 Regulations, manufacturers must not place on the market or put into service an energy-related product unless the manufacturer has assessed that product complies with the applicable implementing measure, made a declaration of conformity and affixed the CE marking, or unless equivalent member state or EEA state rules are adhered to. Energy-related products and product groups 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 or groups of products. The 2010 Regulations can be easily amended to incorporate new products where product-specific EU Regulations have been passed.

4.3 The 2016 Regulations insert two new entries into paragraph 4 of Schedule 1 of energy-related products and groups of products along with the applicable implementing measures. These amendments are necessary in order to implement EU law by extending the domestic enforcement regime, including the market surveillance authorities' enforcement powers, to these products.

The 2011 Regulations:

4.4 Directive 2010/30/EU of the European Parliament and of the Council on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products ("the Labelling Directive") is the legal framework within which the European Commission brings forward EU measures in relation to specific energy-related products or product groups in order to better inform end users about the energy efficiency and other environmental impacts of a product. It revoked and replaced the earlier Directive 92/75/EEC of 22 September 1992 on the indication by labelling and standard product information of the consumption of energy and other resources by household appliances.

4.5 The 2011 Regulations implement the Labelling Directive for the UK. When placing on the market or putting into service energy-related products regulated by an EU measure, suppliers must supply a label and a fiche which comply with the 2011 Regulations and the EU measure and accompanying technical documentation. The 2011 Regulations also place similar obligations on dealers and impose other supplementary requirements relating to information and misleading information. Schedule 1 to the 2011 Regulations specifies the energy-related products or groups of products alongside the relevant EU measure which imposes the labelling requirements for the products, and the date from which the EU measure applies.

4.6 The 2016 Regulations insert three new entries into Schedule 1 of energy-related products and groups of products alongside the EU measures which impose the labelling requirements for those products and the dates from which the EU measures apply. These amendments are necessary to comply with EU law and to extend the market surveillance authorities enforcement powers to these products.

4.7 The rules set out in the EU measures apply from a number of different dates, the first of which was 1st July 2016. The 2016 Regulations will come into force on 1st

September 2016 so that the domestic enforcement regime reflects the EU law requirements from that date.

5. Extent and Territorial Application

5.1 The extent of this instrument is to the UK.

5.2 The territorial application of this instrument is to the UK.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

7.1 On 23 June, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation.

Ecodesign Directive

7.2 The Ecodesign Directive provides coherent EU-wide rules for ecodesign and ensures that disparities among national laws do not become obstacles to intra-EU trade. It defines conditions and criteria for setting requirements for environmentally relevant product characteristics (such as energy efficiency), through implementing measures.

7.3 Implementing measures under the Ecodesign Directive have so far taken the form of EU Regulations, although other forms are possible, including voluntary agreements. In most cases the EU Regulations put in place minimum energy efficiency standards for products. Products that do not meet these standards cannot then be placed on the market or put into service in the EU single market. We estimate the measures agreed so far will be saving around 9 million tonnes of CO2e in 2020 and have a net benefit of £23bn to the UK over the period 2015 to 2030.

Labelling Directive

7.4 The Labelling Directive provides a coherent EU framework for energy labelling and ensures that disparities among national laws do not become obstacles into intra-EU trade. It defines conditions and criteria for setting energy labelling requirements for environmentally relevant characteristics (such as energy efficiency and water usage) through delegated acts. The labels are designed to help consumers make informed purchasing decisions, and to encourage manufacturers to design more efficient products to meet consumer demand thus reducing the amount of energy consumed by household appliances.

7.5 The Labelling Directive provides for delegated acts to take the form of EU Regulations. The delegated acts put in place requirements to produce accurate labels and that the labels are displayed, in accordance with the requirements of the delegated act, at the point of sale.

Domestic legislation

7.6 Effective enforcement under both the 2010 Regulations and 2011 Regulations by the designated market surveillance authority is essential to ensure delivery of the desired economic and environmental benefits. It also protects businesses that are compliant from unfair competition from non-compliant goods. It also helps to ensure that consumers benefit from the anticipated financial savings through lower energy bills, as well as protecting the environment.

Need for the 2016 Regulations

7.7 The 2016 Regulations implement EU law by ensuring the scope of the enforcement regimes extend to Commission Regulations (EU) Nos 2015/1095 and 2015/1188, and Commission Delegated Regulations (EU) Nos 2015/1094, 2015/1187 and 2015/1186.

Consolidation

7.8 The Regulations do not consolidate any other legislation.

8. Consultation outcome

8.1 No consultation on the 2016 Regulations is necessary as the scope of the 2010 and 2011 Regulations is still limited to energy related or energy using products. The Department for Business, Energy and Industrial Strategy consults on draft product-specific EU Regulations prior to these being adopted as EU law.

9. Guidance

9.1 Guidance is available on the GOV.UK single government website to assist those placing on the market products that are covered by product-specific EU Regulations made pursuant to the Ecodesign and Labelling Directives. This guidance will be updated as and when new implementing measures are introduced. It is available at https://www.gov.uk/guidance/placing-energy-related-products-on-the-uk-market.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies. The amendments made by this statutory instrument are not expected to have direct additional burdens on businesses.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument as an assessment of costs and benefits was carried out to prior to each of the product-specific EU Regulations concerned being passed at EU level.

11. Regulating small business

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

11.2 Businesses will only incur penalties if it is proven that their product does not comply with the ecodesign and/or energy labelling legislation.

12. Monitoring & review

12.1 Each product-specific EU Regulation has a review clause in it, normally 5 years after entry into force.

13. Contact

13.1 This explanatory memorandum provides additional details compared with explanatory memorandums for similar regulations to assist readers. If you have any queries regarding this explanatory memorandum or the accompanying statutory instrument please contact Heather Humphreys at the Department for Business, Energy and Industrial Strategy, Telephone: 0300 068 2989 or email: heather.humphreys@decc.gsi.gov.uk