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STATUTORY INSTRUMENTS

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**2007 No. 2037**

**ENERGY CONSERVATION**

**The Ecodesign for Energy-Using Products Regulations 2007**

<i>Made</i>	- - - -	<i>14th July 2007</i>
<i>Laid before Parliament</i>		<i>18th July 2007</i>
<i>Coming into force</i>	- -	<i>11th August 2007</i>

The Secretary of State has been designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to the ecodesign of energy-using products and makes the following Regulations under the powers conferred by that section:

**PART 1**

**Introduction and interpretation**

**Citation and commencement**

1. These Regulations may be cited as the Ecodesign for Energy-Using Products Regulations 2007 and come into force on 11th August 2007.

**Interpretation**

2.—(1) In these Regulations—

“authorised person” is defined in regulation 20;

“CE conformity marking” is defined in Schedule 6;

“conformity assessment procedure” means the procedure to assess the conformity of a listed product to the product requirements;

“declaration of conformity” is defined in Schedule 5;

“enforcement notice” is defined in paragraph 2 of Part 5 to Schedule 9;

“enforcing authority” means—

(a) in England and Wales and Scotland, a local weights and measures authority within the meaning of section 69 of the Weights and Measures Act 1985<sup>(3)</sup>; and

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(1) [S.I. 2006/608](#). The power of the Secretary of State to make regulations which extend to Scotland remains exercisable by virtue of section 57(1) of the Scotland Act 1999 [\(c.46\)](#).

(2) [1972 c.68](#).

(3) [1985 c.72](#).

- (b) in Northern Ireland, the Department of Enterprise, Trade and Investment;
- “general technical documentation” is defined in chapter 2 of Part 1 to Schedule 4;
- “implementing measure” is defined in paragraph 2 of Part 1 to Schedule 1;
- “listed product” means an energy-using product listed in paragraph 1 of Part 1 to Schedule 1;
- “non-conformity notice” is defined in paragraph 14 of Part 1 to Schedule 4;
- “notified body” means a person approved by the Secretary of State under regulation 11;
- “product requirements” is defined in Schedule 2.

(2) In Schedules 1,2 and 3 of these Regulations, the European Standards with designation numbers EN 153, EN50294 and EN 60920 mean the Standards issued with those designations by the European Committee for Electromechanical Standardisation<sup>(4)</sup>.

(3) Expressions used in these Regulations which are used—

- (a) in an implementing measure; or
- (b) in 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<sup>(5)</sup>,

have the meaning they bear in that measure or Directive.

## PART 2

### Restriction on listed products, conformity assessments, declarations of conformity and the CE conformity marking

#### Restriction on listed products

3.—(1) A person must not place a listed product on the market unless that product conforms to the product requirements for that product.

(2) Schedule 2 has effect in relation to product requirements.

#### Conformity assessments, declarations of conformity and the CE conformity marking

4.—(1) A manufacturer must not place a listed product on the market unless he complies with—

- (a) paragraphs (2) and (3); or
- (b) equivalent provisions under the laws of another member State.

(2) A manufacturer must—

- (a) assess whether a listed product conforms to the product requirements for that product; and
- (b) make that assessment in accordance with Schedule 3.

(3) If a manufacturer assesses that a listed product conforms to the product requirements, the manufacturer must—

- (a) make a declaration of conformity; and
- (b) affix visibly, legibly and indelibly to the listed product, or the packaging or documentation that accompanies that product, the CE conformity marking.

(4) The following have effect—

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(4) Otherwise known as CENELEC at 35 Rue de Stassartstraat, B-1050 Brussels, Belgium ([www.cenelec.org](http://www.cenelec.org)).

(5) O.J. No. L191, 22.7.2005, p. 29.

- (a) Schedule 4 (modules for conformity assessment);
- (b) Schedule 5 (declaration of conformity);
- (c) Schedule 6 (CE conformity marking).

#### **Authorised representatives and importers**

5. If a manufacturer of a listed product is not established within the Community, an authorised representative or importer of a listed product must not place a listed product on the market unless the authorised representative or importer—

- (a) ensures that the manufacturer of the listed product has complied with regulation 4(1); and
- (b) complies with that regulation to the extent that the manufacturer has not complied with it.

#### **Displays of listed products not restricted**

6.—(1) Regulations 3, 4 and 5 do not apply to the display of a listed product if—

- (a) that product; or
- (b) the packaging or documentation that accompanies that product,

bears a visible indication that the product must not be placed on the market unless it complies with the product requirements for that product.

(2) For the purposes of paragraph (1), the display of a listed product includes its display at trade fairs, exhibitions and demonstrations.

## **PART 3**

### **Presumption of conformity, non-conformity, misleading markings and documentation**

#### **Presumption of conformity**

7.—(1) Unless the contrary is proved, where—

- (a) a listed product; or
- (b) the packaging or documentation that accompanies that product,

bears the CE conformity marking, the listed product is presumed to conform to the product requirements for that product.

(2) Unless the contrary is proved, where—

- (a) harmonised standards have been applied to a listed product; and
- (b) the reference numbers of those standards have been published in the Official Journal of the European Union,

the listed product is presumed to comply with the requirements of the implementing measure to the extent that the harmonised standards relate to those requirements.

(3) Unless the contrary is proved, where a listed product has been awarded a Community eco-label, the listed product is presumed to comply with the ecodesign requirements for that product to the extent that the Community eco-label relates to those requirements.

(4) For the purposes of paragraph (3), “Community eco-label” means—

- (a) a label that meets the requirements of Regulation (EC) No 1980/2000 of the European Parliament and of the Council on a revised Community eco-label award scheme<sup>(6)</sup>; or
- (b) a label which the Commission determines meets equivalent conditions for such a label.

### **Non-conformity**

**8.**—(1) If a manufacturer, an authorised representative or importer of a listed product becomes aware that—

- (a) he has placed on the market a listed product bearing the CE conformity marking; and
- (b) that product does not conform to the product requirements for that product,

he must comply with paragraph (2).

(2) A person to whom paragraph (1) applies must as soon as possible take steps to bring the product into conformity but if—

- (a) it is not possible to take such steps; or
- (b) such steps do not bring the product into conformity,

he must withdraw the product from the market.

(3) Such a person who withdraws a listed product from the market must as soon as possible notify that withdrawal in writing to—

- (a) the Secretary of State; and
- (b) the enforcing authority where that person has their principal place of business.

### **Misleading markings**

**9.** A person must not affix or cause to be affixed any marking to—

- (a) a listed product; or
- (b) the packaging or documentation that accompanies that product,

which is likely to mislead a user of the product as to the meaning and form of the CE conformity marking.

### **Documentation for inspection**

**10.**—(1) A manufacturer, an authorised representative or importer of a listed product who has placed on the market a listed product must keep the following available for inspection by an enforcing authority—

- (a) documentation that is relevant to the applicable conformity assessment procedure or procedures under Schedule 3; and
- (b) every declaration of conformity.

(2) Paragraph (1) applies for the period of at least 10 years from the date the listed product was last manufactured.

(3) If an enforcing authority requests any documentation or declaration from the person responsible for keeping them, that person must provide the documentation or declaration within 10 days of receipt of the request.

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<sup>(6)</sup> O.J. No. L237, 21.9.2000, p. 1.

## PART 4

### Notified bodies

#### Criteria to be met by notified bodies and approvals

11.—(1) A notified body must meet the criteria in Schedule 7.

(2) A person may make an application in writing to the Secretary of State to be approved as a notified body in respect of one or more listed products.

(3) If a person meets the criteria in Schedule 7 in respect of a listed product or products, the Secretary of State must in writing approve that person as a notified body in respect of the product or products.

(4) The Secretary of State may—

- (a) make an approval subject to such limitations or conditions as he sees fit, including the period for which the approval is given;
- (b) withdraw an approval given to a notified body; or
- (c) vary an approval.

(5) The Secretary of State must inform the Commission—

- (a) of the details of a notified body he has approved and any limitations or conditions attached to that approval; and
- (b) if an approval has been withdrawn or varied.

#### Function of notified bodies

12. The function of a notified body is to determine, within the conformity assessment procedure or procedures applicable to a listed product, that the product conforms to the appropriate product requirements.

#### Obligations and powers of notified bodies

13.—(1) In discharging its function, a notified body—

- (a) must comply with the obligations; and
- (b) may exercise the powers,

referred to in Schedule 4 (modules for conformity assessment).

(2) A notified body must not—

- (a) perform any such obligations; or
- (b) exercise any such powers,

in relation to a listed product if the circumstances in paragraph (3) apply.

(3) The circumstances referred to in paragraph (2) are where the notified body—

- (a) is the designer, manufacturer, supplier or installer of the product;
- (b) is the authorised representative of such person; or
- (c) is involved directly with any person mentioned in (a) or (b).

### **Power to charge fees**

**14.**—(1) A notified body may charge a fee to a manufacturer, authorised representative or an importer.

(2) Such a fee must not exceed—

(a) the costs of the work incurred, or to be incurred—

(i) to comply with any obligation; or

(ii) in exercising any power,

relevant to the conformity assessment procedure applicable to a listed product; and

(b) such amount on account of profit as the notified body believes is reasonable in the circumstances.

(3) In determining what is reasonable under paragraph (2)(b), a notified body must have regard to—

(a) the nature and extent of the work; and

(b) the commercial rate normally charged for such work or similar work.

### **Appeals against non-conformity notices**

**15.**—(1) A person to whom a non-conformity notice is given by a notified body—

(a) may give notice of appeal against that notice to the notified body; and

(b) must be informed of that right in the non-conformity notice.

(2) The appeal must be heard by the appeal body.

(3) Subject to paragraph(4), the appeal body is the body agreed by the parties to the appeal.

(4) If no agreement is reached within a reasonable time, either party may apply in writing to the relevant person who must appoint the appeal body.

(5) For the purposes of paragraph (3), the relevant person means—

(a) in England and Wales, the Secretary of State;

(b) in Scotland, the Scottish Ministers;

(c) in Northern Ireland, the Department of Enterprise, Trade and Investment.

(6) Schedule 8 has effect.

### **Non-conformity notices**

**16.**—(1) If a notified body gives a non-conformity notice which has the effect of restricting or prohibiting a listed product from being placed on the market, the notified body must supply a copy of the non-conformity notice as soon as possible to—

(a) the Secretary of State; and

(b) the enforcing authority where the person who receives the notice has their principal place of business.

(2) The Secretary of State must—

(a) inform the Commission; and

(b) the appropriate authorities in other member States,

of a notice he receives under paragraph (1).

### **Information to be supplied to other notified bodies**

17. A notified body must supply to other notified bodies information concerning—

- (a) an EC type-examination certificate it has made, including any additional approval to a certificate;
- (b) any withdrawal of such a certificate;
- (c) a conformity assessment procedure it has approved, including any modifications to a procedure;
- (d) any withdrawal of approval of such a procedure;
- (e) an EC design examination certificate it has made, including any addition to a certificate; and
- (f) any withdrawal of such a certificate,

and must supply copies of any relevant documentation if that is requested.

## **PART 5**

### **Enforcement**

#### **Enforcement**

18.—(1) An enforcing authority must enforce—

- (a) regulation 3 (restriction on listed products);
- (b) regulation 4 (conformity assessments, declarations of conformity and the CE conformity marking);
- (c) regulation 5 (authorised representatives and importers);
- (d) regulation 8 (non-conformity);
- (e) regulation 9 (misleading markings); and
- (f) regulation 10 (documentation for inspection).

(2) In England and Wales and Scotland, the duty in paragraph (1) applies to the area of the enforcing authority.

(3) Proceedings for an offence shall be brought—

- (a) in England and Wales and Northern Ireland, only by or on behalf of an enforcing authority;
- (b) in Scotland, by the Procurator Fiscal.

#### **Proceedings before a civil court**

19. If an enforcing authority is of the opinion that proceedings against a person for an offence under Part 6 would afford an ineffectual remedy against that person, the enforcing authority may take civil proceedings against that person for the purpose of seeking such remedy as the enforcing authority believes is appropriate in the circumstances.

#### **Powers of an enforcing authority and authorisation**

20.—(1) An enforcing authority and persons authorised for the purposes of paragraph (2) have the powers set out in Schedule 9.

(2) An enforcing authority may authorise in writing such persons who appear suitable to act on its behalf, subject to any limitations or conditions as the enforcing authority sees fit.

(3) Persons authorised by an enforcing authority in relation to the enforcement of local weights and measures or consumer protection are persons authorised under paragraph (2).

#### **Appeals against enforcement notices**

**21.**—(1) A person on whom an enforcement notice is served—

- (a) may appeal against that notice to the appeal body; and
- (b) must be informed of that right in the notice.

(2) The appeal body means—

- (a) in England and Wales, the Secretary of State;
- (b) in Scotland, the Scottish Ministers;
- (c) in Northern Ireland, the Planning Appeals Commission.

(3) Schedule 8 has effect.

#### **Notification of enforcement notices**

**22.**—(1) Paragraph (2) applies if an enforcing authority—

- (a) serves an enforcement notice which has, or will have, the effect of restricting or prohibiting a listed product from being placed on the market; or
- (b) intends to bring civil proceedings which, if the remedy sought by the enforcing authority is granted by the court, would have that effect.

(2) Where paragraph (1) applies, the enforcing authority must as soon as possible provide to the Secretary of State—

- (a) a copy of the enforcement notice; or
- (b) details of the civil proceedings it intends to bring.

(3) The Secretary of State must—

- (a) inform the Commission; and
- (b) the appropriate authorities in other member States,

of a notice or details of intended proceedings received under paragraph (2).

## **PART 6**

### **Offences and penalties**

#### **Offences and penalties in respect of regulations 3 to 5 and 8 to 10**

**23.**—(1) It is an offence—

- (a) for a person to contravene—
  - (i) regulation 3 (restriction on listed products); or
  - (ii) regulation 9 (misleading markings);
- (b) for a manufacturer to contravene regulation 4 (conformity assessments, declarations of conformity and the CE conformity marking);
- (c) for an authorised representative or an importer of a listed product to contravene regulation 5 (authorised representatives and importers); or

(d) for a manufacturer, authorised representative or an importer of a listed product to contravene regulation 8 (non-conformity) or 10 (documentation for inspection), or to cause or permit another person to do so.

(2) Any person guilty of an offence under paragraph (1) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

### **Other offences and penalties**

24.—(1) It is an offence for a person—

- (a) intentionally to obstruct an authorised person in the exercise or performance of his powers or duties; or
- (b) knowingly or recklessly to make a statement which is false or misleading in a material particular, where the statement is made in purported compliance with—
  - (i) any requirement imposed under the powers in Part 3 to Schedule 9; or
  - (ii) any notice given under Part 5 to Schedule 9.

(2) It is an offence for a person, without reasonable excuse, to fail to—

- (a) comply with any requirement imposed under the powers in Part 3 to Schedule 9;
- (b) provide facilities or assistance reasonably required by an authorised person under those powers; or
- (c) comply with any notice given under Part 5 to Schedule 9;

(3) It is an offence for a person falsely to pretend to be an authorised person.

(4) A person guilty of an offence under this regulation is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) In this regulation, “powers or duties” includes powers or duties exercisable by virtue of a warrant under Part 2 to Schedule 9.

### **Commencement of summary proceedings**

25. An offence under these Regulations may be tried by summary proceedings if—

- (a) in England and Wales, the information is laid;
- (b) in Northern Ireland, the complaint is made;
- (c) in Scotland, the proceedings are begun,

within twelve months from the date the offence is committed.

### **Bodies corporate**

26.—(1) Where a body corporate commits an offence under these Regulations and it is proved that the offence—

- (a) is committed with the consent or connivance of a relevant person, or
- (b) is attributable to any neglect on his part,

that person as well as the body corporate is guilty of that offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “relevant person” means—

- (a) a director, manager, secretary or other similar officer of the corporate body;

- (b) in relation to a body corporate managed by its members, a member of that body performing managerial functions;
- (c) in relation to a Scottish partnership, a partner;
- (d) a person purporting to act as a person described within (a), (b) or (c).

### **Remediation orders**

- 27.**—(1) This regulation applies to a person convicted of an offence under these Regulations.
- (2) The court may specify in an order (“a remediation order”)—
- (a) the steps that the convicted person must take to remedy any of the matters for which he has been convicted; and
  - (b) the period within which those steps must be taken.
- (3) A period specified in a remediation order may be extended if an application is made to the court within that period.
- (4) A convicted person does not continue to be liable under regulation 23 or 24 in respect of the matters covered by a remediation order.
- (5) A remediation order may be made in addition to, or instead of, any other punishment.

## **PART 7**

### **Revocations**

#### **Revocations**

- 28.** The instruments listed in Schedule 10 are revoked to the extent stated in that Schedule.

*Joan Ruddock*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs

14th July 2007

## SCHEDULE 1

Regulation 2

### Listed products

## PART 1

### Listed products and implementing measures

1. “Listed product” means—

- (a) a boiler or an appliance;
- (b) a refrigerator appliance;
- (c) a ballast for fluorescent lighting,

as defined in this Schedule.

2. “Implementing measure” in relation to—

- (a) a boiler or an appliance, means Council Directive [92/42/EEC](#) on efficiency requirements for new hot water boilers fired with liquid or gaseous fuels<sup>(7)</sup>;
- (b) a refrigerator appliance, means Directive [96/57/EC](#) of the European Parliament and of the Council on energy efficiency requirements for household electric refrigerators, freezers and combinations thereof<sup>(8)</sup>;
- (c) a ballast for fluorescent lighting, means Directive [2000/55/EC](#) of the European Parliament and of the Council on energy efficiency requirements for ballasts for fluorescent lighting<sup>(9)</sup>.

## PART 2

### Boilers and appliances

1. The following definitions have effect—

- (a) “a boiler” means the combined boiler body-burner unit which—
  - (i) is designed to transmit to water the heat released from burning;
  - (ii) is fired by liquid or gaseous fuels; and
  - (iii) has a rated output of no less than 4kW and no more than 400kW;and
- (b) “an appliance” means—
  - (i) the boiler body designed to have a burner fitted; or
  - (ii) the burner designed to be fitted to a boiler body.

2. The following are not within the definition in paragraph 1—

- (a) a boiler capable of being fired by fuels other than liquid or gaseous fuels, including solid fuels;

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(7) O.J. No. L167, 22.6.1992, p. 17 as last amended by Directive [2005/32/EC](#) of the European Parliament and of the Council (O.J. No. L191, 22.7.2005, p. 29).

(8) O.J. No. L236, 18.9.1996, p. 36 as last amended by Directive [2005/32/EC](#) of the European Parliament and of the Council (O.J. No. L191, 22.7.2005, p. 29).

(9) O.J. No. L279, 1.11.2000, p. 33 as last amended by Directive [2005/32/EC](#) of the European Parliament and of the Council (O.J. No. L191, 22.7.2005, p. 29).

- (b) equipment for the instantaneous preparation of hot water;
- (c) a boiler designed to be fired by fuels the properties of which differ appreciably from liquid or gaseous fuels commonly marketed;
- (d) a cooker or an appliance designed mainly to heat the premises in which they are installed and, as a subsidiary function, to supply hot water for central heating and sanitary hot water;
- (e) an appliance with a rated output of less than 6kW using gravity circulation and designed solely for the production of stored sanitary hot water;
- (f) a boiler manufactured on a one-off basis; or
- (g) cogeneration units as defined in Directive [2004/8/EC](#) of the European Parliament and of the Council on the promotion of cogeneration based on a useful heat demand in the internal energy market<sup>(10)</sup>.

## PART 3

### Refrigerator appliances

1. “A refrigerator appliance” means—

- (a) a refrigerator;
- (b) a frozen food storage cabinet;
- (c) a food freezer; or
- (d) a combination of any of (a), (b) or (c),

for household use supplied by mains electricity.

2. The following are not within the definition in paragraph 1—

- (a) a refrigerator appliance manufactured on a one-off basis;
- (b) a refrigerator appliance capable of using energy sources apart from mains electricity, in particular accumulators; or
- (c) a refrigerator appliance working on the absorption principle.

## PART 4

### Ballasts for fluorescent lighting

1. “A ballast for fluorescent lighting” means a ballast—

- (a) operated by mains electricity; and
- (b) used for fluorescent lighting,

as defined in point 3.4 of European Standard EN 50294.

2. The following are not within the definition in paragraph 1—

- (a) a ballast integrated within a lamp;
- (b) a ballast—
  - (i) designed specifically for a luminaire to be mounted in furniture;
  - (ii) which forms a non-replaceable part of the luminaire; and

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<sup>(10)</sup> O.J. No. L52, 21.2.2004, p. 50.

(iii) which cannot be tested separately from the luminaire, according to point 2.1.3 of European Standard 60920;

or

(c) a ballast to be exported from the Community either as a single component or incorporated in a luminaire.

## SCHEDULE 2

Regulation 3

### Product requirements

## PART 1

### Introduction

1. This Schedule sets out in relation to a listed product the requirements that must be met by that product.

## PART 2

### Boilers and appliances

1. A boiler or an appliance must comply with the useful efficiency requirements—
- at rated output (that is operating at rated output  $P_n$  expressed in kW, at an average boiler-water temperature of 70 degrees C); and
  - at part load (that is operating at 30 per cent part load, at an average boiler-water temperature which varies according to the type of boiler),

set out in the table in paragraph 2.

2. The table referred to in paragraph 1—

#### Useful efficiency requirements

Type of Boiler	Range of power output	Efficiency at rated output	Efficiency at part load
	KW	Average boiler-water temperature expressed in degrees C	Average boiler-water temperature expressed in degrees C
Standard	4 to 400	70	Greater than or equal to $84 + 2 \log P_n$
			Greater than or equal to 50
			Greater than or equal to $80 + 3 \log P_n$

(1) Including a condensing boiler using liquid fuels

(2) Temperature of boiler water supply

**Status:** This is the original version (as it was originally made). UK  
Statutory Instruments are not carried in their revised form on this site.

Low temperature <sup>(1)</sup>	4 to 400	70	Greater than or equal to $87.5 + 1.5 \log P_n$	Greater than or equal to $87.5 + 1.5 \log P_n$
Gas condensing	4 to 400	70	Greater than or equal to $91 + 1 \log P_n$	Greater than or equal to $97 + 1 \log P_n$

(1) Including a condensing boiler using liquid fuels

(2) Temperature of boiler water supply

3. A boiler or an appliance with a dual function of—

- (a) heating premises; and
- (b) providing sanitary hot water,

must comply with paragraph 1 to the extent of the heating function only.

4. A boiler which is—

- (a) a back-boiler; or
- (b) a boiler designed to be installed in the living space,

must be treated as a standard boiler but its efficiency at rated output and part load may be 4 per cent less than shown in the table in paragraph 2.

## PART 3

### Refrigerator appliances

1. If a refrigerator appliance is within categories 1 to 9 as described in table 1 in paragraph 2, the maximum allowable electricity consumption ( $E_{max}$ ) of that appliance, expressed in kWh per 24 hours, is set out in column 3 of that table.

2. The table referred to in paragraph 1—

**Table 1**

Requirements for maximum allowable electricity consumption – appliances in categories 1 to 9

Category	Description	$E_{max}$ (kWh/.24h)
1	Refrigerator without low temperature compartment (being any compartment with a temperature at or below -6 degrees C)	$(0.207 \times V_{adj} + 218) / 365$
2	Refrigerator/chiller compartment at 5 degrees C and/or 12 degrees C	$(0.207 \times V_{adj} + 218) / 365$
3	Refrigerator with no-star low temperature compartment	$(0.207 \times V_{adj} + 218) / 365$

(1)  
(1)

4	Refrigerator with low temperature compartment (*)	$(0.557 \times V_{adj} + 166) / 365$
5	Refrigerator with low temperature compartment (**)	$(0.402 \times V_{adj} + 206) / 365$
6	Refrigerator with low temperature compartment (***)	$(0.573 \times V_{adj} + 206) / 365$
7	Refrigerator/freezer, with freezer compartment (****)	$(0.697 \times V_{adj} + 272) / 365$
8	Food freezer, upright	$(0.434 \times V_{adj} + 262) / 365$
9	Food freezer, chest	$(0.480 \times V_{adj} + 195) / 365$

**3.** If a refrigerator appliance—

- (a) has more than 2 doors; or
- (b) is not described in table 1,

the maximum allowable electricity consumption ( $E_{max}$ ) of that appliance as described in columns 1 and 2 of table 2 in paragraph 4, expressed in kWh per 24 hours, is set out in column 3 of that table.

**4.** Table 2 referred to in paragraph 3—

**Table 2**

Requirements for maximum allowable electricity consumption – other appliances

<i>Temperature of the coldest compartment</i>	<i>Category</i>	<i><math>E_{max}</math> (kWh/24 hours)</i>
> - 6 degrees C	1/2/3	$(0.207 \times V_{adj} + 218) / 365$
- 6 degrees C(*)	4	$(0.557 \times V_{adj} + 166) / 365$
- 12 degrees C(**)	5	$(0.402 \times V_{adj} + 219) / 365$
- 18 degrees C (***)	6	$(0.573 \times V_{adj} + 206) / 365$
- 18 degrees C(****)	7	$(0.697 \times V_{adj} + 272) / 365$

**5.** The categories 1 to 7 referred to in column 2 of table 2 are the same categories of refrigerator appliance numbered 1 to 7 referred to in column 1 of table 1.

**6.** The following have effect in respect of tables 1 and 2—

$$V_{adj} = \sum V_c W_c / T_c$$

$$W_c = (25 - T_c) / 20$$

**7.** For the purposes of paragraph 6—

$V_{adj}$  is the value of the adjusted volume (in litres);

$V_c$  is the net volume (in litres) of a given type of compartment in the appliance;

$T_c$  is the design temperature in each compartment (in degrees C);

$F_c$  is a factor which equals—

- (a) 1.2 for no-frost compartments; or
- (b) 1 for other compartments;

Cc is—

- (a) 1 for refrigeration appliances belonging to the normal (N) and subnormal (SN) climate classes;
  - (b) Xc for refrigeration appliances belonging to the sub-tropical (ST) climate class; or
  - (c) Yc for refrigeration appliances belonging to the tropical (T) climate class;
- Xc and Yc are weighting co-efficients defined in paragraph 8.

8. The following table defines the co-efficients Xc and Yc referred to in paragraph 7—

**Table 3**

Table of weighting co-efficients Xc and Yc, according to the temperature of the compartment

	<b>Xc</b>	<b>Yc</b>
<b>Cellar compartment</b>	<b>1.25</b>	<b>1.35</b>
<b>Fresh food compartment</b>	<b>1.20</b>	<b>1.30</b>
<b>0 degrees C compartment</b>	<b>1.15</b>	<b>1.25</b>
<b>1-star (*) compartment</b>	<b>1.12</b>	<b>1.20</b>
<b>2-star (**) compartment</b>	<b>1.08</b>	<b>1.15</b>
<b>3 (***) and 4 (****) star compartments</b>	<b>1.05</b>	<b>1.10</b>

9. For the purposes of this Part, a manufacturer must establish the electricity consumption of a refrigerator appliance in accordance with European Standard EN 153.

## PART 4

### Ballasts for fluorescent lighting

1. A ballast for fluorescent lighting must be allocated to a category as described in table 1 in paragraph 3.

2. In respect of—

- (a) the category of ballast shown in column 1 of table 2 in paragraph 4; and
- (b) the lamp power shown for that category in column 2 of table 2,

the maximum input value of a ballast lamp circuit shall be the value shown in column 3 of table 2.

3. Table 1 referred to in paragraph 1—

**Table 1**

Categories of ballast

<i>Category</i>	<i>Description</i>
1	Ballast for linear lamp type
2	Ballast for compact 2 tubes lamp type
3	Ballast for compact 4 tubes flat lamp type
4	Ballast for compact 4 tubes lamp type
5	Ballast for compact 6 tubes lamp type

6

Ballast for compact 2 D lamp type

4. Table 2 referred to in paragraph 2—

**Table 2**

Maximum input power of a ballast-lamp circuit

<i>Ballast category</i>	<i>Lamp Power</i>		<i>Maximum input power of Ballast-lamp circuits</i>
Column 1	Column 2		Column 3
	50 Hz	HF	
1	15W	13.5W	23W
	18W	16W	26W
	30W	24W	38W
	36W	32W	43W
	38W	32W	45W
	58W	50W	67W
	70W	60W	80W
2	18W	16W	26W
	24W	22W	32W
	36W	32W	43W
3	18W	16W	26W
	24W	22W	32W
	36W	32W	43W
4	10W	9.5W	16W
	13W	12.5W	19W
	18W	16.5W	26W
	26W	24W	34W
5	18W	16W	26W
	26W	24W	34W
6	10W	9W	16W
	16W	14W	23W
	21W	19W	29W
	28W	25W	36W
	38W	34W	45W

5. For a ballast for fluorescent lighting designed for a lamp which falls between two values shown in table 2, the maximum input value of a ballast lamp circuit must be calculated by linear interpolation

between the two values of maximum power for the two lamps which are closest in table 2 to the lamp in question.

6. For the purposes of this Part, a manufacturer must establish the electricity consumption for a ballast for fluorescent lighting in accordance with European Standard EN 50294.

## SCHEDULE 3

Regulation 4

### Conformity assessment procedures applicable to a listed product

## PART 1

### Introduction

1. This Schedule sets out the conformity assessment procedure or procedures applicable to a listed product.
2. “The testing and checking process” has the meaning given in chapter 3 of Part 1 to Schedule 4.
3. References to a manufacturer include—
  - (a) an authorised representative; or
  - (b) an importer of a listed product,

where such person undertakes some or all of a conformity assessment procedure.

## PART 2

### Boilers and appliances

1. The conformity assessment procedures applicable to a boiler or an appliance are—
  - (a) module B with the additional provisions in paragraphs 2 and 3; and
  - (b) the following as chosen by the manufacturer—
    - (i) module C and the testing and checking process;
    - (ii) module D; or
    - (iii) module E.
2. The following additional technical documentation must form part of the general technical documentation to be included with the application made under paragraph 2 of module B—
  - (a) a general type-description;
  - (b) conceptual design and manufacturing drawings and diagrams of components, sub-assemblies and circuits;
  - (c) descriptions and explanations necessary for the understanding of the drawings and diagrams and the operation of the product;
  - (d) results of design calculations made and examinations carried out; and
  - (e) test reports.
3. A representative sample of the boiler or appliance, and such further examples as the notified body may request, must be made available to the notified body for examination and testing.

## PART 3

### Refrigerator appliances

1. The conformity assessment procedures applicable to a refrigerator appliance are—
  - (a) module A with the additional provisions in paragraph 2; and
  - (b) the electricity consumption procedure described in paragraph 3.
2. The following additional technical documentation must form part of the general technical documentation to be established under paragraph 1 of module A—
  - (a) information, including drawings as relevant, on the main design features of the model, in particular on items which appreciably affect its electricity consumption, including dimensions, volume(s), compressor characteristics and special features;
  - (b) any operating instructions;
  - (c) the results of electricity consumption procedure carried out under paragraph 3; and
  - (d) details of the conformity of those results compared with the energy consumption provisions of the product requirements.
3. The electricity consumption procedure referred to in paragraph 1 means—
  - (a) if the electricity consumption of a refrigeration appliance is less than or equal to the maximum allowable electricity consumption plus 15%, the manufacturer may make a declaration of conformity; or
  - (b) if the electricity consumption of a refrigeration appliance is greater than the maximum allowable electricity consumption plus 15%, the manufacturer must test a further three appliances and if the arithmetic mean of the electricity consumptions of those three appliances is—
    - (i) less than or equal to the maximum allowable electricity consumption plus 10%, the manufacturer may make a declaration of conformity; or
    - (ii) in excess of the maximum allowable electricity consumption plus 10%, the manufacturer must not make a declaration of conformity.
4. For the purposes of paragraph 3, a manufacturer must establish the electricity consumption of a refrigerator appliance in accordance with European Standard EN 153.

## PART 4

### Ballasts for fluorescent lighting

1. The conformity assessment procedure applicable to a ballast for fluorescent lighting is module A with the additional provisions in paragraph 2.
2. The following additional technical documentation must form part of the general technical documentation to be established under paragraph 1 of module A—
  - (a) information, including drawings as relevant, on the main design features of the model, in particular on items which appreciably affect its electricity consumption;
  - (b) any operating instructions;
  - (c) the results of electricity consumption measurements carried out in accordance with European Standard EN 50294; and
  - (d) details of the conformity of the measurements carried out under paragraph (c) compared with the energy consumption provisions of the product requirements.

## SCHEDULE 4

Regulation 4

## Modules for conformity assessment

## PART 1

## General

## CHAPTER 1

## Miscellaneous

1. A notified body referred to in this Schedule means a notified body appointed by agreement between that body and one or more of the following—

- (a) the manufacturer of a listed product;
- (b) an authorised representative;
- (c) an importer of a listed product.

2. In the remaining provisions of this Schedule, references to a manufacturer include—

- (a) an authorised representative; or
- (b) an importer of a listed product,

where such person undertakes some or all of a conformity assessment procedure.

3. “Equivalent standards” means standards equivalent to the harmonised standards, including national standards notified by the Commission pursuant to Article 5 of Annex II.B to the Council Resolution of 7 May 1985<sup>(11)</sup>.

4. A notified body must carry out tests or examinations—

- (a) at such place as the manufacturer and notified body agree; and
- (b) so far as appropriate, in accordance with—
  - (i) the harmonised standards; or
  - (ii) equivalent standards.

5. A notified body must, under module B—

- (a) determine the elements of the listed product, or the design for such a product, which have been made or designed in accordance with a harmonised standard or equivalent standard; and
- (b) in respect of elements not made or designed in accordance with a harmonised standard or equivalent standard, determine how those elements conform to the product requirements.

6. A notified body must ensure that—

- (a) in module D, at least one member of the team which carries out the determination of the application has experience of the product technology in question;
- (b) in module E, at least one member of the team which carries out the determination of the application has experience as an assessor in the product technology in question; and
- (c) in modules D and E, it makes at least one inspection visit to the premises of the manufacturer.

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<sup>(11)</sup> O.J. No. C136, 4.6.1985, p. 1.

7. Expressions used in this Schedule which are used in Council Decision [93/465/EEC](#) concerning the modules for the various phases of the conformity assessment procedures and the rules for the affixing and use of the CE conformity marking, which are intended to be used in the technical harmonisation directives([12](#)), have the same meaning as they do in that Decision.

## CHAPTER 2

### General technical documentation

8. The general technical documentation means the documentation necessary to enable an assessment of the conformity of a listed product to the product requirements, including as appropriate documentation concerning—

- (a) the design, manufacture and operation of the product;
- (b) the harmonised standards or equivalent standards applied, or to be applied, to the product.

9. The provision of the documentation under paragraph 8 may be satisfied by the supply of equivalent documentation required under Community legislation other than the implementing measure relating to a listed product.

## CHAPTER 3

### Testing and checking process

10. The testing and checking process means the notified body carries out product checks—

- (a) at random intervals; and
- (b) on an adequate sample taken on site by the notified body.

11. If the testing and checking process demonstrates that a listed product conforms to the product requirements, the notified body must permit the manufacturer to affix the identification number or symbol of the notified body to the listed product during the manufacturing process.

## CHAPTER 4

### Notified bodies and non-conformity

12. Where a notified body determines that a listed product does not conform, or will not conform, to the product requirements, it must, subject to paragraph 13, request the manufacturer to provide such further information or to take such additional steps that it believes are necessary to demonstrate conformity.

13. If—

- (a) no such further information or steps are possible; or
- (b) such information or steps do not demonstrate conformity,

the notified body must give the manufacturer a non-conformity notice.

14. “A non-conformity notice” means a written notice that—

- (a) states that the notified body is not satisfied that a listed product conforms, or will conform, to the product requirements; and
- (b) gives details of the non-conformity.

15. Where a notified body has given a non-conformity notice and prior to that notice has given to the manufacturer —

- (a) an EC type-examination certificate or an EC design examination certificate; or
- (b) an approval to a quality assurance procedure under modules D or E,

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(12) O.J. No. L220, 30.8.1993, p. 23.

the notified body must state in the non-conformity notice if, and the extent to which, the giving of the notice withdraws a certificate or approval, including any additions or modifications to a certificate or approval.

## PART 2

### Module A (internal production control)

1. The manufacturer must establish the general technical documentation.
2. The general technical documentation must be kept with the declaration of conformity.
3. The manufacturer must take all necessary measures to ensure that the manufacturing process of a listed product ensures that the product complies with the general technical documentation.

## PART 3

### Module B (EC type-examination)

1. The manufacturer must make a written application to a notified body for that body to provide an EC type-examination certificate.
2. The application must include—
  - (a) the name and address of the manufacturer and, if appropriate, the authorised representative of the manufacturer;
  - (b) a declaration that an application has not been made to another notified body; and
  - (c) the general technical documentation.
3. The notified body must—
  - (a) examine the general technical documentation;
  - (b) determine if the type has been manufactured in accordance with that documentation;
  - (c) carry out tests and examinations to determine whether—
    - (i) elements designed in accordance with—
      - (aa) the harmonised standards; or
      - (bb) equivalent standards,meet those standards;and
    - (ii) elements not so designed conform to the product requirements.
4. If a notified body is satisfied that the type conforms to the product requirements, it must—
  - (a) give to the manufacturer an EC type-examination certificate;
  - (b) annex to that certificate a list of the general technical documentation; and
  - (c) keep a copy of the certificate and the annexed list of general technical documentation.
5. An EC type-examination certificate must be in writing and include—
  - (a) the name and address of the manufacturer;
  - (b) the conclusions of the tests and examinations referred to in paragraph 3;
  - (c) any conditions of validity of the certificate; and

- (d) the data necessary to identify the approved type.
- 6. If a manufacturer makes modifications to a listed product that affect its conformity to the product requirements, the manufacturer must make an application to the notified body that granted the EC type-examination certificate for an additional approval to that certificate.
- 7. Where an application is made for an additional approval to a EC type-examination certificate—
  - (a) the manufacturer must make that application, so far as appropriate, in accordance with paragraph 2; and
  - (b) the notified body must—
    - (i) comply with paragraph 3; and
    - (ii) if it is satisfied that the type continues to conform to the product requirements, comply with paragraph 4 as if reference to an EC type-examination certificate were a reference to an additional approval to that certificate.
- 8. Relevant documentation under regulation 10 includes—
  - (a) the EC type-examination certificate; and
  - (b) any additional approval.

## PART 4

### Module C (conformity to type)

- 1. The manufacturer must take all necessary measures to ensure that the manufacturing process of a listed product ensures that the product—
  - (a) complies with the type as described in the EC type-examination certificate; and
  - (b) conforms to the product requirements.

## PART 5

### Module D (production quality assurance)

- 1. The manufacturer must operate an approved quality system in respect of—
  - (a) the production of the product; and
  - (b) the final product inspection and testing.
- 2. A quality system is approved if it is approved by a notified body and it meets the following criteria—
  - (a) it must ensure compliance of a listed product with the type as described in the EC type-examination certificate and that it conforms to the product requirements;
  - (b) the elements, requirements and provisions adopted by the manufacturer must be documented in a systematic and orderly manner in the form of written policies, procedures and instructions; and
  - (c) the quality system documentation must—
    - (i) permit a consistent interpretation of the quality programmes, plan, manual and records; and
    - (ii) include the matters contained in paragraph 3.

- 3.** The matters referred to in paragraph 2(c)(ii) are that the quality system documentation contain an adequate description of—
- (a) the quality objectives and the organisational structure, responsibilities and powers of the management with regard to product quality;
  - (b) the manufacturing, quality control and quality assurance techniques, processes and systematic actions that will be used;
  - (c) the examinations and tests that will be carried out before, during and after manufacture and the frequency with which they will be carried out;
  - (d) the quality records, including inspection reports and test data, calibration data and qualification reports of the personnel concerned; and
  - (e) the means to monitor the achievement of the required product quality and the effective operation of the quality system.
- 4.** A manufacturer must apply for approval of his quality system to a notified body and must include in that application—
- (a) all relevant information for the product category envisaged;
  - (b) the documentation concerning the quality system; and
  - (c) if applicable—
    - (i) the general technical documentation of the approved type; and
    - (ii) a copy of the EC type-examination certificate.
- 5.** Where a notified body receives an application in accordance with paragraph 4, the it must—
- (a) determine the application; and
  - (b) if it is satisfied that the quality system meets the criteria contained or referred to in paragraph 2, the notified body must provide its approval to the manufacturer.
- 6.** An approval under paragraph 5 must be in writing and include—
- (a) the reasons for the decision; and
  - (b) the conclusions of the examinations and tests.
- 7.** If a manufacturer intends to modify the approved quality system—
- (a) he must inform in writing the notified body that approved the quality system; and
  - (b) the notified body must determine whether or not the proposed modification requires a re-assessment of the quality system.
- 8.** If the notified body determines that a re-assessment is required, the procedures in paragraphs 4 to 6 apply in respect of an application for assessment of the quality system as proposed to be modified.
- 9.** A notified body must carry out—
- (a) periodic audits of the quality system of the manufacturer; and
  - (b) periodic unannounced visits to the premises of the manufacturer,
- whose quality system it has approved in order to determine that the manufacturer is maintaining and applying the quality system.
- 10.** A notified body must inform the manufacturer of the results of the audit and visit by providing written audit and visit reports.
- 11.** In relation to paragraph 9, a manufacturer must—

- (a) allow the notified body access to the locations of manufacture, inspection and testing, and storage;
  - (b) provide all necessary documentation to the notified body, including—
    - (i) the documentation concerning the quality system; and
    - (ii) the quality records, including inspection reports and test data, calibration data and qualification reports of the personnel concerned;
  - and
  - (c) in respect of visits by the notified body, carry out or allow the notified body to carry out tests necessary to determine that the quality system is functioning correctly.
- 12.** Relevant documentation under regulation 10 includes—
- (a) the documentation concerning the quality system submitted with an application for approval;
  - (b) approvals in relation to the quality system;
  - (c) details of the modifications to the quality system; and
  - (d) audit and visit reports.

## PART 6

### Module E (product quality assurance)

- 1.** The manufacturer must operate an approved quality system in respect of the final product inspection and testing.
- 2.** Paragraphs 2 to 12 of module D (production quality assurance) apply save that the following are omitted—
  - (a) paragraph 3(b); and
  - (b) in paragraph 11(a), the word “manufacture”.

## SCHEDULE 5

Regulation 4

### Declaration of conformity

- 1.** A person who makes a declaration of conformity declares that a listed product to which the declaration relates, conforms to the product requirements for that product.
- 2.** A declaration of conformity—
  - (a) must be in writing; and
  - (b) may be in respect of more than one listed product.
- 3.** A declaration of conformity must include—
  - (a) the name and address of the person making it;
  - (b) a description of the model sufficient for unambiguous identification;
  - (c) where appropriate—
    - (i) the references of the harmonised standards applied;
    - (ii) the other technical standards and specifications used; and

- (iii) the reference to other Community legislation, not referred to in paragraph 4, providing for the affixing of the CE mark that is applied;
- and
- (d) the identification and signature of the individual empowered to bind the person making the declaration.
4. A declaration of conformity must include the title of the implementing measure applicable to a listed product as shown in the following table—

**Table of listed products and implementing measures**

<i>listed product</i>	<i>Title of implementing measure</i>
1. A boiler or an appliance	Council Directive <a href="#">92/42/EEC</a> on efficiency requirements for new hot water boilers fired with liquid or gaseous fuels
2. A refrigerator appliance	Directive <a href="#">96/57/EC</a> of the European Parliament and of the Council on energy efficiency requirements for household electric refrigerators, freezers and combinations thereof
3. A ballast for fluorescent lighting	Directive <a href="#">2000/55/EC</a> of the European Parliament and of the Council on energy efficiency requirements for ballasts for fluorescent lighting

SCHEDULE 6

Regulation 4

CE conformity marking

**PART 1**

General requirements

1. A CE conformity marking must be in the following form—



2. A CE conformity marking must have a height of at least 5mm.
3. Subject to paragraph 2, if a CE conformity marking is reduced or enlarged, the marking must maintain the proportions shown in paragraph 1.

**PART 2**

Additional requirements

1. Where a CE conformity marking is affixed in relation to a boiler or an appliance, the marking must further include the last two figures of the year in which the mark was affixed.

2. Where a ballast for fluorescent lighting is placed on the market incorporated within a luminaire, the CE conformity marking must also be affixed to the luminaire and its packaging.

## SCHEDULE 7

Regulation 11

### Criteria to be met by notified bodies

1. A notified body must act—
  - (a) with the highest degree of professional integrity and technical competence;
  - (b) free from all pressures and inducements which might influence the decision of the notified body, in particular pressures and inducements—
    - (i) which are financial; or
    - (ii) from a person with an interest in the decision;
  - and
  - (c) with regard to any commercial confidentiality that may be attached to the information supplied to it.
2. A notified body must possess the necessary—
  - (a) staff and facilities; and
  - (b) equipment, including specialist equipment,to enable it to perform the obligations and exercise the powers of a notified body in relation to the listed products for which it is approved under regulation 11.
3. The staff of a notified body must be impartial and those who perform tests must have—
  - (a) sound technical and professional training;
  - (b) satisfactory knowledge and experience of the requirements of the tests;
  - (c) the ability to draw up the certificates, records and reports required to authenticate the performance of the tests; and
  - (d) remuneration that is not dependent on the number or result of the tests.
4. A notified body must ensure that any other person it engages to assist it to perform any of its obligations or exercise any of its powers meets the criteria in this Schedule.

## SCHEDULE 8

Regulations 15 and 21

### Appeals

1. An appeal must be made within two months of the date of, as appropriate, the non-conformity notice or the enforcement notice.
2. In respect of—
  - (a) a non-conformity notice, the parties to the appeal may agree a late appeal;
  - (b) an enforcement notice, the appeal body may allow a late appeal.
3. Where an appeal is brought, this does not suspend the operation of the notice.
4. On the determination of an appeal, the appeal body may—

- (a) affirm the notice;
  - (b) withdraw it;
  - (c) make a further notice, whether or not it affirms or withdraws the original notice,
- and may do so subject to such conditions as the appeal body sees fit.
5. An appeal body may deal with an appeal in such manner as it sees fit.

## SCHEDULE 9

Regulation 20

### Powers of enforcing authorities

#### PART 1

##### Powers of entry

1. An authorised person—
  - (a) may enter any premises for the purposes of ensuring that the provisions referred to in regulation 18(1) are being complied with; and
  - (b) must produce, if so required, a document showing his authority.
2. The power may be exercised—
  - (a) at all reasonable hours; or
  - (b) in an emergency, at any time and if need be by reasonable force.
3. An authorised person may take with him—
  - (a) such other persons as he considers necessary, including a constable;
  - (b) any equipment or materials required for any purpose for which the power of entry is being exercised;
  - (c) any representative of the European Commission acting for the purpose of the enforcement of a Community obligation.
4. A person entering unoccupied premises must leave them as effectively secured against unauthorised entry as he found them.
5. Admission to any premises used only as a private dwelling-house must not be demanded as of right unless—
  - (a) 24 hours notice of the intended entry has been given to the occupier; or
  - (b) the entry is in accordance with a warrant.
6. The reference to “premises” in relation to powers of entry includes any—
  - (a) place;
  - (b) caravan, vehicle or trailer;
  - (c) container;
  - (d) stall or moveable structure;
  - (e) ship or aircraft.

## PART 2

### Warrants

1. If a justice of the peace, on sworn information in writing, is satisfied—
  - (a) that there are reasonable grounds to enter any premises; and
  - (b) that any of the conditions in paragraph 2 are met,

he may by warrant signed by him authorise an authorised person and any other person to enter the premises, if need be by reasonable force.

2. The conditions referred to in paragraph 1—
  - (a) admission to the premises has been refused, or a refusal is expected, and in either case that notice to apply for a warrant has been given to the occupier;
  - (b) asking for admission, or the giving of such a notice, would defeat the object of the entry;
  - (c) entry is required urgently;
  - (d) the premises are unoccupied or the occupier is temporarily absent.
3. A warrant continues in force for one month.
4. Reference to a justice of the peace—
  - (a) in Scotland includes a sheriff;
  - (b) in Northern Ireland is a reference to a lay magistrate.

## PART 3

### Powers on entry

1. An authorised person who has entered any premises in accordance with this Schedule may, on or in the vicinity of the premises,—
  - (a) carry out any examination or investigation;
  - (b) take measurements, photographs or recordings;
  - (c) take samples;
  - (d) dismantle any thing;
  - (e) subject any thing to any process or test;
  - (f) take possession of and detain any thing for so long as may be necessary—
    - (i) in relation to the exercise of any other powers under this Schedule;
    - (ii) to ensure that it is not tampered with before its examination is complete; or
    - (iii) to ensure that it is available for use in any proceedings;
  - (g) require the production of records or extracts of records and inspect and take copies of such records or extracts;
  - (h) require any person to afford him facilities and assistance in relation to matters within the control or responsibility of that person.
2. An authorised person must avoid destruction or damage to the premises or things within it unless that is necessary in the reasonable exercise of his powers.
3. If a person claims to be entitled to compensation in respect of the exercise of the powers under paragraph 1, such a claim—

- (a) in England and Wales, must be referred to the arbitration of a single arbitrator appointed by agreement between the enforcing authority in question and the person who makes the claim or, in default of agreement, appointed by the Secretary of State;
- (b) in Scotland, must be referred to the arbitration of an arbiter, appointed by agreement between the enforcing authority in question and the person who makes the claim or, in default of agreement, appointed by the Scottish Ministers; or
- (c) in Northern Ireland, must be referred to and determined by the Lands Tribunal for Northern Ireland.

## PART 4

### Test purchases and testing

1. An authorised person may purchase any article or substance to determine whether or not the provisions referred to in regulation 18(1) have been complied with and may carry out such tests and examinations on the article or substance in order to do so.
2. An enforcing authority must comply with paragraph 3 if—
  - (a) it has acquired any article or substance under the provisions of this Schedule; and
  - (b) it commences, or causes to be commenced, any proceedings under these Regulations by reason of tests and examinations on such article or substance.
3. Where paragraph 2 applies, an enforcing authority must if requested to do so, and if it is practicable in the circumstances, allow—
  - (a) a person who is a party to the proceedings; and
  - (b) any other person with an interest in the article or substance,to have that article or substance tested.
4. An article or substance includes a listed product or any part of it.

## PART 5

### Notices

1. The enforcing authority may, by notice served on any person, require that person to furnish such information as is specified in the notice, in such form and within such period following service of the notice or at such time as is so specified.
2. If the enforcing authority is of the opinion that a person has contravened, is contravening or is likely to contravene the provisions referred to in regulation 18(1), the enforcing authority may serve on him a notice (an “enforcement notice”).
3. An enforcement notice must—
  - (a) state that the enforcing authority is of that opinion;
  - (b) specify the matters constituting the contravention or the matters making it likely that the contravention will arise, as the case may be;
  - (c) specify the steps that must be taken to remedy the contravention or to remedy the matters making it likely that the contravention will arise, as the case may be; and
  - (d) specify the period within which those steps must be taken.

4. An enforcement notice may require that a listed product, or elements of it, is withdrawn from the market or from service.

5. The enforcing authority may withdraw an enforcement notice at any time.

6. If a person fails to comply with an enforcement notice, the enforcing authority may do what that person was required to do and may recover from him any expenses reasonably incurred in doing so.

## SCHEDULE 10

Regulation 28

### Revocations

<i>Statutory Instrument Number</i>	<i>Citation</i>	<i>Extent of revocation</i>
S.I. 1993/3083	The Boiler (Efficiency) Regulations 1993	All
S.I. 1994/3083	The Boiler (Amendment) Regulations 1994	All
S.I. 1997/1941	The Energy Efficiency (Refrigerators and Freezers) Regulations 1997	All
S.I. 2001/3142	The Energy Information and Energy Efficiency (Miscellaneous Amendments) Regulations 2001	Regulation 11
S.I. 2001/3316	The Energy Efficiency (Ballasts for Fluorescent Lighting) Regulations 2001	All
S.I. 2006/170	The Boiler (Amendment) Regulations 2006	All

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement requirements of 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 (O.J. No. L191, 22.7.2005, p. 29).

Regulation 3 provides that a product listed in Schedule 1 to these Regulations may not be put on the market unless it conforms to the product requirements set out in Schedule 2.

Regulation 4 requires a manufacturer of a listed product to assess that the product conforms to the product requirements, provides for the conformity assessment procedures in Schedules 4 to 6 and provides for affixing the CE conformity marking. Regulation 5 imposes similar requirements on authorised representatives and on importers of listed products.

Regulation 6 provides that the restriction in regulation 3 does not apply to certain displays of listed products.

Regulation 7 sets out presumptions in relation to a listed product.

Regulation 8 sets out requirements on a manufacturer, authorised representative or importer of a listed product if they become aware that a listed product they have put on the market does not conform to the product requirements.

Regulation 9 prohibits affixing markings on listed products that may mislead a person to believe they conform to the product requirements.

Regulation 10 provides for the documentation that a manufacturer, authorised representative or importer of a listed product must keep.

Regulation 11 provides for the criteria to be met by, and the approval of, notified bodies. Regulation 12 sets out the function of notified bodies and regulation 13 their obligations and powers in performing that function. Regulation 14 provides for notified bodies to charge fees.

Regulation 15 provides for appeals against non-conformity notices given by notified bodies and regulation 16 for procedures after such notices are given.

Regulation 17 sets out the information to be shared between notified bodies.

Regulation 18 provides for the enforcement of provisions of these Regulations by enforcing authorities. These are defined in regulation 2 as local weights and measures authorities in England and Wales and Scotland and the Department of Enterprise, Trade and Investment in Northern Ireland.

Regulation 19 provides for enforcing authorities to take civil proceedings and regulation 20 provides for the powers of enforcement of enforcing authorities as set out in Schedule 9.

Regulation 21 provides for appeals against enforcement notices and regulation 22 for procedures after such notices are given.

Regulations 23 and 24 set out offences and penalties, regulation 25 provides for the commencement of summary proceedings, regulation 26 sets out matters in relation to offences by persons involved with corporate bodies and regulation 27 allows a court to make a remediation order in respect of a person convicted of an offence under these Regulations.

Regulation 28 provides for revocation of existing instruments as listed in Schedule 10.

Schedule 1 defines listed products.

Schedule 2 sets out the product requirements for listed products, Schedule 3 sets out the various conformity assessment procedures that apply to listed products and Schedule 4 sets out the modules of conformity assessment.

Schedule 5 sets out matters relating to the declaration of conformity and Schedule 6 provides for the affixing of the CE conformity marking.

Schedule 7 sets out the criteria to be met by notified bodies.

Schedule 8 provides for matters in relation to appeals against non-conformity notices and enforcement notices.

Schedule 9 provides for the powers of enforcing authorities.

Schedule 10 lists the instruments revoked.

A full Regulatory Impact Assessment of the effect that this instrument will have on the costs of business and the voluntary sector, and a transposition note, are available from Environment, Business and Consumers Division, Department for Environment, Food and Rural Affairs, 5th

Floor, Ergon House, Horseferry Road, London SW1P 2AL and at [www.defra.gov.uk/environment/consumerprod/pdf/energy-products-regs-guide.pdf](http://www.defra.gov.uk/environment/consumerprod/pdf/energy-products-regs-guide.pdf). Copies have been placed in the library of each House of Parliament.