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STATUTORY INSTRUMENTS

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**2010 No. 2617**

**ENERGY CONSERVATION**

**The Ecodesign for Energy-Related Products Regulations 2010**

*Made* - - - - *27th October 2010*  
*Laid before Parliament* *29th October 2010*  
*Coming into force* - - *20th November 2010*

The Secretary of State is a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to the environmental aspects of product design and makes these Regulations under the powers conferred by that section.

**Modifications etc. (not altering text)**

- C1** Regulations modified with respect to hot water boilers and related appliances only (19.6.2021) by [The Conformity Assessment \(Mutual Recognition Agreements\) and Weights and Measures \(Intoxicating Liquor\) \(Amendment\) Regulations 2021 \(S.I. 2021/730\)](#), regs. 1, 4, [Sch. 1 para. 3](#)

**PART 1**

**Introductory**

**Citation and commencement**

- 1.** These Regulations may be cited as the Ecodesign for Energy-Related Products Regulations 2010 and come into force on 20th November 2010.

**Interpretation** **E+W+S**

[<sup>F12</sup>2.—(1) In these Regulations—

“applicable implementing measure” means in relation to an energy-related product mentioned in the left hand column of the table in paragraph 4 of Schedule 1, the corresponding implementing measure referred to in the right hand column of that table;

“approved body” has the meaning given to it in paragraph 1(1) of Schedule 1B;

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(1) [S.I. 2010/1552](#).  
(2) [1972 c.68](#).

“authorised person” means a person authorised by the market surveillance authority in accordance with regulation 12;

“authorised representative” means—

- (a) a person who—
  - (i) immediately before IP completion day was established in the United Kingdom or an EEA state and was appointed by a manufacturer by written mandate to act on its behalf in relation to such tasks as are specified in the mandate with regard to the manufacturer's obligations under these Regulations, an implementing measure, or RAMS; and
  - (ii) on or after IP completion day continues to be so established and appointed by the manufacturer to perform those tasks; or
- (b) a person who, on or after IP completion day, is established in Great Britain and is appointed by a manufacturer by written mandate to act on its behalf in relation to such tasks as are specified in the mandate with regard to the manufacturer's obligations under these Regulations, an implementing measure, or RAMS;

“companies qualifying as small or medium-sized” means a company that qualifies as small under section 382 of the Companies Act 2006 or as medium-sized under section 465 of that Act;

“components and sub-assemblies” means parts which are intended to be incorporated into products and—

- (a) which are not placed on the market or put into service as individual parts for end-users; or
- (b) the environmental performance of which cannot be assessed independently;

“conformity assessment activities” means any activities connected with conformity assessment, including calibration, testing, certification and inspection;

“conformity assessment body” means a body that performs conformity assessment activities;

“designated standard” has the meaning given to it by regulation 2A;

“the Decision” means Decision No [768/2008/EC](#) of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, as it had effect immediately before IP completion day;

“the Directive” means Directive [2009/125/EC](#) of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of eco-design requirements for energy-related products as it had effect immediately before IP completion day;

“ecodesign requirement” means any requirement in relation to a product, or the design of a product, intended to improve its environmental performance, or any requirement for the supply of information with regard to the environmental aspects of a product;

“ecological profile” means a description, in accordance with the implementing measure applicable to the product, of the inputs and outputs (such as materials, emissions and waste) associated with a product throughout its life cycle which are significant from the point of view of its environmental impact, expressed in physical quantities that can be measured;

“energy-related product” means—

- (a) any good that has an impact on energy consumption during use which is placed on the market or put into service; and
- (b) parts—
  - (i) which are intended to be incorporated into any good that has an impact on energy consumption during use which is placed on the market or put into service;

(ii) which are placed on the market or put into service as individual parts for end-users;  
and

(iii) of which the environmental performance can be assessed independently;

“environmental aspect” means an element or function of a product that can interact with the environment during its life cycle;

“environmental impact” means any change to the environment wholly or partially resulting from a product during its life cycle;

“environmental performance” of a product means the results of the manufacturer's management of the environmental aspects of the product, as reflected in its technical documentation file where a technical documentation file is required for that product;

“identification number” means the number which identifies an approved body and follows a UK marking affixed to a product pursuant to regulation 4, which is affixed—

(a) by the approved body; or

(b) where instructed to do so by the approved body, by the manufacturer or the manufacturer's authorised representative;

“implementing measure” means a measure made under the Directive before IP completion day, or regulations made under regulation 22 on or after IP completion day;

“importer” means a person who—

(a) is established in the United Kingdom and places a product from a country outside of the United Kingdom on the market; or

(b) is established in Northern Ireland and places a product on the market that has been supplied to them for distribution, consumption or use in the course of a commercial activity, whether in return for payment or free of charge, from an EEA state;

“life cycle” means the consecutive and interlinked stages of a product from raw material use to final disposal;

“make available on the market” means to supply a product for distribution or use on the market of Great Britain in the course of a commercial activity, whether in return for payment or free of charge;

“manufacturer” means a person who—

(a) manufactures a product; or

(b) has a product designed or manufactured;

and markets that product under its name or trademark;

“place on the market” except in regulation 20A, means the first making available of a product on the market of Great Britain, and related expressions must be construed accordingly;

“product” means an energy-related product;

“product design” means the set of processes that transform legal, technical, safety, functional, market or other requirements to be met by a product into the technical specification for that product;

“put into service” except in regulation 20A, means the first use of a product for its intended purpose on the Great Britain market, and related expressions must be construed accordingly;

“RAMS” means Regulation (EC) No 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation EEC No 339/93;

“self-regulation” includes voluntary agreements; and

“technical specification” means, except in regulation 2A, a document that prescribes technical requirements to be fulfilled by a product, process, service or system.]

[<sup>F2</sup>(2) Expressions not defined in paragraph (1) which are used in these Regulations and—

- (a) in an implementing measure;
- (b) in the Directive; or
- (c) in RAMS;

have the meaning they bear in that implementing measure, Directive, or RAMS.]

#### Extent Information

- E1** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only
- F1** Reg. 2(1) substituted (E.W.S.) (31.12.2020) by [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/539\)](#), reg. 1(3), **Sch. 1 para. 2(2)**; 2020 c. 1, **Sch. 5 para. 1(1)** (as amended by S.I. 2020/1528, regs. 1(2), 4, 6(1)(2)(a)(3)(4)(a), 7(a))
- F2** Reg. 2(2) substituted (E.W.S.) (31.12.2020) by [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/539\)](#), reg. 1(3), **Sch. 1 para. 2(3)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Interpretation **N.I.**

2.—(1) In these Regulations—

“applicable implementing measure” means in relation to an energy-related product mentioned in the left hand column of the table in paragraph 4 of Schedule 1, the implementing measure referred to in the right hand column of that table;

“authorised person” means a person authorised by the market surveillance authority in accordance with regulation 12;

“the Marketing Decision” means Decision No [768/2008/EC](#) of the European Parliament and of the Council on a common framework for the marketing of products and repealing Council Decision [93/465/EEC](#); and

“RAMS” means Regulation [EC\) No 765/2008](#) of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation EEC No 339/93 of the European Parliament and of the Council.

[<sup>F60</sup>“UK(NI) indication” means the marking in the form set out in Schedule 1 to the Product Safety and Metrology etc. (Amendment etc.) (UK(NI) Indication) (EU Exit) Regulations 2020;]

(2) Expressions not defined in paragraph (1) which are used in these Regulations and—

- (a) in an implementing measure;
- (b) in 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;
- (c) in RAMS; or
- (d) in the Marketing Decision,

have the meaning they bear in that implementing measure, Directive, RAMS or the Marketing Decision.

### Extent Information

- E9** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only
- F60** Words in reg. 2(1) inserted (N.I.) (31.12.2020) by [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1528\)](#), regs. 1(4), **12**

### [<sup>F3</sup> Designated standards

**2A.**—(1) Subject to paragraphs (6) and (7), in these Regulations a “designated standard” is a reference to a technical specification which is—

- (a) adopted by a recognised standardisation body [<sup>F4</sup>or an international standardising body], for repeated or continuous application, with which compliance is not compulsory; and
- (b) designated by the Secretary of State by publishing the reference to the standard and maintaining that publication in a manner the Secretary of State considers appropriate.

(2) For the purposes of paragraph (1), a “technical specification” means a document that prescribes technical requirements to be fulfilled by a product, process, service or system and which lays down one or more of the following—

- (a) the characteristics required of a product, including—
  - (i) levels of quality, performance, interoperability, environmental protection, health, safety or dimensions;
  - (ii) the requirements applicable to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking or labelling and conformity assessment procedures;
- (b) the characteristics required of a service including levels of quality, performance, interoperability, environmental protection, health or safety; and
- (c) production methods and processes relating to the product, where these have an effect on the characteristics of the product.

(3) For the purposes of this regulation a “recognised standardisation body” means any one of the following organisations—

- (a) the European Committee for Standardization (CEN);
- (b) the European Committee for Electrotechnical Standardization (CENELEC);
- (c) the European Telecommunications Standards Institute (ETSI);
- (d) the International Organization for Standardization (ISO);
- (e) the International Electrotechnical Commission (IEC);
- (f) the International Telecommunication Union (ITU);
- (g) the British Standards Institution (BSI).

[  
<sup>F5</sup>(3A) In this regulation “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).]

(4) When considering whether the manner of publication of a reference is appropriate in accordance with paragraph (1)(b), the Secretary of State must have regard to whether the publication will draw sufficient attention to the standard to all persons who may have an interest in the standard.

(5) Before publishing the reference to a standard adopted by the British Standards Institution, the Secretary of State must have regard to whether the standard is consistent with [<sup>F6</sup>such] standards adopted by the other recognised standardisation bodies [<sup>F7</sup>or by international standardising bodies as the Secretary of State considers to be relevant.]

(6) The Secretary of State may remove from publication the reference to a standard which has been published in accordance with paragraph (1)(b).

(7) Where the Secretary of State removes the reference to a standard from publication, that standard is no longer a designated standard.

(8) The Secretary of State may by regulations amend paragraph (3) to reflect any changes in the name or structure of a recognised standardisation body.

(9) Regulations made under paragraph (8) are to be made by statutory instrument.

(10) A statutory instrument containing regulations made under paragraph (8) is subject to annulment in pursuance of a resolution of either House of Parliament.]

- F3** Reg. 2A inserted (31.12.2020) by [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/539\)](#), reg. 1(3), **Sch. 1 para. 3**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in reg. 2A(1)(a) inserted (31.12.2020) by [European Union \(Future Relationship\) Act 2020 \(c. 29\)](#), s. 40(7), **Sch. 4 para. 4(a)**; S.I. 2020/1662, reg. 2(ee)
- F5** Reg. 2A(3A) inserted (31.12.2020) by [European Union \(Future Relationship\) Act 2020 \(c. 29\)](#), s. 40(7), **Sch. 4 para. 4(b)**; S.I. 2020/1662, reg. 2(ee)
- F6** Word in reg. 2A(5) inserted (31.12.2020) by [European Union \(Future Relationship\) Act 2020 \(c. 29\)](#), s. 40(7), **Sch. 4 para. 4(c)(i)**; S.I. 2020/1662, reg. 2(ee)
- F7** Words in reg. 2A(5) inserted (31.12.2020) by [European Union \(Future Relationship\) Act 2020 \(c. 29\)](#), s. 40(7), **Sch. 4 para. 4(c)(ii)**; S.I. 2020/1662, reg. 2(ee)

## PART 2

### Restrictions on energy-related products, conformity assessments, declarations of conformity and the [<sup>F8</sup>UK] marking

- F8** Word in Pt. 2 heading substituted (E.W.S.) (31.12.2020) by [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/539\)](#), reg. 1(3), **Sch. 1 para. 4**; 2020 c. 1, Sch. 5 para. 1(1)

#### Restrictions on energy-related products **E+W+S**

3.—(1) A manufacturer must not place on the market or put into service an energy-related product unless that product complies with the applicable implementing measure and bears the [<sup>F9</sup>UK] marking.

(2) Schedule 1 (declaration of conformity) has effect.

[<sup>F10</sup>(3) Schedule 1A (conformity assessment procedures) has effect and reproduces provisions of Annexes 4 and 5 to the Directive (as it has effect immediately before IP completion day), with amendments, to correct deficiencies in retained EU law.

(4) Schedule 1B (conformity assessment bodies) has effect.]

#### Extent Information

- E2** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only
- F9** Word in reg. 3(1) substituted (E.W.S.) (31.12.2020) by [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/539\)](#), reg. 1(3), **Sch. 1 para. 5(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F10** Reg. 3(3)(4) inserted (E.W.S.) (31.12.2020) by [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/539\)](#), reg. 1(3), **Sch. 1 para. 5(3)** (as amended by [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1528\)](#), regs. 1(2), 4); 2020 c. 1, Sch. 5 para. 1(1)

#### Restrictions on energy-related products **N.I.**

- 3.—(1) A manufacturer must not place on the market or put into service an energy-related product unless that product complies with the applicable implementing measure and bears the CE marking.
- (2) Schedule 1 (declaration of conformity) has effect.

#### Extent Information

- E10** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

#### Conformity assessments, declarations of conformity and the **[<sup>F11</sup>UK]** marking **E+W+S**

- 4.—(1) A manufacturer must not place on the market or put into service an energy-related product unless that manufacturer complies [<sup>F12</sup>with paragraph (2)]
- (2) Compliance with this paragraph means that the manufacturer—
- (a) has assessed whether an energy-related product complies with the applicable implementing measure; and
- (b) if the assessment is that the product complies, has—
- (i) made a declaration of conformity; and
- (ii) affixed the [<sup>F13</sup>UK] marking visibly, legibly and indelibly to the product, the packaging or documentation that accompanies that product.
- (3) Schedule 2 [<sup>F14</sup>(UK marking)] has effect.

#### Extent Information

- E3** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only
- F11** Word in reg. 4 heading substituted (E.W.S.) (31.12.2020) by [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/539\)](#), reg. 1(3), **Sch. 1 para. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F12** Words in reg. 4(1) substituted (E.W.S.) (31.12.2020) by [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/539\)](#), reg. 1(3), **Sch. 1 para. 6(3)**; 2020 c. 1, Sch. 5 para. 1(1)

- F13** Words in reg. 4(3) substituted (E.W.S.) (31.12.2020) by The Ecodesign for Energy-Related Products and Energy Information (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/539), reg. 1(3), **Sch. 1 para. 6(5)**; 2020 c. 1, Sch. 5 para. 1(1)
- F14** Word in reg. 4(2)(b)(ii) substituted (E.W.S.) (31.12.2020) by The Ecodesign for Energy-Related Products and Energy Information (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/539), reg. 1(3), **Sch. 1 para. 6(4)**; 2020 c. 1, Sch. 5 para. 1(1)

### Conformity assessments, declarations of conformity and the CE marking **N.I.**

4.—(1) A manufacturer must not place on the market or put into service an energy-related product unless that manufacturer complies with—

- (a) paragraph (2); or
  - (b) equivalent provisions under the laws of another member State or EEA State.
- (2) Compliance with this paragraph means that the manufacturer—
- (a) has assessed whether an energy-related product complies with the applicable implementing measure; and
  - (b) if the assessment is that the product complies, has—
    - (i) made a declaration of conformity; and
    - (ii) affixed the CE marking visibly, legibly and indelibly to the product, the packaging or documentation that accompanies that product.
- (3) Schedule 2 (CE marking) has effect.

#### Extent Information

- E11** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

### [<sup>F15</sup>UK(NI) indication

4A.—(1) Where the CE marking is affixed on the basis of an assessment or a certificate issued by a UK notified body, a UK(NI) indication must also be affixed to the product, in accordance with this regulation.

- (2) The UK(NI) indication must be affixed—
  - (a) visibly, legibly and indelibly; and
  - (b) before the product is placed on the market in Northern Ireland.
- (3) The UK(NI) indication must be affixed wherever the CE marking is affixed, in accordance with regulation 4.
- (4) The UK(NI) indication must be affixed by—
  - (a) the manufacturer; or
  - (b) the manufacturer's authorised representative who has been appointed by the manufacturer to affix the UK(NI) indication on the manufacturer's behalf.
- (5) When placing a product on the market in Northern Ireland, an importer must ensure that the manufacturer has complied with their obligations under this regulation.



**F15** Regs. 4A, 4B inserted (N.I.) (31.12.2020) by [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1528\)](#), regs. 1(4), **13**

### Register of UK notified bodies

**4B.**—(1) The Secretary of State must ensure that—

- (a) each UK notified body is assigned an identification number; and
- (b) there is a register of—
  - (i) UK notified bodies;
  - (ii) their notified body identification number;
  - (iii) the activities for which they have been notified; and
  - (iv) any restrictions on those activities.

(2) The register referred to in paragraph (1) must be maintained and made publicly available.

(3) The Secretary of State may authorise the United Kingdom Accreditation Service to compile and maintain the register in accordance with paragraph (1)(b).]

**F15** Regs. 4A, 4B inserted (N.I.) (31.12.2020) by [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1528\)](#), regs. 1(4), **13**

### Authorised representatives and importers

**5.**—(1) An authorised representative or importer of an energy-related product must not place on the market or put into service an energy-related product unless—

- (a) the manufacturer of the product has complied with regulation 4(1); or
- (b) the authorised representative or importer complies with regulation 4(2) to the extent that the manufacturer has not complied with it.

### Displays of energy related products not restricted

**6.**—(1) Regulations 3, 4 and 5 do not prevent the display of an energy-related product if—

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

bears a visible indication that the product must not be placed on the market unless it complies with the applicable implementing measure.

(2) For the purposes of paragraph (1), the display of an energy-related product includes its display at trade fairs, exhibitions and demonstrations.

## PART 3

### Presumption of conformity, misleading markings and documentation

#### Presumption of conformity **E+W+S**

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

- (a) an energy-related product; or

(b) the packaging or documentation that accompanies that product, bears the <sup>F16</sup>UK marking, the product is presumed to comply with the applicable implementing measure.

<sup>F17</sup>(2) Unless the contrary is proved, where designated standards have been applied to an energy-related product, the product is presumed to comply with the applicable implementing measure to the extent that the designated standards relate to the requirements of that measure.]

(3) Unless the contrary is proved, where an energy-related product has been awarded a community eco-label <sup>F18</sup>before IP completion day], the product is presumed to comply with the applicable implementing measure to the extent that the Community eco-label relates to the requirements of that measure.

(4) For the purposes of paragraph (3) “Community eco-label” means 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>(3)</sup>.

#### Extent Information

- E4** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only
- F16** Word in reg. 7(1) substituted (E.W.S.) (31.12.2020) by [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/539\)](#), reg. 1(3), **Sch. 1 para. 7(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F17** Reg. 7(2) substituted (E.W.S.) (31.12.2020) by [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/539\)](#), reg. 1(3), **Sch. 1 para. 7(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F18** Words in reg. 7(3) inserted (E.W.S.) (31.12.2020) by [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/539\)](#), reg. 1(3), **Sch. 1 para. 7(4)** (as amended by [S.I. 2020/1528](#), regs. 1(2), 4); 2020 c. 1, Sch. 5 para. 1(1)

#### Presumption of conformity **N.I.**

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

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

bears the CE marking, the product is presumed to comply with the applicable implementing measure.

(2) Unless the contrary is proved, where—

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

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

(3) Unless the contrary is proved, where an energy-related product has been awarded a community eco-label, the product is presumed to comply with the applicable implementing measure to the extent that the Community eco-label relates to the requirements of that measure.

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(3) OJ No L 237, 21.9.2000, p. 1.

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

**Extent Information**

**E12** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

**Misleading markings** **E+W+S**

8.—(1) A person must not affix or cause to be affixed any marking to—

- (a) an energy-related 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 or form of the [F19UK] marking.

**Extent Information**

**E5** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

**F19** Word in reg. 8 substituted (E.W.S.) (31.12.2020) by [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/539\)](#), reg. 1(3), **Sch. 1 para. 8**; 2020 c. 1, Sch. 5 para. 1(1)

**Misleading markings** **N.I.**

8.—(1) A person must not affix or cause to be affixed any marking to—

- (a) an energy-related 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 or form of the CE marking.

**Extent Information**

**E13** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

**Documentation for inspection**

9.—(1) A manufacturer, an authorised representative or importer who has placed on the market or put in to service an energy-related product must keep the following available for inspection by the market surveillance authority—

- (a) any documentation relevant to the applicable conformity assessment procedure; and
- (b) every declaration of conformity.

(2) All documentation and declarations must be kept available for inspection for a period of at least 10 years from the date the product was last manufactured.

(3) Any documentation or declaration must be made available within 10 days of receipt of a request by the market surveillance authority.

## PART 4

### Authorities and appeals

#### Notifying authority, competent authority and market surveillance authority

**10.**—<sup>[F20]</sup>(1) For the purposes of Article R 2(8) and R 2(9) of Annex I to the Marketing Decision the competent national authority is the Secretary of State.]

<sup>[F21]</sup>(2) For the purposes of Article R(14) to R(28) of Annex I to the Marketing Decision the notifying authority is the Secretary of State.]

(3) For the purposes of Article 2(18) of RAMS the market surveillance authority is the Secretary of State.

- F20** Reg. 10(1) omitted (E.W.S.) (31.12.2020) by virtue of [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/539), reg. 1(3), **Sch. 1 para. 9**; 2020 c. 1, Sch. 5 para. 1(1)
- F21** Reg. 10(2) omitted (E.W.S.) (31.12.2020) by virtue of [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/539), reg. 1(3), **Sch. 1 para. 9**; 2020 c. 1, Sch. 5 para. 1(1)

#### Appeals

**11.** Schedule 3 (appeals) has effect.

## PART 5

### Enforcement

**12.** The market surveillance authority may authorise in writing such persons who appear suitable to act on its behalf to carry out any functions and to exercise any power conferred by RAMS, subject to any limitations or conditions as it sees fit.

**13.** The following have effect—

- (a) Schedule 4 (warrants and testing costs); and
- (b) Schedule 5 (civil sanctions).

## PART 6

### Offences and Penalties

#### Offences and penalties

**14.**—(1) It is an offence for any person to contravene, or cause or permit another person to contravene, any of regulations 3 to 5, 8 or 9.

(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.

### **Obstruction etc.**

**15.**—(1) It is an offence for any person—

- (a) intentionally to obstruct an authorised person acting in the pursuance of their powers or duties under RAMS;
- (b) knowingly or recklessly to make a statement which is false or misleading in purported compliance with any requirement imposed by Article 19 of RAMS.

(2) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) In this regulation, “powers or duties” includes powers or duties exercisable by virtue of a warrant under Schedule 4.

### **Time limit for prosecution of offences**

**16.**—(1) 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; or
- (c) in Scotland, the proceedings are begun,

before the end of the period of 12 months beginning on the day after the date on which evidence which the market surveillance authority thinks is sufficient to justify the proceedings comes to the market surveillance authority’s knowledge.

(2) For the purposes of paragraph (1)—

- (a) a certificate signed by or on behalf of the prosecutor and stating the date on which such evidence came to the market surveillance authority’s knowledge is to be conclusive evidence of that fact; and
- (b) a certificate stating that matter and purporting to be so signed is to be treated as so signed unless the contrary is proved.

### **Bodies corporate**

**17.**—(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 the part of that person,

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 in (a), (b) or (c).

### **Remediation orders**

**18.**—(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 that person 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 14 or 15 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.

### Recovery of expenses of enforcement

**19.**—(1) This regulation applies where a court convicts a person of an offence under regulation 14 or 15.

(2) The court may (in addition to any other order it may make as to costs or expenses) order the person convicted to reimburse the market surveillance authority for any expenditure which it or any authorised person has reasonably incurred in investigating the offence, including in purchasing or in testing or examining any energy-related product, or any part of it, in respect of which the offence was committed.

## PART 7

[<sup>F22</sup>Revocations, review, transitional provision and obligations  
which are met by complying with obligations in the Directive]

<p><b>F22</b> Pt. 7 heading substituted (E.W.S.) (31.12.2020) by <a href="#">The Ecodesign for Energy-Related Products and Energy Information (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/539)</a>, reg. 1(3), <b>Sch. 1 para. 10</b>; 2020 c. 1, Sch. 5 para. 1(1)</p>
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### Revocations

**20.** The following are revoked—

- (a) the Ecodesign for Energy-Using Products Regulations 2007<sup>(4)</sup>; and
- (b) the Ecodesign for Energy-Using Products (Amendment) Regulations 2009<sup>(5)</sup>.

### [<sup>F23</sup>Transitional provisions in relation to EU Exit

**20A.**—(1) Part 2 does not apply to a product which—

- (a) was placed on the market or put into service during the pre-exit period; and
- (b) is in conformity with the legislation of an EEA state that implements the Directive.

(2) Subject to paragraph (3), where a product was placed on the market or put into service during the pre-exit period, despite the amendments made by Schedule 1 to the Ecodesign for Energy-Related Products and Energy Information (Amendment) (EU Exit) Regulations 2019, any obligation to which a person was subject under these Regulations as they had effect immediately before IP completion day, continues to have effect as it did immediately before IP completion day, in relation to that product.

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(4) [S.I. 2007/2037](#), amended by [S.I. 2009/2560](#).

(5) [S.I. 2009/2560](#).

(3) Paragraph (2) does not apply to any obligation to take action outside Great Britain in respect of that product.

(4) Where during the pre-exit period—

- (a) a product has not been placed on the market or put into service; and
- (b) a manufacturer, authorised representative or importer has taken any action in compliance with regulations 4 or 5 as they had effect immediately before IP completion day in relation to that product,

that action has effect as if it had been done in compliance with regulations 4 or 5 as they have effect on and after IP completion day.

[  
F24(4A) Subject to paragraph (4B), where before 11pm on 31st December 2024—

- (a) a product has not been placed on the market or put into service; and
- (b) a manufacturer has taken any action under the conformity assessment procedure that applies to that product in accordance with Article 8 of the Directive

that action has effect as if it had been done under the applicable procedure set out in Schedule 1A.

(4B) Paragraph (4A) does not apply—

- (a) after the expiry of the validity of any certificate issued pursuant to the applicable conformity assessment procedure; and
- (b) in any event, after 31st December 2027.]

(5) In this regulation—

“placed on the market” has the same meaning it had in these Regulations as they had effect immediately before IP completion day;

“pre-exit period” means the period beginning with 20th November 2010 and ending immediately before IP completion day;

“put into service” has the same meaning it had in these Regulations as they had effect immediately before IP completion day.

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| <p><b>F23</b> Regs. 20A-20D inserted (E.W.S.) (31.12.2020) by <a href="#">The Ecodesign for Energy-Related Products and Energy Information (Amendment) (EU Exit) Regulations 2019</a> (S.I. 2019/539), reg. 1(3), <b>Sch. 1 para. 11</b> (as amended by S.I. 2020/1528, regs. 1(2), 4, 6(3)(4)(a)); 2020 c. 1, Sch. 5 para. 1(1)</p> <p><b>F24</b> Reg. 20A(4A)(4B) inserted (31.12.2022) by <a href="#">The Product Safety and Metrology (Amendment and Transitional Provisions) Regulations 2022</a> (S.I. 2022/1393), regs. 1(1), <b>8(2)</b></p> |
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## Obligations met by complying with the Directive

**20B.**—(1) In this regulation—

- (a) any reference to an Article or an Annex is a reference to an Article of, or an Annex to, the Directive;
- (b) “CE marking” has the meaning given in Article 5(2);
- (c) “EC declaration of conformity” has the same meaning as in Article 5(3); and
- (d) “harmonised standard” has the meaning given to it in Article 2(27).

(2) Subject to paragraph (8), paragraph (3) applies where—

- (a) before placing a product on the market or putting a product into service, the manufacturer complies with legislation in an EEA state that implements—
  - (i) Article 5 (marking and the EC declaration of conformity); and

- (ii) Article 8 (conformity assessment); and
  - (b) the EC declaration of conformity is translated into English.
- (3) Where this paragraph applies—
  - (a) the requirements in regulation 4 are deemed to be met;
  - (b) Schedules 1 and 1A are disapplied;
  - (c) regulation 3 applies subject to the modification that references to the “UK marking” are to be read as references to the “CE marking”;
  - (d) regulation 7 applies subject to the modifications that—
    - (i) the reference to the “UK marking” is to be read as a reference to the “CE marking”;  
and
    - (ii) references to “designated standards” are to be read as references to “harmonised standards”;
  - (e) regulation 8 applies subject to the modification that the reference to the “UK marking” is to be read as a reference to the “CE marking”; and
  - (f) regulation 9 applies subject to the modification that references to a “declaration of conformity” or a “declaration” are to be read as references to an “EC declaration of conformity”.
- (4) Subject to paragraph (8), paragraph (5) applies where—
  - (a) before placing a product on the market or putting a product into service, the importer complies with legislation in an EEA state implementing Article 4 (responsibilities of the importer); and
  - (b) the EC declaration of conformity is translated into English.
- (5) Where this paragraph applies—
  - (a) the requirements imposed on the importer in regulation 5 are deemed to be met;
  - (b) Schedules 1 and 1A are disapplied;
  - (c) regulation 7 applies subject to the modification that references to “designated standards” are to be read as references to “harmonised standards”;
  - (d) regulation 8 applies subject to the modification that the reference to the “UK marking” is to be read as a reference to the “CE marking”; and
  - (e) regulation 9 applies subject to the modification that references to a “declaration of conformity” or a “declaration” are to be read as references to an “EC declaration of conformity”.
- (6) Subject to paragraph (8), paragraph (7) applies where—
  - (a) before placing a product on the market or putting a product into service, the authorised representative complies with legislation in an EEA state that implements—
    - (i) Article 5 (marking and the EC declaration of conformity); and
    - (ii) Article 8 (conformity assessment); and
  - (b) the EC declaration of conformity is translated into English.
- (7) Where this paragraph applies—
  - (a) the requirements imposed on the authorised representative in regulation 5 are deemed to be met;
  - (b) Schedules 1 and 1A are disapplied;



- (c) regulation 7 applies subject to the modification that references to “designated standards” are to be read as references to “harmonised standards”;
- (d) regulation 8 applies subject to the modification that the reference to the “UK marking” is to be read as a reference to the “CE marking”; and
- (e) regulation 9 applies subject to the modification that references to a “declaration of conformity” or a “declaration” are to be read as references to an “EC declaration of conformity”.

(8) Where there is no designated standard or part of a designated standard which corresponds exactly to a harmonised standard or part of a harmonised standard referred to in Article 10, paragraphs (2)(a)(ii), (4) and (6)(a)(ii) are to be treated as requiring the manufacturer to have carried out the conformity assessment procedure set out in Article 8.

**F23** Regs. 20A-20D inserted (E.W.S.) (31.12.2020) by [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/539\)](#), reg. 1(3), **Sch. 1 para. 11** (as amended by [S.I. 2020/1528](#), regs. 1(2), 4, 6(3)(4)(a)); 2020 c. 1, Sch. 5 para. 1(1)

### Expiry of regulation 20B

**20C.**—(1) Subject to paragraph (2), regulation 20B ceases to have effect at the end of the period of [<sup>F25</sup>four years] beginning with IP completion day.

(2) Notwithstanding the expiry of regulation 20B—

- (a) any product which was placed on the market or put into service pursuant to regulation 20B may continue to be made available on the market on or after the expiry of regulation 20B;
- (b) any obligation to which a person was subject in respect of a product placed on the market or put into service pursuant to regulation 20B continues to have effect after the expiry of regulation 20B, in respect of that product.

**F23** Regs. 20A-20D inserted (E.W.S.) (31.12.2020) by [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/539\)](#), reg. 1(3), **Sch. 1 para. 11** (as amended by [S.I. 2020/1528](#), regs. 1(2), 4, 6(3)(4)(a)); 2020 c. 1, Sch. 5 para. 1(1)

**F25** Words in [reg. 20C\(1\)](#) substituted (31.12.2022) by [The Product Safety and Metrology \(Amendment and Transitional Provisions\) Regulations 2022 \(S.I. 2022/1393\)](#), regs. 1(1), 2, **Sch. 1**

### Qualifying Northern Ireland Goods

**20D.**—(1) Where paragraph (2) applies to an energy-related product—

- (a) the product is to be treated as being in conformity with Part 2; and
- (b) the relevant economic operator is to be treated as having complied or as complying with the obligations imposed on them under Part 2 in relation to that product.

(2) This paragraph applies where—

- (a) an energy-related product is—
  - (i) in conformity with Part 2 of these Regulations as they apply in Northern Ireland; and
  - (ii) qualifying Northern Ireland goods; and
- (b) a relevant economic operator has complied or is complying with the obligations imposed on them under Part 2 of these Regulations as they apply in Northern Ireland.

(3) In this regulation “qualifying Northern Ireland goods” has the meaning given to it in regulations made under section 8C(6) of the European Union (Withdrawal) Act 2018.]

**F23** Regs. 20A-20D inserted (E.W.S.) (31.12.2020) by [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/539), reg. 1(3), **Sch. 1 para. 11** (as amended by S.I. 2020/1528, regs. 1(2), 4, 6(3)(4)(a)); 2020 c. 1, Sch. 5 para. 1(1)

[<sup>F26</sup>**21.**—(1) The Secretary of State must from time to time—

- (a) carry out a review of regulations 2 to 19,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how Commission Directive [2009/125/EC](#) (which is implemented by means of regulations 2 to 19) is implemented in other Member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by those Regulations,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of 5 years beginning with the day on which these Regulations come into force.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding 5 years]

**F26** Reg. 21 inserted (1.12.2011) by [The Ecodesign for Energy-Related Products \(Amendment\) Regulations 2011](#) (S.I. 2011/2677), regs. 1, 2(2)

## [<sup>F27</sup>**PART 8**

### Implementing measures

**F27** Pt. 8 (regs. 22-24) inserted (E.W.S.) (31.12.2020) by [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/539), reg. 1(3), **Sch. 1 para. 12** (as amended by S.I. 2020/1528, regs. 1(2), 4, 6(1)(2)(a)(3)(4)(a)); 2020 c. 1, **Sch. 5 para. 1(1)**

#### **Power of the Secretary of State to make implementing measures**

**22.**—(1) Subject to paragraphs (3) and (6), where the Secretary of State is satisfied that a product meets the criteria listed in paragraph (2), the Secretary of State must, by regulations, make an implementing measure in respect of that product.

(2) The criteria referred to in paragraph (1) are that—

- (a) the product, according to the most recently available figures and considering the quantities placed on the market or put into service, has a significant environmental impact within Great Britain; and
- (b) the product presents significant potential for improvement in terms of its environmental impact without entailing excessive costs, taking into account in particular—

- (i) the absence of other relevant legislation or failure of market forces to address the issue properly; and
  - (ii) the existence of a wide disparity in the environmental performance of products available on the Great Britain market with equivalent functionality.
- (3) The Secretary of State must not make an implementing measure in respect of a product that is the subject of self-regulation where such self-regulation—
  - (a) meets at least the criteria in Annex 8 to the Directive, read subject to the modifications in regulation 23(1)(a) and (d); and
  - (b) is expected to achieve the Secretary of State's ecodesign policy objectives more quickly or at lesser expense than an implementing measure.
- (4) Before exercising the power in paragraph (1), the Secretary of State must—
  - (a) consider the life cycle of the product and all its significant environmental aspects, including its energy efficiency, and the feasibility of their improvement;
  - (b) consider any relevant legislation;
  - (c) consider any self-regulation which meets the criteria in Annex 8 to the Directive read subject to the modifications in regulation 23(1)(a) and (d);
  - (d) prepare a draft implementing measure;
  - (e) carry out an assessment of the draft implementing measure, which must consider its impact on the environment, consumers and manufacturers, including companies qualifying as small or medium-sized, in terms of competitiveness, innovation, market access and costs and benefits;
  - (f) consult on the draft implementing measure;
  - (g) prepare an explanatory memorandum of the draft implementing measure based on the assessment referred to in sub-paragraph (e); and
  - (h) set an implementation date, and any staged or transitional measures or periods, taking into account, in particular, possible impacts on companies qualifying as small or medium-sized, or on specific product groups manufactured primarily by companies qualifying as small or medium-sized.
- (5) For the purposes of paragraph (4)(a)—
  - (a) the depth of analysis to be carried out by the Secretary of State on the environmental aspects and on the feasibility of their improvement must be proportionate to their significance; and
  - (b) the Secretary of State must take into account that the adoption of ecodesign requirements on the significant environmental aspects of a product must not be unduly delayed by uncertainties regarding the other aspects.
- (6) The Secretary of State must not make an implementing measure in respect of a product unless the Secretary of State is satisfied that the implementing measure—
  - (a) has no significant negative impact on the functionality of the product, from the perspective of the user;
  - (b) has no adverse effects on health, safety and the environment;
  - (c) has no significant negative impact on consumers in particular as regards the affordability and the life cycle cost of the product;
  - (d) has no significant negative impact on industry's competitiveness;
  - (e) does not have the consequence of imposing proprietary technology on manufacturers; and
  - (f) does not impose an excessive administrative burden on manufacturers.

- (7) An implementing measure made under paragraph (1)—
- (a) must lay down ecodesign requirements in accordance with Annex 1 and Annex 2 to the Directive, read subject to the modifications in regulation 23(1)(a) to (c);
  - (b) must introduce specific ecodesign requirements for selected environmental aspects which have a significant environmental impact;
  - (c) must specify, in particular:
    - (i) the exact definition of the type of product covered;
    - (ii) the ecodesign requirements for the product covered, implementation dates, and any staged or transitional measures or periods and—
      - (aa) in the case of generic ecodesign requirements, the relevant phases and aspects selected from those mentioned in paragraph 1.1 and 1.2 of Annex 1, read subject to the modifications in regulation 23(1)(a) and (b), accompanied by examples of parameters selected from those mentioned in paragraph 1.3 of Annex 1, read subject to the modifications in regulation 23(1)(a) and (b), as guidance when evaluating improvements regarding identified environmental aspects; and
      - (bb) in the case of specific ecodesign requirements, the level of the requirements that apply;
    - (iii) the ecodesign parameters referred to in Part 1 of Annex 1, read subject to the modifications in regulation 23(1)(a) and (b), relating to which no ecodesign requirement is necessary;
    - (iv) the installation requirements of the product where it has direct relevance to the product's environmental performance;
    - (v) where available, the designated standards that apply and if no designated standards apply, the measurement standards and measurement methods to be used;
    - (vi) requirements on information to be provided by manufacturers notably on the elements of the technical documentation which are needed to facilitate the checking of the compliance of the product with the implementing measure;
    - (vii) the duration of the transitional period during which it is permitted to place on the market or put into service products which comply with legislation in force in Great Britain before the coming into force of the implementing measure;
    - (viii) the date for the evaluation and possible revision of the implementing measure, taking into account the speed of technological progress;
  - (d) must specify the procedures for assessing the product's conformity with the implementing measure, including—
    - (i) the choice open to the manufacturer between the internal design control procedure set out in Part 1 of Schedule 1A and the management system procedure set out in Part 2 of that Schedule;
    - (ii) where duly justified and proportionate to the risks involved, in addition to the choice in paragraph (i), one or more of the Modules described in Annex 2 to the Decision, as it had effect immediately before IP completion day, read subject to the modifications in regulation 23(2); and
    - (iii) where relevant, the criteria relating to approved bodies;
  - (e) must contain requirements formulated so as to ensure that market surveillance authorities can verify the conformity of the product with the requirements of the implementing measure;

- (f) must specify whether verification can be achieved directly on the product or on the basis of the technical documentation;
  - (g) may provide that no ecodesign requirement is necessary for certain specified ecodesign parameters referred to in Part 1 of Annex 1 to the Directive read subject to the modifications in regulation 23(1)(a) and (b);
  - (h) where appropriate, must include provisions on the balancing of various environmental aspects;
  - (i) may, subject to being proportionate and taking into account legitimate confidentiality of commercially sensitive information—
    - (i) require information to be supplied by the manufacturer that may influence the way the product is handled, used or recycled by parties other than the manufacturer; and
    - (ii) require a manufacturer or its authorised representative placing components and sub-assemblies on the market or putting them into service to provide the manufacturer of a product covered by an implementing measure with—
      - (aa) relevant information on the material composition of the components and sub-assemblies; and
      - (bb) relevant information on the consumption of energy, materials and resources of the components and sub-assemblies; and
  - (j) must not apply to means of transport for persons or goods.
- (8) Where, for the purposes of paragraph (7)(d)(ii), the procedure for assessing a product's conformity with the implementing measure includes one or more Modules, the implementing measure may—
- (a) regarding technical documentation, require information additional to that which is already stipulated in the Modules;
  - (b) regarding the time for which the manufacturer and approved body are obliged to keep any kind of documentation, alter the period stipulated in the Modules;
  - (c) specify the manufacturer's choice as to whether the tests are carried out either by an accredited in-house body or under the responsibility of an approved body chosen by the manufacturer;
  - (d) where product verification is performed, specify the manufacturer's choice as to whether the examinations and tests to check the conformity of the products with the appropriate requirements will be carried out by examination and testing of every product, or by examination and testing of the products on a statistical basis;
  - (e) provide for the type examination certificate to have a period of validity;
  - (f) regarding the type examination certificate, specify relevant information relating to conformity assessment and in-service control to be included in it or its annexes;
  - (g) provide for different arrangements regarding the obligations the approved body has to report to the Secretary of State; and
  - (h) if the approved body carries out periodic audits, specify their frequency.
- (9) Where an implementing measure made under paragraph (1) requires information to be supplied by the manufacturer that may influence the way the product is handled, used or recycled by parties other than the manufacturer—
- (a) the implementing measure may require that information to include, as applicable—
    - (i) information from the designer relating to the manufacturing process;

- (ii) information for consumers on the significant environmental characteristics and performance of a product, to allow consumers to compare these aspects of the products;
  - (iii) information for consumers on how to install, use and maintain the product in order to minimise its impact on the environment and to ensure optimal life expectancy, as well as on how to return the product at end-of-life, and, where appropriate, information on the period of availability of spare parts and the possibilities of upgrading products; and
  - (iv) information for treatment facilities concerning disassembly, recycling, or disposal at end-of-life; and
- (b) the implementing measure must require that information—
- (i) to be given on the product itself wherever possible; and
  - (ii) to take into account obligations under other relevant legislation, such as the Waste Electrical and Electronic Equipment Regulations 2013.

### **Modifications to Annexes 1, 2 and 8 of the Directive**

**23.**—(1) The modifications referred to in paragraphs (3)(a), (4)(c), (7)(a), (c) and (g) of regulation 22 are as follows—

- (a) Annexes 1, 2 and 8 to the Directive are to be read as if the definitions in regulation 2 of these Regulations apply and prevail over any conflicting definitions in the Directive.
- (b) Annex 1 to the Directive is to be read as if—
  - (i) before Part 1—
    - (aa) in the first paragraph, the words from “The Commission must” to the end were omitted; and
    - (bb) in the second paragraph, for the words from “Article 15” to the end there were substituted “ regulation 22 of the Ecodesign for Energy-Related Products Regulations 2010, the Secretary of State must identify, as appropriate to the product covered by the implementing measure, the relevant ecodesign parameters from among those listed in Part 1 and the requirements for the manufacturer listed in Part 3 ”;
  - (ii) in Part 1—
    - (aa) in paragraph 1.2(e), for “Directive [2002/96/EC](#)” there were substituted “ the Waste Electrical and Electronic Equipment Regulations 2013 ”; and
    - (bb) for paragraph 1.3(d), there were substituted—
      - “(d) use of substances classified as hazardous to health or the environment according to Regulation [\(EC\) No 1272/2008](#) of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives [67/548/EEC](#) and [1999/45/EC](#), and amending Regulation [\(EC\) No 1907/2006](#), and taking into account legislation on the marketing and use of specific substances, such as—
        - (i) Regulation [\(EC\) No 1907/2006](#) of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive [1999/45/EC](#) and repealing

- Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC;
- (ii) the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012; and”;  
and
- (cc) in paragraph 1.3(k), for the words from “Directive 97/68/EC” to the end there were substituted “Regulation (EU) 2016/1628 of the European Parliament and of the Council of 14 September 2016 on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery, amending Regulations (EU) No 1024/2012 and (EU) No 167/2013, and amending and repealing Directive 97/68/EC”;
- (iii) Part 2 were omitted; and
- (iv) in Part 3, in the second subparagraph of paragraph 2, for “the Commission”, there were substituted “ the Secretary of State ”;
- (c) Annex 2 to the Directive is to be read as if—
- (i) before paragraph 1, in the second subparagraph—
- (aa) for “Article 15, the Commission” there were substituted “ regulation 22 of the Ecodesign for Energy-Related Products Regulations 2010, the Secretary of State ”; and
- (bb) the words from “in accordance” to “Article 19(2),” were omitted;
- (ii) in the fifth subparagraph of paragraph 1, for “data provided from the European Central Bank” there were substituted “ relevant data ”; and
- (iii) paragraph 2 were omitted;
- (d) Annex 8 to the Directive is to be read as if—
- (i) before paragraph 1, for the unnumbered paragraph, there were substituted—
- “In addition to the basic legal requirement that self-regulatory initiatives must comply with all applicable domestic and international rules, the following non-exhaustive list of indicative criteria may be used to evaluate whether a self-regulatory initiative may be considered by the Secretary of State as an alternative to an implementing measure—”;
- (ii) in paragraph 5, in the second subparagraph, “Member States,” were omitted;
- (iii) in paragraph 6, in the first subparagraph—
- (aa) for “Commission services”, there were substituted “ Secretary of State ”;
- (bb) after “objectives”, there were inserted “ in the Great Britain context ”;
- (iv) in paragraph 6, in the second subparagraph, the words from “It must” to the end were omitted; and
- (v) in paragraph 8, for “the policy objectives of this Directive” there were substituted “ relevant ecodesign policy objectives ”.
- (2) The modifications referred to in regulation 22(7)(d)(ii) to Annex 2 of the Decision, as it had effect immediately before IP completion day, are that Annex 2 is to be read as if—
- (a) the definitions in regulation 2 of these Regulations apply and prevail over any conflicting definitions in the Decision;

- (b) in each instance—
  - (i) for “EC design examination certificate”, there were substituted “ design examination certificate ”;
  - (ii) for “EC-type examination”, there were substituted “ type-examination ”;
  - (iii) for “harmonised standards” there were substituted “ designated standards ”;
  - (iv) for “its notifying authorities” and “the notifying authorities”, there were substituted “ the Secretary of State ”;
  - (v) references to a “notified body” were references to an “approved body”;
  - (vi) for “the national authorities”, “relevant authorities” and “relevant national authorities”, there were substituted “the Secretary of State”; and
  - (vii) the words “the references of which have been published in the Official Journal of the European Union”, were omitted; and
- (c) in the description of “Module B”, in the third paragraph of point 8—
  - (i) for “The Commission, the Member States”, there were substituted “ The Secretary of State ”; and
  - (ii) for “the Commission and the Member States”, there were substituted “ the Secretary of State ”;
- (d) in the description of “Module H1”, in the third paragraph of point 4.5—
  - (i) for “The Commission, the Member States”, there were substituted “ The Secretary of State ”; and
  - (ii) for “the Commission and the Member States”, there were substituted “ the Secretary of State ”; and
- (e) in the heading to the Table, “Community” were omitted; and
- (f) in the Table—
  - (i) for “national authorities” there were substituted “ the Secretary of State ”; and
  - (ii) for “EC-design examination certificate” there were substituted “ design examination certificate ”.

### **Form of implementing measure**

**24.**—(1) The power to make an implementing measure under regulation 22(1) is exercisable by statutory instrument, and—

- (a) in the case of an implementing measure which lays down ecodesign requirements identical to requirements adopted by the European Commission (if a draft of the instrument has not been laid before, and approved by a resolution of, each House of Parliament) the statutory instrument is subject to annulment in pursuance of a resolution of either House of Parliament; and
  - (b) in any other case, the statutory instrument must not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (2) An implementing measure under regulation 22(1) may—
- (a) amend the list of energy-related products and corresponding implementing measures in the table in paragraph 4 of Schedule 1;
  - (b) make different provision for different cases or circumstances;
  - (c) include supplementary, incidental and consequential provision; and
  - (d) make transitional provision and savings.]



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**Changes to legislation:** *There are currently no known outstanding effects for the The  
Ecodesign for Energy-Related Products Regulations 2010. (See end of Document for details)*

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

SCHEDULE 1

Regulation 3(2)

Declaration of Conformity

1. A person who makes a declaration of conformity declares that an energy-related product to which the declaration relates complies with the applicable implementing measure.
2. A declaration of conformity—
  - (a) must be in writing; and
  - (b) may be in respect of more than one energy-related product.
3. A declaration of conformity must include—
  - (a) the name and address of the person making it;
  - (b) a description of the product sufficient for unambiguous identification;
  - (c) where appropriate—
    - (i) the references of the <sup>F28</sup>designated] standards applied;
    - (ii) the other technical standards and specifications used;
    - <sup>F29</sup>(iii) the reference to other legislation, not referred to in paragraph 4, providing for the affixing of the UK marking; 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 applicable implementing measure as shown in the table.

	<i>Energy- related product</i>	<i>Implementing measure and title</i>
1	An external power supply	<sup>F30</sup> Commission Regulation (EU) 2019/1782 of 1 October 2019 laying down ecodesign requirements for external power supplies pursuant to <a href="#">Directive 2009/125/EC</a> of the European Parliament and of the Council and repealing <a href="#">Commission Regulation (EC) No 278/2009</a> ]
2	Electrical and electronic household and office equipment	<sup>F30</sup> Commission Regulation (EC) No 1275/2008 of 17 December 2008 implementing <a href="#">Directive 2005/32/EC</a> of the European Parliament and of the Council with regard to ecodesign requirements for standby and off mode, and networked standby, electric power consumption of electrical and electronic household and office equipment]
3	A simple set-top box	<sup>F30</sup> Commission Regulation (EC) No 107/2009 of 4 February 2009 implementing <a href="#">Directive 2005/32/EC</a> of the European Parliament and of the Council with regard to ecodesign requirements for simple set-top boxes]
4	<sup>F31</sup> ...	<sup>F31</sup> ...
5	<sup>F32</sup> ...	<sup>F32</sup> ...
<sup>F336</sup>	An electronic display	The Ecodesign for Energy-Related Products and Energy Information Regulations 2021]

	<i>Energy- related product</i>	<i>Implementing measure and title</i>
7	A glandless standalone circulator or glandless circulator integrated in a product	[ <sup>F30</sup> Commission Regulation (EC) No 641/2009 of 22 July 2009 implementing Directive 2005/32/EC of the European Parliament and of the Council with regard to ecodesign requirements for glandless standalone circulators and glandless circulators integrated in products]
8	A motor	[ <sup>F34</sup> The Ecodesign for Energy-Related Products and Energy Information Regulations 2021]
9	A household refrigerating appliance	[ <sup>F35</sup> The Ecodesign for Energy-Related Products and Energy Information Regulations 2021]
10	<sup>F36</sup> ...	Council Directive 92/42/EEC on efficiency requirements for new hot water boilers fired with liquid or gaseous fuels( <b>10</b> )
[ <sup>F37</sup> 11	A household dishwasher	[ <sup>F38</sup> The Ecodesign for Energy-Related Products and Energy Information Regulations 2021]]
[ <sup>F39</sup> 12	A household washing machine or a household washer-dryer	The Ecodesign for Energy-Related Products and Energy Information Regulations 2021 ]
[ <sup>F40</sup> 13	A water pump	[ <sup>F30</sup> Commission Regulation (EU) No 547/2012 of 25 June 2012 implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for water pumps]]
[ <sup>F40</sup> 14	An air conditioner or a comfort fan	[ <sup>F30</sup> Commission Regulation (EU) No 206/2012 of 6 March 2012 implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for air conditioners and comfort fans]]
[ <sup>F41</sup> 15	A fan driven by a motor with an electric input power between 125W and 500kW	[ <sup>F30</sup> Commission Regulation (EU) No 327/2011 of 30 March 2011 implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for fans driven by motors with an electric input power between 125W and 500kW]]
[ <sup>F42</sup> 16	Light sources and separate control gears	The Ecodesign for Energy-Related Products and Energy Information (Lighting Products) Regulations 2021]
[ <sup>F43</sup> 17	A household tumble drier	[ <sup>F30</sup> Commission Regulation (EU) No 932/2012 of 3 October 2012 implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for household tumble driers]]
[ <sup>F44</sup> 18	A computer <sup>F45</sup> ...	[ <sup>F30</sup> Commission Regulation (EU) No 617/2013 of 26 June 2013 implementing Directive 2009/125/EC of the European Parliament and

(10) OJ No L 167, 22.6.1992,p17 as last amended by Directive 2005/32/EC of the European Parliament and of the Council (OJ No L191, 22.7.2005, p29).

**Changes to legislation:** There are currently no known outstanding effects for the The  
Ecodesign for Energy-Related Products Regulations 2010. (See end of Document for details)

<i>Energy- related product</i>	<i>Implementing measure and title</i>
	of the Council with regard to ecodesign requirements for computers and computer servers]]
[ <sup>F44</sup> 19 A vacuum cleaner	[ <sup>F30</sup> Commission Regulation (EU) No 666/2013 implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for vacuum cleaners]]
[ <sup>F44</sup> 20 A water heater or a hot water storage tank	[ <sup>F30</sup> Commission Regulation (EU) No 814/2013 of 2 August 2013 implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for water heaters and hot water storage tanks]]
[ <sup>F44</sup> 21 A space heater or a combination heater	[ <sup>F30</sup> Commission Regulation (EU) No 813/2013 of 2 August 2013 implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for space heaters and combination heaters]]
[ <sup>F44</sup> 22 A domestic oven, a hob or a range hood	[ <sup>F30</sup> Commission Regulation (EU) No 66/2014 of 14 January 2014 implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for domestic ovens, hobs and range hoods]]
[ <sup>F46</sup> 23 A small, medium or large power transformer	[ <sup>F30</sup> Commission Regulation (EU) No 548/2014 of 21 May 2014 on implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for small, medium and large power transformers]]
[ <sup>F47</sup> 24 A ventilation unit	[ <sup>F30</sup> Commission Regulation (EU) No 1253/2014 of 7 July 2014 implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for ventilation units]]
[ <sup>F48</sup> 25 A professional refrigerated storage cabinet, blast cabinet, condensing unit or process chiller	[ <sup>F30</sup> Commission Regulation (EU) 2015/1095 of 5 May 2015 implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for professional refrigerated storage cabinets, blast cabinets, condensing units and process chillers]]
[ <sup>F49</sup> 26 A local space heater	[ <sup>F30</sup> Commission Regulation (EU) 2015/1188 of 28 April 2015 implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for local space heaters]]
[ <sup>F50</sup> 27 An air heating product, a cooling product, a high temperature process chiller or a fan coil unit	[ <sup>F30</sup> Commission Regulation (EU) 2016/2281 of 30 November 2016 implementing 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, with regard to ecodesign requirements for air heating products, cooling products, high temperature process chillers and fan coil units]]
[ <sup>F51</sup> 28 A solid fuel boiler	[ <sup>F30</sup> Commission Regulation (EU) 2015/1189 of 28 April 2015 implementing Directive 2009/125/EC of the European Parliament and

<i>Energy- related product</i>	<i>Implementing measure and title</i>
	of the Council with regard to ecodesign requirements for solid fuel boilers]]
[ <sup>F52</sup> 29 A solid fuel local space heater	[ <sup>F30</sup> Commission Regulation (EU) 2015/1185 of 24 April 2015 implementing <a href="#">Directive 2009/125/EC</a> of the European Parliament and of the Council with regard to ecodesign requirements for solid fuel local space heaters]]
[ <sup>F53</sup> 30 A server or an online data storage product	[ <sup>F30</sup> Commission Regulation (EU) 2019/424 of 15 March 2019 laying down ecodesign requirements for servers and data storage products pursuant to <a href="#">Directive 2009/125/EC</a> of the European Parliament and of the Council and amending <a href="#">Commission Regulation (EU) No 617/2013</a> ]]
[ <sup>F54</sup> 31 Welding equipment	The Ecodesign for Energy-Related Products and Energy Information Regulations 2021
32 A refrigerating appliance with a direct sales function	The Ecodesign for Energy-Related Products and Energy Information Regulations 2021]

[<sup>F55</sup>SCHEDULE 1A

Regulation 3(3)

Conformity Assessment Procedures

**F55** Sch. 1A inserted (E.W.S.) (31.12.2020) by [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/539\)](#), reg. 1(3), **Sch. 1 para. 14** (as amended by [S.I. 2020/1528](#), regs. 1(2), **6(3)(4)(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**

## PART 1

### Internal design control

#### The internal design control procedure

- 1.—(1) The internal design control procedure is a procedure—
  - (a) whereby the manufacturer, or its authorised representative, ensures that a product is in conformity with the relevant requirements of the applicable implementing measure; and
  - (b) which complies with the requirements specified in sub-paragraph (2).
- (2) The following are specified as requirements of an internal design control procedure—
  - (a) the manufacturer, or its authorised representative, must compile a technical documentation file making possible an assessment of the conformity of the product with the requirements of the applicable implementing measure;
  - (b) the technical documentation file must contain, in particular—
    - (i) a general description of the product and of its intended use;

- (ii) the results of relevant environmental assessment studies carried out by the manufacturer, or references to environmental assessment literature or case studies, which are used by the manufacturer in evaluating, documenting and determining product design solutions;
  - (iii) the ecological profile, where required by the implementing measure;
  - (iv) elements of the product design specification relating to environmental design aspects of the product;
  - (v) a list of the relevant designated standards, applied in full or in part, and a description of the solutions adopted to meet the requirements of the applicable implementing measure where the designated standards have not been applied or where those standards do not cover entirely the requirements of the applicable implementing measure;
  - (vi) a copy of the information concerning the environmental design aspects of the product provided in accordance with any requirements of the applicable measure relating to the supply of information that may influence the way the product is handled, used or recycled by parties other than the manufacturer; and
  - (vii) the results of measurements on the ecodesign requirements carried out, including details of the conformity of these measurements as compared with the ecodesign requirements set out in the applicable implementing measure; and
- (c) the manufacturer must take all measures necessary to ensure that the product is manufactured in compliance with the design specifications referred to in paragraph (b)(iv) and with the requirements of the implementing measure which applies to it.

## **PART 2**

### **Management system**

#### **The management system procedure**

- 2.—(1) The management system procedure is a procedure—
- (a) whereby the manufacturer ensures that a product is in conformity with the relevant requirements of the applicable implementing measure; and
  - (b) which complies with the requirements specified in sub-paragraph (2).
- (2) Paragraphs 3 to 6 specify the requirements of a management system procedure.

#### **The environmental product performance policy**

- 3.—(1) The manufacturer must, on request by the authorities of Great Britain—
- (a) demonstrate conformity with the requirements of the applicable implementing measure; and
  - (b) provide a framework for setting and reviewing environmental product performance objectives and indicators with a view to improving the overall environmental product performance.
- (2) All the measures adopted by the manufacturer to improve the overall environmental performance of, and to establish the ecological profile of, a product, if required by the implementing measure, through design and manufacturing, must be documented in a systematic and orderly manner in the form of written procedures and instructions.

(3) The procedures and instructions referred to in sub-paragraph (2) must contain, in particular, an adequate description of—

- (a) the list of documents that must be prepared to demonstrate the product's conformity, and, if relevant, that have to be made available;
- (b) the environmental product performance objectives and indicators and the organisational structure, responsibilities, powers of the manufacturer's management and the allocation of resources with regard to their implementation and maintenance;
- (c) the checks and tests to be carried out after manufacture to verify product performance against environmental performance indicators;
- (d) the procedures for controlling the required documentation and ensuring that it is kept up-to-date; and
- (e) the method of verifying the implementation and effectiveness of the environmental elements of the management system.

#### **Planning**

4. The manufacturer must establish and maintain—

- (a) procedures for establishing the ecological profile of the product;
- (b) environmental product performance objectives and indicators, which consider technological options, taking into account technical and economic requirements; and
- (c) a programme for achieving these objectives.

#### **Implementation and documentation**

5.—(1) The manufacturer must ensure that the documentation concerning the management system complies, in particular, with the following—

- (a) responsibilities and authorities must be defined and documented for the purpose of ensuring effective environmental product performance and reporting on the management system's operation for review and improvement;
- (b) documents must be established indicating the design control and verification techniques implemented and processes and systematic measures used when designing the product; and
- (c) information must be established and maintained to describe the core environmental elements of the management system and the procedures for controlling all documents required.

(2) The manufacturer must ensure that the documentation concerning the product contains, in particular—

- (a) a general description of the product and of its intended use;
- (b) the results of relevant environmental assessment studies carried out by the manufacturer, or references to environmental assessment literature or case studies, which are used by the manufacturer in evaluating, documenting and determining product design solutions;
- (c) the ecological profile, where required by the implementing measure;
- (d) documents describing the results of measurements on the eco-design requirements carried out including details of the conformity of these measurements as compared with the eco-design requirements set out in the applicable implementing measure;
- (e) specifications established by the manufacturer indicating, in particular, the designated standards which have been applied; where designated standards are not applied or where

they do not cover entirely the requirements of the relevant implementing measure, the means used to ensure compliance; and

- (f) a copy of the information concerning the environmental design aspects of the product provided in accordance with any requirements of the applicable measure relating to the supply of information that may influence the way the product is handled, used or recycled by parties other than the manufacturer.

### Checking and corrective action

**6.** The manufacturer must—

- (a) take all measures necessary to ensure that the product is manufactured in compliance with its design specification and with the requirements of the implementing measure which applies to it;
- (b) establish and maintain procedures to investigate and respond to non-conformity, and implement changes in the documented procedures resulting from corrective action; and
- (c) carry out at least every three years a full internal audit of the management system with regard to its environmental elements.]

## [<sup>F56</sup>SCHEDULE 1B

Regulation 3(4)

### Conformity Assessment Bodies

**F56** Sch. 1B inserted (E.W.S.) (31.12.2020) by The Ecodesign for Energy-Related Products and Energy Information (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/539), reg. 1(3), **Sch. 1 para. 15** (as amended by S.I. 2020/1528, regs. 1(2), 4, 6(3)(4)(a)); 2020 c. 1, **Sch. 5 para. 1(1)**

## PART 1

### Approval of Conformity Assessment Bodies

#### Approved bodies

**1.—(1)** An approved body is a conformity assessment body which—

- (a) has been approved by the Secretary of State pursuant to the procedure set out in paragraph 2; or
- (b) immediately before IP completion day was a notified body in respect of which no action has been taken by the Secretary of State to suspend or withdraw the body's status as a notified body.

(2) Sub-paragraph (1) has effect subject to paragraph 5.

(3) In this Schedule—

“accreditation certificate” means a certificate, issued by the UK national accreditation body, attesting that a conformity assessment body meets the approved body requirements;

“approved body requirements” means the requirements set out in Part 2;

“notified body” means a body—



- (a) which the Secretary of State had before IP completion day notified to the European Commission and member States in accordance with Article 8(1) of Council Directive [92/42/EEC](#) of 21 May 1992 on efficiency requirements for new hot-water boilers fired with liquid or gaseous fuels; and
- (b) in respect of which no action has been taken to suspend or withdraw the body's status as a notified body; and

“UK national accreditation body” means the body appointed by the Secretary of State in accordance with Article 4 of RAMS.

### **Approval of conformity assessment bodies**

2.—(1) The Secretary of State may approve only those conformity assessment bodies that qualify for approval.

(2) A conformity assessment body qualifies for approval if the first and second conditions below are met.

(3) The first condition is that the conformity assessment body has applied to the Secretary of State to become an approved body and that application is accompanied by—

- (a) a description of—
  - (i) the conformity assessment activities that the conformity assessment body intends to carry out;
  - (ii) the conformity assessment procedure in respect of which the conformity assessment body claims to be competent;
  - (iii) the category of products in respect of which the conformity assessment body claims to be competent; and
- (b) either—
  - (i) an accreditation certificate; or
  - (ii) the documentary evidence necessary for the Secretary of State to verify, recognise and regularly monitor the conformity assessment body's compliance with the approved body requirements.

(4) The second condition is that the Secretary of State is satisfied that the conformity assessment body meets the approved body requirements.

(5) For the purposes of sub-paragraph (4), the Secretary of State may accept an accreditation certificate, provided in accordance with sub-paragraph (3)(b)(i), as sufficient evidence that the conformity assessment body meets the approved body requirements.

(6) When deciding whether to approve a conformity assessment body, the Secretary of State may—

- (a) have regard to any other matter which appears to the Secretary of State to be relevant; and
- (b) set such conditions in relation to the approval as the Secretary of State considers appropriate.

### **Presumption of conformity of approved bodies**

3.—(1) Where a conformity assessment body demonstrates its conformity with the criteria laid down in a designated standard (or part of such standard), the Secretary of State is to presume that the conformity assessment body meets the approved body requirements covered by that standard (or that part of that standard).

(2) The presumption in sub-paragraph (1) is rebuttable.

## **Monitoring**

4. The Secretary of State must monitor each approved body with a view to verifying that the body—

- (a) continues to meet the approved body requirements;
- (b) meets any conditions set—
  - (i) in accordance with paragraph 2(6)(b); or
  - (ii) in the case of an approved body which was a notified body immediately before IP completion day, by the Secretary of State immediately before IP completion day; and
- (c) carries out its functions in accordance with these Regulations.

## **Restriction, suspension or withdrawal of approval**

5.—(1) Where the Secretary of State determines that an approved body—

- (a) no longer meets an approved body requirement; or
- (b) is failing to fulfil its obligations under these Regulations, other than a condition referred to in paragraph 4(b),

the Secretary of State must restrict, suspend or withdraw the body's status as an approved body under paragraph 1.

(2) Where the Secretary of State determines that an approved body no longer meets a condition referred to in paragraph 4(b), the Secretary of State may restrict, suspend or withdraw the body's status as an approved body under paragraph 1.

(3) In deciding what action is required under sub-paragraph (1) or (2), the Secretary of State must have regard to the seriousness of the non-compliance.

(4) Before taking action under sub-paragraph (1) or (2), the Secretary of State must—

- (a) give notice in writing to the approved body of the proposed action and the reasons for it;
- (b) give the approved body an opportunity to make representations to the Secretary of State regarding the proposed action within a reasonable period from the date of the notice; and
- (c) consider any such representations made by the approved body.

(5) Where the Secretary of State has taken action in respect of an approved body under sub-paragraph (1) or (2), or where an approved body has ceased its activity, the approved body must, at the request of the Secretary of State—

- (a) transfer its files relating to the activities it has undertaken as an approved body to another approved body or to the Secretary of State; or
- (b) keep its files relating to the activities it has undertaken as an approved body available for the Secretary of State and market surveillance authorities for a period of 10 years from the date they were created.

(6) The activities undertaken as an approved body referred to in sub-paragraph (5) include any activities that the body has undertaken as a notified body.

## **Operational matters in relation to approved bodies**

6.—(1) Subject to the terms of its approval and to sub-paragraph (3), an approved body must carry out the conformity assessment activities and procedures—

- (a) in respect of which the body's approval was given under paragraph 2; or
- (b) in respect of which the body's approval as an approved body was made.

(2) Where an approved body carries out a conformity assessment procedure, it must do so in accordance with Part 3.

(3) An approved body must make provision for a manufacturer to be able to make an appeal against a refusal by the approved body—

- (a) to issue a type-examination certificate referred to in Annexes 3 and 4 to Council Directive [92/42/EEC](#) of 21 May 1992 on efficiency requirements for new hot-water boilers fired with liquid or gaseous fuels (the “1992 Directive”), read as if modified by Article 4(4) and (5) of Commission Regulation (EU) No 813/2013 of 2 August 2013 implementing Directive [2009/125/EC](#) of the European Parliament and of the Council with regard to eco-design requirements for space heaters and combination heaters (the “2013 Regulation”); or
- (b) to affix, or cause to be affixed, the approved body's identification number pursuant to paragraph 1 of the Module D: Production quality assurance section or paragraph 1 of the Module E: Product quality assurance section of Annex 4 to the 1992 Directive read as if modified by Article 4(5) of the 2013 Regulation.

### **Subsidiaries and contractors**

7.—(1) An approved body may subcontract specific conformity assessment activities, or use a subsidiary to carry out such activities provided—

- (a) the body is satisfied that the subcontractor or subsidiary meets the approved body requirements;
- (b) the body has informed the Secretary of State that it is satisfied that the subcontractor or subsidiary meets those requirements; and
- (c) the economic operator for whom the activities are to be carried out has consented to the activities being carried out by that person.

(2) The approved body which subcontracts specific conformity assessment activities or uses a subsidiary to carry out such activities remains responsible for the proper performance of those activities (irrespective of where the subcontractor or subsidiary is established).

(3) Where an approved body subcontracts, or uses a subsidiary to carry out, a specific conformity assessment activity, the approved body must, for a period of 10 years beginning on the day on which the activity is first carried out, keep available for inspection by the Secretary of State all relevant documentation concerning—

- (a) the assessment of the qualifications of the subcontractor or the subsidiary; and
- (b) the conformity assessment activity carried out by the subcontractor or subsidiary.

(4) In this paragraph, “subsidiary” has the meaning given to it in section 1159 of the Companies Act 2006.

### **Register of approved bodies**

8.—(1) The Secretary of State must—

- (a) assign an approved body identification number to each approved body; and
- (b) compile and maintain a register of—
  - (i) approved bodies;
  - (ii) their approved body identification numbers;
  - (iii) the activities for which they have been approved; and
  - (iv) any restrictions on those activities.

(2) The register referred to in sub-paragraph (1) must be made publicly available.

### **UK national accreditation body**

9. The Secretary of State may authorise the UK national accreditation body to carry out the following activities on behalf of the Secretary of State—

- (a) assessing whether a conformity assessment body meets the approved body requirements;
- (b) monitoring approved bodies in accordance with paragraph 4; and
- (c) compiling and maintaining the register of approved bodies, in accordance with paragraph 8.

## **PART 2**

### **Approved body requirements**

10.—(1) A conformity assessment body must be established in Great Britain and have legal personality.

(2) A conformity assessment body must be a third party body independent of the organisation or the product it assesses. A body belonging to a business association or professional federation representing businesses involved in the design, manufacturing, provision, assembly, use or maintenance of products which it assesses, may, on condition that its independence and the absence of any conflict of interest are demonstrated, be considered such a body.

(3) A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment activities must not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the products that they assess, nor the representative of any of those parties.

(4) Sub-paragraph (3) does not preclude the use of assessed products that are necessary for the operations of the conformity assessment body or the use of such products for personal purposes.

(5) A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks must not be directly involved in the design, manufacture or construction, the marketing, installation, use or maintenance of those products, or represent the parties engaged in those activities. They must not engage in any activity (including consultancy services) that may conflict with their independence of judgement or integrity in relation to conformity assessment activities for which they are approved.

(6) A conformity assessment body must ensure that the activities of its subsidiaries or sub-contractors do not affect the confidentiality, objectivity or impartiality of its conformity assessment activities.

(7) A conformity assessment body and its personnel must carry out conformity assessment activities with the highest degree of professional integrity and the requisite competence in the specific field and must be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their conformity assessment activities, particularly with regard to persons or groups of persons who have an interest in the results of those activities.

(8) A conformity assessment body must be capable of carrying out all of the conformity assessment activities for which it has been approved, whether that assessment is carried out by the body itself or on its behalf and under its responsibility.

(9) A conformity assessment body must have at its disposal—

- (a) personnel with technical knowledge and sufficient and appropriate experience to perform the conformity assessment activities;
- (b) descriptions of procedures in accordance with which conformity assessment is carried out, ensuring the transparency of and the ability to reproduce those procedures, and have

appropriate policies and procedures in place that distinguish between tasks it carries out as an approved body and other activities; and

- (c) procedures for the performance of conformity assessment activities which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

(10) A conformity assessment body must have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and must have access to the necessary equipment or facilities.

(11) The personnel responsible for carrying out conformity assessment must have—

- (a) sound technical and vocational training, covering all conformity assessment activities in relation to which the conformity assessment body has been approved;
- (b) satisfactory knowledge of the requirements of the assessments which the conformity assessment body carries out, and adequate authority to carry out those assessments;
- (c) appropriate knowledge and understanding of the essential safety requirements, of the applicable designated standards and of the applicable provisions of these Regulations; and
- (d) the ability to draw up certificates, records and reports demonstrating that the assessments have been carried out.

(12) A conformity assessment body must be able to demonstrate the impartiality of its top level management and the personnel responsible for carrying out the conformity assessment activities.

(13) The remuneration of the top level management and the personnel responsible for carrying out the conformity assessment activities must not depend on the number of assessments carried out or on the results of those assessments.

(14) A conformity assessment body must have, and must satisfy the Secretary of State that it has, adequate civil liability insurance in respect of its activities.

(15) A conformity assessment body must ensure that its personnel observe professional secrecy with regard to all information obtained in carrying out their tasks in accordance with these Regulations, and that proprietary rights are protected.

(16) Sub-paragraph (15) does not prevent the personnel from providing the information to the Secretary of State.

(17) A conformity assessment body must participate in, or ensure that its personnel who are responsible for carrying out the conformity assessment activities are informed of, the relevant standardisation activities and the activities of any approved body coordination group established by the Secretary of State and must apply as general guidance the administrative decisions and documents produced as a result of the work of that group.

## **PART 3**

### **Operational obligations of approved bodies**

**11.—(1)** An approved body must carry out conformity assessments in accordance with the conformity assessment procedures.

(2) An approved body must carry out conformity assessments in a proportionate manner, avoiding unnecessary burdens on economic operators.

(3) An approved body must perform its activities taking due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

(4) An approved body must respect the degree of rigour and the level of protection required to ensure that the product is in conformity with the requirements of these Regulations.

(5) Where an approved body finds that essential safety requirements or corresponding designated standards or other technical specifications have not been met by a manufacturer, it must require the manufacturer to take appropriate corrective measures and must not issue a certificate of conformity.

(6) Where, in the course of the monitoring of conformity following the issue of a certificate of conformity, an approved body finds that a product is no longer in conformity with the essential safety requirements, it must require the manufacturer to take appropriate corrective measures and must, if necessary, suspend or withdraw the certificate of conformity.

(7) Where the approved body has required a manufacturer to take corrective measures and the manufacturer has failed to take such measures, or those measures have not had the required effect, the approved body must restrict, suspend or withdraw any certificate of conformity.

(8) Sub-paragraph (9) applies where an approved body is minded to—

- (a) refuse to issue a certificate of conformity;
- (b) restrict, suspend or withdraw a certificate of conformity.

(9) Where this paragraph applies, the approved body must—

- (a) give the person applying for the certificate of conformity, or the person to whom the certificate of conformity has been given, a notice in writing giving reasons and specifying the date on which the refusal, restriction, suspension or withdrawal is intended to take effect;
- (b) give the person referred to in paragraph (a), an opportunity to make representations within a reasonable period from the date of the notice; and
- (c) take account of any representations made within the period referred to in paragraph (b) before taking its decision.

(10) An approved body must inform the Secretary of State of—

- (a) any refusal, restriction, suspension or withdrawal of a certificate of conformity;
- (b) any circumstances affecting the scope of or conditions for approval under paragraph 2;
- (c) any request for information which it has received from a market surveillance authority regarding conformity assessment activities;
- (d) on request, any conformity assessment activities performed within the scope of its approval under paragraph 2 and any other activity performed, including cross-border activities and subcontracting.

(11) An approved body must make provision in its contracts with its clients enabling such clients to appeal against a decision—

- (a) to refuse to issue a certificate of conformity or grant an approval;
- (b) to restrict, suspend or withdraw a certificate of conformity or approval.

(12) An approved body must provide other bodies approved under these Regulations carrying out similar conformity assessment activities covering the same products with relevant information on issues relating to negative and, on request, positive conformity assessment results.

(13) An approved body must participate in the work of any approved body coordination group established by the Secretary of State, directly or by means of its designated representatives.]

## SCHEDULE 2

Regulation 4(3)

### CE marking: General requirements

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



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

## SCHEDULE 3

Regulation 11

### Appeals

1. This Schedule makes provision in respect of appeals against decisions of [<sup>F57</sup>approved] bodies.
2. An appeal must be made within two months of the date of the decision, but the parties to the appeal may agree a late appeal.
3. Where an appeal is brought, the operation of the decision is not suspended.
- 4.—(1) The appeal procedure [<sup>F58</sup>for the purposes of Article 4(7) of the Marketing Decision] is as follows.
  - (2) A person to whom a decision is given—
    - (a) may give notice of appeal against that decision; and
    - (b) must be informed of that right in the decision.

**F58** Words in Sch. 3 para. 4 omitted (E.W.S.) (31.12.2020) by virtue of [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/539\), reg. 1\(3\), Sch. 1 para. 16\(b\)](#); 2020 c. 1, Sch. 5 para. 1(1)

5. An appeal must be heard by the appeal body.
6. Subject to paragraph 7, the appeal body is the body agreed by the parties to the appeal.
- 7.—(1) 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.
  - (2) For the purposes of sub-paragraph (1), 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.

8. On the determination of an appeal, the appeal body may affirm the decision or withdraw it and may do so subject to such conditions as the appeal body sees fit.

## SCHEDULE 4

Regulation 13(a)

### Warrants and testing costs

#### PART 1

##### 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 is met,

a justice of the peace may by warrant signed by that justice of the peace authorise an authorised person and any other person in the performance of the powers and duties under Article 19 of RAMS to enter the premises, if need be by reasonable force.

2. The conditions referred to in paragraph 1 are that—
  - (a) admission to the premises has been refused, or a refusal is expected;
  - (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 2

##### Testing costs

##### Costs recovery

5.—(1) If an article or substance tested under Article 19 of RAMS fails to comply with an applicable implementing measure, the market surveillance authority may recover its testing costs.

(2) Costs include in particular—

- (a) all the costs of purchasing and disposing of the articles or substances;
- (b) all the administration and labour costs throughout the testing period.

(3) The market surveillance authority is not entitled to recover any costs proven to have been incurred unnecessarily.



### **Notice of intent**

6.—(1) Where the market surveillance authority proposes to recover its testing costs it must serve a notice of what is proposed (a “notice of intent”) within 20 days of obtaining proof that the article or substance has failed to comply with an applicable implementing measure.

(2) The notice of intent must include—

- (a) a statement that the article or substance has been tested and has failed to comply with the applicable implementing measure;
- (b) details of the tests carried out;
- (c) the amount to be paid;
- (d) a detailed breakdown of the testing costs incurred; and
- (e) information as to—
  - (i) the right to make representations and objections within 28 days beginning on the day on which the notice of intent was received;
  - (ii) the circumstances in which the market surveillance authority may not recover its costs.

### **Making representations and objections**

7. A person upon whom a notice of intent has been served may, within 28 days beginning on the day on which the notice was received, make written representations and objections to the market surveillance authority in relation to the proposed recovery of costs.

### **Final notice**

8.—(1) Within 20 days following the end of the period for making representations and objections the market surveillance authority must decide whether to impose the requirements of the notice of intent with or without modifications.

(2) Where the market surveillance authority decides to impose a requirement, the notice imposing it (the “final notice”) must comply with paragraph 9.

### **Contents of final notice**

9.—(1) A final notice must include—

- (a) a statement that the article or substance has been tested and has failed to comply with the applicable implementing measure;
- (b) details of the tests carried out;
- (c) the amount to be paid and the period within which the payment must be made which must not be less than 28 days;
- (d) a detailed breakdown of the testing costs incurred;
- (e) how payment must be made;
- (f) the consequences of failing to comply with the notice within the specified period;
- (g) rights of appeal.

### **Appeal**

10.—(1) Any appeal under this Part must be made to the First-tier Tribunal.

(2) The tribunal must determine the standard of proof.

- (3) A notice under this Part is suspended pending appeal.
- (4) The Tribunal may, in relation to the imposition of a requirement or service of a notice—
  - (a) withdraw the notice;
  - (b) confirm the notice;
  - (c) vary the notice; and
  - (d) remit the decision whether to confirm the notice, or any matter relating to that decision, to the market surveillance authority.

### **Mode of recovery**

**11.** The market surveillance authority may recover the amount due under a final notice as if payable under a court order.

### **Guidance**

**12.—(1)** The market surveillance authority must publish guidance about the recovery of costs under this Part.

(2) The guidance must contain the relevant information and the market surveillance authority must update and revise the guidance where appropriate.

(3) The market surveillance authority must have regard to the guidance in exercising its functions.

(4) The relevant information in sub-paragraph (2) is information about—

- (a) the circumstances in which a final notice under this Part is likely to be imposed and when it is not likely to be imposed;
- (b) how the costs of the test will be calculated;
- (c) the matters likely to be taken into account by the market surveillance authority in determining the amount to be recovered; and
- (d) the rights to make representations and objections and the rights of appeal.

**13.** The market surveillance authority must consult such persons as it considers appropriate before publishing any guidance or revised guidance under this Schedule.

## SCHEDULE 5

Regulation 13(b)

### Civil sanctions

## PART 1

### Power to impose civil sanctions

#### **Market surveillance authority**

**1.** The market surveillance authority may impose a requirement upon a person to comply with a compliance notice, a stop notice, an enforcement undertaking or to pay a variable monetary penalty or non-compliance penalty (a “civil sanction”) as set out in this Schedule.

## PART 2

### Compliance notices and variable monetary penalties

#### **Imposition of a compliance notice**

2.—(1) The market surveillance authority may by notice (“a compliance notice”) impose on any person—

- (a) in relation to an offence committed under regulation 14(1) a requirement to take such steps as the market surveillance authority may specify, within such period as it may specify, to secure that the offence does not continue or recur;
- (b) where the market surveillance authority is of the opinion that a person is making available on the market an energy-related product which does not comply with an applicable implementing measure, a requirement to take such steps as the market surveillance authority may specify within such period as it may specify, to secure that the product is withdrawn from the market or that its being made available on the market is prohibited or restricted.

(2) Before imposing a requirement under sub-paragraph (1)(a) the market surveillance authority must be satisfied beyond reasonable doubt that the person has committed the offence.

(3) Before imposing a requirement under sub-paragraph (1)(b) the market surveillance authority must be satisfied beyond reasonable doubt that the energy-related product does not comply with the applicable implementing measure.

(4) A compliance notice may not be imposed on more than one occasion in relation to the same act or omission.

#### **Imposition of a variable monetary penalty**

3.—(1) The market surveillance authority may by notice impose on any person in relation to an offence committed under regulation 14(1) a requirement to pay a monetary penalty to the market surveillance authority in such amount as it may determine (“a variable monetary penalty”).

(2) Before doing so the market surveillance authority must be satisfied beyond reasonable doubt that the person has committed the offence.

(3) A variable monetary penalty may not be imposed on more than one occasion in relation to the same act or omission.

(4) There is no limit to the amount of a variable monetary penalty.

(5) Before serving a notice relating to a variable monetary penalty the market surveillance authority may require the person on whom it is to be served to provide such information as is reasonable to establish the amount of any financial benefit arising as a result of the offence.

(6) The market surveillance authority may recover any variable monetary penalty imposed under this Schedule as if payable under order of the court.

#### **Notice of intent**

4.—(1) Where the market surveillance authority proposes to serve a compliance notice or a variable monetary penalty under this Part, it must serve on that person a notice of what is proposed (a “notice of intent”).

(2) The notice of intent must include—

- (a) the grounds for the proposed notice or penalty;
- (b) the requirements of the notice and in the case of a penalty the amount to be paid;

- (c) information as to—
- (i) the right to make representations and objections within 28 days beginning with the day on which the notice of intent was received;
  - (ii) the circumstances in which the market surveillance authority may not impose the notice.

### **Making representations and objections**

5. A person on whom a notice of intent is served may within 28 days beginning with the day on which the notice was received make written representations and objections to the market surveillance authority in relation to the proposed imposition of a compliance notice or variable monetary penalty.

### **Third party undertakings**

6.—(1) A person on whom a notice of intent is served may offer an undertaking as to action to be taken by that person (including the payment of a sum of money) to benefit any third party affected by the offence or non-compliance with an applicable implementing measure (“a third party undertaking”).

(2) The market surveillance authority may accept or reject such a third party undertaking.

(3) The market surveillance authority must take into account any third party undertaking that it accepts in its decision whether or not to serve a final notice and, if it serves a notice imposing a variable monetary penalty, the amount of the penalty.

### **Final notice**

7.—(1) After the end of the period for making representations and objections, the market surveillance authority must decide whether to impose the requirements in the notice of intent, with or without modifications.

(2) Where the market surveillance authority decides to impose a requirement, the notice imposing it (the “final notice”) must comply with paragraph 8 or 9.

(3) The market surveillance authority may not impose a final notice on a person where the market surveillance authority is satisfied that the person would not, by reason of any defence, be liable to be convicted of the offence to which the notice relates.

### **Contents of final notice – compliance notice**

8. A final notice relating to a compliance notice must include information as to—
- (a) the grounds for imposing the notice;
  - (b) what compliance is required and the period within which it must be completed;
  - (c) rights of appeal; and
  - (d) the consequences of failing to comply with the notice.

### **Contents of final notice - variable monetary penalty**

9. A final notice relating to a variable monetary penalty must include information as to—
- (a) the grounds for imposing the penalty;
  - (b) the amount to be paid;
  - (c) how payment may be made;
  - (d) the period within which payment must be made which must be not less than 28 days;

- (e) rights of appeal; and
- (f) the consequences of failing to comply with the notice.

### **Appeals against a final notice**

- 10.**—(1) The person receiving the final notice may appeal against it.
- (2) The grounds for appeal are—
- (a) that the decision was based on an error of fact;
  - (b) that the decision was wrong in law;
  - (c) in the case of a variable monetary penalty, that the amount of the penalty is unreasonable;
  - (d) in the case of a non-monetary requirement, that the nature of the requirement is unreasonable;
  - (e) that the decision was unreasonable for any other reason;
  - (f) that the decision was wrong for any other reason.

### **Criminal proceedings**

- 11.**—(1) If—
- (a) a compliance notice or variable monetary penalty is imposed on any person, or
  - (b) a third party undertaking is accepted from any person,
- that person may not at any time be convicted of the offence under regulation 14(1) in respect of the act or omission giving rise to the compliance notice, variable monetary penalty or third party undertaking except in a case referred to in sub-paragraph (2).
- (2) The case referred to in sub-paragraph (1) is a case where in relation to an offence under regulation 14(1)—
- (a) a compliance notice is imposed on a person or a third party undertaking is accepted from a person,
  - (b) no variable monetary penalty is imposed upon that person, and
  - (c) the person fails to comply with the compliance notice or third party undertaking.
- (3) Criminal proceedings for offences triable summarily to which a compliance notice or third party undertaking in sub-paragraph (2) relate may be instituted at any time up to six months from the date when the market surveillance authority notifies the person that they have failed to comply with that compliance notice or third party undertaking.

### **Other offences and penalties**

- 12.** Where a person upon whom a compliance notice is served under paragraph 2(1)(b) does not comply with it within the time limit specified in the notice or fails to comply with a third party undertaking, the person is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## PART 3

### Stop notices

#### Stop notices

- 13.**—(1) The market surveillance authority may serve a notice (a “stop notice”) on any person—
- (a) in relation to an offence committed under regulation 14(1), prohibiting a person from carrying on an activity specified in the notice until the person has taken the steps specified in the notice;
  - (b) where the market surveillance authority is of the opinion that a person is likely to make available on the market an energy-related product which does not comply with an applicable implementing measure, a requirement to take such steps as the market surveillance authority may specify within such period as it may specify, to secure that its being made available on the market is prohibited or restricted.
- (2) A stop notice may only be served where the person is—
- (a) carrying on the activity, and
  - (b) the market surveillance authority reasonably believes that—
    - (i) the activity as carried on by that person involves or is likely to involve the commission of an offence under regulation 14(1); or
    - (ii) that person is likely to make available on the market an energy-related product which does not comply with an applicable implementing measure.
- (3) The steps referred to in sub-paragraph (1)(a) and (b) must be steps to eliminate the risk of the offence being committed, or of energy-related products which do not comply with an applicable implementing measure being made available on the market.

#### Contents of a stop notice

- 14.** A stop notice must include information as to—
- (a) the grounds for serving the stop notice and the activity which is prohibited;
  - (b) the steps the person must take to comply with the stop notice;
  - (c) the consequences of non-compliance;
  - (d) the period within which the activity must stop.

#### Appeals

- 15.**—(1) The person on whom a stop notice is served may appeal against the decision to serve it.
- (2) The grounds for appeal are—
- (a) that the decision was based on an error of fact;
  - (b) that the decision was wrong in law;
  - (c) that the decision was unreasonable;
  - (d) that any step specified in the notice is unreasonable;
  - (e) that the person has not committed the offence and would not have committed it had the stop notice not been served;
  - (f) that the person was not likely to make an energy-related product available on the market and would not have made it available on the market if the stop notice had not been served;

- (g) that the person would not, by reason of any defence, have been liable to be convicted of the offence had the stop notice not been served;
- (h) that the decision was wrong for any other reason.

### **Completion certificates**

**16.**—(1) The market surveillance authority must issue a certificate (a “completion certificate”) if, after service of a stop notice, the market surveillance authority is satisfied that the person has taken the steps specified in the notice.

- (2) A stop notice ceases to have effect on the issue of a completion certificate.
- (3) A person on whom a stop notice is served may at any time apply for a completion certificate.
- (4) The market surveillance authority must decide whether to issue a completion certificate within 14 days of the application.

(5) A person on whom the stop notice was served may appeal against a decision not to issue a completion certificate on the grounds that—

- (a) the decision was based on an error of fact;
- (b) the decision was wrong in law;
- (c) the decision was unfair or unreasonable;
- (d) the decision was wrong for any other reason.

### **Compensation**

**17.**—(1) The market surveillance authority must compensate a person for loss suffered as the result of the service of the stop notice or the refusal of a completion certificate if a person has suffered loss as a result of the notice or refusal and—

- (a) a stop notice is subsequently withdrawn or amended by the market surveillance authority because the decision to serve it was unreasonable or any step specified in the notice was unreasonable;
- (b) a person successfully appeals against the stop notice and the First-tier Tribunal finds that the service of the notice was unreasonable; or
- (c) a person successfully appeals against the refusal of a completion certificate and the Tribunal finds that the refusal was unreasonable.

(2) A person may appeal against a decision not to award compensation or the amount of compensation on the grounds that—

- (a) the market surveillance authority’s decision was unreasonable;
- (b) the amount offered was based on incorrect facts;
- (c) the decision was wrong for any other reason.

### **Offences**

**18.** Where a person on whom a stop notice is served does not comply with it within the time limit specified in the notice, the person is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## PART 4

### Enforcement undertakings

#### **Enforcement undertakings**

**19.** The market surveillance authority may accept a written undertaking (an “enforcement undertaking”) given by a person to the market surveillance authority to take such action as may be specified in the undertaking within such period as may be specified where the market surveillance authority has reasonable grounds to suspect that the person has committed an offence under regulation 14(1).

#### **Contents of an enforcement undertaking**

- 20.**—(1) An enforcement undertaking must specify—
- (a) action to be taken by the person to secure that the offence does not continue or recur;
  - (b) action to secure that the position is, so far as possible, restored to what it would have been if the offence had not been committed; or
  - (c) action (including the payment of a sum of money) to be taken by the person to benefit any person affected by the offence.
- (2) It must specify the period within which the action must be completed.
- (3) It must include—
- (a) a statement that the undertaking is made in accordance with this Schedule;
  - (b) the terms of the undertaking;
  - (c) information as to how and when a person is considered to have discharged the undertaking.
- (4) The enforcement undertaking may be varied, or the period within which the action must be completed may be extended, if both parties agree in writing.

#### **Acceptance of an enforcement undertaking**

**21.** If the market surveillance authority has accepted an enforcement undertaking then, unless the person from whom the undertaking is accepted has failed to comply with the undertaking or any part of it—

- (a) that person may not at any time be convicted of the offence in respect of the act or omission to which the undertaking relates; and
- (b) the market surveillance authority may not impose on that person a compliance notice, stop notice or variable monetary penalty in respect of that act or omission.

#### **Discharge of an enforcement undertaking**

**22.**—(1) If the market surveillance authority is satisfied that an enforcement undertaking has been complied with it must issue a certificate to that effect.

(2) The market surveillance authority may require the person who has given the undertaking to provide sufficient information to determine that the undertaking has been complied with.

(3) The person who gave the undertaking may at any time apply for such a certificate.

(4) The market surveillance authority must decide whether to issue such a certificate, and give written notice of the decision to the applicant, within 14 days of such an application.



(5) The person to whom the notice is given may appeal against a decision not to issue a certificate on the grounds that the decision—

- (a) was based on an error of fact;
- (b) was wrong in law;
- (c) was unfair or unreasonable;
- (d) was wrong for any other reason.

### **Inaccurate, incomplete or misleading information**

**23.**—(1) A person who has given inaccurate, misleading or incomplete information in relation to an enforcement undertaking is regarded as not having complied with it.

(2) The market surveillance authority may by notice in writing revoke a certificate issued under paragraph 22 if it was issued on the basis of inaccurate, incomplete or misleading information.

### **Non-compliance with an enforcement undertaking**

**24.**—(1) If a person does not comply with an enforcement undertaking the market surveillance authority may in the case of an offence committed under regulation 14(1)—

- (a) serve a compliance notice, non-compliance penalty, stop notice or variable monetary penalty; or
- (b) bring criminal proceedings.

(2) If a person has complied partly but not fully with an undertaking, that partial compliance must be taken into account in the imposition of any criminal or other sanction on the person.

(3) Criminal proceedings for offences to which an enforcement undertaking relates may be instituted at any time up to six months from the date when the market surveillance authority notifies the person that they have failed to comply with that undertaking.

## **PART 5**

### **Non-compliance Penalties**

#### **Non-compliance penalties**

**25.**—(1) If a person fails to comply with a compliance notice, stop notice, third party undertaking or enforcement undertaking, irrespective of whether a variable monetary penalty was also imposed, the market surveillance authority may serve a notice on that person imposing a monetary penalty (“a non-compliance penalty”).

(2) The amount of the non-compliance penalty must be determined by the market surveillance authority, and must be a percentage of the costs of fulfilling the remaining requirements of the notice, third party undertaking or enforcement undertaking.

(3) The percentage must be determined by the market surveillance authority having regard to all the circumstances of the case and may, if appropriate, be 100%.

(4) The notice must include information as to—

- (a) the grounds for imposing the non-compliance penalty;
- (b) the amount to be paid;
- (c) how payment must be made;
- (d) the period in which payment must be made, which must not be less than 28 days;

- (e) rights of appeal;
  - (f) the consequences of failure to make payment in the specified period;
  - (g) any circumstances in which the market surveillance authority may reduce the amount of the penalty.
- (5) If the requirements of the compliance notice, stop notice, third party undertaking or enforcement undertaking are fulfilled before the time set for payment of the non-compliance penalty, the penalty is not payable.
- (6) The person on whom the notice imposing the non-compliance penalty is served may appeal against it.
- (7) The grounds of appeal are—
- (a) that the decision to serve the notice was based on an error of fact;
  - (b) that the decision was wrong in law;
  - (c) that the decision was unfair or unreasonable for any reason;
  - (d) that the amount of the penalty was unreasonable;
  - (e) that the decision was wrong for any other reason.

## PART 6

### Withdrawing or amending a notice

26. The market surveillance authority may at any time in writing—
- (a) withdraw a notice imposing a variable monetary penalty or a notice imposing a non-compliance penalty notice or reduce the amount specified in the notice;
  - (b) withdraw a compliance notice or stop notice or amend the steps in order to reduce the amount of work necessary to comply with the notice.

## PART 7

### Appeals

#### Appeals

- 27.—(1) Any appeal under this Schedule must be made to the First-tier Tribunal.
- (2) An appeal must be brought within [<sup>F59</sup>28 days] of the date on which the notice or decision is received.
- (3) In any appeal (except in relation to a stop notice) where the commission of an offence is an issue requiring determination, the market surveillance authority must prove that offence according to the same burden and standard of proof as in a criminal prosecution.
- (4) In any other case the tribunal must determine the standard of proof.
- (5) All notices (other than stop notices) are suspended pending appeal.
- (6) The Tribunal may, in relation to the imposition of a requirement or service of a notice—
- (a) withdraw the requirement or notice;
  - (b) confirm the requirement or notice;
  - (c) vary the requirement or notice;

- (d) take such steps as the market surveillance authority could take in relation to the act or omission giving rise to the requirement or notice;
- (e) remit the decision whether to confirm the requirement or notice, or any matter relating to that decision, to the market surveillance authority.

**F59** Words in Sch. 5 para. 27(2) substituted (1.12.2011) by [The Ecodesign for Energy-Related Products \(Amendment\) Regulations 2011 \(S.I. 2011/2677\)](#), regs. 1, **2(4)**

## PART 8

### Guidance and publicity

#### Guidance as to use of civil sanctions

- 28.**—(1) The market surveillance authority must publish guidance about its use of civil sanctions.
- (2) The market surveillance authority must revise and update the guidance where appropriate.
- (3) The market surveillance authority must have regard to the guidance or revised and updated guidance in exercising its functions.
- (4) In the case of guidance about compliance notices, stop notices, variable monetary penalties and non-compliance penalties the guidance must contain information as to—
- (a) the circumstances in which the civil sanction is likely to be imposed; and
  - (b) the circumstances in which it is not likely to be imposed.
- (5) In the case of guidance about variable monetary penalties and non-compliance penalties, the guidance must contain information about—
- (a) the matters likely to be taken into account by the market surveillance authority in determining the amount of the penalty (including voluntary reporting by a person of their own non-compliance); and
  - (b) rights to make representations and objections and rights of appeal.
- (6) In the case of guidance about enforcement undertakings the guidance must contain information as to—
- (a) the circumstances in which the market surveillance authority is likely to accept an enforcement undertaking;
  - (b) the circumstances in which the market surveillance authority is not likely to accept an enforcement undertaking.

#### Consultation on guidance

**29.** The market surveillance authority must consult such persons as it considers appropriate before publishing any guidance or revised guidance.

#### Publication of enforcement action

- 30.**—(1) The market surveillance authority must from time to time publish—
- (a) the cases in which civil sanctions have been imposed;
  - (b) where the civil sanction is a compliance notice, stop notice or variable monetary penalty, the cases in which a third party undertaking has been accepted;

(c) cases in which an enforcement undertaking has been entered into.

(2) In paragraph (1)(a) the reference to cases in which civil sanctions have been imposed does not include cases where the sanction has been imposed but overturned on appeal.

(3) This paragraph does not apply in cases where the market surveillance authority considers that publication would be inappropriate.

## EXPLANATORY NOTE

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

These Regulations implement the requirements of 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 (OJ No L285,31.10.2009, p10) and implements elements of the market surveillance Regulation [\(EC\) No 765/2008](#) of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation [\(EEC\) No 339/93](#) (“RAMS”) (OJ No L128 13.8.2008, p30). It also gives effect to any applicable implementing measures which are made pursuant to the Directive. These Regulations also give effect to Decision No 768/2008 of the European Parliament and of the Council on a common framework for the marketing of products, and repealing Council Decision [93/465/EEC](#) (OJ No L 218, 13,8.2008, p82).

Regulation 3 requires that an energy-related product must not be placed on the market or put into service unless it complies with an applicable implementing measure. Schedule 1 sets out the requirements for a declaration of conformity and lists energy-related products and their applicable implementing measures.

Regulation 4 requires that a manufacturer of an energy-related product and components sub-assemblies must not place it on the market or put it into service unless it has assessed whether it complies with an applicable implementing measure and if it does comply it must make a declaration of conformity and affix the CE marking which is shown in Schedule 2.

Regulation 5 imposes similar requirements on authorised representatives and importers of energy-related products.

Regulation 6 provides that regulation 3 does not apply to displays of energy-related products.

Regulation 7 sets out presumptions in relation to an energy-related product.

Regulation 8 prohibits the affixing of a CE marking to an energy-related product which may mislead a person to believe that an energy-related product complies with an applicable implementing measure.

Regulation 9 requires documents relating to conformity assessments of energy-related products to be kept for 10 years.

Regulation 10 designates the Secretary of State as the competent national authority and the notifying authority for the purposes of Decision No 768/2008 of the European Parliament and of the Council and designates the Secretary of State as the market surveillance authority for the purposes of RAMS.

Schedule 3 sets out the appeals procedure in relation to decisions of notified bodies.

Regulation 12 provides that the market surveillance authority may authorise any suitable person to act for it.

Schedules 4 and 5 deal with warrants in relation to powers of entry exercised under RAMS, testing costs which the market surveillance authority may recover from manufactures and civil sanctions which the market surveillance authority may impose. Regulations 14 to 17 set out offences, penalties and related matters. Regulation 18 allows a court to make a remediation order in respect of a person convicted of an offence under these Regulations. Regulation 19 provides for the recovery of expenses of enforcement.

**Changes to legislation:**

There are currently no known outstanding effects for the The Ecodesign for Energy-Related Products Regulations 2010.