

**EXPLANATORY MEMORANDUM TO**  
**THE ENERGY INFORMATION (AMENDMENT) REGULATIONS 2018**  
**2018 No. 255**

**1. Introduction**

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

**2. Purpose of the instrument**

2.1 The Energy Information (Amendment) Regulations 2018 (“the 2018 Regulations”) amend the Energy Information Regulations 2011 (“the 2011 Regulations”). The purpose of the amendments is to comply with changes to European Union (“EU”) law following the entry into force of the Energy Labelling Framework Regulation 2017<sup>1</sup> (“the EU Energy Labelling Regulation”) that replaced the Energy Labelling Directive 2010<sup>2</sup> (“the Labelling Directive”). These changes affect:

- a) the requirements placed on suppliers, dealers in relation to labelling and the provision of standard product information on the consumption of energy and other resources in relation to certain energy-related products, which are required under the 2011 Regulations, and
- b) the scope of the enforcement powers of the authorities responsible for market surveillance to cover these changes.

**3. Matters of special interest to Parliament**

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

3.1 None

*Other matters of interest to the House of Commons*

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

**4. Legislative Context**

**The 2011 Regulations**

4.1 The EU Energy Labelling Regulation is the legal framework within which the European Commission brings forward EU measures in relation to specific energy-related products in order to better inform consumers about the energy efficiency and other environmental impacts of those products. As of 1 August 2017 it repealed the

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<sup>1</sup> The Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017 setting a framework for energy labelling and repealing Directive 2010/30/EU.

<sup>2</sup> Directive 2010/30/EU of the European Parliament and of the Council on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products.

Labelling Directive which contained the former legal framework and itself revoked and replaced the earlier Directive.<sup>3</sup>

- 4.2 The 2011 Regulations implement the framework EU legislation by establishing the domestic enforcement regime for information requirements and the labelling of energy-related products.
- 4.3 The 2018 Regulations amend the 2011 Regulations to ensure consistency with the EU Energy Labelling Regulation, following revocation of the Labelling Directive, and to extend the current domestic enforcement regime for energy labelling to this EU Regulation.

## **5. Extent and Territorial Application**

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

## **6. European Convention on Human Rights**

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

## **7. Policy background**

### *What is being done and why*

- 7.1 On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.

### **The EU Energy Labelling Regulation**

- 7.2 The EU Energy Labelling Regulation came into force on 1 August 2017 and provides the new legal framework for energy labelling ensuring that disparities among national laws do not become obstacles to intra-EU trade. It retains the main principles of the Labelling Directive in so far as it defines the conditions and criteria for setting energy labelling requirements for environmentally relevant characteristics (such as energy efficiency, water usage and resource efficiency) through the use of delegated acts. The energy labels are designed to help consumers make informed purchasing decisions, and to encourage manufacturers to design more efficient products to meet consumer demand thus reducing the amount of energy consumed by household appliances.
- 7.3 Our current estimates are that energy labelling measures agreed so far (together with related eco-design measures setting minimum requirements for environmentally relevant product characteristics such as energy efficiency) will be making annual savings of £100 by 2020 for the average dual-fuel household on energy bills and lead to greenhouse gas emissions savings of 9 million tonnes of CO<sub>2</sub> in 2020. These measures are estimated to have a net present value of around £23 billion and represent

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<sup>3</sup> Directive 92/75/EEC of 22 September 1992 on the indication by labelling and standard product information of the consumption of energy and other resources by household appliances.

one of the most cost-effective ways to reduce energy consumption and meet our greenhouse targets. On the basis of emerging analysis from our long-term work programme to improve the evidence base and which is still subject to quality assurance we do expect these figures to be revised downward although savings will still be sizable.

7.4 In addition to this, the EU Energy Labelling Regulation introduces obligations on suppliers and dealers that build on and add to obligations of the Labelling Directive:

**a) Performance control during product testing**

Suppliers must not place products on the market that are designed to automatically alter their performance during test conditions for the purposes of reaching a more favourable performance level. This builds on the Labelling Directive that places the responsibility for the accuracy of labels and product information on the supplier. This will prevent suppliers from claiming efficiency levels that are false and therefore misleading to consumers.

**b) Rescaling of Labels**

As minimum efficiency performance standards set by ecodesign measures have become more stringent, products in lower label classes have been removed from the market. For example, for several labels established by delegated acts adopted pursuant to the Labelling Directive, products are now available only or mostly in the top classes (A, A+, A++, A+++). This reduces the effectiveness of the labels and can mislead consumers as products in some of the top classes may be some of the least efficient on the market. The EU Energy Labelling Regulation addresses this by ensuring that energy classes are greyed out on the label once ecodesign has removed them providing more clarity to consumers.

The EU Energy Labelling Regulation sets the framework for the rescaling of labels that will see classes A+, A++, A+++ replaced by a uniform A to G scale. This is more transparent and better understood by consumers. In order to ensure a validity period of approximately ten years, classes A and B can be left empty at the time of rescaling depending on the technological progress of the product being labelled.

The regulation establishes deadlines for the rescaling of labels for product groups through delegated acts which take the form of EU Regulations. The first group<sup>4</sup> consists of the main domestic products which hold potential for some of the largest carbon emission and energy bill savings. This group must have delegated acts in place by November 2018 with labels to appear in shops 12 months after entry into force.

As part of this rescaling, several obligations are placed on suppliers and dealers that relate to the timeframe for supplying both existing and rescaled labels and the deadline for replacing existing labels on display with rescaled labels.

**c) Product Database**

Alongside labelling requirements, the EU Energy Labelling Regulation sets out an obligation for the European Commission (“the Commission”) to establish and maintain a product database which will serve as a tool for both Market

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<sup>4</sup> Household dishwashers household refrigerating appliances, household washing machines, televisions, electrical lamps and luminaires and household combined washer-driers

Surveillance Authorities (“MSAs”) and consumers from January 2019. It will consist of two parts:

- a compliance part that will further facilitate MSAs in carrying out enforcement of the labelling requirements and making sure that efficiency calculations behind the label correspond to those declared by manufacturers; and
- a public part that will provide consumers with access to information on products and their labels further enabling them to make informed purchasing decisions.

An online portal will be available for both parts of the database and the compliance part will be accessible only to MSAs and the Commission in order to safeguard the confidentiality and security of sensitive commercial data of manufacturers. The database will be established through implementing acts.

From 1 January 2019, before placing a product on the market, a supplier must enter the relevant product information into the database. This builds on current obligations on suppliers to provide information on a free to view website and to supply technical documentation at the request of the MSA. In the long term suppliers are likely to benefit from the establishment of the database as MSAs will in the first instance look at the database whilst carrying out their activities instead of requesting the information from suppliers.

### **Domestic legislation**

- 7.5 The 2011 Regulations set out the domestic enforcement regime for energy labelling. Effective enforcement under the 2011 Regulations by the designated MSAs is essential to ensure delivery of the desired economic and environmental benefits. It also helps to ensure that consumers benefit from the anticipated financial savings through lower energy bills, as well as protecting the environment.
- 7.6 Under the EU energy labelling legal framework it is up to the Member State to decide which enforcement measures are effective, proportionate and dissuasive. It is for the UK MSA to decide the most appropriate form of intervention following non-compliance which is determined by an assessment of the seriousness and impact of the non-compliance and the culpability of the business. In most cases minor non-compliances are dealt with through informal collaboration with businesses, but the UK MSA responds to more serious infringements by applying an appropriate civil sanction (e.g. Stop Notice). Criminal prosecution is reserved for those cases where businesses fail to comply with a civil sanction or where the non-compliance is so serious that it leaves the UK MSA with no other proportionate means of sanctioning the company, for example where the non-compliance is serious, persistent, deliberate or reckless.

### **Need for 2018 Regulations**

- 7.7 The EU Energy Labelling Regulation has direct effect in the UK and does not require transposition. The 2018 Regulations are required in order to amend the 2011 Regulations to reflect changes in EU law resulting from the entry into force of the EU Energy Labelling Regulation and to comply with EU law by ensuring that the current enforcement regime for energy labelling extends to this EU Regulation.

### *Consolidation*

7.8 The Regulations do not consolidate any other legislation.

## **8. Consultation outcome**

8.1 No consultation on the 2018 Regulations is necessary as the scope of the 2011 Regulations is still limited to energy-related or energy-using products. The Department for Business, Energy and Industrial Strategy consulted extensively with industry on the draft EU Energy Labelling Regulation prior to its adoption as EU law and will consult on draft product-specific Energy Labelling measures prior to their adoption.

## **9. Guidance**

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

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is limited to suppliers and dealers of energy-related products. Businesses will only incur penalties if it is proven that they do not meet the requirements of the EU Energy Labelling Regulation.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument as it only extends the domestic enforcement regime to the EU Energy Labelling Regulation which is already in force. An Impact Assessment was prepared at EU level prior to the adoption of the EU Energy Labelling Regulation and a Check-list Impact Assessment was prepared as part of a Cabinet write round clearance for the UK negotiating position. As it is a framework regulation that provides for delegated acts for specific energy-related products, an assessment of costs and benefits will be carried out prior to each product-specific delegated act passed at EU level. A Justice Impact Test was carried out by the Ministry of Justice and the UK MSA has agreed to pay for any downstream costs to the judiciary incurred through enforcement of the EU Energy Labelling Regulation.

## **11. Regulating small business**

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

11.2 Small businesses will only incur penalties if it is proven that their product does not comply with the requirements of the EU Energy Labelling Regulation.

## **12. Monitoring & review**

12.1 The EU Energy Labelling Regulation requires the Commission to carry out a review by 2 August 2025 or if a product group meets specific conditions regarding label classes, whichever comes first.

### **13. Contact**

- 13.1 This explanatory memorandum provides additional details compared with explanatory memorandums for similar regulations to assist readers. If you have any queries regarding this explanatory memorandum or the accompanying statutory instrument please contact Arthur Montagu at the Department for Business, Energy and Industrial Strategy, Telephone: 020 72151537 or email: [arthur.montagu@beis.gov.uk](mailto:arthur.montagu@beis.gov.uk)