SCHEDULE 4 Regulation 6

AMENDMENTS TO REGULATION (EU) 2017/1369
SETTING A FRAMEWORK FOR ENERGY LABELLING

Regulation (EU) 2017/1369

1. 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 is amended as follows.

Amendment to Article 1

2. In Article 1 (subject-matter and scope), in paragraph 2(a), for "a third country", substitute "outside the United Kingdom".

Amendment to Article 2

3.—(1) Article 2 (definitions) is amended as follows.

(2) In point (7), for "Union", substitute "United Kingdom".

(3) For point (8), substitute—

"'placing on the market' means the first making available of a product on the United Kingdom market, and related expressions must be construed accordingly;".

(4) For point (9), substitute—

"'putting into service' means the first use of a product for its intended purpose on the United Kingdom market;".

(5) In point (11), for "Union", substitute "United Kingdom".

(6) For point (12), substitute—

"'importer' means a person established in the United Kingdom who places a product from outside the United Kingdom on the United Kingdom market;".

(7) For point (14), substitute—

"'supplier' means a manufacturer established in the United Kingdom, the authorised representative of a manufacturer who is not established in the United Kingdom, or an importer, who places a product on the United Kingdom market;".

(8) For point (18), substitute—

"'designated standard' has the meaning given to it by regulation 2A of the Ecodesign for Energy-Related Products Regulations 2010;".

(9) In point (19), for "Article 11(10) and (11)" substitute "Article 11(10)(a) and (b)".

(10) Omit point (25).

(11) After point (26), insert—

"(27) 'delegated act' means a product-specific measure listed in column 2 of the table in Schedule 1 to the Energy Information Regulations 2011 or made by the Secretary of State under Article 11.".

Amendment to Article 3

4.—(1) Article 3 (general obligation of supplies) is amended as follows.

(2) In paragraph 1, omit the second subparagraph.

(3) In paragraph 2, for "Article 11(13)", substitute "Article 11B".

Amendment to Article 4

5.—(1) Article 4 (obligations of suppliers in relation to the product database) is amended as follows.

(2) In the heading, for "the product database", substitute "product information".

(3) Omit paragraph 1.

(4) For the first and second subparagraphs of paragraph 2, substitute—

"**2.** Where units of models covered by a delegated act are placed on the market the supplier must make an electronic version of the technical documentation available for inspection within 10 days of a request received from market surveillance authorities.".

(5) Omit paragraphs 3 and 4.

(6) In paragraph 5, for "obligations referred to in paragraphs 1 and 2", substitute "obligation referred to in paragraph 2".

(7) For paragraph 6, substitute—

"**6.** After the final unit of a model has been placed on the market, the supplier shall keep the information concerning that model for a period of 15 years unless, where appropriate in relation to the average life span of a product, a shorter retention period is specified pursuant to Article 11A(4)(p).".

(8) After paragraph 6, insert—

"**7.** For the purposes of paragraph 2, technical documentation includes but is not limited to—

(a) a general description of the model, sufficient for it to be unequivocally and easily identified;

(b) references to the designated standards applied or other measurement standards used;

(c) specific precautions that must be taken when the model is assembled, installed, maintained or tested;

(d) the measured technical parameters of the model;

(e) the calculations performed with the measured technical parameters;

(f) the conditions of testing that must be applied, if not described sufficiently in point (b);

(g) the model identifier of all equivalent models already placed on the market.

8. On request, suppliers must provide any data not specified in paragraph 7 to the market surveillance authorities which is necessary for those authorities to carry out their tasks under this Regulation".

Amendment to Article 5

6. In Article 5 (obligations of dealers), in paragraph 3, omit the words from "; or, if it chooses" to the end

Amendment to Article 7

7.—(1) Article 7 (obligations of Member States) is amended as follows.

(2) In the heading, for "Member States", substitute "the Secretary of State".

(3) In paragraph 1—

(a) for "Member States shall", substitute "The Secretary of State must";

(b) for "their territories", substitute "the United Kingdom".

(4) In paragraph 2, for "Member States provide", substitute "the Secretary of State provides".

(5) In paragraph 3—

(a) for "Member States shall", substitute "The Secretary of State must";

(b) omit the words from "The Commission" to the end.

(6) In paragraph 4—

(a) in the first subparagraph—

(i) for "Member States", substitute "The Secretary of State";

(ii) for "shall", in each of the first three places in which it occurs, substitute "must";

(iii) for "Rules which fulfil", substitute "Rules which immediately before exit day fulfil";

(b) omit the second subparagraph.

Amendment to Article 8

8.—(1) Article 8 (Union market surveillance and control of products entering the Union market) is amended as follows.

(2) In the heading, for "Union", in both places in which it occurs, substitute "United Kingdom".

(3) In paragraph 1, for "16 to 29", substitute "16 to 21 and 26 to 29".

(4) Omit paragraph 2.

(5) In paragraph 3, for "Member States'", substitute "The United Kingdom's".

(6) Omit paragraph 4.

Amendment to Article 9

9.—(1) Article 9 (procedure at national level for dealing with products presenting a risk) is amended as follows.

(2) In paragraph 1, omit "of one Member State".

(3) Omit paragraph 3.

(4) In paragraph 4, for "market throughout the Union", substitute "United Kingdom market".

(5) In paragraph 5, for "their national market", substitute "the United Kingdom market".

(6) Omit paragraphs 6 to 8.

(7) In paragraph 9, for "Member States shall" substitute "The Secretary of State must".

(8) After paragraph 9, insert—

"**10.** Corrective or restrictive measures pursuant to paragraph 2, 4, 5 or 9 must be extended to all units of a non-compliant model and of its equivalent models, except those units which the supplier demonstrates are compliant.".

Omission of Article 10

10. Omit Article 10 (union safeguard procedure).

Substitution of Article 11

11. For Article 11 (procedure for the introduction and rescaling of labels) substitute—

"Article 11

Power of the Secretary of State to introduce and rescale labels

1. The Secretary of State may, by regulations, make a product-specific measure to introduce labels for a product group if the Secretary of State is satisfied that the product group meets the following criteria—

(a) according to the most recently available figures and considering the quantities placed on the United Kingdom market, the product group has significant potential for saving energy and where relevant, other resources;

(b) within the product group, models with equivalent functionality differ significantly in the relevant performance levels;

(c) the introduction of energy labelling requirements for the product group has no significant negative impacts as regards the affordability and the life cycle cost of the product group; and

(d) the introduction of energy labelling requirements for the product group has no significant negative impact on the functionality of the product during use.

2. The Secretary of State must consult such persons as the Secretary of State considers appropriate before making a product-specific measure to introduce a label.

3. Where—

(a) the Secretary of State is satisfied that the conditions in paragraph 1(a) to (d) are met; and

(b) a label is required by a delegated act which came into force on or before 1st August 2017,

the Secretary of State must make a product-specific measure to rescale the label in order to ensure a homogenous A to G scale, with the aim of displaying the rescaled label both in shops and online within 18 months of the date of entry into force of the product-specific measure.

4. When determining the order of labels to be rescaled in accordance with paragraph 3, the Secretary of State must take into account the proportion of products in the highest classes.

5. The Secretary of State may make a product-specific measure to rescale a label introduced in accordance with paragraph 1, or to further rescale a label rescaled in accordance with paragraph 3—

(a) where the conditions under point (a) or (b) of paragraph 6 are met; and

(b) following consultation carried out in accordance with paragraph 7.

6. The Secretary of State must review a label introduced in accordance with paragraph 1 or rescaled in accordance with paragraph 3 with a view to rescaling if the Secretary of State estimates that—

(a) 30% of the units of models belonging to a product group sold within the United Kingdom market fall into the top energy efficiency class A and further technological development can be expected; or

(b) 50% of the units of models belonging to a product group sold within the United Kingdom market fall into the top two energy efficiency classes A and B and further technological development can be expected.

7. The Secretary of State must consult such persons as the Secretary of State considers appropriate within 36 months of estimating that the conditions referred to in point (a) or (b) of paragraph 6 are met, and such consultation must include—

(a) publication of the outcome of the review referred to in paragraph 6; and

(b) where appropriate, a draft product-specific measure.

8. If, for a specific product group, the conditions of point (a) or (b) of paragraph 6 are not met within eight years after the date of entry into force of the relevant delegated act, the Secretary of State must identify which barriers, if any, have prevented the label from fulfilling its role.

9. Where a label is introduced or rescaled, the Secretary of State must ensure that—

(a) no products are expected to fall into energy efficiency class A at the moment of the introduction of the label and the estimated time within which a majority of models are expected to fall into that class is at least 10 years later; or

(b) where technology is expected to develop more rapidly than described in subparagraph (a), no products are expected to fall into energy efficiency classes A and B at the moment of the introduction of the label.

10. Where a product-specific measure introduces or rescales a label, the product-specific measure—

(a) must require a class to be shown on the label of new product units in grey, as specified in the product-specific measure where the product units belong to a product group in which models belonging to energy efficiency class E, F or G are no longer allowed to be placed on the market or put into service because of an implementing measure within the meaning given in the Ecodesign for Energy-Related Products Regulations 2010; and

(b) by way of derogation from point (19) of Article 2, may require fewer energy efficiency classes to be shown on the label, if for technical reasons it is impossible to define seven energy efficiency classes that correspond to significant energy and cost savings from a customer's perspective, and provided that the dark green to red spectrum of the label is retained.

Article 11A

Procedure and requirements for the introduction and rescaling of labels

1. This Article applies to the exercise of the power to make a product-specific measure under Article 11.

2. The power to make a product-specific measure is exercisable by statutory instrument and—

(a) in the case of a product-specific measure which introduces or amends requirements relating to a label such that those requirements are identical to those adopted by the European Union (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, a 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.

3. A product-specific measure may—

(a) amend the table in Schedule 1 to the Energy Information Regulations 2011;

(b) make different provision for different cases or circumstances;

(c) include supplementary, incidental and consequential provision; and

(d) make transitional provision and savings.

4. A product-specific measure must specify, in particular—

(a) the definition of the specific product group falling under the definition of 'energy-related product' set out in point (1) of Article 2 which is to be covered by the detailed labelling requirements;

(b) the design and content of the label, including (subject to Article 11(10)(b)) a scale showing consumption of energy consisting of A to G steps, and such steps—

(i) as far as possible, must have uniform design characteristics across product groups and must in all cases be clear and legible;

(ii) where possible, must correspond to significant energy and cost savings and appropriate product differentiation from the customer's perspective; and

(iii) where possible, must be displayed in a prominent position on the label as specified in the delegated act;

(c) where appropriate, the use of other resources and supplementary information concerning the product, in which case—

(i) the label must emphasise the energy efficiency of the product;

(ii) the supplementary information must be unambiguous with no negative impact on the clear intelligibility and effectiveness of the label as a whole towards customers; and

(iii) the other resources and supplementary information must be based on data relating to physical product characteristics that are measurable and verifiable by market surveillance authorities;

(d) where appropriate, the inclusion of a reference in the label allowing customers to identify products that are energy smart, that is to say, capable of automatically changing and optimising their consumption patterns in response to external stimuli (such as signals from or via a central home energy managing system, price signals, direct control signals, or local measurement) or capable of delivering other services which increase energy efficiency and the up-take of renewable energy, with the aim to improve the environmental impact of energy use over the whole energy system;

(e) the locations where the label must be displayed, such as attached to the product unit where no damage is caused to it, printed on the packaging, provided in electronic format or displayed online, taking into account the requirements of Article 3(1), and the implications for customers, suppliers and dealers;

(f) where appropriate, electronic means for labelling products;

(g) the manner in which the label and product information sheet are to be provided in the case of distance selling;

(h) the required contents and, where appropriate, the format and other details concerning the product information sheet and the technical documentation;

(i) the verification tolerances to be used when verifying compliance with the requirements;

(j) how the energy class and the range of the efficiency classes available on the label must be included in visual advertisements and technical promotional material, including legibility and visibility;

(k) the measurement and calculation methods referred to in Article 13, to be used to determine label and product information sheet information, including the definition of the energy efficiency index (EEI), or equivalent parameter;

(l) whether for larger appliances a higher level of energy efficiency is required to reach a given energy class;

(m) the format of any additional references on the label allowing customers to access through electronic means more detailed information on the product performance included in the product information sheet, such format being—

(i) a website address;

(ii) a dynamic quick response code (QR code);

(iii) a link on online labels; or

(iv) any other appropriate consumer-oriented means;

(n) how, where appropriate, energy classes describing the product's energy consumption during use should be shown on the product's interactive display;

(o) the date for the evaluation and possible consequent revision of the product-specific measure; and

(p) as regards the requirement to keep information in Article 4(6), a retention period of less than 15 years, where appropriate, in relation to the average lifespan of the product.

Article 11B

Duties placed on suppliers and dealers where labels are rescaled

1. Except where a delegated act referred to in Article 11A(4)(e) provides for specific rules for energy labels printed on packaging, where a label is rescaled—

(a) subject to subparagraphs (b) and (c), the supplier must, when placing a product on the market, provide both the existing and the rescaled labels and the product information sheets to the dealer for a period beginning four months before the date specified in the relevant delegated act for starting the display of the rescaled label;

(b) by way of derogation from subparagraph (a), if the existing and the rescaled label require different testing of the model, the supplier may choose not to supply the existing label with units of models placed on the market or put into service during the four-month period before the date specified in the relevant delegated act for starting the display of the rescaled label if no units belonging to the same model or equivalent models were placed on the market or put into service before the start of the four-month period;

(c) where the supplier chooses not to supply the existing label in accordance with subparagraph (b)—

(i) the dealer must not offer those units for sale before that date; and

(ii) the supplier must notify the dealer concerned of that consequence as soon as possible, including when it includes such units in its offers to dealers;

(d) subject to subparagraph (e), the supplier must, for products placed on the market or put into service before the four-month period, deliver the rescaled label on request from the dealer in accordance with Article 3(2) as from the start of that period. For such products, the dealer must obtain a rescaled label in accordance with Article 5(2);

(e) by way of derogation from subparagraph (d)—

(i) a dealer who is unable to obtain a rescaled label in accordance with subparagraph (d) for units already in its stock because the supplier has ceased its activities is permitted to sell those units exclusively with the non-rescaled label until nine months after the date specified in the relevant delegated act for starting the display of the rescaled label; or

(ii) if the non-rescaled and the rescaled label require different testing of the model, the supplier is exempt from the obligation to supply a rescaled label for units placed on the market or put into service before the four-month period, if no units belonging to the same model or equivalent models are placed on the market or put into service after the start of the four-month period, in which case the dealer is permitted to sell those units exclusively with the non-rescaled label until nine months after the date specified in the relevant delegated act for starting the display of the rescaled label; and

(f) the dealer—

(i) must replace the existing labels on products on display, both in shops and online, with the rescaled labels within 14 working days after the date specified in the relevant delegated act for starting the display of the rescaled label; and

(ii) must not display the rescaled labels before that date.".

Omission of Article 12

12. Omit Article 12 (product database).

Amendment to Article 13

13.—(1) Article 13 (harmonised standards) is amended as follows.

(2) In the heading, for "Harmonised" substitute "Designated".

(3) Omit paragraph 1.

(4) In paragraph 2, for "such harmonised" substitute "designated".

(5) In paragraph 3, for "Harmonised", substitute "Designated".

(6) In paragraph 4, for "harmonised", substitute "designated".

Omission of Articles 14 to 19

14. Omit Articles 14 to 19.

Amendment to Article 20

15.—(1) Article 20 (repeal and transitional measures) is amended as follows.

(2) In paragraph 3, omit "or the Commission".

(3) In paragraph 4—

(a) in the first subparagraph—

(i) after "Delegated acts adopted", insert "before exit day";

(ii) for "Article 16" substitute "Article 11";

(b) in the second subparagraph, after "adopted", insert "before exit day".

(4) In paragraph 5—

(a) for "Commission adopts" substitute "European Commission adopted";

(b) after "Article 16 of this Regulation", insert "as it had effect before exit day";

(c) after "Article 16(3) of this Regulation", insert "as it had effect before exit day".

Insertion of Article 20A

16. After Article 20 insert—

"Article 20A

Transitional provisions in relation to EU Exit

1. Articles 3 to 6 do 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 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 as it had effect immediately before exit day.

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 4 to the Ecodesign for Energy-Related Products and Energy Information (Amendment) (EU Exit) Regulations 2019(**1**), any obligation to which a person was subject under this Regulation as it had effect immediately before exit day, continues to have effect as it did immediately before exit day, in relation to that product.

3. Paragraph 2 does not apply to—

(a) any obligation of any enforcing authority to inform the European Commission or the Member States of any matter;

(b) any obligation to take action outside the United Kingdom in respect of that product; or

(c) any obligation to contribute to, maintain, or use the product database.

4. In this Article—

"placed on the market" has the meaning given to it in this Regulation as it had effect immediately before exit day;

"pre-exit period" means the period beginning with 1 August 2017 and ending immediately before exit day;

"put into service" has the meaning given to it in this Regulation as it had effect immediately before exit day.".

Amendment to Article 21

17. In Article 21 (entry into force and application)—

(a) omit "concerning the obligations of suppliers in relation to the product database";

(**1**) S.I. 2018/XXXX

(b) omit "This Regulation shall be binding in its entirety and directly applicable in all Member States.".

Omission of Annex 1

18. Omit Annex 1 (information to be entered in the product database and functional criteria for the public part of the database).