

**EXPLANATORY MEMORANDUM TO THE
ENERGY INFORMATION (HOUSEHOLD AIR CONDITIONERS) (NO. 2)
REGULATIONS 2005**

2005 No. 1726

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

- 2.1 The Energy Information (Household Air Conditioners) (No. 2) Regulations 2005 ('the second 2005 Regulations') revoke The Energy Information (Household Air Conditioners) Regulations 2005 ('the first 2003 Regulations') and The Energy Information (Household Air Conditioners) Regulations 2003 ('the 2003 Regulations').
- 2.2 The second 2005 Regulations require: suppliers of household air conditioners to obtain energy information before placing appliances on the market; and for this information to be provided to potential customers.

3. Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 Regulations 1 and 18(1) of the second 2005 Regulations 2005 will come into force on 30th June 2005 without meeting the 21 day rule.
- 3.2 The second 2005 Regulations are made to address a defect in the first 2005 Regulations", which were due to come into force on 1st July 2005. There was an error in Schedule 1 of the defective Regulations; in the labels at each of Figure 1, Figure 2 and Figure 3, the writing at the foot referred incorrectly to the standard "Norm EN 814" when it should have referred to the standard "Norm EN 14511". A hyphen was omitted on each label between the words "Air" and "Conditioner", and "Label" had been commenced in lower casing.
- 3.3 The second 2005 Regulations correct this error and make some drafting improvements.
- 3.4 It was not possible to adhere to the 21 day rule in revoking the first 2005 Regulations, since those Regulations would have revoked the 2003 Regulations on 1st July 2005. The second 2005 Regulations revoke the first 2005 Regulations before the revocation of the 2003 Regulations takes effect, so that the 2003 Regulations remain in force until they are revoked and replaced by the second 2005 Regulations on 1st August 2005.

- 3.5 The 21 day rule has been adhered to in respect of the second 2005 Regulations other than in relation to regulations 1 and 18(1).
- 3.6 The second 2005 Regulations have not been issued free of charge, since the first 2005 Regulations were not printed, and therefore would not have been purchased by any stakeholder.

4. Legislative background

- 4.1 The 2003 Regulations sought to implement European Directive 2002/31/EC regarding the energy labelling of household air conditioners (“the Air Conditioners Directive”). This Directive was adopted by the Commission on 22 March 2002 under delegated powers conferred through an energy labelling framework directive adopted by the Council of Ministers in 1992 (Council Directive 92/75/EEC on the indication by labelling and standard product information of the consumption of energy and other resources by household appliances) (“the Framework Directive”).
- 4.2 Directive 2002/31/EC and the 2003 Regulations were based on 2 unpublished measurement standards (EN 255-1 and EN 814-1) which did not, in the event, prove fit for energy labelling purposes. As a result, their provisions have, effectively, been unenforceable.
- 4.3 A harmonised standard covering household air conditioners (EN 14511) was published in the Official Journal of the European Union for the purposes of Directive 2002/31/EC on 30 April 2004. The principal aim of the first 2005 Regulations was to implement this standard, to enable the performance of household air conditioners to be measured for energy labelling purposes.
- 4.4 The first 2005 Regulations were laid before Parliament under the negative resolution procedure on 9th June 2005 with a view to their coming into force on 1st July 2005. Unfortunately, it subsequently came to light that the 3 energy label illustrations in Schedule 1 were erroneous in that they referred to the unpublished standards referred to in paragraph 4.2 of this Memorandum, instead of to the published standard referred to in paragraph 4.3. The second 2005 Regulations seek to correct these energy label illustrations.
- 4.5 The second 2005 Regulations apply to household air conditioners placed on the market on or after 1st August 2005. However, until 31st January 2006, suppliers may choose whether to comply with the second 2005 Regulations or the 2003 ones. From 31st January 2005, suppliers must comply with the second 2005 Regulations.
- 4.6 Enforcement will be the responsibility of local authority Trading Standards Officers in England, Wales and Scotland, and of the Department of Enterprise, Trade and Investment in Northern Ireland.

- 4.7 The first 2005 Regulations were the subject of a formal consultation exercise with UK stakeholders (including representatives of suppliers, dealers and enforcement authorities; DTI; the devolved administrations in Scotland and Wales; and relevant Northern Ireland departments). 12 weeks were allowed for responses in accordance with current Cabinet Office requirements. Representatives of enforcement authorities expressed concerns about the proposed removal of a provision contained in the 2003 Regulations relating to offences committed by persons other than suppliers or dealers, which, in their view, would lead to enforcement difficulties. In the light of these concerns, this provision has been reinstated (paragraph 4(1) of Schedule 4 to the second 2005 Regulations).
- 4.8 Representatives of enforcement authorities also expressed concern about the requirement in Regulation 7 for suppliers to deliver labels to dealers promptly. In their view, a time limit (e.g. 21 days) needed to be specified to avoid confusion and inordinate delay. However, the setting of a timescale of, say, 21 days might lead to practical difficulties. For example, a supplier providing labels to a dealer might not be doing so “promptly” if this took 21 days, even though they were next-door neighbours. Conversely, a longer period than 21 days might reasonably be considered “prompt” if they were on opposite sides of the world to each other.
- 4.9 The second 2005 Regulations are made using the powers contained in section 2(2) of the European Communities Act 1972. They were made on 28th June 2005, come into force on 1st August 2005 and will continue in force unless annulled.
- 4.10 Transposition Notes are attached at Annexes A (covering the Framework Directive) and B (covering the Air Conditioners Directive).

5. Extent

- 5.1 The Regulations apply to the whole UK.

6. European Convention on Human Rights

- 6.1 Not applicable.

7. Policy background

- 7.1 Energy labels are a means of providing clear, easily recognisable information about the energy consumption and performance of products. The format of the labels is prescribed by the Directive. This enables potential purchasers to compare directly appliances based on energy efficiency. Consumers are therefore able to make considered choices when buying labelled household products. Further information must be provided in an information sheet or product brochure (where provided) and also where mail order catalogues and other means of distance selling, including over the internet, are used.

8. Impact

- 8.1 The Regulatory Impact Assessment relating to the first 2005 Regulations, which is still applicable, is attached at Annex C.

9. Contact

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TRANSPOSITION NOTE

Table showing how the main elements of European Council 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 have been implemented in the UK by The Energy Information (Household Air Conditioners) (No. 2) Regulations 2005, in relation to household air conditioners.

Directive 92/75/EEC is a framework directive which delegated to the European Commission the responsibility to prepare and adopt detailed application directives requiring energy labels for specific domestic appliance types.

Provision	Purpose	Implementation
Article 1(3)	Makes it clear that the requirements do not apply to the rating plate or equivalent fixed for safety purposes.	Regulation 3(4)
Article 1(4)	Provides definitions of certain terms.	Regulation 2
Article 1(5)	Describes application to models no longer in production, or to second-hand appliances.	Regulation 4(2)
Article 2(3)&(4)	Requires suppliers to provide technical documentation.	Regulation 6(1) & (2)(b), (d) & (e), (3), (4) & (5)
Articles 3(1) and 4(b)	Describes requirements for suppliers to provide labels to dealers.	Regulation 7(1), (3), (4) & (5)
Article 3(2)	Requires suppliers to provide product fiches (information notices).	Regulation 8(1), (3) & (4)
Article 3(3)	Requires suppliers to be responsible for the accuracy of information contained in labels and fiches.	Regulation 10
Article 3(4)	Deems suppliers to have consented to the publication of information in labels and fiches.	Regulation 9
Article 7(a)	Ensures that suppliers and dealers fulfil their obligations.	Regulation 16 and Schedule 4
Article 7(b)	Prevents misleading information from being given.	Regulation 14
Article 8 (2)	Provides that labels and fiches are to be deemed compliant unless there is evidence to the contrary	Regulation 15

TRANSPOSITION NOTE

Table showing how the main elements of European Commission Directive 2002/31/EC of 22 March 2002 implementing European Council Directive 92/75/EEC with regard to energy labelling of household air conditioners have been implemented in the UK by The Energy Information (Household Air Conditioners) (No. 2) Regulations 2005.

Provision	Purpose	Implementation
Article 1	Clarifies affected product types.	Regulation 3(1)-(3)
Article 2(1)	Clarifies how required information shall be obtained and defines “harmonised standards”.	Regulation 5
Article 3(1)	Describes content and format of technical documentation required by Article 2(3)&(4) of Directive 92/75/EEC.	Regulation 6(2)(a), (b), (c), (e) & (h)
Article 3(2)	Refers to content and format for label, and placing of labels on appliances.	Regulations 7(2) and 11
Article 3(3)	Refers to content and format for product fiche (information notice).	Regulation 8(2)
Article 3(4)	Describes content and format of information in respect of mail order and other distance sales.	Regulation 12
Article 4	Now spent	
Annex I	Illustrates label design and printing requirements.	Schedule 1
Annexes II and III	Describe information to be contained in fiches (information notices) and in respect of mail order and other distance sales.	Schedule 2
Annex IV	Describes how the energy efficiency class of an appliance should be determined.	Schedule 3
Annex V	Provides for the translation of terms into other Community languages.	Regulation 13

**REGULATORY IMPACT ASSESSMENT (FINAL)
THE ENERGY INFORMATION (HOUSEHOLD AIR CONDITIONERS)
REGULATIONS 2005**

Purpose and intended effect of measure

(i) Issue and objective

1. These Regulations, which are intended to supersede The Energy Information (Household Air Conditioners) Regulations 2003 (the 2003 Regulations), will enable household air conditioners to be tested on the basis of a measurement standard (EN 14511) which has been published since the 2003 Regulations came into force.
2. The 2003 Regulations implemented within the UK a Directive on the energy labelling of household air conditioners (2002/31/EC) which the European Commission adopted in March 2002 under delegated powers contained in a Framework Directive adopted by the European Council in 1992 (92/75/EEC). Similar directives have been adopted by the Commission and implemented in the UK covering the energy labelling of household refrigeration appliances, washing machines, electric tumble dryers, combined washer-dryers, dishwashers, lamps and electric ovens. These measures follow Government commitments to support improved consumer environmental information in general and mandatory energy labelling in particular.
3. The main effect of Directive 2002/31/EC is to require a label to be affixed to each air conditioner displayed for sale. This shows the energy consumption of the appliance in kilowatt hours per year and its energy efficiency rating on a scale of A to G, together with other related information. The intended effect is to provide consumers with reliable product information, in a common format, for most general-purpose air conditioners. The aim is to increase consumer awareness of energy consumption as an issue to be considered when they choose an air conditioner and to provide useful information in that respect. The labelling scheme is expected to provide a basis for other measures to encourage air conditioning products which consume less energy and other resources.
4. Energy labels on household refrigeration appliances, washing machines, electric tumble dryers, combined washer-dryers, dishwashers, lamps and electric ovens have increased the availability and visibility of certain consumer environmental information in the UK, both at the point of sale and in the form of product reviews, consumer advice and in promotional campaigns. Retail buyers are routinely using energy label information, where that is available, to specify the product performance which they require. This measure will further strengthen consumer awareness of the issues and is expected to have a similar beneficial effect in stimulating the market for energy efficient products and in facilitating competition amongst manufacturers and retailers in the UK and in the European Union on these aspects of air conditioner performance.

(ii) Risk assessment

5. In the absence of the new Regulations, UK manufacturers of household air conditioners would, in effect, continue to be unable to label their models (Directive 2002/31/EC and the UK implementing 2003 Regulations were based on unpublished standards which, the European Commission have subsequently accepted, are unsuitable for energy labelling purposes). This could then put them at a disadvantage when compared to manufacturers in other European Union (EU) Member States where standard EN 14511 had been implemented, with consequential adverse implications for the European free market.

Options

6. The new Regulations are the only way of ensuring that UK manufacturers of household air conditioners can label their models on the basis of standard EN 14511.

7. By way of background, successive Governments have been committed, since the publication of the Environment White Paper in 1990, to press for the introduction of energy efficiency labelling for domestic appliances. A UK voluntary labelling scheme covering refrigeration appliances, supported mainly by the regional electricity companies, operated between November 1991 and December 1994, until the introduction of the mandatory European Union scheme. Voluntary labelling was not widely supported by UK manufacturers and retailers. They have made it clear that they prefer mandatory EU-wide energy labelling arrangements and harmonised measures in general.

Issues of equity or fairness

8. Since all non-UK manufacturers of household air conditioners will also have to comply with the new Regulations (insofar as household air conditioners placed on the UK market are concerned), there should be no effect on global or intra-EU trade. Conversely, UK manufacturers will have to comply with similar obligations applying in other EU Member States and, possibly, other countries where they offer their models for sale.

Benefits

9. In addressing new products only, the initial and direct benefits of these Regulations will accrue to consumers who can afford to buy or hire new appliances. In the longer term, the benefits of more efficient products entering the “new” market will pass through into the second-hand market.

10. Household air conditioners in the UK currently consume about 5.6 terawatt/hours of electricity a year. Taking into account current projections of growth of this market, potential cost effective electricity savings are estimated at around 1.4 terawatt/hours a year through a combination of measures. These savings would represent about 170,000 tonnes of carbon in emissions and would be worth £80-90 million a year to end-users

depending on whether they are private consumers or commercial entities, who generally have lower cost electricity tariffs. Whilst it is not easy to estimate the contribution which these Regulations, on their own, will make towards achieving those savings, there is evidence that European Union energy labelling policy could make a substantial contribution, in combination with other measures for which it may be a prerequisite (retailer training, promotional initiatives, standards etc.). For the purpose of this assessment, we have assumed that at least 10% of those estimated savings could be attributed to the label. That would mean environmental benefits equal to 17,000 tonnes of carbon and direct consumer benefits of £8-9 million a year.

Compliance costs for business, charities and voluntary organisations:

(i) Business sectors affected

11. Air conditioner manufacturers, most of which in the UK are represented by the Association of Manufacturers of Domestic Electrical Appliances (AMDEA) and the Federation of Environmental Trade Associations (FETA), will have to test examples of new products according to standard EN 14511 and ensure that labels containing energy efficiency information are supplied to the retailers as required. Retailers, most of which in the UK are represented by the British Retail Consortium (BRC) or the Mail Order Traders' Association (MOTA), will be required to affix labels to appliances or publish the relevant material in mail order catalogues. The Regulations do not confer any responsibilities on charities or voluntary organisations.

(ii) Compliance costs for a "typical" business

12. A notional UK manufacturer, supplying 5,000 non-portable household air conditioners annually, might incur additional recurring costs of around £50 a year (consistent with paragraph 14).

(iii) Total compliance costs

13. Manufacturers already routinely test their products. The information required for the label and brochure is derived from basic design information and the technical measurements which manufacturers carry out as part of routine product development and quality control. Most manufacturers already publish similar information in their brochures or technical literature. So the main costs to manufacturers will be the printing and developing of labels.

14. Practice varies, but the cost to a UK manufacturer of developing and printing a label is estimated to be equivalent to about 20p. In 2003, manufacturers supplied approximately 240,000 household air conditioners for sale in the UK, of which 5% were UK manufactured and the rest imported. On this basis, and if a label were to be supplied with each appliance, total annual additional costs to UK manufacturers would amount to approximately £2,400. However, full labels are required only for displayed appliances -

perhaps only 5% of products, and so around £120 would be the maximum annual recurring cost to UK manufacturers.

15. Manufacturers of portable air conditioners to the UK market will incur further non-recurring costs on account of the lack of organisations in the UK capable of testing this appliance type in accordance with the requirements of standard EN 14511. These extra costs are likely to amount to about £3,500 per model. However, most portable air conditioners are manufactured in China with a few made in Italy. There is understood to be only 1 manufacturer of portable air conditioners with a UK presence – Amcor Limited which is owned by a larger multinational group.

16. Retailers should have no appreciable additional costs, their main duty being to check and fix labels to appliances on display. Nor should there be significant extra costs arising from the need to add information to mail order catalogues.

Impact on small businesses

17. On the advice of the Small Business Service, a small retailer of household air conditioners (CHES (UK) Limited) was approached in connection with the 2003 Regulations. However, no information was received from this company indicating that these Regulations would impact adversely upon their business.

18. No small UK manufacturers of household air conditioners have been identified.

Other costs

19. There may be additional costs to consumers if they choose to purchase a more energy efficient appliance, although these cannot easily be quantified. The indications are that such product improvements are not reflected in the price paid by consumers, especially when the performance norms for the whole market are uplifted. However, where consumers are purchasing an appliance to replace an existing less energy efficient one, they should, over time, recoup marginally raised purchase prices through savings on their electricity bills - provided that their new appliance has identical performance characteristics.

20. Costs to the Government of preparing the new Regulations are estimated at around £25,000.

Results of consultations

21. Most UK air conditioner manufacturers were kept informed at all stages during the development and subsequent implementation by the 2003 Regulations of Directive 2002/31/EC, via AMDEA and FETA. They were similarly informed of the Government's consultation exercise on these new Regulations.

22. The Government consulted various organisations both in the development and subsequent implementation by the 2003 Regulations of Directive 2002/31/EC, and on these new Regulations and this RIA. Organisations consulted included AMDEA, FETA, BRC, MOTA, the Consumers' Association, the Local Authority Co-ordinators Of Regulatory Services (LACORS), the Trading Standards Institute (TSI), the Scottish Executive, the National Assembly for Wales and Northern Ireland Departments.

Competition assessment

23. These Regulations are expected to be neutral in terms of their effect upon competition between businesses.

Summary and recommendations

Benefits to UK consumers	£8-9 million a year in the long term, subject to the adoption of complementary measures (see paragraph 10).	
Annual costs	Manufacturers	Retailers
Non recurring	Around £3,500 to a UK manufacturer of portable air conditioners for testing each of its portable models (see paragraph 15).	£0
Recurring	Nearly £120 to all UK manufacturers for developing and printing labels (see paragraph 14).	£0

24. It is recommended that these new Regulations be made and laid before Parliament, to make energy labelling fully mandatory for air conditioners. Benefits, in terms of savings to both the consumer and the environment, are expected to exceed additional costs to business and consumers by a considerable margin.

Enforcement, sanctions, monitoring and review

25. These new Regulations will be enforced by local trading standards authorities (LTSAs) in England, Wales and Scotland and by the Department of Enterprise, Trade and Investment (DETI) in Northern Ireland. LACORS and TSI, who, as noted in paragraph 22, were consulted on them.

Regulatory Quality Declaration

I have read the Regulatory Impact Assessment, and I am satisfied that the benefits justify the costs.

Signed by the responsible Minister *Elliot Morley*

Date 7 June 2005

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