

EXPLANATORY MEMORANDUM TO
THE ECODESIGN FOR ENERGY-RELATED PRODUCTS AND ENERGY
INFORMATION (LIGHTING PRODUCTS) REGULATIONS 2021

2021 No. 1095

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 This statutory instrument updates the Ecodesign and Energy Labelling requirements for light sources and separate control gears (“lighting products”) in Great Britain in order to secure greater savings in energy, carbon and consumer energy bills.

2.2 In addition, the instrument amends the Ecodesign for Energy-Related Products Regulations 2010 (“the 2010 Regulations”) and the Energy Information Regulations 2011 (“the 2011 Regulations”), in so far as they apply to Great Britain, to ensure the relevant Schedules refer to the updated Ecodesign and Energy Labelling requirements for lighting products, so that these can be enforced by the market surveillance authorities (MSAs).

2.3 Manufacturers, retailers and consumers will be impacted by this instrument.

Explanations

Explanatory statements for instruments amending or revoking regulations etc. made under section 2(2) of the European Communities Act 1972, as required under paragraph 15 of Schedule 8 to the European Union (Withdrawal) Act 2018

2.4 The Minister for Climate Change and Corporate Responsibility, Lord Callanan, has made the following statement regarding regulations made under the European Communities Act 1972:

"In my opinion there are good reasons for the Ecodesign for Energy-Related Products and Energy Information (Lighting Products) Regulations 2021 to amend the Ecodesign for Energy-Related Products Regulations 2010 and the Energy Information Regulations 2011. This is because it is necessary to ensure that the measures introduced by this statutory instrument are reflected in those Regulations, in order that they can be enforced properly by the market surveillance authorities."

2.5 The functions of the 2010 Regulations and the 2011 Regulations are explained in paragraphs 6.4 and 6.5.

2.6 This instrument amends the 2010 Regulations to update Schedule 1 to those Regulations, which lists the Ecodesign measures that must be complied with and for which a declaration of conformity is required, allowing them to be enforced by the market surveillance authority for Ecodesign. The amendment replaces the entries for earlier Ecodesign regulations (which are being revoked by this instrument) with an entry for the new Ecodesign requirements introduced by this instrument.

- 2.7 The amendments to the 2011 Regulations similarly update Schedule 1 to those Regulations, which lists the Energy Labelling measures which apply in Great Britain and allows them to be enforced by the Market Surveillance Authorities for Energy Labelling. This instrument replaces references to earlier Energy Labelling regulations (which are being revoked by this instrument) with an entry for the new Energy Labelling requirements introduced by this SI.

3. Matters of special interest to Parliament

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

- 3.2 None

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.3 The territorial application of this instrument includes Scotland.
- 3.4 The powers under which this instrument is made are limited in extent to England and Wales and Scotland, in accordance with the Northern Ireland Protocol. EU Ecodesign and Energy Labelling regulations are included in the Northern Ireland Protocol and therefore continue to apply in Northern Ireland.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales, and Scotland.
- 4.2 The territorial application of this instrument is England and Wales, and Scotland.

5. European Convention on Human Rights

- 5.1 The Minister for Climate Change and Corporate Responsibility, Lord Callanan has made the following statement regarding Human Rights:

“In my view the provisions of the Ecodesign for Energy-Related Products and Energy Information (Lighting Products) Regulations 2021 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 The powers formerly vested in the European Commission to introduce product-specific Ecodesign and Energy Labelling measures for energy-related products in the UK were transferred to the Secretary of State, via the Ecodesign for Energy-Related Products and Energy Information (Amendment) (EU Exit) Regulations 2019 (“the 2019 Regulations”) which came into force on 1 January 2021. This instrument is made under these powers.
- 6.2 Specifically:
- the new regulations 22 and 24 in the 2010 Regulations were inserted by the 2019 Regulations, which give the Secretary of State powers to introduce new Ecodesign measures for energy-related products; and
 - the powers in Article 11 of the retained Commission Delegated Regulation (EU) 2017/1369 (“the Energy Labelling Framework Regulation”) were amended by the 2019 Regulations, and a new Article 11A was added, which enables the Secretary of State to introduce new Energy Labelling measures, and to update (“rescale”) existing energy labels.

- 6.3 The Ecodesign for Energy-Related Products and Energy Information (Amendment) (EU Exit) Regulations 2020 (“the 2020 Regulations”), amended the extent of the 2019 Regulations and limited the scope of the new Ecodesign powers in the 2010 Regulations to Great Britain only as part of the implementation of the Northern Ireland Protocol; also by virtue of the operation of the Protocol, the amended Energy Labelling powers do not apply in Northern Ireland (because the Energy Labelling Framework Regulation as it has effect in the EU continues to apply in Northern Ireland).
- 6.4 The 2010 Regulations transposed the provisions of the EU Ecodesign Directive (Directive 2009/125/EC establishing a framework for the setting of eco-design requirements for energy-related products) and created domestic obligations and a related enforcement regime to ensure that UK MSAs have powers to enforce these obligations. The Office for Product Safety and Standards (OPSS) exercises the Secretary of State’s function as MSA for Ecodesign for the whole of the UK.
- 6.5 The Energy Information Regulations 2011 outline the UK’s enforcement regime to ensure that UK MSAs have the powers to enforce Energy Labelling obligations. In England, Wales and Scotland, the MSAs are the Secretary of State and the local weights and measures authority (Trading Standards). The functions of the Secretary of State are carried out by OPSS. In Northern Ireland, the Department for the Economy (NI) enforces Energy Labelling requirements placed on retailers. The Advertising Standards Authority (ASA) is responsible for ensuring that advertising of Energy Labelling across various forms of media is in accordance with UK advertising codes.
- 6.6 The enabling powers in the 2010 Regulations and in the Energy Labelling Framework Regulation require the Secretary of State to consult on new product-specific regulations and to carry out Impact Assessments before bringing them into force. The 2010 Regulations also require the Secretary of State to provide a transitional period before the updated Ecodesign requirements for lighting products apply in full.
- 6.7 The Government recently laid an independent yet related instrument (the Ecodesign for Energy-Related Products and Energy Information Regulations 2021 No. 745) which provides for updated Ecodesign requirements for a range of domestic and non-domestic products, as well as new Ecodesign and Energy Labelling requirements for certain products. In addition to this SI, a further two independent yet related SIs will be laid in due course. One will make technical amendments to a range of retained EU Ecodesign and Energy Labelling regulations and will update Schedule 1 to the 2010 Regulations and Schedule 1 to the 2011 Regulations with respect to Great Britain; and the other will update Schedule 1 to the 2010 Regulations and Schedule 1 to the 2011 Regulations with respect to Northern Ireland.

7. Policy background

What is being done and why?

- 7.1 Ecodesign and Energy Labelling policies aim to reduce the energy use, carbon footprint and wider environmental impacts of energy-related products, as well as to save consumers money on their energy bills.
- 7.2 This SI provides updated Ecodesign and Energy Labelling requirements for lighting products that are placed on the market in Great Britain. The existing Ecodesign Regulations are revoked and replaced by updated requirements to increase the minimum energy performance standards (MEPS) for lighting products; and the

existing Energy Label is replaced by a rescaled Energy Label, returning to a simpler A-G scale which will allow consumers to better discern the most energy efficient lighting products on the market.

- 7.3 These requirements are intended to reflect the technical requirements in two EU regulations, which the UK Government supported when it was a Member State, and which will apply in Northern Ireland and the EU from 1 September 2021. These EU regulations are:
- Commission Regulation (EU) 2019/2020 with respect to Ecodesign for light sources and separate control gears; and
 - Commission Delegated Regulation (EU) 2019/2015 with respect to Energy Labelling for light sources.
- 7.4 Whilst the technical requirements will be equivalent, some differences between the EU and GB regimes will exist. For example, in GB there is no ‘product database’ where certain product information must be entered, rather, a ‘publicly accessible website’ should be used as reference; the GB Energy Label will use the Union flag rather than an EU flag; and measurements and calculations required by this SI must be made using designated standards, where these are available.
- 7.5 These Ecodesign and Energy Labelling requirements for lighting products will come into force in Great Britain on 1 October 2021, following equivalent regulations which begin to apply in the EU and Northern Ireland from 1 September 2021. We have communicated this one month delay to stakeholders and, supported by their feedback, do not anticipate any significant issues.
- 7.6 The Government is implementing these requirements in GB to secure the associated energy and carbon savings, an expected 10.6 TWh of electricity and 1.3 Mega-tonnes of CO₂ by 2050. The current set of Ecodesign regulations for lighting products set requirements which are far below what is now reasonably achievable, and only weak incentives remain for manufacturers to exceed these voluntarily. This SI will push the market towards higher levels of energy efficiency by increasing the MEPS which must be achieved. This will also increase the rate of product innovation. Additionally, this SI will protect the Great British market from the risk of ‘dumping’ of less efficient lighting products which do not meet the minimum standards in force in Northern Ireland and the EU.
- 7.7 This SI will rescale energy labels back to a simpler A to G scale. The lighting products market is currently concentrated in the top energy classes of the existing energy labels (which range from A++ down to E). With the rescale, products currently in the top energy classes will be rescaled to lower classes to more accurately reflect their relative energy efficiency. This will provide consumers with more accurate information and allow them to differentiate more effectively between the most and least energy efficient products.
- 7.8 The SI includes transitional provisions for meeting the updated ecodesign and energy labelling requirements. These transitional provisions are set out in paragraphs 7.9 to 7.12.
- 7.9 The new Ecodesign and Energy Labelling requirements come into force on 1 October 2021. Products placed on the market on or after this date must comply with these requirements.

- 7.10 Despite this, products that do not meet the new Ecodesign requirements may continue to be placed on the GB market until 1 November 2021, on the condition that they comply with the pre-existing Ecodesign requirements. This will allow the supply chain time to adapt. Any product placed on the GB market up until 1 November 2021, in accordance with the pre-existing Ecodesign requirements, will never have to comply with the new Ecodesign requirements in this SI.
- 7.11 For Energy Labelling, products which were placed on the market before 1 October 2021 in accordance with Commission Delegated Regulation (EU) No 874/2021 must be relabelled with a rescaled energy label within 18 months of this SI coming into force. From that point, the product must comply with the updated Energy Labelling requirements introduced by this SI, subject to appropriate modifications.
- 7.12 Suppliers of containing products do not have to start providing the new required information on light sources in containing products until 1 March 2022 in order to allow suppliers time to prepare.
- 7.13 If the existing Ecodesign and Energy Labelling regulations for lighting products were not updated to reflect the requirements which will apply in Northern Ireland and the EU, suppliers might need to segregate their supply chain into two product lines – one for the GB market and one for the EU and Northern Ireland markets. Suppliers might also have to undertake dual conformity assessment procedures to ensure compliance with both sets of requirements. By introducing these Regulations, we avoid this outcome and the associated costs to business.
- 7.14 In order to demonstrate or measure conformity with the new Ecodesign and Energy Labelling requirements introduced by this SI, product suppliers will be required to use designated standards once these are in place. Designated standards are standards which have been devised by a recognised standardisation body - such as the British Standards Institute or one of the European Standardisation Organisations - and then designated by the Secretary of State and published by OPSS. However, none of the standards for the requirements in these Regulations is available to be designated yet.
- 7.15 In the absence of designated standards, the Regulations allow for alternative measurement methods to be used, so long as they are reliable, accurate and reproducible. In practice, we expect product suppliers will continue to use the existing standards designated for use under the predecessor Regulations to support compliance with the new Regulations. We will communicate with product suppliers to provide guidance as to what standards should be used until designated standards are available for the Regulations. Once standards are available and designated by the Secretary of State, the Regulations will require these designated standards to be used when demonstrating or measuring conformity with the requirements. We will provide guidance to product suppliers to ensure they are aware of the designated standards and the requirement to use them.
- 7.16 This SI also updates Schedule 1 to the 2010 Regulations and Schedule 1 to the 2011 Regulations with respect to Great Britain to include the new Ecodesign and Energy Labelling measures; this will ensure that these can be enforced by the relevant MSA. The transitional provisions in this SI ensure that existing Ecodesign and Energy Labelling requirements can continue to be enforced for products placed on the market before 1 October 2021. Once a product has had been relabelled with a rescaled energy label, the new energy labelling requirements must be enforced.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument is not being made under the European Union (Withdrawal) Act but relates to the withdrawal of the United Kingdom from the European Union because it amends The Ecodesign for Energy-Related Products Regulations 2010, which were made under section 2(2) of the European Communities Act 1972.

9. Consolidation

- 9.1 These Regulations are not being consolidated with any other legislation.

10. Consultation outcome

- 10.1 The Government ran a ten-week public consultation on its proposal to implement the updated Ecodesign and Energy Labelling requirements for lighting products between November 2020 and January 2021; a copy of the draft SI and consultation-stage Impact Assessment were annexed to the consultation document.¹ The Department concluded that ten weeks was an adequate consultation period since UK stakeholders had previously been consulted by the Government on the detailed, technical proposals at the time the equivalent EU regulations listed in paragraph 7.3 were developed in 2018/19.
- 10.2 The consultation received 43 responses, with feedback from interested stakeholders such as trade associations, manufacturers, consumer bodies, academics, and members of the public. A roundtable stakeholder meeting was also held during the consultation period, with attendance from product manufacturers, trade associations, and other groups representing UK industry. The Department chose to focus its engagement on these stakeholders as they are the most heavily impacted by, and will be the main end-users of, the legislation. The primary aims of these roundtable meetings were to gather evidence in relation to the costs of implementing the Regulations and to take feedback on the draft SI.
- 10.3 Consultation feedback showed strong support for the Government's proposal to implement the Regulations in GB. Some respondents did express concerns about possible health implications of certain lighting products for photo-sensitive people. These concerns are not novel and discussion with Public Health England has confirmed that the updated requirements do not disproportionately impact those with protected characteristics. In addition, the Regulations place functional requirements on lighting products to limit any potential adverse health effects and offer exemptions for lighting products specifically intended to be used by those who are photo-sensitive.
- 10.4 Three material changes were required and have been made as a result of the consultation. Firstly, feedback highlighted the need to incorporate amendments to the Regulations to mirror the amendments that the EU has made to its equivalent regulations. These amendments 'fix' a range of technical issues to ensure the measures can be implemented effectively and to avoid a two-tiered system being created between GB on the one hand and Northern Ireland and the EU on the other. Secondly, we have altered some assumptions made in the supporting Impact

¹ The consultation document and the Government's response can be found here: <https://www.gov.uk/government/consultations/draft-ecodesign-and-energy-labelling-regulations-lighting-sources-2021>

Assessment. We have increased the assumed size of transitional costs faced by product suppliers as a result of the new requirements – this was in response to feedback which suggested that additional time would be required to study both these Regulations and the equivalent EU Regulations in order to familiarise with the requirements, particularly if the GB drafting style is different. We have also reduced the additionality assumption (the proportion of the benefits which would not be realised without the Regulations) to 25%, down from 50%. This was in response to feedback which suggested that the majority of manufacturers would comply with EU requirements in the absence of these Regulations. Finally, total costs and benefits were scaled down from UK to GB values; this was to reflect the implementation of the Northern Ireland Protocol.

10.5 The consultation was discussed with the Devolved Administrations.

11. Guidance

11.1 Energy Labelling guidance provided by the Office for Product Safety and Standards for suppliers and dealers will be updated to reflect the changes made by this SI. This guidance will be available on GOV.UK. No specific guidance has been produced for the Ecodesign requirements introduced by this SI. This is because there is strong and regular engagement with stakeholders. Further, most manufacturers are already aware of the requirements and are already complying with them in Northern Ireland.

12. Impact

12.1 There is no, or no significant, impact on charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 The direct benefits on business are valued at £745 million² and direct total costs are £57 million.

12.4 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the [legislation.gov.uk](https://www.legislation.gov.uk) website.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses. No specific action is proposed to minimise regulatory burdens on small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is ongoing. This will ensure these Regulations are effective and working as intended.

14.2 A statutory review clause is included in the Regulations. The Secretary of State must review the Regulations before 1 October 2026.

15. Contact

15.1 Samip Naik at the Department for Business, Energy and Industrial Strategy.
Telephone: 020 7215 4707 or email: Samip.Naik@beis.gov.uk can be contacted with any queries regarding the instrument.

² 2021 Retail energy prices.

- 15.2 Sam Balch, Deputy Director for Home Retrofit and Energy-Using Products at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Minister for Climate Change and Corporate Responsibility, Lord Callanan at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.