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STATUTORY INSTRUMENTS

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**1997 No. 1941**

**ENERGY CONSERVATION**

**The Energy Efficiency (Refrigerators  
and Freezers) Regulations 1997**

*Made* - - - - *2nd August 1997*  
*Laid before Parliament* *8th August 1997*  
*Coming into force* - - *3rd September 1999*

The Secretary of State, being a Minister designated<sup>(1)</sup> for the purposes of section 2(2)(a) of the European Communities Act 1972<sup>(2)</sup> in relation to measures relating to energy efficiency and performance requirements for household products, in exercise of the powers conferred by section 2(2) of that Act and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Energy Efficiency (Refrigerators and Freezers) Regulations 1997 and shall come into force on 3rd September 1999.

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires, expressions used have the same meaning as in the Directive and—

“appliance” means an appliance to which these Regulations apply by virtue of regulation 3 (application);

“the Directive” means European Parliament and Council Directive [96/57/EC](#)<sup>(3)</sup>;

“EC mark”, except in relation to regulation 4(4), means a mark consisting of the symbol “CE” as described and shown in Schedule 2, and in that regulation means a mark consisting of the symbol “CE”;

“enforcement authority” means—

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(1) See S.I. 1996/3155.

(2) 1972 c. 68.

(3) OJ No. L236, 18.9.96, p.36.

(a) in England and Wales and Scotland, a local weights and measures authority within the meaning of section 69 of the Weights and Measures Act 1985 (local weights and measures authorities)(4); and

(b) in Northern Ireland, the Department of Economic Development;

“enforcement action” means the instituting of proceedings (whether criminal or otherwise) for failing to observe or comply with these Regulations;

“records” includes any books, documents, marks or symbols and any records in non-documentary form;

“supplier” means the manufacturer of an appliance or his authorized representative in the Community or the person who places an appliance on the Community market;

“third person” means any person other than the one against whom enforcement action may be or has been taken under these Regulations.

(2) References in these Regulations to complying with or conforming to the requirements of these Regulations or any part thereof, in relation to acts done within the territory of a Member State other than the United Kingdom, are references to complying with or conforming to the equivalent requirements of the legislation of that State implementing the Directive, or, if there is no such legislation, of the Directive.

### **Application**

3.—(1) Subject to paragraphs (2) and (3), these Regulations shall apply to household—

- (a) refrigerators,
- (b) frozen food storage cabinets,
- (c) food freezers

and their combinations as defined in Schedule 1.

(2) These Regulations shall apply only to appliances which are—

- (a) electric mains operated, and
- (b) unable to use other energy sources, such as accumulators.

(3) These Regulations shall not apply to—

- (a) second-hand appliances,
- (b) appliances working on the absorption principle, or
- (c) appliances manufactured on a one-off basis.

### **Suppliers' duties in respect of appliances**

4.—(1) A supplier shall not place an appliance on the Community market unless—

- (a) the electricity consumption of the appliance is less than or equal to the maximum allowable electricity consumption value for its category as calculated according to the procedures set out in Schedule 1; and
- (b) the appliance and, where appropriate, its packaging, bears the EC mark affixed in a visible, legible and indelible manner.

(2) The manufacturer of an appliance, or his authorised representative established within the Community, shall be responsible for establishing the appliance’s conformity with the requirements of paragraph (1)(a).

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(4) 1985 c. 72, as amended by paragraph 144 of Schedule 13 to the Local Government (Scotland) Act 1994 (c. 39).

(3) Unless there is evidence to the contrary, an appliance bearing the EC mark required under paragraph (1)(b) shall be deemed to comply with these Regulations.

(4) Where an appliance is subject to other Community Directives covering other aspects and which provide for affixing of the EC mark, the EC mark shall indicate that the appliance is presumed, in the absence of evidence to the contrary, to comply with the requirements of those other Directives.

(5) Where one or more of the other Directives referred to in paragraph (4) allows the manufacturer to choose which rules to apply during a transitional period,—

- (a) the EC mark shall indicate conformity only with the Directives applied by the manufacturer; and
- (b) the supplier shall give, in any document, notice or instructions accompanying the appliance, the reference numbers (as published in the Official Journal of the European Communities) of the Directives applied.

### **The EC declaration of conformity**

5.—(1) The manufacturer of an appliance, or his authorised representative established within the Community, shall draw up a written declaration of conformity relating to the appliance, which attests that the appliance has been assessed in accordance with the procedure set out in Schedule 1 and conforms with the requirements of regulation 4(1)(a) and that Schedule.

(2) No person shall issue a declaration of conformity in respect of an appliance unless the appliance complies with the requirements of these Regulations.

(3) The supplier of an appliance shall keep a copy of the declaration of conformity with the technical documentation required by regulation 6 (duties in respect of technical documentation etc.).

### **Duties in respect of technical documentation etc.**

6.—(1) The manufacturer of an appliance shall establish technical documentation sufficient to allow an assessment of whether the appliance conforms with the requirements of these Regulations.

(2) So far as relevant to the assessment, the technical documentation shall cover the design, manufacture and operation of the appliance and shall comprise:

- (a) the name and address of the manufacturer;
- (b) a general description of the appliance, sufficient for it to be identified unambiguously;
- (c) information (including drawings as relevant) on the main design features of the appliance and, in particular, items which appreciably affect its energy consumption, such as dimensions, volume(s), compressor characteristics, special features, etc.;
- (d) the operating instructions, if any;
- (e) the results of electricity consumption measurements carried out according to the procedures specified in European Standard EN 153(5); and
- (f) details of the conformity of these measurements as compared to the energy consumption requirements set out in Schedule 1.

(3) Technical documentation established for other Community legislation may be used in so far as it meets the requirements of this regulation.

(4) The supplier shall keep the technical documentation, together with a copy of the declaration of conformity, relating to the appliance, available for inspection by enforcement authorities for a period of not less than three years from the date on which the last such appliance has been manufactured.

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(5) Of July 1995, laid down by the European Committee for Standardization.

(5) The supplier shall as soon as practicable furnish to an enforcement authority such of the technical documentation and the copy declaration of conformity as the authority requires pursuant to paragraph 9 of Schedule 3 (power of enforcement authority to require technical documentation etc.).

### **Misleading markings**

7. No person shall affix, or cause to be affixed, to an appliance—
- (a) an EC mark, where the appliance does not comply with regulation 4(1)(a) (electricity consumption of appliance to be less than or equal to maximum allowable),
  - (b) a marking which would be likely to mislead another as to the meaning and form of the EC mark, or
  - (c) any marking, object or substance which reduces the visibility or legibility of the EC mark.

### **Suppliers' duties in respect of non-conforming appliances**

8.—(1) Where an appliance carrying the EC mark fails to conform to the requirements of these Regulations and its failure so to conform has been established in accordance with Part II of Schedule 1, the supplier of the appliance shall take all necessary steps to bring the appliance into conformity with these Regulations and to end the infringement as soon as practicable.

(2) Where the appliance continues not to conform with these Regulations, the supplier shall take all necessary steps to ensure withdrawal of the appliance from the market as soon as practicable.

### **Manufacturers' duties in respect of the manufacturing process**

9. The manufacturer of an appliance shall take all measures necessary in order that the manufacturing process ensures that the appliance complies with the technical documentation referred to in regulation 6 (duties in respect of technical documentation etc.) and with the requirements of these Regulations.

### **Enforcement and offences**

10.—(1) Subject to paragraph (3), it shall be the duty of every enforcement authority to enforce these Regulations within its area.

(2) Schedule 3 shall have effect with regard to offences, enforcement of these Regulations, and other matters.

(3) Nothing in these Regulations shall authorise a local weights and measures authority in Scotland to bring proceedings in Scotland for an offence.

(4) Where an enforcement authority takes a decision pursuant to these Regulations which amounts to or includes a restriction on the placing on the market of an appliance, the authority shall without delay inform—

- (a) the party affected and the Secretary of State of the decision and the precise grounds on which it is based, and
- (b) the party affected of the possibilities and time limits regarding legal remedies available to it in respect of the decision.

Department of the Environment  
2nd August 1997

*John Prescott*  
One of Her Majesty's Principal Secretaries of  
State

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## SCHEDULE 1

Regulation 4(1)(a)

### METHOD FOR CALCULATING THE MAXIMUM ALLOWABLE ELECTRICITY CONSUMPTION OF AN APPLIANCE AND PROCEDURE FOR CHECKING CONFORMITY

#### PART I

#### CALCULATION OF MAXIMUM ALLOWABLE ELECTRICITY CONSUMPTION

1. Expressions used in this Schedule have the same meaning as in European Standard EN 153 of July 1995 laid down by the European Committee for Standardization.

2. The electricity consumption of an appliance (which may be expressed in kWh per 24 hours) is a function of the category of appliance to which it belongs (e.g. 1-star refrigerator, chest freezer, etc.), its volume and the energy efficiency of its construction (thickness of insulation, compressor efficiency, etc.) and the difference between ambient temperature and the temperature inside the appliance. In setting energy efficiency standards, therefore, allowance must be made for the main endogenous factors which influence energy consumption (i.e., the category of the appliance and its volume). For this reason the maximum allowable electricity consumption of an appliance is defined by a linear equation which is a function of the volume of the appliance, with different equations laid down for each category of appliance.

3. The appliance shall first be allocated to the appropriate category from the following list:

Category	Description
1	Refrigerator without low temperature compartment (any compartment with a temperature at or below $-6^{\circ}\text{C}$ )
2	Refrigerator/chiller with compartment at $5^{\circ}\text{C}$ and/or $12^{\circ}\text{C}$
3	Refrigerator with no-star low temperature compartment
4	Refrigerator with low temperature compartment (*)
5	Refrigerator with low temperature compartment (**)
6	Refrigerator with low temperature compartment (***)
7	Refrigerator/freezer, with freezer compartment (****)
8	Food freezer, upright
9	Food freezer, chest
10	Refrigerator/freezer with more than two doors, or other appliances not covered above

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4. Because appliances contain different compartments maintained at different temperatures (which will significantly influence electricity consumption), the maximum allowable electricity consumption is defined in practice as a function of the adjusted volume, which is the weighted sum of the volumes of the different compartments.

5. The adjusted volume ( $V_{adj}$ ) of a refrigeration appliance shall be defined as:



$$V_{adj} = \sum V_c \times W_c \times F_c \times C_c$$

where  $T_c$  is the design temperature in each compartment (in °C);

where  $V_c$  is the net volume of a given type of compartment in the appliance and  $F_c$  is a factor which equals 1.2 for no-frost compartments and 1 for other compartments;

$C_c = 1$  for refrigeration appliances belonging to the normal (N) and subnormal (SN) climate classes;

$C_c = X_c$  for refrigeration appliances belonging to the sub-tropical (ST) climate class;

$C_c = Y_c$  for refrigeration appliances belonging to the tropical (T) climate class.

6. The weighting co-efficients  $X_c$  and  $Y_c$ , referred to in paragraph 5, for the different types of compartment are:

**Table of weighting co-efficients  $X_c$  and  $Y_c$ , according to the temperature of the compartment**

	$X_c$	$Y_c$
Cellar compartment	1.25	1.35
Fresh food compartment	1.20	1.30
0°C compartment	1.15	1.25
1-star (*) compartment	1.12	1.20
2-star (**) compartment	1.08	1.15
3 (***) and 4 (****) star compartments	1.05	1.10

Both the adjusted volume and the net volume are expressed in litres.

7. The maximum allowable electricity consumption ( $E_{max}$ , expressed in kWh per 24 hours calculated to two decimal places) for an appliance type with adjusted volume  $V_{adj}$  shall be defined by the following equations for each appliance category:

Category	Description	$E_{max}$ (kWh/24 h)
1	Refrigerator without low temperature compartment	$(0.207 \times V_{adj} + 218)/365$
2	Refrigerator/chiller with compartment at 5°C and/or 12°C	$(0.207 \times V_{adj} + 218)/365$

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Category	Description	E <sub>max</sub> (kWh/24 h)
3	Refrigerator with no-star low temperature compartment	$(0.207 \times V_{adj} + 218)/365$
4	Refrigerator with low temperature compartment (*)	$(0.557 \times V_{adj} + 166)/365$
5	Refrigerator with low temperature compartment (**)	$(0.402 \times V_{adj} + 219)/365$
6	Refrigerator with low temperature compartment (***)	$(0.573 \times V_{adj} + 206)/365$
7	Refrigerator/freezer, with freezer compartment (****)	$(0.697 \times V_{adj} + 272)/365$
8	Food freezer, upright	$(0.434 \times V_{adj} + 262)/365$
9	Food freezer, chest	$(0.480 \times V_{adj} + 195)/365$

For refrigerators/freezers with more than two doors, or other appliances not covered above, the maximum allowable electricity consumption (E<sub>max</sub>) shall be determined by the temperature and the star rating of the compartment with the lowest temperature, as follows:

Temperature of the coldest compartment	Category	E <sub>max</sub> (kWh/24 hours)
> -6°C	1/2/3	$(0.207 \times V_{adj} + 218)/365$
≤ -6°C (*)	4	$(0.557 \times V_{adj} + 166)/365$
≤ -12°C (**)	5	$(0.402 \times V_{adj} + 219)/365$
≤ -18°C (***)	6	$(0.573 \times V_{adj} + 206)/365$
≤ -18°C (****)	7	$(0.697 \times V_{adj} + 272)/365$

## PART II

### TEST PROCEDURE FOR CHECKING CONFORMITY

8.—(1) An appliance submitted for verification shall be certified as conforming to the electricity consumption requirements of these Regulations,—

- (a) if its electricity consumption is less than or equal to E<sub>max</sub> (the maximum allowable electricity consumption value for its category, as defined in Part I of this Schedule) plus 15%; and
- (b) in any other case, if the arithmetic mean of the electricity consumption of a further three appliances, measured in accordance with Part I of this Schedule, is less than or equal to E<sub>max</sub> plus 10%.

(2) Where the arithmetic mean of the electricity consumption of the three further appliances referred to in paragraph (1)(b) exceeds E<sub>max</sub> plus 10%, the appliance shall be judged not to conform to the electricity consumption requirements of these Regulations.



## SCHEDULE 2

Regulation 2(1)

### THE EC MARK

1. The conformity marking (the EC mark) shall consist of the initials “CE” taking the following form:



2. If the EC mark is reduced or enlarged, the proportions given in the above graduated drawing shall be respected.

3. The various components of the EC mark shall have substantially the same vertical dimension, which may not be less than 5mm.

## SCHEDULE 3

Regulation 10(2)

### OFFENCES, ENFORCEMENT AND OTHER MATTERS

#### PART I

#### PROVISIONS AS TO OFFENCES

##### Offences and penalties

- 1.—(1) It shall be an offence to contravene any of the following provisions of these Regulations—
- regulation 4(1) (suppliers' duties in respect of appliances);
  - regulation 4(5)(b) (suppliers' duty in respect of documents etc. accompanying appliances);
  - regulation 5(1) (duty to draw up the EC declaration of conformity);
  - regulation 5(2) (prohibition of false declaration of conformity);
  - regulation 5(3) (duty to keep declaration of conformity with technical documentation);
  - regulation 6(1) (duty to establish technical documentation);
  - regulation 6(4) (duty to keep technical documentation etc. available for inspection);
  - regulation 6(5) (duty to furnish technical documentation etc. on request by enforcement authority);
  - regulation 7(a) (prohibition on affixing EC mark to non-complying appliance);
  - regulation 7(b) (prohibition on affixing misleading marking to appliance);
  - regulation 7(c) (prohibition on affixing to appliance any object etc. which reduces the visibility or legibility of the EC mark);
  - paragraph 5(1)(a) of this Schedule (prohibition of obstruction of authorised officer);
  - paragraph 5(1)(b) of this Schedule (prohibition of failure to comply with proper requirement of authorised officer);

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paragraph 5(1)(c) of this Schedule (prohibition of failure without reasonable cause to give assistance or information to authorised officer);

paragraph 5(2)(a) of this Schedule (prohibition on knowingly making false statement to authorised officer);

paragraph 5(2)(b) of this Schedule (prohibition on recklessly making false statement to authorised officer);

paragraph 11(8) of this Schedule (prohibition of purported search and seizure by unauthorised person);

paragraph 15(1) of this Schedule (restrictions on disclosure of information).

(2) A person guilty of the offence of contravening paragraph 15(1) shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale applicable to offences triable only summarily or, on conviction on indictment, to a fine.

(3) A person guilty of any other offence specified in sub-paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Prosecution of offences**

2.—(1) Proceedings for an offence under these Regulations shall not be instituted—

- (a) in England and Wales, except by an enforcement authority; and
- (b) in Northern Ireland, except by or on behalf of the enforcement authority or the Director of Public Prosecutions for Northern Ireland.

(2) Proceedings for an offence under these Regulations, other than proceedings for an offence under paragraph 15(1), shall not be instituted—

- (a) unless there has been served on the person charged a notice in writing of the date and nature of the offence alleged and, where the proceedings are in respect of one or more appliances of the same model tested on the same occasion under paragraph 10(3) (testing of purchased or seized appliances), of the results of the tests of all those appliances; or
- (b) unless the said notice was served before the expiration of the period of thirty days beginning with the date when evidence which the person proposing to institute the proceedings considers is sufficient to justify a prosecution for the offence came to his knowledge; or
- (c) after the expiration of the period—
  - (i) of twelve months beginning with the date mentioned in paragraph (a) above, or
  - (ii) of three months beginning with the date mentioned in paragraph (b) above,whichever first occurs.

(3) For the purposes of sub-paragraph (2)—

- (a) a certificate of a person who institutes proceedings for an offence mentioned in that sub-paragraph which states that evidence came to his knowledge on a particular date shall be conclusive of that fact;
- (b) a document purporting to be a certificate of such a person and to be signed by him or on his behalf shall be presumed to be such a certificate unless the contrary is proved; and
- (c) such a certificate shall not be received in evidence—
  - (i) unless the party against whom it is to be given in evidence has been served with a copy thereof not less than seven clear days before the hearing; or
  - (ii) if that party has, not less than three clear days before the hearing, served on the other party a notice requiring the attendance of the person issuing the certificate.

- (4) For the purposes of any proceedings for an offence in Scotland—
- (a) sub-paragraph (2) shall apply as if the word “instituted” read “brought”;
  - (b) sub-paragraph (2)(b) shall apply as if the words “which the person proposing to institute the proceedings considers is sufficient to justify a prosecution for the offence came to his knowledge” read “sufficient in the opinion of the procurator fiscal to justify proceedings came to his knowledge”;
  - (c) sub-paragraph (3)(a) shall apply as if the words “a person who institutes” read “the procurator fiscal who brings”;
  - (d) sub-paragraph (3)(b) shall apply as if the words “such a person” read “the procurator fiscal”; and
  - (e) sub-paragraph (3)(c) shall apply as if the word “hearing” read “trial diet”.

### **Defences**

3.—(1) In proceedings against a person for an offence under these Regulations, it shall be a defence for that person to show that he believed that these Regulations did not apply and he had no reasonable grounds for believing that these Regulations might apply.

(2) Subject to sub-paragraphs (3) to (5), in proceedings against a person for an offence under these Regulations it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(3) Where in any proceedings (which in Scotland include the trial diet) against any person for such an offence the defence provided for by sub-paragraph (2) involves an allegation that the commission of the offence was due—

- (a) to the act or default of another, or
- (b) to reliance on information given by another,

that person shall not, without the leave of the court, be entitled to rely on the defence unless, not less than seven clear days before the hearing of the proceedings (or, in Scotland, the trial diet), he has served a notice under sub-paragraph (4) on the person bringing the proceedings.

(4) A notice under this sub-paragraph shall give such information identifying or assisting in the identification of the person who is alleged to have committed the act or default or to have given the information as is in the possession of the person serving the notice at the time he serves it.

(5) A person shall not be entitled to rely on the defence provided by sub-paragraph (2) by reason of his reliance on information supplied by another, unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular—

- (a) to whether he had any reason to disbelieve the information, and
- (b) in the case of a supplier, to the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information.

### **Liability of a person other than the principal offender**

4.—(1) Where the commission by any person of an offence under these Regulations is due to an act or default committed by some other person in the course of any business of his, that other person shall be guilty of the offence and may be proceeded against and punished by virtue of this sub-paragraph whether or not proceedings are taken against the first-mentioned person.

(2) Where a body corporate is guilty of an offence under these Regulations (including where it is so guilty by virtue of sub-paragraph (1)) in respect of any act or default which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or similar officer of the body corporate or any person who was

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purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, sub-paragraph (2) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(4) Where a Scottish partnership is guilty of an offence under these Regulations (including where it is so guilty by virtue of sub-paragraph (1)) in respect of any act or default which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner in the partnership, he, as well as the partnership, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

## **PART II**

### **PROVISIONS AS TO ENFORCEMENT**

#### **Obstruction of authorised officers**

5.—(1) A person shall not—

- (a) intentionally obstruct a duly authorised officer of an enforcement authority acting in pursuance of any provision of these Regulations; or
- (b) intentionally fail to comply with any requirement properly made to him by such an officer under any provision of these Regulations; or
- (c) without reasonable cause fail to give any such officer of an enforcement authority who is so acting any other assistance or information which he may reasonably require of him for the purposes of the exercise of the officer's functions under any provision of these Regulations.

(2) A person shall not, in giving any information which is required of him by virtue of sub-paragraph (1)(c)—

- (a) make any statement which he knows is false in a material particular; or
- (b) recklessly make a statement which is false in a material particular.

#### **Explanation of suggested remedial action**

6.—(1) Subject to paragraph 8 (application of paragraphs 6 and 7 to other interested persons), where a duly authorised officer of an enforcement authority expresses to any person any opinion as to what remedial action should be taken by that person in respect of a contravention of these Regulations, then, if that person so requests, the officer—

- (a) shall as soon as practicable give to him a written notice which satisfies the requirements of sub-paragraph (2); and
- (b) shall not take any enforcement action against him until after the end of the period of 21 days beginning with the giving to him of the notice.

(2) A notice satisfies the requirements of this sub-paragraph if it—

- (a) explains what constitutes the failure to observe these Regulations;
- (b) states the nature of the remedial action which in the officer's opinion should be taken, and explains why and within what period; and

- (c) states the nature of the enforcement action which could be taken and states whether there is a right to make representations before, or a right of appeal against, the taking of such action.

### **Right to make representations**

7.—(1) This paragraph shall not apply to the making of an application to a justice of the peace or, in Scotland, a sheriff for a warrant of entry under paragraph 11(4) (application for warrant of entry to premises) or to the entering of premises by authority of a warrant granted in pursuance of such an application.

(2) Subject to sub-paragraph (1) and to paragraph 8 (application of paragraphs 6 and 7 to other interested persons), before taking any enforcement action under these Regulations against any person, an enforcement authority or, as the case may be, a duly authorised officer of an enforcement authority—

- (a) shall give to the person a written notice stating—
  - (i) that the authority or the officer is considering taking the action and the reasons why it or he is considering it; and
  - (ii) that the person may, within the period of not less than 14 clear days following the date of giving to him of the notice, make written representations to that officer or another duly authorised officer of the authority or, if he so requests, make oral representations to the officer or another duly authorised officer of the authority in the presence of an independent third person who shall be appointed by the authority; and
- (b) shall consider any representations which are duly made and not withdrawn.

### **Application of paragraphs 6 and 7 to other interested persons**

8.—(1) Where—

- (a) a third person will or may be required to meet or make a significant contribution towards the cost of observing the restriction or complying with the requirement or condition; or
- (b) the enforcement action which may be or has been taken specifically relates to any appliance or record which is to be or has been supplied by a third person,

paragraphs 6 and 7 shall apply also in relation to that person.

### **Power of enforcement authority to require technical documentation etc.**

9. Where an enforcement authority has reason to suspect that the EC mark has been improperly affixed to the appliance or that the appliance fails to satisfy the requirements of these Regulations, the authority may require the supplier of the appliance to furnish to the authority such technical documentation or copy EC declaration of conformity within the meaning of regulations 5 (the EC declaration of conformity) and 6 (duties in respect of technical documentation etc.) as the authority considers appropriate.

### **Test purchases**

10.—(1) An enforcement authority shall have power, for the purpose of ascertaining whether any provision of these Regulations has been contravened, to purchase, or to authorise an officer of the authority to purchase, any appliance.

(2) Where—

- (a) an appliance purchased under this paragraph by or on behalf of an enforcement authority is submitted to a test; and

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- (b) the test leads to the bringing of proceedings in respect of an offence under these Regulations; and
- (c) the authority is requested to do so and it is practicable for the authority to comply with the request,

the authority shall allow the person from whom the appliance was purchased or any person who is a party to the proceedings or has an interest in the appliance to have the appliance tested.

(3) A test of an appliance purchased under this paragraph, or seized and detained under paragraph 11 (power to enter premises and inspect, seize and detain appliances etc.), shall be carried out in accordance with Part II of Schedule 1.

### **Power to enter premises and inspect, seize and detain appliances etc.**

**11.**—(1) A duly authorised officer of an enforcement authority may, at all reasonable hours and on—

- (a) identifying himself and producing authority in writing from the enforcement authority which appointed him for the exercise by him of powers conferred on the authority by these Regulations, and
- (b) stating the purpose of his actions and his grounds for undertaking them,

exercise any of the powers set out in sub-paragraph (2).

(2) The powers referred to in sub-paragraph (1) are—

- (a) he may, for the purpose of ascertaining whether an offence under these Regulations has been committed, inspect any appliance and enter any premises other than premises used only as a dwelling;
- (b) if he has reasonable cause to suspect that an offence under these Regulations has been committed, he may, for the purpose of ascertaining whether it has been committed, require any person carrying on or employed in connection with a business to produce any records relating to the appliance or appliances in question and he may take copies of, or of any entry in, the same;
- (c) if he has reasonable cause to suspect that an offence under these Regulations has been committed, he may seize and detain any appliances for the purpose of ascertaining, by testing or otherwise, whether the offence has been committed;
- (d) he may seize and detain any appliances or records which he has reason to believe may be required as evidence in proceedings for an offence under these Regulations;
- (e) he may, for the purpose of exercising his powers of seizure under this sub-paragraph, but only if and to the extent that it is reasonably necessary in order to secure that the provisions of these Regulations are duly observed, require any person having authority to do so to break open any container and, if that person does not comply with the requirement or if there is no person present having authority to open it, he may do so himself.

(3) For the purposes of paragraphs (b) and (d) of sub-paragraph (2), the officer may require information stored electronically to be made available to him in printed form.

(4) If a justice of the peace is satisfied by any written information on oath—

- (a) that there are reasonable grounds for believing either—
  - (i) that any appliances or records, which a duly authorised officer has power under this paragraph to inspect, copy, seize or require to be produced, are on any premises and that their inspection, copying, seizure or production is likely to disclose evidence of the commission of an offence under these Regulations; or

- (ii) that any offence under these Regulations has been, is being or is about to be committed on any premises; and
- (b) either—
  - (i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this sub-paragraph has been given to the occupier; or
  - (ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to await his return, the justice may by warrant under his hand, which shall continue in force for a period of one month, authorise an officer of an enforcement authority to enter the premises, if need be by force.
- (5) An officer entering any premises by authority of a warrant granted under sub-paragraph (4) shall, if the occupier is present, give to the occupier or, if the occupier is temporarily absent, leave in a prominent place on the premises or appropriate part of the premises a notice in writing—
  - (a) summarising the officer's powers of seizure and detention of appliances and records under this paragraph;
  - (b) explaining that compensation may be payable for damage caused in entering premises and seizing and removing appliances and records therefrom, and giving the address to which an application for compensation should be directed; and
  - (c) indicating at which office of the enforcement authority and within which hours a copy of these Regulations is available to be consulted.
- (6) An officer entering any premises by virtue of this paragraph may take with him such other persons and such equipment as may appear to him necessary; and on leaving any premises which he has entered by virtue of a warrant he shall, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured against trespassers as he found them.
- (7) An officer exercising any power of seizure and detention under this paragraph shall as soon as practicable give to the person, against whom the power has been exercised, a written notice—
  - (a) stating precisely what has been so seized and detained; and
  - (b) explaining where, within what period and on what grounds an appeal against such detention may be brought under paragraph 12 (appeals against detention of appliances etc.), and whether the things detained would be released while an appeal were pending.
- (8) A person who is not a duly authorised officer of an enforcement authority shall not purport to act as such under this paragraph.
- (9) In the application of this paragraph to Scotland, the reference in sub-paragraph (4) to a justice of the peace shall include a reference to a sheriff and the references to written information on oath shall be construed as references to evidence on oath.
- (10) In the application of this paragraph to Northern Ireland, the references in sub-paragraph (4) to any information on oath shall be construed as references to any complaint on oath.

### **Appeals against detention of appliances etc.**

**12.—**(1) Any person having an interest in any appliances or records which are for the time being detained under paragraph 11 (power to enter premises and inspect, seize and detain appliances etc.) by an enforcement authority or by a duly authorised officer of an enforcement authority may apply for an order requiring the appliances or records to be released to him or to another person.

- (2) An application under this paragraph may be made—

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- (a) to any magistrates' court in which proceedings have been brought in England and Wales or Northern Ireland for an offence in respect of a contravention of any provision of these Regulations in relation to the appliances or records;
  - (b) where no such proceedings have been so brought, by way of complaint to a magistrates' court; or
  - (c) in Scotland, by summary application to the sheriff.
- (3) A magistrates' court or the sheriff shall not make an order under sub-paragraph (1) unless the court or sheriff is satisfied—
- (a) that proceedings have not been brought for an offence in respect of a contravention of any provision of these Regulations in relation to the appliances or records; and
  - (b) where no such proceedings have been brought, that more than twelve months have elapsed since the seizure was carried out.
- (4) Any person aggrieved by an order made under this paragraph by a magistrates' court in England and Wales or Northern Ireland, or by decision of such a court not to make such an order, may appeal against that order or decision—
- (a) in England and Wales, to the Crown Court;
  - (b) in Northern Ireland, to a county court;

and an order so made may contain such provision as appears to the court to be appropriate for delaying the coming into force of the order pending the making and determination of any appeal (including any application under section 111 of the Magistrates' Courts Act 1980<sup>(6)</sup> or article 146 of the Magistrates' Courts (Northern Ireland) Order 1981 (statement of case)<sup>(7)</sup>).

### **Compensation for loss etc. of appliances or records seized**

**13.**—(1) Where a duly authorised officer of an enforcement authority exercises any power under paragraph 11 (power to enter premises and inspect, seize and detain appliances etc.) to seize and detain any appliances or records, the enforcement authority shall be liable to pay compensation to any person having an interest in the appliances or records in respect of any loss or damage caused by the exercise of the power if—

- (a) there has been no contravention of any provision of these Regulations in relation to the appliances or records; and
- (b) the exercise of the power is not attributable to any neglect or default by that person.

(2) Any disputed question as to the right to or the amount of any compensation payable under this paragraph shall be determined by arbitration or, in Scotland, by a single arbiter appointed, failing agreement between the parties, by the sheriff.

### **Recovery of expenses of enforcement**

**14.**—(1) This paragraph shall apply where a court convicts a person of an offence in respect of a contravention of any provision of these Regulations in relation to any appliances or records.

(2) The court may (in addition to any other order it may make as to costs and expenses) order the person convicted to reimburse an enforcement authority for any expenditure which has been or may be incurred by that authority in connection with any seizure or detention by or on behalf of the authority of the appliances or records.

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<sup>(6)</sup> 1980 c. 43.

<sup>(7)</sup> S.I. 1981/1675 (N.I. 26).



## PART III

### MISCELLANEOUS AND SUPPLEMENTAL

#### Restrictions on disclosure of information

**15.**—(1) Subject to the following provisions of this paragraph, a person shall not disclose any information—

- (a) which was obtained by him in consequence of its being given to any person in compliance with any requirement imposed by these Regulations; or
- (b) which consists in a secret manufacturing process or trade secret and was obtained by him in consequence of the exercise by any person of any power or duty conferred by these Regulations.

(2) Sub-paragraph (1) shall not apply to a disclosure of information if the information is publicised information or the disclosure is made—

- (a) for the purpose of facilitating the exercise of a relevant person's functions under these Regulations or any enactment or subordinate legislation mentioned in sub-paragraph (3);
- (b) in pursuance of a Community obligation;
- (c) in connection with the investigation of any criminal offence or for the purposes of any civil or criminal proceedings; or
- (d) in pursuance of regulation 3 of the Environmental Information Regulations 1992<sup>(8)</sup>.

(3) The enactments and subordinate legislation referred to in sub-paragraph (2)(a) are—

- (a) the Trade Descriptions Act 1968<sup>(9)</sup>;
- (b) Parts II and III and section 125 of the Fair Trading Act 1973<sup>(10)</sup>;
- (c) the relevant statutory provisions within the meaning of Part I of the Health and Safety at Work etc. Act 1974<sup>(11)</sup> or within the meaning of the Health and Safety at Work (Northern Ireland) Order 1978<sup>(12)</sup>;
- (d) the Weights and Measures Act 1985<sup>(13)</sup>;
- (e) the Weights and Measures (Northern Ireland) Order 1981<sup>(14)</sup>;
- (f) the Consumer Protection Act 1987<sup>(15)</sup>;
- (g) the Consumer Protection (Northern Ireland) Order 1987<sup>(16)</sup>;
- (h) the Electrical Equipment (Safety) Regulations 1994<sup>(17)</sup>;
- (i) any subordinate legislation made for the purpose of securing compliance with the Directive of the Council of the European Communities, dated 10th September 1984 (No.84/450/EEC) on the approximation of laws, regulations and administrative provisions of the member States concerning misleading advertising<sup>(18)</sup>; and
- (j) the United Kingdom Ecolabelling Board Regulations 1992<sup>(19)</sup>.

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<sup>(8)</sup> S.I. 1992/3240.

<sup>(9)</sup> 1968 c. 29.

<sup>(10)</sup> 1973 c. 41.

<sup>(11)</sup> 1974 c. 37.

<sup>(12)</sup> S.I. 1978/1039 (N.I. 9); to which there are amendments not relevant to these Regulations.

<sup>(13)</sup> 1985 c. 72.

<sup>(14)</sup> S.I. 1981/231 (N.I. 10); to which there are amendments not relevant to these Regulations.

<sup>(15)</sup> 1987 c. 43.

<sup>(16)</sup> S.I. 1987/2049 (N.I. 12); to which there are amendments not relevant to these Regulations.

<sup>(17)</sup> S.I. 1994/3260.

<sup>(18)</sup> OJ No. L250, 19.9.84, p. 17.

<sup>(19)</sup> S.I. 1992/2383.

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(4) In sub-paragraph (2)(a) the reference to a person's functions shall include a reference to any function of making, amending or revoking any regulations or order.

(5) In this paragraph—

“publicised information” means any information which has been disclosed in any civil or criminal proceedings; and

“relevant person” means any of the following, that is to say—

- (a) a Minister of the Crown, Government department or Northern Ireland department;
- (b) the Director General of Fair Trading;
- (c) the Health and Safety Executive;
- (d) an enforcement authority;
- (e) any person who is charged with enforcing any of the enactments and subordinate legislation referred to in sub-paragraph (3);
- (f) the United Kingdom Ecolabelling Board.

#### **Savings for certain privileges**

**16.** Save for paragraph 9 (power of enforcement authority to require technical documentation etc.), nothing in these Regulations shall be taken as requiring any person—

- (a) to produce any records if he would be entitled to refuse to produce those records in any proceedings in any court on the grounds that they are the subject of legal professional privilege or, in Scotland, that they contain a confidential communication made by or to an advocate or solicitor in that capacity, or as authorising any person to take possession of any records which are in the possession of a person who would be so entitled; or
- (b) to answer any question or give any information if to do so would incriminate that person or that person's spouse.

#### **Saving for civil rights**

**17.** A contract for the supply of an appliance shall not be void or unenforceable by reason only of a contravention of any provision of these Regulations.

#### **Service of documents etc.**

**18.—(1)** Any document required or authorised by virtue of these Regulations to be served on a person may be so served—

- (a) by delivering it to him or leaving it at his proper address or by sending it by post to him at that address; or
- (b) if the person is a body corporate, by serving it in accordance with paragraph (a) on the secretary or clerk of that body; or
- (c) if the person is a partnership, by serving it in accordance with that paragraph on a partner or on a person having control or management of the partnership business.

(2) For the purposes of sub-paragraph (1), and for the purposes of section 7 of the Interpretation Act 1978<sup>(20)</sup> (which relates to the service of documents by post) in its application to that paragraph, the proper address of any person on whom a document is to be served by virtue of these Regulations shall be his last known address except that—

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(20) 1978 c. 30.

(a) in the case of service on a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of the body corporate;

(b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the principal office of the partnership;

and for the purposes of this paragraph the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

### **Reports etc.**

**19.**—(1) It shall be the duty of the Secretary of State at least once in every five years to lay before each House of Parliament a report on the exercise during the period to which the report relates of the functions which under these Regulations are exercisable by enforcement authorities.

(2) The Secretary of State may from time to time prepare and lay before each House of Parliament such other reports on the exercise of those functions as he considers appropriate.

(3) Every enforcement authority shall, whenever the Secretary of State so directs, make a report to the Secretary of State on the exercise of the functions exercisable by that authority under these Regulations.

(4) A report under sub-paragraph (3) shall be in such form and shall contain such particulars as are specified in the direction of the Secretary of State.

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## **EXPLANATORY NOTE**

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

These Regulations implement European Parliament and Council Directive [96/57/EC](#) on energy efficiency requirements for the household electric refrigerators, freezers and their combinations defined in regulation 3. The Directive specifies minimum standards of energy efficiency (in terms of electricity consumption) which are to be met by such appliances which are placed on the Community market.

Regulation 4 prohibits the placing on the Community market of new appliances which exceed the maximum allowable electricity consumption values laid down in Schedule 1; and makes provision for the affixing of the EC mark illustrated in Schedule 2.

Regulation 5 lays down the rules relating to the compulsory EC declaration of conformity of an appliance. Regulation 6 requires suppliers to establish and maintain technical documentation to enable assessment of whether the EC mark has been properly affixed to an appliance. Regulation 7 prohibits the affixing to an appliance of misleading markings.

Under regulation 8, manufacturers are obliged to bring non-conforming appliances on the market into conformity and to withdraw them from the market as soon as practicable. Regulation 9 obliges manufacturers to take all necessary steps to achieve a manufacturing process which ensures that appliances comply with their technical documentation and with the requirements of the Regulations.

Regulation 10 and Schedule 3 create criminal offences and contain other provisions on enforcement.

A Compliance Cost Assessment, estimating the financial impact of the Regulations on suppliers, dealers and wholesalers of household refrigerators etc. covered by the scheme, can be obtained from:

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